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THE

LEGISLATIVE ASSEMBLY DEBATES

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FOURTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,
1936



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Legislative Assembly.

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Deputy President :

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

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MIAN MUHAMMAD RAFI, BAR-AT-LAW.

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RAI BAHADUR D. DUTT.

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

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PANDIT NILAKANTHA DAS, M.L.A.

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

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

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CORRIGENDA.

In the Legislative Assembly Debates, Simla Session, 1936, Vol. VII, No. 5, dated the 21st September, 1936,—

(1) page 1557, line 8 from the bottom,
for “decision” read “decision”.

(2) page 1575, for line 6, substitute the
following line :

“and they will have to bear that
principle also in mind.”.

LEGISLATIVE ASSEMBLY.

Monday, 5th October, 1936.

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

MEMBER SWORN.

Mr. Srimanta Kumar Das-Gupta, M.B.E., M.L.A. (Bengal : Nominated Official).

QUESTIONS AND ANSWERS.

PROTECTION OF THE RIGHTS OF INDIANS IN CEYLON.

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

- (a) whether their attention has been drawn to the leading article entitled " Indians' hard lot in Ceylon " in the *Amrita Bazar Patrika* of the 31st July ;
- (b) whether they have enquired or propose to enquire into the latest position in regard to Indians in Ceylon ; and
- (c) whether they are prepared to take adequate steps to protect their legitimate rights ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). The position of Indians in Ceylon is constantly under the observation of the Agent of the Government of India who may be relied upon to do whatever they can to protect their legitimate interests.

Mr. M. Ananthasayanam Ayyangar : Have any of the servants employed by the Local Boards been turned out of office ?

Sir Girja Shankar Bajpai : No, Sir, I have no information about anybody employed by Local Boards having been turned out.

Pandit Lakshmi Kanta Maitra : Is it not a fact, Sir, that a great agitation is going on against the turning out of so many Indian employees ?

Sir Girja Shankar Bajpai : No, Sir, there is a general agitation about the emigration from India into Ceylon, and a Commission has been appointed by the Ceylon Government to go into the question.

Dr. Ziauddin Ahmad : Will the Government publish any communiqué on this question after the inquiry has been completed ?

Sir Girja Shankar Bajpai : After the Commission has completed its inquiry I presume its Report will be published by the Government of Ceylon.

Pandit Lakshmi Kanta Maitra : What is the attitude of the Ceylon Government at present towards Indians in Ceylon ?

Sir Girja Shankar Bajpai : I don't think that there is any hostility on the part of the Ceylon Government towards Indians in Ceylon.

Dr. Ziauddin Ahmad : The Honourable Member just said that Government is watching the situation carefully and the Commission will publish its own Report, but will the Government publish its own communiqué as to what they have achieved as regards the position of Indians in Ceylon ?

Sir Girja Shankar Bajpai : If the Report recommends anything adverse to India and the Government of India have to take action in order to protect Indian interests, then the result of the action taken by them will undoubtedly be communicated to the House and the public.

Dr. Ziauddin Ahmad : Will the Government of India send any letter or any representation for the consideration of this Commission or depute any officer on behalf of the Government of India to watch the interests of Indians ?

Sir Girja Shankar Bajpai : The Indian community in Ceylon is fairly numerous and well organized and will put forward its own case, and the Agent to the Governor General will help it to put forward the case, if required.

Dr. Ziauddin Ahmad : Will they also represent the feelings of Indians in India ?

Sir Girja Shankar Bajpai : That assumes that the Commission are going to adopt an attitude hostile to the Indian community in Ceylon.

Dr. Ziauddin Ahmad : What will the Government of India do to protect the interests of the Indian community in Ceylon.

Sir Girja Shankar Bajpai : The Government of India will protect the interests of the Indians in Ceylon when the occasion arises.

GOVERNMENT'S QUININE POLICY.

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

(a) whether their attention has been drawn to the leading article entitled "Government's Quinine Policy" in the *Hindu* of the 29th July ;

(b) whether they have examined particularly the criticism in the article that the Government of India's action is tantamount to giving a big subsidy to the quinine users abroad at the expense of the Indian tax-payer and showing utter indifference to the needs of the dying thousands in this country ;

(c) whether they propose to take measures to make the drug available for *bonâ fide* use free to all who cannot afford to purchase it; and

(d) if not, why not?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The suggestion that the Government of India started sales of quinine for profit to the trade after the allocation of 45,000 lbs. to the Provinces last year for free distribution is entirely incorrect. The sales of quinine outside India mentioned in the article are the result of negotiations which were started in 1933 in pursuance of the recommendations of the Public Accounts Committee and after the effort to persuade the provinces to purchase additional quantities at Rs. 12 per lb. had failed. The price at which such sales have been effected is well above the figure of Rs. 12 and certainly not tantamount to a subsidy to quinine users abroad. I would add that as the Government of India's surplus stock is now practically down to the 1,50,000 lbs. which they have decided to keep as a reserve for a national emergency, these sales will soon cease.

(c) and (d). The attention of the Honourable Member is invited to the relevant portion of my speech in the Legislative Assembly on 18th March, 1936, delivered in reply to Dr. Rajan.

Mr. M. Ananthasayanam Ayyangar : May I know, Sir, at what price per pound the Government of India sold quinine to other countries?

Sir Girja Shankar Bajpai : We did not sell quinine to any country, but as I have already indicated in my reply, we had been in negotiation since 1933 with a firm of chemists in England, and we sold it to them at about Rs. 15 per pound.

Pandit Lakshmi Kanta Maitra : May I know if the stock of quinine is sufficient to meet the demands of India?

Sir Girja Shankar Bajpai : We do not keep a supply to meet all the demands of India. Our medical experts have advised us to keep a stock to meet a national emergency, and that stock is, as I have explained to the House, amounts to 150,000 pounds.

Dr. Ziauddin Ahmad : May I know, Sir, what quantity did the Government of India distribute amongst the provinces?

Sir Girja Shankar Bajpai : The Government of India gave last year 45,000 pounds to the provinces for free distribution.

Dr. Ziauddin Ahmad : Can the Honourable Member lay on the table a statement showing how much quinine was distributed to each province?

Sir Girja Shankar Bajpai : Oh, yes, certainly I can undertake to give that information to the House.

Mr. M. Ananthasayanam Ayyangar : May I know when the sales abroad will cease. The Honourable Member said that the sales to foreign countries would cease soon?

Sir Girja Shankar Bajpai : If they have not already ceased they will cease in the course of the next month or two, because our surplus has disappeared; there is none left.

Mr. M. Ananthasayanam Ayyangar : Is there any programme of distributing quinine free to the provinces for some years more ?

Sir Girja Shankar Bajpai : No, Sir, because our stock now is 150,000 pounds which we wish to reserve for a national emergency.

Mr. M. Ananthasayanam Ayyangar : For normal use what are the provinces to do ?

Sir Girja Shankar Bajpai : For normal use they will get what they want on payment from the Government of India's annual output of quinine, as also from the annual output of quinine from the Governments of Madras and Bengal who are producers of quinine.

ARTICLE ENTITLED " INDIAN INTERESTS FIRST," PUBLISHED IN THE *Bombay Sentinel* REGARDING NEGOTIATIONS TO REPLACE THE OTTAWA TRADE AGREEMENT.

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

(a) whether their attention has been drawn to the leading article entitled ' Indian Interests First ' in the *Bombay Sentinel* of the 25th July ;

(b) whether they will keep in view all the considerations mentioned in the article, in conducting their negotiations for replacing the ' Ottawa Pact ' ; and

(c) whether the Honourable the Commerce Member himself proposes to take any part in these negotiations ?

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

Mr. M. Ananthasayanam Ayyangar : Is there any chance of this non-official Advisory Council going to England ?

The Honourable Sir Muhammad Zafrullah Khan : It is not a non official Advisory Council as I have explained. I have also already answered questions with regard to their going to England.

STATEMENT ON INDIAN INTERESTS IN TANGANYIKA BY MR. H. VELLANI.

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

(a) whether their attention has been drawn to a recent statement on ' Indian Interests in Tanganyika ' by Mr. H. Vellani, a Barrister from Tanganyika, published in the newspapers ; and

(b) whether they have examined his statements with regard to the future of the territory and what action they propose to take thereon ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) The attention of the Honourable Member is invited to the statement on the subject of transfer of mandated territories made in the

House of Commons by the Secretary of State for Foreign Affairs on the 27th July last, copies of which are available in the Library of the House. They do not consider that any action on their part is necessary at this stage.

**STATEMENT ON THE RENEWAL OF THE INDO-JAPANESE TRADE AGREEMENT
BY MR. M. P. GANDHI.**

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

(a) whether their attention has been drawn to the statement from Mr. M. P. Gandhi on the terms and renewal of the " Indo-Japanese Trade Agreement " published in the *Hindu* of the 23rd July ; and

(b) whether they will bear all these considerations in mind in negotiating a fresh pact, and if not, why not ?

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

Dr. Ziauddin Ahmad : Will Government consider the fact that in view of the quota system, it is not necessary to put a very heavy import duty as well ?

The Honourable Sir Muhammad Zafrullah Khan : That is a suggestion ; it is not asking for information.

Mr. M. Ananthasayanam Ayyangar : May I know if the question of restricting the import of artificial silk is also being considered ?

The Honourable Sir Muhammad Zafrullah Khan : Everything is being considered.

Mr. M. Ananthasayanam Ayyangar : Is it only confined to cotton textiles or is it also extended to artificial silks ? What are the other items of imports to which this inquiry is now extended ?

The Honourable Sir Muhammad Zafrullah Khan : I don't think it would be desirable to lay down a list of the commodities which are under consideration.

Dr. Ziauddin Ahmad : Are the Government considering other commodities besides textiles ?

The Honourable Sir Muhammad Zafrullah Khan : I have already said that Government are considering the general question of a trade agreement between Japan and India.

Mr. M. Ananthasayanam Ayyangar : Is the Government considering the total quantity of imports ?

The Honourable Sir Muhammad Zafrullah Khan : Naturally, that must come under consideration.

GRIEVANCES OF INDIANS IN MALAYA.

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

(a) whether their attention has been drawn to the speech of the President of the Indian Association, Penang, on the grievances of Indians in Malaya, reproduced in the *Hindu* of the 25th July ;

(b) whether they have examined all these grievances ; and,

(c) what action they have taken, and with what result ?

Sir Girja Shankar Bajpai : Sir, with your permission I shall reply to questions No. 781 and No. 785 together.

Government have seen the articles in question. Attention of the Honourable Member is invited to the statement laid on the table of the House in reply to Mr. Ram Narayan Singh's starred question No. 104 on the 3rd September, 1936. I may add that the question of representation of Indians in services is already receiving attention.

Mr. Mohan Lal Saksena : May I know whether Government propose to send a deputation to Malaya ?

Sir Girja Shankar Bajpai : I have answered a question on that subject, yes.

Dr. Ziauddin Ahmad : When will the deputation be sent ?

Sir Girja Shankar Bajpai : We have not settled the date, nor the personnel.

Mr. Mohan Lal Saksena : Is it not a fact that the number of labourers has fallen down considerably from January to July, 1936, as compared with the corresponding period in 1935 ?

Sir Girja Shankar Bajpai : That is so, I believe. The fact has been brought out in the Agent's six monthly report.

CONSTRUCTION OF A RAILWAY LINE FROM TANJORE TO PATTUKOTTAI.

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

(a) whether there is any proposal to construct a railway line from Tanjore to Pattukottai ;

(b) at what stage the proposal stands ; and

(c) when the line will be started and completed ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (c). The project has been examined, but the estimate shows that it would not be remunerative. It is not proposed to take any further steps unless the Madras Government express a desire that the line should be built under a guarantee.

Mr. M. Ananthasayanam Ayyangar : Are there any negotiations in progress between the Government of Madras and the Government of India as to whether they are prepared to give a guarantee ?

The Honourable Sir Muhammad Zafrullah Khan : No such negotiations are in progress.

Dr. Ziauddin Ahmad : In view of the fact that a Statutory Railway Board is to be set up, how far is it desirable to involve the Local Government in this costly project? They should also consider the convenience of the people?

The Honourable Sir Muhammad Zafrullah Khan : As I have explained, on the data available, the line is considered not to be a remunerative project. If in any such case, a Local Government thinks that a project is remunerative and that the Railway Board are not taking a correct view of the matter, it is open to such Local Government to make a request that the construction of the line should be undertaken and that the Local Government would guarantee a minimum return on the outlay.

Dr. Ziauddin Ahmad : Will the Government also consider the convenience of the people and the convenience of transport of agricultural products?

The Honourable Sir Muhammad Zafrullah Khan : Those are always considered.

HEALTH OF MR. SUBHASH CHANDRA BOSE.

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

- (a) what the latest report they have received about the health of Babu Subhash Chandra Bose is ;
- (b) whether his health is normal ; and
- (c) whether all steps are being taken to give him adequate and necessary medical relief ?

The Honourable Sir Henry Craik : (a) The report is inconclusive and the doctors who examined Mr. Bose have recommended further examination, and meanwhile the continuance of the present treatment.

(b) While it cannot be said that Mr. Bose's health is at this moment quite normal, the report, which as I have said is inconclusive, does not make out that any serious complaint has been discovered.

(c) Yes.

Mr. V. V. Giri : Is it not a fact that Mr. Bose has been reduced in weight ?

The Honourable Sir Henry Craik : Yes, there has been some reduction.

Mr. V. V. Giri : Is it not also a fact that there has been some rise in temperature in the afternoons ?

The Honourable Sir Henry Craik : A slight rise, yes.

Mr. M. Ananthasayanam Ayyangar : What are the recommendations of the doctors? Do they want further examination by other doctors or by themselves at a later stage?

The Honourable Sir Henry Craik : Further examination and possibly an X-ray examination.

Mr. M. Ananthasayanam Ayyangar : Do they want a further examination in the same place or elsewhere ?

The Honourable Sir Henry Craik : At Darjeeling for some of the examination and possibly at Calcutta for some other examination, but that is not certain.

Mr. M. Ananthasayanam Ayyangar : Is he going to be sent to Calcutta now ?

The Honourable Sir Henry Craik : We are awaiting a further report ; if the doctors say that he should be sent to Calcutta, it will be done.

Pandit Lakshmi Kanta Maitra : Sir, I gave short notice question on the same subject. I am afraid I have heard nothing about it from the office. I do not know whether the Honourable Member in charge refused to answer it with short notice. Anyhow I should like to put some supplementary questions now.

Has the attention of the Honourable Member been drawn to the Press Report, dated the 25th September, 1936, reproducing the substance of a letter written by Mr. Bose to Dr. D'Silva, about his present state of health ?

The Honourable Sir Henry Craik : I think I did see that ; yes.

Pandit Lakshmi Kanta Maitra : Is it a fact that the weight of Mr. Bose has fallen by 21 lbs. ?

The Honourable Sir Henry Craik : I did not hear that.

Pandit Lakshmi Kanta Maitra : Is it not a fact that his weight in April, 1936, at Yerrawada prison was 174½ lbs., by middle of June this year at Kurseong, 171 lbs. by the end of July at Kurseong, 168 lbs. and on the 9th September, 1936, it was found to be 164 lbs. as against 185 at the time of his admission into the jail ?

The Honourable Sir Henry Craik : Those statements are not correct ; the total weight has fallen by seven lbs. according to the doctors.

Pandit Lakshmi Kanta Maitra : Is it not a fact that he has been suffering from a sort of dull pain in the region of his liver ?

The Honourable Sir Henry Craik : He complains of a dull pain in the right hypochondrium and epigastrium in the region of the gall bladder operation and below it.

Pandit Lakshmi Kanta Maitra : Is it not a fact that on the 9th September, 1936, he was examined by Sir Nilratan Sircar and the Civil Surgeon of Darjeeling and they noticed a dull friction sound in his lungs ?

The Honourable Sir Henry Craik : There are friction sounds at the base of the right lung.

Pandit Lakshmi Kanta Maitra : Is it not also a fact that for lack of facilities in Kurseong, these doctors could not thoroughly examine him in the way they liked to.

The Honourable Sir Henry Craik : I have said they recommended a further examination which is going to take place.

Pandit Lakshmi Kanta Maitra : Is it not also a fact that he has been undergoing a series of emetine injections at the present moment and it is causing him great trouble ?

The Honourable Sir Henry Craik : I think he did have emetine injections. The trouble is not mentioned in the report.

Mr. President (The Honourable Sir Abdur Rahim) : I do not know whether the Honourable Member considers it desirable that matters like these regarding the health of Mr. Bose should be dealt with in detail in this House.

Pandit Lakshmi Kanta Maitra : I gave notice of a short notice question on this very subject about a month ago and since I have had no reply to that, I am pursuing this matter now.

Mr. President (The Honourable Sir Abdur Rahim) : I know. But is it desirable that the health of Mr. Bose should be discussed like this in the House ?

Pandit Lakshmi Kanta Maitra : In view of the fact that facilities are not available in Darjeeling nor in Kurseong do Government propose to have him thoroughly examined and to have a thorough diagnosis and afford him better treatment by bringing him down to Calcutta ?

The Honourable Sir Henry Craik : I have answered that.

Mr. Mohan Lal Saksena : Where do Government propose to keep him in winter ?

The Honourable Sir Henry Craik : Where he is now ; in Kurseong.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member aware that Mr. Bose complained that the climate of Kurseong is very trying to him ?

The Honourable Sir Henry Craik : I am not aware of that. The climate is probably better than that of Calcutta.

Mr. Mohan Lal Saksena : Are the Government consulting the doctors in this matter ?

The Honourable Sir Henry Craik : Yes, Sir.

Pandit Lakshmi Kanta Maitra : Did the doctors advise a short change to Calcutta for three months.

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

SEIZURE BY CUSTOMS AUTHORITIES OF CERTAIN BOOKS.

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

(a) whether their attention has been drawn to the leading article in the *Amrita Bazar Patrika* of the 24th of July on the action of the Customs authorities with respect to certain books ;

(b) whether it is a fact that the Customs authorities have seized such novels as *Anna Karenina*, *The Brothers Karamazov*, and the *New Indian Literature* ;

(c) whether their attention has been drawn to the statement of some prominent public men of Great Britain : " It seems to us who stand for the right of free expression and thought in this country, that this attempt of the Government of India to stifle every expression of artistic and cultural value is nothing less than a denial of the elementary rights of individuals to indulge in purely intellectual curiosity ; and we protest strongly against this illegal stoppage in the post of material that has not been officially penalised by the Government of India " ; and

(d) whether they propose to take steps to see that no genuine literature is proscribed entry into this country ?

The Honourable Sir Henry Craik : (a) and (c). I have seen the article referred to.

(b) No copies of the books "*Anna Karenina*" and "*The Brothers Karamazov*" have been seized by the Customs authorities so far as I am aware. The entry into British India of the publication entitled "*New Indian Literature*" is prohibited under the provisions of section 19 of the Sea Customs Act.

(d) In prohibiting the entry of publications into India Government are not concerned with the literary merit of the publications, but they take into consideration whether the publications, if in circulation in India, are likely to prove harmful.

Pandit Lakshmi Kanta Maitra : Is it not a fact that prominent literary men in Great Britain have protested against the ban on these books ?

The Honourable Sir Henry Craik : No copies of the books have ever been seized by the Customs authorities so far as I am aware. The supplementary question therefore does not arise. The Honourable Member should have listened to the answer I gave before he put his question.

Mr. M. Ananthasayanam Ayyangar : Is there any local authority besides the Customs authority to examine this question from time to time and decide what books are to be proscribed ?

The Honourable Sir Henry Craik : As far as I am aware, only the Government of India have authority to ban the entry of a publication into India under the Sea Customs Act.

Mr. M. Ananthasayanam Ayyangar : Has the Honourable Member himself ever gone through any of these books ?

The Honourable Sir Henry Craik : No, Sir.

Mr. M. Ananthasayanam Ayyangar : May I suggest that on the lines of the Board of Censors for Films, a Board of Censors might be appointed for each Province whose duty will be to decide which books should be proscribed and which not.

The Honourable Sir Henry Craik : The Local Government is competent to do it. Only the Government of India can forbid the entry of books under the Sea Customs Act.

Prof. N. G. Ranga : Will the Government place on the table of the House a list of the books which have been proscribed till now ?

The Honourable Sir Henry Craik : I have already answered a question about that in the negative.

Mr. Lalchand Navalrai : May I know which authority under the Provincial Government decides that a certain book is to be proscribed ?

The Honourable Sir Henry Craik : The Governor in Council.

Mr. M. Ananthasayanam Ayyangar : What steps are Government taking to see that genuine literature is not proscribed ?

The Honourable Sir Henry Craik : I do not understand what the Honourable Member means by genuine literature.

Prof. N. G. Ranga : Is there any special officer in the Government of India whose business it is to go through these books and advise Government as to whether they should be banned or not ?

The Honourable Sir Henry Craik : I do not see that that question arises. The order is passed under the authority of the Governor General in Council. That is all that I am prepared to say.

Prof. N. G. Ranga : Have the Government of India.....

Mr. President (The Honourable Sir Abdur Rahim) : The specific question has been answered. If the Honourable Member wanted any further information on that point he should have given notice.

Prof. N. G. Ranga : Sir, I submit that this question arises out of clauses (c) and (d). There is a quotation given here protesting against the manner in which the Government of India have been proscribing books indiscriminately, and there is a question whether they propose to take steps to see that no genuine literature is banned in this country. Therefore I want to put this question whether they have any officer who is deputed to do this in order that no genuine literature is needlessly proscribed.

Mr. President (The Honourable Sir Abdur Rahim) : He has answered that it is done on the responsibility of the Government of India.

PROBLEMS AFFECTING INDIANS IN MALAYA.

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

- (a) whether their attention has been drawn to the leading article on the Indian Community in Malaya in the *Hindu* of the 24th July ; and
- (b) whether the facts stated therein are correct, and what steps they are taking to secure a fair solution of the problems affecting Indians in Malaya ?

POST OF THE CABINET SECRETARY.

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

- (a) the reasons for which Sir Eric Mievill was sent on deputation last summer ;
- (b) whether there is any proposal of abolishing the post of ' Cabinet Secretary ' to the Government of India ; and
- (c) what arrangements are proposed in view of Sir Eric's not returning to India ?

The Honourable Sir Henry Craik : I would refer the Honourable Member to the replies which I gave to the Honourable Member's question No. 417 on the 16th September, 1935, to Mr. C. N. Muthuranga Mudaliar's question No. 512 on the 18th September, 1936, to the supplementary questions then asked and the replies given by me.

ARTICLE ENTITLED "ROADS AND ROAD TRANSPORT" PUBLISHED IN THE *Madras Mail*.

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

- (a) whether their attention has been drawn to the leading article entitled ' Roads and Road Transport ' in the *Madras Mail* of the 24th July ;
- (b) whether they have assessed the value of the criticisms made therein on their proposals ; and
- (c) what action, if any, they propose to take thereon ?

The Honourable Sir Frank Noyce : (a) Yes.

(b) and (c). Yes, the matter will come up for consideration of this House when the Road-Rail Resolution is placed before it.

Dr. Ziauddin Ahmad : Will Government postpone taking any action before this Resolution has been passed by the Assembly ?

The Honourable Sir Frank Noyce : I do not understand what my Honourable friend means by " any action ".

SPEECH OF MR. KHAITAN ON NON-BUSINESS LIKE RUNNING OF RAILWAYS.

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

- (a) whether their attention has been drawn to the speech of Mr. Khaitan at Calcutta on the 23rd July and reproduced in the *Indian Express* of the 24th on non-business like running of railways ;
- (b) whether they have taken or will take note of the criticisms and suggestions thereon ; and
- (c) what their conclusions thereon are ?

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

(b) and (c). I would refer the Honourable Member to the Press Note No. 492, dated the 4th July, 1936, issued by the Government of India's Bureau of Public Information, a copy of which I am placing on the table.

No. 492.

BUREAU OF PUBLIC INFORMATION.

HOME DEPARTMENT.

GOVERNMENT OF INDIA.

Simla, the 4th July, 1936.

PRESS NOTE.

Recent press comments would appear to show that the substantial decrease in the working expenses of State-owned Railways during the last 5 years has not been fully appreciated. It may not be generally known that whereas there has been an increase of about 5,000 miles in the mileage of Railways during the last 15 years, the staff today is less by 55,000 than 15 years ago. This has only been made possible by the enforcement of economies in every sphere of railway working and the greater utilization of automatic devices.

Mistaken impressions about the efficiency of the State-owned Railways have, it is believed, arisen because of the practice of publishing statistics (a) for all railways, (b) for all Class I railways, which include H. E. the Nizam's State Railway and the Jodhpur Railway, and (c) for State-owned Railways.

It should be clearly realised that the only system over which the Railway Board exercises control of expenditure is the State-owned Railways. This system consists of State-managed railways, and such railways as the B. N., B. B. and C. I., etc., which, though owned by the State, are managed by companies under contract.

Difficulties are often experienced in comparing annual statistics, because of changes in methods of accountancy. For example, the value of scrap material sold was at one time credited to receipts and at another time against working expenses. Such variations have not been allowed for in calculating the returns here given.

An examination of these returns for State-owned Railways only may be of interest. As a result of sustained efforts working expenses were reduced between 1929-30 and 1933-34 by the sum of Rs. 6½ crores.

These are the annual figures of working expenses for State-owned Railways, excluding the effect of the cut in pay (which was in operation for only part of the period) :

		Crores of Rs.
1929-30	..	55.59
1930-31	...	56.05
1931-32	..	49.89
1932-33		49.82
1933-34	49.38
1934-35	50.36

The achievements of the Railways in reducing expenditure can only be properly appreciated when these figures are read in conjunction with those for total traffic

receipts. Accordingly these are the two sets of figures, as accurately comparable as is possible :

	Total Traffic Receipts. (In crores.)	Working Expenses. (In crores.)
	Rs.	Rs.
1929-30	1,02.70	55.59
1930-31	95.10	56.05
1931-32	86.63	49.89
1932-33	84.43	49.82
1933-34	86.63	49.38
1934-35	90.20	50.36

A study of these figures should go a long way to meet the charges which have been made against railways in certain quarters that they have done little to reduce expenditure, especially if that criticism is incorrectly based on all-India Railway statistics. A striking fact is that although earnings between 1933-34 and 1934-35 appreciated by Rs. 3.57 crores, working expenses showed the small advance of Rs. 98 lakhs or 28 per cent. of the additional gross earnings. Of this amount between 50 and 75 lakhs were due to normal increments to staff.

It has not been simple to effect this economy. Much has been done in the way of revising tariffs and cuttings overhead expenses, but inevitably there has had to be a severe curtailment of staff.

There has been much misunderstanding about this form of economy. The position cannot be more clearly and impartially outlined, than was done by the Pope Committee, which reported in 1933 on methods for obtaining efficiency and economy on Indian Railways. They point out that the cost of staff constituted 73 per cent. of working expenses.

The Committee, in dealing with "Retrenchment", emphasize this figure and state :

"Every operation which is eliminated, or more economically carried out, almost invariably means that less staff is required.

"The figures above illustrate that one of the main avenues of economy is reduction in personnel.

".....the Committee wish to point out that the fewer the difficulties in disposing of surplus staff, the greater the incentive to railway officers to examine their organization with a view to an economic complement of personnel being maintained."

Today the State-owned Railways have less staff than in 1920-21. Between 1929-30 and 1934-35 there was the large reduction in staff of about 114,000. Everything possible is being done for the men who have had to suffer, the railways' great regret being that trade conditions have made this action obligatory.

This is a table of the open line mileage in various years with the staff operating it, which illustrates the position :

	Mileage.	Staff.
1920-21	26,652	701,968
1929-30	30,878	759,966
1934-35	31,619	646,218

In other words, while during the last fifteen years, the mileage has increased by 4,967 miles, the numbers employed have fallen by 55,470.

One proof of the efficiency or otherwise of the operation of a railway is the ratio of working expenses to the gross earnings. If a railway is efficient, then the more traffic the better the operating ratio, for only about one-third of the working expenses

depend directly on the traffic carried. On the other hand, if there is a fall in traffic, naturally the ratio of working expenses tend to rise.

The operating ratio for the past 5 years has been as follows :

	Operating Ratio.
1930-31	57.2
1931-32	56.9
1932-33	56.7
1933-34	55.8
1934-35	54.7

If these figures are compared with the figures for total traffic receipts it will be seen that, despite fluctuations in these, there has been a steady decline in the operating ratio.

A comparison of India's railway operating ratio with that of other countries shows that this is the best for any large railway system in the world. It must be realised, however, that the operating ratio in two countries is not strictly comparable, as conditions may vary very considerably. The operating ratio is affected by the rates of wages paid. It is also affected by the rates and fares charged. High rates and fares and a low salary bill should give a good operating ratio. Low rates and fares and a high salary bill would have exactly the opposite effect.

