

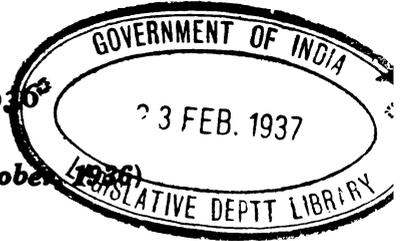
12th October 1936

THE
LEGISLATIVE ASSEMBLY DEBATES

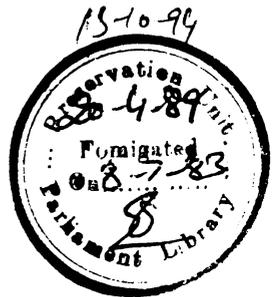
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Volume IX, 1936

(9th October to 16th October 1936)



FOURTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1936



NEW DELHI
GOVERNMENT OF INDIA PRESS
1937

Legislative Assembly.

President :

THE HONOURABLE SIB ABDUR RAHIM, K.C.S.I., KT.

Deputy President :

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

Panel of Chairmen :

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

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

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

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

Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary :

RAI BAHADUR D. DUTT.

Marshal :

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

Committee on Petitions :

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

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

PANDIT NILAKANTHA DAS, M.L.A.

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

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

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LEGISLATIVE ASSEMBLY.

Monday, 12th October, 1936.

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

QUESTIONS AND ANSWERS.

UNIFORMITY IN THE OFFICE HOURS IN THE CIVIL SECRETARIAT AND THE ARMY HEADQUARTERS.

1098. ***Prof. N. G. Banga** (on behalf of **Mr. C. N. Muthuranga Mudaliar**) : Will Government be pleased to state :

- (a) whether it is a fact that office hours in the Civil Secretariat are from 10-30 A.M. to 4-30 P.M., on week days, except Saturdays ;
- (b) whether it is a fact that in the Army Headquarters the office hours are from 10 A.M. to 4 P.M., and if so, the reason for the distinction ; and
- (c) whether they are prepared to consider the desirability of introducing uniformity in the matter ?

The Honourable Sir Henry Craik : With your permission, Sir, I will answer questions Nos. 1098 and 1099 together. The question of office hours is, within limits, one for each Department to decide for itself, but generally the prescribed hours of work in the Secretariat are from 10-30 A.M. to 4-30 P.M. except on Saturdays when the hours are usually from 10-30 A.M. to 2 P.M. The office hours at Army Headquarters are from 10 A.M. to 4 P.M. except on Saturdays when the hours are usually from 10 A.M. to 1-30 P.M. Government do not see any necessity for introducing absolute uniformity in the matter.

Mr. Mohan Lal Saksena : May I understand that the time mentioned is standard time ?

The Honourable Sir Henry Craik : Yes.

Mr. K. Ahmed : Is there any chance that the Congress Party or my friend's constituency will be benefited in any way by putting this question ?

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

(2937)

**UNIFORMITY IN THE OFFICE HOURS OF THE SEVERAL GOVERNMENT OF INDIA
DEPARTMENTS ON SATURDAYS.**

†1099. ***Prof. N. G. Ranga** (on behalf of Mr. C. N. Muthuranga Mudaliar) : Will Government be pleased to state :

- (a) what the office hours are in the several departments of the Government of India on Saturdays ;
- (b) whether it is a fact that in some departments the hours are from 10-30 A.M. to 1-30 P.M., and in others from 10-30 A.M. to 2 P.M., and if so, the reason for the different hours ; and
- (c) whether they are prepared to consider the desirability of a uniform treatment in the matter ?

REPORT OF THE WHEELER COMMITTEE.

1100. ***Prof. N. G. Ranga** (on behalf of Mr. C. N. Muthuranga Mudaliar) : Will Government be pleased to state :

- (a) if it is a fact that the recommendations of the Wheeler Committee are under their consideration at present ;
- (b) whether they have any intention of publishing the report, and if so, when ;
- (c) whether it is a fact that they contemplate publishing the report together with their decision on the recommendations contained therein, and if so, the reason for this procedure ;
- (d) whether it is a fact that it is their intention to publish the report and their decision when the Assembly is not in Session ; if not, whether an opportunity will be given to the Assembly to consider the report so as to enable the Assembly to express its opinion on the matter ;
- (e) whether the decision that may be reached on the recommendations of the Committee will be that of the Government of India or that of the Secretary of State ; and
- (f) whether, and, if so, to what extent, the present Government of India or the Secretary of State could bind the successors of the present Government by any decision that may be reached now on the report ?

The Honourable Sir Henry Craik : (a), (b) and (c). I would refer the Honourable Member to the answer given to Mr. T. S. Avinashilingam Chettiar's question No. 51 on the 2nd September, 1936, and to the replies to the supplementary questions asked on that occasion.

(d) It is not likely that the report will be published during the present Session of the Assembly.

(e) The decision will be that of the Government of India, except where the sanction of the Secretary of State is required.

(f) The position will be precisely the same as in every other decision of the Government of India or the Secretary of State.

†For answer to this question, see answer to question No. 1098.

Prof. N. G. Ranga : Will an attempt be made to postpone the decision until an opportunity is given to the winter Session of the Assembly ?

The Honourable Sir Henry Craik : I think I have already answered that question. The answer is in the negative.

Mr. M. Ananthasayanam Ayyangar : When was the report submitted to the Government ?

The Honourable Sir Henry Craik : I have answered that too : it was submitted, as far as I remember, about March or April last.

DISCHARGE OF NINE DEPUTY ASSISTANT CONTROLLERS OF MILITARY ACCOUNTS

1101. ***Mr. Sham Lal :** (a) Are Government prepared to redress the grievances of a body of civil servants or class of servants as stated by the Honourable the Finance Member in reply to the speech made by Sardar Sant Singh while moving an adjournment motion on the 25th February, 1936 ?

(b) If so, do Government propose to look into and redress the grievances of nine or more subordinate service officers of the Military Accounts Department (referred to in starred questions Nos. 781, 791, 796, 797 of the 22nd August, 1934) who were prematurely retired in September or October, 1933 ?

(c) Will Government please state how many of the superior service officers were similarly retired and how many of them were given extensions, with particulars of names and rates of pay ?

(d) Has the strength of the Military Accounts Department been reduced during these years among the clerical, accountants and subordinate service officers, and will Government please state why corresponding reduction was not made among the superior service officers ?

(e) Is it a fact that the Army Headquarters have taken special steps to find jobs for the retiring European Army officers, or have given them special concessions when they so retired prematurely ?

(f) Has similar action been taken for civilian officers in the Army or the Army Accounts retired like the ones referred to in the preceding part ?

(g) Do appeal rules framed by Government provide for open enquiries to be made in all cases in which officers are punished for neglect of duty, and are they entitled to full facilities to see the original records concerned ? If so, was this done in the case of the Military Accounts Department officers referred to in the preceding parts ?

(h) Were the appeal rules referred to above framed so as to save Government servants from unnecessary court expenses ?

The Honourable Sir James Grigg : (a) Government are always prepared to consider representations from their servants when they are put forward in the proper manner.

(b) The attention of the Honourable Member is invited to the replies given to Mr. Jagan Nath Agarwal's starred questions Nos. 781—791 on the 22nd of August, 1934, and to Bhai Parma Nand's starred questions Nos. 796 and 797 on the same date.

(c) No Superior Service Officers were retired for inefficiency under Note 1 to Article 465 (a), C. S. R. As regards the second part of the question, in recent years only one officer has been given an extension of service.

(d) The answer to the first part of the question is in the affirmative. The cadre of Superior Service Officers for the Military Accounts Department was reduced as a measure of retrenchment from 59 to 53 posts. It was subsequently found that this reduction was too drastic and two of the posts reduced have since been revived. It will be realised that the reduction in ministerial and subordinate establishment does not necessarily result in a proportionate reduction of superior staff.

(e) I presume that the Honourable Member refers to the "War Block" Scheme and, if so, the answer is in the affirmative.

(f) No; but I would point out that the particular cases referred to by the Honourable Member relate not to retrenchments but to retirements for inefficiency.

(g) Departmental enquiries are held and every opportunity is given to the officer concerned to state his case. As regards the second part, I would refer the Honourable Member to my answers of the 22nd August, 1934.

(h) No question of court expenses arises.

PROVISION OF LATRINES IN THE PEONS' QUARTERS AT PUNCHKUI ROAD, NEW DELHI.

1102. *Mr. D. K. Lahiri Chaudhury : (a) Are Government aware that they built small bath rooms in each peons' quarter at Punchkuin Road, New Delhi ?

(b) Is it a fact that the Peons' Association wrote a letter to Government, praying to build latrines in those quarters ?

(c) If the answer to the preceding part be in the affirmative, why did Government make bath rooms ?

(d) Do Government propose to build latrines in those quarters ? If not, why not ?

The Honourable Sir Frank Noyce : (a) No. Bathrooms are not provided. Only bathing platforms have been provided in the peons' quarters in New Delhi.

(b) No such representation has been received.

(c) Does not arise.

(d) No. Water-flushed latrines already exist for the convenience of the occupants of these quarters.

CONTRACT FOR THE SUPPLY OF RED OXIDE FOR RAILWAY WAGONS AND UNDERFRAMES.

1103. *Mr. Anugrah Narayan Sinha : (a) Is it a fact that samples in respect of supplementary tender No. 7344 were required to reach the Government Test House by not later than the 25th November, 1935 ?

(b) Is it a fact that Messrs. Jenson & Nicholson did not submit their samples to the Government Test House within the specified date? If so, will Government be pleased to state the date or dates on which the samples in question were actually submitted by the said firm to the Government Test House?

(c) Is it a fact that on the 5th December, 1935, the Railway Board decided to purchase the Readymixed Red oxide paint from the European group—Messrs. Jenson & Nicholson and Shalimar Paint Works—long before their samples were reported on by the Government Test House?

(d) Is it a fact that the samples submitted by Messrs. Shalimar Paint Works against supplementary tender No. 7344 differed in some cases from the actual supplies furnished to the East Indian Railway for trials carried out by Mr. T. G. Creighton at Lillooah?

(e) Will Government be pleased to state in what respects the same differed?

(f) Will Government be pleased to state whether the contract for the supply of Red Oxide Paint for wagons and underframes during 1936-37 awarded to Messrs. Jenson & Nicholson and Messrs. Shalimar Paint Works, was based on the samples tried by Mr. T. G. Creighton at Lillooah or the standard samples submitted by the firms to the Government Test House against the supplementary tender No. M-7344?

(g) Is it a fact that the contracts for the supply of Red Oxide stiff paint were awarded to Messrs. Jenson & Nicholson and Messrs. Shalimar Paint Works in April, 1936, prior to the Government Test House Report on their samples against the supplementary tender? If not, will Government be pleased to state the date when the Indian Stores Department actually received the Test Report on the samples in question?

The Honourable Sir Frank Noyce : With your permission, Sir, I propose to reply to questions Nos. 1103 and 1104 together.

Information has been called for and replies will be placed on the table of the House in due course.

TENDER FOR THE SUPPLY OF INSIDE BODY VARNISH APPROVED BY THE EAST INDIAN RAILWAY.

†1104. ***Mr. Anugrah Narayan Sinha :** (a) Is it a fact that the Indian Stores Department invited tender No. H-6040 for the supply of inside body varnish against the Indian Stores Department specification and standard sample which stipulates that the varnish must be free from rosin?

(b) With reference to the reply to part (b) of starred question No. 1019, given on the 9th March, 1936, will Government be pleased to state whether any tender for the sample of inside body varnish approved by East India Railway, was invited in accordance with the rules for the purchase of stores by the Indian Stores Department? If not, why not?

(c) If the answer to part (b) be in the negative, will Government be pleased to state how the Indian Stores Department placed the contract

No. H.-6040|10, dated the 5th March, 1930 with Messrs. Jenson & Nicholson for the special quality of varnish ?

(d) Are Government aware that the supply of the varnish—body hard drying inside—supplied against the contract, was found by the Government Test House to be a rosin varnish, rosin was partially in the free state and partially in the form of calcium rosinate and reported to give a brittle film and rejected as unsuitable for use as an inside body varnish ?

(e) Is it a fact that the same varnish rejected by the Government Test House was accepted and paid for, as the supply conformed to the East Indian Railway special sample which was brittle and far inferior to the quality for which the original tender was called for ?

(f) Is it a fact that according to the rules for the submission of tenders a contract is liable to be cancelled and a fresh tender is to be invited for the actual stuff required as per special approved samples in case where the Indian Stores Department specification is not available ?

(g) Is it a fact that, according to the rules for the submission of tenders, a contract is liable to be cancelled and the tenderer held responsible for the breach of contract if the supply is not according to the specification in the tenders ? If so, why was this rule not applied in the case of the supply of this inside varnish by the European firm, Messrs. Jenson & Nicholson—the successful tenderer ?

(h) Are Government aware that there are several other cases in which particular European tenderers were allowed to supply materials which were not according to the Indian Stores Department specifications mentioned in the tenders of the successful tenderers, and in whose favour the specifications were changed by the Indian Stores Department without calling for fresh tenders ? If not, do Government propose to enquire into such cases and lay a copy of the result of such enquiries on the table of this House ? If not, why not ?

INTERFERENCE BY THE RAILWAY BOARD IN THE MATTER OF PURCHASE OF THE RED OXIDE PAINT.

105. *Mr. Anugrah Narayan Sinha : (a) Will Government be pleased to state if in the matter of purchase of stores, the Railway Board has ever had the occasion to dictate the placing of a contract on behalf of the Indian Stores Department with a particular firm for supply of paints ?

(b) If so, is it a fact that the particular firm on whose behalf the Railway Board interfered, happened to be Europeans, namely, Messrs. Jenson & Nicholson ?

(c) Is it a fact that the decision to purchase the Red Oxide Paint under supplementary tender No. M-7344 from Messrs. Jenson & Nicholson, was arrived at at a meeting of the Railway Board on the 5th December, 1935, while the actual test of samples of the said Red Oxide Paint was carried out long after that by Mr. T. G. Creighton on the 10th April, 1936 at Lillooah ?

(d) Will Government be pleased to state if the testing of samples taking place long after the decision on the tender was ever committed by

the Indian Stores Department ? If so, will Government be pleased to state instances ?

(e) If the reply to part (d) be in the negative, will Government be pleased to state the reasons for the Railway Board interfering with the principles and procedure so far followed by the Indian Stores Department in the matter of purchase for the public service ?

The Honourable Sir Frank Noyce : (a) No.

(b) The question does not arise.

(c) No.

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

(e) In view of the reply to parts (a) and (c) of the question, this question does not arise.

RAILWAY CONCESSION FOR TRANSPORT OF FOOD AND FODDER TO THE FAMINE-STRICKEN AREAS IN THE JHALOD TALUKA AND PACHMAHAL DISTRICT.

1106. ***Prof. N. G. Ranga :** Will Government be pleased to state whether any railway transport concessions had been extended for the cheaper or free transport of food and fodder to the famine-stricken area in the Jhalod Taluka and other areas of Pachmahal's District ?

Sir Girja Shankar Bajpai : With your permission, Sir, I propose to answer questions Nos. 1106 and 1107 together.

It would appear from the Local Government's communiqué published on the 7th September, that reduced rates for the transport of fodder by rail have been arranged by the Government of Bombay to relieve the distress prevailing in certain districts.

RAILWAY CONCESSION FOR TRANSPORT OF FODDER TO THE FAMINE-STRICKEN AREAS IN GUZERAT AND MAHARASHTRA.

†1107. ***Prof. N. G. Ranga :** Will Government be pleased to state whether any railway concessions has been offered for the cheaper or free transport of fodder to the famine-stricken areas in Guzerat and Maharashtra ?

ALLOTMENT OF QUARTERS NEAR GOL MARKET, NEW DELHI, TO NON-MIGRATORY STAFF.

1108. ***Khan Bahadur Shaikh Fazl-i-Haq Piracha :** (a) Is it a fact that the orthodox clerks' quarters near Gol Market are not permanently allotted to the non-migratory staff, and are allotted to the migratory staff of the Government of India ? If so, do Government propose to consider the trouble and inconvenience of their non-migratory staff in this respect and take any steps in the matter ?

(b) Is it a fact that the quarters around the Gol Market, viz., Pershing, Edwards, Joffree, and Diaz Squares, which are practically reserved for the non-migratory staff of the Government of India, are totally allotted to

†For answer to this question, see answer to question No. 1106.

non-Muslim staff only? If so, do Government propose to reserve another square such as Foch Square for their Muslim non-migratory staff, if no quarters can be given to them out of the above squares?

The Honourable Sir Frank Noyce : (a) The orthodox clerks' quarters near the Gol Market, New Delhi, are allotted both to the non-migratory and migratory staff. Government are not aware that this arrangement leads to any trouble or inconvenience to the non-migratory staff.

(b) No. Communal considerations do not enter into the question of the allotment of quarters, and Government do not propose to take the action suggested by the Honourable Member.

SPEECHES OF MEMBERS OF GOVERNMENT AGAINST THE POLICY OF THE
GOVERNMENT IN THEIR PERSONAL CAPACITY.

1109. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will the Honourable the Leader of the House be pleased to state :

(a) whether the attention of Government has been drawn to the speeches of the Honourable the Finance Member on several occasions against the policy of protection adopted by the Government of India ;

(b) whether their attention has been drawn to the questions and answers on this matter in the House on Friday, the 4th September, 1936, in the course of which the Honourable the Finance Member said that these speeches were made by him in his personal capacity ;

(c) whether Government realise the danger of Members of Government speaking against the policy of the Government even in their personal capacity ; and

(d) whether Government propose to issue any orders in this matter, so as to secure uniformity of policy on the part of the Government and of their Members ?

The Honourable Sir Frank Noyce : (a) and (c). Do not arise as neither the Honourable the Finance Member or any other Member of Government has spoken against the policy of Government either in a personal capacity or otherwise.

(b) The Honourable Member has misquoted the Honourable the Finance Member.

(d) No.

Mr. M. Ananthasayanam Ayyangar : Is the Honourable the present Leader of the House aware that the Finance Member spoke against the policy of the Government regarding protection in..... ?

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

The Honourable Sir James Grigg : That is completely untrue.

Mr. M. Ananthasayanam Ayyangar : I submit, Sir, that the Honourable Sir Frank Noyce said just now that the Government are not aware that the Honourable the Finance Member made any speech at all as mentioned in the question : may I not ask..... ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable the Finance Member has already said that he has accepted the policy of protection.

Mr. M. Ananthasayanam Ayyangar : But can I not point out that the answer given by the Government to this question is wrong ?

Mr. President (The Honourable Sir Abdur Rahim) : The question was whether the Finance Member had spoken against the policy of protection and the answer was that he had not.

**FREEDOM OF SPEECHES TO THE MEMBERS OF THE LEGISLATIVE ASSEMBLY
IN THEIR CONSTITUENCIES.**

1110. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether their attention has been drawn to the orders on Mr. Amarendra Nath Chattopadhyaya, M.L.A., passed by a District Magistrate in Bengal, prohibiting him from addressing public meetings in connection with the Local Self-Government Act ;
- (b) whether they have considered or propose to consider the question of affording freedom of speech to Members of this House in their constituencies ; and
- (c) whether they propose to lay down any rules in this matter for the guidance of Local Governments and of District Magistrates, and, if not, why not ?

The Honourable Sir Henry Craik : (a) Yes.

(b) and (c). The legal position is perfectly clear and well known. Outside the House the speeches of a Member are not privileged. In regard to his speeches and actions whether in his constituency or elsewhere, the laws which apply to the public generally apply to him also. The Government of India see no necessity for the issue of any instructions.

Prof. N. G. Ranga : Is it then the policy of the Government of India to take no action at all to prevent their local officers from prohibiting Members of this Assembly from addressing their constituents even in regard to local self-government institutions ?

The Honourable Sir Henry Craik : I have nothing to add to what I have said already : the law is perfectly clear.

Prof. N. G. Ranga : Will Government be at least prepared to consider the advisability of issuing instructions to Local Governments to try to be as sparing as possible in their utilisation of the repressive laws as far as Members of the Assembly are concerned ?

The Honourable Sir Henry Craik : No : no distinction can be made between a Member of the Assembly and any one else.

Mr. Mohan Lal Saksena : In view of the forthcoming elections, will the Honourable Member issue instructions that Members of the Assembly should not be prevented from addressing their constituencies ?

The Honourable Sir Henry Craik : I have already said that the Government of India see no necessity for the issue of any instructions.

Mr. Mohan Lal Saksena : In view of this order against Mr. Amarendra Nath Chattopadhyaya, is it not necessary that instructions should be issued to Local Governments that while action may be taken against him if he commits a breach of the law, he should not be prevented from addressing his constituents ?

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

SITUATION ARISING OUT OF THE CLOSING OF THE AHMEDABAD MILLS.

1111. ***Mr. M. Ananthasayanam Ayyangar :** (a) Has the attention of Government been drawn to an article headed 'Serious position facing Ahmedabad Mills' in the *Hindustan Times* of September 5, 1936 ?

(b) Are Government aware that a serious situation has arisen in the Ahmedabad Mills and the Mill-Owners' Association is contemplating closing the mills for some days ?

(c) Are Government aware that these mills have reduced the wages of labourers ?

(d) Are Government aware that this situation is a direct consequence of the lowering of the import duty on British textiles ? If not, what is the cause ?

(e) Do Government propose to take immediate steps to restore the import duties on British goods to their old level ?

The Honourable Sir Frank Noyce : (a) I have seen the article referred to.

(b) and (c). Government are aware that the Ahmedabad Mill-owners' Association has addressed a letter to the Textile Labour Association stating that there is a danger of a number of mills being obliged to close down unless a wage-cut of 20 per cent. in the present scale of wages is introduced.

(d) No. The letter to which I have just referred, as published in the press, does not mention the lowering of the import duty as a reason for their proposal to reduce wages but justifies it by the assertion that the Ahmedabad textile industry has been in a critical position more particularly in the last year and a half due to competition from old established centres, like Bombay, where wages are lower and marketing and other facilities better, and to the growth of textile mills at new centres which have affected Ahmedabad's markets and the level of prices.

(e) Does not arise.

Prof. N. G. Ranga : What steps are being taken by the Government of India to prevent any serious outbreak of strike as a result of lowering of wages in Ahmedabad ?

The Honourable Sir Frank Noyce : I understand that the matter is under negotiation between the Ahmedabad Millowners' and the Textile Labour Associations. The Labour Association is, I believe, a strong body ; and the matter, at the moment, had best be left to the ordinary

course of negotiations. In any case the matter is one for the Government of Bombay rather than for the Government of India.

Prof. N. G. Ranga : Are Government aware of the fact that Mahatma Gandhi who is the President of the permanent Arbitration Committee between the labourers and the employers has almost expressed his inability to settle this matter owing to the continuous refusal of the mill-owners to withdraw their proposals for lowering the wages ?

The Honourable Sir Frank Noyce : I have no information beyond that I have already given in reply to the question.

PERMISSION TO MR. GANDHI TO VISIT MR. SUBHASH CHANDRA BOSE.

1112. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state if it is a fact that Mahatma Gandhi has moved Government for permission to interview Mr. Subhash Chandra Bose ?

(b) Will Government be pleased to state if it is a fact that Mahatma Gandhi has given Government to understand that he would restrict this said interview to non-political matters only ?

(c) If the replies to the preceding parts be in the affirmative, will Government be pleased to state when the permission for interview will be given to Mahatma Gandhi ?

The Honourable Sir Henry Craik : (a) No.

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

Mr. Mohan Lal Saksena : Is it a fact that Mahatma Gandhi had written to the Government asking for permission to write to Mr. Subhash Chandra Bose ?

The Honourable Sir Henry Craik : No. Not so far as I am aware.

Pandit Lakshmi Kanta Maitra : Am I to understand that the Honourable Member's attention has not been drawn to the reports in the press that Mahatma Gandhi wanted to correspond with Mr. Subhash Chandra Bose on purely non-political matters ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has already answered that no permission was asked for by Mahatma Gandhi. Next question.

ALLEGED SUPPRESSION OF A LETTER WRITTEN BY PANDIT JAWAHARLAL NEHRU TO MR. SUBHASH CHANDRA BOSE.

1113. ***Mr. Amarendra Nath Chattopadhyaya :** Will Government be pleased to state if it is a fact that a letter written by Pandit Jawaharlal Nehru to Babu Subhash Chandra Bose has been suppressed ? If so, why ?

The Honourable Sir Henry Craik : Yes, because under the rules under which Mr. Bose is detained correspondence on political matters is not permitted.

Pandit Lakshmi Kanta Maitra : Did the Honourable Member enquire whether the contents of this letter addressed by Pandit Jawaharlal Nehru to Mr. Subhash Chandra Bose contained political discussions or political matters ?

(d) Is it a fact that in spite of this huge increase in quantity, no fresh quotations were invited and the contractors, who happened in this case to be a European concern, were allowed to supply the paints at the original rates ?

The Honourable Sir Frank Noyce : With your permission, Sir, I propose to reply to questions Nos. 1114 and 1115 together.

Information has been called for and replies will be placed on the table of the House in due course. May I add for the information of the Honourable Member that I will endeavour to place this information as well as the information asked for in a series of other questions on the subject, on the table of the House before the end of the Session, though I cannot give a definite promise to that effect.

INDIAN STORES DEPARTMENT CONTRACT FOR CARBON BLACK READY MIXED PAINT.

†1115. ***Pandit Lakshmi Kanta Maitra :** (a) Is it a fact that Messrs. Murarka Paint and Varnish Works, Limited, was also under contract No. M-6470|6 called upon to supply 25,000 gallons of Muraco Special Black ?

(b) Will Government be pleased to state if an additional quantity of 20,000 gallons of the same paint was purchased from the same Indian manufacturers, Messrs. Murarka Paint and Varnish Works, Limited, at the reduced rate of annas-four less per gallon on a fresh quotation ?

(c) Is it a fact that the Indian Stores Department placed with Messrs. Murarka Paint and Varnish Works, Limited, Contract No. 2135 Item No. 13 for Paint Red Oxide Stiff (I. S. D. Specification No. G10, P 118) "for those who demand" during 1933-34 and gave a forecast of 3,000 hundred-weights required for the North Western Railway ?

(d) Is it a fact that after the quantity indicated in the said forecast had been purchased, an additional quantity of 1,000 hundred-weights only was required for the North Western Railway, but the Indian Stores Department, without placing the order against the contract held already by the Murarkas, invited fresh quotations in November, 1933 and made fresh arrangements with other parties for the supply of the extra quantity in question ?

(e) Will Government be pleased to state if any such supplementary tenders for the supply of paints for which European firms held rate contracts, were ever called so long as the contracts were in force ?

(f) If the reply to part (e) be in the affirmative, will Government be pleased to state the number and details of such cases with the names of the European companies concerned ?

(g) If the reply to part (e) be in the negative, will Government be pleased to state the reasons for calling such fresh tenders only when purely Indian manufacturers are concerned ?

†For answer to this question, see answer to question No. 1114.

(h) Are Government aware that there have been several such cases of differential treatment on racial basis in the matter of distribution of tenders by the Indian Stores Department, and the purely Indian manufacturers have in such cases invariably been the sufferers ?

(i) If the reply to part (h) be in the affirmative, what action do Government propose to take for putting a stop to such racial discriminations ?

(j) If the reply to part (h) be in the negative, are Government prepared to enquire into the matter and lay the report of such enquiry on the table of this House ? If not, why not ?

POSTAL OFFICIALS STATIONED AT JALPAIGURI.

1116. ***Mr. D. K. Lahiri Chaudhury** : Will Government please lay on the table of this House a statement of the postal officials stationed at Jalpaiguri who have rendered more than five years service in that station, showing against each name his length of service in Jalpaiguri ?

The Honourable Sir Frank Noyce : Government have no information and do not propose to call for it as its collection would involve an undue expenditure of time and labour.

REPRESENTATION MADE ON BEHALF OF THE BRAHMINS OF THE UNITED PROVINCES BY THE BRAHMIN SABHA, FEROEZPUR.

1117. ***Mr. Mohan Lal Saksena** : (a) Have Government received any representation made on behalf of the Brahmins of the United Provinces by the Brahmin Sabha, Ferozepur ? If so, what action has been taken thereon ?

(b) Is it a fact that Garhwali Brahmins and Kabir Panthi Dogras were also classified as "incorrect classes" along with the United Provinces Brahmins ?

(c) Is it a fact that on representations made subsequently they were granted certain concessions in the matter of pay and other rights ? If so, will Government please state what those concessions were, and are they prepared to consider the advisability of allowing similar concessions to the United Provinces Brahmins ?

Mr. G. R. F. Tottenham : (a) Government received the representation mentioned by the Honourable Member. In reply they informed the Secretary, Brahmin Sabha, Ferozepore, on the 27th July, 1936, that the United Provinces Brahmins employed in the Indian Army Ordnance Corps were not invidiously disqualified for promotion. They were given the same treatment as other classes who did not fit into the class composition authorised for Indian other ranks of the Indian Army Ordnance Corps. Those who had completed their original contract of four years were eligible to take their discharge if they were not satisfied with their present conditions.

(b) Yes.

(c) No. All Indian other ranks who did not fit into the authorised class composition were treated alike.

EFFECT OF THE SEPARATION OF BURMA ON THE DEFENCE EXPENDITURE.

1118. ***Mr. T. S. Avinashilingam Chettiar** : Will Government state :

- (a) what will be the effect of the separation of Burma on the Defence expenditure ;
- (b) whether they have prepared estimates for the next year, having in view the separation of Burma next year ; and
- (c) if so, how does the next year's estimate compare with that of previous years ?

The Honourable Sir James Grigg : (a) Defence estimates for Burma are under preparation and until they are completed the exact effect of the separation of Burma on Defence expenditure cannot be stated.

(b) The budget estimates for the next year have not yet been prepared.

(c) Does not arise.

POST OF THE PRIVATE SECRETARY TO THE FINANCE MEMBER.

1119. ***Mr. T. S. Avinashilingam Chettiar** : Will Government state :

- (a) whether there is at present a Private Secretary to the Finance Member ;
- (b) when the post was created ;
- (c) whether besides this the Finance Member has a personal assistant as well as a stenographer ; and
- (d) what are the financial commitments in the creation of this post ?

