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OF THE

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Legislative Assembly.

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

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LEGISLATIVE ASSEMBLY.

Tuesday, the 8th September, 1936.

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

QUESTIONS AND ANSWERS.

DEVELOPMENT OF THE INDIAN INDUSTRIES.

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

- (a) whether their attention has been drawn to a leading article in the *Hindu*, dated the 21st April, 1936, on the attitude of the Honourable the Finance Member towards the development of the Indian industries ; and
- (b) whether they propose to reconsider the whole position ?

The Honourable Sir James Grigg : I invite the Honourable Member's attention to the reply given to question No. 130.

Mr. S. Satyamurti : Are Government considering the question of giving protection to industries and the capitalists thereof only six per cent. dividend or about that, and taking the rest either for the benefit of the consumers or enhance the wages for the labourers or increase the taxes for the State, that is, for the people of the country as a whole ?

The Honourable Sir James Grigg : I am very glad to notice this beginning of a conversion towards my views by the Honourable Member. I will consider it, certainly.

Mr. S. Satyamurti : There is no conversion at all. On the other hand, I am glad to see the beginning of the conversion of my Honourable friend to this side. I am asking whether Government are considering of giving that protection at all, and seeing that, in addition to the capitalists the people who pay for it also get the benefit out of it.

The Honourable Sir James Grigg : That is a very large question. I think, among the beneficiaries of the excessive profits of the protected industries, the Honourable Member mentioned the State. I would like to know whether the State is to do that by excise duties, reducing the protection, or by some other way ?

Mr. S. Satyamurti : The State can increase the taxes on these capitalists, impose super-tax and do all kinds of things. Surely, the State has got enough resources to tax people.

The Honourable Sir James Grigg : The Honourable Member must know that the incidence of income-tax on the profits of protected industries is very much less than the incidence of an excise duty on the turnover.

Mr. S. Satyamurti : Will Government consider the possibility of an increase in surcharge ?

The Honourable Sir James Grigg : I have answered that question once or twice already this Session.

Mr. N. M. Joshi : May I raise a point of order, Sir ? It is this. Questions are asked in this House drawing attention to some articles in newspapers without giving any clue to the other Members as to what the point of the question is. In these circumstances, the reply and the supplementary questions and answers become a personal conversation between the Member who asked the question and the Member who replies.....

Mr. President (The Honourable Sir Abdur Rahim) : What is the suggestion of the Honourable Member ?

Mr. N. M. Joshi : I would like to know from you, Sir, whether it is not necessary under these circumstances when questions are asked drawing attention to the leading articles or other articles in newspapers that some clue should be given to the other Members as to what the point is about the question ? We understand nothing. The other Members simply watch. I should like to know whether you should not rule that, when a question of this kind is asked, some point on which the question is asked should be mentioned ?

Mr. President (The Honourable Sir Abdur Rahim) : Some indication of the subject should be given.

Mr. S. Satyamurti : The subject of the question is the development of the Indian industries. I always send the extracts, and if you rule, Sir, I shall in future reproduce the whole thing.

Mr. President (The Honourable Sir Abdur Rahim) : That cannot be done.

Mr. S. Satyamurti : I always send the extracts to the office. Besides, the *Hindu* is a well-known paper, and if people do not read that paper, why should they be here ?

Dr. Ziauddin Ahmad : When these questions are being discussed, I think it is but fair to the other Members that they should know the subject-matter of the question. The question should be framed in a manner that at least the subject-matter should come out of it.

Mr. President (The Honourable Sir Abdur Rahim) : In this case, it is the development of the Indian industries.

CONTRACT FOR THE CONSTRUCTION OF THE HOWRAH BRIDGE.

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

(a) what the latest position about the Howrah Bridge construction is ;

(b) whether they propose to use their influence to give the contract to Indian firms; and

(c) if not, why not?

The Honourable Sir Muhammad Zafrullah Khan : (a) The contract for the construction of a new bridge over the Hooghly connecting Howrah with Calcutta has been awarded to the Cleveland Bridge and Engineering Company of Darlington, England.

(b) and (c). I would invite the attention of the Honourable Member to the Howrah Bridge Act, 1926 (Bengal Act No. IV of 1925), and in particular the provisions of section 5 thereof from which he will see that the awarding of this contract was a matter that rested entirely with the body of Commissioners set up by the Act subject only to the approval of the Local Government.

Mr. S. Satyamurti : In view of the assurances given on the floor of the House more than once by my Honourable friend that, without arrogating to themselves the functions which rightly belong to the Howrah Bridge Commissioners, they will use their good offices, and get the contract to an Indian firm, may I know whether the Government of India did anything in that direction?

The Honourable Sir Muhammad Zafrullah Khan : I do not think that on any occasion such an assurance was given.

Mr. S. Satyamurti : Does not my Honourable friend remember that, on more than one occasion, he undertook to forward the questions and answers to the authorities concerned of the Bengal Government?

The Honourable Sir Muhammad Zafrullah Khan : Even that assurance was not given. When I was asked to do that, I said I had no reason to believe that the Bengal Government were not aware of the questions and answers in this House.

Mr. S. Satyamurti : Did Government correspond, formally or informally, with the Bengal Government over this contract?

The Honourable Sir Muhammad Zafrullah Khan : The Bengal Government, before announcing their decision, I think even before communicating it to the Bridge Commissioners, informed the Government of India of the course of action that they intended to adopt.

Mr. S. Satyamurti : May I know whether the Government of India were asked for their approval, formal or informal, or for their views, on the proposal of the Bridge Commissioners to give it to an English firm?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : May I know what was the reply of the Government of India to the references of the Government of Bengal on the proposal of the Bridge Commissioners?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India noted the decision that the Bengal Government had come to. That was all.

Mr. S. Satyamurti : May I know whether the Government of India did not communicate any opinion to the Government of Bengal, after the receipt by them of the views of the Bridge Commissioners?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : May I ask why the Government of India did not use their good offices with the Bengal Government to see that this very huge contract goes to an Indian firm? Why was the lowest tender not accepted?

The Honourable Sir Muhammad Zafrullah Khan : In view of the provisions of section 5 of the Act, to which I have referred, the Government of India had no *locus standi* to contest the views of the Bengal Government.

Pandit Lakshmi Kanta Maitra : Is it not a fact that Honourable Members on this side coming from Bengal waited in a deputation on the Honourable Member and requested him to forward the views of the Honourable Members from Bengal in this matter to the Bengal Government that this huge contract should be placed with an Indian combine and not with a foreign company, and the Honourable Member expressed the hope that the whole matter would be forwarded to the Government of Bengal for due consideration?

The Honourable Sir Muhammad Zafrullah Khan : I have a recollection that some Honourable Members of this House waited in a deputation on my Honourable colleague, the Member for Industries and Labour, and myself. As to the details of the interview, I am afraid I cannot furnish an exact reply unless I have notice. If one of the assurances given was that their views would be forwarded to the Government of Bengal, I can assure the Honourable Member that that must have been done.

Pandit Lakshmi Kanta Maitra : Is it not a fact that, in connection with that deputation, all the facts bearing on this important question were placed before the Honourable Member with the request that he would be good enough to forward them to the Government of Bengal for due consideration? Also, is it not a fact that an Indian combine, which is composed of some European and Indian firms, tendered for this contract and they gave the lowest tender, and having regard to the fact that this House keenly felt on the question that the contract should go to the Indian combine was it not the duty of the Government of India to forward to the Government of Bengal the views of the Honourable Members of this House and to see that the Indian concern was engaged?

The Honourable Sir Muhammad Zafrullah Khan : With regard to the forwarding of the views, I have already given a reply. I have said that, if an assurance to that effect was given, I am sure it must have been carried out. With regard to the seeing to it, I have repeatedly drawn the attention of the House to the fact that section 5 of the Howrah Bridge Act vests in the Bengal Government the power of approving the recommendation of the Bridge Commissioners. The matter is a purely provincial matter in the sense that the money is to be raised by the Bengal Government or the Bridge Commissioners, as the case might be, and the decision is to be the decision of the Bridge Commissioners and the Government of Bengal. I do not see how it was expected that the Government of India should see to it that, in spite of the provisions of the Howrah Bridge Act, the contract was

given in a manner which was neither recommended by the Bridge Commissioners nor approved of by the Bengal Government.

Mr. S. Satyamurti : Is this a Provincial Reserved subject or a Transferred subject ?

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

Mr. S. Satyamurti : Does my Honourable friend know that, under section 45 of the Government of India Act and the Devolution Rules, with regard to Provincial Reserved subjects, Local Governments have got to carry out the orders of the Government of India ?

The Honourable Sir Muhammad Zafrullah Khan : This matter is regulated by a particular Statute and the Statute says that the contract shall be placed by the Bridge Commissioners with the approval of the Local Government.

Mr. S. Satyamurti : With regard to the approval of the Local Government, may I know if my Honourable friend is aware or was aware at all at any time that, under the Government of India Act, 1919, Local Governments have got to carry out the orders of the Government of India ?

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

Pandit Lakshmi Kanta Maitra : May I know from the Honourable Member if the Government of India received any reply to the representations made by the Government of India on this matter ?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India made no representations to the Bengal Government. I have said that if an assurance was given that certain views would be forwarded, they must have been forwarded to the Bengal Government, but what weight the Bengal Government attached to those views, I cannot say.

INDO-CYLON TRADE RELATIONS.

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

- (a) whether their attention has been drawn to a leading article in the *Hindu*, dated the 4th May, 1936 entitled "Indo-Ceylon Trade Relations" ;
- (b) whether they propose to tackle the problem at the earliest possible moment ; and
- (c) if not, why not ?

Seth Haji Abdoola Haroon : This is also like the previous question about which my Honourable friend, Mr. Joshi, raised a point of order. We do not know what points are referred to in the article on "Indo-Ceylon Trade Relations" ?

Mr. S. Satyamurti : The article refers to Indo-Ceylon trade relations. I cannot help Honourable Members, if they do not care to read important newspapers.

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

(b) and (c). The attention of the Honourable Member is invited to the reply given by me to his starred question No. 124 in the current Session.

Mr. S. Satyamurti : I was asking my Honourable friend, the Secretary to the Department of Education, Health and Lands, the other day about emigration laws in Ceylon, and I particularly asked him whether in their trade negotiations, the Government of India would keep in mind the question of the attitude of Ceylon towards Indians. There is also a question lower down in the agenda today about this point. I should like to know from the Education Secretary or the Honourable the Commerce Member whether Government propose to deal with this question of Indo-Ceylon trade relations, as related to the problem which has just now been created in Ceylon, by the recent anti-Indian agitation against Indian immigration.

The Honourable Sir Muhammad Zafrullah Khan : I am afraid so far as I am concerned, this is a hypothetical question for the reason that I cannot say at present whether the question of future trade relations between Ceylon and India is going to be regulated by any agreement that might be come to between India and the United Kingdom or whether it is going to be taken up as a separate question. When I am in a position to be able to decide that matter or to give definite information on that matter, I might be able to answer this question.

Mr. S. Satyamurti : In view of the geographical propinquity of Ceylon, and in view of the recent anti-Indian agitation there, will the Government consider very carefully the question of trade negotiations between these two countries, on a basis, separate from the one on which they deal with the trade relations between the United Kingdom and this country.

The Honourable Sir Muhammad Zafrullah Khan : I will keep in mind the point of view put forward by the Honourable Member. I cannot say at this moment to what extent it might actually govern the trade negotiations.

CONSTITUTION OF A CENTRAL BOARD OF RURAL DEVELOPMENT.

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

- (a) whether their attention has been drawn to a leading article beginning with " One of the points in the Neimeyer Report, to which special significance will be attached, is the coupling of the road grants to the Provinces with the grants for rural development " published in the *Hindu*, dated 4th May, 1936 ;
- (b) whether they contemplate making these recurring grants year after year ;
- (c) whether they propose to constitute a Central Board of Rural Development ; and
- (d) if not, why not ?

The Honourable Sir James Grigg : (a)†.

(b) I am afraid not—in present financial circumstances.

† No reply was given to part (a) of this question.

(c) and (d). As the grants will not be recurring, there is no reason for a central organization.

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

177. *Mr. S. Satyamurti : Will Government be pleased to state with reference to the new rules for recruitment to the Indian Civil Service :

- (a) whether it is a fact that the question was first studied in London from the British angle ;
- (b) whether there was at any time any idea of recruiting British element to the Indian Civil Service through selection on the Colonial model ;
- (c) whether there was any idea of having two different examinations and two separate lists for British and Indian candidates ;
- (d) whether Delhi objected to this ;
- (e) if so, why ;
- (f) the reasons why the authorities in India preferred that Indian candidates be also selected from those in England by the same system whereby British candidates would be selected ; and
- (g) the reasons underlying the decision ultimately reached ?

The Honourable Sir Henry Craik : (a) to (g). I would refer the Honourable Member to my reply to parts (a) to (d) of his question No. 125.

Mr. S. Satyamurti : With reference to parts (b) and (c) of the question, I have not had any answer, unless my memory fails me. I am asking specific questions in parts (b), (c) and (d) of my question. I should like to have specific answers to these three clauses :

- (b) whether there was at any time any idea of recruiting British element to the Indian Civil Service through selection on the Colonial model ;
- (c) whether there was any idea of having two different examinations and two separate lists for British and Indian candidates ;
- (d) whether Delhi objected to this ?

The Honourable Sir Henry Craik : As regards part (b), the Honourable Member knows that recruitment of the British element is to be supplemented by selection more or less on the Colonial model. As regards part (c), various expedients were examined and I explained when speaking on the adjournment motion the other day that they were all rejected for various reasons. As regards part (d), I have said that it is not in the public interest to disclose the views of the Government of India in a matter which is the subject of correspondence with the Secretary of State when the decision rests with the Secretary of State.

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

The Honourable Sir Henry Craik : I do not think I can give any reply to it. That is covered by the answer that it is not in the public interest to reveal the views of the Government of India.

Mr. Lalchand Navarai : May I know whether when this selection takes place in England, it will be for the British element only or whether Indians also will be selected for recruitment to the Indian Civil Service ?

The Honourable Sir Henry Craik : As regards future shortages in recruitment only the British element will be selected by this method in England. As regards the existing shortages, I think some Indians are to be selected. But I cannot say off hand whether they will be selected in England or in India.

Prof. N. G. Ranga : Have Government considered the advisability of increasing the number of subjects concerning Indian history and culture and Indian Economics together with their relative importance as compared with the other subjects concerning European history and European culture.....

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise out of this question.

Prof. N. G. Ranga : The question refers to Colonial model and I am asking whether the subjects relating to India will be given more importance.....

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

NEW RULES FOR RECRUITMENT TO THE INDIAN CIVIL SERVICE.

178. ***Mr. S. Satyamurti :** With reference to the new rules for recruitment to the Indian Civil Service, will Government be pleased to state :

- (a) why the publication of the decisions regarding the future recruitment to the Indian Civil Service, was withheld while the Assembly was three months in Session at Delhi, and released immediately after the adjournment of the Assembly ;
- (b) whether they will lay on the table of the House the opinions of the various Local Governments about the proposals ;
- (c) whether they will communicate to the House how European recruits, who have come through the door of competition since the war compared with their pre-war predecessors ;
- (d) whether they propose to make suitable representation to the Secretary of State for India that these proposals have met with such violent opposition from all sections of opinion that it would be better not to disturb the existing arrangements until the time comes some years hence for a thorough reconsideration of the constitution of the permanent services in this country ; and
- (e) if not, why not ?

The Honourable Sir Henry Craik : (a) Because no final decisions were arrived at during the period the Assembly was in session.

(b) I would refer the Honourable Member to my reply to parts (a) to (d) of his question No. 125.

(c) The candidates recruited after the war are on the whole as good as those recruited before.

(d) and (e). The changes were introduced in the interests of administration after prolonged and careful consideration of the issues involved and no good would result by re-opening the question.

Mr. S. Satyamurti : May I know the actual date when the Government of India got the information, as regards the decision of the Secretary of State on this matter ?

The Honourable Sir Henry Craik : I cannot say off hand.

Mr. S. Satyamurti : Is my Honourable friend absolutely certain that that date was after the close of the Assembly Session ?

The Honourable Sir Henry Craik : Yes, I said : " Because no final decision was arrived at during the period the Assembly was in session ".

Mr. S. Satyamurti : With reference to part (d), may I know whether the Government of India have communicated to the Secretary of State on any occasion, the reception of these proposals by Indian public opinion ?

The Honourable Sir Henry Craik : I already said that I would communicate to the Secretary of State a copy of the debate that took place the other day. As regards other opinion, that has hitherto only been reflected in the newspapers which I have no doubt the Secretary of State sees.

Sir Cowasji Jehangir : Am I to understand from the Honourable the Home Member that the principle of selection is to be extended to Indians recruited in India ?

The Honourable Sir Henry Craik : No, Sir.

Sir Cowasji Jehangir : I understood the Honourable Member to say that the principle of selection will be introduced.

The Honourable Sir Henry Craik : I did not say that, Sir.

Sir Cowasji Jehangir : That was what the Honourable Member said in reply to a supplementary question to the last question.

The Honourable Sir Henry Craik : What I said was as regards the future shortage in recruitment in the case of the British element that will be made by selection.

Sir Cowasji Jehangir : Not for Indians.

The Honourable Sir Henry Craik : Only as regards the shortage that has already occurred in Indian recruitment, that has to be made by selection. But that will not be a recurring process. It will apply only to the shortage that has already accrued.

POSITION OF INDIANS IN ADDIS ABABA.

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

(a) whether they will make a full statement on the position of Indians in Addis Ababa from the date of its attack by the Italians upto the present moment ;

- (b) whether the Indians there had full protection like all other British citizens ;
- (c) whether any discrimination was made against Indians ; and
- (d) if so, why ?

Sir Aubrey Metcalfe : (a) Attention is invited to the statements already made in this House in reply to questions Nos. 45 and 93 by Mr. T. S. Avinashilingam Chettiar.

- (b) Yes.
- (c) No.
- (d) Does not arise.

PLIGHT OF INDIANS IN IRAQ.

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

- (a) whether their attention has been drawn to an article entitled " Plight of Indians in Iraq " published in the *Indian Express*, dated the 4th May, 1936 ;
- (b) whether they have examined the allegations contained therein ; and
- (c) if so, what their conclusions thereon are ?

Sir Aubrey Metcalfe : (a) and (b). Yes.

(c) The allegations appear to be completely unfounded. Enquiries have established that His Majesty's Embassy in Iraq know of no case in which any Indian has been deported from Iraq without good reasons and further investigation is not possible, unless specific instances of unjust or discriminatory deportations are brought to the notice of the Government of India.

Mr. S. Satyamurti : May I know what inquiries were made by Government, after the receipt of this question ?

Sir Aubrey Metcalfe : A copy of the article was sent to His Majesty's Embassy in Iraq, and inquiries were made of them as to the truth of any of the allegations contained therein.

Mr. M. S. Aney : What were the allegations made which were found to be untrue ?

Sir Aubrey Metcalfe : I do not think it is my business to repeat in this House statements made in the newspapers which I have declared to be untrue.

Mr. M. S. Aney : But this answer conveys no impression to the House at all.

Mr. President (The Honourable Sir Abdur Rahim) : If the whole article is to be set out, it will be extremely inconvenient and also cost a great deal of money. The question was raised the other day, and the Chair ruled, that, in the case of well-known newspapers, it would be quite enough, so far as this Department and the Department of Government is concerned, to mention the newspaper and not to supply a copy of it.

RELEASE OF MR. SUBHASH CHANDRA BOSE.

181. *Mr. S. Satyamurti : Will Government be pleased to state :
- (a) whether their attention has been drawn to the comments of the *Manchester Guardian* on the arrest of Mr. Subhash Chandra Bose ;
 - (b) whether they propose to release Mr. Subhash Chandra Bose ; and
 - (c) if not, why not ?

The Honourable Sir Henry Craik : (a) to (c). I would refer the Honourable Member to the reply which has been given to his question No. 128.

STATEMENT OF THE UNDER-SECRETARY OF STATE FOR INDIA ABOUT MR. SUBHASH CHANDRA BOSE'S ARREST.

182. *Mr. S. Satyamurti : Will Government be pleased to state :
- (a) whether their attention has been drawn to the statement of Mr. Butler, Under-Secretary of State for India, to the Deputation of the Independent Labour Party, about Mr. Subhash Chandra Bose's arrest, that the Government had in their possession a pile of evidence against Mr. Subhash Chandra Bose, but they could not bring him into a court for trial because in that case all the sources of information about revolutionary organisations would soon be dried up ;
 - (b) whether any other arrests have been made by Government ;
 - (c) what exactly is the significance of the statement of the Under-Secretary that " all sources of information about revolutionary organizations would soon be dried up " ?

The Honourable Sir Henry Craik : (a) I have seen a press cutting in which it is stated that a correspondent of the United Press understands that the Under-Secretary of State made the statement alleged, but that does not satisfy me that he did make that statement.

(b) As the Honourable Member is aware, there are other persons now detained under Regulation III of 1818.

(c) If the Under-Secretary of State did make the statement alleged, the Honourable Member will find its significance explained in my speech in this House on the 12th March, 1936, and in Mr. Hand's speech in this House on the 7th April, 1936.

Mr. S. Satyamurti : Have Government ascertained from the Secretary of State or from a reference to " Hansard " whether that speech was actually made by the Under-Secretary of State for India ?

The Honourable Sir Henry Craik : No, Sir ; there is no question of Hansard. The speech is not alleged to have been made in Parliament. It was alleged that it was made to a deputation.

Mr. S. Satyamurti : May I know why Government did not write to the Under-Secretary of State for India, and find out whether really this

statement was made by him, in reply to the deputation of the Independent Labour Party ?

