

29th January 1930

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

Volume I, 1930

(20th January to 24th February, 1930)

SIXTH SESSION
OF THE
THIRD LEGISLATIVE ASSEMBLY, 1930

~~Chamber Registered~~ 18-X-73



DELHI
GOVERNMENT OF INDIA PRESS
1930

Legislative Assembly.

President :

THE HONOURABLE MR V. J. PATEL.

Deputy President :

MAULVI MUHAMMAD YAKUB, M.L.A.

Panel of Chairmen :

PANDIT MADAN MOHAN MALAVIYA, M.L.A.

MR. M. A. JINNAH, M.L.A.

SIR DARCY LINDSAY, KT., C.B.E., M.L.A.

SIR ZULFIQAR ALI KHAN, KT., C.S.I., M.L.A.

Secretary :

MR. S. C. GUPTA, BAR.-AT-LAW.

Assistant of the Secretary :

RAI SAHIB D. DUTT.

Marshal :

CAPTAIN SURAJ SINGH BAHADUR, I.O.M.

CONTENTS.

PAGES:

VOLUME I—20th January to 24th February 1930.

Monday, 20th January, 1930—

Statement by Mr. President <i>re</i> Protection of the Assembly Chamber and its precincts	1-3
Members Sworn	3-4
Questions and Answers	4-44
Unstarred Questions and Answers	44-81
Resolution <i>re</i> Attempt to wreck the Viceroy's Train—Adopted	81-84
Governor General's assent to Bills	85
Statement laid on the Table	85-86
The Indian Sale of Goods Bill—Presentation of the Report of Select Committee:	86
The Indian Contract (Amendment) Bill—Presentation of the Report of Select Committee	86
The Inland Steam-vessels (Amendment) Bill—Presentation of the Report of Select Committee	86
The Dangerous Drugs Bill—Appointment of Mr. E. F. Baum to the Select Committee	87
The Cantonments (House-Accommodation Amendment) Bill—Appointments to the Select Committee	87
The Transfer of Property (Amendment) Bill—Introduced	88
Resolution <i>re</i> Fixing Minimum Wages—Adopted, as amended	88-92

Tuesday, 21st January, 1930—

Members Sworn	93
Questions and Answers	93-130
Statement by Mr. President of his position in relation to the boycott of the Legislatures	131-34
Statement laid on the Table	134-61
The Hindu Widows' Right of Inheritance Bill—Circulated...	162-68
The Imperial Bank of India (Amendment) Bill—Motion to consider negatived	168-93
The Arya Marriage Validation Bill—Discussion on the Motion to refer to Select Committee adjourned	193-97

Wednesday, 22nd January, 1930—

Resolution <i>re</i> Stipends of the Members of the Carnatic Family --Adopted	199-201
Resolution <i>re</i> Currency Offices—Withdrawn	201-02
Resolution <i>re</i> Slaughter of Milch Cows—Negatived	203-35

Thursday, 23rd January, 1930—

Member Sworn	237
Statement of Business	237
The Arya Marriage Validation Bill—Circulated	237-63

CONTENTS—*contd.*

PAGES.

Thursday, 23rd January, 1930—*contd.*

The Reservation of the Coastal Traffic of India Bill—Re-circulated	...	...	...	...	263
The Indian Steam-vessels (Amendment) Bill—Passed	...	...	...	...	263-66
The Mussalman Wakf Validating (Amendment) Bill—Referred to Select Committee	...	...	...	...	266
The Court-fees (Amendment) Bill—Referred to Select Committee	...	...	...	...	266-68
The Indian Penal Code (Amendment) Bill—Motion to circulate, negatived	...	...	...	...	268-71
The Indian Electricity (Amendment) Bill—Withdrawn	...	...	...	...	271-74
The Indian Railways (Amendment) Bill—Introduced	...	...	...	...	274
The Code of Criminal Procedure (Amendment) Bill—Introduced	...	...	...	...	275
The Indian Religious Pictures Trade Marks (Prevention) Bill—Introduced	...	...	...	...	275

Saturday, 25th January, 1930—

Address by H. E. the Viceroy to the Members of the Legislative Assembly	277-82
---	-----	-----	-----	-----	--------

Monday, 27th January, 1930—

Member Sworn	...	...	...	...	283
The Indian Merchandise Marks (Amendment) Bill—Appointments to the Select Committee	...	...	...	...	283
The Indian Patents and Designs (Amendment) Bill—Passed as amended	...	...	...	...	283-88

Tuesday, 28th January, 1930—

Closing of the Galleries of the Legislative Assembly Chamber	...	...	...	...	289
Short Notice Question and Answer	...	...	...	...	289-90
Resolution <i>re</i> Recruitment for the Indian Medical Service—Adopted, as amended	...	...	...	...	290-312

Wednesday, 29th January, 1930—

Questions and Answers	...	...	...	...	313-38
Unstarred Questions and Answers	...	...	...	...	339-48
Statement of Business	...	...	...	...	348
The Indian Income-tax (Amendment) Bill—Presentation of the Report of Select Committee	...	...	...	...	348
The Indian Sale of Goods Bill—Passed	...	...	...	...	348-58
The Indian Contract (Amendment) Bill—Passed	...	...	...	...	358
The Transfer of Property (Amendment) Bill—Passed	...	...	...	...	359

Tuesday, 4th February, 1930—

Questions and Answers	...	...	...	...	361-83
Unstarred Questions and Answers	...	...	...	...	383-94
Short Notice Questions and Answers	...	...	...	...	395-404
Resolution <i>re</i> Report of the Indian Road Development Committee—Adopted, as amended	...	...	...	...	405-91

CONTENTS—*contd.*

	PAGES.
Wednesday, 5th February, 1930—	
Questions and Answers	423-36
Unstarred Questions and Answers	436-37
Statement laid on the Table—Reports on the Damage done by Floods in the North West Frontier Province and Baluchistan	437-44
The Code of Criminal Procedure (Amendment) Bill—(Amend- ment of section 552)—Motion to refer to Select Committee negatived	444-59
The Code of Criminal Procedure (Amendment) Bill—(Amend- ment of sections 205 and 540A)—Motion to refer to Select Committee negatived	459-69
The Indian Religious Pictures Trade Marks (Prevention) Bill —Circulated	469-73
Thursday, 6th February, 1930—	
Statement of Business	475
The Dangerous Drugs Bill—Presentation of the Report of the Select Committee	475-76
The Provident Funds (Amendment) Bill—Passed	476
The Indian Income-tax (Amendment) Bill—Passed	476-79
Demands for Supplementary Grants, in respect of Railways...	479-83
Working Expenses—Administration	479-81
Working Expenses—Repairs and Maintenance and Operation	481-83
Appropriation from the Depreciation Fund	482-83
Strategic Lines—Working Expenses and Miscellaneous	483
Saturday, 8th February, 1930—	
Questions and Answers	485-90
Unstarred Questions and Answers	490-92
Resolution <i>re</i> Relations between Railways and Inland Steamer Services in Eastern Bengal—Withdrawn	492-96
Resolution <i>re</i> the Present System of Education in India— Adopted, as amended	499-543
Resolution <i>re</i> Medical Research—Debate adjourned	543-50
Tuesday, 11th February, 1930—	
Members Sworn	551
Questions and Answers	551-72
Short Notice Questions and Answers	572-75
Messages from His Excellency the Viceroy and Governor- General	575-76
The Cantonments (House-Accommodation Amendment) Bill— Presentation of the Report of Select Committee	576
Resolution <i>re</i> Medical Research—Withdrawn	576-89
Resolution <i>re</i> Enfranchisement of Indians in Ceylon—Adopted	590-618
Wednesday, 12th February, 1930—	
The Indian Income-tax (Amendment) Bill—Presentation of the Report of Select Committee	619
The Indian Merchandise Marks (Amendment) Bill—Presenta- tion of the Report of Select Committee	619

CONTENTS—*contd.*

PAGES

Wednesday, 12th February, 1930—*contd.*

The Court-fees (Amendment) Bill—Presentation of the Report of Select Committee	619
The Indian Railways (Amendment) Bill—Presentation of the Report of Select Committee	619
The Indian Lac Cess Bill—Introduced	615-20
The Indian Companies (Amendment) Bill—Introduced	620
The Indian Tariff (Amendment) Bill—Introduced	620
The Steel Industry (Protection) Bill—Introduced	621
The Dangerous Drugs Bill—Passed	621-24
Amendment of Standing Orders—Motion to refer to Select Committee, adopted	624-25
Election of Members to the Select Committee on the Amendment of Standing Orders	625

Thursday, 13th February, 1930—

Motion for Adjournment—Strike on the Great Indian Peninsula Railway—Motion for leave being granted fallen through	627-31
Statement of Business	631-32
The Hindu Gains of Learning Bill—Referred to Select Committee	632-45
The Special Marriage (Amendment) Bill—Discussion on the Motion to refer to Select Committee adjourned	645-75

Monday, 17th February, 1930—

Members Sworn	677
Questions and Answers	677-718
Short Notice Question and Answer	718-19
Unstarred Questions and Answers	719-22
Election of Members for the Select Committee on the Amendment of Standing Orders	722
Statement laid on the Table	722-27
Presentation of the Railway Budget for 1930-31	727-37
Panel of Chairmen	737

Tuesday, 18th February, 1930—

The Indian Income-tax (Amendment) Bill—Introduced	730-40
The Insolvency Law (Amendment) Bill—Introduced	740
The Indian Tariff (Amendment) Bill—Referred to Select Committee	741
The Steel Industry (Protection) Bill—Referred to Select Committee	741-44
The Indian Lac Cess (Amendment) Bill—Referred to Select Committee	745-47
Election to the Governing Body of the Indian Research Fund Association	747
Election of Members for the Standing Finance Committee for Railways	747
Election of a Panel for the Central Advisory Council for Railways	748
Demands for Supplementary Grants	748-56

CONTENTS—*contd.*

Tuesday, 18th February, 1930—<i>contd.</i>	
Elections to the Governing Body of the Indian Research Fund Association, the Standing Finance Committee for Railways and the Central Advisory Council for Railways	756
Wednesday, 19th February, 1930—	
Election of Members to the Select Committee on the Amendment of Standing Orders	757
The Railway Budget—General Discussion	757-812
Thursday, 20th February, 1930—	
Questions and Answers	813-22
Orders by His Excellency the Governor-General	822-23
Allotment of Dates for the General Budget	822
Discussion of certain Heads of Expenditure by the Legislative Assembly	823
Message from His Excellency the Viceroy	823-26
Arrangements for Protection of the Assembly Chamber and neglected	859-59
The Indian Income-tax (Amendment) Bill—Passed, as amended	827-28
The Cantonments (House-Accommodation Amendment) Bill—Considered	829-43
Statement of Business	843-44
Arrangements for Protection of the Assembly Chamber and its Precincts	844-45
Friday, 21st February, 1930—	
Member Sworn	847
The Railway Budget—List of Demands—	847-93
Demand No. 1—Railway Board—	847-93
Standardisation of Wages	847-48
Recent revised rates of East Indian Railway Wages ...	848-49
Abolition of the additional post of Labour Member on the Railway Board	849-84
Displacement of Anglo-Indians and domiciled Europeans on the various Railways	884
Re-examination of the Convention of the Separation of Railway Finance from General Finance	884-93
Saturday, 22nd February, 1930—	
Member Sworn	895
Questions and Answers	895-901
Unstarred Questions and Answers	902-12
The Railway Budget—List of Demands— <i>contd.</i>	912-66
Demand No. 1—Railway Board— <i>contd.</i>	912-66
Re-examination of the Convention of the Separation of Railway Finance from General Finance	912-44
Relations of Railways with their customers	944-48
Indianisation of the staff of Railways	948-49
Failure of the Railway Board to settle Labour Problems and the Great Indian Peninsula Railway Labour troubles	949

CONTENTS—*concl'd.*

PAGES.

Saturday, 22nd February, 1930—*cont'd.*The Railway Budget—List of Demands—*cont'd.*Demand No. 1—Railway Board—*cont'd.*

Non-development of Railway communications in Orissa... 950-51

Reorganisation of the Central Advisory Council for Railways and of Local Advisory Committees ... 951-55

Removal of penal clauses from the agreements by Company-managed Railways and their reintroduction ... 955-58

Policy of Government Recruitment to Accounts and Audit Department of Railways and how Provincial quota is neglected ... 958-59

Larger employment of Mussalmans ... 959-66

Monday, 24th February, 1930—

Appointment of Pandit Hirday Nath Kunzru to the Library Committee ... 967

The Indian Tariff (Amendment) Bill—Presentation of the Report of the Select Committee ... 967

The Steel Industry (Protection) Bill—Presentation of the Report of the Select Committee ... 967

The Railway Budget—List of Demands—*cont'd.* ... 967-1020Demand No. 1—Railway Board—*cont'd.* ... 967-1020

Larger employment of Mussalmans ... 967-98

Desirability of State Railways running Steamer Services between Important Points in the Railway System ... 998-1002

The Dacca-Aricha Railway Project ... 1002-20

LEGISLATIVE ASSEMBLY.

Wednesday, 29th January, 1930.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President in the Chair.

QUESTIONS AND ANSWERS.

COST OF UNDERFRAMES AT THE TATANAGAR WORKSHOPS.

153. ***Sir Darcy Lindsay:** (a) With reference to the replies given to my starred question No. 1310 of the 28th March, 1929, and the further reply by letter of the 10th November, 1929, will Government confirm that the total capital cost of the Tatanagar Workshops, East Indian Railway amounts to Rs. 88,98,771 after crediting Rs. 2,66,574 for plant and machinery transferred or sold?

(b) Estimating an annual output of 550 underframes representing approximately Rs. 46,00,000 value, and for which it was stated the Works have been laid out, what amount of working capital will be necessary to finance this manufacture? Would 50 per cent. of the selling price be considered an unreasonably high figure? Is it proposed to debit interest thereon when arriving at overhead charges?

(c) What were the rates of recent tenders received for coaching underframes including those from the Tatanagar Workshops?

(d) Has the experience of recent tenders continued to show that the lowest tender remains at approximately Rs. 745 above the actual cost of underframes manufactured at these works?

(e) How many underframes have been completed at the Tatanagar Workshops during the year 1929 and at what average cost?

(f) On the assumption of an annual output of 550 underframes and the overhead charges to be as stated slightly over 8 per cent. of actual works cost, what would be the percentage of cost on half such output and how are the details arrived at showing interest on capital at charge, interest on working capital, percentage of depreciation and headquarter supervision? What would this represent per underframe and percentage on sale value taking same at Rs. 8,500?