The Honourable Sir James Grigg : (a) Yes.

(b) On the 23rd of October, 1935.

(c) Yes.

(d) It is a temporary post carrying pay on the senior time-scale of the Indian Civil Service *plus* special pay of Rs. 300 per mensem.

DEPUTATION OF SIR ERIC MIEVILLE TO ENGLAND TO STUDY THE CABINET SYSTEM.

1120. ***Mr. T. S. Avinashilingam Chettiar** : Will Government state :

- (a) whether Sir Eric Mieville was sent to England to study the cabinet system ;
- (b) what expenses were incurred on that account ;
- (c) whether he has submitted his report ; and
- (d) whether a copy of the report will be put in the Library ?

The Honourable Sir Henry Craik : I would refer the Honourable Member to the reply I gave to Mr. Satyamurti's starred question No. 417 on the 16th September, 1935, and to the Honourable Member's supplementary questions asked in connection with question No. 512 on the 18th September, 1936.

INTERMEDIATE CLASS PASSENGERS TRAVELLING FROM HOWRAH TO BURDWAN
AND *vice versa*.

1121. *Pandit Nilakantha Das : (a) Is it a fact that intermediate class passengers travelling from Howrah to Burdwan and *vice versa* were allowed to travel by all express trains except 7-Up ?

(b) If so, will Government be pleased to state whether that facility has been withdrawn since last April ?

(c) Is it a fact that it has caused great inconvenience to the people of Burdwan, and representations were made to the Financial Commissioner for Railways and the Agent, East Indian Railway ?

(d) If so, will Government be pleased to state what action, if any, has been taken in the matter ?

(e) Is it a fact that intermediate class passengers are allowed to travel from Howrah and Ondal ?

(f) If so, what is the reason for depriving a large town like Burdwan of the same facility ?

(g) Is it a fact that Ondal is a small village and very few people are benefited by it ?

(h) Is it a fact that the number of intermediate class passengers from Howrah to Burdwan and *vice versa* has been considerably reduced owing to these restrictions ?

(i) Is it a fact that more people are now travelling by third class between Howrah and Burdwan and *vice versa* than formerly ?

(j) Is it a fact that Burdwan is a long way off from Howrah and is not a suburb of Calcutta or Howrah ?

(k) If so, will Government be pleased to state the reason for treating a big town like Burdwan as a suburb ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (e).
Yes.

(c) I am prepared to take it from the Honourable Member that a certain amount of inconvenience has been caused.

(d) and (f). The Agent, East Indian Railway, states that a relaxation of the restriction would inconvenience long distance passengers.

(g) Ondal station serves a large industrial area and trains are full to capacity up to Ondal.

(h) and (i). Definite information is not readily available but it is possible that a number of passengers who previously purchased intermediate class tickets by express trains may now be travelling third class by other trains.

(j) Yes.

(k) To give Burdwan the frequent and rapid services which traffic requirements call for.

MEMORIAL OF THE FIRST GRADE PLEADERS OF THE CENTRAL PROVINCES AND BERAR AGAINST PAYMENT OF A CERTAIN STAMP DUTY.

1122. *Mr. Amarendra Nath Chattopadhyaya (on behalf of Mr. M. S. Aney) : (a) Are Government aware of the fact that under the rules proposed by the Judicial Commissioner at Nagpur for submission to the High Court, and first published in the Central Provinces Gazette, dated the 4th October, 1935, and then subsequently promulgated by the Honourable Judges of the High Court of Judicature at Nagpur, sometime in January 1936 after its establishment, the class of first grade pleaders who were entitled to practise in the Judicial Commissioner's Court at Nagpur was abolished and an option was given to them to enrol themselves as advocates of the High Court on payment of Rs. 500 as stamp duty under the Indian Stamp Act or to remain on the roll of district pleaders ?

(b) Will Government be pleased to state whether any memorial was submitted to His Excellency the Governor General in Council on behalf of the first grade pleaders of the Central Provinces and Berar against the above rules, praying specifically for concessions by way of remission and reduction of stamp duty in their case for being enrolled as advocates of the High Court of Nagpur just in the same way as Government had done in the case of the first grade practitioners in the Punjab and Sind under Notifications mentioned below :

- (i) Finance Department (Central Revenues) Notification Stamp Simla, the 12th September, 1931 No. 6 ;
- (ii) Finance Department (Central Revenues) Notification Stamp New Delhi, the 30th March, 1935, No. 8 ; and
- (iii) Finance Department (Central Revenues) Notification Stamp New Delhi, the 18th February, 1936, No. 4.

(c) Will Government be pleased to state when this memorial was considered, and with what result ?

(d) Will Government be pleased to place on the table a copy of the order passed thereon ?

The Honourable Sir James Grigg : I will answer questions Nos. 1122—1125 together.

I have already explained to the Honourable Member that is the gentleman in whose name the questions are and apologised for the fact that, owing to my preoccupation with the Finance Bill and other matters, I had inadvertently treated him in this matter with less courtesy than he was entitled to expect from me. That apology I now repeat.

As regards the merits of the question, I have to say that the decision of the Governor General in Council was based on the recommendation of the Government of the Central Provinces and on the result of the discussion which took place in the Central Provinces Legislative Council on the 24th January, 1936. In my view it is entirely anomalous that the Government of India should have any *locus standi* in this matter and I am certainly not prepared to override the views of the Government and Legislature of the Central Provinces.

Mr. M. Ananthasayanam Ayyangar : Was it pointed out in the Legislature of the Central Provinces that concessions in stamp duty were given in the case of the Punjab and Sind ?

The Honourable Sir James Grigg : I have nothing to add to the answer I have given.

MEMORIAL OF THE FIRST GRADE PLEADERS OF THE CENTRAL PROVINCES AND BERAR AGAINST PAYMENT OF A CERTAIN STAMP DUTY

†1123. ***Mr. Amarendra Nath Chattopadhyaya** (on behalf of Mr. M. S. Aney) : (a) With reference to a memorial submitted to His Excellency the Governor General in Council on behalf of the first grade pleaders of the Central Provinces and Berar against payment of a certain stamp duty, will Government be pleased to state :

- (i) whether a Member of this Assembly from the Central Provinces and Berar addressed a letter to the Secretary, Central Board of Revenue, dated the 6th March, 1936, inviting his attention to the fact that the above memorialists expressed their desire to send a deputation to wait on His Excellency the Governor General in Council or the Honourable Members in charge of Law and Finance, and sent a telegram to that effect in January, 1936, without getting any reply whatsoever, up to the date of the letter, and further added a request to inform the date on which His Excellency the Governor General in Council or the Honourable Members would be pleased to receive the deputation ; and
- (ii) whether the Deputy Secretary in his letter No. C.-No. 92 Stamp Finance Department (Central Revenues), New Delhi, dated the 11th March, 1936, in acknowledging the above letter sent the following reply to the Member referred to :

“ In reply to your letter dated the 6th March, 1936, I am directed to inform you that the Government of India have already invited the opinion of the Government of the Central Provinces on certain suggestions, and in doing so have drawn particular attention to the urgency that has been claimed for the matter. The revenue involved being Provincial, they cannot contemplate any further action before the reply of the Local Government has been received and considered. In these circumstances the Governor General in Council regrets his inability to receive the proposed deputation ” †

(b) Will Government be pleased to state when the reply from the Government of the Central Provinces was received ?

(c) Did Government bring that reply to the notice of the Member who was corresponding with the Department and urging on it to receive the deputation on behalf of the memorialists ? If not, why not ?

(d) Is it not a fact that the same Member of this Assembly personally requested the Honourable the Finance Member soon after 11th March, for an opportunity to discuss with him and the Law Member the demand for deputation, and the question of duties raised in the memorial and that the Honourable the Finance Member said that he would be glad

†For answer to this question, see answer to question No. 1122,

to give him an opportunity after the discussion on the Budget and the Finance Bill was over ?

(e) Is it not a fact that the same member sent a letter, dated the 9th April, 1936, to the Honourable the Finance Member, renewing his demand for permitting a deputation to see him and the Honourable the Law Member to explain the position of the memorialists and urge their claim for concessions personally on the Government of India ?

(f) Is it not a fact that the Honourable the Finance Member sent the following reply to the above letter on the same day ?

" Your formal request that I should receive a Deputation on behalf of the pleaders of Central Provinces and Berar has reached me, but you will remember that I explained to you when you spoke to me about it that I was placed in a decidedly anomalous position and that the question was primarily for the Local Government. I am quite prepared to listen to what you personally have to say any time in the Assembly, but nothing on earth will induce me to receive a deputation " ?

(g) Are Government aware of the fact that the above Member of the Assembly saw the Honourable the Finance Member in the Lobby on the 20th April, 1936 and explained to him the case of the memorialists ?

(h) Is it not a fact that the Honourable the Finance Member desired that the Member who had interviewed him should, if possible, supply him with the references of Notifications relating to the first grade pleaders of the Punjab and Sind ?

(i) Is it not a fact that the said member addressed him a letter on 21st April, 1936 giving him the references and the copies of the circulars of the Finance Department in which the Notifications had appeared ?

(j) Is it not a fact that the said Member conveyed through the Honourable the Law Member to the Honourable the Finance Member, a letter which he had received from a friend in Berar which clearly showed that the orders rejecting the demand in the memorial were passed at least sometime before the 4th of April, 1936 ?

MEMORIAL OF THE FIRST GRADE PLEADERS OF THE CENTRAL PROVINCES AND BERAR AGAINST PAYMENT OF A CERTAIN STAMP DUTY.

†1124. *Mr. Amarendra Nath Chattopadhyaya (on behalf of Mr. M. S. Aney) : (a) Will Government be pleased to state which authority passed the final orders on the memorial of the first grade pleaders from the Central Provinces and Berar in the name of Government of India, sometime in March or April last ; and

(b) if such orders were passed without the knowledge of the Honourable Member in charge of the Department ?

MEMORIAL OF THE FIRST GRADE PLEADERS OF THE CENTRAL PROVINCES AND BERAR, AGAINST PAYMENT OF A CERTAIN STAMP DUTY.

†1125. *Mr. Amarendra Nath Chattopadhyaya (on behalf of Mr. M. S. Aney) : Will Government be pleased to state what are the special reasons of His Excellency the Governor General in Council for the distinction made by him between the first grade pleaders of the Punjab and Sind on the one hand and those of the Central Provinces and Berar on the other, in the matter of exercising the discretion vested in him under section 9-A of the Indian Stamp Act ?

†For answer to this question, see answer to question No. 1122.

POST OF THE DIRECTOR GENERAL OF THE INDIAN MEDICAL SERVICE.

1126. *Mr. G. N. Muthuranga Mudaliar : Will Government be pleased to state :

- (a) whether it is a fact that the post of the Director General of Indian Medical Service will shortly fall vacant ;
- (b) whether it is a fact that it has been decided to appoint Major-General Bradfield to the vacancy ;
- (c) whether he is the seniormost officer in the service from which selection is made ;
- (d) whether Major-General Goil is not senior to him ;
- (e) whether Major General Goil is not at present the head of the Medical Service in Bengal ;
- (f) whether it is not a fact that the post he is now holding is a selection post, a post to which he was appointed on grounds of merit ;
- (g) who makes the appointment to the post of Director General, Indian Medical Service, and on whose recommendations ;
- (h) whether the Local Government under whom he is serving at present has any say in the matter ?
- (i) whether the Local Government was consulted, and, if so, what was the recommendation ;
- (j) the grounds on which they decided in favour of Major-General Bradfield ; and
- (k) whether they are aware that there is great resentment at their action ?

Sir Girja Shankar Bajpai : (a) to (c). The Honourable Member is referred to the reply I gave to Mr. Satyamurti's question No. 833 of the current Session.

(d) Yes.

(e) Yes.

(f) Yes.

(g) to (j). The appointment was made by the Governor General in Council after a full consideration of the record of services of all the officers eligible for consideration. Such discussions as may take place in cases of this nature with Local Governments are confidential, and I am not prepared to disclose whether they have taken place and if they have taken place, what their nature has been.

(k) No.

EXTERMENT OF ONE MR. M. SAMIULLAH FROM THE DELHI PROVINCE.

1127. *Mr. Abdul Mastin Chaudhury : (a) Is it a fact that Mr. M. Samiullah, son of Mr. Nasimullah, of Shahabad, District Hardoi, has been externed from the Province of Delhi, for a period of three months from July, 1936 ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state the reason for this externment order ?

The Honourable Sir Henry Craik ; (a) Yes.

(b) Because he had been acting in a manner prejudicial to public safety and peace.

SENIOR SUBORDINATE OFFICERS IN THE LOCO. AND CARRIAGE DEPARTMENT, BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

1128. ***Mr. Umar Aly Shah :** (a) What is the total number of senior subordinate officers in the Loco. and Carriage Department of the Bombay, Baroda and Central India Railway, including both the broad and meter gauge systems, namely, Foremen and Assistant Foremen in Central Shops at Bombay, Dohad and Ajmer ; Loco. and Carriage Inspectors, Machinery Inspectors and Loco. Foremen on the line ?

(b) How many of them are Indians, Anglo-Indians and non-Indians, and what are their qualifications ?

(c) What is the total number of superior grade officers in the Loco. and Carriage Department of the Bombay, Baroda and Central India Railway, including both the broad and meter gauge system ?

(d) How many of these are Indians, Anglo-Indians and non-Indians, and what are the qualifications of each ?

The Honourable Sir Muhammad Zafrullah Khan : The information readily available will be found in Appendix ' F ' to Volume I of the Report by the Railway Board on Indian Railways for 1934-35, a copy of which is in the Library of the House. Government have no information regarding the qualifications of these men and do not consider any useful purpose will be served by collecting it.

RECRUITMENT IN SUPERIOR GRADES OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

1129. ***Mr. Umar Aly Shah :** (a) Is it a fact that the Bombay, Baroda and Central India Railway is recruiting persons in superior grades with qualifications lower than are laid down by the Public Service Commission for India ?

(b) Is it a fact that the railway has not been able to get applications from properly qualified persons for employment in such grades ? If so, do they propose to approach the Benares Hindu University and similar institutions in India and advertise the requirements in newspapers, make a selection on the competitive basis, and adopt the procedure suggested by the Public Service Commission in this behalf ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Under the terms of contract, the Bombay, Baroda and Central India Railway, like other Company-managed Railways, has full powers in regard to recruitment of staff and are not, therefore, bound to adopt the same qualifications as are laid down for recruits to the State-managed Railways.

(b) Government are informed that the administration have now no difficulty in obtaining candidates possessing the necessary qualifications. The latter part of the question does not, therefore, arise.

REDUCTION IN THE PRICES OF STEEL MATERIALS IN BAR SECTIONS IN THE MADRAS MARKET BY THE TATA IRON AND STEEL COMPANY, LIMITED.

1130. *Mr. Sami Vencatachalam Chetty : (a) Are the Government of India aware :

- (i) that during the last three months, the prices of steel materials in bar sections have been successively reduced in the Madras market from Rs. 119 to Rs. 106 by the Tata Iron & Steel Co., Ltd. ;
- (ii) that these reductions have taken place only when the Indian Steel Rolling Mills, Ltd., Negapatam, proceeded to introduce their goods in the market ;
- (iii) that these reductions cover only the range of materials manufactured by the Indian Steel Rolling Mills, Ltd., and do not extend to sections not manufactured by them ;
- (iv) that similar reductions in prices of Tata materials are reported in all places where products of new re-rolling mills have entered the market and such price reductions extend only to competitive sections in bar materials ;
- (v) that the policy implicit in these reductions is contrary to the undertaking given by the Tata Iron & Steel Co., Ltd., to the Tariff Board that they will not resort to unfair tactics ; and
- (vi) that in so far as the Indian Steel Rolling Mills, Ltd., Negapatam, is concerned, it is not only a question of private enterprise with public subscription of capital, and that Pykara power has been brought down to Negapatam at a cost of 21 lakhs to supply power to the Rolling Mills ?

(b) Will Government state :

- (i) what action they propose to take to put a stop to the competition prevalent in the steel market between the Tata Iron & Steel Co., Ltd., and the Re-rolling Mills working in India ;
- (ii) whether they have called for any information or explanation from Tata Iron & Steel Co., Ltd., on the allegation made against them ;
- (iii) whether they are prepared to consider the desirability of calling a conference of the interests involved, under their guidance with a view to reconciling them and avoid price cutting ; and
- (iv) whether, if such a conference is called, steps are proposed to be taken to stop this price cutting at once pending negotiations ?

The Honourable Sir Muhammad Zafrullah Khan : (a) (i) to (iv) and (vi). Government have received representations to that effect.

(v) I would refer the Honourable Member to paragraphs 20 to 23 of the Report of the Indian Tariff Board on the Iron and Steel Industry (1934), a copy of which is in the Library.

(b) (i), (iii) and (iv). The matter is under consideration.

(ii) Yes, Sir.

INTRODUCTION OF THE "COMMUNAL REPRESENTATION FORMULA" IN THE INCOME-TAX DEPARTMENT.

1131. **Mr. H. M. Abdullah :** (a) Will the Honourable the Finance Member be pleased to state since when the "Communal Representation Formula" has been enforced in the Income-tax Department ?

(b) Was the recruitment of the temporary clerks in the Income-tax Department for lower limit assessment of Income-tax made during 1931 with any regard to the "Communal proportion" ?

(c) Now that the lower limit assessment has been abolished, will the retention of any clerks be governed by the terms of the "Communal representation formula" or any other consideration ?

(d) Has the representation of the minorities in the clerical and other services of the Income-tax Department been maintained (especially in the Punjab) ? If so, from what date ?

(e) Does the "Communal Representation Formula" apply at the time of "initial recruitment" only or any subsequent stage, viz., officiating rank ; from officiating to temporary rank ; from temporary to permanent rank, and confirmation ?

(f) If the reply to part (e) be in the affirmative, will the Honourable the Finance Member please furnish communitywise figures regarding the following (non-clerical and clerical services) in the Punjab since the 'Communal Representation Formula' was enforced :

- (1) officiating appointment ;
- (2) from officiating to temporary ;
- (3) from temporary to permanent ; and
- (4) confirmation ?

The Honourable Sir James Grigg : (a) Communal representation percentages for the Income-tax Department in various Provinces were fixed in June, 1935, and have been in force since.

(b) The orders in force in 1931 in regard to communal representation in the services were duly observed. These orders did not fix any percentages but were based on the broad principle that no community should get undue preponderance.

(c) Appointment of former temporary 'lower limit clerks' to the permanent establishment has been treated as initial recruitment and governed by the percentages fixed in 1935.

(d) Since the percentages were fixed in 1935, recruitment to all appointments in the Income-tax Department has been made strictly according to those percentages.

(e) The percentages of communal representation apply to initial recruitment only.

(f) Does not arise.

TRANSFER OF A PORTION OF THE POSTAL AUDIT OFFICE, MADRAS, TO RANGOON.

1132. *Mr. M. Ananthasayanam Ayyangar (on behalf of Mr. S. Satyamurti) : Will Government please state :

- (i) whether a portion of the Postal Audit Office, Madras, is about to be transferred to Rangoon ;
- (ii) if the answer to part (i) be in the affirmative, how many clerks are going to be transferred ;
- (iii) what are the terms and concessions under which they are to be transferred ;
- (iv) whether a telegram has been sent to the Viceroy and the Auditor General by the Madras Postal Accounts Association, requesting them not to resort to compulsion and asking for liberal concessions, like repatriation, etc., if people from Madras have to be transferred ; and
- (v) whether and what action has been taken on the telegram ?

The Honourable Sir James Grigg : (i) The position is that on its separation from India, Burma will have to set up a Posts and Telegraphs Accounts Department of her own to deal with Burma transactions which are at present dealt with by a portion of the Indian Posts and Telegraphs Department located at Madras. The latter will then no longer be required and will have to be abolished. To serve administrative convenience and to avoid needless loss of employment, it is proposed to give the existing personnel the option of transfer to the new office of the Burma Government. The alternative to transfer is discharge on abolition of posts under the ordinary rules of the Civil Service Regulations.

(ii) The exact number has not yet been settled.

(iii) The terms and conditions are at present being negotiated with the Burma Government.

(iv) Yes.

(v) All that was necessary had already been set in train.

CONSTRUCTION OF A NEW POST OFFICE BUILDING AT BISHESHWARGANJ IN BENARES.

1133. *Mr. Anugrah Narayan Sinha : (a) Is it a fact that the construction of a new Post Office building at Bisheshwarganj, in Benares (United Provinces), has been sanctioned ?

(b) If so, will Government be pleased to state the estimated cost of the building ?

(c) Is it a fact that the work of constructing this building has already been entrusted to a contractor ?

(d) Was any tender called for the same ? If so, how many tenders were received, and whose was the lowest tender ?

(e) If no tenders were called, will Government be pleased to state the reasons therefor ?

(f) Is it a fact that the work has been entrusted to a local contractor without calling for any tender ?

(g) Are Government aware of the feeling of resentment among local contractors for settling this work without calling for any tender ?

The Honourable Sir Frank Noyce ; (a) Yes.

(b) Rs. 87,100.

(c) Yes.

(d) Yes. Tenders were duly called for, but only two were received. The lower tender was that of Messrs. Banwari Lal Laxmi Chand.

(e) and (g). Do not arise.

(f) The contract was awarded to L. Munna Lal Govilla of Benares, the other tenderer.

LEAVE RULES GOVERNING THE TEACHERS IN STATE RAILWAY SCHOOLS.

1134. *Pandit Lakshmi Kanta Maitra: (a) Will Government be pleased to state by what leave rules teachers in the State Railway schools in the plains are governed ?

(b) Is it a fact that the status and salaries of teachers in the State Railway schools in the plains have been assimilated to those of teachers in the Provincial Government schools of the same standard and category ?

(c) Will Government be pleased to state whether the leave rules applying to teachers in the Provincial Government schools apply also to teachers in the State Railway schools in the plains ? If not, why do Government make any discrimination in this matter ?

(d) Is it a fact that by a recent notification all the teachers in the State Railway schools in the plains have been brought under the Revised State Railway Leave Rules of February, 1930, as modified for vacation departments ?

(e) Is it a fact that when the Revised State Railway Leave Rules were promulgated in 1930, by clause 2 (a), they were made applicable only to employees recruited on or after the 1st April, 1930, and that no retrospective effect was given to them ?

(f) Is it a fact that most of the teachers in the East Indian Railway Schools in the plains were recruited years, in some cases decades, before 1930 ? If so, why were the rules given retrospective effect in the case of these teachers ?

(g) Do Government propose to consider the question of exempting these teachers, at least from the retrospective effect of the rules ?

(h) Is it a fact that when the Railway Board promulgated the new leave rules for teachers in May, 1935, they expressly laid down that where teachers in the State Railway schools in the plains were being governed by different leave rules, they should be given the option to elect within three months whether they would come under the new rules, or remain under the old ones ? If so, will Government be pleased to state if such option was given by the Railway Administration to the teachers concerned ? If not, will Government be pleased to state why the instructions of the Railway Board were not followed ?

(i) Before deciding not to give this option to the teachers did the East Indian Railway Administration make any enquiry of the Local

Managing Committees as to what leave rules, if any, were being applied to teachers in the East Indian Railway Schools? If not, why was no enquiry made before coming to a final decision?

(j) Is it a fact that in some of the East Indian Railway Schools in the plains, the East Indian Railway Leave Rules, and in others, the leave rules laid down in the Provincial Education Codes were being applied to teachers by the Managing Committees?

(k) Do Government even now propose to direct the Administration to make such an enquiry and, where it is found that other leave rules were being followed, to give the teachers the option laid down by the Railway Board in their letter of the 11th May, 1935?

(l) Is it a fact that in Provincial Government schools the new leave rules have been made applicable only to teachers recruited after June, 1931 or thereabout? If so, why did the Railway Board follow a different policy in dealing with their educational officers?

The Honourable Sir Muhammad Zafrullah Khan : (a) By the New State Railway Leave Rules promulgated with Railway Department Resolution No. 8373-E, dated the 20th February, 1930, modified by Railway Board's letter No. E34SC28 of the 11th May, 1935, a copy of which will be found in the Library of the House.

(b) Instructions have been issued to State-managed Railways to revise the scales of pay of their schools staff in accordance with the scales of pay introduced by the Local Governments.

(c) The reply to the first part is in the negative; as regards the second, Government consider that conditions of service of teachers in the State Railway Schools and Provincial Government Schools need not necessarily be the same in all respect.

(d) The Honourable Member is referred to the replies given to parts (b) and (c) of his starred question No. 1072 put on the 10th March, 1936.

(e) The Honourable Member is referred to the reply given to part (a) of his question referred to in the reply to part (d) above.

(f) The reply to the first part of the question is that Government have no information. In reply to the second part the Honourable Member is referred to the reply given to part (b) of his question referred to in the reply to part (d) above.

(g) No.

(h) The option was allowed only in the case of such staff as were governed by definite leave rules, and so far as Government are aware these instructions have been carried out.

(i) and (j) The service records of all the teachers showing the leave granted in the past were examined by the East Indian Railway administration and in no case could it be substantiated that definite rules were applied in granting leave to teachers prior to the introduction of the New Leave Rules issued with the Railway Board's letter No. E34SC28, dated the 11th May, 1935.

(k) In view of the reply to parts (i) and (j) Government do not consider that any further enquiry is necessary.

(l) The reply to the first part of the question is that Government have no information. As regards the second part, Government see no reason for following the Local Governments in this matter.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member in a position to tell us what is the difference in the nature of the conditions of service between the provincial educational service and the railway educational service ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member had better put down a question to that effect. The answer will probably have to go into very great details. My answer to (c) implies that in all respects the conditions are not the same. There must be differences.

Pandit Lakshmi Kanta Maitra : In view of the fact that some of the railway educational institutions are located in the provinces, I want to know whether the provincial codes would not apply to these institutions in the matter of leave rules and other conditions of service ?

The Honourable Sir Muhammad Zafrullah Khan : Not in all respects.

Mr. Lalchand Navalrai : With reference to the answer to (g) may I know from the Honourable Member if these teachers had any information that the rules will be changed with retrospective effect ?

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

Pandit Lakshmi Kanta Maitra : I want to know whether they were given a chance to know what these rules were before retrospective effect was given ?

The Honourable Sir Muhammad Zafrullah Khan : I have no information on that.

Pandit Govind Ballabh Pant : Is it a fact that the staff in a railway school have to discharge the same duty and to bear the same responsibility as the staff in a similar Government school situated in the same province ?

The Honourable Sir Muhammad Zafrullah Khan : I suppose the duties and responsibilities are the same.

Pandit Govind Ballabh Pant : Then why is there a distinction in the matter of leave rules ?

The Honourable Sir Muhammad Zafrullah Khan : That lies in the history of the schools.

Pandit Govind Ballabh Pant : How does history come in ?

The Honourable Sir Muhammad Zafrullah Khan : For this reason that provincial schools have from the beginning been treated on a different footing by the provinces and these differences have existed throughout. Therefore, I say the distinction lies in the history of the schools.

Mr. M. Ananthasayanam Ayyangar : Were not these differences wiped out for some time ?

The Honourable Sir Muhammad Zafrullah Khan : I have no information.

Pandit Govind Ballabh Pant : Is it not a fact that prior to the year 1928 the Government schools and the railway schools were placed on the same footing ?

The Honourable Sir Muhammad Zafrullah Khan : I am not so aware.

Pandit Govind Ballabh Pant : What does the reply mean—that the Honourable Member does not know that there was a difference. Is he ignorant of the facts ?

The Honourable Sir Muhammad Zafrullah Khan : I do not know.

Mr. M. Ananthasayanam Ayyangar : Will the Honourable Member make inquiries with regard to part (c) ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will put down a question.

Mr. M. Ananthasayanam Ayyangar : The question is already there on the order paper.

The Honourable Sir Muhammad Zafrullah Khan : What does the Honourable Member want me to do.

Mr. M. Ananthasayanam Ayyangar : I want him to make inquiries whether the same rules apply to these schools also ?

The Honourable Sir Muhammad Zafrullah Khan : I have already given the reply.

Dr. Ziauddin Ahmad : Is it not a fact that rules differ from province to province. May I inquire from the Honourable Member whether the same set of rules apply to these railway institutions ?

The Honourable Sir Muhammad Zafrullah Khan : I assume there would be differences. I could not say without notice.

Pandit Govind Ballabh Pant : Is there any difference in the matter of emoluments between the railway schools meant for Anglo-Indians and those meant for Indians ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I must require notice.

Pandit Govind Ballabh Pant : Is not the Honourable Member aware that there is a great difference between the two ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is supplying information.

Pandit Govind Ballabh Pant : Are you not in a position to confirm this information ?

The Honourable Sir Muhammad Zafrullah Khan : I must require notice of that. I must look into the facts.

Pandit Lakshmi Kanta Maitra : I have been pursuing this matter since the last Session. Will the Honourable Member look into the legitimate grievances of the staff in these schools and give them the satisfaction which they have been seeking for ?

The Honourable Sir Muhammad Zafrullah Khan : I do not accept the allegation that there are legitimate grievances.

NON-APPLICATION OF THE REVISED STATE RAILWAY LEAVE RULES TO TEACHERS OF THE OAKGROVE SCHOOL.

1135. ***Pandit Lakshmi Kanta Maitra** : (a) Is it a fact that the Revised State Railway Leave Rules do not apply to teachers in the East Indian Railway Hill school at Oakgrove ? If so, why ?

(b) Is it a fact that the Anglo-Indian and European teachers of the Oakgrove school have been placed under a more favourable set of rules than the teachers in the Indian schools in the plains ?

(c) Will Government be pleased to state why they have made this racial discrimination ?

(d) Will Government be pleased to lay a copy of the leave rules for teachers in the Oakgrove school on the table ?

(e) Do Government propose to remove this discrimination by applying the same rules to the Oakgrove school and the schools in the plains ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). The rules now introduced are applicable to the teaching staff in all railway schools who have been recruited on or after the 1st April, 1930, or, if they were recruited before that date, were governed by any definite set of leave rules and elected for the New State Railway Leave Rules.

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

(d) A copy of the leave rules applicable to the teaching staff employed in railway schools issued with the Railway Board's letter No. E34SC28, dated the 11th May, 1935, which also apply to teachers in the Oakgrove School, is in the Library of the House.