The Honourable Sir Henry Craik : Why should they ? The Government of India, as far as I am aware, were not aware of this allegation of the United Press correspondent.

Mr. S. Satyamuti : When I sent in a question that a responsible officer like the Under-Secretary of State for India made a statement concerning a matter of first-class importance in this country, may I know why Government did not write and find out whether that statement was correct or not ?

The Honourable Sir Henry Craik : Because there was only the press correspondent's allegation that he made that statement. We are not aware that he made that statement at all.

Mr. K. Ahmed : With regard to clause (c) and the remark, " All sources of information about revolutionary organisations would soon be dried up ", may I take it that the people who are in touch already in the Congress party from time to time divulge and give information to Government, and if the Under-Secretary will divulge the secret of these people, it will not be possible for the Government, as the Under-Secretary states, to get that information and the Government will be deprived of the benefit which they receive from the members of the Congress Party ?

Mr. President (The Honourable Sir Abdur Rahim) : With regard to the complaint that has just now been made by several Members, I do find that too many questions require information as regards the truth or otherwise of statements in newspapers. I think questions ought to be put in order to elicit information on certain specified points and to ask for information in some cases it may be necessary to refer to newspapers. But in most cases it should be possible for the Honourable Member to mention what is the exact information he wants. At present, there are too many references to newspapers.

PUTTING OF AN EMBARGO ON THE IMPORT OF ZANZIBAR CLOVES.

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

- (a) whether their attention has been drawn to a leading article on Zanzibar situation, published in the *Hindu* of the 16th April, 1936 ; and
- (b) whether they are considering the question of putting an embargo on the import of Zanzibar cloves ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The attention of the Honourable Member is invited to the replies given by me on the 4th September, 1935, to the supplementary questions arising out of his starred question No. 118.

Mr. S. Satyamurti : Are they considering this question of putting an embargo on the import of Zanzibar cloves now ?

Sir Girja Shankar Bajpai : In view of the fact that the matter has been under investigation by Mr. Binder and there is a possibility of

Indian grievances being redressed in the light of that report, the question of considering the imposition of an embargo on cloves does not arise at this stage.

MEASURES FOR PREVENTION OF FIRES IN COAL MINES.

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

- (a) whether their attention has been drawn to a leading article entitled " Safety in Indian Mines " published in the *Statesman* of the 20th March, 1936 ;
- (b) whether they propose to take measures to prevent danger from fires ; and
- (c) if not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) and (c). As the Honourable Member is aware, the Indian Mines Act, 1923, was amended at the last Session in view of the urgent need of taking further measures to ensure safety in coal mines, more particularly in respect of danger from fires. The Coal Mines (Temporary) Regulations, 1936, were issued under the amended Act on the 23rd May, 1936. The question of devising further measures to prevent danger from fires in coal mines will be further examined by a Committee which it is proposed to appoint next cold weather.

VIEWS EXPRESSED BY THE BENGAL NATIONAL CHAMBER OF COMMERCE ON THE INDO-JAPANESE TRADE AGREEMENT.

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

- (a) whether their attention has been drawn to the views expressed by the Bengal National Chamber of Commerce in a letter to the Government of Bengal on the Indo-Japanese Agreement, published in the *Statesman*, dated the 24th April, 1936 ;
- (b) whether they have examined them ;
- (c) if so, what their conclusions are ?

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

(c) Government are not yet in a position to disclose their conclusions in the matter.

Mr. S. Satyamurti : May I know whether Government are in a position to make any *interim* statement, before the negotiations are complete ?

The Honourable Sir Muhammad Zafrullah Khan : As soon as Government are in a position to make an *interim* announcement they will do so by means of a *communiqué* as they have done already.

EMPLOYMENT OF "DUFFERIN" CADETS.

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

(a) whether their attention has been drawn to a leading article in the *Amrita Bazar Patrika*, dated the 4th March, 1936, entitled "The Dufferin Problem" ; and

(b) whether they have taken steps to provide the cadets with stable employment ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the article referred to.

(b) The question of the employment of *ex*-"Dufferin" cadets has been constantly engaging the attention of the Government of India, and they have been taking all practicable steps to extend the opportunities of employment of these cadets.

Mr. S. Satyamurti : May I know whether Government will take advantage of every opportunity, when they have got to give contracts for carriage of mails or any other service to be rendered to the State, of insisting as a condition of that contract that these *ex*-"Dufferin" cadets should be given preference in employment ?

The Honourable Sir Muhammad Zafrullah Khan : That question is already engaging the attention of Government.

Mr. S. Satyamurti : May I know how many people are still unemployed who are trained, and who are capable of being employed ?

The Honourable Sir Muhammad Zafrullah Khan : I believe a reply with regard to the exact number was given during the last Session. I am now speaking without the book, but I think it was either 9 or 11,—probably 9.

Pandit Lakshmi Kanta Maitra : Have they been so far absorbed ?

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

Mr. T. S. Avinashilingam Chettiar : May I know whether Government have received any replies from the foreign shipping companies about the employment of these cadets ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir ; the foreign shipping companies are not concerned at all in this matter.

Mr. T. S. Avinashilingam Chettiar : The foreign shipping companies are trading with India and there was a question last year in which the Honourable Member replied that they have written to the foreign shipping companies.

The Honourable Sir Muhammad Zafrullah Khan : I do not think so. For instance, the Japanese companies are participating in the trade between India and Japan, but there would be no justification for asking them to employ a number of *ex*-"Dufferin" cadets.

Mr. T. S. Avinashilingam Chettiar : May I know whether they have asked any shipping companies to employ these cadets ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir

Mr. T. S. Avinashilingam Chettiar : What is the reply to that ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member will have to put down a question before I can give him a summary of the replies.

NEGOTIATIONS FOR AN INDO-JAPANESE TRADE AGREEMENT.

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

- (a) whether they have official knowledge of the statement from the Foreign Office, Tokio, that the Japanese Embassy in London was ordered to express Japan's desire for an Indo-Japanese Conference to meet shortly to negotiate a fresh trade pact by September to replace the pact expiring in March, 1937 ;
- (b) whether they are in communication with the Japanese Consul-General in Calcutta ;
- (c) at what stage the negotiations stand ; and
- (d) whether negotiations will take place in India ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (d). The Honourable Member is referred to the Press Communiqués on the subject recently issued by the Government of India, copies of which are in the Library.

Mr. S. Satyamurti : May I know whether these negotiations will be completed in India ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

VARYING EXCISE RULES AND REGULATIONS IN THE DIFFERENT PROVINCES.

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

- (a) whether their attention has been drawn to a leading article entitled " A Genuine Grouse ", published in the *Hindustan Times*, dated the 1st April, 1936, regarding varying excise rules and regulations in the different Provinces ;
- (b) whether they have examined or propose to examine the suggestions contained in the article ; and
- (c) whether they propose to accept the suggestions ?

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

(b) and (c). The Government of India have forwarded copies of the correspondence on the subject to the Local Governments for necessary action. Excise is a Provincial transferred subject and the Government of India are not prepared to convene such a conference as is suggested unless requested to do so by Local Governments themselves.

Mr. S. Satyamurti : May I know if there are any conferences between the Government of India and Local Governments on any transferred subjects at any time at all ?

Mr. A. H. Lloyd : Yes ; there is the Industrial Conference.

Mr. S. Satyamurti : May I know whether when the next conference meets, the Government will put up this subject on the agenda with a

view to eliciting the views of Local Governments without attempting to take immediate action ?

Mr. A. H. Lloyd : That point has been considered and it has been decided not to put it on the agenda of the Industries Conference.

Mr. S. Satyamurti : May I know the reasons why ?

Mr. A. H. Lloyd : For the reason that I have already given, that it is a provincial transferred subject and the first move must come from the provinces.

Mr. S. Satyamurti : Are these rules more important than the needs of the public of this country ?

Mr. A. H. Lloyd : I am afraid the Government of India cannot share the Honourable Member's desire for the re-writing of the Government of India Act and the Devolution Rules.

Mr. S. Satyamurti : Except when it suits them.

EXPORT OF RAW COTTON AND RAW COTTON PURCHASED BY THE UNITED KINGDOM AND JAPAN.

189. ***Mr. S. Satyamurti :** Will Government be pleased to state the total export of (1) raw cotton from India last year, (2) the total amount of raw cotton purchased by the United Kingdom, and (3) the total amount of raw cotton purchased by Japan—up to the month figures are available ?

The Honourable Sir Muhammad Zafrullah Khan : The attention of the Honourable Member is invited to the Accounts relating to the Seaborne Trade and Navigation of British India for March and June, 1936, which contain the required information and copies of which are available in the Library of the Legislature.

DEMANDS TO PUT OFF ALL NEGOTIATIONS BY FRESH AGREEMENTS BETWEEN THE UNITED KINGDOM AND INDIA.

190. ***Mr. S. Satyamurti :** Will Government be pleased to state whether there are any demands to put off all negotiations by fresh agreements between the United Kingdom and India, so as to synchronize them with other Empire countries ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : There are no such demands : is that the answer ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

ADULTERATION OF DRUGS.

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

- (a) whether they have received representations from the Maharashtra Chamber of Commerce, Bombay, on the " Adulteration of Drugs " ;
- (b) whether they propose to take steps to remedy the grievances contained therein ; and
- (c) if not, why not ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). I would refer the Honourable Member to the answer given by me to his question No. 84 on the 4th February, 1936. I regret to say that the replies are not yet complete but Government realise the importance of the matter and will do what they can to expedite consideration of it.

Mr. S. Satyamurti : Are Government considering introducing suitable legislation on this matter ?

Sir Girja Shankar Bajpai : That was one of the points which were referred to Local Governments.

Mr. S. Satyamurti : Will Government expedite this matter so as to introduce it in the next Delhi Session ?

Sir Girja Shankar Bajpai : That depends really on what the replies of Local Governments are as to whether it is necessary to have central legislation.

Mr. S. Satyamurti : Do Government realise the immediate urgency of this matter and will they gently push the Local Governments to act a little more vigorously in this matter ?

Sir Girja Shankar Bajpai : I may assure my Honourable friend that the Government of India have been doing everything possible to bring pressure to bear upon Local Governments.

Pandit Lakshmi Kanta Maitra : Cannot the Central Government take any initiative in the matter ?

Sir Girja Shankar Bajpai : The only initiative they can take in the matter they have already taken : they have made provision for the starting of a bio-chemical testing laboratory at the centre. For the rest it is impossible to take any action unless Local Governments are prepared to co-operate by provincial legislation and administrative measures—both.

NEGOTIATIONS FOR BILATERAL TRADE AGREEMENTS WITH GREAT BRITAIN AND OTHER COUNTRIES.

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

- (a) whether their attention has been drawn to the views of the Manchester Chambers' of Commerce published in the *Hindustan Times*, dated the 4th April, 1936 ;
- (b) whether their attention has been drawn to the statement " It should not be the aim of the Government to secure revision of the Ottawa Agreements at some general Imperial Conference on the lines of that held at Ottawa in 1932, but rather action should be taken, as opportunity offers, to seek a revision with each Dominion separately " ; and
- (c) whether they propose to take stock of the opinions in India before negotiating suitable bilateral trade agreements with Great Britain and other countries ?

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

Mr. S. Satyamurti : May I take it that the Government of India are now resolved to deal with this matter, whatever the difficulties may be, without waiting for the settlement next year ?

The Honourable Sir Muhammad Zafrullah Khan : I have not been able to follow. If the question is the same as the previous one—190—that there is no demand from any quarter that we should wait till the whole question can be taken up, the answer is the same as to question No. 190.

SAFEGUARDING OF THE INTERESTS OF INDIANS *re* CLOVE TRADE IN ZANZIBAR.

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

- (a) whether their attention has been drawn to an article entitled "Clove monopoly and after", published in the *Hindustan Times*, dated the 3rd April, 1936 ;
- (b) what steps they have taken to safeguard the interests of Indians ; and
- (c) what the latest position on the matter is ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The attention of the Honourable Member is invited to the reply given by me on the 4th of this month to his starred questions Nos. 133, 139 and 140.

Mr. K. Ahmad : Isn't it a merchant putting this question tactfully and circulating among the Members opposite the same identical question to put in the Assembly ?

Sir Girja Shankar Bajpai : I was not aware that my Honourable friend had become a merchant.

FILLING UP OF THE POST OF PRINCIPAL, INDIAN SCHOOL OF MINES, DHANBAD.

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

- (a) whether their attention has been drawn to a leading article with regard to the filling up of the post of the Principal, Indian School of Mines at Dhanbad, published in the *Amrita Bazar Patrika*, dated the 21st April, 1936 ;
- (b) whether an Indian will be appointed to the post ; and
- (c) if not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) No.

(c) Government and the Governing Body of the School were in agreement that the Senior Professor, who has officiated on four occasions in the appointment and has been Vice-Principal for about four years, was the most suitable officer for the post.

Mr. S. Satyamurti : Was he the most senior ?

The Honourable Sir Frank Noyce : Yes.

ARTICLE ENTITLED "ON THE FRONTIER" PUBLISHED IN THE *Statesman*.

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

- (a) whether their attention has been drawn to a leading article entitled "On the Frontier", published in the *Statesman*, dated the 22nd March, 1936 ;
- (b) whether they examined the suggestions contained therein and
- (c) whether they will make an offer to the Tribes on that basis.†

Sir Aubrey Metcalfe : (a) Yes.

(b) The only suggestions contained in article are based on hypothetical questions to which Government are not in a position to provide the answer.

(c) No.

Mr. S. Satyamurti : Are they satisfied that their present policy of dealing with the tribes is the best under the circumstances ?

Sir Aubrey Metcalfe : Yes.

Mr. S. Satyamurti : Judged by the results ?

Sir Aubrey Metcalfe : The results are somewhat slow, I admit.

Mr. S. Satyamurti : In view of the fact that the results are very slow in coming, will Government reconsider the whole position and try some other policy which may yield quicker results ?

Sir Aubrey Metcalfe : The whole policy is constantly under consideration as I explained during the last Session.

INTRODUCTION OF A DISTINGUISHING SIGNAL FOR TRUNK TELEPHONE LINES.

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

- (a) whether they have received a letter from the Committee of the Indian Chamber of Commerce, Calcutta, urging upon them the necessity for introducing a distinguishing signal for trunk telephone lines ;
- (b) whether they will accept the suggestion ; and
- (c) if not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) and (c). Government have examined the suggestion but are unable to adopt it owing to technical reasons in the case of automatic telephone systems and to the large additional expenditure which would be involved in the case of manual telephone systems. So far as Government are aware the facility of a distinguishing signal for trunk telephone calls does not exist even in such highly developed telephone systems as those of the United States of America.

COMMUNICATION SENT BY THE SECRETARY, INDIAN MERCHANTS' CHAMBER, TO THE SECRETARY, LANCASHIRE INDIAN COTTON COMMITTEE, BOMBAY.

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

- (a) whether their attention has been drawn to the communication sent by the Secretary, Indian Merchants' Chamber, to the

Secretary, Lancashire Indian Cotton Committee, Bombay, published in the *Hindustan Times*, dated the 17th March, 1936 ;

- (b) whether they propose to take the steps suggested in the letter ; and
 (c) if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the press report referred to by the Honourable Member.

(b) and (c). The communication in question did not suggest any steps to be taken by the Government of India.

SERVING OF BRITISH TROOPS UNDER THE COMMAND OF AN INDIAN.

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

- (a) whether their attention has been drawn to the statement of the Leader of the Opposition in the Council of State that there was a rumour that a responsible official at Sandhurst had once told the students " Look here, boys, you may rest assured that you would never be put under the command of a blackie " ;
 (b) whether their attention has been drawn to the Sandhurst Committee Report, page 19 " In the course of hearing evidence our attention was drawn to a lecture delivered some time ago at Sandhurst, which we were told, produced upon the minds of certain Indian cadets (who heard it) the impression that under the ' Eight-unit Scheme ' no British boy entering the Indian Army will ever be liable to serve under the command of an Indian and that this was put forward as an argument to induce British boys to enter the Indian Army " ; and
 (c) what the exact position is ?

Mr. G. R. F. Tottenham : (a) Yes, but the rumour was not correct.

(b) Yes.

(c) Under the present system of Indianization the question of powers of command as between Indian and British officers within an Indianizing unit does not arise. But wherever Indianizing and non-Indianizing units of the Indian Army, or individual officers of such units, are serving together, whether in the field or on administrative duties, there is equally no question but that a senior Indian Officer exercises powers of command over a junior British Officer.

Mr. S. Satyamurti : May I know whether therefore in the 8-units scheme there is no question of any British boy ever being liable to serve under the command of an Indian ?

Mr. G. R. F. Tottenham : No, Sir : that is quite wrong.

Mr. S. Satyamurti : May I know what the exact meaning of the Honourable the Army Secretary's answer is, that in schemes where Indianised and non-Indianised units work together, Indian officers would be able to command British boys ? What is that scheme ?

Mr. G. R. F. Tottenham : That is the present policy. Inside an Indianised unit, the question does not arise because when once you begin to Indianise a unit, you do not post any further British officers to it and therefore the Indian officers in that unit are automatically junior to all the British officers in it. But these Indianised units may serve alongside non-Indianised units as they did in the Mohmand expedition last year, and in that case when they actually serve together, a senior Indian officer does or may exercise command over a junior British officer in a non-Indianizing unit.

Mr. S. Satyamurti : How many such senior Indian officers are today exercising command over British junior officers ?

Mr. G. R. F. Tottenham : I could not say.

Mr. S. Satyamurti : Are there any such cases ?

Mr. G. R. F. Tottenham : There are quite a number of Indian officers now who are senior to British officers in the Army.

Mr. S. Satyamurti : And who command British officers ?

Mr. G. R. F. Tottenham : They are not in command of British officers, as I said, because they are serving in units in which they are junior to the British officers.

Mr. S. Satyamurti : Are there any cases in which as a matter of fact, whatever the theory may be, Indian officers today are superior in command to British officers, anywhere in the Indian Army ?

Mr. G. R. F. Tottenham : There may be cases where for instance an Indian officer is holding a staff appointment ; and in that case would be exercising powers of command over junior British officers in the station.

Mr. S. Satyamurti : Is this not rather exceptional ?

Mr. G. R. F. Tottenham : The number of Indian officers at present is not extremely large, as the Honourable Member knows ; and most of them it is true are serving in their Indianised units at the present moment.

Mr. S. Satyamurti : May I take it, therefore, that the policy of the Government is that, so long as the present scheme continues they will see to it that British boys have never to serve under Indian officers ?

Mr. G. R. F. Tottenham : No, Sir.

GIVING BACK OF THE ADMINISTRATION OF BERAR TO HIS EXALTED HIGHNESS
THE NIZAM.

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

- (a) whether there is any proposal to give back the administration of Berar to His Exalted Highness the Nizam ;
- (b) if so, whether the opinion of the people in Berar will be taken ; and
- (c) at what stage the matter stands ?

The Honourable Sir Nripendra Sircar : (a) The answer is in the negative.

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

Sir Muhammad Yakub : Are Government aware whether the people of Berar were consulted when the administration was formally taken from the late Nizam ?

The Honourable Sir Nripendra Sircar : I want notice to find out what was done so many years ago.

Sir Muhammad Yakub : Do Government always take the opinion of the people in Indian States into consideration when they make any administrative changes about controlling the States ?

The Honourable Sir Nripendra Sircar : I want notice to find out in what cases.

Mr. M. S. Aney : Is the Honourable Member aware that assurances were given to the people of Berar by the Chief Commissioner of the Central Provinces and Berar that if there is going to be restoration, public opinion of Berar would be consulted ?

Mr. President (The Honourable Sir Abdur Rahim) : I do not think that arises upon the answers already given.

Mr. K. Ahmed : Are Government aware that the people of Berar have got no *locus standi* whatever and that His Exalted Highness the Nizam is the proprietor of every thing there ?

An Honourable Member : What is meant by proprietor of the people ?

Dr. Ziauddin Ahmad : Will this principle enunciated in part (b) of this question be applied to the Hyderabad State alone or will it apply to all the Indian States ?

The Honourable Sir Nripendra Sircar : I do not find any principle enunciated in part (b). Part (b) is a question of fact as to whether some opinion was asked for or not.

Dr. Ziauddin Ahmad : My second question is with reference to the question put by Mr. Aney, whether the Governor of Central Provinces and Berar has got a right to speak on behalf of His Exalted Highness the Nizam of Hyderabad.....

Mr. M. S. Aney : I only speak of facts, and not of any rights.

Mr. K. Ahmed : Are the Government of India aware that under rule.....

Sir Cowasji Jehangir : Sir, at present we have got five questions asked without any answer.

Mr. K. Ahmed : At any rate my question should be answered. Rule 33 at page 14 of the Manual of Business and Procedure says this :—
“ Provided that no question shall be asked in regard to any of the following subjects, namely :

- (i) any matter affecting the relations of His Majesty's Government or of the Governor General in Council, with any foreign state.....
- (ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief, or to the administration of the territory of any such Prince or Chief.....

Mr. President (The Honourable Sir Abdur Rahim) : I have admitted the question.

Dr. Ziauddin Ahmad : May I know, Sir, whether the Governor of the Central Provinces has got the power to speak on behalf of His Exalted Highness the Nizam of Hyderabad about Berar as expressed by Mr. Aney in his supplementary question ?

The Honourable Sir Nripendra Sircar : If my Honourable friend, Dr. Ziauddin Ahmad, wants my opinion on the constitutional question, will he kindly give me at least two weeks' notice.

