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THE
LEGISLATIVE ASSEMBLY DEBATES

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(9th April to 23rd April 1936)

THIRD SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,
1936



NEW DELHI
GOVERNMENT OF INDIA PRESS

Legislative Assembly.

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MR. M. S. ANNY, M.L.A.

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LEGISLATIVE ASSEMBLY.

Saturday, 18th April, 1936.

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

QUESTIONS AND ANSWERS.

ARTICLE ENTITLED "LOWER RATES PAY" PUBLISHED IN THE *Madras Mail*.

1747. *Mr. S. Satyamurti: Will Government be pleased to state:

- (a) whether their attention has been drawn to a leading article entitled "Lower Rates Pay" published in the *Madras Mail*, dated 6th February, 1936; and
- (b) whether they propose to follow the advice given in that article in regard to the Postal Department, and if not, why not?

The Honourable Sir Frank Noyce: (a) Yes.

(b) In so far as the article urges "more striving to increase income by improved and more comprehensive service" its advice has been anticipated in the Posts and Telegraphs Department. In so far as it urges "less searching for savings", Government do not propose to accept its advice.

OPENING OF A NEW STATION BETWEEN RAMNAGAR AND KASHIPUR ON THE ROHILKUND AND KUMAON RAILWAY.

1748. *Mr. S. Satyamurti (on behalf of Pandit Govind Ballabh Pant): (a) What is the distance between Ramnagar and Kashipur stations on the Rohilkund and Kumaon Railway?

(b) How long does the train take to cover the said distance?

(c) Have any suggestions been made for opening an intermediate station between the above mentioned stations?

(d) Is it the intention of the Rohilkund and Kumaon Railway administration to start such a station?

The Honourable Sir Muhammad Zafrullah Khan: (a) 17 miles.

(b) 56 minutes in the case of the down train and one hour seven minutes in the case of the up train.

(c) and (d). Government have no information. I am, however, sending a copy of the Honourable Member's question and of my reply thereto to the Agent of the Rohilkund and Kumaon Railway for consideration.

NON-ACCEPTANCE OF THE CERTIFICATES OF PRIVATE REGISTERED MEDICAL PRACTITIONERS ON THE ROHILKUND AND KUMAON RAILWAY.

1749. *Mr. S. Satyamurti (on behalf of Pandit Govind Ballabh Pant): Will Government be pleased to state if it is a fact that the railway authorities of the Rohilkund and Kumaon Railway do not accept the medical certificate of private registered medical practitioners, even though duly qualified and registered? If so, why?

The Honourable Sir Muhammad Zafrullah Khan: Government are informed that where circumstances warrant, the District Medical Officer, Rohilkund and Kumaon Railway, is allowed to use his discretion in accepting medical certificates from qualified medical practitioners.

SCALES OF PAY OF TEACHERS IN RAILWAY MIDDLE SCHOOLS,

1750. *Mr. S. Satyamurti (on behalf of Pandit Govind Ballabh Pant): (a) Is it a fact that in reply to question No. 619, put on the 28rd February, 1931, Government had agreed to revise the scales of pay in force in the Railway Middle Schools in the United Provinces in accordance with the scale sanctioned for similar schools by the Government of the United Provinces? If so, has the promised revision been made?

(b) Is it a fact that six teachers of the Railway Middle School at Bareilly have not been given the increment that would have fallen due in accordance with the Government scale on 1st April, 1936?

(c) Is it a fact that the teachers are granted regular increments up to Rs. 250 in the case of graduates and Rs. 150 in the case of undergraduates in Government schools and that the efficiency bar does not come in till the above mentioned salaries have been reached?

(d) Is it a fact that the increments of the teachers in the Railway Middle School at Bareilly have been stopped on their attaining the salary of Rs. 150 in the case of graduates and Rs. 75 in the case of undergraduates?

(e) How many schools are maintained on behalf of the East Indian Railway in the United Provinces?

(f) Is there any discrimination in the matter of leave rules between Oakgrove School, Jharipani, Mussoorie and the Victoria Middle School at Bareilly and Moghulsarai and the High School at Tundla?

(g) Is privilege leave or leave on medical certificate admissible in the first and inadmissible in the latter schools?

The Honourable Sir Muhammad Zafrullah Khan: I am collecting information and will lay a reply on the table of the House, in due course.

HOLIDAY FOR BAISAKHI IN THE GOVERNMENT OF INDIA OFFICES.

1751. *Pandit Krishna Kant Malaviya: (a) Will Government be pleased to state whether a full holiday for Hindus is observed in the Government of India and attached and subordinate offices on Baisakhi day which is a most important Hindu festival?

(b) If so, is such holiday granted to Hindus in all the Government offices of India and their attached and subordinate offices?

(c) If not, is it a fact that certain Government of India and attached offices do not observe the festival as a Hindu festival and on that account they refuse a full holiday for this festival to their Hindu staff?

(d) If the answer to part (c) be in the affirmative, will Government please state the reasons for not observing the festival as a Hindu festival?

(e) Will Government be pleased to state the names of the Government of India and its attached offices:

(i) which granted a full holiday to Hindus, and

(ii) which refused a full holiday to Hindus, for this festival during the last five years?

The Honourable Sir Henry Craik: The information is being collected and will be laid on the table in due course.

WILLINGDON NURSING HOME AT NEW DELHI.

1752. ***Mr. Muhammad Azhar Ali:** (a) Will Government please state whether the Willingdon Nursing Home at New Delhi is kept open throughout the year? If not, for what period is it open?

(b) How much money has the New Delhi Municipality sunk into this project? Whom do they cater for essentially?

(c) Is the New Delhi municipal tax-payer rendered free medical aid in all respects? If not, why not?

(d) If the Home was closed down in the summer, who then does it cater for in winter? Is it the local tax-payer?

(e) Do the municipality employ their own doctors to run the Home? If not, who actually runs the Home?

(f) Is it a fact that the Superintendent and Deputy Superintendent of the Willingdon Nursing Home are but the Civil Surgeon, New Delhi, and his Assistant, whose primary duties are to tend to Government employees of the Senior and Junior Secretariats and allied departments of the Government of India? If so, why are the officers employed in running a municipal institution?

(g) Are private doctors engaged by the municipality to tend to such patients, who, normally, are not entitled to the free medical services of official doctors? If not, why are they debarred? If so, who are the practitioners permitted?

(h) Hitherto, how much have the Civil Surgeon and his Assistant, paid by the New Delhi Municipality, severally, recovered from medical fee-paying patients admitted with regard to:

(i) medical attendance;

(ii) operations; and

(iii) other charges?

(i) What fees have private practitioners of Delhi and New Delhi earned from similar sources, specified in the above paragraph? If none, are private practitioners debarred and why?

Sir Girja Shankar Bajpai: With your permission, Sir, I will reply to questions Nos. 1752 and 1753 together.

The information is being collected and replies will be furnished to the House as soon as possible.

WILLINGTON NURSING HOME AT NEW DELHI.

†1753. ***Mr. Muhammad Azhar Ali:** (a) Under the rules and regulations of the New Delhi Nursing Home, issued from time to time, is it not evident that only three special classes are being catered for, viz.:

- (i) certain privileged officers of the Civil Services in India;
- (ii) Army Officers; and
- (iii) the doctors employed by the Home itself? If not, what conveniences, if any, does the ratepayer and other servants of the State acquire by its existence?

(b) Is it a fact that while certain Civilians of the Imperial Services and Army Officers actually pay Rs. 3-8-0 and Rs. 4, respectively, themselves, per diem, the balance chargeable to these categories at Rs. 12 per diem is made up from the public exchequer?

(c) What is the position of other Government servants in this matter of relief? Do they receive any at all?

(d) Is it true that the New Delhi Municipality enhanced the minimum charge from Rs. 4 to Rs. 6 on the 26th March, 1935? If so, why was the enhancement made at all?

(e) Are Government prepared to withdraw their services from every municipal institution? If not, what objections have they?

EXPORT TRADE OF PROVISION OPIUM.

1754. ***Srijut Kuladhar Chaliha:** (a) Will Government be pleased to state whether the export trade of provision opium has terminated?

(b) What quantity of excise opium is in stock at the end of 1935 from

- (i) Ghazipur Opium Agency;
- (ii) Joint Malwa States;
- (iii) Gwalior;
- (iv) Indore; and
- (v) other Indian States and sources?

(c) How is the stock going to be disbursed in 1936-37?

(d) What area of land is going to be cultivated with poppy for excise opium (i) under the Ghazipur opium agency in 1936-37, and (ii) elsewhere?

Mr. A. H. Lloyd: (a) Yes.

(b) The stock of raw opium on the 1st October, 1935, the latest date for which information is available, was:

	Maunds.
Benares	12,590
Malwa	10,707
Hard Mewar	2,471

It is not possible to give separate figures of the amounts of Malwa opium supplied by various States as they are not kept in stock separately.

(c) According to the present programme 2,550 maunds of raw Benares and 4,900 maunds of Malwa or Hard Mewar opium will be required for the manufacture of excise and Indian Medical opium during 1936-37.

(d) The area of land to be brought under poppy cultivation in the United Provinces in the year 1936-37 is 12,000 bighas, while the area under poppy cultivation in Central India and Rajputana States which supply opium to Government will depend on the quota of opium fixed for each State. This quota has not yet been fixed for 1936-37.

Srijut Kuladhar Ohaliba: Have the Government of India adopted any policy of gradual reduction with a view to finally terminating poppy cultivation in India?

Mr. A. H. Lloyd: No, Sir. The Government of India have not adopted any policy directed at the entire stoppage of cultivation for use in India.

OPIMUM CONSUMED IN DIFFERENT PROVINCES AND NUMBER OF OPIMUM SMOKERS.

1755. *Srijut Kuladhar Ohaliba: Will Government be pleased to state:

- the quantity of opium consumed in different provinces of India in 1934-35;
- the number of opium smokers in different provinces in 1934-35; and
- whether the number of opium smokers was communicated to the League of Nations?

Mr. A. H. Lloyd: (a) A statement is laid on the table.

(b) and (c). The number of registered opium smokers in Burma at the close of the year 1934 was 20,936. The number of suspected opium smokers in the Central Provinces during that year was estimated at 9,507 and in Bombay the number was believed to be 1,200. This information was communicated to the League of Nations. The Government of India have no information about the number of opium smokers in other provinces.

Statement showing consumption of opium in various provinces in 1934-35.

	Seers.
Madras	28,589
Bombay	16,328
Sind	4,719
Bengal	27,104 †
Burma	22,720 †
United Provinces	17,487
Punjab	30,330 †
Bihar and Orissa	20,086
Central Provinces	11,691 *
Assam	11,753
North-West Frontier Province	1,067
Delhi	1,415
Ajmer-Merwara	3,381
Coorg	18.5 †
Baluchistan	477 †

*Figures relate to calendar year 1934.

†Figures relate to 1933-34, as figures for 1934-35 are not yet available.

Srijut Kuladhar Chaliha: Has the system of licensing and rationing been adopted in any other province except Assam and Burma?

Mr. A. H. Lloyd: No, Sir.

Srijut Kuladhar Chaliha: When do Government think of adopting it?

Mr. A. H. Lloyd: The matter is one within the discretion of Local Governments since opium is a provincial transferred subject.

Srijut Kuladhar Chaliha: Will Government be pleased to state whether the agreement signed before the League of Nations has been applied, namely, that they will adopt the system of employing persons paid by fixed salary and not by commission on sales for the retail sale of opium?

Mr. A. H. Lloyd: I should like to have notice of that question.

**TEA ESTATES WHICH APPLIED FOR SPECIAL TREATMENT UNDER THE
TEA CONTROL ACT.**

1756. ***Srijut Kuladhar Chaliha:** Will Government please state:

- the number of tea estates which applied for special treatment under the Tea Control Act in 1934-35 and 1935-36;
- the number of applications received from (i) Indians and (ii) Europeans, in 1934-35 and 1935-36; and
- the number of applications rejected of (i) Indians and (ii) Europeans in 1934-35 and 1935-36?

The Honourable Sir Muhammad Zafrullah Khan: (a) to (c). The information is being collected and will be laid on the table of the House in due course.

INDIAN TEA ESTATES.

1757. ***Srijiit Kuladhar Chaliha:** Will Government be pleased to state:

- (a) the number of Indian Tea Estates or firms which are members of the Indian Tea Association;
- (b) the total number of Indian-owned tea estates in Bengal and Assam and elsewhere;
- (c) whether any representation has been given to the Indian Tea Owners (outside the members of Indian Tea Association) on the Indian Tea Licensing Committee; if not, whether they propose to consider the advisability of doing so?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). The information is being collected and will be laid on the table of the House in due course.

(c) Yes. The attention of the Honourable Member is invited to the provisions of section 3 (1) of the Indian Tea Control Act, 1933.

Srijiit Kuladhar Chaliha: Are Government aware that there is strong resentment on the part of the small Indian tea owners on account of the want of representation in the Indian Tea Licensing Committee?

The Honourable Sir Muhammad Zafrullah Khan: No, Sir.

GURKHAS FROM NEPAL AND OTHER CASTES FROM ASSAM IN THE ASSAM RIFLES.

1758. ***Srijiit Kuladhar Chaliha:** Will Government be pleased to state:

- (a) the proportion of Gurkhas from Nepal in the Assam Rifles and other castes from Assam; and
- (b) whether they have considered the question of stopping recruitment from outside?

The Honourable Sir Henry Craik: (a) Gurkhas from Nepal, 74 per cent., and natives of Assam, 26 per cent.

(b) No, as even the percentage of 37½ up to which according to the present class composition Assamese can be recruited has never been reached.

OFFICERS EMPLOYED BY THE TEA CESS COMMITTEE TO CARRY ON THE PROPAGANDA WORK.

1759. ***Srijiit Kuladhar Chaliha:** Will Government please state:

- (a) how many grades of officers are employed by the Tea Cess Committee to carry on the propaganda work, and their scales of pay;
- (b) how many of these posts are filled by (i) Europeans, (ii) Anglo-Indians; and (iii) Indians;

- (c) whether these officers are meant for propaganda amongst Indians;
- (d) the result of the tea propaganda in America and France;
- (e) whether there was any increase in export of tea to those countries (America and France) in 1934-35; and
- (f) the cost incurred in propaganda in America and France in 1933, 1934 and 1935?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). The Honourable Member is referred to the statement laid on the table of the House on the 19th September, 1935, in reply to question No. 491 by Mr. B. B. Varma regarding the employees of the Indian Tea Cess Committee

(c) The propaganda campaigns of the Committee are meant for increasing the consumption and the sale of tea in India generally, and it is obvious that the Committee's activities in India must mainly be among the Indian population.

(d) The propaganda campaigns in America have assisted greatly during a period of world-wide reduced consumption, in maintaining generally the level of imports of Indian tea into that country.

There has been no propaganda work in France since 1927.

(e) The Honourable Member is referred to the Annual Statement of the Sea-borne Trade of British India with British Empire and Foreign Countries (Volume I), a copy of which is available in the Library.

(f) The accounts of the Tea Cess Committee are at present maintained according to the financial year and the information available with Government shows that the following amounts were expended for propaganda in America:

	Rs.
1932-33	5,85,138
1933-34	5,78,389
1934-35	6,66,783

NOTICE FOR THE TERMINATION OF THE OTTAWA TRADE AGREEMENT.

1760. *Mr. S. Satyamurti: Will Government be pleased to state:

- (a) whether in accordance with the Resolution of the Assembly on the Ottawa Agreement, they have given notice to His Majesty's Government of the termination of the Agreement under Article 14 of the same;
- (b) if not, why not;
- (c) if so, the date of notice;
- (d) if they have not given notice, when they propose to give notice;
- (e) whether they propose to start trade negotiations with other countries with which India has trade relations with a view to promote export trade;
- (f) if so, the countries with which they propose to start negotiations;

(g) whether their attention has been drawn to the speech of the Secretary of State for India, reported in the *Hindustan Times* of the 4th April, 1936;

(h) whether they have heard from the Secretary of State to the effect that negotiations are to be started for fresh trade agreements; and

(i) what the latest position of the whole matter is?

The Honourable Sir Muhammad Zafrullah Khan: (a) to (f). The questions of giving notice and of the action to be taken thereafter are now the subject of consideration by the Government of India.

(g) Yes.

(h) No.

(i) The Honourable Member is referred to the replies to parts (a) to (h) of this question.

Mr. S. Satyamurti: How long do Government propose to take before they come to a decision on this matter? I am asking because the six months will start from that date, and I am asking whether Government propose to allow any more time to elapse, before the period of six months starts as contemplated by this House.

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member may rest assured that Government have no ulterior purpose in the matter at all. Government will take action as soon as the matters, that must be settled before notice is actually given, are settled, and they will try to settle these matters as soon as possible.

Mr. S. Satyamurti: But what are the matters, if the Commerce Member has no objection to tell the House, which have to be settled before actually giving notice?

The Honourable Sir Muhammad Zafrullah Khan: Generally, matters of procedure.

Mr. S. Satyamurti: Are they in correspondence with the Secretary of State over the matter of procedure?

The Honourable Sir Muhammad Zafrullah Khan: The Secretary of State has to be consulted.

Mr. S. Satyamurti: With reference to the answer to part (e) of the question, I thought the Honourable Member said "yes".

The Honourable Sir Muhammad Zafrullah Khan: No, I said "yes" in reply to part (g).

Mr. S. Satyamurti: What is the answer to part (e)?

The Honourable Sir Muhammad Zafrullah Khan: I answered parts (a) to (f) together and said these questions were the subject of consideration by the Government of India.