(g) Is there any truth in the rumour that Government contemplate disposing of the Tatanagar Workshops and if so, will full opportunity be given to firms and companies in India to consider the position?

Mr. A. A. L. Parsons: (a) The figure of Rs. 88,98,771, mentioned by the Honourable Member, includes Rs. 8,84,000, which is an estimate of further expenditure on works now nearing completion. I should explain, however, first that there is an item of Rs. 42,916 representing expenditure in connection with the purchase which, though not included in the purchase price, should, I think, be included in the total capital cost of the Works; and secondly, that in addition to

the credit of Rs. 2,66,574, a sum of Rs. 5,26,167 was written back to revenue on the completion of the purchase, after Government had satisfied themselves by a detailed examination of the plant and machinery taken over, that this amount was certainly not less than the difference between the purchase price paid for the Peninsular Locomotive Company's Works, and the value of the property at the time it was purchased. For if the Works had been burdened with a sum which, in effect, represented compensation to the Peninsular Locomotive Company, it would have been impossible to show the real cost of manufacturing underframes.

(b) The amount which should be taken as working capital cannot be determined exactly until the end of March, 1930, when the Works will have been manufacturing for their first complete year. Meanwhile, as the Honourable Member will see from the statements I am laying on the table, an approximate figure has been taken in calculating works on cost.

(c) and (d). The firms quoted nine different rates for broad gauge coaching underframes, as minor modifications were required for different railways. I have selected representative quotations for underframes without additions or modifications, and lay on the table a statement giving the information required by the Honourable Member. He will find two columns dealing with the Tatanagar Workshops. First, the original estimate which was submitted by the shops as a quotation and was considerably above the most recent cost prices—this was not accepted by the Railway Board; and second the actual cost of underframes recently constructed.

(e) 366 broad gauge bogie underframes were completed up to the 31st December, 1929, and it is expected that 85 more broad gauge bogie underframes, 159 broad gauge four-wheeled underframes and 66 metre-gauge bogie underframes will be completed by the 31st March, 1930. It will not be possible to give figures of average cost until the year has closed.

(f) On the same basis as previously adopted, the percentage of cost, if the output were halved, would be a little over 12½ per cent. I lay on the table a statement showing the details of these calculations. The figure per underframe is Rs. 970, compared with Rs. 555, the percentage on a sale value of Rs. 8,500 would be 8.8 compared with 6.5.

(g) The answer to the first part of the question is in the negative and the second part does not arise.

Quotations for B. G. Bogie Coaching underframes for 1930-31.

	No.	Indian Firm A.	Indian Firm B.	Lowest English.	Tatanagar (estimate).	Tatanagar (actual cost).	Remarks.
		Rs.	Rs.	Rs.	Rs.	Rs.	
Rate delivered .	46	8,230	10,286	*8,024	9,550	7,730	
„ Works .	55	8,200	10,242	*8,024	9,530	7,710	
Rate delivered .	46	8,237	10,293	9,489	9,596	7,776	
„ erected at destination.	55	8,218	10,260	9,261	9,551	7,731	

* C. & f. quotation.

Estimated cost of production of one underframe at Talanagar on the basis of an output of 552 underframes a year.

	Rs.	Rs.
1. Prime cost—		
(i) Direct wages	250	
(ii) Materials	5,720	
	<hr/>	5,970
2. Factory oncost—		
(i) Indirect wages	174	
(ii) Consumable stores	244	
(iii) Water and electricity	102	
(iv) Depreciation and interest on plant	178	
	<hr/>	69
3. Works oncost—		
(i) Depreciation and interest on buildings less rents	240	
(ii) Interest on floating capital	100	
(iii) Water and electricity	5	
(iv) Supervision	160	
(v) Accounts and audit	49	
(vi) Administrative expenses	154	
(vii) Contingencies	14	
	<hr/>	722
		<hr/>
Plus 1% per underframe to cover Headquarter supervision		7,300
		<hr/>
		37
		<hr/>
All in cost of Production		7,427
		<hr/>

Note.—(1) Direct wages monthly figure has been estimated at Rs. 11,500.

(2) The output per month is 46 underframes.

Items taken in arriving at figure of 8% given by Mr. P. R. Rau in reply to part (e) of starred question No. 1910 by Sir Darcy Lindsay on 28th March, 1929.

Items.	Rs.
2 (iv)	178
3 (i)	240
(ii)	100
Headquarter supervision	37
	<hr/>
	555
	<hr/>
All in cost of production	7,427
	555
	<hr/>
Actual works cost	6,872
	<hr/>

Rs. 555 is about 8% of Rs. 6,872.

Estimated cost of production per underframe on an output of 291, 68'0" B. G. underframes a year.

	Rs.	Rs.
1. <i>Prime cost—</i>		
(i) Direct wages	447	
(ii) Materials	5,720	
	6,167	6,167
2. <i>Factory oncost—</i>		
(i) Indirect wages	252	
(ii) Consumable stores	354	
(iii) Water and electricity	194	
(iv) Depreciation and interest on plant	338	
	1,138	1,138
3. <i>Works oncost—</i>		
(i) Depreciation and interest on buildings less rents	454	
(ii) Interest on floating capital	135	
(iii) Water and electricity	8	
(iv) Supervision	304	
(v) Accounts and audit	92	
(vi) Administrative expenses	293	
(vii) Contingencies	22	
	1,308	1,308
		8,613
<i>Plus ½% per underframe to cover Headquarter supervision</i>		43
		8,656

Note.—(1) The direct wages monthly figure has been estimated at Rs. 10,850 per mensem.
 (2) The output per month is 24·25 underframes.

Items.	Rs.
2 (iv)	338
3 (i)	454
(ii)	135
Headquarter supervision	43
	970

ORDERS FOR RAILWAY BRIDGE SPANS.

154. *Sir Darcy Lindsay: (a) To what extent do the Railway Board exercise control in acceptance of tenders for railway bridge spans in the case of other than State-owned railways, but in which the Government of India have interests?

(b) What orders exceeding Rs. 1,00,000 for railway bridge spans were placed out of India by Company-worked railways, in which Government have interests during the year 1928-29, and by how much was their landed in India cost lower than locally tendered prices?

(c) What similar orders have been placed abroad up to date in the current year 1929-30 and by how much was their estimated landed in India cost lower than locally tendered prices?

(d) Were the contracts placed out of India during 1928-29 completed in each case by the delivery dates stated in the contract, and if not, how much delay occurred, and were penalties inflicted according to the terms of contract?

Mr. A. A. L. Parsons: (a) The Railway Board do not exercise control on the placing of orders. Under the terms of the contracts, the decision rests with the Boards of Company-managed railways, or their Agents.

(b), (c) and (d). I am seeing if I can obtain the information for the Honourable Member.

RAILWAY SLEEPERS.

155. ***Sir Darcy Lindsay:** (a) With reference to the questions commencing with starred question No. 855 asked by Pandit Nilakantha Das on the 11th September, 1929, will Government state the present policy of the Railway Board and Railway Administrations in which Government have a voice in regard to sleeper supplies and more particularly as to wooden and iron sleepers?

(b) Are Government aware that, owing to the recent falling off in the railway demand for wooden sleepers, there is a grave danger of an important and valuable local industry having to close down, particularly in places supplying the Eastern Group where, to meet the heavy overheads, a steady demand of sufficient volume is essential?

(c) Are Government aware that the industry gives employment to a large volume of labour in a part of the country where employment is difficult to find and that the closing down of the industry is likely to inflict great hardship on a poor class of people who have no other means of livelihood?

Mr. A. A. L. Parsons: (a) The policy of the Railway Board was explained in this House in a speech which I made on February 27th, 1929. Briefly, the Board consider that the interests of the railways are best served by keeping all the three industries in competition.

(b) Government are aware that the reduced demands of sleepers, due to the slowing down of the programme of new construction and to other causes, is affecting the operations of firms dealing in wooden sleepers, but this also applies to the steel and cast-iron industries.

(c) Much of the labour in connection with the wooden sleeper industry is, Government believe, imported, but undoubtedly the local inhabitants are also affected, particularly in respect of transport operations. Government regret that this should be the effect of a reduction in the demand for sleepers, but it is unavoidable, for it is impossible to place orders for more sleepers than are actually required. It is also believed that the local labour referred to by the Honourable Member has in the past been in the habit of migrating to localities where agricultural employment is available.

THE WOODEN SLEEPER INDUSTRY.

156. ***Sir Darcy Lindsay:** (a) Will Government be pleased to state whether due regard has been had to the importance of the wooden sleeper industry in opening out and developing large tracts of forest areas?

(b) Do Government propose to examine the position again with a view to this indigenous industry being given necessary support in a steady and sufficient volume of orders to insure that the employment of the people will continue?

Mr. A. A. L. Parsons: (a) Yes. It is with this object in view that the Railway Board have undertaken surveys for the construction of branch lines, when funds are available, in remote areas passing through tracts of forests from which sleepers will be obtained.

(b) The position is constantly under examination by the Railway Board and it is not considered that there is anything to be gained by a special examination of the position, at any rate until the demand for sleepers increases. The volume of orders must be governed by the funds available.

ROYALTIES PAYABLE ON SAL SLEEPERS.

157. ***Sir Darcy Lindsay:** What royalties are payable to the Forest Department and Indian States on sal sleepers by suppliers to the Eastern Group?

Mr. A. A. L. Parsons: The royalties vary and are governed by local circumstances, such as the expense of getting sawyers to the leased forest and the cost of transporting the sleepers to railhead. The amount of royalty charged is a matter of private negotiation between the owner of the forest and the sleeper supplier. The information asked for is not available and would be difficult to collect, as suppliers to the Eastern Group carry on operations in Bengal, Assam, the Central Provinces, Bihar and Orissa and several Feudatory States.

Sir Darcy Lindsay: Is it a fact that in some cases as much as Rs. 3 per sleeper is charged as royalty?

Mr. A. A. L. Parsons: The Railway Board have no information for that is a matter of private negotiation between the suppliers of the sleepers and the owners of the forests.

COMPARATIVE COST OF IRON AND WOODEN SLEEPERS.

158. ***Sir Darcy Lindsay:** (a) For what period have iron sleepers been in general use in India, and on what basis is a probable life of 50 years arrived at?

(b) Is the maintenance cost of iron sleepers on an increasing scale and if so, how does it compare with the maintenance cost of wooden sleepers?

Mr. A. A. L. Parsons: (a) Iron sleepers have been in general use in India for over 50 years.

The life of 50 years is based on actual experience of railways.

(b) I take the first part of the Honourable Member's question to mean whether, other things being equal, it costs more to maintain a cast-iron sleeper as its age increases. If so, the answer is in the negative. The cost of maintaining cast-iron or wooden sleepers may be taken to be identical.

Mr. E. F. Sykes: Is it not a fact that the maintenance cost depends rather on the nature of the bank than the nature of the sleeper?

Mr. A. A. L. Parsons: That is generally so, Sir.

SLEEPERS USED FOR THE RAIPUR-VIZIANAGRAM RAILWAY.

159. ***Sir Darcy Lindsay:** (a) Is it a fact that the Raipur-Vizianagram Railway extension now under construction passes through sal forests?

(b) If the answer to part (a) is in the affirmative, were special tenders invited for delivery of sal sleepers at site and how does the rate compare with the steel or iron sleeper delivered at site?

(c) Why was it decided to use steel sleepers in the Raipur-Vizianagram Railway construction? Is it not generally recognised by engineers that new lines should be laid with wooden sleepers?

(d) Has the officer-in-charge issued any report as to the suitability or otherwise of the steel sleepers imported from the continent for this new construction?

Mr. A. A. L. Parsons: (a) Yes.

(b) No special tenders were invited for delivery of sal sleepers at site, as general tenders were called for sal sleepers throughout the area which includes this site.

The rates of tenders for sal sleepers in the whole area were:

Last sleeper year	Rs. 8 per sleeper
This sleeper year	Rs. 7-8-0 per sleeper

a very few sleepers being offered at Rs. 7/7-

Steel sleepers at site cost from Rs. 10 to Rs. 11 and are a better financial proposition than sal at Rs. 7/8.

(c) Engineers consider the steel sleeper is very nearly as suitable as the wooden sleeper for new lines, except in places where bad soil is met with.

(d) The Chief Engineer, Bengal Nagpur Railway, definitely considers steel sleepers suitable for this new construction.

REPLACEMENT OF SAL SLEEPERS ON THE BENGAL NAGPUR RAILWAY.

160. ***Sir Darcy Lindsay:** (a) Will Government state the particular reasons for replacement of a large quantity of sound sal sleepers (believed to be over three lakhs) by steel sleepers on the Kharagpur-Waltair and Jarsaguda Bilaspur sections of the Bengal Nagpur Railway?

(b) At what cost were the sleepers replaced, and is it the intention to utilise these sound sleepers on other sections of the Railway, thereby reducing the volume of fresh purchases?

(c) Is it the intention of the Administration similarly to replace sound sal sleepers on the Jarsaguda-Nagpur section of the Bengal Nagpur Railway and if so at what cost?

Mr. A. A. L. Parsons: (a) The Kharagpur-Waltair and Jarsaguda-Bilaspur sections of the Bengal Nagpur Railway are being re-sleepered in conformity with a track strengthening programme which has been in progress during the last three years. Some 5½ lakhs of wooden sleepers are being replaced, out of which about 1½ lakhs are still in sound condition. The use of mixed steel and wooden sleepers is objectionable from a technical point of view.

(b) The original cost of the sal sleepers was Rs. 9 each, while the new steel sleepers cost from Rs. 10/4 to Rs. 10/12 each, depending on the type of sleeper used. All sound wooden sleepers released have been or will be used to replace unsound sleepers in other sections of the line.

(c) The strengthening programme referred to does not extend to the section Bilaspur to Nagpur.

Mr. B. Das: Is the Honourable Member aware that the relaying of the Kharagpur-Waltair section has considerably improved the permanent way and there is no more jolting on the Bengal Nagpur Railway in that section?

Mr. A. A. L. Parsons: I am very glad to know from the Honourable Member that one of the objects for which we started this relaying has been achieved.

RESOLUTION PASSED BY THE EAST AFRICAN NATIONAL CONGRESS AT NAIROBI.

161. ***Mr. B. Das:** (a) Have Government seen the resolutions passed at the East African Indian National Congress held in Nairobi on the 6th, 7th, 8th December 1929, under the presidency of Mrs. Sorojini Naidu and as was published in the *Democrat* of Nairobi of the 7th December and reproduced in the *Hindu* of Madras of the 7th January 1930?