Sir Muhammad Yakub : Are Government aware that there is a good deal of feeling and resentment in India that Berar was forcibly taken away from His Exalted Highness the Nizam of Hyderabad, and it is not being returned to him ?

Mr. Sri Prakasa : Was not the whole of India taken forcibly ?

Mr. S. Satyamurti : I want to ask one question, Sir. I want to know whether, with reference to section 47 of the Government of India Act,—section 47 of the Government of India Act of 1935 deals with Berar also,—any action has been taken in the direction of the agreement contemplated there. I shall read the section, Sir, with your permission :—“Whereas certain territory (in this Act referred to as ‘Berar’) is under the sovereignty of His Exalted Highness the Nizam of Hyderabad, but is at the date of the passing of this Act, by virtue of certain agreements subsisting between His Majesty and His Exalted Highness, administered together with the Central Provinces, and whereas it is in contemplation that an agreement shall be concluded between His Majesty and His Exalted Highness whereby, notwithstanding the continuance of the sovereignty of His Exalted Highness over Berar, the Central Provinces and Berar may be governed together as one Governor's Province under this Act by the name of the Central Provinces and Berar : Now, Therefore, (1) while such an agreement is in force

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

Mr. S. Satyamurti : The question is, whether any action has been or is being taken with reference to the contemplated agreement mentioned in this section ?

The Honourable Sir Nripendra Sircar : I want notice of that question.

SPEECH OF HIS HIGHNESS THE AGA KHAN ON THE GROWING CRITICISM IN INDIA OF THE LEAGUE OF NATIONS.

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

- (a) whether their attention has been drawn to the speech of His Highness the Aga Khan in the last Session of the Assembly of the League of Nations, on the growing criticism in India of the League ;
- (b) whether they have examined his speech ; and
- (c) whether they propose to take any action thereon ?

The Honourable Sir Nripendra Sircar : (a), (b) and (c). I would refer the Honourable Member to my reply on his own substantially identical question No. 112 of the 6th February, 1936.

Mr. S. Satyamurti : Have the Government re-examined the position since, in the light of His Highness the Aga Khan's speech ?

The Honourable Sir Nripendra Sircar : Re-examined what position ?

Mr. S. Satyamurti : The position of India in the League of Nations ?

The Honourable Sir Nripendra Sircar : The speech was made long ago, and a considered answer was given. Nothing further has been done after that.

ARTICLE ENTITLED " BROADCASTING IN ENGLAND AND INDIA " PUBLISHED IN THE *Hindustan Times*.

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

(a) whether their attention has been drawn to an article entitled " Broadcasting in England and India ", published in the *Hindustan Times*, dated the 19th March, 1936 ;

(b) whether they propose to accept the suggestions made in the article ; and

(c) if not, why not ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) Those suggestions which are applicable to Indian conditions are being followed as far as is practicable. The debates in the Legislative Assembly and the Council of State are broadcast as fully as the News Agencies report them. There are no Governors to decide programmes, but an Advisory Council has been established for the Delhi Broadcasting Station, and if this experiment is a success, similar Councils may be created for other stations. Alternative Sunday programmes are not a special need in India, but it is hoped that new stations will be established shortly in different parts of the country and they will enable listeners to choose amongst a greater number of programmes, while the programmes of each station will be adapted to the needs of the area which it is designed to serve.

(c) Does not arise.

Mr. S. Satyamurti : With regard to the speeches, debates, and votes in Legislatures, who decides the form, the content, and the emphasis of these Reports ?

The Honourable Sir Frank Noyce : They are broadcast as fully as the news agencies report them.

Mr. S. Satyamurti : May I know which news agency gives the news to the Broadcasting Station ?

The Honourable Sir Frank Noyce : Recognised news agencies.

Mr. S. Satyamurti : May I know if the news are broadcast just as they are received or is any attempt made at the Broadcast headquarters to edit them ?

The Honourable Sir Frank Noyce : The News Editor presumably puts them into a shape in which they can be broadcast.

Mr. S. Satyamurti : May I know if the Honourable Member's attention is drawn to the fact that this "recasting in form" is done more in favour of the Government and slightly against the opposition in the House ?

Dr. Ziauddin Ahmad : As regards part (b) of the question, may I know what those suggestions were, because we are not able to follow the questions on this side of the House ?

The Honourable Sir Frank Noyce : I can only refer my friend to the article published in the *Hindustan Times* of the 19th March, 1936.

Mr. S. Satyamurti : With regard to music programmes broadcast from Delhi, are any attempts proposed to be made to improve the quality of music ?

The Honourable Sir Frank Noyce : I think constant attempts are being made. That is one of the objects for which the Advisory Council has been constituted.

Mr. S. Satyamurti : Are Government aware that the music today is extremely dull and is not of that appealing quality which Indian music can make, if only attempts are made to get the best ?

The Honourable Sir Frank Noyce : I am quite sure the Controller of Broadcasting would welcome any suggestions that the Honourable Member is in a position to make in regard to this subject. He will be extremely grateful for any useful suggestions in this direction. He will be here during the course of the Session, and if my Honourable friend would discuss this with him, both he and I would be very glad.

Mr. M. Ananthasayanam Ayyangar : What is the composition of the Advisory Council in Delhi ?

The Honourable Sir Frank Noyce : I think it was published in the press a short time back. I cannot give it off hand, but I shall be very glad to send a list to my Honourable friend.

ARTICLE ON THE INDIAN MEDICAL SERVICE PUBLISHED IN THE *Hindu*.

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

- (a) whether their attention has been drawn to a leading article on the Indian Medical Service, published in the *Hindu*, dated the 18th April, 1936 ; and
- (b) whether they propose to redress the grievances mentioned therein ?

Mr. G. R. F. Tottenham : (a) Yes.

(b) Government do not propose to reintroduce an open competitive examination for entry to the Indian Medical Service.

Mr. S. Satyamurti : Why not, Sir ?

Mr. G. R. F. Tottenham : If the Honourable Member will read the debate on which comment is made in the article to which he has referred, he will find the reasons.

Mr. S. Satyamurti : But after the debate, in view of the public opinion, I want to know if any action has been taken. I find we are constantly told to go back to what was said years ago. Don't they reconsider the question.

Mr. G. R. F. Tottenham : May I point out that the Resolution on the subject was defeated ?

Mr. S. Satyamurti : May I take it that the Resolutions which are carried will be accepted by the Government ?

(No reply.)

**ARTICLE ON THE WORKING OF THE BRITISH DEPARTMENT OF OVERSEAS TRADE
PUBLISHED IN THE *Hindu*.**

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

(a) whether their attention has been drawn to a leading article on the working of the British Department of Overseas Trade, published in the *Hindu*, dated the 20th April, 1936 ; and

(b) whether they propose to accept the suggestions made therein ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen the article referred to by the Honourable Member.

(b) The only suggestion made in the article in question is that the mercantile community and the Government of India should study the working of the British Department of Overseas Trade. There is no suggestion in the article to have a Department of Overseas Trade.

Mr. S. Satyamurti : Therefore, the Government do not propose to have any Department for Overseas Trade separately to deal with the question ?

The Honourable Sir Muhammad Zafrullah Khan : The article does not suggest that the Government should have such a Department. It merely points out that Government should study the working of the British Department of Overseas Trade.

Mr. President (The Honourable Sir Abdur Rahim) : This is a great disadvantage when putting questions in that form.

Mr. S. Satyamurti : Sir, you are the custodian of this House, and I would request you to give us a ruling. Is every Honourable Member, when he refers to an article in the press, to copy out the entire article ?

Mr. President (The Honourable Sir Abdur Rahim) : I think I ought to make it quite clear to the House that this form of questions entails great disadvantage. I find there are too many questions which simply refer to what a particular paper has written on any particular subject. What is ordinarily expected of the Honourable Member, when he wants to put a question in order to elicit information, is to state the points himself ; he ought to read the article himself and state on what points he wants information from the Government. Honourable Members themselves must take the trouble to formulate the points on which they want information, so that the other Honourable Members may know what are the points on which questions are asked.

Mr. S. Satyamurti : This is a new ruling, Sir. I followed your previous ruling. Your ruling was, with regard to articles in well known newspapers, that reference to them was enough, but in view of your present ruling I will carry it out. I will write out the points.

Mr. President (The Honourable Sir Abdur Rahim) : At the time of my previous observations, I had not noticed that the articles were referred to in general terms in so many questions. Occasionally it may be necessary for Honourable Members to refer to certain newspaper articles and it was in reference to that practice that I gave my ruling that when any such circumstance arose where reference to an article in a newspaper had to be made it would be quite sufficient in the case of well known newspapers to refer to the newspaper by name and not to supply copies.

Mr. S. Satyamurti : Should I summarise all the points ? Is that the ruling, Sir ?

Mr. President (The Honourable Sir Abdur Rahim) : Whenever any Honourable Member wishes to obtain information on any particular point he has to state the point himself, because in newspaper articles generally there are mixed up comments and criticisms. When a question is asked it should be only to elicit information on a definite matter.

ARTICLE ENTITLED " THE CRISIS IN SOUTH AFRICA " PUBLISHED IN THE
Hindu.

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

- (a) whether their attention has been drawn to a leading article entitled " The Crisis in South Africa ", in the *Hindu*, dated the 21st April, 1936 ;
- (b) whether they are in touch with the Indian community in South Africa, and whether they are prepared to use their good offices to avoid a split among the Indians there ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The Honourable Member presumably refers to the lack of unity amongst Indians in South Africa. The Government of India earnestly desire that the community should be united and it has been the constant endeavour of the Agent General, since differences appeared, to bring about their removal.

Mr. S. Satyamurti : What is the latest information in the possession of Government as regards unity amongst Indians in South Africa ?

Sir Girja Shankar Bajpai : I should not consider it altogether too satisfactory either to the Honourable Members opposite or the Government.

Mr. S. Satyamurti : Are Government pursuing the matter further with a view to bringing about that much desired unity among the Indians ?

Sir Girja Shankar Bajpai : I have already stated that the Agent General is doing all he can ; it is impossible for him to do anything more.

Mr. K. Ahmed : Intermarriage. (Laughter.)

Mr. S. Satyamurti : Is the Agent General now in South Africa ?

Sir Girja Shankar Bajpai : My Honourable friend is probably aware that the Agent General had to leave South Africa owing to illness.

Mr. S. Satyamurti : And who is deputising for him ?

Sir Girja Shankar Bajpai : We have only made temporary arrangements. The Secretary is carrying on for the time being.

Mr. S. Satyamurti : How long is the arrangement to continue ?

Sir Girja Shankar Bajpai : I cannot say. It depends upon the state of health of the Agent General.

Mr. S. Satyamurti : Are Government satisfied that this temporary arrangement is the best under the circumstances in view of the acute situation in South Africa ?

Sir Girja Shankar Bajpai : I do not think the situation is so acute as to justify our sending out an Agent especially.

ALLEGED KIDNAPPING OF A HINDU GIRL IN PESHAWAR.

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

- (a) whether their attention has been drawn to a report about the alleged kidnapping of a Hindu girl in Peshawar ;
- (b) what the latest position of the matter is ; and
- (c) whether they have taken steps to prevent such occurrences in future ?

The Honourable Sir Henry Craik : (a) Yes.

(b) The criminal cases in regard to this affair have, I understand, been completed.

(c) It is for the Local Government to take necessary action, and they have no doubt done so.

Mr. S. Satyamurti : Have the Government heard from the Local Government about this matter ?

The Honourable Sir Henry Craik : The last communication is dated the 11th August.

Mr. S. Satyamurti : What did it say ?

The Honourable Sir Henry Craik : It mentions something about the temporary custody of the girl.

Mr. M. Ananthasayanam Ayyangar : What is the result of the criminal case ?

The Honourable Sir Henry Craik : All the five accused were convicted by the District Magistrate of Bannu. Their appeals were heard by the Sessions Judge with the result that three appeals were rejected, one was accepted and the sentence was reduced in the case of the other.

Pandit Lakshmi Kanta Mahtta : Has the girl been rescued ?

The Honourable Sir Henry Craik : She has not been in the custody of the kidnapers for a long time.

WITHDRAWAL OF THE CIRCULAR PROHIBITING GOVERNMENT SERVANTS FROM CO-OPERATING WITH CERTAIN ASSOCIATIONS.

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

- (a) whether their attention has been drawn to a discussion in the Legislative Council, United Provinces, on the 21st March, 1936, in which Mr. Chintamani asked Government to co-operate with the All-India Khadi Spinners' Association, and the Village Industries Association, to which the Minister said that the suggestion was interesting, but he was not sure if the other side was anxious for such co-operation ;
- (b) whether they are aware that Mahatma Gandhi has said that both the Associations are non-political ;
- (c) whether they will withdraw the circular prohibiting Government servants from co-operating with the above Associations ; and
- (d) if not, why not ?

The Honourable Sir Henry Craik : (a) I have seen the report of the debate.

(b) Yes, I believe so.

(c) and (d). No request for assistance has, so far as I am aware, been made. If any such request is made it will be considered by the Local Government concerned on its merits.

Mr. S. Satyamurti : Will the Local Government have the final voice in the matter ?

The Honourable Sir Henry Craik : Yes, obviously.

IMPORTATION OF FOREIGN EXPERTS TO EXAMINE THE VARIOUS DEPARTMENTS OF GOVERNMENT.

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

- (a) whether their attention has been drawn to an article entitled " Is there no end ? ", in the *Indian Express*, dated the 9th May, 1936, regarding the importation of foreign experts to examine the various Departments of Government ;
- (b) whether they will consult the Assembly and take its permission before bringing down the experts ; and
- (c) if not, why not ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). Action of the kind referred to in the article is the legitimate function of the Executive. The Assembly has opportunity to express its views on decisions of this character when it is approached to provide the requisite funds and Government do not consider that any other form of consultation is needed.

Mr. M. Ananthasayanam Ayyangar : Are there not experts in India even for putting down immoral traffic in women ?

Sir Girja Shankar Bajpai : In the article to which my Honourable friend has referred there is absolutely no reference whatsoever to immoral traffic in women.

Mr. M. Ananthasayanam Ayyangar : Is it not a fact that the article therein referred to speaks of bringing in experts.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member does not know what is contained in the article.

Mr. M. Ananthasayanam Ayyangar : How do we know what is contained in the article ?

Mr. N. M. Joshi : That is exactly the point.

Mr. M. Ananthasayanam Ayyangar : How can we ask supplementary questions when we do not know what is contained in the article ?

Mr. President (The Honourable Sir Abdur Rahim) : There is force in that complaint. Next question.

DECLARATION OF POLICY REGARDING THE FUTURE OF MANDATED TERRITORIES.

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

- (a) whether their attention has been drawn to a statement of the Dominions Secretary that he should enter into consultation with Dominion Governments with a view to a uniform declaration of policy regarding the future of mandated territories ;
- (b) whether they will also be consulted ; and
- (c) if not, why not ?

Sir Aubrey Metcalfe : (a) No such statement appears to have been made by the Dominion Secretary who, according to the official Report of Parliamentary Debates, stated in the House of Commons that His Majesty's Government have no intention whatever of raising the question themselves.

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

Mr. S. Satyamurti : May I know whether to the knowledge of my Honourable friend, the Dominion Governments have been consulted by the Dominion Secretary with respect to the future of the mandated territories in Africa ?

Sir Aubrey Metcalfe : I have no knowledge on the subject. All that I was asked was whether a statement had been made. No such statement appears to have been made and we have no further knowledge.

Mr. S. Satyamurti : May I know whether the Government of India were ever consulted with regard to the future of any mandated territory ?

Sir Aubrey Metcalfe : I certainly think not, and there is no reason why they should be.

Mr. S. Satyamurti : May I know whether the Government have recently been consulted about the future of Palestine, the mandated territory there ?

Sir Aubrey Metcalfe : No.

NEGOTIATIONS FOR TRADE AGREEMENTS ON THE BASIS OF RECIPROCITY.

209. ***Mr. S. Satyamurti :** I do not put parts (a) and (b) of question No. 209†. I put only parts (c) and (d).

The Honourable Sir Muhammad Zafrullah Khan :

(c) Yes, Sir.

(d) Does not arise.

INVESTIGATION INTO THE NUTRITION PROBLEMS.

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

(a) whether their attention has been drawn to a question in the House of Commons on the 11th May about the investigation into the nutrition problems ;

(b) whether experiments have been carried out ; and

(c) if so, what the results are ?

Sir Girja Shankar Bajpai : (a) and (b). Yes.

(c) I would refer the Honourable Member to some observations made by me in the course of a speech made in this House on 18th March last. The possibility of an all-India drive in the direction of investigation and propaganda with the aid of provincial Public Health Departments is the subject of study at present.

Mr. S. Satyamurti : May I know if any results have been arrived at and published for the benefit of the poor people of this country on the question of nutrition ?

Sir Girja Shankar Bajpai : I have answered questions on that point before and I have stated that dietaries for the poor of the maximum nutritive value for the expenditure involved have been published, but because they are not sufficiently well-known we are considering the question of making the results more widely known.

Mr. S. Satyamurti : May I know whether, in publishing these results, Government have considered the length or the shortness of the purse of the average Indian, and whether these results will be made available to those people who are the most affected by them and in their languages ?

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

(a) whether notice of termination of the Ottawa Agreement has been given ;

(b) whether negotiations have been started between India and other countries for trade treaties on the basis of reciprocity ;

(c) whether they will consider the necessity of the negotiations taking place in India ; and

(d) if not, why not ?

Sir Girja Shankar Bajpai : So far as the first point is concerned, the investigation has been directed towards suggesting dietaries involving expenditure which the poor man in this country can afford. The question of publication in different languages is engaging the attention of the Government.

Mr. S. Satyamurti : What is the cost, according to the Government expert, of a diet which will be nutritious and which the average Indian can afford? Have they arrived at any conclusion?

Sir Girja Shankar Bajpai : I cannot say that any uniform standard has been arrived at, but the dietary to which I have referred involves ordinarily a cost of two annas a day per head.

[NEGOTIATIONS FOR THE SETTLEMENT OF THE TUNGABHADRA DISPUTE.]

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

- (a) at what stage the negotiations for the settlement of the Tungabhadra dispute stand ;
- (b) whether the Madras and Hyderabad Governments have come to a joint agreement regarding the procedure to be adopted in the dispute over the waters of the Tungabhadra ;
- (c) whether the decision of the Government of India will follow only after they have heard from the Mysore and Bombay Governments ;
- (d) whether they propose to have a round table conference ; and
- (e) if so, when ?

The Honourable Sir Frank Neyses : (a) to (e). I would refer the Honourable Member to the answer which I gave on the 2nd of this month to Mr. Ananthasayanam Ayyangar's starred question No. 63.

SHORT NOTICE QUESTION AND ANSWER.

ROUTINE GRADE EXAMINATION FOR RECRUITMENT TO THE GOVERNMENT OF INDIA SECRETARIAT.

Sir Muhammad Yakub : (a) Are Government aware that the Routine Grade Examination for recruitment to the Government of India Secretariat will be held at Simla on the 16th September, by the Public Service Commission ?

12 NOON.

(b) Are Government aware that the last date for producing the certificate of typewriting by the candidates is the 2nd October ?

(c) Are Government aware that the Phonetic Remington School was the only institution at Simla authorised by Pitmans to issue typewriting certificates on their behalf ?

(d) Are Government aware that about a fortnight ago Pitmans withdrew the authority which they had delegated to the Remington Phonetic School, Simla, and now there is no other institution at Simla authorised to issue such a certificate to candidates, and that this would inflict a very great hardship on the candidates, and that about 200 of them who are now

at Simla will not be considered as qualified in spite of their passing the examination, and some of them will be debarred for ever owing to age limit ?

(e) Is it a fact that last year, owing to some such difficulty, the date for submitting typewriting certificate was extended by one month ?

(f) Are Government prepared to direct the Public Service Commission to extend, by one month, the date for submitting the certificate ?

The Honourable Sir Henry Craik : (a) Yes, Simla is one of the centres in this examination.

(b) Yes.

(c) Government have no information.

(d) Government understand that difficulty has arisen between the Phonetic School, Simla, and Messrs. Pitmans, and that in consequence about fifty candidates for the ensuing Ministerial Services Examination will be unable to produce their certificates of efficiency in typewriting within the time limit.

(e) Yes.

(f) Government have referred the matter to the Public Service Commission and understand that the Commission are prepared to extend the date for submitting typewriting certificates to the 2nd of November, 1936, for those candidates who were affected by the difficulties between the Phonetic School, Simla, and Messrs. Pitmans.

Pandit Lakshmi Kanta Maitra : Why is it that Government select particular companies or agencies ? There are so many typewriting schools in this country ?

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

MOTIONS FOR ADJOURNMENT.

ARRESTS AND DETENTIONS OF PUBLIC WORKERS IN THE PUNJAB.

Mr. President (The Honourable Sir Abdur Rahim) : There is an adjournment motion in the name of Sardar Mangal Singh who wants to move the adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance, namely, the recent arrests and detentions of important public workers in the Punjab as also the imposition of restrictions on freedom of speech and movements thereon. As worded, it seems to be rather vague. I do not know what its meaning is. It does not seem to be definite at all.

Sardar Mangal Singh (East Punjab : Sikh) : My point is that this is a definite matter of urgent public importance. There have been recent arrests in the Punjab and so many people have been gagged or interned. It was not possible to give their names.

Mr. President (The Honourable Sir Abdur Rahim) : Surely some specific cases might have been given and some dates also should have been given.

Sardar Mangal Singh : I have the names and the dates in my possession.

Mr. President (The Honourable Sir Abdur Rahim) : What are those restrictions ?

Sardar Mangal Singh : Some people have been asked not to make speeches. Others have been asked not to go out of their villages. Two candidates in the coming elections have been gagged and one of them has been interned. Sardar Cavasheer is one of them.

