

1st September 1938

# THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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Volume V, 1938

*(26th August to 9th September, 1938)*

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## EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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1938

# Legislative Assembly.

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## *Deputy President :*

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

SYED GHULAM BHIK NAIRANG, M.L.A.

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

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# LEGISLATIVE ASSEMBLY.

*Thursday, 1st September, 1938.*

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

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### EMIGRATION OF INDIAN LABOURERS.

665. **\*Mr. T. S. Avinashilingam Chettiar** : Will the Secretary for Education, Health and Lands state :

(a) to which countries outside India Indian labourers have emigrated ;

(b) of these, to which of them emigration is still allowed ; and

(c) to which of them it has been closed and for what reasons ?

**Sir Girja Shankar Bajpai** : (a) The attention of the Honourable Member is invited to the reply I gave on the 12th March, 1937, to Mr. Ganga Singh's starred question No. 611.

(b) and (c). Since the passing of the Indian Emigration Act, 1922, assisted emigration for unskilled work has been permitted only to Ceylon and Malaya. Recruitment of labour has, however, recently been prohibited for both these countries for reasons which have already been explained to the House.

**Mr. T. S. Avinashilingam Chettiar** : May I know to which of the other countries, which the Honourable Member has mentioned in the other question which he has not read out, emigration has been prohibited ?

**Sir Girja Shankar Bajpai** : No, Sir, as I have already stated, since the passing of the Act of 1922, assisted emigration for unskilled work has been allowed to Ceylon and Malaya only, and not to any other country.

**Mr. S. Satyamurti** : May I know if indentured emigration has been completely stopped, all over India ?

**Sir Girja Shankar Bajpai** : It has been out of existence since 1917.

**Mr. S. Satyamurti** : May I know, Sir, if the Government have watched the results of allowing unskilled emigration to Ceylon and Malaya, and whether they have come to any conclusions, apart from the temporary prohibition which they have now imposed, as to permanently prohibiting such unskilled emigration ?

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**Sir Girja Shankar Bajpai :** Well, Sir, I do not think that we are called upon to take a decision as regards permanent prohibition, because as my friend is aware, provided that suitable conditions of work can be secured at the other end, it is desirable to provide an outlet for our surplus population.

**Mr. S. Satyamurti :** In view of the conditions of work both in Ceylon and Malaya, and more, the political serfdom to which these labourers are committed, especially in Ceylon, will Government consider or have they considered the question, not only from the point of the living of these labourers, but also from the point of view of the political status and self-respect of this country ?

**Sir Girja Shankar Bajpai :** Sir, I think that it would be rather difficult for me to discuss such a large question of policy in answering a supplementary question. I think that if my Honourable friend will pay a little attention to the different questions and answers that have been published in the proceedings of this House he will find that the political situation is not so bad as he seems to think.

**Mr. T. S. Avinashilingam Chettiar :** With reference to the latter part of the answer to part (c) of the question, what are the reasons for which recruitment of labour has been recently prohibited ?

**Sir Girja Shankar Bajpai :** I have explained them more than once in this House. I can state them again if you like.

**Mr. N. M. Joshi :** May I know whether the Government of India are aware that it is the extremely low agricultural wages in Madras that compel the Madras labourer to go to Ceylon, Malaya and other places ?

**Sir Girja Shankar Bajpai :** The Commissioner of Labour in Madras in his annual report does draw attention to this fact, and the Government are aware of it.

**Mr. S. Satyamurti :** May I know, Sir, whether the Government of Madras have or have not supported the Government of India in all their recent actions to control the emigration of labour in view of the conditions prevailing in Ceylon and in Malaya ?

**Sir Girja Shankar Bajpai :** Undoubtedly, Sir, we cordially acknowledge the co-operation of the Madras Government in that.

#### POPULATION OF MIGRATED INDIANS.

666. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Secretary for Education, Health and Lands state :

- (a) what is the population of Indians in the various countries to which they have migrated ; and
- (b) whether the Government of India have any agency through which they are in touch with the Indian population of these countries ?

**Sir Girja Shankar Bajpai :** (a) The attention of the Honourable Member is invited to the reply I gave on the 12th March, 1937, to Mr. Ganga Singh's starred question No. 611.

(b) The Government of India have agencies in South Africa, Ceylon and British Malaya. They will also have an agency in Burma shortly. For communication with Indians elsewhere they depend upon the Colonial authorities or representative local organisations.

**Mr. T. S. Avinashilingam Chettiar :** May I know, Sir, in how many countries there are representative local organisations ?

**Sir Girja Shankar Bajpai :** I think I said that in most countries we have them.

**Mr. S. Satyamurti :** With regard to the Colonial Office, may I know, Sir, whether the Colonial Offices readily, willingly and adequately co-operate with the Government of India in watching the interests of Indians in those countries to which they have emigrated, and whether there are any Agents on behalf of the Government of India ?

**Sir Girja Shankar Bajpai :** Well, Sir, I think my friend will recognise that there may be a difference of opinion in certain cases as to the merits between the Government of India and the Colonial Office, but I think on the whole that the attitude of the Colonial Offices is at any rate one of responsive co-operation.

#### CONTRACTS GIVEN BY THE CENTRAL PUBLIC WORKS DEPARTMENT.

667. **\*Dr. Sir Ziauddin Ahmad :** (a) Will the Honourable the Labour Member be pleased to lay on the table a list of all the contracts given by the Central Public Works Department in the year 1937-38 for values above Rs. 5,000, with the names of the contractors ?

