

2nd February 1937

**THE
LEGISLATIVE ASSEMBLY DEBATES**

(Official Report)

Volume I, 1937

(25th January to 19th February, 1937)

**FIFTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1937**



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M89LAD

Legislative Assembly.

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Marshal :

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

Committee on Petitions :

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SARDAR SANT SINGH, M.L.A.

MR. M. GHILASUDDIN, M.L.A.

MR. MATHURADAS VISSANJI, M.L.A.

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LEGISLATIVE ASSEMBLY.

Tuesday, 2nd February, 1937.

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

MEMBER SWORN.

Mr. Robert Francis Mudie, C.I.E., O.B.E., M.L.A. (Government of India: Nominated Official).

QUESTIONS AND ANSWERS.

HOLDING OF THE CORONATION DURBAR IN DELHI.

339. ***Mr. J. Ramsay Scott:** Will Government please state what is the most recent news concerning the holding of a Coronation Durbar in Delhi?

The Honourable Sir Henry Craik: As stated in my reply to Sardar Mangal Singh's question No. 195 on the 25th January, 1937, no decision has yet been reached.

Mr. Lalchand Navalrai: Has any decision been arrived at whether the Durbar is going to take place here or not?

The Honourable Sir Henry Craik: I have just answered that.

Mr. J. Ramsay Scott: Will Government kindly let the House know as soon as they have any information?

The Honourable Sir Henry Craik: As soon as a decision is reached, I have not the slightest doubt that it will be published.

ENHANCEMENT OF RENTS OF HOUSES, ETC., IN CASE THE CORONATION DURBAR IS HELD IN DELHI.

340. ***Mr. J. Ramsay Scott:** (a) Are Government aware that landlords and hotels in Delhi are proposing to profiteer, if a Coronation Durbar should be held?

(b) Are Government aware that landlords are refusing to let houses beyond September, 1937, unless the tenant is prepared either to vacate or to pay enhanced rents during the Durbar period?

(c) What steps do Government propose to take to prevent excess profiteering?

The Honourable Sir Henry Craik: (a) and (b). Government have no precise information.

(c) Until some decision has been taken about the holding of the Durbar Government consider that it would be premature to examine a situation that depends on that decision.

CONSTRUCTION OF HOUSES AND QUARTERS FOR OFFICERS AND CLERKS IN NEW DELHI.

341. *Mr. J. Ramsay Scott: (a) Is it a fact that Government propose to build houses and quarters for officers and clerks for 80 per cent. of their staff?

(b) Is it a fact that the shortage below 80 per cent. is about 536 houses, namely, 21 for officers, 26 for orthodox clerks and 489 for unorthodox clerks?

(c) Will Government's building programme be brought up to date to a full 80 per cent. during the coming year?

The Honourable Sir Frank Noyce: (a) and (c). Government do not propose to build additional quarters to bring the percentage of allotment to all classes of officers and clerks up to 80 per cent., but they hope to provide in the next financial year additional residences to the extent of about eighty per cent. of the increased demand which will be occasioned by the establishment of the Federal Court and the move of the staff of the Imperial Record Department from Calcutta to New Delhi.

(b) No. The Honourable Member has been misinformed. The figures based on the average demand of the last three years are:

Officers' houses	26
Orthodox clerks' quarters	4
Unorthodox clerks' quarters	35

The total average demand for unorthodox quarters is, in point of fact, far less than the figure of shortage mentioned in the Honourable Member's question.

OFFICERS AND CLERKS NOT PROVIDED WITH GOVERNMENT QUARTERS IN NEW DELHI OBTAINING HOUSES AT ENHANCED RENTS.

342. *Mr. J. Ramsay Scott: (a) Are Government aware that the officers and clerks who have not been able to obtain Government houses will be forced to obtain houses at enhanced rates?

(b) Is it a fact that such officers and clerks are the lowest paid in their grade?

(c) What do Government propose to do in the matter?

The Honourable Sir Frank Noyce: (a) I am afraid this may be so, but the number of those who want Government quarters and fail to get them is not at present abnormally large, and both officers and clerks frequently share accommodation with those who are allotted Government quarters.

(b) No.

(c) Government see no reason to change their present policy in this matter.

Mr. J. Ramsay Scott: Is it a fact that officers and clerks are going on leave next cold weather in order to avoid being forced to pay higher rates for housing?

The Honourable Sir Frank Noyce: The Honourable Member has apparently more information on that subject than I have.

HOUSING OF GOVERNMENT GUESTS DURING THE CORONATION DURBAR.

343. *Mr. J. Ramsay Scott: What steps are Government considering to take to house Government guests during the Durbar?

The Honourable Sir Henry Craik: As no decision has so far been reached about the holding of a Coronation Durbar in India, the question of accommodation for Government guests during the Durbar has not been considered.

SUPPLY OF WAGONS FOR THE CARRIAGE OF COAL TO CAWNPORE.

344. *Mr. J. Ramsay Scott: (a) Are Government aware of the representations made by the Upper India Chamber of Commerce in regard to the difficulties that mills in Cawnpore have been experiencing in obtaining their supplies of coal?

(b) If the answer to part (a) be in the affirmative, what action was taken to ensure the supply of wagons for the carriage of coal to Cawnpore?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes: a representation was received on the 18th January, 1937.

(b) No action was called for so far as supplies from collieries on the East Indian Railway were concerned, as from the 18th January, all indents for wagons for the supply of coal were being met in full.

In regard to supplies from the Bengal Nagpur Railway collieries, Government understand that every endeavour continues to be made to meet indents for wagons in full, but some difficulty has been experienced in obtaining definite information as to actual requirements in Cawnpore. From particulars obtained from colliery proprietors, it has been possible to increase despatches.

As the Honourable Member is doubtless aware, the demand for wagons during the last few weeks on practically all railways has been somewhat in excess of the number of wagons available owing to an improvement in trade conditions. Special consideration is, therefore, being given to the question of a substantial addition to the stock of wagons.

Mr. J. Ramsay Scott: Is it a fact that the shortage of wagons is, to some extent, due to the long time taken by goods trains?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid I could not express an opinion on that, though it is obvious that if goods train move faster, wagons could be emptied faster, and they would be available sooner for use again.

Dr. Ziauddin Ahmad: Will Government consider seriously the question of expediting goods traffic? In that case it will be useful for the trade and for the income of the railways.

The Honourable Sir Muhammad Zafrullah Khan: I believe that is one of the matters which the Wedgwood Committee may be expected to consider.

NON-VALIDITY OF MOTOR CAR LICENCES THROUGHOUT INDIA.

345. ***Mr. J. Ramsay Scott:** (a) Will Government please state if it is a fact that motor car licences are not valid throughout India?

(b) If a car is licensed in Calcutta and were taken to Delhi for any period over 21 days, would its owner have to take out an additional licence for Delhi?

(c) Are Government prepared to consider the suggestion that a licence taken out anywhere in India should be valid for the whole of India?

(d) Do Government propose to consider whether such a motor licence can be renewable anywhere in India?

The Honourable Sir Henry Craik: (a) and (b). I am not sure what the Honourable Member means by the words "motor car licences". He may refer to the certificate of registration under section 10 of the Indian Motor Vehicles Act, 1914, or he may refer to the certificate regarding the payment of the provincial motor vehicle tax under the Provincial Motor Vehicles Taxation Acts in force in different provinces. Certificates of registration are generally valid throughout British India. The period of exemption from taxation of a visiting car by a province in which it is not normally taxed varies according to the provisions of or under the various Provincial Taxation Acts. I understand that the period in Delhi is 21 days.

(c) Government are considering making provision in the Indian Motor Vehicles Act defining the extent of the validity of certificates of registration. They are not prepared to recommend to Local Governments that any car taxed in any province should be wholly exempted from taxation in another province for an unlimited period of time. The attention of the Honourable Member is drawn in this connection to paragraph 2 of Part V of the Concise Statement of Policy issued by the Transport Advisory Council at its last meeting in July, 1936, a copy of which is in the Library. It is there recommended that Local Governments should consider whether a uniform period of one month should not be adopted for this purpose.

(d) The period of validity of certificates of registration varies throughout India. In certain cases the certificate is valid for the life of a vehicle and does not require renewal. As I have already said Government are considering amending the Indian Motor Vehicles Act to provide for uniformity in this matter and will also consider the possibility of providing that the certificate of registration if and when renewable can be renewed in a province other than the province of issue. It is unlikely that Local Governments would agree that an instalment of the tax on a car registered and owned in one province should be payable to another province during the temporary presence of the car in the second province which is possibly what the Honourable Member has in mind.

Mr. Latchand Navai: May I know from the Honourable Member if there is any exemption with regard to the certificate of taxation in the case of M.L.A.'s who bring their cars to Delhi?

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

Mr. F. E. James: May I ask whether it is the intention of Government to amend the Motor Vehicles Act in this Session or to proceed with the Bill that was brought up before this House last Session?

The Honourable Sir Frank Noyes: We do not propose to proceed with the Bill this Session.

Dr. Ziauddin Ahmad: If a licence has already been obtained in a particular province for a car and the car is brought in another province, and the owner should not be required to pay full fees twice over for the whole year, will Government draw the attention of Local Governments not to charge licence fee twice over?

The Honourable Sir Henry Craik: What sort of licence does the Honourable Member mean?

Dr. Ziauddin Ahmad: I will just explain. Suppose I register the car in the month of January and pay licence fee in the province of Delhi.

An Honourable Member: You mean you paid the tax?

Dr. Ziauddin Ahmad: Suppose I have paid the entire tax for the Delhi province for the whole year.

The Honourable Sir Muhammad Zafrullah Khan: You can pay at one time only for a quarter.

Dr. Ziauddin Ahmad: It may be for a quarter in Delhi, but it is a year in some of the provinces. Suppose a person has paid his tax for the whole year in a particular province, and, after six months, he shifts to another province, will he be required to pay the tax over again for the whole year, or only a nominal tax will be expected?

