

4138
THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume V, 1940



(19th November to 27th November, 1940)

TWELFTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1940



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Legislative Assembly.

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CONTENTS.

VOLUME V.—19th November to 27th November, 1940.

	PAGES.		PAGES.
TUESDAY, 19TH NOVEMBER, 1940,—		THURSDAY, 21ST NOVEMBER, 1940,—<i>contd.</i>	
Starred Questions and Answers	765—84	Election of a Member on the Governing Body of the Indian Research Fund Association	918
Motion for Adjournment re Alleged occupation of the Muslim Idgah at Burhanpur by the Military—Disallowed	784—85	Election of three Members for the Standing Committee attached to the Department of Supply	918—23
The Indian Finance (No. 2) Bill—Motion to consider negatived	786—840	The Indian Railways (Amendment) Bill—Referred to Select Committee	924—39
WEDNESDAY, 20TH NOVEMBER, 1940,—		The Berar Laws Bill—Referred to Select Committee	939—49
Speech delivered to the Council of State and the Legislative Assembly by His Excellency the Viceroy	841—48	The Indian Income-tax (Amendment) Bill—Passed as amended	949—59
Starred Questions and Answers	849—67	FRIDAY, 22ND NOVEMBER, 1940,—	
Unstarred Questions and Answers	867—82	Starred Questions and Answers	961—82
Message from H. E. the Viceroy	882—83	Motion for Adjournment re closing of the Chandpur-Siau-Bijnor Section of the Gajraula Muazzampur Narain Branch of the East Indian Railway—Negatived	982—83, 996—1011
The Indian Finance (No. 2) Bill (As recommended)—Motion for leave to introduce negatived	883—86	The Hindu Women's Rights to Property (Amendment) Bill—Motion to refer to Select Committee negatived	983—95
The Excess Profits Tax (Amendment) Bill—Referred to Select Committee	886—90	The Land Acquisition (Amendment) Bill—Introduced	995
The Indian Railways (Amendment) Bill—Discussion on the motions to refer to Select Committee and to circulate not concluded	890—903	The Specific Relief (Amendment) Bill—Introduced	995
THURSDAY, 21ST NOVEMBER, 1940,—		The Hindu Judicial Separation and Divorce Bill—Introduced	995—96
Starred Questions and Answers	905—17	The Hindu Married Women's Right to Separate Residence and Maintenance Bill—Introduced	996
Motion for Adjournment re closing of the Chandpur-Siau-Bijnor Section of the Gajraula Muazzampur Narain branch of the East Indian Railway—Postponed to next day	917		

PAGES.	PAGES.
MONDAY, 25TH NOVEMBER, 1940,—	WEDNESDAY, 27TH NOVEMBER, 1940,—
Starred Questions and Answers 1013—26	Starred Questions and Answers 1097—1102
Motion for Adjournment re closing down of the Branch Line between Shoranur and Nilambur in the Malabar District—Withdrawn 1026—27, 1080—95	Statement laid on the Table 1103—09
Position of Nominated Members of the House 1027—28	Motion for Adjournment re—
Bills passed by the Council of State 1028	Alleged embezzlement in the Multan Division of the North Western Railway—Ruled out 1109—11
Draft Convention and Recommendations adopted by the International Labour Conference 1028—59	Rustication of Mr. M. Farouqui and Mr. D. Sanghi from the University of Delhi—Leave refused 1111—12
The Excess Profits Tax (Amendment) Bill—Presentation of the Report of the Select Committee 1059—60	Banning by the Government of Bengal publication of news of hunger strikes in jail, etc.—Disallowed 1112—13
The Indian Sale of Goods (Amendment) Bill—Passed 1060—62	Election of a Member for the Governing Body of the Indian Research Fund Association 1113
The New Delhi Mosque Bill Motion to consider not made 1062	Election of Members to the Standing Committee for the Department of Supply 1113
Report of the Public Accounts Committee 102—75	Statement laid on the Table re lowest tenders not accepted by the High Commissioner for India in purchasing stores for the Government of India 1113—15
Demands for Excess Grants for 1938-39 1076—79	The Excess Profits Tax (Amendment) Bill—Passed as amended 1116—24

CORRIGENDA.

In the Legislative Assembly Debates, Budget Session, 1940, Volume I, No. 4, dated the 9th February, 1940, page 236, in the first line of the answer to unstarred question No. 13, for the figure "57" read "58".

In the Legislative Assembly Debates, Autumn Session, 1940,—

(1) Volume IV, No. 1, dated the 5th November, 1940,—

(i) page 43, in the last item No. 15, for "Legislative" read "Legislative Assembly";

(ii) page 61, column 1 of the statement, under "Headquarters", delete "(Ind.)" against "Meerut", "Deccan", "Peshawar", "Kohat", "Waziristan", "Lahore", "Madras", and "P. & A.";

(2) Volume IV, No. 2, dated the 6th November, 1940, page 190, line 6, for "by old friend", read "my old friend,—";

(3) Volume IV, No. 4, dated the 8th November, 1940,—

(i) page 238, line 15, delete the word "that";

(ii) page 245, line 22 from the bottom for "enbales" read "enables";

(iii) page 247, line 23 from the bottom, for "what" read "water";

(4) Volume IV, No. 6, dated the 12th November, 1940, page 421, line 11, for "Dr. Sir Ziauddin Ahmad" read "Dr. Sir Ziauddin Ahmad";

(5) Volume IV, No. 7, dated the 13th November, 1940,—

(i) page 425, line 12, for "Yes." read "Yes,";

(ii) page 454, line 14, for "facism" read "fascism";

(iii) page 467, line 27 from the bottom, for "merge" read "emerge";

(iv) page 474, line 9 from the bottom, put a full stop after "Unfortunately";

(6) Volume IV, No. 8, dated the 15th November, 1940,—

(i) page 515, line 18 from the bottom, for "Madras." read "Madras,";

(ii) page 526, line 18, put a full stop after "years";

(iii) page 527, line 20, for "European" read "Europeans";

(7) Volume IV, No. 9, dated the 16th November, 1940,—

(i) page 589, in the first line of unstarred question No. 47, for "Nalchand" read "Lalchand";

(ii) page 611, line 17, for "Invader" read "invader";

(iii) page 642, line 16 from the bottom, for "differnce" read "differences";

(8) Volume IV, No. 10, dated the 18th November, 1940,—

(i) Page 688, in part (e) of reply to starred question No. 133, for the concluding sentence, viz., "Levelling and cleaning, if required, are matters for the Public Works Department." read the following:—

"As regards the levelling and cleaning (if required), Government will consider this.";

(ii) page 724,—

(a) line 10, for "context." read "context,";

- (b) line 23, for " defied " read " deified ";
- (iii) page 733, in the first line from the bottom, for " bead " read " bad ";
- (iv) page 748, in line 19 from the bottom, for " outweigh " read " outweigh ";
- (9) Volume V, No. 1, dated the 19th November, 1940—
- (i) page 816, line 14 from the bottom, for " consuled " read " consulted ";
- (ii) page 824, line 23, for " independent " read " independence ";
- (iii) page 826, line 14 from the bottom, for " supporting " read " sporting ";
- (iv) page 828,—
- (a) line 2, for " useless " read " useless ";
- (b) line 9, for " Indepence " read " independence ".
- (10) Volume V, No. 4, dated the 22nd November, 1940,—
- (i) page 967, line 15 from the bottom, for " hought " read " thought ";
- (ii) page 977, line 19 from the bottom, for " O " read " Of ";
- (11) Volume V, No. 6, dated the 27th November, 1940, page 1108, in the first line, for " at " read " as ".

LEGISLATIVE ASSEMBLY

Tuesday, 19th November, 1940.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

ISSUE OF ONE RUPEE NOTES.

156. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Finance Member state (i) the value of one rupee note which they have put in circulation, and (ii) the total number of notes they printed till 1st November, 1940?

(b) Are these notes issued by the Government of India or by the Reserve Bank?

(c) If by the former, what is the paper currency reserve behind it?

(d) Where and in what form is the reserve kept?

(e) On what terms are these one rupee notes transferred to the Reserve Bank?

(f) Will Government lay these conditions on the table? If not, why not?

(g) Are Government under obligation to change one rupee note for a metal rupee? If not, why not?

(h) Is there a legal obligation for the holder of the Reserve Bank five-rupee notes to accept five notes of one rupee each?

(i) In case the answer to part (h) be in the affirmative, how does the Honourable Member explain the monetary policy of the Government of India with reference to one rupee notes, five rupee notes and silver coins?

(j) Will Government pay in full one rupee for a note which is defaced to the extent defined in Reserve Bank Act?

The Honourable Sir Jeremy Raisman: (a) (i). Rs. 646 lakhs up to 25th October, 1940.

(a) (ii). It is not the practice to publish information in regard to reserve stocks of currency.

(b), (c), (d), (h) and (i). I invite the Honourable Member's attention to the press communique issued on the subject on the 24th July, 1940, and the replies which I gave to supplementary questions on the 11th.

(e) and (f). These notes are delivered to the Reserve Bank in accordance with the provision contained in sub-section (3) of section 36 of the Reserve Bank of India Act as amended by the Currency Ordinance, 1940, against payment of legal tender value.

(c) and (d). No forgeries likely to be mistaken for genuine notes have yet been noticed, and the issue of such a statement is not considered necessary at present.

(e) Rupee notes which are torn, defaced or excessively soiled will not be re-issued.

Press Communiqué.

As a result of large withdrawals of rupee coin from circulation in recent months for hoarding, much inconvenience is being felt by the general public owing to the scarcity of a suitable medium of exchange of smaller value than the Reserve Bank note of lowest denomination, namely, rupees five. Requests have been pouring in from all parts of the country to issue notes of smaller denomination, as was done in the last war, and it has been decided to supplement the stock of rupee coin by one rupee notes issued on the authority of the Government of India, and an ordinance has just been issued authorising such issue and providing that such notes will for all purposes be the equivalent of rupee coin. They will be legal tender to exactly the same extent as rupee coin and, not being bank notes or currency notes, can be issued by the Reserve Bank of India in exchange for their bank notes to satisfy a demand for rupee coin.

2 The silver stocks of the Government of India, apart from the coin held by the Reserve Bank of India, are ample. Of these, however, a large amount consists of the proceeds of Queen Victoria coin which has been withdrawn from circulation in the last few years and which would, in the opinion of Government, have to be recoined before being fit for issue. In view of the expansion of war activities, however, there has been an exceptionally large demand for small coin which shows no signs of abatement, and Government consider that priority should be given to supplying such coin which are a necessity to the poorer classes for their day to day transactions and which are not used for hoarding in preference to coining rupees merely to satisfy the selfish instincts of the wealthier hoarder. While every effort is being made by Government to re-mint as quickly as possible rupee coins from the bullion in their possession, the output of the mints is for this reason at present limited and it is necessary to introduce a substitute as a temporary measure.

3. These notes are being printed at the Government of India Security Printing Press, Nasik Road, but as it will take some time before adequate supplies are available, Government propose to make a start by the issue of notes which were prepared to meet a contingency of another nature in 1935, but, which proved unnecessary at the time and which have since been held in stock so as to be available if required. These 1935 notes are printed on paper bearing as a watermark the head of His late Majesty King George V, and are $3\frac{1}{2}$ " by $2\frac{1}{4}$ " in size. They contain a representation of the rupee coin on both sides and bear the signature of Mr. J. W. Kelly, who was Controller of the Currency in 1935, when they were prepared. The new Nasik notes are exactly similar except that they do not have the same watermark. They are printed on the paper used for Post Office Cash Certificates.

4. Owing to the large number required, the rapidity with which they had to be prepared and the difficulty of obtaining suitable paper in adequate quantity, it has been found necessary to make the rupee notes to be issued initially smaller in size than the rupee notes issued during the last war so as to obtain the maximum number of prints on each sheet, and it is the intention of Government to replace the smaller notes with notes of larger size as soon as possible. The public can co-operate in this if they will limit their use of coin and notes to reasonable monetary purposes and discourage the senseless habit of hoarding. The new notes which will be issued some time later will be 4" by $2\frac{1}{2}$ " but in other respects similar in design. They will bear the signature of Mr. C. E. Jones, Secretary to the Government of India in the Finance Department.

Press Communiqué.

The fact that the recent issue of one rupee notes bearing the head of His Majesty King George V and the date 1935, was printed on two different kinds of paper, with different watermarks and minor variations in the printing of the numbers, has apparently led to misapprehensions as to the validity of the notes, both of which are now current in India and Burma.

In order to remove these misapprehensions the differences between these notes are here clearly explained:—

The first series bearing the prefix letters A, B, C, and D, has the portrait head of His Majesty King George V, in relief watermark appearing on the left of the note facing right when viewed from the front.

The second series bearing the prefix letter E, and subsequent letters is printed on paper with a watermark consisting of a five pointed star surrounded by the words "Govt. of India". This is an all-over watermark, i.e., it does not appear in any special position with reference to the printing.

The second series is numbered with serial numbers of the same style as those appearing on the Reserve Bank of India notes, whereas the first series includes 3 slightly different styles of numbering, all of which are of a smaller type than that appearing on the second series.

Some notes of the second series have been bound in booklet form between sage green covers, the upper cover bearing in black the Royal Cypher GRI surmounted by the Imperial Crown. Notes detached from these booklets will be found to have a perforated left hand edge.

FINANCE DEPARTMENT.

Simla, the 28th September, 1940.

Mr. Manu Subedar: Will the Honourable Member tell us the steps he has taken in order to replenish the rupee coins in the hands of the Government,—I want to know whether any arrangements have been made for extra coinage by getting out new plants or in any other way to meet the deficiency of rupee coins?

The Honourable Sir Jeremy Raisman: Yes, Sir, steps are being taken to meet that deficiency.

Mr. Manu Subedar: Can the Honourable Member give us some information on this point?

The Honourable Sir Jeremy Raisman: I am in a position to state that the mints are working very hard.

Dr. Sir Ziauddin Ahmad: With regard to part (e), may I know if Government contemplate to destroy these notes when they go to the Reserve Bank?

The Honourable Sir Jeremy Raisman: Yes, Sir, that is what I stated, —if they are torn, defaced or excessively soiled, they will not be re-issued.

Qazi Muhammad Ahmad Kasmi: How long do Government propose to keep these notes in currency, and when do they propose to print new notes of one rupee?

The Honourable Sir Jeremy Raisman: The issue of newly printed notes depends on the way in which notes which have been issued stand up to the wear and tear. There is a constant supply of new notes going out and old notes being withdrawn and destroyed.

Mr. Sri Prakasa: What is the average expectation of the life of such notes?

The Honourable Sir Jeremy Raisman: That, Sir, is a subject on which it is very difficult to come to a precise conclusion; we have to depend on actual experience.

TOTAL WEIGHT OF SILVER BULLION AND SILVER COINS IN THE POSSESSION OF GOVERNMENT.

158. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Finance Member be pleased to state the total weight of (i) silver bullion and (ii) silver coins in the possession of Government on 1st April, 1939 and on 1st November, 1940?

(b) What is the cause of depletion, if any?

(c) Where is the bullion kept, in India or America?

The Honourable Sir Jeremy Raisman: (a) and (b). The attention of the Honourable Member is invited to pages 228-229 of the Central Appropriation Accounts (Civil) 1938-39 which give the stock position on the 31st March, 1939. Copies of this publication were distributed to Honourable Members during the last Budget Session. The figures for the 1st November, 1940, are not available.

(c) Except for a small stock in London the bullion is kept in India.

Mr. Manu Subedar: May I know if any attempt has been made to add to the bullion stock of the Government in view of the rush on the silver coin since the war began?

The Honourable Sir Jeremy Raisman: Yes.

Mr. Manu Subedar: Have Government made considerable purchases in England or in America or where, and may I know if the Honourable Member is in a position to give any information as to the quantity they have so purchased?

The Honourable Sir Jeremy Raisman: It is definitely not in the public interest to give any detailed information on that point.

VALUE OF DOLLAR SECURITIES REQUISITIONED BY GOVERNMENT OF INDIA FROM PRIVATE HOLDERS.

159. *Dr. Sir Ziauddin Ahmad: Will the Honourable the Finance Member please state the value of the Dollar Securities which the Government of India have requisitioned from private holders?

The Honourable Sir Jeremy Raisman: The question of requisitioning these securities is still under consideration.

Mr. Manu Subedar: May I ask the Honourable Member if he can give us the quantity of such securities in India, and whether the figures which he may give, if he gives any, will include securities held in Indian States?

The Honourable Sir Jeremy Raisman: I am afraid I cannot give him information on the first point. I can say, as regards the second point, that steps have been taken to ensure that as far as possible corresponding action is taken in Indian States.

Mr. Manu Subedar: May I know on what basis, when these securities come to be requisitioned, Government propose to pay up the present holders?

The Honourable Sir Jeremy Raisman: At a price not less than the market value of the securities.

Mr. K. Santhanam: May I know if the Honourable Member has considered the desirability of having some dollar securities as assets in the Issue Department of the Reserve Bank of India?

The Honourable Sir Jeremy Raisman: This is a point which the Honourable Member raised in his speech the other day and which I hope to be able to deal with in the course of my reply.

Mr. K. Santhanam: Thank you.

DIFFERENT SCALES OF PAY FOR OFFICERS OF THE PREVENTIVE SERVICE AT CHITTAGONG AND CALCUTTA.

160. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Will the Honourable the Finance Member be pleased to state if Government are aware that the pay and scales of the Officers of the Preventive Service at Chittagong and Calcutta are different, although the nature of work, risks of service, and fitness and educational attainments of the Officers of both the Offices are the same?

(b) Will the Honourable Member please state whether Government are aware that the Officer of Chittagong Preventive Service are not allowed any lift to Inspectorship and Apprenticeship, although in Calcutta 50 per cent. of the vacancies in the Appraisers' rank are filled up by promotion from the Preventive Services?

(c) If the answers to parts (a) and (b) be in the affirmative, will the Honourable Member be pleased to state if Government are prepared to remove this distinction?

(d) If the answer to part (b) be in the negative, will the Honourable Member please state the reasons thereof?

(e) If the answers to parts (a) and (b) be in the negative, will the Honourable Member be pleased to state the actual practice in promotion and also the scales of pay for Officers in both the Custom Houses?

The Honourable Sir Jeremy Raisman: (a) The scale of pay for Preventive Officers in Calcutta is slightly higher than in Chittagong; but the responsibilities in Calcutta are greater, the work is more arduous, the cost of living is higher, and recruits are usually better qualified.

(b) Two posts of Inspectors (including the Chief Inspector) are open to Preventive Officers in Chittagong, though with a view to improving the efficiency of the Department it has been found necessary to post an officer of the Calcutta Preventive Service as Chief Inspector at Chittagong during the last seven years. There is at present only one post of Appraiser at Chittagong Custom House and as the requisite experience cannot be obtained locally it has been the practice to appoint to the post an Appraiser from Calcutta.

(c) No.

(d) The existing arrangement is considered necessary in the interests of efficiency.

(e) Does not arise.

Mr. Lalchand Navalrai: May I know if there is a way up for these Preventive Officers in the other Customs Offices also, or that there is only in Calcutta and some in Chittagong?

The Honourable Sir Jeremy Raisman: As far as I am aware, it is not the practice for these officers to be transferred to any other ports.

Mr. Lalchand Navalrai: But is there no way up? Have they to die on the pay that they get?

The Honourable Sir Jeremy Raisman: I have already replied to the question of what will happen to the Preventive Officers. I have indicated what posts are open to them.

LICENCES FOR PREPARATION OF AYURVEDIC MEDICINES FROM NATURAL FERMENTED INGREDIENTS.

†161. ***Bhai Parma Nand:** (a) Will the Honourable the Finance Member please state whether it is a fact that no rules have been framed by the Excise Department in Delhi Province for providing licences to private individuals or Ayurvedic firms for preparing Ayurvedic medicine by natural fermented ingredients which very often result in producing more than 20 per cent. alcohol?

(b) Are Government prepare to issue instructions to give licences to *bona fide* Kavirajs for the preparation of Ayurvedic system of medicines?

The Honourable Sir Jeremy Raisman: (a) No rules of the kind mentioned have been framed in the Delhi Province.

(b) Not at present.

ISSUE OF INSTRUCTIONS re ENTRIES IN "CASTE" COLUMN OF THE CENSUS RETURNS.

†162. ***Bhai Parma Nand:** (a) Will the Honourable the Home Member be pleased to state whether it is a fact that the conference of the Census Superintendents held at Delhi on the 22nd February, 1940, recommended to the Central Government that the column of caste be retained in the returns of the forthcoming census as heretofore?

(b) Is it also a fact that in response to the representations by the *Jat Pat Torak Mandal* of Lahore, the Government of India issued a circular sanctioning the entry of 'Nil' or 'No-caste' in the Census Returns of 1931 in the case of those who did not believe in the caste system? If so, are Government prepared to issue similar instructions to the census enumerators this year?

The Honourable Sir Reginald Maxwell: (a) I would refer the Honourable Member to the Press Note dated the 10th June, 1940, a copy of which is laid on the table of the House.

(b) Yes. Under standing instructions the answer given to the question will be recorded. No further instructions are, therefore, required.

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

Not to be Broadcast or published before June 14, 1940.

PRESS NOTE.

THE EIGHTH ALL-INDIA CENSUS WIDER EXAMINATION OF MEANS OF LIVELIHOOD.

QUESTIONS FRAMED.

Problem of Reproduction Rates.

A wider examination of the means of livelihood aspect of which examples are partial dependency, labour, contribution by members of the household, unemployment, educated unemployment, seasonal and temporary unemployment, will be included in the Eighth All-India Census, to be conducted under the supervision of Mr. M. W. W. M. Yeatts, Census Commissioner, in the spring of 1941. An attempt will also be made to meet the question of associated employment or organised industry.

In reply to the question dealing with the means of livelihood vague terms such as 'service', 'writing' or 'labour' will be avoided. For example in the case of labour it will be specified whether it is labour in the fields or in a coal mine or jute factory or cotton mill or lac factory or earth work, etc. In the case of agriculture an attempt will be made to distinguish between persons who do not cultivate personally, who cultivate their own land, who cultivate rented land and who are hired labourers. If a person makes the articles he sells he will be entered as 'maker or seller' of them.

In past years industrial information was secured by a separate schedule of considerable complexity. For reasons of economy and facility this was given up in 1931 and its place taken by a question bearing on organised industry. The difficulties occasioned by this question, particularly in its way many translated forms weakened the value of the answers received; which, in any case, for reasons of economy were not tabulated. The form of question now put ("If you are employed by some one else, what is his business?") has been chosen so as to ensure the maximum degree of understanding on the part of the enumerator.

The determination of the number of children born to a married woman and her age at birth of first child represents an approach to the important matter of reproduction rates. This determination is of value to any country, particularly to those of stationary or declining population, but also, and perhaps no less so, to those such as India. An attempt was made at the last census to achieve this information by a purely optional enquiry. The only satisfactory way, however, of using the census to help to this end is to secure simple and acceptable questions which can be asked as part of the general census scheme. The questions have been so framed that they will be susceptible of answer by the husband or father. Women will not be cross-questioned at all.

The guiding principle in all the questions is that they are such as will pass the filter of the enumerator's understanding. If he is able to understand the questions he puts then he will be able, or at any rate he will be more likely, to extract a satisfactory and intelligible answer.

The following questions have been framed.

1. Name.
 2. Sex.
 3. Race, Tribe or Caste.
 4. Religion.
 5. Married, unmarried, widowed or divorced.
 6. Age.
 7. Number of children born to a married woman.
 8. Her age at birth of first child.
 9. Are you wholly or partly dependent on any one else?
 10. If so, means of livelihood of person on whom dependent.
 11. Do you employ (a) paid assistants (b) members of household? If so, how many?
 12. Are you in employment now?
 13. (Only to those who reply in the negative to question 12), Are you in search of employment?
- To those who reply in the affirmative the further question will be put.—How long have you been in search of it?

14. Means of livelihood in order of importance.
15. (Only to be asked in regard to means of livelihood of a person shown as partly dependent against question 9 or any subsidiary means of livelihood returned by other persons against question 14).
- Does this means of livelihood exist throughout the year? If not, for what part of the year?
16. If you are employed by some one else what is his business?
17. Were you born in this district? If not in what district?
18. Mother tongue.
19. Other Indian languages in common use.
20. Can you both read and write? If so, what script do you write? Can you only read?
21. How far have you read? Give any examination passed.
22. Are you literate in English?

HOME DEPARTMENT;
Simla, June, 10, 1940.

TENDERS INVITED FOR THE PRINTING OF THE FAUJI AKHBAR.

†163. *Bhai Parma Nand: With reference to the reply to starred question No. 522, on the 26th March, 1940, will the Defence Secretary kindly state:

- if the cost of printing in Simla is higher than that at Delhi; and whether this fact was disclosed by the rates which were offered by various firms in connection with the tenders for printing of the *Fauji Akhbar*;
- whether the rates offered for the printing of the *Fauji Akhbar* at Simla are being paid for the printing of the paper at Delhi;
- what the cost was per issue and the number of copies printed of the monthly supplement referred to in part (d) of the answer given on the 26th March, 1940;
- if he proposes to invite fresh tenders for the printing of the *Fauji Akhbar* as well as its bi-weekly supplement in Delhi; if not, why not;
- if the supplement is distributed by post under the supervision of the printers and, if so, what check there is to see that they use only one kind of paper and that they print all copies neatly;
- if he is aware that picture blocks in several Indian papers, e.g., *Statesman*, *Hindustan Times*, *Illustrated Weekly*, etc., are printed on paper made in India, yet they are not blurred; and
- what the difficulties are in calling for fresh tenders and what the reasons are for holding that the printing of 99,000 copies of the bi-weekly supplement of the *Fauji Akhbar* is not a new piece of work in view of the reply given to part (a) of the question No. 522 on the 26th March, 1940, to the effect that the printing of the supplement was not contemplated at the time the tenders were asked for for the weekly edition?

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

Mr. C. M. G. Ogilvie: (a) It is understood that the cost of printing is slightly higher in Simla than in Delhi. No tenders have recently been called for.

(b) Yes, in view of the general increase in the cost of printing since the outbreak of war.

(c) (i). The cost per issue was approximately Rs. 100.

(ii) Numbers of copies were approximately 11,200 monthly.

(d) No, it is not proposed to invite fresh tenders. Tenders were last called for in 1938, and the printer's work is considered satisfactory and his terms reasonable.

(e) Yes, but the printing and general production are under the constant supervision of the Editor and his staff.

(f) Yes, Government are aware of this fact.

(g) There is no reason to call for fresh tenders as Government are satisfied with the work of the present printer. The printing of the Supplement is not a new piece of work because most of the matter in the Supplement is also included in the *Fauji Akhbar*, and the type-setting, which involves most of the labour of printing, cannot, therefore, be considered as a new piece of work.

ALLEGATIONS OF BRIBERY AGAINST THE MANAGER OF THE MEDICAL STORES DEPOT, LAHORE.

†164. *Bhai Parma Nand: (a) Will the Defence Secretary please state if serious allegations of bribery have been made against the Manager of the Medical Store Depot, Lahore Cantonment, by several subordinates of his office?

(b) Were these allegations definite and related to specific matters? If so, did the Department hold any enquiry? If not, why not?

(c) Is it a fact that this particular Manager was transferred to Madras Depot in September, 1937? If so, why was the transfer cancelled?

Mr. C. M. G. Ogilvie: (a) and (b). One complaint, which is believed to be pseudonymous was received. Two registered letters were sent to the address given by the sender asking him to substantiate his charges which were in no way specific. These letters were returned undelivered. No further enquiry was, therefore, made.

(c) A transfer to Madras in 1939 was cancelled because a new officer was placed in charge of the Lahore Depot and it was not desirable to make two changes at the same time.

REPATRIATION OF MR. L. N. KHANNA'S WIFE AND DAUGHTER FROM SUDETENLAND, GERMANY.

†165. *Bhai Parma Nand: (a) Will the Honourable the Home Member please state if he has received any application from Mr. L. N. Khanna of Bombay for the repatriation of his wife and daughter who are at Goblitz, Sudetenland, Germany? If so, what steps have been taken by Government to get them back to India in exchange for the German ladies repatriated from India?

(b) Will the Honourable Member please state the number of German ladies repatriated from India since the declaration of war and the reasons why Mrs. Khanna and her daughter were not repatriated in exchange?

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

The Honourable Sir Reginald Maxwell: (a) Yes. On receipt of Mr. Khanna's application His Majesty's Government were addressed. They have made every possible effort to effect the repatriation of Mrs. Khanna and her daughter through the good offices of the United States Embassy in Berlin but so far without success.

(b) The number is 89. The Government of India have no information of the reason why Mrs. Khanna and her daughter have not been permitted to leave Germany.

ENACTMENT OF LEGISLATION ENABLING INSURANCE COMPANIES TO BUY DEFENCE BONDS.

186. *Sir Abdul Halim Ghuznavi: Has the attention of the Honourable the Finance Member been drawn to a letter which appeared in the *Statesman* of 4th October, 1940, regarding legislation to enable Insurance Companies to buy Defence Bonds? If so, will the Honourable the Finance Member please state whether Government propose to take any action?

The Honourable Sir Jeremy Baisman: (i) Yes.

(ii) Government do not consider any action necessary. There is nothing at present to prevent Insurance companies investing in Defence Bonds. Government see no advantage in the suggestion. It would mean legislation to permit insurance companies to make fictitious entries in their accounts showing on the one hand a higher interest income than is actually realised and balancing it on the other hand by a corresponding addition to expenditure. Though the net result would be unchanged, it is clearly objectionable to include unreal transactions in the accounts of insurance companies.

PUNJABI DETENUS CONFINED IN THE DEOLI DETENTION CAMP.

187. *Sardar Mangal Singh: (a) Will the Honourable the Home Member please state the number of Panjabee detenues now confined in the Deoli detention camp?

(b) How many of them are being treated as "A" class, "B" class and "C" class prisoners?

(c) Has any allowance been granted to them personally, or for their dependents?

(d) Will their cases be examined periodically for releasing them?

The Honourable Sir Reginald Maxwell: (a) The Government of the Punjab have sent 73 security prisoners to the Deoli Detention Camp.

(b) There are only two classes of security prisoners. 13 of the 73 are in Class I and 60 in Class II.

(c) No allowance has been granted by Government to the persons detained. The question of granting allowances to their dependants in cases of real necessity is one for the Provincial Government to decide.

(d) This is a matter for the Provincial Government.

Sardar Mangal Singh: Will the Honourable Member please give us an estimate of the total expenditure in regard to their diet per day?

The Honourable Sir Reginald Maxwell: I should require notice of that question.

Mr. Abdul Qayum: Is it a fact that the Provincial Governments invariably refuse to give allowances, because, otherwise, it will cease to have a deterrent effect?

The Honourable Sir Reginald Maxwell: No.

Qazi Muhammad Ahmad Kazmi: Are they detained under the orders of the Provincial Government or of the Government of India?

The Honourable Sir Reginald Maxwell: The prisoners to whom this question relates are detained under the orders of the Provincial Government.

Mr. K. Santhanam: May I know if Government have rendered any advice to the Provincial Governments in the matter of giving allowances to these detenues?

The Honourable Sir Reginald Maxwell: Certain principles have been indicated, namely, those mentioned in answer to part (c) of the question.

Mr. Lalchand Navalrai: Does the Honourable Member know that these Provincial Governments have been periodically examining for the purpose of releasing or not?

The Honourable Sir Reginald Maxwell: Not so far as I am aware.

Mr. N. M. Joshi: May I ask whether the Government of India have made any rules regarding the treatment of detenues, and if so, will they place those rules on the table of the House?

The Honourable Sir Reginald Maxwell: Certain orders have been passed as regards the treatment of detenues in the charge of the Government of India, viz., those in Deoli. As regards Provincial Governments, they have been following more or less the same rules but they have a certain amount of discretion to meet local requirements.

Mr. N. M. Joshi: May I ask whether those orders will be made public?

The Honourable Sir Reginald Maxwell: I will consider that.

Sardar Sant Singh: May I know if these detenues are under the provisions of the Defence of India Act or under the provisions of any other Act?

The Honourable Sir Reginald Maxwell: The prisoners to whom this question relates are detained under the Defence of India Rules.

Sardar Sant Singh: May I know if it is a fact or not that the Government of India exercise a vigilant eye over the proceedings that are taken under the Defence of India Rules?

The Honourable Sir Reginald Maxwell: Yes, to some extent. The Government of India keep themselves generally in touch with action taken under those rules.

Sardar Sant Singh: What is the method by which the Government of India keep themselves in touch with the Provincial Governments in the matter of the application of these rules under the Defence of India Act?

The Honourable Sir Reginald Maxwell: The Provincial Governments report their action periodically.

Sardar Sant Singh: Have the Government of India any discretion to overrule the decisions of the Provincial Governments in this matter?

The Honourable Sir Reginald Maxwell: The Government of India would not ordinarily overrule the discretion of a Provincial Government in matters concerning provincial administration.

Mr. N. M. Joshi: May I ask whether the Government of India allow the use of the Deoli Camp only for the detenus from the Punjab or from other provinces also?

The Honourable Sir Reginald Maxwell: The Deoli Camp is used for detenus from other provinces also.

Sardar Sant Singh: May I know if there is any case so far in which the Government of India overruled or reviewed even the decision of the Provincial Government in the matter of detention of person under the Defence of India Rules?

The Honourable Sir Reginald Maxwell: If the Honourable Member means to ask whether the Government of India exercises appellate functions, the answer is "No".

CONDITION OF HEALTH OF MASTER MOTA SINGH, BABA BASAKHA SINGH AND OTHERS DETAINED IN DEOLI DETENTION CAMP.

168. *Sardar Mangal Singh: (a) Will the Honourable the Home Member please state the condition of health of Master Mota Singh, Baba Basakha Singh and others, whether they have lost much weight since they arrived in Deoli Camp?

(b) What arrangements have been made for their treatment in the jail?

The Honourable Sir Reginald Maxwell: (a) The health of the security prisoners is good, and a number have put on weight since their arrival in Deoli.

(b) Adequate medical arrangements have been made inside the Camp for their treatment.

Qazi Muhammad Ahmad Kazmi: May I know what they are suffering from? Has the Honourable Member any information?

The Honourable Sir Reginald Maxwell: I have no information about their individual diseases.

RECRUITMENT OF INDIANS OF ALL CASTES AND CREEDS TO THE INDIAN ARMY.

169. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state:

- (a) if the Government of India have declared from time to time since June last, that the Indian Army was thrown open to all castes and creeds of Indians and provinces in India;
- (b) if, in spite of such declarations, men were not recruited from Bihar and Bengal till the end of July and the Bengal Provincial Assembly gave expression to their grievances in a resolution passed on 27th July last; whether their complaints have been attended to;
- (c) if the Provincial Governments of these Provinces made any representations to the Government of India for men of their Provinces being enlisted in the regular army; if so, what the reply given to the Governments of these Provinces was;
- (d) if the Maratha Brahmins in Central Provinces and Berar were selected either for emergency commissions, or as privates in the regular Indian Army till very nearly the middle of August last after the first declaration of the army, having been thrown open to all castes and creeds was made; whether Government are aware that the recruiting officers in the Central Provinces and Berar openly said that their instructions were not to enlist the Maratha Brahmins; whether such instructions were issued by Government; and
- (e) whether there is any direct recruitment of Indians to an Indian Field Artillery regiment, and if Marathas and Maratha Brahmins are directly admitted to it; if any or both of them are not so admitted, what are the grounds for not doing so?

Mr. C. M. G. Ogilvie: (a) No. There has never been any need for any such declaration. No bar exists to Government recruiting any class or creed. Those classes actually recruited are those which experience has shown to provide the best bulk supply of military material, and as the army expands the number of those classes is increased.

(b) It is true that the Bengal Provincial Assembly passed a resolution on the subject. Recruitment from Bihar was carried out to some small extent before the war and recruits are now being taken in increasing numbers from that Province. Recruitment from Bengal was started by the end of May and in both Provinces the Indian Territorial Force has been substantially increased, and in both battalions have been embodied.

(c) There has been some correspondence with the Provincial Governments of Bengal and Bihar on the subject of recruitment and those Governments are aware that their wishes are being met to the fullest extent which is practicable at present.

(d) Emergency commissions have always been open to Marhatta Brahmins, but none qualified before August, 1940. They were not recruited to the ranks until early September.

(e) Yes, there is direct recruitment of Indians to the Indian Field Artillery. Marhattas are being taken into the Indian Artillery, but not Marhatta Brahmins up to the present.

Mr. Lalchand Navalrai: May I know from the Honourable Member if there is restriction against the people of any province and especially if there is any restriction against Sind, and whether people are being taken from Sind or not?

Mr. C. M. G. Ogilvie: There is no restriction whatever against Sind. If the Government decided to raise a regiment, division, or army corps, from Sind, there is nothing to stop it from doing so. As to the numbers which have actually been taken, I refer the Honourable Member to the statement I laid on the table on the 7th November last.

Mr. M. S. Aney: With reference to part (e) of the question, the Honourable Member said that Mahratta Brahmins are not being recruited. May I know whether there is any restriction on the recruitment of Mahratta Brahmins to the Indian Field Artillery?

Mr. C. M. G. Ogilvie: None whatever. They do not happen to be recruited at present into that arm of the service but I cannot say what may happen later.

Mr. Lalchand Navalrai: May I know when new recruitment has taken place, whether people from Sind have been taken?

Mr. C. M. G. Ogilvie: I have already answered the Honourable Member's question.

Mr. Govind V. Deshmukh: What was exactly the nature of the complaints made by the Bengal Government and to what extent and how they have been removed?

Mr. C. M. G. Ogilvie: I cannot say that the Bengal Government made complaints. The Bengal Government is most anxious that its province should give any possible assistance in the prosecution of the war.

Mr. Govind V. Deshmukh: Was there any complaint from the Bengal Government as well as from the Government of Bihar as regards restrictions so far as recruitment in their provinces was concerned?

Mr. C. M. G. Ogilvie: Both provinces are very anxious indeed for more recruitment.

Mr. Govind V. Deshmukh: Will the Honourable Member place the correspondence on the table?

Mr. C. M. G. Ogilvie: I cannot place the correspondence on the table, but I can inform the Honourable Member that the Provincial Governments were most anxious for the increase of recruitment in their province.

Mr. Govind V. Deshmukh: Are persons other than Mahratta Brahmins directly recruited to the Field Artillery?

Mr. C. M. G. Ogilvie: Yes.

QUOTAS OF CANDIDATES FOR EMERGENCY COMMISSIONS AND AS PRIVATES FOR THE ARMY FIXED FOR DIFFERENT PROVINCES.

170. ***Mr. Govind V. Deshmukh:** Will the Defence Secretary please state:

- (a) if any quotas of candidates for emergency commissions for the army and privates for the regular army are fixed for different

provinces; if so, on what principles; how many have been selected for commissions and recruited as privates from each Province; and

- (b) the number of persons from the Central Provinces and Berar selected for emergency commissions and as privates for the regular army since August last; of these, how many are Hindus, Marathas and Maratha Brahmins?

Mr. C. M. G. Ogilvie: (a) No quotas of recruits for the regular army are fixed for the various Provinces. Quotas of candidates for emergency commissions are fixed according to military districts and not Provinces. The basis on which quotas for military districts are allotted are (1) the population of the district and (2) the number of *prima facie* suitable candidates who have registered their names. With regard to the numbers who have been selected for emergency commissions and who have been enlisted in the regular army from each Province, I refer the Honourable Member to the answer given to starred question No. 18 on the 7th November.

(b) On the assumption that the Honourable Member means August of this year, nine persons have been selected for commissions of whom five were Hindus, three of these being Mahratta Brahmins. During this period 397 were enlisted of whom 387 were Hindus, 114 were Mahrattas other than Brahmins and 45 were Mahratta Brahmins.

Dr. F. X. DeSouza: Is it a fact that when the Indian Christians presented themselves for interview for emergency Commissions, the Sergeant called upon them, if they were of a dark complexion, to prove on the spot that they were Anglo-Indians and not Indian Christians; and if they failed, they were promptly sent away?

Mr. C. M. G. Ogilvie: The happening of anything of the kind is most unlikely, but I cannot see how it arises from this question.

Mr. Manu Subedar: May I know if a large number of selected men, after their preliminary selections and after their medical examination, are kept waiting for months by the military authorities before they are finally taken?

Mr. C. M. G. Ogilvie: It is not correct. They are never kept waiting at all by the military authorities. They may be kept waiting owing to the lack of vacancies at the moment.

Mr. Manu Subedar: Is that not due to the fact that there are quotas and restrictions based on communal and other considerations in the army?

Mr. C. M. G. Ogilvie: No. The quotas have nothing to do with communal considerations. They do not enter into the matter in the slightest possible degree.

SELECTION OF CANDIDATES FOR EMERGENCY COMMISSIONS AND AS PRIVATES FOR THE ARMY.

171. ***Mr. Govind V. Deshmukh:** Will the Defence Secretary please state whether Government are prepared to consider the proposal of associating with the authorities concerned a member, or members, of the Provincial War Committees in different Provinces at the time of selection of

candidates for emergency commissions and as privates for the regular army at the recruiting centres in the Provinces? If not, why not?

Mr. C. M. G. Ogilvie: As regards emergency Commissions, Provincial Governments have been asked to co-operate in the work of preliminary selection. There is no need to ask for further assistance as regards other ranks.

Mr. Govind V. Deshmukh: Will not the work be easy if honorary officers are asked to assist in the recruitment of privates?

Mr. C. M. G. Ogilvie: There is no need to ask them to assist any more than they do already. The system of honorary recruiting officers has been found in practice to bring the non-official element closely into touch with the recruiting machine and to give excellent results.

Mr. Govind V. Deshmukh: Is it not suitable and advisable to associate the honorary members with the stipendiary recruiting officers.

Mr. C. M. G. Ogilvie: The honorary recruiting officers are there and they are doing excellent work.

Mr. Govind V. Deshmukh: What about the stipendiary recruiting officers.

Mr. C. M. G. Ogilvie: They are doing excellent work also.

Mr. Govind V. Deshmukh: Do the honorary officers co-operate?

Mr. C. M. G. Ogilvie: I am quite sure, they do co-operate.

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

KNOWLEDGE OF HINDI AND ABILITY TO WRITE IT IN URDU OR ROMAN SCRIPT FOR RECRUITMENT TO INDIAN ARMY.

172. *Mr. Govind V. Deshmukh: (a) Will the Defence Secretary please state if it is a necessary condition of qualification for a recruit to the Indian Navy that he must be able to know Hindi and be able to write it in either Urdu or Roman script?

(b) Are Government aware that such a condition will disqualify persons of the Bombay Presidency who have naval traditions since centuries from being recruited to the Indian Navy?

(c) Are Government prepared to add at least 'Deva Nagari' to the above condition as one of the characters alternative to Urdu or Roman scripts in which Hindi could be written?

Mr. C. M. G. Ogilvie: (a) A recruit for the Royal Indian Navy must know Hindustani and be able to write it either in Urdu or Roman characters.

(b) No. As the boys taken know a certain amount of English they are in all cases familiar with the Roman script.

(c) Government find it impracticable to give instruction on Naval subjects in more than two scripts, namely, Urdu or Roman.

Mr. Govind V. Deshmukh: I have not had a definite answer to part (b) of my question. Will the Honourable Member read it out again?

Mr. C. M. G. Ogilvie: I said, 'No. As the boys taken know a certain amount of English, they are in all cases familiar with the Roman script.'

Mr. N. M. Joshi: Is the Urdu script the script of the majority of the population in this country?

Mr. C. M. G. Ogilvie: No, Sir, I do not suppose it is, but it is generally widely known in all the Provinces and a variation can be made from it by substituting Roman for those who do not know it.

Mr. Govind V. Deshmukh: Is the Honourable Member aware that in Western India, that means the Bombay Presidency, Urdu is neither their mother tongue, nor are the characters natural to them as they learn Devanagari and speak Marathi whether they be Muslims or Hindus?

Mr. C. M. G. Ogilvie: As I explained, the difficulty has not in practice arisen. The boys who are taken are either capable of writing in Roman or in Urdu. They can choose which they like.

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

EXPANSION OF THE 10TH (NAGPUR) BATTALION, UNIVERSITY TRAINING CORPS.

173. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state:-

(a) if the Central Provinces and Berar Government had issued a press note either in July or August last, to notify the decision of the Government of India to permit expansion of the 10th (Nagpur) Battalion, University Training Corps; whether this expansion was sanctioned by the Government of India and, if so, whether it was on the distinct understanding that the unit was to carry out its training without any increase to the present authorised instructional staff and without the issue of additional arms and equipment; whether this expansion has been carried out; if not, why not; whether Government will explain how this can be done with the restrictions imposed and referred to above;

(b) if expansions of the Battalions of other Indian University Training Corps were sanctioned on the same conditions; if so, which those Universities are and what the results achieved by these Universities are; and

(c) if Government are prepared to raise the University Training Corps of all or any of the Universities in India to the status of the O. T. C. at British Universities and to enlarge the scope of the University Training Corps so as to include all arms of modern defence forces?

Mr. C. M. G. Ogilvie: (a), (b) and (c). A statement is laid on the table:

Statement.

(a) Towards the end of June 1940, the Government of India sanctioned a 50 per cent. increase in the existing establishments of all University Training Corps, which included the 10th (Nagpur) Battalion, University Training Corps. A copy of the Government of India order was sent to local Governments concerned and it is possible that the Government of the Central Provinces and Berar may have issued a Press note on the subject. This increase in establishments was sanctioned on the distinct understanding that the units should carry out their training without any increase in the present authorised instructional staff and without the issue of additional arms and equipment. This unit has expanded beyond the previously authorised establishment. Extra instructional staff and equipment are not essential to enable a unit to be expanded, as additional parades can be held and training carried out with the same staff and equipment.

(b) Yes, the orders mentioned in answer to the first part of the question applied to all Indian University Training Corps. The authorised establishment of other ranks in the University Training Corps and the actuals on 1st October 1940, are as follows:—

Units.	Establishment of other ranks.	Actuals of other ranks.
1st (Bombay) Battalion, U. T. C.	955	624
2nd (Calcutta) Battalion, U. T. C.	956	489
3rd (United Provinces) Battalion, U. T. C.	956	866
4th (Lahore) Battalion, U. T. C.	956	460
5th (Madras) Battalion, U. T. C.	956	846
7th (Patna) Company, U. T. C.	239	158
9th (Delhi) Battalion, U. T. C.	477	152
10th (Nagpur) Battalion, U. T. C.	477	395
11th (Karachi) Company, U. T. C.	239	239
12th (Dacca) Company, U. T. C.	114	111

(c) Government are not at present prepared to alter the course of training prescribed for University Training Corps, which, as in England, is intended to provide the essential ground work of military training, which must precede any training in more specialised branches. In any case it is not possible to divert mechanized equipment and instructional staff which are required for the needs of the fighting forces to units which are not liable for military service.

MOTION FOR ADJOURNMENT.

ALLEGED OCCUPATION OF THE MUSLIM IDGAH AT BURHANPUR BY THE MILITARY.

Mr. President (The Honourable Sir Abdur Rahim): With regard to the motion for adjournment by the Honourable Maulana Zafar Ali Khan to discuss an urgent matter of public importance, viz., "forcible occupation by the Military of the Muslim Idgah of Burhanpur in the Central Provinces", I understand that the Governor General, while reserving discretion to exercise his powers of disallowance in respect of this motion, does

MOTION FOR ADJOURNMENT

not consider his affirmative consent to be required to the moving of the same. When did this forcible occupation by the military take place?

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): On the 15th. I will read out the telegram which I received the day before yesterday

Mr. President (The Honourable Sir Abdur Rahim): Is there any objection?

Mr. C. M. G. Ogilvie (Defence Secretary): Yes, Sir. I have also received the telegram, which Maulana Zafar Ali Khan is alluding to, myself. Inquiries were at once issued and an answer has since been received which says that the Idgah was not occupied by troops. The troops, on the other hand, were assigned by the local civil authorities a site, which they duly occupied. This site was in proximity to the Idgah, but did not impinge upon it in any way.

Mr. President (The Honourable Sir Abdur Rahim): Does that satisfy the Honourable Member?

Maulana Zafar Ali Khan: Sir, I should like to place before the House

Mr. President (The Honourable Sir Abdur Rahim): No, no. The Defence Secretary says that the Idgah has not, as a matter of fact, been occupied.

Maulana Zafar Ali Khan: Sir, unless a commission of inquiry has been appointed, how can we say? Here is a definite statement from responsible quarters, and this statement is:

"Military allowed to violet sanctity of Idgah, pitch tents inside and march past round city, playing music before mosque while Muslims offering evening prayers."

Mr. President (The Honourable Sir Abdur Rahim): That is a very different matter. The motion only refers to the occupation of the Idgah.

Maulana Zafar Ali Khan: Were tents pitched or not within the precincts of the Idgah?

Mr. C. M. G. Ogilvie: No.

Mr. President (The Honourable Sir Abdur Rahim): The Government Member denies the correctness of the facts stated in the motion, and I have to accept the Government Member's statement unless there is any proof to the contrary. I, therefore, disallow the motion.

Maulana Zafar Ali Khan: I should like to ask the Honourable the Defence Secretary whether in case of these allegations being true, any action would be taken?

Mr. C. M. G. Ogilvie: Most certainly, Sir.

THE INDIAN FINANCE (No. 2) BILL—*concl'd.*

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the following motion moved by the Honourable Sir Jeremy Raisman:

"That the Bill to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies, be taken into consideration."

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official): Mr. President, Sir, when the House rose yesterday I was referring to the abundance of fine specimens of manhood in India who are thirsting to help England, but cannot do so as they cannot be adequately equipped. The Congress, in stating that it represents India which it certainly does not, says that the people are not with Government in this war, that we can, with our money, buy our soldiers to fight for us, and one Member, I believe it was Mr. Gadgil, castigated the Government for engaging what he called hirelings, namely, the Gurkhas. Sir, such reflections are not only hurtful but insulting to at least two great fighting communities in India who have been singled out for castigation and dubbed as mercenary soldiers. I am sure the House joins me in flinging back this insult into the face of that Member who indulged in those tactics for the purpose of deceiving the world and particularly the enemy countries. They know what they and India owe to the gallantry of the Sikhs and the Gurkhas and it is very wrong to call them mercenary soldiers. Why belittle the soldiers of your own country when one day, when you administer this country, you will have to use them in your own defence? These men are not mercenary soldiers. Sir, we know that martial India, call it Punjab India if you like, is wholeheartedly with the Government to support England in this war and this is no mercenary help. But we want the whole of India to be with us, and that is why I appealed to the Congress in the earlier part of my speech.

Dr. P. N. Banerjea (Calcutta Suburbs: Non-Muhammadan Urban): Hear, hear.

Lieut.-Colonel Sir Henry Gidney: I am so glad to hear my friend, Dr. Banerjea, say, "Hear, hear", and I do hope he will come with us into the lobby.

Dr. P. N. Banerjea: Yes, when the proper conditions come.

Lieut.-Colonel Sir Henry Gidney: In this connection, Sir, I could not understand my Honourable friend whom I have sanctified in this House from Sardar to Guru Sant Singh. He seemed rather unintelligible when in one breath he demanded the resignation of the present Government at once, and its substitution by Indians. I have no doubt at all that this has got to come one day, but Guru Sant Singh, (who I believe is or was an aspirant for the expanded Viceroy's Council) in the next breath said he, as a Sikh, admitted that, as a community and in the interests of discipline, the Sikhs must fight to win this war. Now what on earth did he mean? Yesterday his Irish bull was when he said to the Government Benches: "wait till your eyes are opened and then you will be able to hear us". Holding these views I hope to see him in the "Yes" lobby with his Party.

Sardar Sant Singh (West Punjab: Sikh): But this Government must go: they are unimaginative.

Lieut.-Colonel Sir Henry Gidney: I quite agree with you, they are unimaginative. Today, I submit, Indians, in common with other countries in this world should have had a well-equipped and modern army. I will go as far as to say that we should have a modern army of about two millions. This we would have possessed had the Government, I mean, the predecessors of the present Government, I do not mean the present Government, shown the political sagacity and the foresight needed some years ago when Germany and Italy were arming themselves to the teeth, or even when war was started 15 months ago. Sir, I know that in the present Defence Department and we have had evidence of it today. We have our friend, Mr. Ogilvie, who is over-anxious that all parts of India should participate in the new defences of India, and it is idle for any one community to complain that they are not allowed to take part in the army. I know that Mr. Ogilvie is a man who is very alive to this matter; he is more than prepared to satisfy the communal needs of India. If there is one friend of India anxious to protect her defences, it is our friend who sits there representing the army, the Defence Secretary, Mr. Ogilvie, and may I add, he is entirely excluded from any castigation or criticisms I have made on the predecessors of this Government. Had the Government erected our own factories, we could have equipped not only our own army but a greater part of the British army. And what is more, the situation in Egypt, in the Far East and in the Middle East would not have been so precarious as it is today. We would have made the Italians run, a pastime in which they seem to have specialised on battle fields. Instead, we have a loyal India but a powerless India playing a spectatorial part, on the waiting list, as it were, and not an active part: looking on while our comrades in England are being murdered in thousands by the brutal German Air force. I know the Government reply will be: "We have to obey the Higher Command. We have no money and where are we to get it from? When we raise our defence estimates, this House, particularly the opposite Benches, demand us to reduce it." But why don't the Government demand from this House money to increase and improve our war defences? Let them try this for the Indian Army and I am sure every Member of this House will support such a proposal. The day has come when India, in common with all other countries, must adequately defend herself, as we have our enemies too near our borders to remain powerless as we are today. I repeat, Sir, if we had our own steamers, our own Navy and our own Air Force, there would have been no need for England to attenuate her already strained forces in England to prop up Egypt, Greece and others in the Mid East or in the Far East where we have had to suffer those indignities in the past from Japan. India would have done it and done it as well. I am not saying this, as I said just now, as an indictment on the present Government, but on those who preceded them and who showed a clear absence of political foresight and sagacity. I shall not prolong this agony for it affords me, an ultra loyalist, no pleasure. On the contrary, I look on the past shortcomings of the Government with pain and shame—pain on account of the unequal struggle England is today forced to fight in her homelands, and shame because we have not been considered fit to join the forces till the time came when sheer necessity forced you to admit your errors. It is to pay for these unfortunate errors of the past that we are now called

[Sir Henry Gidney.]

upon to foot additional money for the long delayed defences of India. I shall willingly consent to this payment because it is essential for victory and for our protection. My second reason for indulging in this diatribe against the Government is not because "I told you so", as my friend, Mr. Asaf Ali, said, for I also have told the Government so. In the year 1924, I go back longer than any Members in this House except my friend, Mr. Joshi, I told the Government not to ask India to pay for its Frontier defences, for it being an Imperial defence the expenditure on it should be shared by the Government of Great Britain. In 1936 also 1938-39 and even in last April I called upon the Government to improve our air and our naval forces. But Government turned a deaf ear to these appeals. Even the Aeronautical Training Centre in Delhi has gone bankrupt for want of help from Government and I hear Government have bought it at a very cheap rate. I have criticised Government in the hope that it will never be repeated; that the Government will realise, if they trust India as they must, India will respond in a thousand-fold measure. I also hope that out of this chaos, this monsoonic fight against time, this defence against an emergent situation, this drain on our finances, a new order will be born, an order like the one which is being developed today in England, the upliftment of the underdog, when Peer and Commoner, sleeping under the shelters of the bowels of the earth, are being drawn nearer to each other and understanding each other better, and are together destroying those hidebound social compartments which have been the curse of England and which, with impunity, have been practised on the underdog in India and have all but ruined India and alienated much help and sympathy from the Government.

Sir, I hope when the dark war clouds disappear and the trumpet call of victory is sounded, as assuredly it will be, we shall see that rainbow—a rainbow symbolic of the new order for India, a rainbow, if I may liken it to one of human pigment, the various shades of colour, which, as they run in contiguity one with the other, from its ultra red to its ultra violet ends, each one representing the varying shades of colour of the different nations of Dominions forming the British Commonwealth of Nations, and as these colours are indivisible one from the other and are equally important to form the component whole, so do I hope that each Dominion of the British Commonwealth will be treated as co-equals and not with the brand of inferiority or feelings of mistrust which we have experienced for some time past. That is the new order I envisage and which I feel sure every one in this Honourable House is keenly desirous of seeing as an illuminant, a meteor, guiding the future re-assembled and re-constructed India with all communities on an equality of status and treatment, marching hand in hand to the promised land—that *Nirvana*, a brighter, a nobler and a happier India and forming, if possible, a more radiant jewel than she is today in the Crown of our beloved King who is both King and Emperor of that Commonwealth whom we are so desirous of serving.

Before I sit down, Sir, I submit that as this war is likely to be a long one, and irrespective of what it costs us, India must at once be made an effective base. To do this we must be able to produce our own motor engines for all purposes, to build aircraft, to make our own cannons and anti-aircraft weapons, our tanks and last, but not least, to build our own ocean-going ships. These are absolute fundamentals and urgently necessary. Today there is only one country in the world which holds the key

to these requirements and that country is Britain. America is too occupied in her own defences to help India, while Australia, Canada and South Africa are manufacturing their own war needs and helping England. In the name of India and of this Honourable House, I respectfully call upon Great Britain, still the unconquered nation of the world, to give immediate attention to this vital necessity and not to expend all her resources on factories which in England are built and working today only to be blown to smithereens tomorrow by the German air force. Some of her factories must at once be moved wholesale to India as models where there is more safety from bombs and where there is a large reserve of recruits and cheaper labour as also materials. This is possible today with the seas open to us. Tomorrow may be too late.

Sir, may I, in all humility, make an humble appeal to my Muslim friends. My Honourable friend, Mr. Jinnah, the well-known leader of the Muslim League will still remember the telegram I sent to him a few months ago that I was with him to the last ditch. I am still prepared to be with him to the last ditch. But is he with me to the last ditch? This is a serious occasion in the solemnity of which I find myself bankrupt in words with which adequately to express myself. The 90 millions Muslims in the words of my Honourable friend, Sir Syed Raza Ali, who have never refused to co-operate with the Government are, as in the past, destined to play a great and abiding part in the destiny of India. Remember what is before us. Remember the important issue that is before this House today. The whole world is looking upon the result of today's decision and remember what is expected from such an important and loyal group like the Muslim community today. You are called upon to execute by your vote a sacred duty. As one who is prepared to stand with you to the last ditch—I am not going to teach you what your duties are, I am incapable of doing it—I appeal to my Muslim friends to realise that sacred duty, a duty which can be fulfilled only by voting and not by remaining neutral. Sir, if it is their intention to remain neutral, I shall regret such a decision. If so, my Honourable friend, Mr. Jinnah, will tell the House why the Muslim League prefers to remain neutral. I am not here to discuss that, nor am I here to argue with him. He knows his own business. But I appeal to him, the accredited leader of the Muslims, one of the most brilliant Muslims India has ever had, to realise that on their shoulders lie a great and serious duty and the whole world is looking to them either to support the Government or, by their neutrality to allow the Opposition to win. The Muslims know who are against them. They also know that England has never forsaken the cause of Muslims. Thousands of Muslims are today fighting on the battlefield in Europe—they represent a great community which has never non-co-operated with England and whose loyalty still remains unstained. They realise the motives underlying the forces that are operating today to defeat this Bill. It is no use saying that by not voting they will not help the opposite party or embarrass government. You may throw the two parties, Congress and National Congress into one camp, but of what value will that be to you while it will be of serious import to government and I beg of my Honourable friends to exercise their vote, be it that side or this side, but please do not remain politically impotent. I again beg of you to vote. I do not argue with you to cast your vote one way or the other. Let history not say that the Muslims did not today discharge their duty seriously. There is no need in my opinion to persuade such sensible and veteran legislators, there is no need to ask such a loyal body of Indians as the Muslim League. But in my

[Sir Henry Gidney.]

capacity as the leader of a minority community which has suffered at the hands of the Congress, I ask my Muslim friends to remember all these points, and put them in the balance and if they find they weigh against them, why not give their vote on the side which will go in their favour.

Sir, let the Congress say what they like. A majority of them, I am sure, seriously do not believe what they say. They have no faith in their conviction. What they do and say is all at the bidding of the High Command. I want the Government and the world, including enemy countries, to realise that India is whole-heartedly behind us, though we, like other parts of the world, have our fifth columnists. I want Government to go right ahead and certify, if necessary, and as fast as they can to go on with the defences of India. Why waste your time in granting commissions to examine whether one or two officers have received increased pay. This is not the time to listen to wails, even from the mathematical expert of this House. This is the time for action. This is the time for quick movies. Otherwise as sure as night follows day, you will miss the bus.

Sir, despite what the Congress says or wants, despite the result of today's voting, I say India is ready to do her best to fight the enemy wherever and whoever he may be.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has already spoken for more than twenty minutes. He promised to take only ten minutes today.

Lieut.-Colonel Sir Henry Gidney: Sir, I shall now conclude by adding: If England fails us and her Empire, and if the Government of India fails us in our pressing demands, she will do so at her own peril. Sir, I look forward to the day, I hope near at hand when the war is over and the roar of the bombs and cannon are heard no more and when the silence of peace and happiness replace what is today an inferno, yes, Sir, I look forward with confidence to that day, when England and her Commonwealth of Nations will, in victory, together raise their voices and sing 'God save our Gracious King' and 'Rule Britannia'. Call her 'Imperialists' or anything you like—still she will even be our Mother country, England to whom, speaking for my own community, we must and we shall ever be loyal and ready to serve. Sir, I support the Bill.

Mr. Bhulabhai J. Desai (Bombay Northern Divisions: Non-Muhammadan Rural): Sir, it is for good reasons that after an absence of some 18 months, I stand before this House in order to be able to express our view as to the issue which has now been raised by means of this Bill, small in itself, but importing a very large controversy. Had it not been for the fact that it involves those issues, we would still have continued, notwithstanding all comments, our attitude of protest with which we marked our abstention from the proceedings of this House ever since the month of August last year.

It was on the radio, Sir, that for the first time we heard that a Finance Bill or a Supplementary Finance Bill had been introduced in this House and that its express purpose was to find at least a part of the money required for what the Finance Member described as extra-war effort and extra-war expenditure. The issue, therefore, having been directly raised, it

became our bounden duty not only to be present here, but to do our best, and speak in the name of those whom we represent, not merely in this House or the other, but from the point of view of this question of India's duty of participation in this war effort. It is for that reason that immediately I heard on the radio the purpose and object of the Bill, I thought it my duty to call all my colleagues here in order that, with their support, I may be able to state our case before this House, not merely within the narrow precincts of this place where, it is said, privilege rules, but to the wider atmosphere and the wider audiences which now can be reached throughout the length and breadth of this world within less than a few minutes; and no Ordinances and no Criminal Law Amendment Act and no gagging of the press will prevent our voice reaching the ears of the people of this world. At all events we would have done a duty to conscience by explaining our attitude, not in a spirit of bare justification, but in a spirit of reason, whether it prevails or it does not do so. It is for that valid reason that I make no apology whatever for attending this House after such a long absence and putting the strain of coming post-haste on many comrades who have come from far south and far north, and far east and far west, which alone will explain, if any doubt exists here, the representative character of the pronouncement that we in our humility presume to make before this House for its acceptance.

During the course of the debate that has taken place, there have been pictures given of Heaven in Heaven and Hell on earth, and appeals have been made to hopes and fears and flatteries and cajolings, but there is no place for any of these. Each one must conceive it his duty, according to the best of his light and to pursue it in a spirit of interminable firmness. I am not, therefore, saying that the view that we take is necessarily the right one, and, therefore, I will not, in the course of the remarks that I propose to make, question the sincerity of any individual person as to the view that he holds. But a criticism and analysis of the ideas that go behind it or the motives that furnish it must not be mistaken for a criticism of any *bona fides*. I say this for this reason that the apologists for the participation of India in the war have resorted to what you may call different types of personal criticism, to Congress criticism, to ministerial criticism, and also to a possible hope for India in the future. It is a very wide range; at the same time, it is not my desire that beyond a reasonably limited time I propose to occupy the House. The fact remains, however, that the introduction of this measure, whatever may be the view of those who thought this an opportune time to produce it, was a most unwise thing to do. The first and foremost reason is that it was claimed, at all events until this issue was put forward directly, that India was participating in the war, — a declamation for the purpose of the consumption of the world. And if they wanted to keep up that illusion they might have been wiser if for a mere two crores of rupees they had not brought up this Bill for this express purpose. And it is still more unwise, having regard to the fact that by reason of events which have occurred, if not entirely, the very debate in the House of Commons on India's contribution to the war effort has had to be wisely postponed. So long as they alone spoke, it was quite easy to represent to the world that India was with them in this war effort; but as soon as others were allowed to speak or to express their opinion, a different tale would have had to be heard. From that point of view, I submit, Sir, that it was extremely unwise, except or unless it be that they believed that like other measures during the absence of the Congress, of which

[Mr. Bhulabhai J. Desai.]

Mr. Griffiths spoke, perhaps there would be a vote of the House and there would not be a word heard here except Hallelujas the best of which was exhibited only a few moments ago. It was on that hope or in that belief probably that it was intended to test, as a thin end of the wedge, whether any propaganda value can be created by a measure of this character. It is unfortunate from the point of view of the objective; it is fortunate from the point of view of those like me who have had at least an opportunity in this House to be able to say what, I believe sincerely, equally sincerely with others, India thinks of this war.

As soon as the war was declared, no doubt by reason of the constitutional right which the Governor General had, within a few hours of the declaration of the war in England, it was stated by the Governor General that India was at war with Germany. Of course, no longer is Germany the only enemy, but that was the state of affairs at the time the war was declared. And notwithstanding the fact that this right was exercised as a matter of right of a subject race and over a subject race by a dominant power, still in this House there are those who argue that this is not an imposed war. The only apology which Mr. Griffiths offered to this House was, in the language which he used, "What use would it have been had the House been consulted in the month of September?" The Congress was absent from the House, and, therefore, in his language, the representative character of this Assembly did not exist. While trying to give an explanation, he yielded more than he intended to do. He first yielded what is perfectly right—that without the presence of the elected members or at all events a large number of elected members, the House was unrepresentative; and so it was; and it is said that that was a good excuse for not consulting India. It is perfectly right that constitutional privileges and rights exist; but it is always the part of wisdom to exercise such rights discriminately, and this brings me to the reason why we have abstained from the proceedings of this House for the past year. Before we decided on this course, the Indo-British Pact was before this House. It was rejected by the vote of this House. A Bill was brought in with a view to give effect to what the British Government thought was the proper agreement to make in the name of India, despite the vote of India; and it passed through the usual stages of a rejected Bill and a recommended Bill, and ultimately became law, merely by the exercise of that prerogative, and we then felt—and I expressed it from this very place—that if our only use in this House is, in so far as executive matters, external affairs and defence are concerned, that we are useful when we agree, and that we are useless when we disagree, you may have the powers, but that does not mean that they are always to be exercised whenever you are defeated; and we felt then that apart from a few legislative measures which could not be certified, the British Government had adopted an attitude of implacable opposition to our using the powers which they possess, and that they wished to govern this country as if there was no other section in the Government of India Act except the wide irresponsible powers of executive which they possess. If that use was to be made of the constitution and if the vote of the House were to be a mockery, then we felt that after remaining for a sufficiently long period here, we had, in so far as propaganda value was concerned, served our purpose. It was for that reason that we did not think it worth while to spend our time any longer here, and now we have come only, as I

said, because we feel that the issue raised is one on which we feel it our duty to express an opinion, the opinion of those whom we represent.

On the declaration of the war by the Governor General in the name of India, a statement was made, so far as we were concerned, by the Working Committee of the Indian National Congress; and by that statement we have always stood; and it is not a statement in the name of any party, in the name of any side, in the name of any section. If the war is a war to defend the *status quo*, the imperialist possessions and the colonies and vested interests and privilege, then India can have nothing to do with it. If, however, the issue is democracy and a world order based on democracy, then India is intensely interested in it:

"The Committee are convinced that the interests of Indian democracy do not conflict with the interests of British democracy or of the world democracy. But there is an inherent and ineradicable conflict between democracy in India and elsewhere and Imperialism and Fascism. If Great Britain fights for the maintenance and extension of democracy, then she must necessarily end imperialism in her own possessions, establish full democracy in India and the Indian people must have the right to self-determination."

We took up that position then, and having taken up that position by that position, we have stood since. And we said further:

"The Working Committee, therefore, invite the British Government to declare it in unequivocal terms what their war aims are in regard to democracy and imperialism and the new order that is envisaged, and in particular how these aims are going to apply to India and to give effect to them at present."

Therefore, from the very time that the war was declared, imposed war as it was, we are still waiting to see the reaction to our statement . . .

An Honourable Member: What is the date of that?

Mr. Bhulabhai J. Desai: The date of that is the 12th September, 1939. So that, immediately on the issue being considered by those whom I have the honour to represent, we took up an intelligible—at least I hope it is intelligible—and a definite position as to the terms and circumstances under which alone, even if this was an imposed war, we shall make it our own. We began with the fact that it was an imposed war. No amount of argument can get rid of the fact that it was an imposed war, for whatever poor apology might be offered for the declaration of war by Britain and for involving us in the declaration of war—and I do take note of the fact that after that it was followed by the dominions—the fact remains that Ireland is not at war and is neutral: the fact remains that by the skin of their teeth one of the parties in the South African Parliament succeeded in getting a vote against neutrality: so that it does not require any examination of the constitutional position of the statute of Westminster in order to see that in fact and in practice what is called the British Commonwealth of Nations, eliminating of course England herself, have elected of their own free will to join or not to join according to the dictates and the requirements of their own policies. While therefore this was an imposed war, which on the very ground that it is an imposed war we want to resist, we were still not unmindful of the fact that if this war was going to be, not in order that England may defend India as her property—if that is the war, undoubtedly there is no man in this House who can get up—not even the European—and say, "Yes, this is your war: take part in it." The pc

[Mr. Bhulabhai J. Desai.]

therefore, is extremely simple. The problem is that unless it is made India's war, it is impossible that you will get India's support. By that position we stand today, as we stood on that day.

Considerable discussion thereafter took place: declarations of policy were made from time to time; and it would occupy the time of the House too long if I took them all over the historical background, of which a few glimpses were given by the Honourable Mr. James. But he asked at the end of it all "The Viceroy made you an offer, made India an offer—I take it. But you wanted them to part with power." And he said in the last sentence, "What use was going to be made of that power?" Now, Sir, in so far as this political issue which I do not wish to dilate upon has been made one of the arguments during the course of this debate, I cannot possibly avoid it at the risk of being misunderstood. It is a curious commentary that the Members who spoke on behalf of the Government barely referred to it. It was reserved for the representatives of the defenders of England in India to raise the issue in a more definite way. True, one must not take notice of anything, as we are told. Why should you think of the past ill deeds, misdeeds or defaults,—and now you must fight. But says Mr. James,—that is perfectly true, you must fight. Therefore, it is not the British Government alone, but the representatives of Britain in India get up and say: "Oh, you want power, you want to bargain with us? This is not the time for bargain; you won't get it." If racial arrogance ever went any further, it was this, for it was not the Government that was speaking. It was the representatives of Britain in India who said: "Oh, we want to retain power, and you be our instruments in fighting the war"—an extraordinary bargain of which I make a present to those friends. He says: "We retain the power and you as our instruments fight the war." If that is the bargain, I reject it off hand in every manner possible. What is the good of telling us that this is our war except by fear mongering, to which I shall come in a few moments, or by painting a picture of heaven on earth,—that some day it will come true. Neither of those arguments has any value in view of the past experience in Indian history. It is not a matter of comment. I am not reflecting on anybody's *bona fides*; but, after all, man would not be a man; man would not be a wise man if he did not profit by experience. In the last war India gave her wholehearted support, including Mahatma Gandhi, including myself. I went about lecturing with my friend, Sir Thomas Strangman. A million and half men, seven hundred million pounds were provided, and at the end of the war, we know what happened. And yet, the same phrases were used as are used today, the same hopes of maintaining the freedom, of bringing it back, the freedom of small races or subject races; the same abuse, deserved or undeserved, of the Huns, and yet they hugged each other at the Treaty of the Versailles. These abuses do not deceive anybody. This wild thing ceases to be wild as soon as you make peace when it suits your interests. Therefore, it is a very poor argument indeed to tell us that this is a war of civilization against darkness. If civilization means India's perpetual subjection, it is not civilization to me, and if it is not civilization to me, it is enough for me to say: "It is you and your civilization, you defend it", because your civilization means—"Yeg, you raise up a picture in poetry of good things either from scriptures or from poetry or from philosophy. Having got that picture you drew the

trick, which is usually known as a missionary's or juggler's trick." The missionary generally raises a picture of heaven making you believe he has given it to you by the mere fact that he has raised a picture, whereas a juggler gets up and says, "Here is all earth, now you see a mango tree, you see a mango, why don't you eat it." Excuse me, this method of approach or even quoting the Bhagavat Gita, which you do not understand, will not be of any avail. I thought suffering chastened the heart. At least that according to the Book of God. But suffering has mostly made you more astute and less likely to give in. If power is not given to me, you may be quite certain that not merely shall we not assist, because it is not given, but because you must realise that without power you cannot implement your responsibilities. What you want is, you retain the power, you become the hewer of wood, and I drive the bullock and sit on the cart. Those days, it must be remembered, are now gone. The position, therefore, is, we want to make it quite plain to this House and to the world that it is sheer hypocrisy to say you praise democracy. Who objects to it? Of course, I yield to none in my praise of democracy. But whose democracy? Your democracy, my democracy or the joint democracy. If it is your democracy and my subjection, then it is a hypocritical phrase. If, on the other hand, it is a joint democracy, we are always willing as equal allies to fight this war, as the very statement made within a week of the declaration of the war shows that there has never been any backsliding on the part of India, but at the same time you cannot make a cat's paw of India time after time, time after time. A time must arrive when they must realise that we can only fight if it is a fight for your freedom as well as mine. But if you think that the Sikhs who defended the battle of Marne last time are also going to do the same thing at your bid, you may purchase them. You may think it is a very hard world which says they are mercenary, but that is the only way in which one can describe them. Either a man fights voluntarily for his own country or freedom, or he fights for somebody else's freedom, at least with my money. Now, what is the dictionary meaning of a man who fights for somebody else except mercenary? You may put up righteous indignations and everything else, but the description is quite apt and right. Unless every Indian thinks he is defending his own country, his own freedom, the only alternative is he is fighting as mercenary. It is not a phrase, it is a fact. These are not phrases. These are facts. What you want is phrases; what you want is principles. No amount of declamation, no amount of getting eloquent over them, no amount of quotations will get rid of the fact that declamation cannot possibly take the place of action, and unless the British policy, or as we invited them so to do on the 12th August last year was to be reversed, we must remain where we are, and they must do their best to fight.

Then, it is said: "Oh, but this is a purely political argument; it is wrong to bargain at a time of stress like this. How can we ever make, in the language of Mr. Amery, such a radical change in the constitution of a country during the course of the war?" You can argue so long as you can afford to argue. That is my value of phrases of this kind. I need hardly remind the House, for these are historic events which will go down, that when stress comes, you not only can change a constitution, but you do something which was never even dreamt of, share with another country yourself all your possessions and your liberty. That is the offer, as Mr. Churchill said, with which he went to France three days

[Mr. Bhulabhai J. Desai.]

before she collapsed. If that could be done, the change of constitution in India could not be done. Indeed it could not be done, because it was not intended to be done.

And now let us deal with the question that has been raised as to the effect: "Oh, but forget the misdeeds of the past, trust the future, and why argue about it; we are in difficulties, all of us, or both of us, and what will happen to you if we are defeated." That is the fear argument, as I call it.

Now, I want the House to analyse briefly the elementary ideas underlying this fear argument. The question is, is India's war effort, to which you now invite us—if it exists it does not matter because there is nothing to invite us to,—if in addition to war effort, India's moral co-operation has any value, the question is, has it any effective value? Is it going to make all the difference, according to our estimate today, between Britain's success and Britain's defeat. If it has that determinative value, has it ever occurred to those in Britain or to my friends who represent them here, that it has all that value, what would you not give us to take it? If it is going to turn the balance, as I said, what would you not give to take it? Supposing a people, one-fifth of the human race,—and in the language of the Honourable the Finance Member: "When the war began, India's main assets were an enormous supply of man power and an abundance of raw materials." If it is going really to turn the scale of the war, supposing India for a moment were an independent country—you have wooed many small countries with no resources and with very doubtful credentials—and supposing India were a free country and came and made this offer of an alliance to you and said: "We believe it is a war for democracy. We love freedom, you love freedom. Let us join hands and fight", would any statesman in England, however diehard he may have been, have dared to consider or waited to consider, much less rejected such an offer? In other words, you reject an offer by India merely because India says: "We can only offer an alliance as a free country." The crux of the matter is there. No. What you want to do is, in the language which we used at the commencement of the war that this is still a war to fight for the *status quo* so far as India is concerned—if it is going to be *status quo* so far as India is concerned, we do not wish to rely on any promises whatever. Promises may be very *bona fide* given, and yet we have the experience that they are not kept. It is for that reason that after long waiting, after long discussion, after many consultations, at least the Congress put forward an offer of joining in the war effort even on a lesser basis in so far as the immediate issue was concerned, and we said, if you form a national Government in the Centre and put upon them the responsibility for the purpose of India's defence and such further action as may be needed in so far as the protection of democracy is concerned, India was prepared to co-operate. Many of my friends have mistaken this as if it was a Congress demand in the sense that it was for the benefit of the Congress that the demand was made. No doubt, it was a statement on behalf of the Congress but I trust it is recognised and realised that what was demanded was a national Government and the phrase which came out was not a phrase unknown to the Secretary of State himself. In fact, a few days before the demand was made, at all events, the proposition was formulated, Mr.

Amery, in a generous mood, of course, trying to describe his expanded or intended expanded Executive Council said: "We want in India a National Government"—and these are his very words—"like the one we have in England". All right, that is precisely what we want. Do you mean it? Or you call an apple something else, you call a stone an apple, and say: "Why don't you take it? We have offered it to you." If Mr. Amery meant what he said, that is precisely what we asked, and there should have been no difficulty in doing so. It is not a democratic majority in Government that we asked. We did not say: "Eliminate the figureheads and that will leave us 103 or 102, and then we will form a Government out of them which has a majority." We never said such a thing. That might have been the Congress demand, that might have been a question of Congress Government, but we said: "What we mean, all we demand is a National Government like the Government you have in your own country. It will reflect every single representative of this country, for, after all, if, under the Constitution of 1935, elections have any meaning, it certainly is this, that there is not a single man or woman who has a right to vote, who is not represented by one or other of my Honourable friends in this House, apart from the nominated officials and nominated non-officials." So that what we demanded was a very simple, easily flexible, workable arrangement. We wanted no revolutionary change during the course of the war. What we wanted was a test: "It is within your power to bring about that national effort which you desire for the purpose of India's participation in the war." What was the result is known to everybody. And, now, apart from the Congress, apart from those who spoke, every single individual representing public opinion has realised that what Britain wants is that we should lend our name, we should lend our moral support, we should place all our material resources and that we should be their instruments in carrying on this war and popularising them; in other words, that we should work for our masters. That demand I am quite certain will not be met and cannot be met. Then, it is said: "Well, never mind that. Power is not to be given, but the fear theory still remains." As to fear theory, if our assistance is decisive, it is up to you to make any sacrifice if you call it sacrifice. It is very easy for a man to say: "Oh, I have responsibilities created by myself by the conquest of this country." "Well, you have those responsibilities, but you also shed those responsibilities if you care to." But if the keeping of the responsibilities means: "Oh, yes. I have got your house, but you are not yet agreed when the house is given back to you, as to which one will be occupied by one brother or sister or anybody else, and, therefore, I prefer to keep the house." That is the argument as the man in the street understands it. The man in the street is not clever, is not astute, but he is shrewd enough to understand what that offer actually translated means. The offer actually translated means this: "We do not wish to give it, we want to make a camouflage to give it, and if you are taken in, well and good, and if you are not, we shall carry on." Well, you carry on, you carry on at your peril. No doubt, you may carry on at my cost against my will, but at least I will not sell my soul, I will not sell my mind, and I will not sell my country. Those are the things that I will not do. For you, you may say, you may flatter yourself, as indeed one of the speeches I heard, that "India is with us." All right, if India is with you, why say anything else? But I will read to you what those in England think

[Mr. Bhulabhai J. Desai.]

whether India is with you. This is what the *Daily Herald* says as regards the way in which India is with you. That is the message that the *Daily Herald* gave at London on November the 7th. It is talking of the failure of the Governor General to invite the co-operation of the Indian people. At the end it says:

"All discussion of India's contribution to the war is overshadowed by the break-down of the Viceroy's negotiations with the Congress. Members of Parliament must make it plain to Government that Parliament and the people want a new effort, made, if necessary by new methods, to reach an agreement. Their message to the statesmen of both sides should be: try yet again to build the bridge across the gulf which to the delight of our enemies lies darkly between you."

That is the appreciation of British statesmen and British journalists and anything against it is of little value, because if they did not realise its reality and its gravity, they would not have given the warning which they have done even at this last hour and as for my friend the Leader of the House, it is not for me to compliment him, for indeed he needs none. He is all courtesy. His speech was well documented, well docketed, as indeed it was bound to be, with his usual industry and skill. What did he do? He says: "I will tell you where I agree with you. If you want to tell the truth, I agree with you. If you want self-government, I agree with you" and he calls it the background of an agreement. If it were not for him that was speaking, it would be very difficult to believe that such an argument would pass muster. I agree with you in everything that you want and having agreed with you so far, now you must not want anything more. I agree with you in everything. I will give you chapter, quotations, Bible, everything else included and what more do you want. He says: "You are a very greedy person, Mr. Desai and now you must walk into my parlour and assist me." That is the argument, broadly, boldly and correctly analysed. We cannot fall into such a snare. Of course he was there to defend a lost cause and why should he not do it to the best of his ability. I have every admiration for that but at the same time, I wish to present to those who do and can understand what is the net result of that argument. He then gave six principles and they were hastily written down, as if merely stating them were the same thing as putting them into force. He said: "You want self-government. Yes, I agree." It was a distribution of self-government sweets in this House. He ought to have known better and the country knows better. Merely saying that you agree with all I want is not the same thing as giving me all I want. The next thing he said was: "Don't remember the misdeeds of the past. As a good man you should forget it. There is only good man on one side and bad as I am, let me have what I have." That is the next argument that was used in the course of a lucid speech but the argument was as fallacious and fictitious as it was lucid. That was the background. It is the biggest wrong committed for all time. It can be learnt from any book purchased in a bookshop. That is the background and the foreground. Then when you come to the actual ground, he says "nothing doing". That is the speech that he delivered and then he said: "Oh, but India is assisting. What about the young men who are enlisting and who are anxious to be enlisted whenever we put up a notice." He says: "If they are Congressmen, there is nothing more to say. If they are not Congressmen, they are against you, India is against you." That is the dilemma he put forward. Have you heard such a specious argument before—because a few men come and apply for jobs, therefore India is

assisting him in the war as a participant and a willing and equal participant. It is only he who can dare to put forward such an argument but the position there is quite simple.

My friend, the Commerce Member, said: "Oh, the Corporation of Madras rejected the proposal for a fund by two votes" and that Mr. Satyamurti did this, that, and so on." I have no desire to go into any personal acrimony of any kind. He says that the *Madras Mail* came out with an appeal and collected much money. Shall I say and present to him and to the Government that it represents the tinsel patriots created by the Madras Government. Their parentage is enough to show where they stand. It is perfectly useless to tell me that an Anglo-Indian newspaper put out some sort of appeal. He says, to that appeal there was some response, and that was India's answer to the call for contributions. It is the argument of a clever journalist, and if he were one, he would certainly be employed as the Minister of Information and Propaganda. But, as a Commerce Member, surely he ought to have shown a better sense of humour than that, because he certainly ought to have seen that it is no use telling me that Mr. James contributed a pound; if he did. It is extraordinary how for want of argument in a lost cause you should be driven to this. Don't do it. As you said, I am serving a master but are you serving any less? Is that a fair argument? You say, "You have got a master. You have an organisation and a High Command and everything else." When you say that, do you mean to tell me that you don't care? Do you mean to tell me that there should be as many opinions as there are men for any effort, for any cause? Do you mean to tell me that if the Commander-in-Chief in England said that the army in Egypt should march one way, all the soldiers should individually resolve as to which way they are to march. You must distinguish between masters and masters. A self chosen organisation is one proposition. A well paid service is another proposition. Therefore we should not have entered into that kind of argument. It is wrong to do so. I appeal to him. Let us by all means serve a cause for the time being which you are called upon to do but do not let us come down to the level of an argument which does not respect either of us. I want you to respect yourself and I expect, as a courtesy, that you respect me. That is the position of the true protagonists of the Government and nothing more and however specious their speeches may be, they cannot deceive the country.

Then, I come next to another argument *ad hominem*, which is justified up to a point. Quotations were given without giving names, keeping it as a sort of surprise. I have seen this sort of thing at Port Said where a man covers something with a piece of cloth and slowly brings out a chicken. We were treated to a large number of quotations, thus rousing the curiosity of the House as to where they came from. Ultimately we were told it was from Satyamurti, from Munshi, from somebody else, and, of course, on top of all that, there was Mahatma Gandhi's statement; but perhaps my Honourable friend is aware, that he had the sympathy which he expressed on the very first interview he gave the next day after the declaration of war. Nobody has gone back upon it. If you mean that sympathy can be evoked merely by appealing to sentiment, without your doing anything on your part, then I think it is a grave mistake but not only that. I go further. I wish to give you a quotation so that you may understand. There is no inconsistency in politics if you find that your

[Mr. Bhulabhai J. Desai.]

very best appeal or your very modest demand does not meet with a response. What is the good of making long quotations. Things said when the war was first declared were rightly said. There is no inconsistency in saying that you will not do what you pretend you want to do. You say you are fighting for democracy. All right. Prove it. Here is India waiting for democracy to be established in this country, and at that time I tell you "Yes. I think it is a just war." Have I, in giving credit to you for honesty, made a mistake? It is an extraordinary way of quoting things! A man talks to me. I tell him, "yes, I believe you; I think this time at all events you will be right, but I ask you to say that you should make that declaration and you also should implement it now as an earnest"—because now, without an earnest, there is no bargaining, Mr. James. No, it is not a contract, in which he says: "I promise, promise, promise" and ultimately the promise is never fulfilled. No. It will only be either a real bargain or nothing—no illusions, no delusions, no promises in which there should be any grievances—so that we honestly believe. And are we to be blamed for giving you the credit that you meant it too? We gave you the credit for what you meant and I think you meant it. Discussions took place for months past and in the end we realized that you did not mean what was said—that you were only fighting for maintaining what you described as the *status quo*, for maintaining the subjection of India and the colonies and of all vested interests and privileges. We said: "destroy these and we are with you". Maintain these and you cannot expect us to fight for you—so that supposing they say: "it is a good thing to fight in this war", is it an offence, do you say that we should have distrusted you at the very time, that we were foolish in not believing that you were cheating us even then? Why should you put any such blame upon us? We thought you were going to do it. We thought you meant it and we gave you credit for it and we said, "good things"—and of course you do not do it. The respect for Mahatma Gandhi, after all, does not disappear because he disagrees with you. Of course you may or may not agree with him, but I hope you will have to maintain that respect for him. This is what he said on February the 17th, 1940, in the *Harijan* after making every effort to see that this war for democracy is applied and implemented in this country, and he said this:

"The Builders of the British Indian Empire have patiently built its four pillars—the European Interests, the Army, the Princes and the Communal Divisions"

and, after going over the whole of the arguments and all the declarations which were made by the Viceroy and everybody else and including the subsequent statement (in the Lords) by Lord Zetland, he said this:

"If it is fairly correct, the issues are quite clear. Between the two the Nationalist and the Imperialist—there is no meeting ground."

Sir, you may be proud to call yourselves "Imperialists", so you are to hold in bondage a race of men fully one-fifth of the human population. Indeed it is an object of pride but don't you make a mistake about it. That is our quarrel with you. Imperialism must necessarily involve—of course you try to find another phrase, the "commonwealth of nations", but as I have always said, that means that, "your wealth is yours and mine is yours too". So far as I was concerned, Imperialism has always meant—I learnt a little bit of it and taught it too—that necessarily, in the structure of imperialism, there will be different components, there will be inferior sections whose resources are at your disposal—and it is that which

we wish to destroy; and therefore although you call yourselves by another name, you won't change your facts. Either we have a common freedom to fight for, or we have no common freedom to fight for. So Mahatma Gandhi says:

"The more the nationalists try to deal with them as if they were problems for which they were responsible, the firmer must they become."

Then follow words which I think should appeal to every man who believes in any vision, in any sincerity, in any moral uplift or moral effort:

"I cannot conscientiously pray for the success of British arms if it means a further lease of life to India's subjection to foreign domination, I write this last sentence with a heavy heart."

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House): On a point of explanation, Sir, the bulk of those quotations were from speeches made during May, June and July of 1940—more than three months after this declaration.

Mr Bhulabhai J. Desai: I do not know that that is an explanation but I will leave it at that if my friend wants it. I will tell him this that even after these—I will explain the matter in a few moments, I do not wish to take longer than I intend, some of the quotations were undoubtedly afterwards and it took a lot of time to go through them but I will give the substance and the answer today. Even after writing this sentence, he did not believe that it was his part at all events not to embarrass the British Government in its efforts without of course co-operating in it, because the first act of non-co-operation was the resignation of the Congress ministries; on that there was no hesitation, we did not wish to take any part in it, we did not wish to be responsible for it, and we did not wish to be mere instruments.

Then, it is true that even after this disappointment knowing that there was no question of co-operation left, still he did not wish to embarrass the Government, and at the time when these statements were used and they undoubtedly hold good today, you may believe it or not, it is his desire not to embarrass, but, as he put it, and as I am here today to endorse it before this House, a desire not to embarrass must not end in self-extinction. You cannot exploit my desire not to embarrass you to the extent of my suppressing myself altogether. I cannot be a willing instrument, because I do not wish to embarrass you. In fact the true case is that you embarrass yourselves by not meeting the other side in the manner in which you ought to reasonably and honestly and if you really mean it, sincerely mean it. Therefore, you cannot use the other man's goodness as a cloak for other people's hypocrisy. Being a pacifist, of course, he never loses faith in human nature. It is a failing of a man of faith that he continues to have faith. But that failing must have limits in its application to human life and politics. That is how this statement came to be made. Sir, we have been twitted on the question of non-violence and all the rest of it; I think it is all permissible in a game of argument, but I can only deal with the more salient parts of the argument and leave the rest to be analysed by the arguers themselves. It was said, "Oh, you are non-violent fellows." Well, I think they have all forgotten that in every organisation in the world, including England, the numbers must be large in every country,—there is Lansbury, Maxton, hundreds of others, there must be heaps of men who are pacifists and in every organization

[Mr. Bhulabhai J. Dessai.]

there are pacifists who have conscientious grounds for opposing the war, so there are others again who on political grounds, amongst us for example, who think that this war cannot, having regard to the attitude of Britain, be anything else but imperialism. That is the ground on which they oppose the war. There are others who believe that you can shed imperialism during the war because "shedding imperialism" only means, "giving up the power"—and Mr. James is unwilling to give a new name, because that is the part which he arrogates to himself.

The successor of Thomas Roe might have talked a little less and in a more humble way. But they do not do it because of the British privileges and the British interests. But that is quite wrong.

I wish to assure him that they can still play the game if they intend to do it. And, therefore, there are those of us who say: "Yes, we have the responsibility, but can we ever go and enthuse the people of India and say that this is our war and therefore we must ask our sons to go and die and the last pie that we have we should give?" How can you enthuse any people by saying that a Leader in a certain Assembly told me that this is his conviction that it is our war, and therefore you must give every help. Have you ever heard such a thing? Can you ever create national enthusiasm by these means? National enthusiasm can only be created by acts and not by promises. Therefore, the bulk of us say: "Yes, if National Government is formed, we shall undertake the national responsibility." It does not require any argument to prove this statement. But my friend, the Britisher, argues as if I was asking merely for the National Government and giving nothing in return. I was undertaking the responsibility which you wanted to put upon me. If you, therefore, feel that it is your war and you can still carry it on by exploiting the Indian people and the young persons who are looking for commissions, then I make a present of that war contribution to you, because I am an humble, helpless individual who cannot stop it, according to you. But inasmuch as it is our duty to persuade our people as to where we stand, you and I must confess the truth. You and I cannot merely be asked to depend on vague promises and wait for their fulfilment when new conditions may arise. I do not wish to take the thing to its logical conclusion. What will happen to us if Germany comes? Those who argue this give small thought to what they say. They have not realised that if they are defeated and Germany comes, they are defeated too. In that case, they will have to look after themselves instead of looking after me. They say: "What will happen to you if Britain is defeated?" I ask: "What will happen to you if you are defeated?" That is one of those arguments which has always puzzled me. The *Times* of India stated it some 14 months ago without understanding it. If you are defeated, then you are defeated and then your liberties are gone and along with them mine too. Therefore, let us not argue things in that strain. It is a wrong appeal to fair politics; it is entirely erroneous and is entirely uncalled for. Say that it is our common war if you can dare say so. Say: "It is your war as much as mine because your liberty as much as mine are in jeopardy." We have a very good Indian proverb. I ask my children to manipulate the grindstone and the Poles, the Czechs and the Greeks are going to get the flour. That is not the lesson which my grandmother taught me. My friend went over the whole geography and mentioned so many countries. He also said: "After all, we went to Munich and surrendered." I have no objection to it. It was practical

politics for England. She was not prepared to fight. It is not for me to say whether she should fight or not just as it is not for me to say when and how they will make peace. If I am a participant in the war for something which belongs to me, then it is all right. What happened at the end of the last war? In the League of Nations, which was a still-born child and which has now fortunately ceased to exist for all practical purposes, India was asked to sign the Treaty of peace. But as soon as they reached London, a declaration was made saying that the Treaty was not to apply as between the independent power and the subject Dominions. They immediately realised that we were signatories to the Covenant of the League of Nations and we could then have carried on our questions between us and England. But they said: "Don't you make that mistake? This is a Covenant between independent nations and you are a subject nation."

Sir, we have realised everything that has been done in the name of form and false system, and, therefore, we were vigilant when this war was declared. We also realise now that if India is to be compelled to make a war effort, in other words, if her manpower and resources are to be exploited, then care will be taken, in the words of Sir Henry Gidney, — that the markets in India would still be preserved for the British products. Our industry must be so organised that the present disorganised industry of England, having now been thrown over to munitions, when it comes back to its original condition and has to make a living will still have to make goods to be sold here. It does not matter as to who sits in the seat of power. The policies are governed by those who still want to make India a cat's-paw and exploit it. And so long as that continues, no amount of peroration, no amount of poetry, appeals and flattery are going to help you. This is certain. You may say that the people in England are going to assist us. I do not know in what form they are going to assist me but I am prepared to accept it. But if you go and tell the world that the Indian people and their representatives are with you, then you are wrong. You are not stating the truth and you are not entitled to make that declaration. As I said, it is a case in which fear won't do; it is a case in which even flattery won't do. I have told you already and I would like to repeat it if I may that it is no use telling me that if Britain were defeated, what will happen to us because the hypothesis itself answers it. It is you who are defeated. Of course, I have remained defeated all the time. Therefore, it is no use telling me what will happen to me. God will look after us. Let us, therefore, realise the things in a more careful manner. Very often I am told: "Why don't you realise the realities of things?" If by that you mean the poignant reality of my continued subjection, then I am fully conscious of that reality and I make a present of that reality to my friends who ask me to look at it. It is too real, it is too painful, it is too poignant, it has gone on too long and I am not prepared to look at it. My desire is not, as I said, to enter into a personal argument. But those who ask us to look at realities and say that India is not ready and she cannot defend herself, do they seriously ask me to believe that these two crores of rupees are seriously intended for the purpose of aiding the war effort of Britain? Do you seriously tell me that? Britain is spending 14 crores of rupees a day.

An Honourable Member: Eleven crores.

Mr. Bhulabhai J. Dessai: That is what they say. If you like let it be 11 crores or even 9 crores, but if you calculate it properly, it is really 14 crores. My arithmetic is generally correct. When they are spending 14

[Mr. Bhulabhai J. Desai.]

crores a day, do you mean to tell me that these two crores of rupees during four months are going to aid to the war effort? Certainly not. This is an absolute camouflage. It is merely intended for world propaganda in order to say that India is also assisting in war effort. It is intended for nothing else. England could give two crores. My friends could put up two crores. They have got many crores and they are all mine. Why don't they put up these 12 crores if you want them for the war effort? In that case, there will be no Finance Bill and there will be no trouble. But the truth is that this money has nothing to do with the war effort. I am one of those who understand propaganda a little. I read the papers and hear the Radio every day. Even a 50 rupee or a 500 rupee donation is to be heard on the British Radio. Why, the reality is not so much the actual money, but there is grim reality for us. You make a poor country poorer, and that is not playing the game. If you can spend 14 crores a day, surely you can spend two crores more. That is nearly one-seventh of the expenditure. I fully appreciate why it is you want these two crores. It is only raised in the hope that it will serve as a sort of propaganda that so far as the Indian people are concerned, they are with us in the war. Of course, we are helpless and unprotected, I fully realise that we will not become protected in a few weeks or a few months. It is no use telling me what will happen then. It is not my desire to take very long time of the House. I will only say this, that whatever my friends may assert, the fact remains that Egyptian Parliament has sat, the King's speech has been read and nothing further has been heard. There was a question raised about the declaration of war by Egypt. Four Ministers who were for it resigned and nothing happened since. The Prime Minister is dead. May his soul rest in peace, why or where or how, I do not know. But the fact remains that Egypt has not declared war. The fact remains that Turkey has not declared war. The arguments which you want to weigh with other friends have an untrue foundations and an unreal foundation. All the Muslim world today is neutral and rightly so. It is no use telling us in this country that the Muslims are with Britain in this war. It is untrue and will remain untrue until the contrary has been proved, not by statements but by acts of these high politicians. If my friends would examine this with the idea of enlightened self-interest as they appeal to my enlightened self-interest, they have a chance. But so long as they maintain their present attitude we shall certainly not be able to support by way of token or otherwise a measure of this kind in India to test the question of India's participation in the war. We shall, Sir, fight as Allies with such power as we have got, but we shall not fight as instruments. I oppose the Bill.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

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

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, the debate on this motion has been going on for about four or five days in all and this is perhaps the sixth day; and during the course of this debate various points of

view for and against the Finance Bill have been lucidly brought out by speakers from different sides. Yesterday my Honourable friend, Sir Cowasji Jehangir, introduced his speech with a remark that it was very difficult to follow a brilliant speaker like Sir Muhammad Zafrullah Khan. I think he will agree that my task is still more difficult than the one which fell to his lot. The speech that was made by the Leader of the Opposition, which we have listened to with rapt attention, was an extraordinary performance, and it is rather difficult for a man of my mentality to make any effective contribution to the debate after such a brilliant performance. However, I have to do my duty. One thing which I want to bring out at the outset is this. I am going to put forth a point of view which I believe the House will be pleased to give careful attention to. It is said that when the Leader of the Opposition gets up he has a definite point of view and he has, therefore, to stand as an advocate for that point of view and place his view before the other Members of the House; and while the Leader of the House stands up he is also equally accused, and rightly accused, of standing up to a particular point of view which he has to defend, whether he likes it or not. I stand here in a different position and my position is this, that there are men who may not be wedded to this point of view or that point of view, but there is also a commonsense point of view from which things can be looked at and correct conclusions can be arrived at. It is from that point of view that I want to approach this question; and let me say at the outset that having carefully considered the whole situation purely from the point of view of the man in the street, if it is possible for such a man to take a detached view as far as possible, I came to the conclusion that there is no go for me but to record my vote against this Finance Bill.

Sir, in the first place I belong to a Party which for the last six years that it has been in existence in this House has always opposed the Finance Bill. It has taken its stand as regards all money Bills and Finance Bills on one important ground. Apart from the merits of a particular Bill it has challenged the right of Government to come with a taxation measure before this House so long as the executive is not made responsible to this House. That has been the stand taken by my Party all along. Honourable Members may be very well aware that it was not only with regard to Finance Bills but even other Bills like Income-tax Bills which are intended to levy taxation that I took my stand and many of the Members of my Party stood behind me on that ground. So, I first want to say that in the present Bill also the position is this. Government have come before this House with a demand for certain crores of rupees required for the additional expenditure to be incurred for the purposes of the war. They have to incur a good deal of expenditure but they only want to make by way of taxation a provision of six crores only by means of this Bill. This money which they want to raise is ostensibly for the purpose of spending for defence purposes. But have we as a matter of fact got any control over the money that will be spent? It is well-known to those Members of the House who are aware of the procedure and the law that governs us that defence expenditure formerly used to appear in the demands for grants somewhere. It had some place, at least nominally, in order to enable Members to raise a discussion directly over defence questions in this House; but only a year after the new Government of India Act came into existence those who are in power thought it wise to eliminate the demand for defence altogether and compelled this House to raise a discussion over it by moving a cut in the demand for the

[Mr. M. S. Aney.]

Executive Council. Defence expenditure is regarded as expenditure charged on the revenues and not expenditure to be met out of the revenues. An artificial distinction is made in the Government of India Act as regards expenditure,—expenditure charged on the revenues covered by section 63-A or something like that is not put up for the consideration or vote of this House at all. They are to be incurred and met by His Excellency the Governor General and it is only expenditure which is to be met out of revenues that is to be considered by this House and for which demands for grants are placed before this House. As regards demands which the Governor General, not the Governor General in Council, and the Crown Representative holds in his sole discretion, he is not to consult this House. If that is the position, as it is undoubtedly the position under the Government of India Act to which very loyally the Government of India adheres and sticks and does not want to make a departure from even by way of any convention whatsoever, I want to know with what face they can ask us to pay any money for an expenditure of this kind.

What is this Bill going to do? This Bill asks us to contribute six crores of rupees. For these six crores of rupees, I ask my Honourable friend, why does he not place a supplementary demand for grant for our consideration? He will reply that it is not necessary for him to do it, and that would be an easy reply because he can spend money on defence purposes without taking us into his confidence in any form at all. And I am sure he is not going to bring up a supplementary demand for grant at all before this House. That being his attitude and the attitude of Government as a whole, I think this House will be justified in telling Government that if they can incur this expenditure without the consent of this House or without taking the House into their confidence, they can assume the sole responsibility for raising the necessary money for this expenditure. There is nothing wrong about it. The war even may be a justifiable war,—I have to say nothing about that. But if this House has to give any money for the prosecution of this war, Government must be prepared to make the necessary modifications in the Government of India Act, either by way of conventions or by way of alterations, to enable this House to have a complete view and picture of the expenditure and a right to give their vote on that expenditure in that particular form.

In this connection I also want to bring to your notice, Sir, one point which constitutionally appears to me to be of some importance. That point is this. It is under section 67A of the Government of India Act, which says:

"The estimated annual expenditure and revenue of the Governor General in Council shall be laid in the form of a statement before both Chambers of the Indian legislature in each year.

The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration unless the Governor General otherwise directs."

Then comes the list of items which are not to be put to the vote or open to discussion, and this list includes, as I have just stated, the expenditure for defence also. But that is a provision made for the purpose of making any demands at the time of the Annual Statement. If, during the course

of the year, extra expenditure on those items is to be made by the Government and they want to get more money from the people, there is no provision here; in my opinion, preventing them from placing those demands before this House for consideration. It may be said that the provisions in regard to supplementary demands laid down in Legislative Rule No. 50 are to this effect:

"An estimate shall be presented to the Assembly for a supplementary or additional grant when—

(1) the amount voted in the Budget of a grant is found to be insufficient for the purposes of the current year, or

Provided that when funds to meet proposed expenditure on a new service can be made available by re-appropriation a demand for the grant of a token sum may be submitted to the vote of the Assembly

(3) Supplementary or additional estimates shall be dealt with in the same way by the Assembly as if they were demands for grants."

Probably they would like to take shelter under this sub-clause (3); but in my opinion this only refers to the question of procedure; it does not refer to the question of putting them in the form of grants for voting at all. In the Government of India Act of 1935, under section 37, there is a special provision which lays down that the rules which prevent certain kinds of expenditure to be placed for the vote of the House will also apply to supplementary grants, but that section is not one of those which is extended during the transition period at all. Therefore, you have to rely only upon this legislative rule, and there is no other corresponding section in the old Act excepting this little sub-clause (3) of rule 50. I submit, that whenever they have to ask for additional expenditure even for purposes of those subjects which are otherwise excluded from discussion and vote during the course of the year and not in the form of an annual statement, then they cannot avoid placing them for the vote of this House: otherwise they must wait till the end of the year and take advantage of that section and bring in the form of an annual statement, to avoid the discussion or vote of this House. But if they come during the year I think I am right in insisting that not only should a Finance Bill be brought, but the demands for grants, in which the money raised is going to be spent for certain purposes, ought to be brought before the House, and if they do not do that, in my opinion, they are not observing the procedure laid down here strictly. The prohibition extends only to the demands for grants made in the course of the annual statement. Even in that case the Governor General has the discretion to direct that any expenditure of that class may be put to the House in the form of a demand for grant, but for the purposes of any other statement they make during the course of the year in the form of a supplementary demand those excepted items cannot be avoided from the operation of being discussed here and being voted upon here. That is what I understand to be the state of the law as it is. As it was perhaps found unsatisfactory, the new Government of India Act has provided a clear section that those clauses which relate to the expenditure on those items will also extend in the case of supplementary grants: that is the specific section; but there is no corresponding section in the old Act; and this legislative rule in my opinion does not go so far as to include that case. However, that is a point which I want to bring to your notice. What I mean is this: that it is necessary for the Government to take this House into confidence in the matter of expenditure which is to be incurred out of the revenues raised by this Bill. It may be said that there are certain statements made in the

[Mr. M. S. Aney.]

Finance Member's speech but that is not asking the House to vote on it: it is only giving an indication as to how Government intend to spend the money later on; but if they want it they ought to have come, in my opinion, with a supplementary demand for grant, which they did not do; and that is another reason why I think that I should not like to vote for this.

Then there is another point which I would like to urge. It was rightly stated by some friends that so far as the present declaration of war is concerned, the House was not taken into confidence at all: India was involved in this war and war was declared for India, probably not by the Government of India but, automatically, by the fact that it was declared by England against Germany. Whether the Government of India or the Governor General was consulted or not is a matter with which I am not concerned; but one fact is certain, that this House, at least, was not taken into confidence. In this connection I want to bring to the notice of the House a very important point which I believe the House will consider very carefully. The world war, in which if India is involved, will require one thing, *vis.*, that the war will have to be fought by the Indian Army and Indian troops, and it cannot be fought outside the borders of India unless troops are sent out of India. The Government of India will have to take troops out of India to fight the war if India is involved in the war on account of this declaration. Now, the Government of India, in a moment of sanity, committed themselves to one decision, and that decision is this, that wherever they will have to send an expeditionary force out of India, they have made a statement to the effect on the floor of this House to which I shall presently invite your attention, that they will consult this House before taking that step. That was the statement made by the Defence Secretary on the 3rd September, 1935, in this House, in connection with an adjournment motion which, I believe, was moved by my Honourable friend, Pandit Nilakantha Das. This is the statement:

"After what the Foreign Secretary said this morning, I think I can explain the whole position of Government in a very few sentences."

"It is perfectly true, that over a year ago, speaking in this House on the Indian Navy Bill, I said that with the approval of the Secretary of State for India, I was authorised to announce that . . ."

I would have read even the statement of Lord Zetland on this point, but I think this will suffice for the present."

"It is the intention of the Government to consult the Indian Legislature, so far as possible, whenever any question arises of lending the Indian Navy to the Admiralty for operations other than in the defence of India."

Later on "that undertaking applies by implication equally to the Indian Army as well as the Indian Navy."

Now, Sir, one thing is quite certain, that if the war is to be fought beyond the borders of India, and India is expected to take an active part in it, Indian troops will have to be sent out. There is a commitment here that Indian troops will not be sent out of India for the defence of the Empire, out of this country, without this House being consulted as far as possible. I say that every time the Indian troops are sent out, even in the present war, every time they are sent outside the limits of India, the Government are committing a breach of faith. Have they ever taken care to consult this House? Or is it at all possible for them to consult this House every time before sending out troops outside India when the

war is actually going on? In order to avoid this anomaly, the best thing for the Government to do was to consult this House, to consult the Members of this House, to consult the different Parties of this House, before declaring the war, or before any declaration of war was made. If the Government had got our consent in the first instance, before the declaration of war, then all the steps which they would have taken as a result of the declaration of war for the active prosecution of the war would have been regarded as steps taken with our full consent. That consent would have been implied, but in the absence of any such consent of the Members of this House to the declaration of war, it is clearly a breach of faith, on the part of the Government, unless they can prove that the war is meant for the defence of India. This is the crucial point, that is to say, the troops cannot be sent out unless this House is consulted each time. That is the anomalous position in which they find themselves today.

Sir, while I am on this subject, I should like to make a reference to the extension of the borders or the frontiers of India for purposes of defence. It is well-known that a Committee presided over by Lord Chatfield some time before made its Report. That Report of course is a sealed book to us,—but some statement regarding financial arrangements based on the recommendations of that Report was once made on the floor of this House. That Report contained, it is said, a very important statement to the effect that for the purposes of strategic defences of India, the Indian borders can extend up to Suez in the West and Singapore in the East. We have extended now as far as that. Sir, if Lord Chatfield and his Committee are called upon to write a Report today, probably they might extend the strategical borders of India to Gibraltar in the West . . .

An Honourable Member: To Dover.

Mr. M. S. Aney: My friend says Dover itself,—and to the shores of Japan probably, in the East, and at this rate I do not know how far beyond they will extend. This is an extension made for the sake of employing Indian troops, possibly at India's cost, for defending these strategic positions, without which not only India cannot be defended, but even the Empire cannot be defended. The very extension of India's borders to Singapore on one side and to Suez on the other means, to my mind, nothing but involving India in any war that may be waged for the sake of preserving the British Empire, against the aggressors who may be equally good or bad, but this is what this extension means. In fact, that Report has as its basis the central idea how to utilise and exploit the Indian Army and Indian resources for the purpose of defending this Empire in case any trouble arises in the near future. And the trouble that was apprehended has really come into existence now.

Now, with regard to the extension of the borders of India, I want to point out one thing. When you extend the borders of my country, is it not necessary to obtain a formal consent of this House, because India will not any longer be limited by the old geographical boundaries, namely, the Himalayas on the North and Cape Comorin in the South or the tribal areas in the North-West and Burma on the East. India has expanded, it has grown fat,—that is what I am told. We become fat or lean or thin or thick, according to the prescriptions of certain doctors; or may I say quacks, at Whitehall. We become like that. If an

[Mr. M. S. Aney.]

Important addition or extension to India's territorial existence is made, it was very necessary that the Report on the subject should have been formally placed before this House for its consideration. An important document like that was never placed before us; we are never taken into confidence at all. Meantime, I may say another thing. While they were thinking of extending the borders of India beyond Suez on the one side, and Singapore on the other, at the same time in the interests of some persons,—I do not know who they are,—they were also thinking of taking away certain parts of India and treating them as no longer parts of India. Burma was taken away on the East side and Aden was taken away in the West. Today we are supposed to defend Suez without Aden being a part of India, and defend Singapore without Burma being a part of British India. In whose interest are these curtailments and extensions made, may I know? Are they in the interest of the people of India or in the interest of the people of Burma? Are they being made in the interest of the Indian nation at all?

An Honourable Member: They are making it geographically.

Mr. M. S. Aney: In the interest of geography; British geography. Now that kind of thing that is going on indicates, to my mind, that certain things are being planned with an ulterior purpose, and that purpose is being kept entirely away from us, and about which no formal or informal discussion takes place in this House, because Reports of important Committees are never placed before the House. Under these circumstances, it is really difficult to say that the war that is now being waged is waged in the interest of the defence of India itself, that it is being waged for the sake of India itself, and if a case to that effect is not made out, then Government must land themselves in a terrible position. That means they are taking up a most unconstitutional, illegal, or in a way untenable position, in-as-much as they are sending out Indian troops out of British India without the consent or concurrence of this House. That illegality is being perpetrated every day. Government may have the power to dispense with all the constitutional procedure, they may issue Ordinances and other laws, but under the law as it stands at present, they cannot get over the position easily and send out troops outside India without the consent of this House. At least as a matter of ordinary commonsense, or prudence, they should have consulted this House, and having failed to do so, I feel they committed one of the greatest blunders of their life.

Now, my Honourable friend, Sir Muhammad Zafrullah Khan, the Leader of the House, who is undoubtedly a very brilliant speaker, a very able Leader,—I listened most attentively and carefully to one of his best speeches in the House when he spoke the other day,—gave a number of quotations from statements made by some of my Congress friends both outside and inside the House,—every quotation was rightly applauded and punctuated with loud cheers by those Benches,—and I felt a good deal of uneasiness in my mind, not because I was loathe to appreciate the debating skill of my friend, but I thought that his abilities were being used to get a petty debating advantage or to score a debating point here; and that he could have better utilised his knowledge for a much

higher purpose in advising the Governor General to take a more statesmanlike view in regard to the declaration of the war itself. If there is any intelligence in the Intelligence Department of the Government of India,—I know there is an Intelligence Department,—but I do not know whether it has sufficient intelligence at all,—if there is any intelligent Intelligence Department in the Government of India, they should have known in time what the reactions were in India immediately after the declaration of the war. At first, from the statements made by Ministers in England soon after the declaration of the war, people here thought that there was something nobler and some better ideal for which England was fighting. My friend, the Leader of the Opposition,—I would have liked him to be the Leader of the House,—in fact he would have become so had he consented to do something a few months ago,—my friend, the Leader of the Opposition pointed out that there are severe reactions in this country, and if you had taken time by the forelock, if you had exercised a little prudence, you would have avoided the present position in this country. But it seems to me that the Governor General either does not want to take anybody into his confidence about these matters or he is singularly lacking in good advisers. They could have seen that that was a time when India was being governed by popular ministries in 11 provinces, seven of which were controlled by my Congress friends and at least two of which were more or less in the control of my Honourable friend, Mr. Jinnah, or the Muslim League.—I would not like to use personalities, let me say, of the Muslim League. The majority of the Members belong to the Muslim League if I mistake not, and the remaining two, more or less, would have followed the same course, either this way or that way. The first thing that the Government of India should have done immediately after the war was declared was to have sent for the Premiers of the Provinces—they were autonomous Provinces, it was loudly proclaimed that they were autonomous Provinces, I am sure so long as the federal structure has not come into existence there was nothing to control them in the Central Government except the theoretical control of the Governor General. They were autonomous Provinces. Any war effort that would have to be made or was bound to be made in the provinces would have to be made with their co-operation and with their sympathy. Otherwise, their efforts would have failed. This much the Government of India and their advisers could have easily known or seen if they had a little imagination in them. With that situation in the country, with the general tendency to appreciate what was then declared as war aims—democracy is at stake, the liberties of smaller nations are at stake, so on and so forth—with that knowledge the Government could have easily thought of convening a conference of the Premiers of the various provinces and asking them also, if necessary, to take with them the leading members of the Working Committees of the two or three organisations which would have been more or less connected with them, they should have sat at an informal conference and come to a certain plan and then declared war in the name of India, and the position today would have been entirely different from what is the misfortune of my Honourable friend, the Leader of the House, or the Government of India to see. That golden opportunity was lost. They did not think of doing anything of the kind. They napped and only woke up to find that it was rather too late. I am reminded of a Pauranic story in this connection. It was stated that a certain number of devotees wanted to go and have a *darshan* of God Vishnu in Vaikunth. They managed to find

[Mr. M. S. Aney.]

a passage to go up, in some balloon or some aeroplane they might have got up in those days. They got there and they found that the doors were closed. But there were two watchmen of the Gods. Among the Gods also there is a hierarchy, some are watchmen, some are sweepers, and so on.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): They do not believe in democracy!

Mr. M. S. Aney: No. It is one absolute monarchy in which every religion believes. Those watchmen—I am using this profane word, I pray God will forgive me for the use of this term, because there is no better term that can be used—those watchmen told them, “You have come here. The doors are closed. They will be opened early in the morning after sunrise.” They said to themselves that the morning might come sooner or later, and so they thought of remaining awake the whole night. The result was that by the time it was morning the cool breeze of the heavenly garden was gently blowing which lulled them into sleep. They had a little map and just at that time the doors were opened, they were kept open for some time, but they were asleep. And when the doors were again closed, there was a little jarring noise by the moving of the hinges and this woke up the devotees from their sleep. They found the doors closed, and asked the watchmen when the doors would be opened. “How long are we to wait?” “You will have to wait another day”, and a heavenly day means a good many hundred years of a man’s life. (Interruption by Dr. Sir Ziauddin Ahmad). You can make calculations. You deal in infinities. I find that it is the same case with the Ten Virgins. In that parable it is stated, “Well, they reached there and they were told, ‘Thou art too late.’ Thou canst enter now.” The story of the Government was something of this nature. When they wanted to consult the Indian public opinion there was already a good deal of suspicion arising about their aims. There were statements, the generosity of which first appealed to the imagination of the people—because, after all, the Indians are more imaginative than material, and, therefore, their first impulse was to respond to the generous statements that were made. Later on they cooled down and gradually thought that there was more noise and less substance in the words that were being uttered all round. In this state of things the Government were trying to consult and carry on negotiations. (Interruption.) The position was this: We now know what the state of the negotiations is. I think that the Government of India have really lost a very good opportunity of reconciling Indian public opinion and they could have been successful in doing so had they taken the proper step, the right step at the proper time. Unfortunately, they did not take it, and today the result is that there is a strong feeling in the country, at least in very important sections of Indian public life, to oppose,—if not to oppose, at least not to support the war operations. That is the position in which you find yourself reduced. It is due to lack of imagination, lack of statesmanship, lack of taking initiative at the proper time, lack of will to do anything substantial in the interests of the people of this country.

Having said that about the so-called intention of the Government and their failure to take the people into their confidence at the time of the

declaration of the war, I may also say a word about what my Honourable friend, Sir Ramaswami Mudaliar, has stated. I am sure Sir Ramaswami Mudaliar is too intelligent not to understand what the position of the Dominions is at present in the matter of declaration of war and peace. But in the course of his zeal to support the cause (Interruption). . . . you can characterise it as you like—he went on to say that even in the Dominions it was only a formal affair and so on. I can only bring to his notice a passage—I have not got the quotation here with me now, but I will give the substance of it. Those who have read the papers during the last two or three days might have seen it—Dr. Earriedale Keith the other day wrote an article in some newspaper which is quoted in some of the morning papers. He pointed to the example of Ireland—he calls it Eire. He stated:

“Under the existing system they can remain neutral and we see how neutrality constitutes a severe danger and a menace to England at a time when the war is going on. Profiting by that experience, when the new constitution for India will have to be made, take care that you insert a clause by which they will not be able to declare neutrality when war will be declared by the British Government.”

By implication—why, by implication, it is a clear statement coming from the highest authority on constitutional law that exists now in England, that the Dominions have got the right either to go in for war or not to go in for war. I do not know whether they have got the power to join Germany or not, that I cannot say. But this much at least is perfectly clear that they are not bound to join the war if they like. Now, Sir, with those rights already conceded to the Dominions under the constitution and those very rights denied to India, India really feels that a very invidious distinction is being made in her case. It is perfectly true that constitutionally the Government of India have no obligation whatsoever to consult this House or consult Indian public opinion on the matter of the declaration of war. Even the Government of India is not required to be consulted by the British Government but the Government of India, representing the people of India, in the absence of a responsible legislature here, must itself plead for the people of India and should have told the British Government: “If you really want us to work enthusiastically and energetically for the sake of mobilising Indian opinion in favour of this war, then it is necessary that all these petty and invidious distinctions which exist under the constitution should by convention at least disappear”. That is a step in the right direction and that bold step should have been taken by the Government of India and they should have told His Majesty’s Government: ‘I do not think I can declare war immediately within a few hours. I think it is meet for me to take into confidence Indian public opinion and the various ministers who are running the administration under the Act passed by you and on whose co-operation you have been loud in your praises till yesterday’. They could have taken that stand. That one little step would have been construed as a generous gesture. It would have reconciled public opinion to a certain extent and probably the demand which you now consider extravagant may not have come forth and matters might have been settled and reconciled on very moderate terms, if I may use that commercial phrase.

An Honourable Member: Cheaper terms.

Mr. M. S. Aney: My friend with his expert knowledge in the art of bargaining has supplied the proper phrase. But that opportunity was missed. After all is said and done, what is the situation now? The war has come. We have to fight it. The enemies are knocking at the gate, —somewhere near Suez or Alexandria or somewhere there. That is said to be our frontier. What are we to do? At this time, my friend, the Leader of the House, says: 'Well, Mr. Aney, you are a reasonable man. It always pays to be a reasonable fellow. This is a time of war and you must vote for this Bill. After all, the money will be spent, even if you don't vote it. Why then don't you take the credit for voting it?' I want to tell him one thing. Even as a war measure, I cannot vote for it. I realise the difficult position in which we find ourselves. I realise the danger with which we are faced. I realise all that. In spite of it, the protest that we have been making all these years against such measures as this has had a meaning about it and if there is any time when that meaning ought to be brought home more forcibly and pointedly to the authorities and the powers that be, the war time is the proper time for us to do so. The meaning is this. You are ruling a discontented India. You are ruling an India which refuses to be under perpetual bondage or in a perpetual state of slavery. It claims a right to be as free as you are. That is their attitude even while you are engaged in war. That is a matter which must be borne in mind and for that reason, although it is a war measure, I cannot give up the attitude which I have been taking since I entered this House as a member of the Swaraj Party. From those days to this day, I have taken one attitude as regards the Finance Bill. I say: 'No, we are not satisfied with the constitution. You must do something. You must make your executive responsible to this House and restore confidence among the people of India'. You must bear that in mind so that when the pressure of this public opinion will be brought to bear upon you, you will know what to do at the proper time. If matters fortunately end satisfactorily for you and for us both, then you will remember that there is a point which has got to be tackled and which you cannot afford to neglect. It is the existing state of things which has created a tremendous difficulty for you to get the necessary co-operation of the people of this country. Unless that difficulty is realised by you now, in a time of difficulty, I do not think there is any hope of this question ever being satisfactorily solved by you at all in times of ease. All the inconvenient points which one has to go through in times of difficulty are forgotten. Ease has got a softening tendency, to whitewash all that was wrong and all that was inconvenient.

Mr. Bhulabhai J. Desai: They say "Forget our misdeeds".

Mr. M. S. Aney: For these reasons, we are justified in recording our vote against the Bill even though you say that this expenditure is intended for war purposes and it is not an ordinary Finance Bill.

Having said that, I want to say one or two words about my own attitude towards the war operations themselves. I have stated here that my attitude to this Bill is intended to assert the constitutional right of the people of India. I have stated outside that after all we are in

the midst of war and, therefore, the nation must make an effort to prepare itself for our defence. I feel, I may be wrong, my friends on the Congress Benches may not agree with me, that the Indian people have got to prepare themselves for the defence of India in co-operation with the present Government, whether they like it or not. All I desire to say is that I can not ask people not to co-operate with the Government in this war. It is a mistake. That is however, a matter which stands on a different footing. The constitutional position is this with regard to the vote given in this House. By means of the vote recorded in this House, I want to protest in the name of the millions of electors in the constituencies which have sent us here. They are anxious that they want to record as their considered opinion by means of the vote of their representatives that they are not satisfied with the existing constitution, and they are reluctant to sanction any money for the sake of expenditure for this war. The efforts outside stand on a different footing and about that I do not want to make a long speech. I only want to say this. I am not, unfortunately, a whole-hearted believer in that extreme form of non-violence which one has to subscribe to before one can join the army of Satyagrahis. Well, with all my respect for Mahatma Gandhi that great man who has launched the struggle and whose efforts have created a new India, I have to inform him that so long as I cannot conscientiously subscribe to those terms I feel myself unable to do my humble duty in the struggle in which he is engaged.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Division: Muhammadan Rural): Do I understand it correctly, that you are a fifth column man of the Congress inside the House and a fifth column man of the League outside the House?

Mr. M. S. Aney: I am going to say something about the League also.

An Honourable Member: He said it in joke.

Mr. M. S. Aney: It does not mean that I am going to say any thing disparaging. I may be any columnist. My point is this. It is a matter of great pain to me, on account of my long association with that great man whose blessings I have enjoyed all these years and whose blessings have undoubtedly contributed to whatever little status I may have in the public life of this country, that I have to disagree with him this time. I am conscious of all that. It is with a great deal of anguish and pain that I feel that I am unable to subscribe to his present policy and to all that he has laid down that a true Satyagrahi should do. I am unable to do it at present, as I can not properly even understand it. If one day light dawns on me and I see it is right, I may be able to do it. Today I cannot conscientiously do it. I only hope with great diffidence, that the attempt he is making may with the blessings of God end well. Otherwise it is likely to create a situation which it is very difficult to contemplate with equanimity. It is fraught with dangerous potentialities for the future of India. That is the situation in which we find ourselves, but I am not here to expostulate at length on that aspect, that is not my business here; I am only concerned with the Bill before the House and I have given my reasons, particularly for the attitude that I have adopted today. I

[Mr. M. S. Aney.]

ask my friends who have listened to me with patience that if they find that there is any grain of good reason in the arguments advanced, they should carefully consider the whole position and fearlessly record their vote with me; if not, they should vote as they deem proper.

Mr. M. A. Jinnah: Mr. Deputy President, I rise to take part in this debate not without a certain amount of sorrow,—and this is a moment which I think we all realize is a grave moment. Sir, we have heard various speeches in the course of the last six days. There have been essays, sermons, lectures,—historical, moral and religious. I am an ordinary mortal, and I am not going to enter into all those eruditions and disquisitions that have taken place in this House. Sir, let us confine ourselves to our path, the humdrum path of politics and of a Legislature.

Now, as I visualize and survey the entire situation, it can be divided into three parts. The first part is the past, the next is the present, and the next is the future. Now, Sir, dealing with the past, is any good purpose going to be served by our indulging in bitter charges and accusations and controversies over the past? Is this the moment for us to accuse each other, to abuse each other, and say, “these are your wicked deeds”, and the other side says, “these are your follies?” Is that going to serve any good purpose? It only adds more to the bitterness; it only makes a problem which is so fraught with complexities and difficulties more difficult and goes further and further away from a point where a solution may be found. I am not going, therefore, to indulge in the past. We know it, we understand it. Now, it has been said—I may state it very shortly—the first and the foremost ground was that the Government of India did not consult us with regard to the despatch of troops abroad. Of course, we know the somewhat peculiar convention that has been established. We are informed—if you call that consultation, it is informal no doubt, we are told that His Majesty’s Government had decided to send troops abroad to such and such a place. If you call that “consultation”, you may do so, I am not complaining at present. We are told that that was enough for us to say to the Government, “we are not going to have anything to do with it”. Sir, that is a thing of the past, we cannot alter it now. Are we going now at this moment to sit down and say that we are going to overhaul, recast, the entire Constitution of this country—and mind you, this is a very important factor, the Constitution of the country? We were told that we were not consulted about the declaration of war. Well, there has been a lot of constitutional and legal controversy. I am not going to say, “this side is right” or “that side is wrong”; but surely, we all know, I think my Honourable friend, Sir Ramaswami Mudaliar, knows perfectly well, that the position of the Government of India is totally different from the position of the dominions of the Westminster variety—totally. Why pretend, and why let Mr. Griffiths say—as he did, I think it was a very unwise remark indeed when he said that the moment the Congress Party was not here, the House ceased to be a representative one. Well, do you realize what you are saying, *viz.*, that then the rest does not count? What did you mean?

Mr. P. J. Griffiths (Assam: European): I meant that a part cannot represent the whole.

Mr. M. A. Jinnah: Of course not, if a large portion goes out, but that is obvious. But is that a justification for saying that the Government, therefore, did not think it advisable to consult this House? Why not? That is not the reason, Sir. The reason is that the Government of India have got no power; that is the real reason, and this House has got no power to say, “We will not declare India as a belligerent”. We have not got the power. However bad it may be, however much we may resent it, it is a fact, a constitutional, legal and physical fact that, India is in the possession of Great Britain and a dependency. You cannot get away from it. Can you contend for a single moment that this Government here have got the power, and even His Excellency the Viceroy, the representative of the Crown, has he got the power to consult this Legislature, and, still better, abide by the decision with regard to the declaration of war? Then, why pretend? Why pretend this? We know you cannot do it, and there is an end of it. War has been declared. Very well. Well, now, as I say, I do not want to discuss the past history, I do not want to discuss past deeds; I know war was declared, and whether India liked it or whether India did not like it, whether India is willing or unwilling, India is in it,—and that is a fact. Now, I ask the Honourable Members of this House that that is what we are face to face, and that is the present. Now, what are we to do? Sir, it is a pity really that arguments should be advanced on the one side, and arguments should be advanced on the other side which have no reality. Again, what has been done now? That is the question. Well, if the Government tell me, and if they want to put fear into my heart by advancing the argument that, if England is defeated, what will happen to us, then all I can say is that I do not want England to be defeated. I have never said so. But might I not say that if England is defeated, who will lose more? You or I. If England is defeated, then England not only loses its liberty, its freedom, and not only it may come under the heels of the Nazis, but nothing is left to you. Might I not say to you that you are in a greater danger than I am? Is that going to help us? You may, for the purpose of propaganda to the unwary and ignorant, say: “Oh, if England is defeated, what will be your position? Your liberty, or even aspiration to liberty or aspiration to responsible Government, your religion, your churches and your mosques will be demolished.” It may be so. But is that going really to do the trick, or it is not open to the retort which I mentioned just now? Another argument is, and that is particularly aimed at the Musalmans of this country, the Muslim countries are in danger. Of course, they are. Nobody disputes it. But, as I said, a Government has got to think really in a responsible manner. Can you by these arguments and propaganda succeed? Of course, you can do a lot by propaganda, but there are certain things which you cannot carry out from fear. Therefore, the position is this. So far as the Muslim League is concerned, I venture to say, and, without any fear of contradiction, that from the very beginning, we have not put any difficulty in the way of the Government. We have not embarrassed the Government in any way from the very commencement. From the 4th of September, 1939, right up to the 29th of September this year, which is one year, we have put no difficulties of any kind whatsoever in the course of the negotiations.

Let me shortly take this House, as quickly as I can, through important events. After the Representative of the Crown had interviewed a

[Mr. M. A. Jinnah.]

large body of the leading representative men of India, suddenly I was summoned jointly with Mr. Gandhi and Babu Rajendra Prasad, the President of the Congress, in October 1939. In October, I did not know, nor, I believe, did Mr. Gandhi or Babu Rajendra Prasad know, but a proposal came from him. • What was that proposal? You all know it, I think. I will put his proposal in a few sentences. So far as the provincial field was concerned, it was entirely in the hands of the two major Parties, namely, the Congress and the Muslim League, and if we could come to some adjustment in the provincial field, he was prepared to expand his Executive Council. The number of the Executive Council is not limited or defined under the Statute. It is an unlimited number. He conveyed to us that, in the expansion of his Executive Council, he would be prepared to meet us to the utmost extent he could. What was the result of it? I hope Honourable Members will not misunderstand me in any way. I did not say that it was getting all as the Congress wanted, nor was it getting all that I or the Muslim League wanted. We were not satisfied and they were not satisfied with regard to their demands. We were not satisfied with regard to what we were asking. But the point is this that I stated there and then, on my responsibility, that we were willing to consider the proposal. Unfortunately, Mr. Gandhi there and then rejected it. He won't look at it. There the matter broke down for the time being. In February, again,—I do not know exactly what happened, I can only say what appeared in the newspapers—the Orient Club speech of the Viceroy conveyed to Mr. Gandhi that there was a germ for an honourable settlement. Another effort was made in February, but it also met with the similar result. What happened from February onwards, I do not know. Now, I am talking of the British Government, because, after all, the Representatives of the Crown has really got to carry out the instructions from His Majesty's Government. Evidently, there was a lull. Why, then, blame the Muslim League? I hear from very many gentlemen, some of them are Members of this House, and some are not, "Plague on your both houses". Then, what happened after that? After that, we thought that the whole business had gone to sleep. But in the interests of India—and I have said this repeatedly—it is the duty of every Indian to see that India's defence is intensified for the protection of our own homes and hearths in case of danger. We passed a Resolution, I think, in June. I will just read one small paragraph of that to show what we said:

"The grave world situation demands serious efforts on the part of every Indian for the defence of his country and the Working Committee calls upon the Government of India to prepare the country in an organized manner to meet every eventuality. The Committee is constrained to state that the proposals for the defence of India indicated in the statements of Their Excellencies the Viceroy and the Commander-in-Chief as well as the statements of some provincial governors are wholly inadequate to meet the urgent requirements of the situation. The committee therefore authorises its President to enter into negotiations with His Excellency the Viceroy with a view to exploring the possibility of devising prompt and effective measures to mobilise the country's resources for the purpose of intensifying war efforts and the defence of India. The Committee is of the view that unless a satisfactory basis of close co-operation is agreed upon on an all-India basis and not province-wise between the Government and the Muslim League and such other parties as are willing to undertake the responsibility for the defence of the country in the face of imminent danger, the real purpose and object will not be served and achieved."

Sir, this was on 17th June. Then, I imagine something happened, and this had a wholesome effect. I do not know, but I can only say

that immediately this Resolution reached the headquarters, a move was again made. With what result? With this result that, unfortunately the Congress position remained the same. I shall presently deal with our attitude towards the Congress when I come to deal with that. But that is how we stand. The Congress position stands the same.

My Honourable friend, Mr. James, made an excellent speech, and he came very near it, just as he said, we came very near it. The principle he has accepted, as he correctly described it. What is the principle? Co-operation with authority in the Government at the Centre and in the provinces. That is accepted. Then, he says to me: how do you now make your position clear to us? I will read a short extract from his speech as it was reported in the Press:

"He (*that is, Mr. James*) understood that the Muslim League have moved very closely to the acceptance in principle of the statement made by His Majesty's Government subject to various reservations. But he should like to know whether that was final."

What is final? The principle is accepted.

"Would they throw away the principle for the sake of details."

We accept the principle, but it may be completely destroyed in the execution of details, or it may be reduced to a zero. In this matter, when you make distinctions, the principle can be reduced to nonsense. In other words, may I give you an example? I want your help. I am in danger, and so are you. We will not apportion the degree of danger between us both. We both are in danger. I want to throw into the pool all the resources I can, and I say, let us both face together the peril and the danger. Let us both sink or swim. All right. I say to you, well, I am willing to share in the peril and the danger, but what about my having a voice in the assets that I bring into this pool, leave alone the share in the victory. As I am bringing into the pool, must I not have some share, some voice, some say as to how it is going to be used. Oh! no, I will use that as I like. Then, when I am obdurate and say that I want really a proper share, some proper voice, then you say, "I will take you as my partner". So you will also have a voice and a share and a say in the matter. What will be my share? I will give you two jobs to your representatives. What is going to be the total number of the Controlling authority? I cannot tell you. Who else is coming into this controlling authority? I cannot tell you. What will be the portfolios? I cannot tell you. It means really, to put it shortly, I will have you as my partner, but I will give you only one pie here. In that case, why do you want my partnership? I ask Mr. James as a man of business, if this is business. Then, again, Mr. James says:

"The Muslim League, however, has made their position clear with regard to the prosecution of the war."

I am very glad we have made our position clear. Then, Mr. James continues:

"Mr. Jinnah in his speech on the 14 day declared whatever be the misgivings of the British Government in the past, in the interest of India, it was the Muslim's duty..."

—that is not quite correct—

"to support and co-operate with them now in order to protect their hearths and homes."

[Mr. M. A. Jinnah.]

Then, when I asked him to read on, he said: "I have not got the rest of it. Sir, I do not want really to waste the time of the House over these matters. But it is important. I think Mr. James, if he had read the whole of my speech, would not have ended by this remark. He says this:

"His only object in referring to the speech was to make clear that the Muslim League party leader's speech on the Finance Bill was awaited to see how he implements that duty to which he alluded in the 1d day speech."

May I appeal to Mr. James to turn on that side and not on my side and ask them how they are going to implement that principle which you have rightly said was accepted by the Muslim League? And what I said on the 1d day was this:

"We are convinced that in the interests of India, whatever may have been the deeds of the British Government in the past, we should support and co-operate with them as we are now in the same boat. And in order to protect our homes and hearths we must make every preparation in the event of the war coming to the Indian shores. The Muslim League has always made it clear that we are willing to give men, blood and money, but the British Government does not want our co-operation with real authority . . ."

—I repeat those words, "with real authority",—address those Benches next time—

"in the Government and the offer that they made is merely in name by way of sharing authority. That is the difficulty in our way to get Muslim India in giving whole-hearted support in the prosecution of the war. Perhaps Government are not meeting us reasonably because they are afraid of the Congress or it may be that they are not prepared to trust us."

I will add one more reason now. Or it may be, as the Honourable the Leader of the House said, England is having a stronghold now, and we cannot possibly prevent or help very much the war efforts of the Government of India, and, therefore, there is no need for it. Then, I continued:

"But these are only my guesses. God only knows what is the real reason, why they are not meeting us in a satisfactory manner."

That, Sir, has been our position from the very beginning, and that is the position today. We are now asked to vote supplies. Sir, so long as this war goes on, and so long as the Government of India have got to carry on the war efforts, it is obvious that you cannot do without money. We have got to be thankful that the demand is only for six crores just now. But we cannot scrutinise and examine, and we have really no means of knowing how you will spend it or what commitments you have made. We have no voice, no say, no share, no look-in and no control as to what you have done or what you will do. We have a number of complaints,—there may be a foundation for them or no foundation,—as to how the Supply Department is going on, how the Army Department is going on, how this Department is going on. There is suspicion and distrust, and people are wondering what you are doing. I ask you, Sir, even at this grave critical moment, if you are really in earnest, if you are really serious, if you really want our hand of co-operation and friendship, take it on an honourable basis. If you had, as Mr. Amery in his speech said, the purpose of expansion of this Executive Council, and of having the representatives of political organisations in the executive, you will restore the confidence of the public. You will then find that those very

representatives, both on the floor of this House and outside, would be free to explain to the people what is going on. But now it is a sealed book completely. And what does Mr. Amery say:

"The Viceroy's offer on the other hand presents to the Indian leaders an opportunity of taking an effective and important part in the Government of India and bringing their influence to bear on the conduct of the war without prejudice to their several positions. They will have committed themselves to nothing except working together in the present emergency for the safety and good of India and for the common cause in which they all believe."

That is really the position of the Muslim League. Can you expect us to vote supplies in the expenditure and use of which have no say, no voice, no share, no authority, and no control? I cannot understand how Honourable Members can possibly make one speech after another appealing to sentiments and lecturing and essaying. I ask the Treasury Benches, I ask the European Group, why do you not put your heads together and bring some sense in those who are now in power? There is my Honourable friend, Sir Henry Gidney, who was so eloquently appealing to me. He said, he sent me a telegram that he would be with me to the last ditch, and he again reaffirms that he will be with me till the last ditch. But by his speech he has already sent me to the last ditch. Let us get into the first ditch and let him face those people there instead of appealing to me.

Lieut.-Colonel Sir Henry Gidney: I have faced them.

Mr. M. A. Jinnah: You did not. Why do you not tell them?

Lieut.-Colonel Sir Henry Gidney: I have.

Mr. M. A. Jinnah: Why do you not say it on the floor of this House?

Lieut.-Colonel Sir Henry Gidney: I have.

Mr. M. A. Jinnah: No; you did not. I was here throughout your speech. Sir, it has become a fashion to give a lecture to the weaker party, and you can afford to lecture the weaker party. Now, I say, and I say again to Mr. James: "Remember our Resolution was rejection of that specific offer. The doors of the Muslim League are still open. But we cannot really possibly vote supplies in which we have no lot, no share."