Mr. S. Satyamurti: I want to know specifically whether the question of starting trade negotiations with other countries, including the United Kingdom, is being considered, apart from the question of giving notice about the termination of the Ottawa Agreement, according to the mandate of this House?

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir, I have said that all these questions are under the consideration of the Government of India.

Mr. S. Satyamurti: In starting those trade negotiations, will Government be good enough to consult Indian commercial and industrial opinion, in the most comprehensive manner?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid that the stage has not yet arrived when the Government could give an answer to this question.

Mr. S. Satyamurti: When that stage comes, will Government be prepared to consult all relevant Indian commercial opinion on the matter?

The Honourable Sir Muhammad Zafrullah Khan: It would depend upon the considerations that rule the matter when the stage does arrive. I am afraid at the present stage the question is hypothetical.

Mr. S. Satyamurti: With reference to the answer to parts (g) and (h) of the question, may I know if the Secretary of State's statement that fresh negotiations are to be started for fresh trade agreements made in a speech to which I have drawn attention in part (g) of the question was made after consultation with the Government of India or with their knowledge?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid I cannot give the Honourable Member any information with regard to communications between the Secretary of State and the Government of India.

Mr. S. Satyamurti: Has any communication gone from this Government to the Secretary of State on this matter?

The Honourable Sir Muhammad Zafrullah Khan: The Government of India and the Secretary of State are in communication with each other on this matter.

Mr. S. Satyamurti: What is the machinery which Government propose to set up, before taking further steps in connection with this matter, in pursuance of the Resolution of this Honourable House?

The Honourable Sir Muhammad Zafrullah Khan: Will the Honourable Member try to make his question a little more specific? With regard to what particular action does he want to know about the machinery which Government propose to set up?

Mr. S. Satyamurti: The whole question of the foreign trade of this country came within the scope of the Resolution of this House by the amendment of Mr. Jinnah. I want to know whether Government are thinking of setting up any machinery for dealing with the whole question of foreign trade in a manner satisfactory to all relevant opinion in this country.

The Honourable Sir Muhammad Zafrullah Khan: I cannot add to what I have already said in reply to parts (a) to (f) of the question.

TRANSFER OF BORPETHAR MOUZA IN GOLAGHAT SUB-DIVISION IN ASSAM TO THE MIKIR HILL TRACTS.

1761. ***Srijut Kuladhar Chaliha:** Will Government please state:

- (a) whether Borpethar Mouza in Golaghat Sub-division in the Province of Assam has been transferred to the Mikir Hill tracts under the Assistant Political Agent;
- (b) whether the people inhabiting the area have been deprived of the ordinary jurisdiction of the civil and criminal courts, trial by jury and their right to prefer appeals to the Calcutta High Court which they enjoyed so long; and
- (c) whether they will exercise the ordinary rights of franchise in the next reforms in the general constituency of the Golaghat Sub-Division?

The Honourable Sir Nripendra Sirca: Sir, I intended to say that information was being obtained, but this morning I have received a telegram from the Government of Assam which I propose to read out and which is all the information which I have got so far:

"Reference your telegram of the sixteenth about Assembly question. For at least about 30 years Borpethar Mouza has been included in the Mikir Hills jurisdiction and under the new Constitution it will remain in that jurisdiction which will be a partially excluded area. The inhabitants of that Mouza have never been subject to the ordinary jurisdiction of the Civil and Criminal Courts. Appeals lie to Commissioner and Local Government, but under the new Constitution they will exercise the ordinary right of franchise in the General and Muslim constituencies of Golaghat because they are mainly ex-tea garden coolies and have more affinities with the people of the General and Muslim constituencies than with the Mikir Hills people proper. The question of their exclusion from Mikir Hills jurisdiction was carefully considered by the Local Government which decided that they were more likely to derive material benefit in the shape of roads, water supply and medical help by remaining in the Mikir Hills jurisdiction."

Srijut Kuladhar Chaliha: The statements made in the telegram are inaccurate. People there till last year enjoyed the privileges of Civil and Criminal Courts and jury trial. Will Government please make enquiries?

The Honourable Sir Nripendra Sirca: My Honourable friend is giving the direct lie to the information received from the Government of Assam.

Srijut Kuladhar Chaliha: As it is.

The Honourable Sir Nripendra Sirca: I may go on saying that it is not so.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has got to accept the statement.

DEFORESTATION OF AN AREA IN THE GOLAGHAT SUB-DIVISION IN ASSAM.

1762. ***Srijut Kuladhar Chaliha**: Will Government please state:

- (a) whether they have received any communication from the Government of Assam for deforestation of an area over 20,000 acres in the Golaghat Sub-division; and
- (b) whether they have accorded the necessary sanction as required?

Sir Girja Shankar Bajpai: (a) No.

(b) Does not arise.

REDUCTION IN THE GRANT-IN-AID OF THE EAST INDIAN RAILWAY ANGLO-VERNACULAR HIGH SCHOOL, TUNDLA.

1763. ***Pandit Sri Krishna Dutta Paliwal**: (a) Will Government be pleased to state if it is a fact that the grant-in-aid of the East Indian Railway Anglo-Vernacular High School, Tundla, was substantially reduced in the year 1935-36?

(b) Is it a fact that the Railway authorities made representation to the Education authorities, United Provinces, for enhancing the grant-in-aid and threatened to reduce the strength of the staff and the status of the school in case their request was not acceded to?

(c) Is it a fact that some responsible authorities of the Education Department, United Provinces, have advised the Railway authorities to reduce the school from its present status of High school to that of an Anglo-Vernacular Middle School?

(d) What was the amount of the United Provinces Government grant in 1934-35? What is it now, i.e., in 1935-36?

The Honourable Sir Muhammad Zafrullah Khan: With your permission, Sir, I shall reply to questions Nos. 1763, 1764 and 1765 together.

Information is being collected, and a reply will be laid on the table of the House in due course.

STOPPAGE OF THE TEACHING OF SANSKRIT AND PERSIAN IN THE EAST INDIAN RAILWAY ANGLO-VERNACULAR HIGH SCHOOL, TUNDLA.

†1764. ***Pandit Sri Krishna Dutta Paliwal**: (a) Is it a fact that it has been decided to stop the teaching of Sanskrit and Persian in the East Indian Railway Anglo-Vernacular High School, Tundla, and the teachers of these subjects have been given notice of the termination of their services on and from the 14th May, 1936?

(b) Is it a fact that the current session ends on 30th June, 1936?

(c) Is it also a fact that only teachers of Sanskrit and Persian in the school have been served with notices of dismissal?

(d) How much net saving is expected to be affected by the abolition of Sanskrit and Persian in the said school?

†For answer to this question, see answer to question No. 1763.

(e) Is similar economy being effected in other schools of the Railway, including the European schools for boys and girls, maintained by the East Indian Railway?

(f) What subjects have been abolished for reasons of economy in the Oakgrove School and other European schools?

STOPPAGE OF THE TEACHING OF SANSKRIT AND PERSIAN IN THE EAST INDIAN RAILWAY ANGLO-VERNACULAR HIGH SCHOOL, TUNDLA.

†1765. ***Pandit Sri Krishna Dutta Paliwal:** (a) Is it a fact that public meetings have been held at Tundla and representation made to the Department of Education, the United Provinces and the Railway authorities protesting against the abolition of Sanskrit and Persian in the East Indian Railway Anglo-Vernacular High School, Tundla? If so, will Government be pleased to lay a copy of the representation on the table and state what action has so far been taken on it?

(b) Is it a fact that in reply to the representation to the Agent, East Indian Railway, he informed the Secretary, Vidya Sambardhani Samiti, Tundla that its contents have been noted and that the detailed points should be referred to the management committee of the school?

(c) Is it a fact that accordingly a representation has been sent to the Secretary of the schools?

(d) Is it a fact that the representation was not placed before the committee and the vice-president on his own authority replied "I regret the matter having been dealt with by the higher authorities, nothing further is possible here in this connection"?

(e) Was the vice-president authorised to decide the matter without referring the matter to the committee? If so, under what rules?

(f) Will Government please state who is the next higher authority in the matter?

(g) Will Government please state what effect, if any, the presence of these two posts had on the budget of the school this year?

(h) Is it a fact that the Inspector of Schools is of opinion that the presence of these two posts will not materially affect the finances of the school?

(i) Do Government intend to revise their policy and allow these two posts to continue?

IRREGULARITIES IN MAKING OFFICIATING AND PERMANENT ARRANGEMENTS IN THE INDUSTRIAL BRANCH OF THE FORMS PRESS, ALIGARH.

1766. ***Pandit Sri Krishna Dutta Paliwal:** (a) Are Government aware that the officiating and permanent arrangements made by the Assistant Manager and the Manager in the industrial branches of the Government of India Press, Aligarh, are not in accordance with the orders issued by the Government of India from time to time in connection with the observance of communal composition?

†For answer to this question, see answer to question No. 1763.

(b) Are Government aware that these orders are still being ignored by the authority concerned in Aligarh Press?

(c) Will Government be pleased to lay on the table a statement showing the number of all the officiating, temporary and permanent arrangements made in various industrial branches, on different dates, of the Aligarh Press during the last three years, giving reasons for ignoring orders by the two officers of the Aligarh Press?

(d) What steps have so far been taken by the Controller of Printing against the officers responsible for not adhering to the Government orders and if none, why not?

(e) What steps do Government propose to take to regularise the irregularities of the Aligarh Press in future in the matter of communal composition in the industrial branches?

The Honourable Sir Frank Noyce: (a) and (b). No. Attention is invited to the replies I gave on 19th February, 1936, and 26th February, 1936, respectively, to part (a) of the Honourable Member's starred question No. 682 and unstarred question No. 202.

(c) I am not in possession of these particulars and, as I have explained in reply to previous questions, the orders regarding communal composition do not apply to promotions, temporary or permanent.

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

OUTTURN OF THE BINDERY BRANCH OF THE FORMS PRESS, ALIGARH.

1767. *Pandit Sri Krishna Dutta Paliwal: (a) Are Government aware that the establishment of the Bindery Branch of the Aligarh Press is bigger than any other Press of the Government of India, but the outturn of work is not the same in comparison with those of other Presses?

(b) Are Government aware that no account of outturn is kept of any of the men on that branch?

(c) Are Government aware that there is no fixed scale of outturn of these men who are all on fixed salary?

(d) If the replies to the preceding parts are in the affirmative, are Government prepared to consider the advisability of introducing piece system on the same lines as in some of the other Presses of the Government of India?

The Honourable Sir Frank Noyce: (a) The reply to the first part is in the negative. In actual fact, the Calcutta Press has a much larger binding staff than the Aligarh Press. As regards the latter part, Government have no reason to believe that the outturn of the binders in the Aligarh Press is below normal.

(b) and (c). No.

(d) Does not arise.

EXPENDITURE INCURRED IN MAINTAINING THE OFFICES OF THE CONTROLLER OF PRINTING AND STATIONERY AT CALCUTTA AND DELHI.

1768. *Pandit Sri Krishna Dutta Paliwal: (a) Will Government be pleased to lay on the table a statement showing the amount of expenditure

incurred in maintaining the offices of the present Controller of Printing and Stationery at Calcutta and Delhi for the five financial years as compared with the expenditure of the offices of the Controller of Printing, Stationery and Stamps during the five financial years from 1905-06 to 1909-10?

(b) If the expenditure is in excess as compared to those of previous years, are Government prepared to take steps to effect reduction in the pay and staff of the officials of the Controller of Printing and Stationery?

The Honourable Sir Frank Noyce: (a) I regret I cannot furnish the information required by the Honourable Member as research into details of expenditure of thirty years ago would entail a large amount of time and trouble. Moreover, no purpose would be served by a comparison of the figures of expenditure for the earlier period with those of five recent financial years as the Branches of the Stationery and Printing Department have been radically reorganised since 1910. The Central Publication Branch, the Central Forms Store, the Calcutta Forms Press and the Delhi Press were not then in existence, the Aligarh Press was not under the Controller and he had no headquarters office apart from the Stationery Office.

(b) Does not arise.

AMALGAMATION OF THE TWO OFFICES OF THE CONTROLLER OF PRINTING AND STATIONERY.

1769. ***Pandit Sri Krishna Dutta Paliwal:** (a) Will Government be pleased to state what advantage is gained by maintaining the offices of the Controller of Printing and Stationery at two different places, Calcutta and Delhi?

(b) With a view to effect economy, do Government propose to consider the advisability of amalgamating them immediately either at Calcutta or at Delhi? If not, why not?

The Honourable Sir Frank Noyce: (a) The Controller's office is at New Delhi. The offices of the Presses and other establishments subordinate to him are located at the places regarded as convenient for administrative purposes.

(b) Does not arise.

LEVY OF TERMINAL TAX AT RAILWAY OR STEAMER STATIONS.

1770. ***Mr. Suryya Kumar Som:** Will Government lay on the table a statement showing:

(a) the names of the Railway or Steamer stations in British India where terminal tax is levied on:

- (i) passengers,
- (ii) goods, and
- (iii) both;

(b) the rate of the tax in each case;

(c) the amount realised in each case during the last two years;

(d) the purpose for which the proceeds of the tax are spent in each case; and

(e) the provision of law under which the tax is levied in each case?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). The available information is given at pages 550 to 568 of the Indian Railway Conference Association's Coaching Traffic No. (10), a copy of which is available in the Library of the House.

(c) Government have no information.

(d) The net proceeds are made over to the local bodies on whose behalf the collection is made.

(e) The taxes are collected under notifications or instructions issued by the Local Governments concerned.

DISCONTINUANCE OF THE USE OF CASTOR OIL AS LUBRICANT ON STATE RAILWAYS.

1771. ***Mr. S. Satyamurti** (on behalf of Pandit Govind Ballabh Pant): (a) Are Government aware that the State-owned Railways have recently commenced to use a non-Empire mineral oil, gargoyle h. dark lubricating, imported from America in place of castor oil, an indigenous lubricant?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state whether they have studied the economic effect upon India resulting from the discontinuance of the use of castor oil as lubricant, such as:

(i) the effect on the Indian oil industry;

(ii) the effect on the Indian sugar industry, through the absence of castor cake as a fertiliser;

(iii) the effect on the Indian agriculture for want of castor cake as a fertiliser and loss of market for castor seed;

(iv) the effect on the wear and tear of locomotives;

(v) the loss of milage due to the locomotives remaining in repair shops for a longer time; and

(vi) the loss of Railway freight on castor seed, castor cake, coal, mill accessories, gunny bags, empty drums, etc., used in the castor oil crushing industry?

(c) Is it a fact that the East Indian, the Bombay, Baroda and Central India, the Bengal and North Western and the North Western Railways owned their own castor oil mills for producing lubricating oil some ten years back?

(d) Will Government be pleased to state the quantities of castor oil and mineral oils used during each of the past five years by each of the State-owned Railways, and for what quantities of these oils contracts have been placed for the year 1936-37?

(e) Will Government be pleased to state what efforts they have made to encourage the pressing of oil seeds in India?

(f) Are Government aware that the discontinuance of the use of castor oil by Railways is likely to kill the castor seed crushing industry?

(g) Are Government aware that the Departments of Agriculture in the sugarcane growing areas are advocating an increased use of castor cake as a fertiliser for the sugarcane crop?

(h) Are Government aware that the effect of importing mineral oil for use in Railways in place of castor oil will cause a serious shortage of castor cake to the detriment of the sugarcane crop in particular and agriculture in general?

(i) Will Government be pleased to state whether any comparison has been made between the life of locomotive bearings when castor oil is used as a lubricant and when mineral oil is used?

(j) Is it a fact that many locomotive engineers are of the opinion that castor oil as a lubricant is superior to mineral oil for the high temperatures prevailing in India, on account of its high flash point and good viscosity at high temperatures?

(k) Will Government be pleased to state the loss of revenue due to locomotives being laid up while under repairs on account of this substitution of castor oil as a lubricant?

(l) Are Government prepared to undertake that in future castor oil made in India will be given preference over imported mineral oils for use on the State-owned Railways?

The Honourable Sir Muhammad Zafrullah Khan: Information is being collected and will be laid on the table of the House in due course.

Mr. S. Satyamurti: Have Government no information, even with regard to part (a) of the question?

The Honourable Sir Muhammad Zafrullah Khan: Enquiries have been made from the railways concerned.

ELECTION OF THE CENTRAL ADVISORY COUNCIL FOR RAILWAYS.

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that upto 12 Noon on Friday, the 17th April, 1936, the time fixed for receiving nominations for the Central Advisory Council for Railways, only six nominations have been received. As the number of candidates is equal to the number of vacancies, I declare the following non-official Members to be duly elected to the said Council, namely:

- (1) Babu Baijnath Bajoria,
- (2) Mr. Kuladhar Chaliha,
- (3) Mr. B. B. Varma.
- (4) Lieut.-Colonel Sir Henry Gidney,
- (5) Mr. Suryya Kumar Som, and
- (6) Mr. H. M. Abdullah.