The Honourable Sir Henry Craik: That depends upon the Provincial Taxation Acts and the rules made thereunder. It is a matter for the Local Governments.

Dr. Ziauddin Ahmad: Will the Honourable gentleman draw the attention of the Local Governments to this difficulty and allow them to legislate themselves?

The Honourable Sir Henry Craik: I have already said that the Government of India are not prepared to recommend to Local Governments that a car taxed in one province should be wholly exempted from taxation in another province for an unlimited period.

DELAY IN OBTAINING DRIVING AND CAR LICENCES FROM THE CAR REGISTERING AUTHORITY IN DELHI.

346. ***Mr. J. Ramsay Scott:** (a) Are Government aware that there is only one Car Registering Authority in Delhi?

(b) Are Government aware that the Officer-in-charge is still temporary, although he has been in charge for four years?

(c) Are Government aware that the Registration Office is understaffed and that the public is put to much inconvenience by delays in obtaining driving and car licences?

(d) Are Government prepared to consider the setting up of a Registration Office in New Delhi for the benefit of the residents in New Delhi?

Sir Girja Shankar Bajpai: (a) Yes.

(b) Yes. The question of permanency is under consideration.

(c) Information has been asked for and will be supplied to the House in due course.

(d) The attention of the Delhi administration will be drawn to the Honourable Member's suggestion.

PASSING OF DRIVING TEST ON THE LAPSE OF A DRIVING LICENCE IN DELHI.

347. *Mr. J. Ramsay Scott: Are Government aware that according to an executive order in Delhi if a driving licence lapses, the owner has to apply for a new licence and pass another driving test, although the motor rules state definitely that no renewal shall be refused?

The Honourable Sir Henry Craik: I am making enquiries and the information will be laid on the table.

COST OF THE DELHI CAR REGISTRATION OFFICE AND RECEIPTS FROM DRIVING AND CAR LICENCES.

348. *Mr. J. Ramsay Scott: Will Government please state the cost of the Delhi Car Registration Office and the receipts from the public for driving and car licences?

Sir Girja Shankar Bajpai: The information has been called for and will be furnished to the House as soon as possible.

Mr. J. Ramsay Scott: Is it not possible to obtain this information from Delhi in a quicker time?

Sir Girja Shankar Bajpai: If the Honourable Member had specified the period for which he wanted the information, I might have been able to get it quicker. The question merely says "receipts from the public for driving and car licences". We have got figures up to the end of 1935-36, but are trying to get them for the current year, 1936-37.

THE INSURANCE BILL.

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

"That the Bill to consolidate and amend the law relating to the business of insurance be referred to a Select Committee consisting of (the names I shall give in a minute) and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

As regards the names, the position is this. I will hand over a list to the Chair in a minute. I got officially from the Congress Party, the names of Messrs. Desai, Satyamurti, Asaf Ali and Sri Prakasa, and from other Parties we have got the names of Mr. Ghiasuddin, Mr. Buss, Mr. Nayudu, Mr. Griffiths, Mr. Chapman-Mortimer and Mr. Bajoria. As regards the Congress Nationalist Party, Mr. Aney told me specifically that I was to take Mr. N. C. Chunder on the Select Committee, to which I agreed. That is really a matter for the Party and not for me to decide as to whom they choose. Yesterday, we were rather placed in a false position over another Committee as we had nothing in writing, though we acted on the instructions verbally given. Today I wanted to get in writing from the Congress Nationalist Party the names of the Members who, they suggest, should be on the Committee, and I have got two names here, Mr. Akhil Chandra Datta and Sardar Sant Singh, which does not agree with the name given to me by the Leader of the Party. I have nothing to do with party squabbles or party wrangles. I have to proceed on the names which have been given to me in writing, as Sardar Sant Singh tells me that he is the person to deal with this matter. As the Congress, with its 42 or 43 members, are getting only four, so, for a party of 12, I am accepting only the first name, that of Mr. Akhil Chandra Datta. Therefore, the names will be,—myself, Mr. Desai, Mr. Satyamurti, Mr. Asaf Ali, Mr. Sri Prakasa, Mr. Akhil Chandra Datta, Mr. Essak Sait, Mr. Ghiasuddin, Mr. Buss, Mr. Nayudu, Mr. Griffiths, Mr. Chapman-Mortimer and Mr. Bajoria.

I do not propose at this stage of the Bill to make a speech longer than what is strictly necessary. It will be, however, my duty to give to the House a summary of the very comprehensive changes of a far-reaching character which have been included in the Bill. Insurance legislation in this country is of fairly recent origin. The law which now prevails is to be found in three statutes, the Indian Companies Act, VI of 1912, the Indian Insurance Companies Act, XX of 1928, the Provident Insurance Societies Act, XX of 1928 and the Provident Insurance Societies Act, V of 1912. While the first Act relates only to life insurance, the second Act relates to other kinds of insurance as well. Apart from the Indian company law which applies to all companies including insurance companies, there was no other law specifically applicable to insurance companies. Act V of 1912, the second Act, dealt with associations which deal with life insurance on a small scale and effected insurances in marriage, sickness and claims of similar kind. The administration of this law was left to the Local Governments, while the Act dealing with life insurance was to be administered by the Government of India. With the increase of insurance business in India and with the starting of Indian insurance companies for fire, marine and other classes of insurance, the necessity for further legislation became increasingly apparent. The idea of legislation was taken up by the Government of India in 1924. A draft Bill was prepared in 1925. It was introduced in this House and circulated for opinion. In the meantime, the English Act of 1909, having been found to be insufficient and unsatisfactory in England, a committee was appointed in England in 1925, which has come to be known as the Clauson Committee. The report of this committee was made early in 1927. In expectation of guidance from the law which was expected to be enacted in England, Government dropped their Bill of 1925 but started collecting data and information for arriving at a conclusion as to the provisions which should

[Sir Nripendra Sircar.]

be included in any legislation of their own. There was, however, no Act which authorised Government to require this information to be supplied. To remedy this defect, Act XX of 1928 was passed, dealing principally with kinds of insurance other than life insurance and containing provisions for the supply of statistics in connection with non-Indian companies doing insurance business. While it dealt with certain minor aspects of life insurance business which could not wait, the main object of the Bill was to gather statistics for use in connection with legislation which was expected to be introduced in India, after the British Parliament had passed their own enactment after consideration of the report of the Clauson Committee. The Act XX, which was passed in 1928, provided *inter alia* for deposit with Government of reports, balance-sheets, revenue accounts, profit and loss accounts and other papers, for a statement of Indian assets and for custody and inspection of documents. The Clauson Committee's Report was published in 1927, as I have said already I believe, but for reasons which I have not been able to ascertain, no legislation based on that, or otherwise, had been introduced or passed in England. In the meantime the demand for insurance legislation in India, as was to be expected, began to increase in volume and insurance business was rapidly increasing in India, particularly life insurance. In 1914, with 46 companies, the premium income was, in round figures, about Rs. 1 crore and 17 lakhs, while in 1933, with 194 companies, the premium income was nearly Rs. 6 crores. The rate of increase has been maintained in subsequent years. For instance, in 1934, 28 new companies were started. As regards insurance other than life insurance, there has been an increase, but not to any remarkable extent. We have no figures, as I have explained, for any period prior to 1928. That was the first time that the Government had the power to ask for information. In respect of fire, marine and miscellaneous insurance, in 1928, the premium income in India was about Rs. 40 lakhs, while the corresponding figure in 1933 is about Rs. 52½ lakhs. The figures for premium income outside India were about Rs. 1 crore in 1928, while in 1933, it was about Rs. 93 lakhs. Honourable Members must have noticed that the progress, so far as Indian business is concerned, in insurance other than life insurance has not been to the extent or degree which we find in life insurance. When the proposed legislation was taken up, it was a question whether we should have one comprehensive code relating to all kinds of insurance or whether, as was advocated by some opinions, there should be three Acts—one for life insurance, another for marine insurance and another for miscellaneous insurance and provident societies. In this Bill, the former idea has prevailed and the Bill is a comprehensive measure including insurance of all kinds. The Bill is intended to be a self-contained code in which the Indian law relating to insurance will be found. In describing the important changes proposed to be introduced in the present Bill, I have followed the order in which the clauses appear and not taken them by any order of importance of the subject. I may as well, before proceeding further, read to Honourable Members an extract from one paragraph from the Statement of Objects and Reasons, namely, paragraph 4:

"The draft Bill includes in one enactment the subjects dealt with by the two separate Acts of 1912, but relegates the provisions relating to Provident Insurance Societies to a separate Part.

It provides *inter alia* for the following matters. It increases the supervision exercised over all concerns transacting insurance business of whatever kind in British

India, whether these are indigenous concerns, or external companies represented in India by branches or agencies, and treats agents acting for Lloyds' underwriters on the same basis as such branches or agencies."

I am not reading the rest of the paragraph.