(b) What is the total value of these contracts ?

(c) What is the total value of these contracts given (i) to Sikhs and (ii) to Muslims ?

(d) Is it a fact that lower contracts of Muslim contractors, whose names were on the approved list, were rejected in favour of higher contracts quoted by non-Muslims ? If so, why ?

(e) Does the Chief Engineer, Central Public Works Department, send the file to the Government with his opinion, if he rejects the lower tender of approved candidates ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) As the statement asked for by the Honourable Member covers as many as 238 items and is very lengthy, I do not propose to lay it on the table. But I shall be glad to let the Honourable Member see it whenever he so desires.

(b) Rs. 79,33,281.

(c) (i) To Sikhs Rs. 7,80,961.

(ii) To Muslims Rs. 15,27,498.

(d) Yes, in 12 cases. The reasons for the rejection of lower tenders are confidential.

(e) No.

**Dr. Sir Ziauddin Ahmad :** Are these reasons communicated to the Government by the Chief Engineer ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is part (e) of the question.

**Dr. Sir Ziauddin Ahmad :** I do not want the Honourable Member to explain the reasons on the floor of the House, but I merely want to know whether the reasons were communicated to the Government by the Chief Engineer ?

**The Honourable Sir Muhammad Zafrullah Khan :** I said that is part (e) of the Honourable Member's question to which I have given a reply.

**Dr. Sir Ziauddin Ahmad :** What reply ?

**The Honourable Sir Muhammad Zafrullah Khan :** No.

**Mr. S. Satyamurti :** May I know, Sir, whether the Government have issued instructions to their Chief Engineer to distribute contracts on a communal basis ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir.

**Dr. Sir Ziauddin Ahmad :** The Honourable Member said that the reasons for rejection of lower tenders are confidential. Are they confidential to the public or to the Government also ?

**The Honourable Sir Muhammad Zafrullah Khan :** They are confidential so far as the public are concerned. The Honourable Member has asked at the end of his question what are the reasons, and I have said I cannot communicate the reasons because they are confidential.

**Dr. Sir Ziauddin Ahmad :** I want to know whether these reasons were communicated to the Government, and the Honourable Member said No.

**The Honourable Sir Muhammad Zafrullah Khan :** Do you mean in these 12 cases ?

**Dr. Sir Ziauddin Ahmad :** Yes.

**The Honourable Sir Muhammad Zafrullah Khan :** I have scrutinised them myself since the question was put down.

**Mr. Lalchand Navalrai :** With regard to part (e), what is the remedy left to the person whose lowest tender has been rejected ?

**The Honourable Sir Muhammad Zafrullah Khan :** The question of a remedy postulates a grievance, and I do not imagine that there would be a grievance if a tender is rejected.

#### NEGOTIATIONS FOR A TRADE AGREEMENT WITH AFGHANISTAN.

668. **\*Mr. S. Satyamurti :** Will the Honourable the Commerce Member please state :

- (a) whether he has received any communication from the Secretary to the Federation of Indian Chambers of Commerce and Industry on Indo-Afghan trade relations ;
- (b) what action Government have taken or propose to take on that representation ;



- (c) whether Government have examined the specific allegation in the communication that, as a result of certain activities of the Government of Afghanistan though they are not discriminatory in law against Indians, they have the effect of discriminatory legislation and affecting the interests of Indians as such ;
- (d) whether Government's attention has been drawn to the allegation of the Federation that restrictions are imposed on Indians visiting Afghanistan on business, and if so, what the results of the examination are ;
- (e) whether the trade balance in favour of Indian traders with Afghanistan in India amount to about 27 lakhs ;
- (f) whether Government propose to take immediate action to secure relief to the distressed parties ; and
- (g) whether Government propose to negotiate a reciprocal trade treaty between India and Afghanistan at an early date ?

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

(b), (c) and (d). Government have already taken up the question of obtaining facilities for Indian merchants to trade in Afghanistan with the Afghan Government and the matter is still under consideration.

(e) According to the information received by the Government of India, the sum of Rs. 27 lakhs represents the advances made by Indian merchants to traders in Afghanistan.

(f) As the fruit trade monopoly has been abolished by the Afghan Government, the Government of India do not consider that any action is now called for.

(g) The matter is under examination.

**Mr. S. Satyamurti :** With reference to the answer to clauses (b), (c) and (d) of this question, to which my friend gave one comprehensive reply, may I know whether the Government have examined or are examining the particular point mentioned in clause (c) of the question, that is to say, that certain activities of the Afghan Government, though they are not discriminatory in law against Indians, they have the effect of discriminatory legislation, and affecting the interests of Indians as such ? I want to know whether Government have taken up that matter with the Afghan Government.

**Sir Aubrey Metcalfe :** The point is, as has already been explained, there is no discrimination in law, and I do not understand why the Honourable Member suggests that it is discriminatory in fact if not in law.

**Mr. S. Satyamurti :** I am suggesting that, because I place some reliance on the communication from the Secretary to the Federation of Indian Chambers of Commerce and Industry, and the specific allegation is, that although these activities are not discriminatory in law, they have the effect of discriminatory legislation,—may I know whether the Government have examined that allegation, and satisfied themselves that it is not so ?