(b) Will Government be pleased to make a general statement as to action, if any, taken by them on the subject-matter of these resolutions so far?

Sir Frank Noyce: (a) Yes.

(b) The Congress appears to have passed no less than 26 resolutions on a variety of subjects, and I fear that a statement covering all of them would take up a period of time not altogether commensurate with the interest or importance of many of the subjects. If the Honourable Member will be good enough to specify the resolutions regarding which he wants information, I shall endeavour to comply with his request as far as may be possible.

STATUS OF INDIANS IN TANGANYIKA.

162. ***Mr. B. Das:** With reference to the following resolution on Tanganyika, passed in December, 1929, at the East African Indian National Congress at Nairobi, will Government be pleased to state if the Honourable Sir Muhammad Habibullah, while he led the Indian delegation to the last session of the League of Nations at Geneva, did make any statement in the matter or did demand the guarantee of equality of status for Indians in Tanganyika? If so, will Government be pleased to make a statement on the representation made by Sir Muhammad Habibullah at Geneva?

"Whereas the mandate guarantees equality of status to all people inhabiting the Tanganyika Territory and whereas federation or closer union in any form is bound to prejudicially affect the autonomy of Tanganyika in particular the status of Indians, this Congress is strongly opposed to the inclusion of Tanganyika in any scheme of federation or closer union."

Sir Frank Noyce: The answer to the first part of the question is in the negative. The second part does not, therefore, arise.

APPOINTMENT OF A TRADE COMMISSIONER IN EAST AFRICA.

163. *Mr. B. Das: (a) With reference to the following resolution on the appointment of a Trade Commissioner in East Africa, passed at Nairobi in December 1929, by the East African Indian National Congress, will Government be pleased to state the reasons for the delay of that appointment?

"This Congress regrets the delay on the part of the Government of India in regard to the appointment of a Trade Commissioner in East Africa, and urges that the appointment of a non-official Indian as Trade Commissioner be expedited."

(b) What were the recommendations of the Meek Committee regarding the opening up of a Trade Commissioner's office in East Africa?

The Honourable Sir George Rainy: With your permission, Sir, I will answer questions Nos. 163 and 168 together.

As I have already informed the Honourable Member, in reply to his starred question No. 111, on the 21st January, the Trade Mission recommended the appointment of Indian Trade Commissioners at Durban, Mombasa and Alexandria. It is expected that a final decision in the matter will be reached shortly. These proposals form a part of the general scheme for the appointment of Indian Trade Commissioners abroad. The scheme is an important one involving considerable expenditure and its examination in all its aspects has necessarily taken some time.

ASSISTANCE RENDERED TO THE KENYA DEPUTATION TO LONDON.

164. *Mr. B. Das: Will Government be pleased to state what assistance was rendered by (a) the Government of India, and (b) the India Office to the Kenya Deputation to London led by Pandit Hirday Nath Kunzru, M. L. A. last October?

Sir Frank Noyce: No request for assistance was made by the Honourable Pandit.

Pandit Hirday Nath Kunzru: May I inform the Honourable Member that I did ask for all possible assistance from the Government of India and the Secretary of State for India?

Sir Frank Noyce: I think the Honourable Member got all the assistance he wanted. He is in a better position to say than I am, but I think he received assistance from the India Office and the Secretary of State commensurate with the importance of his mission.

Pandit Hirday Nath Kunzru: May I then ask the Honourable Member to correct his answer? He said I asked for no assistance either from the Government of India or the Secretary of State?

Does the Honourable Member realise that even now the assistance of the Secretary of State for India and the Government of India is needed? (Hear, hear.)

Sir Frank Noyce: Yes, Sir.

DISCUSSION OF THE EAST AFRICAN QUESTION IN THE LEGISLATIVE ASSEMBLY.

165. *Mr. B. Das: (a) Will Government be pleased to state whether they intend to allot a day in the Assembly for the discussion of (i) Sir Samuel

Willson's Report on the East African question, and (ii) the Hilton Young Commission's Report on the same? If so, when?

(b) Will Government be pleased to lay on the table a copy of the full text of the Report that the Right Honourable Srinivasa Sastri made to the Government of India on his visit to East Africa?

(c) Will Government be pleased to lay on the table all relevant correspondence with the Secretary of State for India on the Hilton Young Commission's Report and also Sir Samuel Willson's Report to enable the House to have complete material before the general debate on the East African problem?

Sir Frank Noyce: (a) Ordinarily this matter would have come up for discussion on the Resolution of which Mr. K. C. Roy has given notice. As Mr. Roy's Resolution has not obtained a place in the ballot, Government will find the time on a Government day for the discussion. It is not possible at present to say precisely when the discussion will take place.

(b) The Government of India hope to be able to comply with the Honourable Member's request shortly. The Report will be published simultaneously in England, India and East Africa, and the earliest date on which simultaneous publication could be conveniently arranged is now under discussion.

(c) I have already stated several times that the Government of India cannot consider requests for publication of correspondence until the decision of His Majesty's Government becomes known.

APPOINTMENT OF AN INDIAN TO OFFICIATE FOR SIR K. V. REDDI IN SOUTH AFRICA.

166. ***Mr. B. Das:** (a) Will Government be pleased to state why no Indian was sent to South Africa to officiate during the absence of Sir K. V. Reddi?

(b) How long will Sir K. V. Reddi stay in India? In case his stay in India is prolonged, are Government prepared to send an Indian non-official to officiate for Sir K. V. Reddi?

Sir Frank Noyce: (a) and (b). Sir K. V. Reddi has come to India on short sick leave for medical reasons and Government very much hope that he will be able to return to his post in South Africa before long. In the circumstances, the most convenient and economical course was to appoint the Secretary to the Agent to hold charge of the current duties of the post of Agent. Should Sir Kurma's absence from the Union be unexpectedly prolonged, or reasons of health compel him to decide not to rejoin his appointment, the question of sending out a successor will be taken up, and the Honourable Member may rest assured that his suggestion will be fully considered at the time.

CONSULAR OFFICES.

167. ***Mr. B. Das:** (a) Will Government be pleased to state at what state of negotiation the opening of consular offices at (i) Hamburg, (ii) New York, and (iii) Milan, stands at present?

(b) Will Government be pleased to lay on the table the complete correspondence on the subject between the High Commissioner in London and the Government of India, and will Government be pleased to state the causes of delay over these new offices?

The Honourable Sir George Rainy: (a) The Honourable Member presumably refers to the proposal to appoint Trade Commissioners at the places named in the question, and I would refer him to the reply given by me to his starred question No. 110 on the 20th January.

(b) In view of the length of the High Commissioner's letter, Government do not propose to lay a copy of it on the table, but I am sending the Honourable Member a copy for his information. The scheme is an important one, involving considerable expenditure, and its examination in all its aspects has necessarily taken some time.

APPOINTMENT OF INDIAN TRADE COMMISSIONERS IN CERTAIN COUNTRIES.

†168. ***Mr. B. Das:** (a) What are the countries in which the Meek Committee recommended the immediate establishment of Indian Trade Commissioner's offices?

(b) Will Government be pleased to state the reasons for the delay of opening such offices in East Africa, South Africa, Turkey, Russia, China and Japan?

PROVISION OF A GOODS SHED AND PLATFORM AT BURHANPUR RAILWAY STATION.

169. ***Mr. Abdul Qadir Siddiqi:** (a) Is it a fact that the merchants of Burhanpur in the Central Provinces have submitted several representations to the railway authorities complaining of the want of a goods shed and platform sufficient to accommodate the incoming and outgoing traffic at that station?

(b) Is it a fact that at Burhanpur cotton bales, cotton seeds, oil seeds and other articles are always kept on the open platform exposed to the sun and rain and liable to damage by fire?

(c) Is it a fact that this question has been under consideration for several years and that yet no action has been taken to provide an adequate goods shed and platform, as has been done at several other stations?

(d) Will Government be pleased to state why the matter is being delayed and when the necessary goods shed and platform will be constructed?

Mr. A. A. L. Parsons: (a) Yes.

(b) and (c). The Agent of the Great Indian Peninsula Railway reported last April that facilities for dealing with goods traffic at Burhanpur are now inadequate, and that it has been decided to effect the necessary improvements, at a cost of about Rs. 1,00,000 at an early date.

(d) The delay is due to this work having been at first included in the larger and more expensive scheme for remodelling the station. It is expected that the work will be taken in hand this year.

†For answer to this question, see answer to question No. 163.

ARMY CLOTHING FACTORIES.

170. *Mr. Abdul Latif Sahib Farookhi: (a) Will Government be pleased to state how long the two clothing factories in Madras and in Shahjahanpur have been in existence?

(b) What is the history of the Shahjahanpur Factory?

(c) When and why did it replace the old Alipur Factory?

(d) What system of manufacture of clothing for the Army in India was followed in the Army Clothing Factory, Madras, till 1914? Has there been any change since then in the method of manufacture? If so, what is the change and who is responsible for it?

(e) What is the advantage gained by Government by the change in the system of manufacture other than financial considerations, if any? Will Government be pleased to furnish a statement of the loss or gain as the case may be derived by the change in the system? If it is a profitable concern, why is it not followed in Shahjahanpur also or fully carried out in the Madras Factory?

(f) Is it the policy of Government to endeavour to convert the Army Clothing Factory, Madras, into a "Contract Depot" and to strengthen and convert the experimental factory at Shahjahanpur into a modern factory and can this be done only at great expense to the State? What is the object underlying this policy?

(g) Why is not one uniform system of manufacture followed in the Clothing Factories at Madras and Shahjahanpur as it was before 1914?

(h) Are Government prepared to consider the desirability of allotting a greater share in the distribution of manufacture quota to the former than the latter?

Mr. G. M. Young: With your permission, Sir, I propose to answer questions Nos. 170, 171 and 172 together.

The information required by the Honourable Member is being compiled and will be communicated to him in due course.

OUTTURN OF ARMY CLOTHING FACTORIES AT MADRAS AND SHAHJAHANPUR.

†171. *Mr. Abdul Latif Sahib Farookhi: (a) What is the normal capacity of production of the workshop in peace times and during the Great War for any one year for the Madras Factory Workshop and for the Shahjahanpur Factory respectively and what was the method adopted to increase the output during the War?

(b) What is the highest outturn of production at the Madras and the Shahjahanpur Factories respectively in any one year from 1922 to 1924 and the ratio of cost of establishment to the production in the manufacture of clothing for the Army in India?

(c) How far has Shahjahanpur, as a manufacturing centre, been able to compete with the Madras Clothing Factory in the manufacture of special clothing for the body-guards, and bands of the Viceroy and of the provincial Governors of the three presidencies and for liveries of the Viceroy's household and of the three provincial Government Houses?

†For answer to this question, see answer to question No. 170.

(d) How far were the Madras Clothing Factory contractors able to compete in the manufacture of special clothing with the Madras Clothing Factory Workshop?

EXPENDITURE OF ARMY CLOTHING FACTORIES AT MADRAS AND SHAHJAHANPUR.

†172. ***Mr. Abdul Latif Sahib Farookhi:** (a) Will Government be pleased to furnish separate annual financial statements from 1925—1929 for the Madras and Shahjahanpur Factories showing the expenditure for the Madras and Shahjahanpur Factories under the following heads?

- (1) Machinery.
- (2) Furniture, plant, etc.
- (3) Clothing materials and garniture.
- (4) Electricity.
- (5) Stationery.
- (6) Requirements necessary for manufacture other than what is shown in (1), (2), (3) and (5) above.
- (7) European Civil Officers.
- (8) European Military Officers.
- (9) Indian Civil Officers.
- (10) Indian Military Officers and Non-commissioned officers.
- (11) Clerical establishment.
- (12) Mechanics and menial establishment.

(b) (i) Will Government be pleased to furnish separate annual financial statements from 1927—1929 for the Madras and the Shahjahanpur Factories showing the expenditure for production of garments for the Army in India under two main heads, namely workshop and contractors?

(ii) Will Government be pleased to furnish similar statements for the years 1922 and 1924?

BUILDING CONTRACTS IN NEW DELHI.

173. ***Lala Rang Behari Lal:** (a) Will Government be pleased to state if there was any understanding that building and other contracts in connection with the Imperial Capital be not given to contractors who were residents of Delhi?

(b) Will Government be pleased to state if there was an understanding that local Delhi labour be not employed in connection with the Imperial Capital?

(c) If the answer to part (a) be in the affirmative, how long will this understanding continue?

(d) If the reply to part (a) be in the negative, will Government be pleased to state how many contracts, and of what value, were given to the contractors who belong to Delhi?

(e) If the answer to part (d) be in the negative, are Government prepared to take into consideration the claims of the Delhi contractors in future?

The Honourable Sir Bhupendra Nath Mitra: (a) and (b). There are no such understandings.

(c) Does not arise.

(d) A very large number of contracts have gone and do go to residents of Delhi. To provide the information asked for by the Honourable Member would involve a vast amount of work in compiling statistics from the records of 18 years, and the labour would not be commensurate with the benefit derived.

(e) Does not arise.

Mr. B. Das: May I inquire when the Honourable Member wishes to abolish the Delhi Capital department, now that the work is finished?

The Honourable Sir Bhupendra Nath Mitra: There is no Delhi Capital department so far as I am aware.

Mr. B. Das: I mean the Engineering department.

The Honourable Sir Bhupendra Nath Mitra: The Engineering department, by which I presume the Honourable Member means the staff of the Chief Superintending and Divisional Engineers, cannot be abolished, as the staff will be required for the purpose of maintenance, while there will be a certain amount of construction work also to be done for the Central Government, not only in Delhi but in other areas.

Mr. B. Das: Do I take it that there is no desire to reduce the number of staff that was engaged during the period of construction of this huge Capital?

The Honourable Sir Bhupendra Nath Mitra: The staff is being reduced from year to year and is being adjusted to meet the changing requirements of the situation.

CONTRACTS FOR SUPPLIES TO ARMY CANTEENS.

174. ***Lala Rang Behari Lal:** (a) Will Government be pleased to state whether, after the abolition of the Canteen Board, contracts relating to canteens were given out to contractors?

(b) Will Government be pleased to state whether these contractors have to fulfill certain qualifications regarding experience, etc., and whether these contractors are entitled to sub-let their contracts?

(c) In case the contractors are not entitled to sub-let, will Government be pleased to state whether one contractor can take contracts relating to several units at the same time?

(d) In case the answer to part (c) is in the affirmative, will Government be pleased to state if they have made inquiries that such contractors do not sub-let?