Mr. President (The Honourable Sir Abdur Rahim) : This is too indefinite and vague, and I cannot accept this. I must rule the motion out of order.

INTERFERENCE BY THE GOVERNMENT OF THE UNITED PROVINCES WITH THE SUNNI MUSLIMS OF LUCKNOW.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion is in the name of Maulvi Syed Murtuza Sahib Bahadur. He wishes to raise the question of the interference by the Government of the United Provinces in an important religious matter by promulgating orders under section 144, C. P. C. against the Sunni Muslims of Lucknow banning the recital of *Madehe Sahaba* (Praise of the Companions of the Holy Prophet). When was the order passed ?

Maulvi Syed Murtuza Sahib Bahadur (South Madras : Muhammadan) : Just two or three days prior to the commencement of the Assembly.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member got a copy of the order ?

Maulvi Syed Murtuza Sahib Bahadur : It appeared in the Press. Meetings of protest have been held all over India.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair cannot take notice of that. The Honourable Member knows the terms of the Rules and Standing Orders. He must comply with them.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Orders under section 144 are passed on almost every Friday when there is a likelihood of the recital of *Madehe Sahaba* or a procession. This started after the Assembly dispersed, and it is continuing every Friday.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Leader of the House anything to say on this ?

The Honourable Sir Nripendra Sircar (Leader of the House) : I do not know anything beyond the fact that some orders have been passed. I do not remember the date, nor do I know in what language the orders were passed, and what was their purport. I do not know whether it was for keeping the peace or for any other purpose.

Qazi Muhammad Ahmad Kazmi : There has been a notification by the Government.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must arm himself with copies of these orders. An adjournment motion is not a light matter.

Qazi Muhammad Ahmad Kasmi : I can produce the order this afternoon.

Mr. President (The Honourable Sir Abdur Rahim) : If there are any recent orders and if the Honourable Member so chooses, he can bring up another motion, but, as it stands, I am obliged to rule this out of order. The motion is ruled out.

ARREST OF PUBLIC WORKERS IN THE NORTH-WEST FRONTIER PROVINCE.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion is in the name of Pandit Govind Ballabh Pant who wants to discuss the policy of arrest of public workers and interference with public assemblies engaged in legitimate political activity, pursued in the North-West Frontier Province during the last two months.

When was the latest order passed ?

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : The latest order was for prohibiting and banning a procession in Peshawar ?

Mr. President (The Honourable Sir Abdur Rahim) : Why was it not mentioned ?

Pandit Govind Ballabh Pant : If I gave the whole list, I thought it would become too long a motion.

Mr. President (The Honourable Sir Abdur Rahim) : Some facts and some definite matters might have been given.

Pandit Govind Ballabh Pant : I thought it would be a more comprehensive thing to deal with the policy rather than with an incident. This consists of a series of incidents rather than one incident. Anyway, in this case I am prepared to give the names and other details. I think it is not disputed by the other side that such things have been done.

Mr. President (The Honourable Sir Abdur Rahim) : But, as I have said already, the Honourable Member ought to make that definite in the notice itself. At any rate some definite cases have got to be mentioned, and the dates also.

Pandit Govind Ballabh Pant : If necessary, I can give them now

Mr. President (The Honourable Sir Abdur Rahim) : That will require another notice by the Honourable Member.

Pandit Govind Ballabh Pant : But I know, Sir, I cannot move it again ?

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow it.

Pandit Govind Ballabh Pant : That would be almost futile, because it has already been disallowed by the Governor General. I do not want to take more time of this House, because I know the ultimate fate of this motion. It is only an academic discussion, and one in which I am not very much interested.

Mr. President (The Honourable Sir Abdur Rahim) : At any rate, I want Honourable Members to bear in mind that in the notice itself the requirements of the Standing Orders and Rules must be complied with.

EXTERMINMENT OF MR. M. R. MASSANI FROM THE PUNJAB.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion for adjournment stands in the name of Mr. Mohan Lal Saksena in connection with the extermination of Mr. M. R. Massani from the Punjab. Does the Honourable Member wish to move that ?

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : Yes, Sir.

The Honourable Sir Nripendra Sircar (Leader of the House) : Sir, I have an objection to make, but I do not know whether that is an objection which you will be prepared to hear or whether this is the proper forum, but my objection is that this is really not a matter which is primarily the concern of the Governor General in Council. If you think, Sir, that that is a point which cannot be taken up before you, then I have nothing further to say.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot deal with the motion on that ground. You mean you have no objection on any other ground ?

The Honourable Sir Nripendra Sircar : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : The motion will be taken up at 4 o'clock.

Pandit Govind Ballabh Pant : I take it it will be open to either of us, Sir, to move it, as I have also another motion on the same subject ?

Mr. President (The Honourable Sir Abdur Rahim) : Only one Honourable Member can move it. Of course you can speak.

THE INDIAN COMPANIES (AMENDMENT) BILL.

The Honourable Sir Nripendra Sircar (Law Member) : Sir, I move :

“ That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee, be taken into consideration.”

Sir, when I introduced this Bill in April last, I gave a fairly long explanation of the reasons which induced the Government to start this measure and also explained why certain changes were thought necessary in the existing Act of 1913. The matter now is for consideration of the Report of the Select Committee. The course I propose to follow, Sir, subject to anything which may be said here, is this. I propose to explain and to indicate to the House the major changes which have taken place in the Select Committee, because there are a very large number of changes which are either extremely trivial or merely drafting corrections. Having done that, I do not propose to enter into a general discussion at this stage. As to what course the debate will follow, that is a matter entirely for this House. Some Honourable Members may prefer to wait until the particular clauses are taken up ; other Honourable Members may like to speak on matters of importance at this stage of the debate. That is a matter entirely for the judgment of any particular Member who wants to speak. Sir, as I said, I propose to place before the House the changes made in the Select Committee. If there is a general debate on any of the important matters, I may have to reply, depending on the

importance of the matters which are raised. Sir, I am afraid the question of the managing agency throughout the discussions, as also in the Press has assumed a rather disproportionate size as if there is nothing further in the Bill except the question of the managing agency. Be that as it may, on the question of the managing agency at one time or other I shall have to make a fairly long speech. I am afraid the speech will be rather dull, unexciting and probably boring to many Members of this House because it will involve going into voluminous facts and figures.

Dr. N. B. Khare (Nagpur Division : Non-Muhammadan) : Why not put some pepper and salt ?

The Honourable Sir Nripendra Sircar : The Honourable Member interrupting might get up and interrupt me in such a way that I can hear him, or he should not try to interrupt me. (Interruptions.)

Mr. President (The Honourable Sir Abdur Rahim) : This is a very important measure before the House, and I think Honourable Members ought to be more attentive to what the Honourable the Leader of the House has to say.

The Honourable Sir Nripendra Sircar : I thank my friend for suggesting the putting of some pepper and salt. I won't do it, because I can depend on some others doing it. Sir, I do not think the situation is one which lends itself to unbounded enthusiasm. It is a rather complicated, technical and dull matter, but of very great importance. So far as I am concerned, it is no inconvenience to me whether I have got to address this House on the question of the managing agency justifying the proposals made in the Bill in my reply on this motion, or whether I wait till the relevant clauses and amendments are taken up. I now propose, Sir, with these few sentences to proceed to the important changes made in the Bill.

In clause 2 of the Bill, we have made an attempt to define "manager" and "managing agent" separately. This was necessitated by the fact that various restrictions, prohibitions and requisitions have been cast upon the managing agent. The definition gave the Select Committee a good deal of anxiety. It is not easy to draft a definition, and, speaking entirely for myself, I should be very grateful if anyone would suggest an improvement in the definition. That will be particularly welcome. We have not been able to do anything better than this. But if it is capable of improvement, we shall be only too glad to hear further suggestions. Then, Sir, I omit some of the minor amendments, but in the definition in clause 2, sub-clause (b) of sub-clause (2), there are six or seven words which make a great change in the law. I draw the attention of the House to that. The paragraph now begins like this :

"That other company shall be deemed to be a subsidiary company within the meaning of this Act, and the expression 'subsidiary company' in this Act means a company in the case of which the conditions of this sub-section are satisfied and includes a subsidiary company of such company."

Honourable Members will notice the change which has been introduced by the Select Committee represented by the underlined words, "and includes a subsidiary company of such company". That makes a very great change because, by means of this definition it is intended to get at not merely a subsidiary but the subsidiary of a subsidiary. In fact, Honourable Members when they come to the relevant section about

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subsidiary companies will find that while it has to a certain extent followed the English law on the subject, the Select Committee has proceeded very much further.

Then, Sir, the next thing to which I may draw the attention of the House is clause 7. That clause provides that certain articles in Table A, which are stated there and which I need not read, would be deemed to be compulsorily included in the articles of companies. There is one article to which I would like to make special reference. It is article 107. That article was the subject of much discussion in the Select Committee and the question was whether that article should be included or not. Opinion was equally divided before the Advisory Committee and I believe, speaking from recollection, it was carried in that Committee by my casting vote. Then, Sir, after the Select Committee's report had been published I have received very many representations pointing out the difficulty of making 107 compulsory. The Select Committee has included it and I am only pointing out that 107 is now compulsorily included and I may just tell my friends here that that is an article which deals with certain details which have got to be shown in the accounts.

I now pass on to clause 15 where slight changes have been made. It relates to transfer of shares and, of course, judging by some of the amendments of which I have received notice, this matter will be discussed at considerable length in the House. I now draw your attention to subparagraph (7) which says :

“ Nothing in this section shall prejudice any power of the company under its articles to refuse to register the transfer of any shares.”

Now, Sir, the dispute which centres round this provision, shortly speaking, is this. I do not think that any section of the interests which were represented before the Select Committee by means of their opinions had any objection to the Directors having the discretion to refuse to recognise a transfer in the case of partly paid up shares. The objection was really to any discretion being given to the Directors to refuse to register the transfer of a fully paid up share. Now, Sir, the matter can be argued both ways but we have followed really what has been the law here and we have also followed what has been the law in England and what has been specifically stated here is to make it clear that it is not the intention of the Select Committee to change the law. I find some Honourable Members, judging by the conversation I had yesterday, are under the impression that in England the Directors have no power to refuse the transfer of a fully paid up share. That is not the law there.

I think, Sir, the next material clause will be clause 27. To put it very shortly, it says that instead of passing two resolutions—one, the original resolution followed by a confirmatory resolution—we are now following what is the law in England, that is, dispensing with the second resolution. That involves changes in many of the sections wherever the matter is specifically mentioned.

Then, I pass on to clause 30 which relates to a statutory meeting. This clause starts by saying that section 77 shall be amended and so on. Section 77, I may remind the House, refers to the statutory meeting of the

company. I draw your attention to page 10 and the underlying words in clause (c) which are :

“ showing separately any commission or discount paid on the issue or sale of shares.”

That has been added. In clause (d), the words “ managing agents ” have been added. That is to say, the names, addresses and descriptions not merely of the directors and auditors but also of managing agents must be contained in the report. Then, Honourable Members will notice a black line against clause (k) which runs thus :

“ the particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares to any director, managing agent or manager.”

That has been added by the Select Committee as an integral part of the report.

Then, I may pass on to clause 32. Honourable Members will find in clause (b) the following underlying words “ with a statement of the business to be transacted at the meeting ”. The idea is to give to shareholders information not only date and hour of the meeting but also the nature of the business which is going to be transacted on that day. In other words, to give a summary of the agenda. That is what was added by the Select Committee. Then sub-clause (e) makes a considerable change in the law in favour of the shareholders. It says :

“ In any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936, any shareholder whose name is entered in the register of shareholders of the company shall enjoy the same rights and be subject to the same liabilities as all other shareholders of the same class.”

Possibly, it is not intelligible to some Honourable Members who have not much experience of these articles of companies. What happens sometimes is that the articles provide that before a shareholder can vote, he must be on the register for a certain length of time, for instance, a fortnight or four weeks or six weeks. That is being done away with and the result of this amendment, as approved of by the Select Committee, will be that once the name is on the register, the shareholder will have the same rights as any other shareholder of the same class.

Now, I pass on to clause 37. This clause makes a very important change. I would like to read the whole of sub-paragraph (2) and I am sure this matter will be thrashed out on the floor of the House. It says :

“ Notwithstanding anything contained in the articles of a company other than a private company the directors, if any, appointed by the managing agent shall not exceed in number one-third of the whole number of directors, and at least one-third of the whole number of directors shall be appointed by the company in general meeting.”

Now, Sir, the position is this. One of the abuses complained of in representations made by public bodies was that, as a matter of fact, the Board of Directors in many cases is a mere farce because the Board is completely dominated by the large number of directors, who, under the articles, are nominated by the managing agents. The original Bill provided merely that the managing agents will not be in a position, whatever the articles may be, to nominate more than one-third. That would be the maximum fixed for nomination by the managing agents. In the Select Committee what has happened is that that one portion remains, namely, one-third is the maximum for appointment by managing agents, but a further proviso has been made that at least one-third will be

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selected by shareholders in a general meeting. Since the report has been made, my attention has been drawn to the difficulty which will be created in certain existing companies if this section is given retrospective effect. What I mean is this : in some companies, for instance, you find there is a power to certain Indian States to nominate one or two Directors, as the case may be. I cannot make a general statement because the articles vary. Now, that is done in consideration of the Ruler of the Indian State—of course the company is incorporated in British India—having taken a very large block of shares or the best part of the shares to the extent of nearly ten lakhs and he bargains that he must have one of his men on the Board and that he must have the right to appoint him. That is a complication which arises in some of the companies. The second complication is that under certain statutes, the Local Government, very often the District Board or the Municipality has got powers of nomination of Directors in connection with certain companies. I need hardly tell you that they are public utility companies. The Select Committee have proceeded on this footing that the gap of one-third which is left, that ought to be enough for fitting in such, if I may use a colloquial expression, special directors, directors who are appointed by special interests, whether he is the owner of a large block of shares or a debenture holder or a Local Government or a Local Board or what not. Whether in fact this creates any difficulty or not, if retrospective effect is given, I am not absolutely certain having regard to one or two cases which have been brought to my notice. But I dare say I shall discuss that when the proper time comes. At the present moment that is the position. Then, there is another difficulty which has been pointed out and this was done only last week. It was this. We have suggested that one-third of the whole number of Directors shall be appointed by the company in a general meeting. The idea therefore is that all shareholders meet to appoint these one-third of the directors. My attention was drawn to the articles of the East India Cotton Company which comes from Bombay and what happens there is that a definite number of directors are elected by a particular class of shareholders, for instance, the shippers have one director, the brokers have one director and so on. Obviously it will not fit in with those Articles if we provide that every one of these directors have got to be appointed by a general meeting. But that is a matter which surely after further discussion, if it comes out to be a formidable point, can be set right without much difficulty.

The next important thing is clause 40 which begins at the bottom of page 15. In clause 86-D Honourable Members will notice that a loan is prohibited :

“ No company shall make to a director of the company any loan out of moneys of the company.”

Of course I need not tell you that there is a penalty for contravention. I presume Honourable Members will notice the change which has been made. What the original Bill provided for was that a loan was not to be made to a director out of moneys borrowed by the company, that is to say, it would not be permissible for the company to borrow money and out of that borrowed money to lend it to the director. Now, it is a general prohibition and moneys cannot be lent to directors at all. That is the change which has been made by the Select Committee.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : May I know whether a director of a bank can overdraw on his banking account ?

The Honourable Sir Nripendra Sircar : Yes, he can, because banking has been made an exception under sub-clause (3) which reads :

“ This section shall not apply to a private company (except a private company which is the subsidiary company of a public company) or to a banking company.”

When the time comes, if the matter is debated, I think I shall be able to show that there is a considerable body of opinion if I may quote one opinion that the directors of banks are very often their best customers.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sometimes their worst.

The Honourable Sir Nripendra Sircar : I have not yet come across such cases. I know the general charges which are made against directors and managing agents that the sooner they are shot down the better and so on, but we should wait for concrete cases. I have no such cases which have at least come to my notice. Honourable Members may be aware of them.

Now, I pass on to page 17. Section 87 (1) reads :

“ Every company shall keep at its registered office a register of its directors, managers,”

— we have now added,—

“ and managing agents.”

Then, Sir, we come to the clause which I am sure will occupy a good deal of the time of the House. That is clause 42 which is found in pages 18, 19, 20 and a part of page 21. This clause relates to managing agents. The important changes are, first of all, if I may put in colloquial language instead of technicalities, the original Bill provided that a managing agent who was going to be dismissed at the end of 20 years—because that is the result of the Statute, he may be under his Articles entitled to remain for 50 years and very often as we have in Ahmedabad agreements they are permanent and non-removable and so on, instead of that they have got to go after 20 years under the present Statute—it was provided that a managing agent ought to be paid the moneys which are due to him. That of course no one objected to. The additions which have been made refer to two other matters, firstly a certain amount of money may not have been due to the managing agent at the time of his dismissal, but it may become due later on. He has got to be indemnified against his liabilities. As we shall see when we discuss the managing agency system, it is the business of the managing agent and it is his duty not only to lend money himself but to guarantee advances by the bank. That guarantee may not have matured at the time when he is dismissed. He may not have to pay that amount, it is possible that the company may clear off its debts and the managing agent will not be charged, but a provision has got to be made for indemnifying against liabilities which may accrue in future.

The other change is the question of compensation. That question arises only where the managing agent is being dismissed before the term provided for in his agreement. Supposing he is entitled to stay for 30 years, by the operation of the present Statute he is going to be sent away

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after 20 years. In the Select Committee, provision has been made for compensation, but I should like to tell the House that, as I read the law, the managing agents who are entitled to commissions will practically get nothing by going to Court. The authorities show that the Courts have refused to give any damages on the basis of future commissions, the reason being, as Lord Justice James put it, that although you have been appointed for 50 years, the company or the employer has given no undertaking that their business will continue for 50 years. There is no undertaking that that business will be of any size. It is open to the Company in the first week after the 20th year to reduce their business to negligible size; and I think Lord Justice James says that they can reduce it to zero. But whatever that may be, I will not go into too many law cases. My understanding of the situation, not only from the Indian cases but from the summary given by Lord Justice Buckley, is that, assuming they have got the right, they cannot get any substantial amount. Secondly, the other item is office allowance. Obviously, the Courts will ask him, "What about office allowance? You have been dismissed; you have kept no office; you no longer require a typewriter or the telephone; therefore, you have not really lost much". As I read the cases, in the normal case of the managing agent being remunerated by a commission on the business of the company, he practically gets nothing. But I need hardly remind my Honourable friends who must have read,—so I assume,—the opinions of some of the associations, that there can be other cases. For instance, I find in connection with a company,—I do not desire to name the company,—a bargain that in case of their dismissal they will get profit for eight years calculated on the average profit made during the last three years. There again whether this will mean that the Court will possibly rip it up on the ground that this is in the nature of a penalty and not liquidated damages,—these are difficult questions which I do not think the House need be troubled with just now. I simply want to inform the House that a change has been made and this House has got to consider what the effect of that change will be. Section 87-B introduces a change inasmuch as the removal follows if the managing agent:

"is convicted of an offence in relation to the affairs of the company punishable under the Indian Penal Code, and being under the provisions of the Code of Criminal Procedure, 1898, non-bailable; and for the purposes of this clause, where the managing agent is a firm or company an offence committed by a member of such firm or a director, or of an officer holding a general power of attorney from such company shall be deemed to be an offence committed by such firm or company;"

This is a matter which may require reconsideration.

Then, there is some change in sub-clause (b):

"A transfer of his office by a managing agent shall be void unless approved by the company in general meeting."

A possible defect is that "transfer" has not been defined.

There is a very important change in 87-C., which provides that the remuneration of the managing agent in connection with companies coming into existence after the passing of this amending Act of 1936 shall be a sum based on a fixed percentage of the net annual profits of the company. That is the result of the evidence which was given before the Textile Commission where most of the witnesses agreed that this is the form which is

least liable to abuse. But a change has been made in the proviso as under :

“ Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus, or statement in lieu of prospectus, where the terms of the remuneration of such managing agent are there set forth.”

I am drawing the pointed attention of the House to this because I find that this language has been open to misconstruction. What our idea was, is this ; at least that was my idea, and I believe that was the idea of the Select Committee and those who supported this measure. If a prospectus sets out the net percentage which a managing agent will charge and the people buy on the faith of that prospectus, it is not fair that he should be asked to come up before a general meeting. The promoters, the managing agents, start a company, they incur expenses, they sell the shares, and every one buys the shares after seeing that the remuneration is so much percentage. Then the managing agent should not be asked to come up before the general meeting to be driven out by somebody who has taken no part in the company formation at all. But what is open to misconstruction is this. I am informed by, at least two letters which I have received that they construe it to mean that it is permissible in the prospectus to state that the remuneration will be not merely the net percentage but there should be additional remuneration in other shapes also. I do not know whether that construction is right, but be that as it may, we want to make our position perfectly clear. In fact, the House will find that we ourselves shall move an amendment to make the meaning perfectly clear, that is to say, the remuneration to be stated in the prospectus for the appointment of the first managing agent must be the net percentage and nothing more. If after that he wants any additional remuneration, whether by increasing the percentage or in any other form, then he has got to come up before the shareholders. That meaning will be made perfectly clear by an amendment which we shall ourselves move.

Then, Sir, there have been some changes in the definition of “ net profits ” where we have practically, barring one exception, accepted the point of view which was represented by the shareholders ; that is to say, additional amounts which are to be deducted before the profits are calculated, for instance, bounties or subsidies. They are not really trade profits and therefore there is really no reason why they should be taken into account. That was conceded by the Select Committee and that change has been made.