Though India may not pay such high salaries as some other countries of the world, her rates and fares are, with one or two exceptions, the lowest in the world. All, therefore, that can be concluded from the comparatively low operating ratio of India's railways is that they are not far, if any distance, behind other railways of the world in efficiency.

An attempt to detail the numerous methods by which State-owned Railways have succeeded in reducing their expenditure would occupy too much space. The figures here given should, however, be sufficient proof that the search after economies on the part of Indian railways has met with a considerable measure of success. Everything possible, consistent with safety and efficiency, is being done to further reduce expenditure.

Another important way in which State-owned Railways have managed to economise is in reduction in stores balances. Here is a table for stores balances in different years :

	Crores of Rs.
1924-25	17.09
1929-30	16.95
1930-31	15.21
1931-32	13.06
1932-33	12.10
1933-34	10.18
1934-35	9.34

Stores balances are carried on capital account on which interest has to be paid. It will, therefore, be seen that the reduction affected means a saving in the interest on Rs. 7.75 crores.

ANTI-INDIAN AGITATION AND BOYCOTT OF INDIAN MALAYALEES IN CEYLON.

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

- (a) whether their attention has been drawn to the anti-Indian agitation and boycott of Indians and especially of Malayalees in Ceylon ;

- (b) whether their attention has been drawn to an article in the *Times of Ceylon*, dated the 12th June and the leading article 'The multiplication of Misfits' of the *Times of Ceylon*, of the 12th June and the leading article of the *Hindu* of the 4th May, on the 'Indo-Ceylon Trade Relations' and an appeal to Indian M. L. As. on the plight of Indian Malayalees in Ceylon; and an article 'Indians to be repatriated from Ceylon from the *Swarajya* of the 19th May';
- (c) whether they have investigated or propose to investigate the facts and allegations contained therein; and
- (d) what action they have taken or propose to take to vindicate the just and legitimate rights of Indians in Ceylon?

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

(c) and (d). The attention of the Honourable Member is invited to the reply given by me to his question No. 776 earlier this morning.

Dr. Ziauddin Ahmad : Can an Indian who resided in Ceylon for six months and over be naturalised as a Ceylonese subject?

Sir Girja Shankar Bajpai : I do not think so. I think they have a naturalisation law which provides for residence of something like five years.

Dr. Ziauddin Ahmad : What is the minimum term of residence in India?

Sir Girja Shankar Bajpai : I do not think that it arises out of this question, as to what the minimum term in India is for naturalisation.

Dr. Ziauddin Ahmad : We should like to know for comparison, because if it is five years there and we have a shorter period, Government ought to press upon the Ceylonese Government to reduce the period.

Sir Girja Shankar Bajpai : If my Honourable friend will be good enough to put down a question, I hope to be able to provide him with the material for comparison.

WITHHOLDING OF A TELEGRAM REGARDING MOTION FOR ADJOURNMENT TO DISCUSS THE CONDUCT OF THE GOVERNOR OF BIHAR FOR HIS TAKING ACTIVE PART IN ORGANISING PARTIES TO FIGHT THE ELECTIONS.

790. ***Mr. Satya Narayan Sinha :** Will Government be pleased to state why the press telegram sent by me on the 14th August, 1936, regarding the adjournment motion tabled by me to discuss the conduct of His Excellency the Governor of Bihar for his taking active part in organising parties to fight the election, was withheld by the Telegraph Office, Laheriasarai, District Darbhanga?

The Honourable Sir Frank Noyce : The transmission of the telegram in question was stopped in pursuance of the provisions of Rule 15 of the Indian Telegraph Rules.

Mr. Mohan Lal Saksena : Sir, before you go on to the next list, I have a submission to make for your consideration. When I asked question No. 643 on the 28th September last, the Honourable the Law Member said that no information had been received and so he put it to you whether he should answer that question and you were pleased to rule that the question need not be answered. But afterwards it was found that the information was available but it had not been brought to the notice of the Law Member. I submit that you may now allow question No. 643 to be put.

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend is misquoting me. All that I then said was that I had not only answered these parts (a) and (b) but other parts also in reply to a short notice question previously, and the Chair ruled that in view of that this question No. 643 need not be answered. Mr. Saksena now wants to put a few more supplementaries on the same question.

Mr. President (The Honourable Sir Abdur Rahim) : The question cannot be asked now.

Mr. Mohan Lal Saksena : The answer to the short notice question was that the Local Governments had not taken any decision.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot have any argument on that.

SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN IN DELHI AND THE CENTRALLY ADMINISTERED AREAS.

791. *Mr. M. Ananthasayanam Ayyangar : (a) What steps are being taken by Government to suppress immoral traffic in women in Delhi and the centrally administered areas ?

(b) Was any commission or committee appointed to study the problem in India, and if so, did it submit a report ? If not, why not ?

(c) Have any attempts been made to give the fallen women any vocational training in music and other fine arts, or for any other occupation, so as to provide them with a decent employment ?

(d) Are Government aware that there are whole streets of prostitutes in Delhi city, and why measures have not been introduced on the lines of the Brothels Act, Madras, to check prostitution ?

The Honourable Sir Henry Craik : (a) There is believed to be no considerable immoral traffic in women in the Centrally Administered Areas except in Delhi. The question of applying the Punjab Suppression of Immoral Traffic Act, which has already been passed to the Delhi Province is now under consideration. Meanwhile the police are keeping as careful a watch as possible on such local Ashrams as are considered to be of doubtful reputation.

(b) No. There are however non-official organisations which have made a study of the problem.

(c) Not by Government. This appears to be more a matter for private or municipal enterprise than Government action.

(d) The residence of prostitutes has been practically confined to Chowri Bazar and Mandi Pan by the action of the Municipal Committee.

Mr. Lalchand Navalrai : How is it that in spite of orders having been passed long ago that these women should be removed from particular streets, no action has yet been taken ?

The Honourable Sir Henry Craik : From 1912 onwards the Delhi Municipality adopted the policy of restricting the residence of prostitutes to certain quarters of the city. From time to time various areas have been cleared of prostitutes and since 1923, their residence has been practically confined to Chowri Bazar and Mandi Pan. In 1930 the Committee decided to exclude Chowri Bazar also from the area in which prostitutes should be allowed to reside and a large number were forced to move elsewhere. But restrictions have been relaxed on certain prostitutes who were able to prove successfully in the civil courts that they were public singers and that for some reason or other they should not be included with the definition of public prostitutes. Similarly a large number who were turned out of Chowri Bazar moved into the neighbouring *mahallas* and as a result of the public nuisance thus caused, restrictions on their living in Chowri Bazar have been relaxed.

Mr. N. M. Joshi : As the Delhi Municipality have taken steps to restrict the residence of prostitutes to certain parts of Delhi City, have they also taken similar steps to restrict the residence of those people, who go to these prostitutes, in certain parts of the city ?

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

Pandit Lakshmi Kanta Maitra : Has any non-official public body made any recommendation to Government about this ?

The Honourable Sir Henry Craik : Not that I am aware of. If the Honourable Member will put down a question I will try to find out.

Mr. M. Ananthasayanam Ayyangar : May I know if an expert is being brought out from England to study the problem of immoral traffic in India ?

The Honourable Sir Henry Craik : Not that I am aware of.

Mr. K. Ahmed : In view of the fact that these streets were declared to be public thoroughfares will the Government be pleased to state how could it be possible for these objectionable women to live in these streets after the declaration was made ?

The Honourable Sir Henry Craik : That is a legal conundrum which I am not qualified to answer.

PROGRESS MADE IN THE VILLAGE UPLIFT WORK IN THE CENTRALLY ADMINISTERED AREAS.

792. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to state what progress has been made in village uplift work in the centrally administered areas ? In how many villages in the centrally administered areas has the Government village scheme been working ?

(b) Will Government state the total number of persons engaged by them under the scheme and the total amount of money spent on their pay and allowances ?

(c) Will Government also state how many persons, besides Government servants, are working honorarily under the scheme ?

(d) Are Government prepared to issue instructions that the paid workers under the scheme should not take any active part in the forthcoming elections to the legislatures ?

The Honourable Sir James Grigg : (a), (b) and (c). I would invite the Honourable Member's attention to my reply to Mr. Asaf Ali's question No. 345 on the 14th September, 1936.

(d) I have nothing to add to the answer which I gave to part (e) of the Honourable Member's question No. 559 on the 20th September, 1935.

Prof. N. G. Ranga : How soon will this report on the distribution and utilisation of the rural development grant be placed on the table of this House ?

The Honourable Sir James Grigg : It is being printed now and I hope to be able to present it in a few days.

Mr. Mohan Lal Saksena : With reference to part (d), may I know if the Honourable Member is aware that in several provinces this agency for rural uplift work is being used for helping certain parties ?

The Honourable Sir James Grigg : I am aware that the Honourable Member has made allegations to this effect, but I am not aware that they are true.

Mr. Mohan Lal Saksena : Has the Honourable Member made any inquiries ?

The Honourable Sir James Grigg : No.

Mr. Lalchand Navalrai : May I know if there is any arrangement made, in this rural uplift scheme, for sanitation of cattle sheds in villages ?

The Honourable Sir James Grigg : If the Honourable Member will wait for a few days longer, I shall be able to lay on the table a complete progress report on the work undertaken under last year's grant.

Dr. Ziauddin Ahmad : Will the Honourable Member give us an opportunity to discuss the report in this House ?

The Honourable Sir James Grigg : No.

Dr. Ziauddin Ahmad : Then what is the use of circulating it ?

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

793. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. S. Satyamurti) : Will the Honourable the Law Member be pleased to state :

- (a) whether the entire sentence of two years passed on the accused, Mr. Ratnasabhapathi Gounder in Sessions case 41 of 1935 of Coimbatore (Madras Presidency) was remitted by the Government of India in or about March, 1936, acting on the petition of the accused ;

- (b) whether the Government of Madras, acting on the same petition, had already remitted a portion of the sentence but declined to remit the entire sentence ;
- (c) whether the accused has been convicted by the Sessions Judge, Coimbatore, on the unanimous verdict of guilty pronounced by the jury ;
- (d) whether the accused appealed to the High Court against this conviction, and the High Court dismissed the appeal ;
- (e) whether the Local Government applied to the High Court for an enhancement of the sentence passed by the Sessions Judge on the ground of its inadequacy ;
- (f) whether a few weeks later, the Madras Government acting on the petition of the accused, remitted a portion of the sentence and retained a portion of it, and the grounds on which and the reasons for which this order was passed ; and
- (g) on what grounds and for what reasons the Government of India remitted the entire sentence ?

The Honourable Sir Nripendra Sircar : (a) The Governor General in Council remitted the balance of sentence outstanding at the time.

(b), (c), (d) and (e). The replies are in the affirmative.

(f) The reply to the first part is in the affirmative. As regards the second part, I am not in possession of the information.

(g) I would refer the Honourable Member to the answer I have already given to part (c) of question No. 419.

Mr. M. Ananthasayanam Ayyangar : Was the remaining period of sentence reduced on the ground that it was erroneous or was it reduced as an act of clemency ?

The Honourable Sir Nripendra Sircar : Sir, I answered two sets of questions on this last time, and I gave the answer that I am not prepared to disclose, as being opposed to the public interest, the grounds on which the Governor General in Council uses his discretionary power.

Mr. Lalchand Navalrai : May I know if it is the policy of Government that when the High Courts do not reduce the sentence on appeal, the Local Governments and the Government of India should do it ?

The Honourable Sir Nripendra Sircar : I answered that on the last occasion. There is not and cannot be such a policy, and no general policy can be laid down as to the circumstances in which the Governor General in Council exercises powers under section 401. There is no hard and fast rule.

Mr. Lalchand Navalrai : May I know if where the sentences have not been reduced by the High Court, the Government can do it on special grounds ?

The Honourable Sir Nripendra Sircar : If the Honourable Member will kindly read section 401 of the Criminal Procedure Code once more, he will find it can be done, it has been done and it will be done.

**REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE
COIMBATORE DISTRICT.**

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

- (a) whether the Local Government was consulted by the Government of India with regard to the total remission of the sentence on Mr. Ratnasabhapathi Gounder of Coimbatore ;
- (b) if the answer to part (a) be in the negative, why this was not done ;
- (c) if the answer to part (a) be in the affirmative, whether the Local Government favoured or disfavoured the total remission ;
- (d) with what remarks the Local Government forwarded the petition of the accused to the Government of India ;
- (e) when the petition was received by the Government of India and when it was disposed of ;
- (f) subsequent to the partial remission by the Local Government, whether the accused urged any reasons why the entire sentence should be remitted ; and
- (g) whether there are any precedents for this action of the Government of India during recent years, and, if so, what those precedents are ?

The Honourable Sir Nripendra Sircar : (a) No.

(b) The Governor General in Council did not consider it necessary.

(c) Does not arise.

(d) The Local Government forwarded it for the orders of the Governor General in Council with the remark that they had no recommendation to make on behalf of the petitioner.

(e) The petition was received on the 23rd March, 1936, and disposed of on the 1st of April, 1936.

(f) The grounds urged by the accused were stated in the petition which has been published in newspapers.

(g) If by precedents the Honourable Member means action taken by the Government of India to remit sentences under section 401, the answer is that such action has been taken on many occasions, but as the facts of each case are different it is scarcely possible to quote any of them as precedents.

Mr. M. Ananthasayanam Ayyangar : May I know if there have been any cases other than political cases, where sentences of two years have been reviewed in recent years ?

The Honourable Sir Nripendra Sircar : When the Governor General in Council exercises powers under section 401, it may not recognise a case as being political or non-political.

Mr. M. Ananthasayanam Ayyangar : As a matter of fact, whether political or non-political, have there been any cases in which the punishment has been only for two years which have been reviewed under this section ?

The Honourable Sir Nripendra Sircar : I want to know the definition of a political case.

Mr. M. Ananthasayanam Ayyangar : Offences against the State.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

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

- (a) what the interval was between the orders of the Local Government and the Government of India in regard to the remission of sentence on Mr. Ratnasabhpathi of Coimbatore ;
- (b) whether the High Court of Madras, which confirmed the sentence on appeal or the trial judge was consulted by the Government of India as contemplated in clause 2 of section 401, Criminal Procedure Code ;
- (c) if the answer to part (b) be in the negative, the reasons for the omission to consult the High Court ;
- (d) whether the Government of India perused the appellate judgment of the High Court confirming the conviction and the sentence ;
- (e) if the answer to part (d) be in the affirmative, whether the Government of India found any indication in the judgment that the conviction was other than just and proper ;
- (f) if the answer to part (d) be in the negative, why it was considered unnecessary to peruse the appellate judgment before granting the remission ; and
- (g) whether it is usual or exceptional to consult the trial judge and the appellate Court before granting the remission on the petition of the convicted person ?

The Honourable Sir Nripendra Sircar : (a) Thirteen days.

(b) and (c). I would refer the Honourable Member to the answer I gave to part (e) of question No. 419.

(d) Yes.

(e) The decision was based on the records of the case including this judgment.

(f) Does not arise.

(g) Quite exceptional.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

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

- (a) whether it is a fact that the petition of the accused asking for a remission of the sentence contained the allegations :

- (i) that the accused was a prominent and influential member of the Justice Party ;

- (ii) that the criminal case was engineered against him by the local congressmen to discredit him and through him the Justice Party ;
- (iii) that the Brahmin Police Inspector who investigated the case bolstered the criminal charge in collusion with the local congressmen ;
- (iv) that the Police Inspector as well as the local congressmen put pressure on the jurymen to return a verdict of guilty ; and
- (v) that the jurymen gave their verdict on account of political and communal considerations ;
- (b) if the answer to the above be in the affirmative, whether the Government of India attempted to verify these allegations and with what result ;
- (c) if there was no attempt to verify these allegations what the reason was for the omission ;
- (d) whether the Government of India gave credence to any of the aforesaid allegations ?

The Honourable Sir Nripendra Sircar : (a) The petition has been published in the newspapers.

(b), (c) and (d). The Governor General in Council paid no attention to the allegations made in it as there was no legal proof in support of them.

Mr. M. Ananthasayanam Ayyangar : If none of the grounds stated in the petition, which have been referred to in this question, induced the Government to alter the sentence, may I know what were the grounds which induced them and whether it was due to the influence or intervention of any extraneous person that the sentence was reduced ?

The Honourable Sir Nripendra Sircar : I repeat for the fourth time that the Government are not prepared to disclose, as being opposed to public interest, the grounds on which the powers under section 401 were exercised.

Mr. President (The Honourable Sir Abdur Rahim) : The matter has been already fully discussed. Next question.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

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

- (a) whether they are aware that what purports to be a true copy of the petition, submitted by Mr. Ratnasabhapathi Gounder for the remission of the sentence, was published in the *Justice* newspaper, Madras, on the 10th April, 1936 ;
- (b) whether that is a true copy of the petition submitted to the Government of India and the Local Government ;

- (c) whether they are aware that an *ex-Advocate General* and an *ex-Law Member* of the Government of Madras (Mr. T. R. Venkatarama Sastriar) and two *ex-Judges* of the Madras High Court (Mr. V. V. Srinivasa Iyengar and Mr. C. V. Visvanatha Sastri) have contributed to the Madras newspapers in April-May, 1936, articles which suggest that the remission of the sentence was not only claimed for but granted on political considerations ;
- (d) whether the *Hindu* (Madras) referred to this matter editorially in its issue of the 11th April, 1936, and asked for a full explanation from Government ;
- (e) whether the *Madras Mail* editorially referred to this matter in its issue of April 20, 1936, June 18, 1936, and July 16, 1936 and suggested that the suspicion of political influence behind the remission should be dispelled by a detailed statement by Government ; and
- (f) why no statement was issued till now to allay public suspicion, and whether they are prepared now to make a statement meeting the several criticisms which have already appeared in the Press ?

The Honourable Sir Nripendra Sircar : (a) and (c) to (e). The replies are in the affirmative.

(b) I have not verified this.

(f) Government do not consider it necessary to issue such a statement.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

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

- (a) whether it is a fact that after the appellate judgment was delivered in the middle of February, 1936, the accused Mr. Ratnasabhpathi Gounder did not surrender to undergo the sentence but was absconding until his sentence was wholly remitted by the Government of India ;
- (b) why the petition was considered by the Government of India when the accused was absconding ;
- (c) whether it is a fact that at the end of March, 1936 the surety of the accused Ratnasabhpathi Gounder stated in an affidavit filed in the Sessions Court, Coimbatore, that Mr. Ratnasabhpathi Gounder was just then in Delhi to make representations to the authorities regarding the remission of his sentence ;
- (d) if the answer be in the affirmative, whether this information was verified by the authorities for not arresting the accused as the sentence had been neither suspended nor fully remitted by then ;

(e) whether it is a fact that the accused was in Delhi at the time his petition for remission was being considered by the Government of India ;

(f) whether he by himself or through any other person made any representations to Government regarding the remission of the sentence after submitting his petition ; and

(g) whether any Honourable Member of this House interested himself in obtaining the remission from the Government of India by speaking to any member thereof ?

The Honourable Sir Nripendra Sircar : (a), (c) and (e). Government have no information.

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

(f) and (g). I would refer the Honourable Member to the answer I gave to part (i) of question No. 419.

Mr. M. Ananthasayanam Ayyangar : In answer to that question the Honourable Member said that certain persons, even a Member of this Honourable House asked him to interfere. May I know whether the interference was to the effect that the order should be set aside or merely that the matter should be looked into ?

The Honourable Sir Nripendra Sircar : A Congress Member wanted that no mercy should be shown : a non-Congress Member wanted mercy to be shown. No attention was paid to either. The records are not here.

Mr. M. Ananthasayanam Ayyangar : May I know who the Non-Congress Member was ?

The Honourable Sir Nripendra Sircar : Certainly not.

Mr. M. Ananthasayanam Ayyangar : Do the Government in considering petitions under section 401 take into consideration representations by other persons who may be related or otherwise who seek to bring influence to bear on the Government ?

The Honourable Sir Nripendra Sircar : There again, there is no general rule.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

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

(a) whether they are aware that the news of the total remission of the sentence on Mr. Ratnasabhapathi Gounder granted by them was known in Madras on 30th March, and was published in the *Madras Mail* on the 31st March, 1936, some days before the Local Government came to know of it ;

(b) whether it is a fact that the accused telegraphed this news from Delhi to his advocate in Madras and to his friends in Coimbatore, and that the telegram was shown to some of the Press correspondents in Madras ;

(c) in view of this leakage of information, before the order was communicated to the accused by or through the Local Government, whether the Government of India are prepared to cause enquiries to be made as to how the leakage occurred ; and

(d) when and how the order of the Government of India was communicated to the accused, and to the Local Government—by letter or telegram, and the date of same ?

The Honourable Sir Nripendra Sircar : (a) I am prepared to accept the Honourable Member's statement that some news on the subject was published in the *Madras Mail* on March 31st. I cannot be expected to know when the news was known to people in Madras.

(b) Government have no information.

(c) Government do not consider the matter to be of sufficient importance to justify an inquiry.

(d) The orders were telegraphed to the Local Government on the 1st April, 1936. Government are not aware how and when the Local Government communicated the orders to the accused.

Mr. M. Ananthasayanam Ayyangar : May I know then how in the opinion of the Government the information leaked out, so that the matter came out in the *Madras Mail* the previous day ?

The Honourable Sir Nripendra Sircar : I think my Honourable friend should inquire from the man who got the information : we do not know anything about it : we tried to keep it secret, we did not succeed.

Mr. M. Ananthasayanam Ayyangar : Why does not the Government propose to take any action in this matter ?

The Honourable Sir Nripendra Sircar : Against whom ? If my Honourable friend will hand over the accused, I will take action.

Dr. Ziauddin Ahmad : Did Government make any enquiries into the reason of this leakage ?

The Honourable Sir Nripendra Sircar : No.

Mr. M. Ananthasayanam Ayyangar : Did any Member of the Government write to any individual who sought to intervene in this matter and whose recommendation was ultimately accepted ? What was the source from which the matter leaked out to the press ?

The Honourable Sir Nripendra Sircar : I cannot possibly explain how it leaked out. It could not have been through any Member of Government.

Mr. Mohan Lal Saksena : Why did not Government make any enquiries into the matter ?

The Honourable Sir Nripendra Sircar : Because it was too trivial.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

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

(a) if the remission of the sentence on Mr. Ratnasabhapathi Gounder by the Government of India was simply an act

of clemency, and what the special considerations for showing clemency to the accused were ;

- (b) which of the Honourable Members of the Government of India had the order of remission passed or approved ;
- (c) whether the matter went before the late Viceroy as has been suggested in the *Justice* newspaper ;
- (d) whether they have noticed the criticism in the articles which appeared in the Madras English dailies in April 1936-May 1936 that the total remission of the sentence amounts to flouting the unanimous verdict of the jury and the judgment of the High Court in fact, and is tantamount to violating the constitution, and whether, the Government of India propose to meet this criticism in the public interest ;
- (e) whether there are any precedents for the grant of a remission which has the effect of nullifying the unanimous verdict of the jury and the judgment of the High Court ; and
- (f) whether there are any cases, and if so, how many, during the last three years when the Government of India remitted the entire sentence on the representation of the accused that he was innocent and wrongly convicted ?

The Honourable Sir Nripendra Sircar : (a) I have already replied to a similar question.

(b) and (c). It is against the public interest to state which individual Members of the Government expressed views which issued as the orders of the Government.

(d) Yes ; but Government do not agree with this view and do not consider it necessary to say anything about the merits of this criticism.

(e) I believe the answer to be yes ; but it would be a waste of labour to trace them.

(f) Yes ; there have been four such cases during 1934, 1935 and 1936.

†801*.

MONOPOLY FOR THE SUPPLY OF PAINTS ENJOYED BY CERTAIN FIRMS.

802. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the two European firms of Jenson and Nicholson and the Shalimar Paint Works were enjoying a monopoly contract for the supply of the Red Oxide for over ten years ? If not, will Government be pleased to state the year when the two firms of Jenson and Nicholson and the Shalimar Paint Works were given the contract for the supply of Red Oxide Paint for the first time and also to state the number of years the contract for the supply of this paint was given consecutively to the two European firms, mentioning the rates ?

*This question was withdrawn by the questioner.

(b) Is it a fact that the contract for the supply of the Red Oxide Paint was only given to Messrs. Murarka Paint and Varnish Works, an Indian firm, in 1934-35, and that the supply was found to be uniformly satisfactory ?

(c) Is it a fact that the contract for supply of the Red Oxide Paint was given for the year 1935-36 to the other big Indian firm, namely Napier Paint Works, run with Indian capital and Indian management ? Is it a fact that the supply of the paint from that Indian firm was also found satisfactory ?

(d) Is it a fact that a supplementary tender No. M.-7344, was called within ten days and the contract was given to the European firms of Messrs. Jenson and Nicholson and the Shalimar Paint Works ?

(e) Will Government be pleased to state the rate quoted by the firm of Jenson and Nicholson and the Shalimar Paint Works for the supply of the Red Oxide Paint against items Nos. 19 and 20 in the tender No. M.-6470 opened on the 29th October, 1935 ?

(f) Will Government be pleased to state the rates quoted by those very firms for the supply of that very Red Oxide Paint in their tender No. M.-7344, items No. 1A and 3B opened on the 26th November, 1935 ?

(g) Will Government be pleased to state whether the Red Oxide Paint accepted by the Indian Stores Department from Jenson and Nicholson and the Shalimar Paint Works was the same in quality and specification as the Red Oxide Paint which was quoted by those firms in the tender No. M.-6470 ? If not, in what respects do the two paints, i.e., the one quoted in the previous tender and the one that has been accepted in tender No. M.-7344, differ ?

(h) If there is no difference in quality and specification, why were the two European firms of Jenson and Nicholson and the Shalimar Paint Works given the chance of quoting the same paints at a lower rate in the supplementary tender ?

The Honourable Sir Frank Noyce : With your permission, Sir, I propose to reply to questions Nos. 802 to 810 together.

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

Pandit Lakshmi Kanta Maitra : Will this information be laid on the table of the House in the course of this Session ?

The Honourable Sir Frank Noyce : I am unable to say. If my Honourable friend will look at the questions, he will see that an immense amount of detail has to be collected and I am unable to say when the information will be furnished.

SUPPLEMENTARY TENDER FOR THE SUPPLY OF PAINTS INVITED BY THE INDIAN STORES DEPARTMENT.

†803. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that items 16 and 17 in the original tender No. M.-6470 opened on the 29th October, 1935, for Indian Stores Department Specification GP46 and 146, and that on 9th November, 1935 again the same qualities for the

†For answer to this question, see answer to question No. 802.

second time were invited in the supplementary tender No. 7344 under items Nos. 2A and 2B ?

(b) Is it a fact that the Indian Stores Department Specification No. GP/46 stipulates :

“ The pigment is to contain not less than 50 per cent. of a natural or artificial iron oxide, the balance is to be Barytes. The Ferric Oxide content of the whole pigment is to be not less than 45 per cent. The pigment is to be free from acid and water soluble iron salts. The total matter soluble in water is not to exceed 0.3 per cent. ” †

(c) Is it a fact that items 1 and 3 in the supplementary tender No. 7344 are of one and the same Specification No. GP/73 and 173, as tendered for against the items Nos. 19 and 20, respectively, in the original tender No. M.-6470 opened on the 29th October, 1935 ?

(d) Is it a fact that the Indian Stores Department Specification No. G.P./73 stipulates :

“ The pigment is to contain not less than 50 per cent. of a natural or artificial iron oxide, the balance is to be Barytes. The Ferric Oxide content of the whole pigment is to be not less than 35 per cent. The pigment is to be free from acid and water soluble iron salts. The total matter soluble in water is not to exceed 0.8 per cent. ” †

(e) Will Government be pleased to state the reasons why the manufacturers for the second time within ten days were asked to quote for exactly the same quality of stuff in the supplementary tender No. 7344 for which the quotations were already taken in the original tender No. M.-6470 ?

(f) Is it a fact that the supplementary tender was called within ten days from the opening of the original tender and that the European firms—Messrs. Jenson and Nicholson and the Shalimar Paint Works, after knowing the rates of the lowest tenderer, namely, Murarka Paint and Varnish Works, Limited, quoted still lower in the supplementary tender ?

TENDERS INVITED BY THE INDIAN STORES DEPARTMENT, CALCUTTA CIRCLE, FOR PAINT READYMIXED LEAD WHITE.

†804. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that Indian Stores Department, Calcutta Circle, invited tender No. PN6999/S for 100 cwt. Paint Readymixed Lead White as per sample to be seen at their office due on 22nd July, 1935, *vide Exchange Gazette*, dated 26th July, 1935 ?

(b) Is it a fact that the quotation of the Indian firm, the Murarka Paint and Varnish Works, Limited, was found to be the lowest ?