Pandit Lakshmi Kanta Maitra : Am I to understand from the Honourable Member that the same rules apply to the Oakgrove School as apply to those in the plains ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

Pandit Govind Ballabh Pant : Is it not a fact that the Oakgrove School gets its holidays in the winter, while the schools in the plains get them in the summer or the rains ?

The Honourable Sir Muhammad Zafrullah Khan : I am not so aware.

Pandit Lakshmi Kanta Maitra : Is it not a fact that the teachers in the Oakgrove School enjoy a larger number of railway passes than the teachers in the plains ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice.

Pandit Govind Ballabh Pant : Is it not a fact that the teachers in the Oakgrove School get higher emoluments than the teachers in the schools in the plains ?

The Honourable Sir Muhammad Zafrullah Khan : That does not arise out of this. This question has nothing to do with emoluments.

**APPLICATION OF STATE RAILWAY LEAVE RULES TO TEACHERS IN CERTAIN
EAST INDIAN RAILWAY SCHOOLS.**

1136. ***Pandit Lakshmi Kanta Maitra** : (a) With reference to the answer to my starred question No. 1072 of the 10th March, 1936, that the Committees of the East Indian Railway Schools in the plains granted leave to teachers only at their discretion and that no definite rules were being applied to them prior to the introduction of the new leave rules, is it a fact that teachers in the East Indian Railway High Schools have since submitted memorials to the Railway Administration, asking for a reconsideration of the matter on the ground that in the East Indian Railway High Schools in Bihar, the Bihar and Orissa Education Code, and in the other high schools, the East Indian Railway leave rules, were being followed ?

(b) Have the Railway Board received these representations ? If so, will Government be pleased to state if these have been considered, and, if so, what orders have been passed on them ? If they have not yet been considered, will Government be pleased to state when final orders are likely to be passed on these ?

(c) Will Government be pleased to state whether, before giving the answer, they made any enquiry of the local school committees as to how leave was being granted ? If so, will Government be pleased to lay the replies on the table ? If not, do Government propose to direct such an enquiry to be made now in order to find out the truth or otherwise of the contention of the teachers referred to in part (a) above ? If not, why not ?

(d) Do Government propose to apply such rules to teachers in the East Indian Railway High Schools who were being granted leave according to the Education Code or the East Indian Railway rules, and who were recruited before 1930, as has been done in the case of the Oakgrove school teachers, *vide* answer to my question No. 1075 (c) of the 10th March, 1936 ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes. Out of the five High English Indian Schools on the East Indian Railway memorials were received from the teachers of three schools.

(b) No. The memorials were addressed to the Agent and to the Superintendent, East Indian Railway Schools, and were not forwarded to the Railway Board.

(c) and (d). The Honourable Member is referred to the reply given to parts (i), (j) and (k) of his question No. 1134 today.

Pandit Lakshmi Kanta Maitra : May I know what are the three schools from which representations have been received ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice of that.

Pandit Govind Ballabh Pant : Has any representation been received from the Bareilly School ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I shall have to find that out.

LEAVE ON AVERAGE PAY IN CASES OF ILLNESS FOR TEACHERS IN THE EAST INDIAN RAILWAY SCHOOLS.

1137. *Pandit Lakshmi Kanta Maitra : (a) With reference to the answer given to my starred question No. 1078 (b) of the 10th March, 1936, that Government considered that a deduction should be made from leave earned in respect of staff who enjoyed full vacation, is it a fact that the East Indian Railway employees in other departments recruited before 1930, who do not enjoy vacations, earn leave on full pay to the extent of 1/11th of the period of duty ?

(b) Is it a fact that in the case of teachers in the State Railway schools the period of leave to be earned is reduced by the new rules to 1/16th of the period of duty, even though in a particular year they do not avail themselves of the vacation ?

(c) Is it also a fact that besides this reduction in the period of leave to be earned by teachers in the State Railway schools, this reduced period of leave is to be counted as leave on half pay ?

(d) If the answer to the preceding parts be in the affirmative, will Government be pleased to state why the teachers in the railway schools have been subjected to this double penalty for service in a vacation department ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, on average pay, so far as employees governed by the Fundamental Rules are concerned.

(b) No. When they do not avail themselves of vacation the leave earned is one-sixth or one-eighth of service according to domicile.

(c) Not when vacation is not availed of.

(d) Does not arise.

POSITION OF TEACHERS IN STATE RAILWAY SCHOOLS.

1138. *Pandit Lakshmi Kanta Maitra : (a) Do Government propose to make an enquiry as to the leave rules which govern teachers recruited before 1930 in Government schools in centrally administered areas ?

(b) Is it a fact that as regards their salaries, free quarters, casual leave, the position of teachers in State Railway schools has been assimilated to that of teachers of similar status in the Provincial Government schools ? If so, why do Government make this discrimination as regards leave rules ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government do not consider there is any necessity for an enquiry.

(b) The Honourable Member is referred to the reply given to part (b) of his question No. 1134 today. Government have no information about the concessions allowed to teachers in Provincial Governments' Schools.

EXEMPTION OF THE RUNNING STAFF FROM THE OPERATION OF THE HOURS OF EMPLOYMENT RULES ON STATE RAILWAYS.

1139. *Mr. Muhammad Azhar Ali : (a) Will Government be pleased to state :

(i) whether it is a fact that *Running Staff* are exempted from the operation of Hours of Employment Rules on State Railways in India ; and

(ii) on what particular considerations certain category of staff are classed as *Running Staff* for the purpose of :

(A) travelling allowances, and

(B) Hours of Employment Rules ?

(b) Will Government please state :

(i) whether the crew staff employed on the East Indian Railway before 1st June, 1931 were classed as *Running Staff*, and

(ii) whether it is a fact that crew staff comprised of crewmen, crew incharges, and crew Inspectors ?

(c) If the reply to part (b) (i) be in the affirmative, will Government be pleased to state under what rule were they denied mileage allowance ?

(d) Will Government be pleased to state whether crewmen, crew incharges and crew Inspectors were *incharge of a running train, connected with the charge of a running train, or, considered to be connected with the charge of a running train* ?

(e) Will Government be pleased to state why the Travelling Ticket Inspectors on the East Indian Railway were paid mileage allowance before 1st June, 1931 ?

(f) Will Government please state :

(i) whether it is a fact that Travelling Ticket Examiners, now employed on the East Indian Railway, are paid consolidated allowance, *i.e.*, permanent travelling allowance under Supplementary Rule 22 ;

(ii) whether it is a fact that a Travelling Ticket Examiner, who is sent to work away from his sphere of duty, is entitled to convert this consolidated allowance into mileage allowance for the portion of the journey performed by him as laid down under Supplementary Rule 68 ; and

(iii) if the reply to part (f) (ii) be in the negative, whether the Travelling Ticket Examiners on the State Railways in India are not governed by the Fundamental and Supplementary Rules ?

The Honourable Sir Muhammad Zafrullah Khan : I would refer the Honourable Member to my reply to Qazi Muhammad Ahmad Kazmi's question No. 832 asked on the floor of this House on the 26th February, 1936.

Mr. Muhammad Azhar Ali : If I remember aright, the Honourable Member in reply to Mr. Kazmi said that about 400 questions have been answered on this subject.....

The Honourable Sir Muhammad Zafrullah Khan : The number is now nearer 500.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow any more questions on this. Next question.

PRICE OF AERATED WATER ON THE EAST INDIAN RAILWAY.

1140. **Mr. Sri Prakasa** : (a) What authority fixes the price of aerated water sold at stations and in the running trains of the East Indian Railway ?

(b) Is it a fact that vendors complain that owing to the heavy price charged, they are able to make very little sale ?

(c) If so, do Government propose to investigate the matter and recommend a reduction of the price ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The rates are embodied in an agreement, dated the 1st January, 1930, between the Secretary of State for India in Council and the Carlsbad Mineral Water Manufacturing Company.

(b) Government have no information.

(c) I would refer the Honourable Member to the reply I gave to part (f) of Qazi Muhammad Ahmad Kazmi's question No. 545 on the 22nd September, 1936.

Mr. Mohan Lal Saksena : Under the agreement must the rates be revised periodically ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice but as I said in answer to the question to which I have referred, the East Indian Railway Administration have this question under consideration.

Pandit Lakshmi Kanta Maitra : How long will this agreement be in force ?

The Honourable Sir Muhammad Zafrullah Khan : I would require notice.

TANK-WAGONS CONSTRUCTED BY THE EAST INDIAN RAILWAY.

1141. ***Mr. Sham Lal** : (a) Will Government be pleased to state :

(i) whether the East Indian Railway has constructed tank-wagons, out of which some have been reserved for Cawnpore for exporting mustard-oil ; and

(ii) whether these tank-wagons are only given to mill-owners and not to any other member of the public ?

(b) Is it a fact that on the 4th September, 1936, Mr. Watt of the East Indian Railway Head Office convened a meeting of the mill-owners of Cawnpore, that this meeting was not attended by all the mill-owners, and still be fixed a monthly quota of tank-wagons for the absences as well as for those who were present against their will ?

(c) Is it a fact that this decision of Mr. Watt has created a great resentment among the mill-owners, who have informed the railway that they are not bound by his decision ?

(d) Is the railway prepared to direct its officers not to fix any quota of tank-wagons for any persons, but to give tank-wagons to any person whether a mill-owner or not, who applies for them ?

The Honourable Sir Muhammad Zafrulah Khan : (a) (i). 35 tank wagons are stabled at Cawnpore for the carriage of vegetable oils.

(ii) Yes.

(b) As the number of tank wagons available for traffic in vegetable oils is not sufficient to deal with the entire traffic, the Administration considered it desirable to discuss with millowners the adoption of a quota system which would combine outputs with despatches in order to regulate the supplies of tank wagons to the various mills. The United Provinces Oil Mills Association was accordingly asked to arrange for the various mills interested to send their representatives to a meeting at which it was proposed to discuss the quota. Of the nine mills concerned, only two were not represented at the meeting.

(c) The Administration is not aware of any feeling of resentment, but one millowner has complained of the share allotted to him.

(d) No. I understand the arrangement made is intended to ensure the best use being made of the limited number of tank wagons available, with due regard to the interests of all the mills concerned.

IMPORTS OF RICE IN THE HUSK IN THE MADRAS PRESIDENCY.

1142. ***Mr. C. N. Muthuranga Mudaliar :** Will Government be pleased to state :

- (a) whether it is a fact that the imports of rice in the husk in July, 1935, in the Madras Presidency were 8,484 tons ;
- (b) whether it is a fact that the imports of rice in the husk in July, 1936, in the Madras Presidency were 31,232 tons ;
- (c) whether it is a fact that due to large imports of paddy from Indo-China this year, stated in parts (a) and (b), the price of paddy and rice has fallen heavily this year in the Madras Presidency as compared to the prices of last year ;
- (d) whether it is a fact that most of the imports referred to in parts (a) and (b) are from Indo-China and Siam ;
- (e) what steps they propose to take to preserve the Indian markets for the products of the Indian agriculturist ;
- (f) whether it is a fact that the Crop-Planning Committee of the Imperial Council of Agricultural Research has recommended the imposition of a duty on paddy and rice besides that on broken rice ;
- (g) whether it is a fact that the same Committee has also recommended the removal of the export duty on Indian rice ;
- (h) what steps they have taken on the recommendations stated in parts (f) and (g) ; if none, why not ; and

- (d) whether they are aware that Indian rice is subject to an export duty in the country of its origin and to an import duty in the country to which it is imported ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (d). Yes, Sir.

(c) and (e). I would refer the Honourable Member to the replies given by me to the supplementaries to Mr. Ananthasayanam Ayyangar's starred question No. 62 in the current Session.

(f) Yes, but the Sub-Committee did not make any specific reference to broken rice.

(g) Yes, but with the qualification " as soon as financial circumstances permit ".

(h) The recommendations of the Crop Planning Sub-Committee were not in themselves final as they were meant for consideration by the Crop Planning Conference. This Conference endorsed the recommendation regarding the imposition of a moderate duty on rice and paddy but not that regarding the abolition of the export duty. In the case of the former the Government of India, after careful examination of the position, found that imports of broken rice predominated and constituted the most urgent problem and an import duty of 12 annas per maund on broken rice has since been imposed. With regard to the latter, the Conference was inclined to the view that the question was academic in the present financial circumstances as the export duty meant nearly a crore of rupees per annum to Central Revenues. Moreover, the export duty being the same in India as in Siam and Indo-China, India is not placed in a position of disadvantage as compared with other exporting countries.

(i) As explained above rice is liable to export duty in the principal producing countries including India. Several importing countries also levy an import duty.

RECRUITMENT OF GURKHAS IN THE ASSAM RIFLES.

1143. ***Mr. Kuladhar Chaliha :** Will Government please state whether 750 Gurkhas were recruited for the first time to the Assam Rifles in 1934-35 through the agency of the Gurkha Recruiting Officer of the Indian Army from the depots at Kuraghat and Ghorn ? If so, do Government propose to discontinue the practice and confine the recruitment to the province of Assam ?

The Honourable Sir Henry Craik : No. The total number of men recruited for the Assam Rifles in 1934 was 750. Of these, 463 Gurkhas were recruited through the Recruiting Officer for Gurkhas from the Kuraghat and Ghum depôts. 96 Gurkhas were recruited by an officer specially deputed to Sikkim and 35 Gurkhas were recruited in Assam. The balance (156) were local recruits from various Assam classes.

The prescribed percentage of Assamese recruits has never been reached and it is therefore not possible to confine recruitment to the province of Assam.

Mr. Kuladhar Chaliha : With regard to the first part of the question, is the answer in the negative ? I take it from the Administration Report of the Assam Government for 1934-35 that 750 recruits were

recruited for the first time from the Kuraghat and Ghum depôts. Will the Honourable Member look into that administration report which is available in the Library and answer my question ?

The Honourable Sir Henry Craik : The information I have given is that " 463 Gurkhas were recruited through the Recruiting Officer for Gurkhas from the Kuraghat and Ghum depôts, 96 Gurkhas were recruited by an officer specially deputed to Sikkim and 35 Gurkhas were recruited in Assam. The balance (156) were local recruits from various Assam classes ".

Mr. Kuladhar Chaliha : Will the Honourable Member look into the Administration Report ?

Pandit Lakshmi Kanta Maitra : Were these 156 of the local recruits drawn from the indigenous population of Assam ?

The Honourable Sir Henry Craik : I do not know—I said " from various Assam classes ".

Mr. Mohan Lal Saksena : Were the Gurkhas recruited because recruits were not available locally ?

The Honourable Sir Henry Craik : I have explained that the Assamese recruits have never come up to the full percentage ; so we have to recruit Gurkhas.

Pandit Lakshmi Kanta Maitra : Do Government propose to take steps to give due encouragement to the Assamese people to enrol as recruits in the military and police services ?

(No answer.)

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

OPENING OF RECRUITING DEPOTS AT CERTAIN PLACES IN ASSAM.

1144. ***Mr. Kuladhar Chaliha :** Will Government please state whether they propose to open recruiting depôts in the province of Assam in the districts of Goalpara, Sibsagar and Lakhimpur for recruiting men for the Assam Rifles ?

The Honourable Sir Henry Craik : No. Assamese recruits are obtained by recruiting parties sent from the battalions, and Government propose to continue this practice.

Mr. Kuladhar Chaliha : Did they have any depôts at Goalpara before ? There were certain depôts for recruiting Assamese recruits : is this practice discontinued now ?

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

GRANT OF LOANS TO THE EMPLOYEES BY THE EAST INDIAN RAILWAY CO-OPERATIVE SOCIETY.

1145. ***Babu Kailash Behari Lal :** Will Government be pleased to state :

- (a) if it is a fact that a new circular regarding the grant of loans to the employees of the East Indian Railway out of the East Indian Railway Co-operative Society has been issued ;

- (b) if the answer to part (a) be in the affirmative, what are the new changes introduced regarding the grant of loans to the employees ;
- (c) if it is a fact that formerly loans up to ten months' salary of an employee used to be granted in general for paying off past debts, marriages of children, house construction, and such other purposes, but according to the new circular a loan up to ten months' pay is only granted in special cases ;
- (d) if it is a fact that the question of marriage of children is not regarded as a matter of importance for grant of loan up to ten months' salary, specially at Jamalpur ;
- (e) if it is a fact that the loan up to seven months' salary of an employee is repayable in 36 instalments, whereas a loan up to ten months' salary is repayable in 48 instalments with lower deductions ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (e). Government are informed that a circular was issued by the Agent, East Indian Railway, in December, 1933, placing certain restrictions on the taking of loans from the East Indian Railway Employees' Co-operative Credit Society. A copy of this circular is in the Library of the House.

Babu Kalash Behari Lal : May I know if there is any distinction made between employees at Jamalpur and employees elsewhere in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid the Honourable Member will have to refer to the copy of the circular.

SEPARATION OF THE APPELLATE JURISDICTION OF THE ASSISTANT COMMISSIONER OF INCOME-TAX FROM HIS ADMINISTRATIVE FUNCTIONS.

1146. ***Mr. Ram Narayan Singh :** Are Government prepared to separate the appellate jurisdiction of the Assistant Commissioner of Income-tax from his administrative functions and place the Assistant Commissioner with his appellate jurisdiction directly under the control of the Board of Revenue ?

The Honourable Sir James Grigg : The matter is under the consideration of the Expert Advisers to the Government of India on Income-tax subjects and the Government are not in a position to say anything until they receive their report.

INCOME-TAX REALISED BY CERTIFICATE PROCEDURE.

1147. ***Mr. Ram Narayan Singh :** (a) Is it not a fact that at least 40 per cent. of the income-tax is realized by certificate procedure, and if so, why ?

(b) Will Government be pleased to state the amount of income-tax ordinarily and willingly paid by income-tax payees in Bihar, and also the amount realized by the certificate procedure ?

The Honourable Sir James Grigg : (a) No. The second part of the question does not arise.

(b) The amount of tax paid voluntarily in Bihar during the year 1935-36 was Rs. 51,42,000 odd and that realised by certificate procedure was Rs. 1,48,000 odd.

RE-DISTRIBUTION OF INCOME-TAX AREAS.

1148. *Mr. Ram Narayan Singh : (a) What is the benefit accrued to Government by combining two or more districts with one headquarter and placing one district in charge of one officer instead of appointing one Income-tax Officer for each district with a separate headquarter in the same ?

(b) How is it that constant re-distribution of areas is going on, and are Government aware of the great inconvenience to the income-tax payees ?

(c) What are the duties of Income-tax Inspectors ?

(d) Are Government prepared to consider the advisability of reducing the number of Income-tax Inspectors and increasing that of the Income-tax Officers, and if not, why not ?

The Honourable Sir James Grigg : (a) It is not correct to say that two or more districts are combined with one headquarter and then each one of them is placed in charge of one officer. In this connection, I would invite the attention of the Honourable Member to the reply given to part (a) of his starred question No. 937.

(b) It is not a fact that constant redistribution of areas takes place.

(c) The duties of Income-tax Inspectors are to assist the Income-tax Officers in out-door investigation and survey work and also to examine the accounts of assesseees.

(d) The Government do not consider it desirable to reduce the number of Inspectors and increase the number of Income-tax Officers as that would mean an unnecessary increase in expenditure.

Pandit Govind Ballabh Pant : Is it a fact that sometimes an income-tax officer is in charge of several districts ?

The Honourable Sir James Grigg : I do not think so ; I do not think any income-tax inspector is in charge of any district at all, in any case ?

Pandit Govind Ballabh Pant : I mean an income-tax officer.

The Honourable Sir James Grigg : Do you mean that the work of several districts is allotted to him ? If so, I cannot say without notice.

Pandit Govind Ballabh Pant : In case an income-tax officer is in charge of more than one district, will the Department issue instructions to him to deal with cases appertaining to a particular district inside that district ?

The Honourable Sir James Grigg : I cannot answer that without notice : all I can say is that every attempt is made to meet the convenience of assesseees, but whether the practice which the Honourable Member wishes to see observed is observed universally, I cannot say without inquiry.

Pandit Govind Ballabh Pant : Is the Honourable Member aware that the assesseees of the hill districts have sometimes to cover a journey of four or five days in reaching the income-tax officer's headquarters and are required to attend there more than once ?

The Honourable Sir James Grigg : I am quite prepared to believe that there have been on occasion cases where the convenience of tax-payers has not been very carefully looked after, but if there is any such case, I do not think that it is typical.

Pandit Govind Ballabh Pant : May I take it that it is the desire of the Honourable Member's Department, so far as is possible, that the assesseees should not be inconvenienced ?

The Honourable Sir James Grigg : That is certainly my desire, and I think, and I hope, that it is also the desire of my Department.

Pandit Govind Ballabh Pant : Will the Honourable Member be pleased to impress it upon income-tax officers in charge of more than one district that they should bear this consideration always in mind ?

The Honourable Sir James Grigg : As I explained before, the whole of the administrative arrangements of the Income-tax Department are under examination by the expert advisers, and I think it is quite possible that changes in the administrative system will be made as a result of their inquiry. I do not think the Honourable Member will expect me to go beyond that at the present moment, but I repeat that it is the desire of the Department to see that the convenience of the assesseees should be studied as much as is humanly possible.

Pandit Govind Ballabh Pant : Will this desire be in any way affected by the recommendations of the experts ?

The Honourable Sir James Grigg : No, the desire will not, but the method of carrying it out in practice may.

Prof. N. G. Ranga : Is there any proposal to increase the strength of the Department in order to suit the convenience of the assesseees as well as of the Government ?

The Honourable Sir James Grigg : If there is any proposal for meeting in a greater degree the conveniences of the assesseees made by the expert staff or others, I shall consider it carefully, but clearly I have not come to any decision yet.

Mr. Ram Narayan Singh : How long will this examination continue ?

The Honourable Sir James Grigg : I have answered that ; the experts will finish their labours in the course of the next month or six weeks.

Mr. Ram Narayan Singh : Will the report be published before a final decision is taken by Government ?

The Honourable Sir James Grigg : I have answered that. I cannot give myself any opportunity of making a prophecy until I have myself seen the report.

Pandit Govind Ballabh Pant : But that contingency is not ruled out ?

The Honourable Sir James Grigg : Certainly not.

RULES REGARDING CONDUCT OF ELECTIONS UNDER THE COMING REFORMS.

1149. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of **Mr. S. Satyamurti**) : Will Government be pleased to state :

- (a) whether drafts of the second part of the Governor's rules regarding conduct of elections under the coming reforms have been received by the Government of India ;
- (b) whether these rules provide categorically for Government servants and servants of local bodies not taking part, directly or indirectly, openly or privately, in elections in any manner ; and
- (c) if they do not, whether they are prepared to advise a rule to that effect being inserted in those rules ?

The Honourable Sir Frank Noyce : (a) Yes, and some of the Local Governments have since published their rules.

(b) No.

(c) Government do not propose to advise the inclusion of a provision of the kind suggested by the Honourable Member. As regards Government servants, provision is already contained in the Government Servants' Conduct Rules, copies of which are in the Library of the House. As regards the servants of local bodies the matter is not primarily the concern of the Governor General in Council.

Mr. M. Ananthasayanam Ayyangar : Why are they not primarily the concern of the Governor General in Council, Sir ?

Mr. President (The Honourable Sir Abdur Rahim) : We have already had a three days' debate on this matter.

Prof. N. G. Ranga : Not with regard to part (a), which is entirely separate ?

Pandit Govind Ballabh Pant : The debate, if anything, has demonstrated the necessity of such rules being included. Are the Government aware of the fact that in spite of these rules being a permanent part of the Government Servants' Conduct Rules, they are more often respected in breach than in observance ?

The Honourable Sir Frank Noyce : No, Sir. I trust that that is not the case.

Mr. President (The Honourable Sir Abdur Rahim) : That has been the subject-matter of the debate.

Pandit Govind Ballabh Pant : In case the Government are not prepared to incorporate these rules in the Election Rules, will they send a copy of these rules to every Government servant within two months of polling ?

The Honourable Sir Frank Noyce : I understand that the attention of all Local Governments has been drawn to the Government Servants' Conduct Rules and it is obviously for them to decide whether copies of these rules should be sent to all Government servants. I presume, all Government servants have to make themselves acquainted with the Rules.

Pandit Govind Ballabh Pant : Will the Government of India instruct the Local Governments to issue copies of such rules to the Government servants individually ?

The Honourable Sir Frank Noyce : No, Sir, that is a matter for the discretion of the Local Governments.

Pandit Govind Ballabh Pant : What objection have the Government of India to these rules concerning Government servants which bear on their conduct in relation to election being included in the Election Rules ?

The Honourable Sir Frank Noyce : As I have said, this is a matter for the Local Governments and I have nothing to add to the replies I have already given.

Pandit Govind Ballabh Pant : Are not the Government of India aware of the fact that all Local Legislatures will serve as electoral colleges to the Legislative Assembly of the Federal Constitution ?

The Honourable Sir Frank Noyce : I believe that is so.

Pandit Govind Ballabh Pant : Is it not, then, the concern of the Government of India to properly constitute them ?

Mr. President (The Honourable Sir Abdur Rahim) : I really cannot allow further questions on this subject which has already been fully debated.

RESIGNATION BY SIR SIKANDAR HAYAT KHAN FROM THE DEPUTY GOVERNORSHIP OF THE RESERVE BANK OF INDIA.

1150 ***Mr. Akhil Chandra Datta :** (a) Is it a fact that Sir Sikander Hyat Khan, Deputy Governor of the Reserve Bank of India, is resigning his office from the 26th September, 1936, as reported in the *Statesman* of the 6th September, 1936 ?

(b) If so, has the Governor General in Council received any recommendation from the Board of Directors of the Reserve Bank as provided for in the Reserve Bank Act ?

(c) What immediate arrangement do Government propose to make to fill up the post ?

(d) In view of the technical importance of the post, do Government propose to appoint a banking expert to the post ?

The Honourable Sir James Grigg : (a) I would refer to part (d) of Mr. Satyamurti's question No. 699.

(b) No.

(c) and (d). These are matters primarily for the Central Board of the Reserve Bank.

Pandit Govind Ballabh Pant : Was the Honourable the Deputy Governor of the Reserve Bank given an assurance that he would be released in time to join the new Government in the Punjab while he was serving as such ?

The Honourable Sir James Grigg : That was a question which was very fully dealt with in reply to supplementary questions and answers.

Pandit Govind Ballabh Pant : It is a well-known fact.

DISCHARGE AND DISMISSAL POWERS DELEGATED TO CERTAIN OFFICIALS BY THE RAILWAY BOARD.

1151. *Mr. Anugrah Narayan Sinha : (a) Will Government be pleased to state the powers of Divisional Superintendents of State-managed Railways in India and also the powers of Superintendent, Transportation, Superintendent, Staff and the Superintendent, Powers, and Superintending Engineer, in connection with the discharge and dismissal powers delegated to them by the Railway Board ?

(b) Is it a fact that Superintendent, Transportation has got powers to discharge non-gazetted railway servants who have put in service up to three years ?

(c) Is it a fact that Superintendent, Staff, also holds the same powers ? If so, will Government be pleased to state why the rules are disregarded by the Divisional Officers on the East Indian Railway system in regard to discharge and dismissal of non-gazetted servants ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). I would refer the Honourable Member to the information laid on the table of the House on the 31st August, 1936, in reply to Dr. N. B. Khare's unstarred question No. 561 asked on the 7th April, 1936. Government understand that Divisional Superintendents on the Great Indian Peninsula Railway are empowered to discharge and dismiss any staff they are empowered to appoint.

(c) The answer to the first part of the question is in the affirmative. As regards the latter part, Government have no reason to believe that such is the case.

CONNOTATION OF THE EXPRESSION "RAILWAY ADMINISTRATION".

1152. *Mr. Anugrah Narayan Sinha : Will Government be pleased to state what the expression "Railway Administration" exactly connotes ?

The Honourable Sir Muhammad Zafrullah Khan : I would invite the Honourable Member's attention to section 3 (6) of the Indian Railways Act, 1890, a copy of which is in the Library of the House.

INCONVENIENCE AND HARDSHIP CAUSED BY SILTING UP OF A CERTAIN WATERWAY BETWEEN BUXAR AND CHAUSA RAILWAY STATIONS ON THE EAST INDIAN RAILWAY.

1153. *Mr. Anugrah Narayan Sinha : (a) Is it a fact that a representation was addressed to the Agent, East Indian Railway, by B. Jagdeo Sinha, B.A., B.L., of village Pulia in the Buxar sub-division of the District of Shahabad in Bihar, on behalf of a large number of villagers in the same sub-division in the month of October, 1935, drawing his attention to the great inconvenience and hardship caused by the silting up of the waterway under bridge No. 350, near mile 413, between Buxar and Chausa Railway Stations on the East Indian Railway ?

(b) Is it a fact that the above representation disclosed that the village road running from village Kritpur, P. S. Buxar, as a branch of Chausa-Buxar District Board Road to village Dhansoi and passing

through the waterway under bridge 350 aforesaid, had been blocked by silt deposit, thereby rendering all forms of traffic impassable ?

(c) Is it a fact that the Agent, without acknowledging the representation, directed the local officials to clear up the silt ?

(d) Is it a fact that the local officers removed the silt in such a manner as to cause a ditch to be dug up in the village road where water has now begun to accumulate and has since caused the passage of all vehicular traffic almost impossible ?

(e) Do Government propose to direct the Agent to get the silt in the waterway under bridge 350 completely removed or in the alternative order construction of a cross-road over the railway line at that point to enable the traffic to pass unobstructed ?

The Honourable Sir Muhammad Zafrullah Khan : Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

FILLING UP OF A POST OF HIGHER GRADE CLERK IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

1154. ***Maulvi Badi-uz-Zaman :** Will Government be pleased to state :

(a) whether a post of higher grade clerk (60—6—120—8—200) in the Office of the Chief Auditor, Railway Clearing Accounts, Delhi, fell vacant in August 1934 ;

(b) whether, as per orders of the Auditor General, this post was to be filled by a Muslim ;

(c) whether the Chief Auditor promoted a Hindu typist to that post and declared a post of a typist in the lower grade of 45—5½—95 as vacant ; if so, why ; and

(d) if the replies to the preceding parts be in the affirmative, what steps they propose to take to check their Hindu Officers from filling the higher graded posts, due to be filled by the Muslims, by promoting the lower grade Hindus ?