Sir, in the original Bill I believe as regards loans to managing agents the provision was that there was to be no loan, but that will not apply to a current account kept with the managing agent as that is very often necessary, almost universal, for current expenditure. That has been changed in this way :

“ Nothing contained in this section shall apply to any credit held by a managing agent in a current account maintained subject to limits previously approved by the board of directors by the company with the managing agent for the purposes of the company's business.”

Honourable Members will also notice that the prohibition is against lending money at all and not merely lending money out of borrowed funds.

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87-G. is rather important. It says :

“A managing agent shall not exercise in respect of any company of which he is a managing agent a power to issue debentures or, except with the authority of the directors, and within the limits fixed by them, a power to invest the funds of the company.”

That is to say, they have no power to issue debentures, and equally they will have no power to invest funds without the sanction or the authority of the directors.

I now draw attention to clause 44 :

“A register shall be kept by the company in which shall be entered particulars of all contracts or arrangements to which sub-section (1) applies and which shall be open to inspection by any member of the company at the registered office of the company during business hours.”

I find that some amendments have been notified, but I had better keep my comments until the amendments are discussed.

I need not detain the House over the smaller changes in clause 48 and, I think, I may safely pass on to clause 52. There has been a substantial change from the proposal made in the original Bill. Honourable Members who remember the provisions of the original Bill will find that what was stated in the original Bill was, namely, either 38 $\frac{1}{3}$ per cent. of the share capital or 25 per cent. of the money required, whichever was higher : that has been omitted ; and I may explain to the House what induced the Select Committee—or at any rate which induced me—to accept the objections which were very strongly urged by the Ahmedabad interests. It was pointed out—and it is quite true, most if not all of the Ahmedabad mills are undercapitalised ; but they point out that this business which has now assumed gigantic proportions—and when I come to discuss the managing agency system, I hope, I shall be able to induce this House to accept the opinion, or rather my changed opinion to which I have been compelled to come to by a close study of this matter—that although there may have been abuses—there are abuses, and some of the abuses are gross—yet if you look at the whole picture, I think, any one ought to be proud of what has been done by Ahmedabad,—the size of their undertakings, the number of their looms have increased four and a half times within the last 16 or 17 years. Mills have been started for which the bloc account probably required was 10 lakhs of rupees. Some enterprising merchant or managing agent has come forward : he could not raise more than 2 or 3 lakhs by selling shares. What has he done ? He has raised the remaining seven lakhs by taking long term deposits from the public ; and those deposits were possible only because the names of the persons with whom the monies were deposited inspired confidence in the men who invested. We found on facts and figures that they have been able to establish a gigantic industry, not by raising the proper amount of share capital each time, but by being able to arrange otherwise, that is to say, whether by taking deposits or by arranging with banks or in some other manner. Therefore, we had to concede to them, but even after this modification, it is a great change from the existing law, because under the existing law the minimum subscription is a matter merely in the discretion of the promoters : they could say “We can go to business after we have received Rs. 20,000”, whereas as a matter of fact they require a

lot more to start the business. This clause provides for the amounts which have got to be either raised by subscription or to be arranged by somebody, whether by directors or by managing agents, before they can begin.....

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : May I ask to what extent he has changed his own opinion in this matter ? I did not quite follow him. Did he express an opinion as to how far he has changed his opinion or would he prefer to leave it to later on ?

The Honourable Sir Nripendra Sircar : About what ?

Sir Cowasji Jehangir : About the clause under discussion.

The Honourable Sir Nripendra Sircar : My changed opinion is represented in the Bill as now drafted.

Sir Cowasji Jehangir : I thought you said you had changed your opinion since then. I beg your pardon.

The Honourable Sir Nripendra Sircar : No, no. If I conveyed that, I am sorry. I did not mean to say that after the report of the Select Committee I had changed my opinion, in any way. I have not.

I may now proceed to clause 67—page 31. This is a very important section because Honourable Members will remember probably that under the present Act the publication of a profit and loss account is not at all necessary. Most respectable companies, as a matter of fact, do it in their own way, but under the law as it now stands, it is not compulsory to publish a profit and loss account. The Bill makes that compulsory, and certain changes have been made in the Select Committee to make further additions in the Profit and Loss Account. The clause now reads :

“ The profit and loss account shall include particulars showing the total of the amount paid whether as fees percentages or otherwise to the managing agent if any and the directors respectively as remuneration for their services,”—(and now we come to the underlined words which indicate the change in the select committee)—“ and where a special resolution passed by the members of the company so requires, to the manager, and the total of the amount written off for depreciation. If any director of the company is by virtue of the nomination, whether direct or indirect, of the company, a director of any other company, any remuneration or other emoluments received by him for his own use, whether as a director of, or otherwise in connection with the management of, that other company, shall be included in the total amount shown as the remuneration of the directors of the company.”

That is the change made in the Select Committee.

The next matter to which I draw attention is clause 68 (5). This is a very great change indeed and—speaking subject to correction—this is a change which is in advance of English law. Complaints are made that when these subsidiary companies were started, they were started with the money of the parent company ; but once the subsidiary is started the shareholders of the parent company had really no control—they could not even get information as to what was happening. That has been corrected by this clause which says :

“ The holding company may by a resolution authorise representatives named in the resolution to inspect the books of account kept in accordance with section 130 by any subsidiary company, and on such resolution being passed those books of account shall be open to inspection by those representatives at any time during business hours.”

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I am sorry my Honourable colleague, Sir James Grigg, has just left ; otherwise I would have given him a very painful recollection of how, by a very complicated system of subsidiaries and holding companies, the revenues were done out of tax and super-tax to the extent of Rs. 2½ crores, and the Government has fought unsuccessfully right up to the Judicial Committee.....

An Honourable Member : Thank God !

The Honourable Sir Nripendra Sircar : The gentleman who just said ' Thank God ' need not be afraid that he will be charged by the Income-tax authorities to that extent.

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Mr. Sri Prakasa : The East India Company has done us out of our whole country.

The Honourable Sir Nripendra Sircar : Then, Sir, I would draw your attention to clause 75, because we on the side of the Government propose to move an amendment with reference to clause 75 (b) which provides that any registered accountant can, only for the purposes of signing the papers in relation to a company, sign himself as Chartered Accountant, India. I shall not go into the merits of that now, but the position will be, if it is passed as law, this gentleman who is not a Chartered Accountant, will sign as Chartered Accountant, India, when he is signing a Profit and Loss Account, of a Company but if he examines my accounts or my friend, Mr. Satyamurti's accounts which must be heavier, he cannot sign as Chartered Accountant.

Mr. S. Satyamurti : Oh, Yes ! (Laughter.)

The Honourable Sir Nripendra Sircar : Then as I said he is not allowed to sign as Chartered Accountant, India. However, I shall not go into the merits of the question now. I am merely pointing out the changes which have been made.

Then, Sir, I pass on to clause 76. Under sub-clause (4) the Select Committee has made it compulsory that notice of meetings should be given to Auditors, and that is shown by the words underlined at the bottom of page 35 under clause 76 (c) (4).

Then I would draw the attention of the House to clause 78 at page 36. I shall in a very few words explain to the House what changes have been made and what influenced the Select Committee to make those changes. Clause 78 relates to section 153 of the existing Act which refers to arrangements entered into by companies generally when they are in difficulties, and they have to get those arrangements sanctioned by the Court. Unfortunately, in Calcutta during the last three years there have been nine rulings, three one way and six the other way, on the words ' class of creditors ' and the question has arisen very often. Now that the Loan Companies are going into liquidation or rather were going into liquidation at the rate of a few dozens per month, this question very frequently came up before the Calcutta High Court. The words ' the same class of creditors ', according to one set of rulings held that there was a difference between a creditor who has obtained a decree and a creditor who has not. On the other hand, according to other rulings, secured creditors and

unsecured creditors, belong to different classes, but an unsecured creditor, because he has rushed to Court and obtained an *ex parte* decree or a contested decree, cannot claim to be dealt with as a separate class of creditor; that was not right. That conflict has been put an end to, and the Select Committee has approved of the idea that a creditor does not gain any advantage: by simply obtaining his decree he will still be classified as an unsecured creditor, although he may have obtained a decree.

Then, Sir, another change has been made, and that is, whether there should be an appeal from an order either approving or disapproving of this arrangement. Now, there again up to the year 1934, which means at least till I was there (Laughter), appeals were allowed. It was held that it was a judgment within the meaning of clause 15. The subsequent rulings have gone the other way. The conflict has been put an end to by restoring the previous state of things and providing for an appeal from the order of the original Court to the Court which ordinarily hears appeals from that Court.

There is again a very substantial change in clause 71 at page 39. In clause 81 (1), it is stated that "the liability of a contributory shall create a debt payable at any time specified in the calls made on him by the liquidator". This change in law has become imperative, because what was happening was this. A company makes a call and it is not paid. Supposing the call was made in the year of Grace 1930. The company subsequently comes into difficulties say in 1932 or 1933. Then the liquidator makes a fresh demand or if he does not do so, he brings a suit. Then he is told that the claim is time-barred, because the cause of action arose 4 years ago when the original demand was made by the company. The Bill now provides that where there is liquidation, the cause of action, so far as the question of recovery of those unpaid arrears of call is concerned, will arise from the date on which the liquidator makes a demand and asks the party to pay it up.

Then, there is another change.

Mr. S. Satyamurti: Mr. Bajoria is here.

The Honourable Sir Nripendra Sircar: The only person who will probably complain of this is my friend, Mr. Bajoria, who, fortunately, I find has put on a smiling appearance. The position is this. Thanks to the Mitakshara law. When a man was on the shareholders' list and subsequently died, and when the liquidator or the Company tried to recover his dues, the stereotyped answer given by his relatives was—'We have not got his property; we are all survivors'. As a matter of fact, there is one company which has recently lost something like Rs. 47,000, because rich Marwaris have the habit of dying at convenient times. (Laughter.) To prevent them from escaping the liabilities, the Select Committee have provided that for the purpose of this section the surviving coparceners of a contributory who is a member of a Hindu joint family governed by the Mitakshara School of Hindu law shall be deemed to be his legal representatives and heirs. I will not trouble the House with the little changes in winding up orders and so on; I do not think they will feel sufficiently interested in that. I pass on to clause 98, which is at page 51. There has been some change about the rules relating to provident funds and what the Select Committee has done is to give the people who have got to get monies from provident funds a preferential claim just as such a right is

[Sir Nripendra Sircar.]

given under the Workmen's Compensation Act. Clause 111 has made a considerable change in the banking sections. If Honourable Members will turn to page 61, they will find that a definition of banking has been attempted. It might be said that we rushed in where every one else feared to tread and that no committee or commission had up to this time tried to define banking. But in the Committee it was felt that there was danger unless the definition was extended by exhaustively stating the permissible forms of activities for banking companies. That explains the length of the definition which Honourable Members will find at pages 61 and 62. Another important change which has been made is to be found at page 63, clause 2771 :

“ No banking company shall create any charge upon any unpaid capital of the company, and any such charge shall be invalid.”

Then, I think there are only two others which I need mention before I resume my seat. A provision has been put in by the Select Committee in this Bill on the lines of the English Act which gives power to the Court to relieve penalties. If the thing has been done in circumstances which may be overlooked the Court has got that power under the English Act, and that has been embodied here because we feel that we have introduced too many penal provisions in this measure. The only other change, but I will not go into the details of it, is in Form F of the Balance Sheet. There have been minute changes but they are not of sufficient importance to detain the House with an explanation of them.

Sir, that is all about the changes which have been made, and as I said at the beginning when I started my speech, I do not propose to do anything further at this stage. (Loud Applause.)

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

“ That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee, be taken into consideration.”

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

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

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I wish to congratulate the Select Committee on the general degree of agreement they have come to on this highly controversial and technical Bill. When I spoke at an earlier stage of debate on this Bill, I did congratulate my Honourable friend, Mr. Sen, whom I am glad to find as a Member on the floor of the House, and I again take this opportunity to congratulate him on the excellent report he produced, which revealed an intimate knowledge of the affairs of the commercial community of Calcutta in particular, and India as a whole. He knows the difficulties in the administration of the Companies Act, and he brought out a report which, on the whole, was an impartial one. Professionally, my Honourable friend, Mr. Sen, has to deal more with the community of company promoters and the capitalists than with the shareholders' class. Yet he produced a report to which no

shareholder can object. At the same time, I will offer a word of congratulation to the Honourable the Law Member for the amount of patience which he has shown in bringing forward this intricate Bill. On one thing we must all agree that there is no politics in this Bill. It deals with managing agents and company promoters on the one hand, and the investing public on the other who have sometimes been befooled, because they have no control over the companies they have invested their money with. I have gone through, not very minutely, the various minutes that have been appended. I may divide them into two classes. There is extreme capitalism in the notes appended by my Honourable friends, Sir Leslie Hudson and Mr. Buss, and also partially in the note which my Honourable friend, Sir Homi Mody, has attached. I regret that Sir Homi Mody is not present here today to justify his minute of dissent or to justify the ideas he cherishes. I hope he will come and enlighten us with his views on the control of companies. I find a very able note of dissent by my friend, Mr. Paliwal. I would call it as one of idealism to which India may come fifty years hence, not in my time. Even if the State becomes Socialist, it cannot go the whole hog as Mr. Paliwal has done. On the whole, I agree with the degree of control that has been brought in on the managing agents in the Select Committee's report. A certain amount of latitude has been enjoyed by them and certain privileges were, no doubt, illegally and immorally exacted by a certain class of managing agents. I said on another occasion a certain class of company promoters have become gangs of looters and swindlers like the American gangsters. If the clauses incorporated in this Bill are agreed to, they will stop such class of company promoters from swindling innocent investors. That will be indeed a great gain. The second point which I particularly welcome is that, if a company gets liquidated, the managing agents will not get much remuneration or compensation, and if the law is really to be interpreted, as the Law Member interpreted it this morning, then the managing agents on their retirement will get very little. That is a very welcome step, and I approve of it.

One of the complaints of the Bombay Shareholders' Association and other similar associations has been that capitalists in the garb of promoting subsidiary companies have not only enjoyed more profits than is their due, but they have deprived shareholders of their legitimate profits and, as was pointed out this morning by the Honourable the Law Member, promoters of subsidiary companies have also been cheating the exchequer of the Government of legitimate revenues. As a result of this amendment, Government have at last come to realise the truth of the criticism that has been very often brought to their notice by the various shareholders' associations and other public bodies. It has been an eye-opener to the Government, and incidentally I would ask the Government not to tarry long in amending other important Acts such as the Railway Act, the Insurance Act, whereby the investors are now cheated, and even the Government, of their right dues. I have not so far given any notice of any amendment, but I will oppose any amendment that will go to strengthen the hands of the company promoters and Board of Directors. I think the clauses, as now drafted, give latitude to honest directors to function in the interest of the companies.

At the same time, I will also utter a word of warning to those who will speak in extreme language on behalf of the investors and shareholders.

[Mr. B. Das.]

As the Honourable the Law Member pointed out this morning, it is the managing agency system which has brought the industrial development of India to the present position, and, in the present position of public finance in India, it will take a long time for joint stock companies to mature fruitfully by corporate and co-ordinate action of shareholders, and, therefore, the managing agency system in India must continue and should continue for another fifty years or more. (*An Honourable Member* : "Question.") If the managing agents take the responsibility of mortgaging their property and their credit with Banks and amongst their own comrades to get money so as to make successful the particular concerns—industrial or commercial, the managing agents ought not to be deprived of the fruits of their labours by one or two shareholders who often strive not after the benefit of the company so much as after getting a footing in the company as directors. Therefore, Sir, I welcome the position in which the shareholders will elect one-third of the directors in such companies.

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhamadan Rural) : Why not two-thirds ?

Mr. B. Das : My Honourable friend, Mr. Paliwal, questions me, "why not two-thirds ?" I would ask my Honourable friend to promote such a company which is built up by the individual efforts of the shareholders and not by the credit of the managing agents.

Pandit Sri Krishna Dutta Paliwal : I am a director of three such companies.

Mr. B. Das : I congratulate my Honourable friend on his success in having promoted three such companies, but one swallow does not make a summer. (*An Honourable Member* : "Three swallows.") Yes, three swallows do not contribute to the industrial development and the financial prosperity of India. Sir, with that warning to those who would like to socialize our industrial concerns, I wholeheartedly support the Select Committee's Report and I would ask the House to consider it in all calmness, without any political influence....

Babu Rajnath Bajoria (Marwari Association : Indian Commerce) : I hope you will not introduce politics later on. (Laughter.)

Mr. B. Das : If I believe my friend aright, the Honourable the Law Member will welcome the expression of views political or economic—from my Honourable friend, the representative of the Marwari Association, and will reply to them, and I shall wait till then. Sir, I would urge on the House that when we will pass this measure we shall bring the greatest amount of good to all classes of investors and to those who control the funds of the investors,—not by any encroachment upon the control of the investing public, because they appear apparently to enjoy the fruits of these investments and not by denouncing the managing agents who apply to a large extent and in a multitude of cases, barring a few exceptions, all their credit and income to the benefit of India and for development of Indian industries, and, Sir, India needs industrial development. This Companies Bill, when it is passed, will no doubt help towards sound investment of public finance, and I hope India will advance towards

industrial development on sound economic lines to compete with world industrial countries.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I find that the Bill, as it has emerged from the Select Committee, has, no doubt, made considerable improvements on the original Bill but still, Sir, there are many matters in which the Bill is unfortunately silent or has not provided adequate remedies against the various abuses that have crept into the company law administration. First with respect to the managing agency system. I am surprised, Sir, at the readiness with which the Honourable the Mover of this Bill, who found various faults with that system, when he originally introduced the Bill and moved for its reference to a Select Committee, is now prepared to change his mind and support the managing agency system.

Now, Sir, a long time ago, when industrial enterprise was in its infancy, it might no doubt have been necessary for some persons who wished to speculate for their own benefit to start companies of this kind, get some capital, invest their own money not by way of share capital, or, if they did so, only to some extent, but usually by way of depositing monies as loans so that in times of crisis they might withdraw money for themselves and leave all the shareholders to suffer all the losses. Sir, it has been found by persons who have made a critical study of this system by themselves and through others, and also by the Banking Enquiry Committee that the disadvantages of this system are too many : and unless the system is properly controlled and the managing agents' powers are brought under proper check, it is likely to be abused, and the advantages of this system might be over-shadowed by the disadvantages. There is absolutely no other provision in this Act, barring the provision that the managing agent ought not to embark on trade or business similar to the business with respect to which they are managing agents. With respect to all other speculative business, the field is absolutely open to them. If on their credit, businesses that they start by way of floating companies come in, and if they are allowed a free hand to embark upon other speculative enterprises, and if they suffer loss—because very often the credit of these people or of their companies is largely linked up with the credit of the companies outside—and if on account of the various speculative enterprises on which they embark, their credit falls or sinks, then the credit of the companies associated with them also sinks along with them. This unfortunately is the result of bringing the managing agent into intimate contact with the running of the company. Sooner or later steps have to be taken to see that, as far as possible, companies are administered by directors, the choice of which directors is left entirely to shareholders, for it is ultimately the shareholders that have to profit by the gains or lose by the losses.

An Honourable Member : Are you against this managing system ?

Mr. M. Ananthasayanam Ayyangar : I am against this managing system, and I would like it to be under as much control or restriction as possible. In this connection, Sir, I would refer to the majority report of the Banking Enquiry Committee which has practically condemned this managing system and which advised that this system ought to be replaced by allowing or encouraging directors to manage their own affairs as much

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as possible. Sir, on page 273 of the majority report of the Central Banking Enquiry Committee, in paragraphs 352-353 the Members say :

“ Although the Managing Agency system is reported to have done a great deal for the industrial development of Bombay, it is admitted that it is not by any means a perfect arrangement but has many serious drawbacks. There have been cases where the Managing Agents have, besides managing their own mills, traded and speculated and the resulting weakness in their position has reacted on the financial position of the mills themselves and led to the banks withdrawing cash credits even when the mills were intrinsically sound, merely because the Managing Agents had become weak. Further, although it is true that in times of crisis such as Bombay has been going through, Managing Agents have incurred extensive losses as a direct result of financing the mills under their control, there have been a few cases in which these Agents have turned their loans to the mills into debentures, with the result that the concerns have passed into their hands and the shareholders have lost all their capital invested in the undertaking. It has also been pointed out that this Managing Agency system works well when everything goes on smoothly and when the industries are prosperous. During these periods of prosperity if more money is required by the industrial concerns, the Managing Agents may very often continue supplying the money themselves to a considerable degree. Later on, however, when conditions alter and the industry or the particular concern comes up against bad times and the Managing Agents find themselves compelled to find more money to support the industry, it is found that they are not able in all cases to comply with the requirements.”

This is exactly what I request the Honourable Members of this House to note :

“ We suggest, therefore, that attempts should be made to make industrial enterprises in India less dependent on this system for future development. The establishment of direct friendly relations between industrial companies and commercial banks is desirable especially in view of the capital demands that are likely to arise in connection with mergers and reconstructions which may follow the present economic depression.”