**Sir Aubrey Metcalfe :** They have certainly examined it, but I would point out that evidence upon which the Honourable Member relies would most obviously be biased.

**Mr. S. Satyamurti :** Have the Government got any evidence against that allegation and have they come to the conclusion that the allegation is untrue ?

**Sir Aubrey Metcalfe :** Certainly. The law is exactly the same for all foreigners, and there is nothing discriminatory about it. It may be that the Indian traders have previously had a privileged position in Afghanistan owing to their numbers, and have, therefore, more to lose by the legislation, but that does not make the legislation discriminatory.

**Mr. S. Satyamurti :** With reference to the answer to clauses (c) and (f) of the question, may I know what is the latest position, whether the money has been recovered by these Indian merchants ?

**Sir Aubrey Metcalfe :** I have no information on that point. I should like to have notice.

**Mr. S. Satyamurti :** But my Honourable friend the Commerce Member gave the answer that the matter has been or is about to be satisfactorily settled. May I know whether with reference to the Rs. 27 lakhs due to our traders some action has been taken ?

**The Honourable Sir Muhammad Zafrullah Khan :** My answer was that according to the information received by the Government of India a sum of Rs. 27 lakhs represents the advances made by Indian merchants to traders in Afghanistan.

**Mr. S. Satyamurti :** May I know whether these people have been enabled to get relief in respect of the Rs. 27 lakhs which they have advanced to the Afghan traders ?

**The Honourable Sir Muhammad Zafrullah Khan :** It related I understand mostly to the fruit trade, the fruit monopoly has now been abolished and there is no reason for any action at present.

**Mr. S. Satyamurti :** Have the Government satisfied themselves that these Indians have no further grievances there ?

**The Honourable Sir Muhammad Zafrullah Khan :** I could not say that.

**Mr. S. Satyamurti :** With regard to the answer to clause (g) of the question, may I know whether the negotiations for a reciprocal trade treaty are about to be concluded, between India and Afghanistan ?

**Sir Aubrey Metcalfe :** No such negotiations have yet been begun so that obviously they are not about to be concluded.

**Mr. S. Satyamurti :** I thought I heard my Honourable friend, the Commerce Member, say with regard to the answer to clause (g) of the question that something is being done.

**The Honourable Sir Muhammad Zafrullah Khan :** No. I said that the matter was under examination. As a matter of fact, this question was answered before on the floor of the House.

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

**Mr. Manu Subedar :** May I, Sir, submit.....

**Mr. President** (The Honourable Sir Abdur Rahim) : I have called on the next question. Next question.

DRAFT CONVENTIONS AND RECOMMENDATIONS ADOPTED BY THE  
INTERNATIONAL LABOUR CONFERENCE.

669. **\*Mr. S. Satyamurti :** Will the Honourable Member for Labour please lay on the table of the House the full details of the action which the Government of India propose to take in respect of draft conventions and recommendations adopted by the International Labour Conference at its 23rd session and state :

- (i) the reasons why the Government of India do not think that International co-operation is essential to effective action in respect of advance planning of public works ;
- (ii) the reasons why Government do not consider that all-India legislation on the comprehensive lines of the convention regarding minimum age for employment in industry is called for ;
- (iii) the reasons why Government do not propose to take any action as regards the reduction of hours of work (Textile Convention) ;
- (iv) whether Government have heard from the Provincial Governments with regard to the safety provisions, building convention, etc., on which Resolutions were adopted by the Council of State and the Legislative Assembly in March this year ; and
- (v) if so, what their recommendations are ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have nothing to add to the statement which I laid on the table of this House on the 11th April, 1938, except that with reference to part II (a) of that statement Government have since prepared a Bill to regulate the admission of children to railways and docks. The Bill is now before this House.

Sub-paragraph (i). If the Honourable Member is of a different opinion, I would be glad to have his views.

Sub-paragraph (ii). The Honourable Member is incorrect as this view was expressed with reference to the Draft Convention concerning the admission of children to non-industrial employment. As regards the admission to industrial employment the position is as stated in Part II (a) of the statement.

Sub-paragraph (iii). The reasons are explained in Part IV of the statement to which I have already referred.

Sub-paragraph (iv). No.

Sub-paragraph (v). Does not arise.

**Mr. S. Satyamurti :** With reference to the answer to sub-clause (i) of the question, may I know what are the reasons why Government do not propose to take any action, with regard to advance planning of public works ?

**The Honourable Sir Muhammad Zafrullah Khan :** Government are not of the view that it is necessary to do it only by international co-operation, though I might point out that that matter has been brought to the notice of Provincial Governments.

**Mr. S. Satyamurti :** In view of the large amount of unemployment and the very easy conditions of the money market, may I know what are the reasons why Government do not propose to take any action with regard to the advance planning of public works, which would relieve unemployment and considerably add to the prosperity of the country ?

**The Honourable Sir Muhammad Zafrullah Khan :** The question was whether Government were not of the view that international co-operation for advance planning of public works was necessary. Government are not of that view, though as I have stated they have taken action to this extent that they have brought this matter to the notice of Provincial Governments.

**Mr. S. Satyamurti :** With regard to the answer to sub-clause (iii) of the question—with regard to sub-clause (ii) I see that there is a Bill now before the House, and we will discuss it when the time comes—but with regard to the answer to sub-clause (iii), may I know the reasons why they do not propose to take action ?