Then, I am told—and this is their last argument, a forlorn argument—all the others are platitudes for supporting the Government—what will happen and all that—but the last is this: that if we allow this Bill to be defeated—and of course the Congress are absolutely determined to defeat you—what will be the impression abroad? In the first instance, if the Congress succeeds in defeating you, it is not my fault; it is the fault of your Constitution; and you have enacted this Constitution; you have been carrying it on this wooden, ante-diluvian Government for decades now, and you cannot have it both ways. It is your Constitution, it is of your making. But I am told "But it will have a bad impression abroad." When you say bad impression abroad, where and what will be the impression? Let me tell you, Sir, that those who want to create that impression

[Mr. M. A. Jinnah.]

have worked it out mathematically. Even if you win by a few votes, even if the Muslim League was to go into your lobby, they have already informed those abroad that the majority of the elected members are against it; and which fool is there in America, which fool is there in Germany who does not know your Constitution, who does not know the nature and character of this Assembly? Who is the man who will be so much upset that you will lose the war, because this Finance Bill was rejected? Let me, for the sake of argument, assume—assuming that it will be an embarrassment—I do not think so, and I think you are exaggerating, and you are attaching too much importance to it—but even if it was to embarrass you, how can you expect me to support you? Mind you, I do not say that I am satisfied with the acceptance of the principle, but it is not a question of my being satisfied. Nobody is going to get 16 annas, and specially, believe me, when you are in the grip of danger, it is not wise for one party or the other to put up extraordinary demands, because that is not business, and that is the very reason why we have never said a word that you should agree to give me “Pakistan” before I support you: and believe me, whatever my friends of the Congress Party may say, we have finally determined that that is our only goal; and we will fight for it and die for it. Make no mistake about it. Democracy is dead—democracy of Mr. Desai’s kind. We may be less in numbers, and we are; but we could give you, I venture to say, and perhaps you do not know it, but I do, and I am not saying this by way of a threat, but by way of information to you, that we can give you hundred times more trouble than the Congress can give you if we so determine; but we do not want to. You will realise that. But we do not want to do it even now. The future—we will leave the future. Therefore, so far as the Government is concerned, that is the position of the Muslim League.

I have only got to say a few more words with regard to my Congress friends; and I think I must at least tell them, whether they agree with me or whether they do not, but as Mr. Desai said it very rightly, we must face facts. What is the position? I will narrate it very briefly. Mr. Desai read out a statement of the Working Committee which he said was of the 10th September: I only interrupted him, because, in my record, it was the 14th September: I wished to get the correct date. Mr. Desai says, the 10th,—and I accept that. After that statement of the Working Committee of the 10th September, that Resolution or statement was placed before the All-India Congress Committee, and that Committee passed the Resolution on the 10th October of last year. That Resolution laid down a declaration of India’s independence and freedom, the right to frame their own constitution by a Constituent Assembly to be elected by way of adult franchise, and special franchise for the minorities and safeguards for the minorities to the satisfaction of the minorities. And although I am pressed for time, I think I must tell the House the correct position, and I tell you and my Congress friends that they have still, at the back of their head, the idea that the Congress and Congress alone represents the country, the people of India, the Indian nation, and so on, that they alone are the spokesmen, and that the Muslims and others are minorities. I say this on the floor of this House that the reason why there has not been a settlement between the Hindus and Mussalmans is that—the Congress leaders will pardon me for saying this,—the Congress is a Hindu organization, whatever they may say,—the Hindu leaders and

Congress leaders have had always at the back of their head, the basis that the Mussalmans have to come within the ken of the Congress and the Hindu Raj, that they are a minority, and all that they can justly press for is merely safeguards as a minority, whereas let me tell gentlemen of the Congress and the Nationalist Congress Party members that the Mussalmans always had at their back the basis,—and it has never been different during the last 25 years,—that they are a separate entity

Mr. M. S. Aney: At least that was not the view of Mr. Jinnah before 1920.

Mr. M. A. Jinnah: Since 1916, since the Lucknow Pact was passed on the fundamental principle of two separate entities

Mr. M. S. Aney: I was there.

Mr. M. A. Jinnah: My friend may have been there, but he was not even heard of at that time. That has been at the back of the Mussalman mind, and the other idea has been at the back of the Hindu leaders’ mind. The bases are different, and I will give my friends one more proof because I was interrupted. Why is it,—do you know it or do you not,—why is it that the Mussalmans insisted upon the separation of Sind? You know it. Do you know that the man, who was at that time devoted to the Congress. Maulana Mohammed Ali, said:

“We want a corridor from Karachi to Calcutta”

Do you remember that? Why is it that some of you so vehemently opposed the separation of Sind? No doubt, outward grounds are different, but the real grounds we know. Outwardly, it is financial ground; this, that and the other. You said it will be better off if Sind is with Bombay, it is not in the interest of Sind to be separated, and so on

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Is it not unfortunate now for Sind?

Mr. M. A. Jinnah: My dear friend, it is a misfortune to all of us now. Nobody is in fortune just now. I am only giving you indications to prove my point that that has been at the back of Muslim India and the Hindu India, and the basis has been different, and that is why we have failed to come to a settlement. That is continued up to the present moment. I will quote from my friend, the Deputy Leader, Mr. Satyamurti, and what did he say only as late as May last after Mr. Amery had made his statement? This is what Mr. Satyamurti said. What was his acid test? The acid test of Mr. Amery’s ability and earnestness will be his saying to the Muslim League,—Muslim Leaguers, no Pakistan, no coalition, no coalition ministries, no impossible safeguards, you must settle with the majority; once he says that, the rest will be easy

Honourable Member: Who says that?

Mr. M. A. Jinnah: Mr. Satyamurti: He says, no coalition, no impossible safeguards, settle with the majority. My friend asks—hand over the Muslims to our tender mercies

624

LEGISLATIVE ASSEMBLY

[19TH NOV. 1940]

Mr. S. Satyamurti (Madras City: Non-Muhammadian Rural): No, no I did not say that.

Mr. M. A. Jinnah: My friend's acid test is nothing but that.

Mr. S. Satyamurti: I did not say that.

Mr. M. A. Jinnah: I say, Sir, that is the mentality at the back of Congress leaders.

Mr. S. Satyamurti: Not at all.

Mr. M. A. Jinnah: And I tell my friends that they are making the greatest mistake that they ever made in their life. Mr. Satyamurti says to Mr. Amery: "Tell them to settle with the majority". Well, I daresay I get frightened of Mr. Amery also, because these people are sharpening the knife, non-co-operating and preparing for civil disobedience and launching it. This Government and the British Government, if I may say so, is unnerved, and I get frightened, and they think that, in spite of your tenacity, you may be forced into it; but then comes the statement of 8th August and Mr. Amery's speech. That is now the crux. I don't say that the British Government could have done anything else. If they had done anything else, if they had been a party to coerce the Muslims, if they had been a party to throw the Muslims and other minorities at the mercy of the Congress, they would have left a dishonourable record in the history of this country. If they had done that, what would it have come to. That is really where I am fundamentally at variance with the Congress. They do not want the independent of India. I will read what Mr. Gandhi said. What they want is, under the overlordship of Britain, power and patronage to dominate the Muslims and rest of the minorities. This is what Mr. Gandhi himself says, and it is a thing to which I cannot subscribe. This is what Mr. Gandhi said: "It is my conviction, and I am satisfied"—this is an article he wrote on the 29th October. Of course, Mr. Gandhi's articles and speeches are such that you can derive support for any proposition; he is like the oracle of Delphi,—but in order to understand Mr. Gandhi, you have to study and go deep into the thing. This is what Mr. Gandhi said on the 29th October last year after he had rejected the offer of the Viceroy:

"If today the British leave India, the Punjabees from the Punjab"—

—he might have honestly said Muslims,—

"and Gurkhas from the East will destroy the country. If therefore there could be any one desirous of maintaining the supremacy of the British in India,"—

—mark the words—

"if, therefore, there could be any one desirous of maintaining the supremacy of the British in India, it can only be the Congress."

Some Honourable Members: Read on please.

Mr. M. A. Jinnah: I am reading on. I have studied it much more than you have done.

Now comes the other operative part:

"It is the only authoritative and representative body of Indian people and of those Hindus who are, in spite of their majority, weak."

I ask this House, I ask any intelligent man, what does this mean? 29th October last year, after the Resolution of the All-India Congress Committee of the 10th October, within less than 20 days, Mr. Gandhi writes this thing. That Resolution, if you honestly believe in it, asks for complete independence, the right of the people of India to freedom, chosen by a Constituent Assembly to be elected by adult franchise. But here what does this mean? He was telling the British Government, you settle with me, I am more desirous to maintain your supremacy here than the Punjabis and the Gurkhas. Mr. Gandhi became a convert, a complete convert to this artistic Resolution of the 10th October when he found that this was not going to do. He realised. Then he became a convert, and he found that it was a panacea for every kind of ills the people of India are suffering from. What was the panacea The Constituent Assembly. This went on. When this Constituent Assembly was beaten and dead, we come to what the Leader of the Opposition emphasised,—I believe the Delhi Resolution. What is it? He only mentioned a part of it. He did not emphasise the first part of it. The first part of it—correct me if I am wrong—declared complete independence of India and freedom with a right to frame its own constitution by a Constituent Assembly, etc., etc., and mind you, it is joint—and not or, provisional National Government at the Centre responsible to the elected Members of this House. Beautiful. I assure you it appeals to me more than it appeals to you, and I dreamt of it when I was a boy of 21. It appeals to me very much, but the situation has changed in this House. A National Government—the Leader of the Opposition said—does not mean democratic majority Government. I quite understand. It was explained, although the word "national" is misleading. However, we won't argue about that. We always find. Congress Resolutions are passed, then commentators like Mayukha and Mitakshara, and so forth, then the commentators go on commentating, and you have forgotten the original text of it. No doubt, we have high authorities as commentators. They said, by a National Government they mean a composite Government. Am I correct?

Mr. Bhulabhai J. Desai: Yes.

Mr. M. A. Jinnah: Coalition if you like. it means the Cabinet will be from all Parties.

Mr. Bhulabhai J. Desai: What Mr. Amery said, the Government in England,—at least that was his comparison.

Mr. M. A. Jinnah: Mr. Amery has also said, you cannot have a Government like they have in England. in the same speech. Mr. Amery has said this also:

"India cannot be unitary in the sense that we are in this island, but she can still be unitary. India's future house of freedom has room for many mansions."

Mr. Amery has said that also. Is the first part of the Resolution gone then? You do not want a declaration, immediately a declaration for complete independence and freedom with a right to the people of India to freedom, a Constitution by a Constituent Assembly. Is that gone, or does it remain?

Mr. M. S. Aney: One comment said, it was the right to a declaration

Mr. M. A. Jinnah: You are asking the British Government to make a declaration here and now.

Mr. M. S. Aney: I am giving the commentary of Mr. Rajagopalachariar on that.

Mr. M. A. Jinnah: That is just the trouble. (Interruption.) Another commentary. But I say, Sir, if the Congress have got a definite practical proposal to make, not the one that they have made, because we have repeatedly said, I have said it, the League said so in the Resolutions. In the first instance, I do not believe for a single moment that any power can declare any other country or a nation independent, by a mere declaration. And, I say, no power can continue the subjugation of people of another country if the people of that other country are fit to throw off the yoke. It is not a matter of declaration. If you believe in complete independence, I would honour you, stick to your guns, then there is nothing to negotiate with the British Government, nothing to negotiate. What is the use of asking them, let me first have a Constituent Assembly and that Constituent Assembly will frame the Constitution? What have they got to do with this Constitution? Are they to have the honour and privilege of putting this Constitution which will be framed by your Constituent Assembly on the Statute-book of Britain? What for? They have nothing to do here. Say so. Let us appeal to the country if you like, let us take the verdict of the country. But if you mean, as I do, the transfer of substantial power immediately, and for that purpose it is the British Government and the British Parliament that can, by enacting a Statute on their Statute-book, transfer that power and vest that power in the representatives of the people of this country, then I can understand. Where is the basis for negotiation? If you drop your first part and if you mean a composite Government, responsible to the elected Members of this Legislature, provisionally, let us not lose our sense of proportion. I say to the Honourable gentlemen of the Congress Party, we are in danger, say what you like. We cannot be indifferent now. If you really have a practical proposal which can be accepted by all reasonable parties, why don't you adopt the correct channel, the proper procedure, the proper method. What is the use of addressing them? What is the use of despatching it to the *Daily Herald*. Well, they cannot make up their mind. Mr. Rajagopalachariar has made a supporting offer. Now, we have been told day in and day out even by the able and competent gentlemen of the Press here, the army of them that I see: what is this? Rajagopalachariar's sporting offer is also not considered! But where is the offer? What does Mr. Rajagopalachariar say? May I read the few lines in which he has compressed this offer? He says:

"In answer to Mr. Amery's difficulty as to the minorities, I may make a sporting offer that, if His Majesty's Government agree to a provisional National Government being formed at once, I shall undertake to persuade my colleagues in the Congress to agree to the Muslim League being invited to nominating the Prime Minister and to let him form a National Government as he would consider best . . ."

Now, Sir, why does he not invite me, the prospective Prime Minister, to have a talk with him; instead of firing it off to the *Daily Herald* and saying: "I will persuade my colleagues of the Working Committee to do

this, that, and the other." I do ask my Honourable friends, is this business, and today Mr. Rajagopalachariar justifies why he did not make that offer to the Muslim League.

I tell you, I cannot restrain my utter astonishment and amazement as to how that mind works. It is impossible to understand it. This is what he says today. I shall only refer to that portion which relates to this subject. The other parts have nothing to do with it. Of course, he has paid us a compliment that the Muslims were more ardent for independence than others. I am very glad.

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): When did you discover that?

Mr. S. Satyamurti: Before you did!

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

Mr. M. A. Jinnah: The point is this. They say that the British Government did not take any notice of the sporting offer, and some critics suggested that it should have been made to Mr. Jinnah, and not to the British Government. But the offer was not made to the British Government even, though I admit that the British Government have taken note of it. It would, in his opinion, have been improper to make it to Mr. Jinnah in the first instance, as Mr. Jinnah would then have had legitimate ground for considering it an insult and retorting that he was not after jobs. I ask, if Mr. Amery had accepted this offer, and, then, if that offer had been made to me, would it not have been open to the same retort, because it is the same offer and the terms are the same. I would have said: "Both Mr. Amery and Mr. Rajagopalachariar are insulting me, and that I am not here for jobs". Do give some credit to other people at least for commonsense. Is this really the explanation?

An Honourable Member: Read the later portion also.

Mr. M. A. Jinnah: I am quite willing to read the other part. He says:

"Assuming that Mr. Jinnah accepted the offer, it would not be in the speaker's power to implement it unless there was the prior commitment by the British Government to part with power."

His argument is, if I had accepted it, it was not in his power to implement it. It may not be in his power to implement, nor is it in my power to implement, but the latest and authoritative pronouncement of the British Government is this: If you can put your heads together and bring some agreement, we are willing to consider it. Then, what is the use of making this offer to Mr. Amery over the head of the Muslim League.

An Honourable Member: We can agree, provided they are willing to part with power.

Mr. M. A. Jinnah: I do not think they have ever gone the length that you want to go, but they have said this: we are willing immediately to associate the representatives of the political parties and to give them an effective and important share in the Government of India by the proposal of the expanded Executive Council. Surely that is not the last word. In fact, the last word is never spoken in politics. Now, if you really

[Mr. M. A. Jinnah.]

think they must give you beforehand the blank cheque that Mr. Gandhi has been giving me for the last 25 years, it is useless. Why not you and I meet and put our heads together? If you make a practical proposition, we present a common united demand to Mr. Amery, or, for the matter of that, to the British Parliament or the British nation if you like.

An Honourable Member: No response from the Congress Party.

Mr. M. A. Jinnah: The Constituent Assembly is a panacea for all the ills of India. Complete Independence. My complaint is—then you stick to that, and Godspeed; stick to it, honestly; I may agree with you, or I may not agree with you, but you will command my admiration and respect; stick to it; and if you do not want to stick to it, then come down on earth and let us deal, as practical men, and face the realities, as Mr. Bhulabhai Desai says, and do not allow others to take advantage,—as the *Manchester Guardian* says—a British journal—“frankly, our power and position in India is due to the mistake of the others, and it will continue if you go on making this mistake”. The position is this. I am only dealing with the present; I am not dealing with the future.

There is one last sentence, and I will finish. When we talk of this little innocent baby which is put forward, viz., the demand for a National Government responsible to the elected Members of this Legislature, there are far-reaching implications when you examine it in detail—far-reaching implications. It will mean fundamental alterations and changes in the Constitution in order to constitute that Cabinet; and when that Cabinet is constituted, it will be responsible to the elected Members of the Legislature. Mr. Bhulabhai Desai throughout his speech only emphasized two things: “democracy, democracy, democracy, and a National Government.” What is the use? Whatever that Cabinet may be will be responsible to this Legislature,—in which Mr. Bhulabhai Desai can command two-thirds of the elected Members. I will pity the man who happens to be in that Cabinet who does not obey the Congress command and the Congress mandate!

The Honourable Sir Jeremy Raisman (Finance Member): Sir, it will surely be recorded as one of the most notable phenomena even of these extraordinary times that, at a juncture when the fate of civilization seems to be hanging in the balance, when nations are being swallowed up in a few weeks or days, and under a constitution which is said to be a mere simulacrum of democracy, and in which the right of free speech is entirely gagged and silenced, this Assembly has sat for, I believe, six days to discuss a Supplementary Finance Bill designed to raise six crores of rupees for the financing of the defence of the country. The debate has ranged over a very wide field,—metaphysical, ethical, political but hardly ever financial. In fact I must confess that I rise with an apologetic feeling to discuss it on the level of finance and to attempt to bring the atmosphere or the tone back to so crude and materialistic a level. My Honourable friend, the Leader of the Opposition, said this morning that this was not really, in essence, a Finance Bill. He said that the Government of India had very unwisely chosen this moment to attempt to put before the world some sign of India's willing participation in the war. He said that there were only two crores of rupees involved in this

measure, which we could easily do without or get some other way, and that he did not believe, in fact that it was any financial consideration which had prompted the promotion of this measure but a desire on the part of the Government of India to make some kind of gesture or demonstration before the outside world. Sir, this, if I may say so, I found to be a most extraordinary argument. The war has now been in progress for some fourteen months. On the very first occasion on which it was possible for me to take steps to raise special finance for the purpose of this war, I placed before this House an important measure—the Excess Profits Tax Bill. I was criticized in fact for being premature. I was told that there was no financial need for this and that I ought to have waited a little longer . . . (Interruptions.)

Mr. President (The Honourable Sir Abdur Rahim): Order, order. There is too much noise in the House.

The Honourable Sir Jeremy Raisman: . . . until the war was more advanced. However, Sir, that Bill was fully debated in this House. The issues of the war and of the raising of expenditure for the war, of the imposing financial sacrifices on the people of this country and on the trade and industry of this country were discussed for a very long time in this House at that stage. My Honourable friend did not appear, neither did the Members of his Party; they did not think it necessary, they did not think that at that moment the Government of India were taking any steps to associate the people of India with this war. A very short time afterwards, in fact within a few days, I placed a Budget before this House. That Budget contained over eight crores of additional defence expenditure. I stated in the course of my Budget speech that I did not expect that expenditure to be the entire cost of the defence measures that would be taken during the year. I stated clearly that it was the estimated cost of the commitments which we had already undertaken. In addition to the Excess Profits Tax I included in that Budget other taxes specifically for the purpose of meeting the extra cost of the war in which we were engaged. Now, Sir, it seems to me an extraordinary thing that my Honourable friend should now come forward and find in this supplementary Finance Bill some curious, hidden, ulterior motive other than the motive of raising finance for the purpose of the war and that he should think that the Government of India's Budget was merely to make a demonstration. Surely, the position is that my Honourable friends opposite have come here not for the purpose of debating the Finance Bill but in order to make a gesture and a demonstration.

Now, Sir, my Honourable friend, Mr. Satyamurti, referred to me as a very prosaic gentleman. The duties of a Finance Member are of a prosaic character.

Mr. S. Satyamurti: Ask Sir James Grigg: he was very poetic?

The Honourable Sir Jeremy Raisman: It is to translate policies into figures, into rupees, annas and pies. His humble task is to attempt to raise the revenues necessary to meet the expenditure which is being incurred. But if the Honourable Member implies that I, any less than he, am unconscious of the great moral issues that lie behind these facts and figures, then I assure him he is entirely mistaken. I am no orator

[19TH NOV. 1940]

[Sir Jeremy Raisman.]
 as Mr. Satyamurti is. I have often admired the rapid and tempestuous flow with which he is able to express or conceal his thoughts. I have spent my life in the humble tasks of administration, in dealing with files, in dictating notes. I am unaccustomed to addressing a large forum; I am unable to command the mastery of words which he possesses. My Honourable friend in an excess of humility spoke at one stage of his faltering accents and weak logic. In spite of the weakness of his logic, I can assure him that his accents never falter. He called me, Sir, a prosaic gentleman. I deny that, if it means what the Honourable Member suggested. I am one of many thousands in this country who at this moment are very unlikely to be unaware of the issues that are at stake. When we read the news every day, we wonder whether we may not receive a direct personal message that a father or a mother, a son or a daughter, a sister or a brother, has been killed or mutilated by the enemy's bombs. In these circumstances, Sir, we are unlikely to forget the issues that are at stake and the sacrifices that humanity and our kinsmen are being called upon to bear. In these circumstances, Sir, it has been no light ordeal to listen to some of the speeches that have been delivered in this House. I am grateful to my Honourable friend, Mr. Sri Prakasa, for generously including the people of England in his all-embracing sympathy along with the people of Germany. It was a kindly thought. But, Sir, if I did not bring these aspects of the matter into the speech which I made, either on the first occasion before this House or when I moved for the consideration of this Bill, it was because I felt that I was entitled to take something for granted. The Honourable Member opposite has asked me what I meant by civilization and by the forces which threatened to engulf it. Sir, I entertain no doubts on this subject any more than did the Honourable Member and his friends but a few months ago. It is they who have been cast into a welter of discord, doubt and defeatism and have become unable to see the beacon light of truth. I could not help feeling that there was a good deal in their speeches which the enemies of India as well as of Britain would have rejoiced to hear, passages, I felt, of which the speakers would at no very distant date themselves be ashamed. If there is one lesson more than another that this war has taught us, it is that the enemy proceeds by sapping the morals of the populations of those countries which he proposes to subjugate, and if Honourable Members opposite meant everything they said, I should feel that it was a very sinister omen for the future of India. But I do not believe that is the case. I believe that they have come here to make a gesture and a demonstration and that we must not weigh too precisely all the words which they have uttered. Mr. Satyamurti told me that I made a tame speech. I can only say that he and his friends have redressed the balance by making a number of wild ones.

I return, Sir, as I must, to the realities of the present situation. Honourable Members opposite may adopt an anti-war attitude. 5 P.M. They may refuse to think or speak about the war. If that stopped the war, there might be something to be said for it. But, unfortunately, for them and, unfortunately, for us the flames of war continue and they spread ever nearer to India. My duty is to deal with the situation as I find it, and in that situation it seems to me inevitable that India must take ever more active steps for her own defence. We have been told over and over again by Honourable Members opposite,

that the Government of India have taken no adequate steps for the defence of India. This charge comes curiously from the lips of those who year in, year out have objected to any expenditure on defence and who have come here now to refuse to vote the finance necessary for immediate defence measures. I am prepared to admit that here as elsewhere in the world adequate measures were not taken to meet the menace which obviously threatened from the self-confessed apostles of aggression and force. But now, when we realise the danger that is upon us, surely we should take every step that is possible to make up for the errors of the past. It is no easy task, it will not be possible in a few days or weeks to rectify the damage done by years of unpreparedness, but we can at least address ourselves to the task now. It has been said by several Honourable Members that to draw attention to the imminent dangers which every man whose eyes are open could see is terrorising, fear-mongering. It is terrorising to point to these facts which are clear from the news that comes to us every day. I say on the other hand, that it is escapism, it is self-delusion to ignore them. It is yielding to what President Roosevelt aptly called the false lullaby of appeasement. I admitted that in India as elsewhere inadequate steps had been taken for defence. But I said just now that surely this was the moment to attempt as best as we can to make up for those deficiencies. It is not an easy task with Great Britain in the front line of battle, with America herself making feverish attempts at preparations for rearmament, it is not too easy to obtain the wherewithal to produce the equipment which is necessary for modern warfare. Nevertheless, we have made and we are making every possible effort in this direction. It was because I realised that this House was entitled to know where we stood and what we were doing that I went into so much detail at the time when I made the financial statement.

It has been argued that factories for production of munitions and aeroplanes should have been transferred wholesale from their very exposed positions in Great Britain to India. There is a very great deal of force in that argument. But the critics must remember that there would inevitably have been a lag of not a month, or two months, not even of six months, but anything up to 18 months or two years before the installation could have been in production in India. Now, at a time when the production of every unit was vital for the outcome of the day's battle in Britain, surely it was not unnatural that the British Government should not have welcomed the proposal. It is not necessary to attribute to them very sinister motives. After all, there would have been the difficulties of obtaining shipping space, the difficulties of providing skilled personnel, until the necessary craftsmen could be trained up in India. Finally, there is the difficulty that hardly any unit of production is completely self-contained. These units depend upon the environment of ancillary and subordinate industrial production for their continuance and in that is one of the difficulties which has to be taken into account. In these circumstances, Sir, I say that it is not necessary to attribute any sinister motives to the British Government if this type of step has not been taken. Besides many of those who criticise the failure to take such action are quite frankly interested in such proposals purely from commercial and economic motives. It is surely a little odd to suggest that there is something ignoble in the attitude of the British Government, if your own attitude is determined so largely by purely mercenary considerations.

[Sir Jeremy Raisman.]

I now come to the points more directly and more closely concerned with the Finance Bill. It has been said that it was unnecessary to bring in supplementary financial proposals at this stage, that we could well have waited a few months longer, and what did it matter if there was a deficit at the end of the year. Sir, I pointed out in my initial statement on this subject that the point at issue was not merely the question of deficit of this year but that here we were already embarking on a scale of expenditure which was far beyond our present revenues and which could not grow less as far as we could see. Was it not, therefore, reasonable that we should take the very first opportunity when this House met to put before it the proposals for raising some taxation towards the additional expenditure which had already become inevitable?

Mr. President (The Honourable Sir Abdur Rahim): The Chair takes it for granted that the House wishes to finish consideration of this Bill today.

Some Honourable Members: Yes, yes.

The Honourable Sir Jeremy Raisman: I shall endeavour to be as brief as possible.

Mr. President (The Honourable Sir Abdur Rahim): The Chair did not suggest that. The Chair simply wanted to ascertain if it was justified in sitting here today beyond five o'clock.

The Honourable Sir Jeremy Raisman: It has been argued that additional taxation would have been unnecessary if we had adopted an economy drive and cut down extravagance in the administration. I must remind the House of the financial history of the last two or three years. In the year 1938-39 it became obvious in the course of the year that there would be a short-fall of revenue and an economy drive was undertaken. The Public Accounts Committee which sat in the course of this last summer to review the accounts of that year have taken note of the fact that 120 lakhs of savings were secured by that economy drive. There was indeed some criticism of the extent to which retrenchment had been pushed in the course of that year. In the following year, as was made clear in the budget speech of my predecessor, a greater part of those same economy measures was continued and extended throughout the year. And in the budget for 1940-41 I pointed out that many of those measures were now having effects which made it impossible to continue with them; that, for instance, in the sphere of civil works valuable Government property was falling into a state of disrepair and it was essential to provide again for their maintenance. That was the state of the budget when the war broke out. We were still under the influence of the economy drive which had been started in 1939-40 and many of the measures of which had been continued. In this situation, Sir, could it be expected that with the preoccupations of war upon us and all the additional activities and burdens which war had thrown upon the Departments of the Government of India, we should have embarked upon a retrenchment drive? Nevertheless, as I have pointed out, we have accepted no expenditure which was not inevitable in the situation, and even expenditure which has been classified as civil has

with the exception of one or two matters which I have specifically mentioned to this House been expenditure directly or indirectly connected with the prosecution of the war.

Now, Sir, it is impossible for any Government to carry out activities which are twice or thrice the volume of its normal activities with exactly the same machinery as it possessed in normal times of peace. Honourable Members have alluded to an additional post here and an additional post there. I can assure this House that the creation of additional posts has been the result of conditions in the Departments which absolutely necessitated further assistance if the functions of those Departments were to be carried out at all. The Departments had gone to the verge almost or breakdown before they had been able to secure additional personnel which was necessary. It is easy to talk of Colonels who on return from Lunch meet themselves going out to tea. I seem to have heard that story some 26 years ago.

Mr. S. Satyamurti: And still it goes on in India.

The Honourable Sir Jeremy Raisman: These stories are the inevitable outcrop of the situation when Government are compelled to employ additional personnel, and the same thing applies to all those dark allusions and mysterious allegations about the Supply Department. It has now become unnecessary to complete the sentence when you say, "the Supply Department"; you merely raise your eyebrows and with a wave of the hand you refer to the Supply Department or you put your fingers to your nose as the *Hindustan Times* cartoonist puts it. This is a sort of thing which grows by what it feeds on. I explained in this House the other day in connection with a Resolution regarding economy in war expenditure and the association of a committee of this House with that object that I was prepared to place the whole of the establishment of the Supply Department before the committee. But I feel that in view of the repeated statements which are made I ought to mention a few facts before the House now. An Honourable Member suggested that he could only think of one name in the whole of the Supply Department of an officer who was getting no more than what he got before, and I heard a little argument go on because a Member sitting next to him suggested that he knew one other name. Sir, the position is that of 101 officers employed in this Department 60 are not getting a single pie more than they were getting in their normal posts; and, of the remainder, a large number are merely drawing the routine standard scales which attach to posts of that status. Honourable Members will understand that just as if you raise additional regiments there must be more Colonels and that war brings opportunities to younger men who are fit for heavier responsibilities, so even in civil departments you cannot create a complete new department of clerks or even entirely of Under-Secretaries. As my Honourable friend, the Leader of the Opposition, said, there must be an organisation, there must be something approaching a hierarchy.

Mr. Bhulabhai J. Desai: Is pay the essence of a Colonelship?

The Honourable Sir Jeremy Raisman: No, it is not the essence. At the same time I suggest to my Honourable friend that gradations in status

[Sir Jeremy Raisman.]

and in organisation do tend to express themselves in some differentiation in pay, and that in the case in question the departure that was made was that an officer who was appointed to be a full Secretary to the Government of India and to a somewhat arduous Secretaryship was given the pay of a Joint Secretary. The other day when an Honourable Member referred to this I jumped up in my seat but I was unable to mention the actual figures. He created an impression of tremendous scandal by saying that an officer had been promoted from Rs. 1,700 to Rs. 4,000. I could not remember the figures but I said that the case was misrepresented. The case was that an officer who was a Colonel in a regiment, who was drawing more than Rs. 2,000 as Colonel

An Honourable Member: What is the exact sum?

The Honourable Sir Jeremy Raisman: It was about Rs. 2,078, over Rs. 2,000. He was appointed Secretary to the Government of India and was given the pay of a Joint Secretary.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): What is it?

The Honourable Sir Jeremy Raisman: Rs. 3,000.

The same officer when previously employed in the Secretariat had drawn more than the pay of a Lieutenant-Colonel. I am not prepared to say that there may not be two views about some of the appointments that have been made and that there may not be two views about the principles on which the pay of individuals should be fixed; but I entirely deny that there is anything like a hotbed of scandal connected with the pay and the appointments in the Supply Department which is suggested on all hands; not that I am in charge of that Department, but that I am in charge of the Department which has to see to it that scandals of that kind do not occur.

It has been suggested that additional taxation would be unnecessary if we resorted to a cut in pay. I am free to admit to my Honourable friend, Mr. Sri Prakasa, that that is a thought that has crossed my mind more than once in the course of the last few months; but let us look at the proposition. The salary of the employees of Government is in the shape of what I may call a pyramid: it is very broad at the base and narrow at the top. If you wish to get a good slice out of it, you have to cut down very deep. The position at this moment is that there are large numbers of employees of Government in all Departments on low rates of pay, some of them as my Honourable friend, Mr. Joshi, will not forget, are agitating. . .

Mr. N. M. Joshi (Nominated Non-Official): I have not suggested any cut in pay.

The Honourable Sir Jeremy Raisman: and Mr. Joshi reminds me that he has not suggested any cut in pay. But as he did not explain the

reasons why he has not suggested it, I feel that I must do so. Many of these are agitating for increases in pay and dearness allowances and so on; and the Governments, both Central and Provincial, have been forced to indicate the lines on which they are prepared to deal with increases in the cost of living. This mostly relates to individuals on fairly low rates of pay, although my friend, Mr. Joshi, would not agree that it should. But Government's attention is mostly concentrated on people on rates of 40 or 30 rupees a month or even less; Mr. Joshi would no doubt say that that consideration should at least extend to officials on less than 100 rupees a month. . . .

Mr. N. M. Joshi: Yes, I would.

The Honourable Sir Jeremy Raisman: But whether I agree with him or not, I must agree with him that above the class of low paid government employees for whom some actual increases of pay may be necessary, there is a further layer in regard to whom the question of a cut in pay can certainly not arise. That brings us up to say the level of those who pay income-tax, which is roughly about 170 rupees a month. From those upwards it is possible to think of a cut in pay; but now, why should you reduce the income of these individuals because they happen to be Government servants and not take any sacrifice from people of exactly the same means who happen not to be in Government service? Mr. Sri Prakasa told me. . . .

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Yes, because the Government servants stand most to gain by the continuance of the Government, and, therefore, their sacrifice should be more.

The Honourable Sir Jeremy Raisman: That is an argument which I simply fail to understand: my intelligence is too limited to comprehend that argument.

Mr. Sri Prakasa: I too am equally dense.

The Honourable Sir Jeremy Raisman: If you are going to operate on those incomes above the taxable minimum, then I claim that an income-tax surcharge, and, particularly, one superposed on the slab system of taxation, is an ideally equitable method of raising the money you need. If you express your cut in pay as any kind of percentage, you could not possibly achieve the steepening in sacrifice which a surcharge superposed on a slab system of taxation involves. . . .

Mr. Sri Prakasa: On a point of personal explanation, I never suggested any cut in pay: what I said was that they should make a voluntary sacrifice of half their income.

The Honourable Sir Jeremy Raisman: I am coming to that. The question of voluntary sacrifice is one which has been in the minds of many government servants in the last few months. Whole services have taken

[Sir Jeremy Raisman.]

combined action on a voluntary basis—I am not dealing with that. Those voluntary sacrifices will go on, I believe, whatever compulsory sacrifices are imposed by taxation. My Honourable friend, Mr. Satyamurti, said in one of his sweeping gestures: “The Finance Member taxes everybody except himself.” I know that he did not mean it literally, because it is so obviously untrue. But he did imply, I think—and I give him credit for implying that my idea of taxation was to let off those of my class or status. It may interest Mr. Satyamurti to know that the effect of this Bill on the occupants of the Treasury Benches is to increase their tax from 24 per cent. to 30 per cent. of their salary. I do not say that that is a monumental sacrifice; I have not pretended that this is a comprehensive scheme of taxation, nor have I promised that this is the last taxation measure which will have to be brought before this House. But I do suggest that it removes the sting from any remarks that I or my colleagues are not prepared to tax ourselves. Now, I come to a point, an interesting point, which was raised by my friend, Mr. James. He only touched upon it, but he seemed to ask me rather directly,—he seemed to invite my views on it and it was the question of whether not merely public expenditure but private expenditure should not be restricted in this emergency. I think that was Mr. James’ query. The position in India is different in that respect from what it is in the United Kingdom. It is true that there are certain types of commodities which it is just as important to economise in India as it is in Great Britain: in fact in relation to some, it is even more important. We have our difficulties about imports and in particular we obviously must endeavour to economise in any imports which involve the expenditure of dollar exchange, that is, imports from outside the sterling area; but in relation to commodities which India produces, and, particularly, in relation to those of which she has a surplus, there is no special virtue in reducing consumption, and on the contrary it may even be damaging to the economy of the country. Take the case of coffee. It is no advantage for a man to say—I have cut down my budget by Rs. 5 a month; I have stopped coffee drinking, because the slack which he has taken up unfortunately is passed on somewhere else in the economy of India, and though he may be able to subscribe Rs. 5 towards the Defence Loan, that is not necessarily a net advantage.

Sir, there were very few financial points raised in the course of this debate, and although I hungrily tried to pick them up, I have found it exceedingly difficult to collect them. But my friend, Mr. Santhanam, did raise a point. He referred to the sterling assets in the issue branch of the Reserve Bank of India, and he talked about our maintaining India’s bondage to sterling. I would like first of all to draw his attention to the fact that the increase in those sterling assets is some measure of the advantage which India has so far drawn from the war, that it is because of the increase in India’s favourable balance of trade, and particularly with the Empire, those sterling assets have increased so largely from the figure at which they stood. . . .

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Is it not a fact that they only represent the cost or the value of the commodities exported?

The Honourable Sir Jeremy Raisman: Yes, Sir, it is, but since to be able to sell your goods abroad is an economic advantage, the foreign exchange

which you acquire is a measure of that type of economic advantage. I do not put it higher than that. India has given goods for that, but she has been paid for it.

Now, my friend alluded to the danger that after the war sterling might depreciate, and, therefore, he implied that these assets should be held in some other form. Well, Sir, nobody in this world is in a position to say what will be the position either of sterling or of gold after this war. My friend may have seen, he may have heard some echoes of the debate which has been going on in America about what will happen to their gold after the war, what will happen to them when all the gold in the world has been securely lodged in the United States and possibly nobody else in the world has any use for it. These are questions which admit of very speculative examination, but the concrete point for India is this. We are a debtor in sterling. Our sterling liabilities are greater than the sterling assets which we possess, and so long as that is the case, we cannot lose on the depreciation of sterling, so long as our sterling assets do not exceed our sterling liabilities. That, Sir, is the technical position which justifies the maintenance of sterling assets, but I do not disguise from the Honourable Member that even if that were not the case, it would be a matter of no small difficulty for India to embark at this time on the acquisition of further gold reserves, for the simple reason that, as everybody knows, gold is the medium in which America accepts payment, and India, like the rest of the Empire, is dependent on America’s assistance for the munitions of war . . .

Mr. K. Santhanam: May I ask one question? Cannot America be induced to accept some of the sterling securities?

The Honourable Sir Jeremy Raisman: I have tried to deal with his point at some length, and I trust that he will allow me to go on now.

My friend, Mr. Asaf Ali, referred to the heavy indebtedness of India. That, Sir, is a common theme. I entirely disagree with that view. I realise that India is a poor country. Nevertheless, in relation even to her poverty, the burden of India’s non-productive debt is extraordinarily small, and I claim that, whatever my friends opposite will have against me and my predecessors in the years to come, they will not be able to say that India’s finances in this respect were not husbanded with orthodox strictness. Now, Sir, that is one reason why at this moment I am bringing a Finance Bill before this House, because I do not think it is a light matter to allow the whole of the deficit of the year merely to pass on to the indebtedness of India. Nevertheless, my friend, Mr. Asaf Ali, referred to this indebtedness, and in the course of his remarks he made a statement which was inaccurate and which, therefore, I cannot let pass. He referred to the repudiation or reduction of debt which followed the post-war settlement, and he said that India with her burden of debt got no relief. I do not know if my friend based that on any information, but I can tell him that the facts are that India did get a considerable measure of relief, to the extent approximately of sixteen million pounds sterling.

[Sir Jeremy Raisman.]

Now, Sir, there is one other financial point which, I think, I ought to bring before the House,—I shall only be a few minutes now,—and that is in relation to India's war effort. Whatever may be alleged about war funds, that is to say, gifts to war funds, I think Honourable Members opposite will admit that no pressure other than the appeal of advertisements has been brought to bear in relation to defence loans and defence investments. The position in relation to them is this. The figures up to November 9th show that this country has raised approximately Rs. 32 crores of defence loans of various kinds; no less than 218 lakhs are interest free, and of that on which interest is paid, the rate of interest is only slightly over three per cent. I suggest that as a financial criterion of India's attitude to the war, the ability to raise sums of that kind at that rate of interest does not seem to indicate a country which is being dragooned

Mr. Mohan Lal Saksena (Lucknow Division: Non-Muhammadan Rural): May I know how much of this is converted loan?

The Honourable Sir Jeremy Raisman: Well, Sir, that is all I have to say on the financial points which have surreptitiously and almost apologetically crept into this debate. It is useless to attempt to ignore the fact that the issue before the House is not a financial, but a moral and a political one. It is the question whether India should support the war effort by taking active steps for her own defence, or whether she should pursue the sterile course of non-co-operation to her own peril and that of the civilised world. My Honourable Colleague, the Leader of the House, in a speech of brilliant and lucid eloquence, has given the reply of a profoundly thinking and patriotic Indian. No words of mine could add to the cogent persuasion of his argument. It is only left for me to remind the House that the enemies of freedom and of civilisation, those who would extinguish the torch of progress and plunge us back into barbarism are watching. Every vote for this Bill is a vote against Hitlerism, against Fascism and against the most savage despotism that has ever crushed the soul of man. Mr. Winston Churchill, with his vivid imagery, has spoken of the dark valley through which we are toiling to the sunlit uplands beyond. Already the sunlight is breaking through and rekindling in our hearts the flame of unquenchable faith in victory. In that victory is the sole hope of India and of the world.

Mr. President (The Honourable Sir Abdur Rahim): There is an amendment in the name of Qazi Muhammad Ahmad Kazmi, that the Bill be circulated for the purpose of eliciting opinion thereon by the 15th of December, 1940.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): I submit, Sir, that I was personally opposed to the Bill, but I have tabled this amendment, because

Mr. President (The Honourable Sir Abdur Rahim): Does the Honourable Member wish to withdraw the amendment?

Qazi Muhammad Ahmad Kazmi: Yes, I want to withdraw, but. . . .

Mr. President (The Honourable Sir Abdur Rahim): Does the Honourable Member have the leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

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

✓ "That the Bill to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies, be taken into consideration." ✓

The Assembly divided:

AYES—53

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.

Ayers, Mr. C. W.

Bewoor, Sir Gurunath.

Bhagchand Soni, Rai Bahadur Seth.

Boyle, Mr. J. D.

Bunyad Hussain, Khan Bahadur Sayad.

Buss, Mr. L. C.

Caroe, Mr. O. K.

Chaudhury, Maulvi Abdul Halim.

Chettiar, Dr. Rajah Sir S. R. M. Annamalai.

Clow, The Honourable Sir Andrew.

Daga, Seth Sunderlal.

Dalal, Dr. R. D.

Dalpat Singh, Sardar Bahadur Captain.

DeSouza, Dr. F. X.

Dumasia, Mr. N. M.

Frampton, Mr. H. J.

Ghuznavi, Sir Abdul Halim.

Gidney, Lieut.-Colonel Sir Henry.

Griffiths, Mr. P. J.

Gwilt, Mr. E. L. C.

Ikramullah, Mr. Muhammad.

Imam, Mr. Saiyid Haider.

Ismail Ali Khan, Kunwar Hajee.

James, Mr. F. E.

Jawahar Singh, Sardar Bahadur Sardar Sir.

Jehangir, Sir Cowasji.

Kamaluddin Ahmed, Shams-ul-Ulema.

Kushalpal Singh, Raja Bahadur.

Laljee, Mr. Husenbhai Abdullahi.

Lawson, Mr. C. P.

Maxwell, The Honourable Sir Reginald.

Miller, Mr. C. C.

Mody, Sir H. P.

Muazzam Sahib Bahadur, Mr. Muhammad.

Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.

Mukharji, Mr. Basanta Kumar.

Ogilvie, Mr. C. M. G.

Ormiston, Mr. J. F.

Pillay, Mr. T. S. S.

Rahman, Lieut.-Col. M. A.

Raisman, The Honourable Sir Jeremy.

Scott, Mr. J. Ramsay.

Shahban, Khan Bahadur Mir Gulam Kadir Muhammad.

Sheehy, Mr. J. F.

Sivraj, Rao Sahib N.

Spence, Sir George.

Staig, Mr. B. M.

Thakur Singh, Captain.

Tyson, Mr. J. D.

Zafrullah Khan, The Honourable Sir Muhammad.

Zaheer, Mr. Saiyid Hasan.

NOES—55.

Abdul Qaiyum, Mr.
 Abdul Wajid, Maulvi.
 Abdur Rasheed Chaudhury, Maulvi.
 Aney, Mr. M. S.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Banerjea, Dr. P. N.
 Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chaudhury, Mr. Brojendra Narayan.
 Chettiar, Mr. T. S. Avinashilingam.
 Chetty, Mr. Sami Vencatachalam.
 Chunder, Mr. N. C.
 Daga, Seth Sheodass.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 Deshmukh, Mr. Govind V.
 Gadgil, Mr. N. V.
 Govind Das, Seth.
 Gupta, Mr. K. S.
 Hans Raj, Raizada.
 Hegde, Sri K. B. Jinaraja.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.

Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.
 Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Manavedan, Raja T.
 Mangal Singh, Sardar.
 Manu Subedar, Mr.
 Misra, Pandit Shambhu Dayal.
 Muhammad Ahmad Kazmi, Qazi.
 Pande, Mr. Badri Dutt.
 Raghbir Narayan Singh, Choudt
 Ramayan Prasad, Mr.
 Rao, Mr. M. Thirumala.
 Reddiar, Mr. K. Sitarama.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sham Lal, Lala.
 Sharma, Pandit Pyare Lal.
 Shrivastava, Babu Hari Sar
 Prasad.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Sri Prakasa, Mr.
 Subbarayan, Shrimati K. Radha B.

✓ The motion was negatived. ✓

The Assembly then adjourned till Half Past Two of the Clock o
 Wednesday, the 20th November, 1940.

LEGISLATIVE ASSEMBLY

Wednesday, 20th November, 1940.

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 Eleven of the Clock.

His Excellency the Viceroy: Gentlemen, I am very glad to meet you all again today.

The fourteen months that have elapsed since I last addressed you has been a period of great events, events of profound significance both in their immediate effect and in their ultimate reaction on the fortunes of civilization and the history of the world. I warned you in September 1939 that we should be ill-advised if we thought that victory was easily achieved or that the course of the conflict would be free from reverses to our arms. I expressed at the same time complete and entire confidence in the outcome of the war. I emphasized how vitally important it was to India, the Empire, and to the world's civilization that that outcome should be satisfactory, and I added that I felt certain beyond any question that the response which India would make in a conflict for ideals so dear to her would be one of the utmost value and importance, and one worthy of her traditions and her ancient name.

When I spoke to you we could none of us have foreseen that fourteen months later the Empire would be bearing single-handed a burden so heavy as it bears today; that of its allies at the beginning of the war Poland and France would have been overrun and conquered; that unprovoked Nazi aggression would have added to its victims Norway, Denmark, Holland and Belgium; and that Italy would have made an equally unprovoked attack on the gallant people of Greece, whose superb resistance commands our admiration today. (Applause.) But we should have been well content fourteen months ago had we, with any foreknowledge of the events which have happened, of the vastly increased burden placed upon the Empire, of the intensification of the most ruthless and unprincipled forms of attack on human life and human property by air and sea, of the singular disregard with which our enemies have continued to treat international obligations and treaties so long as they could derive a temporary advantage in doing so, had we, I say, been enabled to foresee, too, the valour and the success of the resistance offered. The work of the armed forces of the Crown by sea, by land, in the air, in every theatre of war; whether they are drawn from India, from the Dominions and Colonies, or from the Home country, is such as to fill us with pride, with thankfulness, and with confidence for the future.

While the war lasts, its implications, its consequences, are such that it can never for a moment be out of our minds, that in everything that we do it must always be present to us. But I do not propose today, nor

[H. E. the Viceroy.]

would this be the place, to enlarge in this speech on the detail of India's war effort, on the splendid work which Indian troops have done and are doing in the fighting line, or on the magnificent achievements of India, whether British India or the Indian States, in the provision of men, of money, of materials. No praise could be too warm for that achievement. It is one that has struck the imagination of the world, one for which the whole Empire is I know deeply grateful. And, substantial as that achievement already is, no pains are being spared to enable India to give still further effect, in all the ways I have mentioned, and with as little delay as may be, to the universal desire in this country to help the Allies and to see the triumph of the ideals for which they are fighting. The confident hope that I expressed a year ago that India would live up to her highest traditions have been fulfilled in the highest degree. You may be confident, Gentlemen, that in this vital matter I and my Government are fully alive to the importance not only of responding to India's desire to help, but of making her in the matter of defence as self-sufficient as possible; and to the necessity of bringing her defensive equipment to the highest practicable pitch of adequacy and efficiency.

I said, Gentlemen, that the war must be continually in our thoughts and must be related to everything we do. Of the matters on which I shall touch in the remainder of my speech, the great bulk arise out of, or have some connection with, war activities or the war situation. There are one or two which I shall also mention, which are not so directly connected. But in their case the interest taken in them by the general public is sufficiently great to justify me in making a reference which I should not otherwise have made.

It was with much regret that I learned of the refusal of the Legislative Assembly to take into consideration the Finance Bill designed to facilitate the financing of India's war effort. It will, I think, be very generally appreciated that it would be impossible for me to acquiesce in the decision of the Assembly, and I have made a recommendation which will be placed before the Assembly this afternoon.

The work of the Department of Supply, which as you will remember was established shortly before the outbreak of the war, has been of great value in connection with India's war effort; and I should like to pay a tribute to the importance of this work, and to the work of the Ordnance factories (which were not until recently brought under the Department). I should like to associate with that tribute the business community in this country, whether Indian or British. At a time of considerable strain the Department has had the most valuable assistance from business firms, and I am glad to think that that friendly collaboration and patriotic assistance, so readily given, has led to some remarkable results. In the field of munitions, the Ordnance factories since the beginning of the war have been able to export to His Majesty's Government about one hundred million rounds of small arms ammunition and nearly four hundred thousand rounds of gun ammunition. On the stores side, Indian industry has made contributions on the largest scale to the war effort in the shape of engineering stores, jute goods, and many other manufactured products. I and my Government have been at pains to endeavour to secure that such changes should be made in the organisation of the Department as practical working showed likely to produce still better results. You may be confident that the lessons of experience will not be lost upon us, and that such further

modification of the supply organisation as experience may dictate will be made without hesitation or delay. As I speak today, indeed, further changes in the Supply Department are in view, designed further to speed up work, and to ensure that the organisation as a whole is as compact, and as economically run, as is consistent with the magnitude and the character of the operations which fall to be performed.

It was with the greatest satisfaction that I recently welcomed to India the Members of the Eastern Group Conference, and the Mission from the Ministry of Supply headed by Sir Alexander Roger. Much as may have been done, much still remains to be done if India is to make her full contribution to the war effort; and the importance, whether to India or to the Empire as a whole, of the labours of the bodies to which I have just referred cannot be over-estimated. I should like to take the opportunity to express our deep gratitude to the non-official Advisers from India who have, with such public spirit, placed their services at the disposal of these bodies.

The need for harnessing India's economic resources to the task of making her a great centre for supplying the requirements of the military forces engaged in the war must take first place in our attention. But the Government of India are in no way blind to the pressing problems that war conditions have brought to Indian trade and industry. The dislocation of our export trade by the cutting off of nearly all European markets has been receiving the closest attention not only of my Government but of the Export Advisory Council, in the hope of dealing with the problem of surplus production and of reducing the size of any surplus by finding new outlets for our products and manufactures. This last attempt is being pursued in various ways, of which mention may be made, in particular, of the exploratory mission of Dr. Gregory and Sir David Meek to America, and of the decision to increase the number of our Trade Commissioners in continents other than Europe, beginning with Australia. On the other side of the picture, the cutting off of many supplies which normally came from abroad has created many gaps, not only in India itself, but also in neighbouring countries, which Indian industry can hope to fill. I am glad to note that business and industrial interests in the country have not been slow to undertake enterprises designed to fill these gaps, while my Government have done their best to mobilise technical skill for their assistance by setting up the Board of Industrial and Scientific Research, which, through its numerous Sub-Committees and in collaboration with the Director of Research, has already produced valuable results.

The war has thrown a considerably increased burden upon the Provincial police forces, for, apart from their normal responsibility for law and order, they now are under obligation to undertake the safeguarding of places of vital importance to the internal defence of the country, such as power plants, major installations, and a number of protected places, in addition to affording an enhanced degree of protection to railways, and to watch and ward against sabotage. That burden has been materially eased by the establishment in all Provinces of the Civic Guard, and by the assistance given by that body in maintaining internal security. The response to the call for volunteers has been most encouraging. The Civic Guard has on many occasions already given practical proof of its usefulness and efficiency and I am confident that it will, as its training progresses, play a most valuable and important part in India's war effort.

[H. E. the Viceroy.]

Though immediate danger to India from enemy air raids may not be apparent at the moment, he would be a wise man who could accurately foretell the development of the war, and we must be prepared for all eventualities. For this reason Air Raid Precautions in India have been initiated in a manner designed to form a solid basis on which further expansion can take place. Close liaison exists on this most important matter between the Central Government and the Provinces; and its expert advice, and substantial grants-in-aid, have been placed at their disposal. Good progress has been achieved in the past year, a progress made possible by the willing co-operation and voluntary effort of the people of India. There is however still much to be done, and I need not remind you, Gentlemen, of the value of the help which you can individually give to stimulate interest and co-operation on the part of the public and of local bodies in the areas from which you come.

Since the last meeting of the Legislature, compulsory national service has been introduced in India for European British subjects. For the smooth working of the machinery for enrolment I gratefully acknowledge the work of the National Service Advisory Committees—all of it voluntary; and the spirit of willing service has been evident on every hand. The European community in India have yielded to none in the enthusiasm and self-sacrifice which they have shown in the common cause.

In the treatment of enemy aliens the policy of my Government has been guided by the desire not to disorganise the good work of missionary institutions, and to avoid imposing unnecessary hardship on innocent and harmless people. Although, as a result of events in Europe last summer, reinternment, or restriction to parole centres, was necessary for most of those who had earlier been released on the recommendation of a special Committee, the case of some priests and missionaries, of certain Jews of enemy nationality, and of other enemy aliens who can show that they have consistently and publicly opposed the Nazi or Fascist régime, is receiving special consideration.

The outbreak of war found many Indian students in the United Kingdom. Arrangements were promptly made through the High Commissioner in London to repatriate those desiring to return to India, and to maintain a register of those who preferred to continue their studies overseas. To both categories the High Commissioner was authorised to make financial advances where necessary. In the case of students returning to India the Universities have all, I am glad to say, agreed that the period already spent at a British University should be recognised for the purpose of enabling them to complete their degree courses in India. Special arrangements have also been made, under the general control of the Chief Justice of India, for holding Bar Examinations in this country.

Realising as I do the importance attached by the Muslim community to the performance of the sacred duty of pilgrimage to Mecca, I am happy that, in spite of war-time difficulties, it has been possible to arrange shipping facilities,—at Calcutta, this year, as well as at Bombay and Karachi,—and, with the collaboration of His Majesty's Government, to prevent fares for the sea passage soaring beyond the reach of the classes from whom the pilgrims are mainly drawn. Indeed I understand that, thanks to a substantial reduction in charges announced by the Saudi

Arabian Government, and to our being prepared, even in war time, to permit the taking of gold sovereigns out of India by the pilgrims, to enable them to overcome exchange difficulties in the Hedjaz, the minimum cost to the pilgrim will be substantially lower than it would otherwise have been. In fact it will be lower this year than last.

The greatly increased burden which has fallen on the Government of India in connection with war preparation and war work has inevitably necessitated some expansion of staff and some additional expenditure. It would clearly be a shortsighted policy to reject expenditure which, on a broad view, would assist in the mobilization of the economic resources of the country and further the successful prosecution of the war. But I would take this opportunity to say that I am fully alive to the vital importance of economy in the civil administration, and of eliminating all forms of avoidable expenditure at a time when we have no choice but to spend large sums of money on defence and to augment the revenues of the Government by additional taxation.

In spite of their immediate pre-occupation with questions arising out of the war my Government continue to keep a vigilant watch on the interests of Indians overseas. In the Union of South Africa, the Broome Commission, which was appointed in May last to enquire into alleged penetration of Indians into predominantly European areas in Natal and Transvaal, commenced its labours last month. The ban on the assisted emigration of unskilled labour to Malaya continues while questions of the wages of Indian labourers and of the status of the Indian community are still under discussion with the Malayan Governments. In regard to Burma, my Government are awaiting the results of Mr. Baxter's enquiry into the facts concerning Indian immigration into that country, and they are also watching with close attention the course of certain recent legislation which may directly affect the Indian community. An experienced officer was sent to Mauritius to ascertain recent developments in that Colony, so far as they affect Indians. I regret that the recent conversations between my Government and the representatives of the Government of Ceylon should not have had more satisfactory results.

In the field of foreign affairs, my Government's relations with Nepal continue to be most cordial. The friendly attitude of His Highness the Prime Minister of Nepal and of his Government is evident from His Highness' offer of two Brigades of Nepalese troops for the defence of India and from the generous donations of money made by His Highness and the members of his family. This attitude of ready and friendly co-operation is greatly appreciated by the Government of India.

His Holiness the thirteenth Dalai Lama died in 1933, and his incarnation was discovered towards the end of 1939. The installation ceremony of His Holiness the new Dalai Lama took place in February last. A mission headed by Mr. B. J. Gould, who is responsible for the Government of India's relations with our friendly neighbour, Tibet, was deputed to Lhasa to attend the ceremony on behalf of His Majesty's Government and the Government of India.

In October I and my Government had the pleasure of welcoming to India a Mission of Goodwill from Thailand. The Mission were the guests of the Government of India. During their visit they were able to make wide contacts and to cover much ground. On their return to Thailand

[H. E. the Viceroy.]

they took with them precious Buddhist relics from Taxila presented to the Thai Government by the Government of India, who also arranged, at the request of the Mission, for earth from certain sacred Buddhist places in India to be placed on the aeroplane on which they returned to Bangkok. I am confident that the visit of this Mission will help to cement still further the bonds which already exist between India and Thailand.

From China we are glad to welcome Dr. Tai Chi Tao, an eminent Buddhist scholar, and Chairman of the China Public Service Commission.

His Excellency the Governor of the French Establishments in India issued an announcement in September last identifying French India with the cause of free France.

It gives me great satisfaction to be able to inform the House that the relations between India and Afghanistan continue to rest on a firm and friendly basis, and that there are signs that the bonds between our two countries are being drawn even closer in the cultural and commercial fields. I am glad, too, to say that in spite of the disturbance of men's minds by a period of war and intensive rumour the Frontier tribes have on the whole remained remarkably steady. The whole tribal belt from Chitral to the sea has been entirely quiet save in Waziristan, and there are many signs that the tribesmen are in sympathy with the democratic front. And in Waziristan, largely as the result of measures undertaken to control portions of tribal territory which had served as harbourage for the collection of gangs, a better spirit prevails, and the peace of the Districts of the North-West Frontier has recently been less disturbed than at any time during the last few years.

Since I last addressed you Labour in India has not been without its problems; but I am happy to say that owing to the good sense of all concerned there has been no major dislocation of work since the war began, and I believe that Indian labour will continue its substantial contribution to the war effort. When disputes have arisen, the influence of my Government has always been thrown in favour of adjustment and conciliation rather than dictation. Complaints of inadequate wages in the circumstances of the war situation have always received careful and anxious consideration: an examination has already been made of the cost of living in the coalfields and an enquiry has also been instituted into the claim of railway labour for a dearness allowance.

My Government has taken steps to obtain skilled labour for those industries which are engaged on war production, ensuring at the same time that the interests of the artisan are safeguarded. Under the Technical Training Scheme, in the operation of which I have to acknowledge the willing assistance of Provincial Governments, we have planned not only to meet the immediate needs of the war effort, but by providing well-equipped and competently staffed institutions for training thousands of our young men to be skilled technicians, we have kept in view the needs, when peace is at last restored, of India's expanding industries.

Let me turn now to the constitutional field. I will not detain you with any detailed recapitulation of the discussions with political parties that have taken place since the outbreak of war. As you know I have had discussions at various times with all the leading political figures in this country, and with representatives of all major parties and communities;

and I can, I think, claim to have spared no effort to bring the parties together, and to reach an accommodation in the constitutional field which would be generally acceptable. It is a matter of profound disappointment to me that those endeavours should not have been more successful than they have been, and that the differences which have stood in the way of that constitutional advance which His Majesty's Government have been so anxious to see should still persist. The latest and the most important of the endeavours made by His Majesty's Government is represented by the statement which I was authorised to issue three months ago.

On August the 8th I published a statement on behalf of His Majesty's Government. That statement reaffirmed the attainment by India of free and equal partnership in the British Commonwealth as the proclaimed and accepted goal of the Imperial Crown and of the British Parliament. In order to remove all doubt as to the intentions of His Majesty's Government as to the method and time of progress towards that goal, it declared the sympathy of His Majesty's Government with the desire that the responsibility for framing the future constitutional scheme of Indian self-Government should—subject to due fulfilment of the obligations which Great Britain's long connection with India has imposed on her—be primarily the responsibility of Indians themselves, and should originate from Indian conceptions of the social, economic and political structure of Indian life. At the same time it emphasised the concern of His Majesty's Government that full weight should be given to the views of the minorities in the framing of that scheme, and it made it clear that His Majesty's Government could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of government whose authority was directly denied by large and powerful elements in India's national life. The method by which these two indispensably linked objects were to be secured was the setting up, on the basis of friendly agreement, of a body representative of all the principal elements in India's national life to devise the framework of the new constitution. This body was to be set up immediately after the war, but His Majesty's Government expressed their desire to welcome and promote in the meantime every sincere and practical step taken by Indians themselves that could prepare the way for agreement upon its form and procedure, as well as upon the principles and outlines of the constitution itself. Meanwhile, in order to associate Indian public opinion more closely with the Government of India at the Centre, and in the hope of promoting the unity of India by the creation of new bonds of understanding through practical and responsible co-operation in the task of governing India and directing the Indian war effort, I was authorised to invite Indian political leaders to join my Executive Council, as well as to establish a War Advisory Council containing representatives of the Indian States and of other interests in the national life of India as a whole.

Outside India these proposals, both in their immediate and in their larger ultimate aspects, have been welcomed as liberal in conception, and as representing the best practical solution of existing differences. In India itself, too, they have met with the support of a large body of opinion: in their more immediate aspect, however, namely, the expansion of my Executive Council, I have not secured the response that was hoped from political leaders in India. The reasons for which they have been unable to accept the proposals of His Majesty's Government are conflicting, and

[H. E. the Viceroy.]

indeed, in some ways mutually destructive. However that may be, the effect is that the major political parties concerned are not in present circumstances prepared to take advantage of the opportunity offered to them.

His Majesty's Government note this conclusion with sincere regret. The proposals in question would place real power and real responsibility in Indian hands. Their acceptance would afford the most hopeful contribution which Indian political leaders could make at this critical time towards the preservation of Indian unity, and towards an agreed constitutional settlement for the future. His Majesty's Government do not propose to withdraw them, and are still prepared to give effect to them as soon as they are convinced that a sufficient degree of representative support is forthcoming. But as that degree of support has evidently not yet manifested itself, His Majesty's Government have decided that I should not be justified in proceeding with the expansion of my Executive Council, or the establishment of the War Advisory Council, at the present moment.

Gentlemen, I do not wish to conceal from you the deep disappointment which I feel at this failure to secure, within the framework of the constitution, due expression of that ultimate and essential unity in which the hopes and the labours of so many of us have been founded, and upon which must depend the future position and influence of India in time to come. Nevertheless I would counsel you not to be cast down by the immediate difficulties that beset the path of political advance in this great country. For, indeed, stress of war may well in the end come to strengthen and extend that very process of unification, and to hasten the achievement of those constitutional changes implicit in self-government with unity, which at this moment it appears to obstruct. Meanwhile in the circumstances of the world today the duty of my Government is clear. It is to press forward with all speed and in every field of activity those preparations upon which rests the capacity of this country to wage war with ever-growing strength and successfully to overcome the hazards that confront her. Many things may happen before I address you again; but whatever the trials and anxieties that lie before us, however sharp the tests to which we may be subjected, we may have faith in the capacity of India to continue to play a glorious part in this righteous war against the forces of darkness and oppression. With all faith and confidence in your resolution and affection, I invite you and all men and women of goodwill throughout this land to support in this critical hour, with all strength of body and spirit, the cause of India and the Empire. (Applause.)

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

ABOLITION OF TRAIN VENDING ON THE ASSAM-BENGAL RAILWAY.

174. ***Shaikh Rafuddin Ahmad Siddique:** (a) Will the Honourable the Railway Member please state whether he is aware that the Assam Bengal Railway Company abolished train vending with effect from the 1st October, 1940 and this has been a source of great inconvenience to the travelling public?

(b) Will the Honourable Member please state whether he is aware that after the introduction of the new rules on the Assam Bengal Railway with effect from the 1st October, 1940, a passenger has to purchase aerated water from station stalls and, when doing so, has to deposit the price of the bottle (six annas) in addition to the price of its contents—the aerated water—and has again to demand back the price so deposited, from any other stall on his way when the bottle may be empty and the stall licensee according to the new rules introduced and referred to above, is bound to refund the price of the empty bottles, as soon as demanded, which was deposited by the passenger at another stall, no matter whether the latter has or has not got the necessary fund and time at his disposal at that particular moment for the refund and that this in particular has been a source of much inconvenience and unnecessary annoyance both to the travelling public and the stall vendors?

(c) If the answer to parts (a) and (b), or the answer to any one of them, be in the affirmative, are Government prepared to take necessary steps to amend the rules referred to above?

The Honourable Sir Andrew Clow: (a) and (b). The facts are as stated, except that Government are not aware that the revised arrangements have been a real source of inconvenience or annoyance to the travelling public or stall vendors.

(c) No. Government are not in a position to issue any such instructions to the Assam Bengal Railway. I would mention, however, that the arrangements had the prior concurrence of the majority of the Local Advisory Committee who agreed that they should be given a trial.

Mr. Lalchand Navalrai: May I know from the Honourable Member, since these persons say they are inconvenienced very much, why Government are not going to relieve them of those inconveniences since they are having to make a deposit when buying a bottle of soda water?

The Honourable Sir Andrew Clow: I would explain that I am not in a position to issue instructions to the Company. The arrangement has the concurrence, as an experiment, of the Local Advisory Committee.

Mr. Lalchand Navalrai: May I, therefore, request the Honourable Member to send the question and answer to the Railway so that the Local Advisory Committee might consider it again?

The Honourable Sir Andrew Clow: I am not clear that there is any need for asking the Local Advisory Committee to reconsider the matter; they must have considered all the points set down in this question.

Dr. Sir Ziauddin Ahmad: In view of the fact that we should have some kind of uniformity about the sale of these aerated waters, is the Honourable Member prepared to discuss this question with the Central Advisory Committee?

The Honourable Sir Andrew Clow: No, Sir. I see no reason to do that. It has been discussed with the Local Advisory Committee who are in a much better position to judge the local needs.

Dr. Sir Ziauddin Ahmad: Why not with the Central Advisory Committee for all the Railways because this is a common complaint?

The Honourable Sir Andrew Clow: I am not aware of any other Railway on which this system prevails.

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

INDIAN RAILWAYS WHERE TRAIN VENDING IS NOT MAINTAINED.

175. *Shaikh Rafiuddin Ahmad Siddiquee: Will the Honourable the Railway Member please state the name or names and the number of the Indian Railways, both State and Company-managed, where train vending is not maintained?

The Honourable Sir Andrew Clow: Of the Class I Railways, the only one is the Assam Bengal Railway. I have not particulars of the smaller lines.

DECLARATION OF MUSLIM HOLIDAYS AS GENERAL HOLIDAYS ON THE ASSAM BENGAL RAILWAY.

176. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Will the Honourable the Railway Member please state whether he is aware that Muhammadan holidays are not treated as General Holidays on the Assam Bengal Railway, although Mussalmans are in an overwhelming majority in the Provinces through which the said Railway runs?

(b) If the answer to part (a) be in the affirmative, will the Honourable Member be pleased to state whether Government are prepared to take steps to have them declared General Holidays by the Assam Bengal Railway?

The Honourable Sir Andrew Clow: (a) No.

(b) Does not arise.

Dr. Sir Ziauddin Ahmad: Is it not a fact that the Muslim employees are not given a holiday to offer their *Id* prayers on this line?

The Honourable Sir Andrew Clow: I have already said that I am not aware what the general holidays are in this respect. I had particulars of holidays in the workshops. I do not think the statement made here is correct.

Dr. Sir Ziauddin Ahmad: Will he make inquiries now, because the allegation is that the Muslim employees are not allowed to say their *Id* prayers on this line?

The Honourable Sir Andrew Clow: The Honourable Member will have to table a question, for so far as I recollect, it has been raised before.

Dr. Sir Ziauddin Ahmad: Will you now ask the Railway Administration to inquire whether this is a fact or not?

The Honourable Sir Andrew Clow: The Honourable Member will have to table a question.

Dr. Sir Ziauddin Ahmad: I am asking you now on the floor of the House?

The Honourable Sir Andrew Clow: I am not aware of that.

Mr. President (The Honourable Sir Abdur Rahim): He wants notice of the question.

Dr. Sir Ziauddin Ahmad: I am asking whether he will make inquiries.

The Honourable Sir Andrew Clow: I would prefer it if the Honourable Member will table a question, but I will consider the matter.

NON-SINDHI MUSLIMS IN CLERICAL POSTS IN THE OFFICE OF THE DIVISIONAL SUPERINTENDENT, NORTH WESTERN RAILWAY, KARACHI.

177. *Khan Bahadur Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that nine clerical posts in the office of the Divisional Superintendent, North Western Railway, Karachi, reserved for Muslims only, could not be filled for want of Sindhi Muslim candidates coming forward?

(b) Is the Honourable Member aware that Sindhi Muslims are generally not taken into railway service, even though they apply for such posts, and that an impression has gained ground that it would be useless to spend money on application forms for railway service? What steps do Government propose to take to induce Sindhi Muslims that they will get fair treatment in the matter of appointment to railway service?

(c) Is it a fact that for posts referred to in part (a) above, nine persons were imported into Karachi from other Divisional Headquarters? If so, why were the Muslim Associations in the Province of Sind not consulted when filling these appointments, *vide* paragraph 8 of the "Memorandum of Supplementary Instructions connected with the orders contained in the Government of India, Home Department, Resolution No. F. 14/17-B/33-Ests., dated the 4th July 1934"?

(d) Do Government propose to ensure that these instructions are carried out in the Karachi Divisional Headquarters? If not, why not?

The Honourable Sir Andrew Clow: (a) and (c). I have called for information and will lay a reply on the table of the House.

(b) The answer to the first part is in the negative. As regards the latter part I am not satisfied that any steps are necessary.

(d) If there has been any failure to follow relevant instructions, to railway administration, to whom this question and answer will be forwarded, will doubtless take necessary action.

Mr. Lalchand Navalrai: May I know if he is aware that outsiders are imported into Sind, so much so that there is great inconvenience on the part of the people to understand their language, and, in order to facilitate transactions, is the Honourable Member prepared not to import these outsiders, but take Sindhis, whether Muslims or Hindus?

The Honourable Sir Andrew GLOW: I have already stated that we do not recruit on a strictly territorial basis.

Mr. Lalchand Navalrai: I do not want that you should recruit on a strictly territorial basis, but in some sections, where there is a paucity of candidates belonging to one community, why should not the others within the same province be taken on, instead of importing people from outside and causing inconvenience?

An Honourable Member: Re-export them.

The Honourable Sir Andrew GLOW: Does he mean that there is a paucity of Muslims from Sind and that the Hindus of the Province should be given preference over Muslims from elsewhere?

Mr. Lalchand Navalrai: I say if Muslims from outside cause so much inconvenience to the local people, then it may be that until such time as the Muslims of Sind come forward or are available, the appointments should be given to the local people?

The Honourable Sir Andrew GLOW: I do not think there is anything in the question regarding Muslims causing inconvenience?

Mr. Lalchand Navalrai: Not inconvenience, but I am suggesting that on account of the Muslims of Sind not coming forward and since there is another community which is there to take the places if so given to them, then the importations of outsiders who come there and cause inconvenience on account of not knowing the language will be obviated.

The Honourable Sir Andrew GLOW: I have explained that we do not recruit on a provincial basis; it is not a question of importation; the whole basis of recruitment is different.

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

APPRENTICE TRAIN EXAMINERS ON THE NORTH WESTERN RAILWAY.

178. *Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:
(a) Will the Honourable Member for Railways be pleased to state whether it is a fact that several Apprentice Train Examiners on the North Western Railway, on completion of their apprenticeship in 1929-31, were employed even though there were no vacancies?

(b) Will the Honourable Member please lay on the table of the House the agreements entered into by these apprentices, and the terms of their apprenticeship?

(c) Is it a fact that the Workshop out-station Apprentices who completed their apprenticeship in 1931, were not retained in service, though

they had similar agreements, and terms of appointment as those of Apprentice Train Examiners? If so, why was different treatment accorded to out-station Workshop Apprentices?

The Honourable Sir Andrew GLOW: (a) Yes, in 1930 and 1931.

(b) I do not propose to lay these on the table but they can be inspected in the office of the Railway Board.

(c) The retention of the men in such circumstances appears to have been a practice of the former Carriage and Wagon Department and had regard to the fact that the training given was of little service in employment outside the railway.

Mr. Lalchand Navalrai: With regard to clause (c) of the question, when these workshop out-station apprentices had concluded their apprenticeship in 1931, why is it that a distinction is being observed and they are not being appointed?

The Honourable Sir Andrew GLOW: I have given the special circumstances which were apparently regarded at the time as sufficient for adopting a different procedure in the case of these men. I have already explained, in reply to previous questions, to the Honourable Member why these men were not appointed.

Mr. Lalchand Navalrai: Is the Honourable Member prepared to revise that opinion and find out at this moment whether they can be engaged?

The Honourable Sir Andrew GLOW: No, Sir; the decision must be accepted as final.

LOCAL EXAMINATION FOR WALTON TRAINING SCHOOL QUALIFIED GUARDS.

179. *Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:

(a) Will the Honourable Member for Railways be pleased to state whether it is a fact that the staff who have qualified from Walton Training School, Lahore Cantonment, in Guards' duties, have been called upon to pass a local examination in guards' duties, vide Divisional Personnel Officer, North Western Railway, Karachi's letter No. 940-E./31, dated the 2nd October, 1940? If so, why?

(b) Will the Honourable Member please refer to the specific rule under which local examinations referred to in part (a) are being held? If there is no such specific rule or order, is it proposed to ensure that there is only one qualifying examination from the Walton Training School in such cases?

(c) Is there any arrangement for re-examination locally in Divisional Headquarters, of candidates or employees who fail to qualify from the Walton Training School? If not, why should Walton School qualified employees pass another examination at Divisional Headquarters?

The Honourable Sir Andrew GLOW: (a) The reply to the first part is in the affirmative; as regards the latter, Government have no information.

(b) I am not aware of any specific rule. As regards the latter part of the question, the matter is receiving the attention of the Administration.

(c) The reply to the first part is in the negative; as regards the latter part, I would refer the Honourable Member to the reply given to part (b) of the question.

Mr. Lalchand Navalrai: Why is the third examination necessary, Sir,—once when they are selected in one section, then at the headquarter offices, and then again when they are re-employed these men have to undertake a third examination?

The Honourable Sir Andrew Clow: I am not clear why the examination was regarded as necessary, but as I have stated in reply to part (b), the matter is receiving the attention of the Administration.

REDUCTION OF THE GANG STAFF ON JACOBABAD-KASHMIRE SECTION, NORTH WESTERN RAILWAY, TO LOWER SCALES OF PAY.

180. *Khan Bahadur Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether the attention of Government has been drawn to the editorial which appeared in the *Railway Herald*, Karachi, dated the 8th July, 1940, under the caption "Scales for Inferior Engineering Staff on Jacobabad-Kashmore Section" of the North Western Railway?

(b) Is it a fact that Jacobabad-Kashmore section was opened for carriage of traffic in 1918 or thereabouts?

(c) Is it a fact that general scales of pay for employees on the North Western Railway were revised in 1920?

(d) Is it a fact that 'C' scales of pay were fixed for gang staff on Ruk-Sibi section and is it a fact that Jacobabad-Kashmore section takes off from the middle of the section Ruk-Sibi, for which 'C' scales of pay were fixed?

(e) Is it a fact that the gang staff on Jacobabad-Kashmore section was given 'C' scales of pay from the date of the revision of scales in 1920 or thereabouts? If not, when was the staff on this section given 'C' scales of pay and why?

(f) Is it a fact that the staff is now reduced to 'B' scales of pay? If so, why? Are there any rules authorizing the North Western Railway Administration to reduce employees to lower scales of pay, after having drawn the higher scales for so many years? If so, will the Honourable Member please refer to these rules?

(g) Is it a fact that in similar cases, for instance Engineering labour staff employed at Kotri proper, who were given 'C' scales of pay in the first instance, or *chowkidars* who were given higher scales on Karachi Division, the individual employees were not reduced to lower scales of pay, but the scale of the posts was reduced, when such posts fell vacant? Why is the same policy not being followed in the case of gang staff on Jacobabad-Kashmore section also?

(h) Is it a fact that almost all staff so affected by this reduction comprises of illiterate Muslims?

The Honourable Sir Andrew Clow: (a) Yes

(b) It was opened for traffic in December, 1914.

(c) Yes.

(d) to (h). I have called for information and will lay a further reply on the table of the House in due course.

DEDUCTIONS MADE FROM THE SALARIES OF THE GANG STAFF ON JACOBABAD-KASHMIRE SECTION.

181. *Khan Bahadur Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state if it is a fact that the gang staff on Jacobabad-Kashmore Section has been called upon to make good the amount alleged to have been drawn in excess during the last twelve months only and deductions are being made from the salaries of the employees? If so, why?

(b) Is it a fact that the employees who have retired have been paid gratuity at lower rates of pay? If so, why? Is it a fact that there are rules that, when an employee is reduced, he should be paid gratuity at the higher rate for the period of service that he has put in in that scale and at a lower rate for the period that he has put in in lower scales? If so, why is this principle not being observed in case of retired gang staff on this section?

(c) Under what provisions of the Wages Payment Act are the deductions made? What is the maximum period after which no recoveries can be made for alleged excess payments? Have the Railway Board or the North Western Railway administration issued any rules on the subject? If so, will the Honourable Member please lay a copy of these rules on the table of the House?

The Honourable Sir Andrew Clow: (a) and (b). I have called for information and a reply will be laid on the table of the House in due course.

(c) As regards the first part, such deductions would be permissible under section 7 (2) (f) of the Payment of Wages Act, 1936. As regards the remaining parts of the question, the Honourable Member is referred to Chapter XVII of the State Railway General Code, a copy of which is in the Library of the House.

PROMOTION OF TRAFFIC PUPILS WORKING ON THE NORTH WESTERN RAILWAY AS TRAFFIC INSPECTORS.

182. *Mr. Lalchand Navalrai: (a) Will the Honourable the Railway Member be pleased to state if it is a fact that in answer to question No. 181 asked by Diwan Chaman Lall in the Legislative Assembly on the 5th September, 1929, it was admitted that the Traffic Pupils working in the North Western Railway were recruited with a view to eventual advancement to the posts of Traffic Inspectors, if qualified?

(b) Will Government be pleased to state how many of them have been promoted as Traffic Inspectors during the last fourteen years?

(c) Is it a fact that these Traffic Pupils had received satisfactory reports from the officers under whom they worked?

(d) Is it a fact that these men possess educational and departmental qualifications equivalent to those recruited for the superior service of Transportation and Commercial branches?

(e) Is it a fact that some of them have been recommended for the posts of Assistant Officers by their Divisional Officers?

(f) Is it a fact that only two Muhammadan Traffic Pupils have been promoted as Traffic Inspectors although the work of others was stated to be "Uniformly satisfactory" by the Agent?

(g) If the answer to part (f) above be in the affirmative, will Government be pleased to state the reasons for this discrimination?

(h) If the answer to part (g) above is that preference was given to Muhammadans on communal basis, will Government be pleased to state the number of Traffic Inspectors in the North Western Railway community-wise?

(i) Is it a fact that certain communities are very much under-represented as compared to the Anglo-Indians and the Europeans?

(j) What steps do Government propose to take in the matter in order to redress communal inequalities?

The Honourable Sir Andrew Olow: (a) to (g), (i) and (j). I would refer the Honourable Member to my reply given to parts (a) to (f), (h) and (i) of his starred question No. 86 on Saturday of last week.

(h) Does not arise.

Mr. Lalchand Navalrai: May I ask whether these persons were taken on any communal basis? If they were not so taken, then what was the speciality in these two that they were preferred to the other three?

The Honourable Sir Andrew Olow: As far as I remember, the Honourable Member put supplementaries to me on the almost identical question he asked last week. To the best of my recollection, they were selected on the merits.

Mr. Lalchand Navalrai: If they were selected on the merits, then is it not a fact that these 5 persons were selected out of 300 who sat in the examination? Where is the necessity of another selection?

The Honourable Sir Andrew Olow: I do not know how many they were selected from.

ADMISSION OF THE INFERIOR AND LABOUR SERVICE EMPLOYEES ON STATE RAILWAYS TO THE PRIVILEGE OF CONTRIBUTING TOWARDS PROVIDENT FUND.

183. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state how the request for giving provident fund benefits to the inferior and labour service employees on the State-managed Railways has been disposed of?

(b) How the sum of Rs. 12 lakhs set apart in 1940-41 budget, for the purpose of giving provident fund benefits to the inferior and labour staff on the State-managed Railways was distributed? If not, why not?

(c) Is it a fact that the Railway Board propose to reduce its share of contribution from 100 to 75 per cent. on the provident fund deductions from all employees and utilise the savings for admitting the members of inferior and labour services to the privilege of contributing towards provident fund? If so, why?

(d) Since how long have the Railway administrations been paying cent. per cent. bonus on the employees' provident fund deductions?

(e) Have there been any protests against the proposal referred to in part (c)? If so, will Government please furnish details thereof?

(f) Is it proposed to consult the employees likely to be affected, before final orders of reduction of the Government's contribution are passed? If not, why not?

The Honourable Sir Andrew Olow: (a) and (b). Government expect to issue orders in this matter in the near future.

(c) No.

(d) 1916.

(e) and (f). In view of the reply to part (c), these questions do not arise.

DISCHARGE OF STAFF CONTROLLED BY THE GENERAL MANAGER BY THE DIVISIONAL SUPERINTENDENT, NORTH WESTERN RAILWAY.

184. *Mr. Lalchand Navalrai: (a) With reference to the reply to starred question No. 1257 asked on 23rd March, 1939, will the Honourable the Railway Member be pleased to state when a reply is likely to be laid on the table of the House?

(b) Is it a fact that certain orders have recently been issued by the Railway Board to the General Managers amending the schedule of officers' powers, to bring it into conformity with the rules framed by the Railway Board in their letter No. E.-34/R. G. 6, dated the 22nd June, 1935? If so, will the Honourable Member please lay a copy of these orders on the table of the House?

The Honourable Sir Andrew Olow: (a) The reply was laid on the table on the 5th November, 1940.

(b) No; but the North Western Railway Administration was asked to review the delegation of powers to inflict penalties to accord with the spirit of the rules made by the Governor General in Council and have issued certain instructions.

Mr. Lalchand Navalrai: In clause (b) of my question I have asked whether those instructions can be placed on the table of the House?

The Honourable Sir Andrew Olow: No, Sir; the Honourable Member's question referred to the orders of the Railway Board.

Mr. Lalchand Navalrai: Will the Honourable Member place the other orders also on the table of the House?

The Honourable Sir Andrew Olow: I will have a look at them and consider the matter.

RETRENCHMENT IN THE HIGHER GRADE APPOINTMENTS OF YARD FOREMEN AND YARD SUPERVISORS ON THE NORTH WESTERN RAILWAY.

185. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state what was the total number of Yard Foremen's and Yard Supervisors' posts in various grades on each division of

the North Western Railway separately on the 1st January, 1939, and 1st October, 1940?

(b) What are the reasons for decrease, if any, in higher grade sanctions? Is this based on any definite principle? If so, which? If not, why not?

(c) Is it a fact that the Railway Board, under the Director Establishment letter Nos. E-39/A/113, dated the 4th August, 1939 and 16th October, 1940, addressed to the General Manager, North Western Railway, Lahore, proposed to increase the number of higher grade posts in order to relieve the block in promotions in grade I? If so, how the policy of reducing sanctions is proposed to be reconciled?

(d) Do Government propose to take steps to relieve hardship entailed on the North Western Railway staff by these retrenchments in higher grade appointments? If not, why not?

The Honourable Sir Andrew Clow: (a) I lay on the table of the House a statement giving the information available with Government.

(b) The grades are related to the work attached to them; variations in the latter result, therefore, in corresponding changes in the number of appointments in the various grades.

(c) I am not prepared to lay on the table correspondence between the Railway Board and Administrations, but have no objection to informing the Honourable Member that the letters he has in mind did not relate to Yard Foremen at all.

(d) Government are not prepared to admit that the interests of individual staff should override considerations of economic management.

Statement showing the number of Yard Foremen and Yard Supervisors on the various Divisions of the North Western Railway on 1st January, 1939, and 1st October, 1940.

Division.	1st January, 1939.				1st October, 1940.			
	Grade V.	Grade VI.	Grade VII.	Grade VIII.	Grade V.	Grade VI.	Grade VII.	Grade VIII.
Lahore	..	3	1	1	..	3	1	1
Multan	..	..	1	..	..	..	1	..
Delhi	..	1	2	..	..	1	1	..
Karachi	2	..	..	..	..	..	..	..
Total	2	4	4	1	..	4	3	1

Mr. Lalchand Navalrai: May I ask if the number of these higher posts has been reduced or there has been a retrenchment in the posts of these Yard Foremen?

The Honourable Sir Andrew Clow: I have the figures here for Grades V, VI, VII and VIII. There has been a reduction in some of the divisions.

Mr. Lalchand Navalrai: If there is a reduction in the higher posts, then there will be very slow promotion. May I ask the Honourable Member what he proposes to do when their promotion is barred?

The Honourable Sir Andrew Clow: I have stated in reply to part (d) that we do not propose to take any action in the matter.

Mr. Lalchand Navalrai: Why not?

The Honourable Sir Andrew Clow: For the reason I then gave.

Mr. Lalchand Navalrai: The reason is apparent. When these people come to a time when they have got to have their promotion, why should they be refused that promotion?

The Honourable Sir Andrew Clow: Because we cannot accept the principle that every time, for administrative reasons, an adjustment is made in grades, compensation should be given.

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

MUSLIM RAILWAY OFFICERS IN THE RAILWAY BOARD PROPER.

186. *Dr. Sir Ziauddin Ahmad: Will the Honourable the Railway Member be pleased to state:

- how many Muslim Railway officers there were in the Railway Board proper in the year 1937; and
- how many there are in 1940?

The Honourable Sir Andrew Clow: (a) Four.
(b) Three.

Dr. Sir Ziauddin Ahmad: In view of the policy of the Honourable Member not to appoint any Mussalmans in the Railway Board, is it not a fact that no Mussalmans will be left in the year 1942?

The Honourable Sir Andrew Clow: I think the latter part of the question was deleted from the original question; and the first is an entire misrepresentation of fact. I have never expressed any such intention.

Dr. Sir Ziauddin Ahmad: Is it not the policy of the Honourable Member not to appoint any Mussalmans in the Railway Board?

The Honourable Sir Andrew Clow: It is not my policy to discriminate against any community.

GRADE I TRAIN EXAMINERS ON THE EAST INDIAN RAILWAY.

187. *Bhai Parma Nand: Will the Honourable Member for Railways please refer to the Minute Sheet No. O. P. E. 1902-A, dated 1st April 1940 of the General Manager, East Indian Railway (Personal) and state:

- whether grade I scale 300—25—400, is an old grade of Train Examiners instituted by the company-managed East Indian Railway;

- (b) the regulation or authority for the prior sanction of the Railway Board for permitting the staff of the Old Oudh and Rohilkhand Railway system and the staff appointed on Co-ordinated scales of pay introduced in 1928 after the amalgamation of the two systems to draw the grade I pay in scale 300—25—400; and
- (c) whether the staff appointed after 15th July, 1931, is eligible to grade I pay in scale 300—25—400; if not, why not?

The Honourable Sir Andrew Clow: I have not seen the circular referred to by the Honourable Member, but the answer to part (a) is in the affirmative and to part (c) in the negative as staff appointed after 15th July, 1931, are not entitled to the old scales according to Government's orders. I have been unable to understand what information is required under part (b).

PROMOTION OF A RECORD LIFTER AS A CLERK IN THE CHIEF ACCOUNTS OFFICE ON THE NORTH WESTERN RAILWAY.

188. *Mr. H. M. Abdullah: (a) Will the Honourable Member for Railways please state whether it is a fact that a record-lifter employed in the Chief Accounts Office on the North Western Railway has recently been promoted as a clerk, in spite of the fact that all recruitment to clerks' rank is made directly?

(b) Have there been any instances of record-lifters being promoted as clerks like this at a time when regular selection boards are held for direct recruitment to clerical grades?

The Honourable Sir Andrew Clow: (a) Yes; but the Honourable Member is incorrect in assuming that all recruitment to clerical grades is made directly.

(b) I have no particulars of previous promotions, but the promotion referred to in part (a) was made on the recommendation of a Selection Board.

Mr. Sri Prakasa: Is a record lifter a person who steals the records?

The Honourable Sir Andrew Clow: No, Sir.

Mr. Sri Prakasa: Then, what does he do with them?

The Honourable Sir Andrew Clow: He lifts them.

INCREMENT IN THE PERCENTAGE OF PROMOTIONS OF ROUTINE CLERKS IN GRADE II BY THE CHIEF ACCOUNTS OFFICER OF THE NORTH WESTERN RAILWAY.

189. *Mr. H. M. Abdullah: (a) Will the Honourable Member for Railways please state whether the Chief Accounts Officer has recently increased the percentage of promotions of routine clerks in grade II, which increase had not been made by his predecessors?

(b) Has this increase had the effect of proportionately reducing the number of direct recruits of Muslims and other minority communities to the grade of clerks class II?

The Honourable Sir Andrew Clow: (a) Yes, with the sanction of the General Manager, the percentage was raised from five per cent. to ten per cent. which was the figure in force some years ago.

(b) It has the effect of reducing the reserved vacancies in this grade, but not in the office as a whole.

REPORT re THE REPRESENTATION OF MUSLIMS AND OTHER MINORITY COMMUNITIES IN THE SUBORDINATE RAILWAY SERVICES.

190. *Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state:

- the date of publication of the report by Mr. K. M. Hassan on the representation of Muslims and other minority communities in the Subordinate Railway Services including the Appendix and Statistics;
- the cost of that publication;
- the number of copies printed of that publication; and
- how that number of copies of that print was disposed of and, if no record of the disposal is maintained, the reasons therefor?

The Honourable Sir Andrew Clow: (a) 1932.

(b) No record is now available of the cost.

(c) Seven hundred.

(d) No record is now available; records of this kind are not retained permanently.

BROADCAST OF SIKH RELIGION AND HISTORY BY THE LAHORE, PESHAWAR AND DELHI BROADCASTING STATIONS.

191. *Sardar Sant Singh: Will the Honourable Member for Communications please state:

- for what time during the year 1939-40 (from 1st April, 1939 to 31st March, 1940) the All-India Radio allowed its Lahore, Peshawar and Delhi stations to be used for broadcasting Sikh religion and history on important Sikh festivals;
- what those days were;
- how many Sikh speakers participated, and what their status in life was;
- how many poets recited their poems;
- how many such days were given to Muslims and Hindus;
- whether there is any proportion fixed for various communities to use all stations on their religious occasions; and
- what was the amount paid to members of each community on such occasions?

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

APPOINTMENT OF A SIKH OFFICER TO OFFICER'S ESTABLISHMENT OF THE RAILWAY BOARD AND ITS ATTACHED OFFICES.

192. *Sardar Sant Singh: Will the Honourable the Railway Member please state the number of vacancies on the officers' establishment of the

Railway Board and its attached offices that have been filled since 1st April, 1940, and, if any Sikh officer has been appointed? If not, why not?

The Honourable Sir Andrew Olow: There have been six permanent vacancies and six temporary vacancies (including leave vacancies) in the Railway Board and its attached office, the Central Standards Office, since the 1st April, 1940. No Sikh officer has been appointed to any of these vacancies. The criteria for appointment to permanent vacancies in the Board's office or its attached office are experience, administrative efficiency and technical ability and not the community to which an officer belongs. In the case of temporary vacancies, administrative convenience has also to be considered.

Sardar Sant Singh: May I know if the same criteria have been observed in the case of Anglo-Indians, Christians and the Mussalmans?

The Honourable Sir Andrew Olow: The same criteria have been observed as regards all appointments in the Railway Board.

LOSS OF PROSPECTS OF GUARDS IN GRADES I AND II BY THE ABOLITION OF GRADE IV ON THE NORTH WESTERN RAILWAY.

193. *Sardar Sant Singh: (a) Will the Honourable the Railway Member kindly state the strength of guards grades III and IV, separately, on each Division of the North Western Railway in 1929, and how many were actually working on each Division?

(b) Is it a fact that the number of guards in those grades has been reduced, and grade II guards have to work in their place? If so, are the former given any officiating allowance, while so working in the higher grades, as is done in other branches of the Railway administration? If not, why not?

(c) Are Government aware that the guards when they entered service had natural expectation, subject to general efficiency, to reach the maximum of Rs. 210 in grade IV before retirement?

(d) Is it a fact that grade IV has been totally abolished and the number of posts in grade III has been so reduced that a majority of guards cannot even expect to reach the maximum of Rs. 115?

(e) Do Government propose to compensate the guards in grade I and II for loss of prospects? If so, how? If not, why not?

The Honourable Sir Andrew Olow: (a) The information is being secured and will be laid on the table of the House in due course.

(b) The answer to the first part is in the affirmative and to the second part in the negative. As regards the third part, as it is not practicable rigidly to demarcate the duties of the various grades of Guards above the lowest, no officiating allowance is payable.

(c) No; it does not appear that they could legitimately have had such expectations, as promotions from grade to grade were not common in the past.

(d) The answer to the first part is in the affirmative. As regards the second part, Government have no reason to believe that staff suitable for promotion cannot expect to reach the maximum of grade III or other posts open to them by transfer on promotion from grade III.

(e) Government are satisfied that there has been no such loss in prospects as would justify a scheme of compensation.

Sardar Sant Singh: May I ask the Honourable Member in regard to the answer to part (c) of the question whether in the ordinary course of doing the work satisfactorily and earning the next grade it is possible during the period of service to reach the grade of Rs. 210?

The Honourable Sir Andrew Olow: Will the Honourable Member refer to grades by their numbers instead of their pay? It will then be easier for me to follow him, as I have not the scales of pay here.

PROMOTION OF GUARDS GRADE II TO GUARDS GRADE III ON THE NORTH WESTERN RAILWAY.

194. *Sardar Sant Singh: (a) Will the Honourable the Railway Member kindly state what is the period laid down on the North Western Railway for guards grade II to get to grade III, or the approximate period after which the former can reasonably expect promotion to grade III? What has been the rate of promotion from grade II to grade III during the last ten years?

(b) Is any period fixed for promotion of guards from one grade to another on the East Indian and the Great Indian Peninsula Railways, and has any reduction been made in the number of higher grade appointments of guards on those Railways? If not, why has it been done on the North Western Railway?

The Honourable Sir Andrew Olow: (a) As regards the first part, no period is laid down for promotion of Guards from grade II to grade III; as regards the second part, no estimate can be made as it depends on the occurrence of vacancies in the higher grade and the suitability of the men for promotion. As regards the third part, in the past practically no such promotions were made as posts of grade III were filled by direct recruitment. In June, 1940, however, 16 Guards were promoted.

(b) As regards the first part, I am not aware that any period has been prescribed by the East Indian and Great Indian Peninsula Railways, or that there has been any such abolition of a grade or reduction of posts as has taken place on the North Western Railway; the action taken on the North Western Railway was based on the special circumstances prevailing there.

Mr. Lalchand Navalrai: Is there any ratio fixed for direct recruitment and for promotions?

The Honourable Sir Andrew Olow: The direct recruitment is limited to a maximum percentage.

RESERVATION OF THE POSTS OF ENQUIRY CLERKS, ETC., FOR GUARDS WITH DEFECTIVE VISION ON THE NORTH WESTERN RAILWAY.

195. *Sardar Sant Singh: (a) Will the Honourable the Railway Member please state whether Government are aware that (i) guards on the North Western Railway have to work for whole nights on duty, while the other staff works for the first or second half of a night, (ii) they have to do

their writing work in the light of a kerosene lamp with $\frac{1}{4}$ " wick in moving trains, (iii) they have to look out for signals when the train is running at a speed of 40 miles an hour, and the wind strikes straight into their eyes and face, (iv) they are exposed to the scorching heat and extreme cold and (v) they get poor diet on account of their small pay and irregular hours of duty?

(b) Is it a fact that, in the Army, personnel who contract a disease in the execution of duty are invalided out with invalid pension, whereas a guard is sent out, or his salary is reduced by putting him on some lower jobs on account of defective vision?

(c) Are Government prepared to reserve for such guards the posts of enquiry clerks, Platform Inspectors, Luggage Inspectors, Stationery and Form Inspectors, Head Ticket Collectors, Head Trains Clerks, Special Ticket Examiners, Clerks of Transportation and Rolling Stock Sections, etc.? If not, why not?

The Honourable Sir Andrew Olow: (a) (i). Yes, if the trains they work so require.

(ii) Yes, on goods trains.

(iii) Yes.

(iv) Being outdoor workers they are exposed to the weather.

(v) No.

(b) The first part is in the affirmative. Government do not consider that failure in vision in the case of Guards is attributable to their duties.

(c) No, because the claims of staff in whose normal channel of promotion the designations specified fall have to be considered, nor would all Guards be suitable for such posts.

Mr. M. S. Aney: With reference to the reply to part (a) (v) referring to the poor diet of these guards, how does the Honourable Member say that they are not getting poor diet on account of their small pay?

The Honourable Sir Andrew Olow: I was asked whether I was aware and my reply was that I was not aware.

Mr. M. S. Aney: How did the Honourable Member say that their diet was not poor and that is not due to their small pay?

The Honourable Sir Andrew Olow: I simply said, I was not aware.

Mr. T. S. Avinashilingam Chettiar: Have the Government satisfied themselves that there are no accidents because the guards have to work throughout nights?

The Honourable Sir Andrew Olow: I study reports of accidents and have not seen any attributed to this cause.

NON-OBSERVANCE OF THE PRINCIPLE OF SUB-LETTING OF RAILWAY CONTRACTS IN THE CASE OF A CERTAIN CONTRACT AT THE DELHI RAILWAY STATION.

196. *Syed Ghulam Bhik Nairang: Will the Honourable the Railway Member be pleased to state:

(a) whether Government are aware that the Central Advisory Board for Railways has laid down the principle that the sub-letting of railway contracts is not permitted;

(b) whether on the death of the Hindu vendor, the contract which the deceased had got at the Delhi Railway Station, North Western Railway, was given to his widow who is a *pardanashin* lady;

(c) whether it is a fact that the General Manager, North Western Railway, issued instructions about six months ago that the fruit contract of either of the two fruit contractors at Delhi Railway Station when it fell vacant, should be given to the other contractor who was already working; and

(d) whether the instructions referred to in part (c) were of general application, or for the particular case of Delhi Station of fruit contractors, and whether they have been acted upon?

The Honourable Sir Andrew Olow: (a) Yes.

(b) and (c). No.

(d) Does not arise.

Dr. Sir Ziauddin Ahmad: May I know whether it is not a fact that the contract at Delhi station is given to a *pardhanashin* lady on the condition that it should be given on sub-contract to a particular individual whose name I do not like to mention?

The Honourable Sir Andrew Olow: I believe that the contract was given to the firm. The person actually managing it is, I believe, the brother of the deceased contractor.

Dr. Sir Ziauddin Ahmad: As regards the firm which he has mentioned for the first time, is it not a fact that this firm was artificially created after the death of Dip Chand by the widow who is a *pardhanashin* lady. It is a bogus firm, while it is really one individual. There has been a good deal of *golmal* which I do not want to narrate on the floor of the House.

The Honourable Sir Andrew Olow: I do not know of any *golmal*. To the best of my recollection, I myself have met the lady in question.

Sir Muhammad Yamin Khan: Was the original contract in the name of a firm or was it in the name of an individual?

The Honourable Sir Andrew Olow: I think it was in the name of an individual, but I am not certain.

Sir Muhammad Yamin Khan: If it was in the name of an individual, how can it go to a firm later on? How has the firm been created after the death of the original contractor?

The Honourable Sir Andrew Olow: I do not know when the firm was created.

Sir Muhammad Yamin Khan: I understood the Honourable Member to say that the contract continues in the name of the firm. Continuation implies that it was originally given in the name of a firm and not in the

name of an individual. But the Honourable Member admitted that it was given in the name of an individual; if so, how can it continue in the name of a firm?

The Honourable Sir Andrew Clow: To the best of my recollection, I did not use the word 'continue'.

Dr. Sir Ziauddin Ahmad: Will the Honourable Member make enquiries as to whether it was originally given to one Dip Chand and afterwards on his death, it was given to his wife a *pardhanashin* lady on condition that a certain man should be employed as her sub-contractor. It was only afterwards that she created a firm which is a bogus one.

The Honourable Sir Andrew Clow: The real point is whether the contractor is competent or not.

Dr. Sir Ziauddin Ahmad: Will the Honourable Member make enquiries as to whether my statement is correct?

Mr. M. S. Aney: Does the Honourable Member appreciate the point of enquiry? I have not been able to do so?

The Honourable Sir Andrew Clow: I have not been able to appreciate either.

Lieut.-Colonel Sir Henry Gidney: Is it a fact or not that it is obligatory on Agents of Railways to advertise for these contracts? Or is it within the power of the Agents of the Railways to appoint any contractor if he is efficient even without advertising?

The Honourable Sir Andrew Clow: I am afraid I have to ask for notice-

'HOURS OF EMPLOYMENT REGULATIONS' INCORPORATED IN THE INDIAN RAILWAYS AMENDMENT ACT, 1930, NOT MADE APPLICABLE TO BRITISH PORTION OF JODHPUR RAILWAY.

197. *Mr. Lalchand Navalrai: Will the Honourable Member for Railways be pleased to state if it is a fact that the provisions of the Payment of Wages Act, apply to the staff employed on British Indian section of the Jodhpur Railway? If so, why the 'Hours of Employment Regulations' incorporated in the Indian Railways Amendment Act, 1930, have not been made applicable to British portion of Jodhpur Railway?

The Honourable Sir Andrew Clow: The answer to the first part is in the affirmative. The answer to the second part is that Government have not yet considered the extension of the regulations to such sections.

Mr. Lalchand Navalrai: Should not this section have priority?

The Honourable Sir Andrew Clow: I am not sure that such sections should have priority.

Mr. Lalchand Navalrai: Why should there be discrimination between those who are working on the Indian State Railways and those who are

working in the British Indian section? Will not the former be put to a disadvantage?

The Honourable Sir Andrew Clow: We have been pursuing the policy gradually of extension of these regulations. There has been always discrimination between one railway and another.

UNSTARRED QUESTIONS AND ANSWERS.

ISSUE OF CERTAIN INSTRUCTIONS FOR AMPLIFICATION OF RULE 34 OF THE: RAILWAY SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES.

108. Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:

(a) Will the Honourable Member for Railways be pleased to state whether any instructions have been issued in amplification of Rule 34 of the Railway Services (Classification, Control and Appeal) Rules, providing for:

(i) the issue of a charge-sheet on the completion of the inquiry referred to in the latter part of Rule 34, in connection with charges that are proved or are considered proved in the inquiry;

(ii) the accused officer having the right of getting copies of evidence and the findings of the Inquiry Committee, either free or on payment of reasonable charges;

(iii) the authority which can issue a charge-sheet and order inquiries in allegations against:

(1) class I officers, and

(2) class II officers, and

(iv) the personnel of the Inquiry Committee to be of superior status to the officer whose conduct is under investigation?

(b) If the reply to part (a) above be wholly or partly in the affirmative, will Government please refer to specific instructions or rules and lay on the table of the House copies thereof, if these instructions have not been published by Government?

(c) If the reply to part (a) above be wholly or partly in the negative, do Government propose to amplify the rules on the points referred to in part (a)? If not, why not?

The Honourable Sir Andrew Clow: (a) (i) to (iv). No.

(b) Does not arise.

(c) Government do not consider it necessary to amplify the instructions.

INSTANCES IN WHICH MANDATORY PROVISIONS OF RULES REGULATING DISCIPLINE AND RIGHTS OF APPEAL OF NON-GAZETTED EMPLOYEES ON THE NORTH WESTERN RAILWAY WERE NOT OBSERVED.

109. Khan Bahadur Mian Ghulam Kadir Muhammad Shahban: (a) Will the Honourable Member for Railways be pleased to state whether instances have been brought to the notice of the General Manager, North-Western Railway, Lahore, or the Railway Board, in which mandatory

provisions of rules regulating discipline and rights of appeal of non-gazetted employees, made by the Governor General in Council and issued under the Railway Board letter No. E-34/R. G./6, dated the 22nd June, 1935, were not being observed?

(b) Is there any provision in the rules or instructions issued in amplification thereof, that when proper procedure is not followed, the inquiry or proceedings become null and void and should be dropped? If not, why not?

(c) Is the Honourable Member aware that such provisions as are referred to in part (b) exist in other Government Departments? If so, is it proposed to see that railway rules or instructions are in conformity with such rules? If not, why not?

The Honourable Sir Andrew Clow: (a) This is a frequent assertion in appeals but it is not usually substantiated so far as my experience goes.

(b) There is no specific rule nor is such a rule considered necessary as appellate authorities are empowered to decide if the proposed procedure has been followed or whether the proceedings should be treated as null and void.

(c) As far as I am aware, such provisions do not exist in other Departments. The latter part does not arise.

BOOKS OR SYLLABUS PRESCRIBED FOR PROMOTION COURSES ON STATE RAILWAYS.

110. Bhai Parma Nand: Will the Honourable Member for Railways please refer to rules 14, 19, 24, 29, 34, 36B, 36C (b) and 42 of Appendix XXII of State Railway Establishment Code and state the books or syllabus prescribed for promotion courses in those rules by the Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways?

The Honourable Sir Andrew Clow: The information regarding the North Western and East Indian Railways is contained in the Calendars of the Walton Training School, the Railway School of Transportation, Chandausi and the Technical School, Jamalpur, copies of which are available in the Library of the House. There are no promotion or refresher courses on the Eastern Bengal and Great Indian Peninsula Railways.

CIRCUMSTANCES AND CONDITIONS UNDER WHICH CERTAIN PENALTIES ARE TO BE IMPOSED ON PERSONS CEASING TO BE RAILWAY SERVANTS.

111. Bhai Parma Nand: Will the Honourable Member for Railways please refer to Rule 680 of the State Railway Establishment Code and state:

(a) the circumstances and conditions under which any of those penalties is to be imposed on a person who ceased to be a railway servant;

(b) the rule or authority which provides the imposition of a penalty on a person after retirement or on vacation of the Railway services;

(c) the rule under which the penalty "Leave without pay" is to be imposed against an earned leave;

(d) the rule under which the penalty of reducing a person in railway services is to have a permanent effect or to affect more than one lower post, stage or time scale; and

(e) the rule which provides one month's notice or pay in lieu of the penalty of removal from service against misconduct?

The Honourable Sir Andrew Clow: (a) Paragraph 680 of the State Railway Establishment Code does not apply to retired railway servants, but under certain circumstances the passes granted to retired railway servants may be withheld.

(b) As explained in the reply to part (a) the penalties specified in paragraph 680 are not impossible on retired railway servants. Railway servants "on vacation", generally termed leave, are treated as in service.

(c) A period of absence without proper authority may be treated as "leave without pay" under paragraph 391 of the State Railway Establishment Code. Action under paragraph 391 does not fall within Section VII of Chapter XV of the State Railway Establishment Code.

(d) Paragraph 693 of the State Railway Establishment Code.

(e) The terms of service agreements executed by Railway servants.

PROCEDURE FOR ENQUIRY INTO CHARGES AGAINST RAILWAY SERVANTS.

112. Bhai Parma Nand: Will the Honourable Member for Railways please refer to rules 686 and 687 of the State Railway Establishment Code and state:

(a) whether the enquiry by a Committee into the charges for which an interval of seven clear days is allowed to submit a written explanation, should be made before the imposition of a penalty;

(b) whether a railway servant is entitled to ask a Committee to enquire into the charges;

(c) whether the authority issuing the charge-sheet is entitled to refuse the request of the railway servant for the enquiry by a Committee without recording any reasons in writing and communicating the same to the railway servant and to impose a penalty otherwise;

(d) whether suspension from service of a railway servant is essential for offences for which the maximum penalty is dismissal or removal from service, if not, the reasons therefor; and

(e) the reasons for not providing reasonable facilities for the defence against those offences?

The Honourable Sir Andrew Clow: (a) A departmental enquiry is provided for in circumstances detailed in paragraph 686 (c) and 687 (a) of the State Railway Establishment Code. It rests within the discretion of the competent authority to decide whether such enquiry shall be conducted by a Committee.

(b) No.

(c) With regard to the first part, there is no rule requiring the competent authority to record the reasons for not agreeing to a committee being entrusted with a departmental enquiry; the refusal of the request

is naturally communicated to the railway servant concerned. As regards the last part, no penalty may be imposed without complying with the procedure laid down.

(d) The Honourable Member is referred to paragraph 690 (2) of the State Railway Establishment Code.

(e) The question is not understood, Government have no reasons to believe that the rules in paragraph 686 (c) in this regard are not being complied with.

PENALTIES IMPOSED ON PERSONS IN RAILWAY SERVICES, CLASSES I AND II.

113. Bhai Parma Nand: Will the Honourable Member for Railways please lay a statement of the penalties imposed on persons in railway service, classes I and II, separately, during the preceding three years or as far as available?

The Honourable Sir Andrew Olow: I can furnish particulars only of penalties imposed by the Government of India or the Railway Board. These are as follows:

1938. Class I. Two officers' services terminated and one officer's promotion to senior scale withheld.

Class II. Nil.

1939. Class I. One officer censured.

Class II. One officer reverted to his substantive subordinate appointment.

1940 Class I. Two officers' services terminated and one officer censured (to date).

Class II. One officer's services terminated and one officer reduced to a lower stage in the time-scale.

CLASSES AND GROUPS FOR THE PURPOSES OF VISION TESTS OF CERTAIN RAILWAY EMPLOYEES.

114. Bhai Parma Nand: Will the Honourable Member for Railways please refer to Appendix XXVII of State Railway Establishment Code and state the classes and groups for the purposes of vision tests of the employees engaged as:

(a) Signallers including Assistant Head and Head Signallers and Telegraph Inspectors;

(b) Assistant Number Takers including Number Takers and Head Number Takers and Yard Supervisors;

(c) Ticket Collectors including Travelling Ticket Examiners or Inspectors, Train Conductors and Chief Ticket Inspectors; and

(d) Coaching clerks and Goods clerks including Assistant Commercial, Commercial and Goods Inspectors, Claims Inspectors, Traffic canvassers, Chief Goods Inspectors and Senior Commercial Inspectors?

The Honourable Sir Andrew Olow: I assume that the Honourable Member desires particulars for the North Western Railway. These are:

(a) Signallers—qualified for Assistant Station Master's posts, A2, other Signallers, Head Signallers, Telegraph Inspectors C2.

(b) Assistant Number takers, } B1
Number takers,
Head Number takers, }

Yard Supervisors. A3.

(c) and (d). C1.

DATE OF MAKING PAYMENT TO AN OFFICER OF GOVERNMENT ENTITLED TO RECEIVE PAYMENTS ON BEHALF OF GOVERNMENT.

115. Bhai Parma Nand: Will the Honourable Member for Railways please refer to:

(a) section 142 of the Indian Railways Act, 1890; and

(b) paragraph 1438 of the State Railway General Code; and to state the date of making payments or remitting money by post to an officer of Government, entitled to receive payments on behalf of Government?

The Honourable Sir Andrew Olow: The Honourable Member's attention is invited to Article 28 of Civil Account Code, Vol. I, and paragraph 1439 of State Railway General Code. The payment of a cheque sent by post, which on presentation is honoured, is deemed to be made on the date when the cover containing it is put into the post.

ERECTION OF A WALL ON THE SOUTH OF MORADABAD RAILWAY STATION YARD, EAST INDIAN RAILWAY.

116. Bhai Parma Nand: Will the Honourable Member for Railways please refer to section 11 of the Indian Railways Act, 1890; and state:

(a) the date on which a boundary wall from east to west on the south of Moradabad Railway Station yard, East Indian Railway, off the railway staff quarters, on the mill siding was erected and the cost of the said wall; and

(b) whether that wall has closed all the convenient crossings for the population close to railway staff quarters and consisting mostly of railway servants?

The Honourable Sir Andrew Olow: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

RECOGNITION OF THE ASSOCIATION OF RAILWAY GUARDS AT LUCKNOW.

117. Bhai Parma Nand: Will the Honourable Member for Communications be pleased to state whether the association of the East Indian Railway Guards at Lucknow has been recognised by the Railway authorities? If not, what are the reasons for not recognising the association which has been registered with the Government under the Government of

India's Trade Union Act and when the association had agreed to abide by the conditions which were offered for recognising it?

The Honourable Sir Andrew Clow: So far as Government are aware, this Association has not been recognised by the General Manager, East Indian Railway. It is not the policy of the administration or of Government to recognise small unions whose membership is restricted to certain categories of staff.

ORDERS IN FORCE FOR PROMOTION OF SERVANTS ON THE NORTH WESTERN RAILWAY ON A COMMUNAL BASIS.

118. Bhai Parma Nand: Will the Honourable Member for Communications be pleased to state whether it is a fact that the orders in force for promotion of servants on the North Western Railway are as follows:

first sixty vacancies by Muslims;

next nine vacancies by Sikhs and Indian Christians; but five vacancies by Anglo-Indians and Domiciled Europeans;

and that the remaining twenty-six vacancies are to be made according to seniority irrespective of community?

The Honourable Sir Andrew Clow: No. Promotions are not made on communal considerations.

DISALLOWANCE OF THE PRIVILEGE OF RENT FREE QUARTERS TO CERTAIN BLOCK MISTRIES RECRUITED AS BLOCK MAINTAINERS ON THE NORTH WESTERN RAILWAY.

119. Bhai Parma Nand: (a) Will the Honourable Member for Railways be pleased to state whether certain Block Mistries were recruited on the North Western Railway to the post of Block Maintainers with effect from the 1st May, 1931 and afterwards?

(b) Is it a fact that they were allowed the privilege of rent free quarters as they were appointed to railway service as Block Mistries prior to 1st August, 1928, the date from which the revised rules for recovery of rents came into effect?

(c) Is it a fact that they enjoyed this privilege of rent-free quarters till the 31st August, 1931, when orders were issued by the General Manager, then Agent, North Western Railway, that such block Maintainers as are referred to in part (b) above will have to pay rent?

(d) Is it a fact that deduction from wages of Block Maintainers on this account was made only on three Divisions, namely Delhi, Karachi and Lahore? If so, why?

(e) Is it a fact that these men continued to send representations and in the letter of the General Manager, then Agent, No. 540-E./104, dated the 27th January, 1936, they were told that with the concurrence of the Chief Accounts Officer, it had been decided that Block Maintainers whose original appointment was that of a Block Mistry and who was promoted as a Block Maintainer, if he had enjoyed the privilege of rent-free quarters prior to the 1st August, 1928, the date on which the new rent rules came into force, would continue to enjoy the privilege as Block

(f) Is it a fact that these very Block Maintainers referred to in part (e) above, have been asked in May this year to pay house rent for quarters occupied by them? If so, why, when their case was decided *vide* General Manager's letter referred to in part (e) above?

(g) Were the orders referred to in part (f) issued by or with the approval of the Railway Board? If not, is the Honourable Member prepared to direct that letter issued in 1936, by the General Manager be followed? If not, why not?

The Honourable Sir Andrew Clow: (a) Yes.

(b) Yes. Such of the Block Mistries as were enjoying the concession of rent free quarters prior to 1st August, 1928, in a substantive capacity were allowed to continue to enjoy it on their promotion as Block Maintainers.

(c) No. The practice on the various Divisions in regard to the grant of rent free quarters to Block Maintainers promoted from Block Mistries varied until the issue of the General Manager's letter of 27th January, 1936, alluded to in part (e) of the question.

(d) Yes; as the matter was not referred to the General Manager till late in 1936.

(e) Yes.

(f) No such orders were issued in May, 1940, but it is presumed that the Honourable Member is referring to the orders issued in the previous year. If so, the reply to the first part is in the affirmative. These orders were issued as on a further examination of the question by the General Manager it was held that as the Block Mistries did not enjoy the privilege of house allowance in lieu of free quarters they were, under the rules, not entitled to rent free quarters on promotion to a subordinate post.

(g) The reply to the first part is in the negative. As regards the second part, orders have been issued restoring the decision of 1936.

PASSES FOR VAN SORTERS ON THE NORTH WESTERN RAILWAY.

120. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that the Van Sorters on the North Western Railway are paid a fixed salary of Rs. 80 per mensem?

(b) Are they entitled to the class of passes on this consolidated pay or on the pay in their substantive appointments? If on the latter pay, why?

(c) Is it a fact that for determining class of passes for running staff 75 per cent. of pay is added to the pay of the employee for determining class of passes? If so, why are not Van Sorters allowed passes on consolidated pay of Rs. 80?

The Honourable Sir Andrew Clow: (a) Yes.

(b) They are entitled to passes according to their consolidated pay, as long as they continue to work as van sorters. The second part of the question does not arise.

(c) The answer to the first part of the question is in the affirmative. The second part does not arise.

ELIGIBILITY OF THE NIGHT VISION FAILED STATION MASTERS GROUP STAFF FOR CERTAIN APPOINTMENTS.

121. **Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether the night vision failed Station Masters group staff are considered for appointments, such as Van Sorters, Luggage and Platform Inspectors, Claims, Rates and Sales Inspectors and Assistant Inspectors? If not, why not?

(b) What are the subjects in which the following members of staff are examined at the Walton Training School, and how the information contained in part (f) of the Honourable Member's reply to starred question No. 397 asked on 15th March, 1940, is reconciled:

- (i) Station Masters,
- (ii) Goods Clerks, and
- (iii) Booking Clerks?

The Honourable Sir Andrew Olow: (a) The answer to the first part is in the affirmative; the second part does not arise.

(b) The information is contained in the Calendar of the Walton Training School, a copy of which is available in the Library of the House. The fact that staff are trained in goods and coaching work does not necessarily imply that they are as suitable as staff who, in addition to being so trained, have been actually employed on this work.

DEVALUATION OF ASSISTANT STATION MASTER'S GRADES ON THE NORTH WESTERN RAILWAY.

122. **Mr. Lalchand Navalrai:** With reference to the Honourable Member's reply to parts (d) and (e) of starred question No. 482 asked on the 20th March, 1940, will the Honourable Member for Railways please state the result of his examination and place a copy of the orders issued on the table of the House?

The Honourable Sir Andrew Olow: The matter is still under examination.

HOLDING IN ABEYANCE ORDERS IN RESPECT OF CERTAIN BRIDGE STAFF MEMORIALISTS OF THE NORTH WESTERN RAILWAY.

123. **Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that with reference to memorials from the temporary bridge staff of the North Western Railway, orders were issued by the Chief Engineer, in letter No. 522-E./286, dated the 22nd April, 1940, to absorb the memorialists in future vacancies?

(b) Is it a fact that these orders were issued in consequence of a deputation of the staff interviewing the then General Manager, North Western Railway?

(c) Is it a fact that these orders were held in abeyance within less than a week's time of their issue? If so, why and who held them in abeyance? If it was not done by the General Manager himself, what were the powers of Deputies and Assistants in connection with the holding of the orders in abeyance?

(d) When are the orders referred to in part (a) likely to be re-issued? If not, why not?

The Honourable Sir Andrew Olow: I have called for information and a reply will be laid on the table in due course.

POLICY OF MAKING PROMOTIONS FROM AMONGST EMPLOYEES OF THE SAME BRANCH ON THE NORTH WESTERN RAILWAY.

124. **Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that promotion to higher appointments on the North Western Railway is generally made from amongst the employees of the same branch?

(b) Is it a fact that the General Manager, North Western Railway, declared the above as the policy, *vide* his letter No. 522-E./14, dated April, 1939, in reverting a Booking Clerk promoted as a Parcel Clerk on Quetta division?

The Honourable Sir Andrew Olow: (a) Yes.

(b) I understand that the letter referred to by the Honourable Member was not issued by the General Manager, but the general practice is as stated by the Honourable Member in part (a) of the question.

LOWER RATES OF CONSOLIDATED TRAVELLING ALLOWANCE FOR VAN SORTERS ON THE NORTH WESTERN RAILWAY.

125. **Mr. Lalchand Navalrai:** Will the Honourable Member for Railways be pleased to state:

- (a) the rates of consolidated travelling allowance for
 - (i) old Travelling Ticket Examiners,
 - (ii) Special Ticket Examiners, and
 - (iii) Van Sorters employed on the North Western Railway?

(b) If the Van Sorters are paid lower rates, what is the reason for this differentiation? Do Government propose to give all employees equal treatment? If not, why not?

The Honourable Sir Andrew Olow:

(a) (i)	Those drawing less than Rs. 100 per mensem .	Rs. 35 per mensem.
	Those drawing Rs. 100 per mensem but less than Rs. 200 per mensem .	Rs. 50 per mensem.
	Those drawing Rs. 200 per mensem and over .	Rs. 65 per mensem.
	66—4—90	
(ii)	Grade —————	Rs. 25 per mensem.
	65—5/2—85	
	105—5—140	
	Grade —————	Rs. 35 per mensem.
	100—10/2—120	

NOTE.—Special Ticket Examiners when drawing Rs. 100 per mensem are given Rs. 25 per mensem as consolidated travelling allowance.

(iii) Rs. 20 per mensem.

(b) The reason for the lower rate of consolidated Travelling Allowance in the case of Van Sorters is that the average amount of touring performed by them is less as compared with the Special Ticket Examiners.

For, this reason and because higher rates of permanent travelling allowance were specially sanctioned for old Travelling Ticket Examiners in view of the fall in their emoluments on account of the stoppage of mileage allowance, Government do not propose to apply a uniform rate.

PERCENTAGE OF LEAVE RESERVE FOR THE TRAFFIC TECHNICAL INFERIOR STAFF ON THE NORTH WESTERN RAILWAY.

126. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state the percentage of leave reserve for the Traffic Technical Inferior staff employed on the North Western Railway?

(b) Is it a fact that when a member of the Traffic Technical staff proceeds on leave without pay, the relief is drawn from the leave reserve sanctioned for this category? If so, why? Does the leave reserve percentage also include provision for leave without pay? If so, how?

(c) Is it a fact that non-technical traffic inferior staff on the North Western Railway are generally not given any casual leave, as a relief is required and no leave reserve is employed for them nor can a substitute be engaged for casual leave vacancies? If so, what steps do Government propose to take to see that arrangements are made to give casual leave freely to this class of staff? If not, why not?

The Honourable Sir Andrew Clow: (a) The leave reserve for Traffic technical inferior staff on the North Western Railway varies from 11 to 25 per cent. in accordance with the requirements of the Divisions.

(b) Yes, when relief is available from the leave reserve, if relief is not available, temporary staff are engaged, if necessary. The leave reserve does not normally include provision for leave without pay.

(c) Government have no information about the casual leave enjoyed by such staff, but they do not consider any action is necessary as they are satisfied that staff generally obtain the leave to which they are entitled.

NON-INCLUSION OF REVIEW ON THE WORKING OF THE STATE RAILWAY REGULATIONS re DISMISSAL OF NON-GAZETTED STAFF IN THE RAILWAY ADMINISTRATION REPORT.

127. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state the reasons for not reviewing the working on State-managed Railways of the regulations regarding dismissals and discharges and rights of appeal of non-gazetted Railway servants since June 1931 in the Report on the Administration of Railways by the Railway Board submitted each year to the Government of India?

The Honourable Sir Andrew Clow: The Report is not intended to serve as a review of regulations of this type, but as a record of the year's work. Such review of the regulations as has taken place is done independently and amendments have been made since 1931 as occasion required.

LIMITING OF THE RAILWAY REFRESHER COURSES TO THE AGE OF 45.

128. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 7, asked in this House on the 5th November, 1940, and state the reasons for limiting the refresher courses to the age of 45 when ordinarily it is not required by

Rule 14 of Appendix XXII of the State Railway Establishment Code, and also state whether the qualification in that course before the age of 45 is not considered for promotion if it occurred after the age of 45?

The Honourable Sir Andrew Clow: The first part of the question is not understood as the stipulation is laid down in rule 14 quoted by the Honourable Member. As regards the second part, there is no objection to treating the qualification so named as sufficient in suitable cases.

NUMBERS AND CHARACTER OF NON-GAZETTED POSTS ON CERTAIN STATE RAILWAYS.

129. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 9, asked on the 5th November, 1940, and state the source from where the information in respect of Eastern Bengal and North Western Railways is available?

The Honourable Sir Andrew Clow: The information will be available with the General Managers of the Eastern Bengal and North Western Railways.

RULES GOVERNING THE PUBLICATION OF MATTERS IN RAILWAY GAZETTES.

130. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 12, asked on the 5th November, 1940, and lay on the table of the House:

(i) the rules governing the publication of matters in Railway gazettes; and

(ii) the list of various media?

The Honourable Sir Andrew Clow: (i) Government are not aware of any rules.

(ii) In part from Railway Gazettes, circulars and notices are used by Railway Administrations as required. Besides, the various media open to the public such as newspapers are also available to the Railway staff.

PROCEDURE OF REPORTING THE WORK AFTER THE EXPIRY OF THE PROBATIONARY PERIOD.

131. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 14, asked on the 5th November, 1940, and state:

(a) the procedure of reporting the work after the expiry of the probationary period of twelve months;

(b) how confirmation is made when no report on the work during the probationary period or after the expiry of the probationary period is forthcoming or made; and

(c) whether the confirmation is delayed even after the work is reported to be satisfactory; if so, how and why?

The Honourable Sir Andrew Clow: (a) No special procedure is laid down.

(b) I am not aware of any case in which no information is available.

(c) There is frequently an interval, which may arise from various causes.

NON-GAZETTED RAILWAY SERVANTS CHARGED WITH OFFENCES IN THE
MORADABAD DIVISION, EAST INDIAN RAILWAY.

132. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state:

- (a) the class of employees (non-gazetted Railway servants),
- (b) kind of offences charged for,
- (c) nature of enquiry made into those offences, and
- (d) kind of penalty imposed against those offences with the authority imposing that penalty,

during the period from 1st January, 1939 to 31st October, 1940, on the Moradabad Division, East Indian Railway?

The Honourable Sir Andrew Clow: These particulars are not available with Government or the Railway Board and I regret I cannot undertake the collection of the information required by the Honourable Member.

CERTAIN QUARTERLY STATEMENT FORWARDED BY THE DIVISIONAL
SUPERINTENDENT, MORADABAD DIVISION, ON THE EAST INDIAN
RAILWAY.

133. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 21, asked on the 5th November, 1940, and state:

- (a) the number of appeals withheld;
- (b) to whom those appeals were addressed;
- (c) the nature of the penalty against which those appeals were preferred; and
- (d) the authority which imposed that penalty?

The Honourable Sir Andrew Clow: (a) Nine, between 1st January, 1939 and 30th June, 1940; the return for the quarter ending 30th September, is not yet complete.

(b) Eight to the General Manager and one to the Chief Commercial Manager.

- (c) Five against removal from service;
- One against recovery of rent;
- One against forfeiture of security deposit;
- One regarding officiating allowance; and
- One regarding accelerated promotion.

(d) Government have no particulars.

CALCULATION OF PERIOD OF SICK LEAVE ON STATE RAILWAYS.

134. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 24, asked on the 5th November, 1940, and state:

- (a) the difference between the two forms of certificates, that is, sick certificate and certificate recommending leave;
- (b) the necessity of having the said two forms of certificates; and

- (c) out of those two forms, which is a recommendation by a medical officer for leave and which is not?

The Honourable Sir Andrew Clow: (a) The Honourable Member's attention is invited to sub-rules (2) and (3) of rule 1 of the 'General Rules governing the issue of medical certificates to non-gazetted railway servants applying for leave in India on medical certificate' contained in Part III of Appendix VIII to the State Railway Establishment Code as substituted by correction slip No. 744, a copy of which is in the Library of the House.

(b) A reference is invited to rules 2 and 6 of the rules referred to in the reply to part (a) of the question.

(c) Both are, in effect, a recommendation for leave, although the former merely records the fact of unfitness and its probable duration.

NOTICE OF A SUIT ON BEHALF OF MIR MAQBOOL MAHMOOD OF AMRITSAR
AGAINST THE NORTH WESTERN RAILWAY.

135. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please refer to the reply given to part (a) of question No. 96, asked in the Council of State on the 8th April, 1940, and state:

(a) whether it is a fact that the Government of India in the Railway Department received in July or August 1940 a letter of Notice of a suit under section 80 of the Code of Civil Procedure to recover rupees 10,000 (ten thousand) from the Central Government as damages for malicious prosecution by the North Western Railway Administration, on behalf of Mir Maqbool Mahmood of Amritsar, Member, Legislative Assembly, and Parliamentary Secretary, Punjab;

(b) the action taken on that notice;

(c) whether the sum of rupees ten thousand has since been paid to Mir Maqbool Mahmood; if not, whether it has been compounded; if so, on what terms;

(d) whether the sum of rupees ten thousand or the compounded amount has been recovered from the Railway servant; if not, why not;

(e) the reasons for retaining in service any further of the subordinate, on whose conduct the Government of India received that notice; and

(f) whether Government propose to enquire into the conduct of the subordinate concerned by an independent committee?

The Honourable Sir Andrew Clow: (a) Yes.

(b) It was forwarded to the North Western Railway for such action as they considered necessary.

(c) No.

(d) Does not arise.

(e) Because the receipt of a notice of this kind is not a different ground for doing otherwise.

(f) No.

TRAINS RUN THROUGH DELHI-SHAHDARA ON THE NORTH WESTERN RAILWAY.

136. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state:

- the number of passenger trains run through Delhi-Shahdara on the North Western Railway in each direction, separately;
- the number of those trains which did stop in each direction at that station;
- the minimum and maximum period of stoppage of those trains at that station;
- the daily average third class passenger traffic to and fro that station in each direction, separately.
- the daily average accommodation provided for passengers in third class compartments of those trains in each direction, separately;
- the daily average of third class tickets sold and collected at Booking offices and gates of Delhi for those trains in each direction, separately; and
- the objection the Railway Administration has in not stopping the East Indian Railway's Running Power of trains in each direction at that station?

The Honourable Sir Andrew Clow: (a) 20 Up and 19 Down.

(b) 14 Up and 13 Down.

(c) Minimum two minutes; maximum five minutes.

(d)

From Delhi to Delhi Shahdara.

2,840

(including monthly season tickets, and through tickets for S. S. Light Railway).

From Delhi Shahdara to Delhi.

2,437

(including monthly season tickets and through tickets to S. S. Light Railway).

(e) Approximately 560 seats per train in each direction.

(f) At an average, 1,200 tickets are issued daily, in addition to 246 monthly season tickets and 56 suburban tickets. The daily average number of third class tickets collected is about 984.

(g) All the East Indian Railway trains except their Mails and Expresses stop at Delhi Shahdara. It is not the function of fast long-distance trains to cater for purely local traffic between stations four miles apart.

SELECTION BOARDS OR COMMITTEES ASSEMBLED IN MORADABAD DIVISION ON THE EAST INDIAN RAILWAY.

137. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state:

- the number of days during the period from 1st January, 1939, to 31st October, 1940, when the selection boards or committees assembled in Moradabad Division on the East Indian Railway;

- the number of officers who attended those boards or committees;
- the number of non-gazetted staff examined by those boards or committees; and
- the average hour of each officer occupied by those boards or committees for examining each staff?

The Honourable Sir Andrew Clow: Government do not receive any reports of meetings of selection boards in Divisions and no record is ordinarily maintained of the hours taken by them to carry out the duties entrusted to them. I regret, therefore, that I cannot furnish the particulars required.

ACCIDENTS TO PERSONS AT OR NEAR DELHI-SHAHDARA RAILWAY STATION NORTH WESTERN RAILWAY.

138. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state:

- the number of accidents to persons at or near Delhi-Shahdara Railway Station on North Western Railway during the preceding three years, or as far as available; and
- the causes of those accidents?

The Honourable Sir Andrew Clow: (a) and (b). It is a little difficult to reply with precision as opinions may vary regarding the meaning of "near Delhi-Shahdara station"; but of the accidents occurring between Delhi and Sahibabad in the years 1937, 1938 and 1939, the following are regarded by the Administration as falling within the area indicated in the question:

- four due to persons committing suicide;
- six due to persons trespassing on the line;
- two due to persons falling or jumping from trains in motion.

The total is 12.

COOLY CONTRACTS IN MORADABAD, LUCKNOW AND ALLAHABAD DIVISIONS, EAST INDIAN RAILWAY.

139. Mr. Muhammad Azhar Ali: Will the Honourable Member for Railways please state the terms of cooly contracts in Moradabad, Lucknow and Allahabad Divisions on the East Indian Railway?

The Honourable Sir Andrew Clow: I have called for the information and will lay a reply on the table of the House.

INDIANISATION OF THE POSTS OF LOCO. FOREMEN AND INSPECTORS ON THE NORTH WESTERN RAILWAY.

140. Bhai Parma Nand: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 93, asked on the 20th March, 1940, and state:

- the number of staff (Indian) qualified in T18 course;
- how many of them have been promoted to the vacancies in Loco. Foremen and Inspectors grade during the preceding six months; if no one is promoted, the reasons therefor; and

- (c) whether Government propose to compensate the Indian staff by promoting them irrespective of the seniority against the block by European grade IV staff; if not, why not?

The Honourable Sir Andrew Olow: (a) Seven.

(b) As regards the first part, one; the second part does not arise.

(c) No, as promotions are not made on racial consideration.

PROMOTION TO SENIOR SUBORDINATES OF TRANSPORTATION STAFF AND TO SENIOR SUBORDINATES OF LOCO. STAFF.

141. **Bhai Parma Nand:** Will the Honourable Member for Railways please state whether it is a fact that promotion to senior subordinates of Transportation staff is made by selection?

(b) Is it a fact that promotion to senior subordinate of Loco. staff is made according to seniority?

The Honourable Sir Andrew Olow: (a) Yes.

(b) No. These posts also are selection posts.

CERTAIN RESTRICTIONS ON APPOINTMENTS TO SUBORDINATE SERVICE POSTS ON NORTH WESTERN RAILWAY.

142. **Bhai Parma Nand:** (a) With reference to his reply to unstarred question No. 125, asked by Mr. Lalchand Navalrai on the 1st April, 1940, will the Honourable Member for Railways be pleased to state why the inferior staff with the requisite educational qualification appointed after the 1st April, 1926, and prior to the issue of the General Manager, Lahore, circular letter No. 831-E/43, dated the 13th September, 1938, (under which the age limit has been fixed) should not be exempted from the age limit condition on the analogy of the same principle as was adopted in the case of the staff appointed prior to the 1st April, 1926, as there was no such age limit condition for men already in service at the time of their appointment and that condition was only introduced in 1938?

(b) Is it a fact that *ex-military* men do enjoy the privilege of joining Railway subordinate service up to 40 years of age? If so, is it proposed to extend the same privilege to departmental inferior servants, who are qualified for the subordinate service?

The Honourable Sir Andrew Olow: (a) I would refer the Honourable Member to the replies to parts (b) and (c) of Question No. 125 referred to by the Honourable Member.

(b) As regards the first part, Government are not aware that *ex-military* employees obtain a preference in the matter of the age limit. The second part does not arise.

MESSAGE FROM H. E. THE VICEROY.

Mr. President (The Honourable Sir Abdur Rahim): I have received the following Message from His Excellency the Viceroy:

"Whereas by its vote of the 19th November, 1940, the Legislative Assembly has refused to take into consideration a Bill entitled a Bill to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on

income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies;

Now, therefore, I, Victor Alexander John, Marquess of Linlithgow, in pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, do recommend to the Legislative Assembly that it do pass the Bill in the form hereto annexed.

NEW DELHI;

The 20th November, 1940.

LINLITHGOW,

Viceroy and Governor General."

THE INDIAN FINANCE (No. 2) BILL.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I move for leave to introduce a Bill to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies, in the form recommended by the Governor General.

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

"That leave be given to introduce a Bill, to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies, in the form recommended by the Governor General."

Mr. Bhulabhai J. Desai (Bombay Northern Divisions: Non-Muhammadan Rural): Sir, I am fully aware that this procedure on the part of Government is not without precedent. Yet I had hoped that some time and after the nature of the debate which we listened to during the last six days a different spirit might possibly prevail in regard to the working of what is called the gift of the Government of India Act. Though it is common and commonplace, one is bound to say very respectfully that there are some people who will never learn or unlearn; and if that is the attitude that Government adopt, they should have no doubt about the nature of the opposition that they find not merely in this House, but throughout the country. It was because of actions of this character that we felt our presence unnecessary here on which a good deal of comment has been made. More than that, it was, as Lord Zetland himself pointed out, as a token of our attitude towards the matter of this war that as soon as information was conveyed to me by His Excellency the Governor General through the Governor of Bombay that troops were sent as a matter of precaution prior to the declaration of war, we thought fit as a matter of protest not to attend any more in this House so that at all events it may be known that the meaning of the word 'consultation' is not merely intimidation. However, Sir, this sorry history of complete defiance of public opinion may be the last, for all I know. But whether it is the last or not it is a matter of great regret that standing in my place I should have to oppose a motion even for leave to introduce a Bill which normally and conventionally I would not have thought fit to do. You have seen, Sir, the opinion of this House reflected in the manner in which the vote was given, apart from those nominated non-officials and my friends the protectors of Britain, as I say in India, and those friends which still think that

[Mr. Bhulabhai J. Desai.]

they will cling to what my friend Mr. Rajagopalachariar called a leaky boat. But it is entirely their own choice; I daresay they will continue to do so until the fate which is bound to overtake them will take place in due course of time. To them I have nothing to say except this that in the face of opinion in India they might have acted differently; but after all, it is for them to consult their own opinions and their own ideas and their own policy.

There is one other thing that I wish to say because my Honourable friend, Mr. Jinnah, referred in passing to the question of the political issue as it is called and which I see repeated often even in the highest quarters from time to time. So far as we are concerned it was, as I repeat again, a genuine desire to have the co-operation of all the sections of the country, should it commend itself to the British Government to allow us an opportunity so to do. In fact the question is dead not because we could not find means or avenues of co-operation but because the Britisher would not accept it. But none the less and notwithstanding the temporary barriers which sometimes arise by reason of circumstances in the country,—my Honourable friend, Mr. Jinnah, and myself have been associated in a profession for a period of over a quarter of a century and otherwise in public life since the days of Home Rule,—if any co-operation is needed and such an opportunity materialises, we have not the smallest doubt that we shall find it forthcoming.

There is only one other thing which I should like to say and which I wanted to say while I was speaking on the Bill but with a view not to exceed my time I did not do so. With reference to what is called this voluntary effort there is a letter which was sent to me by Dr. Katju, ex-Minister of the United Provinces,—a letter addressed to his wife when she wanted the lease of a house transferred to her which required Government sanction. And this is an official letter written by the Khas Mahal Officer of Puri to "Sreemati Lachmi Rani Katju", etc.:

"With reference to your application of the 30th September, 1940, asking for permission for purchasing holding No. 46, in * * district, I have the honour to say that before the necessary permission is granted the Collector has to be satisfied that the transferee is a suitable person to own a homestead holding in this Khas Mahal."

Now you will see what suitability consists of:

"With a view to prove your loyalty, I am directed by the Collector to request that you will kindly contribute generously to the Orissa War Fund started in this district at the instance of His Excellency the Governor of Orissa. Your contribution may kindly be sent as early as possible."

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): Is the amount mentioned?

Mr. Bhulabhai J. Desai: You are thinking of 14 crores. No.

This is only an instance of many thousands which have come to those who belong to my fold, call it good, call it bad, or call it indifferent. And, therefore, it is not unnatural that we must feel that notwithstanding the propriety of what is wished the actual facts in this country are entirely contrary. Sir, in view of these events, in view of the feeling in the country in general on which, as I said, barring my five friends all the constituents

were represented have given their vote, I feel it right and just to oppose the motion which has been made before the House.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Sir,

Mr. President (The Honourable Sir Abdur Rahim): Only two speeches are allowed at this stage, one by the Mover and the other by the Member opposing.