THE INDIAN COMPANIES (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the following motion moved by the Honourable Sir Nripendra Sircar on the 15th April, 1936:

"That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, be referred to a Select Committee, consisting of Mr. Bhulabhai J. Desai, Mr. S. Satyamurti, Mr. Anugrah Narayan Sinha, Pandit Govind Ballabh Pant, Mr. Sami Vencatachalam Chetty, Sir Cowasji Jehangir, Mr. Abdul Matin Chaudhury, Mr. Akhil Chandra Datta, Sir Leslie Hudson, Mr. Mathuradas Vissanji, Babu Baijnath Bajoria, the Honourable Sir Muhammad Zafrullah Khan, Diwan Bahadur R. V. Krishna Ayyar, Sir H. P. Mody, Mr. L. C. Buss and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. K. L. Gauba (East Central Punjab: Muhammadan): Sir, the Honourable the Law Member was perfectly right the other day when he said that this Bill was a Bill of first class importance. This Bill will affect not only auditors, directors and others associated with the management of companies, but will also affect many thousands of companies as such. It will affect millions of shareholders and a vast amount of capital which is invested in these companies. In considering the Bill before us, it is necessary to bear in mind certain facts. It is necessary to remember that the Companies Act is one of the major Acts on the Statute-book: it is an Act which runs into nearly 290 clauses, and the Schedules thereto amount to nearly one-third of the operative part of the Act. The Bill is of impressive proportions: it runs into a hundred clauses. It is also necessary to remember that the existing Companies Act was passed in 1913, and the present amending Bill comes before us after 23 years. Meanwhile, the English law has undergone considerable change. There has been in the meantime in England not merely an amending Act, but there has been a consolidating Act. One of the things that the Government of India, I believe, had in mind—the reason why they kept postponing amendment of the Companies Act—was that they did not want to tinker with the Act; and when the question of modification arose, they would modify it in a substantial manner. I regret that, in spite of the many clauses (several of which are of very minor importance indeed) before us for consideration, the Government of India have not seen fit to overhaul the whole Act and to put forward before this House a new consolidating Act rather than a mere amending Act.

On a careful scrutiny, this Bill will be found to consist of a great number of clauses taken bodily or with minor amendments out of the English Act—more than two-thirds of this Bill consists of such clauses, taken as I submit, practically *verbatim* out of the English Act,—several are merely consequential clauses, and amendments of an entirely insignificant character, and the new and substantial propositions which the Legislative Department has really formulated on this occasion are confined to a very few clauses of the Bill. In this connection it is also necessary to remember that in England the amendment of the Company Law was entrusted to a Committee of experts presided over by a person of the eminence of Mr. Wilfred Green, now Lord Justice Green. Here the amendment of the Companies Act was entrusted to a departmental expert: no matter what the merits of that might be, the advantages of a proper inquiry cannot possibly be overlooked.

I will now just briefly indicate the nature of the Bill which is before the House. As I said, 55 clauses derive their origin from the English Act. There are nine consequential amendments, 28 are unimportant amendments: one is the title, and two clauses relate to forms, leaving only eight or nine clauses which may really be regarded as the contribution by the Government of India to the amendment of the company law in India. The eight or nine propositions which the Legislative Department has contributed to the amendment of the company law are as follows: one is the amendment covered in clause 3, which provides a penalty for infringement of section 4 of the Act—I will explain what that means presently. Then, we have clause 18 of the Bill: we have clause 30 of the Bill which raises the number of minimum directors from 2 to 3. We have a part of clause 33, which is undoubtedly an important clause relating to directors. A great part of this clause is based on the new English Act but there are a few surprising contributions from the Government of India. Then, there is clause 35 entirely new and nothing like it in the English Act relating to Managing Agents. There is also clause 56 which relates to compulsory disclosure in the profit and loss account. There is an important clause—clause 86—which extends limitation in misfeasance proceedings under section 235 of the Act. Then, there is finally clause 96 which relates to banking companies.

Now, I will briefly take the House through these seven or eight clauses which are of importance and which may be considered to be the contributions of the Government of India towards the amendment of the company law in India. If we look at clause 3, clause 3 seeks to amend section 4 of the existing Act. Section 4 of the existing Act relates to the prohibition of certain partnerships exceeding a certain number. On scrutiny the two clauses of section 4 are based on two sections of the English Act—namely, sections 357 and 358 of the Act of 1929, speaking subject to correction. The English Act was amended in 1929. Up to 1929,—and I believe since—no need was found in England for providing any additional clause or penalties to this section. The contribution of the Government of India to this section is that they have provided a penalty to this section. If one looks at the nature of the section, it is an unimportant section, and I do not think that more than possibly one case in a thousand would come up so far as this section is concerned.

Now, let us come to clause 13. Clause 13 is not shown as borrowed from the English Law and appears to be as contribution of the framers of the present Bill to the amendment of the company law. But clause 13, if examined, will also be found to be a reproduction, borrowed almost *verbatim*, from the new English Act and is briefly as follows: clause 13, seeks to substitute for section 34 a new section consisting of five sub-clauses: the first two are borrowed from section 68 of the English Act: sub-clauses (3) and (4) are borrowed from the English Act again—section 66; sub-clause (5) is borrowed from section 63 of the English Act. Therefore, so far as this particular section is concerned, there is nothing original so far as the Government of India draftsmen, nor do I consider that the several matters have been grouped very well together, are concerned.

I want now to draw your attention to clause 27 of the Bill. Clause 27 of the Bill seeks to amend section 81 of the Act relating to extraordinary and special resolutions. It abolishes the necessity of two meetings for the purposes of a special resolution. This section follows the amended English Act. But since the passing of the English Act in 1929, the

[Mr. K. L. Gauba.]

change has been criticised: it has been found that the new procedure of having one meeting in place of two meetings formerly is a move in a retrograde direction, and this is the opinion, Sir, of the Bombay Shareholders' Association. The Association agrees with the point that, so far as a special resolution is concerned, the old practice of having two meetings is an infinitely better procedure. I would briefly read their recommendation on the subject:

"In our opinion, the change is in the retrograde direction as the holding of a confirmatory meeting really speaking constitutes a safeguard to the shareholders. It is true that a resolution having once been passed by three-fourths majority is not likely to be thrown out at the second meeting. Some new fact, however, may come to light which may change the view of those who voted for the resolution, and they may vote against the confirmatory meeting. We therefore submit that the existing practice should be maintained."

Well, Sir, I submit that, when this Bill goes into Select Committee, the Honourable Members of the Committee might very well consider the recommendation of the Bombay Shareholders' Association so far as the special resolutions are concerned.

Now, Sir, I come to the all-important clause of the Bill, clause 33, which relates to Directors. This clause, Sir, as I submitted before, consists partly of sections taken from the English Act and partly sections revised by the Legislative Department here. The section proposes to insert nine new sections after section 86 of the Act. Section 86A relates to the ineligibility of a bankrupt to act as a Director. This follows section 1 of the English Act. Clause 86B also follows the English Act and relates to the assignment of office by Directors. As to clause 86C, there is a certain amount of difference of opinion. It is stated to follow section 152 of the English Act. Section 152 of the English Act, Sir, as my friend, Mr. Bhulabhai Desai, pointed out the other day, was passed after the famous City Equitable Fire Insurance case whereby Directors could escape liability on account of negligent or other acts by reason of clauses of indemnity in a company's articles of association. The new section 86C is based upon the English section 152, but the framers of this Bill refer to the protection under section 281 of the Act, which already exists. This clause 86C refers, in the first place, to the Director, Manager or other officer of the company. What the framers of the Bill have not seen is that section 281 refers only to Directors, and to no other officers of the company. In the second place, under the new law, in England, section 372 corresponding to 281 of the Indian Act has also been amended, and an additional further protection has been given to the Directors under section 372 (2) which is new. Well, Sir, in referring in this connection . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must remember that the clauses are not before the House. A detailed discussion of the clauses is not in order at this stage. That time will come after the Bill comes back from the Select Committee. Now the principle is under consideration.

Mr. K. L. Gauba: I was submitting that so far as the clauses are concerned, . . .

Mr. President (The Honourable Sir Abdur Rahim): The Chair wants the Honourable Member to bear in mind the fact that the clauses of the Bill are not under detailed consideration now.

Mr. K. L. Gauba: I am making suggestions, Sir, that so far as these clauses

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot go into the clauses in detail.

Mr. K. L. Gauba: Now, I find it is stated here that it follows the English Act; I say that it does not follow the English Act, and my suggestions might be useful to the Members of the Select Committee when it meets.

Now, Sir, I might also briefly direct your attention to the principle as enunciated in proposed sections 86D and 86E. 86E refers to the proposition that a Director may not hold any office in the company other than that of a Managing Director or Manager or Solicitor or Banker. Well, Sir, on principle I say that that section is liable to be abused and it is likely to bring about a good deal of complication when put into operation. For instance, what the section means is this that a Director may hold the funds of the company, he may be the Solicitor of the company, he may be the Banker of the company, but he cannot be the technician of the company, he may not hold the machinery of the company, while he may hold the furniture of the company. The section, Sir, as it stands, is nonsense.

Then, Sir, I submit that the proposition that Directors may be removed by means of a resolution is also a dangerous proposition and a proposition which has not been fully considered by the Government of India. Under this clause a Director may be removed from the Board before his time; this clause presupposes the undesirability of the Director by reason of some act adverse to the company but, on the other hand, in so many other cases, a Director could be removed by a company under this proposal even if he is not acting adversely to the company. Thus a Director, who may be contributing to the welfare of the company, he might be removed by an abuse of this section; it might amount to a tyranny of the majority at any time upon an effective or desirable representative of a minority.

I will not detain the House very much longer. I would suggest just one or two things which the Select Committee might well bear in mind. In the course of the last 23 years, a large volume of case law has collected. There is a good deal of conflict of opinion on various sections: on other sections there is necessity of codifying the case law, a large volume of which has collected around certain sections. There are several sections also upon which the English Courts have expressed certain opinions, and which are accepted in this country as rules of justice, equity and good conscience. I submit that it is necessary that those sections should also be dealt with at this time rather than left for treatment say, 20 or 25 years hence when the company law again comes before the legislature. For instance, one example I would give, namely, section 171 of the Act, as regards which a very minor suggestion is made in the present Bill. The proposal in the Bill seeks to extend the section to proceedings at the time of the appointment of a provisional liquidator.

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I submit that, so far as this particular section is concerned,—I am only giving an example—so far as this particular section is concerned, it may very well apply to appeals under section 171. There is a conflict between the High Courts as to whether an appeal is a proceeding which is covered under section 171 or not, and whether an appeal which is pending at the time that a company goes into winding up can be prosecuted or not without seeking permission of the winding up Court. There is a conflict of opinion between the different High Courts on this subject, and I think the Honourable the Law Member might consider the question of clearing that up when the matter is before the Select Committee. I would also submit to the Members of the Select Committee to consider difficulties and matters arising in liquidations in greater detail. A great deal has been said in the Act about the qualifications of Auditors, and the qualifications of Directors. I submit that the Act may very well say something about the qualifications of liquidators and the term within which liquidations should be completed. For instance, the liquidation of the Alliance Bank, which was started thirteen years ago, is still going on, and several companies which went into liquidation 10 years ago are still in the process of winding up. Very often, you find a company has lasted for only two or three years, but the winding up takes seven or eight years as the case may be. This point was referred to by the Registrar of Joint Stock Companies of the United Provinces in his report for the triennium ending the 31st March. 1928. This is what he says:

"In contrast to the short life enjoyed by so many companies is the long lease of life to which liquidated companies appear to be entitled. During the triennium under report liquidation proceedings were finally closed in only 31 cases, as against 34 in the previous three years. It has been worked out that on an average liquidation proceedings appear to take six years to complete. Accordingly the total number of companies in which liquidation is dragging on has increased from 71 to 76. The legal position appears to be that though a liquidator must file certain papers and accounts regularly, he may prolong the proceedings indefinitely."

The only way of checking this tendency now appears to be to insist strictly on the liquidator filing accounts punctually as required by law. Unfortunately liquidators have been very remiss in this respect in the past....."

The suggestion he made was that Government should look into this matter.

I do not wish to detain the House much longer. I will say again that in the amendment of this Act the opportunity of the Select Committee is an opportunity that should be fully availed of by the Government. I suggest that, so far as the amendment of the Act goes, the Government should see that every province sends in its recommendations and also that those amendments are carefully considered by the Select Committee. In this connection, I would say that the growth of companies has not been confined to only one province, but it has taken place in several provinces of India. For instance, the growth of companies in the Punjab is remarkable. We had, at the end of the year 1933-34, over 557 companies in operation, and the growth of companies in one year in the Punjab was nearly 200 and the increase in the paid up capital was nearly Rs. 80 lakhs so far as those companies were concerned.

In conclusion I would submit that the aim of the Select Committee should be, (1) to bring the Act up to date, (2) to so frame the Act that it is a charter of *bona fide* business enterprise and a deterrent of rash, speculative or fraudulent ventures, (3) in the modification of the Act the special experience of each province should be availed of and (4) the legal profession in each province no less than the business community of each province should be particularly consulted. With these remarks, I support the motion for reference of the Bill to a Select Committee.

Sir Leslie Hudson (Bombay: European): I should first like to say that we welcome this Bill, and we congratulate the Honourable the Law Member in putting his hand to a task which is long overdue, but which is none the less very difficult and complicated. I should also like to pay a tribute to Mr. S. C. Sen for the care with which he has conducted his research into the Indian Companies Act, and I should like to express my appreciation of the Honourable the Law Member's procedure in calling a non-official conference of representatives of the Associated Chambers of Commerce and the Federation of Indian Chambers of Commerce prior to the consideration of this Bill. I should like also to enter my caveat in similar manner to the Honourable the Leader of the Opposition, that anything that I may say in the few words that I wish to put before the House may not be brought up against me hereafter, for views may change in the course of examination in the Select Committee to which I understand I am to be appointed.

There are two main principles involved in this Bill. First, is the tightening up of the law so as to make bogus company promotion, fraudulent share pushing, and misappropriation of shareholders' funds more difficult. This to some extent will protect the public, though there are always foolish investors whom no protection by Statute can ever save from deception and loss. The proposed amendments, which are provisional, will require the very closest scrutiny. While reform is doubtless necessary, it must not be of such a drastic character as to hamper the development of genuine enterprise, and the analogies drawn from the older and the more experienced industrial countries in the West are not always a safe guide for India. However, we shall look into these matters in the Select Committee, and I am glad to note that the Government does not regard its present proposals as entirely immutable. The second principle, to which I wish to refer, is the reform of the managing agency system. Here I consider we should be even more cautious. In spite of its detractors and of unfortunate experiences in some parts of India, there is no doubt that the managing agent has made a very big contribution to the commercial and industrial development of India. I do not consider that in the interests of India it would be wise to hamper companies too much in their choice of the form of management which they consider is the best for the interests which they require. There must, of course, be protection against the dishonest, the extravagant and the inefficient but that protection need not impose unfair restrictions nor must it interfere with existing contracts. In other words, the safeguards must not go beyond the strict and proven requirements and necessities of the case. Any new conditions should not apply retrospectively to alter arbitrarily the basis of contracts made long before this Bill was under consideration. There are many other points of detail which require further examination. As I have already said, that can be done in the Select Committee, and I, therefore, support the motion without further comment.

Sir Cawasji Jehangir (Bombay City: Non-Muhammadan Urban): I do not desire to make any remarks at this stage. I quite realise that the Honourable the Law Member has taken the greatest precaution to see that all sides and all interests have expressed their views to Government before the Bill was drafted and placed before this Honourable House and his very lucid speech shows the time and attention he himself has given—an eminent lawyer as he is—to a very difficult bit of legislation. The only question I desire to raise and to point out to the Honourable the Law Member is the question of taking further evidence if necessary by the Select Committee. I presume there is nothing to debar the Select Committee from calling a witness before it to elucidate any particular point that may arise. I should think there is no objection to such a procedure.

The Honourable Sir Nripendra Sircar: No.

Sir Cawasji Jehangir: That is all I want to ask.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): I do not wish to take up the time of the House unduly by making any lengthy observations at this stage but I wish to draw attention to a few main points on which this Bill requires some modification when it comes before the Select Committee. Sir, while the framers of the Act are anxious to provide against mushroom and fraudulent societies and also safeguard against the managing agents taking an undue share of the proceeds for their own benefit, I am afraid this legislation, though not deliberately, is likely to affect the promotion of joint stock companies in this country. The analogy of England does not apply in all particulars for this reason, that it is in the genius of the people there and not in the genius of the people here, as we have been noticing for a long time, to start joint stock companies for the purposes of running industries or for banking purposes. Here, enterprising individuals start such business here and there and whenever they want assistance they form themselves into a partnership for the purpose of carrying on business. In these circumstances, one has to consider very deeply before any restrictions are placed which are calculated to strike at the root of the growth of joint stock companies in this country. Any number of joint stock companies are necessary, because, with respect to our industries and banking business, we are still in a very low state compared with other progressive nations in this world. This apprehension is borne out by the report of the expert who was appointed and, therefore, this matter has to be approached with great caution. On page 80 of his report he says:

“Corporations in India being of comparatively recent growth, the average investor before investing his monies in a company generally relied on the personnel of the individuals responsible for the incorporation and the management than on anything else.”

In the last page, he says again:

“The recommendations I have made mark the utmost limit to which the legislature should, in my opinion, go at the present moment. As I have said, even then the progress of companies in this country is bound to be retarded to some extent, but I have tried to frame my recommendations in such a way as to minimise the difficulties as far as it is possible to do.”

I join with the expert in the apprehensions that he has raised and whatever suggestions I propose to make must be judged in relation to that apprehension.