Now, taking up the provisions in the order which I have indicated, *viz.*, the order of the clauses, the first matter to which I would draw the attention of the House would be clause 2—the definition of insurance. The definition of insurance includes Lloyds' underwriters and is intended to make the local agents of Lloyds' underwriters liable to the control applicable to other insurance. Under the next clause, clause 3, the carrying on of business in British India will only be possible after registration and is directed to ensuring that the requisite deposits have been made and that the requisite minimum working capital is forthcoming. Sub-clause (3) is a provision not hitherto applied to foreign companies. By reason of this provision, the registration of a foreign insurance may be withheld or cancelled if the foreign country of origin debars Indian insurers from carrying on business there or places restrictions on it. There is some evidence that this is done in some countries. By clause 4 the minimum working capital is fixed at Rs. 50,000, and by clause 5 the requisite deposits are fixed, *viz.*,

- (a) for life insurance only, Rs. 2 lakhs;
- (b) for fire insurance only, Rs. 1½ lakhs;
- (c) for marine insurance only, Rs. 1½ lakhs;
- (d) for accident and miscellaneous insurance including workmen's compensation and motor-car insurance, Rs. 1 lakh;
- (e) for life insurance *plus* any one of the three classes of insurance (b), (c) and (d), that is to say, fire, marine and accident, Rs. 3 lakhs, of which Rs. 2 lakhs will be for life insurance;
- (f) for life insurance *plus* any two of the three classes of insurance (b), (c) and (d), Rs. 4 lakhs, of which Rs. 2 lakhs will be for life insurance;
- (g) for life insurance *plus* all the three classes of insurance, (b), (c) and (d), Rs. 4½ lakhs, of which Rs. 2 lakhs will be for life insurance;
- (h) where the business does not include life insurance but includes any two of the three classes of insurance (b), (c) and (d), Rs. 2½ lakhs; and
- (i) where the business does not include life insurance but includes all three classes of insurance, (b), (c) and (d), Rs. 3½ lakhs.

I need not here refer in detail to the provisions for payment by instalments, for utilising deposits which have already been made under the old Act, for collecting charges, and things of that kind: those are minor details. By clause 6 provision has been made for reserving deposits for meeting the claims of policies and for laying down that each of the four classes of deposits is primarily liable only for liabilities attaching to policies of its own class. By clause 8 it has been made clear that separate assets are required to be kept only in respect of life insurance business, but separate accounts are required for each of the four-named classes of insurance. Clause 9, I consider, to be an important clause requiring that an Indian insurer shall in respect of all business and a non-Indian insurer including a Lloyd's agent shall in respect of Indian business prepare a

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balance-sheet, a profit and loss account in certain cases, and a revenue account for each of the four separate classes of business. By clause 10 provision has been made for general audit of all Indian insurers and Indian business of non-Indian insurers. By clause 19 it is proposed to enact that if it appears to the Superintendent of Insurance that an investigation or a valuation required by clause 11 does not properly indicate the condition of affairs of the insurers by reason of faulty basis of valuation, he may call an investigation or a valuation to be made by an actuary appointed by himself. Clause 23, relating to investment, loans and management, is another very important provision. Every insurer, unless he holds invested in Government securities not less than 33½ per cent, of the total assets of the undertaking, shall invest all surplus assets in such securities until the total amount so invested amounts to not less than 33½ per cent of the total assets of the undertaking and shall, thereafter, keep invested in such securities not less at any time than 33½ per cent of the total assets of the undertaking. Here, I may inform the House that, while the British companies and the larger Indian companies have no objection to this provision, some of the smaller Indian companies have represented that this provision will operate as a hardship on them and this is a matter which, I am sure, the Select Committee will discuss properly when it is before them. Further, every non-Indian insurer shall invest and keep in Government securities not less than 33½ per cent of the total premium income of the business transaction in British India in each year. The same clause puts a restriction on investments of insurers providing that loans are not to be granted to a director, manager or officer except loans on life policies within limits of their surrender value. As regards managing agents, it has been proposed that none should be appointed after the commencement of the Act and in case of existing managing agents, they will go out after three years without any compensation on termination of the agreement. Large powers of inspections have been given to the Superintendent. By clause 25 and by clause 26, the Superintendent has been given the power to apply to court in certain circumstances for empowering him (the Superintendent) to appoint an auditor or actuary or both to investigate the affairs of the Company or the insurer. I need not detain the House with details of Provisions for amalgamation and transfer of insurance business and shall pass on to the subject of assignment or transfer of policies and nominations. They are directed to remove difficulties which have been experienced by policy holders. By clause 31, elaborate provisions have been made for form of transfer, for notice of transfer, and for compelling the insurer to recognise the transferee as the only person entitled to benefits under the policy. By clause 32, the power of nomination has been given to a policy holder, and I need hardly tell the House that this provision will override provisions prohibiting or restricting nominations which may be found in policies.

The subject of commissions and rebates and licensing of agents is a matter which has been found to be one of great difficulty. Weighty considerations may be urged for the provisions contained in the Bill as also against them and the matter will require very careful consideration in the Select Committee and later in this House. The Bill has adopted measures which have been advocated by a fairly large section of Indian opinions received but I am breaking no confidence if I inform the House that some of the members of the Advisory Committee at whose instance these provisions have been included in the Bill are not very firm in their

conviction now. Clause 33 prohibits the payment of remuneration or reward by way of commission or otherwise for procuring business or for collecting premiums to any person except a licensed agent. Secondly, commission or remuneration in any form is not to exceed 40 per cent of the initial premium and 5 per cent in case of renewal premium of life insurance or in case of insurance of any other kind 25 per cent of the premium.

By the next clause, clause 34, insurers and their agents are prohibited from allowing or offering to allow either directly or indirectly any rebate of the premium payable on the policy except such rebate as may be allowed in accordance with the public prospectuses or tables of the insurer. The power of licensing of agents is given to the Superintendent on an application counter-signed by at least one registered insurer and power is given to the Superintendent to cancel a licence if the licensee is found by any court that he has been guilty of criminal misappropriation, criminal breach of trust or cheating or has knowingly contravened any provisions of the Bill. A special provision has been made by which the holder of a policy issued in British India shall have the right to demand payment being made in British India, notwithstanding any provision to the contrary in the policy and that if any suit becomes necessary, the British Indian law will apply. By clause 38 provision has been made enabling insurers to deposit money in court where there are conflicting claims to the firm. I refrain from going at this stage into the provisions relating to winding up, but would like to draw the attention of the House to clause 48 of the Bill by which power has been given to impose reciprocal disabilities on non-Indian companies, where disabilities or restrictions are imposed on Indian companies in foreign countries. A special provision has also been made by clause 49 requiring non-Indian insurers to file particulars in India of the charters, statutes, memoranda and articles constituting the insurer, the list of directors, the name of authorised agent in British India and certain other particulars. As regards non-Indian insurer, a further provision has been made requiring him to keep, in British India, such books of accounts, registers and documents as will enable the Superintendent to compile and check the accounts, registers and documents which the non-Indian insurer is required to supply under the provisions of this Bill.

I have now given the House the most important of the provisions of the Bill, though not all, relating to insurance and now proceed to Part III which deals with the provident societies. It is a matter of common knowledge that these small societies are springing up like mushrooms, some of which are fraudulent and others, though free from the charge of dishonesty, are run on unsound and uneconomic lines. This part is not applicable to societies which pay or undertake to pay on any policy any annuity exceeding Rs. 50 or which accept by way of premium or contributions under any policy any sum exceeding Rs. 250, where it is payable for one year or a limited number of years on any sum exceeding Rs. 25 for the premiums or contributions which are terminable on death or on the happening of a certain event. Provident societies must not use as their name any combination of words which fails to include the word "provident" or which includes the word "life". The Bill proposes to enact that no provident society shall receive any premium for insuring money to be paid on the death of any person other than the person paying such premium or contribution or the wife, husband, child, parent, brother or sister of such a person. An important provision has been made for

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prohibiting dividing business which means that no provident society can carry on any business on the principle that the benefit secured by the policy is not fixed but depends upon the results of a distribution amongst all policies maturing for payment within certain time limits of a certain portion of the premium income. I need not detain the House on the principles of the provisions relating to registration of provident societies, the rules, the registers and books, the preparation of revenue accounts, the balance sheet, *etc.*, or the provisions relating to winding up. I shall content myself to drawing attention to certain select provisions. Firstly, no provident society shall be registered unless it has a paid up capital sufficient to yield a net sum of not less than Rs. 5,000 as working capital. Secondly, once in five years there should be a report by an actuary containing the particulars set out in clause 66 and it will be the duty of the actuary to report if the society is insolvent that is where no surplus exists for distribution as bonus to policy holders or as dividends to shareholders. Thirdly, every proposed scheme of insurance shall be examined by an actuary and the society shall not receive any premium until the scheme has been certified to be sound. If the scheme is reported to be unsound, the Superintendent shall give notice prohibiting the operation of the scheme. Fourthly, sixty per cent of the assets of the company should be invested in Government or Trustee securities. Fifthly, by clause 72, power is given to the Superintendent to visit the principal office of the society and to enquire into the solvency of the company or the manner in which business is conducted. He may direct such enquiry to be made by an auditor or actuary to be appointed by him. He will be entitled to examine the books of accounts and documents and call for explanations from any officer of the society and his report shall be open to inspection by any member or any policy holder of the company. From the summary I have given which does not purport to be exhaustive, it will be seen that every effort has been made to tighten up the law of insurance.