(c) Is it a fact that Indian Stores Department, Calcutta, cancelling the tender No. PN6999/S, again invited for the second time tender No. PN6999/S/E, due on 20th September, 1935, as per *Exchange Gazette*, dated 19th September, 1935, for 100 cwt. Paint Readymixed Lead White as per specification :

“ The pigment is to contain 45 per cent. of Antimony White, 5 per cent. Zinc White and balance to be Barytes, etc. ” †

(d) Is it a fact that again the quotation of the Indian firm, the Murarka Paint and Varnish Works, Limited, for the second time was found to be the lowest for ready stock ?

††For answer to this question, see answer to question No. 802.

(e) Is it a fact that this tender for the second time, in which the Indian manufacturer's offer happened to be the lowest, was cancelled and a fresh tender for the third time was again invited by the Indian Stores Department, Calcutta Circle, as per tender No. PN6999|S|E—due on 12th December, 1935, as per *Exchange Gazette*, dated 10th December, 1935 ?

(f) Will Government be pleased to state the reasons for cancelling tenders in which the offers of the Indian manufacturers were lowest for ready stock and calling fresh tenders for the same article for over three times ?

(g) Is it a fact that some time was allowed to elapse by cancelling and calling for fresh tenders for over three times and are Government aware that the European manufacturers were able to import the necessary raw materials during that time and offer after knowing the quotations of the Indian manufacturers ?

(h) Will Government be pleased to state whether in the case of the lowest quotation of the European firms, such procedure was ever adopted by the Indian Stores Department ? If so, will Government be pleased to lay a list of such European firms on the table of the House ? If not, why not ?

(i) Are Government prepared to enquire into the matter and lay a copy of the report on the table of the House ? If not, why not ?

PURCHASE OF STORES BY INVITING TENDERS BY THE INDIAN STORES DEPARTMENT.

†805. ***Mr. Amarendra Nath Chattopadhyaya** : (a) Is it a fact that the Indian Stores Department gather together and combine the approximate requirements during a year advised by various indentors and include the same in the annual tenders, giving the benefit of cheaper prices for bulk purchases to the small indentors as well ?

(b) Is it a fact that the Indian Stores Department is to make purchases of stores for the public service by inviting tenders for the supply of all articles ?

(c) Is it a fact that in case of not calling for tenders, the Indian Stores Department has to record sufficient reasons indicating that it is not in the public interest to call for tenders ?

(d) Is it a fact that the Indian Stores Department, as per standard sample scheme registered standard samples from the manufacturers and suppliers after test against the Indian Stores Department specifications, and the results of such tests constitute a permanent basis of reference when they are invited to tender for Indian Stores Department orders and no further sample for such articles will ever be required against the tender for acceptance ?

(e) Is it a fact that the Indian Stores Department is specially authorised to allow a limited degree of preference in respect of price to articles produced or manufactured in India, either wholly or in part ?

†For answer to this question, see answer to question No. 802.

(f) Is it a fact that the contracts given on Rate Contract basis the Indian Stores Department give an idea of approximate quantities required during the year to the manufacturers or suppliers ?

(g) Is it a fact that the firms holding the Indian Stores Department Rate Contract for the items are asked to supply over and above the estimated quantity intimated to them and in case of their refusal, only fresh tenders are invited for the extra quantities ?

TENDER FOR THE SUPPLY OF PAINTS INVITED BY THE INDIAN STORES DEPARTMENT.

†806. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that the Indian Stores Department invited annual tender No. M-6470 for the supply of paints during 1936-37, which was opened and rates quoted by the different suppliers were read out to their representatives as usual on the 29th October, 1935 ?

(b) Is it a fact that the rates quoted by the Indian manufacturer (the Murarka Paint and Varnish Works, Limited), for item No. 19 of the said tender, Gulf Red Stiff, was Rs. 9-13-0 per cwt. and item No. 20—Gulf Red Readymixed, was Rs. 12 per cwt. and also item No. 38B—Paint Black Readymixed, for underframes and wagon bodies was Rs. 2-4-0 per gallon and found to be the lowest ?

(c) Is it a fact that after the original tender was opened on the 29th October, 1935, supplementary tender No. 7344 for the supply of only Red Oxide Paint was invited on the 9th November, 1935, i.e., just after ten days ?

(d) Is it a fact that the Indian Stores Department have been purchasing Gulf Red Oxide to Indian Stores Department Specification No. GP/73 continually for several years for painting of the railway wagons ?

(e) Is it a fact that during 1932-33, 1933-34, and 1934-35 the quantities drawn were 4,425 cwt., 3,372 cwt., and 3,540 cwt. respectively and found uniformly satisfactory ?

TENDERS FOR RED OXIDE PAINT ACCEPTED BY THE INDIAN STORES DEPARTMENT.

†807. ***Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state whether the Red Oxide Paint accepted by the Indian Stores Department in favour of Messrs. Jenson and Nicholson and Shalimars against the supplementary tender No. 7344 have ever undergone any practical exposure test with a single coat on the bare steel plate to last three years ? If so, what are the results of such tests ?

(b) Will Government be pleased to state whether this Red Oxide Paint accepted by the Indian Stores Department against the supplementary tender No. 7344, has been purchased after three years run on service condition in traffic, as has been in the case of indigenous paint—Murarka's Special Black ? If so, with what results ?

(c) Is it a fact that the Chief Mechanical Engineer, Lillooah, in his letter No. 1176S. of 9th April, 1932 remarked that Muraco Special Black

†For answer to this question, see answer to question No. 802.

applied on wagons are out on lines and unless these wagons were received back at the workshop for the overhaul after three years run, he could not make any recommendation? If so, will Government be pleased to state why the same rule was not followed in case of Red Oxide Paint contract given to European Firms, Messrs. Jenson and Nicholsons and Shalimars Paint Works, before purchasing any considerably large quantities?

(d) Are Government aware that enamel Navy Green paint against Indian Stores Department tender No. 11-5790 was favoured to Messrs. Jenson and Nicholson, who did not submit any sample at Rs. 4-12-0 a gallon higher than an indigenous paint, sample of which was found to satisfy the Indian Stores Department Specification?

(e) Will Government be pleased to lay a list of the Indian firms who have been given the Indian Stores Department orders and contracts for the supply of stores without testing samples of their stuff, as has been done in the case of the European firms? If not, why not?

TENDER FOR PAINTS INVITED BY THE INDIAN STORES DEPARTMENT, CALCUTTA CIRCLE.

†808. *Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that the Indian Stores Department, Calcutta Circle, invited tender No. 10868/S due 14th February, 1936 :

	Gallons.
White Lead Paint Readymixed to Indian Stores Department Specification	1,800
Red Oxide Paint Readymixed to Indian Stores Department Specification	1,300
White Paint Readymixed for lettering	100 †

(b) It is a fact that Messrs. Murarka Paint and Varnish Works, Limited, wholly an Indian concern, quoted for the said Paint :

	Per gallon. Rs. A. P.
White Lead Paint Readymixed to Indian Stores Department Specification (registered standard sample)	3 4 0
Red Oxide Paint Readymixed to Indian Stores Department Specification (registered standard sample)	1 14 0
White Paint Readymixed for lettering	3 15 0

(c) Is it a fact that Red Oxide Paint to Indian Stores Department Specification is purchased from the European Firm, Messrs. Jenson and Nicholson at Rs. 2-1-0 per gallon, not accepting the self-same quality at Re. 1-14-0 that was offered by the Indian concern, Murarka Paint?

(d) Will Government be pleased to state the reasons for not accepting the lowest quotation of the Indian firm but of the European firm at a loss at annas three per gallon to the Indian Exchequer? If not, why not?

†For answer to this question, see answer to question No. 802.

(e) Is it a fact that the paint readymixed for lettering is purchased from the European firm, Messrs. Hadfields, Limited, at Rs. 5-14-0 per gallon, i.e., Rs. 1-15-0 per gallon higher than the indigenous paint offered by the Indian firm, Murarka Paint ?

(f) Are Government prepared to enquire into the matter and state the reasons for such preferential treatment to the European concerns ? If not, why not ?

ANNUAL CONTRACT PLACED BY THE INDIAN STORES DEPARTMENT FOR THE SUPPLY OF PAINT BLACK READYMIXED FOR UNDERFRAMES AND WAGON BODIES.

†809. *Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that the Indian Stores Department placed the annual contract No. M-6470, dated 14th March, 1936, for the supply of Paint Black Readymixed for underframes and wagon bodies at Rs. 2-4-0 per gallon during 1936-37 with the Indian firm, Messrs. the Murarka Paint and Varnish Works, Limited, Calcutta ?

(b) Is it a fact that the Government Test House, in their letter No. 842, dated 29th April, 1933, certified that this indigenous black paint for underframes and wagon bodies contained five per cent. carbon black ?

(c) Is it a fact that during the existence of the annual contract with the Indian firm, Messrs. the Murarka Paint and Varnish Works, Limited, the Indian Stores Department, Calcutta Circle, invited tenders for the supply of Paint Black Readymixed for underframes and wagon bodies :

	Gallons.
Tender No. P.N.238 V	1,400
Tender No. P.N.1298 V	1,000
Tender No. P.N.5084 V	2,000 ?

(d) Is it a fact that the Indian Stores Department, Calcutta Circle, purchased from the European firm, Messrs. Jenson and Nicholson, the Black Paint Readymixed for underframes and wagon bodies of three per cent. carbon black at Rs. 2-10-0 per gallon, *vide* orders :

- No. P.N.238|V as appeared in T. J. of 14th May, 1936, for 400 gallons.
- No. P.N.238|V|1 as appeared in T. J. of 21st May, 1936, for 300 gallons.
- No. P.N.238|V|3 as appeared in T. J. of 4th June, 1936, for 350 gallons.
- No. P.N.15|37|V as appeared in T. J. of 16th July, 1936, for 400 gallons.
- No. P.N.1298|V as appeared in T. J. of 30th July, 1936, for 500 gallons.
- No. P.N.1584|V as appeared in T. J. of 6th August, 1936, for 1,000 gallons ?

†For answer to this question, see answer to question No. 802.

(e) If so, will Government be pleased to state the total amount of loss involved by accepting the tender of the European firm at annas six per gallon higher than the indigenous paint of the same quality contracted for 1936-37 ?

(f) Do Government propose to enquire into the matter ? If not, why not ?

INDIGENOUS SIGNAL RED PAINT MANUFACTURED BY THE MURARKA PAINT AND VARNISH WORKS, LIMITED.

†810. *Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that Murarka's Signal Red Super "A", an indigenous Signal Red Paint, manufactured by the Murarka Paint and Varnish Works, Limited, was put to exposure test simultaneously along with Bergers' Signal Red by the North Western Railway and was found to stand satisfactorily in different climatic conditions of India, that is to say, Karachi section seaside, Sind section desert, Lahore and Peshawar section in extreme cold and heat ?

(b) Are Government aware that the North Western Railway, after the exposure test, reported this indigenous paint to be undoubtedly very good paint ?

(c) Is it a fact that the Indian Stores Department have been awarding contracts to Messrs. the Murarka Paint and Varnish Works, Limited, for this Signal Red continually for the last three years and they found this indigenous paint uniformly satisfactory and in no way inferior to the most costly English Signal Red Enamels ?

(d) Will Government be pleased to state the reasons why this indigenous paint, which has been found more durable and brilliant and economical than others by the Chief Inspector of Railways, is not being used by the other State Railways ?

(e) Is it a fact that the Indian Stores Department awarded contract for the Murako Signal Red Super "A" against the tender No. 6470 to Messrs. the Murarka Paint and Varnish Works, Limited, at Rs. 15 per gallon ?

(f) Is it a fact that against the same tender No. 6470, wholly foreign signal red enamel has been purchased from the English stockists, Messrs. Wilkinson Heywood Clark, at Rs. 22 per gallon and Messrs. W. H. Duth and Company at Rs. 16 per gallon ?

(g) Are Government aware that by accepting the wholly European manufactured and imported article, there has been a loss to the Indian Revenue at Rs. 7 and Re. 1 per gallon respectively ? If so, will they be pleased to state the total loss involved ? If not, why not ?

(h) Will Government be pleased to state the reasons for such purchases ?

(i) Do Government propose to enquire into the matter ? If not, why not ?

STATE CONTROL OF THE BENGAL AND NORTH WESTERN RAILWAY.

811. ***Mr. Satya Narayan Sinha :** (a) Will Government be pleased to state the steps they have taken, or are going to take, to implement the Resolution of the Assembly passed *nem con.* in its last Session in Delhi, regarding the taking over of the Bengal and North Western Railway under the State management ?

(b) If no steps have been taken so far, are they going to do it in the near future ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : I would refer the Honourable Member to the reply I gave to a somewhat similar question No. 38 by Mr. S. Satyamurti on the 1st September, 1936.

TRANSFER OF POSTAL CLERKS WHO SUFFERED IN THE QUETTA EARTHQUAKE TO THE PUNJAB CIRCLE.

812. ***Bhai Parma Nand :** (a) Have Government considered the case of the postal clerks, who suffered in the Quetta earthquake, for transfer to the Punjab Circle ? If so, have the officials been transferred to their home divisions ? If not, why not ?

(b) Is it a fact that the Government employees in other departments at Quetta, who had similarly suffered, were transferred without any condition ? If so, why have conditions been imposed in the case of postal subordinates ?

(c) Is it a fact that telegraphists were transferred from Quetta without the imposition of any conditions to the stations of their choice ?

(d) How is it that certain conditions have been imposed in the case of postal subordinates ?

(e) Why is this differential treatment given to Government servants in Government Departments ?

(f) Are Government prepared to remove the conditions and transfer the postal staff, who suffered in the Quetta earthquake, to the Punjab to their home divisions ?

The Honourable Sir Frank Noyce : (a) The reply to the first part is in the affirmative. As regards the second part, seven clerks and three postmen have applied for transfer and arrangements are being made for their transfer to the Punjab and North-West Frontier Circle. None has actually been transferred as yet. The transfers are subject to administrative convenience and to vacancies being available.

(b), (d) and (e). The attention of the Honourable Member is invited to the statement laid on the table of the House in reply to part (a) of his starred question No. 1206 on the 13th March, 1936. The conditions imposed in the case of postal subordinates have been necessitated on account of the special circumstances of the Department.

(c) General Service Telegraphists are on an All-India cadre and consequently they were transferred without the imposition of any conditions.

(f) No.

Mr. Lalchand Navalrai : May I know from the Honourable Member whether the conditions that were placed for their transfer by the Director General of Posts and Telegraphs will be relaxed or not ?

The Honourable Sir Frank Noyce : I cannot say more than that the conditions were that vacancies should be available. Vacancies are not yet available, and as soon as they are, transfers will be made.

Mr. Lalchand Navalrai : Besides the condition of vacancies occurring, one of the other conditions was that they would have to draw lower pay when they went to the Punjab. Has that condition been removed or not ?

The Honourable Sir Frank Noyce : No. If it were removed, the result would be that in endeavouring to satisfy the wishes of these men that injustice will be done to others.

Mr. Lalchand Navalrai : They have particular grades and when they are transferred will they be placed on the same grade according to the date of their entry into service, or they would be placed below the persons that are working in the Punjab ?

The Honourable Sir Frank Noyce : I should like to have notice of this question. I do not remember exactly what the details of the conditions are.

Mr. Lalchand Navalrai : Does the Honourable Member know that representations were made after those orders were passed by the Director General, accepting certain conditions and asking for the removal of others ?

The Honourable Sir Frank Noyce : I am sorry I could not follow the Honourable Member's question. All I can say is that these men have applied for transfer. They have been promised transfer subject to certain conditions which they have accepted. Having accepted those conditions I cannot see what grievance they can have.

Mr. Lalchand Navalrai : I am conscious that those details may not be known to the Honourable Member, but what I submit is that representations have actually been made in which they have accepted some conditions, and as regards others they say they are unreasonable and should be removed. Has there been any consideration of that representation ?

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

PROMOTION OF THE STOREMEN OF THE INDIAN ARMY ORDNANCE CORPS AS ASSISTANT STOREKEEPERS.

S13. ***Bhai Parma Nand :** (a) Is it a fact that in every appointment letter issued to the storemen of the Indian Army Ordnance Corps, it was specifically laid down that graduates will have quicker chances of promotion as Assistant Storekeepers than non-graduates ?

(b) Is it a fact that certain graduates quitted better jobs with a temptation that they will be given accelerated promotion to Assistant Storekeepers grade but that now these promises have been set at naught ?

(c) Has it even been the intention of the Defence Department to promote as Assistant Storekeepers certain graduate storemen referred to

above after their waiting list was exhausted ? If so, why was that intention not given effect to ?

(d) Is it a fact that a provision existed that a graduate storeman was eligible, without any further examination whatsoever, for appointment as an Assistant Storekeeper ? Does that provision exist now ?

(e) Is it a fact that a non-graduate storeman, before his promotion as an Assistant Storekeeper, had to go through a competitive examination when he reached a pay of Rs. 80 per mensem as a storeman ? Are these conditions still in force ? If not, why are they changed ?

(f) Is it true that graduate and non-graduate storemen have now been placed on equal footing and that a competitive examination for promotion has now been enforced for both of them ?

(g) Is it a fact that only those persons were eligible for appearing at a competitive examination referred to above, who had qualified at the Kirkee School, and at the time of selection only 25 men who were sent to school by virtue of seniority were qualified ?

(h) Is it true that for the last two years only one storeman has been promoted, while the previous rate of yearly promotions had gone up to six ?

(i) Is it a fact that the scheme of Indian Military Assistant Storekeepers has been chalked out and the Non-Commissioned Officers with low education will be taken from Units for the job ? If so, what will be the fate of those poor graduates who were extended promises in writing and who quitted better jobs in the hope of getting Assistant Storekeeper-ship ?

(j) Do Government contemplate giving them some remuneration, or will their lot be sealed on Rs. 50—4—90—3—120 ?

Mr. G. R. F. Tottenham : Full information has repeatedly been given on this subject in a series of questions in this House and the Council of State, namely, starred questions Nos. 958 and 959, dated the 15th September, 1933, No. 931, dated the 30th August, 1934, and Nos. 585 and 586, dated the 7th April, 1936, unstarred question No. 349, dated the 14th April, 1934, all in the Legislative Assembly and question No. 21, dated the 24th February, 1936, in the Council of State. I have nothing to add to those replies.

Mr. Lalchand Navalrai : May I know from the Honourable Member with reference to his answer to clause (d) of the question, whether any such promises were given to these graduates that they would be promoted ?

Mr. G. R. F. Tottenham : If the Honourable Member will refer to the answers to the questions I have quoted he will find an answer to that.

GRANT OF RICKSHAW ALLOWANCE TO THE MEMBERS OF THE LEGISLATIVE ASSEMBLY IN SIMLA.

814. ***Lieut.-Colonel Sir Henry Gidney :** (a) Are Government aware that Members of the Assembly attending the Sessions at Simla are constrained to stay at long distances from the Assembly Chamber and are thereby put to considerable expense by way of rickshaw charges ?

(b) Is it a fact that Members are permitted to bring their motor cars when attending the Sessions at Delhi and are allowed petrol allowance besides the haulage charges of the Members' motor cars ?

(c) Is it a fact that Members are not given any special Simla allowance to meet the extra conveyance charges incurred by them while at Simla and do Government propose to consider the grant of a rickshaw allowance to Members attending the Simla Session of the Legislative Assembly ? If not, why not ?

The Honourable Sir James Grigg : (a) Government are aware that some Members of the Assembly do reside at a considerable distance from the Assembly Chamber and do engage rickshaws to come to the Chamber.

(b) The petrol allowance is admissible only to Members who actually reside outside New Delhi.

(c) Yes, but Government see no sufficient case for any such allowance.

REDUCTION OF FARE BETWEEN MADRAS AND DELHI AND SPEEDING UP OF THE GRAND TRUNK EXPRESS.

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

(a) whether the distance by railway between Calcutta and Delhi is 902 miles ;

(b) whether the time taken by the Delhi Express for the journey between Calcutta and Delhi is 23 hours 46 minutes ;

(c) whether the train fare for second class between Calcutta and Delhi is Rs. 37-7-6, and that for the third class Rs. 10-1-6 ;

(d) (i) whether the distance by railway between Madras and Delhi is 1,361 miles, (ii) whether the time taken by the Grand Trunk Express for the journey between Madras and Delhi is 48 hours and 8 minutes, and (iii) whether the railway fare for second and third classes, respectively, is Rs. 75 and Rs. 23-11-0 ;

(e) why there should be so much difference in the train fare and in the time taken up between the journey from Calcutta to Delhi and that from Madras to Delhi ; and

(f) whether they propose to consider the advisability of reducing the train fare and the time taken up for the journey done by the Grand Trunk Express ?

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

(b) This is the time taken from Delhi to Calcutta. In the reverse direction, the time is 23 hours 19 minutes.

(c), (d) (i) and (iii). Yes.

(d) (ii) The time taken from Madras to Delhi is 48 hours 25 minutes and from Delhi to Madras 47 hours 25 minutes.

(e) and (f). I would refer the Honourable Member to the reply I gave to Mr. Ananthasayanam Ayyangar's short notice question on the 26th March, 1936.

Prof. N. G. Ranga : Are Government aware that most of this delay in the Grand Trunk Express from Delhi to Madras and Madras to Delhi takes place in the Hyderabad section ?

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

Prof. N. G. Ranga : Will Government try to take some steps to introduce a faster service ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid there are many difficulties which cannot be overcome.

Mr. C. N. Muthuranga Mudaliar : What is the reason for the disproportionate rates in the railway fare ?

The Honourable Sir Muhammad Zafrullah Khan : The rates are different on different railways.

Prof. N. G. Ranga : Is there any proposal to reduce the third class fares on this Express for the through journeys ?

The Honourable Sir Muhammad Zafrullah Khan : I believe I dealt with this matter in the question and answer to which I have referred.

REDUCTION OF THIRD CLASS FARE BETWEEN BEZWADA AND MASULIPATAM ON THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

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

- (a) whether the Madras and Southern Mahratta Railways, Ltd., have reduced the third class railway fare between Bezwada and Masulipatam in order to compete with the bus service ;
- (b) whether higher fare is charged for journeys to intermediate stations between Bezwada and Masulipatam ;
- (c) whether they are aware that passengers purchasing through tickets from Bezwada to Masulipatam and alighting at intermediate stations are charged excess fares ;
- (d) whether they are prepared to order the discontinuance of such a practice ; and
- (e) whether they are prepared to consider the advisability of directing the railway to charge proportionately for journeys to intermediate stations ?

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

(c) Passengers purchasing through tickets from Bezwada to Masulipatam and alighting at intermediate stations are charged the difference between the fare paid and the correct fare from Bezwada to the station at which they alight.

(d) and (e). No : fares have been reduced where competitive conditions have justified such a reduction ; in other cases, the fares charged are on the same basis as are applicable on the system generally.

Qazi Muhammad Ahmad Kazmi : Does not the Honourable Member consider this wasteful competition ?

The Honourable Sir Muhammad Zafrullah Khan : The reduction of fares is not wasteful competition. The wasteful competition is in the other direction.

Prof. N. R. Ranga : Is it only a collection of the difference between the two fares payable or is it double the difference in the fares between Bezwada and Masulipatam and any intermediate station and Bezwada ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I have not been able to follow the question.

Prof. N. G. Ranga : Suppose a passenger takes a through ticket to Masulipatam from Bezwada and he gets down at an intermediate station ?

The Honourable Sir Muhammad Zafrullah Khan : He only pays the difference.

Mr. M. Ananthasayanam Ayyangar : Under what law is the difference charged ?

The Honourable Sir Muhammad Zafrullah Khan : Because the fare between Bezwada and the stations at which he alights would be higher. This is only commonsense.

Mr. M. Ananthasayanam Ayyangar : It is not open to a purchaser of a ticket to halt for a day after he has travelled 100 miles ?

The Honourable Sir Muhammad Zafrullah Khan : Not, if there are specially reduced fares between the two stations.

Dr. Ziauddin Ahmad : Is not Government entering into a kind of rate war in order to kill the bus competition ?

The Honourable Sir Muhammad Zafrullah Khan : The railway is only trying to retain the traffic which it carried before.

ALLOTMENT MADE FOR THE BURDWAN-ARAMBAGH ROAD FROM THE ROAD DEVELOPMENT FUND.

817. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state what amount has been allotted by the Government of India Road Board for the Burdwan-Arambagh Road in Bengal ?

(b) When was the allotment made, and when was the work commenced ? What was being done in the interval ?

(c) Is the road an inter-provincial and historic one ?

(d) Is it a fact that the road is used by millions of people living in the Trans-Damodar area of the Districts of Burdwan, Hooghly and Bankura and is the only road to go to their district headquarters and Calcutta ?

(e) Is it a fact that motors used to ply on this road for the past 12 years, and that motor traffic has ceased on this road since June last ? If so, why ?

(f) Is it a fact that the road has been rendered impassable by placing of loose earth on the metalled District Board road just before

the rainy season between the fifth and tenth mile of the Burdwan-Arambagh Road? Is it a fact that cart traffic has ceased and knee-deep mud has made it extremely difficult for even pedestrians to pass?

(g) Will Government be pleased to state whether the Provincial Road Board authorities have taken any steps to provide for the passage of motors, carts and pedestrians during the continuance of the improvement works? If so, what?

(h) How long the Provincial Road Board authorities will keep the road in this condition?

(i) Do Government propose to give any facility of communication to the people of the Trans-Damodar area during the continuance of the improvement work on this road by the Provincial Road Board?

The Honourable Sir Frank Noyce : (a) and (b). In 1930 the Government of India approved an expenditure of Rs. 5 lakhs out of the Road Development Fund for improvements to the Burdwan Arambagh road on the basis of a rough estimate submitted by the Local Government. In 1935 the Government of India accepted a revised estimate of Rs. 11 lakhs which was the estimate arrived at after detailed investigation, and they have been recently informed that the Local Government have sanctioned a detailed estimate amounting to Rs. 4,37,720 for the improvement of the Burdwan-Sehara bazar section of that road.

(c) to (i). These are matters entirely within the province of the Local Government about which, I regret, I am unable to supply any information. As the Honourable Member is aware, under the Resolution governing the administration of the Road Fund which was adopted by the Assembly on the 21st April, 1934, the only condition attached to the use of their respective shares by Local Governments is that expenditure shall not be incurred on schemes except with the previous approval of the Governor General in Council. The Government of India have no control either on the actual execution of the work or the time taken over it. It is for this reason that in the revised road Resolution which I propose to bring before the House in the course of this Session, it has been provided that the shares allocated for expenditure in Governors' provinces shall be retained by the Governor General in Council until actually required, and that the latter shall have power to resume the amount so allocated if there is unreasonable delay in making use of it.

Dr. Ziauddin Ahmad : Do the Provincial Governments send any report to the Government of India in regard to the manner in which they spend the money given by the Government of India.

The Honourable Sir Frank Noyce : The expenditure is audited.

Dr. Ziauddin Ahmad : Is any report sent to the Government of India?

The Honourable Sir Frank Noyce : No report beyond the fact that the expenditure is audited.

Dr. Ziauddin Ahmad : Do the Government satisfy themselves that the money is spent for the purpose for which it is given?

The Honourable Sir Frank Noyce : That is the duty of the audit authorities.

CONCLUSIONS ARRIVED AT BY THE TRANSPORT ADVISORY COUNCIL IN SIMLA.

818. ***Mr. Lalchand Navalrai** : (a) Will Government be pleased to state if any motor transport companies or bus unions, or any motor organizations were consulted, or their opinions called for, with regard to the agenda which was taken up by the Transport Advisory Council which was recently held at Simla ? If not, why not ?

(b) Were any organizations, or persons interested in motor and bus transport, called to participate in the deliberations of the aforesaid Council ? If not, why not ?

(c) Do Government propose to call for opinions of, or sit in conference with, those concerned in motor and bus services to discuss the conclusions arrived at by the Transport Advisory Council, before any legislation is undertaken ? If not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). No. For reasons which I explained in the course of the debate on the Indian Motor Vehicles (Amendment) Bill, the Transport Advisory Council is an official body concerned with the adjustment of Central and Provincial policy for the co-ordinated development of the various forms of transport.

(c) The Bill to amend the Indian Motor Vehicles Act, 1914, seeks to give effect to only a few of the conclusions of the Transport Advisory Council and in accordance with the motion accepted by Government a few weeks ago, it is being circulated for eliciting public opinion.

Mr. Lalchand Navalrai : Do Government propose to sit in conference with those concerned in motor and bus service in order to come to some conclusion before the next Session of the House ?

The Honourable Sir Frank Noyce : The answer is in the negative. Those interests have ample opportunity of representing their views to Local Governments.

Mr. Lalchand Navalrai : In view of the fact that there will be a better understanding if a conference is convened, may I know if Government are agreeable to the course I suggest ?