(e) If Government have not made such inquiries, are Government prepared to make such inquiries?

(f) Is it a fact that contractors, by sub-letting, are realising rebates at double the rates at which they are paying to units?

Mr. G. M. Young: (a) Yes.

(b) The answer to the first portion is in the affirmative and to the second in the negative.

(c) Yes.

(d) and (e). The Honourable Member is referred to the reply given on the 20th March, 1929, to part (a) of starred question No. 1166 and to starred question No. 1167.

(f) This part of the question does not arise, as the sub-letting of contracts is not permissible. I may, however, draw the attention of the Honourable Member to the reply given on the 20th March last to part (d) of starred question No. 1166.

CONTRACTS FOR FIREWOOD FOR THE ARMY.

175. ***Lala Rang Behari Lal:** (a) Will Government be pleased to state the rates at which the contracts for the supply of firewood to units have been placed in the United Provinces districts for various stations and in the Delhi Brigade Area?

(b) In case the Delhi Brigade Area rates be higher than the United Provinces districts' rates, will Government be pleased to state the reasons for the contract being placed at the higher rates in the Delhi Brigade Area?

(c) Is it a fact that the market rates for firewood are higher at Delhi, Agra and Muttra than at Meerut, Bareilly, Jhansi and other stations in the United Provinces Districts?

Mr. G. M. Young: With your permission, Sir, I will answer questions Nos. 175 to 179 together.

The information has been called for and will be sent to the Honourable Member in due course.

CONTRACTORS IN THE DELHI BRIGADE AREA.

†176. ***Lala Rang Behari Lal:** Will Government be pleased to state if it is a fact that the names of certain contractors in the Delhi Brigade Area were removed last year from the list of the approved contractors in the Indian Army Service Corps?

CONTRACTS FOR FIREWOOD IN THE DELHI BRIGADE AREA.

†177. ***Lala Rang Behari Lal:** (a) Will Government be pleased to state if, in the Delhi Brigade Area, contracts for the supply of firewood this year were placed at the highest tender while lower tenders were ignored?

(b) If the answer to part (a) be in the affirmative, what are the reasons for this procedure?

(c) Will Government be pleased to state if they are aware of the fact that this procedure was adopted in the interest of a certain contractor to the detriment of Government and the other contractors?

†For answer to this question, see answer to question No. 175.

SUPPLY OF HIRED TRANSPORT IN THE DELHI BRIGADE AREA.

†178. ***Lala Rang Behari Lal:** (a) Will Government be pleased to state if, during the last ten years, contracts for the supply of hired transport were given on competitive low tender rates in the Delhi Brigade Area for units and for manœuvres?

(b) Will Government be pleased to state if this policy was followed last year?

(c) If the answer to part (b) be in the negative, will Government be pleased to state the reasons for abandoning the previous policy?

(d) Is it a fact that, last year, a condition that the contractors would have no claim for transport for troops going to practice camps and passing through the Delhi Brigade Area was added to the usual form of contract approved by the Government of India?

(e) Is it a fact that, in the Delhi Brigade Area, a tender for hired transport for troops passing through the said Area was called for last year?

(f) Will Government be pleased to state if it is a fact that this tender was issued only to a few contractors and that there was practically no competition, as the tender was not issued to all the contractors?

ISSUE OF TENDERS IN THE DELHI BRIGADE AREA.

†179. ***Lala Rang Behari Lal:** Will Government be pleased to state if they are aware of the fact that in the Delhi Brigade Area tenders are issued in a manner which avoids competition?

PAY OF THE STAFF OF THE AUDIT OFFICE, INDIAN STORES DEPARTMENT.

180. ***Lala Rang Behari Lal:** (a) Will Government be pleased to state if it is a fact that, consequent on the location of the Audit Office, Indian Stores Department, in Delhi, three-fifths of the special pay originally sanctioned for the non-gazetted staff of that office, has been withdrawn with effect from the 1st September, 1929, on the ground that it contained an element of compensatory allowance granted in view of the extra expenditure involved in the move of the office between Simla and Delhi?

(b) If the reply to part (a) be in the affirmative, was it permissible under the Fundamental Rules to sanction special pay to cover compensatory allowance of the nature referred to above?

(c) If not, was any indication whatsoever contained in the terms of appointment offered to the staff that three-fifths or any part of the special pay represented compensatory allowance which might be withdrawn at any time after the cessation of the move?

The Honourable Sir George Schuster: With your permission, Sir, I will answer questions Nos. 180 to 186 together.

The Government are obtaining certain information to enable them to reply fully to the Honourable Member's questions. A further answer will be sent to him as soon as possible.

†For answer to this question, see answer to question No. 175.

PAY OF THE STAFF OF THE AUDIT OFFICE, INDIAN STORES DEPARTMENT.

†181. ***Lala Rang Behari Lal**: Will Government be pleased to state:

- (i) whether compensatory allowance counts for (a) leave salary, and (b) pension;
- (ii) whether the full amount of the special pay as originally sanctioned for the Audit Office, Indian Stores Department, counted as emoluments for (a) leave salary and (b) pension;
- (iii) whether in the course of about seven years during which this office has been in existence, the staff were informed of the real character of the special pay at any time before the 25th February, 1929, i.e., the date on which Government issued their Finance Department letter No. F./15-IX/R.-11/28?

PAY OF THE STAFF OF THE AUDIT OFFICE, INDIAN STORES DEPARTMENT.

†182. ***Lala Rang Behari Lal**: (a) Will Government be pleased to state if it is a practice in the Offices of the Auditor General and the Accountant General, Central Revenues, to allow a substantial increase in initial pay to the experienced hands recruited from other offices as well as to the new recruits with high academic qualifications?

(b) Is it a fact that, for the sake of efficient working of a newly organised Department, the Audit Officer, Indian Stores Department, recruited young men with high academic qualifications as well as trained hands from various Government offices spread over different provinces in India, some of which are thousands of miles away from Delhi?

(c) Is it a fact that, as there was a "special pay" attached to the posts, no increase in initial pay was given by the Audit Officer either to the experienced men from other offices, or to the fresh recruits with high academic qualifications, and that it was believed by the men concerned that the special pay offered to them was in lieu of such remuneration?

PAY OF THE STAFF OF THE AUDIT OFFICE, INDIAN STORES DEPARTMENT.

†183. ***Lala Rang Behari Lal**: (a) Will Government be pleased to state whether it has not been their recognised policy, approved by the Secretary of State, that no change in rules or revision of pay should so operate as to adversely affect the existing Government servants in the matter of any emoluments counting for the time being towards leave salary and pension?

(b) If so, will Government be pleased to state the reasons why the policy described in part (a) above was not followed in regard to those employees of the Audit Office, Indian Stores Department who joined that office on full special pay before the 25th February, 1929, i.e., the date on which the real character of the special pay is stated to have been revealed to the staff for the first time in the history of the office?

PAY OF THE STAFF OF THE AUDIT OFFICE, INDIAN STORES DEPARTMENT.

†184. ***Lala Rang Behari Lal**: (1) Will Government be pleased to state if it is a fact that the considerations on which special pay is granted are the following:

- (a) the specially arduous nature of the duties; or

†For answer to this question, see answer to question No. 180.

- (b) a specific addition to the work or responsibility; or
 (c) the unhealthiness of the locality in which the work is performed?
- (2) Will Government be pleased to state:
- (i) which of the above considerations they had in view when they sanctioned special pay for the non-gazetted staff of the Audit Office, Indian Stores Department;
 - (ii) which of the conditions referred to above changed or ceased to exist so as to justify the withdrawal of three-fifths of the special pay from the 1st September, 1929; and
 - (iii) how the proportion of three-fifths referred to in part (ii) above was determined?

PAY OF THE STAFF OF THE AUDIT OFFICE, INDIAN STORES DEPARTMENT.

†185. ***Lala Rang Behari Lal:** (a) Is it a fact—

- (i) that one of the grounds on which the late Auditor General, Sir Frederic Gauntlett, originally recommended special pay for the non-gazetted staff of the Audit Office, Indian Stores Department, was recorded by that official to be the important and responsible nature of the work performed by the staff, and that the recommendation was accepted by Government; and
- (ii) that the retention, as a tentative measure, of two-fifths only of the special pay was recently recommended by the same official not on the ground that the nature of work is important and responsible, but on the ground that the growth of work is at present spasmodic and abnormal and that this recommendation was also accepted by Government?

(b) If the replies to parts (a) (i) and (ii) be in the affirmative, will Government be pleased to indicate the changes which the nature of work performed by the staff of the Audit Office, Indian Stores Department, has undergone so as to be considered to have lost the importance and responsibility previously ascribed to it and to have subsequently acquired the character of being merely voluminous?

(c) Is it a fact that the late Audit Officer, Indian Stores Department, Mr. P. N. Mukherji, when called upon by the Auditor General to submit his views regarding the continuance of the special pay, not only justified its retention, but also recommended the grant of a compensatory allowance if the move of the office between Simla and Delhi were to continue?

(d) Will Government be pleased to state what special investigations were made before they set aside the recommendations of the late Audit Officer and decided to withdraw three-fifths of the special pay?

PAY OF THE STAFF OF THE AUDIT OFFICE, INDIAN STORES DEPARTMENT.

†186. ***Lala Rang Behari Lal:** (a) Is it a fact that the present Audit Officer, Indian Stores Department, Mr. P. M. Rau, while forwarding memorials from his staff, praying for the continuance of special pay, omitted to make any comments regarding the justification of the special pay, and merely referred, as examples to only a few out of a large number of cases in which hardship was caused by the withdrawal of special pay?

†For answer to this question, see answer to question No. 180.

(b) Will Government be pleased to state if there was any object behind the recommendation of Mr. P. M. Rau?

(c) Is it a fact:

- (i) that the proportion which the amount of special pay withdrawn bears to the present pay drawn by the staff of the Audit Office, Indian Stores Department, is, in a very large number of cases more than 40 per cent.;
- (ii) that on the transfer of the headquarters of the Office of the Accountant General, Central Revenues, from Calcutta to Delhi, the existing incumbents, instead of being brought on to the lower scale of pay applicable to Delhi, were not only allowed to retain the higher Calcutta scale of pay, but also compensated in many other ways such as by the grant of bonuses and increases in pay; and
- (iii) that certain officers of the Northern India Salt Revenue Department were wrongly admitted to the benefit of the European Service or Special Leave Rules and that Government, in their Finance Department letter No. D-366-R.-1/28, dated the 19th September, 1928, decided not to withdraw such privileges on the ground that, if concessions once allowed on their authority be withdrawn, it would cause hardship and serious discontent?

(d) If the replies to parts (c) (ii) and (c) (iii) be in the affirmative, will Government be pleased to state the reasons why, on the location of the Audit Office, Indian Stores Department in Delhi, the existing staff could not be accorded a similar treatment and allowed to retain full special pay, and the orders contained in the Finance Department letter No. F./15/IX/R.-11/28, dated the 25th February, 1929, be restricted to the new entrants only?

(e) Will Government be pleased to state the total number of non-gazetted officers recruited for the Audit Office, Indian Stores Department on full special pay before the orders for its reduction were passed?

REPORTS OF THE STATUTORY COMMISSION AND THE INDIAN CENTRAL COMMITTEE.

187. **Mr. B. Das:** (a) Will Government be pleased to state whether the letter of Sir John Simon, addressed to the Governor General on the 6th February, 1928, did contain the following passage?

"We shall report to the authority by which we have been constituted just as (if the Conference is set up) the Joint Committee would, we presume, be entitled to report its conclusions to the Central Legislature. It is obvious that these should be prepared and presented simultaneously."

(b) What are the reasons that led the Government of India to change the procedure and publish the Report of the Indian Central Committee a few months ahead of the Report of the Statutory Commission?

(c) Did the Central Committee or any of the members of that Committee protest against the advanced publication of their Report?

The Honourable Sir James Ogerar: (a) Yes.

(b) It was at the request of the Chairman, and in accordance with the wishes expressed by the Committee, in the 1st and 5th paragraphs of

their own Report, that the Report of the Indian Central Committee was published by the Government of India without waiting for the publication of the Report of the Statutory Commission

(c) No.

Mr. B. Das: Is it a fact that the original publications of the Government of India were destroyed and a second edition was brought out and certain passages of the Central Committee's Reports were omitted?

The Honourable Sir James Crerar: The Government of India had nothing whatever to do with the form and contents of the Reports.

Mr. B. Das: Is it a fact that the first publication of a thousand copies or more was destroyed and a second edition was brought out?

The Honourable Sir James Crerar: I have no information to that effect.

Mr. B. Das: Will the Honourable Member kindly inquire into it?

THE BOMB OUTRAGE TO THE VICEROY'S TRAIN.

188. ***Mr. B. Das:** (a) Will Government be pleased to state if the culprits who bombed the Viceregal train on the 23rd December, 1929, have been arrested?

(b) Is it a fact that bombs were thrown from both sides of the train?

(c) Were the bombs electrically operated or hand operated? Will Government be pleased to make a statement on this dastardly outrage and the result of their investigations up to date?

(d) Was the railway line guarded with the usual police forces that morning or not?

The Honourable Sir James Crerar: (a) No.

(b) No.

(c) The explosion was electrically operated. The matter is under investigation and I regret I am not in a position to make any statement at present.

(d) Yes.

PAY OF TEMPORARY INDIAN MEDICAL SERVICE OFFICERS.

189. ***Mr. M. S. Aney** (on behalf of Mr. Lalchand Navalrai): (a) Is it a fact that temporary Indian Medical Service officers get promotion only once after three years' service during their whole career, whereas permanent Indian Medical Service officers get their increase of pay after every 3rd, 6th and 8th year of service?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state reasons for such a distinction?

(c) Are Government prepared to formulate a scheme for the betterment of such temporary service?

Mr. G. M. Young: (a) The statement is correct, except that permanent officers get increased rates of pay after the third, sixth and ninth years of service, and not the eighth as stated by the Honourable Member.

(b) Temporary officers are not now retained in service after five years, unless they have been selected meanwhile for permanent commissions. During the five years they draw exactly the same rates of pay and allowances as permanent officers.

(c) The answer is in the negative. The terms offered are by no means illiberal or unattractive.

PAY OF TEMPORARY INDIAN MEDICAL SERVICE OFFICERS.

190. *Mr. M. S. Aney (on behalf of Mr. Lalchand Navalrai): (a) Is it a fact that, in the Indian Medical Service, a temporary Lieutenant or temporary Captain, even though senior in service in the sense of having held a temporary commission for a longer time, is considered junior to a permanent Lieutenant or Captain recruited anew?