**The Honourable Sir Muhammad Zafrullah Khan :** It was considered that that this proposal was not compatible with conditions in India, and I believe that on previous occasion this House rejected a proposal to limit the hours of work to forty hours a week in the textile industry.

**Mr. S. Satyamurti :** With regard to the answers to sub-clauses (iv) and (v)—I did not catch the significance of my Honourable friend's answer,—may I know whether the Provincial Governments have not made their recommendations to the Government of India ?

**The Honourable Sir Muhammad Zafrullah Khan :** I said no, and therefore sub-clause (v) does not arise.

#### PARLIAMENTARY REPRESENTATION TO INDIANS IN SOUTH AFRICA.

670. **\*Mr. S. Satyamurti :** Will the Secretary to the Department of Education, Health and Lands please state :

(a) whether his attention has been drawn to the statement by the Minister for the Interior, Mr. Stifford in South Africa, that he was not aware of any intention on the part of the Government of South Africa to give the Indian community in South Africa some form of parliamentary representation ;

(b) whether Government have taken up this matter with them ; and

(c) if so, what the results thereof are ?

**Sir Girja Shankar Bajpai :** (a) Yes. The name should be Stuttaford.

(b) No.

(c) Does not arise.

**Mr. S. Satyamurti :** May I know why Government have not taken up the matter with the South African Government, in respect of the franchise of Indians in South Africa ?

**Sir Girja Shankar Bajpai :** Because the new Agent General who has examined the position fairly carefully has advised the Government that this is not the appropriate time for taking it up.

**Mr. S. Satyamurti :** Does my Honourable friend refer to Mr. Rama Rao who has just gone there as the Agent General ?

**Sir Girja Shankar Bajpai :** Yes.

**Mr. S. Satyamurti :** May I know if my Honourable friend can share his confidence with this House, as to the reasons why the Agent General has reported that this is not the occasion to take up this question of franchise for Indians in South Africa ?

**Sir Girja Shankar Bajpai :** I am sorry I cannot disclose the reasons.

**Seth Govind Das :** Does the Honourable Member know that the views of Sir Saiyid Raza Ali, the late Agent General in South Africa, were entirely different from the views of the present Agent General ?

**Sir Girja Shankar Bajpai :** My Honourable friend will appreciate the fact that the responsibility of representing India in South Africa has now fallen on the shoulders of Mr. Rama Rao.

**Mr. T. S. Avinashilingam Chettiar :** May I know whether the Government have definitely postponed consideration of this matter to a later date, and, if so, when ?

**Sir Girja Shankar Bajpai :** Government cannot give a definite date as to when they would take up this matter.

#### SURVEY REGARDING MARKETING OF LINSEED.

671. **\*Mr. S. Satyamurti :** Will the Secretary for Education, Health and Lands please state :

(a) whether the Government of India have considered the report of the survey recently completed by the Agricultural Marketing Adviser to the Government of India regarding Linseed ;

(b) what steps are being taken to get for the cultivator a larger share of what is due to him ;

(c) whether Government propose to establish regulated markets on the lines of the existing cotton markets ; and bring to the notice of the Provincial Governments the need for Provincial legislation to define the market areas, and to license persons operating therein ; and for the registration of charges :

(d) what steps Government are taking to prevent adulteration ;  
and

(e) whether Government propose to take steps to end the chaotic condition prevailing in regard to weights in this market ?

**Sir Girja Shankar Bajpai :** (a) The Report is engaging the attention of Government.

(b) to (d). Action on most of the recommendations made in the report rests with the Provincial Governments, but the Central Marketing Staff will render such assistance as may be necessary. The need for the establishment of regulated markets has been brought to the notice of Provincial Governments and some of them are already considering this question. The adoption of the standard all-India contract for linseed, which has been agreed upon by the trade interests concerned at the instance of the Agricultural Marketing Adviser, should be of mutual benefit to the trade and to the producers and of definite value in discouraging adulteration.

(e) I would refer the Honourable Member to the reply given by the Honourable the Commerce Member in this House to part (b) of Mr. N. M. Joshi's starred question No. 188 on the 15th August, 1938.

**Mr. S. Satyamurti :** In view of the statement of my Honourable friend that most of these recommendations have to be carried out by the Provincial Governments—I agree with him—may I know whether the Government of India are taking steps to promote co-operation and activity on the part of the various Provincial Governments considering the importance of linseed in our export scheme ?

**Sir Girja Shankar Bajpai :** As a matter of fact—my Honourable friend is probably already aware of it, but if he is not, I shall mention it for his information—the Marketing Adviser holds from time to time conferences of Provincial Agricultural Marketing Officers and other persons interested in this business in order to review the possibilities of co-ordination with regard to different commodities, such as, linseed, wheat, or whatever it may be. With regard to linseed there was a special conference last April and I have no doubt whatsoever that if co-ordination by means of conferences can be secured hereafter, such conferences will be convened again.

#### QUESTION AND ANSWER IN THE HOUSE OF COMMONS REGARDING INDIAN TEA.

672. \***Mr. S. Satyamurti :** Will the Honourable the Commerce Member please state :

(a) whether his attention has been drawn to the recent question and answer in the House of Commons regarding Indian tea ;

(b) whether there is any question of preferential margin of two pence per pound, guaranteed to India under the Ottawa Agreement ; and

(c) if so, whether the tea industry will be consulted in this matter ?