The Honourable Sir Frank Noyce : I may remind the Honourable Member that there are a very large number of motor transport associations in this country.

Mr. Lalchand Navalrai : May I suggest that only a few of them may be called ?

The Honourable Sir Frank Noyce : No, Sir. If you summon only a few, that would provoke protests from those who are left out.

Mr. Lalchand Navalrai : If they combine into one body and send their representatives, would Government consider the suggestion favourably ?

The Honourable Sir Frank Noyce : That would be a great advantage but my Honourable friend has put a hypothetical question. Unless such a federation is formed of all the various interests, I am not in a position to answer his question.

Dr. Ziauddin Ahmad : May I know whether this Transport Advisory Council has representatives (a) of the railway administration, and (b) of the bus companies.

The Honourable Sir Fank Noyce : I have explained to my Honourable friend on several occasions that this Transport Advisory Council is a purely official body and it must be perfectly obvious to an Honourable Member of his intelligence that *ipso facto* there were no direct representatives of bus interests on it. As regards railway representatives, my Honourable colleague, the Commerce Member, and the Chief Commissioner of Railways are members.

Mr. Lalchand Navalrai : If certain representatives from unions of these bus companies are prepared to come, will Government invite them ?

The Honourable Sir Frank Noyce : That is hypothetical.

SALE OF QUININE IN ENGLAND AND OTHER COUNTRIES.

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

- (a) whether it is a fact that large quantities of quinine were sold by them in England and other countries during the last year ;
- (b) if so, in which countries, in what quantities and at what prices ;
- (c) what is the price at which quinine is sold in India by Government either to the public or to Provincial Governments ;
- (d) how they explain the discrepancy between the price of quinine sold abroad and that sold in India ; and
- (e) what measures are proposed to be taken, after the separation of Burma to make India self-sufficing in the supply of quinine ?

Sir Girja Shankar Bajpai : (a) and (b). In 1935-36, 11,266 lbs. of crude quinine were sold by the Government of India out of their surplus stock to a firm of chemists in London. The average price of the quinine was, as stated in reply to Mr. Satyamurti's question No. 777 early this morning, higher than the price at which the quinine was offered to Local Governments in 1932.

(c) Rs. 18 per lb. for purified quinine.

(d) The attention of the Honourable Member is invited to the answer given to part (b) of Mr. Satyamurti's question No. 777.

(e) The attention of the Honourable Member is invited to the portion of my speech printed on page 2755 of the Legislative Assembly Debates, Volume IV, No. 1, dated the 18th March, 1936.

Prof. N. G. Ranga : Does that mean that the Government of India do not propose to take any steps to see that India is self-sufficing in the event of the separation of Burma ?

Sir Girja Shankar Bajpai : Well, Sir, even as it is, at the moment, the Burma supply is a small fraction of the supply produced by the Government of Bengal and Madras in India.

Prof. N. G. Ranga : Are the supplies from the Governments of Bengal and Madras taken over by the Central Government and kept here as a central reserve, or those Provincial Governments are entirely free to produce that quinine and sell it to whichever Provincial Government, asking for it, they like to ?

Sir Girja Shankar Bajpai : The Government of India take over no portion of the quinine produced either by the Government of Bengal or the Government of Madras. These two Local Governments distribute their supplies to certain provinces.

Mr. M. Ananthasayanam Ayyangar : What is the reason for the fact that it is sold at a higher price in India than the price for which it is offered to a company in England ?

Sir Girja Shankar Bajpai : The explanation of that was given when I answered my Honourable friend's question earlier this morning. We had to get rid of the surplus because the Public Accounts Committee wanted us to get rid of that surplus, and for that purpose we have had to sell it at a lower price.

SHORT NOTICE QUESTION AND ANSWER.

PROTECTION OF THE SINDWORK MERCHANTS FROM THE DANGER OF CIVIL WAR IN SPAIN.

Mr. Lalchand Navalrai : (a) Will Government be pleased to state if they are aware that there are many Sindwork merchants carrying on trade in several parts of Spain ?

(b) Are Government aware that the Committee of Sindwork merchants in Hyderabad (Sind) and the *Sind Observer* have ventilated the fact that the Sindwork merchants in Spain are in great danger and require protection in these days of civil war in Spain ?

(c) Will Government be pleased to state if any casualties have occurred in which the person and property of these Sindwork merchants in Spain have suffered ? If so, to what extent ?

(d) What steps have the British and the Indian Governments hitherto taken and what steps do they propose to take to safeguard the interests of these Sindwork merchants ?

Sir Aubrey Metcalfe : (a) Yes. The Government of India understand that there are about 200 Indians in Spain.

(b) Yes.

(c) No Indian suffered in person or property from the bombardments of Coastal towns in Spanish Morocco. Nor, so far as the Government of India are aware, has any damage been caused in Spain proper. The Consul General at Tangier, however has been instructed by His Majesty's Government to furnish a report on the position regarding British Indian interests.

(d) At the request of the Government of India His Majesty's Government have instructed Consular Officers in Spain and Spanish Morocco to do everything possible to protect property and to take note of particulars which might form a basis for possible presentation of claims for compensation.

Mr. Lalchand Navalrai : May I know from the Honourable Member if there are any arrangements made for their safety, if they wish to return to this country ?

Sir Aubrey Metcalfe : I cannot give the Honourable Member any more information than I have given him. Consular officers in Spain and Spanish Morocco have been told to do everything they can to assist them.

MOTIONS FOR ADJOURNMENT.

DEATH OF DETENU NABA JIBAN GHOSH.

Mr. President (The Honourable Sir Abdur Rahim) : I have received notice of a motion for the adjournment of the House from Pandit Lakshmi Kanta Maitra, who wishes to ask for leave to move the adjournment of the Assembly for the purpose of discussing a definite matter of urgent public importance, viz., "failure of the Government to enquire into the circumstances leading to the death of Naba Jiban Ghosh, an internee in Bengal who is reported to have committed suicide in Gopalganj Thana in District Faridpur, on the 23rd September, 1936". I wish to ascertain from the Honourable Member whether he has any reliable information that this gentleman has committed suicide, and if so, what led him to do so, and how is that connected with the Government of India. I want to know the facts.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non Muhammadan Rural) : Last Saturday, Sir, the brother of the deceased gave us definite, specific information.

Mr. President (The Honourable Sir Abdur Rahim) : What information ?

Pandit Lakshmi Kanta Maitra : That his brother was being kept detained in Gopalganj Sub-Division, that he died, and that the Government made out a case of suicide, and his people demanded an inquiry because this gentleman left in his pocket a letter in which he is alleged to have described the circumstances under which the death took place.

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

Pandit Lakshmi Kanta Maitra : No, Sir, because the Magistrate refused to deliver that letter to the father of the boy ; and the father of the deceased made representations to the Government to make over that letter to him because he was the only person legally authorised to have it because it was addressed to him, but the Government refused on the ground that that was against the public interest ; and I am submitting here that this question of " public interest " has been over-stressed and.....

Mr. President (The Honourable Sir Abdur Rahim) : That is not the question. I want to know if the Honourable Member has any information to show that this is a matter of public importance.

Pandit Lakshmi Kanta Maitra : Yes, it is of public importance in the sense that we have in this House debated times without number questions concerning the detenus ; and here is the case of a detenu who had been in Government custody and the Government cannot shōve off the responsibility to protect him, and here the facts do seem to be of a very suspicious character.

Mr. President (The Honourable Sir Abdur Rahim) : What is the information ? I want to know that.

Pandit Lakshmi Kanta Maitra : On the 24th September last, Sir, the father of the deceased received a telegram from the police authorities stating that his son had committed suicide and that he could take delivery of his dead body. He then ran down with his eldest son to the place and then, after the *post-mortem* was made the body of the deceased was made over to him, and the father asked if there was a letter and he demanded it.....

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member any *information* to show what led him to commit this suicide ? I want to know if he has any reliable *information*.

Pandit Lakshmi Kanta Maitra : That is exactly what I want to place and discuss before the House, Sir,—because the circumstances do seem to be of an extremely suspicious character.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not justified in moving a motion for the adjournment of the Assembly unless he has some reliable information which shows that the matter is of public importance. The Honourable Member says that this gentleman committed suicide : does he now contend that this in itself is sufficient for him to move the adjournment of the House ?

Pandit Lakshmi Kanta Maitra : No, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : What other circumstances are there ?

Pandit Lakshmi Kanta Maitra : His brother has narrated to us that this unfortunate detenu has been subjected to extremely bad treatment by the police.

Mr. President (The Honourable Sir Abdur Rahim) : That is the information ? Bad treatment on the part of the authorities ?

Pandit Lakshmi Kanta Maitra : Yes.

(Interruption by an Honourable Member.)

Pandit Lakshmi Kanta Maitra : I am extremely sorry that the Honourable Member should, by this sort of interjection, treat the matter so lightly. After all.....

Mr. President (The Honourable Sir Abdur Rahim) : I do not want any arguments or discussion now. Has the Honourable the Home Member any information on this point ?

The Honourable Sir Nripendra Sircar (Leader of the House) : I have some information, Sir, and I may supply that, because I have seen a copy of this letter from the brother ; that was made over by my Honourable friend, Mr. Saksena, to Mr. Bose with a view that it may be sent on to me. I have received that letter. In that letter he is not at all sure whether it is a case of suicide ; he is not sure what has happened, and how he has died. I desire to point out that he was not in police custody ; he was in village domicile ; and the notice of the motion by my Honourable friend is " failure of the Government to enquire..... ". How can that be " failure ",—we have not yet received a report ? Then, it was not done under Regulation III ; he was in village domicile under one of the special Bengal Acts ; there is no question of the failure of the Government of India to inquire. Such a question has not arisen yet. I have received no information and report from the Local Government.

Pandit Lakshmi Kanta Maitra : In this connection I must tell the Chair that the Bengal Legislative Council is not in session.

Mr. President (The Honourable Sir Abdur Rahim) : There are no sufficient data at present to justify adjournment of the House. I, therefore, disallow the motion.

PROHIBITION OF THE RECITAL OF *Madhe-Sahaba* IN LUCKNOW.

Mr. President (The Honourable Sir Abdur Rahim) : The next motion is in the name of Qazi Muhammad Ahmad Kazmi. He says :

" That the Assembly now do adjourn to discuss the following definite matter of urgent public importance, namely, the failure of the United Provinces Local Government in continuously prohibiting in Lucknow the recital of *Madhe-Sahaba* even by single persons and thus permanently banning an innocent, inoffensive, religious right and committing an interference with Muslim religion."

Is there any objection ?

The Honourable Sir Nripendra Sircar (Law Member) : Yes, Sir. If the motion had been put in the form that there was failure on the part of the Government of India, I would not have taken any objection. But my Honourable friend seeks to adjourn the House on a definite matter of urgent public importance, namely, the failure of the United

[Sir Nripendra Sircar.]

Provinces Local Government in doing something. I submit that a general motion has been moved and it ~~can~~ be the concern of the Local Government only and not that of the Governor General in Council.

Mr. President (The Honourable Sir Abdur Rahim) : But this Legislature also some time discusses an urgent matter of public importance even though it is primarily the concern of Local Governments. The Assembly does not ordinarily discuss matters within the cognisance of Local Governments but there have been cases when they have discussed such matters as they were of public importance.

The Honourable Sir Nripendra Sircar : It has been ruled by your predecessors that the motion of adjournment must essentially be the concern of the Government of India and of the Governor General in Council. If my Honourable friend had said that the failure was on the part of the Governor General in Council or the Government of India, I would not have taken any objection. But he attributes the failure to the United Provinces Local Government in doing certain things. I do not think his motion is within the letter of the rule.

Qazi Muhammad Ahmad Kazmi (Meerut Division : Muhammadan Rural) : Sir, when I move this adjournment motion in this Assembly against the United Provinces Local Government, I mean that the Government of India are also a party to this failure because they are ultimately responsible for the peace of India. So far as the Honourable the Law Member is concerned, he says that he would have had no objection to my motion if I had introduced the expression "Government of India". But, Sir, the failure of the United Provinces Government is the same as that of the Government of India. There is only a technical objection and with the spirit of my motion the Honourable the Law Member agrees. It is the failure of the Government of India also to a certain extent that the United Provinces Government is not abiding by the spirit of the law.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, the only thing with which the Chair is concerned at this stage is whether it is a matter of urgent public importance and whether it is a matter of recent occurrence. If the Chair is satisfied on these two points, then I submit whether it is the primary concern of the Governor General in Council or not is a matter that may be taken up at another place. Leaving that plea aside, the nature of the motion so far as its urgency or public character or being of recent occurrence is concerned is not questioned or impugned. The fact that the language of the motion is restricted to the United Provinces Government and does not mention Government of India makes no difference. The Government of India have the power of superintendence, direction and control over the affairs of all Local Governments. Besides, the matter relates to the reserved field and not to the transferred field. If the Government abstains from doing what it ought to do or if it omits to do and to discharge its duty, nobody else is to blame. Moreover, a motion for adjournment need not necessarily be a motion for censuring the Government. It has two alternative objects. It may be either to censure or to elicit a statement as to the relevant

facts and circumstances. Therefore, I submit that the motion is in order so far as these points are concerned. The other forum is beyond our reach.

Mr. President (The Honourable Sir Abdur Rahim) : The objection that has been raised by the Leader of the House is that the motion refers to the failure of the United Provinces Government in prohibiting the recital of certain religious observances. What I have to see is whether it is a matter of urgent public importance.

The Honourable Sir Henry Craik (Home Member) : May I make a further objection ?

Mr. President (The Honourable Sir Abdur Rahim) : Order, order : That is my only concern. There can be no doubt and it is not suggested that the question now sought to be raised is not a matter of public importance and also one of urgency. So far, therefore, as the Chair is concerned, it must rule that the motion is in order. As objection has been taken, as many Honourable Members as are for leave being granted will rise in their places.

(Several Honourable Members rose in their places.)

As not less than 25 Members have risen, the motion will be taken up at 4 o'clock.

MESSAGE FROM THE COUNCIL OF STATE

Secretary of the Assembly : Sir, the following Message has been received from the Council of State :

"I am directed to inform you that at the meeting of the Council of State held on the 30th September, 1936, the Council rejected the motion that the Bill further to amend the Code of Criminal Procedure, 1898, as passed by the Legislative Assembly, be taken into consideration."

Mr. President (The Honourable Sir Abdur Rahim) : I understand from the Honourable the Leader of the House that it has become necessary that to-morrow, the 6th October, should be devoted to official business, otherwise it may be difficult for the Companies Law (Amendment) Bill to be finished in time to be considered by the Council of State on the 8th October, leaving sufficient time to the Assembly to consider any amendments that might possibly be made there. I understand that the Leader of the House has consulted the Leaders of other Parties and there is a general agreement that this should be done. I further understand that in case there is such an agreement, the Governor General is prepared to allot the 9th October, which is an official day, for the non-official business instead of the 6th. If that is generally agreeable to the Members, it seems to me that it would facilitate the business of this House. Is there general agreement ? (Voices : "Yes".) Then, the Leader of the House will announce the order of the Governor General later on.

The Honourable Sir Nripendra Sircar : I may state that he has passed the order subject to your ruling here.

Mr. President (The Honourable Sir Abdur Rahim) : Very well. Then, tomorrow, the 6th October, will be devoted to official business and the 9th October to non-official business and the agenda for the 9th October will be the same as that for the 6th October.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : Sir, may I request the Honourable the Leader of the House, through you, now that the House is taking up a sort of business attitude about the work before it, to let us know what is going to be the attitude of the Government with regard to these Social Bills, because, Sir, as you know, on the non-official day there were six Bills which were to be sent to the Select Committee, and by now we realise that if the Government is going to support certain Bills, we would like to concentrate our efforts and energies on those Bills which the Government is willing to support and to send to the Select Committee, otherwise it is absolutely useless to waste our energies as well as the time and energy of the House in futile discussions from day to day. I hope, Sir, the Honourable the Leader of the House will appreciate the object of my request which I make to him through you.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, I think it would be highly prejudicial to the interests of the House if the Government were asked to commit themselves to support or not to support any Bill at this stage.

Mr. President (The Honourable Sir Abdur Rahim) : As there is no agreement on a point like that, I cannot allow that request.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Sir, for further facilitating business, I have consulted my friends here, and it is our desire that you should dispense with the questions tomorrow. As to day after tomorrow, you may decide after considering the stage we will reach tomorrow evening.

Mr. President (The Honourable Sir Abdur Rahim) : Is that agreeable to the House. (*Honourable Members from all parts of the House : "Yes, yes."*) Then, there will be no questions tomorrow. I am prepared to sit till six o'clock today.

STATEMENT LAID ON THE TABLE.

CASES IN WHICH THE LOWEST TENDERS HAVE NOT BEEN ACCEPTED BY THE HIGH COMMISSIONER FOR INDIA.

The Honourable Sir Frank Noyce (Member for Industries and Labour) : Sir, I lay on the table a statement, furnished by the High Commissioner for India, showing all cases in which the lowest tenders have not been accepted by him in purchasing stores for the Government of India during the half year ending the 30th June, 1936.

HIRE COMMISSIONER FOR INDIA.

INDIA STORES DEPARTMENT.

ABSTRACT OF CASES in which tenders for Stores demanded by the Central Government, other than the lowest complying with the technical description of the goods demanded, were accepted on the grounds of superior quality, superior trustworthiness of the firm tendering, greater facility of inspection, quicker delivery, etc.

HALF YEAR ENDING 30TH JUNE 1936.

Stores ordered.	Contract Number.	Name of Contractor.	Amount of Contract.	Lowest tender not accepted.	Reason for acceptance.
PART A.—Cases in which lower foreign tenders, including British tenders for foreign-made goods, have been set aside wholly or partially in favour of British tenders.					
Nil.					
PART B.—Cases in which the discrimination is between British firms only.					
Deck, flax, 800 yards.	T. 2482/4686/13-1-36	Richards, Ltd.	£ s. d. 44 11 2 (British).	£ s. d. 42 10 0 (British).	The material was demanded by telegram and was urgently required. The second lowest tender was accepted because of the earlier delivery offered.
Deck, cotton, 2,500 yards.	T. 2961/4588/28-2-36	M. C. Thomson & Co., Ltd.	£ s. d. 80 14 7 (British).	£ s. d. 71 12 3 (British).	The delivery offered by the lowest tenderer, 13 weeks, did not meet the urgent requirements of the indenting department. The order was placed with the next lowest tenderer who offered to supply from stock. The higher price was partly offset by the somewhat superior quality of the material and a saving in the cost of inspection.

PART C.—Cases in which the discrimination is between foreign firms only.

Nil.

PART D.—Cases in which lower British tenders have been set aside in favour of foreign tenders.

Nil.

Mr. President (The Honourable Sir Abdur Rahim) : Legislative Business. The House will now resume consideration of the Bill to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee.

Amendment No. 1 on List No. 8 was moved by Mr. Satyamurti, and that is now under consideration. The question is :

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87K. No managing agent shall have any power to appoint more than one director of a company of which he is the managing agent ’.”

The motion was negatived.

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

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87HHH. Officer in section 86C includes a managing agent ’.”

Sir, I do not know if the Honourable the Law Member considers this amendment as redundant. I am prepared to accept that that view would not be altogether an unreasonable one, because, according to the definition of “ officer ” as given in clause 2 of this Bill “ officer ” includes a managing agent, but if you will kindly refer to clause 86C, you will find there that the words director and manager are also mentioned in addition to the word “ officer ”, though “ director ” and “ manager ” are included in the definition of “ officer ”. So there is some likelihood of some misunderstanding being created by the omission of the words “ managing agents ” from 86C. I am not discussing the principle of 86C as it has been practically conceded and accepted by the Honourable the Leader of the House. The only point is whether it is or it is not desirable to have a small sentence like this. I personally feel that it is necessary, and I suggest that this clause be inserted at this stage, and when we reach the Third Reading, then the Law Member may move for the omission of this clause and for the insertion of the words “ managing agent ” in 86C itself. Under the rules, any formal amendments can be made at the stage of Third Reading. When the words “ managing agent ” are inserted in 86C itself, then of course this amendment will fall down automatically. So I suggest that this amendment be accepted at this stage with liberty to the Honourable the Law Member to have the words “ managing agents ” inserted in 86C at a later stage.

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

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87HHH. Officer in section 86C includes a managing agent ’.”

The Honourable Sir Nripendra Sircar (Law Member) : Sir, as my friend himself points out, we have amended the definition of officer, and in 2 (1) (b) “ officer ” includes “ managing agent ”, so that a managing agent has already been included in 86C, and this amendment is wholly unnecessary. I would not have probably taken any time of the

House, but I fear it may very well be argued if the amendment is accepted that although managing agent is included in the word "officer" all through, it is only in one section, you are pointing out that "officer" includes a "managing agent". This might lead to difficulties, and I would ask my friend to consider that when he concedes that a "managing agent" is already roped in in 86C, and as "officer" includes a managing agent, whether it is necessary to have this amendment. In my opinion, Sir, it is not necessary, and I am not inclined to accept it.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Does the word "officer" include a managing agent? Evidently it does not.

The Honourable Sir Nripendra Sircar : The question is immaterial, because managing agent is specifically mentioned.

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

"That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

' 87HHH. Officer in section 86C includes a managing agent '."

The motion was negatived.

Pandit Govind Ballabh Pant : Sir, I move :

"That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

' 87K. 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 '."

Again, Sir, I may state at the very outset that if the Honourable the Law Member has any objection to this, I do not insist on its being put in the Bill. I personally do not agree with the interpretation that has been placed by Members opposite on the amendment of Dr. Khare which, according to me, if read with articles 78, 79, 80 and 81, leaves no doubt as to the shareholders in a general meeting being entitled to elect at least two-thirds of the directors. That is my view of the matter. I have again and again examined it, and I am perfectly satisfied that it cannot be otherwise. If my interpretation be correct, then we do not gain much by having a clause of this type, for nearly one-third will be left after two-thirds have been reserved for the shareholders and that one-third alone will be available to the managing agent and others who may want to nominate directors. But as there was a clause like this and as in view of difference of opinion in this House there may be occasion for some misapprehension, I am moving this amendment. But I leave it to the Government whether to accept it or to reject it. If they do not want it, I will not press it.

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

"That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

' 87K. 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 '."

The Honourable Sir Nripendra Sircar : It is rather a curious position that my Honourable friend does not know whether he wants this amendment or not. My position is this, that if they really want it, I will not object to it.

Pandit Govind Ballabh Pant : I am obliged for the acceptance of my amendment.

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

“ That in clause 42 of the Bill, after the proposed section 87H, the following new section be inserted :

‘ 87K. 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 ’.”

The motion was adopted.

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

“ That clause 42, as amended, stand part of the Bill.”

The motion was adopted.

Clause 42, as amended, was added to the Bill.

Clause 43 was added to the Bill.

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

“ That clause 44 stand part of the Bill.”

Mr. G. E. J. Robertson (Burma : European) : Sir, I beg to move :

“ That in clause 44 of the Bill, for the proposed sub-section (3) of section B1A, the following be substituted :

‘ (3) 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 at the registered office of the company during business hours in such manner as the company in general meeting may determine ’.”

Sir, the object of this substituted sub-section (3) or rather of sub-section (3) as it stands at present is to provide for the keeping of a separate register for the particular purpose of recording contracts in which a director of a company is interested. The section goes on :

“ and which shall be open to inspection by any member of the company at the registered office of the company during business hours.”

Now, Sir, we have already made in this Bill Regulation No. 105, a compulsory part of the articles of the Company. Regulation 105 provides that “ the accounts and books of the company . . . shall be open to the inspection of members ” on the authority of the company in general meeting. Sub-section (3) as it stands seeks to make this particular register open to inspection by any member of the company without any authority by the company in general meeting and we, on these Benches, are unable to see why this particular Register should be accorded special treatment. We are perfectly in agreement that, although Regulation No. 105 would in effect permit any member, if the

company so authorizes, to trace the contracts referred to or contemplated in sub-section (3), there can be no possible objection to providing that a special register should be kept of those contracts in which the directors are interested so that a member may be able to lay his hands on the contract he is looking for straightaway without having to hunt through possibly a number of other books. We do not see why the inspection of this particular register should be given special preference and we think that if we provide for a special register and if the inspection of that register is on the same lines as laid down under Regulation 105, we shall have provided satisfactorily for the interests of the shareholders. After all if the shareholders as a body take the view that such registers should be open to inspection, then any member can inspect them. If on the other hand, they think that they should not allow it, that they should prevent one single shareholder holding one single share from inspecting these books and possibly allowing information to leak out which will not be in the interests of shareholders as a general body, then they can disallow it. We think that if a special register is provided for and it is also subject to the restrictions which are contained in Regulation No. 105, we shall have done all that is necessary and desirable. Sir, I move :

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

" That in clause 44 of the Bill, for the proposed sub-section (3) of section 91A, the following be substituted :

(3) 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 at the registered office of the company during business hours in such manner as the company in general meeting may determine."

Mr. Susil Chandra Sen (Government of India : Nominated Official) : Sir, we have no objection to this amendment specially as we see from the language that it does not want to do away with the rights given to the shareholders altogether.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : Of course, it does.

Mr. Susil Chandra Sen : I have listened to some portions of the speech of my Honourable friend, Mr. Robertson, where he suggested something of the nature, but I do not agree with him that this amendment, if passed, will enable the shareholders by any resolution to do away with the rights of the shareholders. If I may draw the attention of the Honourable Members to the amendment itself, it says :

" That in clause 44 of the Bill, for the proposed sub-section (3) of section 91A, the following be substituted :

(3) 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 at the registered office of the company during business hours in such manner as the company in general meeting may determine."

Sir, the relevant thing is the last sentence " in such manner, etc." To my mind, Sir, it is quite clear that the qualification is to the manner of the inspection, but I submit that on no reasonable interpretation can it be said that it does authorise the shareholders to do away with the

[Mr. Susil Chandra Sen.]

inspection altogether. What I mean is that so far as we can find, this amendment will allow the shareholders to lay down only the mode and the manner in which the inspection may be had ; and not to do away with the inspection altogether. If that is so, and we think it is so, then it is not objectionable from our point of view.

Dr. Ziauddin Ahmad : Sir, by this amendment we give with one hand and take away with the other. If you say, "in such manner", etc., it is quite legitimate for the meeting of shareholders to say that it objects to certain parts being seen and they should be pinned together and should not be removed during inspection by any member. So you can always hide an important thing by putting a little black paper which will not be open to inspection by any shareholder. These words "in such manner as the company in general meeting may determine" are really very dangerous words and they take away the very same power which we want to give, and I am surprised that Government are supporting this particular amendment which goes against the very purport for which this particular section is framed.

Mr. M. A. Jinnah : Sir, I strongly object to this amendment and I am really surprised that the Honourable Member who spoke on behalf of Government has taken it so lightly. It is a very important thing. When the Honourable Member was speaking I interjected that it will take away the right of the shareholders, but I do not think the Honourable Member appreciated the significance of my interruption. The clause in the Bill as it is framed now gives any shareholder the absolute right to inspect. That right is now proposed to be taken away to this extent that the shareholders by a majority can decide to take away or curtail that right of his. That is the effect of it and it is a very serious thing. Why should the absolute right of the shareholders to inspect the registers of these transactions be taken away by the majority ? You are destroying the very foundation of the principle underlying the clause as the Bill proposes, and I say it is a very serious matter.

The Honourable Sir Nripendra Sircar : Sir, may I put in a word for Mr. Sen ? He said that if it means that it is taking away that right, as my Honourable friend, Mr. Jinnah, thinks it does, then he said he would object to this amendment. But the language of the amendment is, "in such manner as the company in general meeting may determine". Does it take away the right of inspection, or does it control the manner of inspection, that is when it is to be done and how it is to be done, etc. ? That is the point he made, and he agreed that if the Honourable Member's view is right as regards the construction he will object.

Mr. M. A. Jinnah : May I point out to the Honourable the Leader of the House that the Mover of this amendment explained himself as to what his amendment means. He said definitely, —and he will correct me if I am wrong, —that the shareholders may decide by a majority that no right of inspection should be given to the member of the company. I may point out to the Honourable Member that the expression "in such manner" is one through which you can drive a coach and four, and as he explained it convinces me that the intention is really to drive a coach and four through it, therefore strongly object to this amendment.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muham-
madan Rural) : Sir, I may point out that sub-section (2) of section 91-A,
would be perfectly futile if this amendment were accepted. The section
says that any director who contravenes the provisions of sub-section (1)
shall be liable to a fine not exceeding Rs. 1,000. The whole object of the
inspection is to enable the shareholders to know whether the disclosure
which is obligatory under section 91-A (1) has been made, and if it is
restricted in any manner it is likely to defeat the very object of sub-section
(2). I support my Honourable friend, Mr. Jinnah.