(b) Have there been instances in which temporary commissioned officers of long service have been made to work under permanent commissioned officers having comparatively shorter service?

Mr. G. M. Young: The answer to both parts of the question is in the affirmative, as stated in my reply to Diwan Chaman Lal's starred question No. 803 on the 2nd September, 1927.

APPOINTMENT OF INDIANS TO THE INDIAN MEDICAL SERVICE.

191. *Mr. M. S. Aney (on behalf of Mr. Lalchand Navalrai): (a) Will Government be pleased to state the number of permanent medical commissioned officers in the Indian Medical Service at present and how many of them are Indians?

(b) What is the full strength of permanent medical officers in the Indian Medical Service?

(c) Will Government be pleased to state, with reference to the answer given by Mr. G. M. Young to starred question No. 1276 (a) by Mr. K. C. Neogy on the 27th March, 1929, as to when the full strength of the permanent officers will have been recruited? What is the ratio of Indian officers to British officers in such recruitment?

Mr. G. M. Young: (a) 616, of whom 170 are Indians.

(b) 704.

(c) It is not possible to forecast the exact time when the full strength will have been recruited.

The ratio at which recruitment is being carried on at present is one to two.

CONTRACTS FOR LOADING AND UNLOADING GOODS ON THE NORTH WESTERN RAILWAY.

192. *Mr. M. S. Aney (on behalf of Mr. Lalchand Navalrai): (a) Are Government aware that there was a departmental arrangement for the loading and unloading of goods and coaching traffic in the North Western Railway (Sind section) before about the year 1910?

(b) Will Government be pleased to state what was the actual expenditure incurred by the Railway per thousand maunds?

(c) Is it a fact that the former system was done away with and the loading and unloading business was given on contract?

(d) If the reply to part (c) is in the affirmative, is it a fact that the contract for Karachi Port was given to one Mr. Brice? If so, when and on what terms and at what rate per thousand maunds?

(e) Is it a fact that the contract has been allowed to continue up to now without inviting fresh tenders in the name of Mr. Brice, though he is said to be dead?

(f) Will Government be pleased to say who actually holds the afore-said contract now and on what terms and under what authority?

(g) What reason has necessitated the Government to continue the old contract to Mr. Brice for the benefit of the present holder?

(h) Do Government propose to give the contract at Karachi Port and at such other places on the North Western Railway, where a similar practice exists, by competition to the person offering the lowest rate?

Mr. A. A. L. Parsons: Information on all the points raised by the Honourable Member's question is not in the possession of Government. I am asking the Agent of the North Western Railway to supply such of this information as may be available and, on hearing from him, I will send a reply to the Honourable Member.

INCOME-TAX OF HINDU UNDIVIDED FAMILIES.

193. ***Pandit Thakur Das Bhargava:** Do Government propose to amend the Indian Income-tax Act with a view to equalise the incidence of income-tax or super-tax in regard to Hindu undivided family, and if so, by what time?

The Honourable Sir George Schuster: As I am unable to understand exactly what is meant by the expression, "To equalise the incidence of income-tax or super-tax in regard to the Hindu undivided family", I regret that I cannot give a definite answer to this question. I may inform the Honourable Member however that I have given careful attention to this matter as a result of certain points which were raised in last year's budget debate. I have satisfied myself, for example, that certain hardships which have been alleged do not arise in practice, and particularly that salaries earned by members of Hindu undivided families are not, as has been stated, added together and taxed as the income of the family, because, under the Hindu Law, as I gather, salary earned by individual exertion or skill cannot be family income, except in certain special circumstances. To place the matter beyond doubt, however, instructions have been inserted in the Income-tax Manual to the following effect:

"The income, profits and gains of a member of an undivided Hindu family are normally treated as joint family property. But where the income consists of his personal earnings and acquisitions by his own exertions, it will, unless it flows from a special education at the expense of the joint family over and above the ordinary education suitable to his position as a member of the joint family, or from the employment in business or otherwise of the joint funds, be treated as his self-acquired property and not as joint family property."

Whatever hardship may exist at present is really due to the provisions of Hindu Law, and as the House is aware, there is a Bill now before it—introduced by my Honourable friend Mr. Jayakar—to secure that gains of learning earned by a Hindu shall not be treated as belonging to the family, even in those circumstances which now make such gains family property. If that Bill becomes law, the Income-tax Department will of course apply it in assessing undivided Hindu families.

GRANT OF AMNESTY TO POLITICAL PRISONERS.

194. *Pandit Thakur Das Bhargava: (a) Are Government aware that the various political parties and organisations in the country, except the Indian National Congress, are very much exercised over the failure of the Government to grant an amnesty to the political prisoners and the indifference shown towards them by the Government in this matter?

(b) Will Government kindly state how many cases of sedition and other political cases have been started by Government in the whole of India after the announcement of the Viceroy on the 31st October, 1929?

(c) Is it a fact that the Government issued instructions to the various Local Governments not to start such cases with a view to bring about a calm atmosphere in the country?

The Honourable Sir James Orerar: (a) Government are aware that in some quarters there is a feeling that an amnesty should be granted to prisoners who have committed certain offences against the law with a political motive. They find it difficult, however, to appreciate how it can be expected that the Government should consider any action on these lines in the conditions that unfortunately at present prevail, namely, the existence of an active movement for the attainment of Independence, threats of civil disobedience on a large scale, and numerous inflammatory incitements addressed for the most part to young men and intended to convey to their minds ideas of violent action and revolution.

(b) According to the reports received by the Government of India, the number of such cases is nine.

(c) No, Sir. While Government have not desired to concern themselves with mere expressions of political opinion, which were not believed to be leading towards revolutionary action, their policy has been directed to checking the dangerous activities which I have mentioned in answer to part (a) of this question, and to this policy they must obviously adhere.

EXPENDITURE ON THE STATUTORY COMMISSION AND INDIAN CENTRAL COMMITTEE.

195. *Pandit Thakur Das Bhargava: (a) Will Government kindly state what sum of money has been spent over the Indian Central Committee of the Simon Commission and the Simon Commission, so far?

(b) Will Government kindly state what sums have been paid to each member of the Indian Central Committee and of the Simon Commission by way of remuneration, travelling allowance and other allowances?

The Honourable Sir James Orerar: The information asked for by the Honourable Member is being collected and will be supplied to him in due course.

CONTRIBUTORY PROVIDENT FUND SYSTEM FOR GOVERNMENT SERVANTS.

196. *Mr. G. Sarvotham Rao: (a) Will Government be pleased to state what is the present stage of the proposal to substitute a contributory provident fund system for Government servants in place of the existing pension system?

(b) Will Government be pleased to say when it is their intention to put the former system into force?

(c) Will Government be pleased to place all relevant papers and correspondence on the table?

The Honourable Sir George Schuster: (a) Local Governments and Service Associations were addressed on the subject on the 8th November, 1929, and it is expected that their replies will be received shortly.

(b) It has yet to be proved that a change in the direction proposed would be acceptable to the general body of Government servants; and it is therefore impossible to say if and when any such scheme will come into force.

(c) It would be premature at this stage to lay the papers on the table.

LATE OFFICE HOURS IN THE SECRETARIAT.

197. ***Mr. G. Sarvotham Rao:** (a) Is it a fact that, during the Viceroyalty of Lord Curzon, the rule was laid down that the prescribed office hours should be strictly adhered to and that instructions were issued to the effect that officers and clerks should not stay in office late, and it was pointed out that staying late meant either incompetence or laziness?

(b) Is it a fact that this practice is being more and more infringed till of late it has become quite common for Secretaries of Departments and other officers in the Government of India to stay late, involving trouble and inconvenience to their clerks and peons, who have to stay late till the officers leave?

(c) If the answer to the above is in the affirmative, are Government prepared to issue instructions to see that the practice of staying late in office is discontinued?

The Honourable Sir James Orerar: (a) I have not as yet been able to trace any such orders, but as very little time has been available I am having the search continued.

(b) Office hours are normally from 10-30—4-30, but at times, especially during the Sessions of the Legislature, the volume of work in the various Departments of the Government of India is so great that officers and others find it necessary to work later. I may add that the staff invariably respond with loyalty and cheerfulness to such occasional but inevitable demands, and that no complaints on this score have been made by the staff themselves.

(c) The Government of India consider that the issue of such instructions is unnecessary.

RENTS OF GOVERNMENT QUARTERS IN SIMLA AND DELHI.

198. ***Mr. G. Sarvotham Rao:** (a) Will Government be pleased to lay on the table statements showing the various classes of accommodation given to officers and subordinates of the Government of India in Simla, and the rents charged therefor, together with particulars of accommodation, locality, etc.?

(b) Will Government be pleased to lay a similar statement in respect of the bungalows and quarters allotted to Government officials in New Delhi and old Delhi?

(c) Is it a fact that the rent charged for an "A" class quarter in Phagli is about the same as that for a "C" class cottage in Bemloe Estate?

The Honourable Sir Bhupendra Nath Mitra: (a) and (b). The compilation of the statements on the lines asked for by the Honourable Member would involve considerable time and labour, and as they are not likely to serve any useful public purpose, Government do not propose to undertake the compilation. If my Honourable friend wants information on any particular point, and the information can be made available readily, I shall be glad to do my best for him if he will kindly meet me in my office some day.

(c) The answer is in the negative.

NUMBER OF MEMBERS OF VARIOUS COMMUNITIES IN CERTAIN RAILWAY OFFICES.

199. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah:** (a) Will Government please state the total number of appointments in the superior staff of the following Departments in the Indian Railways, with pay of Rs. 100 and above that, giving separately appointments for officers and subordinates of each community (Sikhs, Muhammadans, Hindus and others):

1. Inspectors of all Railway Depots.
2. Transportation and Accounts Branches.
3. Engineering Departments.
4. Running and Coaching staff.
5. Clerical staff of officers of Divisional Superintendents.
6. Audit and Accounts officers.
7. Stores Depots officers.

(b) How many subordinates are officiating as officers in each of the above branches and what is their number according to different communities?

Mr. A. A. L. Parsons: (a) I would refer the Honourable Member to Appendix "F" in Volume I and Appendix C in Volume II of the Railway Board's Report on Indian Railways for 1927-28, a copy of which is in the Library. The statistics were formulated in this form after consultation with and acceptance by, the Central Advisory Council for Railways, and Government consider that they give as much detail as is desirable or necessary for keeping a watch on the position on each railway to secure that their policy is carried out.

(b) Government have not the information and regret that they cannot undertake to call for it.

VENDORS AT RAILWAY STATIONS.

200. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah:** What is the total number of contractors and vendors engaged on Indian railway stations and how many of them are Muslims?

Mr. A. A. L. Parsons: As there are several thousands of vendors engaged on Indian railway stations, it would require considerable time and labour to obtain the information asked for. However, if the Honourable Member can inform me of any sections of railway where the number of Muslim vendors is considered to be inadequate, I shall be happy to have the matter inquired into.

APPOINTMENT OF MUSLIMS ON SUPERIOR RAILWAY STAFFS.

201. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah**: What is the proportion of Muslims in the recruitment of officers and superior staff in case of the following Railways?—

- (1) North Western Railway, Punjab.
- (2) North West Frontier Province, Baluchistan and Sindh.
- (3) Delhi.
- (4) Muzaffarnagar,
- (5) Meerut and Saharanpur.

Mr. A. A. L. Parsons: As superior officers are recruited for railways as a whole, I am afraid it is not possible to give the Honourable Member the information for which he asks. I can obtain for him, if he desires, the number of Muslims recruited to fill vacancies in the superior services on the North Western Railway as a whole in the last two years, and the proportion this number bears to the total Indians recruited.

RECRUITMENT OF SUBORDINATE STAFF FOR THE NORTH WESTERN RAILWAY.

202. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah**: (a) Are Government aware that in the North Western Railway the recruitment of subordinate ministerial staff (clerical, coaching and running) is made by a Board under the control of the Divisional Superintendents of each Division?

(b) What is the number of Boards held in each Division of the North Western Railway during the last three years?

(c) What is the total number of appointments made by each Board during the last three years in each Division generally, and especially in the Multan Division?

(d) How many of these appointments were allotted to Muhammadans?

Mr. A. A. L. Parsons: I am collecting the information, which will be communicated to the Honourable Member on its receipt.

APPOINTMENT OF MUHAMMADANS TO SUPERIOR POSTS IN THE POSTS AND TELEGRAPHS DEPARTMENT.

203. ***Khan Bahadur Makhdum Syed Rajan Bakhsh Shah**: (a) Will Government please state the total number of the following appointments in the Indian Posts and Telegraphs Department, separately for each province?—

- (1) Postmasters.
- (2) Deputy Superintendents and Superintendents of Post Offices.
- (3) Deputy Superintendents and Superintendents of Telegraph Traffic.

(b) How many of these appointments are held by Muhammadans?

The Honourable Sir Bhupendra Nath Mitra: There is no appointment of Deputy Superintendent of Post Offices in the Posts and Telegraphs Department. Assuming that by "Postmasters", the Honourable Member refers to gazetted Postmasters only, a statement giving the information asked for is being furnished to him separately. As the distribution of the appointments referred to is made according to Postal Circles and not according to provinces, the figures in the statement have been shown separately for each Postal Circle.

UNSTARRED QUESTIONS AND ANSWERS.

SIKH HOLIDAYS.

106. **Sardar Gulab Singh:** (a) Are Government aware that there are 28 bank holidays in a year, out of which 11 have been allotted to the Hindus, 7 to the Christians, 6 to the Moslems and 4 extras?

(b) Are Government aware that there is not a single Sikh holiday in the banks at all, which causes a very great inconvenience and is a severe handicap in the performance of religious functions for the Sikhs employed therein?

(c) Are Government aware that out of the numerous Sikh Gurburbs (religious festivals), the birth anniversary of Shree Guru Nanak Dev (the first Guru and the founder of the Sikhs), the birth Anniversary of Shree Guru Govind Singh (the tenth Guru and the founder of the Khalsa Panth) and the death anniversary of Shree Guru Arjan Dev (the fifth Guru and the author of the Sikh Scriptures) are regarded as the most important of all the days in a year?

(d) Are Government considering the question of sanctioning the above-mentioned three days to be observed as public holidays in the banks and all the other offices of the Government throughout India?

The Honourable Sir James Orerar: (a) The declaration of public holidays in the provinces is a matter for the Local Government concerned under the explanation to section 25 of the Negotiable Instruments Act 1881, and the number of holidays notified naturally varies in different provinces. The Honourable Member would seem to be referring to the holidays notified by the Punjab Government though his figures are not quite accurate.