Sir Cowasji Jehangir: Sir, the Leader of the Opposition has taken advantage of his privilege to make an attack.

Mr. Bhulabhai J. Desai: No, I did not make any attack.

Mr. President (The Honourable Sir Abdur Rahim): Attack or no attack, the Honourable Member will have to find some other appropriate occasion to reply.

Sir Cowasji Jehangir: Very well, Sir, I will take another opportunity.

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

"That leave be granted to introduce a Bill to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies, in the form recommended by the Governor General."

The Assembly divided:

AYES—53

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Ayers, Mr. C. W.
Bewoon, Sir Gurunath.
Bhagchand Soni, Rai Bahadur Seth.
Boyle, Mr. J. D.
Burjad Hussain, Khan Bahadur Sayad.
Busa, Mr. L. C.
Caroe, Mr. O. K.
Chaudhury, Maulvi Abdul Halim.
Chettiar, Dr. Rajah Sir S. R. M. Annamalai.
Clow, The Honourable Sir Andrew.
Daga, Seth Sunderlal.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
DeSouza, Dr. F. X.
Dumasia, Mr. N. M.
Frampton, Mr. H. J.
Ghuznavi, Sir Abdul Halim.
Gidney, Lt.-Col. Sir Henry.
Griffiths, Mr. P. J.
Gwilt, Mr. E. L. C.
Ikramullah, Mr. Muhammad.
Imam, Mr. Saiyid Haider.
Ismail Ali Khan, Kunwar Hajee.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.

Jehangir, Sir Cowasji.
Kamaluddin Ahmed, Shamsul-Ulema.
Kushalpal Singh, Raja Bahadur.
Laljee, Mr. Husenbhai Abdullahai.
Lawson, Mr. C. P.
Maxwell, The Honourable Sir Reginald.
Miller, Mr. C. C.
Mody, Sir H. P.
Musazzam Sahib Bahadur, Mr. Muhammad.
Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.
Mukharji, Mr. Basanta Kumar.
Ogilvie, Mr. C. M. G.
Ormiston, Mr. J. F.
Pillay, Mr. T. S. S.
Rahman, Lieut.-Col. M. A.
Raisman, The Honourable Sir Jeremy.
Scott, Mr. J. Ramsay.
Shahbaa, Khan Bahadur Mian.
Ghulam Kadir Muhammad.
Sheehy, Mr. J. F.
Sivaraaj, Rao Sahib N.
Spence, Sir George.
Staig, Mr. B. M.
Thakur Singh, Captain.
Tyson, Mr. J. D.
Zafarullah Khan, The Honourable Sir Muhammad.
Zaheer, Mr. Saiyid Hasan.

Abdul Qaiyum, Mr.
 Abdul Wajid, Maulvi.
 Abdur Rasheed Chaudhury, Maulvi.
 Aney, Mr. M. S.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Banerjee, Dr. P. N.
 Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chaudhury, Mr. Brojendra Narayan.
 Chettiar, Mr. T. S. Avinashilingam.
 Chetty, Mr. Sami Vencatachelam.
 Chunder, Mr. N. C.
 Daga, Seth Sheodass.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Dessai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 Deshmukh, Mr. Govind V.
 Gadgil, Mr. N. V.
 Govind Das, Seth.
 Gupta, Mr. K. S.
 Hans Raj, Raizada.
 Hegde, Sri K. B. Jinaraja.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sirdar.

Joshi, Mr. N. M.
 Kailash Bihari Lal, Babu.
 Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Mangal Singh, Sardar.
 Manu Subedar, Mr.
 Misra, Pandit Shambhu Dayal.
 Muhammad Ahmad Kazmi, Qazi.
 Pande, Mr. Badri Dutt.
 Parma Nand, Bhai.
 Raghubir Narayan Singh, Choudhri.
 Ramayan Prasad, Mr.
 Rao, Mr. M. Thirumala.
 Reddiar, Mr. K. Sitarama.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sham Lal, Lala.
 Sharma, Pandit Pyare Lal.
 Shrivastava, Babu Hari Saran Prasad.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Sri Prakasa, Mr.
 Subbarayan, Shrimati K. Radha Bai.

The motion was negatived.

THE EXCESS PROFITS TAX (AMENDMENT) BILL.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I move:

"That the Bill to amend the Excess Profits Tax Act, 1940, be referred to a Select Committee consisting of Sir Cowasji Jehangir, Sir Homi Mody, Mr. F. E. James, Mr. E. L. C. Gwilt, Sir Muhammad Yamin Khan, Sir Syed Raza Ali, Dr. Sir Ziauddin Ahmad, Mr. M. S. Aney, Sardar Sant Singh, Mr. J. F. Sheehy, Mr. C. W. Ayers, Rao Sahib N. Sivaraj and the Mover, with instructions to report on or before the 25th November, 1940, and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

Sir, this Bill proposes no change of principle in the Act, but it is merely concerned with correcting certain hardships and removing certain anomalies which experience has shown are likely to arise in the working of the Act as it stands. Some of the clauses are purely machinery clauses, for example, clause 7, which rectifies the omission in section 26 to provide for the manner in which and the time limit within which applications may be made under that section to the Central Board of Revenue. Other clauses are designed to correct disharmonies in the existing provisions. A clause in point is clause 4 (a) which provides that in the case of a change of ownership or of an amalgamation of businesses, the successor, who is to be treated in the computation of his standard profits or average capital as if there had been no change of ownership, should also receive, as was originally intended, the same allowance for depreciation of plant, machinery and buildings as would have been allowed to his predecessor had he continued in his business.

Other clauses, perhaps the most important, are intended to secure that the comparison of the profits of a chargeable accounting period with those of the standard period, which is the essential basis of the tax, shall be a fair one. An example of this class is that of clauses 4 (b), (c) and (d) which give power to the Excess Profits Tax Officer to make such proper modifications in the case of changes of ownership in computing the profits or average capital either for the standard period or a chargeable accounting period, as will secure a fair comparison. I may remark here that this provision may operate equally to the advantage of the assessee or of the revenue . . .

Mr. F. E. James (Madras: European): Always?

The Honourable Sir Jeremy Raisman: No, Sir.

Another, clause (a), provides that interest or salaries payable abroad which have been included in profits for income-tax purposes shall be excluded for excess profits tax purposes. As this income-tax provision has been in force only since 1939-40, it would clearly be unfair to compare profits including such items with the profits of a standard period when there was no corresponding inclusion . . .

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Unfair to whom?

The Honourable Sir Jeremy Raisman: Unfair to the assessee.

Clauses 6 (a) and 8 (c) correct definite flaws in the Act which it has been found would operate to the detriment of the assessee. The first of these clauses provides for the allowance, in computing profits for income-tax and super-tax purposes, of all excess profits tax payable on those profits in British India or elsewhere. The Act, as it stands, allows foreign excess profits tax only to the extent to which the profits charged actually arose in another country, with the result in some cases that the taxation of a concern's excess profits would be at a rate in the aggregate of considerably more than 100 per cent.

The second of these clauses proposes to correct an unforeseen anomaly in the operation of Rule 7 of the First Schedule to the Act. That rule, in the case of director-controlled companies, disallows any excess of the directors' remuneration for a chargeable accounting period over that for the standard period, but provides for no adjustment where the remuneration of the chargeable accounting period is less. The proposed amendment will secure that only the excess remuneration, if any, over the whole duration of the tax is disallowed.

Although in the Notes on Clauses attached to the Bill and in the explanatory examples that I have just given the amendments appear to be matters of relative simplicity, they are in fact matters of some technical difficulty and their phrasing needs careful correlation with the wording of the sections and rules which they are designed to supplement or amend. For that reason I recommend to this House that the Bill be referred to a Select Committee in order that the House may have the benefit of their careful and detailed consideration of its provisions. Sir, I move.

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

"That the Bill to amend the Excess Profits Tax Act, 1940, be referred to a Select Committee consisting of Sir Cowasji Jehangir, Sir Homi Mody, Mr. F. E.

[Mr. President.]

James, Mr. E. L. C. Gwilt, Sir Muhammad Yamin Khan, Sir Syed Raza Ali, Dr. Sir Ziauddin Ahmad, Mr. M. S. Aney, Sardar Sant Singh, Mr. J. F. Sheehy, Mr. C. W. Ayers, Rao Sahib, N. Sivaraj and the Mover, with instructions to report on or before the 25th November, 1940, and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

Mr. F. E. James: Sir, I wish to support the motion to refer this Bill to a Select Committee. I think I did not hear the name of my old friend, Sir Abdul Halim, on this Committee, because he is a member, if the Honourable Member will remember, who has had more accurate information about the standard period

The Honourable Sir Jeremy Raisman: Post-prandial period.

Mr. F. E. James: I think they are one and the same thing.

The Honourable Sir Jeremy Raisman: I understand he has to attend a wedding.

Mr. F. E. James: I take it that there is a standard period between the two functions. There are three points which I should like to touch upon. The first relates to the new amendment in clause 8 (c) of the Bill which adds a new sub-section after sub-section (3) of section 26 of the Act. That sub-section refers to applications to the Central Board of Revenue to grant relief in special cases. It only allows a period of one month from the date on which the order of the Board of Referees has been communicated to the assessee, within which the application must be made. It is a small point. The period is too small and I hope that the Honourable Member will consider an extension of that period. The second point relates to clause 9 (d) of the Bill. It inserts after rule 10 of the schedule, a new rule No. 11. This appears to drive a coach and four through the principle of the second proviso of rule 10 of the schedule. If Honourable Members will turn to the First Schedule of the original Act they will find that the first proviso to rule 1 provides:

"Provided that where the profits during any standard period have already been determined for the purpose of an assessment under the Indian Income-tax Act, 1932, such profits as so determined, shall, subject to the adjustments required by this Schedule, be taken as the profits during that period for the purpose of excess profits tax."

Now, this amendment gives power to the excess profits tax officer to vary this principle where he does not consider that the deduction represents a sum reasonably and properly attributable to that accounting period. That is a very important power which is sought to be placed in the hands of the excess profits tax officer. As I interjected in the course of my Honourable friend's remarks in introducing the Bill, our experience is that the benefit of the doubt is not given to the assessee. I am sure that the excess profits tax officer will follow the long traditions of the Income-tax Department in this regard. Therefore, we are a little suspicious on that particular point.

Mr. M. S. Aney (Berar: Non-Muhammadan): What is that long tradition?

Mr. F. E. James: That the assessee does not get the benefit of the doubt, where there is a doubt in these matters. There is also one other question which arises out of this, but I need not trouble the House with it, that can be discussed in the Select Committee. The third point is this.

I understand that according to this Bill, section 26 of the Act is being somewhat extensively amended. Section 26 of the Act made a very useful provision for an appeal to the Central Board of Revenue to grant relief in special cases. I remember, when we argued this clause at the time of the Select Committee on the original Bill, that we put before Government the cases of oil companies for example, or similar companies in connection with which there might have to be large payments for the right to exploit the land, to get oil out of the land or to mine the land, in the case of coal mines. I understood that section 26 of the Act as it stood would enable a business working on a wasting asset, where there was no depreciation allowance on that wasting asset itself, to go direct to the Central Board of Revenue with the request that it was a special case and that in that instance there should be some modification of the statutory percentage.

Mr. J. F. Sheehy (Government of India: Nominated Official): Is it the Honourable Member's suggestion that we are in this Bill cutting down the powers given to the Central Board of Revenue under section 26? There is no intention whatever of doing so.

Mr. F. E. James: I entirely acquit the Government of any intention of that kind, but as we are amending section 26 I should like to know whether the class of case that has been covered in the English Finance Act is covered by this particular section.

Mr. J. F. Sheehy: Yes.

Mr. F. E. James: I would like to put it a little more specifically. My Honourable friend knows better than I do that section 13 of the Finance Act (No. 2), 1940, in the United Kingdom contains an arrangement by means of which a larger standard profit can be fixed for classes of businesses consisting, for example, in the getting of minerals or oils from any mine, oil well, or similar natural source of a wasting nature. The fixation of the standard profit in such cases is entirely a matter for the Board of Referees.

Mr. C. W. Ayers (Government of India: Nominated Official): With a limitation of four per cent.

Mr. F. E. James: In this country there is no such provision. What I want to be made clear is as to whether section 26 of the Act, as it is now worded, would give such an assessee the right to go to the Central Board of Revenue, argue the case and get a larger statutory percentage?

Mr. C. W. Ayers: Yes, alleging the fact that the working of the wasting asset is a special circumstance. That would be accepted as a special circumstance.

Mr. F. E. James: So that in that case, I take it that Government do not consider that it is necessary at this stage to put in a specific reference to this particular class of business, and that it will fall within the general description which is now contained in the provisions of section 26 of the Act.

Mr. C. W. Ayers: Definitely. The question was considered and we came to the conclusion that the power under section 26 is already much wider than in the United Kingdom and there is no need to cover the specific case. It is already covered.

Mr. F. E. James: That was certainly the intention of the Select Committee, and, I understood, of the Government and I am very glad to hear that that point is already covered. I have no more remarks to offer and I support the motion.

Sir Cowasji Jehangir: I have no remarks to make on the Bill itself, except to congratulate the Finance Member on being able to move these important money Bills in piping times of peace. We have had a little storm but luckily he will move these measures, as I have said, in piping times of peace. I trust that notwithstanding these times he will give due consideration to what we have to say.

The Honourable Sir Jeremy Raisman: I made it clear during the Session in which the original Excess Profits Tax Bill was dealt with that I was prepared to give due consideration all points of substance and equity which were brought forward and I think the Honourable Member then agreed that I had given due consideration. That will remain my attitude.

As regards the points touched on by my friend, Mr. James, it is clear that points of that nature cannot be usefully discussed in the full House and they indicate the desirability of a Select Committee on this Bill. Those points will be fully considered in the Select Committee.

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

"That the Bill to amend the Excess Profits Tax Act, 1940, be referred to a Select Committee consisting of Sir Cowasji Jehangir, Sir Homi Mody, Mr. F. E. James, Mr. E. L. C. Gwillt, Sir Muhammad Yamin Khan, Sir Syed Raza Ali, Dr. Sir Ziauddin Ahmad, Mr. M. S. Aney, Sardar Sant Singh, Mr. J. F. Sheehy, Mr. C. W. Ayers, Rao Sahib, N. Sivaraj and the Mover, with instructions to report on or before the 25th November, 1940, 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 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, be referred to a Select Committee consisting of Dr. Sir Ziauddin Ahmad, Maulana Zafar Ali Khan, Mr. G. V. Deshmukh, Khan Bahadur Mian Ghulam Kadir, Muhammad Shahban, Mr. J. Ramsay Scott, Mr. B. M. Staig and the Mover, with instructions to report on the opening day of the next Session of the Assembly, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

With your permission, Sir, I wish to substitute "four" for "five", in view of the numbers of the committee.

I do not think I need argue in this House on the general principle of taking all measures that are reasonable to check this serious abuse of

ticketless travel. I am aware that outside the House there are those who think that they ought to be allowed to travel free, even to a football match, and that gentlemen who happen to wear or to put on for the occasion a religious robe ought to be allowed to travel free. But I do not think that either of these suggestions will appeal to Honourable Members of the House who, I am sure, recognise the wisdom and the soundness of doing what we can to ensure that railways are paid for the services they render. Nor need I dwell on the seriousness of the evil. The ticketless traveller is everywhere and in spite of various measures taken on many railways his numbers do not show any great tendency to decline. The aggregate amount of which the railways, that is, in the end the honest travellers and the taxpayer are deprived in a year must run to very large sums. I would take it then that the principle is granted and the question that remains is what measures can suitably be taken to check the evil.

Four years ago, a Bill was introduced in this House by my Honourable friend, the Leader of the House, which had the same purpose as this Bill—the checking of ticketless travel. It evoked a large amount of controversy and I think I am right in saying that the controversy was focussed on two points. In the first place, it proposed to alter the burden of proof in respect of a ticketless traveller. The traveller might be called upon to show that he did not travel with intent to defraud. In the second place, it conferred a power of arrest without warrant by railway servants of persons travelling without tickets. Neither of these provisions will be found in the present Bill. I should like to make it clear that they are omitted not because the Government consider them mistaken but because we are anxious to meet as far as we can the misgivings and doubts which were expressed in this House on that occasion and because we entertain the hope that if this much more modest proposal is accepted, we can do a great deal to check the abuse. I am myself convinced after some study of the question that this is not merely a matter of amending the law and that we cannot put the whole blame for ticketless travel on defects in the law. It is also very largely a question of administration and if the House consents to the proposals now before it, I shall do my best to see that we do not let the case go by default owing to defective administration of the law as amended.

Let me then come to the actual provisions of the Bill. Put briefly, they aim at enhancing the penalties for ticketless travel. We desire to put up substantially the maximum possible penalty in cases of proved fraud, that is, where a man, without any change in the existing law as regards the burden of proof, has been proved to have travelled with intent to defraud the railway. The maximum penalty we have put at the same level as the penalty for the least aggravated form of cheating in the Indian Penal Code and I hope the House will agree that the man who endeavours to cheat the community deserves no less punishment than the man who endeavours to cheat an individual.

In the second place, we have enhanced for some cases the penalties for ticketless travel where fraud is not proved. The existing penalties date from 1890, when the value of money was rather different from what it is today and if the Honourable Members care to examine them, they will find them in certain respects anomalous. The man who has deprived the railway of five rupees suffers no severer penalty than the man who

[Sir Andrew Clow.]

deprives the railway of one rupee and, in some cases, the man who has brought the fact that he has not got a ticket to the notice of the authorities at an early stage suffers just as severely as the man who has omitted to do so. The enhancements in the penalties are, I submit, reasonable and will act, I hope, as a deterrent to the practice of forgetting to take a ticket. We have also made it clear that in the event of failure to pay the dues to which a passenger is liable under section 113, he may be subjected to a short term of imprisonment. The Act as it now stands says that the sum is recoverable "as if it were fine". There was a ruling of a High Court in the old days that permitted the imprisonment of the man who failed to pay but all the more recent rulings I have seen are in the contrary sense. It is a reasonable that we should treat this as a fine and that the man who does not pay the fine should be subject to the same penalties as the man who fails to pay a fine of a different character.

The remaining provisions are extremely simple; they relate to the power of ejectment, which I do not think was seriously contested even on the previous Bill and to a very minor amendment of what is obviously an error in the law. The Bill is, Sir, on the whole so straightforward that at first my motion today was set down for its consideration at once in this House. But I found that Members of influential Parties felt that it would be useful to have the Bill examined by a Select Committee before it was enacted and I have, therefore, altered my motion so as to secure a small Select Committee which will I hope be able to report before we meet for the opening Session of 1941. Sir, I move.

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

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Dr. Sir Ziauddin Ahmad, Maulana Zafar Ali Khan, Mr. G. V. Deshmukh, Khan Bahadur Mian Ghulam Kadir, Muhammad Shahban, Mr. J. Ramsay Scott, Mr. B. M. Staig and the Mover, with instructions to report on the opening day of the next Session of the Assembly, 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, I have given notice of a motion "that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1941", but with your permission I want the date to be changed to the 31st January. Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1941."

Sir, the Honourable Member in charge of the Bill, while accepting my motion in substance, has just mentioned that he proposes that the Select Committee will submit its report before the next Session so that the measure may be taken up during relaxation. Now my circulation motion will achieve the same object and at the same time the public will have their say on the provisions of the Bill, because the provisions directly relate to the public who will be the sufferers and at the same time the date for eliciting opinion will be by the 31st of January, and the Session I think, will commence from early in February; so that this measure can be referred to a Select Committee early enough and during the Session the measure may be passed by March the 31st so that it may have effect from the new financial year. Sir, my

main objection is that the Government wants that instead of a punishment of a fine of Rs. 100 under section 112 of the Indian Railways Act, 1890, they want to insert the provisions "or imprisonment for a term which may extend to one year or". I fail to understand what imprisonment will bring to them. A fine will bring to them money and it will add to the public exchequer, whereas the imprisonment will not bring them anything, and I do not find that there is any parallel to this in any other country. I wonder why officials here are so fond of having people imprisoned. Sir, the Honourable Member in charge of the Bill should first of all, in the interest of the public, abolish the system of granting free passes. I think it will bring him about a crore of rupees. I believe, as was pointed out also sometime ago, that there is an enormous amount spent by the Railways on account of issuing free passes to the railway employees. Sir, this is a novel procedure. No other employees of any other Department either of the Government of India or of the Provincial Governments get any such benefit and I fail to understand why these people should become the chosen people of the country or of the State; and I say, without fear of contradiction, that after abolishing the issue of free passes, the amount which is left unrealized by some persons travelling without a ticket will be compensated, or there will be a very little amount left unrealized as a receipt and I think that the public should be consulted on the point of their punishment being a fine of one hundred rupees or one year's imprisonment. Besides, there are other provisions in this Bill which require the eliciting of the opinion of the public. Sir, in the meantime it will serve both the purpose of having public opinion and also of referring it to a Select Committee. With these words I move my motion.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1941."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I was a party to that former Bill when it was discussed in this House, and a "party" in the sense that I had taken part in the discussions that took place then. I won't do that now, because I know what the fate will be even if I speak for three days. Sir, that Bill, when it came before the House as it was put in by the Honourable Sir Muhammad Zafullah Khan who was then in charge of the Railways, was considered in the House to be not only unpopular, but most drastic. No doubt that Bill went to the Select Committee, but it was not proceeded with much further. The points that were raised at that time, the difficulties that were presented to the House, and the drastic nature of the Bill were considered at cooler moments and the Bill was shelved and not proceeded with any further. Four years elapsed, and it was considered that the Bill had died its natural death. But now that the Honourable Sir Andrew Clow has come in office, he has softened the provisions of the Bill to some extent and brought it before the House to be passed. He was so sure of its passage in the beginning, that he did not even propose that it be sent to the Select Committee. Subsequently, perhaps on some pressure being brought by some of the Honourable Members, or may be that he thought that the Bill was very drastic in the matter of punishment, he thought that he should have the opinion of Members whether it is at all necessary that the punishments should be so harsh and severe. In my humble

[Mr. Lalchand Navalrai.]

opinion, a Bill like this is not at all necessary. Seeing that the Railways are a commercial concern, it would simply make them unpopular if you were to provide such a harsh punishment for persons who are travelling without tickets and who for such a long time have not been subjected to that punishment. The railways are already suffering on account of competition by motor buses. Therefore, they should show to the public that they are not proceeding in any manner which is unreasonably harmful to them. On the contrary, if they deal with the public in the right manner, they will get more money, and the railways will become a more earning concern. What we find is this, that by a Bill like this the Railway is going to show that there are ticketless travellers who should be strictly dealt with. This is the case all over the world. Nobody can deny it. Therefore, the making of such enactments is not right. In the first place, we know who are travelling without ticket. The Honourable the Railway Member would admit it himself that most of these persons are beggars and indigent people or religious mendicants. (Interruption by Lieut.-Colonel Sir Henry Gidney.) The Anglo-Indians are the biggest sinners in the matter of ticketless travel on railways. They are railway servants, and they take the utmost advantage of their position.

When we know that the class of people who are guilty in this respect are generally persons who are not travelling because they intend to defraud the railways, but because they are helpless, Government ought to make some arrangement for their travel, or there ought to be some correction houses for them to live in. When Government have been able to make such arrangements, then only can they come forward with Bills like this. Then, Sir, I do not blame these persons so much as I blame the Railway Department itself. The Railway Department has not taken proper precautions to see that these beggars or indigent persons who travel without tickets do not enter the platform or the trains. At several stations they have no fencing at all. They have open doors at several stations. Therefore, first put your own house in order, and then take the proper precautions. You can then come to this House and say that in spite of all those precautions, you have failed to achieve the object, and, therefore, you want an enactment like this. Now, Sir, it is a fact that the railway servants are mostly responsible for this ticketless travel and they allow their own relatives and friends to do the same. Therefore, the burden cannot be thrown on the public.

Now, Sir, it will be much better if I were to speak with some authority to show that no proper precautions are taken, and it is because of that that we find ticketless travellers in the railways. On that point, Mr. K. C. Ghosh, the Special Railway Magistrate, Howrah, while presiding over the All-India Railway Magistrates' Conference on the 10th instant, said something, and I would like to read out his words to the House. Referring to the causes of the evil of ticketless travel, Mr. Ghosh said:

"The growing poverty of the masses was undoubtedly a factor, apart from criminal propensity or moral depravity."

Now, if there is no moral depravity and no criminal propensity why do you want to send such men to the jail?

The Honourable Sir Andrew Clow: If I caught the quotation correctly, Mr. Ghosh did not say that there was no criminal propensity or moral

depravity, but that apart from those things there was another factor. That was his opinion.

Mr. Lalchand Navalrai: I am coming to that. I was going to say that this is one of the reasons he has given and I agree with him there. Sir, I have said that the Railways should take proper precautions to see that these persons do not get into the trains. They can get into the trains only from the platforms; they cannot enter into the running trains. Or it may be that out of compassion the railway servants allow them to travel. In that case, is it right that you should catch them at the next station and send them to jail? Mr Ghosh goes on to say:

"But the outstanding cause, in his opinion, was the slackness and inefficiency of the checking staff who should be much more alive to their responsibility."

Sir, you must create responsibility first before sending people to jail, I admit that in the former Bill which was before the House, the burden of proving fraudulent travelling was placed upon the accused. It was shown that that was against fundamental laws and rules and there was great objection raised with regard to burden of proof. In every case the burden of proof always lies on the prosecution. Now, Sir, so far as that portion of the Bill is concerned, of course it has been removed, but the Honourable Member disputes they have not deleted that portion for the above reasons. The intent, however, is that severe punishment be provided. The question of fraudulent travelling is in practice lightly treated. What is being done usually in Courts is not that they are going to show by any circumstances that a man has fraudulently entered the train. They go into Court and say, "he had no ticket and he had been caught". The magistrate accepts that it was fraudulent and that he was cheating the railway in the sense that he had not paid any fare. In that case, what I would submit is that it is so easy in practice. Of course it is very difficult to prove fraud otherwise. There should be strong evidence to prove; otherwise there will be no difference between section 118 and section 112. No doubt the word "fraudulently" has been put in there. I should like to know even from the Honourable Member that if in practice or from his experience he can tell me if anything more has been proved in order to bring a person under this section than merely travelling without ticket. On the contrary I should like to know from the Honourable Member for Railways what they have been proving up to now in order to bring it under fraud, so that the punishment for that should be extended and that a heavier punishment should be enacted.

I submit, Sir, that finding that section loosely worded already, it can be urged that because a man is travelling without ticket, he is travelling fraudulently. Considering the former Act we find that apart from the burden that was going to be placed upon the accused, that portion has been taken away now no doubt. With regard to the removal it is said that if a man has got no ticket and he is ready to give his name and his address and he is also such a man whose address is known, why should he be removed by force? This is giving a handle into the hands of small railway officials to call the police and evict even well-to-do and respectable men out of the compartment. In the former Bill, you were providing that it should be cognizable offence, but here too you are more or less making it cognisable in the sense of removal by force. Now,

[Mr. Lalchand Navalrai.]

you want this Bill to be sent to the Select Committee. I know that the Bill will go to the Select Committee, because the House is very thin now. The Government need not even adopt the formality of sending the Bill to the Select Committee. They can straightaway get the Bill passed into law. I appeal to the Honourable the Railway Member not to press for such a stringent provision. Why not ask for an increase in the penalty so that he can have more income? It is a commercial proposition. Why do you want people to be sent to jail? If you send people to jail, you have to pay for their lodging and boarding?

The Honourable Sir Muhammad Zafrullah Khan (Law Member): If you increase the penalty and nevertheless he does not pay, what is the remedy?

Mr. Lalchand Navalrai: The fine may be recovered. Why should imprisonment be provided for in default? They will certainly pay the fine; they must have some property. I am talking of those people who designedly fraudulently go into a compartment and then it cannot be said that these people are unable to pay the fine. They have been paying the fine up to this time. Even beggars sometimes pay their fines. My point is that the railways have not suffered in any way. I, therefore, say that these stringent provisions should be removed.

The Honourable Member for Railways said that much of the stringent portions of the old Bill have been removed, but has he seen that Bill with regard to punishment? In the former Bill, with regard to punishment, I find that section 3 said "if a person enters in contravention of section 68 any carriage or railway he shall be, unless he satisfies the Court (of course this has been removed now) punished with imprisonment which shall extend to two months". Now he is making it into one year. I cannot understand how it appears reasonable to him that a punishment should be for one year in place of two months which was proposed in the original Bill. At that time it was not only with regard to burden of proof that objection was raised, but also it was with regard to removal, and also with regard to punishment as well. There was objection even for two months imprisonment. Now, we find that the Bill is going to be more stringent. With regard to that the present law does not provide any punishment in default. Now, for the first time punishment is provided for non-payment of fine. But Government will not get any benefit from it; on the contrary they will be losers. It was said that the punishment is as provided in the Indian Penal Code. But there the question of cheating is very different, not such as travelling without ticket. One can twist and turn and say that it is fraudulent.

This Bill cannot be very lightly treated, but as it is bound to go to the Select Committee, I would request the members of the Select Committee to consider these objections, compare this Bill with the former one and consider the feelings of the public, and also consider what the gain to the railways would be by stiffening the punishment.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, this question of transferring civil liability into criminal liability has been before us since 1922. In the year 1922 the

Bengal Nagpur Railway represented the seriousness of the position to the Indian Railway Conference Association and pressed for a revision of the Railways Act in order to make the infringement of sections 112 and 113 a cognisable offence. Thereupon, the Railway Conference in October, 1922, passed the following Resolution:

"That in view of the increase in the number of passengers travelling without tickets and of the loss to railways and to Government caused thereby, this Conference recommends for the consideration of the Railway Board the advisability of revising the Railways Act in order to provide better security for railways in recovering fares and penalties for travelling without tickets."

This question was referred to the Central Railway Advisory Council and in July, 1923, the Council recorded this Resolution:

"The Council is not prepared to advise the adoption of this method until all other possibilities have been tried, and it considers that further experience should be gained of the improved system of checking tickets now under trial on the North Western, Oudh and Rohilkund and other railways."

Later on, the subject drew the attention of the Railway Conference Association and they repeated their Resolution of 1922 in 1925 and in 1926. The matter stood there till an enthusiastic Member who is also a lawyer took up the matter and drew up a Bill which was laid before the Legislative Assembly on the 23rd March, 1936. It was taken up for discussion on the 31st August 1936, and voted upon on the 3rd September, 1936. On that occasion I moved a motion that the Bill should be circulated for the purpose of eliciting public opinion thereon. My Honourable friend, Mr. Satyamurti, at that time said that he would very much like the Bill to be thrown out altogether and buried. I wish I had taken his advice then but I pressed for circulation which motion was carried by 54 votes to 46. Sir, I was amusing myself at 4 o'clock this morning in reading the speeches delivered by different Members on that occasion, and I was very much amused to read the speech of my Honourable friend, Mr. Lalchand Navalrai. Before I draw attention to the points of difference between that Bill and the present one I will refer to some salient points to which attention was then drawn—

I said:

"Sir, you seek to legislate in a manner as if railway travel without a ticket is a violation of the public peace; and at the same moment you ask us to believe that the railway system should be treated as a commercial concern."

A business concern would never ask that you should send a person to jail for violating a rule of business. They would like to have their money. A person may be sent to jail for non-payment of dues, but he should not be sent to jail by a magistrate as an alternative to payment. According to the old Act you could recover Rs. 100, but under the clause in the former Bill he could either pay Rs. 100 or go to jail for two months. That was what I pressed on that occasion. If you transfer civil liability into a criminal liability you should not say it is a commercial concern. You cannot treat this as if it were a violation of peace and order. I am prepared to give you this power to send a person to jail if you do not call it a commercial concern, but you cannot have it both ways.

There were few other points raised by several speakers and one very important point was raised by my Honourable friend, Mr. Sri Prakasa. He said:

"I do not think that we can permit any legislation along the lines proposed by the Honourable the Commerce Member, unless he can ensure to the country at large

[Dr. Sir Ziauddin Ahmad.]

an efficient, honest and courteous railway service. Unless this condition is fulfilled, it will be impossible for any representative of the people, sitting in this House, to give countenance to any Bill of the sort that is before us today. *** Have the Government thought of making any law to prevent overcrowding in railways? When a bus is overcrowded there is prosecution. When a railway compartment is overcrowded, so far as I know, there has been no prosecution."

I shall not waste the time of the House by reading long passages, but shall draw attention only to one or two points. One point to which I referred at that time and shall refer to now is that people try to overawe us by quoting very big figures: they say five lakhs or 50 lakhs—I have not been able to make out what the correct figure is—travel without tickets; but if you take the ratio of the number who travel without tickets to the total number of people who travel by railways, it works out only to 5 per cent., that is, five persons in one thousand travel without tickets, according to the figures which were quoted by Mr. Mudie on that occasion. This is not a very large number—5 per cent. Let us see the number of ticketless travellers in Road Service. I made inquiries personally at different places and found that about ten per cent. of the persons who travel by buses travel without purchasing a ticket—all police officers, all government servants, all tahsildars and their relatives and their number comes to about ten per cent. Therefore, you are really asking us to legislate for you and transform this civil liability into a criminal liability in the case of railways, while you shut your eyes to this ten per cent. of people who travel by bus without tickets—and you provide no facilities for the recovery of their fares. If you say that this should be a criminal liability, why do you not make it a criminal liability in respect of buses also? We have two competitors—rail and road, and they must be treated fairly by the Legislature: it is not fair that you give one of them a special advantage and leave the other alone. If it is to be a criminal liability, make it so in both cases and for all kinds of communications, for every kind of public carrier—ekka, tonga, bus or railway. Let there be one principle. It is a violation of justice to treat one public carrier, the railway, as a specially favoured class. It is a wrong position.

There are one or two other small quotations I would like to make. I do not want to quote my friend, Mr. Lalchand Navalrai, as he has already explained himself, but I would like to give a quotation from Mr. Kazmi's speech, which is really very important. Mr. Kazmi said:

"Sir, there are two principles which are involved in the motion before the House. One is this of shifting the onus while the other is that by this Bill they are turning a purely civil liability into a criminal liability. This Bill stands as No. 12 on the Agenda for today, and you just reverse number 12, you get 21. This is the number of another Bill which is appearing on the Agenda of today which provides for the practical abolition of civil imprisonment for debts. What I mean to say is that we in this Assembly have got to consider on one and the same day two Bills, in one of which we are trying to change a civil liability into a criminal liability and at the same time we have to consider another Bill in which we want to abolish civil imprisonment for civil liabilities."

(Interruption by Mr. James.)

My friend, Mr. James, has reminded me and I would just tell him a story, that I proposed to give two medals to two Members of the Assembly—one for first-class jokes—and the second to one who has no capacity to understand a joke. The first medal went to Mr. F. E. James and Sir Homi Mody was the runner up; I do not want to declare the result of the other medal.

Coming to the Bill, I do not want to read out exhaustively what happened on that occasion. This Bill was circulated by the Legislative Assembly Department according to the decision of the House. As soon as the opinions were obtained, I do not know what happened, whether any person in the Railway Board read those opinions or not—probably not, because there is no reference whatever to any one of the opinions in the speech of my Honourable friend, Sir Andrew Clow: but if nobody else read them, I think in the interests of keeping up our reputation we ought to mention some of the opinions, so that everybody should understand that we read the opinions sent to us: I admit that I read every word of the opinions circulated to Members. Later on, when the Congress Members were absent on account of their attending the Congress session, the Government presented the motion during their absence and naturally it was accepted: this was done on the 2nd February, 1937. My friend, Mr. Lalchand Navalrai, says that the same thing will happen now. I think he is perfectly right, that the Government are always looking forward to the opportunity when they can carry the whole thing by their official votes, because they know that public opinion is very much against them, as they will notice from the opinions received by us; it was not very desirable on their part to press this measure at the present moment,—specially during the war. It is quite unnecessary, in my opinion, to give further annoyance when this number of ticketless travellers is not on the increase. The Honourable Member has said nothing on the floor of the House as to whether the number is increasing or diminishing. What was the percentage in 1922 when the question was first raised by the Bengal Nagpur Railway? What was the percentage in 1936 when the Bill was prepared for the first time? And what is the percentage now in 1940 when it has become necessary that the Bill should be revived again.

Mr. Lalchand Navalrai: And how many are railway servants who are sinners in this respect?

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Who can tell their number, because they are never caught?

Dr. Sir Ziauddin Ahmad: Now, I come to the second part of my speech, that is, the difference between the old Bill and the new Bill. The fundamental principles of the old Bill were that they attempted to modify section 112 of the Act. Now, section 112 of the Act clearly says:

"Any person who intends to defraud the Railway Administration or enters in contravention of . . . shall be punished with fine which may extend up to Rs. 100, in addition to the amount of the single fare for any distance he may have travelled."

That was the wording in the original Act.

Now, in the Bill which is presented to us, and which is sent for circulation, this section was changed and it read as follows:

"If a person enters in contravention of section 68 any carriage on a railway, he shall, unless he satisfies the court that he had no intention to defraud the Railway administration be punished with imprisonment which may extend up to two months or with fine which may extend to Rs. 100, in addition to the amount of the single fare."

Now, there are two principles which the old Bill introduced. One was that the burden of proof did not lie on the railway authorities, but it was laid entirely on the accused. The second was that, instead of

[Dr. Sir Ziauddin Ahmad.]

recovering money which I thought every commercial concern would ask for, they said either send the man to jail or recover the money. Therefore these two alternatives did not appeal to me. I can understand your recovering the money, but I cannot understand any business concern sending its debtor to jail instead of asking him to pay the money even if he is willing to pay it. I am glad that the first part is omitted in the present Bill, that is, the burden of proof no longer rests on the accused. But in one respect it goes still further, that the quantum of punishment of two months is now increased to one year, that is to say, the accused shall be punished with imprisonment for a term which may extend to one year, or with fine. The quantum of punishment has been increased from two months to one year. I am not at all sure that the opinions we have received on this point justify the alternative punishment. After all, when you send a Bill for circulation, you get public opinion, and those opinions should carry weight. I will show from these opinions that the representatives of the people did not like to have a provision of this kind in the Bill, that is to say, people who happen to travel without a ticket should be sent to jail. In the new Bill we have got another provision clause 4 (3) the proviso says:

"Provided that where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, the excess charge shall be one sixth of the excess charge otherwise payable calculated to the nearest anna, or two annas, whichever is greater."

Now, according to the old rule, if a man's intention is honest and if he notified beforehand that he could not purchase a ticket, then he had not to pay penalty, he had only to pay the fare. Now, the new rule is even if a man notifies, even then he will have to pay one sixth of the excess charge . . .

The Honourable Sir Andrew Clow: I think it will save the time of the House if I point out that this principle is already in the present Act. The Honourable Member may study sub-section (3) of section 118. clause (a).

Dr. Sir Ziauddin Ahmad: My point is, when a person has notified that he could not purchase the ticket, there should not be any excess charge at all. This was made clear in the old Bill, but it is now removed. My principal argument in pressing it is that it is very difficult in many cases to get the tickets in time at many small stations. On most stations they have got only one clerk. He collects the tickets and he issues the tickets. When he is standing to collect the tickets from passengers who get down from the train, it is impossible for him to issue new tickets. I had myself some experience even at a junction station like Ballharshah, which is the terminus of the Nizam's State Railway and G. I. P. Railway. I said that there was only one clerk in the whole station both to issue tickets and to collect tickets. At the time when he really should be issuing tickets, he stands at the gate to collect the tickets from passengers who have got down from the train. Therefore, if you want to be very strict with the travelling public, then it is your duty to provide facilities so that tickets can be readily purchased. We all know that at many small stations it is impossible to

get tickets in time. It was pointed out several times on the floor of the House that in third class booking offices very often the public cannot get tickets unless some *bakshish* is paid, and if there is only one man both to collect tickets and issue tickets, it is very difficult for the man on duty to attend to both duties, and generally he refuses to sell tickets because he is busy in collecting tickets. He is not available at the booking office. He is in a very difficult position. If he does not give a ticket, the honest man suffers; if he gives a ticket to the honest man, then the dishonest man will pass through the gate without a ticket. Therefore, the only way in which the railways can avoid such things is to employ two persons—one to issue tickets and the other to collect tickets at the gate. If I leave a note of Rs. 50 on the road and don't find there on the following morning, I cannot begin to make laws for stopping the dishonesty of the public. So if you provide enough facilities to the travelling public for selling tickets at the right moment, then such things are not likely to occur; but if you fail to do so, it will mean that you yourself are encouraging the public to travel without tickets. Therefore, I repeat that you should make suitable provision beforehand so that honest people may be able to get tickets easily, but such facilities do not exist at present.

Sir, the next thing which the new Bill has introduced is clause 4 (5), and in this there is very great danger of its being misused. Sub-section (5) says:

"Any person who, without having obtained the permission of a railway servant, travels or attempts to travel in a carriage without having a proper pass or ticket with him or in a carriage of a higher class than that . . . may be removed from the carriage by any railway servant authorised by the railway administration in this behalf or by any other person whom such railway servant may call to his aid, unless he then and there pays the fare and the excess charge which he is liable to pay under this section."

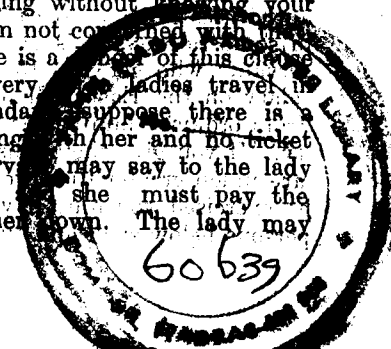
This particular clause which is really put in for the first time, which was not in the original . . .

The Honourable Sir Andrew Clow: This is a verbatim reproduction I think of a clause in the original Bill. It was in clause 112 in the original Bill.

Dr. Sir Ziauddin Ahmad: I have got both the Bills here and I do not see verbatim reproduction.

The Honourable Sir Andrew Clow: I will mention that in my reply I have not got the papers with me at the moment.

Dr. Sir Ziauddin Ahmad: Here is a copy of the old Bill. Please let me know which is the section. You are speaking without knowing your case. Whether it was in the old Bill or not, I am not concerned with that. That is a minor matter, but my point is that there is a danger of this clause being misused. Suppose a lady travels—and very often ladies travel in female compartments without any male attendant—suppose there is a small girl or boy below the age of three travelling with her and no ticket was purchased. On the wayside the railway servant may say to the lady that the child was more than three years old, she must pay the money, with penalty otherwise he would get her down. The lady may



[Dr. Sir Ziauddin Ahmad.]

have no money, because she may be received by her relatives at the destination station, and with a mischievous intention the railway servant may compel her to get down at the wayside station where she will have nobody to look after her..

The Honourable Sir Andrew Clow: As the Honourable Member has asked me for particulars he will find the clause

Dr. Sir Ziauddin Ahmad: I consider it is a minor point, I have said so already.

The Honourable Sir Andrew Clow: The Honourable Member said that I did not study the papers and that it was not in the original Bill. I now tell him where to find it. It is in section 112 of the old Bill

Dr. Sir Ziauddin Ahmad: Are you talking of the old Bill? It never had 112 Sections.

The Honourable Sir Andrew Clow: Old Bill. The actual clause was 3 of the Bill, 112 of the Act. The clause added will be found there as sub-section 3.

Dr. Sir Ziauddin Ahmad: I will come to this later on, but let me finish the point I am on now. As I said, there is a great danger of this being misused. There may be a *bona fide* person, but by chance he may have no money with him for the time being. He may be asked to get down at a wayside station where he may have nothing to eat. It sometimes happens that a *bona fide* traveller has purchased his ticket but his ticket may have been with the servant who is left behind at some other station, or he has mislaid the ticket and cannot find it at once. Under this particular clause he will be asked to get down if he is unable to pay the money then and there. He may be a millionaire, he may have a cheque book with him, he may write a cheque for a lakh of rupees, but he may not have enough money with him in cash at the time. Under this provision he can be asked to get down and he may have to suffer enormous harassments under this clause. Another point which is still more important is that you provide an opportunity for bribery and corruption. When you give this power, you are inducing your servant to extract money by this method. They can go and ask any person to get down and if any gratuity is paid the man may be let off. Therefore, why legislate any law which is likely to be abused, which is likely to lead to corruption? It is very desirable that we ought to avoid such a result. This is a very important matter and unless the men who will administer the provisions of the Bill belong to a higher standard of people, I may tell you that it will be very difficult for this provision to be observed properly. The railway authorities are now recruiting their servants on a scale of Rs. 20 and 25, in some railways it is even Rs. 15 a month. These subordinate railway servants who get Rs. 15 or 20, or 30 which is the maximum starting salary on the East Indian Railway, with very poor education, and coming from ordinary families cannot be expected to have high standard of morality. If you give them this power, the chances of the misuse of that power are much greater than we can think of at present. If this power is at all to be exercised you must lay down a rule that it cannot be exercised by any persons below such and such rank, but if it is left to any person to exercise

that power, the chances of misuse are very great. I know that in several cases this has been misused, and in one case it may have led to a serious communal trouble. In a certain case, at the Tundla station two Aligarh students were detained by the police, I know they had some kind of grudge, they detained these boys at night and afterwards they asked them to walk bare headed with handcuffs on from the railway station to the Court where they were presented. There was a great sensation in Agra and there was a very urgent meeting of the Muslim League on that particular matter. They approached the Commissioner who happened to be at the time Sahibzada Khurshid Ahmad Khan. He had imagination and he at once sent an order to the magistrate to release those two boys. Had there been any other man except him with less imagination, there would have been a first class row at Agra between the Hindus and Mussalmans, not on account of the fault of the Local Government, but on account of the special situation which the railway authorities had created. In this particular Bill a volume of matters for trouble are being created for dealing with which the railway authorities will not be responsible but the Local Governments will be responsible. If you enact a law, take the responsibility of administering it yourself. Don't throw the burden on the provincial Governments for its administration, and it is very desirable that if you enact any particular law you should also be responsible for its enforcement. I apprehend that if this Bill becomes a law there may be very serious troubles in future. And this is a thing which you ought to avoid.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can continue his speech tomorrow.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 21st November, 1940.

LEGISLATIVE ASSEMBLY

Thursday, 21st November, 1940.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

RETENTION OF ALMOST ENTIRE MINISTERIAL STAFF OF LABOUR DEPARTMENT IN NEW DELHI DURING THE LAST SUMMER.

198. *Sardar Sant Singh: (a) Will the Honourable the Labour Member please state how the experiment of leaving the entire ministerial staff of his Department, except two or three men, in New Delhi during the last summer has worked?

(b) If this experiment has been successful, is he prepared to consider the question of detaining all the officers of his Department also at Delhi during summer in future? If not, why not?

(c) Is he also prepared to recommend this arrangement to the other Departments of the Government of India?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: (a) The experiment has worked satisfactorily.

(b) No. One Department cannot take individual action in this matter which is one for Government as a whole to decide.

(c) Does not, therefore, arise.

RECRUITMENT OF OFFICERS IN THE SUPPLY DEPARTMENT THROUGH THE NATIONAL SERVICE COMMITTEE.

199. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Law Member please state whether it is a fact that the Supply Department recruit their officers through the National Service Committee and not through the Public Service Commission?

(b) Was National Service Committee established for the purpose of recruitment?

(c) Why has this power been transferred to the Committee?

(d) Did this Committee ever recommend any Indian for appointment in the Supply Department?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b) and (d). No.

(c) Does not arise.

Dr. Sir Ziauddin Ahmad: May I take it that the recruitment is not made through the National Service Committee?

The Honourable Sir Muhammad Zafrullah Khan: It is not made through the National Service Committee.

Dr. Sir Ziauddin Ahmad: Is it made through the Public Service Commission?

The Honourable Sir Muhammad Zafrullah Khan: Which recruitment?

Dr. Sir Ziauddin Ahmad: Recruitment to the Supply Department?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

Dr. Sir Ziauddin Ahmad: Is it made by the Departmental Committee?

The Honourable Sir Muhammad Zafrullah Khan: It is made in various ways. There are selection boards, and, with regard to the borrowing of officers, there is consideration by the Department, and so on.

Dr. Sir Ziauddin Ahmad: Are these posts advertised? When Government want to create a post and recruit a person, is it advertised?

The Honourable Sir Muhammad Zafrullah Khan: I believe some of them have been advertised.

Mr. N. M. Joshi: May I ask what this National Service Committee is, if any such committee exists?

The Honourable Sir Muhammad Zafrullah Khan: Honourable Members will remember that under the National Service European British Subjects Act of 1940, competent authorities have been set up with regard to requisitioning, if I might so describe it, of European British subjects under that Act—those of them who are liable for military or civil service, and this committee advises the competent authority with regard to individuals when they are wanted either for military or civil employ.

STEPS TAKEN BY THE DELHI IMPROVEMENT TRUST FOR PLANTING TREES AND SHRUBBERY IN KAROL BAGH, DELHI.

200. *Bhai Parma Nand: Will the Education Secretary please state the steps taken by the Delhi Improvement Trust for planting trees and shrubbery alongside the roads and in the parks in Karol Bagh area, Delhi, since it came into existence and why no progress has so far been made?

Mr. J. D. Tyson: The planting of trees on the main road leading to the Imperial Institute of Agricultural Research is in hand. The planting of trees on the other roads is not contemplated at present. The grassing and planting of trees and shrubbery in the main park in Karol Bagh in front of the Tibbia College has been completed.

METALLING OF ROADS, ETC., IN KAROL BAGH, DELHI, BY THE DELHI IMPROVEMENT TRUST.

201. *Bhai Parma Nand: (a) Will the Education Secretary please state when the metalling of roads, lanes and streets was completed in Karol Bagh, Delhi, by the Delhi Improvement Trust?

(b) Is he aware that most of the metalling in the lanes and streets, etc., has already worn out altogether and requires re-metalling?

(c) How much money was spent on the metalling of these roads, etc.?

(d) Is he satisfied that the metalling done was according to specifications?

(e) What were the specifications and were these roads finished according to the specifications?

Mr. J. D. Tyson: With your permission, Sir, I shall answer questions Nos. 201 and 203 together. The information has been called for and a reply will be furnished to the House when it is received.

SHIFTING OF THE DUMPING GROUND FOR DEAD ANIMALS FROM KAROL BAGH, DELHI.

202. *Bhai Parma Nand: With reference to the reply to starred question No. 375 of the 13th March, 1940, will the Education Secretary please state if, the dumping ground for dead animals has by this time been removed from Karol Bagh, Delhi, to the Badli Refuse Disposal Ground? If not, why not?

Mr. J. D. Tyson: Effect has not yet been given to the change as the wagons at present used for the transport of refuse are not adapted to carry carcasses. Steps are being taken to convert three silt wagons into carcass-carriers and the use of the dumping ground near Karol Bagh will then be discontinued.

CASES OF INFRINGEMENT OF BUILDING BYE-LAWS OF THE DELHI IMPROVEMENT TRUST.

†203. *Bhai Parma Nand: (a) Will the Education Secretary please state how many cases of infringement of building bye-laws have been sent to the court ever since the Delhi Improvement Trust came into existence and how many of them have been decided in favour of the Trust?

(b) What is the amount of the fine or compromise money realized by the Trust through the Court or otherwise so far?

(c) Is it not a fact that the trying magistrate invariably decided in favour of the Trust?

(d) How many building plans were received since the formation of the Trust and how many were sanctioned?

ALLEGED UTILISATION OF THE SERVICES OF *KHALASIS* BY THE OFFICERS OF THE DELHI IMPROVEMENT TRUST FOR PRIVATE WORK.

204. *Bhai Parma Nand: (a) Will the Education Secretary please state how many *Khalasis* are employed in the Delhi Improvement Trust and what are their duties?

(b) Is it a fact that the services of these *Khalasis* are generally utilized by the officers under whom they work for private work?

(c) Are Government aware that there is a general complaint among these *Khalasis* that the overseers and Building Inspector under whom they

†For answer to this question, see answer to question No. 201.

have to work tyrannise them for refusing to work in their houses and threaten them with dismissal?

(d) What steps does he propose to take in the matter?

Mr. J. D. Tyson: (a) There are ten *Khalasis* employed under the Trust. Their duties are substantially the same as those of the *Khalasis* in the Public Works Department; that is, to assist the overseers in demarcation of the land and in other duties performed by them.

(b) and (c). No.

(d) Does not arise.

SUBORDINATES AND CLERKS WHO WORKED UNDER THE BUILDING INSPECTOR OF THE DELHI IMPROVEMENT TRUST AND RESIGNED.

205. *Mr. Muhammad Azhar Ali: With reference to the reply to part (b) of starred question No. 605 of the 1st April, 1940, will the Education Secretary please state the number respectively of the subordinates and clerks who have worked directly under the Building Inspector of the Delhi Improvement Trust since April last and how many of them have resigned and why?

Mr. J. D. Tyson: Five overseers, four clerks, two draftsmen, one ferro-printer, three peons and ten *khalasis*. One overseer resigned for domestic reasons.

ALLEGED UTILISATION OF THE SERVICES OF *KHALASIS* BY THE OFFICERS OF THE DELHI IMPROVEMENT TRUST FOR PRIVATE WORK.

206. *Mr. Muhammad Azhar Ali: (a) Is the Education Secretary aware that for refusing to do private work in his house, the Building Inspector of Delhi Improvement Trust has victimised two *Khalasis* and these have been dismissed from service quite recently?

(b) Are Government aware that the whole staff working under or with the Building Inspector is dissatisfied with him?

(c) Is it a fact that the public at large have made several complaints, both verbal and written, against the misbehaviour of the Building Inspector?

(d) Is it a fact that many overseers have been made to resign?

(e) What action does he propose to take to stop such a state of affairs in the Delhi Improvement Trust?

Mr. J. D. Tyson: (a), (b), (c) and (d). No.

(e) Does not arise.

LIEN ON HIS POST ALLOWED TO A CERTAIN EMPLOYEE OF THE DELHI IMPROVEMENT TRUST.

207. *Mr. Muhammad Azhar Ali: Will the Education Secretary please state whether it is a fact that the Delhi Improvement Trust is a temporary office, and are Government aware that one of the relatives of one of the officers has been allowed lien on his appointment, while many others were refused such a concession?

Mr. J. P. Tyson: The reply to the first part of the question is in the affirmative. As regards the second part, a clerk who had been offered a temporary war appointment was given a year's leave without pay to enable him to take up that appointment. No employee of the Trust has been refused similar treatment in similar circumstances.

INCORPORATION OF THE DELHI ELECTRICITY AUTHORITY.

208. *Mr. Muhammad Azhar Ali: Will the Honourable Member for Labour please state:

- (a) the date of the incorporation of the Delhi electricity authority;
- (b) the date of the commencement of the work by that authority;
- (c) the area controlled by that authority;
- (d) the reasons for not controlling the supply of electricity to Delhi, Shahdara from the date of the commencement of the work by that authority; and
- (e) whether Government propose to refund the amount charged for energy consumed by residents of Delhi-Shahdara over and above that prevalent in Delhi since the commencement of work by that authority; if not why not?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: (a) 14th April, 1938.

(b) 1st April, 1939.

(c) The Authority does not "control" any area. The licence granted to the Authority authorises it to supply electricity anywhere in the Delhi Province, but does not confer any monopolistic right.

(d) Electric energy is supplied in Delhi-Shahdara by Messrs. Martin and Company who hold a licence for the purpose. For the first five years the Company was bound to obtain their current from the United Provinces grid. It is now open to the licensee, with the approval of the local administration, to go to any other bulk supplier, and it is understood that the Company intend to take current from the Authority in Delhi as soon as that Authority is in a position to meet the demand. At present, for want of certain gear ordered from Europe, the Authority is not in a position to undertake this extra order.

(e) Does not arise.

CENTRAL TUBERCULOSIS CLINIC, DELHI.

209. *Maulvi Muhammad Abdul Ghani: (a) Will the Education Secretary please state when the Central Tuberculosis Clinic was opened in Delhi?

(b) Do Government give financial assistance to this institution? If so, how much?

(c) Has the officer in charge of the said Clinic ever practised as Tuberculosis doctor?

(d) Is it not a fact that his entire experience is limited to six months training in a sanatorium in Madras?

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

Mr. J. D. Tyson: (a) The Clinic was opened yesterday.

(b) Government propose to give a recurring grant-in-aid the exact amount of which has not yet been decided. They have also provided the site for the Clinic free of cost.

(c) Government are not responsible in any way for the appointment of the officer in charge. They have ascertained, however, that the officer has had special experience of the treatment of tuberculosis for a number of years.

(d) No.

NON-TRANSFER OF CERTAIN MEMBERS OF REGULAR ELECTRICAL ESTABLISHMENT ON DUTY IN NEW DELHI.

†210. ***Maulvi Muhammad Abdul Ghani:** With reference to the reply to question No. 431 by Raizada Hans Raj, given on the 22nd February, 1938, will the Honourable the Labour Member be pleased to state:

(a) the number of the members of regular Electrical Establishment who are employed on duty in New Delhi, for more than five years, ten years and fifteen years, separately;

(b) whether the members of the Establishment are meant for employment at New Delhi and are not liable for transfer to any other place outside Delhi within the jurisdiction of the Department; and

(c) whether the retention for more than five years at Delhi is in the interest of the public and, if so, why?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: (a) Eight, nil and eight, respectively.

(b) They are liable for service wherever there is a Central Public Works Department organisation.

(c) The retention in, or transfers to, particular places, of individual persons, is regulated by the requirements of the public service.

NON-TRANSFER OF CERTAIN OFFICERS OF THE CENTRAL PUBLIC WORKS DEPARTMENT.

†211. ***Maulvi Muhammad Abdul Ghani:** (a) Will the Honourable the Labour Member please state the number of the officers (overseers and above them) working under the Central Public Works Department who have been working at New Delhi for more than five years or who are still continuing with little interruption?

(b) Are they not liable for transfer to any other place outside Delhi, when the Department has got jurisdiction all over India?

(c) What does he propose to do in the matter and when?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: (a) Sixty-six.

(b) Yes.

(c) Transfers and postings are made in the interests of the public service and no action on the part of Government is required.

RESERVATION OF GOVERNMENT BUNGALOWS AND QUARTERS FOR PARTICULAR OFFICERS OR STAFF IN NEW DELHI OR OLD DELHI.

†212. ***Maulvi Muhammad Abdul Ghani:** Will the Honourable the Labour Member please state if any Government bungalows and quarters are specifically reserved for particular officers or staff other than those drawing less than Rs. 1,500? If so, will Government state separately how many of each class in New and Old Delhi have been so reserved and for whom and on what grounds are these so reserved?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: Yes. A statement giving the required information in respect of houses in New Delhi is laid on the table of the House. No house has been reserved in Old Delhi for any officer drawing Rs. 1,500 per mensem or more.

Statement.

Serial No.	Houses.	Officers for whom reserved.	Reasons for reservation.
		<i>Class A (Rs. 3,000 and over.)</i>	
1	19, Akbar Road	Chief Justice of India.	It is considered necessary that accommodation should be secured for these officers.
2	23, Akbar Road	Air Officer Commanding, Air Forces in India.	
3	24, Akbar Road	Secretary, Home Department	
4	10, Albuquerque Road.	Judge, Federal Court	
5	4, Hastings Road	Master General of Ordnance in India.	
6	5, Hastings Road	Secretary, Communications Department.	
7	6, Hastings Road	Secretary, Defence Department	
8	8, Hastings Road	Secretary, Legislative Department	
9	2, King George's Avenue.	Secretary, Education, Health and Lands Department.	
10	4, King George's Avenue.	Q. M. G. in India	
11	8, King George's Avenue.	Secretary, Labour Department	
12	9, Queensway	Chief of the General Staff	
13	10, Queensway	Political Adviser	
14	11, Queensway	Director Intelligence Bureau	
15	1, Race Course Road	Advocate General of India	
			Administrative convenience.
			An Advocate General has to keep a large Library.

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

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

Serial No.	Houses.	Officers for whom reserved.	Reasons for reservation.
16	5, Sonehri Bagh Road.	Secretary, External Affairs Department.	It is considered necessary that accommodation should be secured for these officers.
17	2, York Road.	Chief Commissioner Railways	
18	8, York Road.	Judge, Federal Court	
19	9, York Road.	Secretary, Commerce Department	
20	1, York Place.	Secretary, Finance Department	
21	2, York Place.	Political Secretary	
22	3, York Place.	Adjutant General in India	
23	5, York Place.	Auditor General of India	
24	6, York Place.	Secretary to the Governor General (Public).	
Class B (Rs. 1,750 and over but less than Rs. 3,000.)			
25	3, King Edward Road.	Civil Surgeon, New Delhi	It is in the interests of everybody concerned that the Civil Surgeon should have a house permanently.
26	5, York Road.	Deputy Private Secretary to His Excellency the Viceroy.	The terms of appointment of this officer include a rent free house in Delhi and Simla.

CASES OF DEVIATIONS IN THE CONSTRUCTION OF BUILDINGS REPORTED BY THE BUILDING INSPECTOR, DELHI IMPROVEMENT TRUST.

†213. *Maulvi Muhammad Abdul Ghani: With reference to the reply to starred question No. 163 of the 24th February, 1940, that one of the duties of the Building Inspector and overseers of the Delhi Improvement Trust is to watch buildings during construction and report any deviations, will the Education Secretary please state:

- whether any action was ever taken by the Building Inspector during the actual construction of a building in the calendar year 1939; if so, in how many cases and with what results; and
- the number of cases sent up for trial to the Court during the period and out of these how many were reported after the completion of the buildings?

Mr. J. D. Tyson: The information has been called for and a reply will be furnished to the House when it is received.

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

MISSION OF THE ROGER COMMISSION IN INDIA.

214. *Sardar Sant Singh: Will the Honourable the Law Member please make a statement regarding the exact purpose and the full implications of the visit of Roger Commission to India?

The Honourable Sir Muhammad Zafrullah Khan: The attention of the Honourable Member is invited to the Press Note dated the 26th August, 1940, a copy of which has been placed in the Library of the House.

Sardar Sant Singh: Is the Honourable Member aware that, in the speech of the President of the Federated Chambers of Commerce, it was given out that Indians have not been taken into confidence as to the exact scope and the implications of the visit of the Roger Mission?

The Honourable Sir Muhammad Zafrullah Khan: I do not know whether that is so, but, as I have said, the Press Note issued on the 26th August, 1940, clearly stated the object of the visit of the Roger Mission.

Sardar Sant Singh: Is the Honourable Member aware that persons belonging to industries in the Chambers of Commerce are not satisfied with the communiqué?

The Honourable Sir Muhammad Zafrullah Khan: I am not so aware.

Sardar Sant Singh: Will the Honourable Member make inquiries on this point?

The Honourable Sir Muhammad Zafrullah Khan: From whom?

Sardar Sant Singh: From the Federated Chambers of Commerce?

The Honourable Sir Muhammad Zafrullah Khan: I do not see any reason why I should.

RECRUITMENT OF SIKHS AS INFERIOR SERVANTS IN THE OFFICE OF THE MILITARY SECRETARY AND THE PRIVATE SECRETARY TO HIS EXCELLENCY THE VICEBOY.

215. *Sardar Sant Singh: With reference to the reply to starred question No. 601 of the 1st April, 1940, will the Honourable the Leader of the House please state the number of permanent and temporary vacancies of jamadars, duffries and peons that occurred since 1st April, 1940, in each of the offices of the Private Secretary to His Excellency the Viceroy and the Military Secretary to His Excellency the Viceroy and the number of Sikhs appointed? If none, why not?

The Honourable Sir Muhammad Zafrullah Khan: Since 1st April, 1940, one post of temporary peon has been filled in the Office of the Private Secretary to His Excellency the Viceroy. A Sikh was not appointed to it as no suitable Sikh candidate offered himself for recruitment. No appointment has been made in the inferior establishment of the Office of the Military Secretary to His Excellency the Viceroy since the 1st April, 1940.

PERSONS TRIED, CONVICTED OR DETAINED WITHOUT TRIAL UNDER THE DEFENCE OF INDIA ACT.

216. *Sardar Sant Singh: (a) Will the Honourable the Leader of the House please state the number of persons, communitywise, against whom action was taken under the Defence of India Act in each Province, as well as in the centrally administered areas? How many of them were tried and convicted, and how many are detained without trial?

(b) What steps have been taken by the Government of India to see that the Defence of India Act is being administered for the purpose of successful prosecution of war and not for other purposes? Have any directions been issued to Provincial Governments on the subject? If so, what are those directions?

(c) Do the Provincial Governments submit any periodical returns about the Act?

The Honourable Sir Muhammad Zafrullah Khan: (a) The number of persons convicted under the Defence of India Act and Rules who were undergoing imprisonment on the 1st October, 1940, the latest date up to which Government of India have readily available information, was as follows in each Province:

Madras	144
Bombay	60
Bengal	205
United Provinces	211
Punjab	92
Bihar	115
Central Provinces and Berar	29
Assam	5
North-West Frontier Province	5
Sind	9
Orissa	2
Centrally Administered Areas	nil

The number of persons detained under rule 26 of the Defence of India Rules by order of the various Provincial Governments on the same date was:

Madras	20
Bombay	38
Bengal	20
United Provinces	68
Punjab	81
Bihar	22
North-West Frontier Province	7

The number of persons detained in the Provinces and the Centrally Administered Areas by order of the Central Government on the same date was 25.

Government are unable to give these figures communitywise.

(b) and (c). The Government of India receive information of important orders made by Provincial Administrations, and they also receive

certain reports bearing *inter alia* on the use made of the Act. They have indicated in correspondence on various matters their views of the uses to which the Act can properly be put; they have not, however, thought it necessary to issue any general directions on the point, since sections 2 and 15 of the Act itself, and many of the Rules themselves, give a sufficiently clear indication of the scope of the powers conferred thereunder.

Mr. Lalchand Navalrai: May I know from the Honourable Member that Provincial Governments exercise the powers after getting the approval from the Central Government in each instance?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

Mr. Lalchand Navalrai: Under what circumstances do they ask for sanction or approval?

The Honourable Sir Muhammad Zafrullah Khan: I have answered the question.

Sardar Sant Singh: Do I understand that the Honourable Member is unable to give the information communitywise, and, if so, why?

The Honourable Sir Muhammad Zafrullah Khan: It will take too long to compile it.

Sardar Sant Singh: Why? My complaint is that I put this question, because I believe that the Provincial Governments are using these powers to put down their political opponents. I want information for the purpose of ascertaining whether the Defence of India Act is being used in accordance with the assurances given by the Honourable Member.

The Honourable Sir Muhammad Zafrullah Khan: I am perfectly satisfied that the Defence of India Act is being used in accordance with the assurance I gave to the Honourable Member on the occasion to which he has often made a reference, but, I think it will take too long to compile the statistics communitywise. The numbers sent up to the Government of India are easily available and have been compiled. It will require very detailed inquiries to compile the statistics communitywise.

Sardar Sant Singh: May I know if the Honourable Member is aware that it is the House and the country which have got to be satisfied that the Defence of India Act is being worked properly?

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

Sardar Sant Singh: That is not argument, I submit, Sir. On a point of order, Sir,—when we want information for a certain purpose, it is not for Government to say that they are satisfied

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member asked a question whether that was in accordance with the assurance given by the Honourable the Leader of the House. That is what the Chair understood his question to be.

Sardar Sant Singh: Will he take the trouble to inquire into the number of persons communitywise who are detained under the Defence of India Act?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member put a question whether the Local Governments were acting in accordance with the assurances given by the Leader of the House. Is not that so?

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim): In that connection he said, "Yes".

Sardar Sant Singh: My submission is why Government should not give us the figures communitywise?

Mr. President (The Honourable Sir Abdur Rahim): That is another question. The Honourable Member said, "It is for the House to be satisfied and not for the Honourable Member". Well, the Honourable Member gave his answer in response to a different question.

Sardar Sant Singh: My question is a supplementary question on the reply to part (1) of this question. Will the Honourable Member make inquiries from the Provincial Governments so that the information asked for communitywise may be given to the House?

The Honourable Sir Muhammad Zafrullah Khan: Sir, the compilation of that information would involve an amount of labour which would not be commensurate with the results that might be achieved.

Mr. N. M. Joshi: May I ask the Honourable Member to read out the reply to part (c) of the question again, as I did not hear it?

The Honourable Sir Muhammad Zafrullah Khan: I will read it out again:

"(b) and (c). The Government of India receive information of important orders made by Provincial Administrations, and they also receive certain reports bearing *inter alia* on the use made of the Act. They have indicated in correspondence on various matters their views of the uses to which the Act can properly be put; they have not, however, thought it necessary to issue any general directions on the point, since sections 2 and 15 of the Act itself, and many of the Rules themselves, give a sufficiently clear indication of the scope of the powers conferred thereunder."

Mr. N. M. Joshi: May I ask whether the Government of India will publish the figures of the persons against whom the Defence of India Act has been used, periodically—whether the figures of the persons against whom such orders have been issued will be published periodically?

The Honourable Sir Muhammad Zafrullah Khan: I cannot give that undertaking, but in response to the desire of the Honourable Member in

whose name the question was put, I have obtained the figures and shall get them and give them again if on any subsequent occasion any such desire is expressed.

MOTION FOR ADJOURNMENT.

CLOSING OF THE CHANDPUR-SIAU-BIJNOR SECTION OF THE GAJRAULA MUAZZAMPUR NARAIN BRANCH OF THE EAST INDIAN RAILWAY.

Mr. President (The Honourable Sir Abdur Rahim): Order, order. I have received notice of a motion for adjournment from Sir Syed Raza Ali. He wishes to discuss a specific matter of immediate public importance, namely, the announcement by the General Manager of the East Indian Railway of the Government's intention to close the Chandpur-Siau-Bijnor section of the Gajraula Muazzampur Narain branch of the aforesaid Railway with effect from the 1st December, 1940 (which intention, if carried out, will cause great inconvenience to the public and loss of revenue to the Government), and to censure the Government for the action it proposes to take. It is, of course, the intention of every motion to censure the Government, but I want to know this. When was this announcement made?

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): The announcement was made in the *Hindustan Times* this morning, and I took a cutting and I have passed it on to my friend, the Honourable Member in charge.

Mr. President (The Honourable Sir Abdur Rahim): Is there any objection?

The Honourable Sir Andrew Olow (Member for Railways and Communications): Sir, this notice was handed to me just half a minute before I entered the House. I find some difficulty in deciding whether any objection should be taken to the matter and I would suggest, if that would meet my Honourable friend's convenience, that we might take up the discussion of the point whether the motion is in order tomorrow morning when I shall not take any objection on the score of urgency.

Mr. President (The Honourable Sir Abdur Rahim): Will that suit the Honourable Member?

Sir Syed Raza Ali: I have no objection to the motion being taken up tomorrow, but the question is whether it is in order or not; if the Government of India object to it, then the point must be decided today.

The Honourable Sir Andrew Olow: It could not be in the Honourable Member's interest if I objected now to the motion being out of order, and if it was defeated. I would much prefer to discuss it with him and if the matter were brought up tomorrow morning.

Mr. President (The Honourable Sir Abdur Rahim): It will be taken up tomorrow morning.

ELECTION OF A MEMBER ON THE GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): Sir, I move:

"That the Members of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, one person from among their numbers to sit on the Governing Body of the Indian Research Fund Association *vice* Dr. Sir Ziauddin Ahmad resigned."

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

"That the Members of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, one person from among their numbers to sit on the Governing Body of the Indian Research Fund Association *vice* Dr. Sir Ziauddin Ahmad resigned."

The motion was adopted.

ELECTION OF THREE MEMBERS FOR THE STANDING COMMITTEE ATTACHED TO THE DEPARTMENT OF SUPPLY.

The Honourable Sir Muhammad Zafrullah Khan (Law Member): Sir, I move:

"That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, three Members to serve for the remainder of the current financial year on a Standing Committee to be attached to the Department of Supply."

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

"That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, three Members to serve for the remainder of the current financial year on a Standing Committee to be attached to the Department of Supply."

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I thank the Honourable Member for appointing this Committee, but the number of members which is allotted for the Assembly is rather small—three. It may be pleaded that this number is fixed on the analogy of the Members attached to other Departments that the number is restricted to three. May I just remind the Honourable Member that in the case of the Roads Committee the number is not restricted to three and the same is also the case with regard to the various other Committees. The number of three is rather small and the Committee will not be of a representative character. Then, there will be two Members from the Council of State because it is going to be a Committee of five members and the decision will be taken by the majority of votes. Therefore, I do beseech the Honourable Member to increase the number of the representatives of the Assembly from three to five and have a Committee of seven members instead of five. If, however, it is impossible for him to do that on account of technical difficulties, which I do not believe that they exist, then the second alternative which I would suggest is that this Committee should be elected by the elected Members of the Legislature, so that it may be of a representative character. Otherwise,

the whole object of the Committee will be frustrated. The Government commands the majority of votes in the House as now constituted, and the majority will be reflected in the Committee.

Mr. President (The Honourable Sir Abdur Rahim): There is a difficulty as regards that. No Member of this House, whether he is elected or nominated, can be excluded. Everybody has a right to be represented if he so chooses.

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): I do not think, Sir, that there is any question of any Member being excluded.

Mr. President (The Honourable Sir Abdur Rahim): No section of the House can be excluded from voting. That is what I meant.

Sir Syed Raza Ali: I do not think that is what my friend, Dr. Sir Ziauddin Ahmad, meant. What he means, I take it, is that the Government Members and official Members should voluntarily abstain from voting, for which there are, I believe, a number of precedents.

Mr. President (The Honourable Sir Abdur Rahim): That is another matter; nobody is compelled to vote.

Dr. Sir Ziauddin Ahmad: We have got several Committees for which only elected Members are eligible to stand, for example, the Public Accounts Committee. Then, we have got the example of certain other Committees for which only the Muslim Members are asked to vote.

Mr. N. M. Joshi (Nominated Non-Official): Sir, I would like to say a word or two about this motion. The first point on which I would like to have some information is the subjects on which the Committee will be consulted by the Government of India. The Government of India can give us some indication as to the nature of the questions which will be placed before this Committee. Then, I would like the Government of India to tell us rather frankly whether this Committee is going to work as the other Standing Committees attached to the various Departments. This question is of some importance, because, if my information is correct, some of the Committees attached to the various Departments do not meet at all during a year. I would like the Government of India and the Leader of the House to give us the information whether the Government of India is making any use of the Committees which are attached to the various Departments and whether those Committees have met even half a dozen times in a year. If we are to judge the Government of India by its past record, then my fear is that this Committee will not meet at all. My Honourable friend, Dr. Sir Ziauddin Ahmad, will have the satisfaction of having received a promise by the Government of India that a Committee will be appointed, but if a Committee is appointed and it does not meet, I do not think the House should take the trouble of going through the process of election at all. I am not, therefore, willing to vote for this motion unless the Government of India tell us frankly

[Mr. N. M. Joshi.]

whether they propose to depart from their usual practice in this matter and call meetings of the Standing Committee attached to this Department. The Honourable Member can give us some idea whether this Committee will meet, say once a week.

Dr. P. N. Banerjee (Calcutta Suburbs; Non-Muhammadan Urban): At least once a month.

Mr. N. M. Joshi: That is my suggestion, because I feel that the Supply Department is doing very important work. If the Committee is to be of much use, I think it must meet at least once a week. Large amounts of money are being spent by the Supply Department and they take important steps. Suppose a demand is made that a particular article should be secured urgently for the Defence Department and it is quite possible that the Government of India may have to decide that a new industry should be started in India. You cannot ask the Supply Department to wait till the Standing Committee meets to decide such an important and urgent question. It will be rather a sitting Committee. I would like, therefore, the Government of India to tell us whether they propose to depart from their usual practice of not calling the meetings of the Standing Committees, at least in this matter. I would like to know how many meetings the Honourable Member proposes to call.

The third point I would like to state is that this Committee is going to be appointed on a Resolution passed by this Legislature, because the Legislature felt that important things were being done by the Supply Department in which the House was interested. It will be a sort of a watch-dog of this House. I would like to ask the Honourable Member whether this Standing Committee will make a report of its work to the Legislature. If these Committees are appointed and they do not meet and do not make any report, then I think, constitutionally speaking, it is wrong for the House to appoint such Committees. Such a Committee must represent this Legislature. The Legislature must, therefore, know whether the Committee is working, and if it is working, how it is working and what work it has done, I, therefore, feel that the House should not agree to the appointment of the Committee unless that Committee is going to be responsible to this House. I, therefore, feel that, constitutionally speaking, we shall be doing a wrong thing if we approve of this Standing Committee. This procedure of the appointment of Standing Committees is an old one and many times I had felt that, instead of strengthening the powers of the Legislature and the control of the Legislature over the Executive Government, the appointment of these Standing Committees weakens the control of the Legislature over the Executive Government. What happens is this. When we discuss certain matters, the Government of India tell us that the matter was placed before the Standing Committee. It creates the impression that the Standing Committee must have agreed to the proposals placed before that Committee. But we do not know at all whether the Standing Committee had agreed or not. I have heard the Members of the Standing Committees several times saying that the proceedings were confidential and they could not say whether they had agreed or not to the proposals of the Government of India. In such cases, the voting is not given and we do not know how the Members had voted. It is a matter of procedure.

Mr. M. S. Aney (Berar: Non-Muhammadan): So far as the Railway Standing Finance Committee is concerned, a Member is entitled to have his opinion recorded if he wants to do so. He can insist on that being done.

Mr. N. M. Joshi: I do not know about the work of the Members of the Railway Standing Finance Committee. Sometimes we are not even allowed to refer to the proceedings of a Select Committee. In the case of the British Parliament the proceedings of the Select Committees are published.

Mr. President (The Honourable Sir Abdur Rahim): That is the rule of the House, and not of the Government.

Mr. N. M. Joshi: I am not speaking on that constitutional question. I am speaking on the question whether the control of the Legislature over the Department will be strengthened by the appointment of committees which are not responsible to the House. If the committee is going to be responsible to the House, and make a report to the House of the work done by that committee, that committee might strengthen the control of the Legislature over the Executive Government. If the committee does not report to the House, it weakens the control of the Legislature over the Executive Government. I will explain how it weakens. Members of the Legislature who want to criticise are told that the Standing Committee has been consulted without the Members knowing how the members voted and in what way the Standing Committee Members were consulted and what their opinion was. I am, therefore, not in favour of this Resolution unless I get a satisfactory reply to the questions which I have raised.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, I understand that the Honourable Member who has brought forward this motion before the House had two reasons for doing so. First of all, on the Finance Bill there was a lot of criticism against the Supply Department. Members after Members pointed out that they were not satisfied with the conditions as they are prevailing, especially as regards the expenditure of money in the Supply Department. The Honourable Member chose this occasion to bring this motion and satisfy the House. That is the first reason. The second reason is that on account of the Resolution which was moved by my Honourable friend, Mr. Muhammad Nauman, in this House, the Government promised they would appoint a Committee and that promise induced Mr. Muhammad Nauman to withdraw his Resolution. After all these assurances were given, the Committee which is intended to be appointed must be of the nature which may satisfy this House. If the Committee that is going to be appointed does not satisfy this House, then, I think, not only will it not be useful, but this House should reject it at once. It might also create a bad impression in the minds of the public that after the criticism which was levelled against the Government for six days, the Government promised to do a particular thing, when they were in difficulties, and as soon as those difficulties were over, the Government went back on their promise and did nothing. This was really the reason which was at the back of the mind of many Honourable Members who voted yesterday against

[Sir Muhammad Yamin Khan.]

the Government, because they did not think they would get all those things for which hopes were raised in their hearts. The Government by their present attitude are doing a great mistake. They are injuring their own cause. They propose to create a committee which will not satisfy this House, it will be a useless committee. What we want is full control over expenditure, so that we may see how the money is spent, what kind of officers are recruited, whether so many officers are needed at all, whether we could get better class of officers for the salary we are offering, whether the contracts are given to proper persons, or whether the contracts are given only to such persons who will help the Finance Member by paying excess profits tax. We want to see whether the taxpayer's money is properly utilised, and whether there is no waste, and so on. By merely having three Members on this Committee, Honourable Members must realise that it is not always that all the three Members can be present at meetings. There is such a small number that people coming from long distances can never be present at all times. They cannot come at a moment's notice. A bigger Committee is required and the material is to be laid before them and their considered verdict obtained. Sometimes there may be one or two absentees who, on account of many reasons, may not be able to attend at the time which suits the Honourable Member to call the Committee for the meeting. Therefore, Sir, if this is going to be a Committee only of three Members of this House, then I think it is a useless Committee and we cannot support the motion.

The Honourable Sir Muhammad Zafrullah Khan: Sir, instead of Honourable Members having a grievance that I am trying to do this morning something contrary to that which I had promised, I have a grievance that Honourable Members have not correctly represented what I had undertaken to do. I was perfectly clear when I made the announcement to the House and so was the Honourable the Finance Member that I had under consideration the question of attaching to the Supply Department a Standing Committee like the Standing Committees attached to other Departments.

Mr. N. M. Joshi: And working in the same way.

The Honourable Sir Muhammad Zafrullah Khan: I do not know why the Honourable Member should be so impatient. There is all the time in the world to explain matters. That matter is not a matter of my discretion. It is a matter regulated by a Notification of which Honourable Members are aware, and if they are not aware, they ought to be aware. It is not for me to say that three Members are too little. The announcement that was made was that a Standing Committee would be set up like the Standing Committees and on the same lines as the Standing Committees that are attached to other Departments. So far as the question of composition of these Committees is concerned, and the functions of these Committees are concerned, that is not a matter of my discretion or of anybody else's discretion. That is already regulated by a Notification. The position was there laid down of which Honourable Members are already aware and were aware at the time when the announcement was made that the composition will be three Members from this House and two from the other House. In that matter I have no choice.

The next question raised was that having regard to the attendance in the House, the Government should place a voluntary restriction upon itself that nominated Members should not take part in the election. Now, Sir, that I think would be, even if it is voluntarily done, an unwarranted interference with the right of nominated Members who are as much Members of this House as other Honourable Members are. But to this extent, and without creating a precedent and without in any way reflecting upon nominated Members, I can meet the wishes of those Honourable Members who have raised this point that so far as the Government Whip for electing these Members is concerned, I am prepared to see that the support of such Members who receive the Government Whip goes only to elected Members who put themselves forward for election. That, I am prepared to do and if the House attaches so much importance to the question of elected Members, our Whip will support only elected Members. But I must make it perfectly clear that this will be done only in view of the special circumstances in which this Committee is being set up and I am quite sure that Honourable Members will not now seek to make a distinction between different categories of elected Members.

I have already answered the first part of Mr. Joshi's question. With regard to the second part, I am not prepared to admit with regard to my Honourable Colleagues who are Chairmen of other Committees that they are open to the criticism which Mr. Joshi has made. My Honourable Colleague, the Member in charge of Communications, has just assured me that so far as his Department is concerned, the Standing Committee meets every Session. But I will say this that the functions and activities of the Supply Department are very important. And I myself have the intention, so long as I am Member for Supply and Chairman of the Standing Committee, to call the Committee much more frequently than Standing Committees have been called in the past and to consult them on a much wider range of subjects than they have been consulted on in the past. I hope that assurance will satisfy Honourable Members.

Dr. P. N. Banerjee: Will there be monthly meetings?

The Honourable Sir Muhammad Zafrullah Khan: It would be difficult to give an assurance of that nature. It is possible that there might be two meetings in a month or there may not be a single meeting in two months. But, as I have said, I intend to call the Committee more frequently than other committees, as frequently as there are questions to be placed before this Committee on which their advice has to be sought.

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

"That this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, three Members to serve for the remainder of the current financial year on a Standing Committee to be attached to the Department of Supply."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): I may inform Honourable Members that for the purpose of election of a member for the Governing Body of the Indian Research Fund Association and of

[Mr. President.]

three members for the Standing Committee for the Department of Supply, the Notice Office will be open to receive nominations up to 12 Noon on Friday, the 22nd November, 1940, and that the elections, if necessary, will be held in the Assistant Secretary's room in the Council House, New Delhi, between the hours of 10-30 A.M. and 1 P.M. on Monday, the 25th November, 1940. The elections will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

THE INDIAN RAILWAYS (AMENDMENT) BILL—concl'd.

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the motion* moved by the Honourable Sir Andrew Clow and the amendment† moved thereon by Maulvi Muhammad Abdul Ghani, yesterday.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, yesterday evening I was comparing the provisions of the old and the new Bills. By clause 2 of the new Bill they have added the words "or remain in" in section 68 of the Act. This to my mind is useless because if a man enters a railway carriage with the object of travelling he must remain in it. However this is a very minor point. By clause 3 the onus of proof on the passenger, as existed in the old Bill, has been taken away but the punishment has been extended from two months to one year. Then, under the old Bill a *bona fide* passenger failing to purchase a ticket for valid reasons could take a certificate and he would be exempted from any penalty; under the new Bill failure to purchase a ticket for any reason involves a penalty even though he may have given information about it. He is absolved from a portion of the penalty but the penalty will be there:

"Provided that where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, the excess charge shall be one-sixth of the excess charge otherwise payable calculated to the nearest anna, or two annas, whichever is greater."

So the provision which differentiates between a *bona fide* traveller from a person who wilfully travels without paying money is taken away in this particular Bill.

The next point is about the power of arrest. Under the new Bill a person who travels in a higher class with a lower class ticket may be arrested, but there was no such provision in the old Bill. So there is great difference between these two Bills in this respect and they are not identical. The new Bill clearly shows malice behind it which we did not find in the old Bill.

*That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Dr. Sir Ziauddin Ahmad, Maulana Zafar Ali Khan, Mr. G. V. Deshmukh, Khan Bahadur Mian Ghulam Kadir Muhammad Shahban, Mr. J. Ramsay Scott, Mr. B. M. Staig, and the Mover, with instructions to report on the opening day of the next Session of the Assembly, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four.

†That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1941.

These are the points of difference between the two Bills. If unfortunately, this Bill becomes law we, on this side, will have no option but to insist that better facilities for booking should be provided. At every station there should be at least two persons, one for selling tickets and the other to receive them when the train arrives. At present, even at junction stations there is often only one man who acts both as booking clerk and as ticket collector. A train may stop at a junction sometimes for half an hour and you cannot expect people to come half an hour in advance to buy their tickets. Therefore, the question of adequate staff must be seriously considered. Also the booking offices should open at least half an hour before the arrival of the train and should remain open while the train is at the station and should not be closed till the train has left. What actually happens now is that booking is closed as soon as there is a signal from the last station and certainly when the train has arrived at the distant signal. So a person who arrives at the station after the train has passed the distant signal cannot buy a ticket and has no alternative but to go without a ticket and to incur the penalty of imprisonment which is proposed in this Bill. I agree that people should follow the law but the fault lies more on the Railway Administration than on the public. In every country there are facilities for the travelling public which, unfortunately, do not exist in India. The fundamental difference between the Honourable Member on that side and ourselves is that we believe in the certainty of detection as having a greater deterrent effect than severity of punishment. We believe that certainty of detection will stop the crime but he thinks severity of punishment will do it. I am glad the Honourable the Home Member does not follow the principle of the Railway Member. In the old days, we know, a man had his hands cut off for committing a theft, and in some countries this punishment still prevails. And we know that in those days there were more thefts than there are now. Under British rule the number of thefts has diminished because of better administration and because of greater chance of thefts being found out.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): In England people used to be hanged for stealing.

Dr. Sir Ziauddin Ahmad: I did not remember that.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): May I remind my Honourable friend that in Arabia where hands are cut off for the offence of theft, there are few cases of theft as compared with India where no hands are cut off?

Dr. Sir Ziauddin Ahmad: I am glad that my friend, Dr. Banerjee, reminded me that ticketless travellers are not sought to be hanged in this particular Bill. The deterrent punishment has not fortunately gone so far. The defect lies in their having a bad system of checking tickets. Had there been a certainty of catching such travellers, probably these defects would have disappeared. I shall give some examples of how defective their system is. In this connection I may say that sometime ago one Mr. Scott, in whose memory they have got the Railway Clearing Accounts Office, suggested a novel method of checking tickets by the crew system, i.e., having an army of these ticket checkers travelling by each train. This proved to be defective and we said at that time they ought to have had corridor trains as in Europe. Had there been corridor trains, tickets

[Dr. Sir Ziauddin Ahmad.]

could have been checked very easily by a few persons in the train and no person could have escaped detection; and no one can imagine that he could travel without a ticket if we had corridor trains. My friend may say that this would be very expensive; but may I remind him as late as 1901 Mr. Robertson's committee pressed this very question on the Railway Board. He said that the breadth of the railway carriages in India is too small for its gauge and it was uneconomical and the wastage is 22½ per cent.: so you can easily provide on your existing gauge corridor trains. And had this been done when it was brought to your notice, this could have been got over. I will just read from the Robertson Report:

"In England the width of a vehicle for the 4' 8½" gauge is 8' 6"; in America it is 10 feet and on the continent of Europe it is 10' 6". In India the width of the carriages for 5 ft. 6" gauge is only 9' 6". It ought to have been 12 ft. 3", or 2 ft. 9 in. shorter. The Railways are losing 22½ per cent."

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must deal with this Bill: he cannot go into all sorts of suggestions for reforms to be made on the railways. The Chair cannot allow that.

Dr. Sir Ziauddin Ahmad: I want to prove that by providing corridor trains, they can prevent this ticketless travel

Mr. President (The Honourable Sir Abdur Rahim): There may be many other ways of doing it, but the Honourable Member has got to deal with the method proposed in the Bill.

Dr. Sir Ziauddin Ahmad: and the method which I am going to press is that they should have a better system of checking tickets so that their object will be served that way and not by means of imprisonment. That is the point I want to make.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can oppose this Bill and say it is ineffective: he cannot go on discussing all other methods of achieving the object.

Dr. P. N. Banerjee: He is suggesting alternative methods.

Mr. President (The Honourable Sir Abdur Rahim): Alternative methods are not included in this Bill.

Dr. Sir Ziauddin Ahmad: I have got every right to press that my suggestion for checking tickets should be followed and that the present system is responsible for the enormous amount of ticketless travelling . .

Mr. President (The Honourable Sir Abdur Rahim): That the Honourable Member is entitled to, but he cannot go on suggesting all other possible methods

Mr. M. S. Aney (Berar: Non-Muhammadan): How can a system be regarded as faulty unless he is in a position to show you that there are better systems of checking?

Mr. President (The Honourable Sir Abdur Rahim): But he cannot wander all over the world.

Mr. M. S. Aney: That is another matter.

Mr. N. M. Joshi (Nominated Non-Official): Which is that book which you are reading from?

Dr. Sir Ziauddin Ahmad: Robertson's Report of 1901. However, I will give that report alone. But the first method which I suggest is that they ought to provide corridor trains and if they do that one man can check the tickets throughout the train while it is in motion; and there will then be very few persons who will travel without tickets. They have space of ft. 9 in. and corridors can be provided without loss of accommodation. I wish I could develop this point. My second point is that their system is defective because they have been trying all kinds of experiments and every experiment is worse than the one before. They had a very good system of checking tickets on the East Indian Railway when it was under company management. They used to check tickets at junctions by their transportation staff, and also a system of checking while the train was in motion by ticket inspectors under Accounts Department who knew their work, who were respected men of good education and social position. But they checked the tickets of railway servants just as well as those of the public, and the railway people did not like that they should be checked by officers of the accounts department; and they adopted a new system. The Paddy and Ward Committee recommended an entirely new system doing away with the old system altogether. They made no recommendations about transition period. The Railway Administrations gave effect to those recommendations by an entirely novel method. They said the entire staff of T. T. I's. and T. T. E.'s. should be dismissed and fresh men were taken on at a lower salary. The old men were to be reemployed on lower salaries ranging from 80 to 96 rupees. Before that, these people were drawing 100 to 300 or 500 rupees: they were all dismissed and re-engaged on smaller salaries; with the result that the ticket checking staff was thoroughly dissatisfied and they did not like to do their duties in the way they ought to have done. This led to a series of questions in the Assembly. My friends, Sardar Sant Singh, Mr. Lalchand Navalrai and Bhai Narayana Nand and myself put a series of questions in the Assembly and I had several interviews with Sir P. R. Rau and Mr. Tylden-Patterson about the injustice; some grievances were redressed, but other grievances were still there and I would have very much liked to state on the floor of the House what those grievances are, but I am afraid of you, Sir, and I do not know whether I will be entitled

Mr. President (The Honourable Sir Abdur Rahim): If the Honourable Member knows that, then he had better not attempt it.

Dr. Sir Ziauddin Ahmad: All right, Sir; those grievances are there and I have repeatedly drawn the attention of the Railway Board and of the Honourable Member to them, but nothing has been done and no action has been taken: some of the orders are interpreted in one way by the North Western Railway and in a different way by the East Indian Railway; and I ask why should not there be uniformity in considering these questions? The result is that the dissatisfaction is there that they have not been justly treated; and I say if you want to get good work from your staff, it is your duty to keep them satisfied

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is dealing with a question which he knows is out of order.

Dr. Sir Ziauddin Ahmad: All right, Sir. I will leave that alone. What they did was that instead of employing one or two good men on good salary, they have employed a host of these ticket-checkers on 30 or 35 or 25 rupees. Can you expect any honesty from a class of persons who have passed only the matriculation and who do not come from good families and whose salary is so low that it is difficult for them to make both ends meet? But you put them in these responsible posts—they are the persons who will arrest people at wayside stations—a man who draws 30 rupees a month and who passed the matriculation yesterday and probably not brought up in good traditions, he will be asked to arrest people at wayside stations, he represents the railway administration at these places. I say it is your duty to employ ticket examiners of the type that the administration, when it was under Company-management, used to employ and not the type of staff you have at present. This reminds me of a story. I mean about the manner in which tickets are checked . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has been nearly an hour; he had better leave stories alone.

Dr. Sir Ziauddin Ahmad: Very well, Sir, but I say this to show that the method devised by the railways for checking tickets is like the method which a person employed when he engaged four servants one after the other to fetch milk, and the result was there was no milk at all. I leave the other part of the story alone. Therefore, I suggest that if we go back to the old system of checking tickets, then some of the present difficulties can be minimised.

Before I sit down, Sir, I should like to read one or two important opinions sent to us. I am sorry that the Honourable Member paid no attention to these opinions while drafting the present Bill. The Bill was circulated with the object of collecting public opinion. Here is one opinion from Bihar . . .

Mr. N. M. Joshi: When was this Bill circulated?

Dr. Sir Ziauddin Ahmad: This Bill was never circulated. This is our motion. The former Bill was circulated, and the present Bill should have been drafted keeping in view the opinions expressed on the previous Bill. This is what is stated here:

"Any railway servant or police officer, or any other person who may be . . . to his aid, who vexatiously and unnecessarily—

(a) enters or searches or causes to be searched any railway carriage shall be punished with imprisonment which may extend to three months or with fine or which may extend to five hundred rupees."

I suggest that a section of this kind should have been included for the one which you have inserted in this measure. Then you come to the opinion from Madras, Calicut, which says:

"The Committee is of the opinion that the provision for imprisonment is uncalled for and will only defeat its own object. There is considerable apprehension in the minds of the public that the power of arrest will be abused by the railway servants, for under the new rules even a porter can arrest without a warrant. . . ."

The Honourable Sir Andrew Clow (Member for Railways and Communications): Sir, is this relevant? There is no power of arrest in the present Bill.

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not think the Honourable Member cares very much whether it is in order or not. There is no power of arrest in this Bill that the Honourable Member is dealing with.

Dr. Sir Ziauddin Ahmad: I will just read one or two more opinions and then finish. There is an opinion from Chittagong which says that the power of arrest without a warrant is really a dangerous weapon . . .

Mr. President (The Honourable Sir Abdur Rahim): There is no power of arrest in this Bill at all.

Dr. Sir Ziauddin Ahmad: The only alternative, it says,—and this is from Ajmer-Merwara:

"If ticketless travel is to be checked, you should increase the number of railway servants so as to prevent people without tickets from entering the train and make ingress on the platform of important stations in their vicinity much more difficult than at present."

Now, Sir, if you read all these opinions carefully you will find that all these concentrate on one fundamental point, that is, we should not give these powers as contemplated in the Bill to ordinary people, and there should be no power of imprisonment. There are sufficient powers for the collection of fines in the penal code, and, therefore, there is no reason why special measures should be provided in this Bill for the collection of fines. The District Magistrate of a place has enough powers to collect fines, then why should you have fresh powers to send a man to jail not merely to simple imprisonment but to imprisonment of either character . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has said all that yesterday.

Dr. Sir Ziauddin Ahmad: I was only summing up my speech, Sir. I said that the fundamental difference between the Government Benches and ourselves is that they believe in the harshness of the measures while we believe that the administration should be such that travelling without tickets may be impossible and detection is made certain, and if we place our own house in order, there will be no need for this particular Bill. With these words I support the motion for circulation.

Pandit Nilakantha Das (Orissa Division: Non-Muhammadan): Sir, this measure has been practically in contemplation for the past 15 years or more, and one hardly thought a few weeks ago that a gentleman like . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better speak up.

Mr. M. S. Aney: He is weak. Can he come to the front?

Mr. President (The Honourable Sir Abdur Rahim): Yes, if the Honourable Member cannot speak up from that place.

(At this stage, Pandit Nilakantha Das came and addressed from the Bench occupied by Members of the European Group.)

Pandit Nilakantha Das: I was saying that a gentleman so sweet and so reasonable like my friend, Sir Andrew Clow, would bring forward a measure of this kind into this House. But it has been an inconvenient legacy, so to say, for my Honourable friend. For the past 15 years it has moreover been practically a kind of propaganda, and we know the effect of propaganda in these days. In 1925 or just about that time when the railway convention was established by a resolution in this House, there was some uproar that ticketless travel should be checked. Then various measures were adopted, various conferences were held, and at last a Bill was proposed in 1936. That Bill was allowed to lapse, as there was uproar all over the country, and there was complete opposition to it. This year in March and April the question again came up before the Central Advisory Council for Railways, and it was said that some decision should be taken, otherwise ticketless travel would increase, and this ticketless travel was, as it were responsible for all the difficulties in the railway administration.

But by that time both the departments, the Posts and Telegraphs Department as well as this Railway Department had been combined into one and they are in charge of one Member who is now called Member for Communications. I have previously urged on various occasions that some lesson should be taken from the Postal Department so that things like the ticketless travel may be minimised in the railway administration too. Railways are now handling many parcels and things like that. Formerly post office was handling all those articles. But the difference was that it practically took the public into its confidence. The public knew that any complaint against a postal official or against the Department, any complaint about corruption would be properly considered and dealt with. They could then send any complaint free of cost. This went on for several years. Now this privilege has been withdrawn, but the people have full confidence in the postal and Telegraph Departments. On the other hand, the people have practically no confidence in the Railway Administration which is, I may say, generally full of corruption. Of course, there may be some difference in handling business and articles and materials between the Postal Department and the Railway Administration. But making all allowance for that, are the Railway Department able to check the corruption in their officials and underlings? According to the report, the highest amount realised was about Rs. 26 lakhs in 1929 from ticketless travellers detected including penalties, and the expenditure in checking was Rs. 27 lakhs. These are the latest figures we have got and I think my Honourable friend has given no other new figures. This is only a loss of rupees one lakh in the entire railway administration. One may say it is practically nothing and, as a matter of loss, it should not be considered at all. But though the consideration is always said to be purely and entirely economic here, ticketless travel may also be considered to be a social, and even a moral evil. But the Railway administration itself is full of such moral evils as I have said. They should first be dealt with. My Honourable friend should take note of that fact that parcels sent by a railway, say, parcels of grain, vegetables, oil, even coal tar,—parcels sent at the owner's risk—how many of them are deliberately damaged and from how many parcels articles are stolen on the way. If complaints are made, sometimes where it cannot be avoided compensation is given. What is the amount of that compensation? Has there been any investigation or effective step taken to check this payment of compensation for this theft by the Railway employees. This kind of corruption is at times rather encouraged,

unknowingly though it may be. Let me give an instance in this ticket checking. T. T. I.'s were appointed in large numbers probably as a measure for eliminating this plague, if I may call it so, of this ticketless travel. There was a confidential circular to these ticket Inspectors, at least in one railway with which I am directly concerned, and which I know, that they must each realise and give to the Railway company every month twice the amount of their pay. If that be so and if there be an increase in the number of ticketless travellers, who is to blame for this? There may be such other circulars. Of course, it may be with all good intentions of the authorities, but it was a mistake and in effect we find the number of ticketless travellers, which was about four in 1928 in a thousand passengers went up to six in 1933. Then, of course, there was going to be a regular fall. Nevertheless, this increase may be due to catching hold of all sorts of mendicants that go to Puri on various *Jatras* and festivals. Very often I have pointed out to the station masters and even T. T. I.'s to drive them out from the train. Today we are going to make a law to drive out those persons from the train, but I have asked them, have requested them several times to drive them out from the train but they did not do it. Probably they simply put them in the list of detection. They sometimes drive them out in one station and they come by the backdoor even with their connivance, probably to be listed again. I have seen this very often. But the number of ticketless travellers must increase, for, though the T. T. I.'s may not realise money, at least they ought to show that on account of their employment the detection has been more and more. It may be due to this that the number went up in these years up to six in a thousand. Then it gradually came down as it ought to. Up to 1938 it was practically six, but it was less than 1936. In 1936 it was 6.2 and in 1938 it was 6.1, I mean per thousand. When this was the position, just at that time a Bill came to be introduced in this House to penalise ticketless travelling. Where is the cause? Why should such a measure be contemplated at all,—six in a thousand? It is a business concerned, and if this ticketless travelling is not something like a plague which affects the entire administration, six persons in a thousand may even be let off as a matter of charity.

Punitive measures like this should not be thought off because they can be easily put into the Statute-book, Railways being a state business. That is a temptation, and this our commercial department should not fall a victim to this temptation. Today particularly the Department can get such punitive measures only for the asking. Then look at the provision here. The railway servant will simply go and tell the magistrate, so many rupees will be paid by this man. The magistrate will at once consider the amount as a fine without enquiry. I am not a practising lawyer. I do not, know where lies the burden of proof here, whether the passenger is entitled to say to the magistrate that the Railway man had brought him to the Court out of malice. I do not know. The Bill says that the amount will be put down at once as a fine, and in default of payment the man will go to prison. But this is now but the remnant of the various other penal measures which were being contemplated. Things seem to be done step by step. The next step will probably be that the public will be held responsible for ticketless travelling. The Communication Member will come to this House and say: 'Well, my friends, you gave me one measure. It could not stop ticketless travel. Now, I propose a punitive tax on all persons who travel in the carriage with ticketless travellers'. Now, there

[Pandit Nilakantha Das.]

are corridors. You may well say that it is the business of the public, i.e., all passengers concerned to stop this ticketless travelling and to see that the person who travels without ticket pays the penalty or gets out of the train. And if he does not do that, very naturally a punitive tax may be proposed on all those people who are supposed to connive. Is my Honourable friend going to propose it next time? What is the necessity of trying to penalise ticketless travelling like this?

The railway is a business concern and the law has provided enough for running this business all right. Moreover, the statistics that they have given us do not show this ticketless travelling to be such a plague that a punitive and emergent legislation should be proposed at a time like this when practically the major portion of the House is absent. The War is going on. Perhaps it is at our very door and at such a time we are going to think of penal measures like this. For nothing, you want to alienate people and exasperate travellers. You will drive people to go to motor buses and motor cars. Will you prove by statistics that the case is so urgent that a penal measure like this is necessary in order to run your administration which is otherwise going to ruin? Last March probably, a memorandum was given to the Central Advisory Council and practically this much information which I have already quoted was given there. Other informations were rather scrappy and useless.

For proper estimate of the evil, however, I will tell you my experience of the Bengal Nagpur Railway by way of illustration. I belong to that part of the country, and the Bengal Nagpur Railway is the only railway which goes through my constituency. What happens there. Do you know that railway officials go from Kharagpur for duck shooting to Chilka perhaps once a week.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official): That is not true. I know the Bengal Nagpur Railway much better than you do.

Pandit Nilakantha Das: Don't they go from Kharagpur to Calcutta to attend football matches, even to the inconvenience of ordinary passengers?

Lieut.-Colonel Sir Henry Gidney: No, certainly not.

Pandit Nilakantha Das: The point may be that the third class passengers are actually not much inconvenienced thereby, but the train becomes full of ticketless travellers.

Lieut.-Colonel Sir Henry Gidney: I deny it.

Pandit Nilakantha Das: Then you should be put in charge of this ticketless travelling, to check it.

Lieut.-Colonel Sir Henry Gidney: You ought to be one of the ticketless travellers?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better go on with his speech.

Pandit Nilakantha Das: So, this very Bengal Nagpur Railway wanted to influence the Railway Board to have a measure like this and it is probably in 1928 or 1924. Bengal Nagpur Railway figures have been given here.

In 1921, ticketless travellers were 69 thousand and in 1931 they were 178,000. The income was Rs. 100,000 and 256,000 respectively. If you calculate it, the income is proportionately less than the number of travellers, and after all this, there is a loss of only 10,000. In other railways there has been still a profit, and in the Bombay, Baroda and Central India, the station staff have collected about a lakh. Still we are not told whether in all these years the evil has been successfully checked, and if not, how far, it has been checked. The statistics given is scrappy, yet you propose this punitive measure and say you cannot do without it. There is practically no case made out for such a punitive measure.

Now, coming to the Bill, of course an Act like this should not be on the Statute book. That is the first thing. If the motion of my Honourable friend, Maulvi Muhammad Abdul Ghani, for circulation is pressed, then it may be voted for, but there is no use. When the old Bill was circulated we have got the opinions of non-officials, which are generally against measures like this. Now, that the House is half empty, I have grave apprehensions that in spite of us this Bill will come to the Statute-book. Therefore, I will suggest one thing. The Bill here provides:

"any railway servant appointed by the railway administration in this behalf may apply to Magistrate for the recovery of the sum payable as if it were a fine, and the Magistrate shall order it to be so recovered, and may order that the person liable for the payment shall in default of payment suffer imprisonment of either description for a term which may extend to one month."

Sir, this is rather a vindictive measure. How many mendicants will you send to jail? Have you ascertained the number of mendicants which practically increase your number of ticketless travellers for whom you employ so many travelling ticket inspectors? So, this measure at least should go, or if it remains, the man, the so-called accused, before the magistrate at least will be allowed to say his say, and then if he likes, contradict the railway official, whoever he may be, and he may be a common peon, who knows. He will be heard and the magistrate will give his judgment. With these words, Sir, I oppose the principle of the Bill.

Mr. M. S. Aney: Sir, the motion before the House is to refer the Bill to a Select Committee and assuming that all the objections that have been raised by so many of my friends are good, I think the Select Committee members can go through them and see if suitable modifications can be made in the Bill or not; so these objections ought not to come in the way of this House voting for a reference of this Bill to a Select Committee. That is my first point. Secondly, my own impression is this, that both Hindus and Muhammadans in India have got a soft and tender corner for a number of persons who go about as *sadhus* and *faqirs* in this country and want to take advantage of any communication facilities and they want to know, I think, how it affects them.

Mr. N. M. Joshi: Everybody knows that they travel, all the railway servants know them and they allow them to do so.

Mr. M. S. Aney: This is exactly what I am saying. That has encouraged this tendency to travel without a ticket to a very great extent. The point is this, whether a concern like the Railways should allow this tendency to grow like that more and more,—at considerable cost to the railway revenues which ought to go back towards the general revenues. I really think, Sir, that this is a tendency to be charitable at the cost of

[Mr. M. S. Aney.]

others. These persons who feel for these men who go in for pilgrimages think that they are likely to be most inconvenienced and, therefore, they feel that no steps should be taken to make such travelling not only difficult but impossible by introducing some deterrent punishment in the Bill. Now, such men are really in my opinion carried away by a false sense of charity and nothing else, and that false sense of charity I personally do not like; I personally detest that kind of tendency. Secondly after all, what does this Bill do? There are three important provisions in the Bill. The first is the provision which deals with those who travel with a view to defraud. For them there is a special provision. If that intent to defraud is proved, I believe the punishment given there ought not to be considered as very serious at all, because if a man intends to cheat or defraud the Railway, and if he wants to travel like that over a public carrier like railway, he ought to be dealt with with sufficient severity but not with cruelty.

Now there is one point to which I wish to make a reference. I do not like any substantive punishment of imprisonment to be provided for an offence like ticketless travelling. You may impose a punishment of fine and in default of that you may provide an alternative punishment, but to provide for a substantive punishment of imprisonment is, in my opinion, introducing a very harsh penalty unnecessarily, because those who have not the means to pay a fine will have to undergo imprisonment on account of default, but if you provide a punishment of imprisonment as a substantive thing, the people in a position to pay a fine will also have to go to jail. There is no reason why a substantive punishment of imprisonment should be provided for any one of the three purposes mentioned here. In other cases of course there is ample room for improvement. Some of the cases to which my Honourable friend, Dr. Sir Ziauddin Ahmad, has referred on some of the Railways will have to be looked into very carefully. It is very possible that the words "he should incur the charge immediately" are objectionable. This word "immediately" is likely to be misconstrued by many persons who are not sufficiently intelligent. These are matters which can be dealt with and discussed across the table of the Select Committee and I, personally, think that though the discussion has been very useful, it has not been of such a nature that we will be justified in resisting the reference of this Bill to a Select Committee. I, therefore,—notwithstanding the fact that two of my friends sitting behind me have opposed this motion—personally shall record my vote for taking the Bill to a Select Committee.

Some Honourable Members: I move:

"That the question be now put."

Lieut.-Colonel Sir Henry Gidney: Sir, if I take part in this debate, it is not with a view to entering into a controversy over the principles underlying the Bill. There can be no two opinions, Sir, that no legislature can, with equanimity, give its consent to the perpetration of fraud whether that fraud be intentional or be due to mere inability to pay one's expenses when travelling, i.e., mendicants. This abuse of the railway system by those who are poor, particularly mendicants, has been one of long standing. The Railways have suffered lakhs and lakhs of rupees every

year on account of this. The Railways have tried to remedy it year in and year out by improvements in their administration. As to whether they have really been able to do this effectively is not a matter for my consideration. It may be that the only remedy lies in increasing your checking staff, but I suppose the Railways, who today are suffering from an epidemic of economy, are not prepared to do that, or may be, the Railways think they can get everything for nothing and so offer a starvation salary to these employees in the expectation of honest service. But whatever it be, the abuse continues and the Railways are suffering and the Railways are now desirous of checking this evil. This House has disclosed, if I may say so, a feeling of sympathy for these persons dishonestly travelling without tickets and some feel the Railways are wrong in imposing any punishment upon these ticketless travellers. Sir, I do not think anyone can support an attitude like that. Some have gone so far as to say that no such Bill should be on the Statute-book. The Railways now want to refer this new legislation to a Select Committee. Well, Select Committees have sat on this matter before but practically the Bill passed is a dead letter. Sir, I always look upon a Select Committee in this way. A little boy, asked his mother where has daddy had gone, and she says, "sonnie, he has gone to a Committee meeting", the boy then asked, "what is a committee, mummie?", to which the mother replied, "a committee is a place where a lot of men sit around a table, keep minutes but waste hours." In my opinion most committees are like that. Although past efforts have been almost infructuous, I do not think the proposal of taking this Bill to a Select Committee will meet the demand. My friend, who hails from the Province of Bengal

Pandit Nilakantha Das: No, from Orissa.

Lieut.-Colonel Sir Henry Gidney: or who hails from the area served by the Bengal-Nagpur Railway has stated in this House that he knows that the Bengal Nagpur Railway officials squander their time in going duck-shooting every week. He forgets that ducks are not had every month, and with one officer going out a week and a duck a week is not much to eat. But I do believe that my friend was carried away with his enthusiasm. I know the Bengal Nagpur Railway very well, having been a member of its Advisory Committee. I have been in the closest touch with that Railway and if there is one Railway in India which deals with its passengers and employees with sympathy and justice and where the human touch is exercised to the extreme degree, it is the Bengal Nagpur Railway under its present agent, Mr. A. Duncan. I stand here to repudiate anything that is said against that Railway and its officials of the nature we have heard from Pandit Das.

Sir, this Bill is one that is more than necessary. Even if it does not prove beneficial, it is necessary only to show that the Railway Board is alive to the interests of its returns. I therefore, support this Bill to be sent to the Select Committee.

Mr. President (The Honourable Sir Abdur Rahim): Sir Andrew Clow.

Dr. Sir Ziauddin Ahmad: Sir, as the closure has not been moved, the Honourable Member should not be asked to reply. If a closure is formally moved, we would like to divide the House.

The Honourable Sir Andrew Clow: As no other Member rose, I was asked to reply.

Mr. President (The Honourable Sir Abdur Rahim): No other Member rose when I called upon Sir Andrew Clow to reply. Sir Andrew Clow.

The Honourable Sir Andrew Clow: Sir, we have had a very long discussion and a lot of it dealt with a Bill which was introduced in 1936 and died in the following year. I recognise that in respect of the two important clauses of this Bill, the one imposing the possibility of imprisonment for fraud and the other relating to an ejection, as these principles were in the old Bill, the opinions received on it may be studied with advantage. But I do not propose to follow Honourable Members in discussing provisions which were included in the old Bill but which find no place here. I would merely repeat that the two features of the old Bill on which criticism concentrated were, firstly, the changing of the burden of proof and, secondly, the right of arrest. Both these proposals have, in deference to public opinion as expressed in this House, been omitted from the present Bill. And as there seems to be some misapprehension on the subject, I would like to add that this Bill creates no new offence. I would, therefore, suggest that we might let the Old Bill rest in peace.

As regards the principle of the Bill, my friend, Sir Ziauddin Ahmad, who has fallen rather into the habit of attributing to me opinions I do not hold, said that the fundamental difference between himself and me was that he believed that the important thing was certainty of detection and I believed that the important thing was severity of punishment. I can assure him that he is quite mistaken and that I am in entire agreement with him in the belief that the certainty of detection is a far more deterrent thing than the severity of punishment.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Have you both worked it out mathematically?

The Honourable Sir Andrew Clow: Neither of us has applied mathematics to it. It is a matter of conviction. But I do not think that is a good reason for not insuring that the punishment can, on occasion, fit the crime.

As regards the main principle of the Bill, which is that we should do what we can to check ticketless travel, I do not think there is much difference of opinion, although I notice that Pandit Nilakantha Das, whom we are glad to welcome back to the House, after referring to ticketless travel as a plague, seemed to be urging on me that we should carry ticketless travellers as a matter of charity. He has confessed that he is a ticketless traveller himself and I can understand his point of view, but I am afraid I cannot agree with him. Sir Ziauddin Ahmad asked me a question and I wondered whether, as an old and practised examiner, he was not following the practice that these examiners have of putting in an examination paper one little question which traps the

unwary candidate, who, although he has studied his subject, is not particularly intelligent. He put me the question: Can you give us the statistics to show that the number of ticketless travellers has gone up or down? It reminded me of an examination paper which I had seen. It contained one question in which candidates were asked to correct a passage in English. The passage contained the following sentence:

"The number of persons who are actually murdered but whom everyone believes died from natural causes is increasing at an alarming rate."

Obviously, I cannot provide any statistics of the number of ticketless travellers. I can only provide statistics of the number that we detect travelling without tickets. And these were the statistics which Pandit Nilakantha Das was quoting. I was not clear what conclusion he drew from them. You cannot judge the efficacy of measures taken against ticketless travellers by comparing the amount of penalty you realise with the cost of your checking staff, because the object of having a checking staff is not merely to recover penalties from those you detect but to deter other people from taking the risk.

Pandit Nilakantha Das: I also said that no proper statistics are given of all the items.

The Honourable Sir Andrew Clow: I have just explained that I cannot give the statistics of the persons who actually travel on our trains without tickets.

Now, let us look at the three simple provisions of the Bill. The first one is designed to deal with the cheat, the person who travels with definite intent to defraud. Now, with great respect to Mr. Aney, for whose support I am grateful, I suggest that a fine of Rs. 100 is not an adequate penalty for such a case even if you can put a man in prison in default. Mr. Lalchand Navalrai spoke as if the penalty of one year's imprisonment was going to be imposed on all the rogues we found. But he is too good a lawyer not to know that you put in the maximum penalty only so that you can deal with the gravest possible cases and that it is very seldom imposed in practice.

Sardar Sant Singh (West Punjab: Sikh): In this connection, may I ask the Honourable Member what were the reasons which induced him to increase the penalty of imprisonment from two months, as in the old Bill, to one year?

The Honourable Sir Andrew Clow: I gave him one reason yesterday and I can give the Honourable Member another now. If we kept the penalty as it was in the old Bill, it would actually reduce the period which could be imposed as imprisonment in default. Mr. Lalchand Navalrai warned me that I might become very unpopular because, he said, people have been travelling without ticket for a long time and it would be a terrible thing.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): I said they had been travelling without imprisonment and punishment.

The Honourable Sir Andrew Clow: Yes, without being punished for quite a long time. I am afraid I am bound to be unpopular with gentlemen of that kind. But I suggest that if people who have been travelling

[Sir Andrew Clow.]

without ticket for a long time are brought to book when this Bill passes into law, they do not deserve much sympathy from the House.

The second provision makes very moderate changes in the penalties in other cases. The only new point in this clause on which there has been any criticism, I think, is the provision that persons should be liable to imprisonment in default. That, as I have explained, I regard as really clarifying the position because it was held in the old days that that was already possible under the Act. My Honourable friend, Sir Ziauddin Ahmad, asked me why we did not content ourselves with the provisions in the Criminal Procedure Code and why we wanted to introduce further provisions here. The point is that in regard to fine in the ordinary way, the Criminal Procedure Code applies, but here it has been ruled by more than one High Court that although the money is recoverable as if it were a fine, you cannot treat as if it were a fine when it comes to imposing imprisonment in default.

Then the third and the last provision is that relating to ejection, and I confess I was surprised at the criticisms on this point. For, if I recollect rightly, in the debates of the proceedings of the old Bill, this received very little criticism indeed. My Honourable friend, Mr. Lalchand Navalrai, seemed particularly pained by it. He complained, and I admit there is justice in the complaint, that we let a lot of people get into the trains and he said that we should take much severer steps to keep them out of our stations and our trains. I wish we could do that. I recognise that it is much too easy to get into the trains without a ticket. Sir Ziauddin Ahmad asked why we did not do as the roads traffic do. I am sure he will realise on reflection that the two cases are in no way similar. The roads are in the fortunate position of being like Artemus Ward, who when someone asked him if he could get into his circus free, replied, "No: you can't go in without paying, but you can pay without going in." It is impossible to put up enormous walls or barbed wire fences round every station and so long as we admit persons to our platform on payment of one anna and do not exclude them from our premises altogether, unless they have actually tickets to travel, we cannot, I am afraid achieve the ideal that Mr. Lalchand Navalrai holds before us. But I confess that I found his proposition extraordinarily illogical because he seemed to be saying to me, "Use every means possible to keep men off from trains, but if you find them in the train, do not for goodness sake take them out". In other words, once he manages to get into the train safely, we must let him go on journeying indefinitely and must not check him and eject him from the train.

As regards the motion of my Honourable friend, Maulvi Muhammad Abdul Ghani, for circulation, I am afraid I must oppose that for several reasons. In the first place, although I recognise that he has done his best to accommodate me by fixing an early date, the time would not be sufficient to secure the opinions. In the second place, the whole subject, as the speeches of Honourable Members have shown was canvassed very extensively a few years ago and those opinions are still available. But I would endeavour to meet him as far as I can and assure him that Government will not ask for the Committee to be convened until a few days before

the beginning of the next Session. That will, I hope, give Honourable Members time to study the question and also to consult their constituents.

In conclusions, Sir, I would only say that I am surprised to hear the suggestion that in framing the Bill, I had taken advantage of the absence of certain Honourable Members of this House.

Mr. Lalchand Navalrai: That is a fact.

The Honourable Sir Andrew Clow: I may assure my Honourable friend that that is not a fact. When the Bill was framed, the intentions of those Honourable Members were as obscure to me as they probably were to themselves; for they had not received any orders on the subject. Obviously, if I had been prepared to flout public opinion in that way, I should have brought in a very different Bill. There would be no reason why I should not repeat the provisions of the old Bill which, from the point of Railways alone, was a better Bill and a much severer one. We have done our very best to meet all those points, by eliminating those to which this House raised serious objection. There are some who are of opinion that we have gone further than is reasonable, but if, as I hope, Honourable Members come back from their holiday prepared to give their agreement to the Bill now presented before them, I shall feel that that course has been justified.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1941."

The motion was negatived.

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

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Dr. Sir Ziauddin Ahmad, Maulana Zafar Ali Khan, Mr. G. V. Deshmukh, Khan Bahadur Mian Ghulam Kadir Muhammad Shahban, Mr. J. Ramsay Scott, Mr. B. M. Staig and the Mover, with instructions to report on the opening day of the next Session of the Assembly, 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 BERAR LAWS BILL.

The Honourable Sir Muhammad Zafarullah Khan (Law Member): Sir, I beg to move:

"That the Bill to extend certain Acts to Berar be taken into consideration."

Sir, there are two motions on the agenda paper asking for circulation of the Bill and in the alternative for reference to a Select Committee. I shall endeavour to show to Honourable Members that neither of those courses is necessary in respect of this Bill. From the Statement of Objects and Reasons, it may appear that this is a somewhat complicated and intricate measure. That actually is not so. The Statement of Objects and Reasons is detailed no doubt, but it is detailed for the purpose of clarifying the actual position. If Honourable Members will look at sections 46 and 47 of the Government of India Act, 1935, they will find that

[Sir Muhammad Zafrullah Khan.]

under section 46, Governors' Provinces include the Central Provinces and Berar. Then section 47 makes special provisions as to Berar. Section 47 says:

"Whereas certain territory (in this Act referred to as 'Berar') is under the sovereignty of His Exalted Highness the Nizam of Hyderabad, but is at the date of the passing of this Act, by virtue of certain agreements subsisting between His Majesty and His Exalted Highness, administered together with the Central Provinces:

And whereas it is in contemplation that an agreement shall be concluded between His Majesty and His Exalted Highness whereby notwithstanding the continuance of the sovereignty of His Exalted Highness over Berar, the Central Provinces and Berar may be governed together as one Governor's Province under this Act by the name of the Central Provinces and Berar"

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): May I ask the Honourable Member whether the consent of His Exalted Highness has been obtained before introducing this Bill?

The Honourable Sir Muhammad Zafrullah Khan: Under the agreement it is not necessary. That is exactly what I am trying to explain. The consent has already been obtained by virtue of that agreement to which I am referring. The section further says:

"Now, therefore,—

(1) While any such agreement is in force—

(a) Berar and the Central Provinces shall, notwithstanding the continuance of the sovereignty of His Exalted Highness, be deemed to be one Governor's Province by the name of the Central Provinces and Berar;

(b) any reference in this Act or in any other Act to British India shall be construed as a reference to British India and Berar, and any reference in this Act to subjects of His Majesty shall, except for the purposes of any oath of allegiance be deemed to include a reference to Berar subjects of His Exalted Highness;"

Now the position, therefore, is this. By virtue of this section and also of the adaptation of the definition of "British India" in the General Clauses Act, after the 1st April, 1937, all Acts passed which are expressed as being applicable either to British India or to the Central Provinces and Berar are by their own force applicable to Berar and apply to Berar. So that, since that date all legislation of that character has been in operation in Berar by its own force. Acts passed before that date were applied to Berar by notifications under the Foreign Jurisdiction Order in Council. Every one of these Acts which is in the Schedule of the present Bill except Acts covered by para. 4 of the Statement of Objects and Reasons is actually in force in Berar today, but it is in force by virtue of an order under the Foreign Jurisdiction Order in Council. All Acts passed after the 1st April, 1937, which are expressed to be applicable to the whole of British India or are expressed to be applicable to the Central Provinces and Berar are in force in Berar by virtue of section 47 of the Government of India Act and the definition of "British India" under the General Clauses Act.

Maulana Zafar Ali Khan: By virtue of British bayonets.

The Honourable Sir Muhammad Zafrullah Khan: By virtue of the agreement entered into by His Exalted Highness the Nizam, referred to in section 47. And all that this Bill seeks to do is to make those Acts which

are at present operative in Berar to be operative by legislation rather than by notification under the Foreign Jurisdiction Order in Council and to extend certain other Acts to Berar. The inconvenience which it seeks to remedy is this. These Acts are already in force, as I have said, but whenever any notification has to be made under these Acts or rules have to be issued under these Acts or an order has to be promulgated under these Acts, you have to issue those rules or those notifications or those orders in a double set, one set applying to the whole of India or applying to the Central Provinces and another set applying to Berar, because the Berar law is distinct from the original Act. And it is to do away with this anomaly, that is to say, that action has to be taken twice over, in respect of all these notifications and orders and rules that this Bill has been introduced. Except for a few minor Acts this Bill does not enforce in Berar anything that is not today in force there. All that it does is that it changes the authority under which these laws are in force. Today these Acts are in force under the Foreign Jurisdiction Order in Council and if this Bill becomes law they will continue to be in force under this Bill. And thus uniformity of procedure in the matter of the issue of notifications and orders will have been secured. Sir, I move.

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

"That the Bill to extend certain Acts to Berar be taken into consideration."

There are two amendments in the name of Maulvi Muhammad Abdul Ghani, one for circulation and the other for Select Committee.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, is he to move both these amendments now or will he move the Select Committee motion if the first one is defeated?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member knows the practice quite well. He can move both, and they will both be open to debate along with the original motion.

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

"That the Bill be circulated for the purpose of eliciting public opinion thereon by the 31st January, 1941."

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

"That the Bill be circulated for the purpose of eliciting public opinion thereon by the 31st January, 1940."

With regard to his other amendment The Chair is told that the names of the members of the proposed Select Committee have not yet been submitted.

The Honourable Sir Muhammad Zafrullah Khan: And we have not been asked for any names.

Mr. President (The Honourable Sir Abdur Rahim): Then the debate will proceed now on the original motion and the circulation motion.

Maulvi Muhammad Abdul Ghani: Sir, the object of my moving this motion is that I do not like to stand in the way of Government in the matter of the extension of these various Acts as mentioned in the Schedule.

[Maulvi Muhammad Abdul Ghani.]

But I find that some of these Acts date back even to the year 1850. I do not know why it was not thought fit to extend these Acts during all these years and why there should be any hurry to extend them to Berar just now. It has been pointed out by the Leader of the House that they are in operation there in actual practice. So the purpose is being served and there is no hurry about it. Therefore, the Bill may be circulated for eliciting public opinion. There are very many intricate things in it. For instance, there has been some agreement between His Majesty's Government and the Nizam's Government, and in view of this agreement regarding Berar it is necessary that we also should have an opportunity to study the position so far as these Acts mentioned in the Schedule are concerned. I hope the Leader of the House will accept my modest amendment and the House will also support me.

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, as the representative of Berar in this House I think I am more interested in this measure than my Honourable friend who has just spoken. This measure does nothing more than remove a certain kind of anomalous position that exists with regard to the application of certain Acts to Berar. Since the date of its cession in the year 1853, Berar has been treated as H. E. H. the Nizam's territory with his sovereignty admitted but administered by the British Government. In order to retain that, the procedure for enacting laws for Berar was that laws made by the Government of India were extended to Berar, not ordinarily as they are extended to other British provinces, but by notifications issued through foreign jurisdiction. In the year 1902, Foreign Jurisdiction Order was enacted and under that Order, all the laws that are passed for British India and which are thought to be necessary to be applied to Berar were applied to Berar through Foreign Department under foreign jurisdiction order. That is the position for laws which have been enacted till the year 1937. Laws which have been mentioned here in Schedule I are those laws—they are laws at present in operation in Berar. They are administered there and everything is done in accordance with those laws; but it is perfectly true, as the Honourable the Leader of the House has told us that, on account of their being applied to Berar through foreign jurisdiction order, they are not so to say British laws but Berar laws. That is the position which at present those laws occupy. The Indian Penal Code as applied to Berar by this law is something separate theoretically from the Indian Penal Code as existing in British India. The law is administered by the same magistrate and by the same High Court; but when the question is of dealing with the law for the people of Berar, then that law is treated as the law as applied to Berar and not as the law which exists in British India. This position was all right till this Government of India Act of 1935 was passed. The sections to which the Honourable the Leader of the House has made reference have clearly laid down that for the purpose of the administration of this Act, Beraris will not hereafter be considered as foreign subjects, except for the purpose of the oath of allegiance. Many of my friends may not probably understand what this little trouble is. Up to this time the procedure is this: before the Act of 1935 was passed, even if I were elected by the people as a representative of the people of Berar for this Legislature, that was not sufficient for me to come and take my seat in this House. H. E. the Governor General had to

issue a notification saying that I am nominated by him to be a Member of this Assembly. Therefore, my name, as Honourable Members might have seen in the List of Members published till last year, used to be shown somewhere between the nominated Members and the elected Members—I was between the two; and I was the sole Member of that kind, who did not share with any other Member, nominated or elected. That was with a view to recognise theoretically the position which the treaties have created with regard to Berar subjects.

Now, on account of this agreement that was passed, to which reference was made in section 46 and section 47 of the Government of India Act, the Act has now recognised this. For the purposes of this Act, the Beraris are to be considered as British subjects and not as foreign subjects. But for the purpose of the oath of allegiance they are to be regarded as foreign subjects. If there is a general election ordered and if I have to stand for the election, and even if I am returned, it will be no longer necessary for H. E. the Governor General to nominate me. I shall come and take my seat here. But unlike other Members who will be taking the oath that they owe allegiance to His Majesty the King Emperor and his successors, I shall have to take another oath besides, an oath of allegiance to H. E. H. the Nizam. I have to take two oaths. That is prescribed in the rules, and that is the reason why everyone from Berar has got two masters to serve. I am not mentioning it as a matter of grievance. I am only stating the fact as it is under the law at present. He has to recognise as his *de facto* sovereign today His Majesty the King Emperor, and as his *de jure* sovereign, so to say, H. E. H. the Nizam; and in both these capacities he occupies his seat. The reason is this: whenever any law is passed, which is passed not by this legislature but by the Provincial Legislature, it becomes applicable to Berar—(because the Federal Legislature has yet to come into existence)—but under one condition. The Governor is supposed to add his signature to that, both as Governor of the Central Provinces and as one representing H. E. H. the Nizam in view of certain conditions in the treaty of agreement between H. E. H. the Nizam and His Majesty's Government. Thus this Governor of the Central Provinces occupies a double capacity. He acts both on behalf of His Majesty and as Governor of Berar to whom powers are delegated under the treaty, in virtue of the terms of the agreement with H. E. H. the Nizam. In that double capacity he remains there.....

Sir Syed Raza Ali: (Cities of the United Provinces: Muhammadan Urban): He too has two masters.

Mr. M. S. Aney: He also is supposed to serve two masters; that is a matter for him to see, not for you or me to say. I think they are pulling on well and there is no trouble for the present. The net result of all this has been that for the purposes of the administration of Berar the distinction which existed before has disappeared and it has become part and parcel of British India. And if that is the position, the question is this: all laws which are now in operation and in force in Berar till the year 1937 are laws operating there as being applied to Berar through foreign jurisdiction. After this Act has come into force, foreign jurisdiction has no jurisdiction there today. The question is, is it right that a jurisdiction which has ceased to exist should be still recognised as being in force for the purpose of getting these particular laws in operation in Berar? That

[Mr. M. S. Aney.]

is an anomalous position, and this Act does nothing more than to say it has ceased to be a fact now and it recognises the fact that Berar is a part of British India and all laws of British India will, hereafter, by virtue of an enactment of this Legislature which is a Legislature in British India have force there. That is the first thing which this law does.

The second thing is this: there have been certain laws in force in Berar and those laws have been repealed in British India; but the notification with regard to the application of that repealing Act has not been issued. Therefore, technically, those laws which are extended to Berar by virtue of the notification are still supposed to be in force, while they are not in existence at all in British India. The thing that is supposed to be the law in Berar does not exist at all in British India, because the repealing Act was passed by this legislature; but owing to some mistake or other or through inadvertence or oversight, no notifications of the repealing Act have been issued under the Foreign Jurisdiction Order, and those laws are still supposed to be in force there. One of the objects of this measure is to do away with this anomaly, and also a Schedule has been added in which all such laws are put together. I do not think it is a complete thing.

Then another thing is this. There are certain laws in the Central Provinces and Berar,—I shall not take more than two or three minutes, Sir, there are a few laws which are well applied to Berar, and they have been modified on account of the existence of certain special laws there. Now, when those laws are to be applied to Berar now as laws in British India, those modifications which exist there have to be recognised, and a scheme of appropriate amendments to those laws has been added in Part III. These things have been done with a view to remove what may be considered a kind of legal anomaly that has existed up to now. There is nothing to be afraid of by this measure, there is nothing on which any useful opinion can be called for by sending out this Bill for opinion. If it is the desire of the House that this Bill should be sent out for circulation, I, personally, have no objection, because nobody will lose anything by keeping this matter in abeyance, but no useful purpose will be served by postponing this piece of legislation. It really removes an anomaly which ought to have been removed much earlier. For these reasons, Sir, I extend my whole-hearted support to the measure which the Honourable the Leader of the House has brought forward.

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. M. S. Aney, one of the Panel of Chairmen), in the Chair.

Maulana Zafar Ali Khan: The problem of Berar has been exercising the minds of the people of India for a very, very long time. Everybody knows that Berar was part of the Hyderabad Dominions under the sovereignty of the Nizam. Everybody knows that for a very, very long time attempts have been made by the Government of Hyderabad to induce the British Government to restore Berar to the possession of its legitimate owner. The father of the present sovereign of Hyderabad, Mir. Mehbub

Ali Khan of blessed memory, through his illustrious Prime Minister Sir Salar Jung tried to persuade the British Government in the name of justice, in the name of equity, in the name of political morality, to give up Berar. Then came the time when the late Sir Ali Imam made every effort to induce the Britishers to give up Berar, but they would not. You know what the position of Hyderabad is.....

Mr. Chairman (Mr. M. S. Aney): The Honourable Member is not in order in discussing matters which are matters of treaty relations between His Exalted Highness the Nizam and the Government of India.

Maulana Zafar Ali Khan: Permit me respectfully to point out that they relate to this because.....

Mr. Chairman (Mr. M. S. Aney): I have ruled that the Honourable Member is not in order in discussing matters which are the subject matter of treaty relations between His Exalted Highness the Nizam and the British Government.

Maulana Zafar Ali Khan: All right, Sir. My Honourable friend, Mr. Aney, when speaking on this motion, was pointing out to the Honourable the Law Member that in the Berar a very anomalous position has been created because the people there think that they are serving under two masters, one is His Exalted Highness the Nizam and the other master is the King of England. Therefore, this anomaly ought to be removed, but this anomaly will not be removed as long as the flag of His Exalted Highness the Nizam flows over Nagpur and as long as there is a representative of the Nizam's Government in Nagpur. A Hindu gentleman of the status of a High Court Judge drawing a princely salary of Rs. 6,000 a month is there. The Honourable the Law Member should see to it that the Government have the decency to consult the Nizam on this question. What have you left to him? Nothing left but a flag and there is the Prince of Berar. You admit all that, but still you do not have the decency before introducing a Bill of this sort to consult Hyderabad. You do not do even that. His Exalted Highness the Nizam must have something to say to it. The Government of India have treated H. E. H. the Nizam very shabbily, treated his Government with scant courtesy. The Government of India do not even thank H. E. H. the Nizam for what he has done for the British Government. They thank the ruler of Nepal, but they do not thank H. E. H. the Nizam. He has spent millions in the cause of England, he has shed the blood of thousand of his soldiers in the aid of England.

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): Is it the contention of my Honourable friend that this House has no jurisdiction to pass a law like this?

Maulana Zafar Ali Khan: I will recommend to H. E. H. the Nizam's Government that they should make you Vice-chairman.....(Interruption). I am afraid this sort of thing is done to show that a section of my countrymen does not like it. But if there is justice, if there is equity, if there is political morality, then I think something should be done in the way of meeting the ends of justice so far as Hyderabad is concerned. I have been pointing out to you that H. E. H. the Nizam's Government ought to be consulted in this matter. It is the duty of the Government

[Maulana Zafar Ali Khan.]

to consult them as long as the emblem of sovereignty in the Berar is there in the shape of H. E. H. the Nizam's flag, as long as there is the Crown Prince of Berar, as long as there is a representative of H. E. H. the Nizam at the Court of Berar if that Court is H. E. H. the Nizam's Court or the British Sovereign's Court. I have nothing to add. I may have added many things, but perhaps the Chairman may not allow me to do it. I might say that the whole history of Hyderabad is a regular continuous tragedy. Broken pledges, prevarications and base ingratitude. If there is anything of gratitude what should we be doing here? When the Indian Finance Bill comes we say we leave this Assembly because there is no justice here and we want complete independence. So, why should not H. E. H. the Nizam want complete independence? So far as the ten crores of Mussalmans are concerned and a very large section of the Hindus are concerned, they want the Berar to be restored to H. E. H. the Nizam.

Mr. Chairman (Mr. M. S. Aney): Order, Order. The Honourable Member's speech refers to points which are perfectly irrelevant to the question before the House.

Maulana Zafar Ali Khan: All right, Sir. Whatever legal quibbles there may be, whatever the forensic ability of Sir Muhammad Zafrullah Khan may be, whatever your law may say, the naked question remains,—what is law, what is justice? Justice in this world, and law in this world means that you can mould anything to your wishes if you like, if you have got the power. So, you talk of treaties—the treaty between H. E. H. the Nizam and the British Government, treaty between a pigmy and a giant, treaty between the strong and the weak, treaty between sane and insane, treaty between might and right. Could this treaty have any value in our eyes? And you want us to go through this Statement of Objects and Reasons, section so and so, regulation so and so, provision so and so—what is that worth? Restore Berar to H. E. H. the Nizam and that will satisfy us. With these words I sit down.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadian Urban): Sir, Berar is in a very anomalous position. If we look at the history of the province we will find that about the middle of the last century Berar was leased to the British Government in India as a security for the payment of certain sums which had to be paid by H. E. H. the Nizam on account of certain soldiers lent to that territory. Then in the time of Lord Curzon the administration of Berar was taken over by the Government of India and as a reward for allowing this administration to be taken over the then Nizam was decorated with the high-sounding title of G.C.B. Indian politicians used to say that those letters stood for "Gave Curzon Berar." However, about two decades later, an attempt was made on the part of H. E. H. the Nizam to get back Berar, but a sharp rebuke was administered to him by Lord Reading on that occasion. Under the Government of India Act, 1935, the position has been made somewhat different, and Berar continues to be in an anomalous position. Now, it is time that the position was made clear. It is no use passing laws which will still cause irritation and unwillingness on the part of some persons to observe these laws. The demand has been made that H. E. H. the Nizam should

be consulted in this matter. That is a very reasonable demand. Further, it is suggested that this Bill should be circulated for eliciting opinion thereon. I do not see any objection to this and I hope the Government will agree to accept this motion.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I think an attempt has been made to import into the debate considerations which are entirely irrelevant to it. We are not concerned here with the merits of the agreement arrived at between His Exalted Highness the Nizam and His Majesty. I have not the slightest doubt that it is a fair and equitable adjustment of points affecting the new arrangement which has been put in force by the Act of 1935 but whatever may be the merits or demerits of that agreement, that is not a subject that we are entitled to debate here or which is relevant to the motion before the House. On one matter I must join issue with one of the Honourable Members who has spoken. During the course of this debate, he said that the help which is being most generously given by H. E. H. the Nizam and his Government towards the prosecution of the war had not been acknowledged and that His Exalted Highness had not been duly thanked. I think not only that it has been equally generously acknowledged but it has been acknowledged on many occasions, the latest being the speech of the Secretary of State in the House of Commons yesterday. But that is neither here nor there. The whole point is this. Divorced from all questions of sentiment, under the Government of India Act an arrangement has been arrived at whereby since the coming into force of the Third Part of that Act, that is to say, from the 1st April, 1937, this House and the Legislature of the Central Provinces have now jurisdiction to legislate for Berar and that has been done for more than three years and as I have said, the object of the Bill before the House is, except to the extent indicated in clause 4 of the Statement of Objects and Reasons, to continue in force in Berar the laws that are already in force there under the Foreign Jurisdiction Order in Council but to continue them now under an Act of this Legislature. That is the only object of this Bill. Nevertheless, if Honourable Members feel that they should like to thresh out this Bill in Select Committee, I have no objection to meet their wishes, though I must confess that I do not see what the Select Committee can thresh out in a measure like this. If Honourable Members entertain any apprehensions that something is being done, the significance of which they have not fully grasped, I am quite prepared that the Bill might be referred to Select Committee. I would, therefore, suggest, that the Honourable Member who has moved this motion for circulation should withdraw this motion and move his motion for Select Committee and then I hope that without any further speeches the House might be able to agree to send this measure, which is really a simple measure, to the Select Committee, in order to satisfy itself that there is nothing more in it than what I have described as the object of the measure.