Mr. M. S. Aney (Berar Representative) : Sir, there is one more
point to which I wish to draw the attention of the House and for which
this amendment should be rejected by the House. If we allow this amend-
ment to be passed, the result will be that different companies will make
different rules, and there is no guarantee that the company will not make
such rules as to restrict the right of the member to make an inspection.
And so there will be no uniformity of practice, and in certain companies
the right will be definitely taken away by providing that no member shall
have the right of inspection unless a majority votes for such right being
given. So all these things can be brought in in the name of making rules
under the authority of this amendment. I therefore think that this will
take away the very right which it is the object of this particular clause to
confer on the shareholders. Therefore, the amendment should be rejected.

Mr. T. Chapman-Mortimer (Bengal : European) : Sir, I think an
explanation is due to the House as to what our reason is for moving this
amendment and what we understand by it. Our objection to the clause
as it stands is this. The clause as it stands in the Bill says :

“(3) 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 com-
pany during business hours.”

Now, Sir, our objection is not to inspection or to any other part of
this section as it stands. What we object to is the right of any member
who may have perhaps one share worth Rs. 10 to come along and say, “I
want to see all your contracts and arrangements”. That may be a share
held by a rival concern so that they may, as in a not uncommon case,
secure a copy of the balance-sheet and accounts of a competing company,
and as a shareholder they are entitled to get that. But I submit that they
are not entitled to any more. They are not entitled to come along to the
offices of the company and say, “We want to see all your contracts and
all your registers,—the registers in which these particular matters are
disclosed”. Supposing you have a block of the shareholders who may be
perhaps 10 per cent. or 20 per cent. of the shareholders of the company.
They may hold valuable rights, for example, in grass or they may have
certain mineral rights that they want to have operated by that company.
The managing agent or other directors may also have similar rights and
it may be in the interest of the company, and presumably is, as the manag-
ing agent and the directors are large shareholders in nearly all cases, that
the contract should be put through some particular company, which may
be a company in which the managing agent or director is interested. Then
we have this minority of the shareholders who hold grass which may not
be of specially good quality or they may have some mineral deposits which
also may not be of good quality or the price may be higher than that

[Mr. T. Chapman-Mortimer.]

charged by the company controlled by the managing agent. They come along and say "We object to this contract". Then the position will be that the company has got to get its mineral or its raw material from some other source and the only other source obviously in this particular case may be perhaps the rivals who own these raw materials. They have worked up propaganda among the shareholders to see that this contract with the managing agency comes to an end.....

An Honourable Member : Then why not delete sub-clause (3) altogether ?

Mr. T. Chapman-Mortimer : We do not now suggest that. If my friend will see Regulation 105, he will see that it is perfectly clear that the shareholders have a right to say "We are not quite satisfied with the position in regard to these contracts : we want to nominate two or three of our members to examine your books". No one has any objection to that. What we object to is the right of a rival concern merely coming and saying, because it happens to hold one or two shares of your company, "We want to see your contracts". We object to that. We have no objection if the shareholders in general meeting say "We want to have these contracts looked into by representatives of the shareholders, independently of the board of managing agents". Really I do not think there is any intention here to drive a coach and four through the Act as my Honourable friend, Mr. Jinnah, suggested. We managing agents may be a bad lot but we are not quite as Machiavellian as all that.....

Mr. M. A. Jinnah : I am not so sure.

Mr. T. Chapman-Mortimer : In any case it has just been pointed out to me that under Regulation 105, which the House has already incorporated in clause 7, ordinary members of the company will not have any right to inspect any book or account or document except as conferred by law or as authorised by the directors or by the company in general meeting. I support this amendment.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : Sir, I am unable to follow the argument of my Honourable friend : I quite understand his apprehension about a few shareholders who may be more interested in a rival company coming and demanding to look at his register with the main object of obstruction. I quite understand that point of view. Then his objection is fundamental to the whole of that subsection.....

Honourable Members (on the European Benches) : No, no.

Sir Cowasji Jehangir : Does he mean to contend that by these words 'in such manner as the company in general meeting may determine' he will get the majority of the shareholders to pass a regulation that shareholders who come with the object of obstruction shall not see the register and such shareholders who only come with a *bona fide* idea of gaining knowledge shall see the register ? How is he going to determine who is a *bona fide* shareholder and who is not ? Or does he mean to contend that by the two lines he has added it is open to the majority of the shareholders to say that the register shall be open for five minutes at 8 o'clock in the morning ? Thereby you will drive a coach and four through subsection (3).....

Mr. President (The Honourable Sir Abdur Rahim) : I think the Honourable Member ought to address the Chair, so that all parts of the House may hear him.

Sir Cowasji Jehangir : I am quite prepared to be interrupted. Therefore, I do not see how this amendment is going to help my Honourable friends, unless they interpret it as I have interpreted it just now. If they interpret it in any other way, then they will not fulfil the object they have in view. The only line for them to take is to object to the whole of sub-section (3).

The Honourable Sir Nripendra Sircar : I will not detain the House for more than a minute. Whatever doubts I had about the real intention of the amendment have been cleared up by the last speech. I understand the intention is that if necessary a majority of the shareholders may say "You will not have any inspection at all, or, say during the next six months or the next year". If that is so, the only obvious course is to oppose the amendment.

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

"That in clause 44 of the Bill, for the proposed sub-section (3) of section 91A, the following be substituted :

- (3) 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 at the registered office of the company during business hours in such manner as the company in general meeting may determine."

The motion was negatived.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I beg to move :

"That in clause 44 of the Bill, after the proposed sub-section (3) of section 91A, the following sub-section be inserted :

- (4) Every officer of the company who acts in contravention of the provisions of sub-section (3) shall be liable to a fine not exceeding five hundred rupees."

There has been a lot of debate already on the maintenance of registers and the granting of opportunities to members for inspection of registers. Sub-clause (3) provides that a register shall be maintained ; but in case of default there is no penal provision provided in the Act.....

Sir Cowasji Jehangir : Why do you not let Mr. Sen move his amendment ?

Mr. M. Ananthasayanam Ayyangar : I have moved mine and I am quite prepared to accept five hundred rupees in place of the thousand which I had put originally....

Mr. M. A. Jinnah : Why do you not withdraw yours and let Mr. Sen move his ?

Mr. M. Ananthasayanam Ayyangar : I have no objection to his moving it. I have moved mine. Sir, I move.

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

" That in clause 44 of the Bill, after the proposed sub-section (3) of section 91A, the following sub-section be inserted :

' Every officer of the company who acts in contravention of the provisions of sub-section (3) shall be liable to a fine not exceeding five hundred rupees '."

Mr. Susil Chandra Sen : Sir, we accept this amendment. As you will find, Sir, the next amendment is really what he has moved.

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

" That in clause 44 of the Bill, after the proposed sub-section (3) of section 91A, the following sub-section be inserted :

' Every officer of the company who acts in contravention of the provisions of sub-section (3) shall be liable to a fine not exceeding five hundred rupees '."

The motion was adopted.

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

" That clause 44, as amended, stand part of the Bill."

The motion was adopted.

Clause 44, as amended, was added to the Bill.

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

" That clause 45 stand part of the Bill."

Sir H. P. Mody (Bombay Millowners' Association & Indian Commerce) : Sir, I move :

" That in clause 45 of the Bill, for sub-clause (b), the following be substituted :

' (b) To sub-section (3) the following proviso shall be added, namely :

' Provided that where a private company is a subsidiary company of a public company, this section shall apply to all contracts or arrangements made on behalf of the subsidiary company with any person other than the holding company '."

My amendment seeks to remove a difficulty which was probably not adequately realised at the time when the Select Committee deliberated on this matter.

The Honourable Sir Nripendra Sircar : We are not clear what this means.

Sir H. P. Mody : I shall explain that in a second. Section 91-B lays down that directors shall not vote on a proposition in which they are interested. I am talking of the existing law. Sub-section (3) of section 91-B lays down that this section shall not apply to a private company. Now, as I seek to amend the section it will run thus :

" This section shall not apply to a private company, provided that where a private company is a subsidiary company of a public company, this section shall apply to all contracts or arrangements made on behalf of the subsidiary company with any person other than the holding company."

The object is this. There are many holding companies which have the same directorate on the subsidiary companies of which they are the parent company. That has happened in a great many companies. If section 91-B, as amended by the Select Committee, were to stand, no transactions could take place between the parent company and its subsidiary, because the provision in the Select Committee's Report seeks to bring within the purview of section 91-B every transaction of a private company which is a subsidiary of a public company. I am quite agreeable that all transactions between the subsidiary company and outsiders should be governed by the restriction laid down under clause 45, namely, that interested directors shall not vote. The only exception I seek to make is where the transaction is between a subsidiary company and the parent company—then, I submit, in view of the fact that many subsidiary companies have the same board of directors as the parent company, no transaction would be possible, if the clause were to apply, and for that reason I have tabled this amendment. Sir, I move.

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

“ That in clause 45 of the Bill, for sub-clause (b), the following be substituted :

(b) To sub-section (3) the following proviso shall be added, namely :

“ Provided that where a private company is a subsidiary company of a public company, this section shall apply to all contracts or arrangements made on behalf of the subsidiary company with any person other than the holding company.”

The motion was adopted.

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

“ That clause 45, as amended, stand part of the Bill.”

The motion was adopted.

Clause 45, as amended, was added to the Bill.

Clauses 46 and 47 were added to the Bill.

Pandit Govind Ballabh Pant : Sir, I move :

“ That after clause 47 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

“ 48. (1) Every managing agent shall disclose to the company every contract or arrangement entered into by or on behalf of the company in which he or any firm of which he is a partner or any private company of which such agent is a director, is directly or indirectly concerned or interested within fifteen days of the making of the contract or arrangement.

(2) Every managing agent who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding five hundred rupees.

(3) 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.”

This amendment follows the principle of section 91-A read with clause 44 of our amending Bill. Under the original Act as it is now provided in section 91-A of the Act and clause 44 of this Bill a director is required to disclose to the company every contract or arrangement

[Pandit Govind Ballabh Pant.]

in which he is directly or indirectly interested and a register has to be maintained for all such contracts and arrangements, and it is further provided that such register should be open to inspection by shareholders. And I am extending the same principle to managing agents. As Honourable Members are aware, it has been accepted by this House on the initiative of Sir Homi Mody that in the case of contracts between the company and the managing agents the arrangement should be approved not by a majority only but by a majority of three-fourths of the directors, while, in the case of other contracts, a majority of the directors is considered to be adequate and effective. It is obvious from this distinction between the two that there is need for greater circumspection and scrutiny in the case of managing agents than in that of directors. How is that purpose to be attained? I will not take more time of the House, and I place it before the House for its acceptance.

Sir H. P. Mody : Before my friend sits down, I want to ask him one thing. He says 'shall disclose to the company'. By what procedure I want to know.

Pandit Govind Ballabh Pant : By giving a letter to the secretary or in any other manner just as the director has to disclose.

Sir H. P. Mody : No, the director's clause is quite different.

Pandit Govind Ballabh Pant : "The Company" in the Act means the man in charge of such affairs in the company at its registered office. There are such clauses all through the Bill.

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

"That after clause 47 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

' 48. (1) Every managing agent shall disclose to the company every contract or arrangement entered into by or on behalf of the company in which he or any firm of which he is a partner or any private company of which such agent is a director, is directly or indirectly concerned or interested within fifteen days of the making of the contract or arrangement.

(2) Every managing agent who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding five hundred rupees.

(3) 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."

Mr. T. Chapman-Mortimer : Sir, I regret I have to oppose, and oppose most strongly, the amendment moved by my Honourable friend, Pandit Govind Ballabh Pant. He has suggested to the House, I have no doubt under a misapprehension, that there is no difference in principle between what he proposes in his amendment and, in the first place, clause 91-A of the Act as it stands, and, in the second place, between this amendment and the general idea underlying the amendment of my friend, Sir Homi Mody. Sir, I propose, if I may, to show to this House that that is not the fact. In the first case in regard to

91-A, my friend has conveniently forgotten to tell the House, there is a proviso, and a very important one too. That proviso says :

" Provided that a general notice that a director is a member of any specified firm or company, and is to be regarded as interested in any subsequent transaction with any such firm or company, shall as regards any such transaction be sufficient disclosure within the meaning of this sub-section and after such general notice, it shall not be necessary to give any special notice relating to any particular transaction with such firm or company."

I emphasise the words " special notice ", and I also emphasise the words " particular transaction ". My friend clearly is not a business-man, or he would not for one minute have dreamt of moving such an amendment as this. (*An Honourable Member* : " Oh, Oh.") In business every company every day has to transact through every hour of the day hundreds and hundreds of small transactions, and of course some big transactions, but in the case of many companies, they are transacting a large number of small transactions. Now, Sir, if the managing agent happens to be a director of a company which is transacting any one of these business dealings during the day, that managing agent will automatically be responsible for seeing that each one of these particular little transactions is automatically reported to the other company, of which he happens to be the managing agent. This is an entirely impractical proposition, as my friend would quickly realise if he had any practical experience of business management. The proviso to 91-A was put in quite deliberately, and it was put in precisely to enable these ordinary small transactions to be carried out without having on each occasion to notify the company of which he was a director, simply because he happened to be interested in it as a director or otherwise of the other company. That, Sir, is the first point. This amendment is not at all the same as 91-A.

Secondly, my Honourable friend suggested that because this House accepted my friend, Sir Homi Mody's amendment they should have no objection to his amendment today. The amendment of my friend, Sir Homi Mody, certainly did lay stress on the fact that when a managing agent entered into any special contract with a company under his management, a three-quarters majority would be required before that contract could obtain the sanction of the board of this company that he manages. That is one thing, but my friend, Mr. Pant, again conveniently forgot that in my friend, Sir Homi Mody's amendment there was no reference to any private company of which he was a director. That again is a very important point. If the managing agent should happen to be interested directly or indirectly in some company, or if he happens to be the director or in some other way connected with that company, he has instantly according to this amendment to give notice of every petty little transaction he does with the other company. To take the case of jute mills or cotton mills where the managing agent is also interested, for example, in coal. Under this amendment my friend, Pandit Govind Ballabh Pant, wants that when these companies do any kind of transaction, they will have to give notice....

Mr. President (The Honourable Sir Abdur Rahim) : Is the Honourable Member likely to go on for some time longer ?

Mr. T. Chapman-Mortimer : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Then the Honourable Member can resume his speech after Lunch.

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. T. Chapman-Mortimer : Sir before I begin, I should like to ask whether you will be prepared to read out the amendment which is now under discussion. My friend, Pandit Govind Ballabh Pant, is absent, but I understood him first to read one sheet and then another. I think that the amendment I have before me is the right one, but I should like to have a confirmation of that.

(After a pause.)

In conclusion, I should like to point out that the point of view put forward by Pandit Govind Ballabh Pant when he moved this amendment was firstly that it conformed to the principle of section 91-A, and secondly that it was in accordance with the terms of the amendment moved by my friend, Sir Homi Mody. I am quite sure it is not in accordance with either. Sir, I strongly oppose the amendment of my friend, Pandit Govind Ballabh Pant.

Some Honourable Members : The question be now put.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That after clause 47 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

48. (1) Every managing agent shall disclose to the company every contract or arrangement entered into by or on behalf of the company in which he or any firm of which he is a partner or any private company of which such agent is a director, is directly or indirectly concerned or interested within fifteen days of the making of the contract or arrangement.

(2) Every managing agent who contravenes the provisions of sub-section (1) shall be liable to a fine not exceeding five hundred rupees.

(3) 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."

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That clause 48 stand part of the Bill."

Amendment No. 152, Mr. Ayyangar.

Mr. M. Ananthasayanam Ayyangar : I don't move it, Sir. But I want to move the next one, No. 153. Sir, I move :

"That in sub-clause (a) of clause 48 of the Bill, in the proposed clause (f), in item (iii) after the word 'business', where it occurs for the first time, the words 'a statement of' be inserted."

Sir, this is a small verbal alteration I suggest, and I am trying to fill up a defect in the draft. At page 22 of the Bill it is stated in (f) where

any property referred to in clause (f) has within 2 years preceding the issue of the prospectus been transferred by sale, the amount paid by the purchaser at each such transfer.....and where any such property is a business, the profits accruing from such business....." and so on. I want to insert the words 'a statement of' after the word 'business' where it occurs for the first time. For this reason, Sir, if Honourable Members will refer to page 23 of the Bill, they will see that in sub-clause (1B) it is stated 'the statement referred to in clause (ff) of sub-section (1) with respect to the profits of a business or company'. Here in this sub-section (1B) a statement is referred to in clause (ff). In clause (ff) there is no statement referred to as the Bill stands. I have therefore suggested the addition of these words. In sub-section (1B) the statement is referred to, whereas in sub-clause (ff) there is no reference to a statement at all. Therefore, to obviate any difficulty in future, it is desirable that the words I suggest should be inserted.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in sub-clause (a) of clause 48 of the Bill, in the proposed clause (ff), in item (iii), after the word 'business', where it occurs for the first time, the words 'a statement of' be inserted."

The Honourable Sir Nripendra Sircar : Sir, this amendment is wholly unnecessary. Sub-clause (ff) clearly shows that the profits accruing from such business must involve a statement. If my friend wants to add here the words "a statement of", I think we will have to change the wording in thirty different places. Is there really any ambiguity? If you have to state profits, it must be a statement of the profits. Sir, I oppose the amendment.

Mr. M. Ananthasayanam Ayyangar : Sir, I withdraw my amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Has the Honourable Member the leave of the House to withdraw his amendment?

Several Honourable Members : Yes.

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

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

"That in clause 48 of the Bill, in the proposed sub-section (1B) of section 93, for the words 'in clause (a) of sub-section (1A) with respect to the profits of a business or company' the words 'in sub-section (1A) with respect to the profits of a company or business' be substituted."

Sir, this is a very formal amendment, because, in sub-section (1B), reference is made to the statement. There is no clause (a), but in the latter section sub-section (1B) reference is made to clause (1A). Therefore, I want to make it clear. This is merely a formal amendment, and I hope the Honourable the Law Member will be pleased to accept it.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 48 of the Bill, in the proposed sub-section (1B) of section 93, for the words 'in clause (a) of sub-section (1A) with respect to the profits of a business or company' the words 'in sub-section (1A) with respect to the profits of a company or business' be substituted."

The Honourable Sir Nripendra Sircar : Sir, I accept the amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 48 of the Bill, in the proposed sub-section (1B) of section 93, for the words ‘ in clause (a) of sub-section (1A) with respect to the profits of a business or company ’ the words ‘ in sub-section (1A) with respect to the profits of a company or business ’ be substituted.”

The motion was adopted.

Mr. Susil Chandra Sen : Sir, I move :

“ That in clause 48 of the Bill, after the proposed sub-section (1B) of section 93, the following sub-section be inserted :

‘ (1C) Where any part of the sums required for the matters set out in sub-section (2) of section 101 is to be provided out of sources other than share capital particulars of the amount to be so provided and the sources thereof ’.”

Sir, if you look at the amendments, we have provided that in a prospectus it has got to be disclosed as to how the amounts required for the business of the company are to be met. It is not always possible to do so out of the share capital. There are other sources like debentures and loans from which the required amounts may be provided for. There is nothing said in the Bill as regards disclosure of particulars of these amounts and the sources from which they are to be received. For this purpose it is necessary that this sub-section should be inserted. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 48 of the Bill, after the proposed sub-section (1B) of section 93, the following sub-section be inserted :

‘ (1C) Where any part of the sums required for the matters set out in sub-section (2) of section 101 is to be provided out of sources other than share capital particulars of the amount to be so provided and the sources thereof ’.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That for sub-clause (c) of clause 48 of the Bill, the following be substituted :

‘ (c) In sub-section (4)—

(i) for the words ‘ one year ’ the words ‘ two years ’ shall be substituted ; and

(ii) the following proviso shall be added at the end, namely :

‘ Provided that the said requirements, except the requirements as to the amount or estimated preliminary expenses, shall apply to a prospectus filed in pursuance of section 154 ’.”

Sub-section (4) lays down :

“ The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors and of managers or proposed managers and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.”

I want that the period of one year should be extended to two years. In the English Act in paragraph 3 of the 4th Schedule it is laid down that two years is the period, after which the details need not be given. I require that the same period of two years should be introduced here. The reason is that they may wait to issue the prospectus till the completion of 13 months, in which case most of the important materials for persons taking

shares in the company would not be available at all. Before the commencement of business, a statement in lieu of prospectus might be issued, in which case several details need not be given. Therefore in order to see that the wholesome provisions of introducing various items which are necessary for shareholders are not cleverly avoided or evaded, the period of one year should be extended to two years. Normally a period of two years is sufficient to make every company issue a prospectus before it commences its business. I, therefore, move that this may be provided in accordance with the English Act.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That for sub-clause (c) of clause 48 of the Bill, the following be substituted :

‘ (c) In sub-section (4)—

(i) for the words ‘ one year ’ the words ‘ two years ’ shall be substituted ; and

(ii) the following proviso shall be added at the end, namely :

‘ Provided that the said requirements, except the requirements as to the amount or estimated preliminary expenses, shall apply to a prospectus filed in pursuance of section 154 ’ ”

Mr. Susil Chandra Sen : Sir, I oppose the amendment and my reasons are these. My friend in moving the first part of his amendment said that his idea was to exclude any company from avoiding the provisions for disclosure of material facts in a prospectus by keeping quiet for 13 months from the incorporation and then issuing a prospectus. He has given no reasons for the second part of his amendment. Sir, I do not think my Honourable friend has given the attention which he usually gives to the clauses to which he moves amendments. If we look at sub-section (4) of section 93, which my friend wants to amend, it says this :

“ The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors, or proposed directors, and of managers or proposed managers, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.”

It really is contemplated to apply to the case of a prospectus which is issued by a company one year after the company commences business. The object of this exemption being that by that time these particulars are quite well-known, because the company has already commenced its business for over one year. I do not know, Sir, how my Honourable friend fixes the period of two years which he wants. His idea that he wants to see that a company may by issuing a prospectus at the end of thirteen months can evade the provisions of this section is as I have shown wrong. Then again my friend has forgotten to consider the provisions of section 162 of the Act, where it says that if a company does not commence business within one year, it will be liable to be wound up. Now no company will take that risk, and my friend's apprehensions that a company will wait for twelve months to evade the provisions are wholly unfounded. That is so far as the first part of the amendment is concerned. With regard to the second part, if my friend will look at the amendment—section 154 as it has been changed by this Bill, (*vide* clause 80) he will find that all these particulars are already provided for and that therefore his amendment is unnecessary.

Mr. M. Ananthasayanam Ayyangar : On a point of information, may I know if it is obligatory on a company to issue a prospectus within one year after the commencement of the business ?

Mr. Susil Chandra Sen : Such a thing is not possible. The company cannot commence business unless shares to the extent of the minimum subscription are allotted. That presupposes the issue of the prospectus. If it does not commence business it stands a chance of being wound up.

Mr. M. Ananthasayanam Ayyangar : It does, but it will creep on and crawl without issuing a prospectus. How do you provide for such cases ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That for sub-clause (c) of clause 48 of the Bill, the following be substituted :

‘ (c) In sub-section (4)—

(i) for the words ‘ one year ’ the words ‘ two years ’ shall be substituted ; and

(ii) the following proviso shall be added at the end, namely :

‘ Provided that the said requirements, except the requirements as to the amount or estimated preliminary expenses, shall apply to a prospectus filed in pursuance of section 154 ’.”

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 48, as amended, stand part of the Bill.”

The motion was adopted.

Clause 48, as amended, was added to the Bill.

Mr. M. Ananthasayanam Ayyangar : Sir I move :

“ That after clause 48 of the Bill, the following new clause be inserted :

‘ 48A. Section 96 of the said Act shall be re-numbered as sub-section (1) of that section and after the sub-section as so re-numbered, the following sub-section shall be added, namely :

‘ (2) It shall not be lawful to issue any form of application for the shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of section 93 :

Provided that this sub-section shall not apply if it is shown that the form of application was issued either—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures ; or

(b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this sub-section, he shall be liable to a fine not exceeding five hundred rupees ’.”

Sir, the object of this amendment is that along with the form of the application a copy of the prospectus ought also to be sent. This provision is made in English Act by section 35, clause (3) thereof, which reads as follows :

“ It shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of the section and the proviso.”

and the proviso, as I have stated in my amendment, is as follows :

“ and also if any person acts in contravention ”,

etc. etc. ;

the penal provision is taken *verbatim* from the English Act. Sir, it is not only myself but my friend, the Honourable Mr. Sen, in his report also finds that that provision is absolutely necessary and that an amendment in accordance with the provisions laid down in the English Act should also be incorporated in the present Bill; I believe by an oversight he has not included it. Usually, the company incurs a certain amount of expenditure, and, as regards the cost of printing the prospectus, well, the prospectuses will be in abundance and they will be sent along with the applications. After all, a person who subscribes to shares must know what it is all about, and blind-folded he ought not to enter into a contract. Honourable Members will see that in an earlier section all the conditions in the memorandum under section 21 are given; he will find that not only the original persons, the subscribers, but all persons are put under notice,—all of them have been put in. Therefore, I say it is absolutely necessary that the persons who apply for the forms of applications must also have a copy of the prospectus, if really there is not to be any fraudulent practice. I request Honourable Members to turn to page 74 of the report prepared by my friend, Mr. Sen. He says that in section 93 that a provision analogous to sub-section (3) of section 35 of the new English Act should be inserted. Sir, I have done little more than merely to carry out what the expert has said in his report. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That after clause 48 of the Bill, the following new clause be inserted :

‘ 48A. Section 96 of the said Act shall be re-numbered as sub-section (1) of that section and after the sub-section as so re-numbered, the following sub-section shall be added, namely :

(2) It shall not be lawful to issue any form of application for the shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of section 93 :

Provided that this sub-section shall not apply if it is shown that the form of application was issued either—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures ; or

(b) in relation to shares or debentures which were not offered to the public.

If any person acts in contravention of the provisions of this sub-section, he shall be liable to a fine not exceeding five hundred rupees ’.”

The motion was adopted.

New clause 48A was added to the Bill.

Dr. Ziauddin Ahmad : May I move, Sir, my amendment No. 3 on 3 P.M. Supplementary List No. 9 which relates to clause 48 ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : No. The Honourable Member was not in his seat when that amendment was called. Moreover, clause 48 has already been disposed of.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 52 stand part of the Bill.”

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhammadan Rural) : Sir, I beg to move :

"That in clause 52 of the Bill, in the proposed sub-section (1) of section 101 for the words 'no allotment shall be made of any share capital of a company offered to the public for subscription' the words 'no certificate to commence business shall be granted to a company' be substituted."

Sir, clause 52 aims at preventing the floatation of mushroom companies—that is companies with insufficient capital. Nobody can have any quarrel with that; at least I have none. But what I object to is, that, in my opinion, the clause overshoots the mark. As the clause is at present worded, it will make it impossible for persons with small means to float a company. People in my part of the country, that is, the United Provinces will find.....

Mr. M. S. Aney : May I ask whether clauses 49 to 51 have been put?

Mr. Deputy President (Mr. Akhil Chandra Datta) : Thank you, they have not been put. I will put them now. The question is :

"That clause 49 stand part of the Bill."

The motion was adopted.

Clause 49 was added to the Bill.

Clauses 50 and 51 were added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That clause 52 stand part of the Bill."

Pandit Sri Krishna Dutta Paliwal : I was saying, Sir, that people in my part of the country, that is, the United Provinces, will find it very difficult to start companies with a small capital. I have personal experience of about a dozen companies promoted in Agra, Benares and Saharanpore. I am a director of about half a dozen of them. I know that it is very difficult for us to raise the capital required within two or three years. In many cases the companies provide that they shall proceed to allotment within a prescribed period and this period ordinarily extends from 3 to 6 months. This being the case, this section will work very hard on these companies. Besides this, it will lead to the concentration of business in the hands of very few capitalists. And capitalism is an unfailing mother of socialism and also of communalism and therefore I hope that even my Honourable friend, Sir Homi Mody, will support this amendment. Sir, the object of this clause can be achieved by making the raising of the capital specified as a condition precedent to the commencement of the business of the company. There is no need whatsoever for prohibiting the allotment of shares before the required number of shares have been subscribed. Mr. Sen, the expert, is also of the same opinion. He says :

"In my opinion, the proper course to adopt with regard to mushroom companies would be to amend the Act in such a way that no company commences business until it has a substantial amount available as the working capital."

In view of these reasons, I hope the House and the Leader of the House will accept my amendment. **Sir, I move.**

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 52 of the Bill, in the proposed sub-section (1) of section 101 for the words 'no allotment shall be made of any share capital of a company offered to the public for subscription' the words 'no certificate to commence business shall be granted to a company' be substituted."

Mr. M. S. Aney : May I inquire from my Honourable friend whether, under the Act, is it necessary for any company to get a certificate before it can start its business at all ?