There is some lacuna in part (b) of this question. The words " being reduced " should be added after the words " Ottawa Agreement ".

**The Honourable Sir Muhammad Zafrullah Khan :** (a) I presume the Honourable Member is referring to the debate in the House of Commons on the enhanced tea duties in the last United Kingdom budget. If so, the answer is in the affirmative.

(b) The margin of preference guaranteed under the Ottawa Agreement will not be reduced while that Agreement remains in force.

(c) Does not arise.

**Mr. S. Satyamurti :** I do not want to draw out my Honourable friend unnecessarily, but is there any danger of this preference being reduced in the near future ?

**The Honourable Sir Muhammad Zafrullah Khan :** Not so long as that Agreement continues to be in force.

#### HOUSING SCHEMES FOR INDIANS IN DURBAN.

673. **\*Seth Govind Das :** Will the Secretary for Education, Health and Lands please state :

- (a) whether it is a fact that the Special Committee regarding housing has recommended to the Durban City Council General Purposes Committee that the order of demolition should be stayed pending the provision of alternative housing accommodation ;
- (b) whether the recommendation has been accepted by the Senior Committee ;
- (c) whether the General Purposes Committee passed any plans for the Housing schemes for Indians ; and
- (d) the views of the Indian community in Durban with regard to the recommendation of the General Purposes Committee for demolition carried out recently ?

**Sir Girja Shankar Bajpai :** (a), (b) and (c). On the assumption that these three parts of the question relate to the clearance of the Slums in the Riverside area of Durban, the reply is in the affirmative.

(d) If the Honourable Member will state to which recent demolition or recommendation he refers, I shall endeavour to furnish a reply.

**Seth Govind Das :** May I know whether the Honourable Member is aware that the Committee was set up to make enquiries and recommendations for granting loans to Indians for building their houses and that no loans were given to them in this respect ?

**Sir Girja Shankar Bajpai :** My Honourable friend's question relates to the recommendations of the Durban City Council General Purposes Committee with regard to demolition. I am afraid if he wants information as to whether application for loan was made he will have to put down a separate question.

### EFFECTS OF THE NEW EGYPTIAN COTTON TARIFF DUTY ON INDIA'S TRADE.

674. \***Seth Govind Das** : Will the Honourable the Commerce Member please state :

- (a) whether he has considered the effects of the new Egyptian cotton tariff duty on India's trade with that country ;
- (b) whether it is a fact that the balance of trade of Egypt with this country is in favour of Egypt ;
- (c) whether it is a fact that India exports about three lakhs rupees worth of yarn and cotton goods to that country, and purchases about a crore worth of raw cotton from that country ;
- (d) whether Government have directed the Trade Commissioner in Africa to represent the matter before the Egyptian authorities and request them that their changes in tariff should not be such as are calculated to hit Indian trade ; and
- (e) what action, if any, Government have been taken in the matter ?

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

(c) The value of exports of cotton yarn and manufactures from India to Egypt during the years 1936-37 and 1937-38 amounted to Rs. 26 and 47 lakhs, respectively, while Indian purchases of raw cotton from Egypt during the same period amounted to Rs. 184 and 283 lakhs, respectively.

(d) There is no Indian Trade Commissioner in Egypt.

(e) The matter is engaging the attention of Government.

**Seth Govind Das** : May I know from the Honourable Member whether he met the Prime Minister of Egypt and whether he had any talk with him in this respect.

**The Honourable Sir Muhammad Zafrullah Khan** : I met him for this purpose only.

**Mr. S. Satyamurti** : May I know from the Honourable Member whether, apart from the absence of a Trade Commissioner, the Government are taking any steps to see that reciprocal trade treaties are concluded between Egypt and India, so that our trade may not be adversely affected ?

**The Honourable Sir Muhammad Zafrullah Khan** : It is not a question of a reciprocal trade treaty but this particular matter is being taken up.

### ILLICIT TRAFFIC IN TEA IN CUTCH MANDVI AND OTHER KATHIAWAR PORTS.

675. \***Seth Govind Das** : Will the Honourable the Commerce Member please state :

- (a) whether his attention has been drawn to a communication to Government from the Committee of the Indian Chamber of Commerce, Calcutta, relating to the difficulties experienced by



merchants holding tea with " export rights " on account of unauthorised re-exports of tea from certain ports in the maritime States of Kathiawar and particularly from the port of Cutch Mandvi ;

- (b) whether Government are aware of the considerable loss to merchants holding " export rights ", as a result of the illicit traffic of re-exporting through ports of maritime States ;
- (c) whether Government have taken adequate steps to put a stop to this illicit traffic in tea ; and
- (d) the result of Government endeavours in this regard ?

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

(b) According to information received by Government the tea control scheme was being evaded through re-exports abroad of considerable quantities of unlicensed Indian tea from ports in Cutch.

(c) and (d). Yes. The Honourable Member's attention is invited to Finance Department (Central Revenues) Notification No. 90 of 11th June, 1938.

**Mr. Manu Subedar :** Has any endeavour been made to negotiate a general agreement with Cutch on these and other outstanding matters ?