Maulvi Muhammad Abdul Ghani: In view of the statement made by the Honourable the Leader of the House, I beg leave to withdraw my Amendment.

The amendment was by leave of the Assembly withdrawn.

Maulvi Muhammad Abdul Ghani: Sir, I move:

"That the Bill be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Sir George Spence, Mr. Muhammad Azhar Ali, Maulana Zafar Ali Khan, Mr. M. S. Aney, 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."

Mr. Chairman (Mr. M. S. Aney): Amendment moved:

"That the Bill be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Sir George Spence, Mr. Muhammad Azhar Ali, Maulana Zafar Ali Khan, Mr. M. S. Aney, 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 Honourable Sir Muhammad Zafrullah Khan: I accept the motion.

Dr. Sir Ziauddin Ahmad: I do not want to detain the House as the Honourable the Leader of the House has accepted this motion. I just want to say one or two words. Berar has got a very peculiar position. In Hyderabad the people of Berar enjoy all the privileges which the Hyderabad people enjoy. I know definitely that a number of people have applied for scholarships from Hyderabad on the ground that they were residents of Berar and they were given scholarships on this condition. Therefore, the people of Berar cannot have it both ways.

The second point is that courtesy demands that a thing like this ought to have been referred to the representative of Hyderabad in Nagpur or to the Nizam's Government just to see what they have got to say. In order to exercise my vote intelligently, I like to visualise, when the Report of the Select Committee comes in, in what way the general relations are affected, so that we may achieve our object in good spirit.

The Honourable Sir Muhammad Zafrullah Khan: As I have already said, I am willing to accept this motion on behalf of Government. I may point out that no question of courtesy or lack of courtesy whatsoever arises under the arrangement already arrived at. This is the third time that I am trying to explain to the House that by the arrangement already arrived at and embodied in section 47 of the Government of India Act, 1935, this Legislature has the power to pass laws in respect of Berar. I do not see how any question of courtesy arises. If on each occasion a reference had to be made either to the Government of His Exalted Highness the Nizam or his representative in the Central Provinces, it was not necessary to have embodied that arrangement in the Government of India Act. The Government of India Act, having already given statutory effect to the arrangement arrived at, it would be not only unnecessary but foolish to trouble His Exalted Highness the Nizam or his Government over and over again. They have no objection to the procedure that is being adopted and I do not see where the question either of courtesy or of failure to take any precautions, which ought to have been taken, arises.

Mr. Chairman (Mr. M. S. Aney): The question is:

"That the Bill be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, Sir George Spence, Mr. Muhammad Azhar Ali, Maulana Zafar Ali Khan, Mr. M. S. Aney, 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.

Mr. Chairman (Mr. M. S. Aney): Sir Ramaswami Mudaliar.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House): Sir, the next motion regarding the amendment of the Indian Sale of Goods Act, 1930, which stands in the name of the Honourable the Commerce Member will be made on Monday next.

Mr. Chairman (Mr. M. S. Aney): Mr. Tyson.

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): Sir with your permission, I will not move the motion regarding the New Delhi Mosque Bill today, as some Honourable Members who are particularly interested in the Bill wish to have some further information.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I move:

"That the Bill further to amend the Indian Income-tax Act, 1922, and to make certain transitory provisions with respect to the operation of that Act on the coming into force of Part II of the Indian Income-tax (Amendment) Act, 1939, be taken into consideration."

Sir, Honourable Members will remember that this motion was down on the agenda on an earlier date in this Session and that I did not move it. The reason for that was that although I am quite satisfied that this Bill is of a simple nature, nevertheless it had not been before Members of the House long enough for them to be able to study it and to satisfy themselves that there was nothing involved which required a reference to and study by a Select Committee. It is, unfortunately, impossible to deal with the subject of income-tax in language which the man in the street can understand and, therefore, the Bill was provided not only with a statement of objects and reasons but with very full notes on clauses. The scope of this Bill is, in the first place, a few clauses of a purely machinery character, of which perhaps the one that will most interest the House relates to the provisions regarding pending cases before the Commissioners of Income-tax on the date when the new tribunal will begin its duties. It is hoped that that tribunal, in connection with which certain appointments have already been made, will begin to function in a fairly short time now, but when it begins, there will be on the files of the Commissioners of Income-tax various applications,—appeals, applications for reference to High Courts, and so on and it is necessary to make a provision as to how those cases should be disposed of, and clause 14 of this

[Sir Jeremy Raisman.]

Bill is a machinery clause which provides for the manner of disposing of that purely temporary problem. The clauses which are of a substantive character, consist almost entirely of measures of relief which we have decided to grant in response to representations which have been made from time to time on behalf of the tax-payer; and it is because I was so confident that the Honourable Members concerned would realize the beneficial character of this Bill that I put it down for consideration at an early stage and hoped to dispose of it quite early in the Session; but I realize that Honourable Members are not in a position to satisfy themselves fully at such short notice.

However, I now understand that Honourable Members have had the time to study the Bill and to consult their constituents and that they recognize that the Bill consists in the main of measures designed to give certain kinds of relief for which we have been asked continually for some time. There is only one exception in the clauses of a substantive effect; there is one clause which is not of the nature of a relief to the taxpayer and that is clause 8 which gives the power to impose a penalty on a class of assessee which hitherto, owing to the anomalous operation of the existing provisions, has been entirely immune from penalties which are applicable to all other assessees in certain circumstances. The type of assessee which has hitherto been immune is the registered firm, and the immunity is due to the fact that, in effect, the final result of the assessment is that the tax is assessed not upon the firm but upon the partners and the wording of the existing provisions of the Act is such that it is in fact impossible to levy a penalty on the partners if the return made on behalf of the registered firm is deliberately inaccurate. That is an immunity, as I say, which applies to no other kind of assessee and clause 8 removes that anomaly. That, Sir, is all I think I need say in explanation of this Bill; but if there are any points on which Honourable Members would desire further enlightenment, we shall be glad to afford it. There is, I know, an amendment down on the paper and I do not think that that will cause any difficulty. Sir, I move.

Mr. Chairman (Mr. M. S. Aney): Motion moved:

"That the Bill further to amend the Indian Income-tax Act, 1922, and to make certain transitory provisions with respect to the operation of that Act on the coming into force of Part II of the Indian Income-tax (Amendment) Act, 1939, be taken into consideration."

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Mr. Chairman, the Honourable the Finance Member has just stated that though he has not explained it in the statement of objects and reasons, clause 8 does make an effective change. I would like to point out to the Honourable House that there is another rather substantial change made in the Bill and that is the definition of "company" in clause 2 which does not fall within the category as explained in the statement of objects and reasons as measures to give relief to the taxpayer

The Honourable Sir Jeremy Raisman: We claim that it does.

Sir Cowasji Jehangir: . . . and I would just like to point out how it does not. You will perhaps remember that when the Excess Profits Bill was under consideration, I had occasion to point out that in that Bill it was sought to change the definition of "company" and the result would have been that the Income-tax Act would have one definition of company and the Excess Profits Tax Act would have another definition. Clause 2 of the Bill changes the definition of "company" in the Income-tax Act to make it in conformity with the definition now in the Excess Profits Tax Act. I had then occasion to point out that the change in the definition made a substantial difference to the taxpayer.

Mr. F. E. James (Madras: European): They did give notice that they 3 P.M. would do it on this.

Sir Cowasji Jehangir: I pointed out then that it made a substantial change to the tax-payer and I want to repeat it today.

The Honourable Sir Jeremy Raisman: We pointed out then, Sir, that this change was being made in the interests and for the relief of the majority of tax-payers affected by it.

Sir Cowasji Jehangir: If the Honourable Member would just listen to what I have to say, he will see that it does make a difference to a certain class of tax-payers.

Now, Sir, in my Minute of Dissent on the Excess Profits Tax Bill I actually stated the difference that the change in definition would make. Although I was unable to be present in the House when the Bill was considered, I did ask in my Minute of Dissent that this definition should not be changed. Sir, I find that when the report of the Select Committee was printed in the debates, the Minutes of Dissent were left out. Therefore, when Honourable Members want to look up the Minutes of Dissent, they cannot find them in the printed records of this House but they have to go to the Record Office, to get them. I would like to point out to the Finance Member and to other Members that, when the authorities print the Select Committee's report in the debates, they might as well print the dissenting minutes because the report of a Select Committee is not complete unless the dissenting minutes are also printed.

The Honourable Sir Jeremy Raisman: I understand that the official report does not contain the Select Committee's report either.

Sir Cowasji Jehangir: Why should it not be printed in the official report? It is laid on the table of the House. The dissenting minutes are also laid on the table of the House along with the Select Committee's report and are circulated to this Honourable House when the Bill is under consideration. It is on the general principle that I am talking. It struck me only when I wanted to look up my own Minute of Dissent and I could not find it and I had to go to the Records Office to get a copy of it. Ten years hence I might not be able to get it at all. I am pointing

[Sir Cowasji Jehangir.]

this out only by way of a suggestion. Perhaps Sir George Spence would take a note of it. But I do think that the report is not complete without the Minutes of Dissent and in future I trust they will be printed.

Now, I come to the point before the House. This is what I actually stated in my dissenting note and I would like the House to take note of it. This is exactly what I said:

"From the definition of a company as given in the Income-tax Act, it is clear that a company, which is incorporated in a native State and which does not carry on business in British India, is not a company within the meaning of that definition. If such a company capitalises a part of its accumulated profits and reduces its capital by return of capital, than the amount of such capital received by a shareholder, who is a resident in British India, is not subjected to income-tax."

Now, by this amendment, you will subject that income to income-tax and, therefore, you are making a substantial change with regard to a certain class of tax-payers. As I said, I pointed that out when we were discussing the Excess Profits Tax Bill. I then put it in my Minute of Dissent and I desire to point it out again that this definition has made a difference to a certain class of tax-payers. There is no amendment on the paper. And if the House wishes to do anything in this behalf, it should throw out clause 2. If clause 2 is negatived, then this change will not have the effect I have tried to explain. Therefore, it is not correct to say that only clause 8 of this Bill has an adverse effect upon tax-payers.

Then, Sir, I come to clause 7 of the Bill and for the concession given I would like to thank the Honourable the Finance Member. I always like to admit a concession given and to thank those who give it. I equally desire that when we want a little concession, my Honourable friend, the Finance Member, will give it.

The Honourable Sir Jeremy Raisman: You are asking the House to take the jam and reject everything else.

Sir Cowasji Jehangir: It is more rare than ever to get jam from the Finance Member. So far as my experience goes,—I do not know the experience of my Honourable friends round about me—, we have had very little jam from the Finance Member. I do not mean the present Finance Member in particular, but all the Finance Members in the past. The jam comes to the Finance Member from the tax-payers. That is where the jam comes from. But for little mercies which are just and fair and which the Finance Member gives without our asking in this House, we are grateful. But there is another point in section 23-A. of the Act to which I would like to make a reference. I particularly desire that Honourable Members should take note of it because it appears to me to be inconsistent with the spirit of the Income-tax Act. I refer to the words 'shall be deemed to have been distributed' in section 23A. Without reading the whole section, may I in a few words explain what these innocent little words mean. In the case of certain companies, which we used to call private companies under the old Act, the income-tax authorities can compel the company to distribute 60 per cent. of its distributable profits

MR. J. F. SHEEHY (Government of India: Nominated Official): They cannot compel the company to distribute, but they can treat the profits as distributed.

Sir Cowasji Jehangir: They can make them pay income-tax or super-tax on it.

Mr. J. F. Sheehy: It is only super-tax that this section deals with.

Sir Cowasji Jehangir: I am talking of the company now. The income-tax authorities can force it to distribute 60 per cent.

Mr. J. F. Sheehy: On a point of explanation The Honourable Member is wrong. The company in the ordinary way pays income-tax and super-tax on the whole of its profits whether they are distributed or not.

Sir Cowasji Jehangir: I apologise to the Honourable Member. He is right and I stand corrected. When you make out your balance-sheet and say that you have a profit of Rs. 100 you have to pay income-tax and super-tax on it. But suppose Rs. 100 is a distributable profit, then only Rs. 60 out of that Rs. 100 has to be distributed to your share-holders. The shareholders then have to pay super-tax on that portion of the Rs. 60 that each one gets. Now, this Bill provides that you shall pay super-tax whether you have received that dividend or not.

The Honourable Sir Jeremy Raisman: That is the existing Act: not this Bill

Sir Cowasji Jehangir: It is the section that we are touching. It says: "shall be deemed to have been distributed". Therefore, a company may not choose to distribute its profits and may not choose to give any dividends because there may be other losses in the previous years that have to be made good. But whether it distributes them or not, it is taken for granted that the poor shareholder has received the amount in his pocket and is made to pay the super-tax. I think that is unfair. I pointed this out when the Income-tax Act was being amended and I am pointing it out again now that this section is being again amended. I can only express the hope that the Honourable the Finance Member will take this point into consideration when he will have to amend the Act again and I am sure he will have to amend the Act pretty often

The Honourable Sir Jeremy Raisman: It will demand a complete repeal of that clause.

Sir Cowasji Jehangir: No. I understand why it was put in. It was explained to me. I take it that there are hard cases and as regards such cases, you have no right to give relief under this Act. If a company has made a big loss in one year and in another year it choose not to pay any dividend in order to write off the loss, surely that is a hard case.

954

LEGISLATIVE ASSEMBLY

[21st Nov. 194

[Sir Cowasji Jehangir.]

If the shareholders have not got any dividend, it is unfair to make them still pay super-tax on that dividend. Why should you do so? I can understand a company not paying dividend deliberately not to write off loss but to increase its capital and then distribute that capital by way of bonus shares so as to escape super-tax in future. Such cases could be caught.

The Honourable Sir Jeremy Raisman: Cases of loss are covered by this section.

Mr. J. F. Sheehy: The section says that the Income-tax Officer shall apply it:

"Unless he is satisfied that having regard to losses incurred by the company in earlier years or to the smallness of the profit made, the payment of a dividend or a larger dividend than that declared would be unreasonable. . . ."

Sir Cowasji Jehangir: That is another point. That is a point where you compel him to adhere to the distribution of 60 per cent. You may see that there are reasons for him not to distribute 60 per cent., but only 20 or 30 per cent.

Mr. J. F. Sheehy: You must give us a specific case

Sir Cowasji Jehangir: Suppose in that particular year the profits are such that you say that they should be distributed. But the company has a right to say that in this year no doubt I have had a bumper year, but two years ago or three years ago, I had two very bad years and I must make up that loss. That will not give relief to that case according to you.

Mr. J. F. Sheehy: It is covered by the section.

Sir Cowasji Jehangir: I do not think so, because your Income-tax officer will say, you have to pay that dividend, but if you choose not to pay that dividend, the State must not lose the super-tax on it and, therefore, it must be taken to have been distributed. Your case is a different one. That is where the Income-tax authorities themselves realise that to make the company distribute 60 per cent. of the profits would be unfair. That is another point. But having come to the conclusion that 60 per cent. of the profits should be distributed in that particular year regardless of profits in, or losses, in other years, then if the company does not pay that dividend you say it is taken as distributed and the shareholder is called upon to pay super-tax. This is not the first time that I point it out. I will again point it out and request you to look into it and consider it and if you come to the conclusion that there is something in what I say, it must be adopted.

The Honourable Sir Jeremy Raisman: I have no doubts about the position.

Sir Cowasji Jehangir: If my Honourable friend will take up that attitude

The Honourable Sir Jeremy Raisman: If the Honourable Member has a concrete case, which will bring out the hardship which he is trying to put forward, I shall be very glad to look into it, but in case as he is stating it in general terms he has entirely failed to show me any reason why the section should be changed.

Sir Cowasji Jehangir: I will explain it now. I do not want to waste the time of the House by repeating. But since that particular question has been raised, I shall reply briefly. A company makes a profit of say Rs. 100 in a year. It has made losses of Rs. 100 three or four times in previous years. In that particular year when it has made a profit of Rs. 100, no doubt it is a fair percentage of profit and the income-tax authorities say that the company should distribute 60 per cent. of that profit. The company pays its super-tax and income-tax but it does not distribute for that particular year any dividend because it wants to make good the loss incurred in previous years. For that particular year the Income-tax authorities will say that the dividend will be deemed to have been distributed. He will not look into the previous years when losses were incurred, but in that particular year when profit was made, he will insist on distribution of 60 per cent. of the profits.

Mr. J. F. Sheehy: If the Honourable Member gives me a specific case, I shall look into it.

Sir Cowasji Jehangir: I only wanted to draw the attention of the Government to this. If you find that my argument is reasonable I hope you will remedy this defect next time you bring forward an amending Bill. By no means do anything which will make you lose your revenue, but be fair. I shall be obliged and I shall say no more. With these remarks, Mr. Chairman, I have great pleasure in supporting this Bill and I do trust and hope that when all amendments to the Income-tax Act come in the future, they will be of the same character and that we shall always have occasion to thank the Government and the Finance Department for giving small concessions here and there.

The Honourable Sir Jeremy Raisman: Jam tomorrow.

Sir Cowasji Jehangir: Believe me, Mr. Chairman, when I say that on this very Bill itself, I have received from my constituents fairly long notes on what ought to be done still further but knowing that after all it is only fair to Government that we should only move amendments within the four corners of the amending Bill, I refrain from bringing those grievances to the notice of the Honourable the Finance Member on this particular occasion. But that does not mean that I may not be compelled to do it on another occasion. Even in this section many amendments were suggested to me which I have not even brought to the notice of the Finance Department because I do not think it was the right occasion to do so.

Mr. F. E. James: I am sure in view of that tribute you will get full consideration

[Sir Jeremy Raisman.]

Sir Cowasji Jehangir: I hope the Honourable the Finance Member has heard the remarks of my Honourable friend, Mr. James. With these remarks, Mr. Chairman, I give my support to the Bill.

The Honourable Sir Jeremy Raisman: Sir, in regard to the last words that fell from my Honourable friend, I must congratulate him on the decision not to put forward at this stage amendments to carry out all the additional boons which his constituents considered might fairly have been handed out at this moment. The effect of a procedure of that kind would be to so terrify the Finance Department that they would be very nervous of proposing concessions in future. After all, Sir, we know that there are a large number of forms of relief or concessions which taxpayers agitate for and we do attempt to meet them so far as we think is reasonable and so far as we can afford to from time to time. If we were to find that whenever we came forward with measures of relief which we considered reasonable, each time we gave concessions, we found that on those occasions the scope of the Bill was always enormously enlarged, then I am afraid we should refrain from exercising the initiative to bring forward measures of that kind.

Now, Sir, I do not wish to enter into arguments on the point raised by my Honourable friend. I merely wish to inform the House that in regard to the first point, namely, clause 2 relating to companies it is still the case, although I admit that there is a type of case such as that mentioned by my Honourable friend in which the amendment has the effect of extending the scope of taxation, nevertheless it definitely remains the fact that the broad effect of this clause is to grant relief to a number of cases of considerable hardship. And in the cases in which it has the effect of extending the scope of our taxation I am satisfied and the Select Committee on the Excess Profits Tax Bill were satisfied that there was no good reason why tax should not be paid in British India in that type of case. As regards the other class of which my Honourable friend spoke, most of his remarks related to section 23-A as it exists. And I merely want to remind the House at this moment of what is the whole object of that section which has been in the Act now since 1930. It is the main provision, if not the sole provision, in our Act for dealing with that form of evasion which is known as the one-man company, whereby an individual by forming a company which in effect still consists merely of himself with perhaps an office-boy or two holding one share, obtains a privileged rate of taxation which applies to companies, in respect of super-tax particularly, and then proceeds so to manipulate the profits of various years that at no stage do they come into his hand in the form of income. He so arranges it that the profits are put into various kinds of reserves and funds and they never reach him except in a form which he is able to argue is capital and not income. This was a device which had been resorted to in the United Kingdom by many very wealthy persons over a period of time and it has happened also in this country; and the only way in which the Revenue was able to counter this evasion was to say, "We shall not recognise one-man companies", and the way they did it was to say that if the profits of any year were not distributed they would immediately, unless there was good reason such as is mentioned in the section,

treat a reasonable proportion of the profits as having been actually distributed. That cuts out all further evasion. It does not matter what your millionaire does with his funds after that; he has to pay tax that year if the profits accrue to his so-called company.

That, Sir, is the main object of the section, and unless you can say that a distribution is deemed to have been made and the dividends are deemed to have been distributed whether they have been distributed or not, the section loses its whole point and you are deprived of this weapon against one of the most objectionable forms of evasion, namely, evasion of tax by that class of taxpayer who is best able to bear it. That, Sir, is all I have to say on the point raised by my Honourable friend.

Mr. Chairman (Mr M. S. Aney): The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, and to make certain transitory provisions with respect to the operation of that Act on the coming into force of Part II of the Indian Income-tax (Amendment) Act, 1939, be taken into consideration."

The motion was adopted.

Clauses 2 to 9 were added to the Bill.

Mr. Chairman (Mr M. S. Aney): The question is:

"That clause 10 stand part of the Bill."

Mr. E. L. C. Gwilt (Bombay: European): Sir, I move:

"That in part (a) of sub-clause (1) of clause 10 of the Bill, in the proposed proviso, for the word 'five', occurring in the eighth line, the word 'ten' be substituted."

The clause at present appearing in the Bill provides for permission being accorded in certain circumstances to a fund maintained by an employer whose principal place of business is not in British India notwithstanding that a proportion, not exceeding five per cent., of the employees is employed outside India.

There are many firms and companies operating in India employing staffs in India of (say) 20 or 30 people, most of whom must, in the nature of things, be Indian employees but not a few of such firms or companies might have an office in Burma employing two or three persons.

If the limit of non-residents is only to be five per cent., any fund maintained by such a firm or company would not be accorded recognition as a provident fund for the purposes of the Indian Income-tax Act and we suggest that the proposed limit of five per cent. might very reasonably be increased to ten per cent. The employees in Burma may very well themselves be Indians and it is only reasonable that these employees, as well as the larger number of employees in India, should have the benefits of an established recognised provident fund. I hope Government will agree with me and that the House will accept it.

Mr. Chairman (Mr M. S. Aney): Amendment moved:

"That in part (a) of sub-clause (1) of clause 10 of the Bill, in the proposed proviso, for the word 'five', occurring in the eighth line, the word 'ten' be substituted."

The Honourable Sir Jeremy Raisman: Sir, I agree that the extension asked for is reasonable, and I am prepared to accept the amendment.

[Mr. E. L. C. Giffilt.]

Mr. Chairman (Mr M. S. Aney): The question is:

"That in part (a) of sub-clause (1) of clause 10 of the Bill, in the proposed proviso, for the word 'five', occurring in the eighth line, the word 'ten' be substituted."

The motion was adopted.

Mr. E. L. C. Gwilt: Sir, I move:

"That in part (b) of sub-clause (1) of clause 10 of the Bill, for the proposed proviso, the following be substituted:

'Provided that an employee who retains his employment while serving in His Majesty's Forces or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940, may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered His Majesty's Forces or been so taken into or employed in the national service, contribute to the fund during his service in His Majesty's Forces or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered His Majesty's Forces or been taken into or employed in the national service'."

The proviso as it stands refers only to those employees of a company who may have joined His Majesty's forces but does not take account of such of them as have been taken into national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance of 1940. Neither does it recognise such contributions made to a provident fund which were less than the amount which an employee was paying into that fund at the time that he left his employer's service for the services now mentioned in the proposed amendment to the clause. But a man may well have enlisted in the ranks of His Majesty's forces as men that will be affected by this clause have already done, and as he may have no income other than that which may or may not be paid to him by his firm whilst he is in those services, he may not be in a position to contribute the same amount to the fund as he was contributing at the time he left his employer's service. He will naturally be anxious to pay to the fund what he can. So we ask for the inclusion of the words "a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary". He may, too, be due for an increment in salary and as this, in the case of a married man, would be a matter of the greatest importance to him, we have asked that should a firm pay a man what would have been an increment in the ordinary way, had he remained in their service, this should be taken into account. With your permission, Sir, there is one question I would ask of the Honourable the Finance Member. As will be seen from sub-clause (2) of this clause, the recognition of employee's payments has been made retrospective to the 3rd September, 1939; and I must express gratitude on behalf of those who joined His Majesty's forces before the enactment of the National Service (European British Subjects) Act, 1940, and on and after the war broke out. The clause, however, applies only to the contributions of employees and I am anxious to know whether it is the intention of the Honourable the Finance Member that the payments of employers' contributions shall likewise be retrospective to the 3rd September, 1939. Sir, I move.

Mr. Chairman (Mr M. S. Aney): Amendment moved:

"That in part (b) of sub-clause (1) of clause 10 of the Bill, for the proposed proviso, the following be substituted:

'Provided that an employee who retains his employment while serving in His Majesty's Forces or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940, may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered His Majesty's Forces or been so taken into or employed in the national service, contribute to the fund during his service in His Majesty's Forces or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered His Majesty's Forces or been taken into or employed in the national service'."

Mr. J. F. Sheehy: Sir, Government accept this amendment. As regards the assurance asked for by the Honourable Member, I can give it to him; but I should like to make it clear that the amendment is permissive, and it is not a question of making an employer contribute, but that he may contribute up to the amount contributed by the employee with retrospective effect from the 3rd September, 1939.

Mr. Chairman (Mr M. S. Aney): The question is:

"That in part (b) of sub-clause (1) of clause 10 of the Bill, for the proposed proviso, the following be substituted:

'Provided that an employee who retains his employment while serving in His Majesty's Forces or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940, may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered His Majesty's Forces or been so taken into or employed in the national service, contribute to the fund during his service in His Majesty's Forces or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered His Majesty's Forces or been taken into or employed in the national service'."

The motion was adopted.

Mr. Chairman (Mr M. S. Aney): 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, 12, 13 and 14 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, as amended, be passed."

Mr. Chairman (Mr M. S. Aney): The question is:

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

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Friday, the 22nd November, 1940.

LEGISLATIVE ASSEMBLY

Friday, 22nd November, 1940.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

DEPARTURES IN THE WORKING OF THE FINANCIAL ADJUSTMENT BETWEEN THE GOVERNMENT OF INDIA AND THE BRITISH GOVERNMENT.

217. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Finance Member please lay on the table of the House a memorandum stating the departures in the working of the financial adjustment between Indian Government and the British Government from the statement he laid before the House in his Budget speech?

(b) Under what circumstances were these departures made?

The Honourable Sir Jeremy Raisman: (a) and (b). In so far as defence expenditure proper is concerned no departure has been made from the arrangements agreed upon in the settlement with His Majesty's Government referred to in my budget speech. There has, however, been a departure from the procedure outlined in that speech for recovering a share of the cost of the Supply Department from its overseas customers, which I have dealt with in my reply to a separate question on the subject.

Dr. Sir Ziauddin Ahmad: May I know if the previous arrangement was for all the purchases made by His Majesty's Government?

The Honourable Sir Jeremy Raisman: If the Honourable Member will go on to his next question, I shall give him a reply.

COMMISSION CHARGED BY THE GOVERNMENT OF INDIA ON ARTICLES PURCHASED BY HIS MAJESTY'S GOVERNMENT FOR THE MAINTENANCE OF THE SUPPLY DEPARTMENT.

218. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Finance Member state whether the Government of India are now charging three per cent. commission on all articles purchased by His Majesty's Government for the maintenance of the Supply Department?

(b) In case the Finance Member has remitted the commission, will he please state when such remission was made, and why and under whose orders the remission was made?

The Honourable Sir Jeremy Raisman: (a) No.

(b) The recovery of departmental or agency charges on purchases of stores made for His Majesty's Government was discontinued under the

orders of the Government of India, with effect from the transactions recorded in the accounts of September, 1940, for the following reasons:

- (i) His Majesty's Government do not charge us any part of the cost of their corresponding organisation viz., the War Office and the Ministry of Supply.
- (ii) In view of the greatly increased orders since placed on India by His Majesty's Government for industrial products of all sorts and the economic advantage accruing to India therefrom, it was considered that India could normally pay for the organisation which obtained and handled these orders.

Dr. Sir Ziauddin Ahmad: In view of the fact that it is desirable to separate the financial and other considerations, and in view of the fact that it is possible for us to contribute in lump sum any sum that we want to, may I ask the Honourable the Finance Member whether he should not follow the business proposition in this matter and charge proportionate expenditure for services rendered?

The Honourable Sir Jeremy Raisman: Well, Sir, that was the original idea but as I pointed out just now, His Majesty's Government who supply us with a large amount of equipment for war do not add anything on account of their agency work in supplying us, so that it is on the basis of reciprocity; also as I have given the second reason, it is a great advantage to India to obtain these orders, and just as we employ Trade Commissioners and so on in order to expand India's overseas market, so also it seemed reasonable that the Government of India should be prepared to bear the cost of enabling India to fulfil large orders abroad.

Mr. N. M. Joshi: Is it not a fact that the Government of India engages its Stores Staff to make purchases in Great Britain when the orders are given to Great Britain, and whether the Government of India do not propose to follow what they themselves do in the case of British purchases in India?

The Honourable Sir Jeremy Raisman: The main part of the agency expenditure incurred on obtaining war supplies in England is incurred by His Majesty's Government, and not by us. Our organization could not possibly deal in the present circumstances with the problems arising of obtaining war supplies.

Mr. M. S. Aney: Was it brought to the notice of His Majesty's Government that our agency in England will be in a position to deal with all the matters relating to the war supplies?

The Honourable Sir Jeremy Raisman: The fact is that that agency cannot possibly now secure war supplies. The problems which arise at the present time are much greater than could possibly be dealt with by the small agency that the Government of India have.

Mr. M. S. Aney: Was it not possible for the Government of India to add to its own agency for coping with the greater work?

The Honourable Sir Jeremy Raisman: It is not merely a matter of adding to the agency, but the machinery which deals with all munitions of war and war supplies in the United Kingdom is the only machinery which could also be employed for allocating part of its supplies to India.

Sardar Sant Singh: May I know, Sir, the percentage of orders carried out by the Supply Department on behalf of India in proportion to those received from His Majesty's Government in England?

The Honourable Sir Jeremy Raisman: I cannot state the exact percentage, but of course the Supply Department does minister very largely to our requirements for our own defence. That is one of its main functions, of course in addition to complying with orders from overseas. I cannot say the exact percentage.

Dr. Sir Ziauddin Ahmad: Is it not a fact that Australia and Canada charge a small percentage of commission for all the purchases they make on behalf of His Majesty's Government?

The Honourable Sir Jeremy Raisman: I have no official information on the subject, but my belief is that Australia is not charging anything.

Dr. Sir Ziauddin Ahmad: We ought to inquire as to what they are doing. Will the Honourable Member now make inquiries as to what the Dominions are doing in this matter?

The Honourable Sir Jeremy Raisman: It is a question of different Governments following different methods and acting on a reciprocal basis.

Dr. Sir Ziauddin Ahmad: Will the Honourable Member make inquiries as to what Canada and Australia are doing in this matter?

The Honourable Sir Jeremy Raisman: Yes, I will make inquiries.

Dr. Sir Ziauddin Ahmad: Are we charging any commission for the purchases made by Australia?

The Honourable Sir Jeremy Raisman: Yes, Sir, we are.

Dr. Sir Ziauddin Ahmad: Why then this differentiation?

The Honourable Sir Jeremy Raisman: As I said, I have no official information that Australia is not charging on supplies made by her.

COMMUNAL COMPOSITION OF INDIAN CIVIL SERVICE AND OTHER ALL-INDIA SERVICE OFFICERS BROUGHT ON TO THE GOVERNMENT OF INDIA SECRETARIAT.

219 *Sardar Sant Singh: (a) With reference to the reply given to starred question No. 185 of the 26th February, 1940, will the Honourable the Home Member please state the number of Indian Civil Service and other All-India service Officers brought on to the Secretariat from 1st January, 1940 and how many of them are Muslims, Hindus, Indian Christians and Sikhs?

(b) What efforts were made to bring Sikh officers also on the same lines as members of other communities are being brought on to the Secretariat and its attached offices? If none, why not?

The Honourable Sir Reginald Maxwell: (a) During the period in question 18 members of the Indian Civil Service have been appointed to the Secretariat of the Government of India; of these eight are Europeans, seven Hindus and three Muslims.

(b) The attention of the Honourable Member is invited to part (e) of the reply to his starred question No. 185 which was answered on the 26th February, 1940. Officers are selected for the Secretariat of the Government of India on their merits and on consideration of their suitability for particular posts, not on a communal basis.

Sardar Sant Singh: May I know if any recommendations were ever made by any Provincial Government in regard to the transfer of Sikh I. C. S. Officers to the Government of India?

The Honourable Sir Reginald Maxwell: I do not understand what recommendations the Honourable Member is referring to.

Mr. Lalchand Navalrai: May I know if all these officers are from the Indian Civil Service, or they are also from other All-India Services?

The Honourable Sir Reginald Maxwell: The reply refers only to Indian Civil Service Officers. There were no officers of other All-India Service in Secretariat appointments.

Sardar Sant Singh: Has the Honourable Member ever inquired from the Provincial Governments whether any Sikh I. C. S. officer was available?

The Honourable Sir Reginald Maxwell: Does the Honourable Member mean to ask whether I have ever asked for the services of Sikh I. C. S. Officers?

Sardar Sant Singh: Yes, Sir.

The Honourable Sir Reginald Maxwell: The machinery for obtaining the services of officers from provinces is such as to secure the consideration of all suitable officers who are available for any of these appointments.

Sardar Sant Singh: Has it ever occurred to the Honourable Member that in order to restore the communal proportions, Sikh officers are also necessary in the Secretariat of the Government of India?

The Honourable Sir Reginald Maxwell: I have already said that appointments in the Secretariat are not made on a communal basis.

SIKHS TAKEN AS PEONS IN THE GOVERNMENT OF INDIA SECRETARIAT.

220. *Sardar Sant Singh: Will the Honourable the Home Member kindly place on the table a statement showing the number of permanent, temporary and officiating appointments of peons made in the Government of India Secretariat (including the Supply Department) since 1st January

1940 and state whether the requisite number of Sikhs was taken in such vacancies? If not, why not?

The Honourable Sir Reginald Maxwell: Government do not consider that the labour involved in the collection of the information will be commensurate with its utility. The communal percentages do not apply to posts of peons.

DEFENCE EXPENDITURE.

221. *Mr. Govind V. Deshmukh: (a) Will the Defence Secretary please state how much the defence expenditure for this year is?

(b) What is the amount estimated to be spent on each of the forces, namely, the Army (the land), the Navy and the Air?

(c) In view of the importance of the Air Force, as demonstrated in this war, will more money be spent on Air Force than on the land force? If not, why not?

Mr. C. M. G. Ogilvie: (a) Defence expenditure to be borne by Indian revenues during the current year is estimated at 68 crores.

(b) and (c). It is not desirable in the public interest to answer these parts of the question.

HINDU AND MUSLIM STRENGTH OF THE INDIAN NAVY.

222. *Mr. Govind V. Deshmukh: (a) Will the Defence Secretary please state the strength of the Indian Navy—rank and file and officers—in September 1939?

(b) Of these, how many were Hindus and how many Muslims?

(c) From which Provinces were they recruited and what were the recruiting centres?

(d) What was the strength of the navy—rank and file and officers—in September 1940?

(e) Of these, how many were Hindus and how many Muslims?

(f) From which Province was the greatest number of recruits obtained?

(g) What was the number of recruits from the Bombay Presidency?

Mr. C. M. G. Ogilvie: (a). Officers—189.

Warrant Officers—99.

Ratings—2369.

(b) Hindus—186.

Muslims—1819.

(c) I lay on the table of the House a statement giving the required information.

(d) It is not in the public interest to furnish the information.

(e) Hindus—7 per cent. approximately.

Muslims—69 per cent. approximately.

(f) Punjab.

(g) 771.

Provinces.

Bombay, Punjab, Madras, Bengal, North West Frontier Province, United Provinces, Sind, Bihar, Orissa, Central Provinces.

Recruiting Centres.

Rawalpindi.
Murree.
Gujar Khan.
Abbottabad.
Hasan Abdal.
Shadi Khan.
Campbellpore.
Pindigheb.
Talagang.
Chakwal.
Jhelum.
Gujrat.
Harnai.
Jaigarh.
Poona.
Bombay.
Bankot.
Saitavada.
Alibag.
Roha.
Dapoli.
Malvan.
Baroli.
Baldana.
Ahmednagar.
Somanath.

Lahore.
Jullundur.
Delhi.
Haripur.
Choa Saidan Shah.
Ambala.
Ludhiana.
Fateh Gang.
Khed.
Chiplun.
Sangmeshwar.
Ratnagiri.
Dabhol.
Satara.
Sangli.
Jath.
Bijapur.
Sholapur.
Aurangabad.
Akola.
Malkapur.
Basim.
Amraoti.
Ellichpur.
Sawmans.

Mr. Lalchand Navalrai: May I know from the Honourable Member, with reference to his reply to part (c), whether the list contains any people from Sind?

Mr. C. M. G. Ogilvie: I am afraid I have not got it here. I think so.

Mr. M. S. Aney: May I ask the Honourable Member, with reference to his reply to part (b), whether this serious disproportion between Hindus and Muslims in regard to the strength in the Indian Navy is due to the reluctance of the Hindus to go in for this service or to the policy of the Government not to recruit Hindus?

Mr. C. M. G. Ogilvie: I think it was due to reluctance, certainly not due to any desire of Government not to recruit them. I think that that reluctance is gradually yielding so that we are now getting a more ample supply.

Mr. M. S. Aney: Does the Honourable Member mean to say that this reluctance is disappearing with the declaration of the war?

Mr. C. M. G. Ogilvie: Yes.

Mr. M. S. Aney: May I ask whether the Honourable Member is prepared to place before the House a statement showing the number of Hindu applicants for this service and the number rejected?

Mr. C. M. G. Ogilvie: I think those figures are very difficult to get, if not impossible, but I can assure the Honourable Member that no suitable candidate is, has been, or will be rejected, because he is a Hindu.

Mr. Govind V. Deshmukh: May I ask if this shortage among Hindus is not due to the fact that the qualification required is that a candidate must know either the Urdu script or the Roman script and persons in other provinces do not know the Urdu script and therefore this difference arises?

Mr. C. M. G. Ogilvie: I have already answered questions in this Session on that subject.

ELIGIBILITY OF INDIANS FOR THE ROYAL AIR FORCE IN INDIA.

223. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state if Indians are admitted to the Royal Air Force in India? If not, what is the reason for not admitting them, when they are admitted now to the Royal Air Force in England?

Mr. C. M. G. Ogilvie: No, because it is more appropriate for Indians in India to enter the Indian Air Force just as they enter the Indian Army and not the British Army. In England there are no establishments of the Indian Air Force and, therefore, Indians there are admitted to the Royal Air Force, as also to the British Army and to the Royal Navy.

Mr. Govind V. Deshmukh: May I know the reasons which lead the Honourable Member to the conclusion that Indians are appropriate only for the Indian Force?

Mr. C. M. G. Ogilvie: When there is an Indian force, it is surely more appropriate for Indians to enter it.

Mr. Govind V. Deshmukh: I am asking for an explanation as to why he considers that it is appropriate?

Mr. C. M. G. Ogilvie: I should have thought that it was sufficiently obvious not to require any explanation.

Mr. Lalchand Navalrai: May I know if there is any actual prohibition against these Indians going into the Royal Force?

Mr. C. M. G. Ogilvie: No. The question has never arisen. There is here a very good Indian Air Force and at present we want the best pilots we can get for it. Vacancies in the British Air Force here are very small. No conditions of service are different and the question of posting Indians to it has not arisen.

ENCOURAGEMENT TO INDIAN ENTERPRISE FOR MANUFACTURING AIRCRAFTS, MOTORS OR FOR BUILDING SHIPS.

224. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state whether the Defence authorities have given any encouragement to any Indian enterprise started to manufacture aircrafts, motors or to build ships? If so what was its nature and extent?

Mr. C. M. G. Ogilvie: No. The administrative Departments, to which the Honourable Member should address any question concerning encouragement to Indian industries, are the Departments of Commerce and Supply.

GERMAN AND ITALIAN DETENUS IN INDIA AND PUNJABEE DETENUS UNDER THE DEFENCE OF INDIA ACT.

225. *Sardar Sant Singh (on behalf of Sardar Mangal Singh): Will the Honourable the Home Member please state:

- the total number of Germans and Italians detained in this country after the start of war;
- the sanctioned scale of expenses per head per diem for the maintenance of a German prisoner, together with other amenities provided for him;
- the total number of Punjabees detained without trial under the Defence of India Act; and
- the sanctioned scale of expenses, per head per diem for the maintenance of a Punjabee detenu, together with other amenities provided for him?

The Honourable Sir Reginald Maxwell: (a) The numbers of Germans (including Austrians) and Italians detained in India and now in the internment camp at Ahmednagar are 448 and 283 respectively.

(b) All internees are treated in accordance with the spirit of the Prisoners of War Convention, 1929. No specific scale of expenses has been laid down for them, but the following concessions are admissible to them:

- free accommodation including lighting, water, fuel, conservancy, furniture and medical treatment;
- free rations on the scale issued to British Other Ranks in peace time;
- messing allowance at three and half annas per head per day; and

(iv) personal allowance of Rs. 20 per head per month for the purchase and maintenance of articles required for personal use.

(c) and (d). The information has been called for and will be laid on the table of the House in due course.

Sardar Sant Singh: May I know if those against whom action has been taken under the Defence of India Rules, firstly, by mere detention, and, secondly, by prosecutions resulting in convictions, are treated on the same scale as the enemy detenus?

The Honourable Sir Reginald Maxwell: No. A scale has been laid down to deal with enemy internees according to the spirit of the Prisoners of War Convention.

Sardar Sant Singh: Why does not the Honourable Member take this into consideration that the cases are by analogy the same?

Ms. President (The Honourable Sir Abdur Rahim): The Honourable Member is arguing.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform the House whether Government have under consideration the application of the Anderson Committee's report in England as regards the treatment of internees so far as those who have pro-British ideas and those who are in charge of educational institutions in India are concerned, and if so, will the Honourable Member be pleased to tell the House whether any action has been taken or is proposed to be taken in India?

The Honourable Sir Reginald Maxwell: I submit that it does not arise out of the present question.

Mr. M. S. Aney: May I ask the Honourable Member what is the difficulty for him in getting the information with regard to part (d) of the question, in time?

The Honourable Sir Reginald Maxwell: Information has to be obtained from the province as regards parts (c) and (d).

MEMBERS OF THE CENTRAL AND PROVINCIAL LEGISLATURES DETAINED OR IMPRISONED SINCE THE WAR BEGAN.

226. *Sardar Sant Singh (on behalf of Sardar Mangal Singh): Will the Honourable the Home Member please state:

- the total number of members of the Central and the Provincial Legislatures who have been detained or imprisoned since the War began in provinces excluding Bengal, Punjab, Assam and Sind;
- similar information in regard to Bengal, Punjab, Assam and Sind when arrests were made under the orders of the Government of India;
- the sanctioned scale of expenses for the maintenance of each one of them and other amenities provided for them;
- which newspapers are given to them in jails; and
- whether Government contemplate providing facilities for them to attend the sittings of their respective Legislative Assemblies whenever they are in Session?

The Honourable Sir Reginald Maxwell: (a) Members of the Central Legislature—Two. Members of Provincial Legislatures: Information has been called for and will be laid on the table of the House.

(b) There have been no such cases.

(c) and (d). The Government of India have no information as these are matters that are primarily the concern of Provincial Governments.

(e) In so far as the Members of the Central Legislature are concerned the reply is in the negative. As regards members of the Provincial Legislatures the question is one for the Provincial Governments concerned.

Sardar Sant Singh: May I know if any directions have been issued to the Provincial Governments suggesting to them the manner in which these detenus who are members of the various Legislatures are to be treated?

The Honourable Sir Reginald Maxwell: I answered that question on the last question day.

CERTAIN CONGRESS WORKERS ARRESTED IN DELHI UNDER THE UNITED PROVINCES GOONDA ACT.

227. *Sardar Sant Singh (on behalf of Sardar Mangal Singh): Will the Honourable the Home Member please state:

- whether it is a fact that Sardars Beant Singh, Hari Singh, Niranjana Singh and Bhagat Singh have recently been arrested in Delhi under the United Provinces Goonda Act;
- the definition of a goonda;
- whether he is prepared to lay on the table of the House the charges brought against each of them;
- whether it is a fact that these gentlemen had been taking active part in national public activities, including that of the Congress;
- whether it is a fact that these gentlemen were convicted under section 17 of the Indian Criminal Law Amendment Act in 1930 and 1932 in connection with the civil disobedience movement; and
- whether Government are satisfied that the use of the United Provinces Goonda Act in their case is justified at all?

The Honourable Sir Reginald Maxwell: (a) Yes.

(b) The term is defined in the Act as including a hooligan, bully, rogue or badmash.

(c) Copies of the charges, as supplied to the person arrested, are laid on the table. The essence of the charges in each case is that the person is a goonda in the sense of the definition quoted.

(d) I have no information on this point, but the fact of their having taken part in "public activities" cannot in any case indemnify them from proceedings under the Act, if it is established that they are hooligans and bullies.

(e) The past convictions of the four men are set out in the charges. The circumstances surrounding these convictions will doubtless be investigated by the advising judges.

(f) The advising judges are still considering the cases, and in such circumstances it would clearly be inappropriate for me to express any opinion.

BEANT SINGH.

Heads of charges.

- He is a member of a gang or body of goondas including Niranjana Singh, Akali, Hari Singh and Bhagat Singh Kirti, engaged in habitually committing offences involving a breach of the peace and criminal intimidation.
- In April, 1927 he was convicted u/s 32 of the Police Act, 1861, for infringing conditions of a processional license and sentenced to pay a fine of Rs. 100.

- In November, 1930 he was convicted u/s 17 of the Indian Criminal Law Amendment Act, 1908 and sentenced to undergo 3 months' rigorous imprisonment and also to pay a fine of Rs. 50.
- In February, 1932 he was arrested as a suspect in the case known as the Lothian train bomb case.
- On or about the 28th of July, 1937 he along with others including Niranjana Singh and Hari Singh took deceitful possession of a Hindu Dharamshala in Mohalla Kundewalan Delhi.
- In 1938 he along with Hari Singh and Niranjana Singh forcibly encroached upon Government land around Mata Sundri Gurdwara, New Delhi and threatened those who agreed to take the land on lease from Government.
- On various occasions during June to October, 1938, he criminally intimidated Khushal Singh manager of Sisganj Gurdwara, Delhi and on 15th December 1939, on the Guru Tegh Bahadur Martyrdom day made no secret of his intention that he and his men had decided to murder S. S. Ranjit Singh, Deputy Superintendent of Police and S. S. Sunder Singh Dhupia in case there was a riot that day.
- On 6th May 1939 in a Sikh Dewan in Gurdwara Sisganj, he exhorted Sikhs to wreak vengeance on Government officials responsible for firing on Sisganj Gurdwara in 1930.
- Has been responsible for creating trouble and gravely endangering public peace on the occasion of Guru Tegh Bahadur Martyrdom day procession for the last three years.

HARI SINGH.

Heads of charges.

- In 1927 and again, in 1930 he was convicted u/s 32 of the Police Act, 1861.
- On 15th March, 1932 he was convicted u/s 17-A of the Indian Criminal Law Amendment Act of 1908.
- On or about the 28th of July, 1937 he along with others including Beant Singh and Niranjana Singh took deceitful possession of a Hindu shrine in Mohalla Kundewalan, Delhi.
- In 1938 he along with Beant Singh and Niranjana Singh forcibly encroached upon Government land around Mata Sundri Gurdwara, New Delhi and threatened those who agreed to take the land on lease from Government.
- On various occasions during June to October, 1937 he criminally intimidated Khushal Singh, manager of Sisganj Gurdwara, Delhi.
- On 6th May, 1939 in a Sikh Dewan in Sisganj Gurdwara he exhorted Sikhs to wreak vengeance on Government officials responsible for firing on Sisganj Gurdwara in 1930.
- Has been responsible for creating trouble gravely endangering public peace on the occasion of Guru Tegh Bahadur martyrdom day annual procession for the last three years.

NIRANJANA SINGH.

Heads of charges.

- Is a member of a gang or body of goondas including Beant Singh, Hari Singh, and Bhagat Singh Kirti, engaged in habitually committing offences involving a breach of the peace and criminal intimidation.
- On or about the 28th of July, 1937, he along with others including Beant Singh and Hari Singh, took deceitful possession of a Hindu Dharamshala in Mohalla Kundewalan, Delhi.
- In 1938 he along with Hari Singh and Beant Singh forcibly encroached upon Government land around Mata Sundri Gurdwara, New Delhi and threatened those who agreed to take the land on lease from Government.

4. On various occasions during June to October 1938, he criminally intimidated Khushal Singh, Manager of Sisganj Gurdwara, Delhi.
5. Has been responsible for creating trouble and gravely endangering public peace on the occasion of Guru Tegh Bahadur martyrdom day anniversary procession for the last two years.

BHAGAT SINGH.

Heads of charges.

1. Is a member of a gang or body of goondas including Niranjan Singh, Beant Singh and Hari Singh engaged in habitually committing offences involving a breach of the peace and criminal intimidation.
2. In 1930 he was sentenced to six months' rigorous imprisonment.
3. On 9th December, 1931 the District Magistrate, Meerut, served him with a notice u/s 144 Cr. P. C. prohibiting him from delivering a speech in a public meeting for two months.
4. On 11th February, 1932 at Delhi, he was arrested under section 3 of the Emergency Powers Ordinance 1932, detained for two months and then expelled from Delhi on 10th April 1932.
5. Has been responsible for creating trouble gravely endangering public peace on the occasion of annual procession in connection with the martyrdom day of Guru Tegh Bahadur—the 9th Sikh Guru, for the last two years.

Sardar Sant Singh: May I request the Honourable Member to tell me if the principle underlying the Goonda Act was not applicable for the purpose of applying it upon those who took part in political or religious activities?

The Honourable Sir Reginald Maxwell: No, Sir.

Sardar Sant Singh: Does the Honourable Member mean to tell us that in the case of religious activities where honest differences of opinion exist between the various sections in the committees governing those religious institutions the Goonda Act will apply? Is that his contention?

The Honourable Sir Reginald Maxwell: The Act applies to Goondas.

Sardar Sant Singh: The charges which have been laid down are before me at this time. I am asking the Honourable Member whether the Goonda Act will apply in the case of a religious institution where honest differences of opinions were shown among various sections in connection with the Gurdwara Committees?

The Honourable Sir Reginald Maxwell: The Honourable Member will be able to get all the details from the charges against these persons, which I have laid on the table.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform this House whom the Government embrace under the word "badmash"?

The Honourable Sir Reginald Maxwell: It might be invidious to mention all the persons regarded in that light.

Sardar Sant Singh: May I ask the Honourable Member one question as regards Beant Singh. Charge No. 8 says: On the 6th May 1939 in a Sikh Dewan in Gurdwara Sisganj, he exhorted Sikhs to wreak vengeance on Government officials responsible for firing on Sisganj Gurdwara in 1930. Was he prosecuted on this charge in a court of law?

The Honourable Sir Reginald Maxwell: That was one of the heads of charges and the advising judges will be able to find out whether it is true or not.

Sardar Sant Singh: I am not asking about the truth. May I ask whether the Goonda Act can apply in a case which is strictly religious?

Mr. President (The Honourable Sir Abdur Rahim): That is a question of opinion.

PROSECUTION OF PANDIT JAWAHAR LAL NEHRU.

228. *Sardar Sant Singh (on behalf of Sardar Mangal Singh): Will the Honourable the Home Member please state:

(a) whether the Governor General was consulted before the prosecution of Pandit Jawahar Lal Nehru was sanctioned by the United Provinces Government; and

(b) what diet and other amenities are provided to Pandit Jawahar Lal Nehru in jail?

The Honourable Sir Reginald Maxwell: (a) The Governor General was made aware of the intention of the Government of the United Provinces to arrest Pandit Jawahar Lal Nehru.

(b) The Government of India understand that he is an A class prisoner and that the Provincial Government has also granted him certain additional concessions.

Lieut.-Colonel Sir Henry Gidney: Will the Government of India please inform this House whether they are prepared to issue orders to give similar generous treatment to other prisoners so convicted under the Defence of India Act?

The Honourable Sir Reginald Maxwell: No general orders are necessary. All persons arrested or detained are treated in accordance with their personal status and mode of living.

Lieut.-Colonel Sir Henry Gidney: Is it according to the status of the prisoners or according to the act committed?

The Honourable Sir Reginald Maxwell: According to prisoners.

Mr. Akhil Chandra Datta: Was the Governor General or the Government of India consulted as regards the sentence to be pronounced upon him?

The Honourable Sir Reginald Maxwell: No.

Dr. Sir Ziauddin Ahmad: Is it not a fact that the sons of the members of the Legislature, if they are detained under this clause, will be given A class? Is this not the rule?

The Honourable Sir Reginald Maxwell: I am not prepared to hold out inducements to the members of the Legislatures.

Dr. Sir Ziauddin Ahmad: It is a fact that the son of a Member of the Central Legislature has been detained. I want to know whether he will be given A class or B class.

The Honourable Sir Reginald Maxwell: I shall require notice of that.

Sardar Sant Singh: May I know why the Government of India is making a departure in the case of Indians when they say that the treatment is given according to the status of the prisoner and not according to the act committed by him when the same distinction is not made in the case of the enemy personnel who are detained under the Convention mentioned by him in answer to my previous question?

The Honourable Sir Reginald Maxwell: I have already stated that the status of enemy internees is that of a prisoner of war.

PERSONS PROSECUTED OR DETAINED UNDER THE DEFENCE OF INDIA ACT AND RULES.

229. *Sardar Sant Singh (on behalf of Sardar Mangal Singh): Will the Honourable the Home Member please state:

- (a) the total number of persons who have so far been prosecuted under the Defence of India Act and the Rules framed thereunder; and
- (b) how many of them have been detained without trial; giving the figures Provincewise?

The Honourable Sir Reginald Maxwell: (a) The Government of India do not maintain Statistics of all persons prosecuted under the Defence of India Rules; but the information has been called for and will be laid on the table of the House in due course.

(b) The Honourable Member is referred to the answer given to part (a) of Sardar Sant Singh's question No. 216 on the 21st November.

BURGLARIES AND DACOITIES IN NEW DELHI.

230. *Mr. M. S. Aney: (a) Will the Honourable the Home Member please state if he is aware that a feeling of great insecurity prevails among the clerks and assistants in the Government of India and attached offices owing to the frequent burglaries and dacoities that have taken place in New Delhi during the past year or so?

(b) Have any steps been taken to allay the present panicky feeling among the residents of New Delhi? If so, what?

(c) Is it a fact that accounts of thefts and burglaries in and around New Delhi appear almost daily in the local press?

(d) In how many cases have complaints been registered with the police?

(e) In how many cases have the culprits been traced, or has stolen property been restored to the owners?

(f) Was there recently a case of burglary in the locality of Barakhamba Road, in which the servant left in the house was murdered and all the property burgled?

(g) Has the murderer or murders, referred to above been traced and tried?

The Honourable Sir Reginald Maxwell: With your permission, Sir, I will answer questions Nos. 230 and 231 together. The information has been called for from the Chief Commissioner, Delhi, and will be laid on the table of the house in due course.

Mr. Lalchand Nayalrai: Does the Honourable Member know the fact that there has been an increase in burglaries? Does he know that fact or not?

The Honourable Sir Reginald Maxwell: I cannot say until I have seen the Chief Commissioner's report.

BURGLARIES AND DACOITIES IN NEW DELHI.

231. *Mr. M. S. Aney: Will the Honourable the Home Member please state:

- (a) whether he is aware that clerks and assistants of the Government offices living in New Delhi cannot go out even for a walk at any time of the day or in the evenings with their family and children, for fear that thieves may break into the house in their absence;
- (b) whether there have been instances in which tenants left their quarters vacant for very short periods of time, and those quarters were burgled in that short space of time;
- (c) whether Government are prepared to post additional police or patrols to tour round the affected areas, viz., the Minto Road area and the squares and streets round the Gole Market and other places, if necessary withdrawing some of the numerous policemen posted in the Assembly building and such like places;
- (d) whether Pathans or persons from other Provinces have been involved or suspected to be involved in cases of burglaries in and around New Delhi;
- (e) whether Pathans with long staffs and other bad characters from the city of Delhi proper, too are always prowling round the various localities in New Delhi during the day time;
- (f) whether the police have any list of bad characters or goondas in the Province of Delhi, and whether the movements of the vagabonds and suspicious characters are being regularly watched by them;
- (g) whether Government are prepared to consider the advisability of summarily deporting the bad characters or suspects on the police list who may be prowling in the streets of New Delhi; and
- (h) whether Government propose to treat this matter as a very urgent one, calling for speedy remedial measures?

*For answer to this question, see answer to question No. 230.

EMERGENCY COMMISSION IN THE LAND AND AIR FORCES OF HIS MAJESTY'S GOVERNMENT IN INDIA.

232. *Manvi Muhammad Abdul Ghani: Will the Defence Secretary please state:

- (a) the names of various units or districts in India where primary selection is made for the grant of Emergency Commissions in the Land and Air Forces of His Majesty's Government;
- (b) the total number of candidates selected by every unit up till now and recommended to the Central Selection Board;
- (c) the number of candidates of every unit rejected by the Central Selection Board up till now;
- (d) the number of (i) Anglo-Indians, (ii) Domiciled Europeans and (iii) Muslims, selected by various units and rejected by the Central Selection Board up till now; and
- (e) the number of non-Matriculates, Matriculates, Intermediate in Arts and Bachelor of Arts among (i) the Anglo-Indians, (ii) Domiciled Europeans, and (iii) Muslims, selected by each unit, and the Central Selection Board up till now?

Mr. C. M. G. Ogilvie: (a) A list of military districts and areas where primary selection for emergency commissions to the Army is made has been laid on the table. Primary selection for emergency commissions in the Indian Medical Service is made by the Principal Administrative Medical Officer in each Province. Until the present, selection for the Indian Air Force has for the most part been made by a central board.

(b) and (c). In respect of the Army, information is available only for the last three selection boards. A statement is laid on the table. 200 candidates for the Indian Air Force have so far been rejected by the central interview Board.

(d) The papers of rejected candidates for the Army were destroyed and it is not known to what communities they belonged.

A statement giving the figures for the Indian Air Force is laid on the table.

(e) This information is not retained after the time of selection and it has only been possible to collect it in respect of those now under training. A statement regarding these cadets is laid on the table.

Statements.

Part (a).—Statement showing military districts and areas where primary selection is made for emergency commissions.

Peshawar District.
Kohat District.
Waziristan District.
Rawalpindi District.
Lahore District.
Meerut District.
Lucknow District.
Presidency and Assam District.
Western (Independent) District.
Bombay District.
Deccan District.
Madras District.
Delhi Area.
Sind Area.
Jubbulpore (Independent) Area.

Parts (b) and (c). Statement showing by districts and areas the numbers of candidates (a) recommended from the districts to the Central Interview Board and (b) selected and (c) rejected by the Central Interview Boards held in May, July and October 1940.

District/Area.	Nos. recom- mended by Districts to the Central Interview Board.	Nos. select- ed by the Central Interview Board.	Nos. reject- ed by the Central Interview Board.
Peshawar	57	25	32
Kohat	18	8	10
Waziristan	5	2	3
Rawalpindi	43	23	20
Lahore	53	31	22
Meerut	27	13	14
Lucknow	60	33	27
Presidency and Assam	53	44	9
Western (Independent)	26	..	26
Bombay	116	39	77
Deccan	48	22	26
Madras	42	20	22
Delhi Area	33	18	15
Sind Area	12	6	6
Jubbulpore (Independent) Area	24	12	12
Overseas, e.g., Burma, Malaya	17	11	6
	634	307	327

N. B.—The Central Interview Board also interviewed candidates in February 1940. It is regretted that information in regard to the numbers actually recommended by Districts for that interview is not available. The quota allotted to each District was 15. Of those interviewed by the board, the following were selected:—

Peshawar	2
Kohat	3
Waziristan	..
Rawalpindi	1
Lahore	5
Meerut	3
Lucknow	6
Presidency and Assam	3
Western (Independent)	2
Bombay	3
Deccan	2
Madras	3
Delhi Area	3
Sind Area	1
Jubbulpore (Independent) Area	3
Overseas, e.g., Burma, Malaya	..

Statement showing the number of candidates from each Province selected by Principal Medical Administrative Officer and rejected by the Central Interview Board.

Provinces.	Selected by P. M. A. O.	Rejected by Central selection Boards.
Assam	7	Nil.
Bengal.	107	
Bihar	36	
Bombay	48	
Central Provinces	16	
Madras	131	
North-West Frontier Province	12	
Orissa	6	
Punjab	120	
Sind	5	
United Provinces	42	
Burma.	4	
Other areas including States	57	
	591	

Part (d).—Statement showing the number of (i) Anglo-Indians, (ii) Domiciled Europeans and (iii) Muslims who were selected and rejected for emergency commissions in the Indian Air Force.

	Selected.	Rejected.
(i) Anglo-Indians	1	4
(ii) Domiciled Europeans	Nil	Nil
(iii) Muslims	33	40

Part (e)—(i).—Statement showing the numbers of (i) Anglo-Indians, (ii) Domiciled Europeans and (iii) Muslims selected for emergency commissions in the Army by the Central Interview Boards in July and October, 1940, with their academic qualifications.

(i) *Anglo-Indians*—

(1) Non-Matriculates	3
(2) Matriculates	2
(3) Intermediate in Arts and Science	7
(4) Senior Cambridge	7
(5) B.A., B.Sc. and B.A., LL.B.	18
(6) M.A. and M. Sc.	4
Total	41

(ii) *Domiciled Europeans*—

(1) Intermediate in Science	1
(2) Senior Cambridge	1
(3) B.A.	2
Total	4

(iii) *Muslims*—

(1) Non-Matriculates	4
(2) Matriculates	12
(3) Intermediate in Arts and Science	9
(4) Senior Cambridge	4
(5) M.A.	7
(6) B.A., B.Sc., and B.A., LL.B.	30
	66

Part (e)—(ii). Statement showing the number of (i) Anglo-Indians, (ii) Domiciled Europeans and (iii) Muslims selected for emergency commissions in the Indian Air Force who were non-matriculates, Matriculates, Intermediates in Arts or Bachelors of Arts.

(i) *Anglo-Indians*—

Intermediate in Arts

(ii) *Domiciled Europeans*—

Nil.

(iii) *Muslims*—

Non-Matriculate	1
Matriculates	11
Intermediate in Arts	15

MOVE OF THE ARMY HEADQUARTERS TO SIMLA AND BACK.

233. *Mr. Muhammad Azhar Ali: (a) With reference to the reply to starred question No. 187 on the 26th February, 1940, will the Defence Secretary please state the present total strength of each of the Branches of the Army Headquarters?

(b) How many persons have not moved down from Simla from each of the Branches?

(c) Is it proposed to curtail, or stop altogether, the move of the Army Headquarters to Simla and back? If so, when? If not, why not?

Mr. C. M. G. Ogilvie: (a) and (b). A statement is laid on the table.

(c) No, Sir, for the reasons given in reply to starred question No. 1676, asked by Mr. S. Satyamurti on the 1st December, 1938 and the supplementary questions arising therefrom.

Statement.

(a) The present total strength of Branches of Army Headquarters, etc., is as follows:

	Officers.	Clerks.
General Staff Branch	123	303
Adjutant General's Branch (including Medical Directorate)	70	314
Quartermaster General's Branch	44	149
Master General of Ordnance Branch (including D. R. O. S. B.)	70	474
Engineer-in-Chief's Branch	31	153
Military Secretary's Branch	18	77
Headquarters, Air Forces in India	44	126

(b) The number of persons from each Branch of Army Headquarters who have not moved down from Simla is as follows :

	Officers,	Clerks.
General Staff Branch	10	59
Adjutant General's Branch	4	10
Quartermaster General's Branch	4	9
Master General of Ordnance Branch	1	1
Engineer-in-Chief's Branch	3	15
Military Secretary's Branch	..	1
Headquarters, Air Forces in India	..	..

BURGLARIES AND DACOITIES IN NEW DELHI.

234. *Mr. Muhammad Azhar Ali: (a) Will the Honourable the Home Member please state whether Government are aware that there has been an increase in crimes in Delhi during the last two years? If so, what are the reasons?

(b) Will Government please state the number of burglaries and thefts which occurred from 1st January, 1939 to 1st October, 1940, and the total value of property stolen?

(c) Was any of this property recovered by police? If so, of what value?

(d) Is it a fact that in June 1938, a big gang of criminals called Bauriyas, was arrested in Delhi? If so, what was the number of men in the gang?

(e) Is it a fact that some members of this gang were responsible for several thefts in 1937?

(f) Under what guise was this gang operating in Delhi? Were the statements of all the men of the gang fully verified in that connection?

(g) How many cases of theft were traced to this gang?

(h) Was any property recovered from these men? If so, of what valuation?

(i) Was any consolidated list of untraced cases of theft for the period the gang operated in Delhi prepared?

The Honourable Sir Reginald Maxwell: I will with your permission, Sir, answer questions Nos. 234, 235, 236 and 237 together. The information has been called for from the Chief Commissioner, Delhi, and will be laid on the table of the House in due course.

Mr. M. S. Aney: What is the distance between the Government of India Secretariat and the Chief Commissioner's office in Delhi?

The Honourable Sir Reginald Maxwell: About five miles.

Mr. M. S. Aney: Does it take more than ten days to get the information from that office?

The Honourable Sir Reginald Maxwell: I did not have ten days' notice.

Mr. Govind V. Deshmukh: Was there not sufficient time between the time when the question was given notice of and now for the particulars to be obtained?

The Honourable Sir Reginald Maxwell: The question asked for very detailed information and it has not yet been obtained.

ARREST OF A GANG OF THIEVES OF BAURIYA CRIMINAL TRIBE.

†235. *Mr. Muhammad Azhar Ali: (a) With reference to the arrest of a gang of thieves belonging to the criminal tribe called Bauriyas, in June 1938, will the Honourable the Home Member please state whether every member of the gang was interrogated in respect of each untraced case of theft?

(b) Was the staff and the time at the disposal of the investigating officers sufficient enough for individual interrogation?

(c) Did the Officer-in-charge of investigation put up a report that the staff and the time both were insufficient for a thorough investigation? If so, what action was taken on that report?

(d) Is it a fact that the gang was interrogated specially in respect of New Delhi cases only? If so, why?

INFORMATION GIVEN TO THE KAROL BAGH POLICE STATION, DELHI, ABOUT THE PRESENCE OF A GANG OF CRIMINALS CALLED BAURIYAS.

†236. *Mr. Muhammad Azhar Ali: Will the Honourable the Home Member please state whether it is a fact that in the middle of May, 1939, a police agent gave information to the Karol Bagh Police Station about the presence in the vicinity of a part of a gang of criminals called Bauriyas with stolen property in their possession?

STEPS TO REDUCE THE NUMBER OF THEFTS AND OTHER CRIMES IN DELHI.

†237. *Mr. Muhammad Azhar Ali: Will the Honourable the Home Member please state whether the Government of India or the Local Government have taken or are taking any action to reduce thefts and other crimes in Delhi? If so, what? If none, why not?

SINKING OF THE STEAMER "KEMENDINE."

238. *Mr. Lalchand Navalrai: (a) Will the Honourable the Home Member be pleased to state if the steamer "Kemendine" was sunk? If so, where and how?

(b) Is it a fact that the Government of India issued a notification by about 30th August, 1940, giving the names of some of the Sindhis who were on board the vessel, having got on from Gibraltar?

(c) Have Government since then got further information about this steamer and the casualties, and will the Honourable Member be pleased to place a statement on the table giving the names of all Indians, including Sindhis, who were on board and who were saved, also giving their present whereabouts?

The Honourable Sir Reginald Maxwell: (a) The S. S. "Kemendine" is presumed to have been sunk. She is reported to have left Gibraltar for the East via the Cape early in June last, since when nothing has been heard of her.

†For answer to this question, see answer to question No. 234.

(b) No notification was issued by the Government of India, but the names of the Indian passengers, who were all Sindhis, were furnished to the Government of Sind on August 26th, 1940, in order that the next of kin might be informed. The names were also published in the Press.

(c) Government have no further information. A statement giving the names of the Indian passengers who embarked on the vessel is laid on the table.

Statement showing the names of the Indian passengers who embarked on the S. S. "Kemendine" which left Gibraltar on the 8th June, 1940.

K. Bulchand, wife, three daughters and two sons.
L. Hasaaran.
S. J. Choolani.
K. G. Chandiramani.
H. Khemchand and wife.
Parsam Advani.
S. Doulatram.
P. X. Nanwani.
K. R. Nawalrai.
S. Valiram.
T. Rewachand.
Mrs. S. Tarachand, daughter, son and infant.
Tarachand Veroomal.
K. Barsati.
V. Valiram.
D. Daloomal.

Mr. Lalchand Navalrai: May I know from the Honourable Member if there were any survivors, and at what place was the steamer sunk?

The Honourable Sir Reginald Maxwell: I have said that nothing further was heard of this steamer.

MOTION FOR ADJOURNMENT.

CLOSING OF THE CHANDPUR-SIAU-BIJNOR SECTION OF THE GAJRAULA MUZZAMPUR NARAIN BRANCH OF THE EAST INDIAN RAILWAY.

Mr. President (The Honourable Sir Abdur Rahim): Order, order. With regard to the adjournment motion which the Honourable Member Sir Syed Raza Ali wanted to move yesterday, I would ask the Honourable Member Sir Andrew Clow if he has got any information and if he has any objection to the motion.

The Honourable Sir Andrew Clow (Member for Railways and Communications): I have no objection to the motion, Sir; but I take it the concluding lines will be deleted. I would only call your attention to the fact that I have received notice of another motion raising precisely similar issues on a different line. The considerations in both cases are similar

and, if it would suit the convenience of the House and of the Honourable Members who have tabled the motions, I suggest that both might be taken up together.

Mr. President (The Honourable Sir Abdur Rahim): It relates to the closing of another line?

The Honourable Sir Andrew Clow: Yes, Sir; that relates to a different Railway. The reasons which have led to the action are practically the same in both cases; and if there is no objection under the rules, we can discuss them jointly.

Mr. President (The Honourable Sir Abdur Rahim): I cannot allow that, as they are two distinct matters but of course the Honourable Member, Mr. Essak Sait, if he is satisfied with the result of the first motion or the facts disclosed in the debate on the first motion may or may not desire to move it.

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): Sir, if I am allowed to speak on the subject-matter of my motion on Sir Raza Ali's adjournment motion and if the Honourable the Railway Member deals with my motion also when replying to Sir Raza Ali, I will have no objection.

Mr. President (The Honourable Sir Abdur Rahim): No, no, I cannot allow that. The motion will be taken up at 4 O'clock unless the Member in charge and the House agree that it should be taken up earlier if the business on the agenda is finished earlier.

The Honourable Sir Andrew Clow: I am quite willing if you wish to take it up as soon as the business is finished, Sir.

Mr. President (The Honourable Sir Abdur Rahim): Is that the general desire of the House?

(Voices: Yes, yes.)

Mr. President (The Honourable Sir Abdur Rahim): Very well.

THE HINDU WOMEN'S RIGHTS TO PROPERTY (AMENDMENT) BILL.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I do not move my motion No. 1 but I should like to move No. 2. Sir, I move:

"That the Bill further to amend the Hindu Women's Rights to Property Act, 1937, be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, Mr. M. S. Aney, Lieut.-Colonel Sir Henry Gidney, Syed Ghulam Bhik Nairang, Pandit Lakshmi Kanta Maitra, Raja Bahadur Kushalpal Singh, Shams-ul-Ulema Kamaluddin Ahmed, Bhai Parma Nand, Mr. J. Ramsay Scott, Mr. Umar Aly Shah and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

This Bill relates to the right of inheritance of Hindu daughters. I am anxious to state at the very outset that this Bill does not propose to give

[Mr. Akhil Chandra Datta.]

any new rights to the Hindu daughters. They had a right under the Hindu law which they enjoyed from time immemorial about inheritance. That right has been taken away by the recent Act of 1937, or rather the Act of 1937 as amended by the Act of 1938. My Bill really does not seek to amend any provision of Hindu law at all, nor does it seek to amend the Hindu Women's Rights to Property (Amendment) Act of 1937; but what is really sought to be amended is the Act of 1938 amending the Act of 1937.

Now, Sir, in order to explain my contention that it does not give any new rights at all to the Hindu daughters but to restore them to their former position, a position which they have occupied since time immemorial, I would like to explain what the law was before and what changes have been made by these two Acts—one of 1937 and the other of 1938. As regards the position of Hindu daughters in the order of succession and inheritance, there is no controversy about that. Their place in the order of succession was this. When a Hindu dies, first of all comes the son, the grand-son, the great-grand-son, and then next comes the widow, and after the widow comes the daughter. We need not go further below for the purpose of this Bill, so that the Hindu daughter occupied the fifth place in one sense and the third place in the order of succession in another sense. That was the position of the Hindu daughters. The position is so uncontroversial that I should not like to take up the time of the House by reference to any text-books or any other law.

Then let us come to the Act of 1937. Now, that Act was intended to give better rights to Hindu women, and in fact better rights have been given. Now, Sir, that was done in a two-fold manner. It improved the position of some female heirs and it gave new rights altogether to some other female heirs who had no such rights before. Now, the Act of 1937 improved the position of the widow and improved the position of the daughter also but gave absolutely new rights to a class of females who had no right of inheritance under Hindu law previously,—I mean the daughters-in-law, the granddaughters-in-law and the great granddaughters-in-law; except under the Bombay school, a daughter-in-law has no place at all in the list of succession. As regards the widow and the daughter, their position was distinctly improved by the Act of 1937. So far as the widow is concerned, under the law her position was this. She had no right at all if a son or grandson or great grandson was alive. She could come only in their absence. Not only that but she could come in and claim her share in the property of her husband only in the event of a partition between the sons. That was her position. But by the Act of 1937, she was given a share equal to that of a son and along with the son in the very first instance. That was how the position was improved. Similarly, the position of the daughter was also improved. The daughter, as I said, occupied the fifth place according to the Hindu Law but under the Act of 1937, she came along with the son and the widow and she need not wait till the death of sons or the widow under the Act of 1937. She was to receive her share in the whole property under the Dayabhaga school and the separate property under the Mitakshra school. According to the former school, the whole property on the death of a man would devolve upon his widow along with his lineal descendants. The words 'lineal descendants', including male and female, the daughter came in along with the

sons and the widow. Thus, she was promoted from the fifth place to the first place, so that the position and status of the daughter was immensely improved by the Act of 1937. Then, came the Act of 1938 almost immediately after it. This Act was the result of a Government Bill, whereas the Act of 1937 was the result of a private Bill. As regards the Act of 1938, I will quote a passage from the speech of the Honourable the Law Member when he moved that Bill. This is what he said:

"The object of this Bill, as appears from the Statement of Objects and Reasons, is not either to widen the scope of the original Bill or to limit it in any way, but to correct a mistake made. The language was very unhappy when we used the words 'along with lineal descendants'. It was pointed out by many of the law journals in Calcutta including the *Calcutta Weekly Notes* that it is quite capable of the construction that we are giving rights to all lineal descendants,—that is to say, the daughter's daughter, the daughter's son, the daughter's daughter's son, and so forth,—that they are all going to get a share as a result of the enactment of this measure. That of course was not the intention, but the language employed has been very unhappy. It was pointed out in the *Calcutta Weekly Notes* and also in the *Bombay and Madras Law Journals*; and we are trying to correct that."

That was the object, and because the words 'lineal descendants' were used it was apprehended that it may give a share to the daughter's descendants. Therefore, in the Act of 1938, the expression 'lineal descendants' was omitted, and in its place the word used was 'son'. The result was this: The object was to exclude daughter's son, daughter's daughter and daughter's daughter's son and so on, but in doing so the daughter herself was excluded. I do not know how it was done, probably by some inadvertence. The daughter was excluded and a new class of heirs were introduced between the widow and the daughter. The original law was that after the widow came the daughter, but now, as a result of the amendment of 1938, between the widow and the daughter a new class of heirs were introduced, namely, the daughters-in-law. The result was that under the Act of 1938 the daughter was ousted even from her original position, which was fifth before the Act of 1937. In other words, the daughter was sacrificed in 1938 to the daughter-in-law. She was ousted from her original position and on the top of her head a class of females were introduced who had no right of inheritance at all under the Hindu law. That is how the daughter was affected by the Act of 1938. The Act of 1937 improved her position and the Act of 1938 not only took away her improved position but also removed her from her original position. I do not think I need take the time of the House by quoting authorities on the point as to what was the effect of the changes made by these two Acts. I shall content myself by reading a paragraph from Mayne's Hindu Law. This paragraph was written after those two Acts had been passed.

"Quite recently the Hindu Women's Rights to Property Act, 1937 was passed to amend the Hindu Law of all the schools so as materially to confer greater rights on women than they had. The Act effects revolutionary changes in Hindu law, more particularly in the Mitakshara law."

Revolutionary changes were effected not only about the detailed provisions, but about the very foundation and the structure of the system of Hindu law. To all these changes the Government were a party. So far as the earlier Act is concerned, although it was a private Bill, it had the blessings of the Government. In fact although there was some opposition in some quarters, it was passed with the support of the Government. As regards the Act of 1938, that was a Government measure. So, Sir, the Government is responsible for these revolutionary changes. I shall show

[Mr. Akhil Chandra Datta.]

later on that my Bill does not propose anything revolutionary or radical. The above paragraph in the Mayne's Hindu Law proceeds:

"It affects the law of the coparcenary, partition and alienation. It will also affect the topics of inheritance and adoption. It confers upon the widow of a man, whether governed by the Mitakshara or the Dayabhaga law, rights of inheritance to his property even when he leaves male issue. Similar rights are conferred upon the widows of his predeceased son. In a Mitakshara undivided family, the widow of a deceased coparcener takes his interest. In all cases, the widows are entitled to claim partition, but they take only the limited interest of a Hindu woman. Where a coparcener leaves a widow, the rule of survivorship no longer takes effect."

In another place it is said:

"The Act replaces the rule of Hindu law recognised in all the provinces except in Madras where it has become obsolete, that a widow was entitled to a share when her sons or her step-sons actually divided the estate between themselves. Now in all the provinces including Madras, the Act vests in her on her husband's death the right to the same share as a son along with her sons or step-sons independent of any partition which may or may not be entered into by them. In Madras of course the change effected by the Act is much greater. What is more, it repeals in all the provinces the older rule according to which a widow succeeds only on failure of male issue. For instance, even where her husband leaves an only son and there can be no question of partition, she succeeds along with him for the share of a son..... While the object of the Act is to confer new rights of succession upon the widows mentioned in it, it not only alters the order of succession, but involves far-reaching consequences in many departments of Hindu law, particularly in the law relating to a Mitakshara coparcenary."

Later on it is said:

"By far the most important alteration in the fundamental principles of Hindu law is that introduced by sub-section (2) to section 3. In a Mitakshara undivided family, the widow of a deceased coparcener will have in the joint family property 'the same interest as he himself had'. This devolution of his interest on her abrogates the rule of survivorship and makes the undivided interest of a coparcener pass to his widow, even when he leaves male issue."

I must confess I am not concerned in this Bill with the changes made about the status and the position of widows. My point is only to show the revolutionary character of the changes which Government have made in the Hindu law. That being the position, I shall now come to my Bill. Whatever improvements may have been made in the position of widows and daughters-in-law, my Bill does not touch it. It should not be understood from my remarks that I am at all sorry for the improvement made in the position of the widow. I am glad that such improvements have been made. My complaint is only this, that while the status of the widow has been improved, the status of the daughter-in-law has been improved, but the daughter has been sacrificed. Therefore, my Bill provides:

"Provided further that in the absence of a widow or a son or a son's son or a son's son's son of the intestate, the property of the deceased shall devolve on his daughters, subject to the limitations and in the order provided by the Hindu Law in this behalf:

Provided also that in the last mentioned case if there is a widow of a predeceased son existing with one or more maiden daughters, she shall inherit as a maiden daughter and if there is no maiden daughter but one or more married daughters having a son or sons the predeceased son's widow shall inherit as one of such daughters and if the daughter dies leaving a son or sons, the son or sons shall inherit, their mother's share along with the son's widow or son's son's widow or son's son's sons."

That is all what I want to do in this Bill. Now, Sir, it will be perfectly clear that in claiming for the daughter a share in the absence of the widow or the son or the son's son or the son's son's son, I do not claim anything new for her. I want only to restore to her the position which she occupied ever since from the beginning of the Hindu law. That being so, I claim that I am not introducing anything new. The Bill was circulated for opinion. Opinions have been received. After going very carefully into the whole body of opinion, I feel that I am entitled to say this. I do not think any Bill was ever so fortunate or so lucky as to have such a large measure of support from all possible quarters. So far as the principle of the Bill is concerned, so far as its merits are concerned, I mean the daughter's right to inherit are concerned, on that point the Bill has been approved by the Provincial Governments, by the Hindus who are mainly concerned, by the Hindu Mahasabha, by lawyers specially Government pleaders—I find that a very large number of Government pleaders have given most enthusiastic support to the provisions of the Bill. We have got some opinions of some Advocates. We have also got the opinions of some High Court Judges. As regards the High Court Judges the position is this. Some High Court Judges do not give any opinion on the ground that it is not their practice to give any opinion on social legislation. But those of the High Court Judges who have given opinion—most of them—have favoured the provisions of the Bill. As regards District Judges most of them have supported the provisions of the Bill. Most of the Bar Associations have also approved. I think, Sir, I can correctly say this, as regards the principle of the Bill or as regards the merits of the claims of the daughter, there is no opposition at all. But there is some adverse criticism. That adverse criticism is not on this particular Bill. Some people think—and I admit their opinion is entitled to great weight,—that such piecemeal legislation as regards Hindu law is not quite desirable. They think that there are other matters which also require reform and legislation and they recommend a comprehensive legislation dealing with all these matters instead of this legislation on one isolated point. On that point, Sir, my humble reply is this. I do not want to make any piecemeal legislation. What after all is the object of my Bill? Some piecemeal legislation has been made through the instrumentality and through the help of Government and I only want to undo the effect of that piecemeal legislation. Along with others I regret this piecemeal legislation of 1938. I not only regret it but I resent it: and from the volume of opinion it will be clear how that Act is resented throughout the country by the Hindus. But I do not wish that our regret and our resentment should be confined to mere pious wishes. I want to undo the mischief which has resulted from that piecemeal legislation of 1938. Let that Act of 1938 be repealed and I shall at once withdraw my Bill. I shall have no more grievance in that case. It is this piecemeal legislation of 1938 which has done this injustice to the daughter's claim and I only want to remove the mischief of that legislation. Of course comprehensive legislation on Hindu law is bound to be a question of time: but I ask what would happen to the thousands and millions of Hindu daughters who would be deprived of their right of inheritance to their fathers' estate in the meantime? Therefore my submission is that having once committed the mistake of piecemeal legislation and with its help taken away the rights of the Hindu daughters, the result of that ought to be undone until a comprehensive legislation is enacted. That is only fair to the Hindu daughters.

[Mr. Akhil Chandra Datta.]

The principle of the Bill being accepted all over the country, I claim that there is a very strong case for its reference to a Select Committee. According to the written and unwritten rules of this House when the principle of a bill is accepted it should be considered by the Select Committee. There is only one complaint made and that is that the drafting is not very happy. Let me concede for argument's sake that the draft is artistic. But thereon you can condemn me and cannot condemn the Hindu daughters because of my bad drafting. And assuming for argument's sake that the drafting is bad, that is no reason why you should visit the sin of the author of the draft upon the Hindu daughters. I therefore, submit, Sir, that a very strong case has now been made on the basis of the opinions received for reference of the Bill to a Select Committee. This Bill deals with a very large class of people; in fact, it relates to the right of inheritance of half the Hindu population. That is the importance of the matter. Sir, I move for reference of the Bill to a Select Committee.

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 referred to a Select Committee consisting of the Honourable Sir Muhammad Zafrullah Khan, The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, Mr. M. S. Aney, Lieut.-Colonel Sir Henry Gidney, Syed Ghulam Bhik Nairang, Pandit Lakshmi Kanta Maitra, Raja Bahadur Kushalpal Singh, Shams-ul-Ulema Kamaluddin Ahmed, Bhai Parma Nand, Mr. J. Ramsay Scott, Mr. Umar Aly Shah and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I rise to support this motion and in doing so I shall make a few brief observations. Under the Hindu law as it existed from the very earliest times until the year 1937 the daughter had a right of inheritance next to four other persons, viz., the son, the son's son, the son's grandson and the widow. So she occupied the fifth place in the order of inheritance. In 1937 Dr. Deshmukh got a Bill passed the object of which was to amend the Hindu law "to give better rights to women in respect of property", and that Act gave greater rights to the daughters. In fact the daughters were now promoted to the very first place. Dr. Deshmukh's object was to give the widow a share of the property and at the same time to improve the position of the daughter. But it was held by competent authorities that the wording of this Act was defective and, therefore, in the following year the then Law Member, Sir Nripendra Sircar brought forward another Bill the object of which was to amend the Act of 1937. In this Bill he used the words:

"When a Hindu governed by the Dayabhag school * * * his widow shall be entitled in respect of property in respect of which he dies intestate, to the same share as the son."

As under the term "widow" was included also the son's widow, the son's son's widow, and the grandson's son's widow, the result was that the daughter was postponed till after all these persons that is, the daughter was given the 9th or 10th place in the order of inheritance. The consequence of this is that the daughter's right of inheritance is practically taken away, because it is not expected that the daughter

would survive not only the son and the grandson, the grandson's son and the widow, but also the son's widow, the grandson's widow and the grandson's son's widow. For all practical purposes, therefore, the daughter is deprived of any share to the property of her father. Mr. Datta's Bill seeks to restore the daughter to the position which she occupied till the year 1937, that is to say, the 5th place. As regards the estate, he does not wish to make any amendment. The daughter's estate would remain the same as the estate under the old Hindu law, that is to say, the daughter would take only a life interest, but the daughter's son would inherit later on. This is a very reasonable demand that Mr. Datta makes and it is entirely in consonance with the spirit of the Hindu law . . .

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Is it under the Dayabhaga only?

Dr. P. N. Banerjee: Both Dayabhaga and Mitakshara.

Mr. Akhil Chandra Datta: There is no difference between the two schools about the place of the daughter.

Dr. P. N. Banerjee: As regards the opinions of Hindus, this Bill was circulated for eliciting opinion thereon and a large number of views has been received. I have looked through these opinions and I have found that in principle there is very little objection to the Bill; in fact, there is a very large measure of support to this Bill. There are some objections from certain quarters, but these objections are mainly based on the policy of not taking up piecemeal legislation. There is some force in that I admit; but as against that view it may be urged that it was piecemeal legislation which was responsible for taking away the right of the daughter, and unless another piecemeal legislation is introduced, this right cannot be restored. Therefore, piecemeal legislation, although not justified in ordinary circumstances, has justification in the present case. I, therefore, hope, that this Bill will, in principle, be acceptable to Government and that it will be referred to a Select Committee. If there are any defects in the wording of the Bill, those defects may be removed in the Select Committee, so that we may have before us ultimately a good Bill, the object of which will be to maintain the law as it stood till the year 1937.

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, as has been very rightly pointed out by the Mover of this Bill, it is intended to remove a kind of injustice done to the daughter on account of the Bill of 1938, which amended the Act of 1937. That is true. So far as that particular object is concerned, no Hindu, none who is conversant with the state of Hindu law can take any reasonable objection to the Bill at all. I only want to say that this Bill is incomplete in itself. If we once concede, as we must concede, that the Act of 1938 has done injustice to daughters, we have also to contemplate the fact that there may be cases pending before courts at present and there must be some provisions added to this Bill in order to see that, if this is going to be enacted as a law of this House, this law will have retrospective effect, so that those women whose cases are being decided in accordance with the principle laid down by the amending Act of 1938 will be in a position to get the

[Mr. M. S. Aney.]

advantage of this Bill. Some cases might be pending in appeal before the High Courts and some may be pending before the Sessions Judges being decided under the Act of 1938. Some provisions have to be introduced in this law to give or extend the justice to all those who have been adversely affected on account of the amendment made by the Act of 1938.

Mr. Akhil Chandra Datta: May I invite the attention of my Honourable friend, Mr. Aney, to clause 1 (2) where I have said that "it will have retrospective effect from the 14th April, 1937", that is, the date on which the Governor General gave assent to that Act.

Mr. M. S. Aney: I am afraid I did not notice that sub-section. That was the main point, and I made these observations on that account. I personally think that we shall have to consider the language of the Bill in Select Committee; but the main point which the Bill is intended to serve is one to which this House at this stage cannot take any reasonable objection at all. On that point, all those who are competent to pronounce opinions and all those whose interests are vitally concerned have already expressed opinions in favour of the Bill and the body of opinion recorded goes to show that the Bill has the support of the Hindu community as a whole. I, therefore, support the motion.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, I rise to support the motion moved by my Honourable friend, Mr. Akhil Chandra Datta. I take it that the object of the present Bill is not to affect the position of the daughter as an heir as provided in the Act of 1937—Dr. Deshmukh's Act, but to remove certain misapprehensions or rather prevent certain misconstructions arising from the amending Act of 1938, which was passed on the motion of Sir Nripendra Sircar. It appears from the facts stated by Mr. Datta that the daughter had had a very favourable position as an heir in Hindu law prior to the passing of the Act of 1937, and that she was fifth in the order of heirs. The Act of 1937 had the effect of improving her position and making her rank as an heir equal to a son and a widow. Now, it appears that while attempting to prevent certain misconstructions of the Act of 1937 which would have given rise to a state of things never contemplated by that Act, another mistake was committed and a number of heirs who would otherwise have no status under Hindu law were admitted to the status of heirs to the prejudice of the daughter. Taking that to be the position, Sir, and taking also into consideration the fact that the Bill when circulated for eliciting opinions has been favourably received by the majority of those who were interested in this measure, I mean responsible members of the Hindu community, I think it is my duty to accord the support of my Party to this motion. All along this has been the line of action we have taken with regard to legislation affecting the social rights of the Hindu community. We have always taken this to be the test that if the entire body of Honourable Hindu Members in this House or a preponderating majority of them are in favour of a Bill of that kind we have always felt bound to accord our support, and except under very rare circumstances the Muslim Members have never objected to any such measure, but have always consistently given their support. So on

that principle, Sir, I submit that this Bill should be referred to a Select Committee, and as has been rightly pointed out by my friend, Mr. Aney, any defects in drafting, can be easily removed in the Select Committee. In a matter in which an entire community feel united and give unstinted support to a measure like this, I trust the Government will at least not oppose the motion for reference to Select Committee. With these words, Sir, I support the motion.

The Honourable Sir Reginald Maxwell (Home Member): Sir, this Bill raises a question of very great interest and importance to those in this country who are governed by Hindu law. I do not pretend myself to be able to form a personal opinion on the merits of a measure affecting the Hindu family system, but I propose to address myself mainly to the question of what would be a safe and cautious course to adopt in the light of the opinions which we have received.

The House is aware of the main principles which govern the attitude of Government towards measures of social legislation. In the first place, before supporting such measures they must be satisfied that they have the overwhelming support of the community or communities which they affect, and secondly,—and this is an important point,—they must be satisfied that the enactment of the measures or the drafting of them is such that it will not introduce complications which would be likely to lead to confusion and uncertainty and unproductive litigation. Considering the matter from this aspect, the Government would possibly have been justified in opposing further legislation at present in the light of the opinions received. Very few of the Provincial Governments are in favour of this measure, and even where there is a certain amount of sympathy for the principle underlying the Bill, a strong feeling is manifest that piecemeal legislation of this kind is undesirable, and that, in fact, constant tinkering with the law can only lead to confusion unless undertaken in a systematic manner under the supervision of an expert Committee. This is also evidently the opinion of the High Courts, except one, which have given any measure of support to the principle of the Bill; while other High Courts which have expressed an opinion have emphasised the uncertainty and confusion in which the introduction of a new principle of inheritance at this stage would be likely to result. While I admit that among the other judicial authorities and public bodies consulted there is a certain measure of support for the Bill, the great mass of opinion expressed against it must be regarded at least as a warning that the time has not yet come when a measure of this kind can be regarded as altogether plain sailing. From the opinions received, therefore, as I said, the Government might have felt justified in opposing further legislation at present. But since those opinions were received, I have met in March last a deputation of Members of various Groups in this House who explained the objects of the Bill further to me, and as a result of that meeting, I caused the Bill to be further examined. From this fresh examination it does appear that there is some reason to suppose that the Act of 1937, as amended by the Act of 1938, has had effects on the position of daughters which were not intended by the Legislature. At any rate, it is apparent that the principal Act as now amended leaves room for much uncertainty.

I understand, broadly speaking, that the object of Mr. Datta's Bill is to restore the position of the daughter to that which she was intended

[Sir Reginald Maxwell.]

to occupy before the Act of 1937 was amended. That is the general result of the further examination to which I referred, and Government recognise that, in so far as that is the case, the object of this Bill is a laudable one, and it is agreed that the difficulties which have been pointed out are such as cannot be ignored for an indefinite time. In fact the whole law on this subject has now reached a stage at which it requires some kind of amendment, and notwithstanding the opinions which have been expressed against proceeding with further legislation on this subject at the present time, I think it cannot be presumed that if a measure were devised having the object which I have described it would in any way be repugnant to Hindu opinion. But, at the same time, the previous history of this legislation is a warning not to proceed to legislate rashly. It is already apparent that certain things were overlooked when the amending Act of 1938 was passed in spite of the fact that that Act was devised by a Select Committee. The examination which has now been made of the Bill before the House shows that it is badly drawn and that it is defective in many respects. In fact, before there could be any hope of passing legislation to achieve the objects which the Honourable the Mover has in view, it would be essential to recast the measure entirely and to enlarge it in many respects. That is not a simple task. We have tried to see whether that could be done by Government and what probable form such a measure would take. The result is such as to show the difficulty of being certain that the measure is properly devised. We drafted a trial measure to take the place of this Bill and it runs into six additional clauses and, many additional sub-clauses and it shows most clearly the complicated nature of the considerations which would have to be gone into before a measure of this kind could be regarded as properly devised and safe. It might have been possible to tackle the matter in the Select Committee and, afterwards, to re-circulate the measure so devised, but where the object is to secure not only the intentions of the present Bill but to clarify and amend the whole of the principal Act, one must, I think, feel, that a Select Committee is not the best means of achieving such an object. As I have said, the efforts of the Select Committee on a previous occasion have failed to leave us with a measure effecting what was then intended, and more particularly when a considerable number of legislators who might have been at our disposal have now chosen to extinguish themselves from the proceedings of the House, we have less advice in proceeding with such a measure than would otherwise have been obtainable from the ranks of this House. In fact, the Select Committee procedure is not really intended to devise entirely new measures or to do research work where the spade work has not already been done by the person promoting the measure. This House, in applying its ordinary procedure to measures of social legislation, is entitled to expect that the persons interested in the promotion of the measure will themselves have taken the best advice available, that they will themselves have consulted expert opinion and that before they bring a measure before the House it will be so nearly watertight that a Select Committee will only have to address itself to matters of detail and not to the consideration of an entirely new measure. From that point of view the Honourable the Mover's plea that the sins of his draft should not be visited on the daughters is not entirely justifiable, because it was to be expected that if he was

on improving the position of daughters he would himself have done the work which he now wishes to leave entirely to Government and to a Select Committee.

Mr. Akhil Chandra Datta: I only conceded for argument's sake that the draft was not free from defect.

The Honourable Sir Reginald Maxwell: The Honourable Member did not then appreciate the defects of his own Bill, and, therefore, that is the more reason for supposing that even in a Select Committee he would not be able to help us to evolve a measure which would really be fit for legislation.

Mr. M. S. Aney: That is rather a far-fetched inference.

The Honourable Sir Reginald Maxwell: We will not argue that matter, Sir, but the position is this. As I have explained, Government recognise that there is a clear need for the clarification of the existing legislation and they are entirely in sympathy with the object of the Honourable Member. The only question which we have to consider is what is to be done next, what is the best way of going about it? Is the Select Committee really going to put this law on a satisfactory footing, or are there other ways of doing it better? And since the Honourable the Mover has not himself done the spade work which I contemplate as necessary in regard to such a piece of legislation, I propose that instead of putting this measure to a Select Committee now, the Government should get together and appoint a small committee of eminent Hindu lawyers to advise how the existing legislation should be clarified and the object desired by the Honourable Member should be secured. If, therefore, this House decides not to send this measure to a Select Committee at once, Government will undertake to do their best to set up such a committee and to get the measure recast in a form which can suitably be commended to this House.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): May I ask one question? Will this committee, which the Government intend to set up take up only the question of property and inheritance, or will it also go into residence and maintenance of women and divorce? I should be very thankful if the Honourable Member could include that also.

The Honourable Sir Reginald Maxwell: The committee of which I am speaking at the moment would be one which is to deal entirely with the subject of this particular Bill. I cannot say whether if we manage to get such a committee its functions may not be extended in the future to take up other measures. That would depend on the nature of the committee and what amount of time could be spared by its members, but for the moment there is this particular piece of Hindu law which requires to be examined and recast and the committee would be appointed for that purpose.

Dr. G. V. Deshmukh: Just one more point. May I know the time about which this committee is likely to function?

The Honourable Sir Reginald Maxwell: As soon as possible, and in that I should expect the aid of Honourable Members who are interested in promoting this measure. On the last occasion when we decided to set up a committee in accordance with a Resolution of this House to deal with questions of residence and maintenance, so much difficulty was experienced in obtaining suitable gentlemen to serve on it that ultimately the matter had to be postponed.

Mr. M. S. Aney: I hope it has not yet been abandoned, it is only postponed?

The Honourable Sir Reginald Maxwell: It is only postponed and not abandoned at all. I think we shall have to ask for the help of Honourable Members who are interested in these matters in getting, as I say, persons of suitable attainments to help us and to serve in the interests of Hindu law generally. Therefore, as I have said, it is only with the object of setting up such a committee in regard to this particular measure that Government would oppose reference at the present moment to a Select Committee.

Dr. P. N. Banerjee: Quite satisfactory.

Mr. Akhil Chandra Datta: I am glad that the Government recognise that the object of the Bill is laudable. The Government also recognise that there were serious defects in the Act of 1938. That was a Government Bill. Therefore, it is admitted that Government are responsible for the injustice that has been done under the Act of 1938 to the Hindu daughter. Suppose a Hindu daughter approaches the Honourable the Home Member and says this: "You Government have taken away my rights. I ask you to repair the wrong".

The Honourable Sir Reginald Maxwell: The Bill was passed by this House.

Mr. Akhil Chandra Datta: That is no doubt true. After all, apart from jokes, the Government must admit and recognise that it is a Government Bill for amending the Act of 1937 which has committed this mistake and which has resulted in grievous injustice to the rights of a very large section of the people in this country and, therefore, it is for the Government to make amends. Objection has been raised that this is a very complicated question. Who is responsible for this complication, please? If the Government is responsible for bringing about this complicated position, it is for the Government to face the position and to remove the complication. Merely because a measure is complicated, is that a reason to reject it? Then it is said that the Select Committee is not the proper place for improving the position. The principle of the Bill has been admitted and the whole point is a very short one, namely, the place of the Hindu daughter in the order of succession. Where does the complication come in? Therefore my submission is that upon the facts admitted on behalf of the Government it is only proper that this Bill should go to the Select Committee. Of course I know the strength of the Government today. Even if the two parties combine, the result is a foregone conclusion. In view of that position, I have to rest content with the small mercy of a committee that has been proposed.

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

"That the Bill further to amend the Hindu Women's Rights to Property Act, 1937, be referred to a Select Committee consisting of the Honourable Sir Muhammad Zafullah Khan, The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, Mr. M. S. Aney, Lieut.-Colonel Sir Henry Gidney, Syed Ghulam Bhik Nairang, Pandit Lakshmi Kanta Maitra, Raja Bahadur Kushalpal Singh, Shams-ul-Ulama, Kamaluddin Ahmed, Bhai Parma Nand, Mr. J. Ramsay Scott, Mr. Umar Ali Shah and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was negatived.

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.

THE LAND ACQUISITION (AMENDMENT) BILL.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I move for leave to introduce a Bill further to amend the Land Acquisition Act, 1894.

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

"That leave be granted to introduce a Bill further to amend the Land Acquisition Act, 1894."

The motion was adopted.

Mr. Lalchand Navalrai: Sir, I introduce the Bill.

THE SPECIFIC RELIEF (AMENDMENT) BILL.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I move for leave to introduce a Bill further to amend the Specific Relief Act, 1877.

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

"That leave be granted to introduce a Bill further to amend the Specific Relief Act, 1877."

The motion was adopted.

Mr. Lalchand Navalrai: Sir, I introduce the Bill.

THE HINDU JUDICIAL SEPARATION AND DIVORCE BILL.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): Sir, I move for leave to introduce a Bill to provide for Judicial Separation and Divorce amongst the Hindus.

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

"That leave be granted to introduce a Bill to provide for Judicial Separation and Divorce amongst the Hindus."

The motion was adopted.

Dr. G. V. Deshmukh: Sir, I introduce the Bill.

THE HINDU MARRIED WOMEN'S RIGHT TO SEPARATE RESIDENCE AND MAINTENANCE BILL.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): Sir, I move for leave to introduce a Bill to give Hindu married women a right to separate residence and maintenance under certain circumstances.

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

"That leave be granted to introduce a Bill to give Hindu married women a right to separate residence and maintenance under certain circumstances."

The motion was adopted.

Dr. G. V. Deshmukh: Sir, I introduce the Bill.

MOTION FOR ADJOURNMENT.

CLOSING OF THE CHANDPUR-SIAU-BIJNOR SECTION OF THE GAJRAULA MUAZZAMPUR NARAIN BRANCH OF THE EAST INDIAN RAILWAY.

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): Mr. Deputy President, I move:

"That the Assembly do now adjourn to discuss a specific matter of immediate public importance."

Mr. Deputy President (Mr. Akhil Chandra Datta): The subject need not be mentioned; that is a matter of form.

Sir Syed Raza Ali: I believe, Sir, the form which I propose to take is the form that is adopted in parliamentary procedure and that is the reason why I move it in that manner; at any rate there is nothing against it in the rules

Mr. Deputy President (Mr. Akhil Chandra Datta): So far as that is concerned, the precise form of the motion laid down by the Standing Order is: "That the Assembly do adjourn". The Honourable Member need not read out the subject.

Sir Syed Raza Ali: I have already moved it. I move again:

"That the House do adjourn."

Now, the position is this. In the Western part of the United Provinces we have the old Oudh and Rohilkund Railway main line which ran at that time between Moghal Serai and Saharanpur and is now managed by the East Indian Railway. This line is in the north. In the south we have the branch line which runs between Moradabad and Delhi. This branch line was opened to traffic in the year 1903. For some years it was

felt that it would be in the interest of the Railway Administration and it would be more profitable if these two lines were linked up—the one going towards the north and the other towards the south. The proposition was very carefully considered and some years ago these two lines were linked up by building a branch line starting from Gajraula to join at the main line at Muazzampur-Narain. This line has been running for many years. So far as I know, this branch is quite remunerative to the East Indian Railway. Now, it appears that all of a sudden somebody woke up and discovered that it was high time that a part of this line should be closed. This branch line between Gajraula and Bijnor is forty-five miles. What is proposed now is that a section of this line which joins up these two lines, viz., the one in the north and the other in the south, should be discontinued over a distance of twenty-two miles. The proposal is that a section of this branch line between Gajraula and Bijnor should be closed. I only came to know of that yesterday when I read my *Hindustan Times* in which I found a notice to that effect over the signature of the General Manager. I tabled a motion and I was not astonished to find that my Honourable friend, the Railway Member, did not know about the closing of this line. In fairness to the Railway Member I must point out that so many lines have been closed in recent months that one can easily understand if the Railway Member did not know whether this line was also going to be closed in the near future.

The Honourable Sir Andrew Clow (Member for Railways and Communications): I may explain the point. The point of which I was ignorant was the fact that a notice had been issued to the public; that was kindly brought to my notice by my Honourable friend, Sir Raza Ali.

Sir Syed Raza Ali: I see my Honourable friend's grievance, namely, that a notice had been issued to the public.

Now, Sir, the position is this. I would like to know why this line is to be closed on the 1st of December, 1940? What are the reasons for closing it? I can understand that if any railway or any section or branch of a railway ceases to be profitable and remunerative, it is open to the Government, and sometimes it is the duty of the Government, to close that section or branch. But that is not the case with the section proposed to be closed. Non-official Members are always handicapped by not having that detailed information which in the case of more advanced countries is available to the public. Now, I do not really know what is the income that the Government derives from this section of 22 miles that it proposes to close. But I have some information, and I would like to put it before my Honourable friend, the Railway Member, so that if his attention has not been drawn to this aspect of the question, he might be in a position to appreciate the position better in the light of these facts.

Sir, I find that there are five stations on the line proposed to be closed. Take one of these stations which is a small station and which is only a halt station, Amhera Halt. I understand that the monthly income that the Railway derives from this station is somewhere in the neighbourhood of Rs. 1,500. Take another station, Sisauna. This station brings a monthly income to the Railway of Rs. 1,000. Take another station, Jhalu. This station, I am told, is responsible for putting into the pockets of the Railway Administration something like Rs. 3,000 a month. My Honourable friend will find this mentioned as the last station in the cutting I handed him over yesterday.

The Honourable Sir Andrew Clow: The name of the station is Khari Jhalu.

Sir Syed Raza Ali: Yes, that is the full name. Now, Haldaur (next station) is really a very important station and it is in the centre of the area which produces wheat, sugar-cane and barley on a very large scale. The income that must be going into the pockets of the Railway Administration from this station alone is somewhere in the neighbourhood of Rs. 30,000 a month. Take the terminus station on the other side, namely, Chandpur-Siau. This station is not going to be closed because the line between Gajraula and Chandpur will still remain open for traffic. But let me assure my Honourable friend, the Railway Member, that the importance of Chandpur-Siau station lies in the fact that it is an important station for sending goods on one side to Gajraula and on the other side to Bijnor, Najibabad and Saharanpur. Now, you propose to take away the line that enables Chandpur to serve Najibabad, Muazzampur Narain and Saharanpur. The result is that if you carry out this intention of yours, you will be reducing the income of Chandpur station by more than 50 per cent. The present income from this railway station is believed to be something like Rs. 40,000 a month. But I have not the least doubt in my mind that if this line is closed and if there is no traffic between Chandpur and Bijnor, the revenue receipts from this station will be reduced by more than 50 per cent. That is the position so far as the financial aspect is concerned.

Now, let us see what can be the other possible causes which could have induced the Government to decide upon the closing of this line. Before I deal with this question, may I ask the Railway Member what authority suggested the closing of this line? The plain fact is that the Railway Board is—though it ought not to be—a very irresponsible body in the sense that it takes decisions and executes them without consulting anybody. May I ask the Railway Member who was responsible for the original decision? Who gave the inspiration? Who thought of closing this line? Was it the Divisional Superintendent or was it any higher official of the East Indian Railway? If so, who was that official? When was the advice given? When did the Railway Board consult their own officials? Was the Provincial Government consulted? Was even the Governor consulted as the head of the Administration?

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member has only one minute more.

Sir Syed Raza Ali: Thank you very much, Sir.

Now, Sir, I have a few more points to mention but I do not think I need mention them. I will content myself by saying that in the United Provinces five or six sections of the Railways have been closed without anybody being consulted. That is causing a great inconvenience. What are the Railway Board doing? They decide upon something, which, if done, would cause a great loss to them on the one hand and inconvenience to the public on the other. So, Sir, the case is a very plain case and I should sum it up by saying that a part of the area through which traffic from Chandpur-Siau to Bijnor passes is a rich sugar-cane growing area.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member's time is up.

Sir Syed Raza Ali: Sir, I do not think I need say more. It is for my Honourable friend, the Railway Member, to prove his case. Sir, I move.

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

"That the Assembly do now adjourn."

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, we have been listening this Session to all arbitrary decisions of the Government of India. I consider this decision of the Government of India also to be of the same nature. The fact remains that the Government of India do not care a bit for the convenience and the proper arrangements of the passengers in India. They do not want that Indians should have any convenience. The Government come forward with Bills and Resolutions of such a nature that they cause the maximum inconvenience to the public. This ought not to be at a time when a great war is going on in Europe. This puts the Indians to a mentality which perhaps I am sure the Government themselves do not realise. As my Honourable friend, Sir Syed Raza Ali, said, this line may not bring as much revenue as the Government want, but it brings at least Rs. 40,000 monthly to the Government. What is the intention of the Government in closing down this line? Do they want to take away the rails and all iron scrap for war purposes. If that is so, I would not say anything. If that is not so, then where is the sense in not consulting the public about the closing of this line. The Government if they want to demolish a whole section of railway disregarding the convenience of the passengers and dislocating the trade, the Government ought at least to have given notice to the public. Even in the case of small Bills when they come before the Assembly they are circulated for public opinion. The present matter is of such great importance that the Governor of the Province ought to have been consulted. No such arbitrary orders ought to have been passed. I think the Government ought not to do such things at the present moment.

As regards the timings of the railways, there also there is room for complaint. The Government never consult the public. They never try to connect small sections with big sections or the branches with main lines. We are really very much handicapped when we are disregarded in every matter that comes before the Government of India in these days. I do not think it is in any way wise on the part of the Government of India to enrich their coffers without looking to the convenience of the public. The matter is not a small one. It is a matter of 22 miles. The Honourable Member ought to have seen to it that the Railways published a notification announcing their intention to close the line and should have invited opinions thereon. In the absence of any such notification, my Honourable friend, Sir Syed Raza Ali, has been obliged to bring in the adjournment motion in the House bringing to the notice of the House that such and such a thing is happening in the United Provinces. These are matters which should be looked into by the Government. I would ask the Government to reconsider their position especially in these days. They should not sit quietly on the Treasury Benches disregarding the convenience and comfort of the public and also dislocating the business interests of the country. For as has been pointed out this railway line passes through sugarcane area and the closing down of this line will also entail loss of revenue to Government in the shape of sugar excise. I hope Government will give up their callous attitude and yield to the just demands of the public. With these remarks, I support the motion for adjournment.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): Sir, the Railway Department, as we know, is the only department which is rolling in riches, and it is the only department which subsidises other departments and large sums of money are earmarked through the generosity of the Railway Department for developing other resources of the country. Now, we are told that money is required for the successful prosecution of the war and that all avenues of income are to be explored. Is it not rank folly on the part of the Government at a time when we are scraping together as much money as we can for the successful prosecution of the war to close down a railway line which was bringing thousands and thousands of rupees. So, the Defence of India Act which is so universal in its application ought to be applied to the Railway Member and he must be arrested at once for putting obstacles in the way of the successful prosecution of the war by closing down this railway line which was bringing in so much revenue. Sir, there was very little time at the disposal of my Honourable friend, Sir Syed Raza Ali, when he was speaking in support of his motion to refer to sugar plantations. This railway line passes through sugar cane plantation area. It is a fertile area. There is *gur*, and there is sugar to be exported from this area to other parts of the country. Who will export them now? Only the bullock carts, instead of railways.

Mr. M. S. Aney: Why not motor lorries?

Sir Syed Raza Ali: There is no good road from this place so that motor lorries can pass.

Maulana Zafar Ali Khan: Then the position is much worse. Only the bullock carts can be used and these bullock carts too, in times of rain, get stuck up due to mud.

Mr. M. S. Aney: What about village uplift?

Maulana Zafar Ali Khan: The village people only talk and talk and do nothing useful. The Railway Department has been subject to much criticism by the Opposition all these days so that there is very little room left for further criticism. But, unfortunately, we are placed in a very quizzical position. I have on various occasions referred to the painful fact that our friends of the Congress have committed the blunder of their life by walking out of this Assembly leaving these seats vacant and reducing the strength of the Opposition to a few Members of the Muslim League and a few Members of the Congress Nationalist Party. Here, we are about 20 or 25 people shouting at the top of our voice but we can do nothing. We may have stentorian lungs but the all-powerful Treasury Benches only laugh at us. But he laughs long who laughs last. It is in your own interest that we want you to take certain measures; but you are blind and deaf and nothing will move you. These are the ways of the bureaucrat. In today's *Statesman* you will find that your own kith and kin say that you are sun-dried bureaucrats. They say that for the past 150 years you have not been responsible to any one but to yourselves. The Secretary of State and the Governor General,—both are living in a fool's paradise.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour): The Governor General should not be mentioned.

The Honourable Sir Andrew Clow: Sir, I submit this is not in order.

Mr. Deputy President (Mr. Akhil Chandra Datta): There should be no such remark about the Governor General.

Maulana Zafar Ali Khan: I was referring to the Governor General in Council. I will say, the Government of India.

Sir, I was referring to the leading article in the *Statesman* of today in which the leader-writer draws your attention to the fact that you have not done what you should have done to bring victory to England. Eden was thrown overboard because he drew your attention to the unpreparedness of England. Hore-Belisha had to go

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member had better speak on the present motion.

Maulana Zafar Ali Khan: Here you have got the railways in your hands

The Honourable Sir Andrew Clow: The Honourable Member might address the Chair and not me.

Maulana Zafar Ali Khan: The source of wealth is in your hands and you do not utilise that. You have closed the door even where you could keep it open.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member should address the Chair.

Maulana Zafar Ali Khan: I was addressing them through you and thus making an acute angle.

Sir, it pains one to find that although those who are in power are in a position to utilise the resources of the country to their utmost they are not doing it and then they are blaming us for it. And they put their hands in the poor man's pockets and ask him to pay. They have money themselves but they do not use it. Sir, I support this motion strongly and ask Government to see that this position is given up and revoked and the line should go on merrily.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, it has been asserted on several occasions that the railways here are commercial concerns but is this the way in which commercial concerns look to their interests? Line after line is opened; experts are there on fat salaries, and if any one speaks to the contrary the experts' opinions prevail. After some years these so-called experts are found to be wrong and a pretext is offered that the lines are unproductive. Reference to the records you will find that during the last quarter of the century several lines have been closed down and the public have to bear the burden of all this. The liabilities are piled from year to year and interest is charged although the lines are closed down. Why should not these experts who claim supremacy for their opinions be taken to task when their opinion has been found to be erroneous. The duty of business concern is to look carefully to its interests. The other day legislation was sought to be made to the effect that people irrespective of their

42,31/240

[Maulvi Muhammad Abdul Ghani.]

position should be sent to jail up to a maximum of one year for travelling without tickets. Why should not these experts be sent to jail after committing such criminal errors and why should not legislation be passed to that effect? They are paid fat salaries for their expert knowledge and if their expert knowledge is found to be faulty they should be taken to task through legislation and ample punishment should be awarded to them.

On strategic lines we are incurring losses amounting to more than a crore. The Financial Review prepared by the Financial Commissioner for Railways will show what large sums of money are wasted like water on the railways. No plans are made and no estimates are prepared and the money is spent in advance. I was under the impression that it is only in the Military Department that money is spent without any consideration but I now find that it is the Railway Department where money is wasted much. Water has some price, but money has no value for them. There is the Railway Board and there are the various Railway Administrations. But what is being done? Every year our liability is increased. There are other departments under the Government of India, but they are not going on in the way the railway concerns are going. This is the time to sound a note of warning that the Railway Board should be alert, and in opening lines they should take the utmost care that the public money is not wasted like this; and if the experts first say that a line is productive and afterwards it is found to be unproductive, the loss should be recovered from the experts. I know there are cases in which the Provincial Government has urged for the opening of certain lines, but the Railway Board and the Government of India say that they are not going to open those lines unless the Provincial Governments should give a guarantee and take the responsibility: but when they are pressed that the Provincial Governments are ready to undertake the guarantee, provided they are given certain share in the profit they are told the Provincial Governments will not get anything. Is this the way to proceed with a concern which is called a business concern? With these words I support the motion.

Sardar Sant Singh (West Punjab: Sikh): Sir, I rise to ask a few questions as a matter of information upon the policy underlying the closing of railway lines. The first point which I want to ask is this: why are not such matters placed either before the Standing Finance Committee for Railways or before the Railway Advisory Council before action is taken? I think there are two committees of this House which meet to discuss such matters and so far as I am aware it is but right that the matter should be placed before one of these committees in order that they may discuss the advisability or otherwise and gauge the opinion of the Members of this House on the action desired to be taken.

The second point which I want to ask is this: more than one line has been closed recently by the Railway Department including the branch line between Jaranwala and Lyalpur. I was informed that the railway track is being removed by the military authorities. I could not find out what connection there was between closing the line on account of its probably being uneconomic and the track being handed over to the military authorities for removal. I would like the Honourable Member to throw some light on this question. I know that that line was

considered to be uneconomic and I can understand the policy that uneconomic lines should be closed. But there are other matters which ought to be taken into consideration and which were not, when that line was closed. It was closed on the 6th November. Only about a week later there was a big Nankana fair due to take place which used to bring thousands of rupees to the railway on that section, but they did not wait for a week to earn that money and closed it a week earlier in spite of protests made to the North Western Railway authorities. So my point is that if these things are placed before the Railway Advisory Committee or the Railway Standing Finance Committee, certainly the Members who are in touch with such lines can give good advice as to when they should be removed or whether they should be removed at all or not. I am not in a position to say anything about the economic conditions of this railway which is the subject matter of the adjournment motion at present. My friend, Sir Syed Raza Ali, has told us that economically it was not a bad proposition. If that is so, it becomes still a dilemma why the line has been removed. If the railway is doing it in the interests of the successful prosecution of the war, they should take this House into confidence, so that we may judge whether the railway concern is run as a commercial concern or whether it is as a matter of fact indirectly subsidising the war effort. These are the points which I would like the Honourable Member to throw light upon.

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, it was with a good deal of relief that some of us at least could hear a very important observation made by one of the responsible Members of the Government Benches that Government have long ears. Most of us were under the impression that they were deaf, but we are assured: "No, they are not deaf, they have long ears." I do not know whether they, with long ears, deserve to be here or somewhere else

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): It was Mr. James who said it.

Mr. M. S. Aney: I do not want to say who said it: it is enough for our purpose that they have ears and they are long ears. But the question is this: whether the gift of long ears will enable us to get our work intelligently done by them or not. That creates further trouble. However, the proposition before the House which my Honourable friend, Sir Syed Raza Ali, has raised by means of his adjournment motion is very important. It raises a question of policy, and I believe the Members on the Government Benches should have by this time indicated to this House at least some of the grounds which led them to take a drastic decision of this nature. Formerly, at least some years ago, whenever an important discussion was taking place in this House, the general policy on behalf of the Government was this: one of the secretaries belonging to the department used to intervene in the debate at an early stage and give us an indication as to the view which the Government took of the particular motion before the House. Of course, the last statement was made by the Member in charge by way of reply, but they were not keeping the House in the dark all along while the debate was going along. Members after Members are standing and making the same complaint. They say it was a remunerative line and there is no reason why it is being scrapped. One Member

[Mr. M. S. Aney.]

repeats what another Member said in regard to some other line; others come back to the same line and the thing goes on like that and the debate becomes absolutely desultory because the Members are not able to gauge the particular point of view of the Government on which the action taken by the Government can be justified or not

Mr. N. M. Joshi (Nominated Non-Official): There is no debate.

Mr. M. S. Aney: It is no debate at all; it is an *ex parte* cry going on on one side. My object in getting up this time was just to inform the House and also the Government Members that some time back there used to exist this practice--this salutary practice, from which a departure seems to have been made of late.

Now, I come to the merits of the particular proposition before the House. My Honourable friend, Sir Syed Raza Ali, has shown that there are three or four stations on this distance of 22 miles of line which it is the intention of the Government to close from the 1st December; and he has given us the figures of monthly income derived from traffic carried on at these four stations. Judged from the point of view of those figures, I believe there is very little ground to suppose that this section of 22 miles is altogether unremunerative and that, therefore, it deserves to be scrapped.

Then the second thing in that connection is this. The Government in considering the question of maintenance or of closing down a particular line must bear in mind two things. We have for a certain number of years been used to a certain kind of convenience, and unless there is an effective substitute to take the place of that convenience, you should think twice before removing the existing convenience. I am told in reply to an interruption by Sir Raza Ali that there is no proper road by which traffic could be easily carried by motor lorries if this railway line is removed. It means they will have to fall back upon the old old bullock cart traffic, which in view of the growing cultivation of cane and the growing importance of the sugar industry in that tract, will not be able to cope with, and, therefore, the people who will be carrying cane will not only be put to considerable inconvenience, but even to a loss, because they will not be able to take their things to the market in proper time. It is not merely from their own point of view that the Railway has to look at the question, but also from the point of view of those who have hitherto been served by them. Now, if it is not a remunerative line, and if you are going to take it away without providing a suitable and effective substitute for it, then people will be put to considerable inconvenience and economic loss also. These are matters of serious importance. I think a decision of such importance should not be taken by the Railway Board without taking into confidence the members of the Central Advisory Council which they have appointed from among the Members of the two Houses of the Central Legislature. What do they exist for? If matters affecting the happiness and convenience of people are not to be placed before them for consideration, then what is the use of the Central Advisory Council or any other Council that may be set up? Probably this subject might not be a proper one for the consideration of the Standing Finance Committee before which only questions of finance go, but this is a question of policy. It is true at one time it was said

that the policy laid down was that branch lines or narrow gauge lines of an unremunerative nature should be closed down if necessary. But here we are dealing with a different case altogether, and even that policy will not help the Government to justify their action in the present case. If they have taken this step in the interest of defence, then they ought to have stated that fact very clearly and informed this House that exigencies of military defence required them to take a particular step. I am referring to this fact, because my friend, Sardar Sant Singh, also referred to the closing down of a small line on this ground. I do not know what the reasons were which prompted the Government to take that step in that case, but I think my friend, Sir Raza Ali, has done a service to this House and to the public outside by bringing to the notice of this House and of the Government the importance of the question which arises on account of the notification published in the newspapers to the effect that a section of 22 miles of that line will be closed from the 1st December next.

The Honourable Sir Andrew Clow: Sir, so far from having a grievance, I am grateful to my Honourable friend, Sir Raza Ali, for giving me an opportunity of explaining the position, for, as a number of Honourable Members are aware, this is not the only case which has troubled the public. Sardar Sant Singh referred to another. Another was the subject of a further notice of adjournment, and there are several others in different parts of the country. I will, however, in view of the ruling the President gave this morning, confine my attention at present to this particular line.

I would only say that as regards the branch lines generally, I was told not very long ago in connection with another matter that Railways were getting obsolete, and there is a certain element of truth in it. Maulvi Muhammad Abdul Ghani referred to the fact that Railways were first built but later on when it was found that they were unremunerative, they were closed down, and, therefore, he suggested that some condign punishment should be given to those who framed the estimates.....

Maulvi Muhammad Abdul Ghani: I did not say the estimates, but those who gave the opinion.

The Honourable Sir Andrew Clow: That is based on estimates of traffic and cost. But the point is that the whole position has changed in recent years. Those who framed the estimates did not foresee and could not have foreseen two factors: first, the great development in the use of motors on the roads, and, secondly, the efforts which we have made and are making to expand our road system. It is these in most cases which have upset entirely the original calculations, and I do not doubt that these have contributed to render these lines unremunerative. Unfortunately, this is not a line for which we have separate accounts, so it is very difficult to show by figures that this particular section is unremunerative. But the Railway Board had no doubt in their mind even four years ago about this; and there is a further development coming which will make it even a greater liability than it is at present.....

Sir Syed Raza Ali: What reason had the Railway Board to take that view? Has my friend got the revenue receipts in respect of the section between Gajraula and Moradabad?

The Honourable Sir Andrew Olow: You cannot judge merely by the revenue receipts. Another point my friend overlooked.....

(Sir Syed Raza Ali attempted to interrupt.)

The Honourable Sir Andrew Olow: I really cannot answer questions; I have got only 15 minutes. Another point that my Honourable friend overlooked, is this. We do not lose all that traffic necessarily. It goes to the stations; every part of this area will be within fairly close range of a station, even if those lines are pulled up. Thus it does not follow that the traffic receipts from these stations will entirely disappear. Now, in selecting these branches for closing, we took into consideration not merely the traffic considerations, though these of course must be the first thing that we have to look to, but also alternative facilities. The rail facility, even if this is pulled up in this area, will be quite good. My friend, Sir Raza Ali, is fully familiar with this, and he knows that Bijnor will still be connected with the main line on the north. Chandpur, the next most important place, will still be connected with Gajraula on the south.....

Sir Syed Raza Ali: No, my friend is wrong. If you close this line, there will be no connection between Bijnor in the north and Chandpur-Siau in the south.

The Honourable Sir Andrew Olow: I said, that Chandpur would be connected with Gajraula in the south. What I said was quite correct. In addition there are no less than three parallel level roads leading from this line to the main line which lies further east. But there is a further important development for, a metalled road is being built which will connect Moradabad with Bijnor through Amroha. When this road was proposed the Railway Board considered the case some years ago and recognised that that would practically destroy any prospect of this line ever becoming a remunerative proposition. So the area will be well served on the whole. Actually this new road will run, and a considerable amount of it is already built,—this new road will run very closely, it meets the road from Bijnor to Nagina, and the average distance is parallel to the present existing railway line. From Amroha in the north about six miles from the railway line. I believe it is actually nearest to the railway line, opposite to the section which is being taken out.

Now, Sir, one point on which I feel that the public here have a sense of grievance which is justified is the very short notice that has been given. And I was a little surprised that Honourable Members did not refer to that because that is the point on which I have the greatest sympathy with them. So far from desiring, as my Honourable friend, Mr. Azhar Ali, suggested to give them as much inconvenience as possible, we desire to meet the convenience of the public in every possible way, and I deeply regret that it should have been necessary to give such short notice. Although I believe that actually this railway would have had to be demolished in a fairly short time for the reasons that I have given, we have a special reason for urgency and that is that the rails both here and in the other sections we are demolishing, are wanted for urgent war needs. That I think must be my reply to Maulana Zafar Ali who suggested that I ought to be placed under arrest for hampering the war effort.

Maulana Zafar Ali Khan: If the contemplated demolition of other lines due to the fact that the number of locomotives running on the railway lines is being reduced and are.....

The Honourable Sir Andrew Olow: Our locomotives are adequate for the traffic. We have not taken that into consideration. That is why, as I very much regret, we have had to give such short notice. I should not have dreamt of agreeing to do so in other circumstances. While I have not been able to take the public into our confidence more fully, I recognise the force of what my Honourable friend, Mr. Aney, said as regards consulting the Central Advisory Council. But, I think he will appreciate the fact that we could not place them in possession of all the facts that are in our possession; and that we had not the time to consult them before these orders were issued. I would make it clear, however, in response to what my Honourable friend, Sir Syed Raza Ali, said, that this action was taken after consulting the Provincial Government and they had no objection to offer. I will, however, bear the suggestion in mind of consulting the Central Advisory Council, and if we find it possible to convene a meeting of the Council in this Session, I shall do so and place them in possession of fuller particulars than it is possible for me to do on this occasion.

Sir Syed Raza Ali: Except the last minute or two for which my Honourable friend, the Communications Member spoke, most of the arguments that he has used consisted of presumptions, guesses, far-fetched inferences and conclusions,—no facts. I did not want to interrupt him, that is not my way. Surely, he should have told me what the three parallel roads were that served this area. Has he got the facts? Can he tell me now?

The Honourable Sir Andrew Olow: Certainly I can. Connecting the line close to the Ganges with the main line which runs down from Saharanpur to Moradabad, I was referring to the road from Bijnor to Nagina, the road from Chandpur to Seohara, and the road which connects Gajraula with Moradabad. Those are the three parallel roads, each roughly about 20 miles apart.

Sir Syed Raza Ali: I am very glad that the Honourable Sir Andrew Olow has been pleased to give me this information. The road from Gajraula to Moradabad is a part of the road from Delhi to Bareilly. That is a metalled road, the other two roads if I heard him correctly are kutchha roads, not an inch has been metalled. I was wondering what he meant. I had made enquiries before I decided to give notice of this adjournment motion. What are the facts? He does not even know what is the financial position of this section of the line. Surely, if these are the arguments and if the Honourable the Communications Member wants to convince this House by these arguments as to the necessity for the demolition of this line, I believe he has demolished his own case, for the arguments he has adduced consist of a long chain of want of arguments. He does not know the financial position, he does not know what we will be losing if we close the line running for a distance of 22 miles. He does not challenge the figures I have given—for which I do not claim perfect accuracy for the simple reason that they have not been taken from any Government report. But the resources of my Honourable friend as a member of Government are very great, in fact, the resources of every Government are very great.

[Sir Syed Raza Ali.]

So far as the Communications Department is concerned, my Honourable friend has huge resources at his disposal. So far as the finances are concerned, he has not been able to controvert or rebut by facts such figures as I have given him. So far as financial considerations are concerned, there is every reason to believe that this branch line is a remunerative line and no action should be taken. So far as the roads are concerned, I have already mentioned what they are. My Honourable friend who is a civilian of the United Provinces,—I suppose he knows something about the geography of this province. The metalled road from Gajraula to Moradabad has nothing to do with Bijnor. My Honourable friend ought to know that there is no metalled road between Moradabad and Bijnor on the one hand, though we have nothing to do with Moradabad.

The Honourable Sir Andrew Clow: I said that that was under construction.

Sir Syed Raza Ali: Sir, I have been hearing that for the last ten years, literally. I think the first time I heard about the proposal to metal this road from Moradabad to Bijnor was at least ten years ago. Nothing has been done during these ten years.

The Honourable Sir Andrew Clow: I have not been there myself, but I think the Consulting Engineer for Roads told me that four lakhs of rupees has already been spent and the work has been going on for about two years. My other information was also derived from the Road Engineer.

Sir Syed Raza Ali: May be it has been spent on building some bridge somewhere, because you have to build more than one bridge. To begin with, you have to put up a bridge across the Ramganga. I repeat I have been hearing that for the past ten years. May I put it to the Honourable the Communications Member, does he seriously contend that he will be able to find money for the building of this road in spite of the war, in spite of the fact that we do not know how far the war is going to last?

The Honourable Sir Andrew Clow: The money has been provided.

Sir Syed Raza Ali: May I know how much money has been provided, if he could give me the figures?

The Honourable Sir Andrew Clow: If the Honourable Member tables questions on these matters I should be very glad to answer them, but this is not relevant in view of the consideration I gave for pulling up this line.

Sir Syed Raza Ali: I should have thought the question arose directly out of the argument used by my Honourable friend. He says there is going to be a road. I just want to know,—I have been hearing about it for the last ten years—what is the distance, what money have you provided? Are these not relevant questions? These are not merely relevant questions, but these are most important questions that arise out of the arguments of my Honourable friend. It is a very peculiar position. Then I asked him, "did you consult your railway authorities"? If I followed my Honourable friend correctly, I believe he did not say that he had consulted any one of the railway authorities.

The Honourable Sir Andrew Clow: I did not say whom I consulted, but naturally the advice of the General Manager was taken on the subject.

Sir Syed Raza Ali: I believe I mentioned some other officers too. I think I started by mentioning the Divisional Superintendent. Then I went higher up. Well, anyway, I do not know what advice the General Manager gave. That advice was never disclosed to the public. Now, may I know: is this the way in which this House should be treated and even the public of India should be treated? You put up a notice on the 21st of November in a newspaper, informing the public at large that this section is going to be closed on the 1st of December. Only a notice of nine days is given. Now, is it fair to the public? Is it fair to those who have occasion either to use this line for traffic purposes or for sending their goods to give them no more than nine days notice? My Honourable friend said that the Local Government was consulted. I did not follow him to say that the Local Government agreed with the proposal to close this line. I understood my Honourable friend to say that the Local Government were consulted but I do not know what advice the Local Government gave.

The Honourable Sir Andrew Clow: I said that the Local Government had no objection to it.

Sir Syed Raza Ali: I am thankful to my Honourable friend. That is a point in his favour. I do not think the Local Government agreed to the line being closed on the 1st December or to no more than nine days notice being given to the public. Was this proposal ever put to the Local Government? Really my Honourable friend's arguments are dead arguments, lifeless arguments. None of them will make any impression on a much less intelligent audience than this Honourable House.

Now, I come to the last argument used by my Honourable friend. He was keeping it up his sleeve and sprang that as a surprise upon us. That was clever advocacy, I admit. Let us examine that argument for what it is worth. It has been said that the line is being closed for defence purposes. That is again a very very difficult point. No doubt it is a weak point but it is a very ticklish and difficult point. None of us has any knowledge as to what rails are required, what purpose they are going to serve and if the field of choice lies between 20 lines, why should you start with dismantling a line which is bringing money to you. Why do you start with killing the goose that lays the golden eggs? I am not here to save my own skin at the expense of my neighbour. I could mention more than a dozen branch lines which are not remunerative and which he should in all fairness, in all justice, have dismantled before he touched this line. As I said, I do not think it is my duty to save my own skin by imperilling others. I do not think it is a right course, but may I put one question to my Honourable friend? He does not say that this line is unremunerative. Is he sure that there are any lines in India which are working at a loss and which are unremunerative.

The Honourable Sir Andrew Clow: We are certainly dismantling other lines.

Sir Syed Raza Ali: I am very glad. I am thankful for the information.

An Honourable Member: Will you pull up strategic lines?

Sir Syed Raza Ali: I am not talking of strategic lines. The rails that are being taken away will be used for constructing other strategic lines. That is what will happen. My point is—why does not my Honourable friend begin with dismantling those—the number of which is very large—which are unremunerative.

The Honourable Sir Andrew Clow: That is what I said we were doing. If they are unremunerative, we are dismantling them.

Sir Syed Raza Ali: I am glad to hear that but that is no reply to my point. Why don't you start with them?

The Honourable Sir Andrew Clow: We have started with them.

Sir Syed Raza Ali: Am I to understand that there is no unprofitable, unremunerative section or branch of a railway left in India, which has not been dismantled? I just want a reply.

The Honourable Sir Andrew Clow: I do not think I can keep on answering the Honourable Member's questions. He should have raised these points when he first made his speech. I shall merely point out that we have taken up first those that are most clearly unremunerative. We are examining others.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member has three minutes more.

Sir Syed Raza Ali: We are arguing in a circle. He has not produced any figures to show that the running of this section of the line is unremunerative. It is a vicious circle. I really do not know how to get out of this vicious circle.

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

I do not propose to deal with the other aspects of the case. There are no data in connection with which I can make a reply. If there is an absence of arguments, data, facts and figures, what am I to do. Surely in a case like this, it is for the Government to prove that the line is unremunerative. My Honourable friend hints at that without bringing forward any facts in support of his main argument. I now come to my last point.

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

Sir Syed Raza Ali: There are a number of lines required to be pulled up for defence purposes. My reply to that is simply this. Munich took place in September, 1938. The invasion of Abyssinia took place in October, 1935. Every one who had eyes to see knew that we were sitting on the top of a volcano. What were the Government of India doing to get the necessary railway material? They ought to have kept a good reserve stock. They were doing absolutely nothing. If the people of this area

are going to be sacrificed in the name of strengthening the defence policy of India, I am sure they will not be convinced and this House will not be convinced. They will simply take the view that it is due to the sheer neglect and negligence of the Government of India that their interests are being sacrificed and this line is being pulled up, though it is a remunerative line, in preference to those which are working at a loss and should be entirely dismantled from end to end before Government decide to touch any line which is running profitably and remuneratively.

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

"That the House do now adjourn."

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Monday, the 25th November, 1940.

LEGISLATIVE ASSEMBLY

Monday, 25th November, 1940.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

PRINCIPLES AND STANDARDS FOR PROMOTION OF RAILWAY GUARDS, GRADE II TO GRADE III.

239. *Bhai Parma Nand: (a) Will the Honourable the Railway Member please state the principles and standards laid down for the promotion of guards grade II to grade III?

(b) Is not seniority considered enough for promotion, provided an employee's record is otherwise good?

The Honourable Sir Andrew Olow: (a) These posts are filled by selection; I regret that they were inadvertently omitted from the list of such posts laid on the table on 5th November, 1940.

(b) No, but experience is taken into account as an element in selection.

Mr. Lalchand Navalrai: May I know from the Honourable Member if these promotions are given on a communal basis?

The Honourable Sir Andrew Olow: I think the Honourable Member is anticipating the next question.

Mr. Lalchand Navalrai: May I also know from the Honourable Member if there is any increase in the number of Grade III, so that there may be a flow up for them?

The Honourable Sir Andrew Olow: Some guards have recently been promoted to that grade.

Mr. Lalchand Navalrai: May I also know from the Honourable Member if it is not on a communal basis, is it a fact that certain guards are being directly recruited, and they are barring the promotion of the persons who are down below from going up?

The Honourable Sir Andrew Olow: Obviously, whenever you recruit directly, it does affect the promotion of those who would otherwise secure the posts.

Mr. Lalchand Navalrai: May I know from the Honourable Member what is the ratio of those direct recruitments?

The Honourable Sir Andrew Clow: I have not got the figures of direct recruitment here, but the maximum permissible percentage is 20.

Mr. Lalchand Navalrai: May I know from the Honourable Member. . .

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

Mr. Lalchand Navalrai: Only one more question, Sir.

Mr. President (The Honourable Sir Abdur Rahim): No, next question.

COMMUNAL CONSIDERATIONS IN THE PROMOTION OF GUARDS ON THE NORTH WESTERN RAILWAY.

240. *Bhai Parma Nand: (a) Is the Honourable the Railway Member aware that during the last Session of the Legislative Assembly, he gave an assurance that communal consideration was not the basis of promotions on Railways?

(b) Is he aware that actually promotions do take place on communal considerations?

(c) If not, how does he explain the following promotions on the North Western Railway in 1940 to guards grade III:

First list.

Seven Muslims

One Sikh

One Christian

No Hindu

Second list.

Only two Hindus and the rest other communities.

(d) If the figures given above are correct, how does he explain the undue preponderance of other communities to the almost total exclusion of the Hindus?

(e) Will the Honourable Member kindly state the criteria laid down for the guidance of selection boards for promotions? What safeguards are taken to eliminate the possibility of favouritism in selection?

The Honourable Sir Andrew Clow: (a) Yes.

(b) No.

(c) and (d). The actual communal distribution was Anglo-Indians and Domiciled Europeans two, Hindus two, Muslims ten, Sikhs two. This was not based on communal considerations, but on a list prepared in order of merit after men recommended by the Divisions had been interviewed by the Selection Board at headquarters. It so happened that Hindus secured few places at the top of the list but I understand that they are in fair numbers lower down, and should presumably fare better when further selections fall to be made.

(e) As regards the first part, I am not aware of specified criteria, but the qualifications expected of Guards in Grade III are quite well known to the officers constituting Selection Boards. As regards the second part, Selection Boards are themselves a means of eliminating such preferences.

Mr. Lalchand Navalrai: May I know from the Honourable Member what is the reason that Hindus are not able to get those posts,—that they are not qualifying themselves before the Selection Boards? What is the reason? Or is it on account of certain influences going on there, or on account of what?

The Honourable Sir Andrew Clow: As I have explained, the selections were made on merit. Hindus were not excluded, two of them were selected.

Sardar Sant Singh: May I ask the Honourable Member to tell us if he can give us an assurance that the selections are actually not manipulated in the interests of one community and to the detriment of other communities? They are manipulated by the appointment of Selection Boards in such a manner that the selection of Mussalmans only can take place and not of other communities?

The Honourable Sir Andrew Clow: I have no reason whatever for believing that that is the case. I may observe that accusations are made on the other side as well sometimes.

Sardar Sant Singh: May I ask the Honourable Member to collect the statistics of the various Selection Boards that have been held, say, during the last year, and find out how many Muslims, Sikhs and Hindus have been selected?

The Honourable Sir Andrew Clow: I am not prepared to conduct those researches.

Dr. Sir Ziauddin Ahmad: May I just ask whether the allegations are just the other way round? It is the Mussalmans who complain that they are not represented in the Selection Committees:

"Uta chor kotwal ko dante". . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is making a speech. Next question.

UNRECOMMENDED EMPLOYEES ALLOWED TO APPEAR AS RECRUITS FOR APPOINTMENT AS GUARDS ON THE NORTH WESTERN RAILWAY.