The Honourable Sir James Grigg : The information is being obtained and will be laid on the table in due course.

PROMOTIONS TO THE POST OF SUB-HEADS IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

1155. ***Maulvi Badi-uz-Zaman :** (a) Is it a fact that :

(i) a list of candidates selected for promotions to the post of Sub-Head in the Railway Clearing Accounts Office, was prepared by late Mr. L. S. Dean when he was Director ;

(ii) Mr. K. R. S. Rau promoted certain unqualified non-matriculate non-Punjabi Hindus to the posts of Sub-Heads and confirmed them from the date of their first promotion to the post of Sub-Heads, thus depriving some Muslims, who had officiated continuously for about five years and more and had reached the maximum of the Sub-Heads' grade, of their chance of confirmation and reverting them as clerks ;

- (iii) Mr. Rau's successor, Mr. Subrahmanyam, held another selection and placed the men selected by him over the heads of those selected in the time of Mr. L. S. Dean ;
- (iv) Mr. P. C. Choudahary, Deputy Director, held a selection of routine clerks considered fit for promotion to the post of clerks and prepared a list for the promotion to clerical grade ; and
- (v) Mr. I. S. Puri, Deputy Director, held another selection of routine clerks to give promotion to other non-matriculate Hindus ?

(b) If the replies to the preceding parts be in the affirmative, will Government please state what steps they propose to take to safeguard the rights of Muslims in connection with grade to grade promotions ?

Mr. P. R. Rau : (a) (i). Yes.

(ii) Two very senior Class I clerks were promoted as Sub-heads by Mr. K. R. S. Rau in accordance with the recommendation of the Mitra Committee that men who had already acted as Sub-heads in the offices of the Railways parties to the Railway Clearing Accounts Office should be considered for the posts of Sub-heads in that office. These men were confirmed in preference to certain juniors who had acted longer as Sub-heads.

(iii) Yes. Selections have to be made from time to time, and when senior men are selected on a later date, their seniority is usually restored *vis-a-vis* those selected earlier.

(iv) No.

(v) No.

(b) Promotion is made on merit and seniority and not on communal grounds ; and there is no question, therefore, of safeguarding the rights of any community.

Dr. Ziauddin Ahmad : May I know if persons who were once selected will become junior to those who may be selected afterwards ?

Mr. P. R. Rau : Yes, if the people selected are senior to them.

Dr. Ziauddin Ahmad : Does this rule apply to these services only or does it apply to all the services under the Government of India ?

Mr. P. R. Rau : This is the practice in this office ; that is all I know. I do not know what is the practice in the other Departments of the Government of India.

STOPPAGE OF THE RECRUITMENT OF MATRICULATES AND UNDER-GRADUATES IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

1156. ***Maulvi Badi-uz-Zaman :** (a) Are Government aware that the Chief Auditor, Railway Clearing Accounts Office, has stopped the recruitment of matriculates and under-graduates in his office ?

(b) If the reply to part (a) be in the affirmative, will Government please state the reasons for restricting the recruitment to the graduates

only? Is it a fact that there are seventeen non-matriculates and nine matriculates and three F. As. already working as clerks class I?

The Honourable Sir James Grigg : (a) Orders were passed to this effect because competent graduates are readily available. It has, however, been since decided that matriculates and under-graduates should be considered for future vacancies.

(b) The first part does not arise. As regards the other part, the facts are probably as stated.

Mr. Lalchand Navalrai : I could not hear the answer to part (a) of the question. Did the Honourable Member say that the matriculates and under-graduates are barred from future vacancies?

The Honourable Sir James Grigg : They were at one time, if I may paraphrase the answer, but now the orders have been rescinded.

JOINT INQUIRY BY ACCOUNTS AND TRAFFIC DEPARTMENTS OF THE NORTH WESTERN RAILWAY IN THE ELECTRIC DEPARTMENT.

1157. ***Maulvi Badi-uz-Zaman :** (a) Is it a fact that a joint inquiry by Accounts and Traffic Department of the North Western Railway was held in the Electric Department of that Railway at Lahore?

(b) If so, what were its findings, and will Government please place a copy of the report on the table for the information of the House?

The Honourable Sir Muhammad Zafrullah Khan : I would invite the Honourable Member's attention to my reply to Sardar Sant Singh's starred question No. 1369 asked on the floor of this House on the 20th March, 1936.

METHODS OF RECRUITMENT IN THE RAILWAY BOARD.

1158. ***Maulvi Badi-uz-Zaman :** Will Government be pleased to state :

(i) the methods of recruitment of :

(a) assistants, clerks and stenographers, and

(b) draftsmen and tracers,

in the Railway Department Secretariat ;

(ii) the number of men recruited to permanent and temporary categories on the results of examinations and tests, and how many of them are Muslims ; and

(iii) whether, whenever a Muslim is to be taken, a qualifying test is held and, in the case of non-Muslims, no such examinations are held in the case of recruitment to junior draftsmen's posts? If so, why?

The Honourable Sir Muhammad Zafrullah Khan : (i) A copy of the recruitment rules of the Railway Department (Railway Board) is laid on the table. No draftsmen or tracers are employed in the Railway Department Secretariat.

(ii) The number of men recruited during the past financial year 1935-36 is indicated below :

How recruited.	Permanent.		Temporary.	
	Total No.	No. of Muslims.	Total No.	No. of Muslims.
Through Home Department ..	3	..	14	2
From Railway Offices ..			2	1
Locally (for short vacancies of less than three months).			36	14
Total ..	3		52	17

(iii) Does not arise.

Rules of Recruitment in the Office of the Railway Board.

RAILWAY BOARD'S OFFICE.

(1) *I Division (Assistants).*

1. By promotion from the lower grades of the clerical establishment in the office, or
2. by recruitment of Technically qualified men from railways when required.

(2) *II Division (Clerks).*

1. By promotion from the III Division provided that suitably qualified clerks who have passed the P. S. C.'s examination for II Division are available, or
2. when such clerks are not available, by direct recruitment through the Home Department.

(3) *III Division (Clerks).*

By direct recruitment through the Home Department.

(4) *Stenographers.*

1. By direct recruitment through the Home Department, or
2. by recruiting qualified stenographers from Railways in special service.

STOPPAGE OF RECRUITMENT OF PENSIONABLE HANDS TO NON-PENSIONABLE ESTABLISHMENT OF STATE RAILWAYS.

1159. *Maulvi Badi-uz-Zaman : (a) Is it a fact that Government passed orders that no pensionable hand be recruited to the non-pensionable establishment from the year 1924, of State Railways, unless they held technical qualifications ?

(b) How many pensionable hands have, in contravention of these orders, been recruited on State Railways ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government are not able to trace any such orders having been issued to the Railways.

(b) Does not arise.

DISCHARGE OF MUSLIM EMPLOYEES ON THE NORTH WESTERN RAILWAY DUE TO ECONOMY CAMPAIGN.

1160. ***Maulvi Badi-uz-Zaman :** (a) Will the Honourable Member for Railways and Commerce please state how many Muslim employees were discharged on the North Western Railway as a result of economy campaign during 1931-32 ?

(b) Is the Honourable Member for Railways and Commerce aware that *vide* paragraph 3 of their letter No. 683-E.G., dated 3rd March, 1931 the Railway Board had issued instructions that all practical steps should be taken to see that the unfortunate necessity for reducing staff does not operate to the detriment of the communities not at present adequately represented in railway services ?

(c) What number of the Muslim employees on the North Western Railway was discharged in excess of their proportion which they had in railway services prior to retrenchment ?

(d) What special arrangements were made by the railway authorities to remove the injustice ?

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

(a) 5,706 Muslims were retrenched.

(b) Yes.

(c) The percentage of Muslims employed before and after the retrenchment of 1931 was 56.16 and 55.71 respectively.

(d) Instructions were issued to subordinate officers to adjust the excess number of Muslims discharged when recruitment was resumed.

BASIS FOR ANTICIPATED REDUCTION IN STAFF ON RAILWAYS.

1161. ***Maulvi Badi-uz-Zaman :** (a) Will the Honourable Member for Railways and Commerce please state what basis for anticipated reduction in staff has now been fixed ?

(b) What measures have been adopted to safeguard the interests of the Muslim staff ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). I would refer the Honourable Member to the reply given to part (a) of Mr. Mohan Lal Saksena's starred question No. 371, asked on the 4th September, 1936.

Qazi Muhammad Ahmad Kazmi : May I ask if the principle of the absorption.....

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member read the question and the answer ?

Qazi Muhammad Ahmad Kazmi : I have. May I ask if the principle of the absorption of the surplus staff before retrenchment that was in force on the North Western Railway and other railways is also in force now ?

The Honourable Sir Muhammad Zafrullah Khan : I replied to that question, I believe, on the last day the House sat.

CONFIRMATION OF QUALIFIED MEMBERS OF THE MINORITY COMMUNITY IN THE CHIEF ACCOUNTS OFFICE, NORTH WESTERN RAILWAY.

1162. ***Maulvi Badi-uz-Zaman** : (a) Is the Honourable Member for Railways and Commerce aware of the Government of India's desire that when a member of a minority community is available and adequately qualified, as for example, when he has passed the departmental qualifying or recruitment examination, such a man should be confirmed in a permanent vacancy over the heads of men who have been employed continuously for several years longer and have qualified earlier, for confirmation, *vide* Auditor General's letter No. 6-N.B.E.94|E.-28|P. II, dated 8th January, 1929 to Accountant General, Railways (now Controller of Railway Accounts) ?

(b) Is the Chief Accounts Officer, North Western Railway, empowered in confirming a man of the majority community out of turn, thus superseding even the qualified minority community men, on the plea that he is appearing in Indian Audit and Accounts Service examination ?

(c) Have any of the qualified Muslim staff been confirmed in terms of the orders mentioned in part (a) above ?

(d) What measures do Government propose to give effect to this letter or any such orders ?

Mr. P. R. Rau : (a) and (d). The orders contained in the Auditor General's letter referred to were superseded in 1934. Government have no reason to believe that the revised orders are not being correctly applied.

(b) Government understand that there was no out-of-turn confirmation. One person was confirmed on grounds of high academic and other qualifications. The question of the confirmation of other temporary employees in accordance with the orders mentioned in the answer to (a) and (d) above is under consideration.

(c) Yes.

STRIKE IN THE BANGALORE TOBACCO FACTORY.

1163. ***Prof. N. G. Ranga** : Will Government be pleased to state :

(a) if they are aware of the fact that there was a strike of 2,000 workers employed in the Bangalore Tobacco Factory of the Tobacco Manufacturers (India), Limited, from the 5th May, till the 10th July ;

(b) whether the strikers approached the Honourable Resident with the request to appoint an Arbitration Board and that

he refused to do so on the plea that the employers did not agree ;

- (c) whether the strikers thereupon appealed to Government to intervene and help them ;
- (d) whether they turned down their appeal on the technical ground that it was not sent through the Honourable Resident ;
- (e) whether the workers had agreed to go back to work when the Factory was re-opened, after its temporary closure and yet the employers have refused to take back as many as 1,000 workers who were previously on strike ; and
- (f) if the answer to the above be in the affirmative, what action they propose to take to help the workers to get back to work and relieve their distress due to unemployment ?

The Honourable Sir Frank Noyce : (a) Yes. The number of workers involved was reported to be about 1,800.

(b) to (d). The workers submitted a memorial to the Resident requesting the Government to intervene as an "impartial arbitrator" and they were informed that the Resident was not prepared to intervene in the manner suggested at the instance of only one of the parties to the dispute.

(e) Owing to the transfer of machinery and for other reasons, the management informed the workers that they would be re-engaged gradually. About 1,100 employees were at work at the end of August and Government understand that further hands will be engaged when more materials and machinery are received in the factory.

(f) Government cannot force the employers to take workers whom they do not require.

Prof. N. G. Ranga : Have Government satisfied themselves that the other 700 workers are still unemployed not because of the anxiety of the management to victimise them, but because of their inability to employ them owing to want of necessary machinery ?

The Honourable Sir Frank Noyce : The only information I have is that which I have already given to the Honourable Member that further hands will be engaged when more materials and machinery are received.

Prof. N. G. Ranga : Will Government try to use their good offices to see that as many of these 700 men are employed as possible, though gradually, by the factory authorities ?

The Honourable Sir Frank Noyce : I do not think that is the business of the Government. Obviously if Government are to provide for strikers who lose, then very few workmen will remain at work.

Prof. N. G. Ranga : In which other way do Government propose to help them ?

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

STRIKE IN THE BANGALORE TOBACCO FACTORY.

1164 *Prof. N. G. Ranga : Will Government be pleased to state :

- (a) if they are aware that the workers of the Bangalore Tobacco Factory, when they were on strike and later on, while unemployed, approached the Collector who is also the Municipal President for suspending the collection of rents on their cantonment house sites ;
- (b) whether the Collector was first of all willing to make that concession, after hearing the plea of the Secretary of the workers' union ; and
- (c) whether he refused to make that concession on the ground that he could not recognise the union, which was not recognised by the Honourable Resident ?

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

*Prof. N. G. Ranga : Will Government call for information ?

The Honourable Sir Frank Noyce : No, Sir. The strike is over and it is better to let the dead past bury its dead.

Prof. N. G. Ranga : Is it not a fact that the facts mentioned here are correct and that owing to the failure or refusal of the Collector and the Honourable the Resident, the strikers were put to considerable inconvenience and loss ?

The Honourable Sir Frank Noyce : I see no reason to call for information. As I have said the strike is over and I do not see that any information as to what happened in regard to the suspension or collection of rents would now serve any useful purpose.

EXTENSION OF THE INDIAN TRADE UNION ACT TO THE BANGALORE CANTONMENT.

1165. *Prof. N. G. Ranga : Will Government be pleased to state :

- (a) if the Indian Trade Union Act has been extended to the Bangalore Cantonment ;
- (b) if not, why not ; and
- (c) whether they are aware of the fact that the workers of the Tobacco Company have suffered immensely by their failure to extend that Act to that area and to recognise the Trade Union ?

The Honourable Sir Frank Noyce : (a) No.

(b) The question of applying the Act to the Civil and Military Station, Bangalore, is under consideration.

(c) No.

Mr. V. V. Giri : How long will it be under consideration ?

The Honourable Sir Frank Noyce : Not very long, I hope.

Prof. N. G. Ranga : Are there any other places in India besides the Bangalore Cantonment in which the Trade Union Act has not been extended ?

The Honourable Sir Frank Noyce : I should obviously require notice of that question.

PROTECTION OF THE MONUMENTS OF THE ANCIENT AMARAVATI BUDDHISTIC STUPA IN THE GUNTUR DISTRICT.

1166. ***Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) if they are aware that the historic monuments of the ancient Amaravati Buddhistic Stupa in Guntur District are not properly protected ;
- (b) whether the iron-fencing is not strong and high enough to prevent the theft of some of the valuable marble monuments ;
- (c) whether in fact some of the monuments had been lost in the last ten years ;
- (d) whether the exposure of these monuments to rain, etc., has caused much damage to them ; and
- (e) whether they are prepared to consider the advisability of constructing an open air museum for protecting and properly exhibiting the monuments ?

Sir Girja Shankar Bajpai : (a) The ruins of the Stupa at Amaravati are protected under the Ancient Monuments Preservation Act, 1904, and are properly looked after by a caretaker.

(b) The enclosure of masonry pillars and wooden railings erected by the Archæological Department around the sculptures provides sufficient protection against theft or damage.

(c) An attempt made by a local village official sometime ago to remove one of the sculptures was detected in time and the man was dismissed.

(d) Some damage was caused by rain to the compound wall which has since been repaired.

(e) The question of protecting the sculptures which are not fixed and which may be exposed to damage by rain, etc., will be examined.

ADVISABILITY OF ESTABLISHING A CENTRAL MUSEUM FOR ANDHRA COUNTRY IN BEZWADA.

1167. ***Prof. N. G. Ranga :** Will Government be pleased to state if they propose to consider the advisability of establishing a Central Museum for Andhra country in Bezvada and exhibit some of the important sculptural and architectural and historic monuments found in the various Andhra historic places ?

Sir Girja Shankar Bajpai : The Government of India are constructing a Museum at Nagarjunikonda, in which the antiquities recovered in that neighbourhood could be exhibited. The policy of the Government

of India is to construct local museums in proximity to sites whence important objects of archaeological interest are recovered in sufficient volume to justify this. The establishment of Archaeological Museums on a purely regional basis is not their policy.

HISTORICAL MONUMENTS AT CHELROLE IN THE GUNTUR DISTRICT.

1168. *Prof. N. G. Ranga : Will Government be pleased to state :

- (a) if they are aware of the existence of very valuable historical monuments at Chelrole in Guntur District ;
- (b) whether they are aware that many of them are being lost since ignorant villagers are taking them away or mutilating them ; and
- (c) if not, whether they propose to enquire into the matter and carry on excavations with a view to unearthing valuable monuments in that place ?

Sir Girja Shankar Bajpai : Enquiries are being made and the result will be communicated to the House in due course.

BREACHES ON THE QUETTA DIVISION OF THE NORTH WESTERN RAILWAY.

1169. *Maulvi Badi-uz-Zaman : (a) Is it a fact that some breaches occurred on the Quetta Division in 1931 ?

(b) Is it a fact that some train loads of fruit traffic were held up on account of the breaches ?

(c) Is it a fact that the detained fruit trains were taken back to Quetta and the fruit sold there at nominal prices, without obtaining any instructions from the owners ?

(d) Is it a fact that, in spite of the breaches and probability of detention to fruit traffic, booking of fruit consignment was not stopped ?

(e) Is it a fact that accumulation of fruit trains was the result of the non-stoppage of booking ?

(f) Is it a fact that owners of fruit consignments, which were sold by the railway at Quetta, brought a suit against the railway, claiming compensation for the unlawful detention and disposal of their fruit ?

(g) Is it a fact that the suit was decreed against the railway for about eighty thousand rupees (Rs. 80,000) and an appeal was filed by the railway against the judgment of the Lower Court ?

(h) Is it a fact that the case was ultimately compromised by the railway ?

(i) If the replies to the preceding parts be in the affirmative, will Government please state if any enquiry has been made, and whether any disciplinary action has been taken against the officials held responsible in this case and what measures have been adopted to avoid a recurrence ?

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

(b) to (i). Do not arise.

SPECIAL TICKET EXAMINERS IN THE HEADQUARTERS OFFICE, NORTH WESTERN RAILWAY.

1170. *Maulvi Badi-uz-Zaman : (a) Is it a fact that a group of Special Ticket Examiners has been organised in the Headquarters Office, North Western Railway ?

(b) Is it a fact that this group has been authorised to detain passenger and mail trains at stations, or while running between two stations ?

(c) Is it also a fact that this group has been allowed some imprest money to spend on travelling by motor cars or lorries ?

(d) If the reply to part (b) be in the affirmative, will Government please quote particulars of the trains detained by the group, the duration of detention and reasons for the detention ?

(e) Will Government please also state whether they are aware that such detentions caused inconvenience to passengers and whether any extra expenditure was incurred by the railway and the advantage gained by such detentions ?

(f) If the reply to part (c) be in the affirmative, will Government please state the details of the expenditure incurred by the group during the time it had been working ?

(g) Will Government please state the expenditure incurred by the introduction of this group including their pay and travelling allowance and the earnings realised by them ?

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

(b) and (c). No.

(d), (e) and (f). Do not arise.

(g) No additional expenditure has been incurred, as these Examiners have been transferred from Divisions to the Headquarters Office, and no other men have been engaged in their places. From 4th June to 31st August, 1936, the earnings realised by them were Rs. 2,276.

VACANCIES OF STENOGRAPHERS IN HEADQUARTERS AND DIVISIONAL OFFICES ON THE NORTH WESTERN RAILWAY.

1171. *Maulvi Badi-uz-Zaman : (a) Will Government please state the number of vacancies of the posts of stenographers in grade II and III occurring in the Headquarters Office and Divisional and extra-Divisional Offices on the North Western Railway during the years 1934-35 and 1935-36 ?

(b) Will Government please also state whether these vacancies were advertised as required by the rules and filled by selection, or whether these were filled by promotions and number of such posts given to Muslims and non-Muslims respectively ?

The Honourable Sir Muhammad Zafrullah Khan : Government have no information. These are matters of detailed administration within the competence of the Agent, North Western Railway, to whom a copy of the question has been sent for information.

**SCHEME FOR THE CREATION OF A JOINT-MARKETING BOARD SUBMITTED BY THE
DIWAN OF COCHIN.**

1172. ***Mr. T. S. Avinashilingam Chettiar** : Will Government state :

- (a) whether the Dewan of Cochin has submitted any scheme for the creation of a Joint Marketing Board ;
- (b) whether they are considering the scheme ; and
- (c) if so, when they propose to give effect to it ?

Sir Aubrey Metcalfe : (a) The Government of India have not so far received any such scheme.

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

REPORT ON THE HEALTH OF MR. SUBHASH CHANDRA BOSE.

1173. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of **Mr. S. Satyamurti**) : Will Government be pleased to state :

- (a) whether it is a fact that Dr. Sir Nilratan Sarkar and Dr. K. S. Roy have examined Mr. Subhash Chandra Bose at Kurseong ;
- (b) whether they have received their report on his health ;
- (c) what the report is ; and
- (d) whether they are prepared to place a copy of the report on the table of the House ?

The Honourable Sir Henry Craik : (a) to (d). I have nothing to add to what I have said in the replies given by me to question No. 783 and the supplementary questions arising therefrom. Except that Dr. K. S. Roy was not one of the examining doctors, so far as I am aware.

Mr. M. Ananthasayanam Ayyangar : Has there been any further examination of Mr. Bose ?

The Honourable Sir Henry Craik : I have not heard.

Mr. President (The Honourable Sir Abdur Rahim) : I may point out to Honourable Members that it is not desirable to discuss the health of anybody in this House like that. It is very undesirable.

Pandit Govind Ballabh Pant : Ordinarily I would accept the suggestion of the Chair. But in this case we are putting questions in order to induce Government to release the person concerned on the ground of ill health.

Mr. President (The Honourable Sir Abdur Rahim) : The previous question went into all sorts of details about the health of Mr. Bose.

Mr. Mohan Lal Saksena : This question was originally put as a short notice question and it was because it was not accepted as a short notice question that it came on the regular list of questions.

Mr. President (The Honourable Sir Abdur Rahim) : All the previous questions relating to Mr. Bose were discussed in great detail.

Pandit Govind Ballabh Pant : According to our information Mr. Bose is in very poor health. From the medical report, it appears that his further detention will prejudice his health further. So we wanted to bring

it to the notice of the public that a man of the position of Mr. Bose even though suffering from such illness and in such a predicament was still being kept in jail by the Government.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member was perhaps not in his place when the matter was discussed the other day and too many details were gone into about his health. I pointed out at the time that if Mr. Bose was seriously ill it was perfectly right to bring it to the notice of the Government, but it was undesirable to discuss his illness in such detail.

Pandit Lakshmi Kanta Maitra : How else are we to get detailed information about his health ?

Mr. President (The Honourable Sir Abdur Rahim) : You can get it without going into all sorts of details.

Pandit Lakshmi Kanta Maitra : It is because we get very scrappy information from the Treasury Benches that we are obliged to put questions very often.

INDIAN DELEGATION TO MALAYA TO STUDY LABOUR IMMIGRATION CONDITIONS.

1174. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will Government be pleased to state :

- (a) whether they have settled the personnel of the proposed Indian Delegation to Malaya to study labour immigration conditions there ;
- (b) whether the Right Honourable V. S. Srinivasa Sastri has been invited and has accepted to serve on the Delegation ; and
- (c) whether any member or members of the Assembly will be included in the Delegation, and if not, why not ?

Sir Girja Shankar Bajpai : (a), (b) and (c). The matter is still under consideration.

CEYLON GOVERNMENT RAILWAY CONTRACT FOR THE SUPPLY OF COAL.

1175. ***Pandit Lakshmi Kanta Maitra** : (a) Will Government be pleased to state if it is a fact that India has received the Ceylon Government railway contract for the supply of coal for the next year ?

(b) If the answer to the above be in the affirmative, will Government be pleased to state :

- (i) the total quantity contracted for ;
- (ii) the value of the contract ; and
- (iii) the names of the companies with whom the contract has been placed ?

(c) Was any tender for the supply of coal given on behalf of the Indian Railway Collieries ? If so, at what rates ?

(d) Do Government propose to help the industry by granting a reduction in the railway freights, so as to enable the Indian colliery owners to successfully compete against African coal ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) It would appear from information published in the press on the subject that India has received the Ceylon Government Railway Contract for the supply of coal for next year.

(b) Government have no information.

(c) No.

(d) Railways are already allowing for coal consigned to Calcutta for shipment a rebate of 37½ per cent. of the freight on graded coal and 25 per cent. on other than graded coal, besides exempting all such coal from the surcharge of 12½ per cent. on the freight charges which ordinarily apply for bookings to Calcutta. For exports to foreign ports, i.e., ports outside India and Burma, a further rebate of eight annas per ton is also being allowed from 1st October, 1936.

Pandit Lakshmi Kanta Maitra : May I know from the Honourable Member if his Department has got no definite information about it except what is published in the Press ?

The Honourable Sir Muhammad Zafrullah Khan : I believe the Press report is correct.

Pandit Lakshmi Kanta Maitra : May I know if the Honourable Member knows whether these contracts have been settled with Indian companies ?

The Honourable Sir Muhammad Zafrullah Khan : That I am not specifically aware of, but it has been placed with companies in India.

Pandit Govind Ballabh Pant : Is the Honourable Member aware that other Governments extend a number of facilities and concessions to their nationals in order to promote external trade ?

The Honourable Sir Muhammad Zafrullah Khan : I have pointed out that several concessions are being given in this respect.

Pandit Govind Ballabh Pant : Does the Honourable Member consider them adequate ?

The Honourable Sir Muhammad Zafrullah Khan : Certainly.

Pandit Govind Ballabh Pant : Has the question been examined in the light of the concessions that have been enlarged in other countries ?

The Honourable Sir Muhammad Zafrullah Khan : The question was examined in the light of securing the Ceylon contract for the Indian collieries.

CONTRACT FOR THE CONSTRUCTION OF THE HOWRAH BRIDGE.

1176. ***Pandit Lakshmi Kanta Maitra :** (a) Will Government be pleased to state if the contract for the construction of the new Howrah Bridge has been finally settled with the Cleveland Engineering Company of Great Britain ?

(b) What is the total value of this contract ?

(c) What was the difference between the tenders of the Cleveland Company and the Indian Combine ?

(d) In settling this contract with the foreign company have Government made it a condition that the company will purchase its materials, such as, iron, steel, cement, paint, timber, concrete and other requisites, as far as possible, from India and Indian concerns? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would refer the Honourable Member to the answer given by me on the 24th September, 1936, to Mr. T. S. Avinashilingam Chettiar's question No. 585.

(b) and (c). The Government of India have no information.

(d) I understand that the Government of Bengal have made it a condition of their approval that the Cleveland Bridge and Engineering Company will purchase in India the whole of the structural steel work obtainable in this country if they can settle reasonable terms with the Indian manufacturers, but that no such condition has been imposed as regards the purchase of other materials.

I may add that I have no doubt the Honourable Member has noticed in the news yesterday that an understanding has been arrived at between the Cleveland Company and the Indian Steel Company with regard to the purchase of structural steel.

Pandit Lakshmi Kanta Maitra : It is a vague sort of report. Does not the Honourable Member have anything more definite to add?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Pandit Govind Ballabh Pant : Was this the lowest tender that the company offered?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I cannot say without notice.

Pandit Lakshmi Kanta Maitra : What is the value of the contract finally settled with Cleveland Bridge and Engineering Company?

The Honourable Sir Muhammad Zafrullah Khan : I have no information.

THE MANŒUVRES FIELD FIRING AND ARTILLERY PRACTICE BILL.

Mr. G. R. F. Tottenham (Defence Secretary) : Sir, I beg to move for leave to introduce a Bill to provide facilities for military manœuvres and for field firing and artillery practice.

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

“ That leave be granted to introduce a Bill to provide facilities for military manœuvres for field firing and artillery practice.”

The motion was adopted.

Mr. G. R. F. Tottenham : Sir, I introduce the Bill.

THE GENEVA CONVENTION IMPLEMENTING BILL.

Mr. G. B. F. Tottenham (Defence Secretary) : Sir, I beg to move :

“ That the Bill to implement Article 28 of the Geneva Convention of the 27th day of July, 1929, be taken into consideration.”

As a result of the Geneva Convention of 1906 an Act of Parliament was passed in 1911 known as the Geneva Convention Act. Section 1 of that Act prohibits the unauthorised use of the emblem of the Red Cross, the object of course being to protect the Red Cross Society which is authorised to use that emblem. The provisions of that Act were applied to India by Order in Council, under which the Secretary to the Government of India in the Army Department has the power to authorise the use of this emblem by persons or societies or firms other than the Red Cross Society. I may say that as far as I know the Secretary to the Government of India in the Army Department has only exercised that power on two occasions, both for short periods. And as far as I know the Indian Red Cross Society is at the moment the only society or body in India that is authorised to use the Red Cross emblem. In 1929 a further conference was held at Geneva which was attended by representatives of most of the nations in the world. That conference dealt with two main subjects, firstly, the amelioration of the condition of the wounded and sick in armies in the field, and secondly, the treatment of prisoners of war. India was represented at that conference by a senior officer of the Indian army who was specially selected because he had himself been a prisoner of war and therefore could speak with first-hand knowledge of this subject. As a result of that conference two new Conventions were drawn up on these two subjects, and of course today we are only concerned with the first of these Conventions, and incidentally, with only one provision of it. The Convention dealing with the amelioration of the condition of the wounded and sick in armies in the field contains 39 Articles of which six Articles deal with the Red Cross, its use as an emblem and the manner in which it is to be worn and displayed. This particular Article 28 with which we are now concerned reads as follows :

“ The Governments of the High Contracting Parties whose legislation is not at present adequate for the purpose shall adopt or propose to their legislatures the measures necessary to prevent at all times

- (a) the use of the emblem or designation ‘ Red Cross ’ or ‘ Geneva Cross ’ by private individuals or associations, firms or companies, other than those entitled thereto under the present convention, as well as the use of any sign or designation constituting an imitation, for commercial or any other purpose ;
- (b) by reason of the compliment paid to Switzerland by the adoption of the inverted federal colours, the use by private individuals or associations, firms or companies, of the arms of the Swiss Federation or marks constituting an imitation, whether as trade marks or as parts of such marks, for a purpose contrary to commercial honesty or in circumstances capable of wounding Swiss national sentiment.