**The Honourable Sir Muhammad Zafrullah Khan :** That question does not arise. This matter has been settled.

**Mr. Manu Subedar :** Has any negotiation taken place with Cutch or it is merely an unilateral action taken by the Board of Revenue ?

**The Honourable Sir Muhammad Zafrullah Khan :** This matter has been settled. The rest of the question does not arise.

#### INDIAN SCHOOL OF MINES.

†676. **\*Mr. Amarendra Nath Chattopadhyaya :** (a) Will the Honourable Member for Labour please state how much money is spent annually for the Indian School of Mines under the head (i) salary, (ii) travelling allowances, and (iii) laboratory equipment ?

(b) What is the total amount of money which was spent to build up the school in its present condition ?

(c) How much mine research (on different branches of mining, on safety in mines, on accidents in mines, on spontaneous combustion, coal-dust explosion, on ventilation, etc.), and coal utilisation research are being carried out in this school which has been started in the heart of the coal-fields and at the expense of public ?

(d) To what extent, and of what nature, researches are done in this school ? What are the original contributions by the staff in these directions ?

(e) Will the Honourable Member state if the researches done in this School have so far proved to be of any use to the industry and trade, and if they have, the results of such researches and the names of the journals in which the results have been published ?

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†Answer to this question laid on the table, the questioner being absent.

**The Honourable Sir Muhammad Zafrullah Khan :** (a) The average expenditure during the last three years was :

(i) Rs. 1,20,440.

(ii) Rs. 7,000.

(iii) Rs. 5,100.

(b) Rs. 15,50,000.

(c), (d) and (e). The Indian School of Mines is primarily a teaching institution. Research has, however, been done in respect of such subjects as the manufacture of soft coke, danger from coal dust, magnetic testing of winding ropes and illumination of picking belts. I place on the table a list of contributions from members of the staff together with references to the journals in which they have been published.

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*List of Original Papers contributed by members of the staff of the Indian School of Mines up to August, 1938, incorporating results of research or investigations on problems connected with Mining and Fuel utilization.*

(In chronological order).

Author.	Title and Reference.
D. Penman	.. "The Drying Power of Air Passing through a Mine". Trans. Min. Geol. Inst. Ind. Vol. 24, pp. 145/160. 1929.
Do.	.. "Atmospheric Conditions in Indian Coal Mines". (Fifteenth Report of the Committee on the Control of Atmospheric Conditions in Hot and Deep Mines). Trans. Inst. Min. Engrs. Vol. 76, pp. 340/353. 1929.
Do.	.. "The Crushing Strength of Coal Pillars". Trans. Min. Geol. Inst. Ind. Vol. 25, pp. 325/342. 1931.
S. K. Sen ..	.. "Absorption of Light by Coal Surfaces and its Effect on Human Vision". Geol. Min. Met. Soc. Ind. Vol. II, pp. 127/130. (c. 1931).
C. Forrester	.. "The Calorific Value of Jharia Coals as Calculated by Formulae". Trans. Min. Geol. Inst. Ind. Vol. 26, pp. 277/29. 1932.
S. K. Ghosh	.. "Rescue and Recovery Work in Indian Mines". Trans. Ind. Mine Managers' Assoc. 1935/36.
C. Forrester	.. "A Study of the Baraker Coals of the Jharia Coalfield". Trans. Min. Geol. Inst. Ind. Vol. 30, pp. 173/224. 1936.
F. W. Sharpley	.. "Vision and Illumination in Mines". Brit. Jour. Ophtal. Vol. 20, pp. 129/148. 1936.
S. K. Roy ..	.. "A Preliminary Note on the Stowing Material Other than River Sand available in the Jharia Coalfield". Trans. Min. Geol. Met. Inst. India, Vol. 33, pp. 443/ 452. 1938.
F. W. Sharpley	.. "The Directional Reflection Factor of Coal Surfaces". (Sent for publication).

## ENQUIRY ON THE COTTON INDUSTRY IN UGANDA.

677. \*Seth Govind Das : Will the Secretary for Education, Health and Lands please state :

- (a) whether it is a fact that the Governor of Uganda has appointed a Commission to enquire into and report on the cotton industry in Uganda ;
- (b) the terms of reference of the Commission ;
- (c) the personnel of the Commission so appointed ;
- (d) whether any Indian has been appointed on the Commission ; and
- (e) if not, whether he proposes representing to the Governor of Uganda, urging the inclusion of an Indian, or Indians, on the Commission ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) and (c). A statement containing the required information is laid on the table of the House.

(d) No.

(e) No.

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*Statement.*

The terms of reference to the Commission of Enquiry into the cotton industry in Uganda are :

“ To enquire into and report upon the present position of the Cotton Industry in Uganda and to make recommendations generally for the improvement of the organisation and regulation of the Industry, and more particularly in regard to the following matters :

- (i) The fixing of the price formula so that it shall be generally satisfactory and shall ensure a fair return to the grower and to others who play an essential part in the production of cotton.
- (ii) The reduction of the number of ginneries in accordance with the recommendations of the Commission of Enquiry into the Cotton Industry of Uganda in 1929, and the manner in which closed ginneries should be eliminated.
- (iii) The conditions that should govern the erection of new ginneries in areas where the increased crop may justify them.
- (iv) The arrangements—including the establishment from time to time of a reasonable maximum ginning charge—for ensuring that all cotton offered for ginning (whether by the grower directly or through middlemen) shall be ginned in cases where the ginning is not done by the grower, and the seed cotton is not bought outright by the ginner.
- (v) The marketing system.
- (vi) Malpractices and evasions of the law in connection with the Industry.
- (vii) The retention or otherwise of the Cotton Tax.”