Now, Sir, with respect to restrictions that are sought to be imposed regarding the starting of mushroom and fraudulent societies, I wish to make some observations. The recommendation is that societies, before they are allowed to commence their business, should have 33 and one-third per cent. of the capital subscribed and 25 per cent. of that must be paid up in cash before a certificate can be issued by the Registrar for commencing business. This is intended to prevent the growth of mushroom societies. We know that these companies have very small beginnings and there is no such restriction at the present time and if such restrictions were imposed, I am afraid they may put a check on the growth of joint stock enterprise in this country. Conditions vary from province to province. The expert who went into this matter says that the growth of mushroom societies has been too rapid in Bengal and in the Bombay Presidency. It may be true in both these provinces this enterprise has been of a more than normal character but the same thing cannot be said of other provinces. Therefore I would suggest that this condition about 33 and one-third per cent. subscribed capital and 25 per cent. paid up capital should not be insisted upon with respect to all companies. Power may be given to the Local Government to adjust this amount, from 10 to 25 per cent., according to the needs and circumstances of a particular province. I would point out that, especially in the Madras Presidency, such joint stock companies are not in existence on a wide scale. Therefore, some latitude must be given to the Local Governments to modify this provision from time to time, although in Bengal and Bombay an insistence on this condition might be necessary.

I also wish to bring to the notice of the promoters of this Bill certain defects and loopholes to which it gives rise. What I mean is that if this condition about 33½ per cent. is insisted upon, they may start with a very small share capital and get the business authorised by the Registrar of Joint Stock Companies and get the share capital increased later on and thus avoid this initial difficulty. I would, therefore, suggest, that an absolute insistence on such a provision need not be made and that option may be given to the Local Government.

Then, as regards fraudulent companies, it is recommended in this report that to avoid those companies continuing to work, power should be given to the Registrar of Joint Stock Companies to start an investigation and pending the investigation to have an interim manager appointed after recommending the same for the orders of the Local Government. The Local Government, on the one-sided reference by the Registrar of Joint-stock Companies, is to appoint an interim manager with respect to a running company but if the ultimate investigation made shows that the allegations of fraud are not proved, and the company was working *bona fide* though no doubt it might be slack, such a drastic remedy as the winding up of the company might not be necessary, and the mischief committed by the appointment of an interim manager pending investigation by the Registrar of Joint Stock Companies would become immense, and the mischief would have become irreparable. Sir, we should avoid placing too much power in the hands of the Registrar of Joint Stock Companies. The Registrar of Joint Stock Companies is

12. Noon.

[Mr. M. Ananthasayanam Ayyangar.]

merely a ministerial officer at the district headquarters, he is a Sub-Registrar promoted to the place of the District Registrar. All the details of the working of these companies are not known to him. It is known that the Registrar is at present a dignified clerk, a ministerial officer, not having anything to do with companies except with the work of registration and I would, therefore, suggest that the power of investigating into this matter and of having an interim manager appointed ought not to be entrusted into the hands of the Registrar of Joint stock Companies, who has no intimate knowledge of the working of these companies. I would, therefore, suggest that wherever such power is sought to be exercised, it must be exercised only with the sanction of the Court. The Court is there ready and on an application to the Court an interim manager could be appointed. These are my submissions with regard to mushroom and fraudulent societies.

Then, Sir, I would make a few remarks with respect to the qualifications of the Directors. The purpose for which this Bill is mainly intended could certainly be achieved if some more restrictions are placed and some more qualifications are insisted upon in the case of Directors. I may mention some qualifications which, according to me, are necessary, but which unfortunately have not been referred to in this Bill. First, I would say that there must be a share qualification for a Director in all companies. In the memorandum and articles of association of several companies it is no doubt true that the qualification of a particular number of shares is insisted upon for qualifying a particular shareholder for a directorship, but it is desirable that a statutory provision should be made insisting upon a minimum amount of shares to be taken by a Director before he can be qualified as a Director. Nobody can be a shareholder in a company, under the existing law, unless he takes up at least one share. With regard to the qualifications for a Director, some more shares are insisted upon in the articles of association, and it would be desirable to place it on a statutory basis. A clause may be added in the Bill insisting upon the Directors, as a whole, taking up not less than one-tenth of the authorised capital. This, no doubt, might exclude some of the financial experts or experts in banking and experts in commercial concerns who, in the interests of these particular concerns, might be necessary on the directorate. That is also referred to in this report by the expert, but he adds that a share qualification need not be insisted upon in the case of a Director. I would suggest, Sir, a remedy for this. Fifty per cent. of the Directors might take this one-tenth—not less than fifty per cent. of the Directors should have the same qualification, leaving the rest of the directorate to be experts and so on. Some such qualification is necessary, for otherwise, the very object of preventing the growth of mushroom societies might be frustrated. Then, at the time a company is started, I would like that the Director ought not to have a substantial interest in any contract or the business for which the company is floated, as, otherwise, he would be in the position of being practically a rival of the company. There is, in fact, a clause provided in various Corporations with regard to the qualifications for members of those bodies. Then, one or two other qualifications are also necessary. Thus, it is not desirable that a man and his own servants or his partners should be in the directorate as through such private partnership one Director might practically monopolise the powers of all the Directors. Partners or servants of the Directors or members of their

families ought not to be there. Further, Sir, it does not appear that there is any statutory provision restricting the period for which a Director can work. It is open under the present law for a Director to be a life Director. Whereas, it is found necessary now under the new Bill to make a provision to restrict the period for which the tenure of a managing agent is limited to twenty or twenty-five years or to ten years as recommended by the expert, I would like to restrict the period of service of any particular Director to five years, with the additional privilege for him to be a Director for a second period of five years. There must be a statutory restriction of the period during which he can continue to be a Director at a stretch. Then as regards the power to borrow, no provision is made in the Bill restricting the maximum amount or imposing the maximum amount up to which Directors can borrow with respect to limited companies. There is a provision under the Co-operative Societies Act by rules framed by the Registrar of Co-operative Societies restricting the amount of borrowing to eight times or ten times the amount of the share capital. There is no such provision here because it is expected that with respect to private joint stock companies the shareholders will always try to avoid that and their position will not make them borrow unnecessarily. But I would say, having regard to the long report that has been placed and the doubts that were created, that it is necessary that some such restriction ought to be placed, *viz.*, eight times the subscribed share capital, not the authorised share capital, and any further increase of the borrowing power should be made only upon an application to the Court and after its sanction. That would remove any possible difficulty in the way of the progress to be made by the Directors. The Court is there, and it would not be unreasonable and refuse sanctioning the loan if it thinks that to be right. Then there is another matter that has to be provided for. We have the delegation of powers to the Directors. Whenever delegation is thought to be necessary, even in the minutest detail, it must be on the sole and entire responsibility of the Director himself because, when a person takes up shares in a company, he takes it on the credit of the Director whose name appears there; he does not know anything about the ministerial officer and the directorate as a whole or the Directors jointly and severally are the persons in whose hands the sole charge of the company is entrusted. Under these circumstances, if they delegated any particular powers, even with respect to those that are delegated under the Act, the entire responsibility must still rest on the Directors regarding the true discharge of those duties.

Sir, with respect to the shares held by shareholders, I would like to say that there should be a maximum fixed with respect to the voting power of a shareholder. I have known with respect to the insurance companies of our Province that the shares are sometimes cornered by two or three individuals—some in their own names and some in the names of their wives and children, who thus manage perpetually to continue to be on the directorate, managing the entire affairs of the company. The shareholders had to go to the Court and the Court refused any help because, under the articles of the association and the memoranda of the company, it was not possible for a Court to interfere in the matter. I would, therefore, say, that instead of making it a one man's affair, if really the minorities should be protected and the individual shareholders interest is to be protected, then a limit to the voting power should be fixed in the Statute itself.

[Mr. M. Ananthasayanam Ayyangar.]

Then, as regards auditors, with respect to the management of co-operative societies, those societies where power is given to the directors to appoint auditors, the auditors think they are obliged to those persons on the directorate for their appointment and, therefore, the auditors do not disclose all the necessary materials generally to the shareholders and the public with respect to the weakness or the slackness in the management. The auditors look to the directors of the company as their masters and themselves as subordinates and they prepare a beautiful report dressed up here and there, they make one or two remarks here and there which remarks would not be counted as very serious drawbacks or as casting any aspersions on the management by the Directors. I would, therefore, suggest, that having regard to the serious manner in which the Legislature and the Government of India want to interfere or protect the unwary shareholders from taking part in these concerns, I suggest, that the auditors should be appointed only by the Government so that their independence might be secured. A fee might be collected from the several joint stock companies, so that the auditors might draft an unbiassed report. That is my suggestion with respect to the appointment of auditors.

A word about foreign companies. Foreign companies are allowed freely to transact business in this country. Subject to the Government of India Act and the restrictions imposed, much latitude need not be given to all foreign companies doing business. As it is if foreign companies which are incorporated in foreign countries want to do business under the existing Act, they must only report to the Registrar. Under the new modification they have simply to get themselves registered; there are no such wholesome provisions with respect to the working of the management regarding foreign companies as are contained in the Act and in the Bill under review regarding indigenous companies. For the safety of the Indian shareholders, I would suggest, that as regards these foreign companies doing business in India, there should be a separate directorate in India if these foreign companies want to sell their shares here or if they seek to do business here. The directorate must be composed of not less than 75 per cent. Indians because the money is raised in India and, therefore, Indian interests have to be protected. I would insist upon a provision being made in the Act that before such foreign companies are recognised, they should be asked to constitute an Indian directorate consisting of Indians.

Then, with respect to their powers to borrow, similar restrictions as I have suggested with respect to other companies must also be imposed upon these foreign companies doing business here. As regards the certificate of commencement before they do business here, a similar certificate of commencement must be issued.

Lastly, I would say that instead of clothing the Registrar of the Joint Stock Companies with enormous powers as the report suggests, —similar powers are exercised by the Board of Trade in England—the promoters of the Bill would do well to bring into existence a Board of Control of Joint Stock Companies on the lines of the Board of Trade in England, consisting of men doing business so that from time to time they may bring their expert knowledge to bear upon the method of working of the company instead of leaving it to the Joint Stock Registrar who is merely a Registrar under the Act to register whatever document is placed before him. The Joint Stock Registrar may not have the time or the skill to enter into the

details of the working of companies and it is really a businessman who is expected to watch whether a company is progressing well, or working properly or whether the Directors behave in a proper manner looking to the interests of the company or whether they behave in a fraudulent manner. I would, therefore, say that a new Chapter should be included in the Act constituting instead of a Registrar, a Board of Control of Joint Stock Companies with power to deal with the several provisions or the several duties which are now imposed upon the Registrar of Joint Stock Companies. With these suggestions, I support the motion.

The Honourable Sir Nripendra Sircar (Law Member): Sir, I do not propose to reply to the various points which have been raised, because they have got to be thrashed out in the Select Committee. But before you put the question to the House, I have got to get the permission of the House to substitute the name of Pandit Sri Krishna Dutta Paliwal for the name of Mr. Bhulabhai J. Desai in the list of Members to the Select Committee. I can assure the House that no one deplores more than myself that we are, for reasons not under our control, losing the benefit of Mr. Desai's assistance in the Select Committee.

Sardar Sant Singh (West Punjab: Sikh): In the list of members proposed by the Honourable the Law Member, I do not find any non-official Member from the Punjab. May I, therefore, suggest that the name of Sardar Mangal Singh be added to the list?

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): How many men of your Party are there in the Committee?

Sardar Sant Singh: Only one Member from our Party.

Dr. Ziauddin Ahmad: There is no Member from the United Provinces on the Committee, and I would, therefore, suggest the name of Sir Muhammad Yakub.

The Honourable Sir Nripendra Sircar: If I take a Member from the Punjab, then I will have to take a Member from the Central Provinces, one from Assam, one from the United Provinces and so on. I do not think different provinces have got different views or different interests in regard to Company Law. If I accept the request of my Honourable friend, Sardar Sant Singh, I will be unable to resist similar requests from other Honourable Members. Otherwise, I have no objection to the addition of one single name.

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member the leave of the House to substitute the name of Pandit Sri Krishna Dutta Paliwal for the name of Mr. Bhulabhai J. Desai?

Several Honourable Members: Yes, yes.

Leave was granted by the House.

Sardar Sant Singh: May I know if Sardar Mangal Singh's name is included?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable the Law Member does not agree.

Sardar Sant Singh: No, Sir, he agrees.

The Honourable Sir Nripendra Sircar: If I am assured that no other proposals for addition of other names will be made, then I have no objection to the inclusion of the name of Sardar Mangal Singh. I agree to Sardar Mangal Singh alone.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa : Muhammadan): I suggest the inclusion of the name of Mr. K. L. Gauba.

Dr. Ziauddin Ahmad: I suggest that Sir Muhammad Yakub's name be included.

Mr. President (The Honourable Sir Abdur Rahim): No further names can be included.

The question is:

"That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, be referred to a Select Committee, consisting of Pandit Sri Krishna Dutta Paliwal, Mr. S. Satyamurti, Mr. Anugrah Narayan Sinha, Pandit Govind Ballabh Pant, Mr. Sami Vencatachalam Chetty, Sir Cowasji Jehangir, Mr. Abdul Matin Chaudhury, Mr. Akhil Chandra Datta, Sir Leslie Hudson, Mr. Mathuradas Vissanji, Babu Baijnath Bajoria, the Honourable Sir Muhammad Zafrullah Khan, Diwan Bahadur R. V. Krishna Ayyar, Sir H. P. Mody, Mr. L. C. Buss and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE INDIAN TARIFF (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways): Sir, I beg to move:

"That the Bill further to amend the Indian Tariff Act, 1934, for certain purposes (regarding staple fibre, etc.), be taken into consideration."

Sir, I do not propose to make any lengthy speech at this stage. I shall make a very few observations in explanation of the various changes proposed in the Bill. The Bill incorporates four additional measures for the assistance of the textile industry in India. Three of these, namely, those relating to spun silk yarn, fents and knitted apparel, are merely modifications of the scheme which was set up by the Act of 1934 for the protection of the cotton textile and sericultural industries. The fourth, that relating to staple fibre, is designed to place the Indian industry in a position to take advantage of a recent development in the rayon or artificial silk industry. Let me deal with these in order.

Clause 2, sub-head (a) of the Bill seeks to make staple fibre which is at present assessable at 25 per cent. *ad valorem* under item 46 (4) of the Import Tariff Schedule, liable to duty at a standard rate of 15 per cent. *ad valorem* or one anna per lb., whichever is higher and a preferential rate of five per cent *ad valorem* or half anna per lb., whichever is higher. In paragraph 87 of its report the Tariff Board, which investigated the claim of the woollen textile industry to protection, made the recommendation that staple fibre be admitted into India at a concessional rate of duty. This recommendation was ostensibly in the interests of the woollen industry, but from separate representations which have been received by the Government of India, it would appear that the concession would be even more valuable in the interests of the cotton textile industry. The Tariff Board has not stated, at any length, the reasons which have led to its recommendation, and I may, therefore, be permitted to set out in slightly greater detail the nature of staple fibre and the advantages which are likely to accrue from its concessional treatment.

Staple fibre, which is known as 'Fibro' in the United Kingdom and 'Fioceo' in Italy, is a recent development of the artificial silk industry. It is derived in the same way as artificial silk from wood pulp or raw cotton, but instead of being produced in a continuous filament, it is ejected from spinning jets in lengths corresponding to cotton or wool fibres and in the mass resembles what we know in India as "*kapok*" or tree cotton. It is capable of being spun in the same way as long staple cotton, either alone or in combination with cotton or wool. This is a very important development in textile practice. Its importance may be gauged from the fact that Messrs. Courtaulds, the leading rayon artificial silk manufacturers in the United Kingdom, have under construction a plant designed to produce 20 million pounds of staple fibre a year. In Italy special attention is being paid to the 'Fioceo' production and in the present emergency it is being largely used in replacement of raw cotton. Japan also is in the field and staple fibre yarn of Japanese origin is on offer in India at attractive prices.

Outside of India the use of staple fibre has passed the experimental stage. Within India certain weaving mills have carried out extensive experiments on a commercial scale and an examination of samples of cloth woven in India shows that most attractive materials can be produced. The fact, however, that this raw material has to pay a duty of 25 per cent. *ad valorem* is a serious obstacle in the successful marketing of the new type of manufacture.

An obvious objection to the concessional treatment of staple fibre is that its increasing use would be detrimental to the use of Indian cotton and the interests of the Indian cotton grower. This is a matter which has received the consideration of the Imperial Council of Agricultural Research and the Government of India are advised that the fibre does not compete directly with any cotton which can be grown in India. Indirect competition is difficult to gauge, but it is believed to be limited to Egyptian cotton and to mercerised yarn. The Indian Central Cotton Committee and the recently constituted Bureau of Industrial Intelligence and Research have realised the importance of staple fibre to the textile world and are at present investigating the possibilities of manufacturing staple fibre from cotton in India so as to provide an additional take off for short staple cotton and for the waste cotton of the mills.

In these circumstances, the Government of India consider that it is a wise measure, pending the production of staple fibre on a commercial scale within India itself, to encourage the development by the Indian mills of the technique of spinning and weaving this new material.

[Sir Muhammad Zafrullah Khan.]

It will be noticed that it is proposed to impose both a standard and a preferential rate of duty. This proposal rests on the obligation which still exists by virtue of Article 11, read with Schedule G, of the Ottawa Trade Agreement. Under this Article and Schedule imports from the United Kingdom of artificial silk manufactures, other than yarn, piece-goods and thread for sewing, are entitled to a preference of ten per cent.