(b) The Punjab Government notification prescribes holidays for the birthdays of Shree Guru Nanak and Shree Guru Gobind Singh.

(c) Government have no information, but accept the Honourable Member's assurance on the point.

(d) As already explained, the matter is one for Local Governments. The question of some increase in the number of holidays in offices under the Government of India is now under consideration, and it is hoped to issue orders in the matter shortly.

POSSESSION OF KIRPANS BY SIKHS.

107. **Sardar Gulab Singh:** (a) Are Government aware that the kirpan, which is a religious symbol of the Sikhs, has long been declared to mean a sword and, exempted from the Arms Act for the Sikhs by the High Court and the Punjab Government?

(b) Are Government aware of the fact that, in spite of the above provisions, the Sikhs are still being occasionally arrested for even peaceful possession of the said kirpan?

(c) Have Government considered the question of issuing a circular to all the Provincial Governments in India prohibiting such prosecutions in future?

The Honourable Sir James Orerar: (a) Government are aware that no restrictions are imposed in the Punjab on kirpans possessed or carried by Sikhs.

(b) Government have no information.

(c) The reply is in the negative.

THE KALYAN POWER HOUSE.

108. **Mr. N. C. Kelkar:** (a) Will Government be pleased to place on the table the estimates that were originally sanctioned by the Railway Finance Committee for the construction of the Power House newly erected at Kalyan?

(b) What was the actual expenditure, and in what respects did it exceed the estimates sanctioned by the Railway Finance Committee?

(c) In connection with the Kalyan Power House, what sort of work is yet to be completed, and how many days will it take for its completion?

(d) Will Government be pleased to state the details of the staff of officers of the Power House who are drawing above Rs. 250 per mensem showing the following particulars?—

(1) Name, (2) age, (3) Indian or Anglo-Indian or European, (4) starting pay, (5) qualifications, (6) promotions, (7) allowances.

(e) Was there any recruitment made from outside India for this special work? If so, did Government make inquiries in India, before making such recruitment?

Mr. A. A. L. Parsons: With your permission, Sir, I will answer this and the following question together. The information is being obtained and will be furnished to the Honourable Member on receipt.

ELECTRIFICATION OF THE GREAT INDIAN PENINSULA RAILWAY FROM BOMBAY TO POONA.

†109. **Mr. N. C. Kelkar:** (a) Will Government be pleased to give information about the total cost for the electrification of the railway line from Bombay to Poona, and give details as regards the actual cost of material for construction, supervision, charges, etc.?

(b) How much of this material was purchased in India, England, America and other European countries?

(c) Will Government give an estimate of the total savings, that can be made by electrification in the annual expenditure over this line in various departments?

(d) How many mechanical and electrical engineers, electric engine drivers are working on this line?

(e) How many of them are old hands and how many of them are newly recruited?

(f) Is there any arrangement made by the Great Indian Peninsula Railway for the training of Indians for the working of the electric trains and the maintenance of the electric works?

†For answer to this question, see answer to question No. 108.

(g) Will Government state what are the special facilities available in India, which do not exist in other countries, and which made it possible for the Great Indian Peninsula Railway to undertake electrification over such an unprecedented length as 120 miles, as stated in the opening speech of the Agent of the Railway?

THE HISTORICAL RECORDS COMMISSION.

110. **Mr. N. C. Kelkar:** (a) What is the constitution of the Historical Records Commission? Is it completely in the charge of the Government of India?

(b) What was the object of Government in starting the work of this Commission?

(c) What work has been completed so far by this Commission and what is the future programme of its work?

(d) What was the cost of the Persian calendars published at the instance of this Commission, and what was the amount realised by the total sales of these volumes?

(e) Are the historical records of the Mongal period in the custody of Government open to the public?

(f) Do Government charge any fee for a research student who wants to take advantage of these records?

(g) Have Government made any arrangements in Calcutta or elsewhere, to make them available to the public? If so, what is the annual expenditure incurred by Government, and for what purpose?

(h) Are the members of the Historical Records Commission paid any honorarium for the work they do?

Sir Frank Noyce: (a) A list of the members of the Indian Historical Records Commission is placed on the table. The members are appointed by the Government of India.

(b) The Honourable Member's attention is invited to the Government of India's Resolution No. 77, dated the 21st March 1919, a copy of which will be found in the Library of the House.

(c) The duties of the Commission are of a purely advisory character. It has not undertaken any definite programme.

(d) The publication of the Calendar of Persian Correspondence was decided upon before the Indian Historical Records Commission was constituted. The total cost of publishing volumes I to IV of this Calendar was approximately Rs. 7,012. The amount so far realised by sale has been about Rs. 1,698.

(e) The records are open to the public for purposes of *bona fide* historical research, subject to the rules framed by the Government of India, a copy of which has been placed in the Library of the House.

(f) No fee is charged from a research student who examines the records personally.

(g) The records are kept at Calcutta and are accessible to the public. All necessary work in this connection is done by the staff of the Imperial Record Department and no additional expenditure is incurred by Government.

(h) No.

Permanent Members of the Indian Historical Records Commission.

The Secretary to the Government of India, Department of Education, Health and Lands ..	<i>Ex-officio</i> President.
The Keeper of the Records of the Government of India	<i>Ex-officio</i> Secretary.
The Keeper of the Records, Bengal	<i>Ex-officio</i> Member.
The Curator, Madras Record Office	<i>Ex-officio</i> Member.
Sir Jadunath Sarkar, Kt., C.I.E., Calcutta ..	Member.
Mr. H. G. Rawlinson, M.A., I.E.S., Poona ..	Member.
Mr. H. L. O. Garrett, M.A., I.E.S., Lahore ..	Member.
Mr. G. S. Sardesai, B.A., of Bombay ..	Member.
Dr. Shafaat Ahmad Khan, M.A., D. Litt., Allahabad.	Member.

TERRITORIAL FORCES IN THE BOMBAY PRESIDENCY.

111. **Mr. N. C. Kelkar:** (a) Will Government be pleased to give figures, district by district, of the Territorial Forces in the Bombay Presidency, together with the expenditure incurred under different heads for these battalions?

(b) What is the present actual strength of the Bombay Urban Territorial Battalion and what is the expenditure incurred for the same under different heads?

(c) Are Government aware that the Poona District Territorial Force Association has mentioned in its last annual report that the arrangements for the training of a separate unit should be made in Poona, and that a new battalion should be formed under the Indian Territorial Force Act? If so, do Government propose to take any steps in this direction?

Mr. G. M. Young: (a) and (b). The following statement shows the authorized establishment and the present strength of the various Indian Territorial Force units constituted for the Bombay Presidency:

District.	Unit.	Sanctioned establishment.	Strength.
Poona (Independent) Brigade Area.	11/5th Mahratta Light Infantry	725	691
Do. do.	1st (Bombay) Battalion, University Training Corps.	663	683
Bombay District	1st Bombay (Parsi) Urban Infantry.	346	16
Do. do.	2nd (Bombay Presidency) Urban Infantry.	346	52

I am afraid that the Army accounts do not show expenditure in the form desired by the Honourable Member, and the information could not be obtained without the expenditure of an inordinate amount of time and labour.

(c) No, Sir.

AERO CLUBS IN INDIA.

112. **Mr. N. C. Kelkar:** Will Government be pleased to state how many Aero Clubs have been started in the whole of India, and how many Indians and non-Indians are trained in the art of flying at each of these clubs? What annual subsidy is granted by the Government of India to these clubs?

The Honourable Sir Bhupendra Nath Mitra: The attention of the Honourable Member is invited to the reply given in the Legislative Assembly on the 20th January, 1930, to the starred question No. 76 asked by Dr. B. S. Moonje. The number of non-Indians trained by the Flying Clubs is:

Delhi	..	..	..	..	..	11
Bombay	..	..	..	..	..	4
Bengal	..	..	..	..	..	17
Karachi	..	..	..	..	..	15

CADETS FOR THE ROYAL INDIAN MARINE.

113. **Mr. N. C. Kelkar:** (1) How many candidates from each province appeared for the entrance examination of the cadets for the Royal Indian Marine held in July last? How many of them were successful in the examination and found fit for recruitment for learning marine engineering?

(2) Were there any candidates that were not taken up, although they were fit? Is it a fact that the Government of India granted only three scholarships for the same?

(3) Are Government prepared to make arrangements for the training of candidates who, being fit, can make private financial arrangements?

(4) How many new cadets will be taken up this year for marine engineering, and when is the next entrance examination likely to take place?

(5) Did Government send the notification about this examination to the various prominent newspapers, educational institutions, universities, with instructions to send these circulars to the Head Masters of the different high schools? If so, how many circulars were sent in each province and with what effect?

The Honourable Sir George Rainy: It is understood that the Honourable Member's question refers to the examination for the grant of scholarships for the training of Indians as Marine Engineers for employment in the Mercantile Marine and not to the examination held for candidates for the Royal Indian Marine.

As regards parts (1) and (2) of the question, the position is as follows:

A competitive examination was held in July, 1929, for the grant of three State Scholarships of the value of £240 per annum, each tenable in England for the training of Indians in Marine Engineering. 44 candidates sat for the examination, and of these the first three successful candidates were, after an interview by a Selection Committee, selected for the award of the scholarships in question. The number of candidates appearing from the various provinces for the competitive examination was as follows:

(1) Madras	..	..	..	..	..	3
(2) Bombay	..	..	..	..	..	3
(3) Bengal	..	..	..	..	..	7
(4) United Provinces	..	..	..	..	..	11
(5) Punjab	..	..	..	..	..	9
(6) Central Provinces	..	..	..	..	..	1
(7) Bihar and Orissa	..	..	..	..	..	3
(8) Delhi	..	..	..	..	..	7
..				Total	..	<u>44</u>

(3) If any such candidate is prepared to make his own personal arrangements, Government are prepared to make inquiries whether facilities for his training can be provided.

(4) Three State scholarships will be awarded in 1930, and the next competitive examination will commence on the 7th April, 1930.

(5) Press communiqués regarding the examination were issued on both occasions and the rules and regulations were published in the *Gazette of India*. Copies of the Notifications were sent to all the Local Governments and Administrations with the request that they be published in the Local Government Gazettes and copies sent to the Universities and the Principals and Head Masters of all important institutions.

TRAINING OF CADETS FOR THE ROYAL INDIAN MARINE.

114. **Mr. N. C. Kelkar:** (a) Are Government aware that a large number of candidates who pass the entrance examination for training on the "Dufferin" are disappointed, as the number of cadets taken each year is limited?

(b) Are Government aware that in Japan arrangements for the training in the first year's course is made in ordinary schools which are situated somewhere near the sea shore? Are Government prepared to make such arrangements in places like Madras, Calcutta, Ratnagiri, etc.?

The Honourable Sir George Rainy: (a) Government are aware that the number of candidates who pass the entrance examination for the "Dufferin" exceeds the number of cadets admitted each year. The number admitted must, however, be limited, in view of the capacity of the ship, the strength of the instructional staff, and the chances of eventual employment for the cadets.

(b) So far as Government are aware, there are at present in Japan one nautical college and ten prefectural nautical schools. As regards the latter part of the question, the attention of the Honourable Member is invited to the reply given by me on the 4th March, 1929, to Mr. Gya Prasad Singh's question No. 879.

LOCATION OF THE MEDICAL RESEARCH INSTITUTE.

115. **Mr. N. C. Kelkar:** (a) Are Government aware of the resolution passed by the Bombay Legislative Council in its last Session, expressing its opinion that the Medical Research Institute should not be situated at Dehra Dun?

(b) Will Government explain the present position in this matter?

Sir Frank Woyce: (a) Yes.

(b) The detailed estimates of cost for establishing the Institute at Dehra Dun are being worked out.

MILITARY SCHOOLS.

116. **Mr. N. C. Kelkar:** Will Government be pleased to make a statement about the opening of new military schools for the sons of those fathers who were not or are not in the military service?

Mr. G. M. Young: Government have already considered the desirability of issuing a statement on the whole subject of military education, but, in view of the fact that they have received notice of Resolutions connected with it that may come up for discussion during the present Session, they have decided to postpone the issue of a statement for the present.

PROPOSED RAILWAY FROM KOLHAPUR TO VIJAYADURGA.

117. **Mr. N. C. Kelkar:** Is it a fact that the Railway Board are proposing to make a survey for a railway line from Kolhapur to Vijayadurga or some other place on the coastal line of the Ratnagiri District? If so, has the Kolhapur State made any proposals in this matter?

Mr. A. A. L. Parsons: The reply to the first part of the question is in the negative. No proposal has so far been sent to the Railway Board by the Kolhapur Darbar.

DEFINITION OF INDIAN NATIONALS.

118. **Mr. N. C. Kelkar:** Is it a fact that Sir George Godfrey made a statement in the last International Marine Conference that all British subjects, whether Indians or Europeans, are regarded as Indian nationals? Do Government subscribe to this view?

The Honourable Sir Bhupendra Nath Mitra: The Government of India have seen the text of a speech made by Sir Geoffrey Corbett at the 13th (Maritime) Session of the International Labour Conference where the following passage occurred:

"It is enough to say that we in India hold that we are all British subjects, have a common citizenship and have a common allegiance to His Britannic Majesty; and all British subjects resident in India have equal rights, irrespective of race. Similarly every Indian in the United Kingdom has the full rights of a British citizen if he is resident there."

The Government of India have no reason to regard this view as incorrect.

REPRESENTATIVES SENT TO INTERNATIONAL CONFERENCES.

119. **Mr. N. C. Kelkar:** (1) Will Government be pleased to place on the table a copy of the rules and regulations as regards the selection of representatives for the International Conference, if any rules are framed by the League of Nations for this purpose?

(2) Will Government state what is the number of persons sent by Government for the various international conferences and world conferences during the last ten years? Will Government give the names of those persons and the expenditure incurred for them during those years?

The Honourable Sir Brojendra Mitter: (1) The League of Nations has framed no rules or regulations regarding the selection of representatives either at the Assembly of the League or at International Conferences generally or at any specific International Conference.

(2) The information is being collected and will be supplied to the Honourable Member in due course.

PROPAGATION OF INFORMATION ABOUT THE CHILD MARRIAGE RESTRAINT ACT.

120. **Mr. N. C. Kelkar:** Will Government state what arrangements have been made by Government for propaganda in the matter of the Sarda Marriage Act for educating public opinion?