Sir H. P. Mody : Please see section 103 (2).

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. The idea of introducing clause 52 is to prevent the growth of what are called mushroom companies. From that point of view in spite of the talk about capitalism and socialism, we offer much stronger protection than my friend's amendment will do. Our scheme is this. If you have not made satisfactory arrangements by share capital, by debentures or by arranging with banks and so on, you are not to proceed to allot at all. According to the amendment, there may be no real prospect of getting the money, yet you can go on allotting. In the end, if you find that the sufficient money has not been raised, then you need not ask for the commencement of the company or the certificate will not be given for commencing the business. I do not see what is gained by this amendment except that any attempt which we have made for going against these companies which start without raising sufficient capital or being in a position to raise sufficient capital, is still more attenuated by this amendment. Sir, I strongly oppose this amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That in clause 52 of the Bill, in the proposed sub-section (1) of section 101 for the words 'no allotment shall be made of any share capital of a company offered to the public for subscription' the words 'no certificate to commence business shall be granted to a company' be substituted."

The motion was negatived.

Pandit Sri Krishna Dutta Paliwal : Sir, I move :

"That in clause 52 of the Bill, in the proposed sub-section (1) after the word 'unless', occurring in the third line, the word 'half' be inserted."

Sir, the arguments, which I used in support of amendment No. 159, are applicable to this amendment also. Therefore, I move this amendment without speech. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 52 of the Bill, in the proposed sub-section (1) after the word 'unless', occurring in the third line, the word 'half' be inserted."

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That in clause 52 of the Bill, in the proposed sub-section (1) after the word 'unless', occurring in the third line, the word 'half' be inserted."

The motion was negatived.

Pandit Govind Ballabh Pant : Sir, I move :

“ That to clause 52 of the Bill, the following new sub-sections be added :

‘ 2B. In sub-section 4 of section 101 of the said Act for the word ‘ twenty ’ the word ‘ eighty ’ and for the word ‘ thirty ’ the word ‘ ninety ’ shall be substituted ’.”

With your permission, Sir, I propose to make a slight change in 2C. It does not affect the substance, but only there will be a slight change in the form of it :

“ 2C. All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank ”—

after this, Sir, I want to add these words—

“ as defined in the Reserve Bank of India Act until returned in accordance with sub-section (4) or until the certificate to commence business is obtained under section 103.”

Mr. Deputy President (Mr. Akhil Chandra Datta) : It is rather inconvenient. Will you please send it up to me in writing ?

Mr. F. E. James (Madras : European) : May I know how the amended form of the amendment stands ?

Pandit Govind Ballabh Pant :

“ 2C. All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank as defined in the Reserve Bank of India Act, until returned in accordance with sub-section (4) or until the certificate to commence business is obtained under section 103.”

Sir, it is not necessary for me to speak at length in support of this amendment. I appreciate the reasons which have induced the Government to tighten the provisions of section 101 in order to guard against mushroom companies. That will to a certain extent at least raise difficulties in suburban and backward areas, and a man may not be able to fulfil these conditions in four months. So I suggest he may be given six months. But there is the danger that the shareholders' money may be squandered if a longer period is given. In order to guard against that contingency, I suggest that all subscriptions received should be deposited in a scheduled Bank so that proper security may be ensured. That is the whole object of this clause, and I hope the House will accept it.

Mr. F. E. James : May I suggest for the convenience of the House that this amendment might be written out and circulated. Meanwhile, we can go on with some other amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Will Pandit Pant please write out the amendment and send it up to me ?

(Pandit Govind Ballabh Pant wrote out the amendment and handed it in to the Chair.)

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That to clause 52 of the Bill, the following be added :

‘ (2B) All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank as defined in the Reserve Bank of India Act until returned in accordance with the provisions of sub-section (4) or until the certificate to commence business is obtained under section 103.’

(2C) In the event of any contravention of the provisions of sub-section (2C) every promoter, director, or other person knowingly responsible for such contravention shall be liable to a fine not exceeding Rs. 500.

2. In sub-section (4), for the word 'twenty' the word 'eighty' and for the word 'thirty' the word 'ninety' shall be substituted."

The Honourable Sir Nripendra Sircar : Sir, this is an improvement, and I accept the amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That to clause 52 of the Bill, the following be added :

'(2B) All moneys received from applicants for shares shall be deposited and kept in a scheduled Bank as defined in the Reserve Bank of India Act until returned in accordance with the provisions of sub-section (4) or the certificate to commence business is obtained under section 103.

(2C) In the event of any contravention of the provisions of sub-section (2C) every promoter, director, or other person knowingly responsible for such contravention shall be liable to a fine not exceeding Rs. 500.

2. In sub-section (4), for the word 'twenty' the word 'eighty' and for the word 'thirty' the word 'ninety' shall be substituted."

The motion was adopted.

The Honourable Sir Nripendra Sircar : Sir, before you put the next amendment, I desire to show to the House that a slight consequential change is necessary in the existing section 101, sub-section (4) which has now been amended.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Is it in clause 52 ?

The Honourable Sir Nripendra Sircar : In section 101, sub-section (4), which has now been amended.

Obviously there are three lines at the bottom of that long paragraph and there it is stated "one hundred and thirtieth day", and that ought to be changed to "one hundred and ninetieth day". If Honourable Members will refer to page 30, paragraph 4, after the words "seven per cent. per annum from the expiration of the one hundred and thirtieth day", but as a result of this amendment now, it ought to be changed to "one hundred and ninetieth" day. I formally move, Sir :

"That in section 101, sub-section (4), after the words 'expiration of' for the words 'one hundred and thirtieth day' the words 'one hundred and ninetieth day' be substituted."

Pandit Govind Ballabh Pant : The amendment should be in this form :

"That to clause 52 of the Bill, in the proposed new sub-section, after the words 'one hundred and' in sub-section (4) of section 101, the word 'ninety' be substituted for the word 'thirty'."

The Honourable Sir Nripendra Sircar : May I suggest that this is a small consequential amendment, and that it may be left over till tomorrow morning ?

Mr. Sami Vencatachalam Chetty (Madras : Indian Commerce) : In this connection, I should like to draw the attention of the Honourable the Leader of the House to the rate of interest which is payable in case a company is not formed according to the terms of this clause. So long

[Mr. Sami Vencatachalam Chetty.]

as the liability of investing that amount does not rest with the particular bank or banks, probably the rate of seven per cent. interest was justifiable, but now that you are making it obligatory for the promoters of companies to put this amount in scheduled banks, it is only such rates of interest as may be approved by such investments may be made payable.

The Honourable Sir Nripendra Sircar : If I may submit one word, it is for these reasons that I want this matter to stand over till tomorrow because there may be some force in the contention put forward by my Honourable friend, Mr. Sami Vencatachalam Chetty, that if they have got to return the money they have got 2½ per cent. from the bank and are they going to pay seven per cent. At any rate no harm will be done if the further amendment I propose to clause 52 is allowed to stand over till tomorrow, because there is really not much dispute between us on this question.

Sir Cowasji Jehangir : The seven per cent. here mentioned is not merely to give an idea of what the money market is worth. It is to prevent these people from keeping the money longer than is necessary. There must be some damages if they keep longer and this is the only deterrent. Therefore seven per cent. ought to remain.

The Honourable Sir Nripendra Sircar : He is now restricted as to how the money is to be kept.

Pandit Govind Ballabh Pant : This is payable after default.

The Honourable Sir Nripendra Sircar : I do not want that this should be rushed through. It may wait till tomorrow.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The whole clause 52 will stand over till tomorrow.

The next amendment is in the name of Mr. M. Ananthasayanam Ayyangar. Amendment No. 162.

Mr. M. Ananthasayanam Ayyangar : Sir, I beg to move :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. In sub-section (1) of section 102, after the words ‘ and not later ’ the words ‘ or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting within one month after the date of the allotment and not later ’ shall be added ’.”

Sir Leslie Hudson (Bombay : European) : I rise to a point of order. Section 102 of the Act is not touched by the amending Bill, and, therefore, this amendment is not in order.

Mr. M. Ananthasayanam Ayyangar : There is absolutely no point of order in this. This amendment closely follows the provision contained in section 101 which has been amended. The amount that is to be repaid and the period of time are fixed. It is one month in certain cases as contemplated in section 102 and therefore this arises for consideration. The whole Bill including section 101 is now sought to be modified. This, I submit, is only consequential and therefore no point of order arises.

Mr. Deputy President (Mr. Akhil Chandra Datta) : It is in order. Clause 52 sections 101 and 102 both deal with allotment of share capital. The two sections are intimately connected with each other. In fact, section

102 only lays down the penalty for contravention of the provisions of section 101. I, therefore, rule that amendment No. 162 to amend section 102 is quite in order, although the Bill has left untouched section 102. The Honourable Member can now proceed with his speech.

Mr. M. Ananthasayanam Ayyangar : Even as regards the reason and the need for this amendment, I shall make a few observations. Sir, if an improper allotment is made even in contravention of the provisions of section 101 even before the minimum subscription is realised, it is open to any person who has obtained a share to void it. Section 102 lays down that within a month after the statutory meeting, it is open to the person to void it.

The Honourable Sir Nripendra Sircar : May I enquire what is the case where the statutory meeting is optional? My Honourable friend's amendment refers to cases of companies which are not required to hold statutory meetings.

Mr. M. Ananthasayanam Ayyangar : In a case where a private company is converted into a public company under section 154 it is open to a private company to convert itself into a public company, all that it has to do is to file a prospectus, if one is issued, to file it before the Registrar. No statutory meeting is to be held in that case. If a prospectus is issued and if shares are taken and if allotment is to be made, there is no statutory meeting and if the allotment is made in contravention of section 151, it is open to him to void it. There is no statutory meeting at all prescribed, then how does one month after a statutory meeting arise. The whole provision would be nugatory. That is practically denying a person who is entitled to void it from doing so. That is a privilege which is given to him under the Company Law by not providing for a further period of limitation. I would therefore say that in cases where there is no statutory meeting prescribed, in case of private companies, notwithstanding the facility for converting them into public companies and in other cases where allotment is made after a statutory meeting is held, in these two cases, one month period must be given. The present section 102 contemplates cases where allotment is made, then a statutory meeting is held after the allotment is made and in which case under the present section 102, it may be open to avoid this month after the statutory meeting. By the amendment I want to give the same period of limitation to the other case where the statutory meeting is not at all prescribed and secondly where the allotment is made after the statutory meeting is held; in which case the reason is obvious that one month's period should be allowed after the allotment. I move that my amendment may be accepted. There is a similar provision in section 41 of the English Act. I do not want to read the earlier portion of that section :

"Where allotment is made by a company or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting, within one month after the date of the allotment and not later and shall be so voidable notwithstanding the company is in the course of being wound up."

These two other contingencies I have sought to make provision for in this amendment.

Sir, I move

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. In sub-section (1) of section 102, after the words ‘ and not later ’ the words ‘ or in any case where the company is not required to hold a statutory meeting or where the allotment is made after the holding of the statutory meeting within one month after the date of the allotment and not later ’ shall be added ’.”

The motion was adopted.

New clause 52-A was added to the Bill.

Seth Govind Das (Central Provinces Hindi Divisions : Non-Muhammadian) : Sir, I beg to move :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. After section 101 of the said Act, the following section shall be inserted, namely :

‘ 101A. (1) A company limited by shares shall not, after the commencement of the Indian Companies (Amendment) Act, 1936, directly or indirectly allot to a promoter or managing agent or the vendor of any property purchased or to be purchased by the Company, founder, promoter, management, deferred or other shares of a similar class to which are attached voting rights which, having regard to the nominal amount of the said shares, are in excess of voting rights attached to any of the other classes of shares in the company not being preference shares, having regard to the nominal amount of the shares of the said class.

(2) This section shall not apply to a private company not being a subsidiary company of a public company ’.”

I do not want to make a speech on this because the amendment speaks for itself. We know how majorities are made at the time of general meetings of companies and this amendment is moved to stop that kind of practice. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. After section 101 of the said Act, the following section shall be inserted, namely :

‘ 101A. (1) A company limited by shares shall not, after the commencement of the Indian Companies (Amendment) Act, 1936, directly or indirectly allot to a promoter or managing agent or the vendor of any property purchased or to be purchased by the Company, founder, promoter, management, deferred or other shares of a similar class to which are attached voting rights which, having regard to the nominal amount of the said shares, are in excess of voting rights attached to any of the other classes of shares in the company not being preference shares, having regard to the nominal amount of the shares of the said class.

(2) This section shall not apply to a private company not being a subsidiary company of a public company ’.”

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend made a very short speech but the matter really goes to the root of the present structure of Company Law. My speech will be equally short. On a previous occasion I pointed out that companies preserve to themselves the right of offering alluring terms including differential voting rights for attracting capital, and I made the point that because certain abuses have happened, if to remove those abuses this kind of

amendment is allowed, the net result, after balancing the opposing considerations, will be not progress but retardation of raising capital. Sir, I very strongly oppose this amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That after clause 52 of the Bill, the following new clause be inserted :

‘ 52A. After section 101 of the said Act, the following section shall be inserted, namely :

‘ 101A. (1) A company limited by shares shall not, after the commencement of the Indian Companies (Amendment) Act, 1936, directly or indirectly allot to a promoter or managing agent or the vendor of any property purchased or to be purchased by the Company, founder, promoter, management, deferred or other shares of a similar class to which are attached voting rights which, having regard to the nominal amount of the said shares, are in excess of voting rights attached to any of the other classes of shares in the company not being preference shares, having regard to the nominal amount of the shares of the said class.

(2) This section shall not apply to a private company not being a subsidiary company of a public company ’.”

The motion was negatived.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 53 stand part of the Bill.”

The motion was adopted.

Clause 53 was added to the Bill.

Clause 54 was added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 55 stand part of the Bill.”

Mr. Surrya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Sir, my amendment is :

“ That in clause 55 of the Bill, after sub-section (5) of the proposed section 105B, the following new sub-section be added :

‘ (6) Where new shares are offered for sale on account of forfeiture, redemption or increase of share capital, they should at first be offered to the shareholders in proportion of their share or shares in the company ’.”

Sir, this amendment is necessitated by the fact that when we were discussing other sections an amendment was proposed that the directors and managing agents should not be allowed to increase the capital of the company or to offer new shares for subscription without the permission of the company. That amendment was lost. This amendment has been necessitated by that fact and I think the Law Member will accept it. We find that in the prospectus of most of the leading companies a provision is made that when new shares are offered for sale they are generally offered first of all to the existing shareholders. If this is accepted there is no fear of the managing agents or the directors purchasing these new shares without the knowledge of the company.

Some Honourable Members : What is a “ new share ” ?

Mr. Suryya Kumar Som : Suppose there are 50 lakhs of share capital of the company and only 25 lakhs are offered for subscription in the beginning. Sometimes further shares are not at all necessary to be called. The company goes on, earns a profit and no further shares are offered for sale. But circumstances may arise; that in order to increase the establishment of the company or to increase its capital, the balance, that is, 25 lakhs is offered for sale. My proposal is simply this : when the managing agents or directors want to increase the capital of the company or get permission from the Government to increase the share capital or offer the remaining shares for subscription, my suggestion is that these shares should be offered to the existing shareholders in proportion to their shares. If they take it they have the best claim on those shares, if they are prepared to pay for them. I think this is an amendment which the Honourable the Leader of the House will accept.

The Honourable Sir Nripendra Sircar : Sir, may I point out to my Honourable friend that even those who agree to the principle involved here will object to the amendment, because "new shares" is so indefinite a term. But if my Honourable friend will turn to the next amendment, possibly the language of that is happier.

Mr. Suryya Kumar Som : Sir, I have no objection : I am not fighting for my amendment—I am only fighting for a provision like this being made. Sir, I do not move my amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Mr. Som does not move his amendment. Mr. Bajoria may move the next amendment.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I move :

"That in clause 55 of the Bill, after the proposed section 105B, the following new section be added :

' 105C. Where the directors decide to increase the capital of the company by the issue of new shares of the company, they shall offer the said new shares in the first instance to the existing shareholders in proportion to the shares of the same class held by them respectively and shall offer for subscription to persons other than the existing shareholders only such portion of the new shares as has not been subscribed by the existing shareholders '."

I need not speak at length on this motion. The Assembly is aware that the relevant portion of Pandit Govind Ballabh Pant's amendment No. 10 was rejected. As the Government is going to accept this, I need not speak.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 55 of the Bill, after the proposed section 105B, the following new section be added :

' 105C. Where the directors decide to increase the capital of the company by the issue of new shares of the company, they shall offer the said new shares in the first instance to the existing shareholders in proportion to the shares of the same class held by them respectively and shall offer for subscription to persons other than the existing shareholders only such portion of the new shares as has not been subscribed by the existing shareholders '."

The Honourable Sir Nripendra Sircar : Sir, I accept this amendment. I am not quite sure whether we are quite correct about our

grammar because I did not follow it very carefully. I think it reads like this, substituting "further" for "new":

"Where the directors decide to increase the capital of the company by the issue of further shares of the company, they shall offer the said shares in the first instance to the existing shareholders in proportion to the shares of the same class held by them respectively and shall offer for subscription to persons other than the existing shareholders only such portion of the said shares as has not been subscribed by the existing shareholders."

It comes to this: that, in the second line, the word "new" is changed to "further": in the third line, the word "new" is struck out, and, in the last but one line, the word "new" is substituted by the word "said".

Babu Baijnath Bajoria : Sir, I accept.

The Honourable Sir Nripendra Sircar : I accept the amendment.

Pandit Govind Ballabh Pant : Sir, may I just put in a word and ask whether it will apply only to new capital, that is capital to be raised by the company, or whether it will also apply to unoffered shares which though included in the authorised capital had not been offered previously? Because if I remember aright, when I raised this question here this view seemed to be shared by the Government also that when such shares are issued the directors should not abuse the power they possess and allot such shares to themselves but that in every case such shares should be offered to the shareholders. If that purpose is not fully carried out by the present language, I wish that it may be slightly amended. I do not know whether the Law Member accepts the principle or not—if he does not accept the principle then the question of language evidently does not arise. But if he accepts the principle that wherever unoffered capital is offered for new shares, then both stand exactly on the same footing and there is no reason why the directors should be left free to distribute the shares between themselves in one case and restrained in another. In these circumstances I submit that this should cover both the case of increase in capital where the authorised capital itself is raised, as well as the case where part of the authorised capital not previously offered to the public is so offered.

Sir H. P. Mody : The two are not on the same footing.

Pandit Govind Ballabh Pant : They should be on the same footing, for the purposes of this clause. Of course they are not on the same footing in every respect: the one is called by one name and the other by another.

Sir Cowasji Jehangir : The authorised shares can only be issued at the prices originally stipulated.

Pandit Govind Ballabh Pant : Not necessarily.

The Honourable Sir Nripendra Sircar : I have accepted the amendment as it has been moved, and I am not prepared to go further at this moment without further consideration.

Mr. M. S. Aney : There is one thing I do not understand. What is the meaning of the word "respectively" in the amendment?

Sir Cowasji Jehangir : It means that ordinary shares can only be issued to ordinary shareholders and preference shares to preference shareholders.

Mr. M. S. Aney : I think the word " respectively " is redundant.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The word " respectively " goes out ?

The Honourable Sir Nripendra Sircar : Yes, Sir.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

" That in clause 55 of the Bill, after the proposed section 105B, the following new section be added :

' 105C. Where the directors decide to increase the capital of the company by the issue of further shares of the company, they shall offer the said shares in the first instance to the existing shareholders in proportion to the shares of the same class held by them and shall offer for subscription to persons other than the existing shareholders only such portion of the said shares as has not been subscribed by the existing shareholders '."

The motion was adopted.

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

MESSAGE FROM HIS EXCELLENCY THE VICEROY AND GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim) : I have received a Message from His Excellency the Viceroy and Governor General :

" In exercise of the power vested in me by sub-rule (2) of rule 22 of the Indian Legislative Rules, I, Victor Alexander John, Marquess of Linlithgow, hereby disallow the motion of Mr. Muhammad Ahmad Kazmi to move the adjournment of the House for the purpose of considering ' the failure of United Provinces Local Government in continuously prohibiting in Lucknow the recital of Madhe-Sahaba even by single persons and thus permanently banning an innocent, inoffensive, religious right and committing an interference with Muslim religion ', 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.

THE INDIAN COMPANIES (AMENDMENT) BILL—contd.

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

" That clause 55, as amended, stand part of the Bill."

The motion was adopted.

Clause 55, as amended, was added to the Bill.

Clauses 56 to 63, both inclusive, were added to the Bill.

Mr. Amarendra Nath Chattopadhyaya (Burdwan Division : Non-Muhammadan Rural) : Sir, I move :

" That after clause 63 of the Bill, the following new clause be inserted, and the subsequent clauses be re-numbered accordingly :

64. Before section 126 of the said Act, the following shall be inserted and the said section shall be re-numbered as 126 (1) :

126. That a company limited by shares shall have power under this Act to issue debentures subject to the guarantee by the Government the amount and conditions of such issue shall receive the prior approval of Government, provided always that Government shall charge a commission not exceeding 1 per cent. of the total amount of such issue and further provided that the amount thus collected from commission shall be placed in a special fund for re-imbursing any loss in such guarantee.

That Government will set up necessary Committees to properly discharge the functions of the above clause."

Sir, this is a new clause which was never contemplated by the framers to form a part of the Bill—it is indeed a new idea which may or may not be accepted. Therefore, I shall request the Honourable House to give me a patient hearing. After reading the Bill and the amendment by the Select Committee, I found that the framers of the Bill had taken more care to stick to the saying that prevention was better than cure while they should have tried to find the cure for the disease they wanted to get rid of. This is a Government Bill, and as such the framers should have introduced such a clause as would induce the Government to be more helpful for the promotion and protection of Indian industries, but as they have not done so, I am trying to help them by introducing such a clause. Promoters of companies, however honest, laborious, intelligent and well meaning, they might be, they have to seek the shelter of the capitalists, large, medium or small, in consequence of which they have to subject themselves to their terms which these enactments cannot control, avoid or prevent. Only big capitalists can form a managing agency office without calling for public shares and yet be a public company. They can withhold the sale of shares so long as they like. It is only in India that this managing agency system has become indispensable because capital is shy. The dearth of banking facilities and the apathy of Government are the main causes for this shyness of capital. Had Government taken more interest in the development of industries, capital would have been flowing and the managing agency system would have disappeared by this time. In the Industrial Conference of 1890 it was said :

" No fact in the economic condition of this country arrests more forcibly our attention than the contrast presented by the hoards of unused capital stored in the Presidency and other exchange banks and the high premiums Government securities command on the one side and on the other the utter paralysis of industry in rural India due to the poverty of the resources of the class engaged in the production of wealth. It would appear as if some impenetrable barrier intercepted the overflow of wealth and barred the channels of communication between the reservoirs of capital and parched fields of industries dried up for want of wealth-bearing and fertilising moisture."

This fact should have loomed large before the framers of the Bill, if nothing else. Exploitation loomed large before them but they lost sight of the system that made exploitation so easy and possible, and they should have taken care to be a little more helpful. The financial requirements of industries should have been considered by the framers

[Mr. Amarendra Nath Chattopadhyaya.]

of the Bill as they examined the provisions in the light of the present times. They should have added clauses to this Bill on that line. Sir, here we have no such commercial banks or State-aided banks as would advance loans for industrial purposes or to help *bona fide* companies to overcome their financial struggle and stand on their own legs. Large number of young Indians are coming back from foreign countries trained in various branches of industries. How many of them have got scope for employment? Is it not a part of the duties of Government to see that they are utilised for the development of industries. Indian witnesses in the Central Banking Enquiry Committee spoke about the handicaps in the following words: "Banks in India do not provide finance for block capital for industries though there is no reason why such finance should not be provided by them out of their paid up capital and reserves if adequate securities are offered".

Banks could have rendered much assistance by purchasing debentures and passing them to the public. By this the public as well as the industrialists might be benefited. For floating capital, banks demand 30 to 50 per cent. margin and large rate of interest. Banks insist upon tangible and easily realisable securities never respecting the personal credit or integrity of the borrower. Fortunately such is not the case with banks in the West, or in America, or with Europeans in India. This striking contrast should have led the framers to add the clause I want to be added to this Bill or some such clause as would help Indian industrialists in the real sense.

Managing agents have done their best no doubt but in times of acute depression they cannot cope with the situation and then who else but banks or in the absence of such banks Government should come forward to their rescue. Banks complain that they are not generally equipped with necessary technical knowledge about value of stock and plants and tools which prevents them from risking advances. Government have no such handicap. Short term loans to small industries are uncertain as at any time they can be stopped and return of advances be demanded. Capital for industry in India is not forthcoming and financing by floating debentures is not popular here as it is elsewhere. Why? Want of advisory industrial boards and more faith in the safety of investments in savings banks and cash certificates and Government securities. Whenever and wherever Government is at the back of any investment people feel secured against loss. The absence of secured debentures is also a handicap. There are other handicaps like heavy stamp duties on debentures and on transfer of debentures and difficulty in negotiating debentures in the stock exchange. The success of debentures depends upon the nature of security offered and attractiveness of yield. In spite of this sort of difference shall we solely depend upon private and public shares and leave Government free from any responsibility? Let us see what is done in Germany....

Mr. President (The Honourable Sir Abdur Rahim): I wanted to see what is the real scope of the amendment. It seems to me now that this amendment has really nothing to do with the Bill. You want a different scheme altogether for the promotion of companies. I do not think that is really within the scope of the Bill.

Mr. Amarendra Nath Chattopadhyaya : The object of the Bill is to promote companies.

Mr. President (The Honourable Sir Abdur Rahim) : I do not think this is really within the scope of the Bill at all. I rule this out of order. The question is :

“ That clause 64 stand part of the Bill.”

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadian Rural) : Sir, I move :

“ That in clause 64 of the Bill, for sub-section (3) of the proposed section 130, the following be substituted :

“(3) If a company makes default in complying with the requirements of this section, the company and every officer of the company who has by his own wilful act been the cause of such default shall be liable to a fine not exceeding two hundred rupees.”

This amendment seeks to amend sub-section (3) of the proposed section 130. Before I deal with the points involved in the amendment, I shall read sub-section (3) which runs as follows :

“ If in the case of a company managed by a managing agent the managing agent or where the managing agent is a firm or a company any partner or director of such firm or company and if in any other case a director of the company fails to take all reasonable steps to secure compliance by the company with the requirements of this section or has by his own wilful act been the cause of any default by the company thereunder, he shall, in respect of each offence, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding two thousand rupees.”

The requirements of this section are that every company shall cause to be kept proper books of account with respect to all sales and purchases of goods by the company and the assets and liabilities of the company and entries must be made in them of the transactions of the company.

Now, Sir, it is provided in sub-section (3) of the proposed section 130 that if either the managing agent or a partner of the firm or company of managing agent or a director “ fails to take all reasonable steps to secure compliance by the company with the requirements of this section ”—that is one offence. The other offence is if any of these persons has by his own wilful act been the cause of any default by the company thereunder—that is offence No. 2,—then the penal provision is that he shall, in respect of “ each ” offence be liable to imprisonment for a term not exceeding six months or to a fine not exceeding Rs. 2,000. Then there is a proviso :

“ Provided that a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the Court dealing with the case, the offence was committed wilfully.”

Now, Sir, my contention is that these provisions are too drastic. They may be necessary in the case of some dishonest people but they will, I submit, prove unjust and unnecessary burdens on honest people. If anybody has by his own wilful act been the cause of any such default, he should be punished by all means. There is no quarrel about that. But my complaint is that even with respect to the ordinary director it is laid down that if he fails to take all these steps to secure compliance with the requirements of this section, he shall be liable to imprisonment or fine. My contention is that a director stands on quite a different footing from a managing agent or a manager or even a

[Mr. Akhil Chandra Datta.]

managing director. We were told by the Honourable the Law Member in his speech during the general discussion as to what is the precise position of the ordinary director. It is not expected of an ordinary director—I am not speaking of a managing director—to pay continuous attention to the company's affairs and to all the details of the business of the company. His duties are of an intermittent nature to be performed at Board meetings or committee meetings. I agree with the dictum that a director is not a whole-time servant of the company, as the managing agent is, or as the manager is, or for that matter as the managing director is. As we know from our experience of the duties performed by the directors in our country, that this is really the position of a director and therefore, I say this that if you expect the ordinary director to attend to all those details, for example, whether entries are made in the account-books of the company about all sums of money received and expended, and about all sales and purchases of goods by the company, I maintain this is expecting too much. I wonder, Sir, how the ordinary director should take care of all of these things, failing which, as it is provided here, he must undergo imprisonment or suffer a fine.

Sir H. P. Mody : May I inquire whether the object of my Honourable friend is really to say that as in sub-section (3) of section 130 the words which lay down that the directors must take all reasonable steps to secure compliance are objectionable?