I feel I must refer to what has been called dumping and unfair competition by foreign companies. Very numerous journals dealing with insurance which have sprung up as also daily papers and magazine have written on this subject and written copiously and on innumerable occasions. Mr. Sen in his very careful report and I should say a very impartial report has dealt at length, with the subject of dumping and unfair competition. After referring to the complaint that there has been dumping of business by foreign companies, Mr. Sen has come to the conclusion that the agitation is unfounded. I did not, however, rest content with the finding of Mr. Sen and I intended that an opportunity should be given to those who have been complaining of dumping and unfair competition to establish exactly what was meant by these expressions and to suggest remedies for their prevention. I have not taken up the attitude that this is a matter merely of trade competition calling for no interference. On the other hand, I have been prepared to take a broader outlook from the Indian business point of view and to investigate with a view to finding out whether any unfair, though not illegal, methods have been resorted to by non-Indian insurers for hampering Indian insurance business, a business of fairly recent origin with great possibilities and which is daily increasing in volume. Honourable Members will find that many provisions in the Bill relating to non-Indian insurance companies have their

origin in adopting this point of view and further provisions would have been made if facts had justified even a *prima facie* case for their inclusion. It was not intended, when I said that an opportunity should be given to prove a case, that the case should be proved by evidence which will be accepted by Courts on the strict application of rules relating to hearsay, proof of documents and other technicalities which prevail in Courts of Law. Those who made the complaints were however expected to prove a *prima facie* case with the help of relaxation of technical legal rules relating to evidence and proof. They were also requested to suggest remedies against the grievance of which such repeated complaints have been made. There were, on the Advisory Committee, two members representing the larger and two others representing the smaller Indian insurance companies. They were informed of the situation, and, while the representatives of the smaller Indian companies did not examine any witnesses for reasons which will appear from what I shall state very soon, the representatives of the bigger Indian companies for proving the case of unfair competition by foreign companies and for recommending steps to be taken for their prevention examined two witnesses. Two witnesses of great experience and standing were examined and cross examined before the Advisory Committee. Mr. Duff, the General Manager of the New India Insurance Company, confined himself to insurance other than life insurance business. His written statement, which was taken as his examination in chief, will be found in the report of the Advisory Committee which has been distributed to Honourable Members. He pitched his case high and also suggested certain remedial measures. I do not propose to read out his lengthy statement or the fairly lengthy cross examination to which he was subjected. He admitted *inter alia* that owing to their being old established and having amassed very large funds, the bulk of the British companies are sounder than the bulk of the Indian companies. This will be found at page 19. I would like to draw the attention of the House to page 27 to witness's answers to certain questions put by me. The witness stated that "the charge of unfair competition boils down to this", I am quoting the exact language, "that some foreign companies are quoting far lesser rates or giving larger commissions than they give in foreign countries" and to further questions from me which will be found on the same page, the witness frankly admitted that on the materials now available he could not prove any case of unfair competition. A perusal of his evidence makes it obvious that he is unable to make out even a *prima facie* case of unfair competition, and, moreover, he does not suggest that foreign companies are quoting either uneconomical rates, or rates lower than those of Indian companies. On the assumption however that a case of unfair competition can be made out, I asked the witness that if he were drafting the Bill what provisions would he put in the Bill for preventing what he calls unfair competition. His answer was that on proof of unfair competition, the foreign company should be fined for the first two offences, and on proof of the offence for the third time, registration should be cancelled. Taking the evidence at its face value and without reference to the considerations which make the evidence of no value whatsoever, it amounts to the suggestion that foreign companies should be punished if they are repeatedly proved to have offered rates in India which are lower than the rates they offer in foreign countries, while the fact that their rates are not lower than those quoted by Indian companies is the best proof of those rates not being either uneconomical or financially unsound. Honourable Members will notice that this witness suggests

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as remedies that non-Indian companies should be asked to give a separate revenue account and that a limit should be placed on commissions and rebates payable to insureds; and I may point out that these remedies have all been adopted in the Bill, and Mr. Duff and those whose cause he advocated can have no complaint that the evidence of the witness has been ignored. The allegation of unfair competition has been directed less towards life insurance and more towards other insurance. This is easily understood as in life insurance Indian companies have made and are continuing to make very satisfactory and fairly rapid progress. In respect of this, Mr. Jones, Manager of the Oriental Assurance Company, which I am told is the largest Indian company dealing in life insurance, was examined as a witness. Like Mr. Duff his complaint was directed towards Canadian companies, rather than British insurers. He complained of the Sun Insurance Company paying high commissions, but nothing was left of his evidence on this point after cross-examination by Sir Pheroze Sethna; and in answer to Mr. Lamb he admitted that agents of his own company paid rebates. Starting to prove unfair competition by foreign companies *vis-a-vis* Indian companies, he led himself to the situation that it was really a case of unfair competition by smaller and impecunious Indian companies against the bigger companies, not a case of foreign against Indian but of the small against the big. Mr. Jones made this clear when he stated, I am quoting his words:

"Non-Indian companies, I admit, do not come into competition with the smaller companies."

This will be found at page 85. The remedies which the witness suggested are that non-Indian companies should be asked to give separate revenue accounts and balance-sheets in respect of their Indian business. In answer to me, he stated that he does not claim much knowledge of the smaller Indian companies, that his complaint against non-Indian companies boils down to excessive commission which they give or, as he was careful to say, which they probably give, and suggested that the remedy lies in fixing a maximum rebate of 35 to 40 per cent. on the first year's premium. Honourable Members will notice that as against the foreign companies not only have these suggestions been accepted but the present Bill goes very much further than the measure suggested by the two witnesses, Messrs. Duff and Jones. Their idea of fixing limits on rebates and commissions have been adopted in clauses 83 and 84, and we have gone further by requiring foreign companies to keep books of account, documents and registers in British India, giving power to the Superintendent to investigate and examine them, by compelling investment in Government securities and by providing that foreign companies creating difficulties in the way of Indian insurance will have their insurance business reciprocally subjected to the same difficulties and restrictions. My firm belief is that when the matter is further discussed it will be found that the remedy of fixing limits for rebates and commissions is open to serious objections, and I am pretty confident that the objection will come not from foreign companies but from the smaller Indian companies. I have an open mind on this matter and I do not commit myself to any final opinion. Sir, I know there are some who will not be satisfied unless all non-Indian companies are prevented from doing insurance business in India on any terms or under conditions except those. I hope others will agree that neither Indian interest from the

broad point of view nor the interest of policy holders, be they Indian or non-Indian companies, have been overlooked in drafting this Bill. I would like to make it clear that most, if not all the provisions of importance contained in this Bill, do not represent the final and unalterable view of Government. It is proposed to circulate the Bill without delay and to give a fairly long time of six months for opinions and comments on a far-reaching and comprehensive measure of this kind, and for considering the same when they are received. These opinions and the discussions in Select Committee, which will not meet till August next, must be carefully considered by Government before it can finally make up its mind.

I cannot resume my seat without acknowledging the great services rendered by Mr. Sen in drawing up an elaborate and a very well considered report, and also to the members of the Advisory Committee who were all busy men of business, who took the trouble of coming to Delhi from very distant places for helping Government in the matter of drafting this Bill.

I do not think, Sir, I should add anything further now, and I may confess that I am indeed glad that on this Bill we shall have the assistance of Mr. Desai who has agreed to serve on the Select Committee.

Sir, I move.

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

"That the Bill to consolidate and amend the law relating to the business of insurance be referred to a Select Committee consisting of the Honourable the Law Member, Mr. Bhulabhai J. Desai, Mr. Satyamurti, Mr. Asaf Ali, Mr. Sri Prakasa, Mr. Akhil Chandra Datta, Mr. Essak Sait, Mr. Ghiasuddin, Mr. Bues, Mr. Nayudu, Mr. Griffiths, Mr. Chapman-Mortimer and Mr. Bajoria, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir Leslie Hudson (Bombay: European): A little less than a year ago, speaking from this place on behalf of the British non-officials in this House, I had occasion to congratulate the Law Member on putting his hand to the important task of reforming the Company Law. That important and comprehensive piece of legislation which occupied us day by day for two months in Simla last year, and, I think I may say, reduced many of us to a state of mental dejection, did not exhaust the industry and patience of the Honourable Member, and today we have in our possession a Bill equally as important, equally as comprehensive, and, if I may say so equally voluminous, to reform the Insurance Law. If it be true, as the ancients thought, that "praise is wont to follow where labour has led", then there can be no one in this House who will withhold from the Honourable Member a tribute of admiration of his remarkable legislative record within the past few months. This Bill completes the structure of the legislative reforms relating to the business and commercial life of this country which we were promised, and in placing on record the appreciation of the interests affected by these reforms, interests of which I think I may say my voice is as representative as any, I naturally include all those who have been associated with the Honourable Member, and, in particular, Mr. Susil Sen, whose thirst for reform is, if anything, even more voracious than that of the Law Member himself.

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It is one of the customary courtesies which we pay to the Government and the House on these occasions to indicate in general terms our reactions to a new measure. In this general sense, therefore, we are satisfied that the alterations and extensions of the existing law which the Insurance Bill proposes are desirable and we therefore welcome them. Legislation affecting Insurance business is of a special and technical character and guidance in these matters can perhaps only be sought from those who are expert on the subject. It is reassuring to us, therefore, to notice that in framing the Bill now before us use has been made of the draft Bill which was attached to the Clauson Report. Conditions of business in India are not the same as those to be found in other countries and it is not only very necessary, but extremely important, that the special conditions in this country should constantly be borne in mind when legislation is considered. Those who remember the passing of the Indian Life Assurance Companies Act, and the Provident Insurance Societies Act, in 1912 will recollect that the endeavour then was to enact a measure which would provide for the better control and regulation of concerns transacting life assurance with particular reference to the protection of the public from exploitation by unsound companies. Those Acts, all things considered, suited fairly well the requirements at that time and with the amendments which were framed subsequently and incorporated in the law in 1928 have served the useful and important purpose of providing experience and guidance of the necessity and scope of further legislation.

A fool and his money are soon parted is an old and well tried adage, but it is not always necessary to be a fool to be the victim of an unscrupulous fraud, and it should be the aim of the legislature, so far as possible, to reduce to the minimum the opportunities that may exist for the perpetration of fraud. It is an unfortunate fact, but it is nevertheless true, that the community in spite of the legislation that has been passed is still exposed to the danger of the formation and operation, it may be by unscrupulous persons, of companies with little hope that the promises and inducements they hold out to the public will ever be fulfilled. That unfortunate feature applies today, as it did in 1912, particularly to Life Assurance and Provident Society business, and no one familiar with the conditions will deny that there is urgent need that measures should be taken, with as little delay as possible, to tighten up the law in an effort to eliminate it as far as possible. From our point of view, therefore, we consider that it is in respect of Life Assurance and Provident Societies that a strengthening of the existing law is mainly required, and we hope that the House will concentrate its attention on the supreme importance of attacking the mischief which lies in these directions rather than on the other classes of insurance where the position is not unsatisfactory. What India suffers from is the flotation of insurance companies by persons who not only lack experience but are without sufficient financial backing. That is a development which should be discouraged and prevented, and the searchlight should be turned on concerns of that variety rather than on institutions which are well run and are rendering valuable service in the promotion of insurance mindedness in India.