The level of the preferential duty has been fixed so that it may correspond reasonably closely to the import duty now leviable on long staple cotton, which, at the rate of $\frac{1}{2}$ anna per pound, corresponds reasonably closely to 5 per cent. *ad valorem*. From the information at present available it appears that the c.i.f. landed price of United Kingdom 'Fibro' is about 11 annas per lb., and that quotations for the Italian and the Japanese product run from 8 to 7 annas per lb. It will be seen, therefore, that the alternative minimum specific duties correspond fairly closely to the *ad valorem* duties proposed.

The effect of clause 2 (b) is to raise the duty on spun silk yarn, which is at present 25 per cent. *ad valorem*, to the same rate as raw silk and ordinary silk yarn. Spun silk yarn is a yarn manufactured from waste silk, and though the Tariff Board which investigated the conditions of the sericultural industry in 1933 recommended that the same duty should apply to spun silk yarn as to raw silk, the Government of India were of opinion that so inferior a yarn was not really in effective competition with Indian raw silk or yarn produced therefrom. The statistics of the past few years have, however, demonstrated that the competition of spun silk yarn was underestimated. The total imports of silk yarn, including spun silk yarn, have risen from 1,822,000 lbs. for the 11 months April to February, 1933-34 to 3,271,000 lbs. for the same period in 1935-36. The most important contribution to this increase is that of Japan, the imports from which country, consisting almost entirely of spun silk yarn, have risen from 698,000 lbs. in 1933-34 to 2,101,000 lbs. in 1935-36. These figures appear to the Government of India to be eloquent testimony of the fact that the competition from spun silk yarn has been underestimated and that imports of spun silk yarn are in effect making headway at the expense of raw silk and pure silk yarn, whether of indigenous or foreign origin. As regards the appropriateness of applying the same duties to spun silk yarn as to raw silk and pure silk yarn, it may be pointed out that prior to the Textile Protection Bill of 1934, when the duty on both raw silk and spun silk yarn was 25 per cent. *ad valorem*, raw silk from Japan was valued at about Rs. 2-9-0 per lb. and spun silk yarn just higher. The two, therefore, paid approximately the same duty. Spun silk yarn now enjoys an advantage of 14 annas per lb. and while Japanese raw silk prices have been maintained, spun silk yarn has fallen to Rs. 2-4-4 per lb. and the difference in the selling price between the two is now about 19 annas per lb. It is believed, therefore, that the proposed addition to the duty of 14 annas per lb. will practically restore the relative competitive conditions of two years ago.

It may be mentioned in passing that the amendment proposed by clause 2 sub-head (c) is merely consequential to the removal of spun silk yarn from item 47 (1) of the Tariff Schedule.

Clause 2 sub-head (d) deals with a matter which has attracted very considerable attention in the past year. Fents are odd lengths of cloth, usually defective in some particular, such as weave or dyeing, which have

been rejected for the purposes of the genuine piece-goods trade. The business of the fents merchant is to collect such rejects from the cloth mills and to make them up for marketing in miscellaneous assorted bales which are sold on weight basis. There are no precise limits to the length of a fent, but for the purposes of the Indian tariff the maximum length of a piece of cotton cloth which could qualify as a fent and thus escape protective duties imposed by the Textile Protection Act of 1930 was fixed at 9 yards.

Prior to the 1934 Textile Protection Act, cotton fents of less than 9 yards in length were assessed at 25 per cent. *ad valorem*, while artificial silk and other fents were assessed at the rates appropriate to ordinary piece-goods of the same kind. In 1934, when the terms of the Textile Protection Bill were under consideration, a strong representation was made by the fent dealers in India on behalf of their customers who constitute the poorer classes and it was decided, in the interests of these classes who were believed to be the main purchasers of fents, to extend the concessional rates to fents of all descriptions. Accordingly under item 49 (1) of the Tariff Schedule, fents, whether of cotton or other materials, were made assessable at a standard rate of 35 per cent *ad valorem* or a preferential rate of 25 per cent. *ad valorem*, according to their origin. At the same time, the maximum length of a fent qualifying for concessional treatment was reduced from 9 to 4 yards. It is interesting to consider what changes have taken place in the nature and direction of the fent import trade since the new duties came into operation on the 1st of May 1934. Let us first take cotton fents. In 1932, of a total import of 32 million yards, 11 millions came from the United Kingdom, 19 millions from the United States of America and just over 1 million from Japan. In 1934-35 the United Kingdom figure had fallen to just over seven millions, that of the United States to 5½ millions, while Japan had contributed more than 23 million yards. The same tendency is apparent in the present year. Let us now consider fents other than cotton,—being mainly artificial silk. Prior to 1934-35 such imports were of very small dimensions compared with imports of cotton fents. In 1934-35 imports from Japan rose suddenly from negligible dimensions to 13½ million yards and for the 11 months April to February 1935-36 they are just short of 16 million yards.

It is interesting to consider what are the reasons for these very remarkable increases in the imports from Japan. So far as cotton fents are concerned, it will be remembered that by the Indo-Japanese Agreement of 1934, imports of cotton piece-goods from Japan into India were restricted to a maximum of 400 million yards. Fents under 4 yards in length were, however, excluded from the so-called quota. There has thus been a two-fold stimulus to the importation of cotton fents from Japan—(1) that they paid 35 per cent. duty as fents as against the 50 per cent. leviable on true piece-goods and (2) that they were not included in the Japanese export quota. There is very good reason to believe that these facts encouraged the growth of a trade in spurious fents, that is to say, ordinary piece-goods were cut up into short lengths and were sought to be passed through the Customs Houses as genuine fents. I may take this opportunity of stating that there is no reason to believe that the Japanese authorities have sought to avoid their obligations under the Trade Agreement by encouraging this trade. Such information as is available to Government is to the effect that the trade is the creation of Indian exporters in Japan and Indian importers in India.

[Sir Muhammad Zafrullah Khan.]

It may be argued that it is possible by strict customs examination to prevent any evasion either of our tariff or of the terms of the Indo-Japanese Trade Agreement. I admit that it is possible to do so, but the exercise of effective control by the Customs authorities is only possible with an expenditure of enormous labour in the Customs Houses and would be attended by equally great trouble and delay to the importers, involving as it would the opening out and detailed examination of every bale of fents imported. The Government of India are, therefore, of opinion that in the interests of (a) the revenue, (b) the scheme devised for the protection of the cotton textile industry, and (c) even of the genuine fents importer himself, the duty on fents of non-British manufacture should be raised from 35 per cent. to 50 per cent.—the *ad valorem* rate now applicable to genuine cotton piece-goods. It is believed that this enhancement of duty will remove the inducement for the manufacture of spurious fents.

In the case of artificial silk fents, there is also good reason to believe that a spurious trade has been created. The inducement towards such a trade lies in the fact that artificial silk piece-goods are subject to a minimum specific duty of four annas per square yard, which represents in most cases a very high *ad valorem* incidence. Artificial silk fents, on the other hand, are assessed at the comparatively low rate of 35 per cent. *ad valorem*. In the opinion of the Government of India it would have been of little avail merely to raise the duty to 50 per cent. *ad valorem*. At the same time, it would have been administratively impossible to apply to all artificial silk fents the minimum specific duty since this would have involved the opening of every bale and the measurement of each individual piece contained therein. For this reason the Government of India have proposed the reduction of the permissible length to 2½ yards. It is admitted by the fent trade that 50 to 60 per cent. of imported fents are from 1½ to 2½ yards in length and that these are the goods which are bought by the poor consumer. On these shorter lengths there will be an increase of duty from 35 per cent. to 50 per cent., while in the case of the garment lengths of three to four yards, the ordinary fabric rates, namely 50 per cent. *ad valorem* or four annas per square yard, will be applicable. It is the importation of the latter which is the real danger to our protective scheme, and Government are of opinion that, when the new rates of duty are made applicable, this trade will shrink to negligible proportions.

Clause (2), sub-head (e), seeks to extend to all cotton knitted apparel the measure of protection now enjoyed by cotton knitted undervests and socks and stockings only. The Cotton Textile Tariff Board of 1932 had recommended specific duties on these two articles based on quantity, but it was finally decided that a specific duty based on weight would be more equitable. In the Textile Protection Bill of 1934 there was, therefore proposed a duty of twelve annas per pound on cotton knitted undervests and socks and stockings. This proposal was accepted in Select Committee and by the Legislature, but even then there was a strong demand from the Indian manufacturer that protection to the hosiery industry should be made much wider in its scope. The Government of India, however, in view of the specific recommendations of the Tariff Board and in view of their own information that by far the greatest volume of Indian protection—over 90 per cent. it is said—consisted of undervests

and socks and stockings, were not prepared to include other articles within the scope of the duties. Since 1934 there has come about a very significant change both in the nature of the cotton knitted goods imported into India and in the nature of the products of the Indian industry. Whereas, formerly, both imports and indigenous production consisted mainly of undervests and socks and stockings, in the past two years the dictates of fashion have called into existence an enormous demand for other garments, such as sports shirts and fancy pattern cardigans, pull-overs and coats. At the same time, the hosiery manufacturers put forward the claim that imports of such articles were a deliberate evasion of the protective duties. It is true that to some small extent attempts at evasion were made by the import of ordinary undervests thinly disguised as sports shirts and cardigans. But apart from this there has grown up a genuine demand for sports shirts, cardigans and the like, and with it a genuine import trade and local manufacture to meet this demand. This is the real justification for the present proposal. Had it in fact been the case that at the time when the Tariff Board reported and the protective duties were imposed that the nature of the Indian demand and the capacity of the Indian industry to meet it were what they are now, there can be little doubt that the scope of the protective duties would have been as wide as we now propose to make them. Since 1934, the local manufacturers have been pressing upon us the necessity for bringing other articles within the protective scheme and from the samples which have from time to time been produced, it has become apparent that the Indian industry is equipped to produce hosiery articles comparable with the imports from Japan in everything but price. The case for extending protection has been greatly reinforced by the recommendation contained in paragraph 133 of the Tariff Board Report on the woollen industry. The following table will show how effective have been the existing protective duties and how far they have encouraged the import of hosiery articles not subject to the protective duty; the figures are extremely interesting: with regard to socks and stockings, the position is this. In 1930-31, the value of the imports from Japan of these articles was Rs. 5.96 lakhs; in 1931-32, it fell to Rs. 3.84 lakhs; in 1932-33, it rose to Rs. 8.18 lakhs; it was maintained at Rs. 8.21 lakhs in 1933-34, and in 1934-35, it was Rs. 9.02 lakhs. The figures for underwear are:

Rs. 70 lakhs in 1930-31,
Rs. 37 lakhs in 1931-32,
Rs. 51 lakhs in 1932-33,
Rs. 61 lakhs in 1933-34,
Rs. 28.75 lakhs in 1934-35.

With regard to other articles which were not subject to this duty, the figures are:

					Rs.
1930-31	...	...	...	...	49,000
1931-32	...	...	...	...	76,000
1932-33	...	...	...	...	1,76,000
1933-34	...	...	...	...	3,47,000
1934-35	...	...	...	...	15,74,000

[Sir Muhammad Zafrullah Khan.]

From these figures it will be seen that the import of socks and stockings has not been seriously affected. The decrease in the imports of underwear is, of course, substantial, but that is a necessary corollary of an effective protective duty. The sudden and very pronounced increase in other hosiery articles is ample evidence of the necessity for extended protection to enable the Indian industry to meet the extended Indian demand.

It may be pointed out that we have extended protection to cover manufacturers of garments made from interlocking material. From samples of such garments which have been seen by us, it is evident that though they would not technically come under the definition of knitted apparel, they are in point of price, weight, appearance and general competitive value, serious competitors with, and adequate substitutes for, ordinary knitted apparel.

With these words, Sir, I move.

Pandit Nilakantha Das (Orissa Division: Non-Muhammadan): On a point of information, Sir. Is the present rate of duty for staple fibre, imported from England, 25 per cent., or according to the Ottawa Agreement 15 per cent.?

The Honourable Sir Muhammad Zafrullah Khan: At present it is in an omnibus category. There is only one rate of duty.

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

"That the Bill further to amend the Indian Tariff Act, 1934, for certain purposes (regarding staple fibre, etc.), be taken into consideration."

There are several amendments in the name of Honourable Members that the Bill be referred to a Select Committee. Mr. B. Das.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I beg to move:

"That the Bill be referred to a Select Committee, consisting of the Honourable the Law Member, the Honourable Sir Muhammad Zafrullah Khan, Mr. H. Dow, Sir H. P. Mody, Mr. N. M. Joshi, Mr. Mathuradas Vissanji, Mr. J. Ramsay Scott, Sardar Sant Singh, Mr. Amarendra Nath Chattopadhyaya, Dr. Ziauddin Ahmad, Mr. H. A. Sathar H. Essak Sait, Pandit Govind Ballabh Pant, Pandit Nilakantha Das, Mr. M. Ananthasayanam Ayyangar and the Mover, with instructions to report, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, I am giving no date because the date will have to be fixed later on by the House.

The Honourable Sir Muhammad Zafrullah Khan: With instructions to report when? The original amendment left the date blank. Either the Honourable Member should take it out altogether or fix a date.

Mr. B. Das: I have taken it out altogether.

Mr. President (The Honourable Sir Abdur Rahim): The Chair takes it that the words "on the — April, 1936" are taken out.

Mr. B. Das: Yes, Sir. When I read the Bill which was introduced by the Honourable the Commerce Member, I thought that Government were handling this problem from the wrong angle and the report of the Tariff Board on the woollen textile industry also from the wrong angle. I never knew that the staple fibre industry had become so very important to the Indian cotton textile industry. This report of the Tariff Board on the Woollen Textiles mentions that only 42,600 pounds of staple fibre is imported into India and the Honourable the Commerce Member just now said that the department of research in the Imperial Agricultural Council of Research is experimenting whether such a fibre can be manufactured in India and that the millowners are also trying to utilise it in producing certain goods eventually to compete with the handloom industry. I find from the Government communiqué issued in the Gazette—it was a Resolution on the Woollen Textile Industry Report on 21st January, 1936, that the Government had not come to any decision on the main recommendations of that report, except that they gave a grant of five lakhs, as announced in the budget speech of the Honourable the Finance Member, to help the research in the woollen handloom weaving industries, that is, to help the manufacture of blankets, carpets, and pashmina and other hand-woven woollen goods; but, in paragraph 6 it says, in regard to the woollen industry, that the Government of India do not propose to take any decision pending the consideration of a further report from the Tariff Board; and then it says "the recommendations, particularly, in respect of the cotton hosiery and staple fibre are not germane to the main inquiry: they will be the subject of separate consideration and the conclusion of the Government of India thereon will be announced in due course"; and the conclusion is incorporated in this Bill. It has been my experience that whenever a particular measure is referred to the Tariff Board, the Government get hold of the wrong end of the stick and only introduce measures on very minor items. Why is it that the woollen mills in Cawnpore did not submit their evidence before the Tariff Board? Are they not an allied industry with the cotton textile mill industry? Are they not enjoying the benefit in the protection that has been given to the cotton industry? How is it that they evaded and repudiated the mandate of the Government of India and did not submit their evidence? I was never a sympathiser of the view point which my Honourable friend, Mr. N. M. Joshi, often brings forward on the floor of this House. I find that bit by bit the industries that receive protection repudiate their obligations not only to the consumers and to the country at large, but even to the Government, and they go to such an extent as not to give evidence. We had another instance before: a certain British firm did not give evidence before the Tariff Board in the matter of the steel industry; but here the woollen industry wants protection and yet because this particular firm, living as it does live on the huge Government orders which it receives from the Indian Stores Department and the Army Department, does not think it needs protection—probably because it thinks rival firms may spring into existence and that the monopoly it now receives from the Government of India in the Indian Stores Department and the Army Department may vanish—otherwise there is no other reason why that firm should not give evidence; and yet here the Government view it from the wrong angle and bring forward a Bill to protect the staple fibre industry if it develops, and the hosiery industry, as has been recommended by this particular report. My own view is that the staple fibre industry has not

[Mr. B. Das.]

come to that condition at present when it should be protected: it may be that after ten years we will find that the Agricultural Research Department has failed to produce a formula by which the millowners will be able to manufacture staple fibre in India.

As regards the large import of fents, to which the Honourable the Commerce Member alluded, of course, I know that the Indian mill industry have protested strongly; but the proposition, as has been brought forward in the Bill, will not help the mill industry unless Government decide to reduce the length of fents to two yards size; it will still come from Japan; but, somehow, Government in their supreme intelligence have kept 2½ yards for artificial silk pieces—why is it not the same for cotton pieces? Four yard pieces can be used as dhotis and various articles of wearing apparel can be manufactured from them, and that is a handicap. I do not want to tread on the preserve of my friend, Sir Homi Mody: when he rises he will substantiate the position of the mill industry better than I can. I am only an outsider; but I think if the Government wants really to give protection to the cotton mill industry they should take away this four yards and make it two yards: thereby these small pieces that will come will prove useless—they will be useful for wearing apparel only for children: but if it is kept at four yards, then the cotton mill industry will suffer as it has been suffering.

Then the Honourable the Commerce Member made a speech about the cotton hosiery; but he did not connect up how the recommendation came out of this report. Of course, this Tariff Board examined the hosiery industry and pointed out that there were 73 power factories in the hosiery industry, and 263 non-power factories: unfortunately, in 1927, I was the one Member who protested strongly that there should not be a duty on the cotton yarn. Since then, in every textile protection Bill, some of us have been protesting that the handloom weavers and the hosiery industry are being killed by the duty on the cotton yarns. This examination of protection to hosiery industry from the wrong angle is not correct. Why not abolish the duty on the hosiery machines? That will bring some relief to them. Again, why not allow them to buy yarn, foreign yarn at a price *minus* the customs duty? The other day, the Commerce Member or the Member for Industries and Labour declared that it is necessary for the existence of the steel industry in India that pig iron should be sold cheaper abroad than in India. It is necessary for the Indian handloom weaving industry over which my Honourable friend, Sir Frank Noyce, takes such keen and abiding interest, that they should not pay high prices for cotton yarn; and, therefore, the hosiery industry will not be protected: my own view is, studying the market as I do, the hosiery industry uses lots of Japanese merino and artificial silk.