Mr. Akhil Chandra Datta : That is one of the things I want. It would appear from the amendment I have moved that as a matter of fact I have omitted these words. Sir, there are two offences laid down in this sub-section (3). One is that if by their wilful and deliberate act they have been the cause of a default, I say let them be punished, but as regards the other portion, *viz.*, that if they fail to take reasonable steps to secure compliance with these entries being made of all purchases of goods by the company, etc., I think that is going too far, it is expecting and exacting too much from the ordinary director : and therefore my contention is that this portion of the two offences laid down here—the first offence (*viz.*, failure to take reasonable steps) should be omitted. The second point in this amendment is that here it is stated that he shall in respect of each offence be liable to conviction. Now, what is the meaning of “each” offence? In the first place, it is very indefinite and vague. If there is one entry not made in the account books which ought to be made, that by itself is an offence, and the following day there will be another such offence, and so on and so on. I say therefore that the word “each” should be substituted by the word “such”. Then my next contention is that supposing a director is to be punished like that, that is, for not looking after all the details of the business, is it proper that there should be this provision for imprisonment, for a term not exceeding six months?

Sir H. P. Mody : Grossly improper !

Mr. Akhil Chandra Datta : I should think it is too drastic, and the result will be to scare away all honest men from being directors. Sir, in the present stage of our country, nobody would like to be a director under these provisions. Then I object also to the amount of the fine, Rs. 2,000. We are not legislating merely for the big companies : all

these provisions will cover the smaller companies also. Now supposing a managing agent or a director is found guilty of not having proper entries made in the account-book of any small company, this provision of a fine up to Rs. 2,000 is really unduly severe.

Then, Sir, I object to the proviso also. The proviso says that "a person shall not be sentenced to imprisonment.....unless in the opinion of the Court.....the offence was committed wilfully". It follows by necessary implication from this proviso that if that offence is not committed wilfully, even in that case all these persons may be liable to a fine not exceeding Rs. 2,000. If the default is a default due merely to neglect, the proviso lays down that, even in that case, a man may be liable to a fine not exceeding Rs. 2,000. Therefore, my amendment is this, that if a company makes a default in complying with the requirements of this section, the company and every officer of the company who has done any wilful act, who has by his own wilful act been the cause of such default, shall be liable to a fine not exceeding two hundred rupees. Sir, I move.

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

"That in clause 64 of the Bill, for sub-section (3) of the proposed section 130, the following be substituted :

"(3) If a company makes default in complying with the requirements of this section, the company and every officer of the company who has by his own wilful act been the cause of such default shall be liable to a fine not exceeding two hundred rupees."

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend has got five amendments from Numbers 4 to 9 on this Supplementary List No. 9—all relating to the same matter.

Mr. Akhil Chandra Datta : And if this is carried, I shall not move them.

The Honourable Sir Nripendra Sircar : I may say at once that I object to the amendment which has just now been moved. I admit that there is a considerable force in some of the arguments advanced by my Honourable friend, Mr. Datta. I should be prepared to accept No. 5 if he will accept the modifications I suggest. I leave the first three lines of that amendment unchanged and in the fourth line after the word "knowingly" I suggest the words "by their act or omission" to be added in place of "and by their own wilful act". Then the amendment goes on as it is and at the end I substitute the words "one thousand" for "five hundred". I would not agree to Rs. 500 for this reason. It is quite true that a company may be a small company, but the language is not "exceeding two thousand rupees". The Magistrate is not bound to fine him Rs. 2,000. If the maximum is kept at Rs. 1,000 and if my friend sees his way to accept the slight change I have suggested in his amendment No. 5, I do not think I shall object to it.

Mr. Akhil Chandra Datta : If I have understood my Honourable friend correctly, the two alterations that he has proposed are these. In the first place, after the word "knowingly" instead of the words "and by their own wilful act" he wants that the words should be "by their act or omission". The other change that he has proposed is that instead of Rs. 500 he wants Rs. 1,000.

The Honourable Sir Nripendra Sircar : That is what I have suggested.

Mr. Akhil Chandra Datta : Sir, I agree to these changes being made, and I withdraw the amendment that I have just moved and shall move the next amendment.

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

Mr. Akhil Chandra Datta : Sir, I move :

"That in clause 64 of the Bill, for sub-section (3) of the proposed section 130, the following be substituted :

'(3) In the case of a company managed by a managing agent the managing agent, or where the managing agent is a firm or company, the partner or director of such firm or company and in any other case the director or directors who have knowingly by their act or omission been the cause of any default by the company in complying with the requirements of this section, shall in respect of such offence be liable to a fine not exceeding one thousand rupees'."

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

"That in clause 64 of the Bill, for sub-section (3) of the proposed section 130, the following be substituted :

'(3) In the case of a company managed by a managing agent the managing agent, or where the managing agent is a firm or company, the partner or director of such firm or company and in any other case the director or directors who have knowingly by their act or omission been the cause of any default by the company in complying with the requirements of this section, shall in respect of such offence be liable to a fine not exceeding one thousand rupees'."

The motion was adopted.

Mr. Akhil Chandra Datta : Sir, I move :

"That in clause 64 of the Bill, the proviso to sub-section (3) of the proposed section 130, be omitted."

I have already explained the reasons in support of this amendment.

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

"That in clause 64 of the Bill, the proviso to sub-section (3) of the proposed section 130, be omitted."

The motion was adopted.

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

"That clause 64, as amended, stand part of the Bill."

The motion was adopted.

Clause 64, as amended, was added to the Bill.

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

"That clause 65 stand part of the Bill."

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

"That in sub-clause (c) of clause 65 of the Bill, after the words 'shall be substituted' the following be added at the end :

"and for the words 'seven days' wherever they occur the words 'fourteen days' shall be substituted'."

Notice of a general meeting has to be given 14 days before it takes place and the balance-sheet may be sent within 7 days. I want that the balance-sheet must also be placed in the hands of the members 14 days before the meeting. All that I want is that the balance-sheet may also be sent along with the notice. It will spare additional expenditure of the company which is incurred by sending the balance-sheet separately and it will also facilitate the work at the meeting where the balance-sheet has to be discussed.

Sir H. P. Mody : If the balance-sheet is not ready, what then ?

Mr. M. Ananthasayanam Ayyangar : If the balance-sheet is not ready, then there is no question of holding a general meeting. Sir, I move.

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

“ That in sub-clause (c) of clause 65 of the Bill, after the words ‘ shall be substituted ’ the following be added at the end :

‘ and for the words ‘ seven days ’ wherever they occur the words ‘ fourteen days ’ shall be substituted ’.”

Sir Leslie Hudson : Sir, I am sorry to have to oppose this amendment both on the ground of its being unnecessary and also because it is inconvenient. It is quite true that the notice of a meeting has to be sent out 14 days before the meeting takes place. That has always been the case unless the articles provide otherwise. But the Act has provided that the balance-sheet shall be called for 7 days before the meeting. I may point out, in this connection, the case of a certain company that I know of in Bombay. This company closes its year at the end of December and it has its meeting in March. It is not possible for it to send out its accounts before the end of March.

Now, Sir, that particular company sends out its notice of meeting at the beginning of March, but it is not possible for it to send out its balance-sheet before the end of March because the accounts, as I understand, can only be got ready a week before that. The result of holding its meeting before the end of March is that the shareholders in the company get their dividends before the end of March and they are able to get the refund of their income-tax in that income-tax year. But if the balance-sheet has to be sent out 14 days before the meeting, the meeting cannot be held until after the 1st April, and they will not be able to get their refund of income-tax until the close of another year. That, I submit, is a distinct hardship on those shareholders. As a matter of fact, these shareholders have always held out that it is a hardship on them that the dividends are not paid to them before the beginning of April and for that reason alone it is sufficient to oppose this amendment.

Mr. Bhulabhai J. Desai : Sir, with due deference, everything that falls from my Honourable friend, Sir Leslie Hudson, must be business-like. But so far as this particular matter is concerned, it is rather difficult for me to appreciate its effect, as to what difference it makes as the result of a week's time on the question of revision of income-tax. This rather beats me. The fact remains however that you do not get ready for a meeting under the present Act until you give notice. The notice requires that you shall have what are called statements

[**Mr. Bhulabhai J. Desai.**]

of business in greater detail than used to be compulsory before. You could not have come to any conclusion regarding the calling of a meeting and the matters to be placed before it unless the balance sheet is ready. I dare say you will be doing it, but I cannot imagine any Board of Directors or managing agents deciding to call a meeting, nominating a day for it and sending out notices for it and not knowing how their balance sheet stands. With due deference on this occasion I am afraid I cannot accept the view put forward by my Honourable friend, Sir Leslie Hudson.

Sir H. P. Mody : Sir, I am afraid the condition laid down by the amendment in some cases will be obnoxious and in most cases will be unnecessary. After all, what the shareholders are really concerned with is having 14 days notice within which to prepare for the things which they want done at the general meeting of the shareholders. Most of the materials are before them. What are the shareholders interested in? The appointment or the removal of particular directors, and the payment of dividends : these matters are before them long before the notice is sent out to the shareholders. The dividends are passed by the Board of Directors and they are known in the market the very next day, if not the same evening.

Mr. Bhulabhai J. Desai : When the balance sheet is made, you recommend a declaration of dividend.

Sir H. P. Mody : Having approved the accounts before them, they declare a dividend long before the actual meeting is held. What is the reason for laying down that the balance sheet shall also be submitted 14 days before to the shareholders? In most cases this would be done because the directors are not so foolish as to send out a notice first and then incur the expenditure of sending out the balance sheet. But what my Honourable friend, Sir Leslie Hudson, was pointing out was that in some cases the balance sheet may not be ready, and yet it would be desirable to give fourteen days notice of the date of the meeting to the shareholders. I submit that my Honourable friend is not well advised in insisting upon issue of the balance sheet 14 days before the meeting.

The Honourable Sir Nripendra Sircar : Sir, I admit, I am very ignorant of business. But I have got with me some notices sent out by well known companies. Let me read two or three out of that bundle. This is Burn and Company Limited. The notice is issued on 8th September, and the date of meeting 17th September, 11 a.m. is fixed for the purpose of receiving and considering the Director's report, the statement of account and the balance sheet for the year ending 30th April, 1936, and to transact any other ordinary business of the company. The notice is dated 8th September and along with the notice—that is the important point—the audited accounts and balance sheet is given. I will now take up another company, the Titagarh Paper Mills. On 27th May, a notice is issued for a meeting on 24th June and here are the accounts. Apparently these are heartless people who never care for the incometax returns of the shareholders. Sir, I accept the amendment.

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

"That in sub-clause c) of clause 65 of the Bill, after the words 'shall be substituted' the following be added at the end:

'and for the words 'seven days' wherever they occur the words 'fourteen days' shall be substituted.'"

The motion was adopted.

Babu Baijnath Bajoria : Sir, I beg to move :

"That the proposed sub-clause (d) of clause 65 of the Bill be omitted."

Sir, sub-section (4) of section 131 is a penalty clause. It reads :

"If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding Rs. 1,000 and every officer of the company who knowingly and wilfully authorises or permits the default shall be liable to the like penalty."

I am surprised why this sub-section is sought to be omitted. Section 131 of the Act provides for the placing of the balance sheet and the profit and loss accounts duly audited with the auditors report before the general meeting at least once a year. If there is no penal clause Honourable friends like Sir H. P. Mody and men of that type might feel never called upon to place any balance sheet or profit and loss accounts before the general meeting. The Registrar of the Joint Stock Companies, Bengal, says that sub-section 4 should not be omitted as the records of his office show that that sub-section has been serving a very useful purpose and there is no reason why it should be omitted.

The Honourable Sir Nripendra Sircar : If I may clear a misapprehension of facts. My Honourable friend's idea is to keep the penalty clause. It is quite true we have removed it from here, but you will find that again in clause 69.

Mr. Bhulabhai J. Desai : What about not calling a meeting at all. We have had prosecutions both for not meeting as well as failure to call for a meeting.

The Honourable Sir Nripendra Sircar : The words are 'laying' and 'issuing'.

Mr. Bhulabhai J. Desai : If that is covered I have no objection. I only want to clear the point :

"If any default is made in laying before the company or in issuing a balance sheet required by section 131....."

In terms it reads as if even though a meeting is called, you may not lay it. But it does not affect the question where there is default in calling a meeting at least within 15 months.

The Honourable Sir Nripendra Sircar : If the Honourable Member will allow me to consider it when we reach clause 69, we will see about it.

Mr. Bhulabhai J. Desai : I have no objection.

Babu Baijnath Bajoria : Sir, I beg leave of the House to withdraw the amendment.

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

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

“That clause 65, as amended, stand part of the Bill.”

The motion was adopted.

Clause 65, as amended, was added to the Bill.

Clause 66 was added to the Bill.

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

“That clause 67 stand part of the Bill.”

Mr. L. C. Buss (Nominated Non-official) : Sir, I beg to move :

“That in clause 67 of the Bill, in the proposed sub-section (f) of section 132, before the words ‘the profit and loss account’ the words ‘unless otherwise determined by the company in general meeting’ be inserted.”

Sir, I may first point out that there is no provision in the English Act for such a disclosure as is contemplated in this clause. We on these Benches consider that the information proposed to be provided is likely to be most misleading and therefore undesirable in the form of a broadcast statement in the company's accounts. In this connection, I have three points to raise. Firstly, the shareholders have means of knowing all the details of the managing agency agreement and of the scale of remuneration paid to the directors. Secondly, they have the auditors' reports on the balance-sheet and the profit and loss account of a company as a guarantee that the terms of remuneration have been correctly complied with. Thirdly, it is open to any shareholder to ask questions about the accounts at the general meetings and he can therefore ask, if he wishes to do so, for the information called for in this clause. We realise, however, that there is a considerable volume of feeling in favour of giving the shareholders the formal right to ask for the particulars of fees, and so on, paid to the managing agents and directors. The amendment, therefore, does not propose deletion of the clause ; it proposes that the shareholders should have the right but that they should have the further right of determining whether they wish to exercise the right to insist on disclosure of the information in the profit and loss account. As the clause stands, the shareholders have no discretion in the matter, and my submission is that they should have this discretion. Sir, I move.

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

“That in clause 67 of the Bill, in the proposed sub-section (f) of section 132, before the words ‘the profit and loss account’ the words ‘unless otherwise determined by the company in general meeting’ be inserted.”

Mr. Susil Chandra Sen : Sir, I am sorry to oppose this amendment. The position is this. For the first time in the Indian Companies Act we are providing for the preparation of a profit and loss account compulsorily. It was not there before. Now, Sir, the profit and loss account is intended to be an account which gives a just idea of the profits and losses of the company by disclosing the income and expenditure. Sir, we know that complaints have been made by the shareholders, (and this will be borne out by the materials which are

all before my Honourable friends), that the shareholders have been generally kept in the dark by the managing agents as regards the remuneration charged by them, firstly in the shape of fees, sometimes in the shape of commission, and sometimes in the shape of remuneration for indirect services rendered. It was for that purpose that it has been provided in this clause that apart from anything else, these particular items relating to the fees, etc., of the managing agents must be disclosed.

I find that my Honourable friend, Mr. Buss, made three points. He first of all said that the shareholders have the means of knowing the terms of the managing agency agreement and the remuneration which the managing agents will be entitled to get. Let us assume that, this is correct. But there are many factors which determine what is the actual amount of remuneration which they in fact get. That depends in some cases on production, in some cases on sales and in some cases on purchases. Where are the details to be obtained by the shareholders? Without these, they really can get no particulars of the remuneration and to say that the basis of the calculation is available to the shareholders is not sufficient. It does not give them all the information which they are entitled to. Then my Honourable friend said that there is the auditors' report to show that everything is above board. That again is no consolation to the shareholders who want to know actually what the managing agent has got during the period for which the accounts are in issue. The third point made by my Honourable friend is that the shareholders may not like to have the information. They are given no option of saying that they do not want it. I do not know, if there is any shareholder who is likely to say he does not want it. On the contrary I should imagine the shareholders saying, "Save us from our friends". Sir, with these observations I oppose the amendment.

Mr. L. C. Buss : Sir, if I may say so, the third point is not as Mr. Sen said. I said that they had the right to ask for information at the meetings and they can get it.

Mr. Susil Chandra Sen : I am sorry, Sir, I did not catch my friend correctly but still the same objection holds. If they can give it at the meeting why can't they give it before the meeting. Is it because they do not want to disclose it openly?

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

"That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, before the words 'the profit and loss account' the words 'unless otherwise determined by the company in general meeting' be inserted."

The motion was negatived.

Sir Leslie Hudson : Sir, I beg to move :

"That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, for the words 'shall be included in the total amount shown as the remuneration of the directors of the company' the words 'shall be shown in a note at the foot of the account or in a statement attached thereto' be substituted."

It does not seem quite appropriate that in publishing a profit and loss account of a holding company there should be any reference to directors' fees from subsidiary companies entered therein. In the first

[Sir Leslie Hudson.]

place they would find no place in the accounts. They would unbalance the accounts, and therefore I think it is obvious that if they are to appear at all they should appear as a footnote to these accounts. Sir, I move.

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

“ That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, for the words ‘ shall be included in the total amount shown as the remuneration of the directors of the company ’ the words ‘ shall be shown in a note at the foot of the account or in a statement attached thereto ’ be substituted.”

Dr. Ziauddin Ahmad : Sir, I regret I could not follow Sir Leslie Hudson’s argument because the profit and loss account is very different from the balance-sheet. In a balance-sheet you cannot put these things, but in a profit and loss account you ought to show all the details, not in the footnotes but in the body of the report. So I really could not follow the argument on which he based his amendment.

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

“ That in clause 67 of the Bill, in the proposed sub-section (3) of section 132, for the words ‘ shall be included in the total amount shown as the remuneration of the directors of the company ’ the words ‘ shall be shown in a note at the foot of the account or in a statement attached thereto ’ be substituted.”

The motion was adopted.

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

“ That clause 67, as amended, stand part of the Bill.”

The motion was adopted.

Clause 67, as amended, was added to the Bill.

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

“ That clause 68 stand part of the Bill.”

Mr. T. Chapman-Mortimer : Sir, while we are not moving amendment No. 13 on supplementary list No. 3, I should like to draw the attention of the House to the proviso to section 132A (1) in clause 68.

Mr. President (The Honourable Sir Abdur Rahim) : Is not the Honourable Member moving No. 13 ?

Mr. T. Chapman-Mortimer : No, Sir. But I should like your permission to draw the attention of the House to the proviso to section 132A (1) in clause 68. It does not arise out of amendment No. 14 which I am going to move now. With your permission I should like to say a word on it. The point is that that proviso is taken from the English Act.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member wish to move amendment No. 14 ? If he does not, that is another matter.

Mr. T. Chapman-Mortimer : Yes, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : Then, the Honourable Member had better move that.

Mr. T. Chapman-Mortimer : Yes, Sir, I want to move No. 14 in list No. 3. I move :

“ That in clause 68 of the Bill, to sub-section (1) of the proposed section 132A, the following further proviso be added :

‘ Provided further that for the purposes of this section an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities shall not be deemed to be a holding company by reason only that part of its assets consists in 51 per cent. or more of the shares of another company ’.”

Sir, the reason for the moving of this amendment is as follows : The whole section, as I understand, is taken *en bloc* from the English Act ; but the Select Committee, when the Bill was under discussion by them, inserted the words “ the last audited balance-sheet, profit and loss account and auditors’ report of the subsidiary company or companies ” : that is to say, that these audited reports and accounts should appear attached to the balance-sheet of the holding company. That is a perfectly simple thing to arrange in the case of a holding company which is properly speaking a holding company : that is to say, a company, A. B. & Co. which owns and controls either in whole or in part a subsidiary which is managed probably by their own directors or a section of them. For a company in such a position it is an easy matter to say that any accounts of such a subsidiary company should be published along with the accounts of the holding company. But in the case of investment companies and also possibly finance companies, one of whose jobs possibly may be the underwriting of shares—not in every case, I admit—they buy shares for investment mostly—but they also on occasion underwrite a whole issue and they may be left holding 51 per cent. or more of that issue—they have no directors on the board of the company concerned, nor are they managing agents ; but in accordance with the definition of a subsidiary company in clause 2 (2) of this Bill it will be seen at once that an investment company or finance company in such a position will immediately and automatically be treated as a holding company and would therefore have to attach to its own balance sheet and accounts the balance sheet and accounts of the company of which they happen to hold 51 per cent. of the shares. I submit that that is not the intention of the Honourable the Law Member. What he is trying to get at—quite rightly—is a holding company which is properly speaking a holding company, and really controls a subsidiary. In that case of course we want the subsidiary to publish its accounts. But in the case of an investment company or a finance company, it may be quite impossible for them, even if they have the best of intentions in the world, to publish along with their balance sheet and accounts, the balance sheet and accounts of some company of which they hold more than 51 per cent. of the shares and therefore by clause 2 (2) become a holding company. Sir, I move. The proviso as now in the Bill should be taken out because as long as you had the words in the English Act, it was necessary but with the words as amended by the Select Committee it is now of no use:

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

"That in clause 68 of the Bill, to sub-section (1) of the proposed section 132A, the following further proviso be added :

'Provided further that for the purposes of this section an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities shall not be deemed to be a holding company by reason only that part of its assets consists in 51 per cent or more of the shares of another company.'

Mr. M. Ananthasayanam Ayyangar : Sir, I beg to oppose this amendment. At various stages I have found one principle running through all the amendments that have been given by the European Group by one member or other of that group.....

Mr. President (The Honourable Sir Abdur Rahim) : You need not go into that now.

Mr. M. Ananthasayanam Ayyangar : I am not going into it except

5 P.M.

in so far as it relates to this amendment. It is much more accentuated in this. They are trying to avoid giving information regarding the position as to whether it is working at a loss or profit. Almost all the information necessary to put the shareholders on guard is sought to be taken out by some amendment or other. So far as this amendment is concerned, investment companies holding more than 51 per cent. of the shares, and on which there is no directory, there is all the greater reason why the balance sheet and profit and loss account of the other company should be attached to its own. That is the only way in which it is possible for this holding company to know how the other is working. There is no other link between the one and the other : a director in both the companies may come and say that such and such is the state of affairs and therefore greater safeguards are immediately indicated. Therefore it is that this proviso is absolutely out of place : it is trying to take away the very object of the new section 132A. It will put the shareholders at a disadvantage by not giving them sufficient information regarding the working of the other company. I, therefore, oppose it.

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

"That in clause 68 of the Bill, to sub-section (1) of the proposed section 132A, the following further proviso be added :

'Provided further that for the purposes of this section an investment company, that is to say, a company whose principal business is the acquisition and holding of shares, stocks, debentures or other securities shall not be deemed to be a holding company by reason only that part of its assets consists in 51 per cent or more of the shares of another company.'

The Assembly divided :

AYES—46.

Abdul Hamid, Khan Bahadur Sir.
Abdullah, Mr. H. M.
Acott, Mr. A. S. V.
Ahmad Nawaz Khan, Major Nawab Sir.
Ahmed, Mr. K.
Ayyar, Diwan Bahadur R. V. Krishna.

Bajpai, Sir Girja Shankar.
Bhat, Mr. M. D.
Bhutto, Mr. Nabi Baksh Illahi Baksh.
Buss, Mr. L. C.
Chapman-Mortimer, Mr. T.
Dalal, Dr. R. D.

AYES—contd.

Das-Gupta, Mr. S. K.	Mukherjee, Rai Bahadur Sir Satya
Dey, Mr. B. N.	Charan
Fazl-Haq Piracha, Khan Bahadur Shaikh.	Naydu, Diwan Bahadur B. V. Sri Hari Rao.
Ghannavi, Sir Abdul Halim.	Rajah, Rao Bahadur M. C.
Gidney, Lieut.-Colonel Sir Henry.	Rau, Mr. P. R.
Grant, Mr. C. F.	Rau, Mr. P. S.
Griffiths, Mr. P. J.	Robertson, Mr. G. E. J.
Hudson, Sir Leslie.	Roy, Mr. S. N.
James, Mr. F. E.	Sarma, Sir Srinivasa.
Jawahar Singh, Sardar Bahadur Sardar Sir.	Scott, Mr. J. Ramsay.
Khurshaid Muhammad, Khan Bahadur Shaikh.	Sen, Mr. Susil Chandra.
Lal Chand, Captain Rao Bahadur Chaudhri.	Singh, Rai Bahadur Shyam Narayan.
Metcalf, Sir Aubrey.	Sircar, The Honourable Sir Nripendra.
Milligan, Mr. J. A.	Spence, Mr. G. H.
Mody, Sir H. P.	Thorne, Mr. J. A.
Morgan, Mr. G.	Tottenham, Mr. G. R. F.
	Witherington, Mr. C. H.
	Yamin Khan, Sir Muhammad.
	Zafrullah Khan, The Honourable Sir Muhammad.

NOES—42.

Abdul Matin Chaudhury, Mr.	Lalchand Navalrai, Mr.
Aney, Mr. M. S.	Maitra, Pandit Lakshmi Kant.
Ayyangar, Mr. M. Ananthasayanam.	Malaviya, Pandit Krishna Kant.
Bajoria, Babu Baijnath.	Mudaliar, Mr. C. N. Muthuranga.
Chatterpadhyaya, Mr. Amarendra Nath.	Muhammad Ahmad Kazmi, Qari.
Chetty, Mr. Sami Vencatachelam.	Murtuza Sahib Bahadur, Maulvi Syed.
Das, Mr. B.	Paliwal, Pandit Sri Krishna Dutta.
Das, Mr. Basanta Kumar.	Pant, Pandit Govind Ballabh.
Datta, Mr. Akhil Chandra.	Raghubir Narayan Singh, Choudhri.
Essak Sait, Mr. H. A. Sathar H.	Ranga, Prof. N. G.
Gadgil, Mr. N. V.	Saksena, Mr. Mohan Lal.
Ghiasuddin, Mr. M.	Sham Lal, Mr.
Giri, Mr. V. V.	Shankar Ah, Maulana.
Govind Das, Seth.	Sheodass Daga, Seth.
Hosmani, Mr. S. K.	Singh, Mr. Ram Narayan.
Jedhe, Mr. K. M.	Sinha, Mr. Satya Narayan.
Jinnah, Mr. M. A.	Som, Mr. Suryya Kumar.
Jogendra Singh, Sirdar.	Sri Prakasa, Mr.
Joshi, Mr. N. M.	Umar Aly Shah, Mr.
Kailash Behari Lal, Babu.	Varma, Mr. B. B.
Khare, Dr. N. B.	Ziauddin Ahmad, Dr.

The motion was adopted.

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

"That in clause 68 of the Bill, after sub-section (6) of the proposed section 132A, the following be inserted :

(7) The provisions of this section shall also apply to a company carrying on different classes of business, each class of business being treated as a 'subsidiary company' for the purposes of this section."

Sir, provisions are sought to be made under this clause for the regulation of subsidiary companies. It does happen, however, that the same company carries on different classes of business, each very different from the other ; and I propose by the insertion of this sub-section to insist on a company regarding different classes of its business as subsidiary companies, so that these may come under the provisions of this clause. I understand, there was a very stormy meeting of the

[Mr. Sri Prakasa.]

shareholders of the British India Corporation at Cawnpore the other day. They carry on different classes of business and mix up the accounts of all the classes together, because of which it is impossible for the shareholders to find out exactly how each class of business stands. Hence the trouble. Therefore, in cases of companies where they do not divide up their business into subsidiary companies but carry on all classes of business under the same name, I think a provision like this will be salutary. Sir, I move.

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

“ That in clause 68 of the Bill, after sub-section (6) of the proposed section 132A, the following be inserted :

‘ (7) The provisions of this section shall also apply to a company carrying on different classes of business, each class of business being treated as a ‘ subsidiary company ’ for the purposes of this section .’ ”

The Honourable Sir Nripendra Sircar : I oppose this amendment. It is simply impossible to consider different classes of business as different subsidiary companies with all the consequences which attach to subsidiary companies.

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

“ That in clause 68 of the Bill, after sub-section (6) of the proposed section 132A, the following be inserted :

‘ (7) The provisions of this section shall also apply to a company carrying on different classes of business, each class of business being treated as a ‘ subsidiary company ’ for the purposes of this section .’ ”

The motion was negatived.

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

“ That clause 68, as amended, stand part of the Bill .’ ”

The motion was adopted.

Clause 68, as amended, was added to the Bill.

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

“ That clause 69 stand part of the Bill .’ ”

Mr. Sri Prakasa : Sir, before you allow amendment No. 173 in the name of Mr. Sen to be moved, I should like to raise a point of order and I want your ruling on it. I do not think Mr. Sen can move this amendment at all. He gave notice of this amendment some time back and then he resigned his membership of this House. Another gentleman was nominated in his place. I know Mr. Sen has now been re-nominated. But when a Member gives notice of amendments, and then resigns, he should lose all his rights to move those amendments, even if he should come back. I have no objection to your suspending the Standing Orders and allowing him to move them ; but I want your ruling to the effect that he cannot move his amendments on the basis that he gave his notice when he was a Member of the House before. I also want to lodge a protest against the system which enables Government to keep its

voting strength intact by allowing Members to go and nominating others in their places, a privilege which we do not have on this side of the House. I hope, Sir, you will see the justice of my claim and rule in my favour.