I must make it plain that the Group which I have the honour to lead is unalterably opposed to discrimination of any kind between different insurers. All insurers, whether Indian or non-Indian, public companies or private companies, or individual underwriters, whether members of an

Association or Society or not, should, in our judgment, be treated in respect of the returns which they are required to make to Government and in respect of all other forms of Government control in exactly the same way and no preference or privilege of any kind should be granted to one which is refused to another. Our strong opposition to legislation which discriminates in favour of indigenous insurance companies and against other insurers has no communal origin. Our attitude is the attitude of a fair field and no favour, and as we see it no well-conducted company can, or ought to, ask for more. Our main consideration, and what ought, we believe, to be the main consideration of this House, is the interests of the insuring public, and not the interests of any particular company or body of shareholders. I have thought it desirable to make that statement as explicit as I can in order that our position shall be quite clear in view of the propaganda which is directed towards turning this Bill into a discriminatory measure.

I have dealt so far with matters of principle which underlie our policy on this Bill, and I venture to think that they are matters of principle which are so fair and reasonable in themselves that they ought not to be unacceptable to this House.

May I turn now, for a few moments to some general observations on the actual provisions in the Bill. We are glad to notice that in the main the Bill relies on the principle of minimum interference and maximum publicity rather than on Government control. The requirements in the Bill, however, go a great deal further than the 1912 Act or the draft Bill of 1925, and while we recognise that times have changed since 1912 we question the necessity of going quite so far in some matters as this Bill seeks to go. What the community is mainly concerned with is to see a proper check placed on unsound concerns and not an unnecessary restriction of the business of sound concerns. One of the methods by which the Bill aims at the elimination of the unsound concern is the provision which requires every insurer to place and keep on deposit with the Reserve Bank of India substantial sums either in cash or securities. While the intention of this requirement which is to discourage unsubstantial and purely speculative ventures from undertaking insurance business in praiseworthy and meets with our full approval, we are of opinion that the exaction of such deposits is hardly justified in the case of old and well-established concerns. We should, moreover, infinitely have preferred to have seen these deposits paid in a lump sum instead of in instalments as the Bill provides as we consider that permitting deposits to be built up in instalments has been one of the mistakes in previous legislation. As to the actual amounts of deposits which the Bill proposes these we consider are high having regard to the amount of business transacted, and especially is this so in the case of smaller companies. But these are points of detail which I need not enter into here as they will, no doubt, be fully examined in the Select Committee.

In the same category as the requirement in respect of deposits is the restriction which Clause 23 of the Bill seeks to place on the investments of an insurer. This was a matter of considerable discussion when the 1912 Act was passed and there was strong support for restricting investments, the argument being that it was necessary in conditions such as are to be found in India. That argument, however, did not find favour and

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the 1912 Act placed no restraint on the manner in which the funds of an insurer should be invested. I do not think experience has shown that the decision of Government in 1912 to leave the insurer freedom in this matter was unwise, and I am not aware that the failure to place restrictions on investments has led to disaster. Taken as a whole the well-conducted Indian companies invest their monies soundly and there is no overwhelming reason for interference with their managerial responsibility. The best protection for the policyholder is to be found in giving 'publicity' to the statutory returns which disclose the financial position of the insuring company, and the quickened interest which this Bill is likely to encourage in insurance matters is in itself a sufficient safeguard against badly invested funds. I mention this matter in respect of investments because it is necessary in order to ensure that the obligations undertaken by insurers can be discharged, that their funds, wherever they may be, should be readily available. It is a fundamental principle of insurance that liquid funds should be centralised so that insurers may always be in a position rapidly to meet exceptionally heavy claims. I am advised that the experts who have expressed an opinion on this matter regard the locking up of assets in any country whether the country foreign or any other country as wholly unsound, and as the time may show the restraints of the Bill in this matter may be as disadvantageous to Indian companies as they are likely to be to other companies.

I have dealt with this matter at rather greater length than I should ordinarily have done at this stage because I hope the Select Committee will pay particular attention to it, bearing in mind that it is generally accepted that success in insurance depends in a large degree on companies extending their interests beyond their own borders and that it is most undesirable that companies, especially those engaged in business other than Life Assurance, should have their freedom to invest funds, in whatever way is most convenient for their business, in any way restricted. I think I should add also that the law in the United Kingdom, which may be taken as an example in this matter, places no restraint of the nature proposed in this clause on its own or on foreign companies operating within its jurisdiction.

There are a few more points on which I must touch before I sit down. We have heard in recent months a great deal in this House about Managing Agents, and I am sure my Honourable friend, the Law Member, is not, shall I say, unduly anxious to re-familiarise himself with the various degrees of eloquence with which those two words may be pronounced. He will forgive me, however, because it is not my fault if I have again to raise my voice on behalf of this worthy cause, as he is really to blame. Last year it was clause 42 of the Companies Bill. This year it is clause 24 of the Insurance Bill. Last year my Honourable friend saw fit to give the Managing Agent twenty years. This year he grants them only three years. If the Honourable Member is not consistent, at least the European Group is, and we shall feel bound on grounds both of justice and consistency to oppose the specially severe and prohibitory treatment which the Bill singles out for Managing Agents of insurance businesses. We can see no justification for laying down in this connection that their agreements, formally and properly entered into, shall terminate within three years. We recommend that Managing Agents of this class of business should be

dealt with on the same lines as in the new Companies Act. And in that matter I join company with Mathew Arnold when he wrote:

"How many noble thoughts,
How many precious feelings of man's heart,
How many loves, how many gratitudes,
Do twenty years wear out, and see expire."

We appreciate the intention behind the clauses which the Honourable Member has put in his Bill relating to Commission, Rebates and the Licensing of Agents and we believe that Insurance offices and the public will be better off if some form of statutory limitation could be devised. But, while things may be made difficult for the dishonest man, attempting to legislate him out of business is equivalent almost to attempting the impossible, and on that score we are apprehensive of the practicability of the proposals in these clauses.

Finally, Sir, there are clauses in the Bill dealing with Provident Societies which we particularly welcome. It has long been felt that steps should be taken to regulate this class of society and we hope that the Select Committee will see to it that the language of these clauses is carefully scrutinised so that an end may be put to a development which has not only done no credit, but has done great disservice, to the business of insurance in India.

Such criticisms as we have thought it necessary to advance today have been advanced, as I am sure the Government and the House will believe, in a friendly and helpful spirit. We assure the Government of our whole-hearted co-operation in their endeavours to place on the Statute-book an Act which will achieve its purposes and at the same time be satisfactory to all interests. I beg to support the motion.

The Honourable Sir Nripendra Sircar: Sir, I shall be very brief in referring to some of the points raised by the Honourable the Leader of the European Group. I can give him my assurance that any criticisms made by his Group or by any other group will be taken by me as solely made in the interest of improving, as we are all trying to do, the existing law for tightening up the law of insurance.

As regards the Clauson Committee's Report and the Schedules annexed to it, I was reminded that business conditions in India were different from those in England and other foreign countries. I realise that very well indeed, and that is the reason why the Schedules were submitted to the examination by members of the Advisory Committee. I got very valuable help from Mr. Sturgin, who was good enough, at my request, to examine those Schedules from the point of view of the conditions prevailing in India. I made similar requests to other members like Pandit Santanam to state their opinions as regards the Schedules, and we tried our best, if I may use the expression, "to pick their brains" and to get as much help as possible for the modifications they suggested, and they are still open to modifications. I am not expressing my final view on that matter. As regards discrimination, it will be noticed that what the Bill provides for is that if any country is discriminating against India we retain the power of discriminating against that country, so that no question of any other kind of discrimination arises here. As regards

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amounts and deposits, again, that will be a matter for this House after the Report comes from the Select Committee. We find no particular charm in the exact figures which we have introduced in the Bill as a basis for starting discussion. As regards investments and funds and the necessity of keeping funds in a liquid condition as far as possible, I am aware that there are no restrictions in England, but I would like to be informed by my Honourable friend, Sir Leslie Hudson, if, in England, there is any insurance company worth the name which has invested 65 per cent. of its assets in mortgages of land and in land development. I went through the figures very carefully. There, again, if business interests and the House think that no restriction whatsoever should be put we shall accept that decision. As regards British companies I may point out to my Honourable friend that, although they are under no obligation, they are at the present moment keeping more than 83 1/3 per cent. in Government securities so that possibly from the practical point of view, no restriction is being imposed on those companies. One word more, and that about Managing Agents. We have been charged with inconsistency, because, whereas 20 years' life is allowed to managing agents in connection with other businesses, we have suggested only three for insurance business. But surely, in the very many eloquent speeches which we heard in this House in support of the managing agent, we were continuously reminded that the necessity for the managing agent, the reason for his existence principally consisted in the fact that he was the man who had got to find the money for the business. That is all very well in connection with industrial ventures, but surely that is of no application when you are dealing with insurance business. However, that is again a matter for the Select Committee and for the House to discuss. I do not think that I should detain the House any longer. I commend my motion to the House.

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

"That the Bill to consolidate and amend the law relating to the business of insurance be referred to a Select Committee consisting of the Honourable the Law Member, Mr. Bhulabhai J. Desai, Mr. Satyamurti, Mr. Asif Ali, Mr. Sri Prakasa, Mr. Akhil Chandra Datta, Mr. Essak Sait, Mr. Ghiasuddin, Mr. Buss, Mr. Nayudu, Mr. Griffiths, Mr. Chapman-Mortimer and Mr. Bajoria, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE INDIAN RAILWAYS (AMENDMENT) BILL.