During fair weather, the managing agents may continue their friendship with companies but in times of adversity they will be the first to bolt. That, I am told, Sir, is the experience in some of the mills at Ahmedabad. The picture has not been fully or correctly drawn by the Honourable the Mover. That is my information. Latterly, on account of various speculations in which the managing agents have indulged, no doubt the business or trade have been ruined to the same extent as the one for which they are responsible as managing agents in their trades and businesses. If they lost, the companies have also come to ruin on account of the loss that these managing agents have sustained elsewhere. This was with respect to several mills at Ahmedabad. I find that in the beginning it might not be necessary that 33 1/3 per cent. capital ought to be insisted upon before a certificate of commencement might be granted. But there is force in the contention that within a short time thereafter at least, the business must make itself self-supporting. It ought not to depend entirely upon the deposits that may flow into the company on account of the personal influence or the personal credit that the managing agent may command. That means that if the company is not able to stand on its own legs so far as its credit and reputation go or the flourishing of the industry or trade is concerned but stands entirely on the credit of the managing agents, then I would say that it is not a good sign of its growth or life. Therefore, if at the outset it is not insisted upon that 33 1/3 per cent. or 25 per cent. of the share should be subscribed in cash, then two or three years after the concern starts it must be insisted upon. The condition

must be laid there, because we find, as the Honourable the Law Member has said, that for many years the millowners of Ahmedabad, the managing agents, have been able to run on with very small capital, entirely depending upon the credit that they were able to find from elsewhere. But in times of crisis when the cash was withdrawn, the mills go into liquidation. I have heard that several mills in Ahmedabad have come to similar straitened circumstances of late. Mr. Lokanathan in his book at page 300 makes a reference to similar difficulties that may arise if too much dependence is made or insisted upon or forced on the companies by these managing agents. This is what he says :

“ The fact is that managing agents have found that the profits which they receive from their ownership of the shares in the mill companies are not so important as the profits which a large number of related side activities afford them. They have an interest in the stores business, cotton business, and coal business, and in a large number of allied activities. It is not on the profits of *Management* as such that they depend. A managing agency agreement is significant to them only in so far as it opens out to them a vast field of miscellaneous activities capable of yielding them larger profits. Should, by chance, these activities land them in losses, the mill companies are there to which these losses can be passed on. Instead, therefore, of concentration of management being an advantage to the individual units, the manner in which the system is worked in some parts and by some agents results in weakness and the economies of co-ordination are entirely neutralised. While it would be wrong to say that the practices described above are universal in the cotton industry, there is little doubt that they are sufficiently widespread to cause the greatest distrust of the system. Broadly speaking, and subject to a good many exceptions both in Bombay and in Calcutta, while the best side of the managing agency system of organisation is witnessed in Bengal, it has revealed itself in its unfavourable aspect in Bombay.”

Sir, there is sufficient testimony both in the Banking Committee report and also in the learned treatises of Mr. Lokanathan to show that too much faith ought not to be placed in this system of managing agency. Therefore, when the Bill is on the anvil and broad changes are contemplated, sufficient restrictions should be placed at this time so as to encourage the directors, who are representatives of the shareholders, so that they might be able sooner or later to take charge of the management of the company. I find that that aspect has not been kept in view, otherwise some of these alterations which have crept into the Bill during the Select Committee stage would not have been there. I would refer, in this connection, to clauses 87-B. and 87-C. on pages 18 and 19 of the Bill. In the first place, I would refer to the proviso to sub-clause (e) to clause 87-B. It runs :

“ Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth.”

Sir, if the object is to restrict the number of years for which the managing agent should be appointed at a time and also to stop the indefinite period for which managing agents were appointed during the previous regime, I would say that this proviso ought not to be there. It is possible by this proviso to circumvent the very object which is sought to be carried out by the terms of clause (e). Under clause (e) the appointment of a managing agent must be brought before a meeting of the general body of the company and then it is to be ratified. By this proviso a clause might be incorporated in the memorandum itself fixing the term for which the managing agent might work and make it impossible at a later stage for the general body to vary the terms or impose some additional restrictions. According to me, this object is not kept in view and too much importance

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is given to managing agency system. Many years ago, during the initial stages of the business, the managing agents might have been able to incorporate clauses in the Memorandum and the Articles of Association that their heirs and successors should be the managing agents indefinitely, but it is no longer easy nowadays having regard to the progress of education and the progress that has been made by the industrial enterprise. It is no longer possible for the managing agent to keep himself for a period of more than 20 years. Twenty years is the limit of time that has been imposed in the Bill. I would say it is not a very great deviation from the normal course which ordinarily such companies are taking at present. Therefore, it is not much of an advance on the present position; but even that small variation is sought to be given the go-bye by the proviso. I would say that this is not in the public interest or of the company. When once some two or three persons join together with the idea of starting a company, the first shareholders do not think very much regarding the conditions that are imposed and the powers that are given to the managing agents and the remuneration that is sought to be given to them. The original shareholders or the first shareholders do not scan it critically. Later on after a number of other shareholders come on the scene and a general body meeting is held, that is the time when the shareholders will scan more critically the terms of appointment of the managing agents, the remuneration offered to them and other conditions of the managing agents' services. Therefore, it is to give an opportunity to the shareholders at the first meeting that under the earlier clause (e) provision is made that notwithstanding anything contained earlier in the memorandum before the prospectus is issued, at the first meeting it is open to the general body to scan or vary the terms; and unless they are approved, they may not be able to come into operation. But the proviso does away with the effect of it, if in the memorandum the managing agents introduced a clause that they should be there for a period of 20 years and that the subsequent general body meeting may have to put up with such a provision in the original memorandum. I, therefore, suggest that this proviso which was introduced in the Select Committee ought to be done away with.

Pandit Lakshmi Kanta Maitra (Presidency Division: Non-Muhammadan Rural) : Is there anything in this Bill

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which stands in the way of the general body scanning the terms of the managing agency?

Mr. M. Ananthasayanam Ayyangar : If the proviso is there, with great respect, I would suggest it would not be possible for the general body to do away with the managing agent or to lessen the period of the agency from 20 years or to impose any other restriction if the terms are incorporated in the memorandum. Without the proviso they can do it by the provisions in the earlier part of the clause, but with the proviso, if the terms of agency are already there in the memorandum, it is not open to shareholders to go behind them.

Sir Cowasji Jehangir : What does the proviso refer to?

Mr. M. Ananthasayanam Ayyangar : The proviso says :

“ Provided that nothing herein contained shall apply to the appointment of a company's first managing agent made prior to the issue of the prospectus or statement in lieu of prospectus where the terms of the appointment of such managing agent are there set forth.”

Under section 87-A, it is no doubt open to a general body or even in the memorandum to have the managing agents appointed for a period of 20 years. Twenty years is the maximum. It is open to the general body to say that they shall not be appointed for more than 10 years. Why should that power be taken away by the proviso, which limits the power of the general body so far as managing agents who are appointed for the first time prior to the issue of prospectus are concerned? The Honourable the Law Member himself agreed that this proviso is liable to misconstruction. If the proviso stands as it is, it might be that it is open in the Memorandum before the Articles or before the prospectus are issued for the managing agents to have some terms included regarding their remuneration, not merely five per cent. but more. The Honourable the Law Member has agreed that it is susceptible of such a construction, and he has agreed to modify it suitably.

As regards the compensation that is sought to be given to managing agents in case of premature termination of the agency for which a provision is made in section 87-A (4), the Honourable the Law Member when he spoke this morning said, in practice it is futile to think of awarding any compensation because the Courts have found in various judgments that it is impossible to assess the amount of compensation and that such compensation may be even zero. Then it is not necessary to have such futile and useless provision. There is another vital objection to this compensation being given. The Act seeks to restrict the period that is still to expire to twenty years if under the Memorandum or the Articles of a company which came into existence before 1936 the managing agents were appointed for an indefinite period. If that is so, and if that could be done only on the condition that on that date if still some more period is to run, then the managing agents have to be given compensation for being kept on for a shorter term, I would say, Sir, that curtailing the period is really no good. Even today the managing agents cannot enforce by a suit for specific performance that they should continue to be managing agents. Even under the old Act, if persons were constituted managing agents for an indefinite period or for a long term such as 50 years, if within that period the company or the general body wants to terminate the agency, it can still do so. The only penalty that the company has to pay is some damages which, in the words of the Honourable the Law Member, might be assessed from zero to anything. Therefore, if you want to curtail the period for which the managing agents were appointed under the old memorandum or in the older companies, if you want to curtail that period to 20 years, after the coming into force of this Act, there is no purpose in giving compensation to them. If you once say that compensation has to be paid, the shareholders who might not be in a position to assess exactly the amount of compensation will be put to considerable difficulty. They would be obliged to pay compensation, and to avoid that, they might be instinctively forced to continue the managing agents for another period of 20 years. These are the difficulties that will flow out of this clause that compensation has also got to be paid in case before the normal term expires the managing agency system is terminated. This was not in the original Bill, but was added during the Select Committee stage. I will, therefore, say that this is a retrograde provision which ought to be eliminated. There are various other ways in which the provisions relating to the managing agency system should be improved.

[Mr. M. Ananthasayanam Ayyangar.]

Then, I come to the other important person with regard to the management of the company, that is the auditor. An auditor according to me is the backbone of a company's management. It is he who can have peculiar knowledge of the working of any company or a bank. He has access to the records of the company. He can very easily get into them, make his own remarks, call for explanation from the various officers, the directors and others. Therefore, the appointment of an auditor must always be independent of the management. The auditor has to check and supervise the work of the administration. Naturally therefore even in the old Act it was not thought expedient to place his appointment in the hands of the directors. In the new Act, some more provisions have been made to see that he gives a dispassionate opinion on the affairs of the company. In my opinion these safeguards are not sufficient. First, with respect to his appointment the shareholders are entitled to appoint him. Now even though the shareholders are asked to appoint him, if a poll is demanded, at a meeting the number of votes depends upon the number of shares each man has, and the managing agents are able to get proxies and thus influence the votes. Very often the stable body that represents the management is there and the person who is appointed the auditor comes in only with the active support of the management. If any rules are framed, they must be such as to remove the possibility of either the managing agents or the directors having any hand in the appointment of the auditor. The auditor must be absolutely free and independent, and I would therefore suggest that neither the managing agents nor the directors should be allowed to vote at a general meeting when the appointment of an auditor is made. It may no doubt be that the managing agents and the directors may have a large stake in the business of the company. They may have the largest number of shares, but all the same, as it is with respect to their work and with respect to their administration and their management of the affairs of the bank or the company that the auditor has to check, it is not just and proper that they should have a voice in the selection of a man who is to be their own critic. I would say that such an auditor would not criticise the actions of the managing agent or the directors, but would certainly give a good picture of their administration. Therefore, I would say that just as in the municipalities and other local bodies a man who is interested in a particular matter ought not to vote on that matter is in the same way neither the managing agent nor the directors should have or exercise the right of vote in the appointment of an auditor. It is also necessary to entrust the power of appointing the auditor to those persons who care to be personally present in a general body meeting. Usually people can easily get proxy forms and manipulate votes. It is desirable to avoid proxies being used for the purpose of deciding by votes regarding the appointment of auditor.

I should also like some clause to be added in the Bill which would prohibit the auditor being appointed auditor during the same period for auditing any other business in which the managing agent may be interested. The reason is that when he is appointed auditor for this company, naturally being a business man and taking human values or virtues as they stand, if he is to audit another business over which the managing agent has got control, he may not discharge his duties by this

company properly. I would try to avoid any temptation being thrown in the way of the auditor discharging his duties dispassionately and in the best interests of the company.

There are some other matters I have to deal with, and I shall only refer to one or two of them. The auditor may also be directed to mention in the audit report or make reference to such other matters as may be necessary for the shareholders to know in the best interests of the company. The auditor, with all the changes that have been made in the Bill, has only to see and make a report that particular accounts have been kept, that particular forms have been filled up, the balance-sheet has been prepared in a particular manner, the profit and loss account has been brought up with particular details, etc. This is the certificate that is now expected of the auditor; and if these have not been kept in the proper form and contrary to the prescribed form, then he has to give his opinion and the reasons therefor. This itself is not sufficient to disclose in detail the administration or the affairs of the company or concern. There are various other matters which the shareholders ought to know so as to place the company in a proper footing or enable them to take adequate measures to provide against abuses before it is too late to avoid a critical turn. Then there are some other matters also with respect to auditors. As regards the punishment of an auditor, in case he does not go through the several details and address himself to the several matters which he is expected to, there is a provision that he should be punished with a fine of Rs. 100. That is clause 76 on page 35 of the Bill :

“ If any auditors' report is made which does not comply with the requirements of this section, every auditor who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to one hundred rupees.”

I should like to add that if statements are made in the auditor's report which are untrue in material particulars he should be liable to punishment. The certificate in respect of auditors is given by the Governor General on the advice of the Board of Accountancy. Under the existing Act rules can be framed for establishing Boards of Accountancy in various other Local Governments. I understand that no effect has been given to this provision till now, so far at least as my Presidency of Madras is concerned. If the auditors commit default, if they are absolutely negligent in their work or are otherwise corrupt, there is no provision in this Bill to check their vagaries. The auditor who is corrupt or negligent can still escape the clutches of this Bill. The only provision imposed is a fine of one hundred rupees. If only he can prove that he had looked into these books, seen that the balance-sheet is all right and expressed his opinion that the balance-sheet is proper, even if his opinion is incorrect or false there is no provision in this Bill by which he can be taken to task. If he is to be removed from the rolls a complaint is to be laid before the Governor General in Council or the Governor General alone has got the power to remove him. I should say that in the Act itself provision must be made for a Board of Accountancy consisting of representatives of the shareholders as also representatives of the management, expert advisers, i.e., some accountants, etc. A Board of Accountancy composed in that manner should be appointed in each province to whom complaints can be made regarding the careless or negligent manner in which the auditors look into the affairs of a com-

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pany, if they do not discharge their duties properly or if they are corrupt. Such charges must be laid before that Board of Accountancy who must be able to recommend to the Local Government to remove these auditors or to take disciplinary action against them. As it is, Simla or Delhi is a long way off, and our cries do not reach here and are therefore unheard. The auditor has the ear of some clerk in the Secretariat and however corrupt he may have been it is easy for him to escape. Such instances are not wanting. Therefore, I would say that instead of the Governor General in Council exercising this right from a distance of removing an auditor in any part of India for misconduct, let this power be handed over to the Local Governments who can act in similar circumstances on the advice of the local Board of Accountancy, composed properly as I have already said. I am not suggesting any innovation. The necessary provisions are already there; the provision is already in the existing Act. But the rules have not been framed under section 144. It may be made compulsory under this Act for the constitution of a Board of Accountancy. This I consider might be adequate to prevent, in all human possibility, all neglect or corruption on the part of auditors.

Then, Sir, I have got a fetish which I would once again refer to in this debate, and that is with respect to foreign companies. Foreign companies have no doubt been given a latitude in foreign countries and similar provisions have been adopted here as exist in England. But they have not been sufficiently stringent. Shareholders in other countries are in a position to take care of themselves. It is due to the consciousness that our shareholders in this country are not able to take care of themselves that more than ordinarily stringent provisions are sought to be made in the Bill. Therefore, it would not be proper for anybody to object if I say that some more restrictions should be placed on the working of foreign companies in this country. If similar restrictions do not find a place in the statute-books of other countries, India must be made the exception. Joint stock companies are of recent growth in this country they are new institutions, and we have not taken to it easily in various parts of the country. The provisions of Chapter X relate to the working of foreign companies in this country. A company may be floated in a foreign country and it is easy for that company to come here and call for shares by issuing a prospectus: it may also raise loans by way of debentures. All that it has to do under the present sections of this Bill is that it must issue a prospectus setting out the various details which must conform to the prospectus issued under the Act and see that books are kept open for inspection: also charges upon properties belonging to the Company in India have to be registered. These are the main terms. If a foreign company trades here with foreign capital and does not call for shares here, it is none of our concern. It may lose or it may gain: if it gains it gains no doubt at our expense; but we may tolerate that. If on the other hand shares are canvassed in this country by prospectuses issued here, many persons may get deceived and take a number of shares in them or obtain debentures in those companies. What is the kind of control that this Government has under this Bill over such companies to see that they work properly and in the best interests of the shareholders in this country? I would, therefore, suggest that if foreign companies choose to do business and call for shares in this country, the shareholders

must have a right to choose a local directorate and a local committee and also to have an auditor appointed to inspect the affairs of the company in this country. That is necessary in the interests of the shareholders of this country who invest their money in such concerns. Otherwise there may be no knowing as to what these companies do with respect to the monies raised in this country. No doubt they are expected to supply information but the shareholders have got absolutely nothing by way of control under the existing Act.....

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : What does the Board of Trade in England say ?

Mr. M. Ananthasayanam Ayyangar : The Board of Trade in England says that all the trade in the world must flow towards England and that we must do the same thing for them and not take care of ourselves.

With respect to companies incorporated in India, there is a provision that if their affairs are not going on well, it is open to the registrar to suggest to the Local Government to have an inspector appointed to investigate into their affairs ; and if anything goes wrong, he should advise the Advocate General to launch a prosecution. I would suggest that in the case a foreign company doing business in India after taking our money by way of shares or loans, the Government should have a similar power of control. We do not know under what auspices it was started in the other country ; whether it had sufficient share capital ; whether the management there exercise sufficient diligence in the conduct of their affairs : it may be after all a mushroom company and it may be that all the capital was obtained in this country alone. It is, therefore, proper that in our interests we should have those provisions relating to the appointment of inspectors whenever necessary, applying to these foreign companies also.

Even with regard to winding up, I would say that the provisions relating to winding up and so on, to local companies must also apply to foreign companies. There is nothing like discrimination involved in this matter. I merely say that foreign companies ought not to be allowed, if perchance they commit default, to defraud their shareholders in this country. They must take the local shareholders also into confidence and the local shareholders must have a right of control, if they want to do business in this country. If any officer of such a company commits default, when a foreign company is being wound up here, it must be open to a Local Government at the instance of any member or the registrar, to appoint officers to investigate into its affairs. There is no reason why foreign companies should be immune from these restrictions which are intended in the best interests of the companies and the shareholders who invest their monies.....

Mr. M. S. Aney (Berar Representative) : Do you not think that in that case there should be a definition of Indian companies in this Act ?

Mr. M. Ananthasayanam Ayyangar : Why should there be a definition ? Any company that is not Indian is foreign. Any company which is incorporated in a foreign country is foreign.

I have another fad, that there should be a Board of Control or a Board of Trade set up in India. I am coming now to what the Board of Trade

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in England does. I would like to have a Board of Trade here appointed, if not for all the purposes for which it has been constituted in England, at any rate for the restricted purposes under this Act. In England the Board of Trade has the right to appoint inspectors to investigate into the affairs of a particular company. The ordinary layman may not be in a position to know what the affairs of a particular company are. We as laymen get perturbed over small losses : we may magnify them and immediately call for the winding up of a company or ask for an inspector to go into the accounts. Even a company that may normally work might be made to collapse like this. Therefore, the work of appointing inspectors must be entrusted to a competent body like the Board of Trade.

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

I would suggest it is not too late even now to make provision for a Board of Control for each province, consisting of representative men from the shareholders and management, with experts appointed by the Government to consider cases and advise whether a company is in a position to stand on its own legs and at what time the Board of Control can intervene by appointing inspectors to study the affairs of the company and so on. Such a board is absolutely necessary and I would suggest it should be incorporated in the Act.

Mr. K. Ahmed : What about the Act of Parliament ?

Mr. M. Ananthasayanam Ayyangar : The Act of Parliament does not stand in our way. As regards banks, the Honourable the Law Member said that various provisions had been made and with very great difficulty a definition of bank has been incorporated in the Act, and that he would welcome any suggestion by way of improvement. It has been suggested in the note of dissent and in various other quarters that banks must be regulated by a separate Bill dealing with the several transactions in a bank, because several peculiar circumstances arise for consideration so far as a bank is concerned. The Honourable the Law Member assured us the other day that he would soon be introducing a Bill to regulate the working of life assurance and other insurance companies in this country. Similarly, a separate Bill might be brought to regulate the working of banks and till that time the provisions set out here might be adopted.

Lastly, I do not know why, though for over 20 years private companies have been exempted from most of the provisions of this Act, a serious attempt should not have been made to introduce some of the restrictions and safeguards that are imposed in the Statute-book in respect of regular companies. A private company is one where the shareholders or members might be 50 or below. It is not easy to see why it should not be insisted upon that there should be at least two directors in such companies. In this and in various other matters private companies have been exempted from the stringent provisions of the Act. Sufficient time has been given to these private companies to flourish and now they are as much in need of regulation by the stringent provisions of this Act as other public companies. I would, therefore, say, Sir, even now it is not too late to amend the several clauses in the Bill so as to make them applicable to private companies also.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. I have just received a communication from His Excellency the Governor General, and it says this :

“ ORDER.

In exercise of the power vested in me by sub-rule (2) of rule 23 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby disallow the motion of Mr. Mohan Lal Saksena to move the adjournment of the House for the purpose of considering 'the ceterment of Mr. M. R. Masani from the Punjab' on the ground that the motion relates to a matter which is not primarily the concern of the Governor General in Council.

(Sd.) LINLITHGOW,
Viceroy and Governor General.”

SIMLA,

The 8th September, 1936.

THE INDIAN COMPANIES (AMENDMENT) BILL—contd.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume discussion of the Bill further to amend the Indian Companies Act.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Mukam-madan Rural) : Sir, I met a lawyer of eminence, and he said that the definition given in this Bill of a Managing Agent is the best that can be devised as it covers every point of view. That may be the opinion of a distinguished lawyer, but I look at it from a purely practical point of view. I went on hunting for the definition of managing agency. I consulted many dictionaries, and the best definition that I came across was the one given by John Bull published in *Punch*, and that definition is this,—that managing agency is a contrivance invented by the capitalists of India for the prevention of dividends. That is a definition which correctly represents the actual position. Sir, sometime ago we discussed on the floor of this House the question of managing agency system in connection with the textile industry Bills, and we then quoted some passages from experts in textile industry in Japan and other countries, and we tried to prove that the textile industry would not flourish in India until and unless the managing agency system was abolished. We also said on that occasion that it would take a very considerable time to make the textile industry stand on its own legs, if the managing agency system continued to exist in this country. Sir, it is impossible to continue to tax indefinitely the consumers of India for the bad administration of the textile industry of this country and the time has now come when we should set matters right. I expected that the Honourable the Mover of this Bill would justify the continuation of the managing agency system. He has in fact taken for granted that the managing agency system should continue and he tried to improve it in some minor details. Sir, the question we have to seriously consider is whether we should or should not keep the managing agency system in this country, and, in order to have a full dress debate, I will formally move an amendment to clause 42 of the Bill that this managing agency system should be abolished altogether. (“Hear hear”).