The prohibition indicated in (a) of the use of marks or designations constituting an imitation of the emblem or designation of the Red Cross or Geneva Cross, as well as the prohibition in (b) of the use of the arms of the Swiss Federation or marks constituting an imitation, shall take effect as from the date fixed by each legislature and not later than five years after the coming into force of the present convention. From the date of such coming into force it shall no longer be lawful to adopt a trade mark in contravention of these rules.”

Now, Sir, the Government of India and I think the Governments of all the other countries that attended that conference formally agreed to ratify

this Convention, and the five years' period allowed under the Article which I have just read out is due to expire before the end of this year. The House may wonder why we have taken so long to implement our undertaking. The reason for that, Sir, is that the matter of the use of the Red Cross emblem is, as I have already explained, regulated by an Act of Parliament, the Geneva Convention Act of 1911, and under the present Government of India Act, this Legislature is not competent to enact any legislation which may affect an Act of Parliament which has been so applied to India. We have therefore been waiting for Parliament in England to take action, and unfortunately so far they have been unable to do so. Meanwhile it is competent for this Legislature to implement the other portions of that Article of the Convention that I have just read out; that is to say, it is within the power of this Legislature to legislate regarding the imitation of the Red Cross, the use of the White Cross and the imitation of the White Cross. And that, Sir, is just what this Bill proposes to do.

Now, Sir, I should just like to add two general remarks before I finish. In the first place, I should like the House to remember that the Red Cross organisation, although it is primarily intended for the relief of suffering in war, is also authorised by its charter to pursue similar humanitarian activities in peace. And those who have any knowledge of the work of the Indian Red Cross Society are well aware of the very excellent work that they have been doing in that direction during the last 16 years since the war. In the second place, so far as we are aware, this Bill will not impose a hardship on anybody in India, for as far as we know, there is no firm or company at present which is using either the Red Cross or the White Cross or imitations thereof as a trade mark or for any other purpose. Even if there were such a case, it will be seen that there is a provision in the Bill to prevent any criminal Court from taking cognisance of any offence made punishable by the Act, without the previous sanction of the Governor General in Council or of the Local Government. And if the House considers that that does not provide a sufficient safeguard, I may say at once that I shall be quite prepared to accept an amendment which will ensure a reasonable period of grace for those persons, if any, who are now using any of the signs or emblems the use of which will be made an offence by this Bill. I may also make it clear now that I am prepared to accept the amendment on the paper to clause 3 of the Bill, for reasons which I shall be prepared to explain later if that amendment is moved. Sir, I move.

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

“ That the Bill to implement Article 28 of the Geneva Convention of the 27th day of July, 1929, be taken into consideration.”

There is a motion by Mr. Sri Prakasa that the Bill be circulated for the purpose of eliciting opinion thereon.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1936.”

I would confess straightaway that I have no desire to obstruct the passage of this Bill. But I thought by putting in this amendment that I shall *ipso facto* catch your eye and be in a position to say what I have to say at once.....

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member really does not want to move his amendment, there is no necessity for him to do so : he can speak on the motion for consideration without moving this amendment.....

Mr. Sri Prakasa : Yes, Sir ; I have no desire to press this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Then the Honourable Member need not move the amendment : does he want to speak on the motion ?

Mr. Sri Prakasa : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Very well : but that is not a fair way of doing it. If he had only got up, he would probably have been called.

Mr. Sri Prakasa : I just wanted to clear one or two points, and I am sorry if I have adopted a procedure that I ought not to have adopted. This Legislature as it is constituted has practically no opportunities of discussing international subjects or subjects connected with war or peace. Normally every legislature in the world discusses such subjects, but we are barred from doing so ; and we only get opportunities now and then of talking on such important matters through the backdoor of the League of Nations, because we happen to be a member thereof. So far as the organisation of the army in our country is concerned, it is entirely the business of the Government ; and we are never required nor expected to take any part in the defence of our own country. The Red Cross organisation, as my Honourable friend, Mr. Tottenham, himself has said is meant mainly to give relief to those who fight on the field of battle and get wounded in the bargain. I have personally absolutely no objection to the Red Cross organisation functioning for purposes of peace ; and looking after the health of the people around ; but I am not quite sure if an organisation of this sort does not encourage war. I personally am against all war ; and circumstances being what they are, I think my country must resist going to war in any circumstances. I have a feeling that if that great lady, Florence Nightingale, had never functioned, and if the nations had realised the horrors of the Crimean war, they would have thought it best to stop all war and would have taken steps to see that no war was waged after that. But arrangements for looking after soldiers encourage people to join the army. They feel that they will be looked after, that their families will be looked after ; and therefore it is quite safe to be in the army. Thus they encourage war. I have a small experience of my own, which may perhaps be helpful in understanding the wider implications of the situation. We have Seva Samiti organisations in India. I myself have been closely connected with one in my own town of Benares. We started the organisation in order to take care of pilgrims and others who come to the city in large numbers from time to time. Now, the talk has gone round that there are these Seva Samiti people who take care of pilgrims ; and so instead of the numbers getting less, more and more are now coming, adding to the burden of the town and adding to our own difficulties. I have a feeling that a similar experience must be that of the Red Cross organisation, and that if we have no organisations of this sort, perhaps we shall not have war.

Of course I have heard in this House a great deal about the traditions of the Indian Army, and what wonders they have done. I fear I am not in love with the traditions of the Indian Army at all. From the time of the siege of Arcot where our soldiers drank the gruel and gave the rice to persons who were trying to capture our country, down to their exploits at Addis Ababa only the other day through the Jamat of the Boxer, Bora and Great Wars.....

Mr. President (The Honourable Sir Abdur Rahim) : I think the Honourable Member is wandering over a very wide field ; he must confine himself to the Bill : the Bill is a very narrow Bill and I do not see why the Honourable Member should wander into all sorts of things.

Mr. Sri Prakasa : As the preamble of the Bill talks of the amelioration of the conditions of the wounded and sick in armies in the field.....

Mr. President (The Honourable Sir Abdur Rahim) : That may be ; but it is not therefore necessary to discuss all the wars that have taken place. If the Honourable Member wants to oppose the Bill he can do so on any ground he likes.

Mr. Sri Prakasa : I thought that soldiers could only be wounded in a war, because at other places they inflict wounds.....

Mr. President (The Honourable Sir Abdur Rahim) : I must ask the Honourable Member to confine himself to the provisions of the Bill.

Mr. Sri Prakasa : I shall bow to your ruling, Sir. I will only say that it seems to me that this Bill wants to make the Red Cross organisation a sort of monopolist in the matter of giving relief. They do not want evidently other parties to be moved with the same good feelings that move them, and so they want to reserve for themselves certain emblems which they do not want others to use. If they were a trading organisation I could have no objection. But I take it that they are not a trading organisation at all, and that the purpose of the organisation is to be helpful to others in distress. If so, I think they should welcome the assistance that similar other organisations may be able to give them and not necessarily confine all the good work to themselves. I do not know how exactly that can be done, but perhaps Mr. Tottenham will be able to explain the situation. As regards this monopoly about a sign, if you will permit me to say so, I will say that the old Indian sign of Swastika is being badly misused in Germany.....

Mr. President (The Honourable Sir Abdur Rahim) : This Bill has nothing to do with that.

Mr. Sri Prakasa : I was just going to say that as the Government wants to protect one sign they might also protect another sign ; and I may bring this matter to the notice of the Government that the Swastika is a sign really of peace which is being used, I fear, for purposes of war in Germany.

Before I close, Sir, I will say that one thing in Mr. Tottenham's speech I could not understand, and that was when he said that there was a five-year limit to the introduction of this measure and that that five-year period is going to end soon. According to the little mathematics that I know, five years from the 27th July, 1929 expired on the 27th July, 1934.

Mr. G. R. F. Tottenham : May I explain that the period of five years dates from the ratification by the Government concerned of the Convention? The Convention itself was passed in 1929, at Geneva, but it was some years later, not until 1931, that it was actually ratified by the Government of India and of the United Kingdom.

Mr. Sri Prakasa : I have nothing more to say, and I have said all that I wanted to say on this Bill. I hope that my Honourable friend, Mr. Tottenham, will take my remarks in the spirit in which they have been made and also give me some satisfaction regarding the difficulties that I have raised.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : The object of this Bill is to prevent or prohibit the imitation of the heraldic emblem of the red cross and also to prevent or prohibit the use of the heraldic emblem of the white cross on a red ground or any imitation thereof. This is said to be made in accordance with the Geneva Convention which was entered into on the 27th July 1929 to which the Government of India was also a party. At this stage I wish to say that the provisions in the Bill are much wider than the terms of the Convention to which the Government of India was a party. The object of the Convention was to prevent the use, as a trade mark for trade or commercial purposes, of either the red cross or any imitation thereof, or the Swiss heraldic emblem or the Swiss Federal colours, the white cross on a red background.

Mr. President (The Honourable Sir Abdur Rahim) : I understand that the Honourable Member has given notice of a number of amendments which the Honourable Member for Government is prepared to accept.

Mr. M. Ananthasayanam Ayyangar : I shall close with a few words. Accordingly to narrow down the scope of the Bill to the exact terms of the Convention, I have given notice of amendments which have also been perused by the Honourable the Mover of the Bill. As regards the first portion regarding the prevention or prohibition of imitations of the red cross, I beg to differ from the Honourable the Mover for this reason, that it is not covered by the terms of the Convention. His reading of the terms of the Convention to mean that it is covered by the Convention is, with great respect, I am afraid a little incorrect. The red cross ought not be used either as a trade mark or for other purposes, except with the permission of the Army Secretary in India, as, by an Order in Council the Act of Parliament of 1911 has been extended even to India. In pursuance of the Act of Parliament it is further open to the Army Secretary to give permission to any association to use the red cross as an emblem. When that is possible, I see no objection to an imitation thereof being used by any association or organisation here. With the humanitarian objects with which the Red Cross is established all over the world with a number of branches, voluntary aid societies have also been started in various countries with various emblems, some resembling red cross and others with a red crescent and so on. I do not see any reason why, when it is open to associations or to a body of persons to have the emblem of the red cross,—why an imitation thereof should be prohibited when the original can be used. In the Statement of Objects and Reasons, the Honourable the Mover has stated that it is the intention of the Governor General in Council to prevent by a departmental rule the granting of licenses or granting of authority by the Army Secretary for the use of the emblem by associations. I would

say with very great respect that we ought not to enlarge the scope of the Bill or otherwise restrict the powers granted even by the Order in Council. There ought to be no objection to the Army Secretary continuing to recognise the various voluntary aid associations in this country which might like to use the emblem of the red cross, provided the purposes for which the association is started are the same as those for which the Red Cross was started. If that power is not exercised, what would happen is that every association that is started here must affiliate itself to the Red Cross Society in India. There may be some regulations here and there which may not be in conformity with the regulations of the Red Cross Society; while having the same object, in some detail there may be some difference and in method also. In those circumstances, it must be left to each individual society to develop its own red cross organisation according to its temperament and its needs. Therefore, I do not agree with the Army Secretary when he states in the Statement of Objects and Reasons that the power he is now exercising under the Order in Council ought to be withdrawn by a departmental rule. I do not agree with the Honourable Member so far as this portion of the Bill is concerned. With regard to the other amendments that I have suggested, I understand the Honourable the Mover is agreeable to accept them, and I shall move them in due course.

Mr. G. E. F. Tottenham : Perhaps the House will expect me just to explain the two points in the debate which were relevant to this Bill, one raised by Mr. Sri Prakasa and the other by my Honourable friend who has just sat down. My Honourable friend, Mr. Sri Prakasa, wanted to know how it would be possible for societies and so on who wanted to use this emblem to do so. I would draw his attention to section 9 of the Indian Red Cross Society Act, with which we shall deal later on. Section 9 says :

“ The Managing Body (of the Indian Red Cross Society) may also affiliate to the Society any other society or body having all or any of the objects and purposes referred to in this Act.”

Therefore, it is quite open to any society in this country which wishes to have the honour of using the red cross emblem, if its objects are of the same nature as those of the Red Cross, to apply for affiliation. That leads me on to the point made by my Honourable friend, Mr. Ayyangar.

Mr. Sri Prakasa : There was a second point made by me, and that was, whether an organisation like this does not encourage war ?

Mr. G. E. F. Tottenham : That I am afraid I cannot deal with. I do not agree that it is a matter which this Bill will affect one way or the other. I sympathise with some of the purposes which the Honourable Member has in mind, but, if I may say so, I do not think any action we can take in connection with this Bill will have any practical result in that direction.

As regards the other point raised by my Honourable friend, Mr. Ayyangar, I think it was that so long as the use of the Red Cross can be authorised, as it can be under the present law, it is unreasonable to prohibit absolutely the imitation of the Red Cross. I agree that there is a small anomaly there, but the anomaly, as I tried to explain, is due to the fact that we cannot at the present moment alter the existing law, which is contained in an Act of Parliament which is applied to India. We are prohibited from altering the provisions of that law. If we were not prohibited from altering the provisions of that law, we should have put down

[Mr. G. R. F. Tottenham.]

in this Bill an absolute prohibition, not only against the use of imitations, but also against the use of the emblem, because what we have to do, if we are going to do anything at all, is to implement the Article of the Convention which I have read out. That Article goes further than the Convention of 1906 in that it wishes to apply an absolute prohibition to the use of the emblem and also to the use of imitations of the emblem. That is the object of part (a) of Article 28. Meanwhile, until we can legislate in this country to give full effect to that part of Article 28 of the Convention, the only possible course we can pursue if we wish to implement that Article is the course that is indicated in the Statement of Objects and Reasons ; that is to say, we legislate for a complete prohibition of imitations of the Red Cross, and the Government of India will issue executive instructions that the Army Secretary is not to use the discretion which is given to him under the Geneva Convention Act of 1911. It is either a question of implementing this Article or refusing to implement it, and I think we are bound as far as we can to implement the full meaning and purport of that Article.

Maulana Shaukat Ali (Cities of the United Provinces : Muhammadan Urban) : May I ask the Honourable Member if the Red Crescent Society is recognised by the Geneva Convention ? In Turkey and other countries they have a Red Crescent Society, and it has branches all over India, and it sent a medical mission during the Balkan War. I want the information so that the society may carry on its activities in India without any hindrance.

Mr. G. R. F. Tottenham : I am afraid, I have no definite official information about the Red Crescent Society, but I can inform the Honourable Member that what we are doing in this Bill will not in the least interfere with the activities of that society.

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

“ That the Bill to implement Article 28 of the Geneva Convention of the 27th day of July, 1929, be taken into consideration.”

The motion was adopted.

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

“ That clause 2 stand part of the Bill.”

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 2 of the Bill, the words ‘ or for any other purpose whatsoever ’ be omitted.”

I listened very closely to the speech of the Defence Secretary and I regret that I do not find myself in agreement with him. This Bill has been introduced here with a view to give effect to the convention. It says :

“ Whereas India was a signatory to the International Convention for the Amelioration of the Conditions of the Wounded and Sick in Armies in the Field, drawn up in Geneva and dated the 27th day of July, 1929 ;

And Whereas it is necessary to provide for the discharge of the obligations imposed by Article 28 of that Convention in so far as provision has not been made by the Geneva Convention,

and so on.

This is clearly an effort to implement the convention passed at Geneva. Now, the convention does not go as far as this Bill. It only restricts the use of the Red Cross or the Geneva Cross and the emblem to non-commercial purposes. So the last paragraph is quite clear. It is :

“ The prohibition indicated in (a) of the use of marks or designations constituting an imitation of the emblem or designation of ‘ Red Cross ’ or ‘ Geneva Cross ’, as well as the prohibition in (b) of the use of the arms of the Swiss Confederation, or marks constituting an imitation, shall take effect as from the date fixed by each legislature, and not later than five years after the coming into force of the present Convention. From the date of such coming into force, it shall no longer be lawful to adopt a trade-mark in contravention of these rules.”

The only thing that is prohibited here is the use of a trade mark in contravention of these rules. A trade mark is defined in the Indian Penal Code as a mark for denoting that goods are the manufacture or merchandise of a particular person. That is the only prohibition under the Convention.

Mr. G. R. F. Tottenham : May I ask how the Honourable Member would get over the last words in part (a) of the Article—“ for commercial or any other purposes ”.

Pandit Govind Ballabh Pant : Any other purposes, according to the principle of *Ejusdem generis*, apply only to other purposes of the same type. Any other purpose does not mean every purpose. The operative part is given in the Act. I think the Honourable the Commerce Member will perhaps support my argument that where we have got a clause like this, for commercial or any other purpose, it means a purpose coming within the same genus, of the same type.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : It would depend upon the context. It may mean what it says in some cases.

Pandit Govind Ballabh Pant : For that, you have a clause in the Act as to the operative part of this entire convention. What is prohibited is that from the date of its coming into force, it shall no longer be lawful to adopt a trade mark in contravention of these rules. That applies as much to the Red Cross as to the White Cross and the emblem, but the operative part of this Convention is limited to the prohibition of a trade mark in contravention of these rules. If you take the whole of it, the meaning is clear enough and there is no room for any ambiguity. We do not want to depart from this Convention but we do not want to enlarge its scope, and it looks somewhat preposterous, if not ridiculous, that while the Red Cross itself is not altogether barred out, the use of the emblem or its imitation should be absolutely forbidden, that the use of the emblem should not be allowed for any purpose whatsoever. On the face of it, it is very illogical and incongruous. So I hope that the Defence Secretary will accept my amendment as it fully carries out the Convention. I do not want to interfere with the Convention and if he reads the whole of the Convention, it will be perfectly clear that the Convention does not require us to do more than this—namely, that a trade mark in contravention of these rules will be regarded as unlawful after the date of the coming into force of any law on the subject framed with a view to carry out the purpose of the Convention.

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

“ That in clause 2 of the Bill, the words ‘ or for any other purpose whatsoever ’ be omitted.”

Mr. G. R. F. Tottenham : I regret that I am unable to agree with the Honourable Member in his interpretation of part (a) of Article 23. I cannot possibly agree that the words ‘ for commercial or any other purpose ’ means ‘ any other similar purpose ’. If they had meant that, they would obviously have put it down, and I am fortified in that opinion by the actual wording of the existing Geneva Convention Act of 1911 which, as I explained before, is simply being extended by the Geneva Convention of 1929, and which prohibits the use of the emblem of the Red Cross without authority. It reads exactly as in the wording of our Bill today :

“ As from the commencement of this Act, it shall not be lawful for any person to use for the purpose of his trade or business or for any other purpose whatsoever, without the authority of the Army Council,”

and so on.

What we are doing now is simply to extend the prohibition to imitations of the Red Cross. I do not think therefore that we should be implementing the provisions of this Convention if we were to agree to the omission of those words in clause 2. I am perfectly prepared to agree to the omission of the same words in clause 3, because I think a careful reading of part (b) of the article does make clear that the prohibition was intended only to refer to trade marks, and not to other purposes, but I am quite sure myself that part (a) was intended to create a prohibition, not only against trade marks, but also other marks used for any other purposes. Obviously that is so, because if it were not so, it would be possible for some society with philanthropic objects of a different nature to arrogate to itself a mark or emblem in imitation of the Red Cross ; and that is exactly what this Convention was intended to prevent. I, therefore, regret that I am unable to accept this particular amendment.

Mr. M. Ananthasayanam Ayyangar : Sir, my Honourable friend, the Honourable the Mover, is anxious to implement the Geneva Convention. We agree, for the reason that India was a party to the Geneva Convention that we ought to implement it without altering it by either a comma or a dash, but the only difficulty is with regard to the interpretation. Firstly, I would ask my friend to consider whether he is right to interpret the Geneva Convention, which came into existence in 1929, by the language of the statute of 1911. What follows ought not to be interpreted by what has preceded it ; this Convention has nothing to do with the English Act. Secondly, with regard to the Convention as it stands, if we look at the operative portion, it is absolutely clear that the operative portion gives us a definite clue as to the intention of the Convention with regard to restricting it to the trade mark. I would therefore say, with respect, that it only applies to the purposes of the trade marks and to no other purposes. Thirdly, so far as imitation is concerned, there is absolutely no reason to go into the Act of 1911 which does not provide for legislation prohibiting imitation. We are absolutely free to legislate, so far as the preventing of imitation is concerned, as it is not covered by the Convention. If we go back to the Act of 1911, even then it is open to the Army Secretary to give permission for the use of the Red Cross, the symbol itself, and therefore, if, to make use of an imitation is absolutely improper or prohibited absolutely by this Bill, then it will not be open to

the Army Secretary to give the permission. Under these circumstances, I submit the Honourable the Mover is not right in his interpretation that the Act of 1911 can be any guide to us so far as this Convention is concerned. Sir, I support the amendment.

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

“ That in clause 2 of the Bill, the words ‘ or for any other purpose whatsoever ’ be omitted.”

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 2 of the Bill, for the words ‘ an imitation ’ the words ‘ a colourable imitation ’ be substituted.”

My only object is to see that as the term “ imitation ” is indefinite, the imitation punishable under the Bill must be such as to deceive a person into an impression that it is the original. It is for that reason that the word “ colourable ” is introduced.

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

“ That in clause 2 of the Bill, for the words ‘ an imitation ’ the words ‘ a colourable imitation ’ be substituted.”

Mr. G. R. F. Tottenham : Sir, I am quite prepared to accept this amendment.

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

“ That in clause 2 of the Bill, for the words ‘ an imitation ’ the words ‘ a colourable imitation ’ be substituted.”

The motion was adopted.

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

“ That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

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

“ That clause 3 stand part of the Bill.”

Pandit Govind Ballabh Pant : Sir, I move :

“ That in clause 3 of the Bill, the words ‘ or for any other purpose whatsoever ’ be omitted.”

I understand my friend, the Honourable the Defence Secretary, is prepared to accept it. I move.

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

“ That in clause 3 of the Bill, the words ‘ or for any other purpose whatsoever ’ be omitted.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 3 of the Bill, for the words ‘ an imitation ’ the words ‘ a colourable imitation ’ be substituted.”

The same reasons apply to this amendment as those applying to the same matter in the case of the previous clause.

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

“ That in clause 3 of the Bill, for the words ‘ an imitation ’ the words ‘ a colourable imitation ’ be substituted.”

The motion was adopted.

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

“ That clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

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

“ That clause 4 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 4 of the Bill, for the words ‘ one hundred ’ the word ‘ fifty ’ be substituted.”

Sir, it is only a case of reduction of penalty. I move.

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

“ That in clause 4 of the Bill, for the words ‘ one hundred ’ the word ‘ fifty ’ be substituted.”

Mr. G. R. F. Tottenham : Sir, the reason why we put Rs. 100 in this section was because the English Act at present contains a penalty of £10, and we generally convert £10 into Rs. 100. Although I do think that it is somewhat unreasonable to make a petty amendment of this kind, on the other hand my whole attitude about this Bill is that it will probably be a dead letter and will never be used, because no person or society is at present making, or will in the future be likely to make, unauthorised use of this emblem. That being so, I cannot very well object to my Honourable friend's amendment.

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

“ That in clause 4 of the Bill, for the words ‘ one hundred ’ the word ‘ fifty ’ be substituted.”

The motion was adopted.

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

“ That clause 4, as amended, stand part of the Bill.”

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5 was added to the Bill.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That after clause 5 of the Bill, the following new clause be inserted :

‘ 6. Nothing in the foregoing sections shall affect the right of any person to continue to use for a period of two years from the commencement of this Act any sign or emblem which it was not unlawful for him to use at the commencement of this Act ’.”

Sir, I only want that for a period of two years after the coming into existence of this Act a prosecution ought not to be launched. Some time must be given for these persons using these marks to cease to do so and take up some other mark. A similar provision is made in the English Act of 1911 and I therefore hope that the Defence Secretary will kindly accept this amendment.

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

“ That after clause 5 of the Bill, the following new clause be inserted :

‘ 6. Nothing in the foregoing sections shall affect the right of any person to continue to use for a period of two years from the commencement of this Act any sign or emblem which it was not unlawful for him to use at the commencement of this Act ’.”

Mr. G. B. F. Tottenham : Sir, I am prepared to accept this amendment. Strictly speaking, I think the correct drafting would be :

“ nothing in section 2 or section 3 ”,

because there is no other part of the Bill that can possibly affect this right ; it is only section 2 or section 3 that could possibly do so. However, I imagine there is no legal objection to saying “ nothing in this Act ”.

I am prepared to accept the amendment.

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

“ That after clause 5 of the Bill, the following new clause be inserted :

‘ 6. Nothing in the foregoing sections shall affect the right of any person to continue to use for a period of two years from the commencement of this Act any sign or emblem which it was not unlawful for him to use at the commencement of this Act ’.”

The motion was adopted.

New clause 6 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. G. B. F. Tottenham : Sir, I move :

“ That the Bill, as amended, be passed. ”

The motion was adopted.

THE INDIAN RUBBER CONTROL BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : Sir, I beg to move :

“ That the Bill to amend the Indian Rubber Control Act, 1934, for certain purposes, be taken into consideration. ”

As Honourable Members are aware, the export, production and stocking of rubber is at present regulated by an Inter-Governmental Agreement. The Indian Rubber Control Act of 1934 was passed in order to implement that Agreement. It has not yet been brought into force because

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the by-laws and rules to be framed under it were not ready. It has in the meantime been discovered that, though that Act makes provision for the Governor General in Council to fix quotas for India and Burma on a yearly basis, the International Rubber Control Committee often fixes quotas on a six monthly and sometimes even on a three monthly basis. It has, therefore, become necessary to amend that part of the Act and to bring it into conformity with the practice of the International Committee. Advantage has also been taken of this opportunity to amend certain definitions in the Act, which do not affect the actual operation of the Act to any very large degree, in order to bring those definitions into conformity with the Inter-Governmental Agreement. The Bill is a purely formal Bill and I do not think the House will need to spend too much time in considering it. Sir, I move.

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

"That the Bill to amend the Indian Rubber Control Act, 1934, for certain purposes, be taken into consideration."

Mr. Ghansham Singh Gupta (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, we have not heard from the Honourable the Mover of this Bill as to why this Act which was passed in the year 1934 remained in abeyance for such a long period. One reason given was that owing to certain difficulties some time was taken in framing the rules and regulations. If that time was taken, what was the effect on the general agreement of India with other countries so far as the export of rubber was concerned during this period between the year 1934 and 1936 ? We expected that some light would be thrown on this important matter as to how we fared during this interval when the Act itself was kept in abeyance. Now, the other important matter on which light was necessary was about the fixation of quota. During the debate in the year 1934 it was pointed out that the quota fixed for India at that time was not fair and it was then pointed out that the unfairness resulted for two reasons. One reason given was that the total acreage of rubber cultivation was not properly assessed in the case of India. It was very much under-valued for several reasons. One of the reasons given was that the condition in Malabar, which is one of the chief rubber producing tracts, is that it contains certain absolute owners, who are known as Jammies. They own an extensive area in the forest land in which rubber is produced by them. Their acreage has not been properly assessed. Not only that, but the area of other places also has not been properly assessed. In that discussion it was admitted by Sir Girja Shankar Bajpai that that was a fact. Particularly, in the case of Travancore, it was admitted that the area was very much under-estimated. The other point was that if we take the export basis before the slump of 1929 as the criterion, then in the case of India, the quota fixed on that basis also was very much unfair. It was at that time pointed out that the quota for the other countries was very much higher proportionately than in the case of India. I shall read to the House a portion from it.

"In the year 1929, India exported 6,850 tons and the quota for India is the same. Siam in the year 1929 exported 6,100 tons but the quota for Siam is 15,000 tons."

"That means about three times the export of 1929."

"Borneo exported 7,400 tons and the quota was fixed at 12,000 tons."

That is nearly the double. So, in the case of other countries also the quota fixed as compared with the export of 1929 was double or three times. There is no reason mentioned as to what is the quota which is going to be fixed in the case of India as compared with the export of 1929. In fact, beyond saying that this is a very formal and a very minor Bill, absolutely no light has been thrown on the state of affairs of this important industry in India and as to what the Government is going to do. What is the agreement with the Government with respect to other countries and how India is going to fair in the fixation of its quota, have not at all been pointed out by the Honourable the Mover of this Bill. We expected that some light should have been thrown on these matters. We also expected that we should have known whether there shall be proper assessment of acreage and proper assessment on the export. There are certain minor amendments that have also been moved in the definition of the Act. We have not also been informed as to what is really the effect of those amendments, whether it comes to this that formerly the rubber that was imported and re-exported and which was intended to be deducted from the Act, will now, by the change of the definition, be barred. In fact, all these are points which require elucidation before the consent of the House is asked for this Bill.

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : Sir, in connection with this Bill I would like to draw the attention of the House to the producers' agreement which was signed on the 28th April, 1934, and on the basis of that agreement the Inter-Governmental Agreement was signed on the 7th May, 1934. This agreement was to remain in force for nearly five years beginning from the 1st June, 1934, and lasting till the 31st December, 1938. Now, three years have already elapsed because it is stated in the Statement of Objects and Reasons of the Bill that this Act will come into force from the 1st January, 1937. So, this House is certainly entitled to know, when an Act was passed in August, 1934 and which could not be given effect to because the Government was not able to frame the rules during the last two years, what was the state of the rubber trade during the last three years. What were the prices ? What was the amount produced in the various countries which were party to this agreement ? What was the amount of rubber exported during these three years, because under this agreement certain quotas are provided for India and Burma. According to this agreement in 1934, India was to have exported 6,850 tons and Burma, 5,150 tons ; in 1935 India could have exported 8,250 tons and Burma, 6,750 tons ; and in 1936 India could have exported 9,000 tons and Burma 8,000 tons. So, this House is certainly entitled to know what has been the total amount of export of rubber during these three years and then and then alone we can decide as to whether this House will be justified in passing this Bill or not. Then, there is the question of minor alterations in the definitions.

Mr. President (The Honourable Sir Abdur Rahim) : Has any amendment been tabled ?