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

"That the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be referred to a Select Committee, consisting of Mr. S. Satyamurti, Mr. V. V. Giri, Mr. B. Das, Maulvi Syed Murtuza Sahib Bahadur, Dr. Ziauddin Ahmad, Pandit Lakshmi Kanta Maitra, Mr. G. Morgan, Sir Abdul Hamid, Mr. Mudie and the Mover, and the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

This measure was discussed on a similar motion during the last Session of the Assembly on four days from the 31st August to 3rd September and

discussed most thoroughly from every point of view. There was a host of suggestions and criticisms put forward with which I attempted to deal in my speech replying to the debate, and I venture to think that I did deal with at least the more important points of criticism of the Bill, and I gave an undertaking that all those matters would be examined in Committee if the House proceeded to appoint a Select Committee on that occasion. The House preferred to adopt a motion that the Bill be circulated for public opinion. The Bill has, in the meantime, been under circulation, and a very large number of opinions has been received. An examination of these opinions shows that the criticism of certain provisions of the Bill which has been put forward by certain bodies and certain individuals is fully covered by the discussion that took place in the House and is also covered by my speech summing up the debate. I, therefore, do not propose to make any lengthy speech on this occasion, as, on going through the matter, I do not discover that there is any very important new point that is disclosed by the opinions that have been received. All that I need do, on this occasion, is to assure the House that I stand by the undertaking that I have already given, namely, that certain features of the Bill to which a good deal of objection has been taken will be carefully examined in Committee and certain matters that were urged upon me during the discussion of the Bill in this House during the last Session would be safeguarded. I may point out that the list of members of the Select Committee that I have submitted includes Members of all Parties in this House, and as I have been told that it is inconvenient for certain reasons for some of them to attend before a certain date, I do not propose to ask the Select Committee to meet before that date. If I find, Sir, during the course of the debate on this motion that anything is brought forward which was not brought forward on the previous occasion, I shall try to meet it in my speech in reply. Sir, I move.

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

"That the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be referred to a Select Committee, consisting of Mr. S. Satyamurti, Mr. V. V. Giri, Mr. B. Das, Maulvi Syed Murtuza Sahib Bahadur, Dr. Ziauddin Ahmad, Pandit Lakshmi Kanta Maitra, Mr. G. Morgan, Sir Abdul Hamid, Mr. Mudie and the Mover, and the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): I have gone very carefully through the opinions expressed by different bodies and individuals. They are sharply divided in the same manner as the opinion was divided when we discussed this question at Simla. Certain responsible persons, including Judges of High Courts, characterise this Bill as a very drastic one, and the points that they have raised are exactly the same which we raised here from this side of the House at Simla. Several persons have raised the point that the responsibility of proving should not rest on the accused, but on the prosecution. We also raised the same two important points. As the Bill is now going to a Select Committee and all the opinions are before us, I do not like to detain the House by reading out the opinions of very influential men. We will discuss these things in detail and we will make an endeavour, at least I will, to remove those things which are likely to be repugnant and which are likely to be misused by subordinate officials of the railways. Certain things may be good but the danger of misuse may be very great, and this

[Dr. Ziauddin Ahmad.]

is a point which may be misused and we should try to modify it so that the danger may be minimised. With these words I do not oppose the motion.

Mr. G. Morgan (Bengal: European): Mr. President, I rise to support the motion moved by my Honourable friend, the Member in Charge, to refer this Bill to a Select Committee. After what my Honourable friend, Dr. Ziauddin Ahmad, has said; I do not propose to say anything at length on the merits of the Bill. As a member of the Select Committee, if the motion is carried, I shall reserve criticism until the Committee meets. The opinions which we have received are varied. At least, they are sharply divided into two sides, and the point that my Honourable friend, Dr. Ziauddin Ahmad, made just now about misuse is the one strong point which we shall have to consider very very carefully indeed, because we know that that can be carried to extreme lengths, and, instead of gaining the object which this Bill seeks to gain, we shall probably find that we really gain nothing and the public suffers considerably. I shall not say anything more on the Bill. There are two or three important questions to be settled and we can leave it to discussion in the Select Committee. The question of imprisonment and the possible misuse of the powers under other sections should be thoroughly discussed and decided. Sir, I support the motion.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): Sir, I had thought that after the disapproval of the measure from all sides of the House in the debate in Simla, Government would be well advised not to proceed with this measure any further; but I am disappointed that the Government wants to take this Bill to a Select Committee and to get the law enacted. If so, I should like to point out some of the defects in this Bill. Firstly, in my opinion, Government should be satisfied with the fare and penalty which are charged and no imprisonment or fine should be imposed. Railways are said to be a commercial organisation. In business, if we have a bad debt, then we are satisfied if we get the original sum. We do not press for interest and for other charges. Even in the case of bad debts, when we find that the debtor is not able to pay the full sum, we are satisfied with even 8 annas or four annas in a rupee.

The Honourable Sir Muhammad Zafrullah Khan: What do you do if you discover that somebody has cheated you?

Babu Baijnath Bajoria: If a person has cheated us, if he is a solvent man, then we take action against him in the civil or the criminal Courts but if a person is a man of no substance, then we have to sit quiet. We do not throw good money after bad. Government should, in my opinion, be satisfied with fare and penalty for non-payment of fares and they should not insist on imprisonment or fine in excess of those penalties. Another point is this. At the present moment there is a keen competition between railways and motor buses. Is it good salesmanship on the part of the Railways at the present juncture to put on restrictions and those stringent laws which will, in my opinion, divert the traffic from the railways to motor buses? We know that the third class travellers have to suffer many inconveniences at the present time. If they are further terrified by these stringent laws, then they will like to travel by the other alternative, that is,

by road. As regards the non-payment of fares by our ticketless travellers, in my opinion the subordinate staff of the railways are also a party to this. By their corruption, they help this evasion to a certain extent.

An Honourable Member: Have you paid anything to a railway servant?

Babu Baljnath Bajoria: I take my ticket before I board a train. So, in my opinion, Government should rather increase the facilities and provide further conveniences to the travelling public and make it more popular and should not try to make the laws more stringent. Again, Government should put up barriers and make the access to stations more difficult than it is at present and they should also see that the ticketless traveller does not board the train. I should like to read a few lines from the opinion of Mr. Dash, who is the Commissioner of the Presidency Division, Bengal, and who was the Chief Government Whip in this Assembly last year. He writes:

"I do not know the difficulties which Railways experience in preventing access of ticketless travellers to stations, platforms and trains. I should, however, hazard an estimate that it should be just as easy for railways to prevent this access as to prosecute after detection of ticketless travel."

Then, he goes on to say (I do not want to tire the House by reading the other portions):

"In view of the above uncertainties, I am not prepared to record an opinion in favour of the Bill."

This is the opinion of the Chief Government Whip last year. In my opinion, this Bill will lead to further corruption amongst the subordinate staff, because once they find any person who happens to be without ticket for any reason, whether *bona fide* or not, they will try to extort money from him and harass him. Again, the onus of proof has been put on the accused person. This is against all canons of jurisprudence. I strongly object also to this provision that a certificate should be obtained from the guard or the station master or the T. T. I. before a person boards a train without a ticket. Mere informing him will not be considered to be proof. When a train stops for a minute or two at wayside stations, it is absolutely impossible for a passenger who happens to be on the station just when the train has arrived to get a certificate from these officers and further they may give a certificate to the higher class passengers. As regards the poor villagers, when they approach these people, they will be turned away and instead of certificates, they may get kicks. So, I think if a person before travelling informs the guard of the train that he could not buy a ticket that should be sufficient for the purpose and certificates should not be insisted upon. With these few remarks, which I make for consideration by the Select Committee, I resume my seat.

Dr. F. X. DeSouza (Nominated Non-Official): Mr. President, before this Bill goes to Select Committee, there are one or two points which I should like to place before this House for their consideration.

The first point is: can the Railways prove that the loss from ticketless travellers is so great as to justify this radical change in legislation? The Honourable the Railway Member told us that on an average there were about 25 lakhs of ticketless travellers who were detected, and the

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total loss to the Railways was roughly estimated at Rs. 50 lakhs. We have not been told how this estimate was arrived at, but I take it that the usual basis of railway calculations is that the average fare is one rupee per passenger; so, for 25 lakhs of ticketless travellers detected, the loss would be Rs. 25 lakhs, and for the total number of ticketless travellers, whether detected or undetected, it may amount to, say, double the amount, that is, about Rs. 50 lakhs! That is the estimate of the loss which the Railways are supposed to incur on an average every year, as stated by the Railway Member. Sir, when Mr. Mudie, on behalf of the Railway Board, made a statement as to the details of this loss of the Railways he said that out of these 25 lakhs of ticketless travellers, excluding $7\frac{1}{4}$ lakhs of *faqirs*, mendicants and *Sadhus*, there were $17\frac{3}{4}$ lakhs of passengers who were detected travelling without tickets. Out of these $17\frac{3}{4}$ lakhs, he admitted that the fares of 17 lakhs of passengers were recovered; these passengers paid the fare on demand by the various ticket collectors, but, of the remaining three-quarters of a lakh, he said thirty-thousand were taken before a magistrate and made to pay the fares with excess, another fifteen thousand were fined, and it was only 30,000 persons who gave false names and addresses and could not be traced. It comes to this then that the loss to the Railways consists of the loss of fare on $7\frac{1}{4}$ lakhs of mendicants and *sadhus* and 30,000 passengers who gave false names and addresses.

Dr. Ziauddin Ahmad: Will you be able to recover fares from these *sadhus*?