[Dr. Ziauddin Ahmad.]

from Congress Party Benches.) If we fail to abolish the managing agency system immediately, at least we should fix a minimum period by which it should come to an end. I should like to tell the Honourable the Mover that we will fight every inch of ground to see that the managing agency system is abolished, or its evil effects are minimised. It is a system which does not exist in any other country. Is it not the device of the capitalists of India, why should we have it? Why not take immediate steps to abolish it altogether in this country? Why not improve the conditions so that its continuation may no longer be necessary? That is really a point on which I should like the Honourable the Leader of the House.....

The Honourable Sir Nripendra Sircar : I can answer that question. The managing agency system like the communal electorates does not exist anywhere outside India. (Laughter.)

Dr. Ziauddin Ahmad : I am surprised at the logic of the Honourable the Leader of the House. All that I can say is that he is irrelevant.

Then, Sir, the next point I would like to discuss is a question of facts. I feel that there is an omission in drafting the Bill. A company ought to be divided into two categories, that is to say, a company dealing with protected industries and a company which does not deal with protected industries. These two companies stand on quite different basis. In the case of protected industries, the companies get extra profit on account of a special tax which the Government has imposed on the consumers of the country. These companies do not make a profit on account of their skill, but they make a profit on account of a special tax which the Government has forced on the consumers, and therefore they should be treated separately. In the case the profits should be governed by law, and they should not be left to be decided by the companies themselves. There ought to be a special provision in this Bill relating to companies dealing with protected industries prescribing a certain sum for depreciation which should range from $3\frac{1}{2}$ to $7\frac{1}{2}$ per cent. providing a certain percentage for the Reserve Fund which should range between half to one per cent.; there should also be a provision to the effect that the reserve fund in no case be spent for the extension of the business itself. The reserve fund should not be touched for improvement of business and it should be spent only in time of depression. Then the third thing which ought to be regulated by law is the maximum percentage which the shareholders should be permitted to have. We have legislated for this thing in the Reserve Bank Bill. Whatever the profits of the Reserve Bank may be, the shareholders get 3 per cent., and the rest goes to the Government. So in the case of protected industries there ought to be a similar provision providing for a maximum percentage of the profits, say, 6 per cent. and any additional profit should be divided equally between the shareholders, labourers, consumers, or the taxpayers.

Now, Sir, coming to the share of the labourers, I think, it is very desirable that the labourers should be permitted to participate in the profits of a concern. It is a thing which is completely ignored in this country. If there is a surplus profit, the labourers ought to get a certain bonus out of the profit he helps to make. I think if we introduce a system of this kind, many of the troubles which we are witnessing today like strikes and lockouts will be minimised to a considerable

extent, if not disappear altogether. I think, Sir, it is only fair that we should divide the profits equally among the shareholders, the labourers, the consumers. With regard to paying the consumers a share of the profits, this can be done in two ways; either impose a special income-tax so that it may go to Government and our tax may be reduced, or the profits might be given to consumers by reducing the duty on the protected articles.

Then, the next thing I should like to emphasise in the case of a protected industry is, there should be a representative of the Government on the Board of Directors. This is not a novel proposal I am making. In the case of the Railway Companies, the Secretary of State has got a representative on the Board of Directors of every company. Therefore, it is quite fair that a Government Inspector should sit on the Board of Directors of all the companies dealing with protected industries.

Then, the next suggestion I wish to put forward is that there should be a kind of general report prepared by the Government, and it should be laid before the House. The House should have the right to discuss that report and to pass any resolution either imposing a special tax or reducing the amount of the import duty which may have become unnecessary.

In the case of unprotected industries the case is different. In the case of unprotected industries the profit is earned entirely by the skill of the Directors and the Managers.

Mr. N. M. Joshi (Nominated Non-Official) : Not always. The prices rise without the Directors doing anything.

Dr. Ziauddin Ahmad : But no special tax is levied from the consumers in order to protect those industries and they are I think in a different position. In this case the consumers do not appear on the scene. This is a question between the labourers, the small investors and the directors. I strongly advocate that the interests of the small investors ought to be protected in the case of these companies and the big capitalists should not be permitted to monopolise the whole affair. My Honourable friend, Mr. Satyamurti, has got a special theory that the election of directors should be by means of proportionate representation. I have very great sympathy with the object he has in view, namely, that small investors should be represented in the directorate, but I am afraid that this will not be achieved by his method. The question of proportionate representation is all right in the case of one man one vote, but when we have got a duplication of votes it is a very complicated affair and probably it will not be workable. I have not worked out the mathematics of it, but I think it will not be an easy affair. Even though it may be so, there are other means by which small investors can be represented. Government ought to have looked into this matter. They ought to encourage the investment of small capital. They should see that the capital of the country does not lie buried, but it is brought in circulation in the form of investment in various companies, and this would happen if the small investors have some confidence in the industrial concerns. It is very desirable that steps should be taken to restore the confidence of the small investors, and for this purpose it is very desirable that a certain proportion of the share capital should be reserved for small investors, say, one-fifth and out of this one-fifth nobody should be allowed to purchase more than

[Dr. Ziauddin Ahmad.]

two shares, in which case we will have at least two persons in that company representing small investors and these persons should have the power to elect a director of their own. In that case, the small investors will have representation in the directorate and we shall not have any necessity to enter into the controversy whether we should or should not have single transferable vote. There are one or two more points to which I would like to draw attention in order to safeguard the interests of small investors. Whenever a company becomes bankrupt or goes into liquidation, the Government should investigate matters and should hand over the company to one of their inspectors to look into the affairs of the company, and this may be done at the request of any shareholder. If the directors or the managers are found to have wilfully neglected their duties, and wilfully concealed the true state of affairs from the shareholders, that offence should be a punishable offence and it should be provided for in the Bill. I should like to emphasise what Mr. Ananthasayanam Ayyangar has said about auditors. We must make this audit business more stringent, that is, the auditors should give a really true picture of the business to the shareholders, not only in the form of balance sheet, but we should have a kind of report on the profit and loss of the business, because the balance sheet is not intelligible to the average investor. The Report must be a true report. In that case, I think the interests of the investors will be safeguarded. I summarise the points, which I should like to emphasise and which I hope will be discussed in detail later, are, first the question of the abolition, or if not abolition altogether, at least the fixation of minimum time limit for the existence of the system of managing agency,—my Honourable friend reminds me that the period of the managing agency is 20 years. In the first place, I submit that 20 years is too long a period. But, as my Honourable friend pointed out, after that period we have to give compensation, and so practically this provision is of no good to us. I am not going to enter into details about that now, we will have ample opportunities of dealing with it later on. The next point is that we ought to make a distinction in the case of an industry which is protected by levying a special tax on the consumers of the country—in that case the Government have got the right to interfere because the industry is getting profits at the expense of consumers and on the security of Government. The third point is, we must protect the rights of small investors and devise methods by means of which the ordinary people may be encouraged to invest large sums of money in these companies and minimise the chances of losing money.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : I am sorry that an atmosphere of class conflict has been introduced into the discussion of this Bill. There is neither Socialism nor Capitalism under discussion here. As far as I can see, the class from which the managing agents come and the class from which the shareholders come are not very different, and, having some experience as I do of the formation of many companies in my portion of the country, I can say confidently that many of the people who are shareholders in one mill are most probably partners in the managing agency of other mills. I have only a few observations to make on the provisions of this Bill. I am sorry that the conclusions of the Select Committee have watered down the recommendations that

had been made in the original Bill. The Honourable the Leader of the House said that many were obsessed with the importance of the managing agent. If he is really a very important part in the industrial organisation of our country, it is but natural that the managing agent should come in for a great deal of criticism. I may refer here to a few sections which require serious consideration in my opinion. Section 87B deals with the conditions on which the managing agent can be turned out. In the Minute of Dissent that has been submitted by my Honourable friend, Pandit Govind Ballabh Pant, and others, this is what they say :

“ Mr. Sen had recommended that the Managing Agents should be removable by the shareholders on the grounds of fraud, gross negligence, breach of trust or breach of duty, notwithstanding anything to the contrary contained in the articles or in the terms of appointment, by a resolution passed at an extraordinary general meeting to be convened for the purpose.

The draft Bill modified this considerably and restricted the right of removal to fraud or breach of trust proved in a competent court. This has been further interfered with, with the result that Managing Agents will not be liable to be removed except for a non-bailable offence relating to the affairs of the company.”

This does not stop here, for in many companies formed with a majority of shares of the managing agents it will be well nigh impossible, whatever breaches of law the managing agent may commit, if the managing agent has, say, about forty per cent. of the shares, and his friends and relatives have about 10 to 15 per cent. of the shares,—it will be well nigh impossible to pass any resolution, removing him. Whatever may be the act of omission or commission that he has done in deceiving the company or in committing fraud or breaches of trust,—he may never be removed.

Mr. Sami Venkatachalam Chetty (Madras : Indian Commerce) : He is defrauding himself.

Mr. T. S. Avinashilingam Chettiar : Sir, I submit that it should not depend upon a Resolution of the company. If he had been convicted of a non-bailable offence, then the offence must be pretty bad. In such circumstances to allow a man to continue in the office of the managing agent is very deleterious to the public life and the industrial life of this country. I would suggest that as soon as he is convicted of a non-bailable offence that should be tantamount to his removal from office. I should like to add another clause to this section which governs his being removed from office and that is when he becomes insolvent. In the director's clause, I believe there is a provision that if a director is adjudged an insolvent his office would be vacated. If such a provision exists in the case of the director, there is all the greater need for a similar provision in the case of the managing agent.

The Honourable Sir Nripendra Sircar : So far as this point is concerned, it will perhaps shorten discussion if I inform my Honourable friend that we ourselves have given notice of an amendment to bring this into line.

Mr. T. S. Avinashilingam Chettiar : So, I shall not labour this point. The next point I should like to refer to is this. No reference has been made here to the contracts which the managing agents enter into in their private capacity. I should submit that allowing the managing agents to deal with the company in their private capacity has done no end of harm. I know from personal experience that, in many of the

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textile mills in Coimbatore, the managing agent is allowed to purchase cotton in his own capacity. If the price of cotton is high he sells it to the company and makes a profit. If it is down, he puts the loss on the company. If he makes a profit, it is his. If he loses, the loss is put down to the company. I should suggest that a suitable amendment should be inserted which would make private contracts between him and the company absolutely invalid. Not only that. If a managing agent enters into a contract on behalf of the company and if he has got interests in the contract, he should be made liable to removal. This is a point which has given rise to much abuse. I need not quote authorities on this matter, because this is a matter of common inference. If any authorities were needed, I shall be prepared to quote them at the proper time. I shall endeavour to have a full discussion at the stage when amendments are taken up.

I should like to point out another matter and that is about profits. I do not think I need try to establish the fact that the system of a share in profits will be better for the industrial growth of this country. If an authority were necessary, I should like to quote just a few lines from the Report of the Cotton Textile Industry Inquiry, where they say: Of the three systems, we have no hesitation in considering that of Commission on profits the best. The great defect of the system of commission on production is that it tends to concentrate attention on output rather than on quality but a greater objection to that system is that it removes the incentive to the disposal of production at the best possible price. Both these objections apply, though in a less degree to the system of commission on sales. The mills, which adopt this system unless they are managed by agents who hold the majority of the shares, are obviously only concerned with getting rid of their production and not with the price at which it is disposed of.

And here I may quote the opinion of Mr. Kasturbhai Lalbhai, the present President of the Millowners' Association at Ahmedabad. He says:

"On principle I admit that commission on profits is a sounder proposition than commission on sales."

So, I would like the insertion of a section something like this: Two years after the commencement of this Act, the managing agents, notwithstanding their contracts to the contrary, should have their remuneration governed on the percentage of profits.

Another important point I would like to put before the House is about loans. It has been admitted in section 87D, clause 42, that no company shall make to a managing agent of the company any loan out of moneys of the company. I suggest that this should include guarantees also and should be made clearer.

Thereafter, section 87E runs as follows:

"No company incorporated under this Act after the commencement of the Indian Companies Amendment Act, 1936, which is under the management of a managing agent shall make any loan to or guarantee any loan made to any company under management by the same managing agent, etc."

Suppose two companies are formed with different managing agents but with two or three people common to both. Under this section it

will be open for a managing agency firm which has got four partners in the firm to lend money or, according to a later section 87F, to purchase debentures or shares in any company which has got common directors and this will in a way give rise to abuse. At the proper time I should like to move an amendment that loans should not be given and debentures should not be bought in companies which have common managing agents.

There are certain smaller matters which have got to be put right and I shall deal with them when the time for the moving of amendments arrives.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I have no desire to deal with controversial issues or to advance any arguments in support of or against any proposition at this stage. I only intend to point out where I think the Bill has made an omission or where a change is desirable in order to improve it. Before doing so, I should like to make one or two remarks by way of introduction. Sir, I should state at the very outset that if the choice lay between throwing out this Bill and accepting it as it is, I would certainly accept the Bill as it is. On the whole it marks an improvement in the present state of affairs and I would not call it a reactionary measure. Secondly, I should also like to observe that this Bill does not involve any stigma or reflection on the industrial classes in this country. They have carried out industrial undertakings against odds in the midst of great difficulties. So we do not by this Bill, whether directly or by implication, condemn them ; but they must realize that there are black sheep in every fold and the law is needed in order to protect society against such truants. Sir, I may also point out that the industrialist in India is not tarred with a blacker dye than those who possess white faces in other countries.

The provisions of this Bill are not more stringent than those embodied in the company law of the United States and several other countries. We have had no scandals here like those associated with the name of Stavisky or Kruger. So we cannot be charged with having a lower industrial morality in our country than in other countries. Let there be no misapprehension on that point. But, Sir, society is dynamic : it changes and progresses, and that implies the replacement and supersession of the existing state of things by one expected to be better, more salutary and more wholesome. We outgrow old systems as we acquire more of experience and wisdom and thus alone the world lives, grows and advances. So, Sir, we should not think that a Bill of this nature is peculiar to this country alone. But we must remember that we have our own problems, and since 1913 there has been considerable experience and growth in the matter of companies in our country. The number has gone up from about two thousand five hundred to ten thousand of the registered companies. The capital paid up and held by such companies has gone up from about 60 crores to about 300 crores. It is but appropriate that the Honourable the Law Member should be connected with a measure of this sort, as we have got the largest number of companies, something between three and four thousand in the presidency of Bengal, and by far the largest proportion of the paid-up capital of joint stock companies stand to the credit of Bengal. Next to Bengal comes Bombay. The expansion that has taken place since the year 1913 has created new problems ; and we have besides the system of codifi-

[Pandit Govind Ballabh Pant.]

caution of laws. Here our system does not grow like the bark of the tree, as in the case of common law, but we have to fit up our codes like our coats, as times change and as we grow and new problems face us. So what we are doing today is nothing more than a provision for a stage in the progress of industrial organization. I feel, Sir, that in spite of what one might wish, we cannot at the present stage get rid of the managing agency system. We feel that it would not be desirable in the interests of the industrial advancement of the country to give up this system altogether. I should rather say "I", because in this respect I know there are some friends here who feel and perhaps feel very strongly that the system should be abandoned. They have, however, not yet been able to persuade me to their view.

Sir, I would like to tell you in a few words as to what I think the Bill should have contained, and in what respects the provisions of the Bill should be improved. As we have been told, the managing agency system has loomed rather large throughout the consideration of this amending measure, but as the Honourable the Leader of the House pointed out, that is only one of many problems which this Bill tackles : and if that problem has a great importance of its own, there are nevertheless other aspects of the question which, taken together, are I think equally, if not more, important than the reform of the managing agency system. Sir, a company organization involves in our country three classes,—the shareholders, the directors and the managing agents. If a farsighted view is taken, there need not be any conflict between the interests of the shareholders, the directors and the managing agents. But besides these three, the general public are also concerned, for the question of industrial advance is a vital problem on which the welfare of millions of people in this country depends and will continue to depend. According to some of us nationalisation alone can yield the best results, but it is out of question so long as we have an anti-national Government ; nor can State guidance and assistance be available when the paramount Government has adverse interests. In the circumstances, we have to look for special measures, and that is the reason why the managing agency system came into existence and that is why the managing agency system has to continue so long as the alien Government with its step-motherly attitude towards the industries in our country continues. The initiative which the people get from the State in other places we can only secure through the enterprise and resource of the industrialists and these cannot be stimulated without the aid of some exceptional measure. That is the reason I think why the managing agency system has emerged in this country. In view of the protective policy that we have in our country, it is necessary that the cost of production should be reduced and the intermediaries should not be allowed excessive profits, so that the industries may run economically, the level of protection may be brought down, and the progress of industries may be accelerated. So, Sir, irrespective of the fact that primarily it is the concern of the shareholders, the directors and the managing agents, every company is ultimately also the affair of the entire general public. For, whatever they do reacts on the general public. Sir, I have kept these points in view in considering this question.

Now, I will just submit what I think this Bill might well have done. In the matter of directors, the original provision was that no more than

one-third of the directors would be available for nomination to the managing agents. The clause in the Bill now is that one-third may be appointed by the managing agents and one-third by the shareholders. The language is somewhat clumsy and open to objection and I have given an amendment by means of which I have tried to get over the difficulty that the language presents. My view is that at least two-thirds of the directors should be appointed by the shareholders and I have proposed that two-thirds of the directors should be such as are removable or as would retire by rotation. That form would perhaps meet the technical difficulty. The point of substance is simple : when you say that more than one-third of the directors should not be nominated by the managing agents, then supplement it with a positive provision that at least two-thirds will be elected by the shareholders themselves. I want to introduce that.....

The Honourable Sir Nripendra Sircar : May I put a question to the Honourable Member ? With regard to the suggestion that two-thirds of the removable directors should be elected by the shareholders, is my Honourable friend's amendment directed to make it retrospective or is it for new comers ?

Pandit Govind Ballabh Pant : It should come into force only after the commencement of the Act. I do not give it retrospective effect.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : May I draw the Honourable the Law Member's attention that it is impossible to hear a single word from that bench by Members who are sitting on this side of the House ?

The Honourable Sir Nripendra Sircar : I am sorry. I shall repeat what I said. I was informed by my Honourable friend, Pandit Govind Ballabh Pant, that he has suggested an amendment that at least two-thirds of the directors should be elected by the shareholders. I asked him whether he wanted that to apply to new companies which will be incorporated after this Act of 1936 or he wanted to make it retrospective. To that I have got the answer that he does not want to make it retrospective, but he wants to apply it only to new companies.

Pandit Govind Ballabh Pant : Then, I have a proposal which may be styled as more or less revolutionary. I am prepared to accept that it is so and I like it all the more because it is revolutionary for great changes of a genuine type for the good of the people cannot usually be brought about except through revolution. This revolutionary proposal of mine in this matter is to the effect that the directors should be elected by the system of proportional representation by means of a single non-transferable vote in accordance with rules to be framed under the section which gives such power to the Governor General. It seems to me reasonable that every group which is strong enough to return a director should be able to do so. As I stated at the outset, I will not argue out the point at this stage. I am only mentioning what I think should be done. Then, Sir, there are certain loopholes in the Bill. It prohibits loans to directors, but it does not prohibit loans to partners of the firm of directors or to a firm of which the director himself may be a partner. It does not prohibit loans to private companies which are no more than, and hardly distinguishable from, firms even when the director of the company is a director of a private company. Then, again, while it prohibits a loan, it does not prohibit any guarantee by the company for a loan taken by the director. In all

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these matters I suggest that amendments should be made so that these loopholes may be remedied. Then, Sir, there is one other important matter which I think should be considered by the Government. This Bill, as does the existing Act, only provides that in case of a contract concerning a director, information should be given to the company and the director concerned should not vote. I think it is against all canons of morality to encourage practices involving an inevitable conflict between duty and interest. A director holds a fiduciary position and to allow him to deal with a company on his own account and for his own profit seems to be reprehensible. So, while I would like to prohibit the practice altogether, the least I am suggesting is that no directors should enter into any sort of engagement, arrangement or contract with any company except with the consent of the general body of shareholders in a general meeting. That, I think, is the minimum that should be provided for. Then, Sir, the directors have the means of carrying on speculation in the shares of their respective companies. They can manipulate the value of the shares. So, to guard against such contingencies, the directors should be required to place a statement before the general meeting showing the transactions entered into by them in the course of the year as to the shares purchased or sold by them. That would enable the shareholders to know if there was real speculation or if there was a genuine dealing.