Mr. Mohan Lal Saksena : No amendments have been tabled, but we can oppose the Bill. There are already amendments in the Bill.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member refers to the amendments contained in the Bill.

Mr. Mohan Lal Saksena : In this Governmental agreement, "net exports" means the difference between the total imports of rubber into a territory during a period and the total exports of rubber out of that territory during the same period provided that notwithstanding the meaning attached to 'rubber' elsewhere, in this agreement imports or re-exports of articles and things manufactured wholly or partly of rubber and rubber consumed in the country of production shall not be included in arriving at net exports".

So the Act of 1934 was presumably based on this clause (g) of the inter-Governmental agreement. I have not been able to follow why Government have felt it incumbent to modify the definition in clauses (c) and (d) where they are making changes so as to include articles that are manufactured of rubber or that contain rubber whether imported or produced in India. I would like to know as to what will be the effect of this amendment on the total export of rubber from India. Up till now, under the Act it is only rubber that is included. Now manufactured articles also will be included and so what will be the effect of this amendment on the total amount of quota. These are the points on which I should like the Honourable Member to inform the House before we can agree to consider this Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, the first question raised is that if the Act of 1934 has not yet been brought into force, then what is the position of this inter-Governmental agreement which restricts the production, export and stocking of rubber. Is it left uncontrolled, or in what manner is the control effected? Now, I imagined that Honourable Members would have been aware that during the interval the control has been exercised by Notifications issued by the Governor General under section 19 of the Sea Customs Act. The particular notifications are Nos. 36, 37 and 38 of 26th May, 1934. For instance, notification No. 38 says :

"In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878, the Governor-General in Council is pleased with effect from the 1st June, 1934, to prohibit the export by sea or by land from British India of the leaves, flowers, seeds, buds, twigs, branches, roots, or any living portion of the rubber plant that may be used to propagate it",

and then follows the definition of rubber plant.

Mr. Ghansham Singh Gupta : How was the cultivation controlled? Was that not controlled? This is only about exports.

The Honourable Sir Muhammad Zafrullah Khan : Notification No. 36 provides as follows :

"In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878, the Governor-General in Council is pleased with effect from the 1st June, 1934, to restrict the taking of rubber by sea to any place outside India or by land to the French and Portuguese settlements bounded by India to consignments covered by certificates of origin and export licence issued by the authority and in the manner prescribed by the Governor-General in Council."

Then, the definition of rubber and rubber plant is given. In pursuance of these notifications and in amplification of them, two notifications were issued on the same date, Nos. 39 and 40 which set out the machinery for control. I do not think I need read them unless Honourable Members wish me to do so. If Honourable Members want detailed information, they would find it in these notifications, I assumed that as this control

had continued for over two years and as this was the machinery by which this control was introduced and exercised, it was not necessary for me to give the history of this control. As a matter of fact why I described this particular Bill as a purely formal Bill was that the matter was being placed on a statutory basis rather than on the basis of administration by notification. If Honourable Members want detailed information out of these notifications, I am prepared to read out those details.

Mr. Ghansham Singh Gupta : Was there any control on cultivation ?

The Honourable Sir Muhammad Zafrullah Khan : Notifications Nos. 36, 37 and 38 that I have read out to Honourable Members deal with exports and imports.

Mr. Ghansham Singh Gupta : They are under the Sea Customs Act.

The Honourable Sir Muhammad Zafrullah Khan : Nos. 36, 37 and 38 are under the Sea Customs Act. Notifications Nos. 39 and 40 deal with the details of administration of the control scheme fixing quotas for British India as well as for Burma.

Mr. Ghansham Singh Gupta : My question remains unanswered. My question was whether there was any control on cultivation of rubber or not and if there was no control exercised on the cultivation of rubber, how was it done ? Under what rules and under what notifications or was it purely a *jo hukum* ?

The Honourable Sir Muhammad Zafrullah Khan : I can give the details of the scheme to the Honourable Member, as he has raised the question just now, when we reassemble after lunch.

Mr. Ghansham Singh Gupta : Then this may stand over till after lunch.

The Honourable Sir Muhammad Zafrullah Khan : If detailed information with regard to control of plantation is asked for, I will give it to Honourable Members. I was explaining, the question of quotas is not a question that was settled by the Act of 1934 for the first time. The quotas both for Burma and India have been settled right up to 1938, the year up to which control extends and these are set out in detail in these notifications. With regard to India, the basic figure for 1934 was taken as 6,850 tons. Inasmuch as the control was introduced only for seven months out of twelve for the year, the quota fixed for these seven months was 7 $\frac{1}{2}$ of 6,850. The quota for 1935 was 8,250 tons ; for 1936, it was 9,000 tons and for 1937 also it is 9,000 tons and for 1938, it will be 9,250 tons. In the case of Burma, the quota fixed for the seven months June to December, 1934, was 7 $\frac{1}{2}$ th of 5,150 tons, for 1935, 6,750 tons, for 1936, 8,000 tons, for 1937, 9,000 tons and for 1938, 9,250 tons. So that the scheme of control was brought into effect in June 1934 by means of these notifications. It is not that because the Act which was passed in 1934 was not brought into force this matter was not regulated at all. The object of the Act of 1934 was to place the matter on a statutory basis, and before the Act could be brought into force, as I have said, it was discovered that in some respects that Act had departed from the scheme of inter-Governmental control which had been brought about by agreement ; in those respects the Act of 1934 is being amended by this Bill, and as soon as the amendments have been carried through, the Act will be brought

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into operation from 1st May, 1937. Even if this Bill had not been introduced and the matter were not placed on a statutory basis, the control that is being exercised and the quotas that have been fixed could be enforced and would continue to be enforced under the notifications. It is for that reason that I submitted to the House,—not because I wanted to get this through the backdoor by describing it as a formal measure,—that this was a formal measure. Certain flaws were discovered in the Act of 1934 and therefore this amending Bill has been brought in.

Mr. Ghanshiam Singh Gupta : Another question is whether in respect of fixing of quotas we have fared better than before or we have fared worse and how, since the time it was fixed by statute in the first year.

The Honourable Sir Muhammad Zafrullah Khan : I gave the figures while the Honourable Member was conferring with another Honourable Member, Mr. James. I said the figures for 1934 were 7 $\frac{1}{12}$ ths of 6,850 tons for India and 7 $\frac{1}{12}$ ths of 5,150 tons for Burma. The control was introduced from the beginning of June 1934. At that time there were only seven months left out of the year for which quotas were to be fixed. So the quotas fixed were 7 $\frac{1}{12}$ ths of 6,850 and 5,150 respectively for India and Burma. Since then there has been an increase both in the case of India and in the case of Burma. In the case of India the figures for 1935, 1936, 1937 and 1938 are 8,250 tons, 9,000 tons, 9,000 tons and 9,250 tons. In the case of Burma the figures are for 1935, 6,750 tons, for 1936, 8,000 tons, for 1937, 9,000 tons and for 1938, 9,250 tons.

Mr. Ghanshiam Singh Gupta : Is the Honourable Member satisfied that they are fair in the circumstances ?

The Honourable Sir Muhammad Zafrullah Khan : When these figures were first suggested the matter was gone into, and Government were satisfied before they agreed to the control scheme that they were fair. In any case, the submission I was going to make was that whether this Bill is adopted as it is put before the House or not, it does not affect the actual quotas. That has already been agreed to by the inter-governmental agreement and that quota will continue to be enforced whether the House agrees to the amendments proposed in the Bill or whether it does not.

Mr. Mohan Lal Saksena : What about the other points ?

The Honourable Sir Muhammad Zafrullah Khan : With regard to the amendment of the definitions one Honourable Member wanted to know what the exact effect of the amendments will be. The first amendment is that the definition of " factory " which is contained in section 2 (c) of the Act of 1934 is going to be altered from " any premises for the manufacture of articles containing rubber from rubber produced in India " to " any premises for the manufacture of articles containing rubber ". The restriction in the present Act that a factory means premises for the manufacture of articles containing rubber " from rubber produced in India " is being removed.

The effect of the next two amendments will be this. The present clause (d) reads as follows :

" Net exports ' of rubber means the difference between the total exports of rubber excluding imported rubber re-exported in manufactured articles containing rubber and the total imports of rubber excluding rubber in manufactured articles containing rubber."

Now, the difference with regard to the first part will be this. The figure of exports would be determined under the Act of 1934 by subtracting from it the quantity of imported rubber which was being re-exported in the shape of manufactured articles containing rubber. That the Honourable Member said must have been in accordance with the inter-governmental agreement. I am afraid it was not and this was pointed out by the International Rubber Control Committee. The definition is now being brought into accord with the inter-governmental agreement by providing that the exclusion shall be confined to rubber contained in imported manufactured articles which are re-exported. On the other hand the total imports of rubber would be determined under the Act of 1934 by the figure of total imports minus rubber contained in imported manufactured articles containing rubber. This is being changed into "excluding rubber contained in imported manufactured articles whether they are re-exported or not". The definitions will now be brought into accord with the inter-governmental agreement.

Mr. Mohan Lal Saksena : My point was this that in the inter-governmental agreement and the producers' agreement it has been defined like this :

" 'Net export' means the difference between the total imports of rubber into a Territory during a period and the total exports of rubber out of that Territory during the same period, provided that notwithstanding the meaning attached to 'rubber' elsewhere in this agreement, imports or re-exports of articles and things manufactured wholly or partly of rubber and rubber consumed in the country of production shall not be included in arriving at net exports."

Mr. President (The Honourable Sir Abdur Rahim) : I think we may adjourn now.

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

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

The Honourable Sir Muhammad Zafrullah Khan : Sir, I was trying to explain that in one respect one of the present amendments will make a difference to the determination of the amount of net exports of rubber. The Act of 1934 in determining the net exports of rubber gave an allowance in respect of articles manufactured from imported rubber. The present Bill restricts that allowance to manufactured articles imported and re-exported : so that to that extent the allowance is being restricted. Honourable Members wanted to know to what extent that would make a difference to the quota itself. I have tried to get the figures but I am afraid no separate figures are available, though I am assured that the quantity would be extremely small in any case ; and the change is being made not because the Government of India for any reason think that there ought to be this restriction, but because the International Rubber Control Committee have pointed out that the allowance which we had made admissible in respect of articles manufactured out of imported rubber and exported out of India was not in accordance with the terms of the agreement that India had signed nor in accordance with the interpretation placed upon those terms by the other countries that were parties to the agreement. It is therefore to implement the spirit of the agreement in that respect that this change is being introduced.

[Sir Muhammad Zafrullah Khan.]

Another matter on which Mr. Gupta wanted details of the scheme was by what machinery the production of rubber and further planting of rubber trees was being controlled. As I submitted, before the House adjourned for lunch, the only control that had been brought in by the Government of India was by means of the notifications to which I made reference—36, 37 and 38 under section 19 of the Sea Customs Act, and 39 and 40 issued by the Finance Department—laying down the detailed control in these matters....

Mr. Ghansham Singh Gupta : Indirect control.

The Honourable Sir Muhammad Zafrullah Khan : As the Honourable Member has sought to point out it is indirect control. So far as Government are concerned, the control is exercised by the apportionment of quotas to different estates on the basis of previous averages and so on : that is one form of control : a certain export quota having been allotted to each particular estate on a certain basis....

Mr. Ghansham Singh Gupta : Under what section ?

The Honourable Sir Muhammad Zafrullah Khan : Under these notifications enforcing the scheme of restriction. It is for the Indian Rubber Licensing Committee and the Burma Rubber Licensing Committee to see that the scheme is actually enforced. Now, the whole basis of the scheme is that before it was accepted by the Government and signed on behalf of India and Burma, it was ascertained that the different interests concerned were willing to submit themselves to this restriction. The result is that the Indian Rubber Licensing Committee with regard to India and the Burma Rubber Licensing Committee with regard to Burma, in administering these quotas call for returns and see that there is no expansion of the area under rubber in contravention of the percentages laid down in the agreement. To that extent the restriction of plantation is really voluntary. It has a sort of sanction behind it in the sense that the Committee, I imagine, would either restrict or cancel the quota of an estate that would not come into line on this matter. But as the Honourable Member has pointed out it is more or less voluntary. It is not on any statutory basis ; nor is there any notification of Government so far as I have been able to discover, directly enforcing the restriction of plantation. It is done by the two committees in the two countries....

Mr. Mohan Lal Saksena : May I know how these two committees, the Indian Rubber Licensing Committee and the Burma Rubber Licensing Committee have been constituted ?

The Honourable Sir Muhammad Zafrullah Khan : Under those notifications—Nos. 39 and 40 that I have mentioned....

Mr. Mohan Lal Saksena : What is their constitution ? What are the names and interests represented on these committees ?

The Honourable Sir Muhammad Zafrullah Khan : I would not be able to give the names of the members. I can read out the relevant portions of the notifications : this is from No. 39 of the 26th May, 1934—Finance Department, Central Revenues :

“ The licensing authority for India excluding Burma shall be a committee to be called the Indian Rubber Licensing Committee, hereinafter referred to as the Committee, representative of the rubber growing industry, and consisting of five members,

of whom two shall be nominated by the Government of Travancore, and one each by the Governments of Madras, Cochin Durbar and the United Planters' Association of Southern India. The Committee shall elect a chairman and may appoint such special committees and executive officers as may be necessary for the efficient performance of the duties entrusted to it. It shall maintain....."

Mr. Mohan Lal Saksena : May I know under what Act this notification was issued ?

The Honourable Sir Muhammad Zafrullah Khan : It was not issued under any particular enactment : it was issued under the general powers of the Finance Department, Central Revenues.....

Mr. Mohan Lal Saksena : But those powers must have been derived under some statute and some definite section. I want to know under what powers the Finance Department issued those notifications.

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I cannot give any section to the Honourable Member. As I have explained this is how the control is being carried out.....

Mr. Ghanshiam Singh Gupta : Does the Honourable Member consider this notification to be legal ?

The Honourable Sir Muhammad Zafrullah Khan : Certainly, but whether legal or not, as I have explained, the scheme was to begin with a voluntary scheme agreed to by the different interests, and so in administering it,— the powers that this committee exercises with regard to cancellation of quotas and so on is based on a voluntary system.....

Mr. Ghanshiam Singh Gupta : What was the hitch in bringing this Act into operation ?

The Honourable Sir Muhammad Zafrullah Khan : As I have said, all these rules and regulations and bye-laws take some time in settling : they have now been settled ; but in the meantime these defects were discovered in the Act, and after these amendments have been carried into effect, these rules and bye-laws will be brought into force.....

Mr. Ghanshiam Singh Gupta : When these notifications could be issued, on those lines, why cannot these amendments also be done likewise ?

The Honourable Sir Muhammad Zafrullah Khan : There is a great deal that the notifications leave out, and there are a good many things for which legal authority is necessary. If the Honourable Member is trying to strengthen the point that a good deal that has been done without statutory authority, the statement is perfectly true. But there is nothing to prevent certain interests concerned in a particular industry to come together and continue to administer a scheme voluntarily, though all the rules and regulations may not be there, so long as there is no portion of the industry that desires to break away from it.....

Mr. Mohan Lal Saksena : My grievance is this : so long as these institutions or associations do the thing voluntarily that is different : but when the Finance Department issues a notification, it must issue it under some definite statute or definite powers.

The Honourable Sir Muhammad Zafrullah Khan : The authority is to carry into effect the objects of the notifications of the Governor

[Sir Muhammad Zafrullah Khan.]

General under section 19 of the Sea Customs Act to restrict by quotas and allotment of quotas the export of rubber from India. The other things are consequential.

Mr. Ghanshiam Singh Gupta : Is the Honourable Member satisfied that the voluntary system is working all right ?

The Honourable Sir Muhammad Zafrullah Khan : A similar question was put to me before lunch with regard quotas. Now, the whole scheme before it was agreed to by the Government of India including quotas for export of rubber from India and Burma was before the industry and it was not till the industry had agreed and signified its acceptance of its scheme that the Government of India accepted it on their behalf. In the meantime, this scheme has been administered within the limits of the inter-Governmental agreement, but as Honourable Members have themselves pointed out, for a good many things there is no statutory authority available, and consequently, instead of merely trusting to the good sense of all sections of this industry that they would continue voluntarily to enforce and carry out the scheme, Government are placing it on a basis which would be beyond doubt and therefore this Bill has been placed before the House.

Mr. Mohan Lal Saksena : Is it not a fact that the inter-Governmental agreement as such does not give any power to any Government, but as a matter of fact, it requires the various Governments to enact legislation ?

The Honourable Sir Muhammad Zafrullah Khan : Naturally, an agreement cannot legislate for any of the territories of the Governments that become parties to it. The legal authority to whatever extent it does extend is to be found in the three notifications under the Sea Customs Act, plus the two notifications issued by the Finance Department in pursuance of these notifications. That is all the authority that at present exists. The scheme was put into operation and it was expected that statutory authority would soon be available, and it did become available. But certain defects have in the meantime been discovered which are being set right by this amending Bill. With regard to the quotas, I may add that it was the industry itself that accepted a quota of 12,000 tons for India and Burma for 1934, 15,000 tons for 1935, 17,000 tons for 1936, 18,000 tons for 1937, and 18,500 tons for 1938, divided between Burma and India in certain proportions, with Burma having less than 50 per cent. to start with, but working up to 50 per cent. in 1937.

Mr. Ghanshiam Singh Gupta : What does the Honourable Member mean by saying that the industry itself accepted it ? Were the smaller owners of Malabar consulted in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : I cannot say whether each owner was consulted.

Mr. F. E. James (Madras : European) : Yes.

The Honourable Sir Muhammad Zafrullah Khan : There was a referendum sent out ?

Mr. F. E. James : Yes.

Mr. Ghanshiam Singh Gupta : To the small owners of Malabar ?

Mr. F. E. James : Yes.

The Honourable Sir Muhammad Zafrullah Khan : And the scheme went through. With regard to quotas a question was asked whether India has obtained its full share. The papers show that India was content with the share that was obtained for it, and the sub-division between India and Burma was also brought about by agreement. During the course of the debates on the Indian Rubber Control Act, 1934, some Members raised the question that Burma was being more favourably treated than India but a full explanation was furnished as to why the quota for Burma should rise from less than 50 per cent. in 1934 to 50 per cent. in 1937. It was explained that the difference was based on young plantations attaining their full yield during the course of those years. However, that is more or less a technical matter. Now, Sir, I have endeavoured to give such information as I have with regard to the history of this matter because Honourable Members wanted that information but I will again repeat that, so far as the scope of this present Bill is concerned, it is merely supplementary to the Act of 1934. The main amendment that it seeks to carry into effect is that the power of the Governor General which was so expressed in the Act of 1934 as to be exercisable after 1934 only in relation to a complete year, shall now be exercisable for any period of time. It was discovered that the International Committee often fixed quotas for six months and for even less than six months, and the advice that we received was that section 13 of the Act was so expressed that the Governor General could fix a quota only for one whole year after 1934. For the broken period of 1934 quotas were fixed by the Act itself. That is the main amendment, and as it was also pointed out by the International Rubber Control Committee that the method of determining net exports was not in accord with the terms of the agreement, advantage is being taken of this opportunity to set that right. Once that is done, one or two consequential amendments become necessary, for instance, the distinction between factories manufacturing articles from rubber produced in India and from imported rubber ceases to have any significance as the result of that amendment. Consequently, the definition of a factory is being amended so as to include all factories which manufacture articles from rubber whether from rubber produced in India or from rubber imported from outside. Sir, I move.

Mr. Mohan Lal Saksena : Why don't you adopt the definition of net exports as given in the inter-Governmental agreement ?

The Honourable Sir Muhammad Zafrullah Khan : The definition we are now adopting is in exact accord with the terms of the inter-Governmental agreement.

Mr. Mohan Lal Saksena : For the last half an hour myself and Mr. Ayyangar were trying to understand the language and we were not able to follow it, and I do not know whether you have been able to explain it to the House because I was not here when you dealt with it.

The Honourable Sir Muhammad Zafrullah Khan : May I repeat what I said ?

An Honourable Member : No, no.

Mr. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : As regards definition.....

The Honourable Sir Muhammad Zafrullah Khan : I said that the definition, as adopted in the Act of 1934, which the International Rubber Committee have pointed out, is not in accord with the definition accepted in the agreement, in determining net exports, makes an allowance for articles manufactured in India from imported rubber or containing imported rubber and then re-exported. This is being restricted to an allowance only in respect of manufactured articles containing rubber imported into India and then re-exported. I said that it would make a difference, that is to say, it would restrict the allowance permissible under the Act of 1934 in determining the net figures of rubber exported but that I understood that in practice the difference would be very slight.

Mr. Mohan Lal Saksena : Another thing is, may I know the names of persons who have represented India on the International Rubber Control Committee ?

The Honourable Sir Muhammad Zafrullah Khan : I could give them to the Honourable Member, I have got all the papers here, but it would require a certain amount of search.

Mr. Mohan Lal Saksena : May I know from Mr. James ?

Mr. F. E. James : The International Committee is an International Governmental Committee and members of that Committee are all representatives of the respective Governments. India's representative is the High Commissioner.

The Honourable Sir Muhammad Zafrullah Khan : I understood the Honourable Member to mean that he wanted to know the names of the five members of the Committee and so I said I would have to go through the papers.

Mr. M. Ananthasayanam Ayyangar : As regards the definition in the agreement, of " net exports ", the amount of rubber consumed in the country of production shall not be included in arriving at the figure. Does it mean, exported from one port and then re-imported into the same territory by another port ?

The Honourable Sir Muhammad Zafrullah Khan : In all the countries that are participants in this scheme, any quantity of rubber, consumed within any of those countries, whether it is a question of coastal export or re-export or not, is not taken into account in determining the amount of net exports for the purpose of the agreement, and the same is the case with India. Unless rubber is being exported to some country beyond India and Burma it is not taken into account for the purpose of the quota which is allotted to India and Burma.

Mr. M. Ananthasayanam Ayyangar : May I draw the attention of the Honourable Member to the fact that that provision is not made in the definition of the Act ?

The Honourable Sir Muhammad Zafrullah Khan : It is immaterial because the definition that we have adopted does not take into account rubber that may be consumed in the country itself.

Mr. M. Ananthasayanam Ayyangar : What about the rubber imported into India ?

The Honourable Sir Muhammad Zafrullah Khan : That is being allowed in the definition. Net exports mean exports minus imports. That is already in the original Act which is not being touched. It is being amended to a very slight extent but allowance in respect of imports is already there. Obviously net exports mean exports minus imports. Then with regard to exports, there is a certain amount of allowance, also in determining the total amount of imports. Once the amount of total exports minus the allowance and the amount of total imports minus the allowance has been determined, then one figure is subtracted from the other and the net exports are arrived at.

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

“ That the Bill to amend the Indian Rubber Control Act, 1934, for certain purposes, be taken into consideration.”

The motion was adopted.

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

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

Mr. Mohan Lal Saksena : Before the Bill is passed, I want to lodge a protest on behalf of the House against the manner in which the Government has acted in regard to the Rubber Control Act of 1934. Immediately after the inter-Governmental Act had been passed in May, the Government took the earliest steps to put a Bill before the Legislative Assembly and it was passed, I think, in one sitting. That Act has been there for the last two years. The Government has been exercising control under notifications, the authority and the legality of which even the Honourable Member in charge of the Bill could not vouch for. Sir, we are certainly entitled to know, if legislation was considered to be necessary and urgent in August, 1934, and had to be passed so hurriedly by the Legislative Assembly, how was it that the department or the Honourable Member in charge allowed this Act to remain in abeyance for two years. We know that under this Act we had certain provisions which were salutary for the promotion and the welfare of the rubber industry in this country. As a matter of fact, the Honourable Member has said that the all-India Rubber Control Licensing Committee and the Burma Licensing Committee have been appointed—under what powers the Honourable Member could not say. He said that it was the Finance Department which appointed these committees. My submission is that whatever department may be concerned, the manner in which they have acted is simply reprehensible. I hope that in future in regard to any other Acts steps would be taken to frame rules as soon as possible. As a matter of fact, this Act was to remain in force only for less than 5 years that is from the 1st of June, 1934, to the 31st December, 1938. Out of this we have got only two years left in which this Act will work. Therefore whatever advantage or whatever safeguards the legislation had provided for in its working during the last two years

[Mr. Mohan Lal Saksena.]

and a half have not been given effect to and I think at this stage it is desirable that on behalf of this House I may lodge a protest against the manner in which the Government has acted in giving effect to this particular Act.

The Honourable Sir Muhammad Zafrullah Khan : I will take only one minute to offer an explanation at least with regard to one part of the Honourable Member's speech. I regret the delay that has taken place in framing the rules and by-laws but I do not think it is correct to say that these notifications are entirely without authority and are not legal. The three notifications 36, 37 and 38 were issued under section 19 of the Sea Customs Act and there is full statutory authority for them. They lay down that no exports of rubber or rubber leaf, etc., or imports shall take place without a proper licence and in contravention of the restrictions that might be imposed by the Governor General in Council and the two notifications issued by the Finance Department, Nos. 39 and 40, merely provide the machinery for carrying into effect the objects of those notifications. Therefore the Honourable Member, however much he might have been justified in condemning the delay that has taken place in bringing the Act into force, is not justified in saying that the notifications were without authority. Machinery had to be set up for the carrying into effect of the restrictions which the Governor General in Council had imposed under the Sea Customs Act and Notifications Nos. 39 and 40 were, therefore, fully justified and authorised.

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

“ That the Bill be passed.”

The motion was adopted.

THE BANGALORE MARRIAGES VALIDATING BILL.

Sir Aubrey Metcalfe (Foreign Secretary) : Sir, I move :

“ That the Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore be taken into consideration.”

This is a very small, and, I hope, entirely non-contentious Bill which has been rendered necessary by circumstances which are to some extent explained in the Preamble to the Bill. In case some Honourable Members have not had the time to read this Bill, I shall briefly recapitulate those circumstances. In 1929, a missionary belonging to a religious sect known as the Plymouth Brethren was authorised by licence to solemnize marriages in the civil station of Bangalore between Native Christian subjects of the Mysore State. He was not authorized to solemnize any marriages between subjects of His Majesty. Unfortunately he did not pay quite sufficient attention to the terms of his licence and he actually solemnized some five marriages between parties either one or both of whom were Christian subjects of His Majesty. There was no question of any evil intention either on the part of the Minister or on the part of any of the parties. They all wished to get married and as far as they knew they were married. The position could have been remedied in the ordinary way, when the mistake was discovered, by their being remarried under proper authority but fortunately or unfortunately during the interval

that elapsed some of these unions were blessed with issue and it is in order to regularise the position of these unfortunate infants that I am now asking the House to pass this Bill into law. I feel quite sure that the House will view the situation of these unfortunate children with sympathy and I would ask them to pass this Bill and to place it on the Statute-book with the maximum of expedition and the minimum of discussion. Sir, I move.

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

“ That the Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore be taken into consideration.”

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, this is an excruciatingly amusing Bill and I should not like it to be passed into law without getting some of my own words also recorded along with it. When I first read the Bill, Sir, the old jingle came into my memory :

“ Needles and pins,
Needles and pins,
When a man marries,
His trouble begins.”

And I must confess, Sir, that I admire the grim humour of the Government also in bringing a marriage Bill immediately after that the Bill on rubber control that we have just put on the Statute-book. (Laughter.) Sir, before I say anything further, I should like to congratulate most heartily this missionary friend of mine, Mr. Walter James McDonald Redwood—who is I think, one of the very few individuals in the world whose name is enshrined for ever in the Statute-book and to whose name generations will turn with reverence, for he joined lovers together in marriage according to the laws of God, even against the laws of man. (Hear, hear.) But, what really interests me in this connection is this : have Government made sure from the victims of this gentleman's ministrations as to whether they want to continue in their wedlock, or not ? (Laughter) Sir, neither in the Statement of Objects and Reasons nor in the body of the Bill itself are we assured that my Honourable friend opposite had made sure from all these five pairs that they would like to continue where they are.

Sir Aubrey Metcalfe : Sir, on a point of information, I am able to give my Honourable friend a full assurance on that subject. (Laughter.)

Mr. Sri Prakasa : I am rather disappointed, because I almost thought that they might be in the position that many men find themselves after marriage when they would like to sing :

“ When I was single,
My pockets did jingle,
I wish I were single again ”

and take advantage of the situation to regard their marriages null and void.

However, Sir, the thing that greatly affects me is this. I have always been taught that ignorance of law was no excuse. Evidently, in the case of missionaries and High Courts ignorance of law can be an excuse. Sir, the other day, we validated some marriages, the validity of which was

[Mr. Sri Prakasa.]

doubted because the High Court of Allahabad exercised jurisdiction over them without any authority ; and now we have this wonderful missionary doing things against law and then coming to us for validation of his acts ! Surely, Sir, the Legislature cannot be used as a waste-paper basket for all these persons who fling to the four winds the laws of the land ! Sir, may we take it that the Government will follow this wholesome precedent and legalize some of our Congress bodies also that have been suffering from their ban for a very long time, and who are more deserving of our sympathy than these five happy couples ?

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : When were those banns published ?

Mr. Sri Prakasa : I think my friend, Sir Aubrey Metcalfe, who has taken an interest both in the marriage ceremony as well as, I take it, in the banns published before them, will be able to supply the Commerce Member with the necessary information on the subject. In any case there has been, I hope, no commerce about all this. I presume the marriages resulted from legitimate love affairs. (Laughter.)

Now, Sir, another thing troubles me and it is this. So far as the language of the Bill goes, it only legalizes the marriage. The question is : what about the children ? Is it not possible that this law may be interpreted to mean that, though the marriages were legalized, the results of their marriages have not been legalized ? My friend, Sir Aubrey Metcalfe, did try to make that point clear ; but the Bill does not, and we know what lawyers are. You may know, Sir, of a case where a judge sentenced a man to be hanged ; and as soon as the man was hanged, the lawyer who happened to be there asked the man to be taken down. He had not died. So the man was saved. Then judges started the slogan that " the prisoner be hanged by the neck till he is dead ". A lawyer may be found to interpret the law to mean that though the marriages were legal, the issue of the marriages born before this Bill is passed into law are not legal. I think therefore that it would be proper for the Honourable Member to do something to ensure that the children will not be condemned as illegitimate. You know, Sir, the sad case of Lord Sinha, for instance. His son cannot become a peer of England simply because there is some trouble about his marriage. The children of these marriages may come into trouble. It is quite possible that one of them may become a Lord and then he may not be allowed to sit in the House of Lords because of some difficulty about the marriage certificate. I think that point should be made clear in the Act itself, so that even if these parents suffer, the children may not suffer. Personally I believe with Bernard Shaw that parents may be illegitimate but their children can never be illegitimate. (Laughter.)