Dr. F. X. DeSouza: Sir, by tightening the legislation in this matter, what do the Railways expect to gain? Do they expect that they will realize fares from the $7\frac{1}{4}$ lakhs of *sadhus* and mendicants? The Railway Board might as well expect to make a silk purse out of a Sow's ear! (Laughter.) Now what about these thirty thousand persons who gave false names and addresses? You might recover Rs. 30,000 out of them, but to recover Rs. 30,000—which after all, as I have shown, is the only amount of revenue that the Railways are likely to realize—is it worth while to enact this piece of legislation and expose nearly 400 million passengers to harassment? Sir, this is a very important point. I may be wrong in my calculation, but I should like this point to be borne in mind. Sir, take the other side of the picture. Seven and a quarter lakhs of *sadhus* and mendicants will be sent to jail. Now these live on the charity of the country side, and I suppose they expect to live also on the charity of the Railway Board; but the Railway Board are not now inclined to be so generous; they want to send them to jail, where they will be the guests of His Majesty, but at whose expense? At the expense of the Local Government. Now will the Local Government be ready and willing to pay the expenses of so many persons in jail? I doubt it. There is already serious grumbling, from the opinions I have read, that the Local Governments are not so willing. There is a third point. Are the Railway Companies likely to benefit from this piece of legislation in the sense that an increase would accrue to their revenues? Already I know—and probably I travel longer distances and more frequently than most Members of this Honourable House . . .

The Honourable Sir Nripendra Sircar (Law Member): But not without ticket!

Dr. F. X. DeSouza: Already I know what inconveniences third-class passengers are exposed to. Now, if, in addition to all these, they are to be subjected to harassment because of this additional piece of legislation, will that not, as my friend, Babu Baijnath Bajoria, has pointed out, lead them to have recourse to motor buses and thus cause the Railways a loss of revenue, so that the last condition of the Railways will be worse than the first. I would respectfully ask the Honourable Member for Railways and the Railway Board to take this into consideration before sending the matter to the Select Committee. I am, of course, prepared to vote for the motion for a Select Committee. Then, there are many other points like the onus of proof which are Select Committee matters, and if they are not satisfactorily disposed of by the Select Committee, then I propose to send in an amendment. Sir, that is all I wish to say and I support the motion for a Select Committee.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official): Sir, whenever measures are brought forward in this House by the Railway Board in order to improve the revenues of Government, they seem to evoke two separate sets of critics. One say the Government is not working efficiently, the other say—"reduce your expenditure". Here we have the Honourable Member presenting to this House a Bill to subject offending ticketless passengers to criminal action. Now if this Bill really benefits Government revenues, if it should really add to the coffers of Government I should support it whole-heartedly, but the Bill before the House is not so much a measure which will benefit our revenues as it appears to be a measure to protect the inefficiency of the Administration. We have a Railway Administration that has been for years confronted with this absolutely insuperable problem of ticketless passengers. It is common to all Railways, and Railways have tried all sorts of measures to antidote this loss of revenue, and they are still absolutely undecided amongst themselves as to whether the crew system, or the ticket-collector system or criminal treatment is the best measure of preventing this fraud upon the revenues of the Railways. This Bill does not take us anywhere. In effect, it is not going to increase the revenues of the Railways because the mendicant ticketless passengers will not even when criminally prosecuted pay their fares, on the contrary this Bill will certainly render the Administration very much more complex and difficult and will lead to a lot of trouble which will give no benefit to railway revenues. My view on this matter is that each Railway Administration, themselves, should evolve some more effective measure which will prevent this fraud on their revenues. Why come to the Legislative Assembly and ask it to pass a Bill which will put into jail passengers who are travelling without tickets instead of stopping it themselves? In most cases it is not a question of intentional fraud and, yet, the present system offers a great temptation for dishonesty and for fraud on the part of the staff—the ticket-collectors. The Railway Board have already reduced the wages of their subordinate employees to a starvation point with the result that, when they find that they cannot make both ends meet, they are seriously tempted to resort to dishonest measures. The present position is bad enough but if this Bill is accepted you at once place in the hands of your subordinate staff a greater temptation to defraud and harass the public. I personally see no good in this Bill. So, I say let each Railway administration work out its own salvation. You cannot do it by law but

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you can do it by improving your checking system. I know that no railway administration can properly estimate their profit and loss no matter what checking system they have hitherto followed. The only railway that has a crew system operating today is the Eastern Bengal Railway and even they cannot tell you whether this system is working at a loss or at a profit or is better than the old ticket-collector system. It is all very well for Government to say that they are losing 50 lakhs on account of these ticketless passengers, but let them turn round and tell this House whether they have lost or gained by introducing all the various systems, such as, the crew system, ticket-collectors and so on. They cannot. If there is to be an effective checking measure, let it be enforced before passengers enter the railway station. Let there be a dozen or more checkers employed to check the passengers as they get on to the station, instead of checking tickets when passengers have got into the carriages; because it is impossible effectively to do so then. My own view is that it is your staff who is to blame and not the passengers. I do not think that the introduction of any criminal measure to prevent ticketless passengers will be of any material avail. Improve your checking staff, why encourage inefficiency with criminal measures? I, therefore, ask the House not to accept this Bill.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Sir, I am not only sorry but also surprised that a sound and shrewd lawyer like the Honourable the Railway Member should introduce a measure like the one which we have got before us. This Bill has evoked more opposition in the public than it evoked in the House when it came for discussion for the first time. I had thought that after reading the opinions of eminent lawyers and Judges, the Honourable the Railway Member would grow wiser and would never think of bringing this measure again before the House. The majority of the opinions which have been printed, and the overwhelming majority of the opinions of those persons whose opinions were not asked but who have given their opinions through the press, show that, probably, 90 per cent. of the people of the country are opposed to this measure and I am afraid that if this measure is placed on the Statute-book, it will be considered as one of the most unpopular measures that was ever passed by this Assembly. Sir, it has been pointed out, and rightly too, that a very large number of the ticketless travellers consists of those who are encouraged by the railway staff themselves. In fact, a very large number of these ticketless travellers is either the railway staff themselves or their friends and relations and a number of *Sadhus* and mendicants who are allowed by the railway staff to travel without any ticket. There must be a very very small number of persons who deliberately try to travel without any ticket. Of course, there may be certain persons who are *bona-fide* ticketless travellers and who are forced to travel without a ticket because of the negligence of the booking clerks to issue tickets.

The Honourable Sir Muhammad Zafrullah Khan: And yet they can keep quiet throughout the journey till they are detected travelling without tickets.

Sir Muhammad Yakub: What can they do? We know that there are rules that the booking offices should be kept open for the whole day and night at big stations, and an hour before the train starts at small stations. If the Honourable the Railway Member will make a tour of inspection without giving notice to the people on the railways, he will find that even on big stations booking clerks never come to the booking office even 5 minutes before the arrival of the train. I do not say that this is the case on all stations. Of course, the railway staff cannot afford to be negligent at stations like Delhi, Allahabad, Lucknow or Calcutta, but on wayside stations, and particularly at night when the train arrives at stations between 11 p.m. and 2 a.m., the booking clerk is generally sleeping on his table and the poor passenger will be found knocking at the window door without any response. And when the booking clerk will not get up he will scold the passenger and say: "Go away, the train has not yet arrived." These are the things of every day occurrence. So, there are a small number of ticketless travellers who are accustomed to travel without taking any ticket. Then, again, what provision has the Honourable Member made for the railway staff who travel without tickets? Will he allow the respectable passengers of, say, first and second class to check these ticketless travellers who belong to the railway staff? Once a man, who is in the railway service, be he even a small ticket collector, enters a compartment he wants that the whole of the compartment should be reserved for him and nobody should be allowed to sit in that compartment. Is there any law to stop this evil? What provision have you made to stop all these abuses on the part of the railway servants?

The Honourable Sir Muhammad Zafrullah Khan: Ask Mr. Lalchand Navalrai who is already objecting to the reduction in the number of passes issued to the railway servants.

Sir Muhammad Yakub: That is quite a different thing. Mr. Navalrai is quite right in demanding that the number of passes must be reduced. I do not think that in India there is any other service, except probably the Police service, which is so corrupt and so arrogant and so negligent as the subordinate officers of the railways and it is because of the mal-treatment of these railway officers that traffic is drifting from the railways to the motor buses. Therefore, I think that this measure, as it has been framed at present, should not be passed by this House. I had thought that even if the Honourable the Railway Member wanted to bring some measure to protect against the ticketless passengers, probably it would be of quite a different type. This morning, it is very difficult to reject the motion which has been moved by the Honourable the Railway Member. Even under the present state of the House I do not think any conscientious Member could accept the principle contained in the Bill and support that it be referred to the Select Committee. Sir, I oppose the motion.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I spoke on this Bill last time when an attempt was made to send it to the Select Committee. I then described this Bill as too drastic and said that it was dangerous to the public. Such assertions were made in the House, and it was further stated that the public opinion would also be inclined that way. It was because of this that the Bill was sent

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for eliciting public opinion thereon. We have now got these opinions, and it cannot be denied that the consensus of opinion is against the Bill. It has been pointed out not only that the provisions of the Bill are too drastic and dangerous, but it has been shown that a Bill like this will not increase the revenues of the railway. It will, on the contrary, make the people hostile to the railway administration and to railway travelling. What I mean to submit is this that when public opinion coincides with the opinions that were expressed in the House, I think the Honourable the Commerce Member would do well to drop this measure. But I see that he is insisting upon it and I am very sorry that, at present, the Honourable the Commerce Member with these Benches being vacant chooses to make a hell or a heaven of this Bill himself. But I see he is not making a heaven of it. He will certainly make a hell of it and I would, therefore, advise him to desist from sending this Bill to the Select Committee. The reason for the Bill which has been given from the very beginning is one of loss of revenue. Is that the true reason or is there an ulterior reason? Those ulterior reasons are known only to the Treasury Benches. We often do not know what their real object is. But we know that, on the very face of it, the Bill is a most unreasonable measure.

Captain Sardar Sir Sher Muhammad Khan (Nominated Non-Official).
What is there unreasonable in it?