The Honourable Sir Nripendra Sircar : This interesting question does not arise, because Mr. Sen as soon as he came back took the precaution of renewing notice.

Mr. Sri Prakasa : If that were the case, his amendments would have been printed in the supplementary lists and not on the main list.

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Sen, amendment No. 173.

Mr. Susil Chandra Sen : Sir, I move :

“ That for clause 69 of the Bill, the following be substituted :

‘ 69. In section 133 of the said Act—

(a) after the word ‘ balance-sheet ’ wherever it occurs the words ‘ and profit and loss account or income and expenditure account ’ shall be inserted ;

(b) after the word ‘ manager ’ wherever it occurs the words ‘ or managing agent ’ shall be inserted ; and

(c) for sub-section (3) the following sub-section shall be substituted, namely :

‘ (3) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure account as required by section 131 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 131, section 132, section 132A and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees ’.”

This amendment is a simple and formal one in this sense that in the Act we have now provided compulsorily not only for a balance sheet but also for a profit and loss account and in the case of companies which do not have a profit and loss account the income and expenditure account and all of these documents have got to be properly signed by the directors. The first portion of the amendment, namely, sub-clause (a) is directed to this, namely, not only the balance sheet but the other documents which have been made compulsory will be signed in the same way as a balance sheet. The second one is necessary now that as we are roping in the managing agents and we have to provide that they do not escape and the third clause is the provision as to penalty which has been consolidated in one place instead of scattering it in so many different places. Sir, I move.

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

“ That for clause 69 of the Bill, the following be substituted :

‘ 69 In section 133 of the said Act—

(a) after the word ‘ balance-sheet ’ wherever it occurs the words ‘ and profit and loss account or income and expenditure account ’ shall be inserted ;

[Mr. President.]

(b) after the word 'manager' wherever it occurs the words 'or managing agent' shall be inserted; and

(c) for sub-section (3) the following sub-section shall be substituted, namely:

'(3) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure account as required by section 131 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 131, section 132, section 132A and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees.'

Mr. M. Ananthasayanam Ayyangar : With respect to this clause 69 you will please remember that the Honourable the Law Member said that there is ample provision in this clause to deal with cases where a meeting is not called for the purpose of placing the balance sheet, etc. My friend, Mr. Bajoria, had given an amendment to clause (d), that sub-section (4) shall be omitted, that is sub-section (4) of the original section 131, imposing a penalty in case a meeting was not called. He was asked to withdraw it and he did withdraw it. I expected and still expect that the Honourable the Law Member would move an amendment to this clause 69 to provide for cases where a default is made in calling a meeting. If he has no objection, I will move an amendment.

Mr. Susil Chandra Sen : It is not necessary to move any amendment. I believe my friend's point will be met if I draw his attention to the existing provisions of section 76 in the Act which provides for the penalty for not calling an annual general meeting.

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

"That for clause 69 of the Bill, the following be substituted :

'69. In section 133 of the said Act—

(a) after the word 'balance-sheet' wherever it occurs the words 'and profit and loss account or income and expenditure account' shall be inserted;

(b) after the word 'manager' wherever it occurs the words 'or managing agent' shall be inserted; and

(c) for sub-section (3) the following sub-section shall be substituted, namely :

'(3) If any default is made in laying before the company or in issuing a balance-sheet and profit and loss account or income and expenditure account as required by section 131 or if any balance-sheet and profit and loss account or income and expenditure account is issued, circulated or published which does not comply with the requirements laid down by and under section 131, section 132, section 132A and this section, the company and every officer of the company who is knowingly and wilfully a party to the default shall be punishable with fine which may extend to five hundred rupees.'

The motion was adopted.

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

"That clause 69, as amended, stand part of the Bill."

The motion was adopted.

Clause 69, as amended, was added to the Bill.

Clause 70 was added to the Bill.

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That after clause 70 of the Bill, the following new clause be inserted :

‘ 70A. In section 135 of the said Act, after the words ‘ the balance sheet ’ the words ‘ and the profit and loss account or the income and expenditure account ’ shall be added ’.”

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

“ That after clause 70 of the Bill, the following new clause be inserted :

‘ 70A. In section 135 of the said Act, after the words ‘ the balance sheet ’ the words ‘ and the profit and loss account or the income and expenditure account ’ shall be added ’.”

The motion was adopted.

New clause 70A was added to the Bill.

Clauses 71 to 74 were added to the Bill.

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

“ That clause 75 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar : Sir, I move :

“ That in clause 75 of the Bill, after sub-clause (a) the following be inserted :

‘ (aa) after clause (f) of sub-section 2A, the following shall be added, namely :

‘ (g) a local board of accountancy shall be established in each province consisting of a representative of the chambers of commerce, one representative of the shareholders of companies, one representative of the directors and managing agents, one representative of Chartered Accountants and the Registrar of joint stock companies of the province, in such manner as the Governor General in Council may by rules prescribe ;

(h) in provinces where there are local Accountancy Boards, the power of suspension or cancellation of certificates granted to auditors or of taking any other disciplinary action against auditors shall be exercised by the Local Government on the recommendation of the local Accountancy Board ;

(i) an appeal shall lie to the Governor General in Council from an order of a Local Government cancelling a certificate of an auditor.’ ”

Sir, for the purpose of auditing the accounts of companies, and even when as a profession a person does not engage himself in the business of auditing the accounts of a company, all such persons—both those who have taken to audit as a profession and those who want to have audit certificates given to them by the Governor General in Council under rules framed under sections 144 to 145 can have that done and they are recognized as certified auditors and their names are entered in the register. Local Accountancy Boards, which can make recommendations to the Local Government and to the Governor General in Council in the matter of cancelling or suspending certificates issued to auditors, can be appointed under the same rules. Now, in many cases Local Accountancy Boards have not been appointed at all. My desire is that they should be appointed for each province. I also want that local Accountancy Boards should be appointed with the particular composition set out in clause (g), that is,

[Mr. M. Ananthasayanam Ayyangar.]

they should consist of those persons who are interested in companies and in the proper checking and auditing of the accounts of companies. Also, among the five persons, who are to constitute the Local Accountancy Board, some must be accountants, or auditors with expert knowledge. I have only given the details of the persons who should form themselves into the Local Accountancy Board or those persons who have formed themselves into such a Board. The general qualifications are already set out in section 144. I have only tried to make some general recommendations, *vide* my clause (g), as regards the class of persons specifically from each interest that is to be represented on the Board; and, when such Boards are established in the several provinces, the work of cancelling or suspending certificates or taking disciplinary action with respect to auditors, must be done on the recommendations of those Boards. Sir, it is a long way off from Cape Comorin to Simla; so that very often, if an auditor misbehaves, the cry is not heard; he probably comes and whispers something into the ears of some clerk in the Secretariat, and very often he might get misled. Ultimately he may go scot-free. In any case there is not that public opinion that he has to respect and which, otherwise, would certainly prevail over him in the province where he misbehaves. I have, therefore, said that on the advice of the Local Accountancy Boards disciplinary action should be allowed to be taken by Local Governments instead of by the Government of India as is done at present. In case the auditor is aggrieved by any particular order passed by the Local Government, he may appeal, also under clause (i), to the Governor General in Council. Sir, this is the object with which I have framed this amendment. I would now refer the House to the provisions of section 144 as they stand at present. I am trying to introduce an innovation by this amendment to see that the provisions already made in the section are compulsorily given effect to. Sir, hitherto Local Accountancy Boards have not been established in the various provinces, though there is that provision. Under section 144:

"(1) * * * no person shall be appointed or act as auditor of any company other than a private company unless he holds a certificate from the Governor General in Council entitling him to act as an auditor of companies :

(2) The Governor General in Council may, by notification in the Gazette of India, and, after previous publication, make rules providing for the grant, renewal or cancellation of such certificates and prescribing conditions and restrictions for such grant, renewal or cancellation.

(2A) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(e) provide for the establishment, constitution and procedure of an Indian Accountancy Board, consisting of persons representing the interests principally affected or having special knowledge of accountancy in India, to advise him on all matters of administration relating to accountancy, and to assist him in maintaining the standards of qualification and conduct of persons enrolled on the Register;

(f) provide for the establishment, constitution and procedure of local accountancy boards at such centres as the Governor General in Council may select, to advise him and the Indian Accountancy Board on any matter that may be referred to them."

These rules may be framed to provide for the establishment of local accountancy boards. As far as my information goes, till now a local accountancy board has not been established in Madras, though one such has been established in Bombay. By this amendment I want to make it obligatory. I have also suggested the class of persons who should be represented on the Board, etc. Therefore, Sir, by this amendment I seek to have compulsory these Accountancy Boards being brought into existence in several provinces; I have suggested the composition of these boards, and I have also provided for the Local Government dealing with cancellations or suspensions of certificates in emergent cases, for the Governor General in Council is too far away to deal effectively with such matters. I therefore move this amendment.

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

“ That in clause 75 of the Bill, after sub-clause (a) the following be inserted :

‘ (aa) after clause (f) of sub-section 2A, the following shall be added, namely :

‘ (g) a local board of accountancy shall be established in each province consisting of a representative of the chambers of commerce, one representative of the shareholders of companies, one representative of the directors and managing agents, one representative of Chartered Accountants and the Registrar of joint stock companies of the province, in such manner as the Governor General in Council may by rules prescribe ;

(h) in provinces where there are local Accountancy Boards, the power of suspension or cancellation of certificates granted to auditors or of taking any other disciplinary action against auditors shall be exercised by the Local Government on the recommendation of the local Accountancy Board ;

(i) an appeal shall lie to the Governor General in Council from an order of a Local Government cancelling a certificate of an auditor.’ ”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. Apart from other grounds, Government of India is not prepared at the present moment to have it made mandatory that a Local Board of Accountancy shall be established in every province and further, supposing that is going to be done, we cannot accept the composition which has been indicated in clause (g) of the amendment, that is, a representative of the chambers of commerce, one of the shareholders, one of the directors and managing agents, and so on. I object to this amendment.

Mr. M. Ananthasayanam Ayyangar : Have you got an alternative suggestion with regard to the composition of these accountancy boards ?

The Honourable Sir Nripendra Sircar : One thing at a time. I am opposing this.

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

“ That in clause 75 of the Bill, after sub-clause (a) the following be inserted :

‘ (aa) after clause (f) of sub-section 2A, the following shall be added, namely :

‘ (g) a local board of accountancy shall be established in each province consisting of a representative of the chambers of commerce, one representative of the shareholders of companies, one representative of the directors and managing agents, one representative of Chartered Accountants and the Registrar of joint stock companies of the province, in such manner as the Governor General in Council may by rules prescribe ;

[Mr. President.]

- (h) in provinces where there are local Accountancy Boards, the power of suspension or cancellation of certificates granted to auditors or of taking any other disciplinary action against auditors shall be exercised by the Local Government on the recommendation of the local Accountancy Board ;
- (i) an appeal shall lie to the Governor General in Council from an order of a Local Government cancelling a certificate of an auditor."

The motion was negatived.

Mr. Susil Chandra Sen : Sir, I move :

" That sub-clause (b) of clause 75 of the Bill be omitted, and the subsequent sub-clause (c) be re-lettered as sub-clause (b)."

Before going further, I will draw the attention of the House to the proviso which I want to be deleted. In clause 75, you will find that clause (b) of the Bill purports to amend section 144 by adding to sub-section (2B) the following words, namely :

" and when so acting to append to his signature the style ' Chartered Accountant (India) '."

Sir, with your leave I propose to go into some details in order to show exactly the matter which I want to be dealt with by my amendment. As most of the Honourable Members are aware, in India we have a class of accountants who call themselves " Chartered Accountants ". They are entitled to call themselves " Chartered Accountants " by reason of the fact that they are members of one or other of five societies of accountants in the United Kingdom, namely, the Society of Accountants, Edinburgh ; the Institute of Accountants, Glasgow ; the Society of Accountants, Aberdeen ; the Institute of Chartered Accountants in England and Wales ; and the Institute of Chartered Accountants in Ireland. All these bodies have got royal charters which entitled the associates or fellows of these bodies to call themselves " Chartered Accountants ". They are admittedly regarded as belonging to a higher category of accountants. Now, at the present times in India we have 274 such accountants who are entitled by reason of their association with one or the other of these bodies to call themselves chartered accountants and a very considerable number of Indians amongst them. What is now intended to be done by this Bill is to allow accountants in India who are not members of these bodies and who are not entitled to call themselves Chartered Accountants to arrogate to themselves the designation of Chartered Accountants (India). Sir, it may be naturally asked why is there this fancy for the particular words ' Chartered Accountants ' ? Sir, this demand is made by a certain class of accountants who have become entitled to audit the accounts of companies in this country by obtaining a certificate from the Governor General in Council. They call themselves at present as " Registered Accountants ". They argue—that if they can be designated as Registered Accountants then, why should they not call themselves " Chartered Accountants " ? But that is no answer to the question. First of all, in the Act you will find, Sir, that there is no provision for calling them by any name. They are only given a certificate and their names are enrolled in a Register. They dub themselves as " Registered Accountants " and that is the genesis of these " Registered Accountants ". This system has been found to be satisfactory for the last 23 years. But apparently it is now considered to be satis-

factory. They now want to usurp, (if I may be pardoned for using that word), the designation of "Chartered Accountants" which, by right, belongs to the members associated with the five bodies I have named. Sir, the reason is obvious. They want to abolish the distinction between them and those persons who are rightly entitled to the designation. It has been said that they want to differentiate themselves by saying that they are to be called Chartered Accountants (India). But then again there is no answer to the question as to why they have chosen the word "Chartered Accountant" as part of their designation. Let us now see if under section 144, there is scope for giving them any designation at all. What does section 144 lay down? Section 144 only says that the Governor General in Council, by Notification in the Gazette of India, may make rules for the purpose of granting, renewing or cancelling certificates which will enable any accountant, whether he is a member of these bodies, whether he is a member of any other public body or whether he is an ordinary clerk to audit the accounts of a company in India. If he can pass the examination, he is given the certificate which entitles him to audit the accounts of companies. Under the section itself he is not given any designation, but as there is a register, those who become so eligible allocate to themselves the designation of "Registered Accountants". Therefore, Sir, in my submission there is no right to demand that any specific designation and much less the designation of "Chartered Accountants", should be given to them. Then, Sir, from the objections received what has been rightly pointed out by the members of these bodies is that it really means that these accountants who are not Associates or Fellows of the bodies I have mentioned want to pass off themselves as such. They want it to be believed really that they have something to do with these bodies. Sir, there is absolutely no justification for allowing them to do so. This provision was not in the original Bill as drafted.

Mr. Mohan Lal Saksena (Lucknow Division : Non-Muhammadan Rural) : What about those recommendations which you yourself made ?

Mr. Susil Chandra Sen : I made no recommendations for such a jugglery. In the Select Committee stage this was put in, but I submit, that it is an unwarrantable provision attempted to be introduced in the Act. It really is a surreptitious attempt to trench upon the position of those persons who, by reason of their association with certain authorised institutions, are entitled to call themselves "Chartered Accountants". It has been said that there are accountants with designations "Chartered Accountants" in South Africa, Quebec and Canada. I have no doubts there are, but I say, Sir, with confidence that neither by the Canadian Companies Act nor by the South African Companies Act were they given the designation of "Chartered Accountants". They got it either by a charter, as in Australia or they have had special enactments passed. These enactments provide for an autonomous institution which fixes the rules and regulations which have got to be complied, the examinations which have to be passed, before they can be entitled to the use of the words "Chartered Accountants". Here we have no all India body and not even a united demand. Sir, I submit that there is neither any logic nor any justification for bestowing a designation which is calculated to deceive people—and no case has been made for having any such change brought about through the medium of this Act which has nothing to do

[Mr. Susil Chandra Sen.]

with the designation of accountants. Sir, I move that this clause should be deleted.

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

“ That sub-clause (b) of clause 75 of the Bill be omitted, and the subsequent sub-clause (c) be re-lettered as sub-clause (b). ”

Pandit Sri Krishna Dutta Paliwal : Sir, I rise to oppose the amendment moved by my Honourable friend, Mr. Susil Chandra Sen, and my reasons are these. He has taken his stand on two grounds. In the first place, he has said that the words “ Chartered Accountants ” are used exclusively by certain accountants in the United Kingdom who belong to certain societies. Secondly, he has said that this designation is used in other countries by means of a special enactment. I say that both these statements are self-contradictory. In the first place, the Indian Society of Accountants and Auditors say that the belief that the designation of “ Chartered Accountants ” is the exclusive and monopolised privilege of the chartered accountants who are qualified only in England is erroneous. In fact, such is not the case. Almost all the Dominions in the British Empire (except India) have themselves provided, independently of the English qualification, for the awarding to their nationals the designation of “ Chartered Accountant ” by legislative enactments. Sir, it is written here in the memorandum sent by the Indian Society of Accountants and Auditors that the designation “ Chartered Accountants ” is allowed in the following countries :

Canada, Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan, South Africa, Transvaal, Natal, Cape of Good Hope, Orange Free State, South Rhodesia.

So the suggestion of my Honourable friend that this designation is confined only to these five or six societies in U. K. is wrong. I submit this is done in all other parts of the British Empire also. Now, Sir, I admit that this is done not by the Company's law but by special laws enacted for the purpose. But then in India there is no special law for the purpose. The only law which deals with the Accountants in India is the Companies Law and the Companies (Amendment) Act was passed in 1930 for the special purpose of enabling the Government to regulate the Accountants and Auditors and section 144 (2A) clause (e) of that Act prescribes definitely that the Governor General in Council shall be advised from time to time by the Indian Accountancy Board ‘ on all matters of administration relating to accountancy ’. Under the said Amending Act, 1930, voluminous rules have been framed by Government for covering the entire field of activities in the Indian Accountancy profession. This was the case in 1930. According to this section, it was officially announced by the Government of India that the object of the said Amendment Act was to concentrate powers in the hands of the Governor General in Council for the purposes of regulating the Indian Accountancy profession and not for merely issuing auditor's certificates with the help and advice of the Indian Accountancy Board and Local Accountancy Boards. The functions of these Boards which were outlined by the Government of India in their Notifications No. 131-T.-(2), dated the 16th November, 1925, and No. 131-T.-(2), dated the 20th August, 1928,

show that these Boards were designed to tackle all matters relating to the profession of accountants and auditors in India. These functions are :

" (1) subject to the approval of the Government of India to frame and issue rules prescribing the qualifications and the grant of diplomas in accountancy.

(6) to grant an all-India diploma in accountancy which would connote high professional attainments and would entitle the holders thereof to practise their profession anywhere in British India.

(8) to recommend to the Government of India the cancellation of the all-India diploma where the holder has been found guilty of professional misconduct.

(IV)-(3). The functions of a Local Board should be to advise the Indian Accountancy Board or the Governor General in Council on any matters relating to the profession of Accountants within its area.

The functions of the aforesaid statutory Boards of control clearly point out that section 144 of the Act under which they are constituted in enacted for the broad purpose of regulating the profession of accountants and auditors in India."

Sir, the argument that in other countries they do have got special enactments for the purpose does not hold water because there is no such law in India. The Government here do not even contemplate the bringing forward of any such law. Supposing the Government take the stand that they will hereafter come forward with a specific legislation, then in that case this amendment of the Companies Law can be repealed by the repealing section of that Bill as is generally the case in such enactments. So, Sir, there is no difficulty whatsoever in allowing the Indian Accountants the right to use the designation, Chartered Accountants. It may be said or it may be hinted that the professional qualifications of the Indian Accountants are not so good as those of the Chartered Accountants of other countries—I say that it is not so. The Indian Society of Accountants and Auditors says : " Regarding the tests in general education, and practical training and the range of knowledge in professional subjects required by Government before granting the auditor's diploma of 'Registered Accountant', they are undoubtedly rigorous and connote a high standard and a wide range of professional attainments as admitted by the Government themselves and they compare quite favourably with those required in England and in other British Dominions. Even if the Government think that these qualifications are not sufficient, it is in their power to make them more rigorous, they can enhance the qualifications necessary and make the examination more stiff and then grant this designation ". So, Sir, I do not think the Government should have any objection in granting that designation to Indian Accountants. I do not understand why Indian Accountants should be put to any disadvantage for the benefit of the British or England-returned Accountants. To me it appears that the whole thing is a question of vested interests. Nothing more. The question is if the Indian Accountants do not possess the qualifications which the other Accountants possess, you may say that they have not got the qualifications. But in point of fact it is not so. Therefore, you have no valid reason to prevent them from using the designation "Chartered Accountant". Take an instance, you have the B. A. degree in the Allahabad University, in Calcutta University and in all the Indian Universities as well as in the British Universities and on this score, you cannot say that those who pass out in India should not designate themselves as B. A.'s. The test is prescribed, an examination is prescribed,

[Pandit Sri Krishna Dutta Paliwal.]

where then is the harm in allowing the designation of Chartered Accountant to Indian Accountants. Why should they be prevented from designating themselves as Chartered Accountants simply for the advantage of those who have wasted the hard earned money of India in other countries? How is it justifiable that for that very reason and no other these England-returned Accountants should demand special privileges for themselves? I have seen the syllabuses which are prescribed for the Accountancy Examinations in different parts of the British Empire, and I am satisfied that the Indian examination is as stiff, I may even say, it is superior in certain respects to the examination which the Accountants in other countries, especially these so-called Chartered Accountants have to undergo. That being so, if the Chartered Accountants of the United Kingdom or of the other parts of the Dominions want to distinguish themselves from the Indian Chartered Accountant, the wording in the Bill does not prevent them from doing so, because the designation for Indian Accountants is "Chartered Accountants (India)". So the Indian Chartered Accountants are distinguishable from the Chartered Accountants of other countries and there is no fear of any confusion or any mistake on that score. Sir, there was a talk of some fraud in this connection.

Now, Sir, "fraud" is a very dangerous reptile. I searched for it very carefully and on examination I found that it was on the other side. Why should certain Accountants who pass their examination in England or in other countries outside India demand special privileges, for no other reason, but this that they have passed their examination in countries outside India? Sir, in India, the result of the present designation which the Indian Accountants have got is very injurious to them. The result is that in the International Congress of Accountants, the designation of Registered Accountants given to the Indian Accountants is practically looked down upon and they are considered inferior for no fault of their own as compared with the auditors of the rest of the British Empire who are designated as Chartered Accountants. Exchange banks and other banks doing business in India frequently insist before making advances to business house to have the latter's accounts audited by auditors having the designation of "Chartered Accountants" even though such accounts have already been audited by reputable firms of registered accountants in India, and so there is the consequent humiliation of Indian auditors and also loss of their reputation and practice. Besides this, another inconvenience which the Indian accountants have to suffer on account of this invidious distinction is that investors and the general public wrongly believe that if an auditor does not hold the designation of "Chartered Accountant", he is no good and he is looked upon as an inferior class of auditor. Even Courts of law in India while passing orders in matters concerning accounts and audit at times inadvertently make similar mistakes.

In foreign countries, accounts of business houses in India audited by auditors bearing the designation of "Registered Accountants" are not as readily accepted as those bearing the universally recognised designation of "Chartered Accountants".

Sir, for these reasons, I think the amendment before the House should be thrown out and another amendment which we are going to move should be accepted.

The Honourable Sir Nripendra Sircar : Sir, before I come to the merits of the question I propose to say that this amendment, if it is lost, will be against the interests of those,—and I include myself among those,—who are desirous of having a body of accountants here in India who will have the same or almost equal status as the Chartered Accountants. A question in connection with Government attitude to accountants was put to me at or about the time when the Select Committee was being held. I could not then answer the question because I had no instructions then. I am now authorised to say that Government propose in the very near future to consider the whole question, the whole matter of the status of accountants and to consider the question of what can be done to raise the status of Indian accountants, whether by legislation or by other means. Sir, the grievances of the Indian accountants are that they who pass their examinations in India cannot acquire the status of Chartered Accountants; and, as I shall proceed to show, by pinching their name they will never acquire such status, and any efforts on the part of the Government of India to take up this matter,—which, as I have said, I am authorised to say, will be taken up in the very near future,—will be a cause of retardation and not progress, so far as the Indian Accountants are concerned. Sir, I shall come back to it later, but I propose to say what is behind this. Why do they want this name Chartered Accountants, and “India” within brackets of course, and not any other name? Sir, I am sure if you give them any other name, even higher names and better names, they will not accept it. Would they like to be called ‘Expert Accountants’, ‘Proficient Accountants’, ‘Superb Accountants’, ‘Super Accountants’ or the ‘Most Exalted Order of Accountants’? (Laughter.) No, Sir, they will not accept anything; they must have ‘Chartered Accountants’. Why? Because that will enable them to pass off, to commit a fraud, on at least a part of the public by posing as Chartered Accountants.

Mr. N. M. Joshi (Nominated Non-Official) : Why not let all be called by the same name?

The Honourable Sir Nripendra Sircar : As this is not a labour question I do not consider Mr. Joshi to be an expert. (Laughter.) Sir, of these gentlemen who were canvassing and still going from door to door,—(and I say they were quite right; why should not they canvass their own cause?),—one of them came to see me, and they saw me more than once. I asked, “Why do you want the name ‘Chartered Accountant’?” One of them said,—I hope he is here somewhere,—that it was because people come and inquire, “Are you Chartered Accountants?” That is letting the cat out of the bag; that is to say, they can carry the provision, made in the Select Committee, allowing these accountants to call themselves Chartered Accountants, the next time he is asked “Are you Chartered Accountant, the answer will be, “Yes, (Ind)”. That “Ind” will be uttered very slowly, I believe. Those who are very conscientious will utter the word “Ind” in a very soft voice. (Laughter.) That is the whole object. I think every one in this House is familiar with ‘passing-off’ actions in the case of goods. For instance, we had a case in Calcutta where “Pear’s Soap” was imitated. It was called “Peary’s Soap”. Only an “Y” was put in, and in one corner in small letters was the word “Ballygunge”. The Court held that never mind that word “Ballygunge” (just as “Ind” here within brackets), the object was to pass off as “Pear’s Soap”, which it was not. That is the sort of object, and just realise what is happening. My friend talked of Manitoba, Tasmania,

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Timbuctoo, Honolulu, New Zealand, and so on. (Laughter.) But, Sir, in all these widely separated geographical regions, what has happened is this. The particular Government has brought a statute for constituting autonomous authority for accountants.

Pandit Sri Krishna Dutta Paliwal : Why does not your Government do it in India ?

The Honourable Sir Nripendra Sircar : Wait, Sir. They have their statutes, they create an autonomous body, which examines them. Government has no control either over the examination or over the giving of degrees or diplomas or anything of the kind. But here what is happening is, and under company law.....

Pandit Govind Ballabh Pant : Are they called Chartered Accountants or not in those countries ?

The Honourable Sir Nripendra Sircar : Yes, charter may be a royal charter or a charter under statute.

Pandit Govind Ballabh Pant : But in any case it is not a fraud there to call themselves Chartered Accountants.

The Honourable Sir Nripendra Sircar : No, for this reason, that in this country when a man says that he is a Chartered Accountant it carries some significance. People understand what he is. It may be that in South Africa there may have been Chartered Accountants, "S.A." within brackets, for 20 or 30 years. The significance here may or may not exist there. But, as my Honourable friends know, this passing off or this fraud depends on how the designation is taken, whether in the case of goods in the market, or in the case of professions, by the people and clients. If I say I am a Chartered Accountant, what will it convey ? Will it not convey to the man who is coming for my assistance that I belong to a certain society of accountants or have passed certain examinations ? Then my Honourable friend said, "Oh, the accountants here,—their examination is in no way inferior to that of the Chartered Accountants !" It must be so, because my Honourable friend was reading from what I believe has been handed over to him by the Registered and aspiring Chartered Accountants themselves. But there cannot be the slightest doubt, anybody who has inquired into the matter will know, that there cannot be any comparison between these two examinations. And they talk of traditions ! People who have come into existence only for 10 or 12 years talk of traditions ! That is the high-sounding talk in which these Registered Accountants indulge.

Now, Sir, even in England there is, first of all, the Chartered Accountants. Then we have got those who belong to the Incorporated Society of Accountants. The two are not the same. One means a five years' course and the other is probably three years course. If this law is passed, of course the Incorporated Accountant here who has got a certificate will pass himself off as a Chartered Accountant. He will get a lift without having passed the higher examination.

Sir, as it is now 6 o'clock, I may be allowed to continue tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 6th October, 1936.