241. *Bhai Parma Nand: (a) Will the Honourable the Railway Member please state whether at the time of appointment of guards class one, grades I and II in 1940 on the North Western Railway, some persons already in service were allowed to appear as new recruits, some of whom were not even recommended by the Divisional Officers?

(b) Is it a fact that those recommended for grade I were informed by the Central Selection Board in Headquarters office that they were not to be entertained and they were asked to go back to their respective jobs?

(c) Was this also done in the case of candidates for grade II? If not, why not?

(d) Is it a fact that whenever a student fails in an examination at the Walton Training School, he is discharged, but as regards some of these candidates, the candidates who failed were given a fortnight more and were finally passed out?

(e) Will the Honourable Member please state whether good record, educational qualifications, successful working of important trains, are not considered by selection boards for promotion of guards on the North Western Railway?

The Honourable Sir Andrew Olow: (a) to (d). I have called for information and will lay a reply on the table of the House in due course.

(e) I have no reason to suppose that a candidate's record of work and his intellectual capacity are ignored in making selections.

QUOTA OF MUSLIM CANDIDATES AT THE FLYING TRAINING SCHOOLS.

242. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Will the Honourable Member for Communications please state where the flying training school was first opened?

(b) Was it transferred first to Lahore and then to Ambala? If so, why?

(c) How many students were admitted in these schools, and how many are Muslims?

(d) If the quota of Muslims is not twenty-five per cent. what is the reason for the deficiency?

(e) Is it not a fact that the candidates for the Flying Elementary School, Lahore, were not expected to know flying?

The Honourable Sir Andrew Olow: The question should have been addressed to the Defence Secretary.

GOVERNMENT SCHOLARSHIPS FOR TRAINING IN FLYING.

243. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Will the Honourable Member for Communications please state how many scholarships Government are awarding for *ab initio* flying in different Flying Clubs of India?

(b) How many of these scholarships were actually awarded to Muslims?

The Honourable Sir Andrew Olow: Some Provincial Governments have awarded scholarships for *ab initio* training at Flying Clubs of which I have not full particulars. The Government of India have during the past 18 months sanctioned training schemes under which *ab initio* flying training has been given to selected persons, the cost of the training being met by the Government of India either in part or wholly. From the 1st April, 1939, up to date, 90 persons have received such training, 18 being Muslims.

Mr. Lalchand Navalrai: May I know from the Honourable Member, if there also there is communal ratio being observed or communal consideration in giving these scholarships, or is it on merit?

The Honourable Sir Andrew Olow: The use of the word "also" I cannot accept, because there was not in the previous case any communal consideration.

Mr. Lalchand Navalrai: Let the word "also" go away. I ask whether it is on a communal basis.

The Honourable Sir Andrew Olow: I do not think so. 90 persons were selected on the merits. We try to include members of all communities, but actually the Honourable Member will see that the number of the Muslim community, which I observe has led the Honourable Member to this supplementary question, is rather below the percentage that we adopt when communal reservations are made.

Dr. Sir Ziauddin Ahmad: May I ask the Honourable Member whether he is aware that during the last three years we had been pressing this question from here that no scholarship was given to Mussalmans?

The Honourable Sir Andrew Olow: I am not sure which branch of learning and instruction my Honourable friend has in view, but on his previous statement in the House that no scholarship was given, I consulted the Education, Health and Lands Secretary again and he assured me that that was not the case. I suggest that the Honourable Member might table a question to the Education, Health and Lands Secretary and he might get the particulars.

SELECTION OF CANDIDATES FOR THE TECHNICAL SCHOOL CONNECTED WITH THE INDIAN AIR FORCE.

244. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Will the Honourable Member for Communications please state whether Government have already selected the candidates for the Technical School connected with the Indian Air Force?

(b) Was the selection made by the Selection Committee, and, if so, who were the members?

(c) Was there any Muslim on the Selection Committee, and, if not, why not?

The Honourable Sir Andrew Olow: The question should have been addressed to the Defence Secretary.

NON-TRANSFER OF CERTAIN TELEPHONE OPERATORS IN DACCA DIVISION.

245. *Dr. Sir Ziauddin Ahmad (on behalf of Sir Abdul Halim Ghuznavi): (a) Will the Honourable Member for Communications please state whether it is a fact that certain Telephone Operators in Dacca Division have been stationed at the same station, such as, Chittagong, Dacca and Narayanganj, for periods varying from over 10 to 27 years?

(b) Is it a fact that the Telephone Operators are transferred on the basis of the longest stay at a single station on the analogy of paragraph 65 of the Indian Posts and Telegraphs Manual, Volume IV (Establishment)?

Sir Gurunath Bewoor: (a) Yes.

(b) No.

PROVISION OF TUMBLER SWITCHES FOR CONTROLLING LIGHTS IN INTERMEDIATE CLASS CARRIAGES.

246. *Maulvi Muhammad Abdul Ghanl: Will the Honourable Member for Railways be pleased to state:

(a) whether the proposal of providing tumbler switches to control lights in intermediate class carriages, as adopted by the

Local Advisory Committees of the East Indian Railway, United Provinces (Cawnpore), on the 11th September, 1939, and of the North Western Railway, (Karachi), on the 6th July, 1939, has been given effect to; if so, whether it has been given effect to over the whole of the East Indian Railway and North Western Railway or parts thereof;

- (b) whether the proposal will apply to the whole of the said Railways;
- (c) whether tumbler switches to control lights in intermediate class carriages are provided over other State and Company-managed Railways; and
- (d) whether Government propose to ask the various Railway Administrations to adopt the said proposal to provide tumbler switches to control lights in intermediate class in case they have not done so far?

The Honourable Sir Andrew Clow: The information is being collected and will be laid on the table of the House in due course.

ARRANGEMENT FOR THROUGH RAILWAY JOURNEY FROM DACCA AND SHILLONG TO CAWNPORE AND LUCKNOW.

247. *Maulvi Muhammad Abdul Ghani: Will the Honourable Member for Railways be pleased to state:

- (a) whether arrangement has been made for through railway journey from Dacca and Shillong (Eastern Bengal Railway) to Cawnpore and Lucknow (Bengal and North Western Railway);
- (b) the number of fast passenger trains of Eastern Bengal Railway running through up to Lucknow Junction and Cawnpore (Bengal and North Western Railway); and
- (c) whether there is any arrangement for a dining car over any of such trains running through from Dacca or Shillong to Lucknow Junction or Cawnpore; if not, whether Government propose to ask the Eastern Bengal Railway, and Bengal and North Western Railway Administrations to consider the necessity of running dining cars over any through up and down trains to mitigate the sufferings of the travelling public?

The Honourable Sir Andrew Clow: (a) and (b). There is one "Up" and one "Down" through train between Lucknow and Amingaon. The journey to or from Shillong involves the crossing of the Brahmaputra by ferry between Amingaon and Pandu and a motor journey between Pandu and Shillong. There is no through train between Dacca and Lucknow or Cawnpore.

(c) The answer to both parts is in the negative.

AGE LIMIT OF CANDIDATES FOR THE POST OF STATION DIRECTOR, ALL-INDIA RADIO, RECENTLY ADVERTISED.

248. *Maulvi Muhammad Abdul Ghani: Will the Honourable Member for Communications please state:

- (a) whether his attention has been drawn to the Gazette of India Supplement, dated 9th November, 1940, page 771; and

- (b) the reason for fixing the age limit of the candidates for the post of Station Director, All-India Radio, as not below 30 and preferably not over 40?

The Honourable Sir Andrew Clow: (a) Yes.

(b) These limits have been selected to ensure that the person selected is sufficiently mature to possess the judgment and discretion necessary for the discharge of the responsibilities of this post and is sufficiently resilient to adapt himself to a new type of work. They also keep in view the desirability of a suitable age distribution in the Department.

Mr. Lalchand Navalrai: Why is 40 put as the maximum age? Do they get out of their intellect by that time?

The Honourable Sir Andrew Clow: We all tend to become less adaptable as we get older.

Maulvi Muhammad Abdul Ghani: May I know whether there is any one serving in the All-India Radio of the age and qualifications mentioned in part (b).

The Honourable Sir Andrew Clow: Yes, there are.

NON-TRANSFER AND SUPERSESSION OF CERTAIN STAFF IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

249. *Maulvi Muhammad Abdul Ghani: Will the Honourable Member for Railways be pleased to state:

- (a) the number of Sectional Officers and Superintendents who are in the Railway Clearing Accounts Office for over three years with the date of posting to their first appointment in any capacity in the Railway Clearing Accounts Office against each;
- (b) the number of persons who have been selected and who have worked in the Sub-Head's grade during the last three years and the number of such men superseded by their juniors; and
- (c) the name of the community to which the superseded persons or officers, as well as the officers or persons superseding, belong?

Mr. B. M. Staig: (a) The number of Sectional Officers and Superintendents is five (including one officiating) and six (including two officiating) respectively. The dates of their posting to the Railway Clearing Accounts Office are:

Sectional Officers.

2 in December 1925.
1 in January 1927.
1 in September 1927.
1 in May 1934.

Superintendents.

1 in May 1926.
2 in January 1927.
3 in June 1927.

(b) The number of persons who have been selected and who have worked as sub-heads during the last three years is 34. Of the 34 persons 23 have been superseded by their juniors.

(c) The reply to the first part of the question is:

Hindus 18.

Muslims 4.

Sikh 1.

The reply to the second part is:

Hindus 22.

Muslims 3.

Maufvi Muhammad Abdul Ghani: May I know whether in the interest of the State the posting of the officers from 1927 is desirable and whether Government proposes to transfer them to other places.

Mr. B. M. Staig: There is no proposal for transfer at the moment.

PROHIBITION OF RAILWAY EMPLOYEES TO TRAVEL ON PRIVILEGE TICKET ORDERS BY MAIL AND EXPRESS TRAINS.

250. *Lieut.-Colonel Sir Henry Gidney: (a) Will the Honourable the Railway Member please state whether it is a fact that employees of Railways travelling on Privilege Ticket Orders are not permitted to travel by mail trains and even some fast express trains?

(b) Is it a fact that other classes of passengers who are entitled to railway concessions are allowed to travel on all trains, e.g., nurses, school children, military officers, etc.?

(c) Do Government propose to extend this facility, which is granted to a section of the public to their own Railway servants who in many cases are seriously inconvenienced by having to travel in passenger trains when having to cover long distances? If not, why not?

The Honourable Sir Andrew Clow: (a) Yes.

(b) Certain categories of concession ticket holders are permitted to travel by mail and express trains.

(c) No. Concessions given to the public are for the purpose of encouraging travel and thereby improving earnings. The issue of Privilege Ticket Orders at very low rates to Railway staff, most of whom are granted an adequate number of free passes, is a privilege to which conditions must apply, so that the general public may not be inconvenienced.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform this House whether or not it is a fact that the saloons of Members of the Viceroy's Council and Members of the Railway Board and senior officers of Railways are attached to mail trains and expresses and fast trains? May I know, if this concession of travelling is allowed to certain people on mail and express trains, why it is denied to others as stated in my question?

The Honourable Sir Andrew Clow: I would point out to the Honourable Member that these saloons are attached when the officers travel on official duty.

Lieut.-Colonel Sir Henry Gidney: Are not certain employees who travel on official duty denied travelling on mail and express trains?

The Honourable Sir Andrew Clow: Not when they are travelling on free privilege passes.

Mr. Lalchand Nayalrai: Is it a fact that even when there is room in these trains, they are prohibited?

The Honourable Sir Andrew Clow: Obviously you cannot estimate how many passengers are sitting in a train or guess how many will get in at the intermediate stations.

Lieut.-Colonel Sir Henry Gidney: Do all railway officials, including Members of the Railway Board, always travel on duty when they use their saloons? Or, is it not a fact that they also use these saloons when they travel on pleasure?

The Honourable Sir Andrew Clow: I should like to have notice of this question.

SELECTION FOR APPOINTMENT TO SELECTION POSTS IN THE DEPARTMENTS OF THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

251. *Mr. H. M. Abdullah: (a) Will the Honourable Member for Railways be pleased to state the posts, with grades, in the Transportation, Commercial, Loco., Rolling Stock Departments and Establishment offices of the East Indian Railway and the Eastern Bengal Railway, which have been classified as selection posts for the purpose of paragraph 2 VI of the Rules for the recruitment and training of non-gazetted staff in State-managed Railways, by the General Managers of the East Indian Railway, and Eastern Bengal Railway?

(b) How many selection boards were held on both these Railways for the examination of candidates for the selection posts during the years 1936, 1937, 1938, 1939, and 1940?

(c) Which of those selection boards were represented at least by one Muslim officer?

(d) How many Muslim candidates were examined by each Selection Board held in the years 1936—40 on both these Railways?

(e) How many out of them were declared suitable and given appointments or promotions?

(f) Was the paucity of Muslim candidates at those selection boards due to the absence of the recommendations of their immediate officers? If not, what stood in the way of their not coming up before those selection boards?

(g) What are the requisite qualifications which a candidate should possess to render himself eligible for the selection posts?

The Honourable Sir Andrew Clow: (a) I would refer the Honourable Member to the information laid on the table of the House on 5th November, 1940, in reply to Mr. Muhammad Azhar Ali's unstarred question No. 11 asked on 6th February, 1940.

(b) to (f). An endeavour will be made to secure these particulars for both railways for the year 1940 with a view to placing a reply on the table.

of the House in due course. I regret that it is not practicable to conduct the researches necessary to secure particulars for all the years mentioned by the Honourable Member.

(g) The qualifications considered necessary naturally vary with the posts. Normally all the candidates considered have the qualifications and selection depends on their comparative merits.

Mr. Muhammad Nauman: May I know whether the Railway Board has not been careless in this respect and they do not know what is going on?

The Honourable Sir Andrew Clow: Careless in what respect?

Mr. Muhammad Nauman: In the matter of seeing how the selection boards were formed?

The Honourable Sir Andrew Clow: I have replied to this in part (b) of my answer. We are making an endeavour to get the particulars for the year 1940, for the benefit of the Honourable Member.

Mr. Lalchand Navalrai: May I know from the Honourable Member if the minimum qualifications required of these candidates are fixed?

The Honourable Sir Andrew Clow: I do not know whether they have been laid down in any rule but they are well known to the officers who constitute the selection boards.

SELECTION FOR APPOINTMENT TO SELECTION POSTS IN THE DEPARTMENTS OF THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

252. *Mr. H. M. Abdullah: Is the Honourable Member for Railways aware of the fact that Anglo-Indian, domiciled European and Hindu candidates were sent up in good numbers before the Selection Boards held for the selection posts during the years 1936—40 on both the East Indian Railway and the Eastern Bengal Railway?

The Honourable Sir Andrew Clow: I am prepared to believe that members of these communities who were deserving of such recommendation were in fact recommended.

Lieut.-Colonel Sir Henry Gidney: Is it not a fact that these communities are recruited entirely on a fixed communal ratio on each railway?

The Honourable Sir Andrew Clow: This question refers to promotion to selection posts.

Mr. Muhammad Nauman: Am I to understand that the Muslims were not considered fit to be recruited in that way?

The Honourable Sir Andrew Clow: I do not think there is any reference to Muslims in the question.

SELECTION FOR APPOINTMENT TO SELECTION POSTS IN THE DEPARTMENTS OF THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

253. *Mr. H. M. Abdullah: Is the Honourable Member for Railways aware of the fact that the question of seniority was relaxed in most of the cases of non-Muslim candidates appearing before the selection boards held on the East Indian Railway and the Eastern Bengal Railway during the years 1936—40 for selection posts?

The Honourable Sir Andrew Clow: The answer is in the negative; but I should add that I am not sure what is meant by the relaxation of the question of seniority. Promotion by selection is an essentially different system to promotion by seniority, and the selection under the former system of men who do not happen to be senior involves no relaxation of any rule or principle.

Dr. Sir Ziauddin Ahmad: The whole object of the question is this. Your principles of seniority and selections are fixed in such a manner that the Muslim candidates are always left out.

The Honourable Sir Andrew Clow: The answer to that is definitely in the negative.

Dr. Sir Ziauddin Ahmad: If you will collect the facts, you will find that it is so.

The Honourable Sir Andrew Clow: The facts I gave in reply to an earlier question show that it is not the case.

NON-SUBMISSION OF NAMES OF MUSLIM CANDIDATES FOR SELECTION TO LOWER GAZETTED SERVICE FROM HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

254. *Mr. H. M. Abdullah: (a) Is the Honourable Member for Railways aware of the facts that Divisional Personnel Officer and the Executive Officers of the Transportation and Commercial Departments of the Howrah division, East Indian Railway, did not care to send up even efficient and senior Muslims before the Head Office Selection Committee appointed for the selection of candidates for the lower gazetted service in June, 1940, though they examined several Muslims in the Divisional Selection Committee in the month of May, 1940?

(b) Will the Honourable Member be pleased to state whether there was any thing against those candidates? If so, what?

The Honourable Sir Andrew Clow: (a) No. But the Railway Board are inquiring into the matter.

(b) Does not arise.

GRADUATE SUBORDINATE EMPLOYEES ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

255. *Shaikh Rafiuddin Ahmad Siddique: Will the Honourable Member for Railways be pleased to place on the table of the House comparative statements of graduate subordinate employees of all communities in temporary and permanent service between the period from 1st January, 1925,

to 1st January, 1940, on the East Indian Railway and Eastern Bengal Railway under the following heads:

- (a) number;
- (b) dates of appointments and service where first employed;
- (c) nature of service on appointments;
- (d) pay on the date of original appointments;
- (e) departmental examination passed;
- (f) different stages of promotion from the date of appointment up to 1st January, 1940, with pay and grade in each stage; and
- (g) the pay drawn in the present posts and the grades?

The Honourable Sir Andrew Clow: I regret that it is not practicable to undertake the research necessary for securing the information required by the Honourable Member.

MUSLIM GRADUATES IN ESTABLISHMENT OFFICES AND SUPERVISORY POSTS ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

256. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Is the Honourable Member for Railways aware of the fact that the East Indian Railway and the Eastern Bengal Railway Administrations have not taken steps to increase the number of Muslim graduates in establishment offices and supervisory posts during the period from 1st January, 1925, to 1st January, 1940?

(b) If the reply to part (a) be in the affirmative, will the Honourable Member be pleased to state the number of Muslim graduates in the Establishment Offices and the supervisory posts on both these Railways between 1st January, 1925, to 1st January, 1940?

(c) Is it a fact that the Howrah Division, East Indian Railway, is conspicuous for its action in turning out Muslim graduates from the staff section of the establishment offices without any specific charges against them?

The Honourable Sir Andrew Clow: (a) No. It is in any case not the policy of administration to show a preference to graduates as such. I would add that Appendices O, P, Q and R to Mr. D'Souza's Report indicate that there has, in general, been an increase in the number of Muslims on these Railways in the categories specified in the Appendices.

(b) Does not arise.

(c) I have no reason to believe that the fact is as stated by the Honourable Member but would observe that the transfer of an official from a section is not necessarily a consequence of any default on his part.

Mr. President (The Honourable Sir Abdur Rahim): The answer to the other questions of Mr. Siddiquee will be laid on the table.

DENIAL OF FACILITIES FOR BETTERING THEIR PROSPECTS TO MUSLIM GRADUATE EMPLOYEES ON THE EAST INDIAN RAILWAY.

† 257. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Is the Honourable Member for Railways aware of the fact that on the East Indian Railway

†Answer to this question laid on the table, the questioner having exhausted his quota.

and particularly in the Howrah Division of that Railway, the request of Muslim graduate employees for permission to qualify themselves in different departmental examinations, or for training in duties pertaining to posts in higher grades, and their applications for promotions on the strength of previous orders passed in their favour are not looked into?

(b) If the reply to part (a) be in the affirmative, will the Honourable Member be pleased to state the different attempts or methods adopted by the East Indian Railway, Howrah Division Administration, during the period from 1st January, 1929, to 1st January, 1940, to better their prospects in service in the same way as they have done in the case of non-Muslims?

The Honourable Sir Andrew Clow: (a) No. But I have asked for information and a further reply will be laid on the table of the House in due course.

(b) Does not arise.

MUSLIM GRADUATES IN ESTABLISHMENT OFFICES AND SUPERVISORY POSTS ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

† 258. *Shaikh Rafiuddin Ahmad Siddiquee: Will the Honourable Member for Railways be pleased to state the number of the Muslim graduates employed in the establishment offices in the following posts on the East Indian Railway and on the Eastern Bengal Railway:

- (1) Office Superintendents;
- (2) Chief Clerks;
- (3) Head clerks;
- (4) Assistant Head clerks;
- (5) First Assistants;
- (6) Sub-heads;
- (7) Group Incharge; and
- (8) Dealing clerks in the staff branches?

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

INCREMENTS OF PAY OF STAFF WORKING AS TEMPORARY GUARDS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

† 259. *Shaikh Rafiuddin Ahmad Siddiquee: (a) Is the Honourable Member for Railways aware of the fact that the dealing clerks in the transportation section of the Establishment Office of the Divisional Superintendent, Howrah, East Indian Railway, have not so far taken any action according to Fundamental Rule 22, read with Fundamental Rule 26, in adjusting increments of the staff who have been working temporarily as guards for three and four years?

(b) If the reply to part (a) be in the negative, will the Honourable Member be pleased to lay on the table of the House the following statements about the staff who have been selected from different departments

†Answer to this question laid on the table, the questioner having exhausted his quota.

to work as guards in temporary capacities from the year 1936 to the year 1940:

- (i) pay and grades of their substantive posts;
- (ii) pay and grades against which at present absorbed as guards;
- (iii) dates when absorbed as guards; and
- (iv) increment given in the grades of guards?

The Honourable Sir Andrew Olow: (a) No.

(b) Inquiries are being made and a reply will be laid on the table of the House in due course.

STAFF WORKING AS TEMPORARY GUARDS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

†260. ***Shaikh Rafiuddin Ahmad Siddiquee:** Will the Honourable Member for Railways be pleased to state the period for which the staff mentioned in the preceding question is required to work as guards in temporary capacities when their substantive posts have already been filled by fresh staff?

The Honourable Sir Andrew Olow: I am not altogether clear as to the meaning of the question, but am making inquiries from the administration with a view to the laying of a reply on the table at a later date.

MOTION FOR ADJOURNMENT.

CLOSING DOWN OF THE BRANCH LINE BETWEEN SHORANUR AND NILAMBUR IN THE MALABAR DISTRICT.

Mr. President (The Honourable Sir Abdur Rahim): I have received notice of a motion for the adjournment of the business of the Assembly from Mr. Essak Sait, who wants to discuss an urgent matter of public importance, namely, the action of the Railway authorities in arranging to close down the branch line between Shoranur and Nilambur (in the Malabar District) from the 5th December which will cause great hardship and inconvenience to the general public and which will be harmful to the interests of India at large from a strategic point of view.

The Honourable Sir Andrew Olow (Member for Railways and Communications): I have no objection, but I would submit for your consideration that the issue raised is substantially the same as was debated on Friday last.

Mr. President (The Honourable Sir Abdur Rahim): The issue may be of a similar character, but these are two different matters.

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): I wish to pursue the matter because it is a different question altogether. Even though it is a question of the closure of a branch, still I should have to say something.

†Answer to this question laid on the table, the questioner having exhausted his quota.

Mr. President (The Honourable Sir Abdur Rahim): The motion will be taken up at 4 o'clock—unless the Government Member agrees, and there is a general desire in the House, that this motion should be taken up as soon as the business of the House is finished.

The Honourable Sir Andrew Olow: Yes, Sir, I have no objection.

Mr. President (The Honourable Sir Abdur Rahim): Very well—the motion will be taken up as soon as the business of the House is finished.

POSITION OF NOMINATED MEMBERS OF THE HOUSE.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official): On a point of order, Sir, I ask your permission to make a few observations on a point of order. Standing as a Nominated Member of this House, I ask a ruling from the Chair as to whether you are in agreement with the remarks made by the Honourable the Leader of the House in which he gave a statement

Mr. President (The Honourable Sir Abdur Rahim): When did this take place? He has not spoken today as Leader of the House yet?

Lieut.-Colonel Sir Henry Gidney I refer to the remarks made by the Leader of the House regarding the exclusion of Nominated Members from the Committee to be attached to the Supply Department. I would like to know under what authority

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot raise that question now. That subject is not before this House now.

Lieut.-Colonel Sir Henry Gidney: Forgive me, Sir, but I think I have a right respectfully to ask you as the protector of the Members of this House to safeguard the interests of the Nominated Members, and I think I speak on behalf of all the Nominated Members that we should not be excluded by any one

Mr. President (The Honourable Sir Abdur Rahim): I do not know what has taken place. I do not remember it. The Honourable Member, Sir Henry Gidney, should give proper notice. When the Leader of the House made that statement, he ought to have risen there and then, and raised the question.

The Honourable Sir Muhammad Zafraullah Khan (Leader of the House): Sir, if I may be permitted to make one observation, the case is exactly the reverse of what Sir Henry Gidney represents. I said: "I could not accept any suggestion that Nominated Members are not as much Members of this House as Elected Members".

Mr. President (The Honourable Sir Abdur Rahim): That is very well established; I have said it from the Chair myself.

Lieut.-Colonel Sir Henry Gidney: But the Leader of the House excluded the Nominated Members

Mr. President (The Honourable Sir Abdur Rahim): Order, order.

The Honourable Sir Muhammad Zafrullah Khan: I did not exclude anybody; I never said that they should be excluded; on the other hand, I insisted that they must have the right to vote.

BILLS PASSED BY THE COUNCIL OF STATE.

Secretary of the Assembly: Sir, the following Message has been received from the Council of State:

"I am directed to inform you that the Council of State at its meeting held on the 22nd November, 1940, agreed without any amendment to the following Bills, which were passed by the Legislative Assembly at its meeting held on the 8th November, 1940, namely:

- (1) A Bill further to amend the Indian Works of Defence Act, 1903;
- (2) A Bill further to amend the Indian Navy (Discipline) Act, 1934, for certain purposes;
- (3) A Bill further to amend the Indian Navy (Discipline) Act, 1934 (Second Amendment);
- (4) A Bill further to amend the Cantonments Act, 1924;
- (5) A Bill to repeal certain enactments and to amend certain other enactments;
- (6) A Bill further to amend the Indian Registration Act, 1908, for certain purposes;
- (7) A Bill further to amend the Code of Civil Procedure, 1908;
- (8) A Bill further to amend the Code of Criminal Procedure, 1898;
- (9) A Bill further to amend the Indian Companies Act, 1913;
- (10) A Bill to enable companies in British India to make donations to public funds formed, and to make investments in Government loans floated, for the purpose of assisting the prosecution of the present war;
- (11) A Bill further to amend the Reserve Bank of India Act, 1934; and
- (12) A Bill further to amend the Motor Spirit (Duties) Act, 1917."

DRAFT CONVENTION AND RECOMMENDATIONS ADOPTED BY THE INTERNATIONAL LABOUR CONFERENCE.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour): Sir, I lay on the table a copy of the Draft Convention and Recommendations adopted by the 25th Session of the International Labour Conference, together with a statement indicating the action which the Government of India propose to take on those Conventions and Recommendations.

APPENDIX II.

Recommendation Concerning Vocational Training.

[Formal preamble has been omitted.]

Considering that the Preamble to the Constitution of the International Labour Organisation mentions the organisation of vocational and technical education among the reforms necessary for improving the conditions of labour;

Considering that the International Labour Conference has already to a certain extent dealt with this problem, particularly by adopting at its Third Session (1921) a Recommendation concerning the development of technical agricultural education and at its Twenty-third Session the Vocational Education (Building) Recommendation, 1937;

Considering that at its Nineteenth Session the Conference, by adopting the Unemployment (Young Persons) Recommendation, 1935, favoured the generalisation of measures for vocational training, and that it was as a result of a resolution adopted during that session that it was decided to include in the agenda of the Conference the question of the vocational training of workers in all its aspects;

1991 DRAFT CONVENTION AND RECOMMENDATIONS ADOPTED BY THE INTERNATIONAL LABOUR CONFERENCE

1029

Considering that the effective organisation of vocational training is desirable in the interests of workers and employers alike as well as those of the community as a whole;

Considering that the rapid transformation of the economic structure of, and conditions in, various countries, the constant changes in the methods of production, and the widening of the conception of vocational training as a factor in social progress and in the general culture of the workers, have in a number of countries led to a fresh examination of the whole of this question and have given rise to a general desire to reorganise vocational training on the basis of principles better adapted to present requirements;

Considering that, in these circumstances, it is particularly desirable at the present time to state the principles and methods which each Member should apply on its territory, with due regard to the special requirements of the different branches of its national economy and of the different occupations, as well as the customs and traditions of the country, and subject to further special measures that might be required in respect of vocational training for certain branches of activity such as agriculture or maritime transport;

The Conference makes the following recommendations:

PART I.—DEFINITIONS.

1. For the purpose of this Recommendation—

(a) the expression "vocational training" means any form of training by means of which technical or trade knowledge can be acquired or developed, whether the training is given at school or at the place of work;

(b) the expression "technical and vocational education" means theoretical and practical instructions of whatever grade, given at school for purposes of vocational training;

(c) the expression "apprenticeship" means any system by which an employer undertakes by contract to employ a young person and to train him or have him trained systematically for a trade for a period the duration of which has been fixed in advance and in the course of which the apprentice is bound to work in the employer's service.

PART II.—GENERAL ORGANISATION.

2. (1) The work of the various official and private institutions in each country which deal with vocational training should, while ensuring free play to initiative and adaptability to the requirements of the different industries, regions and localities, be co-ordinated and developed on the basis of a general programme.

(2) This programme should be based on—

(a) the occupational interests and cultural and moral requirements of the worker;

(b) the labour requirements of employers;

(c) the economic and social interests of the community.

(3) In drawing up this programme due account should also be taken of the following factors:—

(a) the stage of development reached in general education and in vocational guidance and selection;

(b) changes in technique and methods of organisation of work;

(c) the structure of, and trend of development in, the labour market;

(d) national economic policy.

(4) The co-ordination and development referred to in sub-paragraph (1) should be undertaken on a national scale with the organised collaboration of the authorities concerned with the different aspects of the problem mentioned in sub-paragraphs (2) and (3), and of the interested parties, including more particularly the occupational organisations of employers and workers.

PART III.—PRE-VOCATIONAL PREPARATION.

3. (1) Compulsory education, which should be entirely general in character, should provide for all children a preparation developing an idea of taste for, and esteem for, manual work, this being an indispensable part of a general education and likely to facilitate future vocational guidance.

(2) The proposed preparation should aim, in particular, at training the eye and hand of the child by means of practical work, but the importance and character of this work should be consistent with the general purposes of compulsory education. In drawing up the programme of practical work, the nature of the principal industries in the locality or district might be taken into account, but any attempt at vocational training should be avoided.

(3) This preparation, which should extend over a period of at least one year, should begin at the latest at the age of thirteen years and continue until the end of the period of compulsory education.

(4) (1) In order to determine the occupational aptitudes of the child and to facilitate the selection of the future labour supply, there should be available to children who intend to enter an occupation requiring vocational training of long duration, and in particular to those who propose to become apprentices, a preliminary preparation constituting a transition from general education to vocational training.

(2) This preparation should take place after the completion of the period of compulsory education: Provided that where the laws or regulations in force in the country concerned fix the school-leaving age at not less than fourteen years, this preparation may be undertaken during the last year of compulsory education.

(3) The duration of this preparation should be determined with due regard to the occupation concerned and to the age and educational qualifications of the young person.

(4) In the curricula for this preparation, particular importance should be attached to practical work, but such work should not be given precedence over the theoretical courses or courses in general education. Practical and theoretical instruction should be so arranged as to be mutually complementary. The preparation should, by aiming at the general development of the pupil's intellectual and manual capacities and avoiding undue specialisation, make it possible to determine for which of a group of occupations he is best suited to undergo full training. Practical and theoretical instruction should be so arranged as to secure continuity between this preliminary preparation and subsequent vocational training.

PART IV.—TECHNICAL AND VOCATIONAL EDUCATION.

5. (1) A network of schools should be established in each country, adjusted as regards number, location and curricula to the economic requirements of each region or locality and affording the workers adequate opportunities for developing their technical or trade knowledge.

(2) Measures should be adopted to ensure that, in the event of economic depression or financial difficulty, the supply of trained workers necessary to meet future requirements is not imperilled by a reduction in the facilities for technical and vocational education. For this purpose, consideration should be given particularly to the grant of subsidies to existing schools and to the provision of special courses to make good the loss of opportunities for training caused by unemployment.

(3) In countries in which a sufficient number of vocational and technical schools has not yet been established, it would be desirable that undertakings of such a size as to make such arrangements practicable should meet the cost of training a certain number of young workers determined according to the number of workers employed by the undertaking.

6. (1) Admission to technical and vocational schools should be free.

(2) Attendance at such schools should be facilitated as circumstances require, by the grant of economic assistance in such forms as free meals, provision of working clothes and implements, free transport or reduction in the cost of transport, or maintenance allowances.

7. (1) Courses should be organised in several grades, adjusted for each branch of economic activity to the training requirements of (a) journeymen and similar grades, (b) staff in intermediate grades, (c) managerial staff.

(2) The curricula for the courses in the different schools and for the different grades should be so co-ordinated as to facilitate transfer from one school to another and to enable promising pupils with the requisite knowledge to pass from a lower to a higher grade and to obtain admission to higher technical education at a university or equivalent institution.

8. The curricula for technical and vocational schools should be so drawn up as to protect the future vocational adaptability of the workers and for this purpose it is particularly desirable—

(a) that the primary object of the courses in the earlier years should be to give the pupil a sound basis of theoretical and practical knowledge, avoiding excessive or premature specialisation; and

(b) that care should be taken to enable the pupil to acquire a wide grasp of the theoretical principles underlying the practice of his occupation.

9. (1) In technical and vocational education of all grades, subjects of general educational value and subjects relating to social questions should be included in the curricula for full-time courses and, so far as the time available permits, for part-time courses, other than special short courses for adults.

(2) The curricula should include courses in domestic subjects, attendance at which might be either compulsory or optional for young workers according to circumstances.

10. (1) Workers of both sexes should have equal rights of admission to all technical and vocational schools, provided that women and girls are not required to engage continuously on work which on ground of health they are legally prohibited from performing, a short period on such work for the purposes of training being, however, permissible.

(2) Appropriate facilities for technical and vocational training should be provided for occupations in which women and girls are mainly employed, including domestic employments and activities.

PART V.—VOCATIONAL TRAINING BEFORE AND DURING EMPLOYMENT.

11. (1) Where the nature of the occupation, the methods of operation of the undertaking, the absence of an adequate system of apprenticeship and traditions of craftsmanship, or other local circumstances, make it impossible for young persons to secure satisfactory vocational training while in employment, such training should be given in full-time schools before they enter employment.

(2) Where young persons are given vocational training in the conditions referred to in the preceding sub-paragraph, the practical training should be given in surroundings as similar as possible to those of an actual undertaking and, where circumstances permit, should be completed by periods of practical work at the place of work.

(3) Where vocational training is given during employment, it is desirable that separate workshops specially adapted for the purpose of giving training should be set up within the undertaking wherever the size and organisation of the undertaking make such an arrangement practicable.

12. (1) Opportunities for extending their technical and trade knowledge by attending part-time supplementary courses should be provided for all workers, whether or not they had received vocational training before entering employment.

(2) These courses should, as far as possible, be held in establishments near to the place of employment or the workers' homes.

(3) The curricula for these courses should be adjusted to the special requirements of (a) apprentices; (b) young workers for whom facilities should be provided to enable them to obtain better posts; (c) adult workers who wish to acquire a technical qualification or to extend or improve their technical or trade knowledge.

(4) The time spent in attending supplementary courses by apprentices and other young workers who are under an obligation to attend such courses should be included in normal working hours.

PART VI.—MEASURES CONCERNING CO-ORDINATION AND THE SUPPLY OF INFORMATION.

13. Close collaboration should be maintained between technical and vocational schools and the industries or other branches of activity concerned, particularly by the inclusion of employers and workers in the governing bodies of the schools or in advisory bodies to the schools.

14. (1) Local or regional advisory committees should be established to ensure collaboration between the competent administrative authorities and the technical and vocational educational institutions, public employment exchanges and organisations concerned, in particular the occupational organisations of employers and workers.

(2) The duties of these committees should be to advise the competent authorities on the promotion and co-ordination of official and private action in regard to vocational training, guidance and selection in the locality or region;

(b) on the drawing up of curricula and the adjustment of such curricula to changes in practical requirements;

(c) on the conditions of work of young persons who are receiving vocational training, whether in a technical or vocational school or in an undertaking, and, more particularly, on measures for ensuring—

(i) that the work done by them is suitably restricted and is essentially of an educative character; and

(ii) that the work of pupils in technical and vocational schools is not intended for commercial profit.

15. (1) Measures should be taken to supply information to interested persons, by means of brochures, articles, talks, films, posters, visits to undertakings, exhibitions, etc., of the occupations for which young persons can obtain training corresponding with their inclinations and aptitudes, on the conditions upon which such training can be obtained and the facilities that are accorded, and on the advantages offered by each type of training in relation to the prospects of employment and a future career.

(2) The primary and secondary schools, vocational guidance offices, public employment-exchanges and technical and vocational educational institutions should collaborate in furnishing such information.

PART VII.—CERTIFICATES AND EXCHANGES

16. (1) The qualifications required in the examination on termination of technical and vocational training for any given occupation should be uniformly fixed, and the certificates issued as a result of these examinations should be recognised throughout the country.

(2) It would be desirable for the occupational organisations of employers and workers to assist the competent authorities in the control of these examinations.

(3) Persons of both sexes should have equal rights to obtain the same certificates and diplomas on completion of the same studies.

17. (1) Regional, national and international exchanges of students who have completed their training would be desirable so as to enable them to acquire wider knowledge and experience.

(2) The occupational organisations of employers and workers should, as far as possible, collaborate in organising these exchanges.

PART VIII.—TEACHING STAFF

18. (1) Teachers responsible for theoretical courses should be recruited from among persons with a university degree or a diploma awarded after training in a technical school or teachers' training college and should possess or acquire practical knowledge of the branch of activity for which they prepare pupils.

(2) Teachers responsible for practical courses should be recruited from among persons qualified by practical experience, should have extensive experience of the subject they teach, and should be fully qualified as regards both theoretical knowledge of their subject and general culture.

(3) Teachers recruited from industry and commerce should as far as possible receive special training for the purpose of developing their teaching ability and where necessary their theoretical knowledge and general culture.

19. The following methods should be taken into consideration with a view to improve the qualifications of teachers and keeping their knowledge up-to-date—

(a) the establishment of contacts between undertakings and the teachers responsible for giving practical training as, for instance, by the organisation of regular "refresher" periods of work;

(b) the organisation by educational institutions of special courses which teachers may follow individually and short holiday courses for groups of teachers;

(c) the granting, in special cases, of travelling or research scholarships or special leave with or without pay.

20. Arrangements should be made between employers and educational authorities for the appointment of persons employed in industry and commerce as part-time teachers in special subjects.

APPENDIX III

Draft Convention concerning the Regulation of Written Contracts of Employment of Indigenous Workers.

[Formal preamble has been omitted.]

Article 1.

For the purpose of this Convention—

(a) the term "worker" means an indigenous worker, that is to say a worker belonging to or assimilated to the indigenous population of a dependent territory of a Member of the Organisation or belonging to or assimilated to the dependent indigenous population of the same territory of a Member of the Organisation;

(b) the term "employer" includes, unless the contrary intention appears, any public authority, individual, company, or association, whether non-indigenous or indigenous;

(c) the term "regulations" means the law and/or regulations in force in the territory concerned; and

(d) the term "contract", when used in an article following Article 3, means, unless the contrary intention appears, a contract which is required by Article 3 to be made in writing.

Article 2.

This Convention applies to contracts of employment by which a worker enters the service of an employer as a manual worker for remuneration in cash or in any other form whatsoever.

2. The competent authority may exclude from the application of this Convention contracts by which a worker enters the service of an indigenous employer who does not employ more than a limited number of workers prescribed by the regulations or satisfy some other criterion prescribed thereby.

3. This Convention does not apply to contracts of apprenticeship made in accordance with special provisions relating to apprenticeship contained in the regulations.

4. The competent authority may, if necessary, exclude from the application of this Convention any contract of employment under which the only or principal remuneration granted to the worker is the occupancy or use of land belonging to his employer.

Article 3.

1. When a contract to which this Convention applies—

(a) is made for a period of, or exceeding six months or a number of working days equivalent to six months, or

(b) stipulates conditions of employment which differ materially from those customary in the district of employment for similar work,

the contract shall be made in writing.

2. The method by which the worker shall indicate his assent to the contract shall be prescribed by the regulations.

3. If a contract which is required by paragraph 1 of this Article to be made in writing has not been made in writing it shall not be enforceable except during the maximum period permissible for contracts not made in writing, but each of the parties shall be entitled to have it drawn up in writing at any time prior to the expiry of the period for which it was made.

4. If the omission to make the contract in writing was due to the wilful act or the negligence of the employer, the worker shall be entitled to apply to the competent authority for the cancellation of the contract and, in appropriate cases, to sue for damages.

Article 4.

1. No contract shall be deemed to be binding on the family or dependants of the worker unless it contains an express provision to that effect.

2. The employer shall be responsible for the performance of any contract made by any person acting on his behalf.

Article 5.

1. Every contract shall contain all such particulars as may be necessary in conjunction with the provisions of the regulations to define the rights and obligations of the parties.
2. The particulars to be contained in the contract shall in all cases include:
 - (a) the name of the employer or group of employers and where practicable of the undertaking and of the place of employment;
 - (b) the name of the worker, the place of engagement and where practicable the place of origin of the worker, and any other particulars necessary for his identification;
 - (c) the nature of the employment;
 - (d) the duration of the employment and the method of calculating this duration;
 - (e) the rate of wages and method of calculation thereof, the manner and periodicity of payment of wages, the advances of wages, if any, and the manner of repayment of any such advances;
 - (f) the conditions of repatriation; and
 - (g) any special conditions of the contract.

Article 6.

1. Every contract shall be presented for attestation to a public officer, duly accredited for the purpose.
2. Before attesting any contract the public officer shall—
 - (a) ascertain that the worker has freely consented to the contract and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake; and
 - (b) satisfy himself that—
 - (i) the contract is in due legal form;
 - (ii) the terms of the contract are in accordance with the requirements of the regulations;
 - (iii) the worker has fully understood the terms of the contract before signing it or otherwise indicating his assent;
 - (iv) the provisions of the regulations relating to medical examination have been complied with; and
 - (v) the worker declares himself not bound by any previous engagement.
3. A contract which the public officer has refused to attest shall have no further validity.
4. A contract which has not been presented to the public officer for attestation shall not be enforceable except during the maximum period permissible for contracts not made in writing, but each of the parties shall be entitled to have it presented for attestation at any time prior to the expiry of the period for which it was made.
5. If the omission to present the contract for attestation was due to the wilful act or the negligence of the employer, the worker shall be entitled to apply to the competent authority for the cancellation of the contract and, in appropriate cases, to sue for damages.
6. Every contract shall be registered by the competent authority or a copy thereof shall be deposited with the said authority.
7. The competent authority shall by the issue to the worker of a copy of the contract, of a work-book, or of an equivalent document or token, or in such other manner as it may deem appropriate, take such measures as may be necessary to enable the worker—
 - (a) to prove the existence and terms of the contract; and
 - (b) to verify at any time the terms of the contract.

Article 7.

1. Every worker who enters into a contract shall be medically examined.
2. As a general rule the worker shall be medically examined and a medical certificate issued before the attestation of the contract.

3. Where it has not been possible for the worker to be medically examined before the attestation of the contract, the public officer who attests the contract shall endorse it to this effect and the worker shall be examined at the earliest possible opportunity.

4. The competent authority may exempt from the requirement of medical examination workers entering into contracts for—

- (a) employment in agricultural undertakings not employing more than a limited number of workers prescribed by the regulations;
- (b) employment in the vicinity of the workers' homes—
 - (i) in agricultural work;
 - (ii) in non-agricultural work which the competent authority is satisfied is not of a dangerous character or likely to be injurious to the health of the workers.

Article 8.

1. A non-adult person whose apparent age is less than a minimum age to be prescribed by the regulations shall not be capable of entering into a contract.

2. A non-adult person whose apparent age exceeds the minimum age but is less than a higher age to be prescribed by the regulations shall not be capable of entering into a contract except for employment in an occupation approved by the competent authority as not being injurious to the moral or physical development of non-adults.

Article 9.

The maximum period of service that may be stipulated in any contract, and the leave, if any, to be granted during the period of the contract, shall be prescribed by the regulations.

Article 10.

1. The transfer of any contract from one employer to another shall be subject to the consent of the worker and the endorsement of the transfer upon the contract by a public officer duly accredited for the purpose.
2. Before endorsing the transfer upon the contract the public officer shall—
 - (a) ascertain that the worker has freely consented to the transfer and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake; and
 - (b) in such cases as may be prescribed by the regulations, satisfy himself that the requirements of Article 6, paragraph 2 (b) of this Convention have been fulfilled.

Article 11.

1. A contract shall be terminated—
 - (a) by the expiry of the term for which it was made; or
 - (b) by the death of the worker before the expiry of the term for which it was made.
2. The termination of a contract by the death of a worker shall be without prejudice to the legal claims of his heirs or dependants.

Article 12.

1. If the employer is unable to fulfil the contract or if owing to sickness or accident the worker is unable to fulfil the contract, the contract shall be subject to termination under conditions to be prescribed by the regulations, which shall include provisions safeguarding in such cases the right of the worker to any wages earned, any deferred pay due to him, any compensation due to him in respect of accident or disease, and his right to repatriation.

2. A contract shall be subject to termination by agreement between the parties under conditions to be prescribed by the regulations, which shall include provisions—

- (a) safeguarding the worker from the loss of his right to repatriation unless the agreement for the termination of the contract otherwise provides;

(b) requiring the competent authority to satisfy itself—

(i) that the worker has freely consented to the agreement and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake; and

(ii) that all monetary liabilities between the parties have been settled.

3. A contract shall be subject to termination on the application of either party in the cases and under conditions to be prescribed by the regulations, which shall include provisions prescribing—

(a) the period of notice, if any, to be given by the party wishing to terminate the contract; and

(b) an equitable settlement of monetary and other questions arising from such termination, including the question of repatriation.

4. The cases in which a contract shall be subject to termination in accordance with the preceding paragraph shall include cases of ill-treatment of the worker by the employer.

5. The regulations may prescribe other cases in which a contract shall be subject to termination and may provide for cases in which the termination of a contract in accordance with this Article shall be subject to the approval of the competent authority.

Article 13.

1. Every worker who is a party to a contract and who has been brought to the place of employment by the employer or by any person acting on behalf of the employer shall have the right to be repatriated at the expense of the employer to his place of origin or engagement, whichever is the nearer to the place of employment, in the following cases:

(a) on the expiry of the period of service stipulated in the contract;

(b) on the termination of the contract by reason of the inability of the employer to fulfil the contract;

(c) on the termination of the contract by reason of inability of the worker to fulfil the contract owing to sickness or accident;

(d) on the termination of the contract by agreement between the parties unless the agreement otherwise provides;

(e) on the termination of the contract on the application of either of the parties, unless the competent authority otherwise decides.

2. Where the family of the worker has been brought to the place of employment by the employer or by any person acting on behalf of the employer, the family shall be repatriated at the expense of the employer whenever the worker is repatriated or in the event of his death.

3. The expenses of repatriation shall include—

(a) travelling and subsistence expenses during the journey; and

(b) subsistence expenses during the period, if any, between the date of expiry of the contract and the date of repatriation.

4. The employer shall not be liable for subsistence expenses in respect of any period during which the repatriation of the worker has been delayed—

(a) by the worker's own choice; or

(b) for reasons of *force majeure*, unless the employer has been able during the said period to use the services of the worker at the rate of wages stipulated in the expired contract.

5. If the employer fails to fulfil his obligations in respect of repatriation, the said obligations shall be discharged by the competent authority.

Article 14.

The competent authority may exempt the employer from liability for repatriation expenses in the following cases:

(a) when the competent authority is satisfied—

(i) that the worker, by a declaration in writing or otherwise, has signified that he does not wish to exercise his right to repatriation; and

(ii) that the worker has been settled at his request or with his consent at or near the place of employment;

(b) when the competent authority is satisfied that the worker, by his own choice, has failed to exercise his right to repatriation before the expiry of a prescribed period from the date of expiry or termination of the contract;

(c) when the contract has been terminated by the competent authority in consequence of a fault of the worker;

(d) when the contract has been terminated otherwise than by reason of the inability of the worker to fulfil the contract owing to sickness or accident and the competent authority is satisfied—

(i) that in fixing the rates of wages proper allowance has been made for the payment of repatriation expenses by the worker; and

(ii) that suitable arrangements have been made by means of a system of deferred pay or otherwise to ensure that the worker has the funds necessary for the payment of such expenses.

Article 15.

1. The employer shall whenever possible provide transport for workers who are being repatriated.

2. The competent authority shall take all necessary measures to ensure—

(a) that the vehicles or vessels used for transport of workers are suitable for such transport, are in good sanitary condition and are not overcrowded;

(b) that when it is necessary to break the journey for the night, suitable accommodation is provided for the workers;

(c) that when the workers have to make long journeys on foot, the length of the daily journey is compatible with the maintenance of their health and strength; and

(d) that in the case of long journeys, all necessary arrangements are made for medical assistance and for the welfare of the workers.

3. When the workers have to make long journeys in groups they shall be convoyed by a responsible person.

Article 16.

1. The maximum period of service that may be stipulated in any re-engagement contract made on the expiry of a contract shall be prescribed by the regulations, but shall as a general rule be shorter than that prescribed in pursuance of Article 9 of this Convention.

2. Where the period of service to be stipulated in any re-engagement contract, together with the period already served under the expired contract, involves the separation of any worker from his family for more than eighteen months, the worker shall not begin the service stipulated in the re-engagement contract until he has had the opportunity to return home at the employer's expense: Provided that the competent authority may grant exemption from this provision whenever its application is impracticable or undesirable.

3. Except as provided in paragraphs 1 and 2 of this Article, all the provisions of the preceding articles shall apply to re-engagement contracts: Provided that the competent authority may at its discretion exempt such contracts from the provisions of Article 6, paragraphs 1 to 5, and Article 7.

Article 17.

1. The competent authority shall, where necessary, cause concise summaries of the regulations relating to contracts to be printed in the official language or languages of the territory concerned and in a language known to the workers and shall make such summaries available to the employers and workers concerned.

2. Where necessary, the employer shall be required to post such summaries in a language known to the workers in conspicuous places.

Article 18.

The regulations shall include adequate provisions for the protection of workers when a contract made in one territory relates to employment in a territory under a different administration.

Article 19.

1. When a contract made in one territory (hereinafter called the territory of origin) relates to employment in a territory under a different administration (hereinafter called the territory of employment), the provisions of this Convention shall be applied in the following manner:

- (a) the attestation of the contract required by Article 6 shall take place before a public officer of the territory of origin before the worker leaves that territory;
- (b) the measures required by paragraph 7 of Article 6 shall be taken by the competent authority of the territory of origin;
- (c) the medical examination required by Article 7 shall take place at latest at the place of the departure of the worker from the territory of origin;
- (d) a non-adult person whose apparent age is less than either the minimum age prescribed by the regulations of the territory of origin or the minimum age prescribed by the regulations of the territory of employment shall not be capable of entering into a contract;
- (e) the endorsement of a transfer on a contract by a public officer as required by Article 10 shall be made by an officer of the territory where the worker consents to the transfer;
- (f) the period of service stipulated in the contract shall not exceed either the maximum period prescribed by the regulations of the territory of origin or the maximum period prescribed by the regulations of the territory of employment;
- (g) the conditions under which the contract is subject to termination shall be determined by the regulations of the territory of employment;
- (h) if the employer fails to fulfil his obligations in respect of repatriation, the said obligations shall be discharged by the competent authority of the territory of employment;
- (i) the competent authority which may exempt the employer from liability for repatriation expenses shall be the competent authority of the territory of employment;
- (j) the competent authorities of the territories of origin and employment shall co-operate to ensure the application of paragraph 2 of Article 15;
- (k) the period of service stipulated in any re-engagement contract shall not exceed either the maximum period prescribed by the regulations of the territory of origin or the maximum period prescribed by the regulations of the territory of employment.

2. When the Convention is not in force for both the territory of origin and the territory of employment, the rules set forth in the preceding paragraph shall apply subject to the following provisions:

- (a) when the Convention is not in force for the territory of employment, the public officer of the territory of origin shall not attest the contract unless he is satisfied that the worker will be entitled in the territory of employment, either in virtue of the regulations of that territory or in virtue of the terms of the contract, to the rights and protection specified in Articles 10 to 16 of the Convention;
- (b) when the Convention is not in force for the territory of origin, the matters which sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article require to be dealt with by the competent authority of the territory of origin shall be dealt with by the competent authority of the territory of employment unless the latter authority is satisfied that they have in fact been dealt with in accordance with the terms of the Convention by the competent authority of the territory of origin.

3. The competent authorities of the territories of origin and of employment shall, whenever necessary or desirable, enter into agreements for the purpose of regulating matters of common concern arising in connection with the application of the provisions of this Convention, and may in any such agreement derogate from the provisions of paragraph 1 of this Article in respect of contracts made in one territory party to the agreement for employment in another such territory.

Article 20.

1. This Convention does not apply to contracts entered into before the coming into force of the Convention for the territory where the question of its applicability arises.

2. The denunciation of this Convention shall not affect rights or obligations arising from contracts entered into before the denunciation took effect.

Article 21.

The formal ratifications of this Convention shall be communicated to the Secretary-General of the League of Nations for registration.

Article 22.

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation, each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating—

- (a) the territories to which it undertakes to apply the provisions of the Convention without modification;
- (b) the territories to which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications;
- (c) the territories to which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- (d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in sub-paragraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of sub-paragraphs (b), (c) or (d) of paragraph 1 of this Article.

Article 23.

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Secretary-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 24.

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Secretary-General of the League of Nations for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 25.

1. The Secretary-General of the League of Nations shall notify the Director of the International Labour Office and all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation and of all declarations communicated to him in accordance with the provisions of Article 22 of this Convention.

2. When notifying the Members of the Organisation of registration of the second ratification communicated to him, the Secretary-General shall draw the attention of the Members of the Organisation to the date upon which this Convention will come into force.

Article 26.

At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 27.

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provision of Article 24 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 28.

The French and English texts of this Convention shall both be authentic.

APPENDIX IV.

Recommendation concerning the maximum length of written contracts of employment of indigenous workers.

[Formal preamble has been omitted.]

The Conference,

Having adopted the Contracts of Employment (Indigenous Workers) Convention, 1939, Article 9 of which provides that "the maximum period of service that may be stipulated in any contract, and the leave, if any, to be granted during the period of the contract, shall be prescribed by the regulations"; and

Desiring to supplement this provision by a statement of principles which appear well fitted to guide the policy of the Members concerned in fixing the maximum period of service in different cases and by suggestions regarding the maxima which might be fixed in such cases;

Recommends that each Member of the International Labour Organisation which ratifies the Contracts of Employment (Indigenous Workers) Convention, 1939, should take the following principles into consideration in fixing the maximum period of service provided for in Article 9 of the Convention:

1. The maximum period of service should always be as short as possible, and should be shorter when the workers will be separated from their families during the period of service than when they are accompanied by their families.

2. (1) The maximum period of service for employments not involving a long and expensive journey by land or sea should in no case exceed twelve months if the workers are not accompanied by their families or two years if the workers are accom-

(2) The maximum period of service for employments involving a long and expensive journey by land or sea should in no case exceed two years if the workers are not accompanied by their families or three years if the workers are accompanied by their families.

3. Exceptions to the above maxima should be made only in the case of workers accompanied by their families and where it is intended, with the prior consent of the workers, to settle them with their families at or near the place of employment.

4. Where the period of service is twelve months or more, the worker should be granted a holiday with pay of at least one week.

APPENDIX V.

Draft Convention concerning penal sanctions for breaches of contracts of employment by indigenous workers.

[Formal preamble has been omitted.]

Article 1.

1. This Convention applies to all contracts by which a worker belonging to or assimilated to the indigenous population of a dependent territory of a Member of the Organisation, or belonging to or assimilated to the dependent indigenous population of the home territory of a Member of the Organisation, enters the service of any public authority, individual, company or association, whether non-indigenous or indigenous, for remuneration in cash or in any other form whatsoever.

2. For the purpose of this Convention the term "breach of contract" means—

(a) any refusal or failure of the worker to commence or perform the service stipulated in the contract;

(b) any neglect of duty or lack of diligence on the part of the worker;

(c) the absence of the worker without permission or valid reason; and

(d) the desertion of the worker.

Article 2.

1. All penal sanctions for any breach of contract to which this Convention applies shall be abolished progressively and as soon as possible.

2. All penal sanctions for any such breach by a non-adult person whose apparent age is less than a minimum age to be prescribed by law or regulations shall be abolished immediately.

Article 3.

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Secretary-General.

2. It shall come into force twelve months after the date on which two Members of the Organisation have registered with the Secretary-General ratifications to which are appended, in accordance with Article 4 of this Convention, declarations indicating territories to which they undertake to apply the provisions of the Convention.

3. Thereafter this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 4.

1. The Secretary-General of the League of Nations shall notify the Director of the International Labour Office and all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation and of declarations communicated to him in accordance with the provisions of Article 4 of this Convention.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him which fulfils the condition stated in Article 3, paragraph 2, of this Convention, the Secretary-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 8.

At the expiration of each period of five years after the coming into force of this Convention the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall consider the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 9.

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

(a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 6 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

[NOTE.—Articles 3, 4, 6 and 10 are identical with Articles 21, 22, 24 and 28 of the Draft Convention concerning the regulation of written contracts of employment of indigenous workers.]

APPENDIX VI.

Recommendation concerning labour inspectorates for indigenous workers.

[Formal preamble has been omitted.]

The Conference,

Having adopted the Contracts of Employment (Indigenous Workers) Convention, 1939, and

Considering that the law or regulations relating to the employment of indigenous workers can only be satisfactorily administered by labour inspection services,

Recommends that the Members of the International Labour Organisation concerned should establish labour inspection services in any territories where such services do not already exist.

APPENDIX VII.

Recommendation concerning apprenticeship.

[Formal preamble has been omitted.]

The Conference,

Having adopted the Vocational Training Recommendation, 1939, which enumerates the principles and methods which should be applied with regard to the organisation of such training;

Considering that of the various methods of vocational training apprenticeship raises special problems, particularly because it is given in undertakings and involves contractual relations between master and apprentice;

Considering that the efficacy of apprenticeship largely depends on the satisfactory definition and observance of the conditions governing apprenticeship and, in particular, of those relating to the mutual rights and obligations of master and apprentice;

Recommends that each Member should take into consideration the following principles and rules:

1. For the purpose of the present Recommendation the expression "apprenticeship" means any system by which an employer undertakes by contract to employ a young person and to train him or have him trained systematically for a trade for a period the duration of which has been fixed in advance and in the course of which the apprentice is bound to work in the employer's service.

2. (1) Measures should be taken to make apprenticeship as effective as possible in trades in which this system of training seems necessary. These trades should be designated in each country, having regard to the degree of skill and the length of the period of practical training required.

DRAFT CONVENTION AND RECOMMENDATIONS ADOPTED BY THE
INTERNATIONAL LABOUR CONFERENCE

(2) Subject to there being sufficient co-ordination to guarantee uniformity in the degree of skill required and in the methods and conditions of apprenticeship within each trade throughout the country, the measures referred to in the preceding subparagraph may be taken by laws or regulations, or by decisions of public bodies entrusted with the control of apprenticeship, or in virtue of collective agreements, or by a combination of the above methods.

3. (1) The measures referred to in the preceding paragraph should make provision in respect of—

(a) the technical and other qualifications required of employers in order that they may make and train apprentices;

(b) the conditions governing the entry of young persons into apprenticeship, and

(c) the mutual rights and obligations of master and apprentice.

(2) In making such provision consideration should be given more particularly to the following principles:

(a) An employer taking apprentices should either himself be qualified to give adequate training or be in a position to provide such training by some other person in his service with the necessary qualifications, and the undertaking in which the training is to be given should be such as will permit of the apprentice securing a proper training in the trade to be learnt.

(b) Young persons should not be allowed to enter into apprenticeship until they have reached a fixed age, which should not be below the age at which school attendance ceases to be compulsory.

(c) Where the minimum standard of general education required for entry into apprenticeship is higher than that normally attained at the end of the period of compulsory school attendance, this minimum standard should be fixed with due regard to the variations in requirements of different trades.

(d) Entry into apprenticeship should in every case be subject to a medical examination, and where the trade in view calls for special physical qualities or mental aptitudes, these should be specified and tested by special tests.

(e) Provision should be made for the registration of apprentices with appropriate bodies and, where necessary, for the control of their number.

(f) Arrangements should be made to facilitate the transfer of an apprentice from one employer to another in cases where transfer appears necessary or desirable in order to avoid interruption of the apprenticeship or to complete the training of the apprentice or for some other reason.

(g) The duration of apprenticeship, including that of the probationary period, should be determined in advance, any prior training undergone by the apprentice in a technical or vocational school being duly taken into account.

(h) Provision should be made for the holding of examinations of apprentices on the expiry of the period of apprenticeship and, where necessary, in the course of apprenticeship, for determining the methods of organising such examinations, and for the issue of certificates based on the results thereof. The qualifications required in such examinations for any given trade should be uniformly fixed, and the certificates issued as a result of such examinations should be recognised throughout the country.

(i) Supervision should be established over apprenticeship, particularly with a view to ensuring that the rules governing apprenticeship are observed, that the training given is satisfactory and that there is reasonable uniformity in the conditions of apprenticeship.

(j) Any requirements of form to be complied with by the contract of apprenticeship and the terms to be contained or implied in it should be specified, as for instance by the drawing up of a standard contract, and the procedure for the registration of contracts with the bodies referred to under (e) above should be determined.

4. (1) Provision should be made in the contract of apprenticeship as to how any remuneration in cash or otherwise due to the apprentice should be determined and as to the scale of increase in remuneration during the course of the apprenticeship.

(2) Where there are no laws or regulations upon the subject, or the laws or regulations do not apply to apprentices, provision should also be made in the contract of apprenticeship in respect of—

(a) the remuneration referred to in sub-paragraph (1) above during sickness; and

(b) holidays with pay.

5. (1) It would be desirable that the parties concerned in apprenticeship and more particularly the organisations of employers and workers should collaborate with the official bodies responsible for the supervision of apprenticeship.

(2) Close collaboration should be maintained between the bodies responsible for the supervision of apprenticeship and the general and vocational education authorities, vocational guidance institutions, public employment exchanges and labour inspection authorities.

6. This recommendation does not apply to the apprenticeship of seamen.

APPENDIX VIII.

Draft Convention concerning the recruitment, placing and conditions of labour of migrants for employment.

[Formal preamble has been omitted.]

Article 1.

Each Member of the International Labour Organisation which ratifies this Convention undertakes that it will—

(a) enact and enforce penalties for the repression of—

(i) misleading propaganda relating to emigration or immigration; and

(ii) propaganda relating to emigration or immigration which propaganda is contrary to national laws or regulations; and,

(b) exercise supervision over advertisements, posters, pamphlets and other forms of publicity relating to employment in one territory which is offered to persons in another territory.

Article 2.

1. Each Member which ratifies this Convention undertakes to maintain, or satisfy itself, that there is maintained, and adequate service to supply information and give assistance to emigrants and in migrants.

2. This service shall be conducted—

(a) by the public authorities; or

(b) by one or more voluntary organisations not conducted with a view to profit, approved for the purpose by the public authorities, and subject to the supervision of the said authorities; or

(c) partly by the public authorities and partly by one or more voluntary organisations fulfilling the conditions stated in sub-paragraph (b) of this paragraph.

Article 3.

1. Each Member which ratifies this Convention undertakes to regulate in accordance with the provisions of this Article the following operations:

(a) recruitment, that is to say—

(i) the engagement of a person in one territory on behalf of an employer in another territory; or

(ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory,

together with the making of an arrangement in connection with the operations mentioned in (i) and (ii), including the seeking for and selection of intending emigrants and the preparation for departure of the emigrants;

(b) introduction, that is to say any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of sub-paragraph (a) of this paragraph; and

(c) placing, that is to say any operations for the purpose of supplying an employer with the labour of persons who have been introduced within the meaning of sub-paragraph (b) of this paragraph.

2. The right to engage in the operations enumerated in paragraph 1 of this Article shall be restricted to—

(a) public employment exchanges or other public bodies of the territory in which the operations take place;

(b) public bodies of a territory other than that in which the operations take place which are authorised to operate in that territory by an agreement between the Governments concerned;

(c) any body established in accordance with the terms of an international instrument;

(d) the prospective employer or a person in his service acting on his behalf; and

(e) private employment agencies, whether fee-charging or not, which are not conducted with a view to profit.

3. The right to engage in the operations enumerated in paragraph 1 of this Article all be subject to the prior authorisation of the competent authority of the territory where the said operations are to take place in such cases and under such conditions as may be prescribed by the laws or regulations of that territory or by agreement between the country of emigration and the country of immigration.

4. The competent authorities of the territory where the operations take place all supervise the activities of bodies and persons to whom authorisations have been used in pursuance of the preceding paragraph.

Article 4.

1. Each Member ratifying this Convention which maintains a system of supervision over contracts of employment between an employer, or person acting on his half, and a migrant for employment which are concluded before the departure of the migrant undertakes to require contracts subject to such supervision to comply with the provisions of this Article.

2. The contract shall be drawn up in or translated into a language which the migrant understands.

3. The contract shall, in addition to any other terms, specify the following particulars:

(a) the duration of the contract and if the contract is renewable the method of renewal, or in the case of a contract of indeterminate duration the procedure for the denunciation of the contract and the notice of denunciation required;

(b) the exact date on which and place at which the migrant is required to report;

(c) the method of meeting the travelling expenses—

(i) of the migrant on the outward journey;

(ii) of the migrant on the return journey, if such journey takes place on the expiry of the period for which the contract was concluded or before the expiry of the said period in consequence of the denunciation or termination of the contract not due to the fault of the migrant;

(iii) of members of the migrant's family authorised to accompany him to or join him in the country of immigration;

(d) any deductions which the employer may make from remuneration in accordance with the laws or regulations of the country of immigration or an agreement between the country of migration and the country of immigration;

- (e) the housing conditions, if housing is to be provided or obtained by the employer;
- (f) any arrangements to ensure the maintenance of the migrant's family in the country of origin, more particularly with a view to preventing desertion of his family by the migrant.

Article 5.

Each Member which ratifies this Convention undertake to take measures to ensure that, if any migrant introduced into its territory fails, for a reason for which he is not responsible, to secure the employment for which he has been recruited, or an equivalent employment, the cost of his return and that of the members of his family, including administrative fees, transport and maintenance charges to the final destination, and charges for the transport of household belongings, does not fall upon the migrant.

Article 6.

1. Each Member which ratifies this Convention undertakes that it will apply to foreigners treatment no less favourable than that which it applies to its own nationals with respect to the following matters:

- (a) in so far as such matters are regulated by law or regulations or are subject to the control of administrative authorities—
 - (i) conditions of work and more particularly remuneration, and
 - (ii) the right to be a member of a trade union;
- (b) employment taxes, dues or contributions payable by the person employed; and
- (c) legal proceedings relating to contracts of employment.

2. The equality of treatment provided for in the preceding paragraph may be granted subject to reciprocity, which shall be deemed to exist:

- (a) as between all Members bound by this Convention; and
- (b) as between each Member bound by this Convention and any other State with which it has concluded a reciprocity agreement relating to the matter in question.

Article 7.

1. Personal effects and tools belonging to recruited migrants for employment and members of their families shall be exempt from customs duties on arrival in the country of immigration.

2. Personal effects and tools belonging to migrants for employment and members of their families shall be exempt from customs duties on the return of the said persons to their country of origin if they have retained the nationality of that country at the time of their return there.

Article 8.

This Convention does not apply to—

- (a) migration within the territory of a Member or from one territory of a Member to another territory of the same Member;
- (b) frontier workers whose place of employment is in the territory of one State and whose place of residence is in the territory of another State;
- (c) seamen;
- (d) indigenous workers as defined in Article 2 (b) of the Recruiting of Indigenous Workers Convention, 1936.

Article 12.

1. The Secretary-General of the League of Nations shall notify the Director of the International Labour Office and all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Secretary-General shall draw the attention of the Members of the Organisation to the date upon which this Convention will come into force.

Article 14.

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

[NOTE.—Articles 9, 10, 11, 13 and 15 are identical with articles 21, 23, 24, 26 and 28 of the Draft Convention concerning the regulation of written contracts of employment of indigenous workers.]

APPENDIX IX.

Recommendation concerning the recruitment, placing and conditions of labour of migrants for employment.

[Formal preamble has been omitted.]

The Conference,

Having adopted the Migration for Employment Convention, 1939, and

Desiring to supplement its provisions by a Recommendation;

Recommends as follows:

I.

1. (1) For the purpose of this Recommendation—

(a) the term "recruitment" means:

- (i) the engagement of a person in one territory on behalf of an employer in another territory, or
- (ii) the giving of an undertaking to a person in one territory to provide him with employment in another territory, together with the making of any arrangements in connection with the operations mentioned in (i) and (ii) including the seeking for and selection of would-be emigrants and the preparation for departure of the emigrants;

(b) the term "introduction" means any operations for ensuring or facilitating the arrival in or admission to a territory of persons who have been recruited within the meaning of (a);

(c) the term "placing" means any operations for the purpose of supplying an employer with the labour of persons who have been introduced within the meaning of (b).

2. This Recommendation does not apply to—

- (a) migration within the territory of a Member or from one territory of a Member to another territory of the same Member;
- (b) frontier workers whose place of employment is in the territory of one State and whose place of residence is in the territory of another State;
- (c) seamen;
- (d) indigenous workers as defined in Article 2 (b) of the Recruiting of Indigenous Workers Convention, 1936.

II.

2. The service provided in each country to supply information and give assistance to migrants should have the following duties :

- (a) to supply information to migrants and their families and advise them, in their languages or dialects or at least in a language which they can understand, on matters relating to emigration, immigration, employment and living conditions in the place of destination, return to the country of origin, and generally speaking on any other question which may be of interest to them in their capacity as migrants;
- (b) to provide facilities for migrants and their families with regard to the fulfilment of administrative formalities and other steps to be taken in connection with their departure, journey, admission into the country of destination, residence there and, should the case arise, return to the country of origin.

3. There should, whenever possible, be a reasonable interval between the publication and coming into force of any modification of the conditions on which emigration or immigration or the employment of foreigners is permitted in order that these conditions may be notified in good time to persons who are preparing to emigrate.

4. Provision should be made for the display at the places of departure, transit and arrival, of the texts of the principal measures referred to in the preceding paragraph or of notices relating thereto in the languages most commonly known to the migrants.

III.

5. (1) With a view to safeguarding the interests of migrants for employment and ensuring the equilibrium of the employment market, the competent authorities of the country of emigration and the country of immigration should, when the volume of migration justifies it, require applications for the recruitment and introduction of migrants for employment to be submitted in advance for examination and endorsement.

(2) Before authorising the introduction of migrants for employment the country of immigration should ascertain whether there is not a sufficient number of capable persons already available to do the work in question.

6. (1) The conditions under which authorisations for the recruitment, introduction or placing of migrants for employment are granted and maintained in force should be determined either by national laws or regulations or by agreement between the country of emigration and the country of immigration.

(2) The persons to whom or bodies to which authorisations are granted should furnish guarantees, which might take the form of a deposit, for the payment of compensation in respect of any damage suffered by a migrant for employment through the fault of the said persons or bodies.

7. (1) Any intermediary who undertakes the recruitment, introduction or placing of migrants for employment on behalf of an employer should be required to obtain a written warrant from the employer or some other document proving that he is acting on the employer's behalf.

(2) This document should be drawn up in, or translated into, the official language of the country of emigration, and should set forth all necessary particulars concerning the employer, concerning the nature and scope of the recruitment, introduction or placing which the intermediary is to undertake, and concerning the employment offered, including the remuneration offered.

8. (1) It is desirable that in each country where migrants for employment are recruited, introduced or placed, the competent authorities should fix maximum scales for the expenditure that may be charged to the migrant or to his employer in respect of recruitment, introduction (including maintenance during the journey), placing, repatriation or any other operations connected therewith.

(2) The expenditure mentioned in the preceding sub-paragraph should not, as a rule, be borne by the migrant and in all cases any deductions from remuneration which the employer may make for this purpose should be limited by national laws or regulations or by agreement between the country of emigration and the country of immigration.

9. (1) Intending migrants for employment should, as far as possible, be examined before their departure from the country of emigration by a representative of the

country of immigration responsible for satisfying himself that they are eligible for admission into that country.

(2) If recruitment takes place on a sufficiently large scale to be considered as collective recruitment under the law or regulations of the country of emigration, an expert official of that country should be present.

(3) It is desirable that the examinations and the recruitment referred to in the preceding sub-paragraphs of this paragraph should, as far as possible, be carried out in the neighbourhood of the intending migrant's home.

10. (1) The members of the family of a migrant for employment who desire to accompany or join him should receive special facilities for this purpose, more particularly—

(a) priority over other applications for permission to leave the country of emigration and to enter and reside in the country of immigration;

(b) a simplification of the administrative formalities and a reduction in the payments required, either for leaving the country of emigration or for entering and residing in the country of immigration.

(2) For the purpose of this paragraph the members of the family of a migrant for employment should be deemed to consist of his wife and minor children and of other members of his family dependent upon him.

IV.

11. Equality of treatment for nationals and foreigners, as laid down in Article 6 of the Migration for Employment Convention, 1939, should be applied as far as possible to all foreigners.

12. (1) Foreigners authorised to reside in a territory with a view to employment, and the members of their families authorised to accompany or join them, should as far as possible be admitted to employment in the same conditions as nationals.

(2) In countries in which the employment of foreigners authorised to be employed there is subject to restrictions, these restrictions should as far as possible :

(a) cease to be applied to such persons who have regularly resided in the country for a period, the length of which should not, as a rule, exceed five years; and

(b) be waived, without any condition as to length of residence, in favour of the wife and children of an age to work who have been authorised to accompany or join the migrant.

13. It is desirable that Members which have not ratified the International Labour Conventions relating to social insurance should grant to foreign employed persons and their survivors the treatment defined in the said Conventions.

14. (1) It is desirable that, in countries where the number of immigrants for employment is sufficiently large, the conditions of employment of such immigrants should be specially supervised, such supervision being undertaken according to circumstances either by a special inspection service or by labour inspectors or other officials specialising in this work.

(2) The administrative services entrusted with the supervision referred to in the preceding sub-paragraph should co-operate as far as possible with voluntary organisations for the assistance of migrants which have been approved by the authorities.

V.

15. (1) When a foreign employed person has been regularly admitted to the territory of a State the said State should, as far as possible, refrain from removing such person or the Members of family from its territory on account of his lack of means or the state of the employment market, unless an agreement to this effect has been concluded between this country and the country of origin.

(2) A State which feels obliged to remove from its territory, for the reasons indicated in the previous sub-paragraph, foreign employed persons who have been regularly admitted or members of the families of such persons should at all events—

(a) take into account the length of time the said persons have been in its territory and in no case remove persons who have been there for more than five years;

- (b) satisfy itself that the person concerned has exhausted his rights to unemployment insurance benefit;
- (c) satisfy itself that the person concerned has been given reasonable notice so as to give him time, more particularly, to dispose of his property; that suitable arrangements have been made for his transport and that of the members of his family; and that the necessary arrangements have been made to ensure that he and the members of his family are treated in a humane manner;
- (d) satisfy itself that the costs of the return of the employed person and the members of his family and of the transport of their household belongings to their final destination shall not fall on him.

16. When migrants for employment or members of their families who have retained the nationality of their State of origin return there, that country should admit such persons to the benefit of any measures in force for the granting of poor relief and unemployment relief, and for promoting the re-employment of the unemployed, by exempting them from the obligation to comply with any condition as to previous residence or employment in the country or place.

APPENDIX X.

Recommendation concerning co-operation between States relating to the recruitment, placing and conditions of labour of migrants for employment.

[Formal preamble has been omitted.]

The Conference,

Having adopted the Migration for Employment Convention, 1939, and the Migration for Employment Recommendation, 1939;

Recommends as follows:

1. Members between which the volume of migration is fairly considerable or between which collective migration takes place, should supplement the measures which they take to ensure the application of the provisions of the Migration for Employment Convention, 1939, and the Migration for Employment Recommendation, 1939, by concluding bilateral or plurilateral agreements which might usefully deal, according to circumstances, with the following questions:

- (a) the supply of information to migrants for employment and the exchange of information between the competent Government departments;
- (b) the repression of illegal and misleading propaganda;
- (c) the issue of certificates and identification papers required by migrants for employment and the recognition in the territory of each of the contracting parties of the validity of such documents and of contracts of employment issued or concluded in the territory of another party;
- (d) the methods of recruitment, introduction and placing of migrants for employment;
- (e) the methods of preventing the separation of families or the desertion of their families by migrants for employment, of facilitating the reunion of families and of securing that the migrant will carry out any legal obligations which he may have towards dependants in the country of origin;
- (f) any measures which may be necessary to enable migrants for employment to take the money they require out of the country of emigration and to transfer their savings to the country of origin, and the adoption of the most favourable exchange rate for such money and savings;
- (g) the repatriation of migrants for employment and their families and the method of covering the cost thereof;
- (h) the guarantees subject to which the nationals of one of the contracting States residing in the territory of another may be recruited for undertakings situated in non-metropolitan territories under the administration of the latter;
- (i) the settlement of pension rights of migrants for employment under old-age, invalidity and survivors' insurance scheme if the maintenance of such rights is not otherwise provided for as between the States concerned.

2. Apart from or in addition to the agreements referred to in the preceding paragraph, Members should co-operate in the practical solution of problems concerning the recruitment, placing and conditions of labour of migrants for employment, more particularly by such of the following methods as may be appropriate in the circumstances:

- (a) the drafting of standard forms of application and contract for the recruitment and introduction of migrants for employment;
- (b) the determination and revision of the quotas of nationals of one country who may be introduced into the territory of another during a year or season, and, if necessary, their distribution by sex, age and occupation;
- (c) agreement on a procedure of co-operation with a view to the recruitment and the protection of the interests of migrants for employment;
- (d) periodical meetings of a joint committee of the country of emigration and the country of immigration for the application or adaptation of proposals or measures for the recruitment, introduction, placing employment, protection, and, where the case arises, repatriation of migrants for employment and their families.

APPENDIX XI.

Draft Convention concerning the Regulation of Hours of Work and Rest Periods in Road Transport.

[Formal preamble has been omitted.]

Article 1.

1. This Convention applies to—

- (a) persons who drive in a professional capacity a road transport vehicle; and
- (b) attendants and other persons who travel with a road transport vehicle in a professional capacity connected with the vehicle, its passengers or its load.

2. For the purpose of this Convention the term "road transport vehicle" includes all vehicles, whether publicly or privately owned, propelled by mechanical power, including trams, trolley-cars and trailers drawn by mechanically-propelled vehicles, which are engaged in the transport of passengers or goods by a public highway for payment or for the purposes of the undertaking operating the vehicle.

Article 2.

The competent authority may exempt from the application of this Convention—

- (a) persons who drive or travel with private vehicles used solely for personal services;
- (b) persons who drive or travel with vehicles engaged in—
 - (i) transport by agricultural or forestry undertakings in so far as such transport is directly connected with and exclusively used for the work of the undertaking;
 - (ii) the transport of sick and injured persons by hospitals and nursing homes;
 - (iii) transport for the purposes of national defence, police services and other transport effected in the administration of public authority;
 - (iv) transport for rescue or salvage work.

Article 3.

The competent authority may exclude from the application of all or any of the provisions of this Convention owners of vehicles and members of their families who are not employed for wages, or prescribed classes of such persons, if and so long as the authority—

- (a) is satisfied that such exclusion will not—
 - (i) expose to unreasonable competition the conditions of employment of the persons to whom the provisions in question remain applicable; or
 - (ii) expose to unreasonable risk of accident the persons to whom the Convention applies or endanger public safety; or

- (b) is satisfied that in view of the conditions in the country concerned the application of the provisions in question to the persons proposed to be excluded is impracticable.

Article 4.

For the purpose of this Convention—

- (a) the term "hours of work" means the time during which the persons concerned are at the disposal of the employer or of any other person entitled to claim their services, or in the case of owners of vehicles and members of their families, the time during which they are engaged on their own account in work connected with a road transport vehicle, its passengers or its load, and includes—
- (i) time spent in work done during the running time of the vehicle;
 - (ii) time spent in subsidiary work;
 - (iii) periods of mere attendance; and
 - (iv) breaks for rest and interruptions of work, which breaks or interruptions do not exceed a duration to be prescribed by the competent authority;
- (b) the term "running time of the vehicle" means the time from the moment when the vehicle starts at the beginning of the working day until the moment when the vehicle stops at the end of the working day, excluding any time during which the running of the vehicle is interrupted for a period exceeding a duration to be prescribed by the competent authority during which period the persons who drive or travel with the vehicle are free to dispose of their time as they please or are engaged in subsidiary work;
- (c) the term "subsidiary work" means work in connection with the vehicle, its passengers or its load which is done outside the running time of the vehicle, including more particularly—
- (i) work in connection with accounts, the paying in of cash, the signing of registers, the handing in of service sheets, the checking of tickets and other similar work;
 - (ii) the taking over and garaging of the vehicle;
 - (iii) travelling from the place where a person signs on to the place where he takes over the vehicle and from the place where he leaves the vehicle to the place where he signs off;
 - (iv) work in connection with the upkeep and repair of the vehicle; and
 - (v) the loading and unloading of the vehicle;
- (d) the term "periods of mere attendance" means periods during which a person remains at his post solely in order to reply to possible calls or to resume action at the time fixed in the time-table.

Article 5.

1. The hours of work of persons to whom this Convention applies shall not exceed forty-eight in the week.
2. The competent authority may authorise higher weekly limits of hours for persons who ordinarily do a considerable amount of subsidiary work or whose work is frequently interrupted by periods of mere attendance.

Article 6.

1. The competent authority may permit weekly hours of work to be calculated as an average.
2. Where the competent authority permits weekly hours of work to be calculated as an average, it shall determine the number of weeks over which the average may be calculated and the maximum number of hours that may be worked in any week.

Article 7.

1. The hours of work of persons to whom this Convention applies shall not exceed eight in the day.

2. Where by law, custom, or agreement between the employers' and workers' organisations concerned, or where no such organisations exist between employers' and workers' representatives, the hours of work on one or more days of the week are less than eight, the limit of eight hours may be exceeded on the remaining days of the week by the sanction of the competent authority, or by agreement between such organisations or representatives, so however that in no case shall the daily limit of eight hours be exceeded in virtue of the provisions of this paragraph by more than one hour.

3. The competent authority may authorise higher daily limits—

- (a) in respect of persons whose weekly hours of work do not exceed forty-eight in any week as provided in Article 5, paragraph 1, or an average of forty-eight as provided in Article 6; and
- (b) in respect of persons who ordinarily do a considerable amount of subsidiary work or whose work is frequently interrupted by periods of mere attendance.

Article 8.

The competent authority shall prescribe the maximum number of hours which may separate the beginning and end of the working day.

Article 9.

1. The competent authority may permit time lost as a result of accidental causes to be made up within a prescribed period.
2. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded in cases in which the provisions of this Article are applied.

Article 10.

The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded to a prescribed extent in cases in which it is satisfied that there is a shortage of indispensable skilled labour.

Article 11.

1. This Article applies in the following cases:
 - (a) in case of accident, breakdown, unforeseen delay, dislocation of services, interruption of traffic, or *force majeure*;
 - (b) in order to make good the unforeseen absence of a person employed upon indispensable work for whom it is impossible to find a substitute;
 - (c) in case of rescue or relief work necessitated by earthquake, flood, fire, epidemic, or any other calamity or disaster;
 - (d) in case of urgent and exceptional necessity for ensuring the working of services of public utility.
2. In the cases in which this Article applies—
 - (a) the limits of hours authorised by the preceding Articles may be exceeded,
 - (b) the period of five hours prescribed by Article 14 may be extended, and
 - (c) the periods of rest prescribed by Articles 15 and 16 may be reduced,
 but only in so far as may be necessary for the performance of indispensable work.
3. The employer or the owner of the vehicle shall notify the competent authority, within a period and in a manner to be prescribed by the said authority, of all time worked in virtue of this Article and of the reasons therefor.

Article 12.

1. The limits of hours authorised by the preceding articles may be exceeded, but only in so far as may be necessary for the performance of indispensable work, in order to meet exceptional requirements in respect of—
 - (a) the transport by hotels of passengers and their luggage between the hotel and the station or port of arrival or departure; and
 - (b) transport by funeral undertakings.

2. The competent authority shall determine the conditions subject to which the preceding paragraph applies.

Article 13.

1. The competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded by the working of overtime in accordance with the provisions of this Article.

2. The competent authority may grant permission to work overtime in accordance with regulations prescribing—

- (a) the procedure by which permission shall be granted;
- (b) the minimum overtime rate of remuneration, which shall in no case be less than one and a quarter times the normal rate; and
- (c) the maximum number of hours for which permission may be granted, which shall in no case exceed—

(i) seventy-five hours in any year in cases in which weekly hours of work are calculated as an average over a period exceeding a week; or

(ii) one hundred hours in any year in cases in which the weekly limit of hours of work is applied as a strict limit applicable to each week.

3. In any country in which it is not desired to place a fixed number of hours of overtime in the year at the disposal of undertakings, the competent authority may permit the limits of hours authorised by the preceding Articles to be exceeded, subject to the condition that all time worked in virtue of this paragraph shall be paid for at not less than one and a half times the normal rate.

Article 14.

1. No driver may drive for any continuous period of more than five hours.

2. For the purpose of the preceding paragraph any two periods of time shall be deemed to be a continuous period unless separated by an interval of a duration to be prescribed by the competent authority.

3. The competent authority may exempt from the application of paragraph 1 drivers for whom adequate intervals are ensured by stops provided for in the time table or by the intermittent nature of the work.

Article 15.

1. Every person to whom this Convention applies shall be granted in every period of twenty-four hours a period of rest comprising at least twelve consecutive hours.

2. The competent authority may permit the period of rest required by paragraph 1 to be reduced in the case of certain services subject to breaks of considerable duration.

3. The competent authority may permit the period of rest to be reduced on a prescribed number of days in the week, so however that the average rest calculated over the week is not less than the minimum required by paragraph 1.

Article 16.

1. Every person to whom this Convention applies shall be granted in every period of seven days a period of rest comprising at least thirty consecutive hours of which not less than twenty-two fall within the same calendar day.

2. The competent authority may permit a number of periods of rest fulfilling the requirements of paragraph 1 to be granted in the course of a number of weeks not exceeding a prescribed maximum in lieu of one such period of rest in every period of seven days. In such case the number of periods of rest granted in the course of the number of weeks over which the said periods of rest are distributed shall be at least equal to the number of weeks and the time separating any two periods of rest shall not exceed ten days.

Article 17.

Decisions taken by the competent authority in pursuance of the provisions of this Convention enumerated below shall be taken after consultation with the employers' and workers' organisations concerned where such exist:

Article.

- Article.
- 2 ;
- 3 ;
- 4 (a) and (b) ;
- 5, paragraph 2 ;
- 6 ;
- 7, paragraphs 2 and 3 ;
- 8 ;
- 9 ;

- 10 ;
- 11 ; paragraph 3 ;
- 12, paragraph 2 ;
- 13 ;
- 14, paragraphs 2 and 3 ;
- 15, paragraphs 2 and 3 ;
- 16, paragraph 2 ;
- 18.

Article 18.

1. With a view to the effective enforcement of the provisions of this Convention, the competent authority shall maintain a system of supervision by labour inspectors, the police, traffic commissioners or other appropriate administrative authorities, both in garages, depots and other premises and on the roads.

2. Every employer shall keep a record in a form approved by the competent authority of the hours of work and rest periods of the persons employed by him, and such records shall be available for inspection by the supervisory authorities under conditions laid down by the competent authority.

3. The competent authority shall prescribe a standard form of individual control book and the manner in which the book shall be issued to every person to whom this Convention is applied, and every such person shall be in possession of his book during his hours of work, and particulars of his hours of work and rest periods shall be entered in the book in a manner prescribed by the competent authority.

Article 19.

1. The operation of the provisions of this Convention may be suspended by the competent authority, but only for the periods during which such suspension is strictly indispensable, in case of necessity for meeting the requirements of national safety.

2. The International Labour Office shall be notified immediately of—

- (a) any suspension of the operation of the provisions of this Convention, together with the reasons for such suspension, and
- (b) the date from which such suspension has been terminated.

Article 20.

The annual reports upon the application of this Convention to be submitted by Members under Article 22 of the Constitution of the International Labour Organisation shall include more particularly full information concerning—

- (a) any decisions taken in virtue of Article 2 ;
- (b) any decisions taken in virtue of Article 3, together with a statement of the grounds on which the competent authority is satisfied that such decisions are justified ;
- (c) any recourse to the provisions of Article 5, paragraph 2 ;
- (d) any recourse to the provisions of Article 6 ;
- (e) any recourse to the provisions of Article 7, paragraph 2 or 3 ;
- (f) any determinations made in pursuance of Article 8 ;
- (g) the extent to which recourse has been had to the provisions of Articles 10 and 13 and any regulations made thereunder.

Article 21.

In accordance with Article 19, paragraph 11, of the Constitution of the International Labour Organisation, nothing in this Convention shall affect any law, award, custom or agreement between employers and workers which ensures more favourable conditions to the workers than those provided for by this Convention.

Article 25.

1. The Secretary-General of the League of Nations shall notify the Director of the International Labour Office and all the Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Secretary-General shall draw the attention of the Members of the Organisation to the date upon which this Convention will come into force.

[NOTE.—Articles 22, 23, 24, 26, 27 and 28 are identical with Articles 21, 23, 24, 26, 27 and 28 of the Draft Convention concerning the regulation of written contracts of employment of indigenous workers.]

APPENDIX XII.

Recommendation concerning Individual Control Books in Road Transport.
[Formal preamble has been omitted.]

1. Each Member of the International Labour Organisation should provide for the drawing up of a standard form of individual control book to facilitate the supervision of the hours of work and rest periods of persons to whom the Hours of Work and Rest Periods (Road Transport) Convention, 1939, applies.

2. The individual control book should contain entries relating to the following points:

- (a) the time at which the working day begins and the time at which it ends;
- (b) time spent in work done during the running time of the vehicle;
- (c) time spent in subsidiary work;
- (d) periods of mere attendance;
- (e) the duration of breaks for rest and interruptions of work during which the driver or attendant is free to dispose of his time as he pleases;
- (f) periods of continuous driving time;
- (g) weekly periods of rest;
- (h) any extensions of hours of work beyond the normal limits and the circumstances in which such hours have been worked.

3. The competent authority should determine the conditions in which individual control books shall be issued.

4. (1) The driver or attendant, as the case may be, or the employer should be required to enter daily the prescribed particulars under the various entries of the individual control book.

(2) In the case of classes of transport in respect of which it would be difficult to give the particulars specified in (b), (c), (d) and (f) of paragraph 2, the particulars required to be entered might be limited to those specified in (a), (e), (g) and (h).

(3) In the case of classes of transport running to a fixed time-table, a statement of the time-table to which the driver or the attendant works might be permitted to be substituted for the detailed particulars specified in (a) to (f) of paragraph 2.

5. (1) Drivers and attendants should be required to carry their control books with them during their hours of work and to produce them on demand to the supervisory authorities.

(2) During the driver's or attendant's rest days the individual control book should be left at the garage and should be kept available for inspection by the supervisory authorities.

APPENDIX XIII.

Recommendation concerning the Regulation of Night Work in Road Transport.
[Formal preamble has been omitted.]

Whereas in certain classes of road transport for the conveyance of passengers or goods it is necessary to operate at night; and

Whereas in order to afford road transport workers the necessary protection under labour regulations and in order to ensure safety on the road, it is desirable to regulate the conditions under which transport at night is carried on;

The Conference recommends every Member of the International Labour Organisation to apply the following principles concerning the regulation of night work for travelling staff engaged in road transport:—

1. The competent authority in each country should—

(a) determine the classes of transport for which it authorises night work to be regularly worked; and

(b) define what constitutes night work.

2. When night work is organised on a rota system, the number of turns of night work worked by any worker during any rotation period should not exceed the number of turns of day work worked during the same period.

APPENDIX XIV.

Recommendation concerning the Methods of Regulating Hours of Work in Road Transport.

[Formal preamble has been omitted.]

Whereas in many countries the system of collective negotiation has proved of great value in the regulation of conditions of work;

Whereas this system is also to some extent applied as regards the regulation of hours of work in road transport and has worked well in this connection;

The Conference recommends that:

Each Member of the International Labour Organisation, in taking such measures as may be necessary to promote the effective regulation of the weekly and daily hours of persons to whom the Hours of Work and Rest Periods (Road Transport) Convention, 1939, applies, should consider the following methods:

(a) the active encouragement of voluntary joint collective machinery established by agreement between the employers' and workers' organisations concerned; or, failing this,

(b) the establishment of statutory machinery operated in consultation with such organisations.

APPENDIX XV.

Recommendation concerning Rest Periods of Professional Drivers of Private Vehicles.
[Formal preamble has been omitted.]

Whereas the Hours of Work and Rest Periods (Road Transport) Convention, 1939, authorises the competent authority in each country to exempt from the application of the Convention persons who drive private vehicles used solely for personal services;

Whereas the exercise by the competent authority of this power of exemption should not result in depriving professional drivers of private vehicles of the rest periods to

which they are no less entitled than the persons who may not be exempted from the application of the Convention; and

Whereas for reasons of road safety, it is necessary to apply provisions relating to rest periods to professional drivers of private vehicles;

The Conference

Recommends each Member of the International Labour Organisation to draw up regulations applicable to professional drivers of private vehicles used solely for personal services providing for the observance of minimum daily and weekly rest periods.

Statement.

The following statement gives particulars of the course which the Government of India propose to follow in respect of the Draft Conventions and Recommendations adopted by the Twenty-fifth Session of the International Labour Conference held at Geneva in June 1939 :—

- I. (a) Recommendation concerning Vocational Training.
- (b) Recommendation concerning Apprenticeship.

The Government of India are in full sympathy with the Recommendations, but it is not at present possible to give effect to them in India. They propose however to examine the whole system of technical training and apprenticeship, in consultation with Provincial Governments when some experience has been gained of the working of the scheme for the training of skilled artisans for war purposes which is now being put into effect as a result of the recommendations of the Technical Training Enquiry Committee.

- II. (a) Draft Convention concerning the regulation of written contracts of employment of indigenous workers.
- (b) Recommendation concerning the maximum length of written contracts of employment of indigenous workers.
- (c) Draft convention concerning penal sanctions for breaches of contracts of employment of indigenous workers.
- (d) Recommendation concerning labour inspectorates for indigenous workers.

No resolution will be moved on the Draft Conventions and Recommendations. The provisions of these Regulations are not applicable to India and therefore the Government of India do not propose to ratify the Draft Conventions or accept the Recommendations in question.

- III. (a) Draft Convention concerning the recruitment, placing and conditions of labour of migrants for employment.
- (b) Recommendation concerning the recruitment, placing and conditions of labour of migrants for employment.
- (c) Recommendation concerning co-operation between states relating to the recruitment, placing and conditions of labour of migrants for employment.

No resolution will be moved on the Draft Convention and Recommendations. The Draft Convention and Recommendations impose on a country ratifying and accepting the same obligations in respect of (1) emigration from that country and (2) immigration into that country. As far as (1) above is concerned the Indian Emigration Act and the Rules framed thereunder practically cover all the requirements of the Convention and Recommendations, and the ratification of the Convention and the acceptance of the Recommendations will not be of any special advantage to India. As regards (2) though at present there is no organised, or unorganised immigration on a large scale into India, the Government of India do not consider it advisable to undertake the obligations involved in this respect. In the circumstances explained above it is not proposed to ratify the Draft Convention or accept the Recommendations in question.

- a) Draft Convention concerning the Regulation of Hours of Work and Rest Periods in Road Transport.

No resolution will be moved on the Draft Convention and Recommendations.

- (b) Recommendation concerning Individual Control Books in Road Transport.
- (c) Recommendation concerning the Regulation of Night Work in Road Transport.
- (d) Recommendation concerning the Methods of Regulating Hours of Work in Road Transport.
- (e) Recommendation concerning Rest Period of Professional Drivers of Private Vehicles.

The Draft Convention is applicable to—

- (a) persons who drive, in a professional capacity, a road transport vehicle; and
- (b) attendants and other persons who travel with a road transport vehicle in a professional capacity connected with the vehicle, its passengers or its load.

It provides for a 48-hour week, an 8-hour day and for not more than 5 hours continuous driving.

In India, the Motor Vehicles Act, 1939, provides for employee drivers of transport vehicles only, a 54-hour week, a 9-hour day and not more than 5 hours work without an interval of at least half an hour's rest. In the existing conditions in India the Government of India do not consider it practicable to make a further reduction in the daily and weekly working hours of drivers or to extend the scope of the Motor Vehicles Act so soon after its coming into force. They, therefore, do not propose to ratify the Draft Convention or to accept the connected Recommendations (b), (d) and (e). Recommendation (c) is independent of the Draft Convention but it has no application to present Indian conditions and would be difficult to enforce. The Government of India, therefore, do not propose to accept it either.

THE EXCESS PROFITS TAX (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I present the report of the Select Committee on the Bill to amend the Excess Profits Tax Act, 1940. In this connection may I mention that it is proposed to take this business up, if you so direct, Sir, on Wednesday. I understand that there is a general feeling that this might suitably be done on Wednesday and that no objection is likely to be taken to that course, and I would, therefore, ask, Sir, that you direct that a meeting be held on Wednesday for this purpose.

Mr. President (The Honourable Sir Abdur Rahim): The Chair cannot dispense with the Standing Order. That matter is not before the House at present, but the Honourable Member can apply when the motion will be taken up; the Chair cannot give any direction at present.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House): Sir, the request of the Finance Member was that you may be pleased to direct that there shall be a meeting of the House on Wednesday.

Mr. President (The Honourable Sir Abdur Rahim): The Chair thought there was a meeting of the House?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

Mr. President (The Honourable Sir Abdur Rahim): The Chair is sorry. Very well, there will be a meeting of the House next Wednesday. Is not there a meeting tomorrow?

The Honourable Sir Muhammad Zafrullah Khan: A meeting is not yet fixed.

Mr. President (The Honourable Sir Abdur Rahim): There will be a meeting on Wednesday, the 27th November.

THE INDIAN SALE OF GOODS (AMENDMENT) BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Member for Commerce and Labour): Sir, I move:

"That the Bill to amend the Indian Sale of Goods Act, 1930, be taken into consideration."

Under the Indian Tariff Act there is a provision, section 10, whereby the burden of any new import or excise duties or the burden of any increase of such duties or the benefit of a decrease in these duties is passed on either to the seller or to the purchaser as the case may be, provided there is no contract to the contrary entered into beforehand. Section 10 of the Act provides that if customs or excise duties are increased and there is no provision made in the sale of contract before, that increased customs or excise duty will be paid by the purchaser, but if, on the other hand, there is a decrease after the contract has been entered into and there is no provision to the contrary, then the purchaser will get the benefit of it and the seller will get the cost of the goods less the decrease in the customs or excise duty. And it is only fair that it should be so because what the seller is selling and the purchaser is buying is the goods at a certain value and any increase or decrease cannot affect the real inherent value of the goods. Now, this provision was inserted in the Indian Tariff Act, section 10. A Judge of a High Court has held, basing his view on the preamble of that Act, that a reduction or increase in the excise duty for a sale inland in the country itself cannot come under the scope of section 10 of the Indian Tariff Act. The preamble to the Indian Tariff Act says:

"Whereas it is expedient to consolidate the law relating to customs duties on goods imported into or exported from British India by sea and to customs duties on goods imported into or exported from British India by land, it is hereby enacted as follows. . . ."

Since a sale of a commodity in the country itself by one seller to a purchaser without the goods going across the land or sea frontiers of the country cannot be considered as coming under the Indian Tariff Act, a Judge of a High Court has held that the benefit of this provision of section 10 cannot pass either to the purchaser or the seller as the case may be. The scope of the Act is limited by the preamble, so the Judge has held; and, therefore, this section does not apply. Now, it is obviously anomalous that where an excise duty has been increased the burden of it should not pass to the corresponding party just as in the case of a sale outside the country. It is, therefore, proposed that a new provision should be introduced on exactly the same lines under the Sale of Goods Act, whereby all these difficulties about the scope of the Act may be removed. Sir, I move.

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

"That the Bill to amend the Indian Sale of Goods Act, 1930, be taken into consideration."

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions; Muhammadan Rural): Sir, may I ask a question from the Honourable Member? He has just now referred to section 10 of another Act but he has not mentioned the significance of the lines mentioned in that Act. We would like to know what they are.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: The Bill is before the House. It is exactly the same provision that is sought to be inserted into the Sale of Goods Act. It is being taken from section 10 of the Indian Tariff Act and that section is hereby proposed to be repealed.

Mr. Lalchand Navarai (Sind; Non-Muhammadan Rural): Sir, I quite appreciate that it is very equitable that when the duty is increased or decreased, allowance should be given to the seller or the purchaser, as the case may be. It is also equitable, as I understand from the Honourable Member, that this amendment will not have any retrospective effect. I believe I am correct in saying that.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: Yes.

Mr. Lalchand Navarai: Then, I want to understand this point whether under the Tariff Act they have not been getting this sort of allowance if there was a change in duties. I understand that under the Tariff Act they have been getting these allowances up to this time. In that case, all that is being done is that from the Tariff Act it is going to be brought to the Sale of Goods Act. I would like to know whether it was only one decision of the High Court that on account of the preamble of the Tariff Act no benefit can be taken of the decrease or increase? I would also like to know whether such a decision has also been given by other High Courts. Then, there is another question. Have many such cases happened in connection with the excise under the Tariff Act that a change in the law has been necessitated? If there have been only one or two such cases, then this change need not be made. But if the Government are satisfied that the preamble is wrong, then I shall have no objection to the present Bill. But I would certainly like to know whether this change has been necessitated only by one or two cases or there have been many such cases where this benefit has been refused.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions; Muhammadan Rural): On a point of order, Sir. I am not very clear about one thing and I want your ruling. If we want to transfer bodily one section of one Act to another Act, is it necessary in that case to have two different Bills, one Bill to insert a particular section in an Act and another Bill to delete a particular section from another Act, or is one Bill sufficient to cover both these things?

Mr. President (The Honourable Sir Abdur Rahim): It is not a point of order, and, therefore, The Chair cannot give a ruling.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: Sir, in the first place, the provision is invoked only when there is not a contract to

[Sir A. Ramaswami Mudaliar.]

the contrary. If the contracting parties safeguard themselves by a provision to this effect, then it does not go to a court at all. This case arises only when they do not have that safeguarding provision in the contract. There have been scores of cases where this point has not been taken and where the provision of that section has not been challenged and the parties have got the right to have their case equitably adjudicated upon by a court of law. But this point has now been taken to a High Court which has held that, following the preamble of the Indian Tariff Act, the word 'excise' there can only be interpreted to mean 'excise duty' if the article is exported out of British India or not. Therefore, it has become necessary to clear the law on this point and to provide under the Sale of Goods Act this very provision.

Mr. Lalchand Navalrai: But there is no such provision here that, unless it is contrary to the contract between them.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: It is there. Clause 2 of the Bill says:

"In the event of any duty of customs or excise on any goods being imposed, increased, decreased or remitted after the making of any contract for the sale of such goods without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such goods . . ."

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

"That the Bill to amend the Indian Sale of Goods Act, 1930, 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. President (The Honourable Sir Abdur Rahim): The question is:

"That the Bill be passed."

The motion was adopted.

THE NEW DELHI MOSQUE BILL.

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): Sir, I do not propose to move this motion* today.

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 1938-39 be taken into consideration."

*"That the Bill to provide for the expenditure of certain sums of money deposited in the Court of the District Judge, Delhi, on buildings for and in connection with a mosque in New Delhi, be taken into consideration."

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

"That the Report of the Public Accounts Committee on the accounts of 1938-39 be taken into consideration."

Mr. Lalchand Navalrai (Sind. Non-Muhammadan Rural): Sir, this is not a matter which could be treated without making speeches on it or pointing out the various defects in it.

The Honourable Sir Jeremy Raisman: I have verified that it is usual in making this motion not to make a speech.

Mr. Lalchand Navalrai: Last time when the report of the Public Accounts Committee for 1937-38 was taken into consideration, I spoke on it and several other Honourable Members spoke on it.

The Honourable Sir Jeremy Raisman: But not the Mover.

Mr. Lalchand Navalrai: Sir, I wish to speak on two items. They will be found on page 1 of the Report. One is Appendix IV which contains a Memorandum on the experimental transfer of the Railway Accounts Department to the General Manager. The second item refers to the note on the Railway officers, saloons and reserved carriages. Now, Sir, the transfer of the Chief Accountant's office to the control of the General Manager is a matter which has been from the very beginning considered in a manner which required investigation. It was pointed out in the very beginning that after the audit and accounts were separated, it was still necessary that the Chief Accounts Officer should remain under the control of the Financial Commissioner and the Controller of Accounts. It was pointed out in the very beginning that to give control over the head of the Chief Accounts Officer in the hands of the General Manager was wrong. That would amount to giving the scrutinising officer of accounts under the control of the very person whose offices and whose accounts are to be scrutinised. The Auditor General raised this question for the first time and he was of the opinion that it would not be right that the control should be given to the General Manager. But pressure was brought upon him and he agreed with the Government to transfer the control to the General Manager as an experimental measure in two railways. It was pointed out by the Public Accounts Committee as well as this House that such transfer of control to the General Manager would be wrong. The Government agreed that it should be tried as an experiment only. It is, however, a well-known policy of the Government that once they embark upon an experiment, they stick to it later on however rotten and unreasonable the scheme might be. That has happened in the present case also. The Government have minced matters and I shall show to the House by reading extracts from the Report to show that the control of the General Manager has really resulted in loss of efficient check of accounts. The Government no doubt have tried to prove that there is nothing wrong in the transfer of control. They even go so far as to say that this scheme should be extended to all the State-managed railways and, perhaps, to the Company-managed railways as well. The point is this. Has it been proved that the experiment has had success? Has it been proved that the objections which were originally raised were all futile? That is not so. When you give the control of accounts into

[Mr. Lalchand Navarai.]

the hands of the Controller of Railway Accounts and the Financial Commissioner as well as the General Manager, this means that such division of control would not prove successful. This would on the contrary bring clash between the General Manager and the Chief Accounts Officer. I strongly object to tinkering with this matter in this way. If we are going to give the control to the Controller of Railway Accounts and the Financial Commissioner, then the difficulty will be over. If the General Manager also is empowered to control the Chief Accounts Officer, then the result will be that the Chief Accounts Officer will not be independent. He cannot have his accounts scrutinised in a manner which would not give the impression that he is subservient to his boss, the General Manager. Such scrutiny would be wrong and partial.

Now, Sir, in the book of Introduction to Audit and Accounts, the principle is laid down of providing an Agency answerable to the Legislature. They take all expenditure and receipts according to the executive orders. Now, after the change of accounts and audit, we have the Chief Accounts Officer becoming also the Financial Adviser. This policy of putting the Chief Accounts Officer under the General Manager both financially and administratively is wrong. That would be going contrary to the fundamental principle laid down by Government. It might be said there is the Audit Department separately and that would have the upper hand and the scrutiny will be done there. No; the initial scrutiny and careful scrutiny such as is required to be done—as I will presently read from the Report—will have to be done by the Chief Accounts Officer. So far as the audit is concerned, what do we find? We find that in the audit office, it is not all the accounts that are re-examined or scrutinised or found fault with, but only a percentage, that is about ten per cent. It is no remedy to say that the audit officer is there ultimately to examine a few cases here and there and find out if there is anything wrong and this does not justify the Government subjecting the Chief Accounts Officer to the control of the General Manager. The second objection with regard to that is that the audit office has not got to do the initial examination but a post-examination. And we know how cursory that is done. Although I do not say there is no responsibility, still there is a difference between initial examination and post-examination.

Then I say that this Chief Accounts Officer whose responsibility is there

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not repeat himself so often.

Mr. Lalchand Navarai: I am saying that it amounts to this that you are keeping the examiner under the control of the examinee. The General Manager is the examinee.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has said all that before.

Mr. Lalchand Navarai: I am saying that the result will be that the examinee will be the boss of the examiner. Then, on page 70 of the

Report, it is said:

"In regard to the particular issue alluded to by the Committee last year, namely, the importance of ensuring that the conditions of service of the accounts staff are such that they should be free to maintain a critical, though of course impartial, attitude both in financial cases and in the exercise of internal accounts."

This is what was required,—a critical examination, and in the experimental stage it was to be inquired into as to how it could be done without prejudice or harm. Then, they say:

"Paragraph 4 of the Auditor-General's report indicates the broad lines in which he considers that action should be taken to secure this object."

With regard to this, we find in page 81:

"The Controller of Railway Accounts as the professional agent of the Railway Board should continue to organise, train and control, at any rate professionally, the railway accounts establishment as a whole. He should be responsible for their professional efficiency and for the correctness of the accounts and accounting procedure. To secure this there should be free communication of every kind between the Controller"

Mr. President (The Honourable Sir Abdur Rahim): That book is in the hands of every Honourable Member and the Honourable Member need not read out long passages. The Honourable Member may refer to the paragraph and make any comment he likes.

Mr. Lalchand Navarai: This passage, Sir, is important with respect to the point at issue. The second paragraph is also pertinent to the point. They say that there will also be professional control to some extent in the hands of the General Manager. It is important and I think, Sir, you will allow me to read a portion at the end.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member apparently has not read it himself. The Honourable Member may make any comment he likes, but the book being in the hands of every Member he is not entitled to read out long passages.

Mr. Lalchand Navarai: If it can be shown that the Auditor-General himself thinks the system to be bad, I think I will be allowed to read that portion.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can make any criticism he likes.

Mr. Lalchand Navarai: The last portion of page 81 shows clearly that there is no marked change for the better in the relations between the Chief Accounts Officer and the General Manager. What they now want is that the control should remain as it is and it should extend elsewhere. That is what I object to. The purpose of crystallising the whole question is that they want the accounts knowledge to be given in that way to the General Manager. But he is busy with lots of other work, and this is not a training school for teaching the General Manager. Apart from that, on the administrative question the matter remains as before and the objection stands good. This is with regard to the establishment of the Chief Accounts Officer. It amounts to this that at present the work of the Chief Accounts Officer is being controlled by the

[Mr. Lalchand Navalrai.]

Deputy General Manager and all other officers under him whereas henceforward the establishment will be under the Chief Accounts Officer. So what is the change? The change is that the Chief Accounts Officer is to be in the place of the Deputy General Manager. It makes no change at all; on the contrary it makes the thing worse.

With regard to the establishment, it is true they give him the administrative control, with regard to punishment and other matter, but the upper hand will remain with the General Manager. But these appointments of the staff are interchangeable. So that the staff might at any time be transferred or may ask for transfer to other departments of the railways and the boss will be the same. So how can they do it impartially and critically? I, therefore, say that the reasons and explanations given are a mere eye-wash, and it is necessary that the Chief Accounts Officer should be removed from all control of the General Manager.

Mr. B. M. Staig (Financial Commissioner, Railways): Sir, as the House is aware, the experiment the results of which were before the Public Accounts Committee and the correspondence concerning which is reproduced *in toto* in the volume now before us, was instituted after a recommendation by the Railway Inquiry Committee of a few years ago. It pointed out that the peculiar position of the Accounts Department *vis-a-vis* the rest of the railway which then obtained was on the whole prejudicial to the sound administration of the railway and tended to disturb the harmonious relations between the various branches of the Railway Administration; it also had possibly a tendency to weaken the General Manager's sense of responsibility for the financial side of his administration. In initiating the experiment, we had in view the emphasising of the fact that the general manager was, subject to the Railway Board, the Financial Controller of the Railway Administration. The criticism has been made that that step tended to weaken the system. The safeguard imposed to prevent any weakening was that the Chief Accounts Officer or Financial Adviser has the right, should he differ from the General Manager on any important financial issue, to refer it through the General Manager in his own language for the orders of the Railway Board. This secures to him an adequate measure of independence.

The Honourable Member also referred to dual control. He stated that the accounts staff were under the control of the General Manager but that the Controller of Railway Accounts had also some share in the control of the Chief Accounts Officer. In fact there is really no dual control at all. The professional standards required of members of the Accounts Department are the responsibility of the Controller of Railway Accounts, not of the General Manager of the Railways.

Mr. Lalchand Navalrai: Wholly and solely?

Mr. B. M. Staig: Wholly and solely: they are in charge of the Controller of Railway Accounts. The General Manager has nothing to do with the professional standards required of the accounting staff under him. Also the Controller of Railway Accounts' power of inspection as the technical adviser of the Railway Board in accounts matters has been completely retained; and the General Manager has no power whatever to interfere with the structure of accounts which is a matter for the orders of the Railway Board. The General Manager

is, however, responsible for the general administration of the Accounts Branch, as for all the other branches of his railway. The procedure we have followed is in general keeping with that adopted by business firms. The head of the concern has at any moment available to him the technical and financial advice of his Chief Accounting Officer, who is responsible to him and not to some authority outside. We feel that what we have done is in the best interests of the harmonious working of the administration. The matter has been considered at great length by the Public Accounts Committee, and I would ask the support of the House for the confirmation of the experiment as advocated by the Public Accounts Committee.

Dr. Sir Ziauddin Ahmad: (United Provinces Southern Divisions: Muhammadan Rural): Sir, It is customary that the debate on the Public Accounts Committee Report is initiated by a Member of the Public Accounts Committee, as they are the persons knowing the details of every item in the Report and they can give us a lead and we could follow that lead: that has been the tradition here for a long time; but I notice that not a single Member of the Committee got up today to open the debate and enlighten us as to the work they have done as our representatives there. In the absence of any such guidance, Mr. Lalchand Navalrai went his own way and I am forced to follow my own way as well.

Sir, I read with great care the two volumes supplied to us, and I notice that volume 2, the evidence volume, is really much more valuable and it gives the questions and answers on various points.

The first point to which I wish to draw attention is at page 8 of vol. 2, where the following occurs: Sir Raza Ali says:

"Two points arise out of this statement, so far as I can see. The first point is that it relates to the year 1938-39 when no rise in the cost of materials could be anticipated."

The Chairman replied:

"No, there was re-armament going on in Europe already in 1938. The prices of steel had gone up and they were still rising. The Munich crisis occurred in September, 1938."

Sir Raza Ali said: "But I thought that the prices did not rise till about the middle of 1938."

The Chairman remarked: "The prices rose in anticipation. The Untas had been doing very well for a couple of years before the war broke out owing to the re-armament campaign in Europe."

This is the opinion of the Finance Member. May I then ask him to explain why did he insert section 8(2) (d) in the Excess Profits Tax Act in the light of the remarks he has made here and why he has not moved its deletion now?

The second point that I wish to mention is about the manufacture of engines—page 11 of the Report. Mr. Staig says:

"The activities of the workshops at Ajmer, which have hitherto been confined to the production of metre-gauge locomotives, have, however, been expanded and twenty broad-gauge locomotives of a small type are to be made there."

I welcome this statement but I would like to point out that even now we are not making full use of the workshops at Ajmer. It is quite possible to meet all the requirements of the metre gauge. Their engines can

[Sir Ziauddin Ahmad.]

be manufactured in the Ajmer workshops, and I am sorry to note that even now some of these engines were ordered from abroad. If the Honourable Member will make enquiries, he will find that all our requirements, at least for the metre gauge, can be met in full here.

The next point is at page 10 of the Auditor's Report, about ballasting. The Auditor's Report says:

"Coming to the accounts of individual Railways, attention is invited to the excess of about 5½ lakhs on the North Western Railway explained as due to failure to provide for the ballasting programme."

The discussions on page 12 of the Report of the Public Accounts Committee are:

Mr. Ramsay Scott: Why was there this failure to provide for the ballasting programmes?

Mr. Sankara: It was a case of pure misapprehension on the part of the North Western Railway. It was a mistake.

Mr. Scott: But it must have gone through several hands. Somebody ought to have noticed this.

Chairman: It is an instance of want of co-ordination.

Mr. Staig: Now that special attention has been drawn to these mistakes and that the Controller of Accounts and the Chief Accounts Officer are watching the situation, we may hope that they will not recur.

Mr. Wilson said later on:

"It was extremely difficult for railways to decide which were wholesale and which were partial renewals. Since then the matter has been cleared up and now ballast renewals are being debited to depreciation."

Two points arise out of this. The first is that the Chief Commissioner himself said that he could not decide whether a particular item should be debited to revenue or to depreciation fund. It was exceedingly difficult. Now, this is a point I have been hammering on for the last three years, because this division between the revenues and depreciation is purely artificial. You have created this difficulty for yourself by wrong accountancy, and you now find it exceedingly difficult to say under what heading this item should be put. This is not the solitary item, but there are many other examples in which it has been a problem for you to say under what head it should be put down. It is not a difficulty inherent in the problem itself, and I say that the difficulty is of your own creation. You ought to have got rid of it much earlier and followed a better method of accountancy by giving up Depreciation Reserve Fund altogether and absorbing it in the general revenues. I have said repeatedly that this method of depreciation is an absolutely wrong system, and if you follow the practice of other countries, these difficulties would disappear.

Then, the next point to which I should like to draw the attention of the House is this. My friend, Mr. Abdul Ghani, has drawn attention to it at page 14 of this Report on the question of Appropriation Accounts, —page 14, of Volume II. This is what my friend, Mr. Abdul Ghani, said:

"This practice appears to be confined to the revenue grants only, but it is suggested in view of the excesses in 1938-39, that it may be extended to the Open Line Works Grant also. I would like this to be incorporated in the report."

Chairman: The question is whether your object is to get the work completed with reasonable expedition or to conform as closely as possible to the budget appropriation. In the case of revenue heads, it may be considered to be of primary importance that the expenditure should not exceed the grant, but in the case of capital

head, works and open line works, the question is whether you wish to hold up the works in order to avoid the excess, or whether you wish to allow them to go on with the work, although you realise that it may result in an excess. That is the practical point at issue.

Now, Sir, the point raised by my friend, Mr. Abdul Ghani, was entirely misunderstood by the representatives of the Railways. What he really wanted was that you should follow the practice adopted by the Standing Finance Committee. We know that whenever any proposal comes up, then there are several columns, and in one column we say whether a certain thing is complete by itself, how far we are committed in a particular year and how far the commitment stands in the next year and so on. If these things are well known to us, that is to say, if we know what is the total cost of the entire scheme, how much of it is to be spent this year, how much in future years, if the scheme receives sanction as a whole, and not in parts, then this difficulty would not arise. Whether you spend in March or in April, we will not raise any objection, but our objection is that you produce before us only a portion of the scheme which you have contemplated this year, and we do not know what the completed scheme would be and what would be the scheme next year. That was the objection raised by my friend, Mr. Abdul Ghani. Our point is, whenever you have any scheme of open line works or new construction, then you should place the entire scheme before us, tell us definitely how much portion of it is expected to be completed this year, and how much is reserved for next year, and if a small portion of it is left over, it does not matter. My point is that the system of taking votes

The Honourable Sir Jeremy Baisman: I understand that the Honourable Member is entirely inaccurate. The information which he desires is furnished in the Civil Works programme which gives information precisely in the form in which he mentioned . . .

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): The fact is, it was the suggestion of the Audit Department, and I wanted it to be noted in the Report of the Public Accounts Committee, but, unfortunately, it was not.

Dr. Sir Ziauddin Ahmad: My point is that in future they ought to follow the example of the Standing Finance Committee, and give us information in the form in which it is given there.

Then we come to the question of the amortisation fund raised by Mr. Septt. This he said ought to be debited against depreciation fund,—that is the question relating to dismantling of railway lines. It is rather an important question of accountancy. Whenever you dismantle any particular railway line, then there is definite loss of capital,—there is no doubt about it at all. How is this capital to be reduced? Certainly, if you pay it out of the depreciation fund, then the total capital is there, it is not diminished, and then you will have to put down a sum against such depreciation, because the question depreciation will depend on the question of capital. The rule is 1/60th of the capital at charge should be taken for depreciation. Therefore, it is very desirable that whenever there is any dismantling of a particular line, there ought to be a writing off of the capital and that Capital ought to be paid out of the amortisation fund. This point was raised by my friend, Mr. Ramsay Scott, and it was not pursued further. I wish he had pursued this point of amortisation fund . . .

Mr. J. Ramsay Scott (United Provinces: European): I think the question of amortisation fund is a question of policy of the Railways. That is one of the things that we are not entitled to discuss for a long time.

Dr. Sir Ziauddin Ahmad: I thought that you were not to confine yourself in the Public Accounts Committee to arithmetical work, to see whether the totals are correct or not. You really ought to initiate discussions on every aspect of the problem, and I thought that the question of amortisation fund was one of the problems which the Public Accounts Committee could very well have dealt with. I am really sorry that my friend did not pursue this matter further. Better luck next year. Whenever we remove any railway line, it is very necessary that we should write off the capital against it, because the capital no longer exists, and to put it under depreciation is a very great misuse of the depreciation fund. There are many businessmen in this House and they will corroborate what I say. This fund is intended to keep a particular thing in perfect order. It is intended for writing off the capital. On these grounds I strongly object to this method of accountancy, and I am sure every accountant will support me. I suppose my friend, Sir Homi Mody, also will agree with me.

Now I draw the attention to over-expenditure. I wish to draw attention first to page 14 of the Auditor's Report, where the question of excess of expenditure over estimates is discussed. At page 14 he has given the number of item and the amount involved in which there was a want of estimate, that is, where the expenditure was greater than the estimate. In the year 1936-37 the amount involved was Rs. 29,80,000, it increased to Rs. 45 lakhs in the following year, and in the last year it rose to Rs. 61,75,000. On this the Auditor-General remarks:

"The percentage of expenditure held under objection on this railway has increased from 0.64 in 1937-38 to 2.1 in 1938-39", that is, alluding to the East Indian Railway."

We had been complaining year after year that our estimates should be correct and that the expenditure should not exceed abnormally the estimates which are framed. At page 16 of the report, we find:

"In this connection the Auditor General stated that the few frauds reported during the year were mostly due to dishonest action on the part of officials which the inspecting staff had failed to detect. . . . The Committee while agreeing that such cases were bound to occur in the administration of any large commercial undertaking desired that special care should be exercised before embarking on such schemes of expansion in future."

The Committee agreed with the Auditor-General's final conclusion.

The next point that I would like to take up is the point raised by my Honourable friend, Mr. Lalchand Navalrai, that is, as regards the enhanced duties of the Accounts Officer attached to the various railways. They themselves have said that these duties are being now extended, but it is very desirable that if you extend these duties of the Account Officers you have to employ a class of men, men of calibre, persons who can keep up the reputation of the service to which they belong and which I praised so much on the occasion of the discussion on the Finance Bill. But I am sorry to say that this is not the case with the Chief Accounts Officer of the North-Western Railway. The other day my Honourable friend knew that he got a pass under wrong pretences. If the Chief Accounts Officer in the North-Western Railway misuses the pass and gets a pass under wrong pretence, then it is certainly a very serious offence. I know of about half a dozen cases where men getting Rs. 20 or 30 a month were

dismissed because of slight irregularity in the use of the P. T. Q., but in a matter of this kind where it is the Chief Accounts Officer of the North-Western Railway who is concerned, it is certainly unpardonable. The other day we have seen the case of scandal at Quetta.

The Honourable Sir Jeremy Raisman: I should like to know what are the facts to which the Honourable Member is referring. He said "The Honourable Member knew". I have no knowledge whatever of the matter.

Dr. Sir Ziauddin Ahmad: You make enquiries and if you find it correct, take action. I am certain I am right.

The Honourable Sir Jeremy Raisman: I do not think the Honourable Member should refer to a matter of that kind as if the facts were established and accepted by this side of the House.

Dr. Sir Ziauddin Ahmad: If you like me to give details I can give details also. If you are prepared to make enquiries I will give you facts.

The Honourable Sir Jeremy Raisman: If the Honourable Member is making a charge that a particular officer acted in a highly irregular manner, I think the facts should first be brought to the notice of the Government before they are discussed in that allusive way in this House.

Dr. Sir Ziauddin Ahmad: I will do this as well. The other point is, the Honourable Member also clearly knows about another Accounts Officer whom he has shoved on to the Eastern Bengal Railway. He has not the records which a Chief Accounts Officer should possess. If you are going to give enlarged powers to the Chief Accounts Officers, you have to take very great care in the selection of personnels and see how these powers are exercised; I think control from the centre on all important issues is very necessary and it is desirable that it ought to be maintained. I have given notice of a motion of adjournment of the House, so I do not want to deal with the question now as I am going to mention the facts in connection with the motion for adjournment which I hope will come for discussion tomorrow or whenever the House meets again. This requires very serious consideration and I think that any relaxation of control from the centre will lead to serious difficulties in the administration. I may safely say this because this thing has already been published, because there have been serious cases of embezzlement in the case of the North-Western Railway. I leave the question of the railways now. I do not like to go through all the departments of the Government of India, but I would like to mention one particular point, and that is about Woolley's Report. It is mentioned here that they are taking this Woolley's Report into consideration, and until I have some definite statement on the floor of the House or at some other place, I reserve my judgment about the action taken there. I take the decision of the Public Accounts Committee as it is there, for the time being. Generally I think it is very desirable that the Public Accounts Committee should lay greater details and go through the problems more thoroughly and take all aspects of the question, because by this method alone we will have an opportunity of discussing the report on the floor of the House. The tradition is that we cannot discuss any matter and every matter on the floor of the House unless it is

[Sir Ziauddin Ahmad.]

mentioned in the Public Accounts Committee's Report. Any problem on which they desire discussion on the floor of the House should be mentioned in the Report.

Maulvi Muhammad Abdul Ghani: My Honourable friend, Sir Ziauddin Ahmad, has laid a charge against the members of the Public Accounts Committee for not initiating the debate. I was just out when my Honourable friend, Mr. Lalchand Navalrai, spoke, and when I wanted to rise, my Honourable friend, Dr. Sir Ziauddin Ahmad, stood and I did not like to interrupt him. We tried our level best while sitting in the Public Accounts Committee to deal with this question of

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better speak up. Otherwise he would not be heard.

Maulvi Muhammad Abdul Ghani: As a member of the Public Accounts Committee and as a Member of this House, I am impressed that the Railway administration requires a stricter financial control because every year we are supplied with a long list of irregularities prepared by the Financial Commissioner of Railways and that report is very authenticated and I wish that the same should continue, though there is a recommendation against it. We find from the report very valuable information as to how the various administrations are behaving and what negligence they are committing. If we look to Annexure "A" of the Appropriation Accounts of Railways in India for 1938-39, we find that it deals with the statement of unsanctioned expenditure. The amounts under this head comes up to Rs. 83,47,000. Cases of irregularities, want of estimates and excesses make up this amount. There is a long list under this head, say, Annexures A (i), A (ii) and A (iii), which clearly shows the way in which the various railway administrations deal with finances. Herein it is mentioned that estimates are not prepared, not even sanctioned, work is completed and, in some cases, it is said that on completion of the work, a report will be submitted and the expenditure will be regularised through the completion report. I fail to understand how after such a long time the expenditure will be regularised. There are cases as far back as 1936-37 and we were in 1938-39 and up to the moment no action was reported. The total amount held under objection amounts to Rs. 65,70,000. Percentage is 58 against 48 in 1937-38. Refer page 1 of the Report of the Evidence. There was a question about the abolition of saloons which are unnecessary. The number was given out as 718, out of which there is a programme for scrapping out 71 saloons, that is about ten per cent. However, a report was submitted later which forms Appendix III, on page 78 of the Public Accounts Committee Report as Appendix III. Therein it is said that some of the saloons will be scrapped after a period of five years. I cannot see, when they are not required, especially in the interest of economy, why should not they be scrapped as soon as possible, and I fail to understand why a period of five years should be fixed in their case. Last year, when I was dealing with the Public Accounts Committee Report, I pointed out to you that there is a great misuse of these saloons, so much so that a hand-master at Jamalpur was also supplied with a saloon and for that the Railway Administration

had to bear much expenditure. So practically speaking, these saloons are not required in as large a number as they are today. The sooner the unnecessary number of them is removed the better.

As regards the passes, I was urging in this House that the grant of free passes to railway officials and employees is a nuisance and mere wastage of public money. It is not a question of benefit only. There is a great deal of misuse. The number of passes issued every year by the administration is increasing year by year. A few years ago the number was given and it amounted to more than 8 lakhs of passes, issued for all classes of carriages, first, second, inter and third class and if you take an average of Rs. 20 a pass, it amounts to more than a crore of rupees. We are tapping every source, we are putting pressure on the travelling public to get money to make the two ends meet but we are forgetting to take care of these economies. I think the Railway Department should look into the matter and the issue of passes should be stopped as much as possible.

The question of the post of Director of the Botanical Survey was taken up. This post has been retained but I do not think that the services of the Director are required in the interests of the public, especially as all work relating to cinchona was transferred, when Burma was separated from India.

In connection with the amounts held under objection, I may point out that there is a large amount of under-charges which was detected during audit, but of which even after realisation, a sum of Rs. 29,874 was still left uncollected. That amount relates to the year under review. As I was submitting the Railways should be a little more careful in spending money.

As regards postal irregularities, the Committee has taken note that they would exercise greater control in giving contracts of treasuries. There was a case of a loss of Rs. 50,000 at Calcutta and I hope the Department of Communications will also see to the recommendations of the Committee being implemented and that no such cases recur again. It was brought to the notice of the Committee that a non-official was usually being appointed as Agent to the Governor-General in South Africa, but the present incumbent is one whose salary is non-voted. It was our privilege that the salary was voted by this House, but now it has been made into a non-voted item. I think the Government will see that in future the advantages which were given to the non-officials should not be taken away and no amount which was once votable by the Assembly should be made into a non-votable item. A non-official gentleman should always be appointed as Agent in South Africa.

There was another case of expenditure which was sanctioned for the construction of a pilgrim camp at Karachi. The money, say, Rs. 1,20,000 was sanctioned and it was to be met out of Kamran Quarantine fund. However, it came to our notice that the construction was stopped as a measure of economy on account of the war. We pressed this matter before the Public Accounts Committee for its serious consideration and we recommended that the pilgrim camp should be erected at Karachi soon. I cannot say whether it has been constructed since. This is very necessary in the interests of the poor pilgrims. Expenditure on such useful items

[Maulvi Muhammad Abdul Ghani.]

should not be curtailed as a measure of economy. I was till now under the impression that only the Military Department was responsible for wasteful expenditure, but I now find that the Railway Department has taken the lead. With these words, I resume my seat.

The Honourable Sir Andrew Clow (Member for Railways and Communications): Sir, I should like to make a few remarks about the observations which have fallen from the Honourable Member who has just resumed his seat, as he referred in the course of his speech to one or two points concerning the Railways. As regards saloons, he is of course familiar with what is entered in Appendix III to the Public Accounts Committee Report which shows that consideration has been given to this question. I gather that the Committee was on the whole satisfied that this question was receiving the attention which it deserved. I would remind the Honourable Member that we are not constructing saloons now, but largely using the stocks which possibly in the old days were a little more numerous than they need have been.

But the more important question which he raised was that we should abolish passes on the railways. I think he made that also in an earlier speech last week. We have in recent years done a good deal to reduce the passes; we made, I will not say great but quite appreciable reductions a few years ago. One of the consequences was a series of protests in this House including from an Honourable Member who is not sitting far away from my Honourable friend, Maulvi Muhammad Abdul Ghani.

Mr. Lalchand Navalrai: I differ from him.

The Honourable Sir Andrew Clow: If I were to abolish passes altogether I should spend the rest of my official life answering questions in this House. Actually, in the light of the opinions expressed in this House, we relaxed our cuts in passes to some extent, but not to a very large extent, and we also later made important reductions in the future scale for officers. But I do not think it would be reasonable to abolish passes or to encroach upon them very appreciably at present. After all, a pass is a very useful way of giving an employee something that has a profound value to him, but it does not cost us a corresponding amount. In other words, it is part of his remuneration, but a part in which normally speaking he gets, if I may put it in Irish fashion, more than we pay. These passes are greatly valued by our employees and they do form, I think, an incentive to good men to enter railway employment. They also assist our employees to take holidays, and, thereby, to keep themselves fit. As railway servants, it must also be remembered that they are subject to the inconvenience of frequent transfer, sometimes to long distance from their homes and it is surely unreasonable that they should not be given facilities for travelling to their homes. I think the system of passes is prevalent in most if not all the railways of the world and I cannot be a party to their abolition.

The Honourable Sir Jeremy Raisman: Sir, I have some sympathy with my Honourable friend, Dr. Sir Ziauddin Ahmad, for the somewhat unenthusiastic nature, if I may so term it of this debate and I agree with him in feeling that it is the duty of Members of the Public Accounts Committee who after all have sat for many days going over the points

which have been raised in the accounts, I think, it is their duty when the motion for consideration comes before this House to be present and to initiate the debate and give this House some idea of the main points which received their attention during their Session. It is a little difficult for the ordinary Member of this House to wade through the mass of material which the Committee has covered and himself extract the points of special interest. It is unfortunate, I think, that the House today did not have the advantage of the initial comments of any Member of the Committee. I would, however, point out that the accounts of the year 1938-39 are of far less interest from the point of view of the control of this House than is usual with such accounts and the reason is this. As I mentioned the other day, in the course of the year in question, the Government were compelled to embark on a campaign of retrenchment and economy. Now, one of the main functions of the Public Accounts Committee is to take the actual outturn of the figures of expenditure and to compare them with the grants which were voted by this House. Now, when in the course of the year the Government is compelled, for major reasons of policy, to request the Departments to cut down their expenditure to the minimum which is reasonably possible, then obviously it becomes inappropriate for a Committee to sit afterwards to decide the extent to which these Departments in their expenditure have conformed to the original grant which was voted by this House because an entirely overriding factor has supervened which has made any criterion of that kind inapplicable. That happened in the course of the year and it has naturally robbed the proceedings of the Committee of a great deal of the usual kind of interest which attaches to them.

The second point is this. This Committee was sitting during certain days of this summer when we, the Members of the Government, and the witnesses who appeared before them in common with the rest of the world were very much preoccupied with contemporary events and with developments which bade fair completely to eclipse any interest which could attach to the accounts of the year before last. In these circumstances, I had to ask the Committee to agree to sit only for half of the day because both myself and the officers of Government who appeared witnesses before the Committee were heavily engaged in current work in connection with the war. I am glad to say that the Committee appreciated that in the extraordinary circumstances of this year they could hardly expect to go into such detailed examination of the figures relating to the year 1938-39 and they did assist me and the witnesses to dispose of the work before us in a reasonable time. It is for that reason that the volumes relating to the proceedings of the Committee are markedly slighter this year than they are in normal years. For the same reason, I suggest that this House in the background of current events can hardly be expected to take so vivid an interest in the whole business of these accounts and of the report of the Committee. I will not endeavour to traverse the detailed points which have been mentioned by individual speakers. They are points which were gone into in fair detail during the proceedings of the Committee, and, for the reasons I have just mentioned, I do not think they claim any absorbing interest at this time. I think I observe on the part of the Members of this House some anxiety to complete the present discussions devoid as they are of the usual interest and to deal with the excess grants, which I shall now have to move.

DEMANDS FOR EXCESS GRANTS FOR 1938-39.

CENTRAL EXCISE DUTIES.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I move:

"That an excess grant of Rs. 1,14,751 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1938-39, in respect of 'Central Excise Duties'."

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

"That an excess grant of Rs. 1,14,751 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1938-39, in respect of 'Central Excise Duties'."

The motion was adopted.

LEGISLATIVE ASSEMBLY AND LEGISLATIVE ASSEMBLY DEPARTMENT.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 15,872 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Legislative Assembly and Legislative Assembly Department'."

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

"That an excess grant of Rs. 15,872 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Legislative Assembly and Legislative Assembly Department'."

The motion was adopted.

CENSUS.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 174 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Census'."

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

"That an excess grant of Rs. 174 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Census'."

Sardar Sant Singh (West Punjab: Sikh): Sir, as regards Census I want to seek certain information from the Honourable the Finance Member as to the revenues of the Central Government. I would like to know what part of the Census expenses is spent out of the revenues of the Central Government? Is the Census work that is going on in the Provinces paid for by the Central Government or by the Provincial Governments or by the local bodies in the Provinces, because I remember in the Punjab certain expenses have been asked to be paid by the Municipalities and the District Boards in connection with the work of the Census. I do not think it is a fair charge upon those bodies.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not discuss that. He has asked a question and the Government will give him the information.

Sardar Sant Singh: That is the information I would like to have.

The Honourable Sir Jeremy Raisman: Sir, as far as I remember, the position is as follows. It is no doubt the case that the responsibilities in connection with the Census fall on the Centre and therefore, normally, all expenditure in connection with Census will fall on the Centre. At the same time there are many services which Provincial Governments and their officers and even local bodies can render in connection with Census without actually incurring additional expenditure themselves. Now, before embarking on the present operations in connection with Census, we took the precaution of asking various Provincial Governments and certain other units concerned whether they would co-operate to the same degree as in the past and not seek from us to be remunerated except in respect of actual out-of-pocket expenses, because, unless they were prepared to do that, it is possible that the cost of conducting the census would be so great that it would not be feasible to undertake it at a time like this, and, as far as I remember, the general response of the Provincial Governments and units concerned was favourable and, therefore, the position is that they will perform certain services on our behalf which do not actually result in additional expenditure to them,—part-time use of staff which is already going about and so on, and that we shall only be involved in the additional expenditure due to additional out-of-pocket expenses.

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

"That an excess grant of Rs. 174 be voted by the Assembly to regularise the expenditure chargeable to revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Census'."

The motion was adopted.

WORKING EXPENSES—MAINTENANCE AND SUPPLY OF LOCOMOTIVE POWER.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 17,73,557 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 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. 17,73,557 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Working Expenses—Maintenance and Supply of Locomotive Power'."

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): May I ask one question? I notice that in some cases the Public Accounts Committee have expressed their view clearly that the vote of the House should be obtained. May I ask whether they have demanded the same in connection with all these demands?

The Honourable Sir Jeremy Raisman: Yes, Sir. The Committee have recommended that all these excesses should be regularized by a vote of the House.

Dr. Sir Ziauddin Ahmad: That is only formal.

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

"That an excess grant of Rs. 17,73,557 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Working Expenses—Maintenance and Supply of Locomotive Power'."

The motion was adopted.

WORKING EXPENSES—MAINTENANCE OF CARRIAGE AND WAGON STOCK.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 1,11,379 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 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. 1,11,379 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Working Expenses—Maintenance of Carriage and Wagon Stock'."

The motion was adopted.

WORKING EXPENSES—MISCELLANEOUS EXPENSES.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 12,94,896 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Working Expenses—Miscellaneous Expenses'."

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

"That an excess grant of Rs. 12,94,896 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Working Expenses—Miscellaneous Expenses'."

The motion was adopted.

WORKING EXPENSES—EXPENSES OF ELECTRICAL DEPARTMENT.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 3,85,115 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39, in respect of 'Working Expenses—Expenses of Electrical Department'."

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

"That an excess grant of Rs. 3,85,115 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39, in respect of 'Working Expenses—Expenses of Electrical Department'."

The motion was adopted.

INTEREST CHARGES.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 983 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Interest Charges'."

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

"That an excess grant of Rs. 983 be voted by the Assembly to regularise the expenditure chargeable to Railway revenue actually incurred in excess of the voted grant in the year 1938-39 in respect of 'Interest Charges'."

The motion was adopted.

STORES AND WORKSHOP—EXPENDITURE NOT CHARGED TO REVENUE.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 1,84,697 be voted by the Assembly to regularise the expenditure chargeable to Railway capital actually incurred in excess of the voted grant in the year 1938-39, in respect of 'Stores and Workshop—Expenditure not Charged to Revenue'."

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

"That an excess grant of Rs. 1,84,697 be voted by the Assembly to regularise the expenditure chargeable to Railway capital actually incurred in excess of the voted grant in the year 1938-39, in respect of 'Stores and Workshop—Expenditure not Charged to Revenue'."