Mr. Ram Narayan Singh (Chota Nagpur Division : Non-Muham-
madan) : Sir, only the other day the Arya Samaj Validating Bill was under discussion in this House and there was a great deal of opposition from Mussalmans and Hindu Sanatanists. They suspected that if this Bill was enacted into law, it would be legalizing conversions from one community to another. At that very moment I was thinking within myself that such kinds of measures which concern one particular community must not be brought for the consideration of this Central Legislature, and such Central Legislature should be called upon to pass only

measures which affect anybody and everybody in this country, but here in this case, only five couples have married, and the Central Legislature of India has now been called upon to legislate and to validate these marriages. This is, Sir, obnoxious. Besides, there is one thing. As I have said, such marriages legalize conversions from one community to another and such conversions lead to inter-communal riots and differences. Besides every act of these Christian missionaries is nothing but an act done as an agent of the British Imperialism. It is therefore, Sir, that I strongly oppose this measure.

Several Honourable Members : The question may now be put.

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

“ That the Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore be taken into consideration.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Sir Aubrey Metcalfe : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore be passed.”

Mr. Ghanshiam Singh Gupta : Since the name of the Arya Marriage Validation Bill has been mentioned in connection with this Bill, which, to my mind, is not at all relevant to this case, I take this opportunity of giving my whole-hearted support to this Bill.

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

“ That the Bill be passed.”

The motion was adopted.

THE INDIAN TEA CONTROL (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : Sir, I beg to move :

“ That the Bill to amend the Indian Tea Control Act, 1933, for certain purposes, be taken into consideration.”

The Indian tea control scheme is in force in India and Burma and is regulated by the Indian Tea Control Act of 1933. The restriction scheme is to continue into operation for the present till the 31st March 1938. The Committee that administers this scheme functions for the whole of India including Burma. As Honourable Members are aware, Burma is to be separated from India with effect from the 1st March, 1937. It is, therefore, necessary to set up an authority in Burma for the administration of this scheme. This amending Bill has been introduced for the purpose of setting up such an authority in Burma. Notices have been received of 4 amendments to the Bill and each of these notices of motion is signed by

[Sir Muhammad Zafrullah Khan.]

the same five Honourable Members of this House. As three of them are absent, including the two Honourable Members from Burma, who are principally interested in this matter, and I am not aware whether the other two Honourable Members who have signed these amendments and are present in the House at the moment intend to move these motions, I propose to say nothing at this stage with regard to these motions. If during the course of the discussion on the motion for consideration—which I hope, having regard to the nature of the Bill, will not be very long—an indication is given as to which, if any, of these amendments are likely to be moved, I shall be able to explain the position of Government with regard to them when I reply to the debate.

Sir, I move.

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

“ That the Bill to amend the Indian Tea Control Act, 1933, for certain purposes, be taken into consideration.”

Prof. N. G. Ranga (Guntur cum Nellore : Non-Muhammadan Rural) : Sir, I wish to move all the four amendments that stand in my name. It would really facilitate the discussion if the Honourable the Commerce Member would be good enough to inform me whether he is prepared to accept any of these amendments.

The Honourable Sir Muhammad Zafrullah Khan : The first amendment is, I think, only fair ; it is almost necessary. I shall, therefore, accept it. The second is harmless and I shall therefore have not much hesitation in accepting it. The third is out of order ; it is *ultra vires* of this House. I shall, therefore, object to it. The fourth is entirely unreasonable and I shall, therefore, oppose it.

Prof. N. G. Ranga : Sir, I am glad the Honourable Member is prepared to accept the first two amendments. Therefore, I will confine myself to the consideration of the other two and also the general provisions of the Bill. Since this Act is to go on till the 31st March, 1938, and since it is quite permissible for the Burmese Government, which comes into existence after April, 1937, to adopt this Act so far as it relates to Burma for its own purposes, I really do not see why Government should be in such a great hurry to bring forward this particular Bill for consideration in this House. Sir, again and again at question time the point raised in the third amendment, that is, the Federated Shan States, has been raised and Government were asked to consider the advisability of extending this Act to those States also in order to enable the tea planters of those parts to take advantage of this tea control scheme but every time the same answer was given that it could not be extended and the tea planters could not be allowed to enjoy the benefits of this particular Bill.

The Honourable Sir Muhammad Zafrullah Khan : May I submit that that matter had better be taken up when the actual amendment is moved ?

Prof. N. G. Ranga : Therefore, I personally feel that if this amending Bill is passed now without being extended to the Federated Shan States, it will do them an immense amount of harm. So, I hope the House will insist upon this amendment being accepted by Government when the proper time comes for it, otherwise we will refuse to accept this Bill.

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

“ That the Bill to amend the Indian Tea Control Act, 1933, for certain purposes, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

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

“ That clause 3 stand part of the Bill.”

Prof. N. G. Ranga : Sir, I move :

“ That in sub-clause (b) of clause 3 of the Bill, the following be added at the end :

‘ and for the word ‘ Government ’ the words ‘ Governments of India and Burma respectively ’ shall be substituted ’.”

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

“ That in sub-clause (b) of clause 3 of the Bill, the following be added at the end :

‘ and for the word ‘ Government ’ the words ‘ Governments of India and Burma respectively ’ shall be substituted ’.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, as I said, I am prepared to accept this amendment and it is perhaps due to the House that I should explain what its effect is. Sub-clause (b) of clause 3 of this Bill says that in sub-section (2) of section 9 of the original Act after the words ‘ dissolved ’ the words ‘ or the Authority is abolished ’ shall be inserted. Now, the effect of that is this. Section 9 of the Act says : “ When the Committee is dissolved ” and as it is proposed to set up an Authority for Burma, it will now run as follows :

“ When the Committee is dissolved or the Authority is abolished, either under this section or by the expiry of this Act, the unexpected balance of fees received by the Committee or by the Authority, as the case may be, under this Act shall lapse to Government.”

Prof. Ranga's amendment amounts to this that instead of the section running that the balance shall lapse to Government, the section shall run, ‘ it shall lapse to the Governments of India and Burma respectively ’, that is to say in the case of the committee the balance shall lapse to the Government of India and in the case of the authority to the Government of Burma and as that is as it should be I have no hesitation in accepting the amendment.

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

“ That in sub-clause (b) of clause 3 of the Bill, the following be added at the end :

‘ and for the word ‘ Government ’ the words ‘ Governments of India and Burma respectively ’ shall be substituted ’.”

The motion was adopted.

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

“ That clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

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

“ That clause 4 stand part of the Bill.”

Prof. N. G. Ranga : Sir, I beg to move :

“ That in clause 4 of the Bill, in the proposed section 10A after the word ‘ shall ’ the words ‘ after consulting the Government of Burma ’ be inserted.”

In view of the fact that the Honourable Member has said that he does not have any objection to this, I do not propose to add anything more. I move.

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

“ That in clause 4 of the Bill, in the proposed section 10A after the word ‘ shall ’ the words ‘ after consulting the Government of Burma ’ be inserted.”

The Honourable Sir Muhammad Zafrullah Khan : The effect of this amendment is that the Governor General in Council in constituting the authority to be called the Burma Tea Licensing authority shall consult the Government of Burma. I do not conceive that that would have been done in any case without consulting the Government of Burma and I therefore accept this amendment.

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

“ That in clause 4 of the Bill, in the proposed section 10A after the word ‘ shall ’ the words ‘ after consulting the Government of Burma ’ be inserted.”

The motion was adopted.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The next amendment No. 3* in the name of Prof. Ranga is out of order.

Prof. N. G. Ranga : How, Sir ?

The Honourable Sir Muhammad Zafrullah Khan : Because this Legislature has no authority to legislate for the Federated Shan States.

Prof. N. G. Ranga : Are they not part of India ? Is it not a fact that the planters of the Federated Shan States export tea over their land frontiers ?

The Honourable Sir Muhammad Zafrullah Khan : Oh ! yes, they can. I explained it to the House the other day.

Prof. N. G. Ranga : Then, I will move the amendment and let the House decide.

Mr. Deputy President (Mr. Akhil Chandra Datta) : It is out of order.

The question is :

“ That clause 4, as amended, stand part of the Bill.”

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I wish to speak on this clause.

“ That in clause 4 of the Bill, in the proposed section 10A after the words ‘ in Burma ’ the words ‘ including the Federated Shan States ’ be inserted.”

Mr. Deputy President (Mr. Akhil Chandra Datta) : I have begun to put the question ; unless the Honourable Member is very very keen, I would like to put the question to the House.

Mr. B. Das : I have a few words to say on this clause before the House accepts this clause. I bow to your ruling that the amendment relating to the Federated Shan States cannot be moved in this House. We have no other alternative but to accept it. As an old Member of this House and as a Member of the Public Accounts Committee, I know that funds are provided from the Indian exchequer for giving political pensions and for defraying other expenditure in the Federated Shan States. I am not so much interested in Burma now, because it is going to be separated from India and I do not know what will be the exact position of the Shan States after the separation of Burma from India. The Honourable the Commerce Member who was a Member of the Round Table Conferences and who was on the Joint Parliamentary Committee knows the real position of the Federated Shan States, after Burma is separated from India. But my Honourable friends from Burma feel apprehensive that somehow or other the tea growing estates of the Shan States may not be included in Burma and their export may somehow be prohibited. Here it is not so much the constitutional issue that my Honourable friends want to raise as the commercial point, whether the Shan States as they are now part of Burma will continue to be so after the separation of Burma from India for the purpose of commerce.

The Honourable Sir Muhammad Zafrullah Khan : May I ask the Honourable Member that if according to him the Shan States are part of Burma and the Act will extend to Burma, then what is he troubling about. If Burma includes the Shan States there is nothing more to say.

Mr. B. Das : My Honourable friends are apprehensive that after separation the Shan States would be placed in a different category than they are at present.

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. B. Das : I wish only to point out to the Honourable the Commerce Member that what my friends from Burma want is that the Shan States should at no time be excluded from the tea control operations.

The Honourable Sir Muhammad Zafrullah Khan : Sir, may I explain the position. As the Honourable Member has pointed out certain tea growers in the Shan States have been anxious to obtain a share of the export quota. They moved the Government of Burma as well as the Government of India and placed their case before them, and the case was considered on its merits but their claim was not accepted. This is not the time nor the occasion for me to go into details of the claim and the grounds on which it was rejected. However the claim was not accepted so that they do not participate in the tea quota. The constitutional position is that though in a sense the Shan States are part of Burma and are under the authority of the Government of Burma, the position under the Government of India Act, 1919, and its schedules is, that the Shan States along with many other tracts in India and some other tracts in Burma are placed in a category for which the Indian Legislature has no authority to legislate. Therefore the object which the Honourable Member has in view cannot be secured by inserting this amendment in the Bill at the place where he

[Sir Muhammad Zafrullah Khan.]

wants it to be inserted—for this House has no power to legislate for these territories. The only power by which legislation can be extended to that territory vests in the Governor of Burma who may extend such laws as are operative in Burma and as he considers necessary or desirable to that tract. It is in the position of territories to which ordinary legislation does not apply and therefore this amendment is out of order as has already been ruled by the Honourable the Deputy President and we cannot by means of this Bill rectify the position as desired by the Honourable Member.

Mr. B. Das : Are you satisfied that the Government of Burma will extend the Act to the Shan States ?

The Honourable Sir Muhammad Zafrullah Khan : It is within the power of the Governor of Burma, but whether he will do so or not, I cannot say. From what has already happened, I imagine he would not be prepared to do it. May I again point out to the Honourable Member that as he is himself aware, this tea control scheme lasts till 31st March, 1938. It is now only by way of advice that I suggest, I am not giving any undertaking, that it is for the Government of Burma to take up the question of a quota, if they are satisfied that the Shan States ought to have a quota and to arrive at some sort of an undertaking with the International Tea Committee which might be implemented after 31st March, 1938. However, as I have already said, that is only a gratuitous piece of advice which may not turn out to be the proper thing to do.

Prof. N. G. Ranga : Sir, I rise to protest the manner in which the Government of India have till now failed in their duty to help these people of the Shan States.

The Honourable Sir Muhammad Zafrullah Khan : I submit that is out of order for the reason that the question of a quota for the Shan States has nothing to do with this Bill. If that question is raised, I am prepared to give a detailed reply on the whole question, but it will do no good to the growers of the Shan States. The Honourable the Deputy President has already ruled a discussion on that question out of order.

Prof. N. G. Ranga : It was permissible for the Governor General in Council to have extended the operations of this Act to those areas for which of course this Legislature could not legislate and the Government of India have so far failed to extend it to that particular area along with other areas for which I dare say this Legislature has to legislate.

The Honourable Sir Muhammad Zafrullah Khan : I have pointed out to the Honourable Member that it is the Government of Burma who has that power and not the Government of India.

Prof. N. G. Ranga : In view of the fact that the Government of Burma has till now been a part of British India and the Governor General in Council has supervisory and suzerain authority over the Governor in Council of Burma, I certainly think it is the duty of the Governor General in Council here to see that the laws passed by this particular Legislature are extended to those parts of India and to those parts of British India for which this Legislature could not legislate and yet for which the extension of such legislation is advisable and necessary. And I find that in spite of the many appeals made by the tea planters in the Federated Shan States to the Government of India, the Government of India have refused to consider their claims.

Mr. Deputy President (Mr. Akhil Chandra Datta) : May I know on what clause the Honourable Member is speaking ?

Prof. N. G. Ranga : On clause 4. I am opposing it and speaking on it.

The Honourable Sir Muhammad Zafrullah Khan : That there should be no tea licensing authority for Burma.

Prof. N. G. Ranga : Yes, certainly.

Mr. Deputy President (Mr. Akhil Chandra Datta) : What is the point of the Honourable Member ?

Prof. N. G. Ranga : My point is this that until and unless Government are prepared to extend the operation of this particular Act to these Federated Shan States also there is no necessity to pass this particular special Bill now in the present circumstances, because this Act will continue to be in operation till 31st March, 1938, and it is permissible for the future legislature or the Governor in Council of Burma to carry on their operations under this Act for the protection of the tea planters in Burma until 31st March, 1938. There is no necessity for this special amending Bill at present and I protest that an opportunity should have been sought to be taken by Government to introduce this Bill and get the consent of this House for the second time without seeking to extend it to the Federated Shan States. I find that it was permissible for the Governor General in Council to have extended the operations of this to those States but they have not done it, with the result that the tea planters of those States who were able to export their tea to India and from there re-export it to foreign countries have come to be prevented ever since this Act of 1933 was passed, and export it either directly from their own States to other countries or from India to other countries. The result of it all is that many of them have gone to ruin and many more are about to go to ruin.

The Honourable Sir Muhammad Zafrullah Khan : They never exported a pound of tea before the control was brought in. How could the lack of exporting facilities have ruined them ?

Prof. N. G. Ranga : Here is a communication that I have received.

Mr. C. F. Grant (Burma : Nominated Official) : Sir, on a point of order. I ask you for a definite ruling on the point of order raised by the Honourable the Commerce Member. He has pointed out that the whole of this discussion is entirely out of order and cannot possibly be in order. I would therefore be very glad if you would give your ruling on the point. This House has no power to legislate for the Federated Shan States and the Governor General in Council has no such power. This is all provided for in the current Government of India Act.

Mr. B. Das : Why do you speak upon it if the Governor General in Council has no power ?

Pandit Govind Ballabh Pant : So far as the amendment asking for the inclusion of the Shan States and its laws is concerned, it is out of order. But there is nothing to prevent a Member from advancing an argument on the ground that because the Shan States are excluded, therefore he will oppose this clause. He is perfectly within his rights to argue like that.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I am decidedly of opinion that the Honourable Member is perfectly in order because his

[Mr. Deputy President.]

point is that if this Bill cannot be extended to the Federated Shan States, there is no need for it. In that view of the matter he is in order in opposing this clause and giving his reason in support of his contention.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is asking that this Act should in some manner or another extend to the Federated Shan States, and he is saying that if it is not to be extended to the Federated Shan States, no licensing authority for Burma should be set up at all.

Prof. N. G. Ranga : There is no necessity.

Pandit Govind Ballabh Pant : That argument may not be accepted but it is in order.

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member wants to occupy the time of the House with a speech he may.

Prof. N. G. Ranga : My Honourable friend the Commerce Member has occupied the time of the House for thrice as long as he need have occupied it if he had come prepared on the Rubber Control Bill. I do not wish to occupy the House unnecessarily and I have given proof of that by not saying a word in respect of my two amendments which have been accepted by Government. I am particularly anxious that these tea planters should be protected in every possible manner. If the argument advanced by Government were to be accepted, the position will become really untenable in so far as those vast areas in this country are concerned for which this Legislature cannot directly legislate in any manner whatsoever.

Here is a communication sent by the constituted attorney of growers of Tawnpeng tea estates :

"The tea produced within Shan States was re-exported from India to foreign countries prior to the introduction of the regulation scheme. Burma exported tea overseas and also coastwise to Indian ports which facts would be proved from the Burma Sea Borne Trade report and also from the Director of Commercial Intelligence report."

Mr. Deputy President (Mr. Akhil Chandra Datta) : Although the Honourable Member is technically in order, I do not think he should labour this point.

Prof. N. G. Ranga : I appeal to Government to reconsider their position and try to give effect to the provisions of this Tea Control Act, in such a way as to extend them to the Federated Shan States also and give the benefit of this Act to those people, as otherwise as a result of this innovation of tea control these people are victimised in every possible manner and are not able to market their tea. Sir, I oppose this clause.

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

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5 was added to the Bill.

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

"That clause 6 stand part of the Bill."

Prof. N. G. Ranga : Sir, I beg to move :

“ That in clause 6 of the Bill, in the proposed sub-section (3) of section 13, the words ‘ the Committee and ’ be omitted.”

As this is only a formal amendment I do not propose to say anything more.

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

“ That in clause 6 of the Bill, in the proposed sub-section (3) of section 13, the words ‘ the Committee and ’ be omitted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am afraid it is not a formal amendment and I am afraid the Honourable Member does not know what it amounts to. Otherwise he would have tried to explain it to the House. I am quite sure he will confess that he does not know what the effect of the amendment is. Clause 6 of the Bill says :

“ To section 13 of the said Act the following sub-section shall be added, namely :

“(c) The Indian Overseas Export Allotment so declared for any financial year after the financial year ending on the 31st day of March, 1937, shall not include the overseas export allotment for the Province of Burma, but the Governor General in Council, shall, by notification in the Gazette of India, declare a separate Burma Overseas Export Allotment after consulting the Committee and the Authority and paying due regard to all interests concerned.”

Now, it is perfectly obvious that if a separate allotment is to be fixed for Burma both the tea licensing Committee for India and the tea licensing authority for Burma must be consulted. Whenever you split up a quota both sides are concerned and therefore both have to be consulted. If the amendment moved by the Honourable Member were to be accepted, the Governor General would be bound to declare a quota for Burma only after consulting the Burma licensing authority and without consulting the Indian licensing authority. I therefore submit that the amendment is not merely formal. It would deprive the Governor General of the advice of the committee representing Indian interests when splitting up the quota into Indian and Burma quotas. I therefore oppose it.

Prof. N. G. Ranga : I do not press it, Sir.

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

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

“ That clause 6 stand part of the Bill.”

The motion was adopted.

Clause 6 was added to the Bill.

Clauses 7 to 17, both inclusive, were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I beg to move :

“ That the Bill, as amended, be passed.”

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

“ That the Bill, as amended, be passed.”

The motion was adopted.

THE RED CROSS SOCIETY (ALLOCATION OF PROPERTY) BILL.

Mr. G. E. F. Tottenham (Defence Secretary): Sir I move :

“ That the Bill to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society be taken into consideration.”

This is a measure which I hope will not detain the House for more than a few minutes. As I explained this morning, the activities of the Red Cross Society are primarily directed towards the relief of suffering in war time. It is thus primarily a sort of auxiliary of the defence medical services. But after the great war, in the course of which large sums of money were subscribed by the public for these purposes, it was decided to give the Indian Red Cross Society a legal status and to authorise the Indian Red Cross Society to use the income of the remainder of the capital sums that I have just referred to for expenditure on similar humanitarian objects in peace. This was done by the Indian Red Cross Society Act of 1920 ; and at the same time the Indian Red Cross Society became a full member of the International League of Red Cross Societies ; and as I also said this morning there must be many Honourable Members who are aware of the splendid work that the Indian Red Cross Society has done for India and in India since the years of the war. Now, the Act of 1920 applies of course to Burma as part of India ; and there is a schedule, the second schedule, in that Act which sets forth the shares in the original capital subscribed by the different provinces and states in India. Burma's contribution, according to this Schedule, towards the original capital was Rs. 6 lakhs or 7 per cent. of the total. Some of that capital was of course utilised and spent during the war. But the corpus remaining after the war was over, which was then invested and the income from which is now the income of the Indian Red Cross Society, amounted to some Rs. 62,41,000 ; and 7 per cent. of that sum comes to about 4.37 lakhs. Obviously when Burma ceases to be a part of India, it will be necessary to exclude Burma from the operation of the Indian Red Cross Society Act and to allow Burma to set up her own society with that portion of the corpus of the fund to which she is legitimately entitled ; and that is all that the present Bill proposes to do. I mentioned just now the figure of Rs. 4.37 lakhs as being Burma's share of the original corpus of the fund ; and it is true that it is stated in the Statement of Objects and Reasons that the intention was to give that sum to Burma, that is to say, 7 per cent. of the original corpus. Subsequent calculations by the Indian Red Cross Society have shown that the original corpus of the Fund has appreciated in value ; and the actual proposal now is that Burma's share will be 7 per cent. of the present value of the corpus, and not 7 per cent of the original value of the corpus. The result of that will work out to a figure of about Rs. 5½ lakhs, instead of Rs. 4.37 lakhs, and that is the sum that will be handed over to Burma if this Bill is passed.

I should like to make it quite clear, in case there is any misapprehension on the subject, that the money is not of course Government money at all in any sense of the word ; that this allocation has been fully accepted both by the Indian Red Cross Society and by the Burma branch of that society ; they are both fully satisfied with it ; and of course, finally, the figure of 7 per cent. has nothing whatever to do with the percentage that

has been fixed for the financial adjustment between India and Burma in respect of official funds.

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

Sir, I move.

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

“ That the Bill to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society be taken into consideration.”

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadian Rural) : Sir, the Indian Red Cross Society was constituted under the Act of 1920 : and a branch was established for Burma. I do not know why if an allocation has to be made for the Burma Society the Burma branch of the Red Cross Society should not be made the Burma Red Cross Society under this Act itself, instead of giving power to the High Court of Rangoon to frame a scheme for the investment of these funds and abolishing the Burma branch. I wanted that kind of information. I thought that it would be proper to have a Red Cross Society established under this Act separately for Burma on the lines of the Red Cross Society, India, which was established in 1920. When once that scheme is framed, later on, it may be found necessary to alter that scheme in view of experience that may be gained regarding the particular society. There is no provision in this Bill to empower the High Court to modify or alter the scheme from time to time either on the application of the Local Government or of any person interested. That is a normal thing which must find a place in any Bill of this nature which clothes the High Court with a power of this kind. I am yet to know how the proportion of 7 per cent. was fixed.

Mr. G. B. F. Tottenham : As regards the last point raised by my Honourable friend, I have explained how 7 per cent. was fixed in the second schedule to Act XV of 1920. A large sum of money was collected, during the War, and the actual amount of the contribution from each province was laid down in the schedule—the total amount they contributed is in one column,—and in the second column what that amount represents in the form of a percentage of the total fund. The actual amount contributed by Burma was Rs. 6 lakhs, and that represented 7 per cent. of the total fund. That I think settles the last point that the Honourable Member made. As regards his first point, I do not think it is for this Legislature, indeed it cannot be for this Legislature, to decide what particular action Burma should take after separation. All we can do is to release Burma, so to speak, from our Act and then it will be for Burma in future to decide how they are going lawfully to set up their own Burma Red Cross Society. Whether they should do so by getting a scheme settled by the High Court or in some way is entirely for them to decide and not a matter, I submit, for this Legislature. As regards the other point, that is to say, the power to alter the scheme which may be settled by the High Court, I understand that there is already ample provision for that in the Code of Civil Procedure, and therefore no provision in this Bill for that purpose is necessary.

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

“ That the Bill to provide out of the property of the Indian Red Cross Society a fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society be taken into consideration.”

The motion was adopted.

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

“ That clause 2 stand part of the Bill ”

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I move : .

“ That in clause 2 of the Bill, for the words ‘ seven per cent.’ the words ‘ seven and a half per cent.’ be substituted.”

Sir, this is the percentage that was agreed upon in regard to the settlement of the financial claims as between Burma and India, and even the Amery Tribunal stated :

“ But our study of all the various aspects of the question and of the arguments and figures presented to us has led us to the conclusion that, for our particular purpose of arriving at a just financial settlement, the proper ratio in which Burma should contribute in respect of the liabilities outstanding at the date of separation should be 7.5 per cent.”

We are told that the particular adjustment in regard to the Indian Red Cross Society has nothing to do with the financial adjustment as between India and Burma, but if 7.5 per cent. was found to be good for that particular purpose, I do not see how it cannot hold good for this particular purpose. Moreover, I want to know how and why this 7 per cent. has been arrived at and has been fixed. My Honourable friend, Mr. Tottenham, has not adduced any particular proof to strengthen his claim that only 7 per cent. should be fixed and nothing more. He said that all these funds do not belong to Government, they are all a sort of quasi-public funds and contributed by various philanthropists and therefore in this regard we would not insist upon 7.5 per cent. but 7 per cent. would be enough. I do not know who has accepted this 7 per cent. as has been incorporated here. As far as I can see, the three Burmese Members of this House who happen to be our colleagues for these two years were unanimous in their demand that 7.5 per cent. should be granted to them and not 7 per cent. I therefore hope that my Honourable friend, Mr. Tottenham, will agree to this amendment and allot to Burma 7.5 per cent. and not 7 per cent. of this Fund.

Mr President (The Honourable Sir Abdur Rahim) : Amendment moved :

“ That in clause 2 of the Bill for the words ‘ seven per cent.’ the words ‘ seven and a half per cent.’ be substituted.”

Mr. B. Das (Orissa Division : Non-Muhammadan) : I owe an explanation to the House why I put my signature to this amendment. As the House knows, I was reluctant to accept $7\frac{1}{2}$ per cent. settlement with Burma and was always for the Nixon award of 10 per cent. But when there is parting, one likes to part with good will, and when my Honourable friends the Burmese Members approached me and said, “ We have paid in $7\frac{1}{2}$ per cent. scale and are taking $7\frac{1}{2}$ per cent. of the assets. Why should you give

7 per cent.?" The difference I was told was something like Rs. 13,000, but now I find that it may be between Rs. 40,000 and 50,000. It is a matter of parting with our good friends with grace and good will though I have always been annoyed at having let them go scot free with $7\frac{1}{2}$ per cent. of the liabilities, thanks to my Honourable friend the Finance Member who is sitting over there. This raises another issue. Mr. Tottenham says that this fund is an accumulated fund collected from subscriptions. There are other funds in the Government of India—the Indian Research Fund, the Indian Famine Trust Fund, etc. I know there is a committee sitting and settling these things on the direction of the Finance Member. The Burmese people have not subscribed to the extent that they have subscribed to the Red Cross Society, to these funds, and they may say they want $7\frac{1}{2}$ per cent. In any case, if India will part with a few thousand rupees extra from the Red Cross Society, there will not be any bad blood with my Burmese friends, and so I would give them this $7\frac{1}{2}$ per cent.

Mr. G. R. F. Tottenham : The Honourable Burmese Members of this House who gave notice of this amendment (and apparently asked certain other Honourable Members of this House to support their amendment) had obviously every excuse for doing so, because they were anxious to get as much for Burma as possible. They also had the excuse that they did not understand the position. I have now explained the position as clearly as I can to this House, and yet my Honourable friend, Prof. Ranga, still wants to take more money away from India and give more money to Burma. I do not understand that attitude. The fact is that the allotment of the funds belonging to the Indian Red Cross Society is laid down at present by statute. The funds are not Government funds in any way; they are private funds. The Burma Branch is fully satisfied with getting 7 per cent.; the Indian Society is satisfied with giving 7 per cent.; and there is absolutely no reason whatsoever to mix that figure up with the figure of $7\frac{1}{2}$ per cent. which has been arrived at for a totally different purpose. I regret that I cannot accept this amendment.

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

“ That in clause 2 of the Bill, for the words ‘ seven per cent ’ the words ‘ seven and a half per cent ’ be substituted.”

The motion was negatived.

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

“ That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

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

“ That clause 4 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar : Sir, I have got an amendment to clause 4.

Mr. G. R. F. Tottenham : On a point of order. Before you allow this amendment to be moved, I would draw your attention to the fact

[Mr. G. R. F. Tottenham.]

that notice was not given until 12 o'clock this morning. It is not yet in the hands of the Members of the House. I therefore submit the amendment is out of order.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow this amendment.

The question is :

“ That clause 4 stand part of the Bill.”

The motion was adopted.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. G. R. F. Tottenham : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

Prof. N. G. Ranga : Although we are assured that these funds are all private, I find that the management of these Red Cross Societies and its funds, largely vests in Government and Government agencies. There are so many of these Red Cross Societies—I think one for each district. I think the members of these societies are nominated by Government from amongst those *jo hukums* who run after the Government and help them in every possible manner in order to suppress our own people. The Red Cross Society is supposed to have no politics. It is supposed to have no national prejudices. Yet when the Civil Disobedience campaign was going on in the country, when hundreds and hundreds of people are being *lathi* charged.....

Mr. President (The Honourable Sir Abdur Rahim) : I do not think you can go into all that.