So, my object in referring this to the Select Committee is this: let the Select Committee examine all aspects. Whether the Assembly and the Government should give protection to cottage industries like the handloom weaving industry or the hosiery industry or whether they still want to protect one big industry, the Bombay and Ahmedabad mill industry, and thereafter, if anything is left over, the poor cottage industry, the handloom weavers and the hosiery industry will live as poor relations.

and whatever crumbs are left by my Honourable friend, Sir Homi Mody, they will enjoy the benefit thereof. With these words, I move my motion.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member does not say by which date the Report shall be made. The effect of that would be that the Committee cannot report sooner than three months from the date of the first publication. Is that his object?

Mr. B. Das: It is for the House to decide.

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not know whether the Honourable Member desires that the Report shall be made by a particular date.

Mr. B. Das: No, Sir.

Sir H. P. Mody (Bombay Millowners' Association: Indian Commerce): That was the understanding.

Mr. President (The Honourable Sir Abdur Rahim): The Chair simply wants to know if the Honourable Member desires that the Report shall be made by a particular date, otherwise the Chair will put the motion as it is.

¹ **Sir H. P. Mody:** Am I to understand, Sir, that it is not part of the motion that the Report should be submitted by Monday? I thought that was the understanding. Is this an ordinary motion for Select Committee?

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): What is the amendment? Is there a date for the Report or not?

Mr. A. H. Lloyd (Government of India: Nominated Official): Three months.

Mr. President (The Honourable Sir Abdur Rahim): When no particular date is mentioned, it is three months.

Mr. S. Satyamurti: The Select Committee can report by Monday, if it chooses.

Mr. President (The Honourable Sir Abdur Rahim): Not sooner than three months. If Honourable Members will look at the Standing Order 41, they will see that it is stated that:

"Such Report shall be made not sooner than three months from the date of the first publication of the Bill in the Gazette, unless the Assembly orders the Report to be made sooner."

Mr. B. Das: Then, I would suggest that the Report be made by Tuesday the 21st.

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

"That the Bill be referred to a Select Committee, consisting of the Honourable the Law Member, the Honourable Sir Muhammad Zafrullah Khan, Mr. H. Dow, Sir H. P. Mody, Mr. N. M. Joshi, Mr. Mathuradas Vissanji, Mr. J. Ramsay Scott, Sardar Sant Singh, Mr. Amarendra Nath Chattopadhyaya, Dr. Ziauddin Ahmad, Mr. H. A. Sathar H. Essak Sait, Pandit Govind Ballabh Pant, Pandit Nilakantha Das, Mr. M. Ananthasayanam Ayyangar and the Mover, with instructions to report by the 21st of April, 1936, and the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris: Muhammadan): Sir, I rise to support the amendment. Ever since this Bill has been introduced into the Assembly we have been inundated with representations and telegrams protesting against one or other provision of the Bill. The Statement of Objects and Reasons does not make it clear what the changes in duty provided in the Bill are expected to achieve. Protection of whose interest against whom?

Sir, I believe in protecting our industry against unfair competition and dumping from foreign countries. At the same time I strongly feel that one cannot be too careful in this matter of protection, for, in every case, it is the consumer who has to pay for this protection, and we in this House have to scrutinise every measure very carefully to see that nothing is done in the name of protection which is not wholly and strictly in the interest and for the advancement of indigenous industry.

(At this stage, some Honourable Members whispered something into the ears of the Honourable Member, and there was some interruption.)

Sir, I have had occasion to study the facts and figures with regard to the imports of fents into India. Frankly, I am not satisfied that a case has been made out for increasing the duty on the import of this article. In view of the minute definition of fents laid down by the Central Board of Revenue, for the guidance of customs Houses all over the country and in view of the elaborate arrangements for the examination of bales of Fents at the Indian ports, where these bales have to be opened and examined by a host of officials, who are retained for this specific purpose, I cannot understand how the Government can come before us and say that spurious fents are imported into this country in such large quantities that an increase in import duty is called for. I certainly am not one of the credulous people who are prepared to believe such wild stories. Who in his right senses will desire to damage his perfect goods, which any day would fetch from 30 per cent to 40 per cent more in the market simply for the sake of saving 15 per cent. duty? Nor do the figures for the import of fents justify to my mind any increase in the duty, in spite of what the Honourable the Commerce Member has said. The imports for last year into Bombay were valued at about 68 lakhs while the same for 1927-28 stood at slightly over Rs. 87 lakhs. This proves that there has, so far, been no alarming increase in the import of this article to justify the rushing through of this Bill. In fact, we are very much short of the figure reached in 1927-28. Then the Bill before us not only increases the duty but shortens the permissible length of fents from 4 yds. to 2½ yds. We have to examine this part of the question very closely. For we have to remember that we are now dealing with small pieces of cloth, defective and rejections, used by the poorest of the poor in our country.

(At this stage, some Honourable Members asked the Honourable Member to cut short his speech.)

Sir, the question of the permissible maximum length of fents was reduced from 9 yards to 4 yards so late as the year 1934, and what is the reason for interfering in this matter so soon? I do not think that there has been a reply to this question. This frequent interference in trade matters does a lot of harm to those engaged in the trade. I understand, that the maximum permissible length of fents was reduced in 1934 as a measure of compromise after prolonged discussions between the importers and the Government—the importers agreeing to accept the reduction in length and the Government agreeing to give up their proposal to raise the duty to 50 per cent. What is the reason for interfering again in this matter so soon?

Sir Cowasji Jehangir: You can discuss all these points in the Select Committee. You better cut short your speech.

Mr. H. A. Sathar H. Essak Sait: In that case, I shall cut short my speech. I only wish to impress upon the House the necessity of examining this Bill very closely, because I feel that this measure of protection affects the interests of the poor people of India. Sir, I would like to call the attention of the House to one matter which, I believe, is rather important, and it is this. Is it only the very laudable purpose of helping indigenous industries that has prompted the Government to bring forward this Bill? It is unfortunate that every measure introduced in this House for the avowed purpose of protecting our tottering industries, has carried with it some measure of Imperial Preference, and I want the House to be very careful about it. British fents, according to this Bill, are to be given preference of 25 per cent. May I ask, Sir, why this free gift is made to England at the expense of the poorest of the poor in this country? It was only the other day that we decided to give notice of terminating the Ottawa Pact which gave Britain a preference of ten per cent. only on her fents imported into this country.

I shall not proceed further at this stage, as I am asked to finish. As I said at the beginning this measure will have to be carefully examined in the Select Committee, and I, therefore, support the motion for the Select Committee.

Mr. M. S. Aney (Berar Representative): If there is a motion for reference to a Select Committee and Members are pressing their views. Because of some understanding which other Members do not know speakers are not allowed to speak. We are unable to understand because the speeches are interrupted. It is absurd that Honourable Members should not be allowed to have their full say.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I should have imagined that the Bill was of such a simple character, as it dealt with such a small number of matters that it should have been possible to consider it and debate it in the full House. But if there is a desire, in different sections of the House, that they wish to examine it in Committee, I shall not stand in their way, though, having regard to the

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time table I am bound to point out to the House that under the limitations which have been put forward, the only time for considering this matter in Select Committee would be tomorrow morning. I am prepared to sit at a reasonably early hour to commence consideration of this matter in Select Committee, but it will be difficult for Government Members to sit during the afternoon tomorrow. I hope, therefore, that a full morning will be considered sufficient for discussing this matter in Committee. I am not binding the Committee to any such time-table, I am merely explaining the position. But, as I have said, if it is the general desire that the matter should be examined in Committee before it is discussed in the whole House I shall not stand in the way. I cannot at this stage commit myself as to what may be the subsequent course with regard to this Bill. That would depend on what happens in Select Committee.

Mr. S. Satyamurti (Madras City: Non-Muhammadian Urban): May I say a word? I would point out that it is not so simple as my Honourable friend wants to make out. Within a few days of the Ottawa debate and vote, a whole scheme of Imperial Preference is being sought to be thrust upon us. It is not as if mere protection is sought to be given, but a whole scheme of Imperial Preference is sought to be introduced. That is why we want that this matter should be examined by a Select Committee. As regards staple fibre, they are for the first time introducing Imperial Preference. Till now, there is only a revenue duty of 25 per cent; but, today, they have for the first time introduced a 15 per cent duty on non-British and a five per cent duty on British goods. Similarly, throughout the whole scheme of the Bill; and I think the House must protect the consumer and the people of this country against any unholy alliance of capitalists interested here and in England to have the best of both the worlds. I agree that our industries should have protection, but not by means of this unholy alliance. I hope the Select Committee will not be hustled and the House will not be hustled in this matter.

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

"That the Bill be referred to a Select Committee, consisting of the Honourable the Law Member, the Honourable Sir Muhammad Zafrullah Khan, Mr. H. Dow, Sir H. P. Mody, Mr. N. M. Joshi Mr. Mathuradas Vissanji, Mr. J. Ramsay Scott, Sardar Sant Singh, Mr. Amarendra Nath Chattopadhyaya, Dr. Ziauddin Ahmad, Mr. H. A. Sathar H. Essak Sait, Pandit Govind Ballabh Pant, Pandit Nilakantha Das, Mr. M. Ananthasayanam Ayyangar....."

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): I withdraw, Sir, and I suggest Prof. N. G. Ranga in my place.

Mr. President (The Honourable Sir Abdur Rahim): If the House agrees. Is it the pleasure of the House that the name of Prof. N. G. Ranga should be substituted for that of Mr. M. Ananthasayanam Ayyangar?

(The Assembly agreed.)

The Chair will read the names once again:

"The Honourable the Law Member, the Honourable Sir Muhammad Zafrullah Khan, Mr. H. Dow, Sir H. P. Mody, Mr. N. M. Joshi, Mr. Mathuradas Vissanji, Mr. J. Ramsay Scott, Sardar Sant Singh, Mr. Amarendra Nath Chattopadhyaya, Dr. Ziauddin Ahmad, Mr. H. A. Sathar H. Essak Sait, Pandit Govind Ballabh Pant, Pandit Nilakantha Das, Prof. N. G. Ranga and the Mover, with instructions to report by the 21st April, 1936, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE PAYMENT OF WAGES BILL.

The Honourable Sir Frank Noyce (Member for Industries and Labour):
Sir, I move:

"That the amendments made by the Council of State in the Bill to Regulate the payment of wages to certain classes of persons employed in industry be taken into consideration."

The amendments in the Bill to regulate the payment of wages which have been made by the Council of State relate entirely to the proviso to one sub-clause in the Bill. That proviso is the proviso to sub-clause 9 (2), which aroused considerable interest and, indeed, controversy in this House. Perhaps I had better refresh the memory of the House by reading the proviso in the form in which it emerged from this House.

"Provided that, subject to any rules made in this behalf by the Local Government, if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which they are required to give either expressly by their contracts of employment or impliedly by the terms of their service) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for 13 days as may by any such contract or terms be due to the employer in lieu of due notice."

The first amendment made by the Council of State was brought forward by the Honourable Mr. Sapru who wished that for the words "that is to say without giving the notice which they are required to give either expressly by their contracts of employment or impliedly by the terms of their service", the following words should be substituted, "that is to say without giving the notice which is required under the terms of their contracts of employment". He thought that, if his amendment were accepted, it would place the worker in a stronger position. The words "impliedly by the terms of their service" seemed to him somewhat vague and a clearer definition seemed needed in the interests of the workers. The Government agreed with him and thought that his amendment was a distinct improvement. So much for the first amendment. The second one is much more important. It limits the deductions which may be made by the employer in lieu of due notice to the wages for eight days instead of thirteen days. Mr. Sapru appealed to me to abate what he called the rigour of the proviso as passed by this House and to reduce the period for which wages might be deducted in lieu of notice from thirteen days to eight. He told me that if Government accepted his amendment, the Bill would have a better response. I consulted those of my Honourable friends in this House who have taken

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a special interest in the Bill from the outset and after doing so, I agreed to the reduction. The third amendment made by the Council of State is a very small one moved from the Government Benches and consequential on the acceptance of Mr. Sapru's first amendment. I need not detain the House with that.

I do not propose to do more than explain the scope of the amendments which have been made by the Council of State. I do not propose by anything I say to give my Honourable friend, Mr. Joshi, an opportunity of entering once more into the merits of the question which was examined at very great length and with very great care in this House. I would only point out to him that these amendments have been made in the interests of those whom he represents. That they will satisfy him or that Government will get any thanks or appreciation from him is perhaps too much to expect. I can only hope that they will mitigate, to some extent, the sadness and despondency with which he saw the Bill emerge from this House. Sir, I move.

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

"That the amendments made by the Council of State in the Bill to Regulate the Payment of Wages to certain classes of persons employed in industry be taken into consideration."

Mr. N. M. Joshi (Nominated Non-Official): Mr. President, the amendment made by the Council of State is no doubt an improvement upon the Bill as it was passed by this House. For that I am prepared to thank the Upper Chamber, the Government of India and others who have helped in this result, but, Sir, I am not prepared to admit that this amendment has made a great improvement in the proviso which was added to section 9(2) of the Bill on account of the amendment proposed by my Honourable friend, Sir H. P. Mody. The first amendment which the Council of State has made has removed the reference to what I may call implied contracts. The original proviso to sub-clause (2) of clause 9 enabled an employer to impose a penalty upon his employees if they acted in concert and if they acted, in the opinion of the employer, without reasonable cause. The employer was the judge to decide whether the action was an action in concert or whether the action was without any reasonable cause. Secondly, the original clause referred to a breach of contract by the employee and the contract according to the origin Bill, as passed by the Assembly, was to be expressly stated or to be implied.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can resume his speech after Lunch. The House now stands adjourned till Half Past Two. The Chair proposes to adjourn the House for the day at a Quarter to Four, as many Members want to attend the ceremony in connection with the swearing in of the new Viceroy.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

Mr. N. M. Joshi: Mr. President, when we adjourned for lunch, I was saying, that under the original proviso to sub-clause (2) of clause 9 the contract on account of which the employer derives his power to impose a penalty upon his employees can be either expressly stated or implied. The amendment made by the Council of State drops both "expressly stated or implied". It retains the word "contract". The Honourable Member in charge of the Department of Industries and Labour said that this was regarded as a great improvement. Mr. President, this change may be a very slight improvement in one sense, but I cannot agree to his statement that it makes a great improvement.

The Honourable Sir Frank Noyce: I think I said "a distinct improvement".

Mr. N. M. Joshi: Well, Sir, I cannot agree even to the statement that it is a distinct improvement. Under the clause, as amended in another place, the contract may be implied or it may be expressly stated. The words are:

"That is to say, without giving the notice which is required under the terms of their contracts of employment, the contract may be implied or expressly stated."

Even after this amendment, the only improvement which I can see, in the amendment made by the Council of State, is that under regulations some Local Governments may be able, if they so desire, to insist upon the contract being expressly stated. That is the only change. There is no guarantee that the Local Government will insist upon contracts being written or expressly stated. They may even approve of contracts which may be implied. I, therefore, feel, that the change is a very slight one and that the improvement is problematical. In any case it depends upon the whim of the Local Government. Moreover, in the present conditions of the working classes of this country who are ignorant and unorganized and in the present state of unemployment, they may sign any paper which may be a contract without understanding what the contract is; and, secondly, Mr. President, the proviso gives power to the employer to deduct wages when in his opinion there is a contract which enables him to deduct those wages. He may do so wrongly, depending upon the inability of the employees to go to Court to recover money wrongly deducted. I have no doubt in my mind, Mr. President, that only a very small proportion of the employees, from whom deductions may be made, will have the knowledge of the law, in the first place, to go to Court and, in the second place, very few of them will have the money to pay to a lawyer or to some other person in order that he should recover the money which the employer has wrongly deducted. From that point of view this amendment, though a slight improvement, cannot be regarded as a distinct improvement. The second change made in another place is the change from thirteen to eight in the number of days for which the employer can deduct wages by way of a penalty upon his employees for breach of contract for service. Mr. President, the loss of thirteen days' wages is a great loss and when that

[Mr. N. M. Joshi.]

loss is reduced from thirteen to eight, there is no doubt that it is an improvement from the point of view of the worker, but when I spoke on this Bill and especially on this proviso when the Bill was considered in this House, I made it quite clear that, although the loss of thirteen or eight days' wages was a great loss to the workers, still the loss of thirteen days' wages was not the main cause of our opposition to the proviso. We opposed that proviso on the ground, not that the number placed in that proviso was thirteen, but on the main ground that the employer was made the judge in deciding the claim which he may have against his employee. Sir, that objectionable feature of the proviso still remains, and, so long as that proviso remains, the change of eight from thirteen cannot remove the cause of our opposition to that proviso.

Mr. President, the Council of State no doubt has made two small changes. The Honourable Mr. Sapru proposed an amendment which went much further. He proposed that at least women and children should not be made the subject of penalty by the employer by his own action without going to Court. Sir, the Government of India were not pleased to accept that amendment in spite of the fact that in Great Britain women and children are exempt from deduction by the employer in a case of this kind.