The motion was adopted.

OPEN LINE WORKS.

The Honourable Sir Jeremy Raisman: Sir, I move:

"That an excess grant of Rs. 50,98,240 be voted by the Assembly to regularise the expenditure chargeable to Railway capital actually incurred in excess of the voted grant in the year 1938-39, in respect of 'Open Line Works'."

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

"That an excess grant of Rs. 50,98,240 be voted by the Assembly to regularise the expenditure chargeable to Railway capital actually incurred in excess of the voted grant in the year 1938-39, in respect of 'Open Line Works'."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): That concludes the business on the agenda. Motion for adjournment by the Honourable Member Mr. Essak Sait. (Honourable Members: "After lunch.") If that is the desire of the House, the motion will be taken up after the luncheon adjournment.

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.

MOTION FOR ADJOURNMENT.

CLOSING DOWN OF THE BRANCH LINE BETWEEN SHORANUR AND NILAMBUR IN THE MALABAR DISTRICT.

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): Sir, I move:

"That the Assembly do now adjourn."

The railway authorities have suddenly decided to close down a very important branch line in the Malabar district. That line runs from Shoranur to Nilambur and it is 42 miles long. It is called a branch line but the very length of it will, I hope, be an indication to the House of the importance of this line. For Honourable Members to understand the significance and the importance of the line, I think I had better briefly go into the history of the construction of this line. This line was constructed as a result of the very unfortunate incidents that occurred in Malabar in the year 1921 which later came to be known as the Malabar rebellion of 1921. When constructed it was conceived purely as a strategic line for military purposes only. It was pointed out, and it was very well known to the authorities, that this was not going to be a remunerative line at all; and in constructing the line the question of return on the capital expended did not enter into their considerations at all. The only consideration was, certain facilities that the military required. Therefore it does not lie with Government today to turn round and say that they are abolishing this because it has proved unremunerative, for it was never meant to be remunerative. When the project of constructing this line was mooted, certain alternative lines were suggested by people interested in these matters, lines which would have been very remunerative and attractive from their point of view. We suggested that the line should branch off at Tirur and should be taken to Malapuram via Manjeri and thus brought down to Calicut. If that project were accepted it would have been a very remunerative business altogether. But then the gentlemen who were responsible for this line and were anxious for it, were not, as I said before, actuated by any other consideration except that of strategy and military needs. And I will explain what these military needs were. From the experience gained in that unfortunate rebellion of 1921 Government found great and urgent necessity of having facilities for rushing troops to the heart of Ernad without having to move along the coast where a great number of bridges stood as potential danger. They wanted to have a line which would enable them to rush off troops either from the Nilgiris or from Bangalore or Madras, wherever the military station might be, and get the troops as quickly as possible into the heart of Ernad without having to move along the coast. Therefore they selected a route which passed through hilly country and through forests. That is the history and that is the object of this line. I am trying to prove that the line being what it is it could never have been expected to be a remunerative line at all.

Now, Sir, having been constructed as a purely strategic line this line entered into the life of the people of those parts. The people adjusted their conveniences according to the line that existed, so much so that today when there is this question of closing down the line, the Raja Saheb of Nilambur who represents that area in this House and I myself have

been getting sheafs of telegrams and representations protesting against this and calling attention to the great loss and inconvenience and also to the military danger that may be caused if this line is abolished.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): From the Moplahs?

Mr. H. A. Sathar H. Essak Sait: Yes, objection comes from the Moplahs also.

Maulana Zafar Ali Khan: Will not they be thrown out of employment?

Mr. H. A. Sathar H. Essak Sait: I was pointing out that the objectors included Moplahs also. I am not saying that danger is expected from the Moplahs, but thousands of them will be thrown out of employment because of the dislocation of trade caused by the abolition of this line.

Now, Sir, with regard to the strategic point that comes within the second part of the motion. In abolishing this line the authorities are not only causing great inconvenience and loss and also creating unemployment among the people, but they are also doing something which they should not do easily. That is to say, this line was meant to be a sort of insurance against future trouble in that area. This was a protection and security for the law-abiding people in that part of the country. People are afraid,—and these representations point it out,—that the removal of this line and the easy facility of moving troops whenever necessary will certainly endanger the security of that part of the country. These are my main reasons for objecting to the closing down of this branch line.

There is one more point and I have done: and that is, with regard to the shortness of notice. I am aware that my Honourable friend, when Sir Syed Raza Ali moved his motion of adjournment, apologised for the shortness of notice which he was compelled to give and also adduced reasons for it. The reasons are there and our difficulties also are there. I have here a copy of the *Madras Mail* of the 19th instant, which reached Malabar on the 20th, and in it is a notice which states that this line is to be closed for all descriptions of traffic on and from Thursday, the 5th December: that is to say, notice was given exactly of fifteen days. It has to be considered as to how these things affect the people who are interested in these matters. People have contracts: for instance, I think there are a number of merchants who have contracts to supply timber from the Nilambur forests, and God knows what other goods to distant places. They depended upon this means of conveyance being available to them, and entered into all these commitments, and, today, suddenly, my Honourable friend gets up and says that the line is to be abolished from the 5th December. What is to happen to all these contracts? Where is the time for them to adjust their difficulties? He should have given at least six months notice. That is what one of the telegrams suggests, that if my Honourable friend is not willing to keep this line, he should at least agree to keep it on for another six months, so that these commitments could be attended to. For all these reasons, I can only request because I understand the position of the Government also, that he should reconsider the position in the light of what I have been able to say and what other honourable friends may add to it—he should either

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

give up the idea of closing down this line altogether because it affects about three lakhs of people and their lives and their business, or he should at least give six months notice so that those who have made commitments may be able to fulfil them.

Then I have an alternative suggestion to make, because I do not know what my Honourable friend may say—he may again bring up this question of profit or remunerativeness. If it is a question of the line being unremunerative, then I and my friends in Malabar, including the Raja Saheb of Nilambur, are willing to guarantee that if he will extend the line according to our advice from Nilambur via Malappuram and Manjeri to Calicut, then he can be assured of a very very good return on the capital outlay. For these reasons I would request him to reconsider the matter. Sir, I move.

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

"That the Assembly do now adjourn."

Sir Syed Raza Ali (Cities of the United Provinces: Muhammadan Urban): Sir, the reason which has prompted my Honourable friend to table this motion is a very different one from the reason which led me to move the motion with reference to the closing of a section of the East Indian Railway on Friday last. We have had the advantage—or shall I say the advantages and sorrows—that were our lot in the course of that debate. Having had the advantage of listening to the speech of my Honourable friend, the Railway Member, on that occasion, let me make it quite clear that so far as this House is constituted today, after the departure of the Congress Members, there is no desire, so far as I can see in any part of the House, especially this side, to hamper the war effort of the Government of India. I think there should be no doubt on that point. We are quite prepared—and I am sure that the majority of the country, if I understand the feeling of the majority correctly—is quite prepared to help the Government in all its legitimate efforts to prosecute the war. That is point number one.

Then comes the question of the Railway Board or whoever the authority may be, choosing these lines or branches in a haphazard manner and taking very early steps, without giving the people sufficient notice, to demolish them. I suggest that it is the duty of the Government of India and of my Honourable friend, the Railway Member, and the Railway Board to lay down some definite, tangible, clear principles which will apply to those lines which it is proposed should be closed down or demolished. As it is, my Honourable friend, the Railway Member, pointed out on Friday that they were demolishing a number of lines and the Chandpur-Siau-Bijnor section is included in that list. I do not think that is the right way of approaching the question or laying down the policy of the Government of India. What I would earnestly suggest to the Railway Member, if he wants to take public opinion with him, is that a careful list should be made out of those lines which it is proposed should be either closed down or demolished or dismantled, and the guiding principle should be this: the least remunerative branch or section should be the first to go; the next least remunerative section or branch should follow; and so on. Let us have a definite principle, otherwise if you tar all these railways with the same brush—if I am not using a

mixed metaphor—it will be exceedingly inconvenient to the public and not based on any principle at all. In the choice of the Government of India or of the Railway Board, whoever it may be, I find that all sorts of railways—good, bad and indifferent—those bringing profits to Government and those causing loss to Government and those that are just paying their way—they are all huddled up together without any regard to business or commercial considerations. I submit that is not the correct thing to do.

If my Honourable friend, the Railway Member, who I am sure takes the keenest interest in broad questions of principle, is prepared to meet this point, I think the next step that I would suggest to him would be that before definite action, final action, is taken, he should consult either the Railway Finance Committee or the Railway Advisory Council. I believe there is such a body as the Railway Advisory Council. The members of these committees are men from all over India, and they are men who have actual experience of the conditions of the provinces in which they live. Their advice would be of real benefit to the Government. Now, if there are any objections to either of these two bodies being consulted I would suggest for the careful consideration of my friend, the Railway Member, the setting up of an entirely new body, an *ad hoc* body, who could be consulted only on the question of dismantling or closing down of any Railway section or branch. The reason why I make this suggestion is this. Unfortunately, this war has been going on for the last 15 months. We do not know how long it will last. If it lasts quite as long as the last war lasted, then, it may be, for purposes of defence Government will have to take action on a larger scale than the action which they have already taken, and I think it will be a very short-sighted policy not to take either this House or the representatives of the public into confidence and to go ahead without endeavouring to secure on their side public opinion. If you can have your point by taking the people into your confidence, why try to secure the same object by antagonising public opinion. It is now quite clear that the Government have made out their list without the least regard to the profits which each railway section or branch brings them, because on the one side we know that on the 1st of December, 1940, will be closed the Bijnor-Chandpur-Siau section of the Railway which is positively profitable, while on the 5th of December, four days later, will be dismantled the Shoranur-Nilambur Railway, which, I believe, is running at a loss and which is situated about 900 miles away. The comparison shows that not much regard has been paid either by the Railway Board or by the Government of India to the order in which the lines should be dismantled, nor have they paid any regard to the distinction that ought to be made between a profitable business and one that is unremunerative.

Then I come to the next point, and it is this. I believe Tatas have been manufacturing rails for a long time. Are they engaged in manufacturing rails at present? Now, I know we could not expect the Government of India to anticipate what happened in Europe in April, May and June this year. All the same, the Government of India knew that the distance between the Northern and Western part of India and the Russian territory was almost nil. Our boundary practically adjoins that country. Russia has been a dark horse since the 23rd August, 1940. Nobody has put any faith, nobody has any reason to put any faith, in the *bona fides* of Russia. The situation may have altered in some

[Sir Syed Raza Ali.]

respects with reference to Russia. But may I know what precautions did the Government take to replenish their railway stocks since the war broke out on the 8th September, 1939? Surely they ought to have done something. Unfortunately, the non-official element is not associated with the policy and the methods of the Government of India. So the latter have to take the credit or the discredit as the case may be entirely to themselves. What precautions did the Government of India take? Was it impossible to keep some stocks, not huge stocks, but some stocks in reserve, in any case? It is very important to remember that England is most anxious, and very rightly too, that her exports do not suffer, and that the workmen over there should be engaged in manufacturing and producing articles and things which could be exported from England, because that is the only way to find at least partly the cost of the war. That is the only way in which people can be kept up in a fairly sound economic position. I will not talk of exports from India now. But was it not our duty to see that at least we manufactured goods and articles for our own needs, not for purposes of export, but only for internal purposes, for instance, rails, locomotives, engines and other things? Sir, I discovered the other day while I was sitting on a Committee that now a large number of those things that were not manufactured in India before the commencement of the war are being manufactured here. In fact a rough list was given to me, and the items there were quite large in number. At least we ought to have included the manufacture of rails on a larger scale in this list. So these are the main points that I wish to put before this House, and I ask the Honourable the Railway Member

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member has got one minute more.

Sir Syed Raza Ali: I ask the Honourable the Railway Member to go ahead boldly and courageously. In fact, these are critical times, and boldness and courage have always paid and they will always pay in this world. I will ask my friend to tell us if possible as to how far the Government of India are prepared to meet us with reference to the proposals that I have just made in this House.

The Honourable Sir Andrew Clow (Member for Railways and Communications): Sir, in response to a suggestion made in the previous debate, I am rising at an earlier stage. I am much obliged to my two Honourable friends who have spoken for the earnest moderation they have shown in presenting their case, and we recognise on this side that they and those for whom they speak are anxious not merely not to hamper the prosecution of the war, but to do what they can to assist in it. And this is itself a step which has been taken in the prosecution of the war

Raja T. Manavedan (Madras Landholders): May I ask one question? Is it not a fact, Sir, that Nilambur with adjacent lands is one of the biggest timber forests in the south, and that this Railway will be very useful for the transport of large quantities of timber which will be required for war purposes?

The Honourable Sir Andrew Clow: I will come to that point a little later.

The Honourable Mr. Essak Sait raised a new point when he said that this Railway had been built in consequence of strategic considerations. I am not entirely familiar with the circumstances so many years ago, but I think he is correct in stating that they had a certain influence on the decision. At the same time, the Railway was not built with the intention that it should run at a loss. The estimates framed at that time gave the working earnings at a figure which, if we had been able to sustain it, would have made the Railway a profitable one today. Actually, we are getting less than a quarter of the earnings that were then estimated. And as regards both that and the point raised that the export by rail of timber might be a matter which would assist in the war, I think the answer is this, that any Railway of this kind, in so far as it ministers either to the special needs or to the general prosperity of the community, can be said to be an asset from the point of view of the war, and that we have to weigh the advantages we get from it against our urgent need for rails and other considerations. As regards the strategic point raised, I may say that the matter has been referred to the defence authorities, and that this step is being taken with their concurrence.

Now, I am in a position—in connection with this Railway we have maintained separate accounts,—to give more exact figures 3 P.M. which I could not do for the small portion of the Railway we were discussing the other day. The estimate of the working gross earnings framed, I think, about the year 1927 or 1928 was Rs. 5.65 lakhs. For the last five years they have never been above Rs. 1.53 lakhs and they have shown a tendency to fall. The actual earnings in 1938-39 was Rs. 1.18 lakhs, the earnings for 1939-40 as estimated were Rs. 1.12 lakhs. The working expenses for the last year for which earnings of Rs. 1.12 lakhs are estimated, are estimated at Rs. 2.01 lakhs, which gives a saving that we can make by closing it of Rs. .89 lakhs. I have said nothing, you will notice, about interest on capital, although we are there incurring a very heavy loss, because obviously we do not cut down the loss there by closing the railway. I may say that is of the order of several lakhs. When we make allowance for the effects on the main line traffic and the small saving we will get on the main line traffic and when we make allowance for interest on what we will get on the sale of materials and matters of that kind, the total saving, that is really the loss which we can recover on this line, not the total loss—the total saving is Rs. 1.09 lakhs a year.

Now, there is another feature peculiar to this railway which did not enter into the other case, and that is that the Madras Government have given a guarantee upon it. They guaranteed to pay us the interest on capital on the net loss on working, but, unfortunately, only up to a maximum of Rs. 1.39 lakhs. I presume that when that figure was fixed it was hoped that that would cover the actual loss, but actually, of course, as I have already explained to the House, it has been a much greater figure. So that, if we look at the question solely from the purely selfish point of view of the Central Government, we are still on our figures getting a balance of Rs. 30,000 a year. But I think we have got to take a wider point of view and that the correct figure to take is the figure without

[Sir Andrew Clow.]

taking into consideration the Madras Government's guarantee which, after all, comes out of the pockets of the community, and that therefore we are losing rather over a lakh a year. My Honourable friend, Sir Raza Ali, suggested that we should go on the principle of taking the least remunerative lines first and then go steadily on with less unramunerative lines. Actually we have tried to follow two principles, first, that of remuneration, and second, that of alternative facilities open to the public who will be affected. But I am afraid it is not possible just to say, this is the line that stands highest in the list, we will begin with that, and when we have lifted all the rails we will go to the next one, and so on and so forth, because our war needs for the rails are urgent and these could not be met by taking one or two lines. We will have to take several, and acutally, as I said on Friday last, we have also under demolition. So that some received priority over, say, the Bijnor line, and are already partly or largely demolished.

Maulana Zafar Ali Khan: Will the Honourable Member announce the names today of those lines which are proposed to be dismantled beforehand?

The Honourable Sir Andrew Clow: Some, as I say, are already being dismantled. I will come to that point later. And that I am afraid must be my answer to the suggestion that we should give six months' notice. I would certainly give six months' notice if I could, I would given even longer notice, but these rails, I can assure the House, without entering on to the facts which I am not in a position to disclose, are urgently wanted.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Are the rails to be exported?

The Honourable Sir Andrew Clow: The rails are going overseas. This is an area which I cannot claim to have travelled over as I had travelled over the area discussed on Friday, so I have to take my information from maps and from those in a position to advise. But it would appear to be now very well served with roads and that I have no doubt is one of the reasons, the chief reason why our earnings have fallen so very short of the estimates. So far as the maps go, they show that every one of the seven stations on this line lies on or near a metalled road and that quite a number of bus services serve the most important places in that area—my Honourable friend will correct me if I am wrong. If any one were to compare the map of this area with its bus services, with the maps of those places with which I and other Honourable Members are familiar in India, I think one would be surprised to find how many roads there were and how well served the area was on the whole.

Then, to come finally to the suggestion about consulting the Central Advisory Council, I cannot, of course, put them in possession of all the facts, but I have asked them to meet on Friday next and they will be provided then with as much information as we can give, with a list of the railways now being dismantled or which have been decided to be dismantled and also with a list of the other railways whom dismantling we are contemplating. I think my Honourable friend, Sir Syed Raza Ali, said, on Friday that he could offer a number of alternatives. I can assure him

we will welcome any suggestion of that kind that could be made. But I am not very sure of our ability to find many alternatives because there are, obviously, limitations, on the extent to which we can dismantle lines. When this programme is put before the Central Advisory Council, I think they will find it a little difficult to find lines of any length which could be substituted for those we have under consideration.

Sir Syed Raza Ali: May I ask my Honourable friend what is the total length of lines which it is proposed to close down or dismantle?

The Honourable Sir Andrew Clow: I cannot give the exact length we have under consideration on this particular occasion, but I can only say that it falls considerably short of the demands which we have been asked to meet.

Dr. Sir Ziauddin Ahmad: My Honourable friend, Sir Syed Raza Ali, has clearly pointed out our policy that we do not stand in the way of any effort that may be made by the Government in the prosecution of the war. But as regards this I suggest that it is very desirable that when any line is to be dismantled, he should take the Assembly into confidence. If any line is to be dismantled for economic considerations, it is desirable that it should be done by a vote of the House. It should be examined by the Standing Finance Committee, and then a vote of the House taken just before any line is dismantled for economic purposes. But if the action is to be taken on account of war condition, then I think it will not be practicable to take the vote of the House on the particular matter, but my Honourable friend has got two bodies, namely, the Central Railways Advisory Council and also the Railway Standing Finance Committee. They could be taken into confidence and they could have advised my Honourable friend about the choice of the line. For example, those lines should be dismantled first where you have got a road running parallel to the railway, so that the traffic may not come to a standstill. In this matter, those who have personal experience may give some advice to the Government as regards the choice of the lines which may be dismantled on account of more urgent reasons. As the Honourable Member has already said that he will take the Central Advisory Council for Railways into his confidence as regards the choice of the railways, then I think the objection that I had will disappear and I only want to press one point, and that is this. If any action is taken on economic grounds, then I think it is desirable to thresh the matter out very clearly in the Standing Finance Committee for Railways and then take the vote of the House before dismantling the line.

Raja T. Manavedan: Sir, I do not want to make a long speech on this motion. I have only to say a few words. I have to point out that great hardship will be caused to the people concerned. From Shoranur to Nilambur, further north, the whole country is hilly and full of forests. Of course, the roads are not enough and the people there are very poor people. On account of this railway line, since it was built several years ago, thousands and thousands of people are living there and all those people will be ruined now. Hundreds and thousands of small petty merchants have grown up there. Their business will be gone. So, the sudden closure of this line will prove a great hardship. If at least six or

[Raja T. Manavedan.]

seven months notice is given, they can fall back on other methods of life. If this line is closed suddenly, all these people will be ruined and there is also the danger of poverty and starvation. I have to point out that. Of course, I cannot say it is a remunerative line. It is not remunerative. I have to point out that it is actually working at a loss. If it is delayed, that is, the dismantling of this line, for a year or six months, that would be better. I do not wish to speak more and with these words I resume my seat.

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, I am very glad that the Honourable Member in charge of Railways, in pursuance of a suggestion made during the course of the debate on the last motion, actually intervened in this debate at a very very early stage. On motions of this kind, there is not much to be said also. Therefore one or two speakers on one side and the Government Member on the other are sufficient to complete the debate as a matter of fact. There are one or two points to which I wish to make a reference. It was difficult for me at this distance to follow what exactly the last speaker was saying but I could gather at least one thing from his speech. It was also mentioned by Mr. Sait who moved the motion for adjournment. It was this. If this line is now going to be dismantled, it is going to be on the 5th December and a large number of persons are going to be thrown out of employment. That is one thing and it is also going to affect adversely the life of a considerable number of the population residing in the vicinity served by this line. Government have to do this as a war measure and as my Honourable friend, Sir Syed Raza Ali, said, we are not out to hamper war operations. We can understand the difficulties or the necessity of a step taken like that but I believe that if a step is taken on account of the sheer exigencies of the war, Government should also see that no unnecessary loss is caused to many people, directly as a result of the action which they have taken. That is a matter which they must consider. Is Government going to make any provision at least for those who are going to be directly thrown out of employment, if this line is dismantled? Have they thought of any plan to meet that situation? If they have not thought of any such plan, I believe, they will have to consider this point seriously, when dismantling is coming up for consideration before the meeting of the Central Advisory Council which the Honourable Member in charge of Railways has very expeditiously called on the 29th of this month. This will be one of the points on which, at least in that meeting, I will lay particular stress. I am giving notice of that point to him now. Then, there is another point which I want to bring to notice. This line is about 42 miles in length, nearly twice the length of the other line about which we spoke the other day. There will be thousands of persons thrown out of employment. That is a problem which the Government must seriously think of solving satisfactorily because those persons are not to blame for the action taken by the Government on account of war conditions. Therefore, the responsibility for making a provision for that rests on the Government. That is one point.

Then the second point is this. These lines are being exported somewhere where it is wanted for the sake of war. Their destination is not material for the purpose of the argument which I am going to raise. The Indian Railways are losing so much of their assets. Are we going to get

any compensation for the loss of these assets, because these lines are being taken somewhere to serve war purposes? Who is going to pay? How is the loss going to be credited or debited? That is a very important point and it is a point which the Standing Finance Committee for Railways is the proper body to discuss and tackle with. I will ask the Honourable Member for Railways also to be prepared with a satisfactory explanation on the other point when we meet at the meeting of the Central Advisory Council on the 29th instant. This House will, I believe, finish its work on the 27th. It would be desirable for the Honourable Member in charge of Railways to give us some idea as to the solution he may have in his mind on the two points which I have raised. As regards the question of giving notice, if the dismantling is done as a war measure, the exigencies of war cannot wait for six months. Even if it means a good deal of inconvenience, one has to go through that inconvenience. The war effort is a matter of paramount consideration but the inconvenience caused to the public on account of short notice and the serious dislocation which trade and other avocations will have to undergo on account of short notice are matters which can be properly considered if the question of compensation to those who are going to incur the losses is going to be considered by the Government. I think, from that point of view, that question of short notice is very material. These are the few points to which I wanted to invite the attention of the Honourable Member for Railways and more than that I have nothing to say.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, we are indeed very much obliged to the Honourable Member for Railways for accepting this adjournment motion and the one before this

An Honourable Member: Has he accepted it?

Mr. Muhammad Azhar Ali: I mean, the discussion of it. He did not take any objection to this adjournment motion being discussed in this House. Sir, this is our rare experience. However, we are obliged to him on this occasion. But I find that this policy which has been adopted is not at all a constructive policy but it is a most destructive policy that has ever been adopted by the Government of India, so far as my remembrance goes. Sir, to take so destructive a policy at a time when it is being said every day on the floor of this House that the war is getting closer to the Indian gates, is unfortunate. Sir, adopting such a policy and not taking up such great constructive schemes in hand which ought to save India is rather very anomalous. To say that these lines are not paying now is also anomalous. In my remembrance the lines which were paying, e.g., some of the company lines, in spite of our asking the Government of India year in and year out, have not so far been acquired by the Government of India. Now, if the point is one of profitable lines, then the Government ought to have looked into the views which we were expressing on the floor of the House always that the Government ought to acquire the Bengal and North Western and the Rohilkund and Kumaon Railways. The idea of profitable lines has entered into the head of the Government of India today, although such profitable concerns which were paying very well to the companies have not been taken over by the Government of India! Our objection is that these schemes are in hand which are destructive and which are not

[Mr. Muhammad Azhar Ali.]

constructive at all. Sir, they say that they have a scheme of demolishing several other lines. Now, I would respectfully submit that it would not only be a loss in money but it would also create much unemployment in the country. By this unemployment you think that you will gain something. My own idea is that the nemesis of the cause of this war has come to fall on the very commercial undertaking which the Government of India have—otherwise there is no other Department in the Government except the Railway Department that is so profitable and that has been paying to the Government a very handsome profit. Sir, in this case I think the prayers and the imprecations I should say of the motor drivers have indeed brought this nemesis over a commercial concern in the Government of India.

Sir, these are not matters that should be treated so very lightly, and it may be said that because it is not paying, that you are a juggler. You can produce figures any day you like. We know it very well, that if you want to show that there is a loss, you can show a loss, and if you want to show a profit, you can show a profit any day you like. Sir, I submit that it is very well for the Honourable the Railway Member today to rise and say, "well, these lines are unprofitable". But what will happen to these unprovided people? What will happen to their families? What will happen to this unemployment which will be rife from one end of India to another? Sir, have you decided, before you formulate any scheme, what you are going to do with these unemployed people? Are you going to employ them in the other Departments of the Government of India or not? Sir, that is our great concern, and I would submit that today you may decide one way or you may decide another way, but these are all destructive schemes that you are promulgating in India today. Sir, as Mr. Aney has said, today we are very short of Members who can oppose all these schemes, but please note that the country will remember it as one of the flagrant violations of your economic scheme. With these words, Sir, I resume my seat.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, I will be very brief. I am glad that, after all, the eyes of the Railway Department are now open

Sir Syed Raza Ali: How do you say that?

Maulvi Muhammad Abdul Ghani: from their behaviour here, I see that they are out to practise economy in a Department which is called a business concern. The only thing before us is that the public should not be taken by surprise. Adequate time should be given to them and also to these employees over the line. I know that the actual loss, as pointed out in the Appropriation Accounts for 1938-39, on strategic lines amounted during that year to Rs. 1,82,76,415 and in that very year our liabilities over strategic lines increased by Rs. 37,42,158. Now I shall be glad that our losses on strategic lines will be diminished by a few thousand rupees as the line under discussion is said to form part thereof. There are other lines which are pointed out in the Statement on pp. 45 and 46 of the Railway Administration Report showing that they are unremunerative

and that they are running at a loss,—as, for instance, the Bankura-Damodar River, the Baraset-Bashirhat Light Railway, the Jorhat Railway, the Kalighat-Falta Railway, the Kulasekarapatnam Light Railway, the Trivellore Light Railway, etc., I think that all the lines running at a loss should be brought together and placed before the House. There is no use bringing matter piecemeal. Sir, Honourable Members have suggested that the matter should only be placed before the Advisory Council and the Standing Finance Committee for Railways. I am not satisfied with that expression of opinion. The fact that we have appointed those bodies does not deprive us of our right to see things for ourselves. After they have gone through the proposals, we have every right to go through their recommendations. I think the proposals of all those lines which are to be dismantled because they are running at a loss should be brought before this House. I am thankful to the Honourable Member who has just moved the motion and given us an opportunity of expressing our views in this House in time. I am glad that the Honourable the Railway Member has also given indication that his Department is thinking of bringing a consolidated list either before this House or before certain Committees. If he brings this matter to this House through the Railway Standing Finance Committee, well and good. With these words, I support the adjournment motion.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I have not much to say on this motion. There are two reasons which have been given for dismantling this railway line and the other line on which there was discussion in the House the other day. The first reason is that they are unremunerative and the second is that the rails and the other material are required for war purposes. There is the third reason also which, I think, should have been considered by the Honourable the Railway Member, namely, the convenience of the public.

Now, considering the matter from the point of view of its unremunerative nature, may I ask why is it that these unremunerative railways were allowed to exist so far?

The Honourable Sir Andrew GLOW: They were kept on for the convenience of the public.

Mr. Lalchand Navalrai: So, they were not so unremunerative and were not affecting the Government treasury so much as to scrape them. What I am submitting is this. Why don't you come forward and be frank and say that you are going to dismantle these railway lines and many more, even if they are remunerative, for the purpose of the war? Then, it would be a frank admission and then we may say: We are helpless, let them be dismantled.

The Honourable Sir Andrew GLOW: It may come to that as it did in the last war when a number of remunerative lines were pulled down, but we have not got to that stage yet. And I should like to use all other alternatives before we come to that stage.

Mr. Lalchand Navalrai: Then, I would suggest another thing. The exodus of the Government of India has been curtailed to Simla and the public has also been of the opinion that the Government of India should not go up to Simla. Is the Honourable Member prepared to dismantle the Kalka-Simla Railway and use all the material for war purposes?

The Honourable Sir Andrew Clow: Unfortunately, those rails are not suitable.

Mr. Lalchand Navalrai: They will be very suitable in hilly tracts. There may be some hilly country also where these rails will be required. So, it comes to this, that wherever it touches the Government directly, they will keep that line. Anyway, what I am submitting is this. In considering any railway to be dismantled, the first and foremost consideration should be to see that the public convenience is not very much hampered. From that point of view, as I said, the Kalka-Simla Railway can be dismantled because you have got a very good road also from Kalka to Simla. Your motor cars are running beautifully and, therefore, that should be the first line to be dismantled. From all these points of view, the Government should at least satisfy the Members of the House that these questions will be considered by some Committee or they will be considered in a manner which will satisfy the public.

Maulana Zafar Ali Khan: Sir, the other day when my Honourable friend, Syed Raza Ali, said . . .

An Honourable Member: He is Sir Syed Raza Ali.

Maulana Zafar Ali Khan: The epithet 'Syed' is much greater than 'Sir'.

Sir Syed Raza Ali: I am proud of being called Syed Raza Ali.

Maulana Zafar Ali Khan: The other day he moved his adjournment motion on the closing down of the Chandpur-Bijnor section of the East Indian Railway. That day I spoke and referred in very strong language to the irresponsible character of the Treasury Benches, especially Sir Andrew Clow. I went so far as to suggest facetiously that because Sir Andrew Clow was hampering the war effort and was not helping in its successful prosecution, he ought to be placed under arrest. And, then, of course, he made a reply, and that reply satisfied me. That reply was that he had helped in the pulling down of this line in the interests of the war and for strategic and military reasons. The logic was unanswerable and I had to accept it. Now, my friend, Mr. Abdul Sathar, has placed another motion before the House. It is a similar motion and refers to the proposal to close down a line in Malabar. We have now come to the conclusion that the remunerative character of the railway line or the convenience of the public are not at all the considerations which weigh with the Government. The only consideration with them is the successful prosecution of the war. And if for the successful prosecution of the war it is required, as I think it is required, by the Government, then not one or two or three but any number of lines may be pulled down irrespective of the loss that the move may incur, and I think we cannot object to it. There will be no valid grounds for us to object. We have been so much accustomed to travel by railway that the very idea of our being deprived of a railway line of, say, 30 or 40 miles in length puts us on tenterhooks. We know it perfectly well that there was a time when this railway line was dubbed as the 'donkey' of the anti-Christ—*Khar-i-Dajjal*. Why not dispense with the donkey of the anti-Christ and have done with it!

Let the whole of it be pulled down, let all the railways be dismantled and let us go back to the times when the bullock carts ruled and camels and horses trotted and men travelled on donkeys and also on foot. Let us go back to those times. So far as my views are concerned, I agree that we must have the exigencies of war always before our minds' eyes. Those who read the newspapers carefully and read them between the lines must have read with great perturbation the announcement made by the British Ambassador in America that we have come to our last financial tether. All our gold, all our securities are gone and we are on the point of asking America to give us a loan of thousands of millions dollars. We have come to that stage. Now, when we are in such a dreadful fix and the war is coming closer to us, God knows what will happen tomorrow. It may happen this way. Bulgaria is irrevocable and may come under the heel of Hitler and allow the German Army to cross Bulgaria on its way to Greece.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member is going far away from the motion.

Maulana Zafar Ali Khan: The matter is closely related to the motion now before the House. Supposing that happens and the war comes to Turkey and Turkey being the Ally of Great Britain says, 'I want railway lines, I want so much of iron and steel', then if our Government dismantles many more railway lines in order to supply iron and steel to Turkey, I, as a Muslim, will decidedly say, 'go ahead'. The question before the House is not whether the line is remunerative or unremunerative, the question is not whether the people are put to any inconvenience, the question is a purely military one. As, unfortunately, the Government have lost all ideas of sanity, they will not take us into their confidence. Had they taken the non-officials into their confidence, then the Congress Benches would not have been empty. Had you trusted them, they would have been here. They promised large sums of money and valuable support if only the non-officials were taken into confidence, but the Government did not accept the offer. We are not out to hamper you in the war effort. You simply do not trust us. You do not take Mr. Jinnah into your confidence, you do not take Mr. Aney into your confidence, in fact you do not take any one of us into your confidence. We are gracious enough, we are generous enough to assure you of our own accord that we do not want to hamper you in your war activities. Is it not, therefore, up to you to trust us and appoint a Committee of at least two or three men and tell them that you propose to dismantle such and such a line, for such and such reasons? If for the sake of policy you do not want those reasons to be given out in public, let them remain secret, but at least consult our men. Our case is aptly described by the poet who says:

*"Pakre jatai hain fereshton ke likhe par na hak
Adami koi hamara dam-i-tahrir bhi tha."*

You will require me to translate the verse into English. Well here is the English version of the couplet: "We are being condemned unheard on the one-sided report of the C. I. D. Section of the heavenly host, viz., the angels. We should like to know if there was any one on the spot who held a brief for us and pleaded our cause". No, you do what you like.

Sir Syed Raza Ali: Everything is done *ex parte*.

Maulana Zafar Ali Khan: Our attitude is plain. We will not hamper you. We will not obstruct you. Your attitude ought to be a sympathetic attitude, a sane attitude, the attitude of men who do not live in the transcendental world. Come down from the transcendental heights into dimensional space and listen to what we have got to say. The time will come, when you shall listen. In fact the time has come. Only the other day the Honourable Member for Labour in the British Cabinet announced that henceforward all Indian seamen will be treated like men, and will no longer be called lascars. He also declared that 200 or 300 workmen will be invited from India to go to England to receive training and get the same scale of pay as the European workmen of similar status there.

Mr. M. S. Aney: Not the same scale of pay.

Maulana Zafar Ali Khan: But they will have the same scale of pay in the near future. I think that time is coming. Let that time approach faster. With these words, I support the motion for adjournment.

I do hope that in view of the commitments of the people of Malabar in regard to the line under discussion at least a few months grace would be given to them. Then you can go on pulling down as many lines as you like.

Mr. B. M. Staig (Financial Commissioner, Railways): Sir, the Honourable Member for Railways has already dealt with most of the points raised in the course of the debate in the speech which he has already made. There are one or two matters in regard to which some apprehensions have been expressed with which I should like very briefly to deal. One Honourable Member referred to the possibility of serious unemployment arising. On occasions when the curtailment of our railway activities tends to throw staff out of work, we do our best to reabsorb them in other railway duties. I can assure the House that we shall do our best on this particular occasion to see that the hardship produced by the closing down of this line is reduced to the minimum. In regard to hardships over which the railways have no control, I can only say that the closing down of this line is being carried out in consultation with the Madras Government. Allusion has been made in the course of the debate to motor transport in that area and it is possible that some of the employees or persons affected may be absorbed in that industry should the removal of the railway lead to its expansion. We have taken up with the Madras Government the question of whether at the end of the war, this line should be replaced. Their reply will be considered before a decision is arrived at in this matter.

One Honourable Member enquired what were the financial arrangements in connection with the closing down of this line. We shall receive the estimated value of the materials being made over and the cost of dismantlement. These questions will take some time to settle. But the general settlement will proceed on that principle. His Majesty's Government will pay through the Supply Department.

In conclusion, I wish to say that we have examined with the greatest care the possibility of meeting these very urgent requirements without dismantling of existing lines. We have examined our own relaying programme and we shall have to make very considerable reductions in connection with it with a view to the efficient prosecution of the war. But the measures taken by way of postponement of relaying are not enough. Nor is an adequate supply of new rails likely to be obtainable. Those factories which produce rails have had their capacity very seriously strained, as can readily be appreciated, by demands thrown upon them in other connections. Therefore, Sir, taking into account all economic considerations and the grave urgency of the requirements we have arrived at the conclusion that this is the most economical and efficacious way of dealing with the demand.

Sir Syed Raza Ali: May I ask what the productive capacity of Tata's is and whether full use has been made of that capacity; and also whether there are any other firms that manufacture rails and if the best use has been made of them?

The Honourable Sir Andrew Clow: Sir, I am sorry my Honourable friend, Sir Homi Mody, is not in this House; he would have been able to answer that question much better than I can. But he assured me the other day that Tata's are working to full capacity. There is no other firm at the moment in a position to produce rails.

Mr. H. A. Sathar H. Essak Sait: Sir, very little remains for me to say in reply to the debate. I am thankful to my Honourable friend,—and I should have expressed it in the first place,—for allowing us to discuss this motion and not taking objection to it. This has served a very useful purpose, particularly the answer of my Honourable friend, Mr. Staig. We have got two very good assurances from him. The first is with regard to employing those who are sure to be thrown out of employment, and we are grateful for that assurance. The second is with regard to the re-establishment of this line after the war. Though this is not an assurance, what he has said makes us hope that something will be done, and that we can have some hope for the future. But with reference to the argument of my Honourable friend, Sir Andrew Clow, as regards this line not being sufficiently remunerative or the profits going down and that sort of thing, I can give him good suggestions as to how it can be made remunerative, but all that will be wasted because of the bigger argument and the most important argument which weighs with him and which weighs with me, i.e., the needs of the war. Therefore, it is unnecessary to prove to him how this line can be made remunerative or how the income can be improved. That being the case, I do not think I will be justified in pressing this motion, and I beg leave of the House to withdraw it.

The motion was, by leave of the Assembly, withdrawn.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 27th November, 1940.

LEGISLATIVE ASSEMBLY.

Wednesday, 27th November 1940.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

POSTS OFFERED TO THE GOVERNMENT OF INDIA SECRETARIAT ASSISTANTS IN THE INCOME-TAX SERVICE, CLASS II.

†261. *Maulvi Syed Murtaza Sahib Bahadur: Will the Honourable the Home Member please state:

- (a) whether it is a fact that the Government of India in the Home Department issued orders last year to offer one post every year in the Income-tax Service class II, to the Assistants in the Secretariat Departments;
- (b) whether, in the rules governing this appointment, Government have ordered that as regards communal proportions the rules in force for recruitment to the appointments in question will apply;
- (c) what is the interpretation that Government put on the orders referred to in part (b) above;
- (d) whether Government propose to apply the orders contained in the Home Department Resolution No. F. 14/17/-B./38-Esta., dated the 4th July 1934, to these appointments;
- (e) if the Government of India propose to apply the principle of communal representation to these appointments, whether these will be governed by the memorandum of supplementary instructions connected with the Resolution referred to above;
- (f) if the answer to part (e) above be in the affirmative, whether Government in making these appointments, propose to observe the order prescribed in the model roster as embodied in clause (7) of the Memorandum of Supplementary Instructions referred to above; if not, why not;
- (g) whether last year's appointment in the Income-tax Service under this scheme was offered to a non-Muslim; and
- (h) if the answer to part (g) above be in the affirmative, whether Government, in observance of the standard communal roster which generally runs from year to year, propose to offer the next appointment to a suitable and duly qualified Muslim; if not, why not?

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

The Honourable Sir Reginald Maxwell: (a) and (b). Yes.

(c) to (f). The Income-tax Service, Class II, is a locally recruited service with different percentages of reservation for the minority communities in the several recruitment areas. The procedure for making selection from the Assistants in the Government of India Secretariat is that the best candidate is selected every year and the appointment is then accounted for in the roster for the area to which the selected candidate is posted. The rules regarding communal representation in the service are thus observed.

(g) Yes.

(h) As will appear from the reply to parts (c) to (f) of the question, the best candidate will be selected for the next vacancy.

CONFIDENTIAL REPORTS OF THE MINISTERIAL STAFF OF THE GOVERNMENT OF INDIA.

†262. *Maulvi Syed Murtuza Sahib Bahadur: Will the Honourable the Home Member be pleased to state:

- whether it is a fact that the ministerial staff of the Government of India are confidentially reported on every year;
- whether it is a fact that, prior to about the year 1935, the staff were shown their confidential reports;
- whether after about the year 1935, they are not shown their annual confidential reports;
- if the answer to parts (b) and (c) above be in the affirmative, what has necessitated the departure from the old practice;
- whether the substance of an adverse report, if any, is communicated to the person concerned;
- if so, why a good report is not shown to him;
- whether Indian Civil Service, Indian Army, Indian Police, Indian Medical Service, and other officers are shown their annual confidential reports;
- if so, what grounds exist for a departure from this practice in the case of the ministerial staff; and
- whether Government are prepared to reconsider the question?

The Honourable Sir Reginald Maxwell: (a) In some Departments confidential reports are made annually and in others half-yearly.

(b) and (c). The practice was not uniform in all Departments. In some Departments confidential reports used to be shown to the persons concerned but this practice was discontinued with effect from 1936.

(d) The practice was abandoned because it was considered that reports tend to become stereotyped and colourless when the reporting officer knows that they will be shown to the persons concerned.

(e), (f) and (g). As a rule confidential reports on civil officers and military officers in permanent civil employ are not shown to them, but remediable defects are communicated to the officers concerned so that they may rectify them. No similar reason exists for communicating a good report.

(h) and (i). The position in respect of the ministerial staff is similar to that of civil officers. Government do not propose to reconsider the question.

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

BURGLARIES AND DACOITIES IN NEW DELHI.

†263. *Pandit Lakshmi Kanta Maitra: (a) Will the Honourable the Home Member please state the number of thefts, burglaries and dacoities (excluding cycle thefts) committed in New Delhi during the last three months?

(b) Are Government aware that the victims of these crimes mostly belong to the clerical and the subordinate staff of the Government of India?

(c) Are Government aware that most of these crimes are perpetrated in day time when the male members of the houses are absent on duty either in office or in schools and colleges?

(d) Is it a fact that in Barakhamba, New Delhi, the burglars entered a house and decamped with the booty after murdering the servant who was left in charge of the house?

(e) Will Government state what is the number of policemen employed daily on patrol duty in the areas in New Delhi and the names of the roads and squares, which are inhabited by the clerical and subordinate staff of the Government of India and which are so patrolled both by day and by night to prevent crimes?

(f) Will Government state in how many cases during the last three months (i) the crimes have been detected by the police, and (ii) the criminals have been brought to book?

(g) Are Government aware that the number of crimes has increased in New Delhi since the appointment of the present Senior Superintendent of Police?

(h) Will Government state what steps do they propose to take to reduce these crimes and remove the feeling of panic and insecurity which is daily growing in the minds of the Government employees?

The Honourable Sir Reginald Maxwell: (a) Theft (excluding cycle thefts) 63, burglaries 42, dacoities none.

(b) Yes.

(c) The majority of these offences have been committed by day, often during the absence of the occupants of the premises.

(d) Yes.

(e) The patrol staff for the area included in Reading Road, Panch Kuin Road, Baird Road, Irwin Road and Park Street (the area inhabited mainly by the clerical and subordinate staff of the Government of India offices) is one Head Constable and eight Foot Constables by day and two Head Constables and 24 Foot Constables by night.

A statement is laid on the table giving the names of the roads and squares included in these areas.

(f) A statement is laid on the table.

(g) There is not the slightest foundation for the insinuation which appears to lie behind this question. The rise in crime is by no means peculiar to New Delhi. So far indeed as New Delhi is concerned, a rise in the

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

figures was to be expected, corresponding to the increase in the population, and following the decision to take fewer clerks with the Government of India to Simla in the summer.

I may add that the present Senior Superintendent has been in the appointment only since the beginning of October last, whereas the increase in crime has been progressive from the beginning of 1938 onwards.

(b) The Delhi Administration are fully alive to the importance of the subject and will take all possible measures to lower the crime level. In the meantime, I do not believe that there is anything that can be called a feeling of panic and insecurity, and certainly there is no ground for such a feeling.

Statement.

I. Roads.—Park Street, Havelock Road, Scindia Road, Peshwa Road, Baker Street, Panchkuin Road, Irwin Road, Baird Road, Ibbetson Road, Maude Road, Reading Road, Lutyens Road, Market Road, and Doctors Lane.

H. Squares.—Lake Square, Hastings Square, Outram Square, Clive Square, Dalhousie Square, Nicholson Square, Roberts Square, Cornwallis Square, Lawrence Square, Taylor Square, Wilson Square, Lumsden Square, Edwards Square, Joffre Square, Market Square, Pershing Square, Riaz Square, Haig Square, Foch Square, Telegraph Square, French Square, Albert Square, Tughlak Place, Sikandra Place, Ranjit Place and Shivaji Place, Sumru Place, Rama Place, Ganesh Place, Raja Bazar Square, Baird Square.

Statement.

	Cases reported.	Persons arrested.	Cases worked out.
Burglary	42	14	16
Theft	63	20	15

(The above does not include cycle theft.)

TRAINING OF MARKSMANSHIP BY THE NAGPUR UNIVERSITY.

264. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state:

(a) if Government were informed by the Nagpur University that it had made the training of marksmanship compulsory for its students and that it undertook to defray all expenses for giving such training; and

(b) whether the permission of the Government of India to give such training is necessary; if so, whether it was given; if not, what the reasons for refusing such permission were?

The Honourable Sir Reginald Maxwell: (a) The Government of India have received no communication on the subject from the Nagpur University.

(b) Under the conditions in which functions under the Arms Act have been entrusted to Provincial Governments applications for licences for rifle

clubs can only be sanctioned by the Government of India. The Government of India, however, do not ordinarily grant licences to rifle clubs outside recognized bodies such as University Training Corps. In view of the reply given to part (a), the other parts of the question do not arise.

HIGH SCHOOL VOLUNTEER CORPS AND RIFLE CLUBS.

265. *Mr. Govind V. Deshmukh: Will the Defence Secretary please state:

(a) if Government favour the idea of having (i) High School Volunteer Corps; and (ii) Rifle Clubs of such High Schools; in case they do not favour either or both, what their reasons for doing so are; and

(b) if Government are prepared to give any help to these High School Volunteer Corps and Rifle Clubs, if started; in case they are, what the nature and extent of such help would be?

Mr. C. M. G. Ogilvie: (a) (i) and (b). It is not understood what precisely the Honourable Member means by 'Volunteer Corps'. Government assume that the reference is to cadet companies. Any applications received for the formation of such companies would be considered on their merits.

(a) (ii). It is not the policy of Government to grant licences to Rifle Clubs in educational institutions except in the case of recognised forces such as the University Training Corps.

Mr. Govind V. Deshmukh: What is the answer to part (b)?

Mr. C. M. G. Ogilvie: The answer was to part (a) (i) & (b).

QUOTA OF MUSLEM CANDIDATES AT THE FLYING TRAINING SCHOOLS.

266. *Shaikh Rafuuddin Ahmad Siddique: (a) Will the Defence Secretary please state where the flying training school was first opened?

(b) Was it transferred first to Lahore and then to Ambala? If so why?

(c) How many students were admitted in these schools, and how many are Muslims?

(d) If the quota of Muslims is not twenty-five per cent, what is the reason for the deficiency?

(e) Is it not a fact that the candidates for the Flying Elementary School Lahore, were not expected to know flying?

Mr. C. M. G. Ogilvie: (a) The first Flying Training School for Air Force pupil pilots was opened at Risalpur.

(b) The Risalpur school is now being closed down and No. 1 Flying Training School has been opened at Ambala. A portion of the instruction staff and training equipment was transferred from Risalpur. In addition the Initial Training School (Officers) has been opened at Lahore. These places were found to be more suitable than Risalpur.

(c) 42 Indian Officers were admitted for training at Risalpur, and of these nine were Muslims, and 74 Indian Officers have so far been admitted to the Initial Training School (Officers) at Lahore; 15 were Muslims.

(d) No communal quota is laid down for commissions or enrolment in the Indian Air Forces. The basis of selection is suitability for flying or technical training.

(e) Candidates for the Initial Training School (Officers) at Lahore are expected to have some knowledge of elementary flying; they receive instruction at Government expense before entering the School.

Mr. M. S. Aney: With reference to part (c), may I ask how many are Hindus?

Mr. C. M. G. Ogilvie: I could not say off hand, but I should say that the great majority are Hindus.

Mr. Lalchand Navalrai: What are the prospects of these students who have this elementary knowledge in this flying club?

Mr. C. M. G. Ogilvie: If they develop into good pilots, and show that they have flying sense and so on, their prospects are excellent.

Mr. Lalchand Navalrai: Have any been able to get such prospects till now?

Mr. C. M. G. Ogilvie: I do not understand what prospects the Honourable Member means.

Mr. Lalchand Navalrai: Whether any of them have become pilots?

Mr. C. M. G. Ogilvie: The first batch of officers is now actually under training at Lahore and a few have fallen by the way, but not a large proportion.

Dr. Sir Ziauddin Ahmad: With reference to part (d), is it a fact that every candidate selected knew something of flying or only some of them?

Mr. C. M. G. Ogilvie: I believe that every one knew something of flying—at least all candidates for initial training at the officers' school. It is possible that some of those originally selected for training did not.

Mr. Muhammad Azhar Ali: Sir, I rise to a point of order

Mr. President (The Honourable Sir Abdur Rahim): What is the point of order? Is it with reference to this question?

Mr. Muhammad Azhar Ali: With reference to the short notice question.

Mr. President (The Honourable Sir Abdur Rahim): There can be no point of order with regard to any order passed by the Chair disallowing a question.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to unstarred question No. 18 asked by Mr. Muhammad Azhar Ali on the 15th February, 1940.

WORKINGS OF THE TRAINS BETWEEN HARDWAR AND RIKHIKESH ON THE EAST INDIAN RAILWAY.

- (a) 3 trains in each direction.
- (b) The average number of passengers of the two years before the reduction in fares was 1,16,960, and after the reduction was 1,62,015.
- (c) The average revenue of the two years before the reduction was Rs. 38,012 and after the reduction Rs. 30,068.
- (d) Separate figures of maintenance charges for the Hardwar-Rikhikesh section are not available.

NOTE:—For the purposes of this comparison, the following years have been taken:—

Before the reduction—

1-7-1934 to 30-6-1935.

1-7-1935 to 30-6-1936.

After the reduction—

1-7-1936 to 30-6-1937.

1-7-1938 to 30-6-1939.

The figures for the year 1-7-1937 to 30-6-1938 were abnormal owing to the Kumbh Mela and have been excluded.

Information promised in reply to starred question No. 268 asked by Mr. Akhil Chandra Datta on the 5th March, 1940.

MODEL HOUSING SCHEME IN THE ALLAHABAD CANTONMENT.

- (a) The answer to the first part is in the affirmative and to the second in the negative.
- (b) Government are informed that every effort was made by the Cantonment Board, Allahabad, to dispose of the land in separate plots, but as no one came forward to bid at the various auctions, the whole area was leased by auction to the highest bidder who happened to be a member of the Board.
- (c) No.
- (d) The scheme was adhered to except for the conversion of two quarters into shops. The Board instituted an inquiry into the matter as a result of which they were satisfied that the alterations made by the lessee and use of these quarters as shops, though unauthorised, were an improvement from the hygienic point of view and provided amenities for the tenants of the quarters.
- (e) Government are inclined to agree with the Board and propose to inform them that the unauthorised structures may be condoned.

Information promised in reply to starred question No. 481, asked by Mr. Lalchand Navalrai on the 20th March 1940.

PROVISION OF RENT-FREE QUARTERS TO BLOCK MAINTAINERS ON THE NORTH WESTERN RAILWAY.

- (a) Yes.
- (b) They were allowed the privilege of rent-free quarters provided they had enjoyed the same in a substantive capacity prior to 1st August 1928.
- (c) No. The practice on the various Divisions in regard to the grant of rent-free quarters to Block Maintainers promoted from Block Mistries varied until the issue

of the General Manager's letter of 27th January, 1936, alluded to in part (e) of the question.

(d) Yes; as the matter was not referred to General Manager till late in 1935.

(e) Yes.

(f) and (g). Yes, because on further examination of the question by the General Manager it was held that as the Block Mistries did not enjoy the privilege of house allowance in lieu of free quarters, they were, under the rules, not entitled to rent-free quarters on promotion to a subordinate post.

(h) Orders have been issued restoring the decision of 1936.

Information promised in reply to unstarred question No. 19, asked by Dr. P. N. Banerjee on the 5th November, 1940.

SENIORITY OF CERTAIN SUBORDINATE STAFF ON THE EAST INDIAN RAILWAY.

(a) The names in question are shown in the order of seniority in the statement attached.

(b) The seniority list prepared under the rules in question was published in December, 1936 and relevant extracts therefrom were sent to each of the staff on 23rd January 1937.

Statement.

1. Mr. R. W. Newson.
2. Mr. H. V. Blake.
3. Mr. M. M. Sanyal.
4. Mr. T. W. Titman.
5. Mr. B. M. Kearney.
6. Mr. R. P. Munshi.
7. Mr. W. J. Davies.
8. Mr. D. M. Gupta.
9. Mr. N. Mukherjee.
10. Mr. P. N. Ghosh.
11. Mr. H. N. Tankha.

Information promised in reply to parts (b) to (d) of starred question No. 34 asked by Khan Bahadur Shaikh Fazl-i-Haq Piracha on the 11th November, 1940.

PENSIONS OR GRATUITIES GRANTED TO GOVERNMENT EMPLOYEES AT THE KAMARAN QUARANTINE STATION.

(b) Twenty employees of the Kamaran Quarantine Station and five employees of the Civil Administration were granted gratuities. One employee of the Kamaran Quarantine Station was granted an invalid pension.

(c) No.

(d) Eight employees of the Kamaran Quarantine Station and one employee of the Civil Administration. As the case of each employee has been subjected to careful consideration on merits before the grant or refusal of pension or gratuity, Government do not propose to re-open any case.

Information promised in reply to starred question No. 105, asked by Shaikh Rafiuddin Ahmad Siddiquee, on the 16th November, 1940.

IMPROVEMENT IN THE INDIAN CATERING SYSTEM OF THE ASSAM BENGAL RAILWAY.

(a) Yes.

(b) The change consists of passengers in trains being served aerated waters and ice, etc., by vendors at stations instead of by travelling vendors. Among the improvements are that all aerated waters for sale will be supplied from one source and a

high standard of quality will be ensured, while space is set free for passengers on trains. A catering inspector with medical qualifications is to inspect and report on the conditions of Indian refreshment rooms and stalls, and it has been arranged to provide such rooms and stalls at additional stations.

Information promised in reply to unstarred question No. 81 asked by Bhai Parma Nand on the 16th November, 1940.

POLICY OBSERVED BY THE GENERAL MANAGER, EAST INDIAN RAILWAY, IN THE MATTER OF CATERING CONTRACTS.

(a) The General Manager distributed a note but the quotation given in the Honourable Member's question is not accurate.

(b) No. The contract was given prior to March, 1940. As regards the second part, I understand the change was in pursuance of the policy of avoiding the sub-division of contracts on a communal basis.

(c) No contracts have been given to Messrs. Ballabdas Ishwardass, since March, 1940. The second part does not, therefore, arise.

(d) Yes; as regards the second part, the Administration decided to employ one contractor to cater for all communities, and a Muslim contractor was chosen. He has a staff of Hindu servants to cater for Hindu students.

Information promised in reply to starred questions Nos. 141, 142, 143, 144, 145, 146, 147, 148, 150, 151, 152 and 153 asked by Haji Chaudhury Muhammad Ismail Khan on the 18th November, 1940.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 141.—(a)—(c). Information in regard to permanent non-gazetted staff is given in the tables below. Class I and class II posts have been excluded as the orders regarding communal representation do not apply to them.

(a) Strength of permanent non-gazetted staff in each grade on 1st April, 1933.

	Total.	Hindu.	Muslim.	Indian Christian.	Sikh.	Anglo-Indian.	Other.
Clerical Staff	33	24	4	4	1	..	..
Other Staff	1	1	..	..	..	..	..
Laboratory Staff	9	2	1	5	..	..	..
Farm Staff	12	8	2	1	..	1	..
Engineering Staff	13	13	..	..	..	..	..
Medical Staff	3	2	..	1	..	..	..
Veterinary Staff	35	9	16	7	1	1	1
Total	108	59	23	18	2	2	2

No Imperial Council of Agricultural Research Schemes were in operation at the Institute before 1936.

(b) Permanent appointments made from year to year since 1934.

Year.	Hindu.	Muslim.	Indian Christian.	Sikh.	Anglo-Indian.	Others.
1934	1	..	..	..	..	..
1935	1	..	..	..	..	1
1936	3	1	1	..	..	..
1937	2	..	..	..	..	..
1938	4	2	..	..	..	..
1939	5	3	1	..	..	1
Total	16	6	2	..	..	2

(c) Proportion of Muslims in each class of non-gazetted permanent staff.

	1934	1935	1936	1937	1938	1939
Clerical staff	16.6%	17.1%	20.5%	15.4%	13.9%	18.4%
Other staff	50%	50%	50%	50%	..	50%
Laboratory staff	11.1%	11.1%	Nil	Nil	5.6%	12.5%
Farm staff	23.1%	16.7%	9.1%	18.2%	20%	20%
Medical staff	Nil	Nil	Nil	Nil	Nil	Nil
Engineering staff	Nil	Nil	7.1%	7.1%	7.1%	8.3%
Veterinary staff	41.2%	42.4%	46.7%	46.7%	48.3%	44.8%

(d) No.

(e) Yes.

(f) The percentage of Muslims taken as a whole increased from 21.7 in 1934 to 24.6 in January 1940, excluding 75 per cent. in Imperial Council of Agricultural Research Schemes.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 142.—(a) and (b). The information is given in the table below:—

	1934		1935		1936		1937		1938		1939	
	Total vacancies.	Filled by Muslims.	Total vacancies.	Filled by Muslims.	Total vacancies.	Filled by Muslims.	Total vacancies.	Filled by Muslims.	Total vacancies.	Filled by Muslims.	Total vacancies.	Filled by Muslims.
Clerical staff	3	1	Nil	Nil	4	1	4	..	3	1	8	5
Other staff	1	1	Nil	Nil	Nil	Nil	Nil	Nil	1	..	Nil	Nil
Engineering staff	Nil	Nil	3	..	1	1	Nil	Nil	1	..	Nil	Nil
Medical staff	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	2	..	Nil	Nil
Farm staff	Nil	Nil	4	2	8	2	4	2	3	1	2	1
Laboratory staff	Nil	Nil	2	..	1	..	3	1	6	2	8	2
Veterinary staff	4	..	3	2	2	..	2	..	3	2	7	1
Total	8	2	12	4	16	4	13	3	19	6	25	9

(c) The Director follows the orders issued by the Government of India. The order of rotation followed is in accordance with the communal roster prescribed in paragraph 7 of the Memorandum of Supplementary Instructions connected with the orders contained in the Home Department Resolution No. F. 14/17-B/33-Est., dated the 4th July 1934, copy of which is available in the library of the House.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 143.—(a) Two lower temporary posts carrying pay of Rs. 30 and Rs. 25 respectively have been classified as superior posts.

(b) No.

(c) Does not arise.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 144.—(a) No.

(b) and (d). Seven but all were recruited before 1930.

(c) None.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 145.—(a) and (b). Excluding technical posts, one Hindu, the most senior ministerial officer with twenty years satisfactory service and certain essential experience, was appointed to a gazetted post.

(c) No.

COMMUNAL COMPOSITION OF THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 146.—The time and labour involved in the preparation of the required statement will not be commensurate with the value of the information when compiled.

MUSLIM DRESSERS PROMOTED AT LABORATORY ASSISTANTS IN THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 147.—(a) Two since 1934.

(b) One.

(c) In making these promotions due consideration was paid to seniority and fitness.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 148.—(a) and (b). One post of Deputy Ranger and 2 of Technical Assistant are vacant. These posts will be filled with due regard to the existing orders regarding communal representation.

PAUCITY OF MUSLIMS IN THE STAFF OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 150.—(a) The present percentage of Muslims in each class of service, including Imperial Council of Agricultural Research Schemes is:—

Clerical staff	19.6
Other staff	50.0
Laboratory staff	21.4
Technical Assistants	30.0
Farm staff	33.3
Engineering staff	12.5
Veterinary staff	44.4

(b) The orders contained in the Home Department resolution of the 4th July 1934 apply only to direct recruitment, and no percentage is prescribed for Muslims in a Department as a whole.

(c) and (d). Out of 8 Technical Assistants in the Animal Nutrition Section, 2 are Muslims. The recruitment is in accordance with the communal representation rules.

MUSLIMS IN THE POULTRY RESEARCH SECTION OF THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 151.—(a) 2 posts have been filled, one of which is held by a Muslim.

(b) The number of non-gazetted officers in the whole Institute drawing Rs. 100 and above is 43. Of these 9 are Muslims including 5 permanent officers.

PERMANENT MUSLIM VETERINARY INSPECTORS IN THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 152.—(a) In 1934 there were eleven permanent Veterinary Inspectors and three are eleven now. No permanent Veterinary Inspector is a Muslim.

(b) One Veterinary Inspector was promoted but he was not a Muslim.

(c) The duties of Veterinary Inspectors are to assist the Superior Officers in dealing with problems pertaining to Animal Husbandry and research.

MUSLIM CLERKS IN THE IMPERIAL VETERINARY RESEARCH INSTITUTE.

No. 153.—(a) 46 of whom 9 are Muslims.

(b) Government have no reason to believe that Muslims are treated unfairly either in the matter of appointment to vacancies filled by direct recruitment or in the matter of promotion. Government are not prepared to appoint a Commission but are always willing to investigate specific complaints.

Information promised in reply to unstarred question No. 86 asked by Mr. Muhammad Ashar Ali on the 18th November, 1940.

APPLICATIONS FOR SANCTION OF THE GOVERNOR GENERAL UNDER SECTION 270 OF THE GOVERNMENT OF INDIA ACT, 1935.

(a) 14.

(b) Consent was given in 9 cases and refused in 4 cases. One case is under consideration.

MOTIONS FOR ADJOURNMENT.

Mr. President (The Honourable Sir Abdur Rahim): I have got notices for a few motions for adjournment. The first* is in the name of Sardar Sant Singh.

(The Honourable Member was not present.)

ALLEGED EMBEZZLEMENT IN THE MULTAN DIVISION OF THE NORTH WESTERN RAILWAY.

Mr. President (The Honourable Sir Abdur Rahim): The second is in the name of Dr. Sir Ziauddin Ahmad: he wishes to discuss a definite matter of urgent public importance, namely:

"The failure of the Government of India in not taking effective steps to recover ten lakhs of rupees embezzled in the Multan Division of the North Western Railway."

When did this embezzlement take place?

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions, Muhammadan Rural): The embezzlement has been going on for some time; but attention was first drawn to it.

Mr. President (The Honourable Sir Abdur Rahim): How long has it been going on?

Dr. Sir Ziauddin Ahmad: Inquiry will show how long it has been going on, but public attention was drawn to it by an article published in the Eastern Times and that article was very indefinite; then I wanted to make some further inquiries about it, and the moment I got

Mr. President (The Honourable Sir Abdur Rahim): When was this article published?

Dr. Sir Ziauddin Ahmad: The article was published on the 8th November, 1940. But the article was rather indefinite, and the moment I saw the refusal of the Government to give the information in answer to Sardar Sant Singh's starred question No. 215 (a) of the 21st November, 1940, relating to the number of various communities proceeded against under the Defence of India Act.

received this information I wanted to make further inquiries, and the moment I got further facts immediately I tabled the motion of adjournment. I did not waste a single day.

Mr. President (The Honourable Sir Abdur Rahim): When did the Honourable Member satisfy himself of the correctness of his facts?

Dr. Sir Ziauddin Ahmad: On the day I tabled the motion. It was tabled some days ago.

Mr. President (The Honourable Sir Abdur Rahim): And the Honourable Member says that no steps have been taken with reference to this embezzlement?

Dr. Sir Ziauddin Ahmad: My information is that three persons were dismissed. This was known beforehand in June, but we did not know why they were dismissed: then came this article in the *Eastern Times* in which there was some mention of the details of this embezzlement, but it was of an indefinite nature and then I tried to find out more facts; and when I got some facts I tabled this motion.

Mr. President (The Honourable Sir Abdur Rahim): Is objection taken?

The Honourable Sir Andrew Clow (Member for Railways and Communications): Yes, Sir. I object to this motion in any case; but I submit it is not either definite or urgent, I cannot see what is definite about it: I am not aware of any ten lakhs of rupees that I can recover: if I were aware of that I should certainly hasten to do so. There have been certain irregularities on this division; and there are two entirely distinct cases, in one of which Government have already taken action against certain officers; the other is under investigation. I am not clear what my Honourable friend is referring to; and, in consequence, I submit that it is not a definite matter of urgent public importance.

Dr. Sir Ziauddin Ahmad: I will describe details.

Mr. President (The Honourable Sir Abdur Rahim): I think the objection is well-founded: it does not appear to be definite.

Dr. Sir Ziauddin Ahmad: May I mention those two definite cases now? I have got them before me. I could not put all of them in the wording of the motion. The cases are very definite cases.

Mr. President (The Honourable Sir Abdur Rahim): Yes.

Dr. Sir Ziauddin Ahmad: There was a ballast, which was sold to one contractor for Rs. 200, and that contractor re-sold it for Rs. 20,000. There is another definite charge. A certain ballast was kept in a place, but instead of using it for Railways it was sold to the roads by the contractor. Then the third is that materials were drawn from the stores

for building a certain house, and that material was sufficient to build two new houses. I have got definite instances before me.

Mr. President (The Honourable Sir Abdur Rahim): In my opinion this matter is not definite nor

Dr. Sir Ziauddin Ahmad: And not of public importance?

Mr. President (The Honourable Sir Abdur Rahim): It is neither definite nor urgent within the meaning of the rule. Therefore, the motion is ruled out.

RUSTICATION OF MR. M. FAROQUI AND MR. D. SANGHI FROM THE UNIVERSITY OF DELHI.

Mr. President (The Honourable Sir Abdur Rahim): Mr. Muhammad Azhar Ali has given notice of a motion of adjournment to discuss a matter of specific, urgent and public importance, namely:

"The rustication from the University of Delhi for one year of Mr. M. Farouqi and Mr. D. Sanghi, President and General Secretary respectively of the Delhi Provincial Students' Federation and the forfeiture of their degrees of the Master of Arts and the Bachelor of Arts respectively.

I should like to hear if there is any objection to it because I quite understand that the University of Delhi is an autonomous body, but the difficulty I find is that we have held all along that a motion can be disallowed only by the Governor General on the ground that it is not a matter for the Governor General in Council.

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): Sir, I object to this motion on two grounds, first, the facts are not entirely as stated, and, secondly

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is objecting to this motion?

Mr. J. D. Tyson: Yes, Sir. I object to this on two grounds; the first is that the facts are not entirely as have appeared in the newspapers and as stated in the motion, and secondly, because

Mr. President (The Honourable Sir Abdur Rahim): Are they substantially correct?

Mr. J. D. Tyson: Well, the fact that two students have been rusticated is correct, but that their degrees have been forfeited is not correct.

Mr. President (The Honourable Sir Abdur Rahim): That is not correct?

Mr. J. D. Tyaon: No, Sir. Then the order was passed by a competent officer of an autonomous body. That is the second ground.

Mr. President (The Honourable Sir Abdur Rahim): As objection has been taken, those who are in favour of leave being granted will rise in their places.

(Less than 25 Members rose in their seats.)

As less than 25 Members are in support of leave being granted, leave is refused.

BANNING BY THE GOVERNMENT OF BENGAL PUBLICATION OF NEWS OF HUNGER STRIKES IN JAIL, ETC.

Mr. President (The Honourable Sir Abdur Rahim): Dr. P. N. Banerjee has given notice of a motion of adjournment to discuss a definite matter of urgent public importance, namely, the issue by the Government of Bengal of an order under the Defence of India Rules banning publication within the province of news of hunger strikes in jail or of any procession, meeting or demonstration in that connection. I suppose this order was passed in accordance with the ordinary administration of the law, is it not?

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): The Defence of India is a central subject and the Provincial Government

Mr. President (The Honourable Sir Abdur Rahim): But I suppose it is for the executive of any Provincial Government to administer the law, is it not? The administration of the law is in the hands of the local authorities, is it not?

Dr. P. N. Banerjee: Under the control of the Government of India.

Mr. President (The Honourable Sir Abdur Rahim): Supposing an order is passed by a Magistrate in Delhi in the ordinary administration of the law, is it liable to be reviewed by this House?

Mr. M. S. Aney (Berar: Non-Muhammadan): An exception is provided for it. If a judicial order is passed, it stands on a different footing altogether.

Mr. President (The Honourable Sir Abdur Rahim): Even if an executive order is passed in accordance with the law?

Mr. M. S. Aney: If it is under the control of the Central Government, then this House is perfectly justified in taking cognisance of it.

Mr. President (The Honourable Sir Abdur Rahim): There is a ruling of mine with reference to a certain order passed under section 144. This is what I said:

"It is a well-established parliamentary rule that an order passed in the ordinary administration of the law, whether by a judicial authority or by a Magistrate or by any other lawfully constituted authority, cannot be the subject of an adjournment motion."

This ruling is in accordance with the parliamentary practice.

Dr. P. N. Banerjee: This order is under rule 21 of the Defence of India Rules.

Mr. President (The Honourable Sir Abdur Rahim): The Bengal Government is authorised to administer it.

Dr. P. N. Banerjee: But subject to control by the Central Government.

Mr. President (The Honourable Sir Abdur Rahim): That I do not know. Can you appeal? Is there an appeal to the Central Government?

Mr. M. S. Aney: No appeal.

Mr. President (The Honourable Sir Abdur Rahim): This motion must be disallowed as the order in question was passed by the Government of Bengal in the course of ordinary administration of the law.

ELECTION OF A MEMBER FOR THE GOVERNING BODY OF THE INDIAN RESEARCH FUND ASSOCIATION.

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that Dr. P. N. Banerjee has been elected to the Governing Body of the Indian Research Fund Association.

ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE DEPARTMENT OF SUPPLY.

Mr. President (The Honourable Sir Abdur Rahim): I have also to inform the Assembly that upto 12 Noon on Friday, the 22nd November, 1940, the time fixed for receiving nominations for the Standing Committee for the Department of Supply, five nominations were received. Subsequently two members withdrew their candidature. As the number of remaining candidates is equal to the number of vacancies, I declare the following to be duly elected:

1. Sir Abdul Halim Ghuznavi,
2. Pandit Nilakantha Das, and
3. Dr. Sir Ziauddin Ahmad.

STATEMENT LAID ON THE TABLE.

LOWEST TENDERS NOT ACCEPTED BY THE HIGH COMMISSIONER FOR INDIA IN PURCHASING STORES FOR THE GOVERNMENT OF 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 all cases in which the lowest tenders have not been accepted by him in purchasing stores for the Government of India during the half-year ended the 30th June, 1940:

HIGH COMMISSIONER

INDIA STORE

ABSTRACT OF CASES in which tenders for stores demanded by the Central of the goods demanded, were accepted on the grounds of superior inspection, quicker

HALF YEAR ENDING

Stores ordered.	t Number.	Name of contractor.	Amount of contract.
-----------------	-----------	---------------------	---------------------

PART A.—Cases in which lower foreign tenders, including British tenders, *ten*

Nil.

PART B.—Cases in which the discrimination

			£ s. d.
Lathes, Toolroom, 6" Centre Belt drive No. 2.	Z. 789/375/21-5-40.	Dean Smith & Grace, Ltd.	854 0 0 delivered at works Keighley (British)
Vices, leg 4" No. 17.	Z. 761/13604/20-5-40.	Mosers Ltd.	37 19 8 (British).

PART C.—Cases in which the discrimination

Nil.

PART D.—Cases in which lower British tenders

Nil.

FOR INDIA.

DEPARTMENT.

Government, other than the lowest complying with the technical description quality, superior trustworthiness of the firm tendering, greater facility of delivery, etc.

30TH JUNE 1940.

Lowest tender not accepted.	Reason for acceptance.
-----------------------------	------------------------

foreign made goods, have been set aside wholly or partially in favour of British *degre.*

Nil.

is between British firms only.

£ s. d.	
706 0 0 f. o. b. (British)	The lowest tenderer required 52/54 weeks for delivery. As early delivery was of the utmost importance the order was placed with next lowest tenderer who offered delivery in 36/38 weeks.
36 2 6 (British)	The two lowest tenderers each required 6 months for delivery. The third lowest offered 10 of 17 vices from stock and as the difference in price was small their tender was accepted for the full quantity.

is between foreign firms only.

Nil.

have been set aside in favour of foreign tenders.

Nil.

THE EXCESS PROFITS TAX (AMENDMENT) BILL.

The Honourable Sir Jeremy Ralsman (Finance Member): Sir, I move :

"That the Bill to amend the Excess Profits Tax Act, 1940, as reported by the Select Committee, be taken into consideration."

Sir, as will be seen from the Report, the Committee has only found it necessary to make a few verbal changes in the Bill as referred to them. The only point of any substance which might interest this House arose in connection with clause 9 where the Bill gives power. It is sub-clause (d) which inserts a new rule, rule 11, in Schedule 1 of the Act. The effect of this amendment is to give power to the Excess Profits Tax Officer, when he finds that a large sum has been debited against the profits of an accounting period—it gives him power, if those expenses are of a nature which do not properly belong entirely to the period in question, to distribute that sum over other periods and thereby to reduce the amount which is debited against the profits of the accounting period in question. Now, as was mentioned in the Notes on Clauses, that provision is calculated to work both to the advantage of the assessee in certain cases and to the advantage of the revenue. We actually have had an important case in which a heavy item of expenditure or obsolescence which occurred or was liable to occur in an accounting period was due on equitable grounds to be so re-distributed that part of it fell in the standard period with the result that a more equitable computation of the excess profits was liable to be made if this power were given to the Excess Profits Tax Officer. But apprehensions were expressed on behalf of the assessee that this was a new and wide power which would enable the Excess Profits Tax Officer to override many of the rules which apply in the determination of profits for income-tax. That certainly is not our intention; in any case, the Bill provides for an appeal to the Board of Referees. Also it has to be remembered that this is practically the only provision which exists or which will exist in our excess profits tax legislation to safeguard the revenue against a type of action which unfortunately became familiar both during the currency of the last excess profits tax many years ago and also in more recent experience in the United Kingdom. In fact, we have taken this provision from the legislation in the United Kingdom. It was found that in the absence of such a provision it would be open to the assessee, when he found that his profits for a particular accounting period were likely to be large, to embark in that period on expenditure of a kind on which he would not normally have embarked or to an extent to which he would not have gone in normal times. That expenditure may be of a nature which under the ordinary income-tax procedure is admissible as reasonable deduction from profits. The only point that arises is whether it was reasonable for him to incur such very large expenditure of that nature in this particular year, and even if it was reasonable for him to incur it in this particular year, is the whole of this expenditure a fair charge against the profits of the year in question? Instances have been given in which, for example, a heavy repair programme is embarked on in a particular year. Repairs and reconditioning may be undertaken, which, whilst they are no doubt legitimately debitable to revenue, constitute a programme which under normal circumstances would not be undertaken out of the revenue of one single year. Well, Sir, in the absence of a provision of this kind the revenue authorities would be helpless to deal with cases of that kind and to secure an equitable readjustment on behalf of

the revenue. For this reason I do recommend to this House that this provision should definitely stand as it does in the Bill as reported by the Select Committee. There are no other points of substance which arise from the Report and I do not think I should detain the House further. Sir, I move.

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

"That the Bill to amend the Excess Profits Tax Act, 1940, as reported by the Select Committee be taken into consideration."

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, when this Bill was introduced in this House, we did not press our points inasmuch as we knew that the great businessmen in this House at least were sitting on the Select Committee. I am glad that those Honourable Members of this House, who are men of great business acumen, have examined this Bill, and they find it not very unsatisfactory. But still there are two points which I would like to touch upon. The first one is about the retrospective effect given to this Bill. I think that it may work a little hardship, it may be difficult for accounts to be sufficiently adjusted. Therefore, I submit that if this excess profits tax is to be levied under this Bill, as from the time when the Excess Profits Tax Act came into force, it will involve hardship to the people. The other point is this. There is a minute of dissent by my Honourable friend, Dr. Sir Ziauddin Ahmad, wherein he says :

"There exists at present a tendency to spend large sums of money in extravagant buildings, decorations and unnecessary equipments with the object of showing lower profits. In the assessment of excess profits tax, unnecessary expenditure of extravagant nature should be excluded."

I think this is a point which the Government should take into consideration. It is quite possible, as the Honourable the Finance Member has just said, that ordinary repairs may be permissible, but if great buildings are taken up and profits are shown less—and that profit is spent on great buildings and unnecessary equipment—equipment may include very valuable furniture, equipment may include other things that ought to be excluded. Therefore, I hope that this note of dissent will be considered by the Government in the light in which my Honourable friend has put it. I would press these two points for the consideration of the House.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : I would like to draw the attention of the Honourable the Finance Member only to two points to which I have already made some reference, one on the occasion of the Finance Bill and the other on the occasion of the discussion of the Public Accounts Committee Report. The first point, which I said also when this Bill was first introduced, is that he ought to have exceeded the quantum of the excess profit. He had a surcharge of 25 per cent. on all kinds of taxes except the excess profits tax and this is one of the taxes which ought to have been cent per cent, not 50 per cent, which is not enough. Now, I am not really taking him by surprise. Cent per cent. is a reasonable suggestion and this for two reasons. In the first place, cent per cent. is the tax in England on the excess profits. I do not think we should have anything lower than that. The second thing is, it will automatically solve a number of difficulties which we raised on the floor of the House about the Supply

[Sir Ziauddin Ahmad,]

Department. After all a tax of cent per cent. on the excess profits will remove most of the troubles and difficulties of his Honourable colleague in the Supply Department. I do beseech him to consider very seriously that he should increase this excess profits duty from 50 to cent per cent. Even 62½ per cent. surcharge will not do. We want cent per cent., nothing short of it.

The second point to which I would like to draw the attention of my Honourable friend is the provision of section 6 (2) (d) to which I referred on the occasion of the discussion of the Public Accounts Committee Report. There I showed him that my friend, the Finance Member, admitted that he had made a mistake in putting down this particular clause or in giving his consent to it. If the mistake was made, as he admitted indirectly in the Public Accounts Committee, it is high time for us to correct that particular mistake by omitting sub-section (d) of this particular clause. In fact, it would have been simpler if these accounts had been calculated on the average of the last four years which I myself suggested when I moved an amendment to this effect when this Bill was first considered. It was not accepted by the House at that time. I think when an amending Bill comes in it should be considered in the light of experience gained. Therefore, these are the two points to which I wish to draw attention. There is one point more and that relates to the amendment which I have tabled. It is a fact that at present there is a very great tendency to misuse the profit in order to show lower margin of profits. My friend may tell us that we have given instructions to the Income-tax Officers but to my mind it is not enough. There ought to be explicit provision to this effect in the Act itself, so that the assesses may practically put themselves on their guard and may not do a thing of this kind, which is now being done. I will enlarge on this particular point when I move my own amendment and give definite instances to show how the assesses are trying to evade this excess profits tax. With these words, I resume my seat.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : I want to touch briefly on one or two points in connection with the Bill which is now being enacted which will cause inconvenience and harassment to the persons who have to pay this excess profits tax. Sir, it is said that ordinary repairs would be allowed, but anything more, which would be considered as unnecessary or extravagant, should not be allowed. Now, in the first place, what that expense would be, which is beyond ordinary, is a question which ought to have been defined, and it would otherwise be very easy for the income-tax officers to do as they like, at their discretion. The income-tax officers are known not to consider questions in which the income-tax is reduced, but they consider generally the questions in which it is increased. From that point of view, it is necessary that there ought to be some rules laid down to guide these officers. Otherwise, at any time, they will say this expense is not ordinary at all, and they will not give any deduction with regard to that expense. I submit that at present we are leaving everything absolutely in the hands of the income-tax officer who ought to be controlled in some way. I expect, therefore, that the Central Board of Revenue should make certain rules under this proviso and at any rate put down certain lines by which one could easily understand as to what is expensive and what is extravagant. Now, it may be that a man might build a house and have some ornamental structure over it,

which may be necessary. Then, to say whether it is unnecessary or not is left to be decided by the income-tax officer who can hold one way or the other. There ought to be something which would show us that justice has been done. If it were to be said that there will be an appeal, we have known how appeals are decided. The first decision that is made is generally upheld by these appellate officers, and in this case the appellate officer will not be in a position to know whether the repairs or additions that one has made are such for which no allowance should be given. I would, therefore, request that some rules or some instructions of that nature should be made.

The Honourable Sir Jeremy Raisman : As regards the first point taken by Mr. Azhar Ali, namely, retrospective effect and the possible hardship, I should perhaps point out that we have not yet made assessments and that the Act as amended by this Bill will be the enactment which will be applied in making assessments, so that no question of hardship can arise from the fact that these amendments will have retrospective effect.

I am grateful to Sir Ziauddin Ahmad for his constant concern for the revenue and I am very interested to hear that he is entirely in favour of a cent per cent. excess profits tax. I know he will not expect me to enter into a full exposition of my views on that point at this time but I am certainly interested in what he thinks on this subject.

He raised the point about the standard period and the mistake which I made at the time of the passing of the original Bill. Well, Sir, we are all human and I do not pretend not to make mistakes but since this House dealt with that point and decided to extend the additional option to the assesses, I am afraid that it would be little use for me now to put on the cloak of repentance and come to this House and hope that they would guide me on to paths of greater austerity than those which I followed at that time. Sir Ziauddin Ahmad referred to his Note of Dissent and I regret to say that owing to the way in which it has been printed, although I ought to have noticed it, I did not do so when I was making the motion for consideration but it is virtually the same point as that which is dealt with in sub-clause (d) of clause 9 and if my Honourable friend moves the amendment of which he has given notice, we shall endeavour to explain to him why we cannot make a provision on the lines which he suggests.

As regards the issue of instructions regarding the application of new Rule 11 to Schedule I, which was the point dealt with by Mr. Lalchand Navalrai, I can only say that that will be borne in mind and that the Board of Revenue will no doubt issue instructions for the guidance of officers in applying that provision.

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

“That the Bill to amend the Excess Profits Tax Act, 1940, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

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

“That clause 4 stand part of the Bill.”

Mr. J. D. Boyle (Bombay : European) : Sir, I beg to move—

“That in part (d) of clause 4 of the Bill, in the proviso to the proposed sub-section (6), after the words ‘make any’, occurring in the seventh line, the word ‘such’ be inserted.”

[Mr. J. D. Boyle.]

Sir, this is a purely grammatical amendment which is designed to bring the meaning of the word "modifications" in the seventh line into line with the use of the same word in other portions of that clause. Sir, I move.

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

"That in part (d) of clause 4 of the Bill in the proviso to the proposed sub-section (8), after the words 'make any', occurring in the seventh line, the word 'such' be inserted."

The motion was adopted.

Mr. J. D. Boyle: Sir, I beg to move:

"That in part (d) of clause 4 of the Bill, in the proviso to the proposed sub-section (8), for the words 'one month' the words 'forty-five days' be substituted."

Sir, elsewhere in the Bill, in clause 8, sub-clause (c) and in clause 9 in the new rule the period during which it is possible to put in an appeal has been increased to forty-five days. I do not know whether it was an oversight here but to bring it into line with the provisions in the rest of the Bill for a time-limit, I move that the period of one month be extended to forty-five days.

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

"That in part (d) of clause 4 of the Bill, in the proviso to the proposed sub-section (8), for the words 'one month' the words 'forty-five days' be substituted."

The Honourable Sir Jeremy Raisman: Sir, I accept the amendment.

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

"That in part (d) of clause 4 of the Bill, in the proviso to the proposed sub-section (8), for the words 'one month' the words 'forty-five days' be substituted."

The motion was adopted.

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

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clauses 5, 6 and 7 were added to the Bill.

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

"That clause 8 stand part of the Bill."

Mr. E. L. C. Gwilt (Bombay: European): Sir, in connection with the presentation of an application under this section, if, under present war circumstances or any other beyond the control of the assessee, he were unable to present the whole of his case within the time allowed, I believe the Central Board of Revenue will accept a provisional application without

the application becoming time-barred due to absence of precise detail in such provisional application. I would appreciate confirmation on that point.

The Honourable Sir Jeremy Raisman: If I understand the Honourable Member aright, his point is that whilst the assessee might be aware that he would wish to make an application, he might not have the whole of the material ready for such application and therefore he might be allowed to put in a provisional application within the permissible period and follow it up with further detailed material later?

Mr. E. L. C. Gwilt: That is so, Sir.

The Honourable Sir Jeremy Raisman: Sir, I should think that would be reasonably within the administration of this provision as drafted.

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."

Dr. Sir Ziauddin Ahmad: Sir, I beg to move:

"That in part (a) of clause 9 of the Bill, after the proposed proviso to Rule 1, the following further proviso be inserted:

'Provided further that any expenditure of extravagant nature intended to reduce the profit shall not be excluded in the calculation of Excess Profits Tax.'

Sir, it has come to my notice that several companies, in order to show lower profits so as to avoid or to evade income-tax, are now spending money in extravagant undertakings. They are building houses with marble floors and marble chips while in previous years they were living in huts and corrugated iron sheets.

Mr. Lalchand Navalrai: How many such cases have you seen?

Dr. Sir Ziauddin Ahmad: If I have seen one case, that is quite enough; the exact number does not matter; I have seen one. The other thing is that if a company has been spending money on decorations which they really do not need or has been spending money in putting up new machinery while they know that all that is not really needed, they are spending money very extravagantly in order to avoid income-tax and I think it is desirable that the Income-tax Officer should be given clear instructions that they should see the expenditure under these heads during the last five or six years and see if there is anything which is of an abnormal nature which cannot be justified. If an expenditure is met out of the Depreciation Fund, of course that is justifiable, and we have no objection to that, but if anything is paid out of the current expenditure, out of the revenue, with the object of showing lower profit, then I think the taxpayers will have something to say because this expenditure is met, or at any rate fifty per cent. of the expenditure is met, by the tax-payer and not by the company itself.

Pandit Nilakantha Das (Orissa Division: Non-Muhammadan): How can houses be built and machinery be purchased out of the revenue account? It must be the capital account.

Dr. Sir Ziauddin Ahmad: This is just my point. If they borrow fresh capital or raise their capital amount in order to build these houses or purchase machinery, that is a different story but if they pay for it out of the revenue to show lower profit, that is what I object to. Therefore, it is very desirable that the Income-tax Officers should be specially warned, because more instructions by Central Board of Revenue they might overlook. I apprehend that instructions may be overlooked, unless this is provided in the Act itself. Therefore, the provision proposed here will be a clear indication to the Income-tax Officers to look into a matter which they are likely to overlook if instructions were merely issued by the Central Board of Revenue. Now they ought to see what has been the expenditure under those heads during the last few years and if there is any abnormal departure, then there should be some good justification for it, and if they find that there is no good justification, then I think it is fair and reasonable that these things should not be spent at the cost of the taxpayers of this country. This matter, therefore, is rather important and I think the tendency which is everywhere will practicably be checked if my amendment is accepted. My friend, the Finance Member, said, that he did not want to raise this question because the House had accepted it. Now, we know and he knows very well that in the House, as now constituted, we will accept and endorse the suggestions of the Finance Member. Therefore, he should not put blame on us when the whole blame falls upon him.

The Honourable Sir Jeremy Raisman: I did not notice that this House quietly accepted the last financial proposals which I put before it.

Dr. Sir Ziauddin Ahmad: I am referring to the House as it is now constituted. I know this that when the Excess Profits Tax Bill was passed, the House was as it is now constituted.

The Honourable Sir Jeremy Raisman: It is still constituted the same way.

Dr. Sir Ziauddin Ahmad: Any proposals which come from him in a House with its present attendance will be accepted, as he commands the majority. But I do hope that in the interests of the tax-payer he will accept my amendment. I know he has got a very soft corner for the wealthy and rich people.

The Honourable Sir Jeremy Raisman: No.

Dr. Sir Ziauddin Ahmad: Not only has he got a soft corner in his heart for people who are rolling in wealth but he has got a still softer corner in his heart for those on whom wealth is rolling. But he has got a very strong heart for those who, like myself, have got very little to pay. Therefore, I suggest that he should care more for the smaller people in his income-tax proposals than for those who can easily afford to pay and especially those on whom the wealth has been rolling on account of war conditions.

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

"That in part (a) of clause 9 of the Bill, after the proposed proviso to Rule 1, the following further proviso be inserted:

'Provided further that any expenditure of extravagant nature intended to reduce the profit shall not be excluded in the calculation of Excess Profits Tax.'

Mr. C. W. Ayers (Government of India: Nominated Official): Sir, it might be of use to the House if I were to explain what the position is at the present time without the acceptance of this amendment. Rule 1 of the First Schedule of the Excess Profits Tax Act provides for the computation of profits for the excess profits tax purposes for any period on income-tax principles. If we turn to what the income-tax principles are and look at section 10 of the Income-tax Act, 1922, we find that in sub-section (2), clause (xii), which deals with the profits of business, it provides for the allowance of "any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business, profession or vocation". Now, from that the House will see that capital expenditure, such as, the building of quarters, houses, offices, and expenditure on plant, machinery, factories and all that sort of things, is already debarred from allowance for excess profits tax purposes, because capital expenditure itself is debarred in computing profits for Income-tax purposes. Personal expenses, which might be suggested to be extravagant, are not allowed. Anyhow, they are not business expenses.

Then, we get a further class of expenditure, expenditure not wholly and exclusively laid out for the purpose of the business. If you have an expenditure of that kind, it is not allowable for income-tax purposes and it should not be and would not be allowed for excess profits tax purposes. Now, under the United Kingdom Excess Profits Duty Act of the last war there was a case of this character and it depended upon similar words, whether the expenditure was wholly and exclusively incurred for the purpose of business. Shortly, there was a case where a person in trade, who had employed three members of his family, raised their remuneration from a few hundreds in the pre-war period to something in thousands in the accounting period. The Commissioners held, and the Court supported them, that that excess remuneration was not expenditure incurred wholly and exclusively for the purpose of business. I, therefore, suggest that that type of expenditure, which is unnecessary and which is not really incurred for business purposes, can be disallowed for income-tax purposes and the excess profits tax will follow it. Then, Honourable Members may say: "Well, you still have expenditure which does not fall under these heads but is extravagant". I will suggest to the House that in so far as it is humanly possible to tackle that sort of a case, we can tackle it in two ways. In the first place, we have to find out whether it is incurred for the purpose of business. If the answer is 'Yes', then you fall back on Rule 11 which has just been added to the Bill and in the second place, we have to find out whether it is appropriate to that particular period. Are you going to put the assessee at the mercy of the Excess Profits Tax Officer to say that it is extravagant, and that he will not allow it? But if you establish as a fact that it is extravagant and not necessary for the business, then I do suggest to the House that the existing provisions, properly carried out, should give all that the Mover of this amendment desires.

The Honourable Sir Jeremy Raisman: Sir, I only wish to add an emphatic repudiation of the point of view attributed to me by Dr. Sir Ziauddin Ahmad of excessive tenderness for the Croesuses who are rolling in wealth and of a corresponding obduracy of heart in dealing with the poor millions, of whom he claims to be one. I claim that everything that I have done since I took on myself the responsibilities of this office points in exactly the opposite direction.

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

"That in part (a) of clause 9 of the Bill, after the proposed proviso to Rule 1, the following further proviso be inserted:

'Provided further that any expenditure of extravagant nature intended to reduce the profit shall not be excluded in the calculation of Excess Profits Tax'."

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.

Clause 10 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 Jeremy Raisman: Sir, I move:

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

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

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

The motion was adopted.

The Assembly then adjourned *sine die*.

INDEX

to

The Legislative Assembly Debates.

Volumes IV to V—5th November to 27th November, 1940.

A

ABDOOLA HAROON, SETH HAJI SIR—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 344.

ABDUL GHANI, MOULVI MUHAMMAD—

Berar Laws Bill—

Motions to consider, circulate, and refer to Select Committee. 941-42, 947, 948.

Indian Merchant Shipping (Amendment) Bill—

Motion to refer to Select Committee. 218-19.

Indian Railways (Amendment) Bill—

Motions to refer to Select Committee and to circulate. 982-93.

Motion for Adjournment re—

Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1090-91.

Closing of the Chandpur-Sian-Bijnor section of the Gajraula Muazzampur Narain Branch of the East Indian Railway. 1001-02, 1005.

Motion to consider the Report of the Public Accounts Committee. 1096, 1072-74.

Question re—

Age limit of candidates for the post of Station Director, All-India Radio, recently advertised. 1018-19.

Arrangement of through railway journey from Dacca and Shillong to Cawnpore and Lucknow. 1018.

Cases of deviations in the construction of buildings reported by the Building Inspector, Delhi Improvement Trust, 912.

ABDUL GHANI, MOULVI MUHAMMAD—
contd.

Question re—*contd.*

Central Tuberculosis Clinic, Delhi. 909-10.

Emergency Commission in the Land and Air Forces of His Majesty's Government in India. 978-79.

Income-tax Officers and Examiners in the Company Districts at Calcutta. 80.

Non-transfer and supersession of certain staff in the Railway Clearing Accounts Office. 1019-20.

Non-transfer of certain members of regular electrical establishment on duty in New Delhi. 910.

Non-transfer of certain officers of the Central Public Works Department. 910.

Proportion of different communities in the Department of Education, Health and Lands. 49.

Provision of tumbler switches for controlling lights in intermediate class carriages. 1017-18.

Recruitment of relations of employees in the Income-tax Department, Punjab, North-West Frontier and Delhi Provinces. 59-60.

Reservation of Government bungalows and quarters for particular officers or staff in New Delhi or Old Delhi. 911-12.

Question (Supplementary) re—

Alleged rude behaviour of the Quetta Railway Station officials at the welcome to the President-elect of the Baluchistan Muslim League Session. 584.

ABDUL GHANI, MOULVI MUHAMMAD—
*concl'd.*Question (Supplementary) *re—cont'd.*

Discrimination in the matter of passes and privilege ticket orders between adopted and step-son on State Railways. 355.

Resolution *re—*

Appointment of a Committee of the Central Legislature regarding economy in war expenditure. 543-44.

Appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 195-96, 507-08.

ABDUL QAIYUM, MR.—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 345-47, 368-73, 376, 481.

Motion for adjournment *re* prohibition of visitors from entering the Khyber Pass. 437, 438.

Question (Supplementary) *re* Punjabi detenus confined in the Deoli Detention Camp. 777.

ABDULLAH, MR. H. M.—Question *re—*

Allegations of corruption against a clerk in the Divisional Office, Rawalpindi. 27-28.

Clerks, employed in certain sections of the Railway Divisional Office, Lahore. 68-69.

Communal composition of journeymen appointed in certain shops on the North Western Railway. 58.

Death of Muslims in the Rawalpindi Division of the North Western Railway. 32-33.

Engineering Subordinates working as Assistant Engineers on the North Western Railway. 44.

Increment in the percentage of promotions of routine clerks in grade II by the Chief Accounts Officer of the North Western Railway. 860-61.

Muslim Traffic Inspectors on the North Western Railway. 22.

Non-submission of names of Muslim candidates for selection to lower gazetted service from Howrah Division of the East Indian Railway. 1023.

Promotion of a record lifter as a clerk in the Chief Accounts Office on the North Western Railway. 860.

ABDULLAH, MR. H. M.—cont'd.Question *re—cont'd.*

Promotion of clerks in the Headquarters Office of the North Western Railway. 46-49.

Qualified Muslim Inspectors of Works not allowed to officiate as Assistant Engineers on the North Western Railway. 44.

Selection for appointment to selection posts in the Departments of the East Indian and Eastern Bengal Railways. 1021-23.

Resolution *re* appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 163-84, 514.

ABDUR RASHEED CHAUDHURY MAULVI—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 487.

Question *re—*

Accidents to the Dacca Mail in 1939 and 1940. 352-53.

Averted accident at Salap Railway Station. 564.

Dacca Mail disaster. 350-51.

Distances of Indo-China from Bengal and Assam. 563-64.

Diversion of carriage of postal mails between Sylhet and Shillong from road to railway. 353-54.

Personnel of the Roger Committee from Overseas Dominions and States and its mission. 429-34.

Relief given to the victims of the Dacca Mail disaster. 351-52.

Report of the officer on special duty appointed to investigate into certain matters affecting communal representation in railway services. 223.

Question (Supplementary) *re* steps for the Defence of India. 280.

ABOLITION—Question *re—*

— of train vending on the Assam Bengal Railway. 849-50.

Loss of prospects of guards in grade I and II by the — of grade IV on the North Western Railway. 862-63.

ACCIDENT(S)—Question *re—*

— to persons at or near Delhi-Shahdara Railway Station, North Western Railway. 881.

ACCIDENT (S)—cont'd.Question *re—cont'd.*

— to the Dacca Mail in 1939 and 1940. 352-53.

Averted — at Salap Railway Station. 564.

ACCOMMODATION—Question *re—*

— reserved in the Imperial Hotel for the delegates of Eastern Group Conference. 697.

Steps for increase and distribution of the shipping —. 655-57.

ACT(S)—

Agricultural Produce Cess—

Certain papers *re* the — (laid on the table). 83-88.

Defence of India—

Question *re—*

German and Italian detenus in India and Punjabeo detenus under the —. 968.

Persons prosecuted or detained under the — and Rules. 974.

Persons tried, convicted or detained without trial under the —. 914-17.

Resolution *re* appointment of a Committee to examine the conditions of Detenus under the —. 350-60.

Government of India—, 1935—

Question *re* applications for sanction of the Governor General under section 270 of the —, 1935. 698-97, 1109.

Indian Railways Amendment—

Question *re* "Hours of Employment Regulations" incorporated in the — 1930, not made applicable to British portion of Jodhpur Railway. 866-67.

Payment of Wages—

Question *re* working of the — 1936, on the State Railways. 700.

United Provinces—

Question *re* certain congress workers arrested in Delhi under the —. 970-73.

ADDITION(S)—

Question *re* — and alterations carried out in perfunctory manner in certain "D" type orthodox quarters in New Delhi. 663.

ADJOURNMENT(S)—Motion for — *re—*

Alleged embezzlement in the Multan Division of the North Western Railway. 1109-11.

Ruled out of order. 1111.

Alleged occupation of the Muslim *Idgah* at Burhanpur by the Military. 708, 784-85.

Disallowed. 785.

Banning by the Government of Bengal publication of news of hunger strikes in jail, etc. 1112-13.

Disallowed. 1113.

Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1026-27, 1080-95.

Withdrawn. 1095.

Closing of the Chandpur-Siau-Bijnor section of the Gajraula Muazzampur Narain branch of the East Indian Railway. 917, 982-83 and 996-1011.

Negativated. 1011.

Dacca Mail disaster. 73, 105-126.

Negativated. 126.

Delay in holding the Session of the Legislative Assembly. 155.

Leave refused. 155.

Disallowance of a motion for — by the Governor General after it was allowed by the Chair. 210.

Disallowed. 210.

Expansion of H. E. The Viceroy's Executive Council and the constitution of War Advisory Committee. 73-75.

Leave refused. 75.

Failure of Government to enable Mr. Subhas Chandra Bose to attend the Session of the Legislative Assembly. 148-49.

Ruled out of order. 149.

Failure of the Government of India to evoke whole-hearted enthusiasm in the nation to fight the totalitarian States. 71-72.

Leave refused. 72.

Failure to call a Session of the Legislative Assembly between the period April 9 to October 1940. 145-148.

Ruled out of order. 148.

Fall in prices of ground-nuts. 608-09.

Disallowed. 609.

Financial arrangements with His Majesty's Government *re* payment for the purchase of materials from India. 152-53.

Ruled out of order. 153.

ADJOURNMENT(S)—*contd.*

Motion for—*re—contd.*

Huge expenditure without sanction of the Legislature. 155-56.
Disallowed.

Lawlessness in Sind. 149-50.
Disallowed. 150.

Non-association of non-official representative Indians with the Eastern Group Conference. 75-76.
Disallowed. 76.

Non-holding of the Session of the Legislative Assembly for a long time. 156-57.
Disallowed by the Governor General. 183.

Opinions of the Honourable Member for Railways and Communications on the D'Souza Report. 153-54.
Disallowed. 154.

Placing of large orders of purchases with a few individuals. 150-52.
Ruled out of order. 152.

Prohibition of visitors from entering the Khyber Pass.
Leave to move refused. 438.

Refusal of permission to Mr. Bhulabhai Desai and to Mr. Asaf Ali to visit Waziristan. 76-77.
Leave refused. 77.

Rustication of Mr. M. Faruqi and Mr. D. Sanghi from the University of Delhi. 1111-12.
Leave refused. 1112.

ADMINISTRATION REPORT—

Question *re* non-inclusion of review on the working of the State Railway regulations *re* dismissal of non-gazetted staff in the Railway. 876.

ADMINISTRATOR(S)—

Question *re* duties and emoluments of the Civil —. Kamaran. 349-50.

ADOPTED SON—

See "Son(s)".

ADVISORY COMMITTEE—

Motion for Adjournment *re* expansion of H. E. Viceroy's Executive Council and the constitution of War. —. 73-75.

Question *re* Railway —. 227-228.

AGE—

Question *re* limiting of the Railway refresher courses to the — of 45. 876-77.

AGE LIMIT(S)—

Question *re*—

— of candidates for the post of Station Director, All-India Radio, recently advertised. 1018-19.

Maximum — for all kinds of training courses at the Walton Training School. 11.

AGRICULTURAL PRODUCE CESS ACT—
See "Act(s)".

AHMAD NAWAZ KHAN, MAJOR NAWAB SIR—

Indian Finance (No. 2) Bill—
Motions to consider and to circulate. 645.

AIRCRAFT(S)—

Question *re* — encouragement to Indian enterprise for manufacturing —, motors or for building ships. 967-68.

AIR FORCE(S)—

Question *re*—

Emergency Commission in the Land and — of His Majesty's Government in India. 976-79.

Selection of candidates for the Technical School connected with the Indian —. 1017.

Training of Indian Pilots and Mechanics for the —. 273-76.

AIR FORCES HEADQUARTERS—

Question *re* contribution by officers of the Army and — towards the Defence Savings Provident Fund and Defence Savings Certificates. 496.

ALLAHABAD—

Question *re*—

Cooly contracts in Moradabad, Lucknow and Allahabad Divisions, East Indian Railway. 881.

Model housing scheme in the — Cantonment. 1103.

ALLEGATION(S)—

Question *re*—

— of bribery against the Manager of the Medical Stores Depot, Lahore. 775.

— of corruption against a clerk in the Divisional Office, Rawalpindi. 27-28.

ALL-INDIA RADIO—

Question *re*—

Age limit of candidates for the post of Station Director, —, recently advertised. 1013-18.

Authors of dramas broadcasted by the —. 367.

ALL INDIA SERVICE—

Question *re* communal composition of Indian Civil Service and other —
Officers brought on to the Government of India Secretariat. 963-64.

ALLOTMENT—

Question *re*—

— of duffries' quarters in New Delhi. 136-137.

— of peons' quarters in New Delhi. 137-38.

ALLOTMENT OF QUARTERS RULES—

See "Rule(s)".

ALLOWANCE(S)—

Question *re*—

Grant of — to non-resident members of the Port Haj Committees for attending meetings. 144.

Grant of summer — to the ministerial establishment of the Government of India Secretariat detained at Delhi last summer. 688.

Lower rates of consolidated travelling — for van sorters of the North Western Railway. 875-76.

Non-grant of separation — to the Indian Medical Department. 66-67.

Rules in respect of pay and —, Provident Fund, etc., on the Oudh and Rohilkhand Railway before and after amalgamation. 591.

ALTERATION(S)—

Question *re* additions and — carried

out in perfunctory manner in certain "D" type orthodox quarters in New Delhi. 663.

AMALGAMATION—

Question *re*—

— of Government of India Presses at Simla and New Delhi. 702-03.

— of Sudder Bazar, Ambala, with Ambala Cantonment. 207.

AMBALA—

Question *re* amalgamation of Sudder Bazar, —, with — Cantonment. 207.

AMIR-UL-HAJ—

Question *re* appointment of committees of pilgrims and — by Port Haj Committees on pilgrim ships. 140.

AMRITSAR—

Question *re*—

Fruit vending contract at — Railway Station. 606.

Notice of a suit on behalf of Mir Maqbool Mahamood of — against the North Western Railway. 879.

ANEY, MR. M. S.—

Berar Laws Bill—

Motions to consider, circulate and refer to Select Committee. 912-44.

Cantonments (Amendment) Bill—

Consideration of clauses. 244.

Excess Profits Tax (Amendment) Bill—

Motion to refer to Select Committee. 888.

Expressions of regret on the deaths of Raja Sir Vasudava Rajah and Mr. Suryya Kumar Som. 70-71.

Finance Member's statement on the financial position. 101.

Hindu Women's Rights to Property (Amendment) Bill—

Motion to refer to Select Committee. 989-90, 993, 994.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 382, 420, 454, 468, 487, 488, 489, 492, 623, 624, 632, 727, 740, 743, 804-16, 823, 826.

Indian Merchant Shipping (Amendment) Bill—

Motion to refer to Select Committee. 217, 219, 220.

Indian Navy (Discipline) Amendment Bill—

Motion to consider. 240, 241.

Indian Railways (Amendment) Bill—

Motions to refer to Select Committee and to circulate. 926, 927, 929, 933-34.

Motion for Adjournment *re*—

Banning by the Government of Bengal publication of news of hunger strikes in jail, etc. 1112, 1113.

Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1088-89, 1094.

Closing of the Chandpur-Silau-Bijnor section of the Gajraula Muazzampur Narain branch of the East Indian Railway. 1000, 1003-05.

ANEY, MR. M. S.—*contd.*

Motion for Adjournment *re—contd.*

Dacca Mail disaster. 108, 111, 112, 114-115, 125.

Non-holding of the Session of the Legislative Assembly for a long time. 156.

Prohibition of visitors from entering the Khyber Pass. 437, 438.

Motion *re* election of three members for the Standing Committee attached to the Department of Supply. 921.

Question *re—*

Burglaries and dacoities in New Delhi. 974-75.

Nomination of — to the Panel of Chairmen. 211.

Question (Supplementary) *re—*

Burglaries and dacoities in New Delhi. 980.

Commission charged by the Government of India on articles purchased by His Majesty's Government for the maintenance of the Supply Department. 962.

Desirability of recruitment of Indians of all castes and creeds to the Indian Army. 780.

German and Italian detenus in India and Punjabee detenus under the Defence of India Act. 969.

Hindu and Muslim strength of the Indian Navy. 966.

Inadequate Indian representation in the Port Trusts. 4.

Indignities suffered by Indian Lascars in South Africa. 135.

Neglect of planted trees and maintained lawns in the D. I. Z. area of New Delhi. 665.

Non-observance of the principle of subletting of railway contracts in the case of a certain contract at the Delhi Railway Station. 866.

Quota of Muslim candidates at the flying training schools. 1102.

Reservation of the posts of enquiry clerks, etc., for guards with defective vision on the North Western Railway. 864.

Steps for increasing the export trade of India. 659.

Reserve Bank of India Third Amendment) Bill—

Motion to consider. 265.

ANEY, MR. M. S.—*concl.*

Resolution *re—*

Appointment of a Committee of the Central Legislature regarding economy in war expenditure. 544-45.

Appointment of a Committee to examine the conditions of Detenus under the Defence of India Act. 553, 557-60.

Appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 187, 508-09, 510.

Fiscal Policy of the Government of India. 180.

Scrapping of the London Coffee Market Expansion Board by the Indian Coffee Cess Committee. 522, 524, 528, 530.

War Donations and Investments (Companies) Bill—

Motion to consider. 259, 262.

ANDLO-INDIAN GUARD(S)—

See "Guard(s)".

ANIMAL(S)—

Question *re—*

Dumping of carcasses of — near Karol Bagh, Delhi. 65.

Shifting of the dumping ground for dead — from Karol Bagh, Delhi. 907.

APPEAL(S)—

Question *re* instances in which mandatory provisions of rules regulating discipline and rights of — of non-gazetted employees on the North Western Railway were not observed. 867-68.

APPELLATE JURISDICTION—

Question *re* desirability of enlarging the — of the Federal Court. 139-40, 282-83.

APPLICATION(S)—

Question *re—*

— for sanction of the Governor General under section 270 of the Government of India Act, 1935. 698-99, 1109.

Long interval intervening between making of — for and allotment of Government quarters. 703-04.

Withholding of — of Muslim clerks of the Railway Clearing Accounts Office for posts of Guards on the North Western Railway. 600.

APPOINTMENT(S)—

Question *re—*

Advisability of withdrawing the Government Resolution on communal reservation of — in public services. 205-06.

• — made in connection with war work. 708.

— of candidates in the Posts and Telegraphs subordinate service in the Sind and Baluchistan circle without the production of valid domicile certificates. 359-60.

— of Muslim staff on Indian pilgrim ships. 141.

— of unqualified persons in the Sind and Baluchistan Postal Circle. 569-70.

Certain restrictions on — to subordinate service posts on North Western Railway. 882.

Communal reservation both on — and confirmation of new recruits on the North Western Railway. 7-8.

Delay in making — of candidates successful in the Indian Audit and Accounts Service Examination of 1939. 201.

Delegation of power to make first — in non-gazetted posts on certain State Railways. 12.

Eligibility of the night vision failed station masters group staff for certain —. 874.

Muslims in certain categories of — officiating against permanent vacancies on the North Western Railway. 581.

Muslims selected for direct recruitment to certain categories of — on the North Western Railway. 580-81.

Procedure for making — and promotions in non-selection posts or non-selection grades after the initial — on certain State Railways. 14.

Retrenchment in the higher grade — of Yard Foremen and Yard Supervisor on the North Western Railway. 857-59.

Resolution *re* — of a Permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 183-96.

APPRENTICE(S)—

Question *re* — Train Examiners on the North Western Railway. 852-53.

ARBITRATION BILL—

See "Indian —" under "Bill(s)".

AREA(S)—

Question *re* lay-out of the Improvement Trust plots in certain — in Delhi. 35.

AREA SCHOOL(S)—

Question *re* scope of exemption of staff from attending refresher courses at Area Schools on State Railways. 17.

ARM LICENCES—

See "Licence(s)".

ARMY(IES)—

Question *re—*

Desirability of recruitment of Indians of all castes and creeds to the Indian —. 779-80.

Grant of leave to the East Indian Railway employees serving in the volunteer forces when required to join the —. 67.

Knowledge of Hindi and ability to write it in Urdu of Roman script for recruitment to Indian —. 782-83.

Quotas of candidates for emergency commissions and as privates for the — fixed for different provinces. 780-81.

Raising of the new — in India, its cost and arrangements for training of the additional officers. 202-05.

Selection of candidates for emergency commissions and as privates for the —. 781-82.

ARMY HEADQUARTERS—

Question *re—*

Contribution by officers of the — and Air Forces — towards the Defence Savings Provident Fund and Defence Savings Certificates. 496.

Move of the — to Simla and back. 979-80.

ARREST(S)—

Question *re* — of a gang of thieves of Bauriya criminal tribe. 981.

ASAF ALI, MR. M.—

Indian Finance (No. 2) Bill—
Motions to consider and circulate.

377, 378, 381, 384, 385,
452, 457-60, 461-66, 467-70, 474,
478, 482, 485, 486, 487, 627, 634,
727, 728, 729, 731, 732, 733, 742,
743, 745.

ASAF ALI, MR. M.—*contd.*

Motion for adjournment *re* refusal of permission to Mr. Bhulabhai Desai and to — to visit Waziristan. 76-77.

ASSAM—

Question *re* distances of Indo-China from Bengal and —. 563-64.

ASSAM BENGAL RAILWAY—

See "Railway(s)".

ASSESSMENT—

Question *re*—

— value of houses and shops in the Kasauli Cantonment. 63.

Collective — of water rates on Postal and Telegraph officials occupying Government quarters in Simla. 598-99.

ASSET(S)—

Question *re* assignment by the A. E. G., India Electric Company, Limited, incorporated in Germany, of their business, — etc., to certain parties in Bombay. 127-30.

ASSIGNMENT—

Question *re* — by the A. E. G., India Electric Company, Limited, incorporated in Germany, of their business, assets, etc., to certain parties in Bombay. 127-30.

ASSISTANT(S)—

Question *re*—

— and clerks in the cash branches of the Government of India Offices. 42-43.

Posts offered to the Government of India Secretariat — in the Income-tax Service, Class II. 1097-98.

ASSISTANT ENGINEER(S)—

Question *re*—

Engineering Subordinates working as — on the North Western Railway. 44.

Qualified Muslim Inspectors of Works not allowed to officiate as — on the North Western Railway. 44.

ASSISTANT INSPECTOR(S)—

See "Inspector(s)".

ASSISTANT OFFICERS—

See "Officer(s)".

ASSISTANT STATION MASTER(S)—

Question *re* devaluation of —'s grades on the North Western Railway. 874.
See also under "Station Master(s)".

ASSISTANT SURGEON(S)—

Question *re* — on the North Western Railway. 19.

ASSISTANT TRAIN EXAMINER—

Question *re* extra expenditure incurred by not appointing an — to officiate as Head Train Examiner. Barcilly. 601-05.

ASSOCIATION(S)—

Motion for adjournment *re* non — of official representative Indians with the Eastern Group Conference. 75-76.

Question *re* recognition of the — of Railway Guards at Lucknow. 871-72.

ATTACHED AND SUBORDINATE OFFICE(S)—

Question *re* officers and ministerial staff of the Department of Communications and its — who moved up to Simla last summer and expenditure incurred in the Move. 578.

ATTACHED OFFICE(S)—

Question *re*—

Appointment of a Sikh Officer to Officer's Establishment of the Railway Board and its —. 861-62.

Indian Officers in the Government of India Departments and its —. 55-57.

Officers and ministerial staff of the Department of Education, Health and Lands and its — and Subordinate Offices who moved up to Simla last summer and expenditure incurred in the Move. 668-69.

See also under "Office(s)".

ATTENDANCE—

Question *re* — on employees' families by nurses employed in the Medical Department of the North Western Railway. 9.

AUDIT AND ACCOUNTS SERVICE—

Question *re* delay in making appointments of candidates successful in the Indian — examination of 1939. 201.

AUTHOR(S)—

Question *re* authors of dramas broadcasted by the All-India Radio. 367.

AUTUMN SESSION—

See "Session".

AYERS, MR. C. W.—

Excess Profits Tax (Amendment) Bill—
Motion to refer to Select Committee. 889, 890.

Consideration of clauses. 1123.

Oath of Office. 1.

YURVEDIC MEDICINE(S)—

See "Medicine(s)".

YYANGAR, MR. M. ANANTHASAYA-NAM—

Question (Supplementary) *re* establishment of a Paper Economy Department by the Government of India. 435.

ZHAR ALI, MR. MUHAMMAD—

Cantonments (Amendment) Bill—
Consideration of clauses. 248-49.

Excess Profits Tax (Amendment) Bill—
Motion to consider. 1117.

Indian Railways (Second Amendment) Bill—

Motion for leave to introduce. 222.

Indian Sale of Goods (Amendment) Bill—
Motion to consider. 1061.

Motion for Adjournment *re*—

Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1089-90.

Closing of the Chandpur-Siau-Bijnor section of the Gajraula Muazzampur Narain branch of the East Indian Railway. 999.

Huge expenditure without sanction of the Legislature. 156.

Question *re*—

Accidents to persons at or near Delhi-Shahdara Railway Station, North Western Railway. 881.

Alleged sale of used railway tickets. 892.

Alleged utilisation of the services of *Khalasis* by the officers of the Delhi Improvement Trust for private work. 908.

Allotment of quarters to certain classes of non-gazetted railway servants on State Railways. 594.

Applications for sanction of the Governor General under section 270 of the Government of India Act, 1935. 698-99, 1109.

Arrest of a gang of thieves of Bauriya criminal tribe. 951.

Assistant Surgeons on the North Western Railway. 19.

AZHAR ALI, MR. MUHAMMAD—*contd.*

Question *re*—*contd.*

Burglaries and dacoities in New Delhi. 980-81.

Calculation of period of sick leave on State Railways. 878-79.

Certain quarterly statement forwarded by the Divisional Superintendent, Moradabad Division, on the East Indian Railway. 878.

City Booking and Parcel Offices worked by Messrs. Thomas Cook and Son. 45-46.

Civil suit by an employee decreed against the North Western Railway. 591-92.

Collective assessment of water rates on Postal and Telegraph officials occupying Government quarters in Simla. 598-99.

Contract for book stalls given to Messrs. Wheeler and Company by the General Manager, North Western Railway. 597.

Cooly contracts in Moradabad, Lucknow and Allahabad Divisions, East Indian Railway. 881.

Detention of vehicles at stations in the Moradabad Division, East Indian Railway. 594.

Documents for verification of leave accounts maintained on State Railways. 591.

Duties of Assistant Officers and Transportation Inspectors on State Railways. 28-31.

Expenditure incurred by the Government on the *Indian Listener*. 600-01.

Extension of Messrs. Wheeler and Company's contract for book stalls on the North Western Railway. 599-600.

Government Service Rules applicable to the staff of the Delhi University. 699.

Incorporation of the Delhi Electricity authority. 909.

Information given to the Karol Bagh Police Station, Delhi, about the presence of a gang of criminals called Bauriyas. 981.

Irregularities in the running of special trains on the North Western Railway. 44-45.

Lay-out of the Improvement Trust plots in certain areas in Delhi. 35.

AZHAR ALI, MR. MUHAMMAD—*contd.*Question *re—contd.*

Lien on his post allowed to a certain employee of the Delhi Improvement Trust. 908-09.

Limiting of the railway refresher courses to the age of 45. 876-77.

Location of a tuberculosis clinic in Karol Bagh, Delhi. 62.

Move of the Army Headquarters to Simla and back. 979-80.

Mutual guarantee fund of the Old East Indian Railway Company. 41.

Non-gazetted railway servants charged with offences in the Moradabad Division, East Indian Railway. 878.

Non-grant of separation allowance to the Indian Medical Department. 66-67.

Non-inclusion of review on the working of the State Railway Regulations *re* dismissal of non-gazetted staff in the Railway Administration Report. 876.

North Western Railway ban on hats against certain employees. 592-93.

Notice of a suit on behalf of Mir Maqbool Mahamood of Amritsar against the North Western Railway. 879.

Numbers and character of non-gazetted posts on certain State Railways. 877.

Officers and clerks in the Railway Board graduated in Mathematics. 598.

Prevalence of tuberculosis amongst the staff of the Railway Clearing Accounts Office. 595.

Prior sanction by the Railway Board to revisions of scales of pays affecting a whole class or grade of employees on certain State Railways. 500.

Procedure of reporting the work after the expiry of the probationary period. 877.

Proceedings of the Selection Board held at the Divisional Office, Howrah, East Indian Railway for filling vacancies of Luggage and Parcel Supervisors. 593.

Quarters Committee, Moradabad Division, East Indian Railway. 593.

Railway passes allowed to Messrs. Thomas Cook and Son and their staff. 45.

AZHAR ALI, MR. MUHAMMAD—*contd.*Question *re—concl.*

Railway prosecution case in the Court of the Resident Magistrate, Delhi. 596-97.

Railway quarters at Moradabad and staff occupying them. 594.

Recruitment of temporary clerks in the Office of the Chief Operating Superintendent, East Indian Railway. 597.

Report of the Railway Enquiry Committee on corruption in railways. 592.

Report *re* the representation of Muslims and other minority communities in the Subordinate Railway Services. 861.

Rules governing the publication of matters in Railway Gazettes. 877.

Rules in respect of pay and allowances, Provident Fund, etc., on the Oudh and Rohilkhand Railway before and after amalgamation. 591.

Rules or bye-laws of the Delhi Joint Water and Sewage Board. 699.

Selection board or committees assembled in Moradabad Division on the East Indian Railway. 880-81.

Selection posts or selection grades on State Railways. 20-27.

Steps to reduce the number of thefts and other crimes in Delhi. 981.

Subordinates and clerks who worked under the Building Inspector of the Delhi Improvement Trust and resigned. 908.

Trains run through Delhi-Shahdara on the North Western Railway. 880.

Transfers of non-gazetted railway servants in the Moradabad Division of the East Indian Railway and the Delhi Division of the North Western Railway. 590.

Withholding of applications of Muslim clerks of the Railway Clearing Accounts Office for posts of Guards on the North Western Railway. 600.

Working of the Payment of Wages Act, 1936, on the State Railways. 700.

Workings of the trains between Hardwar and Rikhikesh on the East Indian Railway. 1103.

AZHAR ALI, MR. MUHAMMAD—*concl.*Question (Supplementary) *re—*

Assignment by the A. E. G., India Electric Company, Limited, incorporated in Germany, of their business, assets, etc., to certain parties in Bombay. 130.

Delay in holding the Autumn Session of the Legislative Assembly. 134.

Expenditure by the Indian Coffee Cess Committee on propaganda activities in India. 426.

Fees collected from Haj pilgrims for meeting expenses in connection with Port Haj Committees. 692.

Quota of Muslim candidates at the flying training schools. 1102.

Training of Indian Pilots and Mechanics for the Air Force. 276.

Relinquishment of Simla for sittings of the Legislative Assembly. 104.

Resolution *re* Fiscal Policy of the Government of India. 169-70.

B

BADIN—

Question *re* representation for construction of a trunk road from Hyderabad (Sind) to Bombay *via* — and Viramgam. 358-59.

BAJORIA, BABU BALJNATH—

Finance Member's statement on the financial position. 101.

Resolution *re* fiscal policy of the Government of India. 166-68.

War Donations and Investments (Companies) Bills. Motion to consider. 260.

BAJPAI, THE HONOURABLE SIR GIRJA SHANKAR—

Resolution *re* appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 193-94, 195, 509, 510-11.

BALUCHISTAN—

Question *re—*

Alleged rude behaviour of the Quetta Railway Station officials at the welcome to the President-elect of the — Muslim League Session. 583-84.

Appointment of candidates in the Posts and Telegraphs subordinate service in the Sind and — circle without the production of valid domicile certificates. 359-60.

BALUCHISTAN—*contd.*Question *re—contd.*

Appointment of unqualified persons in the Sind and — Postal Circle. 569-70.

Permission to Boy Messengers acting as Packers in the Sind and — Postal Circle to appear for clerical examinations. 568-69.

Recruitment of postal clerks in the Sind and — Circle. 63.

Scheme for preventing raids into Sind from — and Kalat. 230-231.

BAN—

Question *re* North Western Railway — on hats against certain employees. 592-93.

BANERJEA, DR. P. N.—

Berar Laws Bill—

Motions to consider, circulate and refer to Select Committee. 946-47.

Election of — to the Governing Body of the Indian Research Fund Association. 1113.

Finance Member's statement on the financial position. 100.

Hindu Women's Rights to Property (Amendment) Bill—

Motion to refer to Select Committee. 988-89, 994.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 786.

Indian Railways (Amendment) Bill—

Motions to refer to Select Committee and to circulate. 925, 926.

Motion for Adjournment *re—*

Banning by the Government of Bengal publication of news of hunger strikes in jail, etc. 1112, 1113.

Dacca Mail disaster. 105-08, 109, 110, 111, 124.

Motion *re* election of three members for the Standing Committee attached to the Department of Supply. 920, 923.

Question *re—*

Calculation of period of sick leave on the State Railways. 17-18.

Certain quarterly statement forwarded by the Divisional Superintendent, Moradabad Division of the East Indian Railway. 16-17.

Certain record of non-gazetted railway servants in the Moradabad Division of the East Indian Railway. 14-15.

Circular instructions for grant of gratuity to non-gazetted staff in Lucknow Division of the East Indian Railway. 18-19.

BANERJEA, DR. P. N.—*contd.*Question *re—contd.*

Delegation of power to make first appointments in non-gazetted posts on certain State Railways. 12.

Desirability of enlarging the appellate jurisdiction of the Federal Court. 139-40, 282-83.

Disadvantages of the staff of company-managed section of the East Indian Railway trained at the Railway School of Transportation, Chandausi. 17.

Grades for which direct recruitment is considered desirable on certain State Railways. 12.

"Letter Post Delivery" from post offices in the Delhi Province. 15.

Numbers and character of non-gazetted posts on certain State Railways. 12.

Procedure for confirmation on the expiry of probationary period on State Railways. 13.

Procedure for making appointments and promotions in non-selection posts or non-selection grades after the initial appointment on certain State Railways. 14.

Publications of the rules and regulations governing the non-gazetted railway servants on State Railways. 11-12.

Republication of Indian Railways (Amendment) Bill (No. 28 of 1940) in certain State Railway Gazettes. 12-13.

Scope of exemption of staff from attending refresher courses at Area Schools on State Railways. 17.

Selection posts or selection grades specified by the General Managers on certain State Railways. 13.

Seniority of certain subordinate staff on the East Indian Railway. 16, 1104.

Seniority of travelling ticket inspectors on the East Indian Railway. 18.

Subsidiary rules made by the General Managers of certain State Railways and relaxations or modifications in them. 14.

Withholding of memorials, petitions, etc., of non-gazetted railway servants by the Divisional Superintendent, Moradabad Division of the East Indian Railway. 16.

BANERJEA, DR. P. N.—*concl'd.*Question (Supplementary) *re—*

Delay in holding the Autumn Session of the Legislative Assembly. 133.

Resolution *re—*

Appointment of a Committee to examine the conditions of Detenus under the Defence of India Act. 554-56.

Fiscal Policy of the Government of India. 168-69, 175.

BANGALORE—

Election of a Member to the Council of the Institute of Science. —. 367.

Motion *re* election of a Member on the Council of the Indian Institute of Science. —. 88-89.

BANK(S)—

Question *re—*

Non-employment of Indian brokers by the Calcutta Port Trust for purchasing telegraphic transfer of the Local Exchange — to the United Kingdom. 229-230.

Non-employment of Indian — Indian Brokers for short deposit businesses of the Calcutta Port Trust. 230.

BAREILLY—

Question *re* extra expenditure incurred by not appointing an Assistant Train Examiner to officiate as Head Train Examiner. —. 604.

BASAKHA SINGH, BABA—

Question *re* condition of health of Master Mota Singh, — and others detained in Deoli Detention camp. 778.

BATTALION(S)—

Question *re* expansion of the 10th (Nagpur) —, University Training Corps. 783-84.

BAURIYA(S)—

Question *re* information given to the Karol Bagh Police Station, Delhi, about the presence of a gang of criminals called —. 981.

BAURIYA CRIMINAL TRIBE—

See "Criminal Tribe".

BENGAL—

Question *re* distances of Indo-China from — and Assam. 863-64.

BENGAL, GOVERNMENT OF—

Motion for adjournment *re* banning by the — publication of news of hunger strikes in jail, etc. 1112-13.

BERAR LAWS BILL—

See "Bill(s)".

BIJNOR—

Motion for adjournment *re* closing of the Chandpur-Siau — section of the Gajraula Muazzampur Narain branch of the East Indian Railway. 982-983 and 896-1011.

BILL(S)—

Agricultural Produce Cess—

Assent of Governor General. 78.

Berar Laws—

Introduced. 234-35.

Motions to consider, circulate, and refer to Select Committee. 939-49.

Referred to Select Committee. 949.

Cantonments (Amendment) —

Introduced. 92.

Motion to consider. 243-44.

Consideration of clauses. 243-47.

Motion to pass. 247.

Passed. 247.

Passed by the Council of State. 1028.

Coal Mines Safety (Stowing) Amendment—

Assent of Governor General. 78.

Code of Civil Procedure (Amendment)

Introduced. 89-90.

Motion to consider. 256-57.

Passed. 257.

Passed by the Council of State. 1028.

Code of Criminal Procedure (Amendment)

Introduced. 90.

Motion to consider. 257-58.

Passed. 258.

Passed by the Council of State. 1028.

Code of Criminal Procedure (Amendment)

(Amendment of section 4)—

Introduced. 221.

Code of Criminal Procedure (Amendment)

(Amendment of Section 250)—

Introduced. 221.

Defence of India (Amendment)—

Assent of Governor General. 78.

Drugs—

Assent of Governor General. 78.

Excess Profits Tax—

Assent of Governor General. 78.

BILL (S)—*cont'd.*

Excess Profits Tax (Amendment) — Introduced. 235.

Motion to refer to Select Committee. 886-90.

Referred to Select Committee. 890.

Presentation of the Report of the Select Committee. 1059.

Motion to consider. 1116-19.

Consideration of clauses. 1119-24.

Passed. 1124.

Factories (Amendment)—

Assent of Governor General. 78.

Foreigners—

Assent of Governor General. 78.

Hindu Judicial Separation and Divorce Bill—

Introduced. 995-96.

Hindu Married Women's Right to Separate Residence and Maintenance— Introduced. 996.

Hindu Women's Rights to Property (Amendment) —

Motion to refer to Select Committee. — 983-994.

Negatived. 995.

Income-tax Law Amendment—

Assent of Governor General. 78.

Indian Arbitration—

Assent of Governor General. 78.

Indian Coinage (Amendment)—

Assent of Governor General. 78.

Indian Companies (Amendment) —

Introduced. 91.

Motion to consider. 258.

Passed. 259.

Passed by the Council of State. 1028.

Indian Emigration (Amendment)—

Assent of Governor General. 78.

Indian Evidence (Amendment) —

Introduced. 221.

Indian Finance—

Assent of Governor General. 78.

Indian Finance (No. 2) —

Introduced. 101-102.

Motions to consider and to circulate. 298-347, 367-422, 439-92, 610-53, 709-63, 786-840.

Message from H. E. the Viceroy asking for the passage of the — in the Legislative Assembly in the form recommended. 882-83.

Motion for leave to introduce in the form recommended. 883-86.

Negatived. 886.

BILL(S)—*contd.*

- Indian Income-tax (Amendment) —
Introduced. 92-93.
Motion to consider. 949-57.
Consideration of clauses. 957-59.
Passed. 959.
- Indian Merchandise Marks (Amendment)
Introduced. 91.
Motion to refer to Select Committee.
270-71.
Referred to Select Committee. 271.
- Indian Merchant Shipping (Amendment)—
Motion to refer to Select Committee.
211-21.
Referred to Select Committee. 221.
- Indian Mines (Amendment)—
Assent of Governor General. 78.
- Indian Navy (Discipline) Amendment—
Introduced. 90.
Motion to consider. 237-241.
Consideration of clauses. 241-242.
Motion to pass. 242.
Passed. 242.
Passed by the Council of State. 1028.
- Indian Navy (Discipline) Second Amend-
ment—
Introduced. 90-91.
Motion to consider. 242.
Motion to pass. 242.
Passed. 242.
Passed by the Council of State. 1028.
- Indian Railways (Amendment)—
Introduced. 235.
Motions to refer to Select Committee
and to circulate. 890-903, 924-39.
Referred to Select Committee. 939.
- Indian Railways (Amendment) (No. 28 of
1940)—
Question re republication of— in certain
State Railway Gazettes. 12-13.
- Indian Railways (Second Amendment)—
Introduced. 222.
- Indian Registration (Amendment)—
Introduced. 89.
Motion to consider. 254-56.
Motion to pass. 256.
Passed. 256.
Passed by the Council of State. 1028.
- Indian Sale of Goods (Amendment)—
Introduced. 439.
Motion to consider. 1060-62.
Passed. 1062.

BILL(S)—*contd.*

- Indian Tariff (Amendment)—
Assent of Governor General. 78.
- Indian Tariff (Second Amendment)—
Assent of Governor General. 78.
- Indian Works of Defence (Amendment)—
Introduced. 90.
Motion to consider. 236-37.
Passed. 237.
Passed by the Council of State. 1028.
- Insurance (Amendment)—
Assent of Governor General. 78.
- Land Acquisition (Amendment)—
Introduced. 995.
- Motor Spirit (Duties) Amendment—
Introduced. 92.
Motion to consider. 268-69.
Passed. 269.
Passed by the Council of State. 1028.
- Motor Vehicles (Amendment)—
Assent of Governor General. 78.
- National Service (European British Sub-
jects)—
Assent of Governor General. 78.
- New Delhi Mosque—
Introduced. 235.
Motion to move not made. 1062.
- Offences on Ships and Aircraft—
Assent of Governor General. 78.
- Parsi Marriage and Divorce (Amend-
ment)—
Assent of Governor General. 78.
- Petroleum (Amendment)—
Assent of Governor General. 78.
- Legislation (Emergency Powers)—
Assent of Governor General. 78.
- Registration of Trade Marks.—
Assent of Governor General. 78.
- Repealing and Amending—
Introduced. 89.
Motion to consider. 248-54.
Motion to pass. 254.
Passed. 254.
Passed by the Council of State. 1028.
- Reserve Bank of India (Amendment)—
Assent of Governor General. 78.
- Reserve Bank of India (Closing of Annual
Accounts)—
Assent of Governor General. 78.
- Reserve Bank of India (Second Amend-
ment)—
Assent of Governor General. 78.

BILL(S)—*concl.*

- Reserve Bank of India (Third Amend-
ment)—
Introduced. 92.
Motion to consider. 263-68.
Motion to pass. 268.
Passed. 268.
Passed by the Council of State. 1028.
- Royal Indian Navy (Extension of
Service)—
Assent of Governor General. 78.
- Specific Relief (Amendment) Bill—
Introduced. 995.
- War Donations and Investments (Com-
panies)—
Introduced. 91.
Motion to consider. 259-62.
Consideration of Clauses. 262.
Motion to pass. 262.
Passed. 262.
Passed by the Council of State. 1028.

BINDING BRANCH—

- Question re seniority list of the — of
the Government of India Press, New
Delhi. 701.

BIRTH DATE(S)—

- Question re vagaries in the exercise of
power of allowing alterations of — by
employees on the North Western Rail-
way. 231-232.

BLOCK—

- Question re steps for relieving the hardships
due to — on grade I on the North
Western Railway.

BLOCK MAINTAINER(S)—

- Question re—
Disallowance of the privilege of rent free
quarters to certain Block Mistries
recruited as — on the North West-
ern Railway. 872-73.
Provision of rent-free quarters to — on
the North Western Railway. 1103-04.

BLOCK MISTRY(IES)—

- See "Mistry(ies)".

BOARD(S)—

- Question re—
Expenditure by the Indian Coffee Cess
Committee on salaries and propaganda
activities of the London Market
Expansion —. 424.
Rise in the salary of the Director of the
London Market Expansion —.
424-25.

BOMBAY—

Question re—

- Assignment by the A. E. G. India
Electric Company, Limited, incorpo-
rated in Germany, of their business,
assets, etc., to certain parties in —.
127-30.

- Representation for construction of a
trunk road from Hyderabad (Sind)
to — via Badin and Viramgam.
358-59.

- Working of the — Multiple Unit
Service on the Great Indian Peninsula
Railway by certain drivers. 64.

BOOK(S)—

Question re—

- or syllabus prescribed for promotion
courses on State Railways. 868.

BOOK STALL (S)—

Question re—

- Contract for — given to Messrs.
Wheeler and Company by the General
Manager, North Western Railway.
597.

- Extension of Messrs. Wheeler and Com-
pany's contract for — on the North
Western Railway. 599-600.

BOOKING OFFICE(S)—

Question re—

- Question re city — and Parcel Office
worked by Messrs. Thomas Cook and
Son. 45-46.

BOSE, MR. SUBHAS CHANDRA—

- Motion for adjournment re failure of
Government to enable — to attend the
Session of the Legislative Assembly
148-49.

BOY MESSENGERS—

- See "Messenger(s)".

BOYLE, MR. J. D.—

- Excess Profits Tax (Amendment) Bill—
Consideration of clauses. 1119-20.

Indian Finance (No. 2) Bill—

- Motions to consider and to circulate
615, 619.

- Question re assignment by the A. E. G.
India Electric Company, Limited, in-
corporated in Germany, of their business
assets, etc., to certain parties in
Bombay. 127-30.

BRAKE-VAN(S)—

- Question re complaints of deterioration
eye-sight from Goods Train Guards for
want of electric lights in —. 232.

BRANCH(ES)—

Question re reversion of permanent men of higher grade to lower posts in certain — of the Government of India Press, New Delhi. 705.

BRANCH LINE(S)—

Motion for adjournment re closing down of the — between Shoranur and Nilambur in the Malabar District. 1026-27, 1080-95.

Question re intervals for washing of the passenger carriages running on — of the North Western Railway. 9-10.

BRIBERY—

Question re allegations of — against the Manager of the Medical Stores Depot, Lahore. 775.

BRIDGE ENGINEERING WORKS—

Question re disabilities of the subordinates of the — at Mamnad, Great Indian Peninsula Railway. 50.

BRIDGE STAFF—

Question re holding in abeyance orders in respect of certain — memorialists of the North Western Railway. 874-75.

BRITISH GOVERNMENT—

Question re departures in the working of the financial adjustment between the Government of India and the —. 961.

BRITISH PORTION—

Question re 'Hours of Employment Regulations' incorporated in the Indian Railways Amendment Act, 1930, not made applicable to — of Jodhpur Railway. 866-67.

BROADCAST—

Question re — of Sikh religion and history by the Lahore, Peshawar and Delhi Broadcasting Stations. 861.

BROADCASTING STATION(S)—

Question re —
Broadcast of Sikh religion and history by the Lahore, Peshawar and Delhi —. 861.

Sikh religious programmes in certain —. 44.

BROKER(S)—

Question re —
Non-employment of Indian Banks and Indian — for short deposit business — of the Calcutta Port Trust. 230.

BROKER (S)—contd.**Question re—contd.**

Non-employment of Indian — by the Calcutta Port Trust for purchasing telegraphic transfers of the Local Exchange Banks to the United Kingdom. 229-30.

BUDGET—**Question re—**

— for the Ecclesiastical Department. 209.

Votable and non-votable expenditure sanctioned outside the —. 197-200.

BUILDING(S)—**Question re—**

— plans received by the Delhi Improvement Trust. 52.

Cases of deviations in the construction of — reported by the — Inspector, Delhi Improvement Trust. 912.

BUILDING BYE-LAWS—

See "Bye-law(s)".

BUILDING INSPECTOR(S)—

Question re complaints against the — of the Delhi Improvement Trust. 53.

See also "Inspector(s)".

BUKHTIARPUR—

Question re want of shunting facilities at — Junction of the East Indian Railway. 349.

BULLION(S)—

Question re total weight of silver — and silver coins in the possession of Government. 770.

BUNGALOW(S)—

Question re reservation of Government — and quarters for particular officers or staff in New Delhi or Old Delhi. 911-12.

BUNYAD HUSSAIN, KHAN BAHADUR SAYAD—

Oath of office. 2

BURGLARY(IES)—

Question re — and dacoities in New Delhi. 974-75 and 980-81, 1096-1100.

BURHANPUR—

Motion for adjournment re alleged occupation of the Muslim Idgah at — by the Military. 708, 784-85.

BUSINESS(ES)—**Question re—**

Assignment by the A. F. G. India Electric Company, Limited, incorporated in Germany, of their — assets, etc., to certain parties in Bombay. 127-30.

Non-employment of Indian Banks and Indian brokers for short deposit — of the Calcutta Port Trust. 230.

See also "Statement of Business".

BUSS, MR. L. C.—

Appointment of — to the Committee on Petitions. 439.

Expressions of regret on the deaths of Raja Sir Vasudava Rajah and Mr. Suryya Kumar Som. 71.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 316-19.

Nomination of — to the Panel of Chairmen. 211.

BYE-LAW(S)—**Question re—**

Cases of infringement of building — of the Delhi Improvement Trust. 907.

Rules or — of the Delhi Joint Water and Sewage Board. 699.

C**CABINET—**

Question re private houses in New Delhi reserved for accommodation of the extra members of the Viceroy's proposed expanded —. 697-98.