The Honourable Sir James Orerar: The Honourable Member is referred to the answers given by me on the 20th instant to starred questions Nos. 57 and 58 by Mr. B. Das.

STENOGRAPHERS FOR THE INDIAN LABOUR COMMISSION.

121. **Mr. N. C. Kelkar:** (1) Will Government explain the necessity of appointing stenographers from England for the Labour Commission, in view of the fact that there are efficient Indian stenographers available in India?

(2) What are the special qualifications that were found in these stenographers that were not to be found in the stenographers in India?

(3) Were the Government of India consulted in this matter when the appointments were made in England?

The Honourable Sir Bhupendra Nath Mitra: (1) and (2). The attention of the Honourable Member is invited to the replies given by me in the Legislative Assembly on the 26th September, 1929, to the short notice question by Mr. Jamnadas M. Mehta and supplementary questions in that connection by him and Mr. Gaya Prasad Singh.

(3) No.

PROGRAMME OF THE INDIAN LABOUR COMMISSION.

122. **Mr. N. C. Kelkar:** Is it a fact that the Labour Commission is returning to England after finishing its labours in the coming Spring merely for writing an interim report?

The Honourable Sir Bhupendra Nath Mitra: The Commission propose to reassemble in London next summer *inter alia* for discussion and analysis of the material collected during the present winter, and will consider the possibility of writing an *ad interim* report.

R. RESPONSIBILITY FOR THE ACCIDENT TO THE PESHAWAR-LUCKNOW EXPRESS

123. **Khan Bahadur Sarfaraz Hussain Khan:** (a) Has the attention of Government been drawn to the news published in the issue of the *Statesman* of the 11th January, 1930, page 9, under the heading "11 killed in Head-on Rail Smash—Peshawar-Lucknow Express in Loop Line Disaster"?

(b) If so, will they please state if the statement is correct?

(c) If correct, will they please state who were the officers responsible for the accident, and what steps Government are taking or are going to take in the matter?

Mr. A. A. L. Parsons: (a) Yes.

(b) The number of casualties, as finally confirmed, was 11 killed and 19 injured, one of whom subsequently died.

(c) The Senior Government Inspector of Railways, Lucknow, who held an inquiry into the circumstances of this accident, has reported that the driver of the Express train was primarily responsible for the accident and that a pointsman of Clutterbuckganj station contributed to the occurrence of the accident by leaving his post without permission and before the arrival of his relief.

It is understood that the driver is being prosecuted. It is not at present known what action is being taken as regards the pointsman.

RAILWAY RATES PAYABLE BY GLASS FACTORIES:

124. **Pandit Thakur Das Bhargava:** (a) Is it a fact that the rates charged by the East Indian Railway, both in case of the raw material used in the glass factories and their products, are lower than those charged by the Great Indian Peninsula, North Western, and other railways?

(b) Are Government aware that on account of this inequality of rates the glass factories in provinces through which the East Indian Railway passes are in a position of advantage for trade competition in glass goods as compared with glass factories in other provinces?

(c) Do Government propose to remove this inequality and to equalise rates for the above description of articles on all railways?

Mr. A. A. L. Parsons: (a) The rates charged by the East Indian Railway for some of the raw materials used in glass factories and for their products are lower than those charged on certain other railways, though not in all cases.

(b) No.

(c) The rates charged on different railways for the same commodities are not always uniform owing to financial and other conditions varying. If individual interests consider that they are unduly prejudiced by variations in rates, the matter should be represented to the railways concerned or, if necessary, to Government for investigation by the Railway Rates Advisory Committee.

PROTECTION FOR THE GLASS INDUSTRY.

125. **Pandit Thakur Das Bhargava:** (a) Is it a fact that the Indian Glass Manufacturers Association have been submitting representations to the Government of India, for some measure of protection for the Indian glass industry since 1926?

(b) If so, what action have Government taken on their representation and has the question been referred to the Tariff Board?

(c) If no action has been taken so far, will Government please state by what time they propose to decide if protection is to be extended to the glass industry?

The Honourable Sir George Rainy: The Honourable Member is referred to my answer to a similar question by Mr. S. C. Mitra No. 152, dated the 20th January 1930.

STATEMENT OF BUSINESS.

The Honourable Sir James Orerar (Leader of the House): Sir, I desire, with your permission, to make a statement as to the probable course of Government business in the week beginning February the 3rd. As Honourable Members are aware, Monday the 3rd is a gazetted holiday and there will be no sitting of the House. On Tuesday, the 4th, any business left over from this week in connection with the Sale of Goods legislation will be taken first. Thereafter the House will resume the discussion of the Resolution moved in Simla by the Honourable Sir Bhupendra Nath Mitra regarding the recommendations of the Indian Road Development Committee. On Thursday the 6th unfinished business of Tuesday the 4th will be placed first on the list. Thereafter motions will be made to take into consideration and pass the Provident Funds Amendment Bill, as passed by the Council of State, and the Bill to amend the Indian Income-Tax Act, in connection with which the Report of the Select Committee is to be laid today. The last item on the list will be the Railway Supplementary Grants.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir George Schuster (Finance Member): Sir, I beg to present the Report of the Select Committee on the Bill further to amend the Indian Income-tax Act, 1922, for certain purposes (Amendment of sections 2, 23, etc.).

THE INDIAN SALE OF GOODS BILL.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I beg to move that the Bill to define and amend the law relating to the sale of goods, as reported by the Select Committee, be taken into consideration.

At the last Simla Session I gave this House a short history of the Bill and indicated the main lines on which it had been drafted. The Bill has been received in legal and commercial circles all over India with an amount of approval and commendation which cannot but be gratifying to those responsible for it. I shall not take up the time of the House by reading all the encomiums which the Bill has evoked. By way of sample I shall place a few before the House. The Bengal Chamber of Commerce observes:

"The Committee are glad to say that, as a result of their examination of the provisions of the Bill, they are able to approve generally of these, and this being so, they do not propose to comment on the clauses in detail."

The Indian Chamber of Commerce, Calcutta, says this:

"The opinions elicited go to show that, while the Bill is of the greatest importance to the commercial community, its examination is so greatly a matter for trained legal opinion that a commercial opinion must of necessity take quite a subordinate place with regard to the Bill. My Committee, however, are satisfied that the Bill is a considerable improvement on the existing legislation and deserving of support."

The Burma Government writes:

"The Rangoon Trades Association, the Burma Indian Chamber of Commerce, the Burma Chamber of Commerce, the Chettias Trades Association, Burma, the Chinese Chamber of Commerce have all replied supporting the Bill, and it may be taken that the Bill is welcomed by the whole commercial community in Burma."

The Marwari Chamber of Commerce, Bombay, writes:

"In conclusion I am directed to convey to the Government of India my Board's great appreciation of the careful, lucid and able drafting of the Bill under consideration. The Board tender their congratulations to the draftsman and are glad to record their view that, from the point of view of the mercantile public, the proposed Bill is a great improvement upon the existing law on the subject."

Sir, many of the opinions received by us contained useful suggestions for further improving the Bill and we adopted some of them in the Select Committee. I wish in this connection to acknowledge in particular, our indebtedness to Mr. Justice Lort-Williams of Calcutta, Mr. Justice Lal Gopal Mukherji of Allahabad and Mr. Ramfry, Chief Judge of the Court of Small Causes, Calcutta, the Bengal Chamber of Commerce, Calcutta, and the Indian Chamber of Commerce, Bombay. The Report of the Select Committee deals with the important suggestions received, those which we accepted, as well as those which we were unable to accept. The most important change made in the Select Committee is the redrafting of clauses 27 and 29 and the employment of the expression "mercantile agent" which we took from the English Factors Act. These clauses deal with sales by ostensible owners. We have limited these to sales by mercantile agents to *bonâ fide* buyers and have also limited avoidable contracts to sections 19 and 19A of the Indian Contract Act, irrespective of any element of offence in them. The reasons are fully set out in the Report of the Select Committee.

The important suggestions which we were unable to accept are, first, the inclusion of mates' receipts in the category of documents of title; secondly, the extension of the doctrine of "market overt" to India, and thirdly, the basis of damages in the case of anticipatory breach, being the market rate on the date of repudiation. I hope the reasons which we have given in the Report of the Select Committee will be found convincing.

[Sir Brojendra Mitter.]

Sir, the Bill as it has emerged from the Select Committee is the result of untiring labour, specialised knowledge and practical experience. We steadily kept in view the sanctity of freedom of contract and the protection due to the *bonâ fide* trader. Sir, I hope the Bill as amended by the Select Committee, will be passed by the House without any alteration.

Sir, I move.

Mr. G. W. Chambers (Associated Chamber of Commerce: Nominated Non-Official): Sir, I should like to endorse what has fallen from the Honourable Law Member, as it must be very gratifying not only to him but to the other members of what I might call the Technical Committee that so much approval has been given to their work. It may be said, therefore, that the appointment of that Committee was a very good investment. It is not often that so many and so varied public commercial bodies, both Indian and otherwise, cannot find some criticism. They nearly always do in my humble experience, but more than one of them says they have been so satisfied that they have no comments to make. Again I think it is an excellent thing that the Select Committee was able to incorporate various useful suggestions that they had received from certain bodies. I would therefore like to support the Bill.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber: Indian Commerce): Sir, I rise to give my very cordial support to the motion before the House. I owe an apology to the House for my inability to sign the Select Committee's Report for reasons which the Honourable Law Member knows and understands very fully. I have no hesitation in saying that those Members of the Government of India and also the other Members who put their hands to this Bill as it is now before the House deserve very well of both the Government and the public of India. I feel that the Honourable Law Member himself will endorse it if I say that the Government of India and this House owe a debt of gratitude to my friend, Sir Dinshaw Mulla, (applause) for all the assistance that he has given and for the readiness with which he put his expert knowledge at the disposal of the Government and this House. Having been unable to avail myself of my friend Sir Dinshaw Mulla's expert knowledge at the Select Committee meeting, I troubled him yesterday, and we spent the best part of two hours together in myself trying to understand some of the points which I was not able to understand owing to my want of intimacy with the legal points.

Section 29, Sir, is one which I think is a departure from the law in India as it exists now, and I am very much gratified to learn that, on the whole, it has met with the approval of people whose opinions were sought. My own Chamber devoted the best part of several weeks to a study of the Bill and has made suggestions to the Government regarding the Bill before the House and I have heard in several quarters general appreciation for the labour and expert knowledge which have been brought to bear on this draft Bill. I am particularly gratified, Sir, that the railway receipt is now brought in as a document of title to goods, and I am sure that the Indian commercial community that has to deal in railway receipts either as principal or as agent, either as buyer or as seller,

will very much welcome this point being made clear and definite. I myself happen to be connected with a trade which handles railway receipts greatly, I mean the raw cotton trade, and I know what complications arise now owing to the railway receipt not being recognised as such. Although some of the suggestions of my Chamber have not been accepted by the Select Committee, I have no hesitation in saying that the measure now before the House is good enough to deserve their approval.

Mr. President: The question is:

"That the Bill to define and amend the law relating to the sale of goods, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clauses 2, 3 and 4 were added to the Bill.

Mr. President: The question is:

"That clause 5 stand part of the Bill."

Lala Rang Behari Lal (Delhi: General): Sir, I beg to move:

"That in sub-clause (1) of clause 5, after the words 'or for the delivery or payment by instalments', the words 'or both' be inserted."

The object of the Bill is to define and amend the present law relating to sale of goods, or in other words to make such changes as will make it more definite. Clause 5, after stating as to how a contract is made, gives definite hints as to the matters which can be provided for by the contract. It is a guide to contracting parties as to the terms that can be provided for in the contract. In the beginning when the Bill was introduced, clause 5 made no provision for partial payment or partial delivery although the law as contained in the Indian Contract Act does provide for partial payment and partial delivery. It was only after the circulation and receipt of opinions that the Select Committee decided to recognise the principle. But the language used in clause 5 leaves it doubtful, or at least does not clearly express that in one contract there can be provision for part payment and part delivery, or instalments both as regards payment and delivery of goods. Now if the phrase relating to part payment and part delivery were altogether absent, then the contracting parties could have made a contract for part payment and part delivery, but the addition of this sentence, "for the delivery or payment by instalments" and the use of the words "or both" in the preceding and subsequent sentences makes it doubtful that a contract can have provision both for part payment and part delivery.

In interpreting statutes, courts interpret the words of the statutes as they stand and do not add any words which find no place in the statute itself. The intention of the Legislature is derived from the words used, and in a case like the present, where the words "or both" are used in the preceding and subsequent sentences, it will be assumed that the Legislature did not intend that one contract might provide both for partial payment and partial delivery. This clearly is not the intention of the Legislature. Surely, the Select Committee did not intend to prohibit a contract containing provisions for part payment and part delivery. Therefore, Sir, to put it more definitely and clearly, I submit the addition of the words is essential.

Sir, I move.

The Honourable Sir Brojendra Mitter: Sir, I am sorry I have to oppose the amendment on the simple ground that it is not necessary. The clause as drafted does provide for what the Honourable Member wants, and the addition of these superfluous words, "or both" would not make the clause any the clearer. As the clause stands, both part payment and part delivery are permissible on the principle that the whole includes a part.

Mr. President: The question is:

"That in sub-clause (1) of clause 5, after the words 'or for the delivery or payment by instalments', the words 'or both' be inserted."

The motion was negatived.

Clause 5 was added to the Bill.

Clauses 6 and 7 were added to the Bill.

Mr. President: The question is:

"That clause 8 stand part of the Bill."

Lala Rang Behari Lal: Sir, I move:

"That to clause 8 of the Bill the following proviso be added:

'Provided that if only a portion of the goods contracted to be sold perishes or becomes so damaged as no longer to answer to the description in the contract, the buyer shall have the option to keep the agreement alive and enforceable to the extent of such portion, the contract relating to the portion so perished shall be avoided.'