The members of the Commission are :

Dr. H. A. Tempany, C.B.E., Assistant Agricultural Adviser to the Secretary of State for the Colonies—*Chairman*.

Dr. J. D. Tothill, C.M.G., Director of Agriculture, Uganda.

Mr. E. D. Reynolds, C.B.E.

**Seth Govind Das :** Has the personnel of the commission been suggested by the Colonial Office ?

**Sir Girja Shankar Bajpai :** The personnel of the commission has been settled by the Colonial Office, Yes.

**Seth Govind Das :** Who suggested it ?

**Sir Girja Shankar Bajpai :** I take it that the Colonial Office must have had some suggestions before them from the local authorities.

**Seth Govind Das :** Is the Honourable Member aware that Mr. Craddock is committed in some respects and therefore his appointment on the Commission is being resented by the trading community ?

**Sir Girja Shankar Bajpai :** The Honourable Member will be interested to read from the statement that Mr. Craddock has not been appointed.

#### FRANCHISE RIGHTS FOR INDIANS IN SOUTH AFRICA.

678. **\*Seth Govind Das :** Will the Secretary for Education, Health and Lands please state :

- (a) whether it is a fact that Mr. B. Rama Rau, the Agent-General in South Africa, is exploring the possibilities of a round table conference in South Africa on the question of franchise for Indians in the Union ;
- (b) whether his attention has been drawn to Senator Brook's declaration at a public meeting recently in South Africa to the effect that " the time was now ripe, with Bantu representation in Parliament, for beginning a discussion with the Government of India on the franchise question " ;
- (c) whether there has been any communication from the Union Government or the Agent-General, on the subject ; and
- (d) whether Government propose taking measures and advising the Agent-General to utilise fully the opportunity for securing adequate franchise rights for Indians in South Africa ?

**Sir Girja Shankar Bajpai :** (a) The attention of the Honourable Member is invited to the reply given by me on the 15th August to part (b) of Mr. Satyamurti's starred question No. 210.

(b) Yes.

(c) Yes ; from the Agent General.

(d) The attention of the Honourable Member is invited to the reply given by me on the 15th August to part (c) of Mr. Satyamurti's starred question No. 210 and the supplementaries arising out of it.

#### ASSISTANT PROFESSORS IN THE GENERAL CHEMISTRY DEPARTMENT OF THE INDIAN INSTITUTE OF SCIENCE, BANGALORE.

679. **\*Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. C. N. Muthuranga Mudaliar) : (a) Will the Secretary for Education, Health and Lands be pleased to state whether it is a fact that two Lecturers were made Assistant Professors in the General Chemistry Department of the Indian Institute of Science, Bangalore ?

(b) Is it a fact that in appointing these two Assistant Professors, the procedure laid down in Regulation 31 of the Institute, has not been followed? If so, do Government propose to ascertain why the Council disregarded regulation 31 with reference to these appointments?

(c) Are Government aware that the appointment is *ultra vires* of the regulations and, if so, what action do Government propose to take?

(d) Have these appointments been confirmed by the Visitor under Regulation 31 (1) of the Indian Institute of Science?

**Sir Girja Shankar Bajpai :** (a) The Council has appointed two Lecturers to be Assistant Professors on their present emoluments.

(b) and (c). The matter is under the consideration of Government.

(d) Not yet.

#### COMING INTO FORCE OF THE NEW INSURANCE ACT.

680. **\*Mr. Sri Prakasa :** Will the Honourable the Law Member state :

(a) the date from which the new Insurance Act is expected to come into force ; and

(b) if any amending Act is intended to be introduced in order to extend the dates for the deposit of securities by insurance companies ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) No decision has yet been taken.

(b) In the event of the Act not being brought into force before the 1st October, 1938, the date prescribed by section 7 (3) for the payment of second instalments will require adjustment.

**Mr. Manu Subedar :** Have the rules been framed ?

**The Honourable Sir Muhammad Zafrullah Khan :** They are being framed.

**Mr. Manu Subedar :** When will they be published ?

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

**Mr. K. Santhanam :** May I know whether an amendment of the Act will not be necessary to make the adjustment ?

**The Honourable Sir Muhammad Zafrullah Khan :** If an amendment of the Act is found to be necessary, then the amendment will be made.

**Mr. T. S. Avinashilingam Chettiar :** What is the reason for the delay in bringing the Act into force ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Honourable Member should be in a position to know that this is a very detailed and complicated measure and a good many things have to be worked out.

**Mr. T. S. Avinashilingam Chettiar :** May I know whether the delay is due to want of time or to any representations made to them ?

**The Honourable Sir Muhammad Zafrullah Khan :** Delay always arises on account of want of time.

**Mr. T. S. Avinashilingam Chettiar :** My question has not been properly understood and not properly answered. I asked....

**The Honourable Sir Muhammad Zafrullah Khan :** The Honourable Member cannot say that I have not given him the proper answer.

**Mr. T. S. Avinashilingam Chettiar :** I am sorry then that he has not understood the question. I want to know whether the delay is due to the framing of the rules or on account of any representations made to them by the insurance companies ?