The Honourable Mr. Sapru also proposed one or two other improvements. He proposed that the deduction by the employers should not exceed the wages of the actual days of absence of the employee. I do not know why the Government of India should not have accepted that amendment. Is it the intention of the Government of India or of the Legislature that the employer should have power to deduct eight days wages for even one day's absence, which is provided for in this provision? If that is not their intention, may I ask why the Government of India did not accept the amendment that the deduction of wages should not exceed the wages of the actual days of absence. The Government of India were not pleased to accept those amendments. However, we are no doubt grateful to the Government of India and to the Legislature for the small mercy which they have shown, but this small mercy cannot change our attitude towards that proviso. The Honourable Member in charge of the Department of Industries and Labour said that my despondency, my fear or my despair may be allayed to some extent. Let me tell him very frankly that neither my despondency, nor my despair, nor my fear is allayed to the slightest extent. I made it quite clear, when the Bill was discussed in this House, that what I feared most on account of this proviso was that if the object of this proviso was achieved, namely, what are known as lightning strikes were totally prohibited or prevented under the present circumstances of the Indian workers when they are unorganized, when they are ignorant and illiterate, when it is difficult for them, extremely difficult for them to give notice of a strike, prohibition or prevention of lightning strikes is bound to lead to the reduction of wages of the working classes in this country. Their only power of resistance, their only means of resistance to the attack on their standard of life today is what is known as lightning strike and if you prevent lightning strikes that prevention is bound to lead to the general reduction of wages in the country. I, therefore, feel, that if the object of this proviso is served, it will lead to disastrous consequences. But it may be held and I myself fear that in spite of this proviso, there will be lightning strikes. The working classes in this country do not know

law. The law only remains in law books. The Government have not educated them to understand law. Therefore, there may be lightning strikes in spite of this proviso. But, whenever there is a lightning stroke, because of this proviso, the settlement of that strike will become extremely difficult. When an employer uses the power which is given to him in this proviso and deducts wages for eight days even for one day's absence, be sure, Mr. President, that a settlement of that strike will be extremely difficult. There will be very few workers in this country who will tolerate the action of the employer when he deducts eight days wages for one day's absence. (Applause.) I have, therefore, no doubt in my mind that if the object of the proviso is achieved, namely, lightning strikes are prevented, there will be disaster on account of the reduction of wages and, if the object is not served and if lightning strikes still take place and the employer has power to deduct eight days wages for even one day's absence, I have absolutely no doubt that there will be another disaster in the form of difficulty of the settlement of the strike. It is on account of this reason that my apprehension, my fear and my despondency is not allayed on account of the amendment made by the Council of State. But, Sir, there is a graver reason why I still feel despondent on account of the spirit of the discussion that took place in both the Legislatures. I feel, after having gone through the discussions in this House and in the other House, that there is lack of understanding, there is lack of sympathy for the needs and the difficulties of the working classes in this country. The Legislature and Government can easily realise the difficulties of the employer in instituting prosecutions against ten of his employees and, therefore, they have inserted this proviso in order to meet that difficulty. But, Sir, the Legislature and the Government of India could not realise the difficulties of unorganized and illiterate thousands of workmen (Hear, hear), in giving notice of a strike. It is this lack of understanding of the difficulties of the working classes that fills me with fear, not so much the loss that may be caused by the proviso in this Bill. The Legislature thought that by introducing this proviso, it was bringing about reciprocity or a position of equality between the position of employees who have to go to Court whenever the employers broke their contract of service and the employees wanted damage for the breach of contract of service, and the position of an employer who could straightaway deduct the wages from the wages due to his employees. Mr. President, is there no difference between the position of an employer who deducts straightaway wages and the employee who has to go to Court in order to get compensation for breach of contract? Still the Government of India, this Legislature and the other House decided that there was not much difference between the position of the employees and of the employers. Mr. President, it is this lack of understanding, it is this want of sympathy for the working classes that fills me with fear, and it is on account of that I feel that if the object of the Honourable Member in charge of Industries and Labour Department was to help the establishment of industrial peace by accepting this proviso, he has done nothing for the establishment of that industrial peace. On the other hand, by allowing this proviso to be inserted in this Bill and by the lack of sympathy and by the lack of understanding for the needs and difficulties of the working classes, the Legislature and the Government of India have created a threat for the industrial peace of this country. It is for these reasons, in spite of the fact that these amendments made by the Council of State are made, my attitude towards this Bill has not changed at all. (Applause.)

Mr. V. V. Giri (*Gangam cum Vizagapatam: Non-Muhammadan Rural*):

Sir, I rise to associate myself generally with the points raised by my Honourable friend, Mr. Joshi. But I am bound to make a statement on behalf of the Party to which I have the honour to belong as well as on behalf of the organised workers in this country who claim to represent the workers of this country. Originally, Sir, this Bill, of which this amendment has now become a part, when it was brought forward by the Honourable Sir Frank Noyce on the floor of this House, was welcomed by the workers and the workers' associations as a measure of improvement on the existing conditions of service. Holding the same view, Sir, the Congress Party took an active part in the deliberations of this Bill, both in the Assembly and also as members of the Select Committee. They effected various improvements as regards the scope of the Bill though they wanted to have further improvements by the dissenting minute that they have put forward. They were anxious that this Bill should be pushed through as it emerged from the Select Committee. But, unfortunately, Sir, an eleventh-hour surprise was sprung on us by the introduction of an amendment by Sir Hormasji Mody which was supported by Government. No persuasion, no appeal, no protest had any effect on Government and they persisted in their error. Sir, so far as the workers' attitude is concerned, whether as regards the original amendment or the amendment now passed by the Council of State, which reduces the days from 13 to 8, I desire to make their attitude quite clear. The organised workers of this country feel that by the introduction of this amendment the measure has lost its usefulness, and they feel that by accepting this measure with this amendment they are selling their birthright for a mess of pottage. So far as the organised unions are concerned, I mean the central organisations like the All-India Railwaymen's Federation, All-India Trade Union Congress, the National Trade Union Federation, and other unattached unions, they are absolutely clear in their minds that, by accepting this measure with this amended amendment, they will be still selling away their rights and privileges for practically nothing that they are securing from this Bill. I wish even at this late stage that it may not be too much to ask the Government of India, if they are alive to their sense of responsibility, if they are alive to the feelings of discontent on this amendment, they should straightforwardly delete this amendment and give us the Bill in the original form. Therefore, it is the opinion of the workers, Sir, that it is not a payment of wages Bill, but a non-payment of wages Bill. That is their considered view, and I, on behalf of the Congress Party, am bound to assure the organised workers and unorganised workers of this country that they should stand together and fight this amendment tooth and nail and get this deleted tomorrow, if not today. Sir, I desire to make it clear on behalf of the workers in this country and on behalf of the Congress Party which stands for the masses of this country. Therefore, Sir, we are not at all enthusiastic about the so-called amendment now made which has reduced the days from 13 to 8. I want to state it clearly that there can be no compromise so far as the principle of the amendment is concerned, and we of the Congress Party stand by the principle. I have nothing more to say except to make this statement on behalf of my Party.

Prof. N. G. Ranga (*Guntur cum Nellore: Non-Muhammadan Rural*):

Sir, I rise to oppose this amendment and every word of it. It may be that in the view of Sir Hormasji Mody there is everything to be satisfied

with in this particular amendment. They have really everything to be satisfied with in this Government also and with the general opinion and spirit prevailing in the Central Legislature. But certainly, Sir, the working classes have nothing whatsoever to be satisfied with, either with regard to the attitude of this Government or the attitude of the employers as represented by my Honourable friend, Sir Hormasji Mody. We are told, thanks to the intervention of the Council of State, which often only registers the wishes of this Government

The Honourable Sir Nripendra Sircar (Law Member): Sir, on a point of order

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must withdraw that.

Prof. N. G. Ranga: I withdraw that. I will say, which often is unable to resist the will of this Government

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should not indulge in any of those remarks.

Prof. N. G. Ranga: It may be, Sir, that the Council of State has given us this small mercy of reducing it from 13 days to eight days; but yet there is that fundamental threat to the elementary right of the worker to go on strike if he is dissatisfied with the conditions of working under which he is obliged to labour for his own living. Sir, we are told that this amendment really does not interfere with the legitimate right of organised labour to go on strike, that it is intended only to prevent them from going on lightning strikes and thus hurting not only the employers but also themselves. We are told, again and again by the Anglo-Indian press as well as the capitalists and industrialists of this country, that lightning strikes are a thing which ought to be opposed by everybody interested not only in the mill-owners but also in the workers. I do not know whether a lightning strike is such a dreadful thing, such a useless thing and such a silly thing that it ought to be discouraged by every one. A lightning strike is one of the incidents of industrial life of our working classes, and most of our workers happen to be, as has been said by my Honourable friend, Mr. Joshi, ignorant people, ignorant of their rights and ignorant of the laws of the land. And there are circumstances when workers are bound and are often provoked into lightning strikes by the bad behaviour of their foremen and of their employers and by accidental trouble that may arise in their workshops and in their factories. And such lightning strikes really ought to be welcomed for the simple reason that thereby alone the employers can be made to realise their responsibility to their workers, can be made to realise the cause of the trouble and discontent of the workers, and thus relieve the troubles of the workers. But the interestec parties in this country and the organised interests of employers in this country simply look horrified at the suggestion that lightning strikes, after all, may be justifiable, and, therefore, ought not to be discouraged, as is intended by this particular clause. Even supposing that lightning strikes ought not to take place at all,—and I do not admit that position,—even then does this clause go only to prevent these lightning strikes from taking place? As I made clear on an earlier occasion, it is my sincere opinion that this clause goes to prevent legitimate organised strikes also

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from taking place and that is why I consider that this amendment goes to the very root of the problem and strikes at the very elementary right of the worker to go on strike in order to improve his conditions, in order to prevent any infringement of his rights and in order to prevent any worsening of his own conditions.

Sir, no other amendment proposed to any particular Bill in this House has created so much furore and so much discontent in the country as this particular amendment. All over the country, in every town, not once, but many times, industrial workers have gathered together in their Unions, in their conferences and in their mass meetings, and declared themselves absolutely opposed to this amendment. And not only have they declared themselves opposed to this particular amendment, but they have even gone to the extent of expressing their discontent with the behaviour of even a party like ours which has been standing for labour and its rights, because some of us have had to remain neutral on some occasions when certain clauses of this particular Bill came up for voting. If such is the feeling prevalent in the circles of industrial workers of this country, then, what must be their feeling towards the general tenor of the Legislatures and towards the general attitude of this Government and of the employers? It may be that this Government is powerful today, it may be that the employers are very powerful today, but they cannot remain ever silent with discontent prevailing among the working classes and it does not bode well either to the Government or to the employers that they should take law into their own hands and begin to create industrial unrest and discontent amongst the workers and thus incite people to more and more trouble. We are told that Congressmen are interested in creating revolution. It is not the Congressmen. I wish Congressmen really go about more seriously than they do today in order to create revolution, but thanks to Government and thanks to employers, this clause is such that it will remind the workers again and again, day after day, that they should not rest content with the present conditions of employment that are prevalent in this country, but should combine themselves not merely to get rid of a small amendment like this, but to get rid of the power with which this Government or the employers continue to inflict upon them such unpopular, unjust and inhuman amendments. Sir, with these remarks, I wish to oppose this amendment, and I wish to state that the working classes in this country reserve to themselves the right of utilizing every possible weapon in their hands to get rid of this amendment and also to prevent the effectual usage of this amendment.

Mr. S. Satyamurti (Madras City: Non-Muhammadian Urban): Sir, when honest men quarrel, thieves come by their own.

Sir H. P. Mody (Bombay Millowners' Association: Indian Commerce): I suspected that would come.

Mr. S. Satyamurti: Government are honest about this Bill, the House is honest about this Bill. The happiest man in the House today is my friend sitting over there. (Laughter.) When Government brought forward this Bill, this amendment was not there, it was not in their mind, and, I am sure, Sir, that the Industries Member, with his usual generosity, will admit, what he has already admitted, that the Congress Party and myself

and all others very willingly co-operated with him at various stages of this Bill in the House and the Select Committee. But along comes this mischievous gentleman, and there is this amendment. We had long sittings of the Select Committee in Simla, we went into the Bill carefully, and he fought every inch. Then, he goes to Bombay and he tries to persuade the Bombay Government to accept the amendment. Their industrial adviser refuses to accept the amendment, he lies low. Some months lapse, he goes to Bombay, pulls the wires, the Bombay Government changes its mind, and says it will support the amendment, he comes to Delhi, and quietly puts this amendment through. Now, Sir, I am sure that the Government cannot be very happy over it. They have brought forward this Bill in order to achieve three very good purposes:

- first*, to prescribe a time limit before which wages ought to be paid—a very good thing;
- secondly*, not to permit unauthorised deductions or fines, and to make employers pay the labourer his wage, except under the very strict conditions defined in this Bill; and
- thirdly*, to provide machinery which will enable the poor labourer to get his wages, without compelling him to go to the costly and dilatory machinery of ordinary law Courts.

All these are good objects. Now, my Honourable friend, the Industries Member, wants the thanks and the approval of labour and of the country generally in this matter. I ask him to tell my friend, "Get thee behind me". I do not think, even now, it is too late for Government to take courage in both hands, and advise the Governor General that this proviso ought not to become part of this Bill, and to return this Bill to this House for further consideration. If Government feel that there is an unanswerable case for the proviso, I suggest to them to bring in an amending Bill to the Trade Disputes Act. Let them put it there, let us get the opinion of all labour in this country, and let us discuss it and decide it on its merits. But, speaking on this particular amendment, I want an answer from my Honourable friend to the question raised by Mr. Joshi as to whether, if a labourer feels that his wages have been irregularly or unlawfully withheld from him under this proviso, he is bound to go to a Court of law, or whether the machinery under clause 15 is available to him. I believe the latter is correct, but I do not know, and I should like the matter to be made clear by my Honourable friend.

Then, Sir, I should like the Government to say even now "Is there an imperious need for this proviso?" Are they satisfied that, as a price for giving labour its just dues, namely, regular payment of wages, prohibition of unauthorised deductions, and provision of special machinery, they should put in this proviso against what are called lightning strikes. Secondly, the proviso says "subject to any rules made in this behalf by the Local Government". What is the kind of rules they are going to make? Are the Government of India going to give them any kind of general directions? Thirdly, I should like to know what the meaning of the phrase "acting in concert" is going to be. "Acting in concert" is a psychological phenomenon. (Interruption from Sir H. P. Mody.) As my friend acts in concert with the powers that be, we all act to order; but we act according to our conscience. But, suppose ten people employed in a factory find an unfortunate woman assaulted by a mistry or the employer, and that all

[Mr. S. Satyamurti.]

of them simultaneously feel angry and walk out, is that "acting in concert"? I should like to know. If that is so, of course it seems to me that it is a dangerous provision. There are lightning strikes and lightning strikes. Suppose something happens which affects the self-respect of the employees, and they feel that they can vindicate it only by going out immediately, are they to be punished in this manner?

Then, what does the phrase "without reasonable cause" mean? Will the machinery provided in clause 15 of the Bill apply, and will it be open to the labourers to prove that conditions were so bad that they had no alternative but to act in concert and go out on strike? And the third point I want to make is this: this proviso is wholly inconsistent with clause 9(2). Surely, the punishment ought to have some relation to the offence. Sub-clause (2) provides in cases of absence that the deduction shall not be more than the wage due for the period of absence. I do not see why, if people absent themselves for half an hour or even five minutes, the employer should have the right to deduct eight days' wages. It seems to me that this is a proviso which is likely, on the whole, to do more harm than good; and as my Honourable friends who preceded me—Prof. Ranga and Mr. Giri—have stated, we, who belong to the Congress Party, feel that, while this Bill is a good Bill and deserves support of this House, this proviso mars it so badly that, if the option were today between the Bill with the amendment or no Bill at all, I think the Congress Party will be acting in consonance with the expressed desires of organised labour in this country and with the progress of labour in the long run in saying, "No Bill rather than the Bill with this amendment"

Sir H. P. Mody: That is the best thing you have said so far.

Mr. S. Satyamurti: I now see why my Honourable friend speaks, as if he is the author of the Bill. Even the Honourable Member is somewhat hesitant, but, Sir Homi knows he has walked away with it, and, therefore, he says, "Do not have the Bill". Luckily for him, the Government have fallen into his trap: he holds them to their bargain; but I do appeal to the Honourable Member to ignore Sir Mody's blandishments, and to meet this point of organised labour being in opposition to this Bill with this proviso. My Honourable friend is the Member for Industries and Labour, and not Sir Homi Mody; and, therefore, he has got to satisfy the objections of organised labour. The last point I wish to make is this: supposing this proviso is withdrawn at some suitable stage, and the Bill becomes an Act without the proviso, will not the objects of the Government be thoroughly satisfied? Are they so clear in their minds

Mr. President (The Honourable Sir Abdur Rahim): The Bill is not before the House now: only the amendments.

Mr. S. Satyamurti: I am talking of a later stage, when the Bill, as passed by the House, will go to the Governor General—I am asking the Government to consider whether, at that stage, they cannot reconsider the whole position and try to effectuate their main object of alleviating the conditions of labour. For ourselves—I speak on behalf of the entire Congress Party—we can have no part or lot with this proviso.