This clause is based on section 7 of the English Sale of Goods Act and provides for the case of the destruction or damage of the total quantity of the contracted goods, but apparently makes no provision for the case where a portion of the specific goods contracted for is destroyed or damaged. In face of the present provision, the whole contract would be avoided presumably, if the market is rising, by the seller. To illustrate my meaning, I would give a few examples. Suppose "A" buys from "B" 200 specific bales of long-cloth, but before performance, 50 bales are destroyed, the remaining 150 bales answer to the description in the contract; I may add that in the meantime the market has risen and there is an appreciable margin of profit. Under these circumstances the seller, taking advantage of the provisions of clause 8, refuses to give delivery and avoids the contract. Apparently the buyer has no remedy, but this is unjust and inequitable. So long as the buyer is ready to pay for and take delivery of the undestroyed portion, there seems to be no reason why he should be deprived of the benefits of his contract. Of course, the seller cannot force him to agree to take a lesser quantity than that contracted for, but, if the buyer chooses to accept a lesser quantity, he should not be allowed to refuse delivery. Section 63 of the Contract Act authorises him to remit wholly or in part the performance of the promise made to him, or to accept instead any satisfaction which he thinks fit. Now, this section is not proposed to be repealed; and although this section gives the buyer a right to remit performance of the contract, consistently with the spirit of this section, the buyer must have the option in cases of impossibility of performance of the whole contract to enforce or rescind the contract which remains capable of performance. Therefore, a provision providing for cases of partial destruction is essential.

Sir, I move.

Sir Dinshaw Mulla (Bombay: Nominated Non-Official): Sir, I oppose the amendment. The Honourable Member has no doubt made out a plausible case, but suppose that goods are sold for a lump sum, then what about the price of the rest of the goods, and, further within what time is the delivery of the rest of the goods to be made? You cannot split a contract. Moreover, clause 8 is concerned not with partial loss or partial delivery, but contemplates cases where the goods or bulk of them are destroyed, so that the goods pertaining to the contract are no longer in existence. In such cases the contract must come to an end.

The motion was negatived.

Clause 8 was added to the Bill.

Clauses 9 to 34 were added to the Bill.

Mr. President: The question is:

"That clause 35 stand part of the Bill."

Lala Rang Bahadur Lal: Sir, I move:

"That in clause 35, after the word 'express', the words 'or implied' be inserted."

This section apparently embodies the principle enunciated in section 98 of the Indian Contracts Act. But there is a slight change in the wording. In section 98 of the Contract Act the words used are "in the absence of any special promise", while in the present Bill the words are "apart from any express contract". Now, special promise includes or may include both an express or implied promise, but express contract excludes the idea of an implied term. This clause only deals with the application for delivery, but in a very similar case, *i.e.*, place of delivery, in clause 36 of this Bill and section 29 of the English Act the words "express or implied" are used with the word 'contract'. There seems to be no reason why the contract, in the case of application for delivery, should be only express and not implied, especially when mercantile contracts are generally brief and leave more to implication than to express terms. Thus, in a case where, according to the course of dealings between the parties, the seller always delivered without application by the buyer and in the contract there was no such express term, there is no reason why such a term should not be implied and acted upon. I submit the absence of the word "implied" would cause hardship to the mercantile community who are in the habit of leaving those terms unmentioned which are implied from the language of the contract or course of dealings. I therefore submit that the word "implied" be inserted.

Sir, I move.

The Honourable Sir Brojendra Mitter: Sir, I oppose this amendment. The expression contained in the existing law in the Contract Act, section 98, is, "in the absence of any special promise". The Honourable Member moving the amendment says that that means an express or implied agreement. I submit, Sir, that a special promise can only mean an express agreement and not an implied agreement. Implied agreements very often import usages of trade, but a special promise cannot import usage of trade. Therefore, "special promise", in my submission, means only express agreement. We have adopted the expression "express agreement" for the sake of uniformity because "express" and "implied" are the words used

[**SIR BROJENDRA MITTER.**]

throughout the Bill. Then the Honourable Member said that in the English Act there is provision for an implied agreement. I am afraid the Honourable Member was thinking of English decisions and not the English Act, because the English Act is silent on the point.

Lala Rang Behari Lal: I said that the English Act refers to contract as to place of delivery, both express and implied.

The Honourable Sir Brojendra Mitter: I refer Honourable Members to Notes on Clauses annexed to the Bill. It is true there is no specific provision in the English Act corresponding to it, but the principle seems to have been well recognised in England also. It has been held that in the absence of a contrary agreement, a seller is not bound to send or carry the goods to the buyer; he may leave or place the goods at the buyer's disposal, so that the latter is able to remove them. In the opinion of Chalmers there is nothing in the wording of the English Act to displace this rule; and Halsbury is also of the same opinion. There was much discussion amongst the members of the Special Committee on the question as to whether the expression "apart from any contract" or "in the absence of a contract to the contrary" should be substituted for the expression "apart from any express contract" and clauses 5, 86 and 62 of the Bill were considered. We preferred the expression "apart from any express contract", as the rule enunciated in clause 35 had been in existence since 1872 and had been adopted in actual practice. I may go further and say that the rule existed even before the Indian Contract Act was enacted in 1872, as an old case reported in 1 Madras High Court Reports, page 162 will show. That has worked well in practice and we saw no reason to make a change.

Mr. President: The question is:

"That in Clause 35, after the word 'express', the words 'or implied' be inserted."

The motion was negatived.

Lala Rang Behari Lal: Sir, I move:

"That in Clause 35, after the word 'contract', the words 'or any usage of trade to the contrary' be inserted."

In the construction of mercantile contracts, trade usages play a very great part. They are always recognised and given effect to. In the case of application for delivery in different markets there are trade usages, especially in relation to forward contracts, which require that the sellers will issue delivery orders. Now the issue of delivery orders *suo moto* is incompatible with the buyer applying for delivery. In such cases, to insist that, since there is no express term in the contract the buyer must apply for delivery, otherwise he is guilty of breach, would be very hard on the buyer and would be acting against the trade custom, and since mercantile law recognises trade usages, the addition of the words in the clause should be made.

Sir, I move.

The Honourable Sir Brojendra Mitter: Sir, I am afraid the Honourable Member is under a misapprehension, because clause 62 expressly provides for usages of trade and it is not necessary to have usage of trade in every clause of this Bill. I oppose the amendment.

Mr. President: The question is:

"That in clause 35, after the word 'contract', the words 'or any usage of trade to the contrary' be inserted."

The motion was negatived.

Clause 35 was added to the Bill.

Clause 36 was added to the Bill.

Mr. President: The question is:

"That clause 37 stand part of the Bill."

Lala Rang Behari Lal: Sir, I move:

"That at the end of clause 37 (1) of the Bill, the following be added:
'and may claim damages for non-delivery of the remaining quantity'."

This clause, as it stands, conveys the idea that, in case of short tender of goods, the buyer may reject the goods as he is not bound to accept short quantity. But if he accepts them, "he shall pay for them at the contract rate", conveys the idea that the buyer accepts the goods in complete performance of the contract and forgoes his right to claim performance, or in its absence damages, for the balance. Now this clearly is not the intention of this clause and if it were it would be unjust and inequitable, because every seller in a rising market would offer short quantity, and if accepted escape liability for the balance. In these circumstances it is necessary to give recognition to the right of the buyer for damages for non-performance of a part of the contract.

Really the conduct of the seller in offering short quantity amounts to a breach of the contract, and the conduct of the buyer in accepting the goods amounts to a mitigation of damages, but this should not deprive him of his right to claim damages for the balance if he so desires.

Sir, I move.

Sir Dinshaw Mulla: Sir, I oppose the amendment. The clause as it stands runs thus:

"Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he shall pay for them at the contract rate."

The proposed amendment is to add at the end of the clause the words "and may claim damages for non-delivery of the remaining quantity". The Honourable Member said that, unless those words were added, the seller might take advantage of a rising market and offer to the buyer a smaller quantity; but then the clause expressly provides that, in such a case, it is quite competent to the buyer to refuse to take any delivery at all, and he may sue the seller for damages for the whole. That being the case, there is no injustice involved. Moreover, this clause has been taken from the English Act of 1893. No difficulty of any kind has arisen. Such being the case, we do not consider it desirable to make any departure from it. So far as the suggestion of the Honourable Member is concerned, I submit that the answer which I have given is sufficient to meet the difficulty.

Mr. President: The question is:

"That at the end of clause 37 (1) of the Bill the following be added:
'and may claim damages for non-delivery of the remaining quantity'."

The motion was negatived.

Lala Rang Behari Lal: Sir, I move:

"That in sub-clause (2) of clause 37 the words 'or he may reject the whole' be omitted."

This clause is based on section 30 of the English Act. Similar provisions, though on a modified scale, exist in section 119 of the Indian Contract Act.

The objection against the deletion of these words can be that the offer of a larger quantity is a fresh offer which the buyer may or may not accept; consequently he may reject the offer and call for damages for breach of the contract.

Now this position may sound very well in law, but in certain cases it may work very great hardship and may become inequitable. Take the case of a man who is a timber merchant in Delhi and who contracts to deliver, say 15,000 logs of timber, to another merchant at Lahore, but he has to purchase those goods from Haldwani Mandi. He asks his agent to despatch goods to Lahore, but on receiving the railway receipt he finds that his agent has despatched 18,000 logs, i.e., 3,000 more than the contracted quantity. Now the Lahore merchant, if the clause stands as it is, would be entitled to reject the whole and put the seller to a great loss, but if the amendment is made, he is only entitled to reject 3,000, the excess quantity offered. The Contract Act, (section 119), provided that, if the excess quantity could be easily separated, the goods could not be rejected. Another instance may arise in the case of goods indented for from abroad. Suppose a bale of piece-goods of 50 pieces is ordered, and when supplied, it contains 52 pieces; under the circumstances if the bale is rejected, the seller suffers great loss. It is to safeguard such cases that I want this amendment to be made.

Sir, I move.

Sir Dinshaw Mulla: Sir, I oppose this amendment also. The clause now provides that if a seller delivers to the buyer a larger quantity of goods than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest or he may reject the whole. The proposal involved is the omission of the words mentioned in the amendment. Supposing, in the case mentioned by the Honourable Member, instead of 15,000 logs, 18,000 are sent; the question may then arise whether it is competent to the buyer to select the 15,000 best logs and to reject the 3,000 worst. It is with a view to avoid difficulties of this kind that these words have been retained "or he may reject the whole".

Mr. President: The question is:

"That in sub-clause (2) of clause 37 the words 'or he may reject the whole' be omitted."

The motion was negatived.

Clause 37 was added to the Bill.

Clauses 38 to 54 were added to the Bill.

Mr. President: The question is:

"That clause 55 stand part of the Bill."

Lala Rang Behari Lal: Sir, I move:

"That in sub-clause (2) of clause 55 the words 'and the goods have not been appropriated to the contract' be omitted."

These words, if not deleted, would be a source of increasing litigation and consequently troublesome for the mercantile community. It may be said in reply that similar provisions exist in the English Act. They may exist, but in adopting them, we have to see whether they are good or bad and whether they suit our country and would be conducive to the well being of the society, or would be a source of litigation and harassment. The principles on which suits for price of goods are allowed are that, on the completion of a sale by delivery of goods, or by the passing of property in the goods, the buyer becomes a debtor and as such he is bound to pay. Thus, these suits owed in debt and not in damages.

But in cases where the goods are not even appropriated to the contract, not to say of ascertainment and passing of property, the action cannot be said to be for debt. It can neither be an action for damages, as the measure of damages is the difference between contract rate and market rate. In any case, before an action for damages can be sustained, the plaintiff must show his readiness and willingness, that is, appropriation of the goods. Thus, this suit is out of the two categories of a suit for debt or for damages. Under what category it will fall I am at a loss to comprehend.

Then, Sir, the Civil Procedure Code makes no provision for a suit of this type. In addition to this objection, the retention of this clause would give unnecessary advantage to the seller over the buyer. He can, even without appropriating the goods or without in the least showing his readiness and willingness or even preparation for performance, realise the price of the goods, and subsequently fail to appropriate or deliver the goods, and in cases where, after realising big amounts, the seller becomes insolvent, the poor buyer has practically no remedy. Therefore I submit, in order to protect the interests of buyers and to keep trade at its normal, the deletion of these words is essential. Sir, I move.

Sir Dinshaw Mulla: Sir, I oppose the amendment. There is no question of any poor buyer in this case, because what the clause says is this:

"Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him . . ."

So, here there is an express contract between the buyer and the seller that the price has to be paid on a certain day. Not only that, but that the price has to be paid irrespective of delivery; and further "where the buyer wrongfully neglects or refuses to pay". The Honourable Member says it is neither a suit for debt nor a suit for damages. But it is clearly a suit for the price and a suit for the price is a suit for debt; it could not possibly be a suit for damages or a suit for anything else. Such being the case, I oppose the amendment.

Mr. President: The question is:

"That in sub-clause (2) of clause 55 the words 'and the goods have not been appropriated to the contract' be omitted."

The motion was negatived.

Clause 55 was added to the Bill.

Clauses 56 to 60 were added to the Bill.

Mr. President: Clause 61.

12 Noon. **Lala Rang Behari Lal:** Sir, I do not wish to move my amendment.

Clauses 61 to 66 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Brojendra Mitter: Sir, I beg to move that the Bill, as amended by the Select Committee, be passed.

The motion was adopted.

THE INDIAN CONTRACT (AMENDMENT) BILL.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I beg to move that the Bill to amend section 178 of the Indian Contract Act, 1872, as reported by the Select Committee, be taken into consideration. This Bill is consequential on clauses 27 and 29 of the Indian Sale of Goods Bill, which has just been passed. Clauses 27 and 29 deal with sales by ostensible owners, whereas section 178 of the Indian Contract Act deals with pledges by ostensible owners, and in this Bill we have brought section 178 into line with clauses 27 and 29.

Mr. President: The question is:

"That the Bill to amend section 178 of the Indian Contract Act, 1872, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Brojendra Mitter: Sir, I beg to move that the Bill be passed. It was not amended in the Select Committee.

Mr. President: The question is:

"That the Bill to amend section 178 of the Indian Contract Act, 1872, as reported by the Select Committee, be passed."

The motion was adopted.

THE TRANSFER OF PROPERTY (AMENDMENT) BILL.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I beg to move that the Bill to amend the Transfer of Property (Amendment) Act, 1929, for a certain purpose be taken into consideration. As I explained when I introduced the Bill, this short amendment is necessary, because there was an unwitting omission in the Transfer of Property (Amendment) Act. We provided for a case where registration of a document was effected in a Presidency town, but we omitted to provide for a case where registration was effected in a sub-registry when properties scattered over different sub-registries were embodied in the same document, and it is to provide for that omission that this Bill is necessary.

Mr. President: The question is:

“That the Bill to amend the Transfer of Property (Amendment) Act, 1929, for a certain purpose, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

The Honourable Sir Brojendra Mitter: Sir, I move that the Bill be passed.

The motion was adopted.

Mr. President: We don't meet tomorrow?

The Honourable Sir James Orerar (Leader of the House): No, Sir; the business on the Agenda, having been very expeditiously transacted today, there is no business for tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 4th February, 1930.