CALCUTTA—**Question re—**

Different scales of pay for Officers of the Preventive Service at Chittagong and —. 771-72.

Inadequate Indian representation in the — Port Trust. 229.

Income-tax Officers and Examiners in the Company Districts at —. 60.

Muslim officers employed by the — Port Trust. 582.

Non-employment of Indian Banks and Indian brokers for short deposits — of the — Port Trust. 230.

CALCUTTA—contd.**Question re—contd.**

Non-employment of Indian brokers by the — Port Trust for purchasing telegraphic transfers of the local Exchange Banks to the United Kingdom. 229-230.

Scholarships for special training given by the Government of India or the — Port Trust. 582-83.

CANDIDATE(S)—**Question re—**

Age limit of — for the post of Station Director, All-India Radio, recently advertised. 1018-19.

Appointment of — in the Posts and Telegraphs Subordinate service in the Sind and Baluchistan Circle without the production of valid domicile certificates. 359-60.

Delay in making appointments of — successful in the Indian Audit and Accounts Service Examination of 1939. 201.

Non-submission of names of Muslim — for selection to lower gazetted service from Howrah Division of the East Indian Railway. 1023.

Quota of Muslim — at the flying training school. 1016, 1101-02.

Quotas of — for emergency commissions and as privates for the Army fixed for different provinces. 780-81.

Selection of — for emergency commissions and as privates for the army. 781-82.

Selection of — for the Technical School connected with the Indian Air Force. 1017.

CANTONMENT(S)—**Question re—**

Amalgamation of Sadler Bazar, Ambala, with Ambala —. 207.

Assessment value of houses and shops in the Kasauli —. 63.

Model housing scheme in the Allahabad —. 1103.

Tongas permitted to run from the Meerut — Railway Station. 58.

CANTONMENT (AMENDMENT) BILL—

See "Bill(s)".

CARCASE(S)—

Question *re* dumping of — of animals near Karol Bagh, Delhi. 65.

CAROE, MR. O. K.—

Motion for adjournment *re* refusal of permission to Mr. Bhulabhai Desai and to Mr. Asaf Ali to visit Waziristan. 77.

CARRIAGE(S)—

Question *re*—

Diversion of — of postal mails between Sylhet and Shillong from Road to railway. 353-54.

Intervals for washing of the passenger — running on Branch lines of the North Western Railway. 9-10.

Provision of tumbler switches for controlling lights in intermediate class —. 1017-18.

CASH BRANCH(ES)—

Question *re* assistants and clerks in the — of the Government of India Offices. 42-43.

CASTE(S)—

Question *re*—

Desirability of recruitment of Indians of all — and creeds to the Indian Army. 779-80.

Issue of instructions *re* entries in — column of the Census Returns. 772-74.

CATERING—

Question *re*—

— as a source of income to Railway administrations. 360-61.

Indian — made a source of income on the Assam Bengal Railway. 586.

CATERING CONTRACT(S)—

Question *re* policy observed by the General Manager, East Indian Railway, in the matter of —. 605-06.

See also under "Contract(s)."

CATERING SYSTEM—

Question *re*—

Desirability of uniformity as to the Indian — on all Indian Railways. 584-85.

Improvement in the Indian — of the Assam Bengal Railway. 586, 1104-05.

CAWNPORE—

Question *re* arrangement of through railway journey from Dacca and Shillong to—and Lucknow. 1018.

CENSUS—

Demand for Excess Grant in respect of —. 1076-77.

CENSUS RETURN(S)—

Question *re* issue of instructions *re* entries in "Caste" column of the —. —772-74.

CENTRAL CONTROL ROOM—

Question *re* establishment of a — at Kalyan. 64.

CENTRAL EXCISE DUTIES—

Demand for Excess Grant in respect of —. 1076.

CENTRAL LEGISLATURES—

See "Legislature(s)."

CENTRAL PUBLIC WORKS DEPARTMENT—

See "Public Works Department."

CENTRAL TUBERCULOSIS CLINIC—

See "Tuberculosis Clinic."

CERTIFICATE(S)—

Question *re*—

Appointment of candidates in the Posts and Telegraphs subordinate service in the Sind and Baluchistan circle without the production of valid domicile —. 359-60.

Contribution by officers of the Army and Air Forces Headquarters towards the Defence Savings Provident Fund and Defence Savings —. 496.

CHAIR—

Motion for adjournment *re* disallowance of a motion for adjournment by the Governor General after it was allowed by the —. 210.

CHAIRMAN, PANEL OF—

See "Panel of Chairman(en)."

CHALIHA, MR. KULADHAR—

Question (Supplementary) *re*—

Desirability of uniformity as to the Indian catering system on all Indian Railways. 584.

Distances of Indo-China from Bengal and Assam. 564.

CHANDAUSI—

Question *re* disadvantages of the staff of company-managed section of the East Indian Railway trained at the Railway School of Transportation, —. 17.

CHANDPUR—

Motion for adjournment *re* closing of the — Siau-Bijnor section of the Gajraula Muazzampur Narain branch of the East Indian Railway. 982-83 and 996-1011.

CHANDPUR-SIAU-BIJNOR SECTION—

Motion for adjournment *re* closing of the — of the Gajraula Muazzampur Narain Branch of the East Indian Railway. 917.

CHARACTER—

Question *re* numbers and — of non-gazetted posts on certain State Railways. 12, 877.

CHARGE(S)—

Question *re* procedure for enquiry into — against railway servants. 869-70.

CHAUDHURY, MAULVI ABDUL HALIM—

Oath of Office. 197.

CHETTIAR, MR. T. S. AVINASHILIN-GAM—

Indian Finance (No. 2) Bill—

Motion to consider and to circulate. 834.

Question (Supplementary) *re*—

Creation of new industries or workshops on permanent basis and Government subsidy thereon. 423.

Desirability of uniformity as to the Indian catering system on all Indian Railways. 585.

Expenditure by the Indian Coffee Cess Committee on propaganda activities in India. 426, 427.

Instructions for charging rent for use of Railway refreshment rooms and stalls 362, 363.

Issue of one rupee notes. 766.

Officers and ministerial staff of the External Affairs Department who moved up to Simla last summer and expenditure incurred in the Move. 572.

Reservation of the posts of enquiry clerks, etc., for guards with defective vision on the North Western Railway. 864.

Steps for increase and distribution of the shipping accommodation. 656.

Steps for increasing the export trade of India. 658.

Suggestions made by the Port Maj Committees. 693.

Training of Indian Pilots and Mechanics for the Air Force. 276.

CHETTY, MR. SAMI VENCATA-CHELAM—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 753.

Motion for Adjournment *re* fall in the prices of ground-nuts. 608, 609.

CHIEF ACCOUNTS OFFICER—

Question *re*—

Increment in the percentage of promotions of routine clerks in grade II by the — of the North Western Railway. 860-61.

Promotion of a record lifter as a clerk in the — on the North Western Railway. 860.

CHIEF OPERATING SUPERINTENDENT—

Question *re* recruitment of temporary clerks in the Office of the —, East Indian Railway. 597.

CHILD(REN)—

Question *re* educational assistance to the — of employees on the North Western Railway. 588.

CHITTAGONG—

Question *re* different scales of pay for Officers of the Preventive Service at — and Calcutta. 771-72.

CHOWKIDAR(S)—

Question *re* use of Government furniture by certain — engaged by the Central Public Works Department. 664.

CHRISTIAN(S)—

Question *re* recruitment of Indian — to the Subordinate and Superior Services of the State and Company-managed Railways. 561-63.

CIRCULAR(S)—

Question *re* — instructions for grant of gratuity to non-gazetted staff in Lucknow Division of the East Indian Railway. 18-19.

CIVIL ADMINISTRATOR—

See "Administrator(s)."

CIVIL PROCEDURE (AMENDMENT) BILL—

See code of — under "Bill(s)."

CIVIL SUIT—

Question *re* — by an employee decreed against the North Western Railway. 591-92.

CLASSIFICATION—

Question re re- — of Works Mistries as "Labourers" on the North Western Railway. 564-66.

CLASSIFIED LIST—

Question re publication of a — of a certain class of subordinate staff of all branches of Railway service on the North Western Railway. 588-89.

CLERICAL EXAMINATIONS—

See "Examination(s)."

CLERICAL POST(S)—

See "Post(s)."

CLERK(S)—

Question re—

Allegations of corruption against a — in the Divisional Office, Rawalpindi. 27-28.

Assistants and — in the cash branches of the Government of India Offices. 42-43.

— employed in certain sections of the Railway Divisional Office, Lahore. 68-69.

Desirability of relaxation of allotment of quarters rules in the case of low-paid, married non-migratory —. 706.

Filling up of certain vacancies of — recently occurring in the Karachi Divisional Office of the North Western Railway. 587-88.

Increment in the percentage of promotions of routine — in grade II by the Chief Accounts Officer of the North Western Railway. 860-61.

Muslim — in the Imperial Veterinary Research Institute. 696, 1108.

Officers and — in the Railway Board graduated in Mathematics. 598.

Promotion of a record lifter as a — in the Chief Accounts Office on the North Western Railway. 890.

Promotion of — in the Headquarters Office of the North Western Railway. 46-49.

Recruitment of postal — in the Sind and Baluchistan Circle. 63.

Recruitment of temporary — in the Office of the Chief Operating Superintendent, East Indian Railway. 597.

Reservation of the posts of enquiry — etc., for guards with defective vision on the North Western Railway. 863-64.

CLERK(S)—contd.

Question re—contd.

Subordinates and — who worked under the Building Inspector of the Delhi Improvement Trust and resigned. 908.

Withholding of applications of Muslim — of the Railway Clearing Accounts Office for posts of Guards on the North Western Railway. 600.

CLINIC—

Question re—

Location of a tuberculosis — in Karol Bagh, Delhi. 62.

Shifting of the tuberculosis — from Karol Bagh, Delhi. 54.

CLOW, THE HONOURABLE SIR ANDREW—

Certain papers re Motor Vehicles Rules laid on the table. 88.

Indian Finance (No. 2) Bill—

Motions to consider and circulate. 406.

Indian Railways (Amendment) Bill—

Motion for leave to introduce. 235.
Motions to refer to Select Committee and to circulate. 890-92, 894-95, 900, 901, 902, 929, 936-39.

Motion for Adjournment re—

Alleged embezzlement in the Multan Division of the North Western Railway. 1110.

Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1026, 1027, 1084-87, 1091, 1092, 1095.

Closing of the Chandpur-Siau-Bijnor section of the Gajraula Muazzampur Narain branch of the East Indian Railway. 917, 982, 983, 997, 998, 1001, 1005-07, 1008, 1009, 1010.

Dacca Mail disaster. 73, 112, 113, 114, 116, 121, 122-25.

Opinions of the Honourable Member for Railways and Communications on the D'Souza Report. 153, 154.

Motion to consider the Report of the Public Accounts Committee. 1074.

Statement re net earnings of new railway lines. 81-82.

COALFIELD—

Question re continuing fire in the — in Sudamdih Area Colliery. 286.

COAL-MINE DISASTER—

See "Disaster(s)".

COAL MINES SAFETY (STOWING) AMENDMENT BILL—

See "Bill(s)".

CODE OF CIVIL PROCEDURE (AMENDMENT) BILL—

See "Bill(s)".

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL (AMENDMENT OF SECTION 4)—

See "Bill(s)".

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL (AMENDMENT OF SECTION 250)—

See "Bill(s)".

COFFEE—

Question re—

Expenditure by the Indian — Cess Committee on propaganda activities in India. 426-27.

Expenditure by the Indian — Cess Committee on salaries and propaganda activities of the London Market Expansion Board. 424.

Imports and consumption of Indian — in the United Kingdom. 423-24.

Resolution re scrapping of the London — Market Extension Board by the Indian — Cess Committee. 514-31.

COIN(S)—

Question re total weight of silver bullion and silver — in the possession of Government. 776.

COINAGE (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

COLLECTIVE ASSESSMENT—

See "Assessment".

COLLIERY(IES)—

Question re continuing fire in the coalfield in Sudamdih Area —. 286.

COMMERCE DEPARTMENT—

Question re—

Conferences, committees or sub-committees held at Simla last summer under the control of the —. 681-82.

Officers and ministerial staff of the — who moved up to Simla last summer and expenditure incurred in the Move. 680-81.

COMMISSION(S)—

Question re—

— charged by the Government of India on articles purchased by His Majesty's Government for the maintenance of the Supply Department. 961-63.

Emergency — in the Land and Air Forces of His Majesty's Government in India. 976-79.

Mission of the Roger — in India. 913.

Quotas of candidates for emergency — and as privates for the army fixed for different provinces. 780-81.

Selection of candidates for emergency — and as privates for the army. 781-82.

COMMITTEE(S)—

Appointment of the — on Petitions. 439.

Election of a Member to the Standing Finance —. 234, 297.

Motion to consider the Report of the Public Accounts —. 1062-75.

Question re—

Appointment of — of pilgrims and Amir-ul-Haj by Port Haj — on pilgrim ships. 140.

Conferences, — or sub- — held at Simla last summer under the control of the Commerce Department. 681-82.

Conferences, — or sub- — held at Simla last summer under the control of the Defence Co-ordination Department. 606.

Conferences, — or sub- — held at Simla last summer under the control of the Defence Department. 506.

Conferences, — or sub- — held at Simla last summer under the control of the Department of Communications. 579.

Conferences, — or sub- — held at Simla last summer under the control of the Department of Education, Health and Lands. 670-76.

Conferences, — or sub- — held at Simla last summer under the control of the External Affairs Department. 572.

Conferences, — or sub- — held at Simla last summer under the control of the Finance Department. 502-04.

COMMITTEE(S)—*contd.*Question *re—contd.*

- Conferences, — or sub- — held at Simla last summer under the control of the Home Department. 498-99.
- Conferences, — or sub- — held at Simla last summer under the control of the Labour Department. 661-63.
- Conferences, — or sub- — held at Simla last summer under the control of the Legislative Department. 677-78.
- Conferences, — or sub- — held at Simla last summer under the control of the Political Department. 679-80.
- Conferences, — or sub- — held at Simla last summer under the control of the Railway Department. 576-578.
- Expenditure by the Indian Coffee Cess — on propaganda activities in India. 426-27.
- Expenditure by the Indian Coffee Cess — on salaries and propaganda activities of the London Market Expansion Board. 424.
- Fees collected from Haj pilgrims for meeting expenses in connection with Port Haj —. 691-92.
- Grant of allowances to non-resident members of the Port Haj — for attending meetings. 144.
- Personnel of the Roger — from Overseas Dominions and States and its mission. 429-34.
- Propaganda and expenditure thereon by the Port Haj —. 284-85.
- Quarters —, Moradabad Division, East Indian Railway. 593.
- Recruitment of officers in the Supply Department through the National Service —. 905-06.
- Savings due to setting up of the Port Haj —. 691.
- Selection board or — assembled in Moradabad Division on the East Indian Railway. 880-81.
- Suggestions made by the Port Haj —. 682-93.
- Resolution *re—*
- Appointment of a — of the Central Legislature regarding economy in war expenditure. 531-50.
- Appointment of a — to examine the conditions of Detenus under the Defence of India Act. 550-60.
- Scrapping of the London Coffee Market Expansion Board by the Indian Coffee Cess —. 514-31.

COMMUNAL BASIS—

Question *re* orders in force for promotion of servants on the North Western Railway on a —. 872.

COMMUNAL COMPOSITION—

Question *re—*

- of Indian Civil Service and other All-India Service Officers brought on to the Government of India Secretariat. 963-64.
- of journeymen appointed in certain shops on the North Western Railway. 58.
- of the staff of the Imperial Veterinary Research Institute. 695, 1107.
- Recruitment, — salaries, etc., of certain staff in the Supply Department and Allied Offices. 287-95.

COMMUNAL CONSIDERATION(S)—

Question *re—*

- in the promotion of guards from grade II to grade III on the North Western Railway. 357-58.
- in the promotion of guards on the North Western Railway. 1014-15.

COMMUNAL GROUND(S)—

Question *re* discharge of certain Works Mistries in the Rawalpindi Division of the North Western Railway on —. 589-90.

COMMUNAL REPRESENTATION—

Question *re* report of the officer on special duty appointed to investigate into certain matters affecting — in railway services. 223, 225-226.

COMMUNAL RESERVATION—

Question *re—*

- Advisability of withdrawing the Government Resolution on — of appointments in public services. 205-06.
- both on appointment and confirmation of new recruits on the North Western Railway. 7-8.

COMMUNICATIONS, DEPARTMENT OF—

Question *re—*

- Conferences, committees or sub-committees held at Simla last summer under the control of the —. 579.
- Officers and ministerial staff of the — and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the Move. 578.

COMMUNITY(IES)—

Question *re—*

- Proportion of different — in the Department of Education, Health and Lands. 49.
- Report *re* the representation of Muslims and other minority — in the subordinate railway services. 861.

COMPANIES (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

COMPANY DISTRICT(S)—

Question *re* Income-tax Officers and Examiners in the — at Calcutta. 60.

COMPANY-MANAGED RAILWAYS—

See "Railway(s)".

COMPANY-MANAGED SECTION—

Question *re* disadvantages of the staff of — of the East Indian Railway trained at the Railway School of Transportation, Chandauli. 17.

COMPETITIVE EXAMINATION(S)—

See "Examination(s)".

COMPLAINT(S).—

Question *re—*

- about the treatment of patients in the Irwin Hospital, New Delhi. 435-36.
- against the Building Inspector of the Delhi Improvement Trust. 53.
- of deterioration of eye-sight from Goods Train Guards for want of electric lights in brake-vans. 232.

COMPOSITOR(S)—

Question *re* differential treatment meted out to piece — in the Government of India Press, New Delhi. 702.

CONFERENCE(S)—

Draft Convention and Recommendations adopted by the International Labour Conference (laid on the table). 1028-59.

Question *re—*

- committees or sub-committees held at Simla last summer under the control of the Commerce Department. 681-82.
- committees or sub-committees held at Simla last summer under the control of the Defence Co-ordination Department. 668.

CONFERENCE(S)—*contd.*Question *re—contd.*

- committees or Sub-Committees held at Simla last summer under the control of the Defence Department. 506.
- committees or sub-committees held at Simla last summer under the control of the Department of Communications. 579.
- committees or sub-committees held at Simla last summer under the control of the Department of Education, Health and Lands. 670-76.
- Committees or Sub-Committees held at Simla last summer under the control of the External Affairs Department. 572.
- Committees or Sub-Committees held at Simla last summer under the control of the Finance Department. 502-04.
- Committees or sub-committees held at Simla last summer under the control of the Home Department. 498-99.
- committees or sub-committees held at Simla last summer under the control of the Labour Department. 661-63.
- committees or sub-committees held at Simla last summer under the control of the Legislative Department. 677-78.
- committees or sub-committees held at Simla last summer under the control of the Political Department. 679-80.
- committees or sub-committees held at Simla last summer under the control of the Railway Department. 576-78.

CONFIDENTIAL REPORTS—

See "Report(s)".

CONFIRMATION—

Question *re—*

- Communal reservation both on appointment and — of new recruits on the North Western Railway. 7-8.
- Procedure for — on the expiry of probationary period on State Railways. 13.

CONGRESS WORKER(S)—

Question *re* certain — arrested in Delhi under the United Provinces Goonda Act. 970-73.

CONTRACT(S)—

Question *re* —
— for book stalls given to Messrs. Wheeler and Company by the General Manager, North Western Railway. 597.

Cooly — in Moradabad, Lucknow and Allahabad Divisions, East Indian Railway. 881.

Fruit vending — at Amritsar Railway Station. 606.

Non-observance of the principle of sub-letting of railway — in the case of a certain — at the Delhi Railway Station. 864-66.

Policy observed by the General Manager, East Indian Railway, in the matter of catering —. 1105.

CONTRACTOR(S)—

Question *re* — for the War Purchases. 287.

CONTROL ROOM—

Question *re* establishment of a central — at Kalyan. 64.

CONTRIBUTION(S)—

Question *re* — by officers of the Army and Air Forces Headquarters towards the Defence Savings Provident Fund and Defence Savings Certificates. 496.

CONVENTION(S)—

Draft — and Recommendations adopted by the International Labour Conference (laid on the table). 1028-29.

CONVICTION(S)—

Question *re* persons tried, convicted or detained without trial under the Defence of India Act. 914-17.

COOLY CONTRACT(S)—

Question *re* — in Moradabad, Lucknow and Allahabad Divisions, East Indian Railway. 881.

COUNCIL—

Election of a Member to the — of the Institute of Science, Bangalore. 367.

COUNCIL OF STATE—

Speech delivered to the — and the Legislative Assembly by His Excellency the Viceroy. 841-848.

COUNCIL OF THE INDIAN INSTITUTE OF SCIENCE—

Motion *re* election of a Member on the — Bangalore. 88-89.

CORRUPTION—

Question *re* allegations of — against a clerk in the Divisional Office, Rawalpindi. 27-28.

CREED(S)—

Question *re* desirability of recruitment of Indians of all castes and — to the Indian Army. 779-80.

CRIME(S)—

Question *re* —
— in Delhi. 67.
Steps to reduce the number of thefts and other — in Delhi. 981.

CRIMINAL(S)—

Question *re* information given to the Karol Bagh Police Station, Delhi, about the presence of a gang of — called Bauriyas. 981.

CRIMINAL PROCEDURE (AMENDMENT) BILL—

See "Code of —" under "Bill(s)".

CRIMINAL TRIBE—

Question *re* arrest of a gang of thieves of Bauriya —. 981.

D

D. I. Z. AREA—

Question *re* neglect of planted trees and maintained lawns in the — of New Delhi. 664-65.

D'SOUZA—

Motion for Adjournment *re* opinions of the Honourable Member for Railways and Communications on the — Report. 153-54.

"D" TYPE ORTHODOX QUARTER(S)

See "Quarter(s)".

DACCA—

Question *re* —
Accidents to the — Mail in 1939 and 1940. 352-53.

Arrangement of through railway journey from — and Shillong to Cawnpore and Lucknow. 1018.

Non-transfer of certain telephone operators in — Division. 1017.

Relief given to the victims of the — Mail disaster. 351-52.

MAIL—

See Mail(s)".

DACOITY(IES)—

Question *re* burglaries and — in New Delhi. 974-75 and 980-81, 1099-1100.

DAS, RANDIT NILAKANTHA—

Election of — to the Standing Committee for the Department of Supply. 1113.

Excess Profits Tax (Amendment) Bill—
Consideration of clauses. 1122.

Indian Railways (Amendment) Bill—
Motions to refer to Select Committee and to circulate. 929-33, 935, 937.

DATT, MR. AKHIL CHANDRA—

Hindu Women's Rights to Property (Amendment) Bill—

Motion to refer to Select Committee. 983-88, 989, 990, 993 and 994.

Indian Finance (No. 2) Bill—
Motions to consider and to circulate. 618-23.

Question *re* model housing scheme in the Allahabad Cantonment. 1103.

Question (Supplementary) *re* prosecution of Pandit Jawahar Lal Nehru. 973.

DAUGHTER—

Question *re* repatriation of Mr. L. N. Khanna's wife and — from Sudetenland, Germany. 775-76.

DEAD ANIMALS—

See Animal(s)".

DEATH(S)—

Expressions of regret on the — of Raja Sir Vasudeva Rajah and Mr. Suryya Kumar Som. 70-71.

DEDUCTION(S)—

Question *re* — made from the salaries of the gang staff on Jacobabad—Kashmore Section. 855.

DEFENCE BOND(S)—

Question *re* enactment of legislation enabling Insurance Companies to buy Defence Bonds. 776.

DEFENCE CO-ORDINATION DEPARTMENT—

Question *re* —
Conferences, committees or sub-committees held at Simla last summer

under the control of the —. 668.

Officers and ministerial staff of the — who moved up to Simla last summer and expenditure incurred in the Move. 667-68.

DEFENCE DEPARTMENT—

Question *re* —
Conferences, Committees or Sub-Committees held at Simla last summer the control of the —. 506.
Officers and ministerial staff of the — who moved up to Simla last summer and expenditure incurred in the move. 505.

DEFENCE EXPENDITURE—

Question *re* —. 965.

DEFENCE OF INDIA—

Question *re* steps for the —. 280-82.

DEFENCE OF INDIA ACT—

See Act(s)".

DEFENCE OF INDIA (AMENDMENT) BILL—

See Bill(s)".

DEFENCE OF INDIA RULE(S)—

Question *re* persons prosecuted or detained under the Defence of India Act and —. 974.

DEFENCE SAVING CERTIFICATE(S)—

Question *re* contribution by officers of the Army and Air Forces Headquarters towards the Defence Savings Provident Fund and —. 496.

DEFENCE SAVINGS PROVIDENT FUND

See "Provident Fund(s)".

DELEGATE(S)—

Question *re* accommodation reserved in the Imperial Hotel for the — of Eastern Group Conference. 697.

DELHI—

Motion for Adjournment *re* rustication of Mr. M. Farouqi and Mr. D. Sanghi from the University of —. 1111-12.

Question *re* —
Affairs of the — Improvement Trust. 59.

Alleged utilisation of the services of *Khulasis* by the officers of the — Improvement Trust for private work. 907-08.

Broadcast of Sikh religion and history by the Lahore, Peshawar and — Broadcasting Stations. 861.

Building Inspector of the — Improvement Trust. 86.

Building plans received by the — Improvement Trust. 82.

DELHI—*contd.*Question re—*contd.*

- Cases of deviations in the construction of buildings reported by the Building Inspector, — Improvement Trust. 912.
- Cases of infringement of building bye-laws of the — Improvement Trust. 907.
- Central Tuberculosis Clinic, —. 909-10.
- Certain congress workers arrested in — under the United Provinces Goenda Act. 970-73.
- Complaints against the Building Inspector of the — Improvement Trust. 53.
- Connecting of drains with sewers in Karol Bagh, —. 707.
- Crimes in —. 67.
- Dumping of carcasses of animals near Karol Bagh —. 65.
- Easement rights infringed by construction of open storm water drains in Karol Bagh, —. 708.
- Enhancement of annual premium of Nazul plots in Karol Bagh, —. 707-08.
- Failure to name or light streets in the Naiwala area of Karol Bagh, —. 689.
- Government Service Rules applicable to the staff of the — University. 699.
- Grant of arms licences to special Police Officers in —. 67.
- Grant of summer allowance to the ministerial establishment of the Government of India Secretariat detained at — last summer. 688.
- Incomplete sewerage in Karol Bagh, —. 706-07.
- Incorporation of the — Electricity authority. 909.
- Increase in the rent of Nazul Land in —. 52-53.
- Information given to the Karol Bagh Police Station, —, about the presence of a gang of criminals called Bauriyas. 981.
- Lay-out of the Improvement Trust plots in certain areas in —. 35.
- Lien on his post allowed to a certain employee of the — Improvement Trust. 908-09.
- Location of a tuberculosis clinic in Karol Bagh, —. 62.

DELHI—*contd.*Question re—*contd.*

- Metalling of roads, etc., in Karol Bagh, —, by the — Improvement Trust. 906-07.
- Non-naming of certain roads in Karol Bagh, —. 54.
- Non-observance of the principle of subletting of railway contracts in the case of a certain contract at the — Railway Station. 864-66.
- Notices issued for contravention of the terms of sanction granted by the — Improvement Trust. 53.
- Officers and staff of the — Improvement Trust. 689-91.
- Playing of music through loud speakers during prayer time at —. 287.
- Prosecutions sanctioned by the — Improvement Trust. 52.
- Providing of electric lights in Karol Bagh, —. 708.
- Provision of lights on certain roads in Karol Bagh, —. 54.
- Provision of parks in Karol Bagh, —. 54.
- Railway prosecution case in the Court of the Resident Magistrate, —. 596-97.
- Recruitment of relations of employees in the Income-tax Department, Punjab, North-West Frontier and — Provinces. 59-60.
- Resignation of staff of the — Improvement Trust. 53.
- Shifting of the dumping ground for dead animals from Karol Bagh, —. 907.
- Shifting of the tuberculosis clinic from Karol Bagh, —. 54.
- Staff of the — Improvement Trust. 62.
- Steps taken by the — Improvement Trust for planting trees and shrubbery in Karol Bagh, —. 906.
- Steps to reduce the number of thefts and other crimes in —. 981.
- Subordinates and clerks who worked under the Building Inspector of the — Improvement Trust and resigned. 908.
- Unsatisfactory condition of Naiwala in Karol Bagh, —. 51.

DELHI DIVISION—

- Question re transfers of non-gazetted railway servants in the Moradabad Division of the East Indian Railway and the — of the North Western Railway. 590.

DELHI JOINT WATER AND SEWAGE BOARD—

- Question re rules or bye-laws of the —. 600.

DELHI PROVINCE—

- Question re—
"Letter Post Delivery" from post offices in the —. 15.
- Telegraph offices in the — making deliveries of messages. 606-07.

DELHI SHAHDARA—

- Question re—
Accidents to persons at or near — Railway Station, North Western Railway. 881.
- Trains run through — on the North Western Railway. 880.

DELIVERY (IES)—

- Question re "Letter Post —" from post offices in the Delhi Province. 15.

DEMAND FOR EXCESS GRANT IN RESPECT OF—

- Census. 1078-79.
- Central Excise Duties. 1076.
- Interest charges. 1079.
- Legislative Assembly and Legislative Assembly Department. 1076.
- Open Line Works. 1079.
- Stores and Workshops—Expenditure not charged to Revenue. 1079.
- Working Expenses—Expenses of Electrical Department. 1078.
- Working Expenses—Maintenance and supply of Locomotive Power. 1077-78.
- Working Expenses—Maintenance of Carriage and Wagon Stock. 1078.
- Working Expenses—Miscellaneous Expenses. 1078.

DEOLI—

- Question re—
Conditions of health of Master Mota Singh, Baba Basakha Singh and others detained in — Detention Camp. 778.
- Punjab Prisoners confined in the — Detention Camp. 778-78.

DEPARTMENT OF EDUCATION, HEALTH AND LANDS—

- See "Education, Health and Lands, Department of".

DEPARTMENT OF SUPPLY—

- See "Supply Department".

DEPUTY PRESIDENT, MR.—

- Observation by — that if an Honourable Member makes an insinuation, he ought to explain, in all fairness, what that insinuation is, or say that he did not mean any insinuation. 744.

DESAI, MR. BHULABHAI J.—

- Indian Finance (No. 2) Bill—
Motion for leave to introduce in the form recommended. 883-84.
- Motions to consider and to circulate. 378, 447, 481, 488, 489, 790-804, 814, 825, 893.
- Motion for Adjournment re refusal of permission to — and to Mr. Asaf Ali to visit Waziristan. 76-77.

DESHMUKH, DR. G. V.—

- Hindu Judicial Separation and Divorce Bill—
Motion for leave to introduce. 996.
- Hindu Married Women's Right to Separate Residence and Maintenance Bill—
Motion for leave to introduce. 996.
- Hindu Women's Rights to Property (Amendment) Bill—
Motion to refer to Select Committee. 993.

DESHMUKH, MR. GOVIND V.—

- Berar Laws Bill—
Motions to consider, circulate and refer to Select Committee. 945.
- Indian Finance (No. 2) Bill—
Motions to consider and to circulate. 322, 396-403.
- Motion for Adjournment re failure of the Government of India to evoke whole-hearted enthusiasm in the nation to fight the totalitarian States. 72.
- Question re—
Defence Expenditure. 965.
- Desirability of recruitment of Indians of all castes and creeds to the Indian Army. 779-80.
- Eligibility of Indians for the Royal Air Force in India. 967.
- Encouragement to Indian enterprise for manufacturing aircraft, motors or for building ships. 967-68.

DESHMUKH, MR. GOVIND V.—contd.Question *re*—*contd.*

Expansion of the 10th (Nagpur) Battalion, University Training Corps. 783-84.
High School Volunteer Corps and Rifle Clubs. 1101.

Hindu and Muslim strength of the Indian Navy. 965-67.

Indignities suffered by Indian Lascars in South Africa. 135.

Knowledge of Hindi and ability to write it in Urdu or Roman script for recruitment to Indian army. 782-83.

Quotas of candidates for emergency commissions and as privates for the Army fixed for different provinces. 780-81.

Selection of candidates for emergency commissions and as privates for the army. 781-82.

Training of marksmanship by the Nagpur University. 1100-01.

Question (Supplementary) *re* burglaries and dacoities in New Delhi. 980.

DE SOUZA, DR. F. X.—Question *re*—

Expenditure by the Indian Coffee Cess Committee on propaganda activities in India. 426-27.

Expenditure by the Indian Coffee Cess Committee on salaries and propaganda activities of the London Market Expansion Board. 424.

Imports and consumption of Indian coffee in the United Kingdom. 423-24.

Recruitment of Indian Christians to the Subordinate and Superior Services of the State and Company-managed Railways. 561-63.

Rise in the salary of the Director of the London Market Expansion Board. 424-25.

Resolution *re* scrapping of the London Coffee Market Expansion Board by the Indian Coffee Cess Committee. 514-19, 520, 528, 529-30, 531.

DETENTION—

Question *re* — of Alama Mashriqi. 208.

DETENTION CAMP—Question *re*—

Condition of health of Master Mota Singh, Baba Basakha Singh and others detained in Deoli —. 778.

Punjabi detainees confined in the Deoli —. 776-78.

DETENU(S)—Question *re*—

German and Italian — in India and Punjabee — under the Defence India Act. 968.

Persons tried, convicted or detained without trial under the Defence of India Act. 914-17.

Punjabi — confined in the Deoli Detention Camp. 776-78.

Resolution *re* appointment of a Committee to examine the conditions of — under Defence of India Act. 550-60.

DEVALUATION—

Question *re* — of Assistant Station Master's grades on the North Western Railway. 874.

DEVIATION(S)—

Question *re* cases of — in the construction of buildings reported by the Building Inspector, Delhi Improvement Trust. 912.

DIFFERENTIAL TREATMENT—Question *re*—

— meted out to piece compositors in the Government of India Press, New Delhi. 702.

— meted out to the Indian Medical Department. 66.

DIRECTOR(S)—

Question *re* rise in the salary of the — of the London Market Expansion Board. 424-25.

DISABILITY(IES)—

Question *re* of the subordinates of the Bridge Engineering Works at Manmad, Great Indian Peninsula Railway. 50.

DISALLOWANCE—

Motion for adjournment *re* — of a Motion for Adjournment by the Governor General after it was allowed by the Chair. 210.

DISASTER(S)—Question *re*—

Dacca Mail —. 350-51.

Relief given to the victims of the Dacca Mail —. 351-52.

Responsibility of the Manager in respect of the coal-mine — at Kurhuvarti. 286-87.

DISCHARGE—

Question *re* — of staff controlled by the General Manager by the Divisional Superintendent of the North Western Railway. 11, 19, 857.

DISCIPLINE—

Question *re* instances in which mandatory provisions of rules regulating — and rights of appeal of non-gazetted employees on the North Western Railway were not observed. 867-68.

DISCRIMINATION—Question *re*—

— in the matter of passes and privilege ticket orders between an adopted and step-son on state railways. 355-56.

— in the matter of scale of furniture and utensil in European and Indian Guards Running Rooms on the North Western Railway. 232-33.

DISMISSAL—

Question *re* non-inclusion of review on the working of the State Railway regulations *re* — of non-gazetted staff in the Railway Administration Report. 876.

DIVERSION—

Question *re* — of carriage of postal mails between Sylhet and Shillong from Road to railway. 353-54.

DIVISION(S)—

— on the motion for Adjournment *re* Dacca Mail disaster. 125-26.

Indian Finance (No. 2) Bill—

— on the motion to consider. 839-40.

— on the motion for leave to introduce in the form recommended. 885-86.

Question *re* relieving Guards in certain — of the East Indian Railway. 608.

DIVISIONAL OFFICE(S)—Question *re*—

Allegations of corruption against a clerk in the — Rawalpindi. 27-28.

Clerks employed in certain sections of the Railway — Lahore. 68-69.

Filling up of certain vacancies of clerks recently occurring in the Karachi — of the North Western Railway. 587.

Proceedings of the Selection Board held at the — Howrah, East Indian Railway for filling vacancies of Luggage and Parcel Supervisors. 593.

DIVISIONAL SELECTION BOARD—

See "Selection Board."

DIVISIONAL SUPERINTENDENT(S)—Question *re*—

Certain quarterly statement forwarded by the — Moradabad Division, on the East Indian Railway. 16-17, 878.

Discharge of staff controlled by the General Manager by the — of the North Western Railway. 11, 19, 857.

Names submitted by the — Moradabad Division, for promotion of non-gazetted railway servants to the lower gazetted service. 601.

Non-Sindhi Muslims in clerical posts in the Office of the — North Western Railway, Karachi. 851-52.

With-holding of memorials, petitions, etc., of non-gazetted railway servants by the — Moradabad Division of the East Indian Railway. 16.

DIVORCE BILL—

See "Hindu Judicial Separation and —" under "Act(s)".

DOCUMENT(S)—

Certain Home Department — laid on the table. 79-81.

Question *re* — for verification of leave accounts maintained on State Railways. 591.

DOLLAR SECURITIES—

See "Security(ies)".

DOMICILE CERTIFICATE(S)—

See "Certificate(s)".

DOMINTON(S)—

Question *re* personnel of the Roger Committee from Overseas — and States and its mission. 429-34.

DRAFT CONVENTION(S)—

See "Convention(s)".

DRAIN(S)—Question *re*—

Connecting of — with sewers in Karol Bagh, Delhi. 707.

Easement rights infringed by construction of open storm water — in Karol Bagh, Delhi. 708.

DRAMA(S)—

Question *re* authors of — broadcasted by the All-India Radio. 367.

DRESSER(S)—

Question re—

Muslim — promoted as Laboratory Assistants in the Imperial Veterinary Research Institute. 695, 1108.
Muslim representation in other classes of service not to be affected by higher percentage of Muslims in the posts of —. 695-96.

DRIVER(S)—

Question re working of the Bombay Multiple Unit Service on the Great Indian Peninsula Railway by certain —. 64.

DRUGS BILL—

See "Bill(s)".

DUFFRY(IES)—

Question re allotment of — 'quarters in New Delhi. 136-137.

DUFFRIES QUARTERS—

See "Quarter(s)".

DUMPING GROUND—

Question re shifting of the — for dead animals from Karol Bagh, Delhi. 907.

DUTY(IES)—

Question re—

— and emoluments of the Civil Administrator, Karaman. 349-50.
Report of the officer on special — appointed to investigate into certain matters affecting communal representation in railway services. 223.

E**EARNING(S)—**

Statement re net — of new railway lines. 81-82.

EASEMENT RIGHTS—

Question re — infringed by construction of open storm water drains in Karol Bagh, Delhi. 708.

EAST INDIAN RAILWAY—

See "Railway(s)".

EASTERN BENGAL RAILWAY—

See "Railway(s)".

EASTERN GROUP CONFERENCE—

Motion for Adjournment re non-association of non-official representative Indians with the —. 75-76.

Question re accommodation reserved in the Imperial Hotel for the delegates of —. 697.

ECCLESIASTICAL DEPARTMENT—

Question re Budget for the —. 209.

ECONOMY—

Question re establishment of a Paper — Department by the Government of India. 434-35.
Resolution re appointment of a Committee of the Central Legislature regarding — in war expenditure. 531-50.

EDUCATION, HEALTH AND LANDS, DEPARTMENT OF—

Question re—

Conferences, committees or sub-committees held at Simla last summer under the control of the —. 670-76.

Officers and ministerial staff of the — and its Attached and Subordinate Offices who moved up to Simla last summer and expenditure incurred in the Move. 668-69.

Proportion of different communities in the —. 49.

EDUCATIONAL ASSISTANCE—

Question re — to the children of employees on the North Western Railway. 588.

ELECTION(S)—

— of a Member for the Governing Body of the Indian Research Fund Association. 1113.

— of a Member to the Council of the Institute of Science, Bangalore. 367.

— of a Member to the Standing Finance Committee. 297.

— of Members to the Standing Committee for the Department of Supply. 1113.

Motion re—

— of a Member of the Standing Finance Committee. 234.

— of a Member on the Council of the Indian Institute of Science, Bangalore. 88-89.

— of a Member on the Governing Body of the Indian Research Fund Association. 918.

— of three members for the Standing Committee attached to the Department of Supply. 918-23.

ELECTRIC COMPANY, LIMITED, A.**E. G. INDIA—**

Question re assignment by the — incorporated in Germany, of their business, assets, etc., to certain parties in Bombay. 127-30.

ELECTRIC LIGHT(S)—

Question re complaints of deterioration of eye-sight Goods Train Guards for want of — in brake-vans. 232.
See also "Light(s)".

ELECTRICAL ESTABLISHMENT—

Question re non-transfer of certain members of regular — on duty in New Delhi. 910.

ELECTRICITY AUTHORITY—

Question re incorporation of the Delhi —. 909.

ELECTRICITY CHARGE(S)—

Question re reduction of — in New Delhi. 85.

EMBEZZLEMENT—

Motion for Adjournment re alleged — in the Multan Division of the North Western Railway.

EMERGENCY COMMISSION—

See "Commission(s)".

EMIGRATION (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

EMOLUMENT(S)—

Question re duties and — of the Civil Administrator, Karaman. 349-50.

EMPLOYEE(S)—

Question re—

Admission of the inferior and labour service — on State Railways to the privilege of contributing towards Provident Fund. 856-57.

Attendance on — families by nurses employed in the Medical Department of the North Western Railway. 9.

Classes and groups for the purposes of vision tests of certain railway —. 870-71.

Denial of facilities for bettering their prospects to Muslim graduate — on the East Indian Railway. 1024-25.

Educational assistance to the children of — on the North Western Railway. 588.

Excess payments by the — of the North Western Railway to the Railway Medical Staff. 8-9.

Explanation of railway — in case of enhancement of punishment already inflicted. 10.

EMPLOYEE(S)—contd.

Question re —contd.

Graduate subordinate — on the East Indian and Eastern Bengal Railways. 1023-24.

Grant of leave to the East Indian Railway — serving in the volunteer forces when required to join the army. 67.

Income-tax charged on gratuities paid to the non-gazetted State Railway —. 206-07.

Instances in which mandatory provisions of rules regulating discipline and rights of appeal of non-gazetted — on the North Western Railway were not observed. 867-68.

Lien on his post allowed to a certain — of the Delhi Improvement Trust. 908-09.

North Western Railway ban on hats against certain —. 592-93.

Option to State Railway — to elect old or revised rent rules. 608.

Pensions or gratuities granted to Government — at the Karaman Quarantine Station. 283-84, 1104-05.

Policy of making promotions from amongst — of the same branch on the North Western Railway. 875.

Prior sanction by the Railway Board to revisions of scales of pays affecting a whole class or grade of — on certain State Railways. 590.

Prohibition of Railway — to travel on privilege Ticket Orders by mail and express trains. 1020-21.

Recruitment of relations of — in the Income-tax Department, Punjab, North-West Frontier and Delhi Provinces. 59-60.

Unrecommended — allowed to appear as recruits for appointment as Guards on the North Western Railway. 1015-16.

Vagaries in the exercise of power of allowing alterations of birth dates by — on the North Western Railway. 231-232.

EMPLOYMENT—

Question re 'Hours of — Regulations' incorporated in the Indian Railways Amendment Act, 1930, not made applicable to British portion of Jodhpur Railway. 866-67.

ENGINEER(S)—Question *re*—

Engineering Subordinates working as Assistant — on the North Western Railway. 44.

Qualified Muslim Inspectors of Works not allowed to officiate as Assistant — on the North Western Railway. 44.

ENGINEERING SUBORDINATES—

See "Subordinate(s)".

ENQUIRY—Question *re* procedure for — into charges against railway servants. 869-70.**ENQUIRY CLERKS—**

See "Clerk(s)".

ENTHUSIASM—Motion for Adjournment *re* failure of the Government of India to evoke whole-hearted — in the nation to fight the totalitarian States. 71-72.**ESSAK SAIT, MR. H. A. SATHAR H.—**Motion for Adjournment *re*—

Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1026, 1080-82, 1095.

Closing of the Chandpur-Siau-Bijnor Section of the Gajraula Muazzampur Narain Branch of the East Indian Railway. 983.

Question *re*—

Alleged rude behaviour of the Quetta Railway Station officials at the welcome to the President-elect of the Baluchistan Muslim League Session. 583-84.

Fees collected from Haj pilgrims for meeting expenses in connection with Port Haj Committees. 691-92.

Muslim officers employed by the Calcutta Port Trust. 582.

Savings due to setting up of the Port Haj Committees. 691.

Scholarships for special training given by the Government of India or the Calcutta Port Trust. 582-83.

Suggestions made by the Port Haj Committees. 692-93.

ESTABLISHMENT MATTER(S)—Question *re* Officers dealing with — in the Government of India Offices. 37-38.**ESTABLISHMENT OFFICE(S)—**Question *re* Muslim graduates in — and supervisory posts on the East Indian and Eastern Bengal Railways. 1024, 1025.**EUROPEAN GUARDS—**

See "Guard(s)".

EVIDENCE (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

EXAMINATION(S)—Question *re*—

Advisability of holding competitive — for recruitment to the subordinate service on the North Western Railway. 226-27.

Delay in making appointments of candidates successful in the Indian Audit and Accounts Service — of 1939. 201.

— for recruitment to the Indian Army Ordnance Corps. 61.

Local — for Walton Training School qualified guards. 853-54.

Permission to Boy Messengers acting as Packers in the Sind and Baluchistan Postal Circle to appear for clerical —. 568-69.

Time for holding competitive — for recruitment to Government services. 201-02.

EXAMINER(S)—Question *re* Income-tax Officers and — in the Company Districts at Calcutta. 60.**EXCESS—**Question *re* instructions for — reservation for Muslims in the vacancies of works mistries by the General Manager, North Western Railway. 363-64.**EXCESS PROFITS TAX (AMENDMENT) BILL—**

See "Bill(s)".

EXCESS PROFITS TAX BILL—

See "Bill(s)".

EXCHANGE BANK(S)—

See "Bank(s)".

EXCISE DUTIES, CENTRAL—

See "Central Excise Duties".

EXECUTIVE COUNCIL—Motion for Adjournment *re* expansion of H. E. The Viceroy's — and the constitution of War Advisory Committee. 73-75.**EXEMPTION—**Question *re* — of the European and Anglo-Indian guards on Lahore division of North Western Railway from working certain shunting and van trains. 364.**EXODUS—**Question *re* savings due to Partial — to Simla. 200-01.**EXPANSION—**Motion for Adjournment *re* — of H. E. The Viceroy's Executive Council and the constitution of War Advisory Committee, 73-75.**EXPENDITURE—**Motion for Adjournment *re* huge — without sanction of the Legislature. 155-56.Question *re*—

— by the Indian Coffee Cess Committee on propaganda activities in India. 426-27.

— by the Indian Coffee Cess Committee on salaries and propaganda activities of the London Market Expansion Board. 424.

— incurred by the Government on the *Indian Listener*. 600-01.

Officers and ministerial staff of the Commerce Department who moved up to Simla last summer and — incurred in the Move. 680-81.

Officers and ministerial staff of the Defence Coordination Department who moved up to Simla last summer and — incurred in the Move. 667-68.

Officers and ministerial staff of the Defence Department who moved up to Simla last summer and — incurred in the Move. 505.

Officers and ministerial staff of the Department of Education, Health and Lands and its Attached and Subordinate Offices who moved up to Simla last summer and — incurred in the Move. 668-69.

EXPENDITURE—*contd.*Question *re—contd.*

Officers and ministerial staff of the Finance Department and its attached and subordinate offices who moved up to Simla last summer and — incurred in the Move. 499-501.

Officers and ministerial staff of the Home Department and its attached and subordinate offices who moved up to Simla last summer and — in the Move. 496-98.

Officers and ministerial staff of the Labour Department who moved up to Simla last summer and — incurred in the Move. 660-61.

Officers and ministerial staff of the Legislative Department who moved up to Simla last summer and — incurred in the Move. 677.

Officers and ministerial staff of the Political Department who moved up to Simla last summer and — incurred in the Move. 678-79.

Propaganda and — thereon by the Port Haj Committees. 284-85.

Votable and non-votable — sanctioned outside the Budget. 197-200.

Resolution *re* appointment of a Committee of the Central Legislature regarding economy in war —. 531-50.**EXPLANATION—**Question *re* — of railway employees in case of enhancement of punishment already inflicted. 10.**EXPORT TRADE—**

See "Trade(s)".

EXPRESS TRAIN(S)—

See "Train(s)".

EXTERNAL AFFAIRS DEPARTMENT—Question *re*—

Conferences, committees or sub-committees held at Simla last summer under the control of the —. 572.

Officers and ministerial staff of the — who moved up to Simla last summer and expenditure incurred in the Move. 570-72.

EYE-SIGHT—Question *re* complaints of deterioration of — from goods train guards for want of electric lights in brake-vans. 232.

F

FACILITY(IES)—

Question *re* denial of — for bettering their prospects to Muslim graduate employees on the East Indian Railway. 1024-25.

FACTORIES (AMENDMENT) BILL—

See "Bill(s)".

FAMILY(IES)—

Question *re* attendance on employees' — by nurses employed in the Medical Department of the North Western Railway. 9.

FARE(S)—

Question *re* shipping — from Indian ports to Jeddah and low speed of certain Pilgrim Ships. 142-44.

FAROQUI, MR. M.—

Motion for adjournment *re* rustication of — and Mr. D. Sanghi from the University of Delhi. 1111-12.

FAUJI AKHBAR—

Question *re* tenders invited for the printing of the —. 774-75.

FAZL-I-HAQ PIRACHA, KHAN BAHADUR SHEIKH—

Indian Merchant Shipping (Amendment) Bill—

Motion to refer to Select Committee. 211-15.

Question *re*—

Appointment of committees of pilgrims and *Amir-ul-Haj* by Port Haj Committees on pilgrim ships. 140.

Appointment of Muslim staff on Indian pilgrim ships. 141.

Budget for the Ecclesiastical Department. 209.

Delay in making appointments of candidates successful in the Indian Audit and Accounts Service Examination of 1939. 201.

Duties and emoluments of the Civil Administrator, Kamaran. 349-50.

Grant of allowances to non-resident members of the Port Haj Committees for attending meetings. 144.

Pension or gratuities granted to Government employees at the Kamaran Quarantine Station. 283-284, 1104-06.

FAZL-I-HAQ PIRACHA, KHAN BAHADUR SHEIKH—*contd.*Question *re*—*contd.*

Propaganda and expenditure thereon by the Port Haj Committees. 284-85.

Quarantine station at Kamaran. 367.

Ratification of the International Sanitary Convention of Paris. 141-42.

Shipping arrangements for the next Haj pilgrimage. 141.

Shipping fares from Indian ports to Jeddah and low speed of certain Pilgrim Ships. 142-44.

Special pilgrim passes required by Indian pilgrims for Iran and Iraq. 8.

Taking of lease of a Roller Flour Mill at Lyallpur and tenders for grinding wheat for use of military forces. 493-94.

Time for holding competitive examinations for recruitment to Government services. 201-02.

Resolution *re* appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 184-86, 511.

FEDERAL COURT—

Question *re* desirability of enlarging the appellate jurisdiction of the —. 139-40, 282-83.

FEE(S)—

Question *re* — collected from Haj pilgrims for meeting expenses in connection with Port Haj Committees. 691-92.

FERMENTED INGREDIENTS—

Question *re* licences for preparation of Ayurvedic medicines from natural —. 772.

FINANCE BILL—

See "Indian —" under "Bill(s)".

FINANCE (NO. 2) BILL—

See "Indian —" under "Bill(s)".

FINANCE DEPARTMENT—

Question *re*—

Conferences, Committees or sub-committees held at Simla last summer under the control of the —. 592-04.

Officers and ministerial staff of the — and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the Move. 499-501.

FINANCE MEMBER—

—'s statement on the financial position. 93-101, 102-03.

FINANCIAL ADJUSTMENT—

Question *re* departures in the working of the — between the Government of India and the British Government. 961.

FINANCIAL ARRANGEMENT(S)—

Motion for adjournment *re* — with His Majesty's Government *re* payment for the purchase of materials from India. 152-53.

FINANCIAL CONTROL—

Question *re* relaxation of the — of the Government of India over the Supply Department. 278-80.

FINANCIAL POSITION—

Finance Member's statement on the —. 93-101, 102-03.

FIRE—

Question *re* the continuing — in the coalfield in Sudasdi Area Colliery. 286.

FIREMAN(EN)

Question *re*—

Channel of promotion for — on the Great Indian Peninsula Railway. 31-32.

Promotion of — on the Great Indian Peninsula Railway. 58-59.

Vacancies of grade III — on the North Western Railway. 64.

FIRST DIVISION—

Question *re* — vacancies filled in the Government of India Offices. 35.

FISCAL POLICY—

Resolution *re* — of the Government of India. 157-83.

FLOUR MILL(S)—

See "Mill(s)".

FLYING—

Question *re* Government scholarships for training in —. 1016-17.

FLYING TRAINING SCHOOL(S)—

Question *re* quota of Muslim candidates at the —. 1101-02, 1016.

FOREIGNERS BILL—

See "Bill(s)".

FOREMAN(MEN)—

Question *re* retrenchment in the higher grade appointments of Yard — and Yard Supervisors on the North Western Railway. 857-59.

FRAMPTON, MR. H. J.—

Oath of Office. 1.

FRUIT VENDING CONTRACT(S)—

See "Contract(s)".

FUNCTION(S)—

Question *re* creation of the Supply Department and its — and Working. 285.

FUND(S)—

Question *re* mutual guarantee — of the Old East Indian Railway Company. 44.

FUNDAMENTAL LEAVE RULES—

Question *re* non-applicability of the — to inferior staff of the Goods Depot at Wadi Bunder on the Great Indian Peninsula Railway. 58.

FURNITURE—

Question *re*—

Discrimination in the matter of scale of — and utensils in European and Indian Guards Running Rooms on the North Western Railway. 232-33.

Use of Government — by certain chowkidars engaged by the Central Public Works Department. 664.

G

GADGIL, MR. N.V.—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 651-53, 709-19.

GAJRAULA—

Motion for Adjournment *re* closing of the Chandpur-Siau-Bijnor section of the — Muazzampur Narain branch of the East Indian Railway. 917, 982-83 and 996-1011.

GANG(S)—

Question *re*—

Arrest of — of thieves of Bauriya criminal tribe. 981.

Information given to the Karol Bagh Police Station, Delhi, about the presence of a — of criminals called Bauriyas. 981.

GANG STAFF—

See "Staff".

GAZETTE(S)—

Question re—

Republication of Indian Railways (Amendment) Bill (No. 28 of 1940) in certain State Railway —. 12-13.

Rules governing the publication of matters in Railway —. 877.

GENERAL HOLIDAYS—

See "Holiday(s)".

GAZETTED STAFF—

Question re circular instructions for grant of gratuity to non — in Lucknow Division of the East Indian Railway. 18-19.

GAZETTED RAILWAY SERVANTS—

See "Railway Servant(s)".

GAZETTED SERVICE—

Question re—

Names submitted by the Divisional Superintendent, Moradabad Division, for promotion of non-gazetted railway servants to the lower —. 601.

Preference given to non-eligible Muslims for promotion to the lower — on the East Indian Railway. 603-04.

GENERAL MANAGER—

Question re —

Contract for book stalls given to Messrs. Wheeler and Company by the —, North Western Railway. 597.

Discharge of staff controlled by the — by the Divisional Superintendent of the North Western Railway. 11, 19, 857.

Instructions for excess reservation for Muslims in the vacancies of works mistries by the —, North Western Railway. 363-64.

Policy observed by the —, East Indian Railway, in the matter of catering contracts. 605-06, 1105.

Selection posts or selection grades specified by the — on certain State Railways. 13.

Subsidiary rules made by the — of certain State Railways and relaxations or modifications in them. 14.

GERMAN DETENU(S)—

See "Detenu(s)".

GERMANY—

Question re—

Assignment by the A. E. G. India Electric Company, Limited, incorporated in — of their business, assets, etc., to certain parties in Bombay. 127-30.

Repatriation of Mr. L. N. Khanna's wife and daughter from Sudetenland, —. 775-76.

GHEE—

Question re standard and gradations of — adopted by the Government of India. 138-39.

GHIASUDDIN, MR. M.—

Question re assistants and clerks in the cash branches of the Government of India Offices. 42-43.

GHULAM BHIK NAIRANG, SYED—

Appointment of — to the Committee on Petitions. 439.

Expressions of regret on the deaths of Raja Sir Vasudava Rajah and Mr. Suryya Kumar Som. 71.

Hindu Women's Rights to Property (Amendment) Bill—

Motion to refer to Select Committee. 990-91.

Indian Railways (Amendment) Bill—

Motions to refer to Select Committee and to circulate. 899.

Motion for Adjournment re Dacca Mail disaster. 110.

Question re—

Amalgamation of Sudder Bazar, Ambala with Ambala Cantonment. 207.

Non-observance of the principle of sub-letting of railway contracts in the case of a certain contract at the Delhi Railway Station. 864-66.

Question (Supplementary) re report of the officer on special duty appointed to investigate into certain matters affecting communal representation in railway services. 226.

Resolution re appointment of a Permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 191-93.

GHUZNAVI, SIR ABDUL HALIM—

Appointment of — to the Committee on Petitions. 439.

Election of — to the Standing Committee for the Department of Supply. 1113.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 485-86, 487-89, 490-92, 610-18.

Indian Merchant Shipping (Amendment) Bill—

Motion to refer to Select Committee. 219, 220.

Motion for adjournment re Dacca Mail disaster. 105, 106, 107, 108-12.

Question re—

Enactment of legislation enabling Insurance Companies to buy Defence Bonds. 776.

Non-transfer of certain telephone operators in Dacca Division. 1017.

Resolution re appointment of a Permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 193, 194, 195.

GIDNEY, LIEUT.-COLONEL SIR HENRY—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 311, 312, 371, 386, 407, 460, 462, 470, 473, 618, 642, 645, 744, 755-63, 786-90, 821.

Indian Navy (Discipline) Amendment Bill—

Motion to consider. 238.

Indian Railways (Amendment) Bill—

Motions to refer to Select Committee and to circulate. 932, 934-35.

Position of the Nominated Members of the House. 1027.

Question re—

Disabilities of the subordinates of the Bridge Engineering Works at Manmad, Great Indian Peninsula Railway. 50.

Prohibition of railway employees to travel on Privilege Ticket Orders by Mail and express trains. 1020-21.

Question (Supplementary) re—

Certain congress workers arrested in Delhi under the United Provinces Goonda Act. 972.

German and Italian detenus in India and Punjabee detenus under the Defence of India Act. 969.

GIDNEY, LIEUT.-COLONEL SIR HENRY—*contd.*Question (Supplementary) re—*contd.*

Non-observance of the principle of sub-letting of railway contracts in the case of a certain contract at the Delhi Railway Station. 866.

Prosecution of Pandit Jawahar Lal Nehru. 973.

Raising of the new army in India, its cost and arrangements for training of the additional officers. 205.

Re-classification of works mistries as "Labourers" on the North Western Railway. 666-67.

Selection for appointment to selection posts in the Departments of the East Indian and Eastern Bengal Railways. 1022.

Training of Indian Pilots and Mechanics for the Air Force. 276.

GOODS (AMENDMENT) BILL—

See "Indian Sale of —" under "Bill(s)".

GOODS DEPOT—

Question re non-applicability of the fundamental leave rules to inferior staff of the — at Wadi Bunder on the Great Indian Peninsula Railway. 58.

GOODS TRAIN GUARDS—

See "Guard(s)".

GOODS WAGON(S)—

Question re shortage of — on Jacobabad-Kashmore narrow gauge section in Sind. 4-5.

GOONDA ACT—

See "United Provinces —" under "Act(s)".

GOVERNING BODY—

Election of a Member for the — of the Indian Research Fund Association. 918, 1113.

GOVERNMENT(S)—

Motion for adjournment re failure of — to enable Mr. Subhash Chandra Bose to attend the Session of the Legislative Assembly. 148-49.

Question re—

Date of making payment to an officer of — entitled to receive payments on behalf of —. 871.

GOVERNMENT (S)—*contd.*Question *re—contd.*

Expenditure incurred by the — on the *Indian Listener*. 600-01.

Total weight of silver bullion and silver coins in the possession of —. 770.

GOVERNMENT BUNGALOW(S)—

See "Bungalow(s)".

GOVERNMENT EMPLOYEES—

See "Employee(s)".

GOVERNMENT FURNITURE—

See "Furniture".

GOVERNMENT, HIS MAJESTY'S—

Motion for adjournment *re* financial arrangements with — *re* payment for the purchase of materials from India. 152-53.

GOVERNMENT OF BENGAL—

See "Bengal, Government of".

GOVERNMENT OF INDIA—

Motion for adjournment *re* failure of the — to evoke whole-hearted enthusiasm in the nation to fight the totalitarian States. 71-72.

Question *re—*

Assistants and clerks in the cash branches of the — Offices. 42-43.

Commission charged by the — on articles purchased by His Majesty's Government for the maintenance of the Supply Department. 961-63.

Communal composition of Indian Civil Service and other All-India Service Officers brought on to the — Secretariat. 963-64.

Confidential reports *re* ministerial staff of the —. 1006.

Departures in the working of the financial adjustment between the — and the British Government. 961.

Establishment of a Paper Economy Department by the —. 434-35.

First Division vacancies filled in the — Offices. 35.

— Offices permanently stationed and those located during the ensuing winter season in New Delhi. 684-86.

Indian Officers in the — Departments and its attached offices. 55-57.

Location of the — and other offices in Old Delhi and New Delhi. 686-87.

Officers dealing with establishment matters in the — Offices. 37-38.

GOVERNMENT OF INDIA—*contd.*Question *re—contd.*

Posts offered to the — Secretariat Assistants in the Income-tax Service, Class II. 1097-98.

Relaxation of the financial control of the — over the Supply Department. 278-80.

Scholarships for special training given by the — or the Calcutta Port Trust. 582-83.

Sikhs taken as peons in the — Secretariat. 964-65.

Standard and gradations of ghee adopted by the —. 138-139.

Temporary Third Division vacancies filled in the — Offices. 36-37.

Vacancies of peons filled in the — Offices. 38-41.

Value of Dollar Securities requisitioned by — from private holders. 770-71.

Resolution *re—*

Appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the —. 183-96, 506-14.

— Fiscal Policy of the —. 157-83.

Statement laid on the table *re* lowest tenders not accepted by the High Commissioner for India in purchasing stores for the —. 1113-15.

GOVERNMENT OF INDIA ACT, 1935—

See "Act(s)".

GOVERNMENT OF INDIA PRESS(ES)—

See "Press(es)".

GOVERNMENT OF INDIA SECRETARIAT—

See "Secretariat(s)".

GOVERNMENT QUARTERS—

See "Quarters".

GOVERNMENT RESOLUTION—

See "Resolution(s)".

GOVERNMENT SCHOLARSHIP(S)—

See "Scholarship(s)".

GOVERNMENT SERVICE(S)—

Question *re* time for holding competitive examinations for recruitment to —. 201-02.

GOVERNMENT SERVICE RULES—

See "Rule(s)".

GOVERNOR GENERAL—

—'s assent to Bills. 78.

Motion for adjournment *re* disallowance of a motion for Adjournment by the — after it was allowed by the Chair. 210.

Question *re* applications for sanction of the — under section 270 of the Government of India Act, 1935. 698-99, 1109.

GRADE(S)—

Question *re—*

— for which direct recruitment is considered desirable on certain State Railways. 12.

Procedure for making appointments and promotions in non-selection posts or non-selection — after the initial appointment on certain State Railways. 14.

Selection posts or selection — on State Railways. 20-27.

Selection posts or selection — specified by the General Managers on certain State Railways. 13.

GRADUATE(S)—

Question *re—*

Denial of facilities for bettering their prospects to Muslim — employees on the East Indian Railway. 1024-25.

— subordinate employees on the East Indian and Eastern Bengal Railways. 1023-24.

Muslim — in establishment offices and supervisory posts on the East Indian and Eastern Bengal Railways. 1024, 1025.

GRANT—

Question *re—*

Non- — of separation allowance to the Indian Medical Department. 66-67.

Non-recognition of Indian Hill Station Schools for purposes of educational — by the North Western Railway. 233.

GRATUITY(IES)—

Question *re—*

Circular instructions for grant of — to non-gazetted staff in Lucknow Division of the East Indian Railway. 18-19.

Income-tax charged on — paid to the non-gazetted State Railway employees. 206-07.

Pensions or — granted to Government employees at the Kamaran Quarantine Station. 283-84, 1104-05.

GREAT INDIAN PENINSULA RAILWAY—

See "Railway(s)".

GRIFFITHS, MR. P. J.—

Indian Finance (No. 2) Bill—

Motions to consider and circulate. 372, 374, 375-76, 377, 378, 379, 380-83, 384-85, 386, 404, 465, 466, 468, 620, 622 and 816.

GUARD(S)—

Question *re—*

Cadres of — on certain State Railways. 604.

Communal considerations in the promotion of — from grade II to grade III on the North Western Railway. 357-58.

Communal considerations in the promotion of — on the North Western Railway. 1014-15.

Complaints of deterioration of eye-sight from Goods Train — for want of electric lights in brake-vans. 232.

Discrimination in the matter of scale of furniture and utensil in European and Indian — Running Rooms on the North Western Railway. 232-33.

Exemption of the European and Anglo-Indian — on Lahore Division of North Western Railway from working certain shunting and van trains. 364.

— on the North Western Railway. 33-34.

Increments of pay of staff working as temporary — in the Howrah Division of the East Indian Railway. 1025-26.

Local Examination for Walton Training School qualified —. 853-54.

Loss of prospects of — in grade I and II by the abolition of grade IV on the North Western Railway. 862-63.

Principles and standards for promotion of Railway —, Grade II to Grade III. 1013-14.

Promotion of — grade II to — grade III on the North Western Railway. 863.

Recognition of the Association of Railway — at Lucknow. 871-72.

Relieving — in certain Divisions of the East Indian Railway. 608.

Reservation of the posts of enquiry clerks, etc., for — with defective vision on the North Western Railway. 863-64.

GUARD(S)—*contd.*Question *re*—*contd.*

Staff working as temporary — in the Howrah Division of the East Indian Railway. 1026.

Subjecting persons selected by the Divisional Selection Board at Karachi for training and promotion as —, grade II, on the North Western Railway to further tests. 228-229.

Unrecommended employees allowed to appear as recruits for appointment as — on the North Western Railway.

1013-14

Withholding of applications of Muslim clerks of the Railway Clearing Accounts Office for posts of — on the North Western Railway. 600.

GWILT, MR. E. L. C.—

Election of — as a Member to the Standing Finance Committee. 297.

Excess Profits Tax (Amendment) Bill—

Consideration of clauses. 1120-21.

Indian Income-tax (Amendment) Bill—

Consideration of clauses. 957, 958.

Resolution *re* fiscal policy of the Government of India. 180.

H

HAJ COMMITTEE(S)—

See "Committee(s)".

HAJ PILGRIM(S)—

See "Pilgrim(s)".

HAJ PILGRIMAGE—

Question *re* shipping arrangements for the next —. 141.

HARDWAR—

Question *re* workings of the trains between — and Rikhikesh on the East Indian Railway. 1103.

HAT(S)—

Question *re* North Western Railway ban on — against certain employees. 592-93.

HEAD TRAIN EXAMINER—

Question *re* extra expenditure incurred by not appointing an Assistant Train Examiner to officiate as — Bareilly. 604-05.

HEADQUARTERS OFFICE—

Question *re* promotion of clerks in the — of the North Western Railway. 46-49.

HEADQUARTERS STAFF—

See "Staff".

HEALTH—

Question *re* condition of — of Master Mota Singh, Baba Basakha Singh and others detained in Deoli Detention Camp. 778.

HEDGE(S)—

Question *re* — planted on the lawns facing the orthodox quarters on the Irwin Road in New Delhi. 666-67.

HIGH COMMISSIONER FOR INDIA—

Statement laid on the table *re* lowest tenders not accepted by the — in purchasing stores for the Government of India. 1113-15.

HIGH SCHOOL—

See "School(s)".

HILL STATION SCHOOL(S)—

Question *re* non-recognition of Indian — for purposes of educational grants by the North Western Railway. 233.

HINDI—

Question *re* knowledge of — and ability to write it in Urdu or Roman script for recruitment to Indian Army. 782-83.

HINDU(S)—

Question *re* — and Muslim strength of the Indian Navy. 865-67.

HINDU JUDICIAL SEPARATION AND DIVORCE BILL—

See "Bill(s)".

HINDU MARRIED WOMEN'S RIGHT TO SEPARATE RESIDENCE AND MAINTENANCE BILL—

See "Bill(s)".

HINDU WOMEN'S RIGHTS TO PROPERTY (AMENDMENT) BILL—

See "Bill(s)".

HIS MAJESTY'S GOVERNMENT—

Question *re*—

Commission charged by the Government of India on articles purchased by — for the maintenance of the Supply Department. 961-63.

Emergency Commission in the Land and Air Forces of — in India. 976-79.

HISTORY—

Question *re* broadcast of Sikh religion and — by the Lahore, Peshawar and Delhi Broadcasting Stations. 861.

HOLIDAY(S)—

Question *re* declaration of Muslim — as general — on the Assam Bengal Railways. 850-51.

HOME DEPARTMENT—

Certain — documents laid on the table. 79-81.

Question *re*—

Allotment of Government quarters to the staff of the — and Legislative Departments. 700.

Conferences, Committees or Sub-Committees held at Simla last summer under the control of the —. 498-99.

Officers and ministerial staff of the — and its attached and subordinate offices who moved up to Simla last summer and expenditure in the Move. 496-98.

HOSPITAL(S)—

Question *re* complaints about the treatment of patients in the Irwin —, New Delhi. 435-36.

"HOURS OF EMPLOYMENT REGULATIONS"—

Question *re* — incorporated in the Indian Railways Amendment Act, 1930, not made applicable to British portion of Jodhpur Railway. 866-67.

HOUSE(S)—

Question *re*—

Assessment value of — and shops in the Kasauli Cantonment. 63.

Private — in New Delhi reserved for accommodation of the extra members of the Viceroy's proposed expanded Cabinet. 697-98.

HOUSING SCHEME(S)—

Question *re* model — in the Allahabad Cantonment. 1103.

HOWRAH—

Question *re*—

Increments of pay of staff working as temporary guards in the — Division of the East Indian Railway. 1025-26.

Non-submission of names of Muslim candidates for selection to lower gazetted service from — Division of the East Indian Railway. 1023.

HOWRAH—*contd.*

Question *re*—*contd.*

Proceedings of the Selection Board held at the Divisional Office, —, East Indian Railway for filling vacancies of Luggage and Parcel Supervisors. 503.

Staff working as temporary guards in the — Division of the East Indian Railway. 1026.

HUNGER STRIKE(S)—

Motion for adjournment *re* banning by the Government of Bengal publication of news of — in jail, etc. 1112-13.

HYDERABAD (SIND)—

Question *re* representation for construction of a trunk road from — to Bombay *via* Badin and Viramgam. 358-59.

I

IDGAH—

Motion for adjournment *re* alleged occupation of the Muslim — at Burhanpur by the Military. 708, 785.

IKRAMULLAH, MR. MUHAMMAD—

Oath of Office. 1.

IMPERIAL HOTEL—

Question *re* accommodation reserved in the — for the delegates for Eastern Group Conference. 697.

IMPERIAL VETERINARY RESEARCH INSTITUTE—

Question *re*—

Communal composition of the staff of the —. 1107.

Muslim clerks in the —. 1108.

Muslim dressers promoted as Laboratory Assistants in the —. 1108.

Muslims in the Poultry Research Section of the —. 1108.

Paucity of Muslims in the staff of the —. 1105-07.

Permanent Muslim Veterinary Inspectors in the —. 1108.

See also under "Veterinary Research Institute, Imperial."

IMPORT(S)—

Question *re* — and consumption of Indian coffee in the United Kingdom. 423-24.

IMPROVEMENT TRUST—

Question re—

Affairs of the Delhi —. 59.
 Alleged utilisation of the services of *khalasia* by the officers of the Delhi — for private work. 907-08.

Building Inspector of the Delhi —. 66.

Building plans received by the Delhi —. 52.

Cases of deviations in the construction of buildings reported by the Building Inspector, Delhi —. 912.

Cases of infringement of building bye-laws of the Delhi —. 907.

Complaints against the Building Inspector of the Delhi —. 53.

Lay-out of the — plots in certain areas in Delhi. 35.

Lien on his post allowed to a certain employee of the Delhi —. 908-09.

Metalling of roads, etc., in Karol Bagh, Delhi, by the Delhi —. 906-07.

Notices issued for contravention of the terms of sanction granted by the Delhi —. 53.

Officers and staff of the Delhi —. 689-91.

Prosecutions sanctioned by the Delhi —. 52.

Resignation of staff of the Delhi —. 53.

Staff of the Delhi —. 62.

Steps taken by the Delhi — for planting trees and shrubbery in Karol Bagh, Delhi. 906.

Subordinates and clerks who worked under the Building Inspector of the Delhi — and resigned. 908.

INCOME(S)—

Question re catering as a source of — to Railway administrations. 360-61.

INCOME-TAX—

Question re — charged on gratuities paid to the non-gazetted State Railway employees. 206-07.

INCOME-TAX (AMENDMENT) BILL—

See "Indian —" under "Bill(s)."

INCOME-TAX DEPARTMENT—

Question re recruitment of relations of employees in the — Punjab, North-West Frontier and Delhi Provinces. 59-60.

INCOME-TAX EXAMINER(S)—

Question re Income-tax Officers and — in the Company Districts at Calcutta. 60.

INCOME-TAX LAW AMENDMENT BILL—

See "Bill(s)."

INCOME-TAX OFFICER(S)—

Question re — and Examiners in the Company Districts at Calcutta. 60.

INCOME-TAX SERVICE—

Question re posts offered to the Government of India Secretariat assistants in the — class II. 1097-98.

INCONVENIENCE(S)—

Question re — suffered by third class passengers on the Jacobabad-Kashmore Railway in Sind. 5-6.

INCREMENT(S)—

Question re—
 — in the percentage of promotions of routine clerks in grade II by the Chief Accounts Officer of the North Western Railway. 860-61.

— of pay of staff working as temporary guards in the Howrah Division of the East Indian Railway. 1025-26.

INDIAN(S)—

Motion for adjournment re non-association of non-official representative — with the Eastern Group Conference. 75-76.

Question re—

Desirability of recruitment of — of all castes and creeds to the Indian Army. 779-80.

Eligibility of — for the Royal Air Force in India. 967.

Inadequate representation of — in the Port Trusts. 2-4.

INDIAN AIR FORCE—

Question re selection of candidates for the Technical School connected with the —. 1017.

INDIAN ARBITRATION BILL—

See "Bill(s)."

INDIAN ARMY—

See "Army(ies)."

INDIAN ARMY ORDNANCE CORPS—

Question re examination for recruitment to the —. 61.

INDIAN AUDIT AND ACCOUNTS SER-VICE EXAMINATION—

Question re delay in making appointments of candidates successful in the — of 1939. 201.

INDIAN BANKS—

See "Bank(s)."

INDIAN BROKER(S)—

See "Broker(s)."

INDIAN CATERING SYSTEM—

See "Catering system."

INDIAN CHRISTIANS—

See "Christian(s)."

INDIAN CIVIL SERVICE—

Question re communal composition of — and other All-India service Officers brought on to the Government of India Secretariat. 963-64.

INDIAN COFFEE—

See "Coffee."

INDIAN COFFEE CESS COMMITTEE—

Question re—
 Expenditure by the — on propaganda activities in India. 426-27.
 Expenditure by the — on salaries and propaganda activities of the London Market Expansion Board. 424.
 Resolution re scrapping of the London Coffee Market Expansion Board by the —. 514-31.

INDIAN COINAGE (AMENDMENT)

BILL—

See "Bill(s)."

INDIAN COMPANIES (AMENDMENT)

BILL—

See "Bill(s)."

INDIAN EMIGRATION (AMENDMENT)

BILL—

See "Bill(s)."

INDIAN ENTERPRISE—

Question re encouragement to — for manufacturing aircrafts, motors or for building ships. 967-68.

INDIAN EVIDENCE (AMENDMENT)

BILL—

See "Bill(s)."

INDIAN FINANCE (No. 2) BILL—

See "Bill(s)."

INDIAN GUARDS—

See "Guard(s)."

INDIAN HILL STATION SCHOOLS—

See "Hill Station School(s)."

INDIAN INCOME-TAX (AMENDMENT) BILL—

See "Bill(s)."

INDIAN INSTITUTE OF SCIENCE—

Motion re election of a Member on the Council of the —, Bangalore. 88-89.

INDIAN LISTENER—

Question re expenditure incurred by the Government on the —. 600-01.

INDIAN MECHANIC(S)—

See "Mechanic(s)."

INDIAN MEDICAL DEPARTMENT—

Question re—
 Differential treatment meted out to the —. 66.

Non-grant of separation allowance to the —. 66-67.

INDIAN MERCHANTISE MARKS (AMENDMENT) BILL—

See "Bill(s)."

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL—

See "Bill(s)."

INDIAN MINES (AMENDMENT) BILL—

See "Bill(s)."

INDIAN NAVY—

See "Navy."

INDIAN NAVY (DISCIPLINE) AMENDMENT BILL—

See "Bill(s)."

INDIAN NAVY (DISCIPLINE) SECOND AMENDMENT BILL—

See "Bill(s)."

INDIAN OFFICER—

See "Officer(s)."

INDIAN PILGRIM—

See "Pilgrim(s)."

INDIAN PILGRIM SHIPS—

See "Pilgrim Ship(s)."

INDIAN PILOTS—
See "Pilot(s)."

INDIAN PORTS—
See "Port(s)."

INDIAN RAILWAYS—
See "Railway(s)."

INDIAN RAILWAYS AMENDMENT ACT—
See "Act(s)."

INDIAN RAILWAYS (AMENDMENT) BILL—
See "Bill(s)."

INDIAN RAILWAYS (SECOND AMENDMENT) BILL—
See "Bill(s)."

INDIAN REGISTRATION (AMENDMENT) BILL—
See "Bill(s)."

INDIAN REPRESENTATION—
See "Representation(s)."

INDIAN RESEARCH FUND ASSOCIATION—
Election of a Member for the Governing Body of the ——. 1113.
See also "Research Fund Association, Indian."

INDIAN SALE OF GOODS (AMENDMENT) BILL—
See "Bill(s)."

INDIAN STALLS—
See "Stall(s)."

INDIAN TARIFF (AMENDMENT) BILL—
See "Bill(s)."

INDIAN TARIFF (SECOND AMENDMENT) BILL—
See "Bill(s)."

INDIAN WORKS OF DEFENCE (AMENDMENT) BILL—
See "Bill(s)."

INDIANISATION—
Question re — of the posts of Loco Foremen and Inspectors on the North Western Railway. 881-82.

INDO-CHINA—
Question re distances of — from Bengal and Assam. 563-64.

INDUSTRIAL WORKER(S)—
See "Worker(s)."

INDUSTRY(IES)—
Question re creation of new — or workshops on permanent basis and Government Subsidy thereon. 427-28.

INFERIOR AND LABOUR SERVICE—
Question re admission of the — employ-ees on State Railways to the privilege of contributing towards provident fund 856-57.

INFERIOR SERVICE(S)—
Question re percentage reserved for Mus-lims in Labour and — on State Railways. 356-57.

INFERIOR STAFF—
Question re—
Non-applicability of the fundamental leave rules to — of the Goods Depot at Wadi Bunder on the Great Indian Peninsula Railway. 58.
Percentage of leave reserve for the Traf-fic Technical — on the North Western Railway. 876.

INFERIOR SERVANT(S)—
Question re recruitment of Sikhs as — in the Office of the Military Secretary and the Private Secretary to His Excellency the Viceroy. 913.

INSPECTOR(S)—
Question re—
Building — of the Delhi Improve-ment Trust. 66.
Cases of deviations in the construction of buildings reported by the Building —, Delhi Improvement Trust. 912.
Holders of the appointments of Trans- portation — in the Moradabad Division, East Indian Railway. 601.
Representation from the State-managed railway administrations for allowing second class passes to — and Assist-ant —. 365.
Subordinates and clerks who worked under the Building — of the Delhi Improvement Trust and resigned. 908.

INSPECTOR OF WORKS—
Question re qualified Muslim — not allowed to officiate as Assistant Engine-ers on the North Western Railway. 44.

INSTRUCTION(S)—

Question re—
Circular — for grant of gratuity to non-gazetted staff in Lucknow Divi-sion of the East Indian Railway.
• 18-19.
— for excess reservation for Mus-lims in the vacancies of works mistries by the General Manager, North West-ern Railway. 363-64.
Issue of certain — for amplification of Rule 34 of the Railway Service (Classi-fication, Control and Appeal) Rules. 867.
Issue of — re entries in "Caste" column of the Census Returns. 772-74.

INSURANCE (AMENDMENT) BILL—

See "Bill(s)."

INSURANCE COMPANY(IES)—

Question re enactment of legislation en-abling — to buy Defence Bonds. 776.

INTEREST CHARGES—

Demand for Excess Grant in respect of —. 1079.

INTERMEDIATE CLASS—

Question re provision of tumbler switches for controlling lights in — carriages. 1017-18.

INTERMEDIATE CLASS CARRIAGE(S)—

See "Carriage(s)."

INTERNATIONAL LABOUR CONFER-ENCE—

Draft Convention and Recommendations adopted by the — (laid on the table). 1028-59.

INTERNATIONAL SANITARY CON-VENTION—

Question re ratification of the — of Paris. 141-42.

INTERVAL(S)—

Question re — for washing of the passenger carriages running on branch lines of the North Western Railway. 9-10.

INVOICE TYPISTS—

See "Typist(s)."

IRAN—

Question re special pilgrim passes required by Indian pilgrims for — and Iraq. 8.

IRAQ—

Question re special pilgrim passes re-quired by Indian pilgrims for Iran and —. 8.

IRREGULARITY(IES)—

Question re — in the running of special trains on the North Western Railway. 44-45.

IRWIN HOSPITAL—

Question re complaints about the treat-ment of patients in the —, New Delhi. 435-36.

IRWIN ROAD—

Question re—
Hedges planted on the lawns facing the orthodox quarters on the — in New Delhi. 686-87.
Vacant piece of land on the north side behind the orthodox quarters on the —, New Delhi. 688.

ISMAIL KHAN, HAJI CHAUDHURY MUHAMMAD—

Question re—
Communal composition of the staff of the Imperial Veterinary Research Institute. 695, 1107.
Inadequate Indian representation in the Calcutta Port Trust. 229.
Muslim clerks in the Imperial Veterinary Research Institute. 696, 1108.
Muslim dressers promoted as Laboratory Assistants in the Imperial Veterinary Research Institute. 695, 1108.
Muslim representation in other classes of service not to be affected by higher percentage of Muslims in the posts of dressers. 695-96.
Muslims in the poultry research section of the Imperial Veterinary Research Institute. 696, 1108.
Non-employment of Indian Banks and Indian brokers for short deposit businesses of the Calcutta Port Trust. 230.
Non-employment of Indian brokers by the Calcutta Port Trust for purchas-ing telegraphic transfers of the Local Exchange Banks to the United King-dom. 229-230.

ISMAIL KHAN, HAJI CHAUDHURY
MUHAMMAD—*contd.*

Question *re—contd.*

Paucity of Muslims in the staff of the Imperial Veterinary Research Institute. 693-95, 696, 1105-07.

Permanent Muslim Veterinary Inspectors in the Imperial Veterinary Research Institute. 696, 1108.

ITALIAN DETENU(S)—

See "Detenu(s)."

J

JACOBABAD-KASHMORE—

Question *re* shortage of goods wagons on narrow gauge section in Sind. 4-5.

JACOBABAD-KASHMORE RAILWAY—

See "Railway(s)".

JACOBABAD-KASHMORE SECTION—

Question *re—*

Deductions made from the salaries of the gang staff on —. 855.
Reduction of the Gang Staff on —, North Western Railway, to Lower scales of pay. 854-55.

JAIL(S)—

Motion for Adjournment *re* banning by the Government of Bengal publication of news of hunger strikes in — etc. 1112-13.

JAMES, MR. F. E.—

Excess Profits Tax (Amendment) Bill—
Motion to refer to Select Committee 888, 889, 890.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 312, 347, 411, 413, 415, 454, 468, 469, 475, 623-35.

Indian Income-tax (Amendment) Bill—
Motion to consider. 951, 955.

Reserve Bank of India (Third Amendment) Bill—

Motion to consider. 263, 264.

Resolution *re* scrapping of the London Coffee Market Expansion Board by the Indian Coffee Cess Committee. 514, 519-22.

JEDDAH—

Question *re* shipping fares from Indian ports to — and low speed of certain Pilgrim Ships. 142-44.

JEHANGIR, SIR COWASJI—

Cantonments (Amendment) Bill—

Consideration of clauses. 249-51, 252.

Excess Profits Tax (Amendment) Bill—

Motion to refer to Select Committee. 890.

Finance Member's statement on the financial position. 100.

Indian Finance (No. 2) Bill—

Motion for leave to introduce. 102.

Motions to consider and to circulate.

310, 392, 411, 416, 421, 422, 440, 442, 455, 466, 479, 738-47, 752.

Motion for leave to introduce in the form recommended. 885.

Indian Income-tax (Amendment) Bill—

Motion to consider. 950-56.

Indian Navy (Discipline) Amendment Bill—

Motion to consider. 238-39.

Indian Railways (Amendment) Bill—

Motions to refer to Select Committee and to circulate. 936.

Motion for Adjournment *re* closing down of the branch line between Shorsnur and Nilambur in the Malabar District. 1086.

Question (Supplementary) *re—*

Assignment by the A. E. G., India Electric Company, Limited, incorporated in Germany, or their business, assets, etc., to certain parties in Bombay. 128, 129.

Delay in holding the Autumn Session of the Legislative Assembly. 133.

Relaxation of the financial control of the Government of India over the Supply Department. 279.

War Donations and Investments (Companies) Bill—

Motion to consider. 260-61.

JINNAH, MR. M. A.—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 305, 306, 311, 379, 380, 419, 480, 624, 633, 650, 812, 816-28.

JODHPUR RAILWAY—

See "Railway(s)".

JOSHI, MR. N. M.—

Indian Finance (No. 2) Bill—

Motions to consider and circulate. 397, 453-57, 491, 492, 641, 745, 746, 835.

Indian Railways (Amendment) Bill—

Motions to refer to Select Committee and to circulate. 927, 928, 933.

JOSHI, MR. N. M.—*contd.*

Motion *re* election of three members for the Standing Committee attached to the Department of Supply. 919-21, 922.
Motion for Adjournment *re* closing of the Chandpur-Siau-Bijnor section of the Gajraula Muazzampur Narain Branch of the East Indian Railway. 1004.

Nomination of — to the Panel of Chairmen. 211.

Question *re—*

Channel of promotion for firemen on the Great Indian Peninsula Railway. 31-32.

Establishment of a central control room at Kalyan. 64.

Working of the Bombay Multiple Unit Service on the Great Indian Peninsula Railway by certain drivers. 64.

Question (Supplementary) *re—*

Commission charged by the Government of India on articles purchased by His Majesty's Government for the maintenance of the Supply Department. 902.

Dacca Mail disaster. 351.

Expenditure by the Indian Coffee Cess Committee on propaganda activities in India. 426.

Inadequate Indian representation in the Port Trusts. 3, 4.

Indignities suffered by Indian Lascars in South Africa. 135-36.

Issue of one rupee notes. 767.

Percentage reserved for Muslims in labour and inferior services on State Railways. 357.

Persons tried, convicted or detained without trial under the Defence of India Act. 916.

Punjabi detenus confined in the Deoli Detention Camp. 777, 778.

Recruitment of Indian Christians to the Subordinate and Superior Services of the State and Company-managed Railways. 563.

Recruitment of officers in the Supply Department through the National Service Committee. 906.

Votable and non-votable expenditure sanctioned outside the Budget. 198, 199.

Resolution *re—*

Appointment of a Committee of the Central Legislature regarding economy in war expenditure. 542.

JOSHI, MR. N. M.—*concl.*

Resolution *re—contd.*

Appointment of a Committee to examine the conditions of Detenus under the Defence of India Act. 550, 553, 554, 560.

Appointment of a Permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 187.

Fiscal Policy of the Government of India. 170-72.

Scrapping of the London Coffee Market expansion Board by the Indian Coffee Cess Committee. 530.

JOURNEY—

Question *re* arrangement of through railway — from Dacca and Shillong to Cawnpore and Lucknow. 1018.

JOURNEYMAN (EN)—

Question *re—*

Communal composition of — appointed in certain shops on the North Western Railway. 58.

Exclusion of non-Muslims from promotions as — lately made on the North Western Railway. 587.

JUDICIAL SEPARATION—

See "Hindu — and Divorce Bill" under "Bill(s)".

JUNCTION(S)—

Question *re* want of shunting facilities at Bukhtiarpur — of the East Indian Railway. 349.

JURISDICTION—

Question *re* desirability of enlarging the appellate — of the Federal Court. 139-140.

K

KALAT—

Question *re* scheme for preventing raids into Sindh from Baluchistan and —. 230-231.

KALYAN—

Question *re* establishment of a central control room at —. 64.

KAMARAN—

Question *re—*

Duties and emoluments of the Civil Administrator, Kamaran. 349-50.

KAMARAN—contd.Question *re—contd.*

Pensions or gratuities granted to Government employees at the — Quarantine Station. 283-84, 1104-05.
Quarantine station at —. 367.

KARACHI—Question *re—*

Filling up of certain vacancies of clerks recently occurring in the — Divisional Office of the North Western Railway. 587-88.

Non-Sindhi Muslims in clerical posts in the office of the Divisional Superintendent, North Western Railway, —. 851-52.

Subjecting persons selected by the Divisional Selection Board at — for training and promotion as guards, grade II, on the North Western Railway to further tests. 228-229.

KAROL BAGH—Question *re—*

Connecting of drains with sewers in —, Delhi. 707.

Dumping of carcasses of animals near —, Delhi. 65.

Easement rights infringed by construction of open storm-water drains in —, Delhi. 708.

Enhancement of annual premium of *Nazul* plots in —, Delhi. 707-08.

Failure to name or light streets in the Naiwala area of —, Delhi. 689.

Incomplete sewerage in —, Delhi. 706-07.

Information given to the — Police Station, Delhi, about the presence of a gang of criminals called Bauriyas. 981.

Location of a tuberculosis clinic in —, Delhi. 62.

Metalling of roads, etc., in —, Delhi, by the Delhi Improvement Trust. 906-07.

Non-naming of certain roads in —, Delhi. 54.

Providing of electric lights in —, Delhi. 708.

Provision of lights on certain roads in —, Delhi. 54.

Provision of parks in —, Delhi. 54.

Shifting of the dumping ground for dead animals from —, Delhi. 907.

KAROL BAGH—contd.Question *re—contd.*

Shifting of the tuberculosis clinic from —, Delhi. 54.

Steps taken by the Delhi Improvement Trust for planting trees and shrubbery in —, Delhi. 906.

Unsatisfactory condition of Naiwala in —, Delhi. 51.

KASAULI—

Question *re* assessment value of houses and shops in the — Cantonment. 63.

KAZMI, QAZI MUHAMMAD AHMAD—

Question (Supplementary) *re* private houses in New Delhi reserved for accommodation of the extra members of the Viceroy's proposed expanded Cabinet. 698.

"KEMENDINE"—

Question *re* sinking of the steamer —, 566, 981-82.

KHALASI(S)—

Question *re* alleged utilisation of the services of — by the officers of the Delhi Improvement Trust for private work. 907-08.

KHANNA, MR. L. N.—

Question *re* repatriation of —'s wife and daughter from Sudetenland, Germany. 775-76.

KHYBER PASS—

Motion for adjournment *re* prohibition of visitors from entering the —. 436-38.

KURHURVARI—

Question *re* responsibility of the Manager in respect of the coal-mine Disaster at —. 286-87.

L**LABORATORY ASSISTANT(S)—**

Question *re* Muslim dressers promoted as — in the Imperial Veterinary Research Institute. 695, 1108.

LABOUR—

Question *re* percentage reserved for Muslims in — and inferior services on State Railways. 356-57.

LABOUR CONFERENCE, INTERNATIONAL—

See "International Labour Conference."

LABOUR DEPARTMENT—Question *re—*

Conferences, committees or sub-committees held at Simla last summer under the control of the —. 661-63.

Officers and ministerial staff of the Labour Department who moved up to Simla last summer and expenditure incurred in the Move. 660-61.

Retention of almost entire ministerial staff of — in New Delhi during the last summer. 905.

LABOURER(S)—

Question *re* re-classification of works Mistries as "—" on the North Western Railway. 564.

LAHORE—Question *re—*

Allegations of bribery against the Manager of the Medical Stores Depot, —. 775.

Broadcast of Sikh religion and history by the —, Peshawar and Delhi Broadcasting Stations. 861.

Clerks employed in certain sections of the Railway Divisional Office. —. 68-69.

LAHORE DIVISION—

Question *re* exemption of the European and Anglo-Indian guards on — of North Western Railway from working certain shunting and van trains. 364.

LALCHAND NAVALRAI, MR.—

Cantonments (Amendment) Bill—
Consideration of clauses. 246-47.

Code of Criminal Procedure (Amendment) Bill (amendment of section 4)—
Motion for leave to introduce. 221.

Code of Criminal Procedure (Amendment) Bill (amendment of section 250).—
Motion for leave to introduce. 221.

Excess Profits Tax (Amendment) Bill—
Motion to consider. 1118-19.
Consideration of clauses. 1121.

Hindu Women's Right to Property (Amendment) Bill—
Motion to refer to Select Committee. 989.

Indian Evidence (Amendment) Bill—
Motion for leave to introduce. 221

Indian Finance (No. 2) Bill—
Motions to consider and to circulate. 338-45, 823.

LALCHAND NAVALRAI, MR.—contd.

Indian Navy (Discipline) Amendment Bill—
Motion to consider. 239-240.

Indian Railways (Amendment) Bill—
Motions to refer to Select Committee and to circulate. 893-96, 899, 937, 939.

Indian Sale of Goods (Amendment) Bill—
Motion to consider. 1061, 1062.

Indian Works of Defence (Amendment) Bill—
Motion to consider. 236.

Land Acquisition (Amendment) Bill—
Motion for leave to introduce. 995.

Motion for adjournment *re—*

Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1091-92.

Dacca Mail disaster. 120-21.

Lawlessness in Sind. 149-50.

Motion to consider the Report of the Public Accounts Committee. 1063-66, 1074.

Question *re—*

Admission of the inferior and labour service employees on State Railways to the privilege of contributing towards Provident Fund. 856-57.

Advisability of holding competitive examinations for recruitment to the subordinate service on the North Western Railway. 226-227.

Advisability of withdrawing the Government Resolution on Communal Reservation of appointments in public services. 205-06.

Appointment of candidates in the Posts and Telegraphs subordinate service in the Sind and Baluchistan Circle without the production of valid domicile certificates. 359-60.

Appointment of unqualified persons in the Sind and Baluchistan Postal Circle. 569-70.

Attendance on employees' families by nurses employed in the Medical Department of the North Western Railway. 9.

Communal considerations in the promotion of guards from grade II to grade III on the North Western Railway. 357-58.

Communal reservation both on appointment and confirmation of new recruits on the North Western Railway. 7-8.

LALCHAND NAVALRAI, MR.—*contd.*Question re—*contd.*

- Complaints of deterioration of eye-sight from Goods Train Guards for want of electric lights in brake-vans. 232.
- Creation of new industries or workshops on permanent basis and Government subsidy thereon. 427-28.
- Creation of the Supply Department and its functions and working. 285.
- Devaluation of Assistant Station Master's grades on the North Western Railway. 874.
- Discharge of certain Works Mistries in the Rawalpindi Division of the North Western Railway on communal grounds. 589-90.
- Discharge of staff controlled by the General Manager by the Divisional Superintendent of the North Western Railway. 11, 857.
- Discrimination in the matter of passes and privilege ticket orders between an adopted and step-son on State Railways. 355-56.
- Discrimination in the matter of scale of furniture and utensils in European and Indian Guards Running Rooms on the North Western Railway. 232-233.
- Educational assistance to the children of employees on the North Western Railway. 588.
- Eligibility of the night vision failed station masters group staff for certain appointments. 874.
- Excess payments by the employees of the North Western Railway to the Railway Medical Staff. 8-9.
- Exclusion of non-Muslims from promotions as Journeymen lately made on the North Western Railway. 587.
- Exemption of the European and Anglo-Indian guards on Lahore Division of North Western Railway from working certain shunting and van trains. 364.
- Explanation of railway employees in case of enhancement of punishment already inflicted. 10.
- Filling up of certain vacancies of clerks recently occurring in the Karachi Divisional Office of the North Western Railway. 587-88.
- Holding in abeyance orders in respect of certain bridge staff memorialists of the North-Western Railway. 874-75.

LALCHAND NAVALRAI, MR.—*contd.*Question re—*contd.*

- 'Hours of Employment Regulations' incorporated in the Indian Railways Amendment Act, 1930, not made applicable to British portion of Jodhpur Railway. 866-67.
- Inadequate Indian representation in the Port Trusts. 2-4.
- Income-tax charged on gratuities paid to the non-gazetted State Railway employees. 206-07.
- Inconveniences suffered by third class passengers on the Jacobabad-Kashmore Railway in Sind. 5-6.
- Indignities suffered by Indian Lascars in South Africa. 134-136.
- Instructions for excess reservation for Muslims in the vacancies of works mistries by the General Manager, North Western Railway. 363-64.
- Intervals for washing of the passenger carriages running on branch lines of the North Western Railway. 9-10.
- Invoice typists on the North Western Railway. 28.
- Lower rates of consolidated travelling allowance for van sorters on the North Western Railway. 875-76.
- Maximum age limit for all kinds of training courses at the Walton Training School. 11.
- Non-recognition of Indian Hill Station Schools for purposes of educational grants by the North Western Railway. 233.
- Passes for van sorters on the North Western Railway. 873.
- Paucity of Sindhis in the North Western Railway subordinate service. 223-225.
- Paucity of Sindhis in the subordinate services on the North Western Railway. 365-66.
- Percentage of leave reserve for the Traffic Technical Inferior staff on the North Western Railway. 876.
- Percentage reserved for Muslims in labour and inferior services on State Railways. 356-57.
- Permission to Boy Messengers acting as Packers in the Sind and Baluchistan Postal Circle to appear for clerical examinations. 568-69.
- Policy of making promotions from amongst employees of the same branch on the North Western Railway. 875.

LALCHAND NAVALRAI, MR.—*contd.*Question re—*contd.*

- Promotion of shunting staff on the North Western Railway. 64-65.
- Promotion of Traffic "Pupils" as Traffic Inspectors on the North Western Railway. 566-68, 855-56.
- Provision of rent-free quarters to Block Maintainers on the North Western Railway. 1103-04.
- Publication of a classified list of a certain class of subordinate staff of all branches of Railway service on the North Western Railway. 588-89.
- Railway Advisory Committee. 227-228.
- Raising of the new army in India, its cost and arrangements for training of the additional officers. 202-05.
- Re-classification of Works Mistries as "Labourers" on the North Western Railway. 564.
- Recruitment of postal clerks in the Sind and Baluchistan Circle. 63.
- Report of the officer on special duty appointed to investigate into certain matters affecting communal representation in railway services. 225-226.
- Representation for construction of a trunk road from Hyderabad (Sind) to Bombay via Badin and Viramgam. 358-59.
- Representation from the State managed Railway Administrations for allowing second class passes to Inspectors and Assistant Inspectors. 365.
- Retrenchment in the higher grade appointments of Yard Foremen and Yard Supervisors on the North Western Railway. 857-59.
- Scheme for preventing raids into Sind from Baluchistan and Kalat. 230-231.
- Shortage of goods wagons on Jacobabad-Kashmore narrow gauge section in Sind. 4-5.
- Sinking of the steamer "Kemendine". 566, 831-82.
- Subjecting persons selected by the Divisional Selection Board at Karachi for training and promotion as guards, grade II, on the North Western Railway to further tests. 228-229.
- Training of Indian pilots and mechanics for the Air Force. 273-76.
- Vanpool of grade III firemen on the North Western Railway. 64.

LALCHAND NAVALRAI, MR.—*contd.*Question re—*contd.*

- Vagaries in the exercise of power of allowing alterations of birth dates by employees on the North Western Railway. 231-32.
- Question (Supplementary) re—
- Abolition of train vending on the Assam Bengal Railway. 849-50.
- Age limit of candidates for the post of Station Director, All-India Radio, recently advertised. 1019.
- Allotment of peon's quarters in New Delhi. 138.
- Apprentice Train Examiners on the North Western Railway. 853.
- Assignment by the A. E. G. India Electric Company, Limited, incorporated in Germany, of their business, assets, etc., to certain parties in Bombay. 129.
- Burglaries and dacoities in New Delhi. 975.
- Communal composition of Indian Civil Service and other All-India service Officers brought on to the Government of India Secretariat. 964.
- Communal considerations in the promotion of Guards on the North Western Railway. 1015.
- Complaints about the treatment of patients in the Irwin Hospital, New Delhi. 436.
- Desirability of recruitment of Indians of all castes and creeds to the Indian Army. 790.
- Different scales of pay for Officers of the preventive Service at Chittagong and Calcutta. 772.
- Eligibility of Indians for the Royal Air Force in India. 967.
- Government scholarships for training in flying. 1016.
- Hindu and Muslim strength of the Indian Navy. 966.
- Indian catering made a source of income on the Assam Bengal Railway. 586.
- Issue of one rupee notes. 766.
- Issue of one rupee notes without the agency of the Reserve Bank of India. 277.
- Local examination for Walton Training School qualified guards. 854.
- Non-Sindhi Muslims in clerical posts in the office of the Divisional Superintendent, North Western Railway, Karachi. 852.

LALCHAND NAVALRAI, MR.—*concl.*Question (Supplementary) *re—cont.*

Officers and ministerial staff of the External Affairs Department who moved up to Simla last summer and expenditure incurred in the Move. 571.

Officers and ministerial staff of the Labour Department who moved up to Simla last summer and expenditure incurred in the Move. 661.

Persons tried, convicted or detained without trial under the Defence of India Act. 915.

Principles and standards for promotion of Railway Guards, Grade II to Grade III. 1013, 1014.

Private houses in New Delhi reserved for accommodation of the extra members of the Viceroy's proposed expanded Cabinet. 698.

Prohibition of railway employees to travel on Privilege Ticket Orders by mail and express trains. 1021.

Punjabi detenus confined in the Deoli Detention Camp. 777.

Quota of Muslim candidates at the flying training schools. 1102.

Recruitment of Indian Christians to the Subordinate and Superior Services of the State and Company-managed Railways. 563.

Relaxation of the financial control of the Government of India over the Supply Department. 279.

Selection for appointment to selection posts in the Departments of the East Indian and Eastern Bengal Railways. 1022.

Steps for the Defence of India. 282.

Suggestions made by the Port Haj Committees. 693.

Taking of lease of Roller Flour Mill at Lyallpur and tenders for grinding wheat for use of military forces. 494.

Votable and non-votable expenditure sanctioned outside the Budget. 197, 199.

Repealing and Amending Bill—

Motion to consider. 248, 253, 254.

Resolution *re* appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 511, 512.

Specific Relief (Amendment) Bill—

Motion for leave to introduce. 995.

LALJEE, MR. HUSENBHAI ABDUL-LABHAI—Resolution *re* scrapping of the London Coffee Market expansion Board by the Indian Coffee Cess Committee. 526-28.**LAND(S)—**Question *re* vacant piece of — on the north side behind the orthodox quarters on the Irwin Road, New Delhi. 688.**LAND ACQUISITION (AMENDMENT) BILL—***See* "Bill(s)".**LAND FORCE(S)—**Question *re* emergency Commission in the — and Air Forces of His Majesty's Government in India. 976-79.**LASCAR(S)—**Question *re* indignities suffered by Indian — in South Africa. 134-136.**LAWLESSNESS—**Motion for adjournment *re* — in Sind. 149-50.**LAWN(S)—**Question *re*—
Hedges planted on the — facing the orthodox quarters on the Irwin Road in New Delhi. 666-67.
Neglect of planted trees and maintained — in the D. I. Z. area of New Delhi. 664-65.**LAWSON, MR. C. P.—**

Oath of Office. 1.

Resolution *re* appointment of a Committee of the Central Legislature regarding economy in war expenditure. 536-38.**LEAKAGE—**Question *re* — in the roofs of orthodox quarters in New Delhi during last rainy season. 682-83.**LEASE(S)—**Question *re* taking of — of Roller Flour Mill at Lyallpur and tenders for grinding wheat for use of military forces. 493-94.**LEAVE—**Question *re*—

Calculation of period of sick — on the State Railways. 17-18, 878-79.

Grant of — to the East Indian Railway employees serving in the volunteer forces when required to join the army. 67.

LEAVE ACCOUNT(S)—Question *re* documents for verification of — maintained on State Railways. 591.**LEAVE RESERVE—**Question *re* percentage of — for the Traffic Technical Inferior staff on the North Western Railway. 876.**LEGISLATION—**Question *re* enactment of — enabling Insurance Companies to buy Defence Bonds. 776.**LEGISLATIVE ASSEMBLY—**Motion for adjournment *re*—
Delay in holding the Session of the —. 155.

Failure of Government to enable Mr. Subhash Chandra Bose to attend the Session of the —. 148-49.

Failure to call a Session of the — between the period April 9 to October 1940. 145-48.

Non-holding of the Session of the — for a long time. 156-57.

Position of the Nominated Members of the —. 1027-28.

Question *re* delay in holding the Autumn Session of the —. 130-34.

Relinquishment of Simla for sittings of the —. 103-05.

Speech delivered to the Council of State and — by His Excellency the Viceroy. 841-48.

LEGISLATIVE ASSEMBLY AND LEGISLATIVE ASSEMBLY DEPARTMENT—

Demand for Excess Grant in respect of —. 1076.

LEGISLATIVE DEPARTMENT—Question *re*—

Allotment of Government quarters to the staff of the Home and —. 700.

Conferences, committees or sub-committees held at Simla last summer under the control of the —. 677-78.

Officers and ministerial staff of the — who moved up to Simla last summer and expenditure incurred in the Move. 677.

LEGISLATURE(S)—Motion for adjournment *re* huge expenditure without sanction of the —. 155-56.**LEGISLATURE(S)—*cont.***Question *re* Members of the Central and Provincial — detained or imprisoned since the war began. 969-70.Resolution *re* appointment of a Committee of the Central — regarding economy in war expenditure. 531-50.**"LETTER POST DELIVERY"—**Question *re* — from post offices in the Delhi Province. 15.**LICENCE(S)—**Question *re*—

Grant of arms — to special Police Officers in Delhi. 67.

— for preparation of Ayurvedic medicines from natural fermented ingredients. 772.

LIEN—Question *re* — on his post allowed to a certain employees of the Delhi Improvement Trust. 908-09.**LIGHT(S)—**Question *re*—

Providing of electric — in Karol Bagh, Delhi. 708.

Provision of — on certain roads in Karol Bagh, Delhi. 54.

Provision of tumbler switches for controlling — in intermediate class carriages. 1017-18.

LINO, MONO AND MACHINE DEPARTMENT—Question *re* defective machines in the — of the Government of India Press, New Delhi. 703.**LOCO FOREMAN(EN)—**Question *re* Indianisation of the posts of — and Inspectors on the North Western Railway. 881-82.**LOCO. INSPECTOR(S)—**Question *re* Indianisation of the posts of Loco. Foremen and — on the North Western Railway. 881-82.**LOCO. STAFF—**Question *re* promotion to senior subordinates of Transportation staff and to senior subordinates of —. 882.

LONDON—

Question re—

Expenditure by the Indian Coffee Cess Committee on salaries and propaganda activities of the — Market Expansion Board. 424.

Rise in the salary of the Director of the — Market Expansion Board. 424-25.

Resolution re scrapping of the — Coffee Market Expansion Board by the Indian Coffee Cess Committee. 514-31.

LOUD SPEAKER(S)—

Question re playing of music through — during prayer time at Delhi. 287.

LOWER GAZETTED SERVICE—

Question re non-submission of names of Muslim candidates for selection to — from Howrah Division of the East Indian Railway. 1023.

See also under "Gazetted Service".

LUCKNOW—

Question re—

Arrangement for through railway journey from Dacca and Shillong to Cawnpore and —. 1018.

Circular instructions for grant of gratuity to non-gazetted staff in — Division of the East Indian Railway. 18-19.

Cooly contracts in Moradabad, — and Allahabad Divisions, East Indian Railway. 881.

Recognition of the Association of Railway Guards at —. 871-72.

LUGGAGE SUPERVISOR(S)—

Question re proceedings of the Selection Board held at the Divisional Office, Howrah, East Indian Railway for filling vacancies of — and Parcel Supervisors. 593.

LAYLLPUR—

Question re taking of lease of a Roller Flour Mill at — and tenders for grinding wheat for use of military forces. 493-94.

M

MACHINE(S)—

Question re defective — in the Lino, Mono and Machine Department of the Government of India Press, New Delhi. 709.

MAGISTRATE(S)—

Question re railway prosecution case in the Court of the Resident —, Delhi. 596-97.

MAIL(S)—

Question re—

Accidents to the Dacca — in 1939 and 1940. 353.

Dacca — disaster. 350-51.

Diversion of carriage of postal — between Sylhet and Shillong from road to railway. 353-54.

Relief given to the victims of the Dacca — disaster. 351-52.

MAIL TRAIN(S)—

See "Train(s)."

MAITRA, PANDIT LAKSHMI KANTA—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 321, 322, 721, 722.

Motion for adjournment re—

Dacca Mail disaster. 73, 109, 110, 115-19, 123.

Disallowance of a Motion for Adjournment by the Governor General after it was allowed by the Chair. 210.

Expansion of H. E. The Viceroy's Executive Council and the constitution of War Advisory Committee. 73-74, 75.

Failure of Government to enable Mr. Subhash Chandra Bose to attend the Session of the Legislative Assembly. 148.

Failure to call a Session of the Legislative Assembly between the period April 9 to October 1940. 148.

Non-association of non-official representative Indians with the Eastern Group Conference. 76.

Non-holding of the Session of the Legislative Assembly for a long time. 156, 157.

Refusal of permission to Mr. Bhulabhai Desai and to Mr. Asaf Ali to visit Waziristan. 76, 77.

Question re—

Burglaries and dacoities in New Delhi. 1099-1100.

Charge of preserved monuments in New Delhi. 62.

Question (Supplementary) re—

Accidents to the Dacca Mail in 1939 and 1940. 352, 353.

Delay in holding the Autumn Session of the Legislative Assembly. 132, 133.

MAITRA, PANDIT LAKSHMI KANTA—
contd.

Question (Supplementary) re—contd.

Desirability of enlarging the appellate jurisdiction of the Federal Court. 283.

Desirability of uniformity as to the Indian catering system on all Indian Railways. 585.

Diversion of carriage of postal mails between Sylhet and Shillong from Road to railway. 354.

Issue of one rupee notes without the agency of the Reserve Bank of India. 277.

Percentage reserved for Muslims in labour and inferior services on State Railways. 357.

Private houses in New Delhi reserved for accommodation of the extra members of the Viceroy's proposed expanded cabinet. 698.

Steps for increase and distribution of the shipping accommodation. 656, 657.

Steps for increasing the export trade of India. 659.

Steps for the Defence of India. 281, 282.

Training of Indian Pilots and Mechanics for the Air Force. 275.

MALABAR—

Motion for adjournment re closing down of the branch line between Shoranur and Nilambur in the — District. 1026-27, 1030-95.

MALAVIYA, PANDIT KRISHNA KANT—

Question re—

Authors of dramas broadcasted by the All-India Radio. 367.

Crimes in Delhi. 67.

Dumping of carcasses of animals near Karol Bagh, Delhi. 65.

Grant of arms licences to special Police Officers in Delhi. 67.

MANAGER(S)—

Question re—

Allegations of bribery against the — of the Medical Stores Depot, Lahore. 775.

Responsibility of the — in respect of the coal-mine Disaster at Kurhurvari. 286-87.

MANAVEDAN, RAJA T.—

Motion for adjournment re closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1084, 1087-88.

Oath of Office I.

MANGAL SINGH, SARDAR—

Question re—

Condition of health of Master Mota Singh, Babu Basakha Singh and others detained in Deoli Detention Camp. 778.

Punjabi detenus confined in the Deoli Detention Camp. 776-78.

MANMAD—

Question re disabilities of the subordinates of the Bridge Engineering Works at —, Great Indian Peninsula Railway. 50.

MANU SUBEDAR, MR.—

Indian Finance (No. 2) Bill—
Motions to consider and circulate. 369, 381, 386.

Question (Supplementary) re—

Creation of new industries of workshops on permanent basis and Government subsidy thereon. 428.

Issue of one rupee notes. 766, 767, 769.

Issue of one rupee notes without the agency of the Reserve Bank of India. 277, 278.

Personnel of the Roger Committee from overseas dominions and States and its mission. 433, 434.

Private houses in New Delhi reserved for accommodation of the extra members of the Viceroy's proposed expanded Cabinet. 698.

Quotas of candidates for emergency commissions and as privates for the army fixed for different provinces. 781.

Relaxation of the financial control of the Government of India over the Supply Department. 278, 280.

Representation for construction of a trunk road from Hyderabad (Sind) to Bombay via Badin and Viramgam. 358.

Steps for increase and distribution of the shipping accommodation. 656, 656, 657.

Steps for increasing the export trade of India. 658-59.

Steps for the Defence of India. 282.

Total weight of silver bullion and silver coins in the possession of Government. 770.

MANU SUBEDAR, MR.—*contd.*Question (Supplementary) *re—contd.*

Value of Dollar Securities requisitioned by Government of India from private holders. 770.

MAQBOOL MAHMOOD, MIR—

Question *re* notice of a suit on behalf of — of Amritsar against the North Western Railway. 879.

MARKER(S)—

Question *re* provision of a channel for promotion of — to Subordinate Service Posts on the North Western Railway. 579.

MARKET(S)—

Question *re—*

Expenditure by the Indian Coffee Cess Committee on salaries and propaganda activities of the London — Expansion Board. 424.

Rise in the salary of the Director of the London — Expansion Board. 424-25.

Resolution *re* scrapping of the London Coffee — Expansion Board by the Indian Coffee Cess Committee. 514-31.

MARKSMANSHIP—

Question *re* training of — by the Nagpur University. 1100-01.

MASHRIQI, ALAMA—

Question *re—*

Advisability of release of —. 208.

Detention of —. 208.

MATERIAL(S)—

Motion for adjournment *re* financial arrangements with His Majesty's Government *re* payment for the purchase of — from India. 152-53.

MATHEMATICS—

Question *re* officers and clerks in the Railway Board graduated in —. 598.

MAXWELL, THE HONOURABLE SIR REGINALD—

Certain Home Department documents laid on the table. 79-81.

Code of Civil Procedure (Amendment) Bill—

Motion for leave to introduce. 80-90.

Motion to consider. 256-57.

Motion to pass. 257.

MAXWELL, THE HONOURABLE SIR REGINALD—*contd.*

Code of Criminal Procedure (Amendment) Bill—

Motion for leave to introduce. 90.

Motion to consider. 257-58.

Motion to pass. 258.

Hindu Women's Rights to Property (Amendment) Bill—

Motion to refer to Select Committee. 991-94.

Indian Registration (Amendment) Bill—

Motion for leave to introduce. 89.

Motion to consider. 254-56.

Motion to pass. 256.

Oath of Office. 1

MEAL INTERVAL—

Question *re* stoppage of payment for — to the industrial workers of the Government of India Press, New Delhi. 701-02.

MECHANIC(S)—

Question *re* training of Indian Pilots and — for the Air Force. 273-76.

MEDICAL DEPARTMENT—

Question *re* attendance on employees' families by nurses employed in the — of the North Western Railway. 9.

MEDICAL STAFF—

Question *re* excess payments by the employees of the North Western Railway to the Railway —. 8-9.

MEDICAL STORE DEPOT—

Question *re* allegations of bribery against the Manager of the —, Lahore. 775.

MEDICINE(S)—

Question *re* licences for preparation of Ayurvedic — from natural fermented ingredients. 772.

MEERUT—

Question *re* tongas permitted to run from the — Cantonment Railway Station. 58.

MEETING(S)—

Question *re* grant of allowances to non-resident members of the Port Haj Committees for attending —. 144-145.

MEMBER(S)—

Election of a — for the Governing Body of the Indian Research Fund Association. 1113.

Election of a — to the Council of the Institute of Science, Bangalore. 88-89, 367.

Election of a — to the Standing Finance Committee. 234, 297.

Election of — to the Standing Committee for the Department of Supply. 1113. Position of the Nominated — of the House. 1027-28.

Question *re* — of the Central and Provincial Legislatures detained or imprisoned since the War began. 969-70.

MEMBER(S) OF THE VICEROY'S CABINET—

Question *re* private houses in New Delhi reserved for accommodation of the extra — of the Viceroy's proposed expanded Cabinet. 697-98.

MEMORIAL(S)—

Question *re* with-holding of —, petitions, etc., of non-gazetted railway servants by the Divisional Superintendent, Moradabad Division of the East Indian Railway. 16.

MEMORIALIST(S)—

Question *re* holding in abeyance orders in respect of certain bridge staff — of the North Western Railway. 874-75.

MERCHANT SHIPPING (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

MERCHANDISE MARKS (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

MESSAGE(S)—

Question *re* telegraph offices in Delhi Province making deliveries of —. 808-07.

MESSENGER(S)—

Question *re* permission to Boy — acting as Packers in the Sind and Baluchistan Postal Circle to appear for clerical examinations. 568-69.

MILITARY—

Motion for Adjournment *re* alleged occupation of the Muslim Idgah at Burhanpur by the —. 708, 784-85.

MILITARY FORCE(S)—

Question *re* taking of lease of Roller Flour Mill at Lyallpur and tenders for grinding wheat for use of —. 493-94.

MILITARY SECRETARY TO HIS EXCELLENCY THE VICEROY—

Question *re* recruitment of Sikhs as inferior servants in the Office of the — and the Private Secretary to His Excellency the Viceroy. 913.

MILL(S)—

Question *re* taking of lease of a Roller Flour — at Lyallpur and tenders for grinding wheat for use of military forces. 493-94.

MINES (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

MINISTERIAL ESTABLISHMENT(S)—

Question *re* grant of summer allowance to the — of the Government of India Secretariat detained at Delhi last summer. 688.

MINISTERIAL STAFF—

Question *re—* Confidential reports *re* — of the Government of India. 1098.

Officers and — of the Defence Department who moved up to Simla last summer and expenditure incurred in the move. 505.

Officers and — of the Finance Department and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the move. 499-501.

Officers and — of the Home Department and its attached and subordinate offices who moved up to Simla last summer and expenditure in the move. 496-98.

See also under "Staff".

MISTRY(IES)—

Question *re—*

Disallowance of the privilege of rent free quarters to certain Block — recruited as Block Maintainers on the North Western Railway. 872-73.

Discharge of certain Works — in the Rawalpindi Division of the North Western Railway on communal grounds. 589-90.

Re-classification of Works — as "Labourers" on the North Western Railway. 564.

MODY, SIR H. P.—

Appointment of — to the Committee on Petitions. 439.

Cantonments (Amendment) Bill—
Consideration of clauses. 252.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 441, 450-53, 710.

Question (Supplementary) re—
Establishment of a Paper Economy Department by the Government of India. 435.

Steps for increase and distribution of the shipping accommodation. 656, 657.

MONUMENT(S)—

Question re charge of preserved — in New Delhi. 62.

MORADABAD—

Question re—

Erection of a wall on the south of — Railway Station Yard, East Indian Railway. 871.

Railway quarters at — and staff occupying them. 594.

MORADABAD DIVISION—

Question re—

Certain quarterly statement forwarded by the Divisional Superintendent, — on the East Indian Railway. 16-17, 878.

Certain record of non-gazetted railway servants in the — of the East Indian Railway. 14-15.

Cooly contracts in —, Lucknow and Allahabad Divisions, East Indian Railway. 881.

Detention of vehicles at stations in the —, East Indian Railway. 594.

Expenditure on the appointments of non-gazetted railway servants in the —, East Indian Railway. 602.

Holders of the appointments of Transportation Inspectors in the —, East Indian Railway. 601-02.

Names submitted by the Divisional Superintendent, —, for promotion of non-gazetted railway servants to the lower gazetted service. 601.

Non-gazetted railway servants charged with offences in the —, East Indian Railway. 878.

Quarters Committee, —, East Indian Railway. 593.

MORADABAD DIVISION—*contd.*

Question re—*contd.*

Sanctioned strength of the Transportation Inspectors in the —, East Indian Railway. 602.

Scales of pay of certain non-gazetted railway servants in the — of the East Indian Railway. 604.

Selection board or committees assembled in — on the East Indian Railway. 880-81.

Transfers of non-gazetted railway servants in the — of the East Indian Railway and the Delhi Division of the North Western Railway. 590.

Withholding of memorials, petitions, etc., of non-gazetted railway servants by the Divisional Superintendent, — of the East Indian Railway. 16.

MOTA SINGH, MASTER—

Question re condition of health of —, Baba Basakha Singh and others detained in Deoli Detention camp. 778.

MOTION(S)—

— re—

Election of a Member of the Standing Finance Committee. 234.

Election of a Member on the Governing Body of the Indian Research Fund Association. 918.

Election of three members for the Standing Committee attached to Department of Supply. 918-23.

MOTION(S) FOR ADJOURNMENT—

See "Adjournment(s)."

MOTOR(S)—

Question re encouragement to Indian enterprise for manufacturing aircrafts — or for building ships. 967-68.

MOTOR SPIRIT (DUTIES) AMENDMENT BILL—

See "Bill(s)."

MOTOR VEHICLE(S)—

Certain papers re — Rules laid on the table. 88.

MOTOR VEHICLES (AMENDMENT) BILL—

See "Bill(s)."

MOVE—

Question re—

— of the Army Headquarters to Simla and back. 979-80.

Officers and ministerial staff of the Commerce Department who moved up to Simla last summer and expenditure incurred in the —. 680-81.

Officers and ministerial staff of the Defence Co-ordination Department who moved up to Simla last summer and expenditure incurred in the —. 667-68.

Officers and ministerial staff of the Defence Department who moved up to Simla last summer and expenditure incurred in the —. 505.

Officers and ministerial staff of the Department of Communications and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the —. 578.

Officers and ministerial staff of the Department of Education, Health and Lands and its Attached and Subordinate Offices who moved up to Simla last summer and expenditure incurred in the —. 668-69.

Officers and ministerial staff of the External Affairs Department who moved up to Simla last summer and expenditure incurred in the —. 570-72.

Officers and ministerial staff of the Finance Department and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the —. 499.

Officers and ministerial staff of the Home Department and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the —. 496-98.

Officers and ministerial staff of the Labour Department who moved up to Simla last summer and expenditure incurred in the —. 660-61.

Officers and ministerial staff of the Legislative Department who moved up to Simla last summer and expenditure incurred in the —. 677.

MOVE—*contd.*

Question re—*contd.*

Officers and ministerial staff of the Political Department who moved up to Simla last summer and expenditure incurred in the —. 678-79.

Officers and ministerial staff of the Railway Department who moved up to Simla last summer and expenditure incurred in the —. 572-76.

MUZZAMPUR—

Motion for Adjournment re closing of the Chandpur-Sian-Bijnor section of the Gajraula — Narain branch of the East Indian Railway. 982-83 and 996-1011.

MUDALIAR, THE HONOURABLE DIWAN BAHADUR SIR A. RAMA-SWAMI—

Draft Convention and Recommendations adopted by the International Labour Conference (laid on the table). 1028-29.

Indian Companies (Amendment) Bill—
Motion for leave to introduce. 91.
Motion to consider. 258.

Motion to pass. 259.
Indian Finance (No. 2) Bill—
Motions to consider and to circulate. 470-72, 473-74, 475-85, 640.

Indian Merchandise Marks (Amendment) Bill—
Motion for leave to introduce. 91.
Motion to refer to Select Committee. 271.

Indian Sale of Goods (Amendment) Bill—
Motion for leave to introduce. 439.
Motion to consider. 1060, 1061-62.
Motion to pass. 1062.

Motion for Adjournment re—
Closing of the Chandpur-Sian-Bijnor section of the Gajraula Muzzampur Narain branch of the East Indian Railway. 1000.

Fall in prices of ground-nuts. 609.

Resolution re—
Fiscal Policy of the Government of India. 172-80, 181, 182.
Scrapping of the London Coffee Market Expansion Board by the Indian Coffee Cess Committee. 515, 522-26, 527.

Statement laid on the table re lowest tenders not accepted by the High Commissioner for India in purchasing stores for the Government of India. 1113-15.

MUDALIAR, THE HONOURABLE
DIWAN RAHADUR SIR A. RAMA-
SWAMI—contd.

War Donations and Investments (Com-
 panies) Bill—
 Motion for leave to introduce. 91.
 Motion to consider. 259, 261-62.
 Motion to pass. 262.

MUHAMMAD AHMAD KAZMI, QAZI—
 Indian Finance (No. 2) Bill—

Motions to consider and to circulate.
 299, 838-839.

Question (Supplementary) re—
 Condition of health of Master Mota
 Singh, Baba Basakha Singh and
 others detained in Deoli Detention
 Camp. 778.

Establishment of a Paper Economy
 Department by the Government of
 India. 435.

Expenditure by the Indian Coffee Cess
 Committee on propaganda activities
 in India. 427.

Instructions for charging rent for use
 of Railway refreshment rooms and
 stalls. 362-363.

Issue of one rupee notes. 769.
 Punjabi detenus confined in the Deoli
 Detention Camp. 777.

MUKHARJI, MR. BASANTA KUMAR—
 Oath of Office. 2.

MULTAN—

Motion for Adjournment *re* alleged em-
 bezzlement in the — Division of the
 North Western Railway.

MULTIPLE UNIT SERVICE—

Question *re* working of the Bombay —
 on the Great Indian Peninsula Rail-
 way by certain drivers. 64.

MURTUZA SAHIB BAHADUR, MAULVI
SYED—

Question *re*—
 Confidential reports *re* ministerial staff
 of the Government of India. 1098.
 Posts offered to the Government of
 India Secretariat assistants in the
 Income-tax Service, Class II. 1097-
 98.

Resolution *re* appointment of a permanent
 Muslim Pilgrim Officer in the Secre-
 tariat of the Government of India.
 512-13.

MUSIC—

Question *re* playing of — through loud
 speakers during prayer time at Delhi. 287.

MUSLIM(S)—

Motion for adjournment *re* alleged occupa-
 tion of the — *Idgah* at Burhanpur
 by the Military. 784-85.

Question *re*—

Appointment of — staff on Indian
 pilgrim ships. 141.

Death of — in the Rawalpindi Divi-
 sion of the North Western Railway.
 32-33.

Declaration of — holidays as general
 holidays on the Assam Bengal Rail-
 ways. 850-51.

Denial of facilities for bettering their
 prospects to — graduate employees
 on the East Indian Railway. 1024-
 25.

Exclusion of non — from promotions
 as Journeymen lately made on the
 North Western Railway. 587.

Hindu and — strength of the Indian
 Navy. 965-67.

Instructions for excess reservation for
 — in the vacancies of works mis-
 tries by the General Manager, North
 Western Railway. 363-64.

— clerks in the Imperial Veterinary
 Research Institute. 696, 1108.

— graduates in establishment offices
 and supervisory posts on the East
 and Eastern Bengal Rail-
 ways. 1024, 1025.

— officers employed by the Calcutta
 Port Trust. 582.

— Railway officers in the Railway
 Board proper. 859.

— representation in other classes
 of service not to be affected by higher
 percentage of — in the posts of
 dressers. 695-96.

— Traffic Inspectors on the North
 Western Railway. 32.

— in certain categories of appoint-
 ments officiating against permanent
 vacancies on the North Western
 Railway. 581-82.

— in the poultry research section
 of the Imperial Veterinary Research
 Institute. 696, 1108.

— selected for direct recruitment to
 certain categories of appointments
 on the North Western Railway.
 580-81.

Non-Sindhi — in clerical posts in the
 Office of the Divisional Superin-
 tendent, North Western Railway,
 Karachi. 851-52.

MUSLIM(S)—contd.

Question *re*—contd.

Non-submission of names of —
 candidates for selection to lower
 gazetted service from Howrah Divi-
 sion of the East Indian Railway.
 1023.

Paucity of — in the staff of the
 Imperial Veterinary Research Insti-
 tute. 693-95, 696, 1105-07.

Percentage reserved for — in labour
 and inferior services on State Rail-
 ways. 356-57.

Permanent — Veterinary Inspectors
 in the Imperial Veterinary Research
 Institute. 1108.

Preference given to non-eligible —
 for promotion to the lower gazetted
 services on the East Indian Rail-
 way. 603-04.

Qualified — Inspectors of Works not
 allowed to officiate as Assistant Engi-
 neers on the North Western Railway.
 44.

Quota of — candidates at the flying
 training school. 1101-02, 1016.

Report *re* the representation of —
 and other minority communities in
 the subordinate railway services. 861.

Withholding of applications of —
 clerks of the Railway Clearing
 Accounts Office for posts of Guards
 on the North Western Railway. 600.

Resolution *re* appointment of a permanent
 — Pilgrimage Officer in the Secretariat
 of the Government of India. 183-96,
 506-14.

MUSLIM DRESSER(S)—

See "Dresser(s)."

MUSLIM IDGAH—

See "Idgah."

MUSLIM LEAGUE—

Question *re* alleged rude behaviour of the
 Quetta Railway Station officials at the
 welcome to the President-elect of the
 Baluchistan — Session. 583-84.

MUSLIM VETERINARY INSPECTOR(S)—

See "Veterinary Inspector(s)."

MUTUAL GUARANTEE FUND—

Question *re* — of the Old East Indian
 Railway Company. 44.

N

NAGPUR—

Question *re*—

Expansion of the 10th — Battalion,
 University Training Corps. 783-84.

Training of marksmanship by the —
 University. 1100-01.

NAIWALA—

Question *re*—

Failure to name or light streets in the
 — area of Karol Bagh, Delhi. 689.

Unsatisfactory condition of — in
 Karol Bagh, Delhi. 51.

NAME(S)—

Question *re* non-submission of — of
 Muslim candidates for selection to lower
 gazetted service from Howrah Division
 of the East Indian Railway. 1023.

NARAIN—

Motion for Adjournment *re* closing of the
 Chandpur-Siau-Bijnor section of the
 Gujraula Muazzampur — branch of
 the East Indian Railway. 982-83 and
 996-1011.

NARROW GAUGE SECTION—

Question *re* shortage of goods wagons on
 Jacobabad-Kashmore — in Sind. 4-5.

NATION—

Motion for adjournment *re* failure of the
 Government of India to evoke whole-
 hearted enthusiasm in the — to fight
 the totalitarian States. 71-72.

**NATIONAL SERVICE (EUROPEAN
 BRITISH SUBJECTS) BILL—**

See "Bill(s)."

NATIONAL SERVICE COMMITTEE—

Question *re* recruitment of officers in the
 Supply Department through the —.
 905-06.

NAUMAN, MR. MUHAMMAD—

Question *re* want of shunting facilities at
 Bukhtiarpur Junction of the East
 Indian Railway. 349.

Question (Supplementary) *re*—

Issue of one rupee notes without the
 agency of the Reserve Bank of India.
 277.

Personnel of the Roger Committee from
 overseas dominions and States and its
 mission. 434.

NAUMAN, MR. MUHAMMED—*contd.*Question (Supplementary) *re—contd.*

Relaxation of the financial control of the Government of India over the Supply Department. 279.

Selection for appointment to selection posts in the Departments of the East Indian and Eastern Bengal Railways. 1022.

Steps for the Defence of India. 281.

Resolution *re* appointment of a Committee of the Central Legislature regarding economy in war expenditure. 531-36, 546, 547, 550.

NAVY—

Question *re* Hindu and Muslim strength of the Indian ——. 965-67.

NAVY (DISCIPLINE) AMENDMENT BILL—

See "Indian ——" under "Bill(s)."

NAVY (DISCIPLINE) SECOND AMENDMENT BILL—

See "Indian ——" under "Bill(s)."

NAZUL LAND—

Question *re* increase in the rent of — in Delhi. 52-53.

NAZUL PLOT(S)—

Question *re* enhancement of annual premium of — in Karol Bagh, Delhi. 707-08.

NEHRU, PANDIT JAWAHAR LAL—

Question *re* prosecution of —. 973-74.

NEW DELHI—

Question *re—*

Additions and alterations carried out in perfunctory manner in certain "D" type orthodox quarters in —. 663.

Allotment of duffries' quarters in —. 136-137.

Allotment of peons' quarters in —. 137-38.

Amalgamation of Government of India Presses at Simla and —. 702-03.

Building of quarters separately for its headquarters staff by the Railway Board in —. 687-88.

Burglaries and dacoities in —. 974-75 and 980-81, 1009-1100.

Charge of preserved monuments in —. 62.

Complaints about the treatment of patients in the Irwin Hospital —. 435-36.

NEW DELHI—*contd.*Question *re—contd.*

Decrease in the percentage of allotment of quarters in —. 683.

Defective machines in the Lino, Mono and Machine Department of the Government of India Press, —. 703.

Delay in the annual repairs of certain "D" type orthodox quarters in —. 665-66.

Desirability of reduction in rates of rent for Government quarters in —. 683.

Differential treatment meted out to piece compositors in the Government of India Press, —. 702.

Government of India offices permanently stationed and those located during the ensuing winter season in —. 684-86.

Hedges planted on the lawns facing the orthodox quarters on the Irwin Road in —. 666-67.

Inadequate number of "B" and "C" unorthodox quarters in —. 682.

Leakage in the roofs of orthodox quarters in — during last rainy season. 682-83.

Location of the Government of India and other offices in Old Delhi and —. 686-87.

Neglect of planted trees and maintained lawns in the D. I. Z. area of —. 664-65.

Non-transfer of certain members of regular electrical establishment on duty in —. 910.

Private Houses in — reserved for accommodation of the extra members of the Viceroy's proposed expanded Cabinet. 697-98.

Reduction of electricity charges in —. 65.

Reduction of water charges in —. 65.

Representation for replacing iron windows by wooden windows in Raj Bazar Square. —. 700-01.

Reservation of Government bungalows and quarters for particular officers or staff in — or Old Delhi. 911-12.

Retention of almost entire ministerial staff of Labour Department in — during the last summer. 905.

Reversion of permanent men of higher grade to lower posts in certain branches of the Government of India Press, —. 706.

NEW DELHI—*contd.*Question *re—contd.*

Seniority list of the Binding Branch of the Government of India Press, —. 701.

Stoppage of payment for meal interval to the industrial workers of the Government of India Press, —. 701-02.

Supply of unfiltered water in orthodox quarters in —. 689.

Vacant piece of land on the north side behind the orthodox quarters on the Irwin Road, —. 688.

Waiting list of persons not provided with Government quarters in —. 683-84.

NEW DELHI MOSQUE BILL—

See "Bill(s)."

NEWS—

Motion for Adjournment *re* banning by the Government of Bengal publication of — of hunger strikes in jail, etc. 1112-13.

NIGHT(S)—

Question *re* eligibility of the — vision failed Station Masters group staff for certain appointments. 874.

NIGHT VISION FAILED STATION MASTERS—

See "Station Master(s)."

NILAMBUR—

Motion for adjournment *re* closing down of the branch line between Shoranpur and — in the Malabar District. 1026-27, 1086-88.

NOMINATED MEMBER(S)—

See "Member(s)."

NOMINATION—

Question *re* — of the Panel of Chairmen. 211.

NON-GAZETTED POST(S)—

See "Post(s)."

NON-GAZETTED RAILWAY SERVANTS—

See "Railway servant(s)."

NON-GAZETTED SERVICE—

Question *re* scales of pay and seniority of senior subordinates in — of the old East Indian Railway and the old Oudh and Rohilkhand Railway. 607-08.

NON-GAZETTED STAFF—

See "Staff."

NON-OFFICIAL REPRESENTATIVE—

See "Representative(s)."

NON-RESIDENT MEMBER(S)—

See "Resident Member(s)."

NON-TRANSFER(S)—

See "Transfer(s)."

NORTH-WEST FRONTIER PROVINCE—

Question *re* recruitment of relations of employees in the Income-tax Department, Punjab, — and Delhi Provinces. 59-60.

NORTH-WESTERN RAILWAY—

See "Railway(s)."

NOTE(S)—

Issue of one rupee —. 765-69.

Issue of one Rupee — without the agency of the Reserve Bank of India. 276-78.

NOTICE(S)—

Question *re—*
— issued for contravention of the terms of sanction granted by the Delhi Improvement Trust. 53.
— of a suit on behalf of Mir Maqbool Mahmood of Amritsar against the North Western Railway. 879.

NURSE(S)—

Question *re* attendance on employees' families by — employed in the Medical Department of the North Western Railway. 9.

O

OATH OF OFFICE—

Ayers, Mr. C. W. 1.
Bunyad Hussain, Khan Bahadur Sayad. 2.

Chaudhury, Maulvi Abdul Halim. 197.

Frampton, Mr. H. J. 1.

Ikramullah, Mr. Muhammad. 1.

Lawson, Mr. C. P. 1.

Manavedan, Raja T. 1.

Maxwell, The Honourable Sir Reginald. 1.

Mukharji, Mr. Basanta Kumar. 2.

Orniston, Mr. J. F. 1.

Reddiar, Mr. K. Sitarama. 1.

Sheehy, Mr. J. F. 1.

Thakur Singh, Captain. 1.

Tyson, Mr. J. D. 1.

Zaheer, Mr. Saiyid Hasan. 1.

OCCUPATION(S)—

Motion for adjournment *re* alleged — of the Muslim *Idgah* at Burhanpur by the Military. 784-85.

OFFENCE(S)—

Question *re* non-gazetted railway servants charged with — in the Moradabad Division, East Indian Railway. 878.

OFFENCES ON SHIPS AND AIRCRAFT BILL—

See "Bill(s)."

OFFICE(S)—

Question *re*—

Location of the Government of India and other — in Old Delhi and New Delhi. 686-87.

Officers and ministerial staff of the Finance Department and its attached and subordinate — who moved up to Simla last summer and expenditure incurred in the move. 499-501.

Officers and ministerial staff of the Home Department and its attached and subordinate — who moved up to Simla last summer and expenditure in the move. 496-98.

Recruitment communal composition, salaries, etc., of certain staff in the Supply Department and Allied —. 287-295.

Re-employed staff in the Supply Department and —. 295-297.

OFFICER(S)—

Question *re*—

Alleged utilisation of the services of *Khalassis* by the — of the Delhi Improvement Trust for private work. 907-08.

Appointment of a Sikh — to —'s establishment of the Railway Board and its attached offices. 861-62.

Contribution by — of the Army and Air Forces Headquarters towards the Defence Savings Provident Fund and Defence Savings Certificates. 496.

Date of making payment to an — of Government entitled to receive payments on behalf of Government. 871.

Different scales of pay for — of the Preventive Service at Chittagong and Calcutta. 771-72.

Duties of Assistant — and Transportation Inspectors on State Railways. 28-31.

OFFICER(S)—*contd.*

Question *re*—*contd.*

Grant of arms licences to special Police — in Delhi. 67.

Income-tax — and Examiners in the Company Districts at Calcutta. 60.

Indian — in the Government of India Departments and its attached offices. 55-57.

Muslim Railway — in the Railway Board proper. 859.

Non-transfer of certain — of the Central Public Works Department. 910.

— and clerks in the Railway Board graduated in Mathematics. 598.

— and ministerial staff of the Commerce Department who moved up to Simla last summer and expenditure incurred in the Move. 680-81.

— and ministerial staff in the Defence Co-ordination Department who moved up to Simla last summer and expenditure incurred in the Move. 667-68.

— and ministerial staff of the Defence Department who moved up to Simla last summer and expenditure incurred in the move. 505.

— and ministerial staff of the Department of Communications and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the Move. 578.

— and ministerial staff of the Department of Education, Health and Lands and its Attached and Subordinate Offices who moved up to Simla last summer and expenditure incurred in the Move. 688-69.

— and ministerial staff of the External Affairs Department who moved up to Simla last summer and expenditure incurred in the Move. 570-72.

— and ministerial staff of the Finance Department and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the move. 499-501.