Sir H. P. Mody: Sir, just one word. I want merely to offer my very deep sympathy to my Honourable friend, Sir Frank Noyce, in the plight in which he finds himself. This Bill is the result of a mesalliance between the Government and Labour. My Honourable friend, Mr. Satyamurti,

suggests, that I was perhaps part author of it. As a respectable member of society, I disclaim all responsibility for the offspring. This misbegotten child has got nothing to do with me. It has everything to do with the alliance between Government and labour; and, if labour repudiates it, then the only suggestion I can make to my Honourable friend, Sir Frank Noyce, is to send it to a foundling home.

The Honourable Sir Frank Noyce: Sir, it is perfectly clear that in this case virtue will have to be its own reward, and I must be content to leave it at that. I propose to deal very briefly with one or two points which have been raised in this discussion. As regards the first point raised by my Honourable friend, Mr. Joshi, he has argued that the improvement which I have suggested has been effected in the Bill by the acceptance of the Honourable Mr. Sapru's first amendment, is no improvement at all. I think I can give him some small reassurance on that point by explaining in what the improvement consists. It consists in the fact that it will now be possible for Local Governments to insist on contracts being in writing. Formerly, this was not possible as the clause recognised implied terms, I may assure him if it is any comfort to him, that we do intend to ask Local Governments to prescribe that the terms should be in writing. I trust that this explanation will convince him that there was more in my contention that this is a distinct improvement than he was prepared to admit.

I now come to the much more important point which has been raised in this discussion—that of the ground covered by the whole proviso. I do not propose to follow my Honourable friends opposite in arguing the case over again. My Honourable friend, Mr. Clow—I do not know whether I am correct in so describing him as he is no longer a Member of this House—and myself in this House, and Mr. Clow in the other House endeavoured to prove that the opposition to the proviso was based almost entirely on a misunderstanding. We endeavoured to make it clear that the clause had been described wrongly as a clause penalising a lightning strike or as a clause imposing a penalty; and that in describing it in that manner its whole effect had been misunderstood. The proviso does not impose a penalty. It merely restricts the penalty which at present can be imposed, and it will not leave the workman in any worse position than he is in at the present moment: it will leave him in a better position than that he at present holds. With the help of my Honourable friend, Sir Hormasji Mody, we spent a day in this House endeavouring to establish that case. It is perfectly clear, however, from what has been said in the course of this afternoon, that we were beating the air when we did so, and I do not propose, therefore, to go over the ground again. All I would say is that the Government do not resile from their position in this matter; and I would in conclusion ask my Honourable friend, Professor Ranga, who, I gather, is opposing the second amendment, if his opposition is successful, whether the people whom he claims to represent will feel exactly happy if they lose 13 days wages instead of eight. I earnestly trust that they will hold him and not me responsible for the extra five days' loss.

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

“That the amendments made by the Council of State in the Bill to regulate the payment of wages to certain classes of persons employed in industry be taken into consideration.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The Chair will now put the three parts of the amendment separately:

The question is:

"That in the proviso to sub-clause (2) of clause 9, for the words in brackets the following words be substituted, namely:

'that is to say, without giving the notice which is required under the terms of their contracts of employment'."

The motion was adopted.

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

"That in the proviso to sub-clause (2) of clause 9, for the figures '13' the word 'eight' be substituted."

The motion was adopted.

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

"That in the proviso to sub-clause (2) of clause 9, the words 'contract or' be omitted."

The motion was adopted.

THE INDIAN TARIFF (SECOND AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the following motion moved by the Honourable Sir Muhammad Zafrullah Khan on the 14th April, 1936:

"That the Bill further to amend the Indian Tariff Act, 1934, for certain purposes (*Second Amendment*) be taken into consideration."

Mr. Mathuradas Vissanji (Indian Merchants' Chamber and Bureau: Indian Commerce): Mr. President, I only want to refer to one part of the Bill, and that is mainly flour. The significance of this Bill relates to a reduction of the duty

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member got any amendment?

Mr. Mathuradas Vissanji: No, Sir.

Mr. President (The Honourable Sir Abdur Rahim): There are some amendments I understand. I think the Honourable Member had better wait.

Prof. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadan Rural): I wish to move my amendment, Sir.

Mr. President (The Honourable Sir Abdur Rahim): We are still on the general consideration of the Bill.

Mr. Mathuradas Vissanji: As I was saying, Sir, I am going to restrict myself to one aspect of the Bill, and that relates to flour. The condition of the flour mill industry in this country has not been properly realised by the House as it ought to have been realised, and, therefore, I want to draw attention to one important fact, and it is this. After 1927 the normal conditions of the industry were disturbed. Prior to that the export trade of that industry was ranging between 55,000 tons and about 80,000 tons every year. Since then, it has come down gradually and steadily to the present position of about 11,000 tons. That is a very serious drop, and that is due to various reasons. The main reason is the depreciation of the currency in Australia by about 25 per cent. which enabled the Australian competitor to take away the oversea markets from the hands of our mills, and this industry was left only to the internal trade. Added to that, we also changed our exchange policy, and from 1s. 4d. to 1s. 6d. we thus brought about a further depreciation of 12½ per cent. That was practically the last straw on the camel's back. Well, Sir, the flour industry at that time applied to the Government to do something in the matter, and placed before them the bare facts. After a great deal of persuasion, we were able to secure some relief in the form of drawback on all the shipments to foreign ports of the flour made from the imported Australian wheat, and we were thus able to retain nominally some of our lost trade as Australian wheat was much cheaper at times than the wheat available in this country. That helped the industrialist to a certain extent, but it was really too late, because the industry had lost a great deal of ground already, and it was very difficult to get back the lost markets, but we hope that by maintaining almost a small touch we will be able to regain major portion of the lost ground in the overseas market even at some distant future. But at present there is one thing that is appearing on the horizon, and if that develops, I am afraid, Sir, probably the industry will suffer a great deal in the matter of even inward trade. Sir, the Rangoon market is one of the best markets. That is being supplied with Australian flour regularly for the past few months, even with the present duty or you may call the last duty of Rs. 1-8-0 per cwt. that was there; if this kind of thing can go on, what would be the position if you actually reduce the duty as it is proposed in the Bill? I would not be surprised if much larger imports of Australian wheat will find their way into that market and even in chief Indian port markets with the result that the industry will be practically wiped off in the ports.

Furthermore, Sir, we have to remember that Japan has entered into trade agreement with Australia whereby she is going to get wheat from Australia, and when we know the condition of the Japanese manufacturers and the facilities afforded to the trade by the Japanese Government, what will be the fate of this industry when they begin to compete in this market? With that grave apprehension in my mind, I appeal to the Honourable the Commerce Member that if at any time my fears happen to materialize he would be good enough to take the executive action which is implied in this Protective Duty Act without loss of time.

Mr. H. M. Abdullah (West Central Punjab: Muhammadan): Sir, I rise to support the motion before the House. Honourable Members will recollect that during the course of my speech on the Second Reading of the Indian Finance Bill, I urged on the Government the necessity for extending the operation of the import duty on wheat for one year more. Since then the Punjab Legislative Council have also passed a Resolution support-

[Mr. H. M. Abdullah.]

ing my demand, and I understand that the Punjab Government too have very strongly recommended to the Government of India for the imposition of this protective duty for another year. It is a matter of satisfaction that the Government of India have, after all, realised the need for keeping the duty for another year. I am however sorry to say that the Government of India instead of increasing the rate of duty have still further reduced it from Rs. 1-8-0 to Rupee one per cwt. although, both the Punjab Legislative Council and the Punjab Government have recommended that the rate of duty should be Rs. 2 per cwt. Sir, I consider that the proposed rate is quite inadequate to meet the situation. Wheat is one of the principal crops grown by the Punjab Zamindars. If the Government, as they profess, are really interested in the welfare and prosperity of the Zamindars, there is no better method of helping them than by devising means to raise their purchasing power which can only be done by raising the level of prices of agricultural product like wheat. The price of wheat can only be enhanced if an effective protective duty is imposed on the importation of foreign wheat into India. The House will also remember that during my speech on the Finance Bill I proved by statistics and figures that the reduction in the rate of duty from Rs. 2 to Rs. 1-8-0 had been followed by an increase in the importation of foreign wheat at the Indian ports. This further decrease in the rate of duty is sure to help the importation in still larger quantities of foreign wheat into India. In the circumstances, it is doubtful if the proposed rate of duty will be of real help to the Northern Indian Zamindars. I, being a representative of the wheat growing districts of the Punjab, would most earnestly request the Government to increase the rate to at least Rs. 1-8-0 if not to Rs. 2 per cwt. Otherwise, I support the Bill.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, two years ago, I asked Sir George Schuster, the then Finance Member, whether he had done anything for agriculturists, and he replied: "The Wheat Act of 1931". I asked him again if he had done anything else and he replied: "The Wheat Act of 1932", and then I asked him further if he did anything more, and he said: "The Wheat Act of 1933". That was a question that was put in 1933 and those were his replies. I immediately retorted and said that a teacher asked a boy whether he knew any indoor games. The boy replied: "Yes, I can do this thing" (Motion of hand). Again he asked the boy: "Do you know anything else?" and the boy replied: "I can do this thing as well" (The same motion of hand in reverse order).

The Honourable the Commerce Member in his opening speech argued as follows: He took down the present price of wheat at Lyallpur, he added to it the freight to Calcutta, then he took the world parity by taking the price of Australian wheat in London, and then he said, taking the price of Lyallpur wheat in Calcutta and the price of Australian wheat in London, we require so much difference in order to equalize, and he calculated that it was really one rupee per cwt. and it should be sufficient. He did not stop there, but he satisfied himself that there was no chance of further lowering the price by dumping because the world stock has now gone down. The world stock reached a figure of 624 million bushels and now it is reduced to 220 million bushels, and in view of the fact that the world stock has gone down there is no chance of any

further disparity between the price level of Lyallpur wheat in Calcutta and the world price. But there is one point which he ignored altogether, and I put this question immediately after he delivered his speech. My first question was, are the prices of Lyallpur wheat at present, economic prices, or are they not economic prices? I have no hesitation in saying that the prices of wheat at Lyallpur are not economic prices at present.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways): What is, according to the Honourable Member, the economic price of, say, a cwt. of wheat?

Dr. Ziauddin Ahmad: I will come to that. I think this question ought to be enquired into by some Committee of the nature of a Tariff Board. We have got a Tariff Board to consider the fair selling prices of various manufactured articles. Why not have a similar Tariff Board to calculate the fair selling price of wheat at Lyallpur, and that ought to be the basis of the price level of Lyallpur wheat. The fallacy underlying the argument of the Honourable the Commerce Member is this, that instead of taking the fair selling price of wheat at Lyallpur he took the prices which are now uneconomic and which prevail today. My Honourable friend has asked what are the economic prices? I take the price index, that is the only thing I can go upon in the absence of any authoritative report of a Tariff Board. I consider the economic price to be the price which was prevalent before the War in 1914. If the price index of wheat is 100 in 1914, that is, if you pay Rs. 100 in order to get a given quantity of wheat, it comes to Rs. 180 in 1922, and today it is only 75. That is, the price level at present is about three-fourths of what it was before the War. Therefore, in the absence of any authoritative information, I should say that the prices of wheat should be raised by one-third in order that they may come to the parity of 1914.

The Honourable Sir Muhammad Zafrullah Khan: Raise them how?

Mr. S. Satyamurti (Madras City: Non-Muhammadan, Urban): Ask the Finance Member!

Dr. Ziauddin Ahmad: Have not the Government taken steps to raise the price of manufactured articles by putting all kinds of duty? Have they not taken any effective steps to stabilise the exchange ratio? If you can stabilise the exchange, if you can stabilise and raise the prices of manufactured articles, why cannot you raise the prices of agricultural products and stabilise them. This is the need of India. If the Honourable Member appoints a Committee, I think various methods may be suggested by means of which the price level of agricultural products may be raised. Wheat is an article which we are not exporting outside; it is only an article of internal consumption, and so it is not necessary for us to compare it with the world parity. We can fix it at a price below which it should not be sold. We know very well that a rupee can be sold in sterling only within very narrow limits, this is prescribed by law. And is it not possible that we can prescribe certain limits within which only wheat should be sold, because this is not an article of export, but an article of internal consumption.

Mr. S. Satyamurti: Prohibit all imports.

Dr. Ziauddin Ahmad: That is not sufficient. Find out what is the fair selling price of wheat at Lyallpur, take that as the basis, and from that basis make a calculation. But any calculation based on the present value of wheat at Lyallpur is bound to lead us to erroneous conclusions. Another point which I want to emphasise is that India at present is suffering from great maladjustments, on account of the difference in the price levels of agricultural products and manufactured articles. For a very long time, in the days of prosperity, the prices of agricultural products were always higher than the prices of manufactured articles, and that is the reason why India had prosperous days. This ratio continued till 1931, when the price levels began to equalise with each other, and from 1931 onwards, we find that the price level of agricultural products is going down and down and the price level of manufactured articles is not going down to the same extent. Therefore, it is very desirable that Government should devise steps to remove this maladjustment without which to my mind it is impossible for India to get back to its natural prosperity, and we should find out some methods to do it. It is rather unfortunate that on the same day my Honourable friend, the Commerce Member, has produced two Bills. The effect of one is to lower the price level of the agricultural products, and the effect of the other is to raise the price level of manufactured articles, and the maladjustment which I have just described will now become more acute if we pass both these Bills as they stand before us today. I quite agree that the difference will only be effected by a few points, but even a few points are rather important. I think it is not correct, it is unfair to the country to take steps by which the price level of agricultural products may be lowered or to take any steps by which the price level of manufactured articles may be raised. We should now concentrate our mind on raising the prices of agricultural products and lowering the prices of manufactured articles. Any step in the opposite direction will not lead to the prosperity of the country, but will make conditions more troublesome, and these maladjustments will become more acute in future. This Bill is like a *Bur ka Laddu*. If we throw it away, it means there will be no duty at all; if we support it, it means we agree to the duty of one rupee instead of Rs. 1-8-0, which we do not do. With these remarks I take my seat.

Sardar Mangal Singh (East Punjab: Sikh): I whole-heartedly associate myself with the remarks just made by my Honourable friend, Dr. Ziauddin Ahmad. I do strongly protest against this constant lowering of the duty on wheat. The province from which I come is very closely interested in this matter. Only a few days ago, the Punjab Legislative Council unanimously adopted a Resolution urging upon the Government of India to raise the import duty on wheat. But, instead of raising the import duty, the Government of India have thought fit to reduce it from Rs. 1-8-0 to one rupee. I am particularly sorry that this achievement is being effected by the Honourable the Commerce Member who, if he had been in the Punjab Council, would himself have supported the Resolution of the Punjab Council and would himself have strongly urged upon the Government of India to raise the wheat duty. I stand corrected but, I remember, in 1931, he himself made a very strong speech in the Punjab Council advocating the import duty on wheat. I would like to ask a straight question—why is this duty being lowered? Who has demanded it? In whose interest it is being lowered? These are

some of the pertinent questions to which the public would like to have an answer. Last year the duty was lowered by eight annas. This year the duty has been further lowered. I want to ask the Government of India whether they have given up the principle of protecting wheat.

An Honourable Member: They have.

Sardar Mangal Singh: If they have, the public would like to know definitely the policy of the Government of India. So far as I know the policy of the Government of India still is to protect Indian wheat, to keep the Indian market for the Indian wheat but this constant lowering of duty is seriously affecting the price of wheat. Last year we have imported 7,000 tons of wheat. Why should we import it?

The Honourable Sir Muhammad Zafrullah Khan: I explained it was for milling purposes. It was milled into flour and flour was re-exported as there is a drawback on the export of flour. This seven thousand tons was not for consumption in the country.

Sardar Mangal Singh: Was it done in the interests of the flour mill industry?

The Honourable Sir Muhammad Zafrullah Khan: No.

Sardar Mangal Singh: When the Government of India do not want wheat from outside, why is this duty being lowered? That is the question I want to ask. If you want to stop foreign wheat from coming into this country, then stop it effectively.

The Honourable Sir Muhammad Zafrullah Khan: We have done so.

Sardar Mangal Singh: Then in whose interest is this lowering of duty? I seriously suspect that there are some interests working behind this. This very news, this vacillating attitude of the Government of India seriously affects the price of wheat. When the duty is lowered, the story goes round that so many ships have started from Australia and now the price will automatically go down. Every year, just when the harvest is ready, the Government come forward to lower this duty. I strongly protest against it. This would be very injurious to the interests of the wheat growers and this duty is lowered on the day of the arrival of the new Viceroy who is said to be very sympathetic to wheat growers. I will give you an instance to show how this news has affected wheat prices in our markets. This is the report from Hapur dated the 11th April:

"Anxiety is now centered mostly in the proposed reduction in the wheat import duty to Re. 1 per cwt. and there has been a stir in the markets ever since it was announced, for it is feared that once it is reduced there would again be a rush of foreign wheat like the pre-war years."

Thus it is that the price of wheat. . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can resume his speech on the next day.

STATEMENT OF BUSINESS.

The Honourable Sir Nripendra Sircar (Leader of the House): The list of business for Monday and the following days will be circulated this evening. It is a final list except that it includes no motion with reference to the Tariff Bill which has been referred to a Select Committee today. In the event of the Report of the Select Committee being such as to admit of Government proceeding with the Bill this Session, a supplementary list including a motion with reference to this Bill will be issued after the Report of the Select Committee has been presented. Honourable Members will observe from the list of business that we do not propose to proceed during the current Session with any of the three Bills to amend the Code of Civil Procedure or with the Arbitration (Protocol and Convention) Bill, the Indian Railways (Amendment) Bill or the Indian Tea Cess (Amendment) Bill.

The Assembly then adjourned till Eleven of the Clock on Monday, the 20th April, 1936.