Mr. Lalchand Navalrai: The Honourable Member will realise the unreasonableness of the measure when he is himself arrested on the spot by a railway servant and sent to jail. He will then realise the rigour of it. At present, he is comfortably sitting in this House only waiting to give his vote for the Government as every Nominated Member would do. The Honourable Member cannot realise the difficulties. What I mean to say is that the question of loss has not been proved. There are figures given by my Honourable friend, Dr. DeSouza. They show that the loss is not really what it is represented to be. My Honourable friend asked for an answer and let us see if it is really forthcoming. It is really not more than 20,000 people travelling without tickets. It was also pointed out that most of the people who travel without tickets are mendicants and beggars. May I ask the Honourable the Member for Railways whether he can stop these mendicants and beggars from travelling without ticket? I think his reply must be an emphatic not because those people do not care if they are sent to jail. By providing that these people should be sent to the jail, you are affecting the newly constituted Provincial Governments. The Provincial Governments are not going to pay for these persons being locked up in jail. The Provincial Governments will come forward and say that they are not going to send these men to jail unless the Railways are prepared to pay for their maintenance in jails. That means you are interfering even with the affairs of the Provincial Governments. The opinions received from Provincial Governments show that they are against the Bill. I would only refer to one or two passages in these opinions. The *Karschi Indian Merchants' Association* says:

"It cannot be denied that to a large extent the railway employees are responsible for ticketless travelling. . . . My committee therefore suggest that deterrent punishment is called for in the case of railway employees who are found to encourage ticketless travelling."

Further on it will be found that as regards the onus, there is not a single opinion in favour of the onus being placed on the traveller to prove no fraud.

The Honourable Sir Muhammad Zafrullah Khan: What about the Chief Justice of the Patna High Court?

Mr. Lalchand Navalrai: One Judge might perhaps have said so. But the bulk of opinion is against it.

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member made a mis-statement. He said there was not a single opinion in favour of the burden of proof being placed on the ticketless traveller, but I pointed out to him that the Chief Justice of the Patna High Court was in favour of that proposal.

Mr. Lalchand Navalrai: I accept that correction of one judge saying so. The Buyers and Shippers Chamber, Karachi, says:

"My committee have critically examined the several clauses of the Bill, and it is their considered opinion that the amending Bill is most undesirable inasmuch as it seeks to give railway authorities extraordinary powers which are likely to be abused by their subordinate staff."

Then there is the opinion of the District Magistrate of Larkana.

The Honourable Sir Nripendra Sircar: We have all read it.

Mr. Lalchand Navalrai: And still it has not moved the Honourable Member. That is why I propose to read it. He says:

"This amendment is not only unnecessary but dangerous. It will give the railway officials very wide powers which are bound to be abused. Non-compliance with the act of travelling with a ticket may not in every case be due to reasons that are *mala fide*. The offence itself is not sufficiently grave to be classed with any of the offences as cognizable in the Indian Penal Code and there is really no need to take such a harsh view of the case. The very annoying irregularities that prevail on Indian railway stations are sufficiently apparent not to entrust these same officials with additional powers."

Sir, I have done.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I am afraid that those Honourable Members who have stressed some of the more serious objections against some of the provisions of this Bill, though they may have read the opinions that have been received on circulation of the Bill, do not appear to have studied the previous debate on the Bill. I repeated the assurance several times during the last Session that Honourable Members need have no fear with regard to what they were pleased to call the *bona fide* ticketless traveller, that is to say, a person who has not been able to obtain a ticket in spite of his efforts. I was at pains to explain that such persons could be divided into two categories, those who will apply and obtain a certificate under the new provisions or give intimation of their travelling without a ticket before they are detected travelling without a ticket and those who are actually detected, and I said that, in

[Sir Muhammad Zafrullah Khan.]

neither case, would there be any question of arrest or prosecution or interruption of their journey if they pay up the charges that are due from them. I thought that that would meet a very large portion of the apprehensions of Honourable Members on that score. The object of sending the Bill to the Select Committee is that details of that kind might be worked out so that such safeguards might be devised as might meet the apprehensions that have been expressed. Apart from that there are one or two pieces of criticism to which I have been asked to give a specific reply. I am afraid even those are not new pieces of criticism. They were put forward during the previous debate also. One Honourable Member attempted a certain amount of analysis of the figures supplied and said, "What do you hope to gain?" To begin with, that Honourable Member and one or two others who stressed the same point seemed to forget that it is already, apart from the question of detecting a larger number of people, a blot on the present system that as many as 28 lakhs of people should be detected travelling without tickets. Surely an effort must be made to reduce that number substantially? Honourable Members seemed to think that if you can detect (say) about 80 per cent. of people who travel without tickets, that is all that you want. They do not seem to imagine that that in itself is an evil which ought to be reduced. Secondly, there is a good deal of money being spent upon the staff for the purpose of checking and detecting ticketless travellers the greater part of which might be saved if the provisions of the law were such and were administered in such a manner, I do not for one moment claim that they are being administered in a perfect manner, as to reduce to a minimum the number of people who take advantage of the present conditions and travel without a ticket. One curious piece of criticism which was put forward was that if you want to provide imprisonment as a punishment for travelling without a ticket, and I want the House to remember that the question would arise only in the case of a person in whose case it is positively found that not only has he travelled without a ticket but that he intended to defraud the railway, and that in any case, he has refused to pay up; those conditions will have to be fulfilled, that if you provide imprisonment as a punishment you will, in some way or other, be burdening the Local Governments. Again, Honourable Members forget that even under the present system when there has been a conviction and the man fails to pay the fine that is imposed upon him, he has to go to jail and does go to jail in default of payment of fine. Provincial Governments have been saying that, inasmuch as in such a case, the imprisonment to be suffered is simple, a fine does no good whatsoever, that people of that class are quite willing to go to jail for a short term of simple imprisonment, and that if any deterrent is intended the imprisonment to be imposed should be rigorous imprisonment, and that that is the only thing that might operate as a punishment. At present, all that the fine effects is that a certain class of people who are detected and convicted of an offence, under section 112, simply refuse to pay the fine and go to jail for a certain number of days in default of payment of fine; and have no hesitation in incurring the same risk over again. So that, the point is that in any case the Local Governments pay, and the Local Governments want to be relieved of the necessity of having to pay for these people over and over again. Several Local Governments have said that if the punishment were deterrent, that is to say, rigorous imprisonment, this class of people would, perhaps, not take the risk of having to undergo it.

Sir Henry Gidney and one other Honourable Member suggested that the blame lies at the door of the railway checking staff. Perhaps a certain amount of blame does lie there, but I do assure Honourable Members that recently every possible effort has been made and will continue to be made to pull up the staff in such a manner that they should perform their duties honestly and efficiently; and I believe there has been a certain amount of improvement in that respect, though I must remind Honourable Members again, and I believe they will understand what I refer to, that the moment an attempt is made to deal more stringently with staff on account of their dishonesty or slackness in the performance of their duties, every kind of pressure is brought to bear upon officers who have to deal with such cases that in certain individual cases nothing reprehensible had happened and that the men should not be dealt with severely. There are difficulties in each direction but the administrations are trying to do what they can to tighten up control over their own staff in order to ensure that they should perform their duties more efficiently, more honestly and more courteously towards the travelling public. I would remind the House again that in my speech in reply to the debate in the last Session, I did say that in deference to the opinions that had been expressed in the House I was willing to reconsider some of the provisions of this Bill; and it is exactly for that purpose and in order to consider the effect of the opinions that have been received that I am asking that this Bill should be referred to a Select Committee.

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

"That the Bill further to amend the Indian Railways Act, 1890, for certain purposes, be referred to a Select Committee, consisting of Mr. S. Satyamurti, Mr. V. V. Giri, Mr. B. Das, Maulvi Syed Murtuza Sahib Bahadur, Dr. Ziauddin Ahmad, Pandit Lakshmi Kanta Maitra, Mr. G. Morgan, Sir Abdul Hamid, Mr. Mudie and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The Assembly divided:

AYES—40.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.

Aikman, Mr. A.
Anderson, Mr. J. D.
Bansidhar, Rai Sahib.
Bhide, Mr. V. S.
Chanda, Mr. A. K.
Chapman-Mortimer, Mr. T.
Dalal, Dr. R. D.
DeSouza, Dr. F. X.
Fazli-Haq Piracha, Khan Bahadur Shaikh.
Ghuznavi, Sir Abdul Halim.
Griffiths, Mr. P. J.
Grigg, The Honourable Sir James.
Hudson, Sir Leslie.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Lal Chand, Captain Rao Bahadur Chaudhri.
Lalit Chand, Thakur.
Lloyd, Mr. A. H.

Mehta, Mr. S. L.
Metcalf, Sir Aubrey.
Morgan, Mr. G.
Mudie, Mr. R. F.
Mukherjee, Rai Bahadur Sir Satya Charan.
Nagarkar, Mr. C. B.
Naydu, Diwan Bahadur B. V. Sri Hari Rao.
Noyce, The Honourable Sir Frank.
Roy, Mr. S. N.
Sale, Mr. J. F.
Scott, Mr. J. Ramsay.
Sher Muhammad Khan, Captain Sardar Sir.
Sircar, The Honourable Sir Nripendra.
Thorne, Mr. J. A.
Todd, Mr. A. H. A.
Tottenham, Mr. G. R. F.
Verma, Rai Sahib Hira Lal.
Williams, Mr. A. de C.
Witherington, Mr. C. H.
Zafrullah Khan, The Honourable Sir Muhammad.

NOES—13.

Azhar Ali, Mr. Muhammad.
Bajoria, Babu Baijnath.
Bhagchand Soni, Rai Bahadur Seth.
Datta, Mr. Akhil Chandra.
Ghiaquddin, Mr. M.
Gidney, Lieut. Colonel Sir Henry.
Jehangir, Sir Cowasji.

Joshi, Mr. N. M.
Lalchand Navalrai, Mr.
Sant Singh, Sardar.
Umar Aly Shah, Mr.
Yakub, Sir Muhammad.
Yamin Khan, Sir Muhammad.

The motion was adopted.

The Assembly then adjourned till Eleven of the clock on Wednesday, the 3rd February, 1937.