Then, Sir, the next question that I would like to refer to in passing relates to managing agents. Certain changes have been made in the Bill by the Select Committee which seem to me to be regrettable. According to the original Bill, the appointment of every managing agent was to be subject to the approval of the general body of the shareholders, but now it is provided in the amended Bill that if the prospectus refers to the appointment of the managing agent and the managing agent is appointed in that way, then the general body of shareholders will have no say. Then, Sir, there is another proviso now which says that even in the matter of remuneration the terms entered in the prospectus with reference to such a contract or agreement would be binding. The original clause in the Bill laid down that every such contract should be placed before the general body of shareholders. After all, the general body of shareholders are legal owners of the company and I think they should be given an opportunity for collectively forming an opinion and judgment regarding such an important matter. I am thankful to the Honourable the Law Member for what he said today that it is not intended to permit in this manner any remuneration to the managing agent except by way of percentage on the profits. To that extent it allays a certain amount of misapprehension, but I would much prefer the restoration of the original clause. Then, there are two other changes which have been made in the Select Committee. The Bill, as it has emerged, lays it down that compensation will be paid to the managing agent if his term comes to an end because of this Statute which provides a limit of 20 years. It seems to me illogical that, on the one hand, the Statute should lay down that the term of the managing agency will automatically come to an end on the expiry of 20 years and, on the other hand, prescribe that the managing agents will be entitled to compensation. That is penalising the shareholders for what the Statute compels them to do. That, I submit, is

unfair and unsound. Then, Sir, there is one other clause which says that even when a company goes into liquidation, the managing agent may be entitled to compensation. That looks to me still more—I should not say ludicrous—but incomprehensible that the company should suffer because of the managing agent and should also be required to pay compensation to him! I remember that it is laid down there that if it is the result of his own negligence—or there is some other expression which my Honourable friend, Mr. Sen, will be able to recall—or mismanagement, then in those two cases, he may not be entitled to any compensation.

Mr. Susil Chandra Sen (Government of India : Nominated Official) : The expression used is "Negligence or default".

Pandit Govind Ballabh Pant : Yes. If it is the result of incompetence, why should he get compensation? Incompetence is neither negligence nor default. Inefficiency is neither neglect nor default. But in all these cases, he will be entitled to compensation. My own view is that even if the liquidation be the result of an accident or misfortune, then the man who would have got a lion's share in the profits should similarly share the loss with the shareholders. I think that it is very improper and unreasonable that he should get any compensation when in reality he should be, directly or indirectly, responsible for having allowed the company to go into liquidation. If he had brains enough and if he had energy enough, he should be able to foresee the disaster and to tide over it. I feel, Sir, that it is highly improper that he should get compensation for allowing the company to go into liquidation.

The Honourable Sir Nripendra Sircar : May I just point out to my Honourable friend for his consideration that there may be quite a different case, that is to say, a company has not come to grief, but just to get rid of the managing agents, it goes into voluntary liquidation.

Mr. M. Ananthasayanam Ayyangar : Then add the words "except in the case of voluntary liquidation".

Pandit Govind Ballabh Pant : In that case the company would get a very good return for its shares and the managing agents who have always got some shares in the company would have the benefit of the rise in the value of shares and in diverse other ways. If anybody manipulates, the managing agent will have the benefit of the inflated value of the shares if the property is worth it. So, in no case can he suffer. Then, Sir, after all, the body of shareholders would not be so foolish as to take a step that would be suicidal in their own interests. We cannot take into account remote possibilities. It is not the normal way of life. We do not assume that people will become so mad as to commit suicide. It is after all an exception, with all due respect to the Honourable the Law Member.

Then, there are other clauses in the Bill which I think have been left out. There is one about which I am very keen. A managing agent can under the Bill carry out contracts, arrangements and engagements with the company for his own benefit. It is unintelligible to me that a man who is in charge of the whole of the affairs of the company—and that is the definition given in clause 2—should be left free to manipulate the affairs of the company in such a manner as to earn the maximum profit for himself at the cost of the company. That again, as I

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just observed, in the course of my remarks relating to directors, is flagrantly opposed to the elementary notions of business equity and morality and I think a clause should be introduced—and I have given notice of one—that after the commencement of this Act—I am sorry I could not go beyond that because I do not think I will be able to persuade the Honourable the Law Member—the managing agents should not be allowed to deal with companies on their own account. There is no provision in the present Bill. Perhaps he had that in his mind, but it was inadvertently left out. I hope that that deficiency will be made good now.

Sir Cowasji Jehangir : What did the Honourable Member say ? Did he say deal with the company ?

Pandit Govind Ballabh Pant : Carry out transaction with the company for his own profit.

Sir Cowasji Jehangir : Having contracts ?

Pandit Govind Ballabh Pant : Whether it be contracts or no contracts, I do not mind very much. I say if they are to be for his own personal advantage, at the cost of the company, then they should not be allowed.

There is another fundamental point on which I think the Honourable the Law Member and the House should concentrate and to which some thought should be given. It relates to the existing managing agencies. As to the existing managing agencies, I am prepared to concede that they should not be treated exactly on the same footing as those which will be constituted hereafter. As Honourable Members are aware, this Bill is the result of the labours of my Honourable friend, Mr. Sen. He was placed on special duty and he had the opportunity of studying the reports from all interests including the Local Governments. He was of the opinion that the term of office of the existing companies should come to an end after one year from the commencement of this Act. Perhaps my Honourable friend was right. His report is such that I would rather consider him to be right generally, and if that policy had been followed throughout I would have welcomed it. But what I suggest is this : that even if you do not go to that length, and do not omit the pertinent clause in the Bill it should be modified, at least, to this extent, that, it should be open to the shareholders, five years after the commencement of this Act, to pass a Resolution for the removal of the managing agent provided the managing agent has completed at least 30 years from his first appointment. Thus you will be giving him ten years more as compared with the managing agents who will be appointed hereafter and you will be giving him a security of five years from the passage of this Act and his term will not come to an end automatically till the expiry of next twenty years. It will be only when the majority of the shareholders pass a Resolution to this effect that his term will cease.

Sir, there are one or two other points to which I should like to invite the attention of the House. The original provision in the Bill laid it down that foreign companies incorporated outside India which carried on business in this country should file their balance sheets in the same manner in which the companies incorporated in India are required to file theirs. I may also mention here that this clause had been bodily

adopted from the English Act, on which the present Bill is modelled and based. But the Select Committee has made a change in it and has prescribed a different form of balance sheet. I think the Select Committee was not right. I am using that expression because I myself was a Member of the Select Committee. I am of opinion that we must adopt the language of the English Act and when a company incorporated in Calcutta, Lahore or Bombay, if it has business in Great Britain, and is required to file a balance sheet there in the form prescribed for the companies registered in Great Britain, I see no reason why we should not observe the oft-repeated sacred principle of reciprocity in our own country in this matter. Sir, not only we, but if a company incorporated in New York or in Timbuctoo or in Tipperary carries on business in London, it has to file a balance-sheet in the same form. There is no reason why we should not do likewise here.

There is one other small matter about which I wish that some provision were made in the Act in order to make it difficult for people to swindle our simple investors here by selling shares of foreign companies. Those who have read Mr. Sen's report or will be doing so will find that many a man has been swindled in this manner, and it is necessary that some safeguards should be provided; and if we were to adopt at least the hawking sections of the English Companies Act in the matter of the transfer of the shares of companies incorporated abroad, we would be giving some protection to these investors.

Sir, I will not take any more time. I hope the House will examine the Bill with a view to improving it and so as to safeguard the interests of the public. Above all, these interests must receive the greatest amount of consideration here. The Bill has accepted the principle of social welfare in place of the exploded principle of sanctity of a formal contract. And taking that as the basic principle let us apply our minds to this Bill with a view to getting the maximum for the society through this Bill, and let us make such changes as may be necessary to achieve that object.

Mr. Sri Prakasa : Sir, it is my genuinely pleasant duty to oppose this Bill. As the Honourable the Law Member and myself understand each other very well, I am sure he will have much sympathy with my point of view. My first reason for opposing this Bill is that my ideal of a company is the East India Company. This, Sir, was a company that was floated in the year 1600 in Great Britain with the obvious purpose of trading in pepper in the East Indies. But this company, later on, became the rulers of my country, and, by various processes of force and fraud, have today put themselves in a position strong enough to impose upon us this Companies Bill. Now, Sir, my fear is that if this Bill becomes an Act, any effort on my part to float a company like the East India Company with similar purposes and with similar hoped-for results, will be nipped in the bud. And, therefore, Sir, I want to have a sufficient loophole in the law of this country, so that some day I may be able to flower out like a Robert Clive (afterwards Lord Clive) and be a hero in every land except my own.

Now, Sir, the second reason for my opposing this Bill is that I am constitutionally against the overloading of the Statute-book. I have said before that I am afraid of lawyers. The Honourable the Law Member referred to an ancient incident when I happened to be his victim as his

[Mr. Sri Prakasa.] client. And the memory of the fee that I paid still frightens me ; and I must confess, Sir, that the amount of work that he did for that fee was practically nil. (Laughter.) The whole work was really done by Mr. Sarat Chandra Bose and the larger fees went to my Honourable friend opposite. (Laughter.) I congratulate Government on having got such an eminent lawyer who sits for five whole hours in this House for a paltry sum of Rs. 200, while if he had been in the Calcutta High Court and if this Government had briefed him, they would have had to pay him at least ten times as much. I fear that the complicated nature of this Bill....

An Honourable Member : Does the Honourable Member want to restrict that in the Companies Act ?

Mr. Sri Prakasa : I want a Bill for the decapitation of lawyers. (Laughter.)

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had a sufficiently long preface ; now he should come to the point.

Mr. Sri Prakasa : I will come to the point immediately, Sir. My fear is,—and that is a genuine fear ; I am sorry that my friends here do not regard me as serious, but really I am very serious (Laughter),—my real fear is that the law will be further complicated by this Act and that lawyers alone will have a good time. If the Honourable Member opposite can assure me that this is a fool-proof Act and that no case under this Act can possibly have lawyers on either side, I shall support him. But I am sure that whenever any case is brought under this Act there will be lawyers forthcoming on either side, and that shows that this law is defective. (Laughter.) A perfect law should be such that there can be only one meaning of its wording and that anybody who comes to oppose that plain meaning of the wording should be punished, and not paid. Therefore, Sir, I simply suggest a one-clause Act and that is just this :

“ Every one who voluntarily parts with his money to another person for whatever reason, does so at his own risk (Laughter) ; and he shall have no right to complain to any one, nor shall have any relief at law.” (Laughter.)

This one-clause law will demolish all the troubles that we have in the modern world ; and if this law does not suit the moral susceptibilities of the Honourable gentlemen opposite, I will suggest another one-clause Act, and that is “ that the Government of India expects every man to be honest ”. But if all that is not possible, then in a few words, if you will please bear with me, I will explain what exactly a company is. A company, Sir, is started with two objects and two objects only. First of all, there is a clever individual who finds himself unemployed in a world which consists of such luxuries as we see here, and he racks his brain to find a comfortable job in life. He says to himself that it would be a good thing if he could induce other people to part with a certain amount of, what he regards, superfluous money and forms a company for his own behoof. That is the object of one class of people. But there is another class of people who feels that certain things are necessary for the well-being of society ; that these things should not be lacking in the world ; that he himself has not sufficient money to float a concern to supply the lack ; and therefore he consults others and tries to pool the resources of a

number of persons in order to establish a company for the purpose of benefiting society. I cannot understand or imagine any third object. Either a man is searching for a profession for himself or he is really hunting after ways and means for benefiting society. Now, Sir, if there is any third type, I shall be glad to know as the discussion progresses.

Babu Baijnath Bajoria : Cannot he have both the objects,—benefiting society and also having a profession for himself ?

Mr. Sri Prakasa : If the two go together, then, as we say in Hindi, “ gold will have the additional qualification of smelling sweet ”.

Now, Sir, a company is floated, and then there may be a change in the attitude of the promoters themselves. I will give a sad experience of my own. Not only have I had experience of railways, police, jails and magistracy, but I have had my unfortunate experience even with a company, and I was done out of the fairly heavy sum of forty thousand rupees.....

Mr. N. M. Joshi : Did you possess that ? (Laughter.)

Mr. Sri Prakasa : A Swadeshi company was started—this was in the old days when *khaddar* had not come into existence—and I was patriotic enough or foolish enough to wish for the improvement of the Indian textile industry. I had a talk with a managing agent and I said to him : “ I will give you Rs. 10,000 ; that is all that I possess.” After some time I heard from him—I will not mention the place, lest my friend, Dr. Deshmukh, and my Leader get angry (Laughter)—saying that in accordance with my wishes expressed a year before, he had purchased shares in his company for me for Rs. 10,000. I thought that was all right and sent Rs. 10,000 to him. This was about 20 years ago—I was rather green then : I am all white now ; and I do not think any managing agent can do me now. So I sent him the money. He did not send me any share scrips. I thought it was a *bonâ fide* transaction ; but I fear it was *mala fide* from the start. After some time they started asking for further and further contributions, which they called “ calls ” ; and I wrote to ask what it was all about ; I wrote to the gentleman concerned that as I had informed him before, I could only purchase shares up to Rs. 10,000 all told and I had paid that sum already. I was informed in reply that it was only one-fourth of the total price of the shares he had purchased for me and that I was myself to blame if there was a misunderstanding. That is how laymen are always taken in : this is the attitude not only of Honourable Members opposite but also of big business. So I sent him more money and after some time there were more calls ; and at last a letter came from a gentleman who called himself liquidator of that company, asking for final calls. (Laughter.) I was badly bitten and I am very nervous of losing another Rs. 40,000 because that will ruin me completely. My prayer is that a layman, an innocent, ignorant and fairly good man like myself, should be saved from this type of company promoters.

This may have been *mala fide* transaction ; but something else can also happen. A man may start with very good motives. Most of us do. But then our attitude changes : either by success or by failure. If there is success, we want to keep all the money to ourselves ; if there is misfortune, we want to throw the misfortune on others. Therefore, I think that no law that human ingenuity can possibly frame can save

[Mr. Sri Prakasa.]

human beings from the wrongs that other human beings can do them. There is a saying in my language that the better the law, the better the thief.....

Sir Cowasji Jehangir : You go to the Himalayas and become a *Sadhu*.

Mr. Sri Prakasa : I may do that after I have seen Sir Cowasji Jehangir safely out. I will not do it before then. Now, it is lucky for us, thanks to the Honourable the Law Member, the Criminal Law Amendment Act is still on the Statute-book ; and when we become the Government, you may be sure that we shall declare the association to which the Honourable Members opposite belong, to be an unlawful association. When my Honourable friend, the Law Member, finds himself in jail, he will meet some thieves, as I did ; and if he has that desire for knowledge that I have, he will probably get into conversation with them on the sly—because it is an offence to talk to any fellow-prisoner, if any jail officials are about : and then they will tell him, as they told me, how actually they steal. He will then find that the stronger the locks, the better are their instruments for breaking those locks. If you ask them, how they manage to break strong locks, they will tell you that they have some contrivance in the nature of electric wires

Mr. K. Ahmed : What is the point in all this ?

Mr. Sri Prakasa : My Honourable friend reminds me of the rhyme :

' Old King Coal

Was a merry old soul,

And a merry old soul was he'. (Laughter.)

The thief will also tell my Honourable friend opposite how new gases have been invented by which people in a bed room can be sent into complete slumber and then things can be stolen in comfort and safety. The point is this : this law, so far as I can make it out, is trying to prevent fraud. My Honourable friend the other day asked " Who is a fraud ? " With his vast and intimate knowledge of men and affairs, he himself can answer the question best. He knows better than anyone else that if he wants to stop all fraud by this law, he cannot succeed. Because persons will be found in this world who will get round him, who will get round the law, and the fraud will continue as before.

The one thing that can save companies and shareholders would be some penal clause somewhere by which you could force shareholders to take interest in their concerns from day to day. I see nothing of that sort in this Bill. This shareholder is a person who parts with a certain amount of money on trust to another person. His only interest is to get dividends. He has no other interest in the company : When he hears later that the company is going to the dogs, or that all the dogs are coming to the company, he wakes up and then you have stormy meetings of shareholders. Otherwise the shareholders remain quietly in their homes ; they receive their six-monthly dividends ; and they are satisfied. If the shareholders can be made to take some interest in the concerns in which they have put their money, then alone can they be safe. All the provisions about one-third of the directors coming from the shareholders,

is so much moonshine. The shareholders not having any interest in the working of the company, will allow the election of directors to be manipulated. Just as they purchase those unfortunate Government promissory notes that are being introduced in profuse abundance from day to day, in the simple hope that they would get their six-monthly interest safely from the treasury officer; so they invest money in these companies for the sake of the hoped-for dividends. They do not know the nice legal difference between interest and dividends: they know no distinction between the Government that sells its promissory note and a company that sells its shares. To me as a layman both things are alike. I find that a petroleum company pays 7 per cent. which I regard as profitable; and so I go and purchase its shares. Another person feels that 3 per cent. is enough for him, and he goes and purchases a Government promissory note which he regards as a safer investment. So, that, Sir, if the Honourable Member opposite is really desirous of improving the morale of companies, the one thing he should do is that he should make it a penal offence for any shareholder to be absent from any meeting of the shareholders, he should make it impossible for any shareholder to escape his responsibility.

An Honourable Member : What about proxies ?

Mr. Sri Prakasa : Oh, proxies ? Have I not signed them ? What are proxies ? We sign proxy papers in favour of anybody who comes round to us for them paying for the stamp themselves and worries us to sign them. We do so, if for no other reason, at least to save our own time. These proxy papers are another series of frauds.

An Honourable Member : What about medical certificates ?

Mr. Sri Prakasa : Sir, not being a lawyer,—and I am glad I am not one,—

An Honourable Member : You were at one time.

Mr. Sri Prakasa : Not being a professional lawyer, I cannot put the matter in a proper legal form. If my friends in this House who are not anxious to make fortunes at the Bar, who are really anxious to save the country from fraudulent companies; if they would only put what I suggest in proper language and produce an amendment to the effect that shareholders have their definite responsibility towards the company or companies in which they have invested their money, then this Bill will be a welcome Bill; and in that case we shall be saved the trouble of studying the huge mass of literature that has been flung upon us, and we shall with the help of one little section of the Act pass on to glory and success.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, first of all, I should preface my remarks by expressing disappointment at the failure of the Honourable the Law Member in producing a consolidated Bill on companies, instead of placing before us this confusing bit of literature consisting of a copy of the Indian Companies Act, the amended Bill as it was originally introduced in this House, and the Report of the Select Committee on this particular Bill, the whole referring again and again to some sections in the original Act or to some sub-section or sub-clause, and there also referring again to some sub-sub-clauses from (a) right up to (z);—nay, not being

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satisfied even with the vocabulary that the English language has presented the framer of this Bill with, he has added sub-clauses (*bb*), (*ff*) to (*zz*), and so on. Sir, I learn that even in England they thought it wise to bring forward a consolidated Act; they first brought forward an amending Bill, and then it was referred to a drafting Committee whose aid was called in, to prepare a consolidated Bill which was passed later on by the House of Commons into an Act. Even now if the House and the Honourable the Mover do not think it is too late to save the shareholders and all other parties who will be obliged hereafter to go to the Courts, if they want to save all this trouble and confusion.....

The Honourable Sir Nripendra Sircar : May I inform my Honourable friend that the practice which he asks me to follow had been followed in England and it has been condemned by the highest authority on Company law, Lord Justice Buckley.

Prof. N. G. Ranga : I know that opinions differ in regard to consolidating the Companies Act of England, but I still persist in my opinion that it would be best for everybody in this country even if at this stage the Honourable the Law Member and this House tried to cooperate in bringing forward a consolidated Bill. I do not think it will be impossible to do so or it would be beyond the legal acumen of the draftsman of the Government of India to bring forward a consolidated Bill in the light of the British experience and thus give more satisfaction with reference to the different interests concerned than the British consolidated Act has been able to give in England for British interests.

Then, Sir, coming to the question of shareholders and their responsibilities to these companies which are only an outward expression of the system of capitalism that we have here and in other countries, I am rather inclined to agree with my friend Mr. Sri Prakasa that some definite steps should be devised in order to help them, almost in spite of themselves, to evince more interest in the affairs of the companies in which the shareholders have invested their money and thus help the law maker himself in preventing fraud and prevent also the managing directors, managers and all those who are interested in the management of these companies from playing the mischief they have been playing not only in this country but also in other countries. It is to this effect that there should be a penal provision made,—the Honourable the Law Member may not be so very obliging as to provide it in this particular Act,—it is to this effect there should be a penal provision introduced compelling the shareholders to attend the meetings of the companies in which they have invested their capital and evince greater interest than they do now. In this connection I would suggest that at least the shareholders should be supplied with third class travelling allowance, so that every shareholder may have an additional inducement to attend a meeting of the company and thus take a little more lively interest in the affairs of the company.....

An Honourable Member : Then, the companies will soon go into liquidation.

Prof. N. G. Ranga : It is common experience, Sir, that almost all the directors of all companies are given not merely 1st or 2nd class

fare, but are paid in some cases even their sitting fees. They are remunerated in addition in a very generous fashion. If these companies can afford to pay these few rich and competent and capable men all these fees and travelling allowances for the slender services they render to the companies, I don't see any reason why a constructive proposal like mine should not be accepted either by the Law Member or by Honourable Members on this side.

Mr. N. M. Joshi : What is your proposal ?

Prof. N. G. Ranga : My proposal is that the shareholders should be paid third class travelling allowance to and fro.....

Mr. S. Satyamurti : By whom ?

Prof. N. G. Ranga : By the companies themselves which call a general or special meeting of the shareholders.

Mr. S. Satyamurti : Then the companies will soon have to wind up their show !

An Honourable Member : The companies will have to be wound up.

Prof. N. G. Ranga : If the companies will be obliged to be wound
 5 P.M. up by the mere payment of travelling allowance,
 certainly no amount of legislation can save them in
 this country or in any other country.

Mr. K. Ahmed : What about those shareholders who won't travel third class ?

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member want to continue his speech ?

Prof. N. G. Ranga : Yes, Sir.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 9th September, 1936.