— and ministerial staff of the Home Department and its attached and subordinate offices who moved up to Simla last summer and expenditure in the move. 496-98.

OFFICER(S)—*contd.*

Question *re*—*contd.*

— and ministerial staff of the Labour Department who moved up to Simla last summer and expenditure incurred in the Move. 660-61.

— and ministerial staff of the Legislative Department who moved up to Simla last summer and expenditure incurred in the Move. 677.

— and ministerial staff of the Political Department who moved up to Simla last summer and expenditure incurred in the Move. 678-79.

— and ministerial staff of the Railway Department who moved up to Simla last summer and expenditure incurred in the Move. 572-76.

— and staff of the Delhi Employment Trust. 689-91.

— dealing with establishment matters in the Government of India Offices. 37-38.

Raising of the new army in India, its cost and arrangements for training of the additional —. 202-05.

Recruitment of — in the Supply Department through the National Service Committee. 905-06.

Report of the — on special duty appointed to investigate into certain matters affecting communal representation in railway services. 223, 225-26.

Reservation of Government bungalows and quarters for particular — or staff in New Delhi or Old Delhi. 911-12.

Unduly large number of — moving up to Simla. 495-96.

Resolution *re* appointment of a permanent Muslim Pilgrim — in the Secretariat of the Government of India. 506-14.

OFFICIAL(S)—

Question *re* alleged rude behaviour of the Quetta Railway Station — at the welcome to the President-elect of the Baluchistan Muslim League Session. 582-84.

OGILVIE, MR. C. M. G.—

Cantonments (Amendment) Bill—

Motion for leave to introduce. 92.

Motion to consider. 243.

Consideration of clauses. 245, 246, 247.

Motion to pass. 247.

OGILVIE, MR. C. M. G.—*contd.*

Indian Finance (No. 2) Bill—
Motions to consider and circulate. 373-74.

Indian Navy (Discipline) Amendment Bill—

Motion to consider. 237, 238, 239, 240, 241.

Consideration of clauses. 242.

Motion to pass. 242.

Indian Navy (Discipline) Second Amendment Bill—

Motion for leave to introduce. 90-91.

Motion to consider. 242.

Motion to pass. 242.

Indian Works of Defence (Amendment) Bill—

Motion for leave to introduce. 90.

Motion to pass. 237.

Motion for adjournment *re*—

Alleged occupation of the Muslim *Idgah* at Burhanpur by the Military. 785.

Failure of the Government of India to evoke whole-hearted enthusiasm in the nation to fight the totalitarian States. 72.

OLD DELHI—

Question *re*—

Location of the Government of India and other offices in — and New Delhi. 686-87.

Reservation of Government bungalows and quarters for particular officers or staff in New Delhi or —. 911-12.

ONE RUPEE NOTES—

See "Note(s)".

OPEN LINE WORKS—

Demand for Excess Grant in respect of —. 1079.

OPINION(S)—

Motion for adjournment *re* — of the Honourable Member for Railways and Communications on the D'Souza Report. 153-54.

ORDER(S)—

Motion for adjournment *re* placing of large — of purchases with a few individuals. 150-52.

Question *re* holding in abeyance — in respect of certain bridge staff memorials of the North Western Railway. 874-76.

ORMISTON, MR. J. F.—

Oath of office. 1.

ORTHODOX QUARTER(S)—

See "Quarter(s)".

OUDH AND ROHILKHAND RAILWAY—

See "Railway(s)".

OVERSEAS DOMINION(S)—

See "Dominion(s)".

P

PACKER(S)—

Question re permission to Boy Messengers acting as — in the Sind and Baluchistan Postal Circle to appear for clerical examinations. 568-69.

PANDE, MR. BADRI DUTT—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 468, 489, 491, 610, 611, 613, 618, 646.

Question (Supplementary) re—

Accidents to the Dacca Mail in 1939 and 1940. 353.

Issue of one Rupee Notes without the agency of the Reserve Bank of India. 278.

Steps for the Defence of India. 281.

Training of Indian Pilots and Mechanics for the Air Force. 275, 278.

PANEL OF CHAIRMAN (EN)—

Nomination of the —. 211.

PAPER(S)—

Certain — re Agricultural Produce Cess Act laid on the table. 83-88.

Certain — re Motor Vehicles Rules laid on the table. 88.

PAPER ECONOMY DEPARTMENT—

Question re establishment of a — by the Government of India. 434-35.

PARCEL OFFICE(S)—

Question re City Booking and — worked by Messrs. Thomas Cook and Son. 45-46.

PARCEL SUPERVISOR(S)—

Question re proceedings of the Selection Board held at the Divisional Office, Moradabad, East Indian Railway for filling vacancies of Luggage and —. 593.

PARIS—

Question re ratification of the International Sanitary Convention of —. 141-42.

PARK(S)—

Question re provision of — in Karol Bagh, Delhi. 54.

PARMA NAND, BHAI—

Question re—

Allegations of bribery against the Manager of the Medical Stores Depot, Lahore. 775.

Alleged utilization of the services of *Khalasis* by the officers of the Delhi Improvement Trust for private work. 907-08.

Allotment of Government quarters to the staff of the Home and Legislative Departments. 700.

Amalgamation of Government of India Presses at Simla and New Delhi. 702-03.

Appointment of Mr. Passmore in the Supply Department and his duties. 705.

Assessment value of houses and shops in the Kasauli Cantonment. 63.

Books or syllabus prescribed for promotion courses on State Railways. 868.

Building plans received by the Delhi Improvement Trust. 52.

Cadres of Guards on certain State Railways. 604.

Cases of infringement of building bye-laws of the Delhi Improvement Trust. 907.

Certain restrictions on appointments to subordinate service posts on North Western Railway. 882.

Circumstances and conditions under which certain penalties are to be imposed on persons ceasing to be railway servants. 868-69.

Classes and groups for the purposes of vision tests of certain railway employees. 870-71.

Communal considerations in the promotion of Guards on the North Western Railway. 1014-15.

Complaints against the Building Inspector of the Delhi Improvement Trust. 52.

Connecting of drains with sewers in Karol Bagh, Delhi. 707.

PARMA NAND, BHAI—*contd.*Question re—*contd.*

Date of making payment to an officer of Government entitled to receive payments on behalf of Government. 871.

Defective machines in the Lino., Mono. and Machine Department of the Government of India Press, New Delhi. 703.

Desirability of relaxation of allotment of quarters rules in the case of low-paid, married non-migratory staff. 706.

Differential treatment meted out to piece compositors in the Government of India Press, New Delhi. 702.

Disallowance of the privilege of rent free quarters to certain Block Mistries recruited as Block Maintainers on the North Western Railway. 872-73.

Disqualifying non-gazetted railway servants for promotion on failure to pass the senior refresher course. 603.

Easement rights infringed by construction of open storm water drains in Karol Bagh, Delhi. 708.

Enhancement of annual premium of *Nazul* plots in Karol Bagh, Delhi. 707-08.

Erection of a wall on the south of Moradabad Railway Station Yard, East Indian Railway. 871.

Examination for recruitment to the Indian Army Ordnance Corps. 61.

Expenditure on the appointments of non-gazetted railway servants in the Moradabad Division, East Indian Railway. 602.

Extra expenditure incurred by not appointing an Assistant Train Examiner to officiate as Head Train Examiner, Bareilly. 604-05.

Fruit vending contract at Amritsar Railway Station. 606.

Grade I Train Examiners on the East Indian Railway. 859-60.

Holders of the appointments of Transportation Inspectors in the Moradabad Division, East Indian Railway. 601-02.

Incomplete sewerage in Karol Bagh, Delhi. 706-07.

Increase in the rent of *Nazul* Land in Delhi. 52-53.

PARMA NAND, BHAI—*contd.*Question re—*contd.*

Indian Officers in the Government of India Departments and its attached offices. 55-57.

Indianization of the posts of Loco. Foremen and Inspectors on the North Western Railway. 881-82.

Introduction of senior refresher course for Assistant Station Masters on the East Indian Railway. 602-03.

Issue of instructions re entries in "Caste" column of the Census Returns. 772-74.

Licenses for preparation of Ayurvedic medicines from natural fermented ingredients. 772.

Long interval intervening between making of applications for and allotment of Government quarters. 703-04.

Metalling of roads, etc., in Karol Bagh, Delhi, by the Delhi Improvement Trust. 906-07.

Names submitted by the Divisional Superintendent, Moradabad Division, for promotion of non-gazetted railway servants to the lower gazetted service. 601.

Non-naming of certain roads in Karol Bagh, Delhi. 54.

Notices issued for contravention of the terms of sanction granted by the Delhi Improvement Trust. 53.

Option to State Railway employees to elect old or revised rent rules. 605.

Orders in force for promotion of servants on the North Western Railway on a communal basis. 872.

Penalties imposed on persons in railway services, classes I and II. 870.

Policy observed by the General Manager, East Indian Railway, in the matter of catering contracts. 605-06, 1105.

Preference given to non-eligible Muslims for promotion to the lower gazetted services on the East Indian Railway. 603-64.

Principles and standards for promotion of Railway Guards, Grade II to Grade III. 1013-14.

Procedure for enquiry into charges against railway servants. 869-70.

Promotion to senior subordinates of Transportation staff and to senior subordinates of Loco. staff. 882.

PARMA NAND, BHAI—*contd.*Question *re—contd.*

- Prosecutions sanctioned by the Delhi Improvement Trust. 52.
- Protection of Government quarters from tuberculosis infection. 704-05.
- Providing of electric lights in Karol Bagh, Delhi. 708.
- Provision of lights on certain roads in Karol Bagh, Delhi. 54.
- Provision of parks in Karol Bagh, Delhi. 54.
- Recognition of the Association of Railway Guards at Lucknow. 871-72.
- Reduction of electricity charges in New Delhi. 65.
- Reduction of water charges in New Delhi. 65.
- Relieving Guards in certain Divisions of the East Indian Railway. 608.
- Repatriation of Mr. L. N. Khanna's wife and daughter from Sudetenland Germany. 775-76.
- Representation for replacing iron windows by wooden windows in Raja Bazar Square, New Delhi. 700-01.
- Resignation of staff of the Delhi Improvement Trust. 53.
- Reversion of permanent men of higher grade to lower posts in certain branches of the Government of India Press, New Delhi. 705.
- Sanctioned strength of the Transportation Inspectors in the Moradabad Division, East Indian Railway. 602.
- Scales of pay and seniority of senior subordinates in non-gazetted services of the old East Indian Railway and the old Oudh and Rohilkhand Railway. 607-08.
- Scales of pay of certain non-gazetted railway servants in the Moradabad Division of the East Indian Railway. 604.
- Seniority list of the Binding Branch of the Government of India Press, New Delhi. 701.
- Shifting of the dumping ground for dead animals from Karol Bagh, Delhi. 907.
- Shifting of the tuberculosis clinic from Karol Bagh, Delhi. 54.
- Steps taken by the Delhi Improvement Trust for planting trees and shrubbery in Karol Bagh, Delhi. 906.

PARMA NAND, BHAI—*concl.*Question *re—contd.*

- Stoppage of payment for meal interval to the industrial workers of the Government of India Press, New Delhi. 791-02.
- Telegraph offices in the Delhi Province making deliveries of messages. 606-07.
- Tenders invited for the printing of the *Fauji Akhbar*. 774-75.
- Tongas permitted to run from the Meerut Cantonment Railway Station. 58.
- Unrecommended employees allowed to appear as recruits for appointment as Guards on the North Western Railway. 1015-16.
- Unsatisfactory condition of Naiwala in Karol Bagh, Delhi. 51.

PARSI MARRIAGE AND DIVORCE (AMENDMENT) BILL—

See "Bill(s)."

PARTIAL EXODUS—

See "Exodus."

PASS(ES)—

Question *re—*

- Discrimination in the matter of — and privilege ticket orders between an adopted and step-son on State Railways. 355-56.
- for van sorters on the North Western Railway. 873.
- Railway — allowed to Messrs. Thomas Cook and Son and their staff. 45.
- Representation from the state-managed railway administrations for allowing second class — to Inspectors and Assistant Inspectors. 365.
- Special pilgrim — required by Indian pilgrims for Iran and Iraq. 8.

PASSENGER(S)—

Question *re—*

- Inconveniences suffered by third class — on the Jacobabad-Kashmore Railway in Sind. 5-6.
- Intervals for washing of the — carriages running on Branch lines of the North Western Railway. 9-10.

PASSMORE, MR.—

Question *re* appointment of — in the Supply Department and his duties. 705.

PATIENT(S)—

Question *re* complaints about the treatment of — in the Irwin Hospital, New Delhi. 435-36.

PAUCITY—

Question *re—*

- of Muslims in the Staff of the Imperial Veterinary Research Institute. 1105-07.
- of Sindhis in the North Western Railway subordinate service. 223, 225.

PAY(S)—

Question *re—*

- Different scales of — for Officers of the Preventive Service at Chittagong and Calcutta. 771-72.
- Increments of — of staff working as temporary guards in the Howrah Division of the East Indian Railway. 1025-26.
- Prior sanction by the Railway Board to revisions of scales of — affecting a whole class or grade of employees on certain State Railways. 590.
- Reduction of the gang staff on Jacobabad-Kashmore section, North Western Railway, to lower scales of —. 854-55.
- Rules in respect of — and allowances, Provident Fund, etc., on the Oudh and Rohilkhand Railway before and after amalgamation. 591.

PAYMENT—

Motion for adjournment *re* financial arrangements with His Majesty's Government *re* — for the purchase of materials from India. 152-53.Question *re—*

- Date of making — to an officer of Government entitled to receive — on behalf of Government. 871.
- Excess — by the employees of the North Western Railway to the Railway Medical Staff. 8-9.
- Stoppage of — for meal interval to the industrial workers of the Government of India Press, New Delhi. 701-02.

PAYMENT OF WAGES ACT—

See "Act(s)."

PENALTY (IES)—

Question *re—*

- Circumstances and conditions under which certain — are to be imposed on persons ceasing to be railway servants. 868-69.
- imposed on persons in railway services, classes I and II. 870.

PENSION(S)—

Question *re* — or gratuities granted to Government employees at the Kamaran Quarantine Station. 283-84, 1104-05.

PEON(S)—

Question *re—*

- Allotment of —' quarters in New Delhi. 137-38.
- Sikhs taken as — in the Government of India Secretariat. 964-65.
- Vacancies of — filled in the Government of India Offices. 38-41.

PERCENTAGE(S)—

Question *re—*

- Muslim representation in other classes of service not to be affected by higher — of Muslims in the posts of dressers. 695-96.
- reserved for Muslims in labour and inferior services on State railways 356-57.

PERMISSION—

Motion for adjournment *re* refusal of — to Mr. Bhulabhai Desai and to Mr. Asaf Ali to visit Waziristan. 76-77.

PERSONNEL—

Question *re* — of the Roger Committee from Overseas Dominions and States and its mission. 429-34.

PESHAWAR—

Question *re* broadcast of Sikh religion and history by the Lahore, — and Delhi, Broadcasting Stations. 861.

PETITION(S)—

- Appointment of the Committee on — 439.
- Question *re* withholding of memorials, — etc., of non-gazetted railway servants by Divisional Superintendent, Moradabad Division of the East Indian Railway. 16.

PETROLEUM (AMENDMENT) BILL—

See "Bill(s)."

PIECE COMPOSITOR(S)—

See "Compositor(s)."

PILGRIM(S)—

Question *re—*Appointment of committees of — and *Amir-ul-Haj* by Port Haj Committees on — ships. 140.

PILGRIM(S)—contd.**Question re—contd.**

Fees collected from Haj — for meeting expenses in connection with Port Haj Committees. 691-92.

Special — passes required by Indian — for Iran and Iraq. 8.

PILGRIM OFFICER—

Resolution re Appointment of a Permanent Muslim — in the Secretariat of the Government of India. 183-96.

See also under "Officer(s)."

PILGRIM PASS(ES)—

Question re special — required by Indian pilgrims for Iran and Iraq. 8.

PILGRIM SHIP(S)—**Question re—**

Appointment of committees of pilgrims and *Amir-ul-Haj* by Port Haj Committees on —. 140.

Appointment of Muslim staff on Indian —. 141.

Shipping fares from Indian ports to Jeddah and low speed of certain —. 142-44.

PILGRIMAGE—

Question re shipping arrangements for the next Haj —. 141.

PILOT(S)—

Question re training of Indian — and Mechanics for the Air Force. 273-76.

PLAN(S)—

Question re building — received by the Delhi Improvement Trust. 52.

PLOT(S)—

Question re lay-out of the Improvement Trust in certain areas in Delhi. 35.

POLICE OFFICER(S)—

Question re grant of arms licences to special — in Delhi. 67.

POLICE STATION—

Question re information given to the Karol Bagh — Delhi, about the presence of gang of criminals called Bauriyas. 981.

POLICY(IES)—

Question re — observed by the General Manager, East Indian Railway, in the matter of catering contracts. 1105.

POLITICAL DEPARTMENT—**Question re—**

Conferences, committees or sub-committees held at Simla last summer under the control of the —. 679-80.

Officers and ministerial staff of the — who moved up to Simla last summer and expenditure incurred in the Move. 678-79.

PORT(S)—

Question re shipping fares from Indian — to Jeddah and low speed of certain Pilgrim Ships. 142-44.

PORT HAJ COMMITTEE(S)—**Question re—**

Appointment of committees of pilgrims and *Amir-ul-Haj* by pilgrim ships. 140.

Fees collected from Haj pilgrims for meeting expenses in connection with —. 691-92.

Grant of allowances to non-resident members of the — for attending meetings. 144.

Propaganda and expenditure thereon by the —. 284-85.

Savings due to setting up of the —. 691.

Suggestions made by the —. 692-93.

PORT TRUST(S)—**Question re—**

Inadequate Indian representation in the Calcutta —. 229.

Inadequate Indian representation in the —. 2-4.

Muslim officers employed by the Calcutta —. 582.

Non-employment of Indian brokers by the Calcutta — for purchasing telegraphic transfers of the local Exchange Banks to the United Kingdom. 229-30.

Non-employment of Indian brokers for short deposits businesses of the Calcutta —. 230.

Scholarships for special training given by the Government of India or the Calcutta —. 382-83.

POST(S)—**Question re—**

Certain restrictions on appointment to Subordinate service — on North Western Railway. 882.

POST(S)—contd.**Question re—contd.**

Delegation of power to make first appointments in non-gazetted — on certain State Railways. 12.

Indianisation of the — of Loco. Foremen and Inspectors on the North Western Railway. 881-82.

Non-Sindhi Muslims in clerical — in the Office of the Divisional Superintendent, North Western Railway, Karachi. 851-52.

Numbers and character of non-gazetted — on certain State Railways. 12, 877.

Procedure for making appointments and promotions in non-selection — or non-selection grades after the initial appointment on certain State Railways. 14.

Promotions to the Superintendents' — in the office of the Director-General of Posts and Telegraphs. 50-51.

Reservation of the — of enquiry clerks, etc., for guards with defective vision on the North Western Railway. 863-64.

Selection — or selection grades on State Railways. 20-27.

Selection — or selection grades specified by the General Managers on certain State Railways. 13.

POST OFFICES(S)—

Question re "Letter Post Delivery" from — in the Delhi Province. 15.

POSTAL CIRCLE(S)—**Question re—**

Appointment of candidates in the posts and Telegraphs subordinate service in the Sind and Baluchistan — without the production of valid domicile certificates. 359-60.

Appointment of unqualified persons in the Sind and Baluchistan —. 569-70.

Permission to Boy Messengers acting as Packers in the Sind and Baluchistan — to appear for clerical examinations. 568-69.

POSTAL CLERK—

See "Clerk(s)".

POSTAL MAIL(S)—

See "Mail(s)".

POSTAL OFFICIAL(S)—

Question re collective assessment of water rates on — and Telegraph officials occupying Government quarters in Simla. 598-99.

POSTS AND TELEGRAPHS—

Question re appointment of candidates in the — subordinate service in the Sind and Baluchistan Circle without the production of valid domicile certificates. 359-60.

POSTS AND TELEGRAPHS, DIRECTOR GENERAL OF—

Question re promotions to the superintendents' posts in the office of the —. 50-51.

POULTRY RESEARCH SECTION—

Question re Muslims in the — of the Imperial Veterinary Research Institute. 696, 1108.

POWER, DELEGATION OF—

Question re — to make first appointments in non-gazetted posts on certain State Railways. 12.

PRAYER TIME—

Question re playing of music through loud speakers during — at Delhi. 287.

PREMIUM(S)—

Question re enhancement of annual — of *Nazul* plots in Karol Bagh, Delhi. 707-08.

PRESIDENT(S)—

Question re alleged rude behaviour of the Quetta Railway Station officials at the welcome to the — e ect of the Baluchistan Muslim League Session. 583-84.

PRESIDENT, MR. (THE HONOURABLE SIR ABDUR RAHIM)—**Remarks by—**

It is the etiquette to give way when personal explanations are sought to be given. 368.

PRESS(ES)—**Question re—**

Amalgamation of Government of India — at Simla and New Delhi. 702-03.

Defective machines in the Lino. Mono, and Machine Department of the Government of India—, New Delhi. 703.

PRESS(ES)—contd.**Question re—contd.**

Differential treatment meted out to piece compositors in the Government of India —, New Delhi. 702.

Reversion of permanent men of higher grade to lower posts in certain branches of the Government of India — New Delhi. 705.

Seniority list of the Binding Branch of the Government of India —, New Delhi. 701.

Stoppage of payment for meal interval to the industrial workers of the Government of India —, New Delhi. 701-02.

PREVENTIVE SERVICE—

Question re different scales of pay for Officers of the — at Chittagong and Calcutta. 771-78.

PRINTING—

Question re tenders invited for the — of the *Fauji Akhbar*. 774-75.

PRIVATE SECRETARY TO HIS EXCELLENCY THE VICEROY—

Question re recruitment of Sikhs as inferior servants in the Office of the Military Secretary and the —. 913.

PRIVATE WORK—

Question re alleged utilisation of the service of *Khadasis* by the officers of the Delhi Improvement Trust for —. 907-08.

PRIVILEGE(S)—**Question re—**

Disallowance of the — of rent free quarters to certain Block Mistries recruited as Block Maintainers on the North Western Railway. 872-73.

PRIVILEGE TICKET ORDER(S)—**Question re—**

Discrimination in the matter of passes and — between an adopted and step-son on State Railways. 355-56.

Prohibition of railway employees to travel on — by mail and express trains. 1020-21.

PROBATIONARY PERIOD—**Question re—**

Procedure for confirmation on the expiry of — on State Railways. 13.

Procedure of reporting the work after the expiry of the —. 877.

PROCEDURE—**Question re—**

— for enquiry into charges against railway servants. 869-70.

— of reporting the work after the expiry of the probationary period. 877.

PROGRAMME(S)—

Question re Sikh religious — in various broadcasting stations. 44.

PROHIBITION—

Motion for adjournment re — of visitors from entering the Khyber Pass. 436-38.

PROMOTION(S)—**Question re—**

Books and syllabus prescribed for — courses on State Railways. 868.

Channel of — for firemen on the Great Indian Peninsula Railway. 31-32.

Communal considerations in the — of guards from grade II to grade III on the North Western Railway. 357-58.

Communal considerations in the — of guards on the North Western Railway. 1014-15.

Disqualifying non-gazetted railway servants for — on failure to pass the senior refresher course. 603.

Exclusion of non-Muslims from — as Journeymen lately made on the North Western Railway. 337.

Increment in the percentage of — of routine clerks in grade II by the Chief Accounts Officer of the North Western Railway. 860-61.

Names submitted by the Divisional Superintendent, Moradabad Division, for — of non-gazetted railway servants to the lower gazetted service. 601.

Orders in force for — of servants on the North Western Railway on a continual basis. 872.

Policy of making — from amongst employees of the same branch on the North Western Railway. 875.

Preference given to non-eligible Muslims for — to the lower gazetted services on the East Indian Railway. 603-04.

PROMOTION(S)—contd.**Question re—contd.**

Principles and standards for — of Railway Guards Grade II to Grade III. 1013-14.

Procedure for making appointments and — in non-selection posts or non-selection grades after the initial appointment on certain State Railways. 14.

— of a record lifter as a clerk in the Chief Accounts Office on the North Western Railway. 860.

— of clerks in the Headquarters Office of the North Western Railway. 46-49.

— of firemen on the Great Indian Peninsula Railway. 58-59.

— of guards grade II to guards grade III on the North Western Railway. 863.

— of shunting staff on the North Western Railway. 64-65.

— of Traffic "Pupils" as Traffic Inspectors on the North Western Railway. 566.

— of Traffic pupils working on the North Western Railway as Traffic Inspectors. 855-56.

— to senior subordinates of Transportation staff and to senior subordinates of Loco staff. 882.

— to the Superintendents' posts in the office of the Director-General of Posts and Telegraphs. 50-51.

Provision of a channel for — of Markers to Subordinate Service Posts on the North Western Railway. 579.

Subjecting persons selected by the Divisional Selection Board at Karachi for training and — as guards, grade II, on the North Western Railway to further tests. 228-29.

PROPAGANDA—**Question re—**

Expenditure by the Indian Coffee Cess Committee on — activities in India. 426-27.

Expenditure by the Indian Coffee Cess Committee on salaries and — activities of the London Market Expansion Board. 424.

— and expenditure thereon by the Port Haj Committees. 284-85.

PROSECUTION—**Question re—**

— of Pandit Jawahar Lal Nehru. 973-74.

— sanctioned by the Delhi Improvement Trust. 52.

PROSPECT(S)—

Question re loss of — of guards in grade I and II by the abolition of grade IV on the North Western Railway. 862-63.

PROVIDENT FUNDS(S)—**Question re—**

Admission of the inferior and labour service employees on State Railways to the privilege of contributing towards —. 856-57.

Contribution by officers of the Army and Air Forces Headquarters towards the Defence Savings — and Defence Savings Certificates. 496.

Rules in respect of pay and allowances —, etc., on the Oudh and Rohilkhand Railway before and after amalgamation. 531.

PROVINCE(S)—

Question re quotas of candidates for emergency commissions and as privates for the army fixed for different —. 780-81.

PROVINCIAL LEGISLATURES—

See "Legislature(s)".

PUBLIC ACCOUNTS COMMITTEE—

Motion to consider the Report of the —. 1062-75.

Presentation of the Report of the —. 809-10.

PUBLIC SERVICE(S)—

Question re advisability of withdrawing the Government Resolution on communal reservation of appointments in —. 205-06.

PUBLIC WORKS DEPARTMENT—**Question re—**

Non-transfer of certain officers of the Central —. 910.

Use of Government furniture by certain chowkidars engaged by the Central —. 664.

PUBLICATION(S)—

Motion for Adjournment *re* burning by the Government of Bengal—of news of hunger strikes in jail, etc. 1112-13.

Question *re*—

— of Indian Railways. (Amendment) Bill (No. 28 of 1940) in certain State Railway Gazettes. 12-13.

— of the rules and regulations governing the non-gazetted railway servants on State Railways. 11-12.

Rules governing the — of matters in Railway Gazettes. 877.

PUNISHMENT—

Question *re* explanation of railway employees in case of enhancement of — already inflicted. 10.

PUNJAB—

Question *re* recruitment of relations of employees in the Income-tax Department, Punjab, North-West Frontier and Delhi Provinces. 59-60.

PUNJABI DETENU(S)—

See "Detenu(s)."

PURCHASE(S)—

Motion for adjournment *re*—
Financial arrangements with His Majesty's Government *re* payment for the — of materials from India. 152-53.

Placing of large orders of — with a few individuals. 150-52.

Question *re* contractors for the War — 287.

Q

QUARANTINE—

Question *re*—

Pensions or gratuities granted to Government employees at the Kamaran—Station. 283-84, 1104-05.

— station at Kamaran. 367.

QUARTER(S)—

Question *re*—

Additions and alterations carried out in perfunctory manner in certain "D" type orthodox — in New Delhi. 663.

Allotment of duties — in New Delhi. 136-37.

QUARTER(S)—*contd.*

Question *re*—*contd.*

Allotment of Government — to the staff of the Home and Legislative Departments. 700.

Allotment of peons — in New Delhi. 137-38.

Allotment of — to certain classes of non-gazetted railway servants on State Railways. 594.

Building of — separately for its headquarters staff by the Railway Board in New Delhi. 687-88.

Collective assessment of water rates on Postal and Telegraph officials occupying Government — in Simla. 598.

Decrease in the percentage of allotment of — in New Delhi. 683.

Delay in the annual repairs of certain "D" type orthodox — in New Delhi. 665-66.

Desirability of reduction in rates of rent for Government — in New Delhi. 683.

Disallowance of the privilege of rent-free — to certain Block Mistries recruited as Block Maintainers on the North Western Railway. 872-73.

Hedges planted on the lawns facing the orthodox — on the Irwin Road in New Delhi. 666-67.

Inadequate number of "B" and "C" orthodox — in New Delhi. 682.

Leakage in the roofs of orthodox — in New Delhi during last rainy season. 682-83.

Long interval intervening between making of applications for and allotment of Government —, 703-04.

Protection of Government — from tuberculosis infection. 764-05.

Provision of rent-free — to Block Maintainers on the North Western Railway. 1193-04.

— Committee, Moradabad Division, East Indian Railway. 593.

Railway — at Moradabad and staff occupying them. 594.

Reservation of Government bungalows and — for particular officers or staff in New Delhi or Old Delhi. 911-12.

Supply of unfiltered water in orthodox — in New Delhi. 689.

QUARTER(S)—*concl.*

Question *re*—*concl.*

Vacant piece of land on the north side behind the orthodox — on the Irwin Road, New Delhi. 688.

Waiting list of persons not provided with Government — in New Delhi. 683-84.

QUARTERLY STATEMENT—

Question *re* certain — forwarded by the Divisional Superintendent, Moradabad Division of the East Indian Railway. 16-17, 878.

QUETTA—

Question *re* alleged rude behaviour of the — Railway Station officials at the welcome to the President-elect of the Baluchistan Muslim League Session. 563-84.

QUOTA(S)—

Question *re* — of candidates for emergency commissions and as privates for the army fixed for different provinces. 780-81.

R

RADIO—

Question *re* authors of dramas broadcast by the All-India —. 367.

RAFIUDDIN AHMAD SIDDIQUE, SHAIKH—

Question *re*—

Abolition of train vending on the Assam Bengal Railway. 849-50.

Declaration of Muslim holidays as general holidays on the Assam Bengal Railways. 850-51.

Denial of facilities for bettering their prospects to Muslim graduate employees on the East Indian Railway. 1024-25.

Desirability of uniformity as to the Indian catering system on all Indian Railways. 584-85.

Different scales of pay for Officers of the Preventive Service at Chittagong and Calcutta. 771-72.

Government scholarships for training in flying. 1016-17.

Graduate subordinate employees on the East Indian and Eastern Bengal Railways. 1023-24.

RAFIUDDIN AHMED SIDDIQUE, SHAIKH—*contd.*

Question *re*—*contd.*

Improvement in the Indian catering system of the Assam Bengal Railway. 586, 1104-05.

Increments of pay of staff working as temporary guards in the Howrah Division of the East Indian Railway. 1025-26.

Indian catering made a source of income on the Assam Bengal Railway. 586.

Indian Railways where train vending is not maintained. 850.

Muslim graduates in establishment offices and supervisory posts on the East Indian and Eastern Bengal Railways. 1024, 1025.

Quota of Muslim candidates at the flying training schools. 1016, 1101-02.

Rent received from Indian stalls by the Assam Bengal Railway. 586.

Selection of candidates for the Technical school connected with the Indian Air Force. 1017.

Staff working as temporary guards in the Howrah Division of the East Indian Railway. 1026.

RAID(S)—

Question *re* scheme for preventing — into Sind from Baluchistan and Kalat. 230-31.

RAILWAY(S)—

Assam Bengal—

Question *re*—

Abolition of train vending on the —. 849-50.

Declaration of Muslim holidays as general holidays on the —. 850-51.

Improvement in the Indian catering system of the —. 586, 1104-05.

Indian catering made a source of income on the —. 586.

Rent received from Indian stalls by the —. 586.

Company-managed—

Question *re* recruitment of Indian Christians to the Subordinate and Superior Services of the State and —. 561-63.

RAILWAY(S)—*contd.*

East Indian—

Motion for Adjournment *re* closing of the Chandpur-Sian-Bijnor Section of the Gajraula Muazzampur Narain Branch of the —, 917, 982-83, 996-1011.

Question *re*—

Certain quarterly Statement forwarded by the Divisional Superintendent, Moradabad Division of the —, 16-17, 878.

Certain record of non-gazetted railway servants in the Moradabad Division of the —, 14-15.

Circular instructions for grant of gratuity to non-gazetted staff in Lucknow Division of the —, 18-19.

Cooly contracts in Moradabad, Lucknow and Allahabad Divisions, —, 881.

Denial of facilities for bettering their prospects to Muslim graduate employees on the —, 1024-25.

Detention of vehicles at stations in the Moradabad Division, —, 594.

Disadvantages of the staff of company-managed section of the — trained at the Railway School of Transportation, Chandausi, 17.

Erection of a wall on the south of Moradabad Railway Station Yard, —, 871.

Expenditure on the appointments of non-gazetted railway servants in the Moradabad Division, —, 602.

Grade I Train Examiners on the —, 859-60.

Graduate subordinate employees on the — and Eastern Bengal Railways, 1023-24.

Grant of leave to the — employees serving in the volunteer forces when required to join the army, 67.

Holders of the appointments of Transportation Inspectors in the Moradabad Division, —, 601-02.

Increments of pay of staff working as temporary guards in the Howrah Division of the —, 1025-26.

Introduction of senior refresher course for Assistant Station Masters on the —, 602-03.

RAILWAY(S)—*contd.*East Indian—*contd.*Question *re*—*contd.*

Muslim graduates in establishment offices and supervisory posts on the — and Eastern Bengal Railways, 1024-25.

Mutual guarantee fund of the Old — Company, 44.

Non-gazetted railway servants charged with offences in the Moradabad Division, —, 878.

Non-submission of names of Muslim candidates for selection to lower gazetted service from Howrah Division of the —, 1023.

Policy observed by the General Manager, —, in the matter of catering contracts, 605-06, 1105.

Preference given to non-eligible Muslims for promotion to the lower gazetted services on the —, 608.

Proceedings of the Selection Board held at the Divisional Office, Howrah, —, for filling vacancies of Luggage and Parcel Supervisors, 593.

Quarters Committee, Moradabad Division, —, 593.

Recruitment of temporary clerks in the Office of the Chief Operating Superintendent, —, 597.

Relieving Guards in certain Divisions of the —, 608.

Sanctioned strength of the Transportation Inspectors in the Moradabad Division, —, 602.

Scales of pay and seniority of senior subordinates in non-gazetted services of the old — and the old Oudh and Rohilkhand Railway, 607-08.

Scales of pay of certain non-gazetted railway servants in the Moradabad Division of the —, 604.

Selection board or committees assembled in Moradabad Division on the —, 880-81.

Selection for appointment to selection posts in the Departments of the — and Eastern Bengal Railways, 1021-23.

Seniority of certain subordinate staff on the —, 16, 1104.

Seniority of travelling ticket inspectors on the —, 18.

RAILWAY(S)—*contd.*East Indian—*contd.*Question *re*—*contd.*

Staff working as temporary guards in the Howrah Division of the —, 1026.

Transfers of non-gazetted railway servants in the Moradabad Division of the — and the Delhi Division of the North Western Railway, 590.

Want of shunting facilities at Bukhtiarpur Junction of the —, 349.

With-holding of memorials, petitions, etc., of non-gazetted railway servants by the Divisional Superintendent, Moradabad Division of the —, 16.

Working of the trains between Haridwar and Rikhiyesh on the —, 1103.

Eastern Bengal—

Question *re*—

Graduate subordinate employees on the East Indian and —, 1023-24.

Muslim graduates in establishment offices and supervisory posts on the East Indian and —, 1024, 1025.

Selection for appointment to selection posts in the Departments of the East Indian and —, 1021-23.

Great Indian Peninsula—

Question *re*—

Channel of promotion for firemen on the —, 31-32.

Disabilities of the subordinates of the Bridge Engineering Works at Manmad, —, 50.

Non-applicability of the fundamental leave rules to inferior staff of the Goods Depot at Wadi Bunder on the —, 58.

Promotion of firemen on the —, 58-59.

Working of the Bombay Multiple Unit Service on the — by certain drivers, 64.

Indian—

Question *re*—

Desirability of uniformity as to the Indian catering system on all —, 584-85.

—, where train vending is not maintained, 850.

Jacobabad-Kashmore—

Question *re* inconveniences suffered by third class passengers on the — in Sind, 5-6.

RAILWAY(S)—*contd.*

Jodhpur—

Question *re* Hours of Employment Regulations incorporated in the Indian Railways Amendment Act, 1930, not made applicable to British portion of —, 866-67.

North Western—

Motion for Adjournment *re* alleged embezzlement in the Multan Division of the —.

Question *re*—

Accidents to persons at or near Delhi Shahdara Railway station, —, 881.

Advisability of holding competitive examinations for recruitment to the subordinate service on the —, 226-27.

Apprentice Train Examiners on the —, 852-53.

Assistant Surgeons on the —, 19.

Attendance on employees' families by nurses employed in the Medical Department of the —, 9.

Certain restrictions on appointments to subordinate service posts on —, 882.

Civil suit by an employee decreed against the —, 591-92.

Communal composition of journeymen appointed in certain shops on the —, 58.

Communal considerations in the promotion of guards from grade II to grade III on the —, 357-58.

Communal considerations in the promotion of Guards on the —, 1014-15.

Communal reservation both on appointment and confirmation of new recruits on the —, 7-8.

Contract for book stalls given to Messrs. Wheeler and Company by the General Manager, —, 597.

Dearth of Muslims in the Rawalpindi Division of the —, 32-33.

Devaluation of Assistant Station Master's grades on the —, 874.

Disallowance of the privilege of rent free quarters to certain Block Mistries recruited as Block Maintainers on the —, 872-73.

Discharge of certain Works Mistries in the Rawalpindi Division of the — on communal grounds, 589-90.

RAILWAY(S)—*contd.*North Western—*contd.*Question re—*contd.*

- Discharge of staff controlled by the General Manager by the Divisional Superintendent of the —, 11, 19, 857.
- Discrimination in the matter of scale of furniture and utensil in European and Indian Guards Running Rooms on the —, 232-33.
- Educational assistance to the children of employees on the —, 588.
- Engineering Subordinates working as Assistant Engineers on the —, 44.
- Excess payments by the employees of the — to the Railway Medical Staff, 8-9.
- Exclusion of non-Muslims from promotions as Journeymen lately made on the —, 587.
- Exemption of the European and Anglo-Indian guards on Lahore Division of — from working certain shunting and van trains, 364.
- Extension of Messrs. Wheeler and Company's contract for book stalls on the North Western Railway, 599-600.
- Filling up of certain vacancies of clerks recently occurring in the Karachi Divisional Office of the —, 587-88.
- Guards on the —, 33-34.
- Holding in abeyance orders in respect of certain bridge staff memorialists of the —, 874-75.
- Increment in the percentage of promotions of routine clerks in grade II by the Chief Accounts Officer of the —, 860-61.
- Indianisation of the posts of Loco. Foremen and Inspectors on the —, 881-82.
- Instances in which mandatory provisions of rules regulating discipline and rights of appeal of non-gazetted employees on the — were not observed, 867-68.
- Instructions for excess reservation for Muslims in the vacancies of works mistries by the General Manager, —, 363-64.
- Intervals for washing of the passenger carriages running on Branch lines of the —, 9-10.

RAILWAY(S)—*contd.*North Western—*contd.*Question re—*contd.*

- Invoice typists on the —, 28.
- Irregularities in the running of special trains on the —, 44-45.
- Loss of prospects of guards in grade I and II by the abolition of grade IV on the —, 862-63.
- Lower rates of consolidated travelling allowance for van sorters of the —, 875-76.
- Muslim Traffic Inspectors on the —, 32.
- Muslims in certain categories of appointments officiating against permanent vacancies on the —, 581-82.
- Muslims selected for direct recruitment to certain categories of appointments on the —, 580-81.
- Non-recognition of Indian Hill Station Schools, for purposes of educational grants by the —, 233.
- Non-Sindhi Muslims in clerical posts in the office of the Divisional Superintendent, —, Karachi, 851-52.
- ban on hats against certain employees, 592-93.
- Notice of a suit on behalf of Mir Maqbool Mahmood of Amritsar against the —, 879.
- Orders in force for promotion of servants on the — on a communal basis, 872.
- Passes for van sorters on the —, 873.
- Paucity of Sindhis in the — subordinate service, —223-225.
- Paucity of Sindhis in the subordinate services on the —, 365-66.
- Percentage of leave reserve for the Traffic Technical Inferior staff on the —, 876.
- Policy of making promotions from amongst employees of the same branch on the —, 875.
- Promotion of a record lifter as a clerk in the Chief Accounts Office on the —, 860.
- Promotion of clerks in the Headquarters Office of the —, 46-49.
- Promotion of guards grade II to guards grade III on the —, 863.
- Promotion of shunting staff on the —, 64-65.

RAILWAY(S)—*contd.*North Western—*contd.*Question re—*contd.*

- Promotion of Traffic "Pupils" as Traffic Inspectors on the —, 56-68.
- Promotion of traffic Pupils working on the — as Traffic Inspectors, 855-56.
- Provision of a channel for promotion of Markers to Subordinate Service Posts on the —, 579.
- Provision of rent free quarters to Block Maintainers on the —, 1103-04.
- Publication of a classified list of a certain class of subordinate staff of all branches of Railway service on the —, 588-89.
- Qualified Muslim Inspectors of Works not allowed to officiate as Assistant Engineers on the —, 44.
- Re-classification of Works Mistries as "Labourers" on the —, 564-66.
- Recruitment of sub-inspectors of works on the —, 54-55.
- Reduction of the Gang Staff on Jacobabad-Kashmore Section, —, to Lower Scales of pay, 854-55.
- Reservation of the posts of enquiry clerks, etc., for guards with defective vision on the —, 863-64.
- Retrenchment in the higher grade appointments of Yard Foremen and Yard Supervisors on the —, 857-59.
- Steps for relieving the hardships due to block on grade I on the —, 580.
- Subjecting persons selected by the Divisional Selection Board at Karachi for training and promotion as guards, grade II, on the — to further tests, 228-29.
- Trains run through Delhi-Shahdara on the —, 880.
- Transfers of non-gazetted railway servants in the Moradabad Division of the East Indian Railway and the Delhi Division of the —, 590.
- Unrecommended employees allowed to appear as recruits for appointment as Guards on the —, 1015-16.
- Vacancies of grade III firemen on the —, 64.

RAILWAY(S)—*contd.*North Western—*concl.*Question re—*concl.*

- Vagaries in the exercise of power of allowing alterations of birth dates by employees on the —, 231-32.
- Withholding of applications of Muslim clerks of the Railway Clearing Accounts for posts of Guards on the —, 600.
- Oudh and Rohilkhand—
- Question re—
- Rules in respect of pay and allowances, Provident Fund, etc., on the — before and after amalgamation, 591.
- Scales of pay and seniority of senior subordinates in non-gazetted services of the old East Indian Railway and the old —, 607-08.
- Question re—
- Diversion of carriage of postal mails between Sylhet and Shillong from Road to —, 353-54.
- Instructions for charging rent for use of — refreshment rooms and stalls, 361-63.
- Report of the Railway Enquiry Committee on corruption in —, 592.
- State—
- Question re—
- Admission of the inferior and labour service employees on — to the privilege of contributing towards provident fund, 856-57.
- Allotment of quarters to certain classes of non-gazetted railway servants on —, 594.
- Books and syllabus prescribed for promotion courses on —, 868.
- Cadres of Guards on certain —, 604.
- Calculation of period of sick leave on the —, 17-18, 878-79.
- Delegation of power to make first appointments in non-gazetted posts on certain —, 12.
- Discrimination in the matter of passes and privilege ticket orders between an adopted and step-son on —, 355-56.
- Documents for verification of leave accounts maintained on —, 591.

RAILWAYS—*contd.*State—*contd.*Question re—*contd.*

Duties of Assistant Officers and Transportation Inspectors on — 28-31.

Grades for which direct recruitment is considered desirable on certain — 12.

Income-tax charged on gratuities paid to the non-gazetted — employees. 206-07.

Non-inclusion of review on the working of the — Regulations re dismissal of non-gazetted staff in the Railway Administration Report. 876.

Numbers and character of non-gazetted posts on certain — 12, 877.

Option to — employees to elect old or revised rent rules. 605.

Percentage reserved for Muslims in Labour and inferior services on — 356-57.

Prior sanction by the Railway Board to revisions of scales of pays affecting a whole class or grade of employees on certain — 590.

Procedure for confirmation on the expiry of probationary period on — 13.

Procedure for making appointments and promotions in non-selection posts or non-selection grades after the initial appointment on certain — 14.

Publications of the rules and regulations governing the non-gazetted railway servants on — 11-12.

Recruitment of Indian Christians to the Subordinate and Superior Services of the — and Company-managed Railways. 561-63.

Republication of Indian Railways (Amendment) Bill (No. 23 of 1949) in certain — Gazettes. 12-13.

Scope of exemption of staff from attending refresher courses at Area Schools on — 17.

Selection posts or selection grades on — 20-27.

Selection posts or selection grades specified by the General Managers on certain — 13.

RAILWAYS—*concl.*State—*concl.*Question re—*concl.*

Subsidiary rules made by the General Managers of certain — and relaxations or modifications in them. 14.

Working of the Payment of Wages Act, 1936, on the — 700.

RAILWAY ADMINISTRATION(S)—

Question re—

Catering as a source of income to — 360-61.

Representation from the state-managed — for allowing second class passes to Inspectors and Assistant Inspectors. 365.

RAILWAY ADMINISTRATION REPORT—

Question re non-inclusion of review on the working of the State Railway Regulations re dismissal of non-gazetted staff in the — 876.

RAILWAY ADVISORY COMMITTEE—

Question re — 227-28.

RAILWAY BOARD—

Question re—

Appointment of a Sikh officer to Officer's establishment of the — and its attached offices. 861-62.

Building of quarters separately for its headquarters staff by the — in New Delhi. 687-88.

Muslim Railway officers in the — proper. 859.

Officers and clerks in the — graduated in Mathematics. 598.

Prior sanction by the — to revisions of scales of pays affecting a whole class or grade of employees on certain State Railways. 590.

RAILWAY CLEARING ACCOUNTS OFFICE—

Question re—

Non-transfer and supersession of certain staff in the — 1019-20.

Prevalence of tuberculosis amongst the staff of the — 595.

Withholding of applications of Muslim clerks of the — for posts of Guards on the North Western Railway. 600.

RAILWAY CONTRACT—

See "Contract(s)."

RAILWAY DEPARTMENT—

Question re—

Conferences, committees or sub-committees held at Simla last summer under the control of the — 576-78.

Officers and ministerial staff of the — who moved up to Simla last summer and expenditure incurred in the Move. 572-76.

RAILWAY DIVISIONAL OFFICE—

Question re clerks employed in certain sections of the — Lahore. 68-69.

RAILWAY EMPLOYEES—

See "Employee(s)."

RAILWAY ENQUIRY COMMITTEE—

Question re Report of the — on corruption in railways. 592.

RAILWAY GAZETTE(S)—

Question re rules governing the publication of matters in — 877.

RAILWAY GUARDS—

See "Guard(s)."

RAILWAY JOURNEY—

See "Journey."

RAILWAY LINE(S)—

Statement re net earnings of new — 81-82.

RAILWAY MEDICAL STAFF—

See "Medical Staff."

RAILWAY OFFICER(S)—

Question re Muslim — in the Railway Board proper. 859.

RAILWAY PASS(ES)—

See "Pass(es)."

RAILWAY PROSECUTION CASE—

Question re — in the Court of the Resident Magistrate, Delhi. 596-97.

RAILWAY QUARTERS—

Question re — at Moradabad and staff occupying them. 594.

RAILWAY REFRESHER COURSE(S)—

Question re limiting of the — to the age of 45. 876-77.

RAILWAY REFRESHMENT ROOM(S)—

See "Refreshment room(s)."

RAILWAY SCHOOL OF TRANSPORTATION—

Question re disadvantages of the staff of company-managed section of the East Indian Railway trained at the —, Chandauli. 173.

RAILWAY SERVANT(S)—

Question re—

Allotment of quarters to certain classes of non-gazetted — on State Railways. 594.

Certain record of non-gazetted — in the Moradabad Division of the East Indian Railway. 14-15.

Circumstances and conditions under which certain penalties are to be imposed on persons ceasing to be — 868-69.

Disqualifying non-gazetted — for promotion on failure to pass the senior refresher course. 603.

Expenditure on the appointments of non-gazetted — in the Moradabad Division, East Indian Railway. 602.

Names submitted by the Divisional Superintendent, Moradabad Division, for promotion of non-gazetted — to the lower gazetted service. 601.

Non-gazetted — charged with offences in the Moradabad Division, East Indian Railway. 878.

Procedure for enquiry into charges against — 869-70.

Publications of the rules and regulations governing the non-gazetted — on State Railways. 11-12.

Scales of pay of certain non-gazetted — in the Moradabad Division of the East Indian Railway. 604.

Transfers of non-gazetted in the Moradabad Division of the East Indian Railway and the Delhi Division of the North Western Railway. 590.

Withholding of memorials, petitions, etc., of non-gazetted — by the Divisional Superintendent, Moradabad Division of the East Indian Railway. 16.

RAILWAY SERVICE(S)—

Question re—

Penalties imposed on persons in — classes I and II. 570.

ILWAYS—*contd.*

State—*contd.*

Question re—*contd.*

Duties of Assistant Officers and Transportation Inspectors on — 28-31.

Grades for which direct recruitment is considered desirable on certain — 12.

Income-tax charged on gratuities paid to the non-gazetted — employees. 206-07.

Non-inclusion of review on the working of the — Regulations re dismissal of non-gazetted staff in the Railway Administration Report. 876.

Numbers and character of non-gazetted posts on certain — 12, 877.

Option to — employees to elect old or revised rent rules. 605.

Percentage reserved for Muslims in Labour and inferior services on — 356-57.

Prior sanction by the Railway Board to revisions of scales of pays affecting a whole class or grade of employees on certain — 590.

Procedure for confirmation on the expiry of probationary period on — 13.

Procedure for making appointments and promotions in non-selection posts or non-selection grades after the initial appointment on certain — 14.

Publications of the rules and regulations governing the non-gazetted railway servants on — 11-12.

Recruitment of Indian Christians to the Subordinate and Superior Services of the — and Company-managed Railways. 561-63.

Republication of Indian Railways (Amendment) Bill (No. 28 of 1949) in certain — Gazettes. 12-13.

Scope of exemption of staff from attending refresher courses at Area Schools on — 17.

Selection posts or selection grades on — 20-27.

Selection posts or selection grades specified by the General Managers on certain — 12.

RAILWAYS—*concl'd.*

State—*concl'd.*

Question re—*concl'd.*

Subsidiary rules made by the General Managers of certain — and relaxations or modifications in them. 14.

Working of the Payment of Wages Act, 1936, on the — 700.

RAILWAY ADMINISTRATION(S)—

Question re—

Catering as a source of income to — 360-61.

Representation from the state-managed — for allowing second class passes to Inspectors and Assistant Inspectors. 365.

RAILWAY ADMINISTRATION REPORT—

Question re non-inclusion of review on the working of the State Railway Regulations re dismissal of non-gazetted staff in the — 876.

RAILWAY ADVISORY COMMITTEE—

Question re — 227-28.

RAILWAY BOARD—

Question re—

Appointment of a Sikh officer to Officer's establishment of the — and its attached offices. 861-62.

Building of quarters separately for its headquarters staff by the — in New Delhi. 687-88.

Muslim Railway officers in the — proper. 859.

Officers and clerks in the — graduated in Mathematics. 598.

Prior sanction by the — to revisions of scales of pays affecting a whole class or grade of employees on certain State Railways. 590.

RAILWAY CLEARING ACCOUNTS OFFICE—

Question re—

Non-transfer and supersession of certain staff in the — 1019-20.

Prevalence of tuberculosis amongst the staff of the — 595.

Withholding of applications of Muslim clerks of the — for posts of Guards on the North Western Railway. 600.

RAILWAY CONTRACT—

See "Contract(s)."

RAILWAY DEPARTMENT—

Question re—

Conferences, committees or sub-committees held at Simla last summer under the control of the — 576-78.

Officers and ministerial staff of the — who moved up to Simla last summer and expenditure incurred in the Move. 572-76.

RAILWAY DIVISIONAL OFFICE—

Question re clerks employed in certain sections of the — Lahore. 68-69.

RAILWAY EMPLOYEES—

See "Employee(s)."

RAILWAY ENQUIRY COMMITTEE—

Question re Report of the — on corruption in railways. 592.

RAILWAY GAZETTE(S)—

Question re rules governing the publication of matters in — 877.

RAILWAY GUARDS—

See "Guard(s)."

RAILWAY JOURNEY—

See "Journey."

RAILWAY LINE(S)—

Statement re net earnings of new — 81-82.

RAILWAY MEDICAL STAFF—

See "Medical Staff."

RAILWAY OFFICER(S)—

Question re Muslim — in the Railway Board proper. 859.

RAILWAY PASS(ES)—

See "Pass(es)."

RAILWAY PROSECUTION CASE—

Question re — in the Court of the Resident Magistrate, Delhi. 596-97.

RAILWAY QUARTERS

Question re — at Moradabad and staff occupying them. 594.

RAILWAY REFRESHER COURSE(S)—

Question re limiting of the — to the age of 45. 876-77.

RAILWAY REFRESHMENT ROOM(S)—

See "Refreshment room(s)."

RAILWAY SCHOOL OF TRANSPORTATION—

Question re disadvantages of the staff of company-managed section of the East Indian Railway trained at the —, Chandausi. 177.

RAILWAY SERVANT(S)—

Question re—

Allotment of quarters to certain classes of non-gazetted — on State Railways. 594.

Certain record of non-gazetted — in the Moradabad Division of the East Indian Railway. 14-15.

Circumstances and conditions under which certain penalties are to be imposed on persons ceasing to be — 868-69.

Disqualifying non-gazetted — for promotion on failure to pass the senior refresher course. 603.

Expenditure on the appointments of non-gazetted — in the Moradabad Division, East Indian Railway. 602.

Names submitted by the Divisional Superintendent, Moradabad Division, for promotion of non-gazetted — to the lower gazetted service. 601.

Non-gazetted — charged with offences in the Moradabad Division, East Indian Railway. 878.

Procedure for enquiry into charges against — 869-70.

Publications of the rules and regulations governing the non-gazetted — on State Railways. 11-12.

Scales of pay of certain non-gazetted — in the Moradabad Division of the East Indian Railway. 604.

Transfers of non-gazetted in the Moradabad Division of the East Indian Railway and the Delhi Division of the North Western Railway. 590.

Withholding of memorials, petitions, etc., of non-gazetted — by the Divisional Superintendent, Moradabad Division of the East Indian Railway. 16.

RAILWAY SERVICE(S)—

Question re—

Penalties imposed on persons in — classes I and II. 870.

RAILWAY SERVICE(S)—contd.Question *re*—*contd.*

Publication of a classified list of a certain class of subordinate staff of all branches of Railway service on the North Western Railway. 588-89.

Report of the officer on special duty appointed to investigate into certain matters affecting communal representation in —. 223, 225-26.

RAILWAY SERVICE (CLASSIFICATION CONTROL AND APPEAL) RULES—

Question *re* issue of certain instructions for amplification of Rule 34 of the —. 867.

RAILWAY STALL(S)—

See "Stall(s)".

RAILWAY STATION—Question *re*—

Accidents to persons at or near Delhi-Shahdara — North Western Railway. 881.

Alleged rude behaviour of the Quetta — officials at the welcome to the President-elect of the Baluchistan Muslim League Session. 583-84.

Averted accident at Salap —. 564.

Erection of a wall on the south of Moradabad — Yard, East Indian Railway. 871.

Fruit vending contract at Amritsar —. 606.

Non-observance of the principle of subletting of railway contracts in the case of a certain contract at the Delhi —. 864-66.

Tongas permitted to run from the Meerut Cantonment —. 58.

RAILWAY TICKET(S)—

Question *re* alleged sale of used —. 592.

RAILWAYS (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

RAILWAYS AND COMMUNICATIONS—

Motion for Adjournment *re* opinions of the Honourable Member for — on the D'Souza Report. 153-54.

RAILWAYS (SECOND AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

RAISMAN, THE HONOURABLE SIR JEREMY—

Demand for Excess Grant in respect of—"Census." 1076, 1077.

"Central Excise Duties." 1076.

"Interest Charges." 1079.

"Legislative Assembly and Legislative Assembly Department." 1076.

"Open Line Works." 1079.

"Stores and Workshop Expenditure not charged to Revenue." 1079.

"Working Expenses—Expenses of Electrical Department." 1078.

"Working Expenses—Maintenance and Supply of Locomotive Power." 1077.

"Working Expenses—Maintenance of Carriage and Wagon Stock." 1078.

"Working Expenses—Miscellaneous Expenses." 1078.

Excess Profits Tax (Amendment) Bill—

Motion for leave to introduce. 235.

Motion to refer to Select Committee. 886-87, 888, 890.

Presentation of the Report of the Select Committee. 1059.

Motion to consider. 1116-17, 1119.

Consideration of clauses. 1121, 1122, 1124.

Motion to pass. 1124.

Finance Member's statement on the financial position. 93-100, 102-03.

Indian Finance (No. 2) Bill—

Motion for leave to introduce. 101-102.

Motions to consider and to circulate 298, 390, 391, 416, 469, 828-38.

Motion for leave to introduce in the form recommended. 883.

Indian Income-tax (Amendment) Bill—

Motion for leave to introduce. 92-93.

Motion to consider. 949-50, 951, 952, 953, 954, 955, 956-57.

Consideration of clauses. 957.

Motion to pass. 959.

Motion for Adjournment *re*—

Financial arrangements with His Majesty's Government *re* payment for the purchase of materials from India. 152.

Huge expenditure without sanction of the Legislature. 156.

RAISMAN, THE HONOURABLE SIR JEREMY—contd.

Motion *re* election of a Member of the Standing Finance Committee. 234.

Motion to consider the Report of the Public Accounts Committee. 1062, 1063, 1069, 1071, 1074-75.

Motor Spirit (Duties) Amendment Bill—
Motion for leave to introduce. 92.

Presentation of the Report of the public Accounts Committee. 609, 610.

Reserve Bank of India (Third Amendment) Bill—

Motion for leave to introduce. 92.

Motion to consider. 263-65, 266, 267-68.

Motion to pass. 268.

Resolution *re*—

Appointment of a Committee of the Central Legislature regarding economy in war expenditure. 535, 545-46, 547-49.

Fiscal Policy of the Government of India. 167.

Scrapping of the London Coffee Market expansion Board by the Indian Coffee Cess Committee. 530.

RAJA BAZAR SQUARE—

Question *re* representation for replacing iron windows by wooden windows in — New Delhi. 700-01.

RAJAH, RAJA SIR VASUDEVA—

Expressions of regret on the deaths of — and Mr. Suryya Kumar Som. 70-71.

RAO, MR. M. THIRUMALA—

Question (Supplementary) *re* relaxation of the financial control of the Government of India over the Supply Department. 280.

RATE(S)—

Question *re* lower — of consolidated travelling allowance for van sorters on the North Western Railway. 875-76.

RATIFICATION—

Question *re* — of the International Sanitary Convention of Paris. 141-42.

RAWALPINDI—

Question *re* allegations of corruption against a clerk in the Divisional Office. —. 27-28.

RAWALPINDI DIVISION—Question *re*—

Death of Muslims in the — of the North Western Railway. 32-33.

Discharge of certain Works Mistries in the — of the North Western Railway on communal grounds. 589-90.

RAZA ALI, SIR SYED—

Berar Laws Bill—

Motions to consider, circulate and refer to Select Committee. 943.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 313, 342, 344, 410, 411, 443, 473, 718, 743, 747-55, 827.

Motion for Adjournment *re*—

Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1082-84, 1087, 1092, 1094, 1095.

Closing of the Chandpur-Siau-Bijnor section of the Gajraula Muzaffarpur Narain branch of the East Indian Railway. 917, 996-99, 1000, 1005, 1006, 1007-11.

Motion *re* election of three members for the Standing Committee attached to the Department of Supply. 919.

Resolution *re* Fiscal Policy of the Government of India. 158-61, 178, 181-83.

RECOMMENDATION(S)—

Draft Convention and — adopted by the International Labour Conference (laid on the table). 1028-59.

RECORD(S)—

Question *re* certain — of non-gazetted railway servants in the Moradabad Division of the East Indian Railway. 14-15.

RECORD LIFTER—

Question *re* promotion of a — as a clerk in the Chief Accounts Office on the North Western Railway. 860.

RECRUIT(S)—Question *re*—

Communal reservation both on appointment and confirmation of new — on the North Western Railway. 7-8.

Unrecommended employees allowed to appear as — for appointment as Guards on the North Western Railway. 1015-16.

RECRUITMENT(S)—

Question re—

Advisability of holding competitive examinations for — to the subordinate service on the North Western Railway. 226-27.

Desirability of — of Indians of all castes and creeds to the Indian Army. 779-80.

Examination for — to the Indian Army Ordnance Corps. 61.

Grades for which direct — is considered desirable on certain State Railways. 12.

Knowledge of Hindi and ability to write it in Urdu or Roman script for — to Indian army. 782-83.

Muslims selected for direct — to certain categories of appointments on the North Western Railway. 580-81.

—, communal composition, salaries, etc., of certain staff in the Supply Department and Allied Offices. 287-95.

Recruitment of Indian Christians to the Subordinate and Superior Services of the State and Company-managed Railways. 561-63.

— of officers in the Supply Department through the National Service Committee. 905-06.

— of postal clerks in the Sind and Baluchistan Circle. 63.

— of relations of employees in the Income-tax Department, Punjab, North West Frontier and Delhi Provinces. 59-60.

— of Sikhs as inferior servants in the Office of the Military Secretary and the Private Secretary to His Excellency the Viceroy. 913.

— of Sub-Inspectors of Works on the North Western Railway. 54-55.

— of temporary clerks in the Office of the Chief Operating Superintendent, East Indian Railway. 597.

Time for holding competitive examinations for — to Government services. 201-02.

REDDIAR, MR. K. SITARAMA—

Path of Office. 1.

REDUCTION—

Question re—

— of electricity charges in New Delhi. 65.

— of the gang staff on Jacobabad-Kashmore section, North Western Railway, to lower scales of pay. 354-55.

— of water charges in New Delhi. 65.

REFRESHER COURSE(S)—

Question re—

Disqualifying non-gazetted railway servants for promotion on failure to pass the senior —. 603.

Introduction of senior — for Assistant Station Masters on the East Indian Railway. 602-03.

Limiting of the railway — to the age of 45. 876-77.

Scope of exemption of staff from attending — at Area Schools on State Railways. 17.

REFRESHMENT ROOM(S)—

Question re instructions for charging rent for use of Railway — and stalls. 361-63.

REGISTRATION (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

REGISTRATION (EMERGENCY POWERS) BILL—

See "Bill(s)".

REGISTRATION OF TRADE MARKS BILL—

See "Bill(s)".

REGULATION(S)—

Question re—

'Hours of Employment —' incorporated in the Indian Railways Amendment Act, 1930, not made applicable to British portion of Jodhpur Railway. 866-67.

Non-inclusion of review on the working of the State Railway — re dismissal of non-gazetted staff in the Railway Administration Report. 876.

Publications of the rules and — governing the non-gazetted railway servants on State Railways. 11-12.

RELATION(S)—

Question re recruitment of — of employees in the Income-tax Department, Punjab, North West Frontier and Delhi Provinces. 59-60.

RELAXATION(S)—

Question re desirability of — of allotment of quarters rules in the case of low-paid, married non-migratory clerks. 706.

RELEASE—

Question re advisability of — of Alama Mashriqi. 208-09.

RELIEF—

Question re — given to the victims of the Dacca Mail disaster. 351-52.

RELIEVING GUARD(S)—

See "Guard(s)".

RELIGION—

Question re Broadcast of Sikh — and history by the Lahore, Peshawar and Delhi Broadcasting Stations. 861.

RELIGIOUS PROGRAMMES—

See "Programme(s)".

RELINQUISHMENT—

— of Simla for sittings of the Legislative Assembly. 103-05.

RENT(S)—

Question re—

Desirability of reduction in rates of — for Government quarters in New Delhi. 683.

Increase in the — of Nazul Land in Delhi. 52-53.

Instructions for charging — for use of Railway refreshment rooms and stalls. 361-63.

— received from Indian stalls by the Assam Bengal Railway. 586.

RENT FREE QUARTERS—

See "Quarter(s)".

RENT RULE(S)—

Question re option to State Railway employees to elect old or revised —. 605.

REPAIR(S)—

Question re delay in the annual — of certain "D" type orthodox quarters in New Delhi. 665-66.

REPATRIATION—

Question re — of Mr. L. N. Khanna's wife and daughter from Sudetenland, Germany. 775-76.

REPEALING AND AMENDING BILL—
See "Bill(s)".

REPORT(S)—

Motion for Adjournment re opinions of the Honourable Member for Railways and Communications on the D'Souza —. 153-54.

Motion to consider the — of the Public Accounts Committee. 1062-75.

Presentation of the Report of the Public Accounts Committee. 609-10.

Question re—

Confidential — re ministerial staff of the Government of India. 1098.

— of the officer on special duty appointed to investigate into certain matters affecting communal representation in railway services. 223, 225-226.

— of the Railway Enquiry Committee on corruption in railways. 592.

— re the representation of Muslims and other minority communities in the Subordinate Railway Services. 861.

REPRESENTATION(S)—

Question re—

Inadequate Indian — in the Port Trusts. 2-4, 229.

Muslim — in other classes of service not to be affected by higher percentage of Muslims in the posts of dressers. 695-96.

Report of the officer on special duty appointed to investigate into certain matters affecting communal — in railway services. 223, 225-26.

Report re the — of Muslims and other minority communities in the Subordinate Railway Services. 861.

— for construction of a trunk road from Hyderabad (Sind) to Bombay via Badin and Viramgam. 358-59.

— for replacing iron windows by wooden windows in Raja Bazar Square, New Delhi. 700-01.

— from the state-managed railway administrations for allowing second class passes to Inspectors and Assistant Inspectors. 365.

REPRESENTATIVE(S)—

Motion for Adjournment re non-association of non-official — Indians with the Eastern Group Conference. 75-76.

RESEARCH FUND ASSOCIATION, INDIAN—

Motion *re* Election of a Member on the Governing Body of the Indian Research Fund Association. 918.

RESERVATION—

Question *re*—

Communal — both on appointment and confirmation of new recruits on the North Western Railway. 7-8.

Instructions for excess — for Muslims in the vacancies of works mistries by the General Manager, North Western Railway. 363-64.

— of Government bungalows and quarters for particular officers or staff in New Delhi or Old Delhi. 911-12.

— of the posts of enquiry clerks, etc., for guards with defective vision on the North Western Railway. 863-64.

RESERVE BANK OF INDIA—

Question *re* issue of one Rupee Notes without the agency of the —. 276-78.

RESERVE BANK OF INDIA (AMENDMENT) BILL—

See "Bill(s)".

RESERVE BANK OF INDIA (CLOSING OF ANNUAL ACCOUNTS) BILL—

See "Bill(s)".

RESERVE BANK OF INDIA (SECOND AMENDMENT) BILL—

See "Bill(s)".

RESERVE BANK OF INDIA (THIRD AMENDMENT) BILL—

See "Bill(s)".

RESIDENT MAGISTRATE—

See "Magistrate".

RESIDENT MEMBER(S)—

Question *re* grant of allowances to non— of the Port Haj Committees for attending meetings. 144.

RESIGNATION—

Question *re* — of staff of the Delhi Improvement Trust. 53.

RESOLUTION(S)—

Question *re* advisability of withdrawing the Government — on communal reservation of appointments in public services. 205-06.

RESOLUTION(S)—*contd.*

re—

Appointment of a Committee of the Central Legislature regarding economy in war expenditure. 531-50.

Appointment of a Committee to examine the conditions of Detenus under the Defence of India Act. 550-60.

— Appointment of a Permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 183-96, 506-14.

— Fiscal Policy of the Government of India. 157-83.

Negatived. 183.

Scrapping of the London Coffee Market Expansion Board by the Indian Coffee Cess Committee. 514-31.

RESTRICTION(S)—

Question *re* certain — on appointments to subordinate service posts on North Western Railway. 882.

RETRENCHMENT—

Question *re* — in the higher grade appointments of Yard Foremen and Yard Supervisors on the North Western Railway. 857-59.

REVERSION(S)—

Question *re* — of permanent men of higher grade to lower posts in certain branches of the Government of India Press, New Delhi. 705.

RIFLE CLUB(S)—

Question *re* High School Volunteer Corps and —. 1101.

RIKHIKESH—

Question *re* workings of the trains between Hardwar and — on the East Indian Railway. 1103.

ROAD(S)—

Question *re*—

Diversion of carriage of postal mails between Sylhet and Shillong from — to railway. 353-54.

Metalling of —, etc., in Karol Bagh, Delhi, by the Delhi Improvement Trust. 906-07.

Non-naming of certain — in Karol Bagh, Delhi. 54.

Provision of lights on certain — in Karol Bagh, Delhi. 54.

ROGER COMMISSION—

Question *re* mission of the — in India. 913.

ROGER COMMITTEE—

See "Committee(s)".

ROLLER FLOUR MILL(S)—

See "Mill(s)".

ROMAN SCRIPT—

Question *re* knowledge of Hindi and ability to write it in Urdu or — for recruitment to Indian army. 782-83.

ROOF(S)—

Question *re* leakage in the — of orthodox quarters in New Delhi during last rainy season. 682-83.

ROUTINE CLERKS—

See "Clerk(s)".

ROYAL AIR FORCE—

Question *re* eligibility of Indians for the — in India. 967.

ROYAL INDIAN NAVY (EXTENSION OF SERVICE) BILL—

See "Bill(s)".

RULE(S)—

Certain papers *re* Motor Vehicles — laid on the table. 88.

Question *re*—

Desirability of relaxation of allotment of quarters — in the case of low-paid, married non-migratory clerks. 706.

Government Service — applicable to the staff of the Delhi University. 699.

Instances in which mandatory provisions of — regulating discipline and rights of appeal of non-gazetted employees on the North Western Railway were not observed. 867-68.

Issue of certain instructions for amplification of — 34 of the Railway Service (Classification, Control and Appeal) —. 867.

Publications of the — and regulations governing the non-gazetted railway servants on State Railways. 11-12.

— governing the publications of matters in Railway Gazettes. 877.

— in respect of pay and allowances, Provident Fund, etc., on the Oudh and Rohilkhand Railway before and after amalgamation. 591.

— or bye-laws of the Delhi Joint Water and Sewage Board. 699.

RULE(S)—*contd.*

Question *re*—*contd.*

Subsidiary — made by the General Managers of certain State Railways and relaxations or modifications in them. 14.

RULING(S)—

— by Mr. Chairman (Mr. M. S. Aney)—
Berar Laws Bill—

It is not in order to discuss matters of treaty relations between His Exalted Highness the Nizam and the Government of India. 945.

— by Mr. Deputy President (Mr. Akhil Chandra Datta)—

Indian Finance (No. 2) Bill—

The Congress Government not being represented in the House, the affairs of that Government should not be discussed in detail. 741, 742.

Miscellaneous—

No. dialogues are allowed. 745.

The word "fool" is not an unparliamentary expression. 743.

—By Mr. President (The Honourable Sir Abdur Rahim)—

Finance Bill—

During discussions on a — various matters, in which the Members of this House may feel that the public have a grievance are allowed. 372.

Miscellaneous—

An Honourable Member cannot raise a question on a subject which is not before the House. 1027.

Grievances which an Honourable Member can discuss on the Finance Bill are grievances against the Government — not against any particular party. 389.

Honourable Members ought to resume their seats, when the Chair is speaking. 368.

Honourable Members should speak from their own seats. 481.

Honourable Members while speaking should not dwell upon extraneous matters. 449.

Long extracts should not be read. 712, 713.

No Member of the House, whether elected or nominated, can be excluded, from a Committee, every Member having a right to be represented if he so chooses. 919.

RULING(S)—contd.

—by Mr. President (The Honourable Sir Abdur Rahim)—*contd.*

Miscellaneous—contd.

Reading of long extracts by Honourable Members is not fair to the House. 489.

Questions—

A member of Government cannot be compelled to satisfy by his answer any particular member. A member of Government is at liberty to give any answer he considers appropriate. 133.

An Honourable Member must ask the questions in the order in which they have been put down. 663.

Venue of Select Committee Meetings—

Meetings of select Committees should ordinarily be held within the precincts of the House, unless otherwise desired by the House itself. Accordingly, whenever it is desired, there being no Assembly House in Simla under the present circumstances, that a meeting of any particular Select Committee should be held there, the consent of the House to that effect should be obtained beforehand. (Previous ruling on the subject reiterated). 104-05.

RUNNING—

Question *re* irregularities in the — of special trains on the North Western Railway. 44-45.

RUNNING ROOM(S)—

Question *re* discrimination in the matter of Scale of furniture and utensil in European and Indian Guards — on the North Western Railway. 232-233.

S**SAKSENA, MR. MOHAN LAL—**

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 385, 386, 475, 478, 733, 734, 735, 838.

SALAP—

Question *re* averted accident at — Rail-way Station. 564.

SALARY(IES)—**Question re—**

Deductions made from the — of the Gang staff on Jacobabad-Kashmore Section. 855.

Expenditure by the Indian Coffee Cess Committee on — and propaganda activities of the London Market Expansion Board. 424.

Recruitment, communal composition, — etc., of certain staff in the Supply Department and Allied Offices. 287-95.

Rise in the — of the Director of the London Market Expansion Board. 424-25.

SALE—

Question *re* alleged — of used railway tickets. 592.

SALE OF GOODS (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

SANCTION—

Motion for adjournment *re* huge expenditure without — of the Legislature. 155-56.

Question re—

Applications for — of the Governor General under section 270 of the Government of India Act, 1935. 698-99.

Notices issued for contravention of the terms of — granted by the Delhi Improvement Trust. 53.

Prior — by the Railway Board to revisions of scales of pays affecting a whole class or grade of employees on certain State Railways. 590.

SANGHI, MR. D.—

Motion for Adjournment *re* rustication of Mr. M. Farouqi and — from the University of Delhi. 1111-12.

SANITARY CONVENTION—

Question *re* ratification of the International — of Paris. 141-42.

SANT SINGH, SARDAR—

Cantonments (Amendment) Bill—

Motion to consider. 243, 244.

Consideration of clauses. 251-52.

Demand for Excess Grant in respect of "Census". 1076, 1077.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 613, 641-51, 723, 737, 787.

SANT SING, SARDAR—contd.

Indian Navy (Discipline) Amendment Bill—

Motion to consider. 238.

Consideration of clauses. 239.

Indian Railways (Amendment) Bill—

Motions to refer to Select Committee and to circulate. 937.

Motion for Adjournment re—

Closing of the Chandpur-Siau-Bijnor Section of the Gajraula Muazzampur Narain Branch of the East Indian Railway. 1002-03.

Dacca Mail disaster. 111, 112, 124.

Delay in holding the Session of the Legislative Assembly. 155.

Question re—

Additions and alterations carried out in perfunctory manner in certain "D" type orthodox quarters in New Delhi. 663.

Affairs of the Delhi Improvement Trust. 59.

Appointment of a Sikh officer to Officer's establishment of the Railway Board and its attached offices. 861-62.

Assessment value of houses and shops in the Kasauli Cantonment. 63.

Broadcast of Sikh religion and history by the Lahore, Peshawar and Delhi Broadcasting Stations. 861.

Building Inspector of the Delhi Improvement Trust. 66.

Building of quarters separately for its headquarters staff by the Railway Board in New Delhi. 687-88.

Certain Congress workers arrested in Delhi under the United Provinces Goonda Act. 970-73.

Communal composition of Indian Civil Service and other All-India service Officers brought on to the Government of India Secretariat. 963-64.

Conferences, committees or sub-committees held at Simla last summer under the control of the Commerce Department. 681-82.

Conferences, committees or sub-committees held at Simla last summer under the control of the Defence Co-ordination Department. 668.

Conferences, committees or sub-committees held at Simla last summer under the control of the Defence Department. 506.

SANT SING SARDAR—contd.**Question re—**

Conferences, committees or sub-committees held at Simla last summer under the control of the Department of Communications. 579.

Conferences, committees or sub-committees held at Simla last summer under the control of the Department of Education, Health and Lands. 670-76.

Conferences, committees or sub-committees held at Simla last summer under the control of the External Affairs Department. 572.

Conferences, committees or sub-committees held at Simla last summer under the control of the Finance Department. 502-04.

Conferences, committees or sub-committees held at Simla last summer under the control of the Home Department. 498-99.

Conferences, committees or sub-committees held at Simla last summer under the control of the Labour Department. 661-63.

Conferences, committees or sub-committees held at Simla last summer under the control of the Legislative Department. 677-78.

Conferences, committees or sub-committees held at Simla last summer under the control of the Political Department. 679-80.

Conferences, committees or sub-committees held at Simla last summer under the control of the Railway Department. 576-78.

Contribution by officers of the Army and Air Forces Headquarters towards the Defence Savings Provident Fund and Defence Savings Certificates. 496.

Decrease in the percentage of allotment of quarters in New Delhi. 683.

Delay in the annual repairs of certain "D" type orthodox quarters in New Delhi. 665-66.

Desirability of reduction in rates of rent for Government quarters in New Delhi. 683.

Extension of the duration of the Simla Season, 1940. 494-95.

Failure to name or light streets in the Naiwala area of Karol Bagh, Delhi. 689.

SANT SINGH, SARDAR.—contd.**Question re—contd.**

German and Italian detenus in India and Punjabee detenus under the Defence of India Act. 968.

Government of India offices permanently stationed and those located during the ensuing winter season in New Delhi. 684-86.

Grant of leave to the East Indian Railway employees serving in the volunteer forces when required to join the army. 67.

Grant of summer allowance to the ministerial establishment of the Government of India Secretariat detained at Delhi last summer. 688.

Guards on the North Western Railway. 33-34.

Hedges planted on the lawns facing the orthodox quarters on the Irwin Road in New Delhi. 666-67.

Inadequate number of 'B' and 'C' unorthodox quarters in New Delhi. 682.

Leakage in the roofs of orthodox quarters in New Delhi during last rainy season. 682-83.

Location of the Government of India and other offices in Old Delhi and New Delhi. 686-87.

Loss of prospects of guards in grade I and II by the abolition of grade IV on the North Western Railway. 862-63.

Members of the Central and Provincial Legislatures detained or imprisoned since the War began. 969-70.

Mission of the Roger Commission in India. 913.

Neglect of planted trees and maintained lawns in the D. I. Z. area of New Delhi. 664-65.

Non-applicability of the fundamental leave rules to inferior staff of the Goods Depot at Wadi Bunder on the Great Indian Peninsula Railway. 58.

Officers and ministerial staff of the Commerce Department who moved up to Simla last summer and expenditure incurred in the Move. 680-81.

Officers and ministerial staff of the Defence Co-ordination Department who moved up to Simla last summer and expenditure incurred in the Move. 667-68.

SANT SING SARDAR.—contd.**Question re—**

Officers and ministerial staff of the Defence Department who moved up to Simla last summer and expenditure incurred in the move. 505.

Officers and ministerial staff of the Department of Communications and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the Move. 578.

Officers and ministerial staff of the Department of Education, Health and Lands and its attached and subordinate Offices who moved up to Simla last summer and expenditure incurred in the Move. 668-69.

Officers and ministerial staff of the External Affairs Department who moved up to Simla last summer and expenditure incurred in the Move. 570-72.

Officers and ministerial staff of the Finance Department and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the move. 499-501.

Officers and ministerial staff of the Home Department and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the move. 496-98.

Officers and ministerial staff of the Labour Department who moved up to Simla last summer and expenditure incurred in the Move. 660-61.

Officers and ministerial staff of the Legislative Department who moved up to Simla last summer and expenditure incurred in the Move. 677.

Officers and ministerial staff of the Political Department who moved up to Simla last summer and expenditure incurred in the Move. 678-79.

Officers and ministerial staff of the Railway Department who moved up to Simla last summer and expenditure incurred in the Move. 572-76.

Officers and staff of the Delhi Improvement Trust. 689-91.

Persons prosecuted or detained under the Defence of India Act and Rules. 974.

Persons tried, convicted or detained without trial under the Defence of India Act. 914-17.

SANT SING SARDAR.—contd.**Question re—contd.**

Promotion of firemen on the Great Indian Peninsula Railway. 58-59.

Promotion of guards grade II to guards grade III on the North Western Railway. 863.

Prosecution of Pandit Jawahar Lal Nehru. 973-74.

Recruitment of Sikhs as inferior servants in the Office of the Military Secretary and the Private Secretary to His Excellency the Viceroy. 913.

Recruitment of Sub-Inspectors of Works on the North Western Railway. 54-55.

Reservation of the posts of enquiry clerks, etc., for guards with defective vision on the North Western Railway. 863-64.

Retention of almost entire ministerial staff of Labour Department in New Delhi during the last summer. 905.

Sikh religious programmes in certain broadcasting stations. 44.

Sikhs taken as peons in the Government of India Secretariat. 964-65.

Staff of the Delhi Improvement Trust. 62.

Supply of unfiltered water in orthodox quarters in New Delhi. 689.

Unduly large number of officers moving up to Simla. 495-96.

Use of Government furniture by certain chowkidars engaged by the Central Public Works Department. 664.

Vacant piece of land on the north side behind the orthodox quarters on the Irwin Road, New Delhi. 688.

Waiting list of persons not provided with Government quarters in New Delhi. 683-84.

Question (Supplementary) re—

Advisability of release of Alama Mashriqi. 208, 209.

Advisability of withdrawing the Government Resolution on communal reservation of appointments in public services. 206.

Commission charged by the Government of India on articles purchased by His Majesty's Government for the maintenance of the Supply Department. 963.

Communal considerations in the promotion of Guards on the North Western Railway. 1015.

SANT SING SARDAR.—contd.**Question (Supplementary) re—contd.**

Delay in holding the Autumn Session of the Legislative Assembly. 131, 133, 134.

Punjabi detenus confined in the Deoli Detention Camp. 777, 778.

Steps for the Defence of India. 280, 281.

Training of Indian Pilots, and Mechanic for the Air Force. 276.

Relinquishment of Simla for sitting of the Legislative Assembly. 105.

War Donations and Investments (Companies) Bill—
Motion to consider. 259.

SANTHANAM, MR. K.—**Indian Finance (No. 2) Bill—**

Motions to consider and circulate. 403-11, 412-13, 473, 619, 634, 836, 837.

Question (Supplementary) re—

Dacca Mail disaster. 350-351.

Fees collected from haj pilgrims for meeting expenses in connection with Port Haj Committees. 692.

Imports and consumption of Indian coffee in the United Kingdom. 424.

Personnel of the Roger Committee from overseas dominions and States and its mission. 433.

Punjabi detenus confined in the Deoli Detention Camp. 777.

Recruitment of Indian Christians to the Subordinate and Superior Services of the State and Company-managed Railways. 562.

Relaxation of the financial control of the Government of India over the Supply Department. 279.

Rise in the salary of the Director of the London Market Expansion Board. 425.

Steps for increase and distribution of the shipping accommodation. 658.

Steps for increasing the export trade of India. 658, 659.

Value of Dollar Securities requisitioned by Government of India from private holders. 771.

SATYAMURTI MR. S.—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 299-316, 382, 383, 384, 390, 291, 411, 451, 465, 471, 472, 473, 480, 484, 628, 633, 634, 724, 725, 729, 735, 737, 740, 741, 742, 745, 746, 824, 827, 829, 833.

Motion for adjournment *re* prohibition of visitors from entering the Khyber Pass. 438.

SAVING(S)—

Question *re*—

—due to partial exodus to Simla. 200-01.

—due to setting up of the Port Haj Committees. 691.

SCALES OF PAY—

Question *re*—

Prior sanction by the Railway Board to revisions of — affecting a whole class or grade of employees on certain State Railways. 590.

—and seniority of senior subordinates in non-gazetted services of the old East Indian Railway and the old Oudh and Rohilkhand Railway. 607-08.

—of certain non-gazetted railway servants in the Moradabad Division of the East Indian Railway. 604.

See also under "Pay".

SCHEME(S)—

Question *re* — for preventing raids into Sind from Baluchistan and Kalat. 230-231.

SCHOLARSHIP(S)—

Question *re*—

Government — for training in flying. 1016-17.

—for special training given by the Government of India or the Calcutta Port Trust. 582-83.

SCHOOL(S)—

Question *re*—

Disadvantages of the staff of company-managed section of the East Indian Railway trained at the railway — of transportation, Chandausi. 17.

High — Volunteer Corps and Rifle Clubs. 1101.

Local examination for Walton Training — qualified guards. 853-54.

SCHOOL(S)—*contd.*Question *re*—*contd.*

Maximum age limit for all kinds of training courses at the Walton Training —. 11.

Non-recognition of Indian Hill Station — for purposes of educational grants by the North Western Railway. 233-34.

Quota of Muslim candidates at the flying training —. 1101-02.

Scope of exemption of staff attending refresher courses at Area — on State Railways. 17.

Selection of candidates for the Technical — connected with the Indian Air Force. 1017.

SCIENCE, INSTITUTE OF—

Election of a Member to the Council of the —, Bangalore.

SCOTT, MR. J. RAMSAY—

Indian Finance (No. 2) Bill—

Motion to consider and to circulate. 417.

Motion to consider the Report of the Public Accounts Committee. 1070.

Question *re* disabilities of the subordinates of the Bridge Engineering Works at Manmad, Great Indian Peninsula Railway. 50.

Resolution *re* Fiscal Policy of the Government of India. 164-65.

SCRAPPING—

Resolution *re* — of the London Coffee Market Expansion Board by the Indian Coffee Cess Committee.

SECRETARIAT(S)—

Question *re*—

Communal composition of Indian Civil Service and other All-India service Officers brought on to the Government of India —. 963-64.

Grant of summer allowance to the ministerial establishment of the Government of India — detained at Delhi last summer. 688.

Posts offered to the Government of India — Assistants in the Income-tax Service, Class II. 1097-98.

Sikhs taken as peons in the Government of India —. 964-65.

Resolution *re* appointment of a permanent Muslim Pilgrim Officer in the — of the Government of India. 183-96, 506-14.

SECURITY(IES)—

Question *re* value of Dollar — requisitioned by Government of India from private holders. 77C-71.

SELECTION(S)—

Question *re* — of candidates for emergency commissions and as privates for the army. 781-82.

SELECTION BOARD—

Question *re*—

Proceedings of the — held at the Divisional Office, Howrah, East Indian Railway for filling vacancies of Luggage and Parcel Supervisors. 593.

— or committees assembled in Moradabad Division on the East Indian Railway. 880-81.

Subjecting persons selected by the Divisional — at Karachi for training and promotion as guards, grade, II, on the North Western Railway to further tests. 228-229.

SELECTION COMMITTEES—

See "Committee(s)".

SELECTION GRADES—

See "Grade(s)".

SELECTION POST(S)—

Question *re* selection for appointment to — in the Departments of the East Indian and Eastern Bengal Railways. 1021-23.

See also under "Post(s)".

SENIOR REFRESHER COURSE—

See "Refresher course."

SENIOR SUBORDINATE(S)—

Question *re* scales of pay and seniority of — in non-gazetted services of the old East Indian Railway and the old Oudh and Rohilkhand Railway. 607-08.

See also under "subordinate(s)".

SENIORITY—

Question *re*—

Scales of pay and — of senior subordinates in non-gazetted services of the old East Indian Railway and the old Oudh and Rohilkhand Railway. 607-08.

— of certain subordinate staff on the East Indian Railway. 16, 1104.

— of travelling ticket inspectors on the East Indian Railway. 18.

SENIORITY LIST(S)—

Question *re* — of the Binding Branch of the Government of India Press, New Delhi. 701.

SEPARATION ALLOWANCE—

See "Allowance(s)".

SERVANT(S)—

Question *re* orders in force for promotion of — on the North Western Railway on a communal basis. 872.

SERVICE(S)—

Question *re*—

Appointment of candidates in the Posts and Telegraphs subordinate — in the Sind and Baluchistan Circle without the production of valid domicile certificates. 359-60.

Paucity of Sindhis in the subordinate — on the North Western Railway. 365-66.

SESSION(S)—

Motion for adjournment *re*—

Delay in holding the — of the Legislative Assembly. 155.

Failure of Government to enable Mr. Subash Chandra Bose to attend the — of the Legislative Assembly. 148-49.

Failure to call a — of the Legislative Assembly between the period April 9 to October 1940. 145-148.

Non-holding of the — of the Legislative Assembly for a long time. 156-57.

Question *re* delay in holding the Autumn — of the Legislative Assembly. 130-134.

SEWER(S)—

Question *re* connecting of drains with — in Karol Bagh, Delhi. 707.

SEWERAGE—

Question *re* incomplete — in Karol Bagh, Delhi. 706-07.

SHAHBAN KHAN BAHADUR MIAN GHULAM KADIR MUHAMMAD—

Question *re*—

Apprentice Train Examiners on the North Western Railway. 852-53.

Deductions made from the salaries of the gang staff on Jacobabad-Kashmere Section. 855.

SHAHBAN KHAN BAHADUR MIAN GHULAM KADIR MUHAMMAD—*contd.*

Question *re—contd.*

Discharge of staff controlled by the General Manager by the Divisional Superintendent on the North Western Railway. 19.

Instances in which mandatory provisions of rules regulating discipline and rights of appeal of non-gazetted employees on the North Western Railway were not observed. 867-68.

Issue of certain instructions for amplification of Rule 34 of the Railway Services (Classification, Control and Appeal) Rules. 867.

Local examination for Walton Training School qualified guards. 853-54.

Muslims in certain categories of appointments officiating against permanent vacancies on the North Western Railway. 581-82.

Muslims selected for direct recruitment to certain categories of appointments on the North Western Railway. 580-81.

Non-Sindhi Muslims in clerical posts in the office of the Divisional Superintendent, North Western Railway, Karachi. 851-52.

Provision of a channel for promotion of Markers to Subordinate Service Posts on the North Western Railway. 579-80.

Reduction of the gang staff on Jacobabad-Kashmore section, North Western Railway, to lower scales of pay. 854-55.

Steps for relieving the hardships due to block on grade I on the North Western Railway. 580.

SHAMLAL, LALA—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 636-41.

SHEEHY, MR. J. F.—

Excess Profits Tax (Amendment) Bill—

Motion to refer to Select Committee. 889.

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 447.

Indian Income-tax (Amendment) Bill—

Motion to consider. 953, 954, 955.

Consideration of clauses. 959.

Oath of Office. 1.

SHILLONG—

Question *re—*

Arrangement of through railway journey from Dacca and — to Cawnpore and Lucknow. 1018.

Diversion of carriage of postal mails between Sylhet and — from road to railway. 353-54.

SHIP(S)—

Question *re—*

Encouragement to Indian enterprise for Manufacturing aircrafts motors or for building —. 967-68.

Shipping Fares from Indian Ports to Jeddah and low Speed of certain Pilgrim—. 142-144.

SHIPPING ACCOMMODATION—

Question *re* steps for increase and distribution of the —. 655-57.

SHIPPING ARRANGEMENT(S)—

Question *re—* for the next Haj pilgrimage. 141.

SHIPPING FARE(S)—

See "Fare(s)".

SHOP(S)—

Question *re—*

Assessment value of houses and — in the Kasauli Cantonment. 63.

Communal composition of journeymen appointed in certain — on the North Western Railway. 58.

SHORANUR—

Motion for adjournment *re* closing down of the branch line between — and Nilambur in the Malabar District. 1026-27, 1080-95.

SHRUBBERY—

Question *re* steps taken by the Delhi Improvement Trust for planting trees and — in Karol Bagh, Delhi. 906.

SHUNTING—

Question *re* want of — facilities at Bukhtiarpur Junction of the East Indian Railway. 349.

SHUNTING STAFF—

See "Staff".

SHUNTING TRAIN(S)—

Question *re* exemption of the European and Anglo-Indian guards on Lahore division of North Western Railway from working certain — and van —. 364.

SIAU—

Motion for adjournment *re* closing of the Chandpur — Bijnor section of the Gajraula Muazzampur Narain branch of the East Indian Railway. 982-83 and 996-1011.

SICK LEAVE—

Question *re* calculation of period of — on the State Railways. 17-18.
See also under "Leave."

SIDDIQUE ALI KHAN, KHAN BAHADUR NAWAB—

Question *re—*

First Division vacancies filled in the Government of India Offices. 35.

Officers dealing with establishment matters in the Government of India Offices. 37-38.

Temporary Third Division vacancies filled in the Government of India Offices. 36-37.

Vacancies of peons filled in the Government of India Offices. 38-41.

SIKH(S)—

Question *re—*

Appointment of a — officer to Officer's establishment of the Railway Board and its attached offices. 861-62.

Broadcast of — religion and history by the Lahore, Peshawar and Delhi Broadcasting Stations. 861.

Recruitment of — as inferior servants in the Office of the Military Secretary and the Private Secretary to His Excellency the Viceroy. 913.

— religious programmes in certain broadcasting stations. 44.

— taken as peons in the Government of India Secretariat. 964-65.

SILVER BULLION—

See "Bullion(s)."

SILVER COINS—

See "Coin(s)."

SIMLA—

Question *re—*

Amalgamation of Government of India Presses at — and New Delhi. 702-03.

Collective assessment of water rates on Postal and Telegraph officials occupying Government quarters in —. 598.

SIMLA—*contd.*

Question *re—contd.*

Conferences, committees or sub-committees held at — last summer under the control of the Commerce Department. 681-82.

Conferences, committees or sub-committees held at — last summer under the control of the Defence Co-ordination Department. 668.

Conferences, committees or sub-committees held at — last summer under the control of the Defence Department. 506.

Conferences, committees or sub-committees held at — last summer under the control of the Department of Communications. 579.

Conferences, committees or sub-committees held at — last summer under the control of the Department of Education, Health and Lands. 670-76.

Conferences, committees or sub-committees held at — last summer under the control of the External Affairs Department. 572.

Conferences, committees or sub-committees held at — last summer under the control of the Finance Department. 502-04.

Conferences, committees or sub-committees held at — last summer under the control of the Home Department. 498-99.

Conferences, committees or sub-committees held at — last summer under the control of the Labour Department. 661-63.

Conferences, committees or sub-committees held at — last summer under the control of the Legislative Department. 677-78.

Conferences, committees or sub-committees held at — last summer under the control of the Political Department. 679-80.

Conferences, committees or sub-committees held at — last summer under the control of the Railway Department. 576-78.

Extension of the duration of the — Season, 1940. 494-95.

Move of the Army Headquarters to — and back. 979-80.

SIMLA—*contd.*Question *re—contd.*

Officers and ministerial staff of the Commerce Department who moved up to — last summer and expenditure incurred in the move. 680-81.

Officers and ministerial staff of the Defence Co-ordination Department who moved up to — last summer and expenditure incurred in the move. 667-68.

Officers and ministerial staff of the Defence Department who moved up to — last summer and expenditure incurred in the move. 505.

Officers and ministerial staff of the Department of Communications and its attached and subordinate offices who moved up to — last summer and expenditure incurred in the move. 578.

Officers and ministerial staff of the Department of Education, Health and Lands and its attached and subordinate offices who moved up to — last summer and expenditure incurred in the move. 668-69.

Officers and ministerial staff of the External Affairs Department who moved up to — last summer and expenditure incurred in the move. 570-72.

Officers and ministerial staff of the Finance Department and its attached and subordinate offices who moved up to — last summer and expenditure incurred in the move. 499-501.

Officers and ministerial staff of the Home Department and its attached and subordinate offices who moved up to — last summer and expenditure in the move. 496-98.

Officers and ministerial staff of the Labour Department who moved up to — last summer and expenditure incurred in the move. 660-61.

Officers and ministerial staff of the Legislative Department who moved up to — last summer and expenditure incurred in the move. 677.

Officers and ministerial staff of the Political Department who moved up to — last summer and expenditure incurred in the move. 678-79.

SIMLA—*concl.*Question *re—concl.*

Officers and ministerial staff of the Railway Department who moved up to — last summer and expenditure incurred in the move. 572-76.

Savings due to Partial Exodus to — . 200-01.

Unduly large number of officers moving up to — . 495-96.

Relinquishment of — for sittings of the Legislative Assembly. 103-105.

SIND—

Motion for adjournment *re* lawlessness in — . 149-50.

Question *re—*

Appointment of candidates in the Posts and Telegraphs subordinate service in the — and Baluchistan Circle without the production of valid domicile certificates. 359-60.

Appointment of unqualified persons in the — and Baluchistan Postal Circle. 569-70.

Inconveniences suffered by third class passengers on the Jacobabad-Kashmore Railway in — . 5-6.

Permission to Boy Messengers acting as Packers in the — and Baluchistan Postal Circle to appear for clerical examinations. 568-69.

Recruitment of postal clerks in the — and Baluchistan Circle. 63.

Representation for construction of a trunk road from Hyderabad — to Bombay *via* Badin and Viramgam. 358-59.

Scheme for preventing raids into — from Baluchistan and Kalat. 230-31.

Shortage of goods wagons on Jacobabad-Kashmore narrow gauge section in — . 4-5.

SINDHI(S)—

Question *re—*

Non — Muslims in clerical posts in the office of the Divisional Superintendent, North Western Railway, Karachi. 851-52.

Paucity of — in the North Western Railway subordinate service. 223-225.

Paucity of — in the subordinate services on the North Western Railway. 365-66.

SINKING(S)—

Question *re* — of the steamer *Kemendine*. 566, 981-82.

SOM, MR. SURYYA KUMAR—

Expressions of regret on the deaths of Raja Sir Vasudeva Rajah and — . 70-71.

SON(S)—

Question *re* discrimination in the matter of passes and privilege ticket orders between an adopted and step — on State Railways. 355-56.

SORTER(S)—

Question *re* passes for van — on the North Western Railway. 873.

SOUTH AFRICA—

Question *re* indignities suffered by Indian Lascars in — . 134-36.

SPECIAL DUTY—

Question *re* report of the officer on — appointed to investigate into certain matters affecting communal representation in railway services. 225-226.

SPECIAL TRAINS—

See "Train(s)."

SPECIFIC RELIEF (AMENDMENT) BILL—

See "Bill(s)."

SPEECH(ES)—

— delivered to the Council of State and the Legislative Assembly by His Excellency the Viceroy. 841-848.

SPEED—

Question *re* shipping fares from Indian ports to Jeddah and low — of certain Pilgrim Ships. 142-144.

SPENCE, SIR GEORGE—

War Donations and Investments (Companies) Bill—

Consideration of clauses. 262.

SRI PRAKASA, MR.—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 319-34, 381, 451, 462, 470, 483, 615, 616, 734, 835.

Question (Supplementary) *re—*

Discrimination in the matter of passes and privilege ticket orders between an adopted and step-son on State Railways. 356.

SRI PRAKASA, MR.—*contd.*

Question (Supplementary) *re—contd.*

Issue of one rupee notes. 769.

Private houses in New Delhi reserved for accommodation of the extra members of the Viceroy's proposed expanded Cabinet. 698.

Promotion of a record lifter as a clerk in the Chief Accounts Office on the North Western Railway. 860.

Relaxation of the financial control of the Government of India over the Supply Department. 280.

Steps for the Defence of India. 282.

STAFF—

Question *re—*

Allotment of Government quarters to the — of the Home and Legislative Departments. 700.

Appointment of Muslim — on Indian pilgrim ships. 141.

Building of quarters separately for its headquarters — by the Railway Board in New Delhi. 687-88.

Communal composition of the — of the Imperial Veterinary Research Institute. 695, 1107.

Deductions made from the salaries of the gang — on Jacobabad-Kashmore Section. 855.

Disadvantages of the — of company-managed section of the East Indian Railway trained at the Railway School of Transportation, Chandausi. 17.

Discharge of — controlled by the General Manager by the Divisional Superintendent of the North Western Railway. 11, 19, 857.

Eligibility of the night vision failed station masters group — for certain appointments. 874.

Government Service Rules applicable to the staff of the Delhi University. 699.

Increments of pay of — working as temporary guards in the Howrah Division of the East Indian Railway. 1025-26.

Non-inclusion of review on the working of the State Railway Regulations *re* dismissal of non-gazetted — in the Railway Administration Report. 876.

Non-transfer and supersession of certain — in the Railway Clearing Accounts Office. 1019-20.

STAFF—*contd.*Question *re—contd.*

- Officers and ministerial — of the Commerce Department who moved up to Simla last summer and expenditure incurred in the Move. 680-81.
- Officers and ministerial — of the Defence Co-ordination Department who moved up to Simla last summer and expenditure incurred in the Move. 667-68.
- Officers and ministerial — of the Department of Communications and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the Move. 578.
- Officers and ministerial — of the Department of Education, Health and Lands and its attached and subordinate offices who moved up to Simla last summer and expenditure incurred in the Move. 668-69.
- Officers and ministerial — of the External Affairs Department who moved up to Simla last summer and expenditure incurred in the Move. 570-72.
- Officers and ministerial — of the Labour Department who moved up to Simla last summer and expenditure incurred in the Move. 660-61.
- Officers and ministerial — of the Legislative Department who moved up to Simla last summer and expenditure incurred in the Move. 677.
- Officers and ministerial — of the Political Department who moved up to Simla last summer and expenditure incurred in the Move. 678-79.
- Officers and ministerial — of the Railway Department who moved up to Simla last summer and expenditure incurred in the Move. 572-76.
- Officers and — of the Delhi Improvement Trust. 689-91.
- Paucity of Muslims in the — of the Imperial Veterinary Research Institute. 693-95, 696, 1105-07.
- Prevalence of tuberculosis amongst the — of the Railway Clearing Accounts Office. 595.
- Promotion of shunting — on the North Western Railway. 64-65.

STAFF—*contd.*Question *re—contd.*

- Publication of a classified list of a certain class of subordinate — of all branches of Railway service on the North Western Railway. 588-89.
- Railway passes allowed to Messrs. Thomas Cook and Son and their —. 45.
- Railway quarters at Moradabad and — occupying them. 594.
- Recruitment, communal composition, salaries, etc., of certain — in the Supply Department and Allied Offices. 287-95.
- Reduction of the gang — on Jacobabad-Kashmore section, North Western Railway, to lower scales of pay. 854-55.
- Re-employed — in the Supply Department and Allied Offices. 295-297.
- Reservation of Government bungalows and quarters for particular officers or — in New Delhi or Old Delhi. 911-12.
- Resignation of — of the Delhi Improvement Trust. 53.
- Retention of almost entire ministerial — of Labour Department in New Delhi during the last summer. 905.
- Scope of exemption of — from attending refresher courses at Area Schools on State Railways. 17.
- on the Delhi Improvement Trust. 62.
- working as temporary guards in the Howrah Division of the East Indian Railway. 1026.

STAIG, MR. B. M.—

- Motion for adjournment *re* closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1094-95.
- Motion to consider the Report of the Public Accounts Committee. 1066-67.

STALL(S)—

Question *re—*

- Instructions for charging rent for use of Railway refreshment rooms and —. 361-63.
- Rent received from Indian — by the Assam Bengal Railway. 586.

STANDING COMMITTEE(S)—

- Election of Members to the — for the Department of Supply. 918-23, 1113.

STANDING FINANCE COMMITTEE—

- Election of a Member to the —. 234, 297.

STATE(S)—

- Motion for adjournment *re* failure of the Government of India to evoke whole-hearted enthusiasm in the nation to fight the totalitarian —. 71-72.
- Question *re* personnel of the Roger Committee from Overseas Dominions and — and its mission. 429-34.

STATE-MANAGED RAILWAY ADMINISTRATION—

- See "Railway Administration(s)".

STATE RAILWAY(S)—

- See "Railway(s)".

STATEMENT(S)—

- Finance Member's — on the financial position. 93-101, 102-03.
- Question *re* certain quarterly — forwarded by the Divisional Superintendent, Moradabad Division, on the East Indian Railway. 878.
- *re* net earnings of new railway lines. 81-82.

STATEMENT LAID ON THE TABLE—

- *re* —
- Appointments made in connection with war work. 708.
- Lowest tenders not accepted by the High Commissioner for India in purchasing stores for the Government of India.

STATEMENT OF BUSINESS—

- by the Honorable Sir Muhammad Zafarullah Khan. 211, 763.

STATION(S)—

- Question *re* quarantine — at Kamaran. 367.

STATION DIRECTOR(S)—

- Question *re* age limit of candidates for the post of — All-India Radio, recently advertised. 1018-19.

STATION MASTER(S)—

- Question *re* —
- Eligibility of the night vision failed — group staff for certain appointments. 874.

STATION MASTER(S)—*contd.*Question *re—contd.*

- Introduction of senior refresher course for Assistant — on the East Indian Railway. 602.

STAY—

- Question *re* extension of the period of — in Simla, in 1940. 494-95.

STEAMER(S)—

- Question *re* sinking of the — *Kamandine* 566, 981-82.

STEP SON—

- See "Son(s)".

STORE(S)—

- Statement laid on the table *re* lowest tenders not accepted by the High Commissioner for India in purchasing — for the Government of India. 1136-15.

STORES AND WORKSHOP EXPENDITURE NOT CHARGED TO REVENUE—

- Demand for Excess Grant in respect of —. 1079.

STREETS(S)—

- Question *re* failure to name or light — in the Naiwala area of Karol Bagh, Delhi. 689.

SUB-COMMITTEE(S)—

- See "Committee(s)".

SUB-INSPECTOR(S)—

- Question *re* recruitment of — of Works on the North Western Railway. 54-55.

SUB-LETTING—

- Question *re* non-observance of the principle of — of railway contracts in the case of a certain contract at the Delhi Railway Station. 864-66.

SUBORDINATE(S)—

- Question *re* —
- Disabilities of the — of the Bridge Engineering Works at — Great Indian Peninsula Railway. 50.
- Engineering — working as — and Engineers on the North Western Railway. 44.
- Promotion to senior — of Transportation staff and to senior — of Loco staff. 882.

SUBORDINATE(S)—*contd.*Question *re—contd.*

— and clerks who worked under the Building Inspector of the Delhi Improvement Trust and resigned. 908.

SUBORDINATE OFFICE(S)—

Question *re* officers and ministerial staff of the Department of Education, Health and Lands and its attached and — who moved up to Simla last summer and expenditure incurred in the move. 668-69.

See also under "Office(s)".

SUBORDINATE RAILWAY SERVICE(S)—

Question *re* report *re* the representation of Muslims and other minority communities in the —. 861.

SUBORDINATE SERVICE(S)—Question *re—*

Advisability of holding competitive examinations for recruitment to the — on the North Western Railway. 226-27.

Certain restrictions on appointments to — posts on North Western Railway. 882.

Paucity of Sindhis in the North Western Railway —. 223-225.

Recruitment of Indian Christians to the — and Superior Service of the State and Company-managed Railways. 561-63.

See also under "Service(s)".

SUBORDINATE SERVICE POST(S)—

Question *re* provision of a channel for promotion of Mankers to — on the North Western Railway. 579.

SUBORDINATE STAFF—

Question *re* seniority of certain — on the East Indian Railway. 16, 1109.

See also under "Staff".

SUBSIDY(IES)—

Question *re* creation of new industries or workshops on permanent basis and Government — thereon. 427-28.

SUDAMDIH—

Question *re* continuing fire in the coal-field in — Area Colliery. 286.

SUDDER BAZAR—

Question *re* amalgamation of —, Ambala, with Ambala Cantonment. 207.

SUDETENLAND—

Question *re* repatriation of Mr. L. N. Khanna's wife and daughter from —, Germany. 775-76.

SUIT—

Question *re* notice of a — on behalf of Mir Maqbool Mahamood of Amritsar against the North Western Railway. 879.

SUMMER—Question *re—*

Conferences, committees or sub-committees held at Simla last — under the control of the Commerce Department. 681.

Conferences, committees or sub-committees held at Simla last — under the control of the Defence Co-ordination Department. 668.

Conferences, committees or sub-committees held at Simla last — under the control of the Defence Department. 506.

Conferences, committees or sub-committees held at Simla last — under the control of the Department of Communications. 579.

Conferences, committees or sub-committees held at Simla last — under the control of the Department of Education, Health and Lands. 670.

Conferences, committees or sub-committees held at Simla last — under the control of the External Affairs Department. 572.

Conferences, committees or sub-committees held at Simla last — under the control of the Finance Department. 502-04.

Conferences, Committees or sub-committees held at Simla last — under the control of the Home Department. 498-99.

Conferences, committees or sub-committees held at Simla last — under the control of the Labour Department. 661.

Conferences, committees or sub-committees held at Simla last — under the control of the Legislative Department. 677.

Conferences, committees or sub-committees held at Simla last — under the control of the Political Department. 679.

SUMMER—*contd.*Question *re—contd.*

Conferences, committees or sub-committees held at Simla last — and under the control of the Railway Department. 576.

Officers and ministerial staff of the Defence Co-ordination Department who moved up to Simla last — and expenditure incurred in the move. 667.

Officers and ministerial staff of the Defence Department who moved up to Simla last — and expenditure incurred in the move. 505.

Officers and ministerial staff of the Department of Communications and its attached and subordinate offices who moved up to Simla last — and expenditure incurred in the move. 578.

Officers and ministerial staff of the Department of Education, Health and Lands and its attached and subordinate offices who moved up to Simla last — and expenditure incurred in the move. 668.

Officers and ministerial staff of the External Affairs Department who moved up to Simla last — and expenditure incurred in the move. 570.

Officers and ministerial staff of the Finance Department and its attached and subordinate offices who moved up to Simla last — and expenditure incurred in the move. 499-501.

Officers and ministerial staff of the Home Department and its attached and subordinate offices who moved up to Simla last — and expenditure in the move. 496-98.

Officers and ministerial staff of the Labour Department who moved up to Simla last — and expenditure incurred in the move. 660.

Officers and ministerial staff of the Legislative Department who moved up to Simla last — and expenditure incurred in the move. 677.

Officers and ministerial staff of the Railway Department who moved up to Simla last — and expenditure incurred in the move. 572.

SUMMER—*concl'd.*Question *re—concl'd.*

Retention of almost entire ministerial staff of Labour Department in New Delhi during the last —. 905.

SUMMER ALLOWANCE—

See "Allowance(s)".

SUPERINTENDENT(S)—

Question *re* promotions to the —'s posts in the office of the Director-General of Posts and Telegraphs. 50-51.

SUPERIOR SERVICE(S)—

Question *re* recruitment of Indian Christians to the Subordinate and — of the State and Company-managed Railways. 561-63.

SUPERSESSION(S)—

Question *re* non-transfer and — of certain staff in the Railway Clearing Accounts Office. 1010-20.

SUPERVISOR(S)—Question *re—*

Proceedings of the Selection Board held at the Divisional Office, Howrah, East Indian Railway for filling vacancies of Luggage and Parcel —. 593.

Retrenchment in the higher grade appointments of Yard Foremen and Yard — on the North Western Railway. 867-59.

SUPERVISORY POST(S)—

Question *re* Muslim graduates in establishment offices and — on the East Indian and Eastern Bengal Railways. 1024, 1025.

SUPPLY DEPARTMENT—

Motion *re* election of three members for the Standing Committee attached to the —. 918-23, 1113.

Question *re—*

Appointment of Mr. Passmore in the — and his duties. 705.

Commission charged by the Government of India on articles purchased by His Majesty's Government for the maintenance of the —. 961-63.

Creation of the — and its functions and working. 285.

SUPPLY DEPARTMENT—*contd.*Question *re*—*contd.*

Recruitment, communal composition, salaries, etc., of certain staff in the — and Allied Offices. 287-95.

Recruitment of officers in the — through the National Service Committee. 905-06.

Re-employed staff in the — and Allied Offices. 295-297.

Relaxation of the financial control of the Government of India over the —. 279-80.

SWITCH(ES)—

Question *re* provision of tumbler — for controlling lights in intermediate class carriages. 1017-18.

SYLHET—

Question *re* diversion of carriage of postal mails between — and Shillong from road to railway. 353-54.

SYLLABUS—

Question *re* books or — prescribed for promotion courses on State Railway. 508.

T

TARIFF (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

TARIFF (SECOND AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

TECHNICAL SCHOOL(S)—

See "School(s)".

TELEGRAPH OFFICE(S)—

Question *re* — in the Delhi Province making deliveries of messages. 606-07.

TELEGRAPH OFFICIAL(S)—

Question *re* collective assessment of water rates on Postal and — occupying Government quarters in Simla. 598.

TELEGRAPHIC TRANSFER(S)—

See "Transfer(s)".

TELEPHONE OPERATOR(S)—

Question *re* non-transfer of certain — in Dacca Division. 1017

TENDER(S)—

Question *re*—

Taking of lease of a Roller Flour Mill at Lyallpur and — for grinding wheat for use of military forces. 493-94.

— invited for the printing of the *Fauji Akhbar*. 774-75.

Statement laid on the table *re* lowest — not accepted by the High Commissioner for India in purchasing stores for the Government of India. 1113-15.

TEST(S)—

Question *re* subjecting persons selected by the Divisional Selection Board at Karachi for training and promotion as guards, grade II, on the North Western Railway to further —. 228-229.

THAKUR SINGH, CAPTAIN—

Oath of Office. 1.

THEFT(S)—

Question *re* steps to reduce the number of — and other crimes in Delhi. 981.

THIEF(VE)—

Question *re* arrest of a gang of — of Bauriya criminal tribe. 981.

THIRD CLASS—

Question *re* inconveniences suffered by — passengers on the Jacobabad-Kashmore Railway in Sind. 5-6.

THIRD DIVISION—

Question *re* temporary — vacancies filled in the Government of India Offices. 36-37.

THOMAS COOK AND SON, MESSRS.—

Question *re*—

City Booking and Parcel Offices worked by —. 45-46.

Railway passes allowed to — and their staff. 45.

THROUGH RAILWAY JOURNEY—

See "Journey".

TICKET(S)—

Question *re* alleged sale of used railway —. 592.

TICKET INSPECTOR(S)—

Question *re* seniority of travelling — on the East Indian Railway. 18.

TONGA(S)—

Question *re* — permitted to run from the Meerut Cantonment Railway Station. 58.

TOTALITARIAN STATE(S)—

Motion for adjournment *re* failure of the Government of India to evoke whole-hearted enthusiasm in the nation to fight the —. 71-72.

TRADE(S)—

Question *re* steps for increasing the export — of India. 657-59.

TRAFFIC INSPECTOR(S)—

Question *re* — on the North Western Railway. 32.

Promotion of Traffic "Pupils" as — on the North Western Railway. 566-68.

Promotion of traffic pupils working on the North Western Railway as —. 855-56.

TRAFFIC "PUPIL(S)"—

Question *re*—

Promotion of — as Traffic Inspectors on the North Western Railway. 566-68.

Promotion of — working on the North Western Railway as Traffic Inspectors. 855-56.

TRAFFIC TECHNICAL INFERIOR STAFF—

Question *re* percentage of leave reserve for the — on the North Western Railway. 876.

TRAIN(S)—

Question *re*—

Abolition of — vending on the Assam Bengal Railway. 849-50.

Exemption of the European and Anglo-Indian guards on Lahore division of North Western Railway from working certain shunting and van —. 364.

Indian Railways where — vending is not maintained. 850.

Irregularities in the running of special — on the North Western Railway. 44-45.

Prohibition of railway employees to travel on privilege Ticket Orders by mail and express —. 1020-21.

TRAIN(S)—*contd.*Question *re*—*contd.*

— run through Delhi-Shahdara on the North Western Railway. 860.

Workings of the — between Hardwar and Rikhikesh on the East Indian Railway. 1103.

TRAIN EXAMINER(S)—

Question *re*—

Apprentice — on the North Western Railway. 852-53.

Extra expenditure incurred by not appointing an Assistant — to officiate as Head —, Bareilly. 604.

Grade I — on the East Indian Railway. 859-60.

TRAINING—

Question *re*—

Raising of the new army in India, its cost and arrangements for — of the additional officers. 202-05.

Scholarships for special — given by the Government of India or the Calcutta Port Trust. 582.

— of marksmanship by the Nagpur University. 1100-01.

TRAINING COURSE(S)—

Question *re* maximum age limit for all kinds of — at the Walton Training School. 11.

TRAINING SCHOOL(S)—

Question *re* quota of Muslim candidates at the flying —. 1016.

TRANSFER(S)—

Question *re*—

Non-employment of Indian brokers by the Calcutta Port Trust for purchasing telegraphic — of the local Exchange Banks to the United Kingdom. 229-30.

Non — and supersession of certain staff in the Railway Clearing Accounts Office. 1019-20.

Non — of certain members of regular electrical establishment on duty in New Delhi. 910.

Non — of certain officers of the Central Public Works Department. 910.

Non — of certain telephone operators in Dacca Division. 1017.

— of non-gazetted railway servants in the Moradabad Division of the East Indian Railway and the Delhi Division of the North Western Railway. 860.

TRANSPORTATION—

Question re disadvantages of the staff of company-managed section of the East Indian Railway trained at the Railway School of —, Chandausi. 17.

TRANSPORTATION INSPECTOR(S)—

Question re—

Duties of Assistant Officers and — on State Railways. 28-31.

Holders of the appointments of — in the Moradabad Division, East Indian Railway. 601-02.

Sanctioned strength of the — in the Moradabad Division, East Indian Railway. 602.

TRANSPORTATION STAFF—

Question re promotion to senior subordinates of — and to senior subordinates of Loco. staff. 882.

TRAVELLING ALLOWANCE—

See "Allowance(s)".

TRAVELLING TICKET INSPECTORS—

See "Ticket Inspector(s)".

TREATMENT—

Question re complaints about the — of patients in the Irwin Hospital, New Delhi. 435-36.

TREE(S)—

Question re—

Neglect of planted — and maintained lawns in the D. I. Z. area of New Delhi 664-65.

Steps taken by the Delhi Improvement Trust for planting — and shrubbery in Karol Bagh, Delhi. 906.

TRIAL(S)—

Question re persons tried, convicted or detained without trial under the Defence of India Act. 914-17.

TRUNK ROAD(S)—

Question re representation for construction of a — from Hyderabad (Sind) to Bombay via Badin and Viramgam. 358-59.

TUBERCULOSIS—

Question re—

Prevalence of — amongst the staff of the Railway Clearing Accounts Office. 595.

Protection of Government quarters from — infection. 704-05.

TUBERCULOSIS CLINIC—

Question re—

Central —, Delhi. 909-10.

Location of a — in Karol Bagh, Delhi. 62.

Shifting of the — from Karol Bagh, Delhi. 64.

TUMBLER SWITCH(ES)—

See "Switch(es)".

TYPIST(S)—

Question re Invoice — on the North Western Railway. 28.

TYSON, MR. J. D.—

Certain papers re the Agricultural Produce Cess Act laid on the table. 83-88.

Indian Merchant Shipping (Amendment) Bill—

Motion to refer to Select Committee. 215-17, 218, 219, 220.

Motion for adjournment re rustication of Mr. M. Farouqi and Mr. D. Sanghi from the University of Delhi. 1111, 1112.

Motion re election of a Member of the Council of the Indian Institute of Science, Bangalore. 88.

Motion re election of a Member on the Governing Body of the Indian Research Fund Association. 918.

New Delhi Mosque Bill—

Motion for introduce. 235.

Motion to move not made. 1062.

Oath of Office. 1.

Resolution re appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 188-91, 194.

U

UMAR ALY SHAH, MR.—

Indian Finance (No. 2) Bill—

Motions to consider and to circulate. 640, 641.

Question re differential treatment meted out to the Indian Medical Department. 66.

Resolution re appointment of a Committee of the Central Legislature regarding economy in war expenditure. 538-39.

UNFILTERED WATER—

See "Water"

UNITED KINGDOM—

Question re—

Imports and consumption of Indian Coffee in the —. 423-24.

Non-employment of Indian brokers by the Calcutta Port Trust for purchasing telegraphic transfer of the local Exchange Banks to the —. 229-230.

UNITED PROVINCES GOONDA ACT—

See "Act(s)".

UNIVERSITY(IES)—

Motion for Adjournment re rustication of Mr. M. Farouqi and Mr. D. Sanghi from the — of Delhi. 1111-12.

Question re—

Government Service Rules applicable to the staff of the Delhi —. 699.

Training of marksmanship by the Nagpur —. 1100-01.

UNIVERSITY TRAINING CORP(S)—

Question re expansion of the 10th (Nagpur) Battalion, —. 783-84.

UNORTHODOX QUARTER(S)—

See "Quarter(s)".

URDU SCRIPT—

Question re knowledge of Hindi and ability to write it in — or Roman — for recruitment to Indian army. 782-83.

USED RAILWAY TICKETS—

See "Ticket(s)".

UTENSIL(S)—

Question re discrimination in the matter of scale of furniture and — in European and Indian Guards Running Rooms on the North Western Railway. 232-233

V

VACANCY(IES)—

Question re—

Filling up of certain — of clerks recently occurring in the Karachi Divisional Office of the North Western Railway. 587-88.

First Division — filled in the Government of India Offices. 35.

Instructions for excess reservation for Muslims in the — of works mistries by the General Manager, North Western Railway. 363-64.

VACANCY(IES)—*contd.*

Question re—*contd.*

Muslims in certain categories of appointments officiating against permanent — on the North Western Railway. 581-82.

Proceedings of the Selection Board held at the Divisional Office, Howrah, East Indian Railway for filling — of Luggage and Parcel Supervisors. 593.

Temporary Third Division — filled in the Government of India Offices. 36-37.

— of grade III firemen on the North Western Railway. 64.

— of posts filled in the Government of India Offices. 38-41.

VALUE(S)—

Question re assessment — of houses and shops in the Kasauli Cantonment. 63.

VAN SORTER(S)—

Question re—

Lower rates of consolidated travelling allowance for — on the North Western Railway. 875-76.

Passes for — on the North Western Railway. 873.

VAN TRAIN(S)—

Question re exemption of the European and Anglo-Indian guards on Lahore division of North Western Railway from working certain shunting and —. 364.

VEHICLE(S)—

Question re detention of — at stations in the Moradabad Division, East Indian Railway.—594.

VETERINARY INSPECTOR(S)—

Question re permanent Muslim — in the Imperial Veterinary Research Institute. 696, 1108.

VETERINARY RESEARCH INSTITUTE, IMPERIAL—

Question re—

Communal composition of the staff of the —. 695.

Muslim clerks in the —. 696.

Muslim dressers promoted as Laboratory Assistants in the —. 696.

Muslims in the poultry research section of the —. 696.

Paucity of Muslims in the staff of the —. 693-95, 696.

VETERINARY RESEARCH INSTITUTE, IMPERIAL—*contd.*

Question *re—contd.*

Permanent Muslim Veterinary Inspectors in the ——. 696, 1108.

See also under "Imperial Veterinary Research Institute".

VICEROY, HIS EXCELLENCY THE—

Message from — asking for the passage of the — in the Legislative Assembly in the form recommended. 882-83.

Motion for adjournment *re* expansion of —'s Executive Council and the constitution of War Advisory Committee. 73-75.

Question *re—*

Private Houses in New Delhi reserved for accommodation of the extra members of — a proposed expanded Cabinet. 697-98.

Recruitment of Sikhs as inferior servants in the Office of the Military Secretary and the Private Secretary to —. 913.

Speech delivered to the Council of State and the Legislative Assembly by —. 841-848.

VICTIM(S)—

Question *re* relief given to the — of the Dacca Mail disaster. 351-52.

VIRAMGAM—

Question *re* representation for construction of a trunk road from Hyderabad (Sind) to Bombay via Badin and —. 358-59.

VISION—

Question *re—*

Eligibility of the night — failed station masters group staff for certain appointments. 874.

Reservation of the posts of enquiry clerks, etc., for guards with defective — on the North Western Railway. 863-64.

VISION TEST(S)—

Question *re* classes and groups for the purposes of — of certain railway employees. 870-71.

VISITOR(S)—

Motion for adjournment *re* prohibition of — from entering the Khyber Pass. 436-38.

VOLUNTEER CORP(S)—

Question *re* High School — and Rifle Clubs. 1101.

VOLUNTEER FORCE(S)—

Question *re* grant of leave to the East Indian Railway employees serving in the — when required to join the army. 67.

W

WADI BUNDER—

Question *re* non-applicability of the fundamental leave rules to inferior staff of the Goods Depot at — on the Great Indian Peninsula Railway. 58.

WAGON(S)—

Question *re* shortage of goods — on Jacobabad-Kashmore narrow gauge section in Sind. 4-5.

WAITING LIST(S)—

Question *re* — of persons not provided with Government quarters in New Delhi. 683-84.

WALL(S)—

Question *re* erection of a — on the south of Moradabad Railway Station Yard, East Indian Railway. 871.

WALTON TRAINING SCHOOL—

Question *re—*

Local examination for — qualified guards. 853-54.

Maximum age limit for all kinds of training courses at the —. 11.

WAR—

Question *re* Members of the Central and Provincial Legislatures detained or imprisoned since the — began. 969-70.

Statement laid on the table *re* appointments made in connection with — work. 708.

WAR ADVISORY COMMITTEE—

Motion for adjournment *re* expansion of H. E. The Viceroy's Executive Council and the constitution of —. 73-75.

WAR DONATIONS AND INVESTMENTS (COMPANIES) BILL—

See "Bill(s)".

WAR EXPENDITURE—

See "Expenditure(s)".

WAR PURCHASE(S)—

Question *re* contractors for the —. 287.

WAR WORK—

Question *re* appointments made in connection with —. 708.

WATER—

Question *re* supply of unfiltered — in orthodox quarters in New Delhi. 689.

WATER CHARGE(S)—

Question *re* reduction of — in New Delhi. 65.

WATER RATE(S)—

Question *re* collective assessment of — on Postal and Telegraph officials occupying Government quarters in Simla. 598-99.

VAZIRISTAN—

Motion for adjournment *re* refusal of permission to Mr. Bhulabhai Desai and to Mr. Asaf Ali to visit —. 76-77.

WHEAT—

Question *re* taking of lease of a Roller Flour Mill at Lyallpur and tenders for grinding — for use of military forces. 493-94.

WHEELER AND COMPANY, MESSRS.—

Question *re—*

Contract for book stalls given to — by the General Manager, North Western Railway. 597.

Extension of — contract for book-stalls on the North Western Railway. 599-600.

WIFE—

Question *re* repatriation of Mr. L. N. Khanna's — and daughter from Sudetenland, Germany. 775-76.

WINDOW(S)—

Question *re* representation for replacing iron — by wooden — in Raja Bazar Square, New Delhi. 700-01.

WORK(S)—

Question *re—*

Procedure of reporting the — after the expiry of the probationary period. 877.

Recruitment of Sub-Inspectors of — on the North Western Railway. 54-55.

WORKER(S)—

Question *re* stoppage of payment for interval to the industrial — of the Government of India Press, New Delhi. 701-02.

WORKING EXPENSES—EXPENSES OF ELECTRICAL DEPARTMENT—

Demand for Excess Grant in respect of —. 1078.

WORKING EXPENSES—MAINTENANCE AND SUPPLY OF LOCOMOTIVE POWER—

Demand for Excess Grant in respect of —. 1077-78.

WORKING EXPENSES—MAINTENANCE OF CARRIAGE AND WAGON STOCK—

Demand for Excess Grant in respect of —. 1078.

WORKING EXPENSES—MISCELLANEOUS EXPENSES—

Demand for Excess Grant in respect of —. 1078.

WORKS MISTRY(IES)—

Question *re* instructions for excess reservation for Muslims in the vacancies of — by the General Manager, North Western Railway. 363-64.

WORKS OF DEFENCE (AMENDMENT) BILL—

See "Indian —" under "Bill(s)".

WORKSHOP(S)—

Question *re* creation of new industries or — on permanent basis and Government subsidy thereon. 427-28.

X

Y

YAMIN KHAN, SIR MUHAMMAD—

Cantonments (Amendment) Bill—

Consideration of clauses. 244-45.

Finance Member's statement on the financial position. 101.

Indian Finance (No. 2) Bill—

Motion for leave to introduce. 102.

Motions to consider and to circulate. — 386-87, 388-90, 391-92, 393-96, 410, 488, 722, 752, 753.

**YAMIN KHAN, SIR MUHAMMAD—
contd.**

- Indian Navy (Discipline) Amendment Bill—
Motion to consider. 237, 238.
Motion for Adjournment *re*—
Closing of the Chandpur-Siau-Bijnor section of the Gajraula Muazzampur Narain Branch of the East Indian Railway. 1003.
Failure to call a Session of the Legislative Assembly between the period April 9 to October 1940. 147.
Placing of large orders of purchases with a few individuals. 151.
Motion *re* election of three members for the Standing Committee attached to the Department of Supply. 921-22.
Question (Supplementary) *re*—
Advisability of release of Alama Mashriqi. 209.
Delay in holding the Autumn Session of the Legislative Assembly. 131, 132.
Non-observance of the principle of subletting of railway contracts in the case of a certain contract at the Delhi Railway Station. 865.
Relaxation of the financial control of the Government of India over the Supply Department. 279, 280.
Votable and non-votable expenditure sanctioned outside the Budget. 199.
Relinquishment of Simla for sittings of the Legislative Assembly. 104-05.
Repealing and Amendment Bill—
Motion to consider. 248, 254.
- YARD FOREMAN(EN)—**
Question *re* retrenchment in the higher grade appointments of — and Yard Supervisors on the North Western Railway. 857-59.
- YARD SUPERVISOR(S)—**
Question *re* retrenchment in the higher grade appointments of Yar Foremen and — on the North Western Railway. 857-59.

Z**ZAFAR ALI KHAN, MAULANA—**

- Berar Laws Bill—
Motions to consider, circulate, and refer to Select Committee. 940, 944-46.
Indian Finance (No 2) Bill—
Motions to consider and to circulate. 334-40, 383.

ZAFAR ALI KHAN, MAULANA—contd.

- Indian Railways (Amendment) Bill—
Motions to refer to Select Committee and to circulate. 925.
Motion for adjournment *re*—
Alleged occupation of the Muslim *Idgah* at Burhanpur by the Military. 785.
Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1081, 1086, 1092-94.
Closing of the Chandpur-Siau-Bijnor section of the Gajraula Muazzampur Narain branch of the East Indian Railway. 1000-01, 1007.
Dacca Mail disaster. 117, 119-20, 123.
Delay in holding the Session of the Legislative Assembly. 155.
Question *re*—
Allotment of duffries' quarters in New Delhi. 136-37.
Allotment of peons' quarters in New Delhi. 137-138.
Promotions to the Superintendents' posts in the office of the Director-General of Posts and Telegraphs. 50-51.
Question (Supplementary) *re*—
Communal reservation both on appointment and confirmation of new recruits on the North Western Railway. 7.
Inadequate Indian representation in the Port Trusts. 3.
Issue of one rupee notes without the agency of the Reserve Bank of India. 278.
Resolution *re*—
Appointment of a Committee of the Central Legislature regarding economy in war expenditure. 542-43.
Appointment of a Committee to examine the conditions of Detenus under the Defence of India Act. 556-57.
Appointment of a Permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 187-88.
Fiscal Policy of the Government of India. 178-79.

**ZAFRULLAH KHAN, THE HONOUR-
ABLE SIR MUHAMMAD—**

- Berar Laws Bill—
Motion for leave to introduce. 235.
Motions to consider, circulate, and refer to Select Committee. 939-41, 947, 948.

**ZAFRULLAH KHAN, THE HONOUR-
ABLE SIR MUHAMMAD—contd.**

- Cantonments (Amendment) Bill—
Consideration of clauses. 245.
Expressions of regret on the deaths of Raja Sir Vasudeva Rajah and Mr. Surya Kumar Som. 70.
Indian Finance (No. 2) Bill—
Motions to consider and to circulate. 411, 421, 440, 443, 614, 648, 719-38, 801.
Indian Railways (Amendment) Bill—
Motions to refer to Select Committee and to circulate. 896.
Motion for adjournment *re*—
Delay in holding the Session of the Legislative Assembly. 155.
Expansion of H. E. The Viceroy's Executive Council and the constitution of War Advisory Committee. 74, 75.
Failure of Government to enable Mr. Subhash Chandra Bose to attend the Session of the Legislative Assembly. 148.
Failure to call a Session of the Legislative Assembly between the period April 9 to October 1940. 145-147.
Non-association of non-official representative Indians with the Eastern Group Conference. 76.
Non-holding of the Session of the Legislative Assembly for a long time. 156, 157.
Placing of large orders of purchases with a few individuals. 150, 151.
Motion *re* election of three members for the Standing Committee attached to the Department of Supply. 918, 922-23.
Position of the Nominated Members of the House. 1027-1028.
Relinquishment of Simla for sittings of the Legislative Assembly. 103.
Repealing and Amendment Bill—
Motion for leave to introduce. 89.
Motion to consider. 248, 252-54.
Motion to pass. 254.
Reserve Bank of India (Third Amendment) Bill—
Motion to consider. 266.
Resolution *re* appointment of a Committee of the Central Legislature regarding economy in war expenditure. 540, 549.
Statement of Business by —. 211, 763.

ZAHEER, MR. SAIYED HASAN—

Oath of Office. 2.

ZIAUDDIN AHMAD, DR. SIR—

- Berar Laws Bill—
Motions to consider, circulate, and refer to Select Committee. 941, 948.
Cantonments (Amendment) Bill—
Consideration of clauses. 249.
Demand for Excess Grant in respect of "Working Expenses—Maintenance and Supply of Locomotive Power". 1077, 1078.
Election of — to the Council of the Institute of Science, Bangalore. 367.
Election of — to the Standing Committee for the Department of Supply. 1113.
Excess Profits Tax (Amendment) Bill—
Motion to consider. 1117-18.
Consideration clauses. 1121-22.
Finance Member's statement on the financial position. 101.
Indian Finance (No. 2) Bill—
Motions to consider and to circulate. 340, 343, 413-16, 417-21, 422, 439-42, 443-50, 477, 492, 614, 615, 648, 660, 720, 721, 741, 815.
Indian Merchant Shipping (Amendment) Bill—
Motion to refer to Select Committee. 218.
Indian Railways (Amendment) Bill—
Motions to refer to Select Committee and to circulate. 896-903, 924-29, 936.
Indian Sale of Goods (Amendment) Bill—
Motion to consider. 1061.
Motion for Adjournment *re*—
Alleged embezzlement in the Multan Division of the North Western Railway. 1109-1110, 1111.
Closing down of the branch line between Shoranur and Nilambur in the Malabar District. 1087.
Dacca Mail disaster. 112-14.
Failure of the Government of India to evoke whole-hearted enthusiasm in the nation to fight the totalitarian States. 72.
Financial arrangements with His Majesty's Government *re* payment for the purchase of materials from India. 152.
Opinions of the Honorable Member for Railways and Communications on the D'Souza Report. 153, 154.

ZIAUDDIN AHMAD, DR. SIR—*contd.*Motion for Adjournment *re—contd.*

Placing of large orders of purchases with a few individuals. 150, 151, 152.

Motion *re* election of three members for the Standing Committee attached to the Department of Supply. 918-19.

Motion to consider the Report of the Public Accounts Committee. 1067-72.

Nomination of — to the Panel of Chairmen. 211.

Presentation of the Report of the Public Accounts Committee. 609, 610.

Question *re—*

Accommodation reserved in the Imperial Hotel for the delegates of Eastern Group Conference. 697.

Advisability of release of Alama Mashriqi. 208-209.

Alleged rude behaviour of the Quetta Railway Station officials at the welcome to the President-elect of the Baluchistan Muslim League Session. 583-84.

Appointments made in connection with war work. 708.

Catering as a source of income to Railway administrations. 360-61.

Commission charged by the Government of India on articles purchased by His Majesty's Government for the maintenance of the Supply Department. 961-63.

Complaints about the treatment of patients in the Irwin Hospital, New Delhi. 435-36.

Continuing fire in the coalfield in Sudamdih Area Colliery. 286.

Contractors for the war purchases. 287.

Delay in holding the Autumn Session of the Legislative Assembly. 130-134.

Departures in the working of the financial adjustment between the Government of India and the British Government. 961.

Detention of Alama Mashriqi. 208.

Establishment of a Paper Economy Department by the Government of India. 434-35.

Instructions for charging rent for use of Railway refreshment rooms and stalls. 361-63.

Issue of one rupee notes. 765-69.

Issue of one rupee notes without the agency of the Reserve Bank of India. 276-78.

ZIAUDDIN AHMAD, DR. SIR—*contd.*Question *re—contd.*

Muslim officers employed by the Calcutta Port Trust. 582.

Muslim Railway officers in the Railway Board proper. 859.

Non-transfer of certain telephone operators in Dacca Division. 1017.

Playing of music through loud speakers during prayer time at Delhi. 287.

Private Houses in New Delhi reserved for accommodation of the extra members of the Viceroy's proposed expanded Cabinet. 697-98.

Quarantine station at Kamaran. 367.

Recruitment, communal composition, salaries, etc., of certain staff in the Supply Department and Allied Offices. 287-95.

Recruitment of officers in the Supply Department through the National Service Committee. 905-06.

Re-employed staff in the Supply Department and Allied Offices. 295-97.

Relaxation of the financial control of the Government of India over the Supply Department. 278-80.

Responsibility of the Manager in respect of the Coal-mine Disaster at Kurhuvvari. 286-87.

Savings due to partial exodus to Simla. 200-01.

Scholarships for special training given by the Government of India or the Calcutta Port Trust. 582-83.

Standard and gradations of ghee adopted by the Government of India. 138-39.

Steps for increase and distribution of the shipping accommodation. 655-57.

Steps for increasing the export trade of India. 657-59.

Steps for the Defence of India. 280-82.

Total weight of silver bullion and silver coins in the possession of Government. 770.

Value of Dollar Securities requisitioned by Government of India from private holders. 770-71.

Question (Supplementary) *re—*

Abolition of train vending on the Assam Bengal Railway. 850.

ZIAUDDIN AHMAD, DR. SIR—*contd.*Question (Supplementary) *re—contd.*

Assignment by the A. E. G. India Electric Company, Limited, incorporated in Germany, of their business, assets etc., to certain parties in B. bay. 129.

Communal considerations in the promotion of Guards on the North Western Railway. 1015.

Declaration of Muslim holidays as general holidays on the Assam Bengal Railways. 850, 851.

Desirability of uniformity as to the Indian catering system on all Indian Railways. 585.

Government scholarships for training in flying. 1017.

Inadequate Indian representation in the Port Trusts. 3, 4.

Income-tax charged on gratuities paid to the non-gazetted State Railway employees. 207.

Non-observance of the principle of sub-letting of railway contracts in the case of a certain contract at the Delhi Railway Station. 865, 866.

Promotion of Traffic "Pupils" as Traffic Inspectors on the North Western Railway. 567-68.

Prosecution of Pandit Jawahar Lal Lal Nehru. 973-74.

Quota of Muslim candidates at the flying training schools. 1102.

Railway Advisory Committee. 228.

Report of the officer on special duty appointed to investigate into certain matters affecting communal representation in railway services. 225-226.

ZIAUDDIN AHMAD, DR. SIR—*concl.*Question (Supplementary) *re—concl.*

Rise in the salary of the Director of the London Market Expansion Board. 425.

Selection for appointment to selection posts in the Departments of the East Indian and Eastern Bengal Railways. 1023.

Shortage of goods wagons on Jacobabad-Kashmore narrow gauge section in Sind. 5.

Suggestions made by the Port Haj Committees. 693.

Taking of lease of Roller Flour Mill at Lyallpur and tenders for grinding wheat for use of military forces. 494.

Relinquishment of Simla for sittings of the Legislative Assembly. 103, 104.

Reserve Bank of India (Third Amendment) Bill—

Motion to consider. 265-66, 267.

Resolution *re—*

Appointment of a Committee of the Central Legislature regarding economy in war expenditure. 539-42, 545, 546, 547, 549.

Appointment of a Committee to examine the conditions of Detenus under the Defence of India Act. 551.

Appointment of a permanent Muslim Pilgrim Officer in the Secretariat of the Government of India. 511, 512.

Fiscal Policy of the Government of India. 161-64, 166, 174, 180.

Scrapping of the London Coffee Market expansion Board by the Indian Coffee Cess Committee. 523.