Prof. N. G. Ranga :the Red Cross Society was significant by its absence. When many of our people were badly treated, no ambulance was available. It may be a very useful society in other countries. I am myself an admirer of the Red Cross in other countries, but unfortunately in our country it has become not a Red Cross but a Government cross. What is more, it subserves the interests of the Government on the one side with its imperialism behind it and the Christian missionaries on the other. Therefore I oppose this Bill and I hope that Government will try to see that the Red Cross is made a real red cross in this country.

Mr. President (The Honourable Sir Abdur Rahim) : You ought to have opposed the Bill at the consideration stage.

The question is :

“ That the Bill be passed.”

The motion was adopted.

Mr. G. H. Spence (Secretary, Legislative Department) : Sir, I ask your permission to move this motion on behalf of the Honourable Sir Nripendra Sircar who is unavoidably absent.

I move :

“ That the Bill further to amend the General Clauses Act, 1897, for a certain purpose, be taken into consideration.”

This Bill is of purely technical interest and but for the fact that notice has been given of a motion for circulation, I should have confined myself to inviting attention to the full explanation contained in the Statement of Objects and Reasons. In view of the fact that notice of a motion for circulation has been given I think it as well to mention that the original draft of this Bill was circulated to all Local Governments and all High Courts. It was very carefully examined by all the High Courts and no High Court has failed to support the substance of the Bill. A few High Courts made suggestions in regard to certain details to which effect has for the most part been given. I think it may possibly save time if I refer briefly to the point, which I understand, has inspired the circulation motion. I understand that the Honourable Member in whose name the amendment stands wishes to know exactly what will be the practical effect of this amendment of the General Clauses Act. The only effect will be that in future as soon as an amending Act has done its work, that is to say, as soon as an amending Bill has been passed and the amendments made by the amending Act have been incorporated in the principal Act, we shall be able to do what we now think it would be unsafe to do, namely, to repeal the amending Act and remove it from the Statute-book—a course which for purposes of statutory record will greatly conduce to convenience.

In substance, however, what the Honourable Member who gave notice of this amendment was, I gather, concerned to know was this—how this provision in the Bill would affect existing practice in regard to getting rid of changes in the law affected by an amending Act. It would not affect practice in this respect at all. Suppose we have an Act to amend the Indian Penal Code which provides that after section 100 of the Indian Penal Code, the following section shall be inserted, namely, section 100A. If we want to get rid of section 100A, we do not operate on the amending Act at all. We operate on the Indian Penal Code, by bringing in an amending Bill to omit section 100A of the Indian Penal Code.

There is one other point which the Honourable Member who gave notice of the motion for circulation mentioned to me. Honourable Members will see that this Act only applies to the repeal of enactments by which the text of any Act was amended by express provision. This new section of the General Clauses Act will have no application whatever to cases which the Honourable Member mentioned to me, such as, where instead of making a textual amendment we say : So long as this Act, that is to say, the quasi-amending Act is in force, section so and so of the principal Act or what we may call the principal Act shall be deemed to have effect as if it said something which in fact it does not say. This Bill does not affect those cases at all and when you want to get rid of the provisions in what you may call a pseudo amending Act

[Mr. G. H. Spence.]

of this nature you will do it as now by bringing in a Bill to repeal the amending Act. That is all I have to say, Sir. I move.

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

“ That the Bill further to amend the General Clauses Act, 1897, for a certain purpose, be taken into consideration.”

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadian Rural) : Corresponding to the General Clauses Act in India, there is an Act for the interpretation of statutes in England. Section 6 of the General Clauses Act has been taken from the corresponding Act in England but a provision such as is now sought to be made is not to be found in the English Act. Now, under section 6 of the General Clauses Act, it is enacted that whenever an amending Act is repealed, it would not affect any rights that have already accrued, any liabilities that have been already incurred on the date of the passing of the Act and any privileges that may have been conferred, etc. So far as the present provision is concerned, it is for the purpose of eliminating from the Statute-book, Acts which have served their purpose and are no longer wanted. By the repeal of the amending Act, the amendments that are sought to be incorporated in the original Act are not taken away. They still continue as part of the original Act. When I gave notice of my motion for circulating this for the purpose of eliciting public opinion, what I had prominently in mind was an instance of this kind. If the Penal Code is amended by a Criminal Law Amendment Act which makes some additions to the existing Act and alters some of the sections and if in that case a repeal is made of the Criminal Law Amendment Act, the question is whether the amendments incorporated in the original Act, by virtue of the amending Act, continue there or whether they also expire, or where the repeal of the amending Act will be absolutely nugatory and useless because by the amending Act or as soon as that Act is passed, these several items of amendment get themselves incorporated in the Act. I have had a talk with my Honourable friend, the Mover, and it appears that in future when an amending Act is to be repealed,—it is not only the amending Act but several provisions of the parent Act also that have to be specifically referred to and repealed and that the inconvenience could be avoided in that manner. As regards the doubts that have been raised, it has not been set out in the Statement of Objects and Reasons, which the High Court has raised that particular doubt and it was for that reason that I wanted that the highest judicial authority in the land in the several provinces should be consulted with regard to a measure of this kind, which is to stand for all time to come, and with respect to which all statutes to be passed in future will have to be interpreted, that they should have their say and we should have their opinion. No doubt we had an assurance from my friend that all that information has been obtained. Unfortunately I have not had an opportunity of looking into these opinions. Before I can set my seal to this portion of the amending Act, but anyhow I will accept the assurance of my Honourable friend, and as he says, if the amending Act modifies only the text and the repealing Act repeals the amending Act which only makes a modification of the text and this Bill will not alter any other amendments made by the amending Act. On that assurance I accept it and I do not make the motion for circulation of the Bill.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I think the language of this Bill is not very happy. The purpose is plain enough. This Bill has been introduced only with a view, I think, to eliminate a number of amending Acts which today find a place in the Statute-book but which do not serve any useful purpose. I think it is with a view to lightening the task of the scavenger that this Bill has been introduced. I personally feel that it would have been much better if there had been a provision to the effect that an amending Bill would be deemed to have merged in the principal Act after it has been once passed. If that form had been adopted, then it would not have been necessary even to make any motion before this House for the repeal of the amending Act. It would have been automatically ruled out the moment those amendments were embodied in the principal Act. As it is, it will still be necessary to move for the repeal of the amending Acts. The words here, " unless a different intention appears ", seem to me to be altogether redundant. If you want a change in the original words that were introduced by means of the amending Bill, then you have to make a specific provision for that, but then it would cease to be a repealing Bill. I feel that the language of this clause is not happy, but I am not prepared either to oppose or to support the motion.

Mr. G. H. Spence : Sir, I am grateful to the Honourable Member who gave notice of a motion for circulation for not having moved the motion. As to what the Honourable Pandit Govind Ballabh Pant said, with the utmost respect to him I prefer the scheme adopted by the Government Draftsman to the scheme indicated by him. I do not think it fair to say that the words " unless a different intention appears " are in any way inept. Their effect is that if you want in an Act repealing an amending Act to effect a real, and not a mere paper, repeal, you will have to use express language to indicate the intention.

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

" That the Bill further to amend the General Clauses Act, 1897, for a certain purpose, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. G. H. Spence : Sir, I move :

" That the Bill be passed."

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

" That the Bill further to amend the General Clauses Act, 1897, for a certain purpose, be passed."

The motion was adopted.

THE CHITTAGONG PORT (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways) : Sir, I beg to move :

“ That the Bill further to amend the Chittagong Port Act, 1914, for certain purposes, be taken into consideration.”

Sir, the Bill deals with a number of small legislative amendments which have become necessary in the original Chittagong Port Act of 1914. Until 1928 Chittagong was a minor port and was administered by the Government of Bengal. In 1928 Chittagong was declared to be a major port and the Government of India took over the direct administration of the port. The Chittagong Port Act was amended in 1928 so as to transfer the necessary powers under the Act from the Government of Bengal to the Governor General in Council. From time to time during this period that has elapsed since the administration of the port of Chittagong was taken over by the Government of India, the necessity has been felt of minor amendments, but Government were unwilling to bring before the Legislature minor amending Bills at short intervals. It has now been found that a sufficient number of amendments have become necessary to justify the bringing of a Bill before the Legislature. Hence the Bill that is now before the House. Most of the amendments are of a formal nature but there are some which are of importance. The more important amendments are that the port authorities are being given the power to pay to the heirs of their deceased employees such bonuses and gratuities as the deceased employees had earned, and also to set up welfare funds for the benefit of their employees. These provisions are more or less along the lines of the provisions made in the case of other major ports, with minor differences, and these differences are due to the conditions prevailing in the Chittagong Port as compared with other minor ports ; for instance, with regard to welfare funds, in the case of the Chittagong Port it is proposed by this Bill that in the case of employees who are not drawing more than Rs. 250 per mensem, there should be no direct levy from the employees themselves for the purposes of the welfare fund but that the fund in their case should consist of fines collected from them, unclaimed salaries, forfeitures of provident fund, etc. Comparing this provision with that in one of the other major ports, say, Bombay, the difference is that in the case of Bombay there is no such condition attached, that there should be no direct levy from employees who are not drawing more than a certain amount of salary a month, for the reason that generally salaries in the case of employees in the Chittagong Port Trust are lower than in the case of Bombay. Then there is an amendment authorising the Chairman to delegate certain powers during his temporary absence to the Vice-Chairman, and so on. No notice of any amendments has been given and I am, therefore, not aware what kind of criticism, if any, Honourable Members may have to the provisions of the Bill. On the whole, I should imagine that as the provisions that this Bill seeks to make are for the benefit of the employees of the Port Trust, no serious objection would be taken to the Bill. Any criticism that might be forthcoming during the discussion of the motion for consideration I shall try to meet when I reply to the debate.

Sir, I move.

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

“ That the Bill further to amend the Chittagong Port Act, 1914, for certain purposes, be taken into consideration.”

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I move, that this Bill be circulated for the purpose of eliciting public opinion thereon.

The Honourable Sir Muhammad Zafrullah Khan : There is no notice of any such motion.

Mr. President (The Honourable Sir Abdur Rahim) : Then, I cannot allow it to be moved.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Under the rules, no notice is necessary.

Mr. President (The Honourable Sir Abdur Rahim) : Still, if objection is taken that the Honourable Member had no chance of considering it, it cannot be allowed.

Pandit Govind Ballabh Pant : When there is motion for consideration, it is open to any Member to move that the Bill be circulated for the purpose of eliciting public opinion thereon.

Mr. President (The Honourable Sir Abdur Rahim) : Is it fair to the Member in charge of the Bill that no notice should be given?

Pandit Govind Ballabh Pant : The Member in charge knows it very well that the rules require no notice.

The Honourable Sir Muhammad Zafrullah Khan : I have not received any notice up to this moment.

Pandit Govind Ballabh Pant : Only half an hour ago notice of this amendment was given in the Notice Office.

Mr. President (The Honourable Sir Abdur Rahim) : If there is no objection on the part of the Member in charge of the Bill, it does not matter. But, if objection is taken, it is certainly valid because Members are taken by surprise. The Chair has got to look to the convenience of other Members as well. They may have something to say on the point. They may like to consider this motion. If there was no objection, I would have allowed it to be moved.

The Honourable Sir Muhammad Zafrullah Khan : If I had felt that this was a measure of a contentious nature or that there were serious differences of opinion with regard to it, I would not have taken objection to the circulation motion on the score of want of notice ; but having regard to the character of the Bill, I am afraid I must object.

Pandit Govind Ballabh Pant : But the rules say that when a Member makes a motion that the Bill be taken into consideration, it is open to any Member of the House to move that the Bill be circulated to elicit public opinion without giving notice.

Mr. President (The Honourable Sir Abdur Rahim) : Such a rule has never been observed. It has always been the practice in a matter like this to give previous notice of this amendment, and I must follow that practice. But this rule regarding three days' notice is not applicable.

Pandit Govind Ballabh Pant : In fact, it is not an amendment ; it is only a motion. When a Member makes a motion that the Bill be taken into consideration, it is open to another Member to oppose that motion without giving any notice whatsoever. Similarly, it is open to a Member to propose that the Bill be circulated. The rules do not lay down any period of time for notice.

Mr. President (The Honourable Sir Abdur Rahim) : It is a motion all the same. It is an amendment to the effect that the Bill be circulated for the purpose of eliciting public opinion thereon.

Pandit Govind Ballabh Pant : My friend, Mr. Ananthasayanam Ayyangar, will not make that motion, but I wish that you may not give a ruling to that effect.

Mr. President (The Honourable Sir Abdur Rahim) : I gave a ruling only the other day that two days' notice is not required under the rules. But, in a matter like this, I have got to see to the convenience of all the Members. If no objection was taken to it, I would have allowed it.

Mr. M. Ananthasayanam Ayyangar : Sir, if I am not in order to move my circulation motion, I have certainly got the privilege to address the House. There is no doubt that Chittagong has been developed and improved from a small port to a major port. I also agree that it is necessary that there should be a provision for the provident fund and a fund for the welfare of the children of the people who die during service and leave their children behind. If the port of Chittagong was sought to be brought in conformity with the other major ports, provision would have been made in 1928. But that has not been done. In the circumstances, is it desirable that we should make an innovation in the case of the Chittagong Port without seeing whether the provisions contained in the Bill are in conformity with those now in vogue in the other major ports ? In order to enable us to know all these things, it is necessary that we should have the opinion of the public and also the representations of the employees of other ports which will be highly valuable. Therefore, I submit, that this Bill should not be rushed through like this. In my opinion it is absolutely necessary that we should be in possession of the opinion of those persons who are the employees of other ports.

I also find that a list of property has been attached and the third Schedule has been included in clause 10 of the Bill. It includes various items of property bought from time to time by various departments and sometimes acquired by the Governor General and vested in the Port Commissioners. As to what this consists of and how far third parties are affected by this property, are matters on which we ought to have public opinion. I, therefore, say that the Bill is not of such an urgent nature that we should be rushed through like this at the fag-end of the day. I would, therefore, oppose this motion and if the Honourable the Mover considers that it is very important, then he can bring it before the House at Delhi.

Mr. B. Das (Orissa Division : Non-Muhammadian) : Sir, the Honourable the Commerce Member is rather fortunate in bringing forward before this House so many Port Trusts Bills. He had his Cochin Port Bill, an amending Vizagapatam Port Trust Bill and now he has brought

before us the Chittagong Port Trust Bill. He has already informed us that next year he will bring a comprehensive Cochin Port Trust Bill. Speaking on behalf of the Indian commercial community and of their keen desire to develop Indian ports, I would say at the outset that I welcome some of the provisions that relate to the welfare and better control of these ports. But the Honourable the Commerce Member certainly knows how the Indian business community have from time to time expressed their criticism about the formation of the Port Commissioners in every major port under the control of the Government of India.

The Honourable Sir Muhammad Zafrullah Khan : Will the Honourable Member kindly speak up ? I cannot hear him properly.

Mr. B. Das : I hope the Honourable the Commerce Member will consider the criticism that has been offered from time to time about the liberalization of the control of the Port Commissioners. Somehow, we find that most of the major port trusts are controlled by the Port Commissioners, the majority of whom are either officials or Europeans. We want that Indian business men, Indian corporations and Indian municipalities should have more control than they have at present. I remember when the Chittagong Port Trust Bill was first discussed, my Honourable friend, Mr. Anwarul Azim, voiced the grievances of the Chittagong people and said that they had not sufficient voice on the Port Trust. That grievance stands and ought to have been redressed in the present Bill or in subsequent Bills ; anyway I do hope the Honourable Member will kindly examine that matter. He being an Indian will understand how the volume of Indian public opinion has grown and criticisms have been levelled against the management of Port Commissioners at every big port not to speak of small major ports like Chittagong. I was intending to level these criticisms when the Cochin Port Trust Bill would come and I wanted to raise a comprehensive debate then. But as this Bill has now come, I raise these criticisms so that the Honourable the Commerce Member will kindly examine and will remove one of the long standing grievances under which the Indian businessmen and the Indian public bodies and local authorities are suffering. It is no use giving one or two representations to the local authorities. I think the time has come if Port Commissioners are created, there should be public bodies and commercial bodies so represented so as not to make the Port Trust a purely official concern. A number of questions were asked on the floor of the House as to the way in which the Port Commissioners manage the Port Trusts, be it in Bombay or Calcutta or Chittagong. I would also like to know from the Honourable the Commerce Member whether the Chittagong Chamber of Commerce was consulted, whether any Chambers of Commerce in Calcutta were consulted as to the consolidation of the present Chittagong Port Trust Bill. Their opinion would much facilitate the passing of this Bill.

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : Sir, I want to draw the attention of the Honourable the Commerce Member to two points which occurred to me. Firstly in clause 3 of the Bill, we find sub-clause (2) says :

“ Provided that no such welfare funds shall be established without the previous sanction of the Governor-General in Council ; and that the maximum amount to which any such fund may be allowed to accumulate shall be fixed from time to time by the Governor-General in Council.”

[Mr. Mohan Lal Saksena.]

I want to know why this restriction has been imposed. It is just possible that similar restrictions may exist in regard to other major ports, but it does not follow that now that we are empowering the Port Commissioners to institute this welfare fund, we must put this restriction that they cannot establish any welfare fund without the sanction of the Governor General in Council.

Then, Sir, in clause 4 we find another thing about which no mention has been made in the Statement of Objects and Reasons and it is this :

“ To section 36 of the said Act the following proviso shall be added, namely :

‘ Provided that any resolution passed by the Commissioners to dismiss or to reduce a Head of a Department shall not be carried into effect without the approval of the Governor General in Council ’.”

Now, my difficulty is this. The expression ‘ Head of a Department ’ has not been defined anywhere, either in the original Act or in the amended Act of 1928 nor in this Bill. As a matter of fact under section 36, the Port Commissioners and the Chairman in certain cases have powers of dismissal and suspension. So, I would like to know whether it was on the recommendation of the Port Commissioners themselves that this provision is being made and why has the expression ‘ head of a department ’ not been defined ?

Lastly, I should like to know whether the Municipal Board of Chittagong was consulted in connection with this Bill. It is very important that when you are going to legislate for a major port and when you are going to add certain other immoveable properties as mentioned in Schedule III, than what belongs to the Port Commissioners at present, it is necessary that you should have consulted the Municipal Board. And if the Municipal Board has not been consulted and the Chamber of Commerce of Chittagong which has got three representatives on the Board of Port Commissioners has not been consulted, I think it is an additional reason that the Bill should not be passed at this stage, but should be circulated for eliciting public opinion or the discussion might be adjourned at this stage.

Mr. N. M. Joshi (Nominated Non-Official) : Sir, may I say one word in support of the suggestion that the discussion on this motion be adjourned. My suggestion is that this Bill does not provide for labour representation in the Port Trusts....

Mr. President (The Honourable Sir Abdur Rahim) : But that is no ground for adjourning the debate. The Honourable Member could have tabled an amendment, if he liked.

Mr. N. M. Joshi : That is a good ground why discussion should not be proceeded with any further at present. There are Port Trusts like Bombay and Karachi where arrangements have been made for the nomination of one labour representative on each of these Ports. I do not think there is any arrangement made in this Bill on those lines. That there should be representation of labour on the Port Trusts is one of the suggestions of the Royal Commission on Labour. It has been partially given effect to in Bombay and Karachi but no effect has been given in this Bill. I therefore feel that some provision should be made for the representation of dock labour at Chittagong on the Chittagong

Port Trust. I hope that the Honourable the Commerce Member will not insist upon the Bill being proceeded with today.

Mr. V. V. Giri (Ganjam *cum* Vizagapatam: Non-Muhammadian Rural) : Sir, with regard to clause 9 of the Bill, provision has been made for the establishment of welfare funds. I should like to know from the Honourable the Commerce Member whether in the management of these funds, there shall be representatives of the workers and the management to distribute these funds or spend from these funds.

The Honourable Sir Muhammad Zafrullah Khan : Sir, certain criticisms have been offered against the provisions of the Bill and some Honourable Members have made the suggestion that discussion of the Bill should be postponed. I venture to submit that the criticism is not of a character which shows that the Bill is of such a complicated nature that Honourable Members cannot pay attention to its provisions as it stands and to proceed with it forthwith. To begin with, it has been said, look at the Third Schedule which contains large numbers of items of property ; we do not know whose rights may or may not be affected and therefore it would require careful scrutiny. Sir, the Bill has been before the House for a considerable time now. If there were any means of carrying out the scrutiny of the Third Schedule, this could have been adopted in the meantime. It has also been said that it would be necessary to consult the Municipal Board of Chittagong with regard to these items of property. I submit that this is entirely unnecessary. As a matter of fact this apprehension has been created in the minds of Honourable Members on account of the rather formidable character of this Schedule. But may I point out to them that this Schedule is practically a reproduction of the Third Schedule contained in the original Act and it has only been brought up to date by the addition of such items of property as have during the interval been vested in the Port Commissioners. This is not a new thing.

Mr. Mohan Lal Saksena : You have given particulars as well as survey numbers.

The Honourable Sir Muhammad Zafrullah Khan : The properties are defined and survey numbers are given. One or two misprints will be corrected later on. But the main schedule is the same as the original schedule.

Then, a good deal of criticism has been directed towards the constitution of the Port Trust and the official character of a large number of the Commissioners. That piece of criticism was levelled not so much against the provisions of the present Bill which, it has been admitted by Honourable Members opposite, are not open to objection in principle, but against the constitution of Port Trusts generally. I submit with great respect that that is not a subject which can be discussed in the course of a debate on this Bill. This Bill does not in any manner deal with the constitution of the Port Trust itself. That is a general question. I am aware that it has often been raised on the floor of the House. I am fully aware of the criticisms that have been levelled against the constitution of the Port Trusts of major Ports. But I again repeat that this is not the occasion on which it can become a relevant matter for discussion.

[Sir Muhammad Zafrullah Khan.]

Then, it was pointed out that there is a proviso to clause 3 stating that no welfare funds shall be established without the previous consent of the Governor General in Council and that the Governor General in Council might set a limit to the maximum amount to which any such fund may be allowed to accumulate from time to time. I do not know why objection is being taken to that proviso. I was really unable to understand the point of the objection. The explanation of the proviso obviously is that rules must be framed in respect of these welfare funds, and I have no doubt that the ordinary procedure will be that the Port Trust will send up their suggestions with regard to any such scheme and the Department will.....

Mr. Mohan Lal Saksena : I may inform the Honourable Member that under the Act rules for this fund shall be framed by the Commissioners themselves. Why this sanction ?

The Honourable Sir Muhammad Zafrullah Khan : To scrutinise and see that the scheme is so framed that the welfare fund shall be properly administered and that all precautions shall be taken.

The proviso secures that any scheme for the establishment of such a fund shall be submitted to the Governor General in Council who will have to be satisfied that the scheme is a beneficial and satisfactory scheme.

Prof. N. G. Ranga : May I ask for some information with regard to this welfare fund ? My Honourable friend, Mr. Giri, has already put that question and the Honourable Member has not cared to answer that yet. Clause 9 of this Bill as it is here.....

The Honourable Sir Muhammad Zafrullah Khan : I am still dealing with the criticism of clause 3 by Honourable Members who spoke before Mr. Giri, and I do not know what warrant the Honourable Member had for assuming that I did not intend to touch on the point to which he has referred. I had not yet concluded my speech.

My submission is that there is nothing in this proviso which need cause any apprehension. If at all, it may be described as an extra precaution. Surely an extra precaution cannot be the subject of adverse criticism. The Port Trust at Chittagong has not been established for a long enough time, nor has it attained to the position which Port Trust in other major ports have attained and therefore any extra precaution in the case of this Port Trust might I think well be justified.

Then, Sir, the next criticism was that the municipal board of Chittagong should have been consulted, for two reasons, one of which I have already dealt with, namely, that the Third Schedule sets out a list of properties to be vested in the Port Trust and that that ought to have been scrutinised by the Municipal Board. The second reason given was that the port is being made a major port and the municipal board should have had some say in the matter. I explained in my speech when moving for consideration that the port was constituted a major port in 1928,—some years ago. It is not being made a major port by this Bill.

Lastly, information was asked for by Mr. Giri, and that is the point which Prof. Ranga.....

Mr. Mohan Lal Saksena : What about clause 4 ?

The Honourable Sir Muhammad Zafrullah Khan : As to that it was said that there is no definition of "Head of a Department". I should have thought that that was not a difficult matter at all. "Head of a Department" is a perfectly well understood expression all over the administrative offices and no statutory definition is called for. I believe there is a similar provision in the case of all the other major Port Trusts, that dismissal or reduction of a Head of a Department requires the sanction of the Governor General in Council. That, as a matter of fact, was an omission in the Act of 1928 which is now being set right.

With regard to clause 9 the question was if the welfare fund is being administered by representatives of the employees. There is at present no welfare fund in operation. A welfare fund may be established after this Bill has become law and rules are framed under it, and therefore there is no question of its being administered at the present moment by any particular body. But I imagine that when established it would be administered by the Port Trust, though it is a question of rules and regulations. I therefore submit that there is nothing in this Bill which need delay its consideration by the House.

Prof. N. G. Ranga : Sir, with reference to clause 9 I should like to draw the attention of the Honourable Member to the fact that the Payment of Wages Bill was passed by this House and according to that such welfare funds have to be started in order to make provision for the utilisation and administration of funds that are got out of fines realised from such officers and servants and such other properties. To govern these welfare funds a certain procedure is also laid down in the Payment of Wages Act. I should like to know whether the Payment of Wages Act does not apply to this Port Trust also. If it does apply to it, I do not think there is any special necessity to include a clause like this. If on the other hand it does not apply to it, I will like to know whether Government will be willing to bring their rules that will be framed for the governance of this welfare fund under this particular clause in line with the principles outlined in the Payment of Wages Act. I should like to have this information before I can decide whether to support this motion for consideration.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am afraid I cannot make a commitment in advance on behalf of the Port Commissioners. All that I can say is that the suggestion made by the Honourable Member will be considered.

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

"That the Bill further to amend the Chittagong Port Act, 1914, for certain purposes, be taken into consideration."

The motion was adopted.

Clauses to 2 to 9 were added to the Bill.

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

“ That clause 10 stand part of the Bill.”

Mr. G. H. Spence (Secretary, Legislative Department) : Sir, I move :

“ That in clause 10 of the Bill, in the proposed new Third Schedule :

- (i) in paragraph 1 of Part I for the figures ‘ 402 ’ where they occur for the first time, the figures ‘ 403 ’ be substituted,
- (ii) in paragraph 11 of Part II for the figures ‘ 1154 ’ where they occur for the second time, the figures ‘ 1151 ’ be substituted.”

This amendment merely corrects errors. Sir, I move.

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

“ That in clause 10 of the Bill, in the proposed new Third Schedule :

- (i) in paragraph 1 of Part I for the figures ‘ 402 ’ where they occur for the first time, the figures ‘ 403 ’ be substituted,
- (ii) in paragraph 11 of Part II for the figures ‘ 1154 ’ where they occur for the second time, the figures ‘ 1151 ’ be substituted.”

The motion was adopted.

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

“ That clause 10, as amended, stand part of the Bill.”

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. Mohan Lal Saksena : Sir, I rise on a point of order. I take objection to the motion being made by the Honourable Member under Standing Order 49 (2), which says :

“ If any amendment of the Bill is made, any member may object to any motion being made, on the same day, that the Bill be passed, and such objection shall prevail, unless the President in the exercise of his power to suspend this standing order, allows the motion to be made.”

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member may assume that I suspend the Standing Order.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I beg to move :

“ That the Bill, as amended, be passed.”

Pandit Govind Ballabh Pant : Sir, the Honourable Member objected to our motion for circulation and we thought that he would have the chivalry to respect and observe the rules scrupulously.

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

“ That the Bill, as amended, be passed.”

The motion was adopted.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I have to inform the House that in accordance with what appears to be the general desire of Honourable Members, I have decided not to move the Road Resolution during the course of the current Session. I may also mention that representations have been addressed to the Leader of the House for the allotment of Government time to enable a private Bill passed by the Council of State for the better management of the Durgah Khawaja Saheb, Ajmer, to be taken up in this Chamber during the course of the present Session. In deference to these representations we have agreed to allow this Bill to be taken on the conclusion of all Government business, conditionally on all Government business being finished on Thursday and on Honourable Members then desiring that the House should sit on Friday for the disposal of this Bill. In view, however, of what I understand to be the desire of all Honourable Members that the Session should terminate as soon as possible, we cannot agree to this Bill being proceeded with if Government business is not concluded on Thursday. Finally, Sir, I should mention that as Wednesday in this week, though not a gazetted holiday, is the date of an important Hindu festival, we propose that the House should not sit on the morning of that day but should meet at 2 P.M. and that Questions should be dispensed with. I understand, Sir, that you are prepared to agree to this arrangement.

Some Honourable Members : Questions should not be dispensed with.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, there is a general feeling that the House should not sit on Wednesday, it is shared by most Members on this side and I think several sitting on the other side sympathise with this desire and would welcome a decision to this effect. I am strengthened in making this suggestion by what we have been able to do today. What remains now is very little and I have every hope that we will be able to finish the remainder of the business in two days. In any case we have to meet here on Thursday because the Companies Bill cannot possibly be brought to the House before Thursday. As we have to meet on Thursday, I suggest that the House should not meet on Wednesday.

Mr. M. S. Aney (Berar Representative) : Before the Honourable the President gives his final ruling, I want to make one observation. I find that the Honourable Member is willing to have the House in the afternoon and not in the forenoon of that day. I wish to say that it is a holiday intended for the performance of Shraadh which means that the afternoon is the part of the day needed for that purpose,.....

Mr. President (The Honourable Sir Abdur Rahim) : It is not a gazetted holiday.

Mr. M. S. Aney : It may not be : but the point is this : if a holiday is to be observed, the afternoon should be clear and I would therefore request that the whole day must be declared as a holiday for that purpose.

The Honourable Sir Muhamamad Zafrullah Khan (Member for Commerce and Railways) : May I submit, Sir, that this question might be taken up tomorrow, for the reason, that if the House gets through the Civil Procedure Code (Amendment) Bill and also agrees to the motion with regard to the Bill further to amend the Trades Disputes Act tomorrow, then perhaps the House will not sit on Wednesday, as there may not be enough work for that day.

Mr. President (The Honourable Sir Abdur Rahim) : The matter may be mentioned tomorrow. The House is adjourned till 11 o'clock tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 13th October, 1936.