**The Honourable Sir Muhammad Zafrullah Khan :** Delay has been caused because there has not been enough time to do all the things that are necessary to be done before the Act can be brought into force.

**Mr. K. Santhanam :** May I know whether the insurance companies are holding up their quotas for this year, pending the introduction of the Act ?

**The Honourable Sir Muhammad Zafrullah Khan :** I cannot answer that without notice.

**Mr. S. Satyamurti :** At the time of the passing of this measure, the then Law Member who was in charge of the Bill said that there was a need for bringing the law into force as early as possible in order to improve insurance in this country. May I know, apart from the inevitable delay in Government offices, there is any force at work to put off the Insurance Act as much as possible ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir.

**Mr. S. Satyamurti :** May I know whether Government will consider an increase of staff, if necessary, in order to complete this work and bring this Act into force as early as possible ?

**The Honourable Sir Muhammad Zafrullah Khan :** I can assure my Honourable friend that everything possible is being done to bring the Act into force as early as possible.

**Mr. Sri Prakasa :** According to the Act, a large sum of money is to be paid by the insurance companies as security by the 31st December of this year and unless the Act is brought into force, how is that to be done ?

**The Honourable Sir Muhammad Zafrullah Khan :** This is exactly what I have answered. If the Act cannot be brought into force by that date and any adjustment becomes necessary, then that adjustment will be made.

**Mr. Sri Prakasa :** Adjustment can only be made by an amendment of the Act and as the session is coming to a close, when do the Government propose to bring in an amending Bill ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have already answered that question in reply to Mr. Santhanam.

**FRANCHISE FOR ELECTION TO THE AJMER MUNICIPALITY.**

681. **\*Mr. Sri Prakasa :** Will the Secretary for Education, Health and Lands state :

- (a) the present franchise for election to the Ajmer Municipality ;
- (b) if the same is higher than that prescribed for the election of the Provincial Legislative Assembly of the United Provinces and the Municipality of Delhi ;
- (c) if Government have received any representations from citizens and public bodies of Ajmer, demanding a lower franchise ; if so, what Government have done in the matter ;
- (d) if the Honourable the Chief Commissioner of Ajmer-Merwara has recommended to Government the revision of the franchise ;
- (e) if it is a fact that in the said recommendation the franchise proposed is still higher than that prescribed for the United Provinces Legislative Assembly and the Municipality of Delhi ; and
- (f) what steps, if any, Government are taking in the matter ?

**Sir Girja Shankar Bajpai :** (a) The Honourable Member is referred to rules II and III of the Ajmer Municipality Election Rules, 1901, an extract from which is laid on the table.

(b) Yes.

(c) Yes. The representation is being considered.

(d) Yes, in regard to the educational qualifications.

(e) No.

(f) The change proposed by the Chief Commissioner will require legislation. The question of undertaking such legislation is being considered now.

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*An extract from the Ajmer Municipality Election Rules, 1901.*

II. Every male inhabitant of the Municipality who is not less than 21 years of age shall be qualified to vote for the election of representatives for the ward in which he is registered as an elector ; provided that he has been a resident of Ajmer Municipality for at least six months previous to the date of preparation or triennial revision of the Electoral list, and is :

- (a) The owner of house property situate within the limits of the Municipality, of which the value is not below Rs. 1,500, or
- (b) The occupier of premises whereof the rent actually is of the rack-rent may be estimated to be not less than Rs. 150 a year, or
- (c) A servant of the Government of India, or of any Railway Company, whose monthly salary is not less than Rs. 100, or whose pension is not less than Rs. 50 per mensem.
- (d) Being a resident of the ward is assessed to an Imperial or Municipal tax in a sum not less than Rs. 25 a year.

(e) Advocate or licensed pleader or a licensed Mukhtar.

(f) A graduate of any University.

III. Every person so qualified shall be entitled to be registered as an elector unless he has been convicted of any offence, or subject to any order of a Criminal Court, which, in the opinion of the District Magistrate, implies a defect of character which unfits him to be an elector.

### CONDITIONS OF LABOUR IN THE TEA GARDENS IN ASSAM.

†682. \***Babu Kailash Behari Lal** : (a) Will the Honourable Member for Labour be pleased to state the number of persons who have migrated to Assam from the districts of Bihar to work in tea gardens and for other occupations ?

(b) What are the conditions of labour there ?

(c) Have Government a hand in securing labourers for the tea planters ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a). 14,998 persons migrated from Bihar to tea-gardens in Assam in the year ended 30th September, 1936. No such statistics are maintained in respect of other occupations. The figures for years previous to this will be found in the Annual Reports of the Controller of Emigrant Labour, copies of which are in the Library of the House.

(b) So far as tea-gardens and factories are concerned, I would invite attention of the Honourable Member to the information published in the Annual Reports of the Controller of Emigrant Labour and the Chief Inspector of Factories, Assam.

(c) Only in respect of the licensing of local forwarding agents in controlled emigration areas.

### LEASES OF LANDS HELD BY INDIANS IN FIJI.

683. \***Mr. T. S. Avinashilingam Chettiar** : Will the Secretary for Education, Health and Lands state :

(a) whether it is true that most of the leases of lands held by Indians in Fiji are coming to an end in this or the next year ;

(b) whether there is a movement not to renew the leases to them ?

(c) what is the latest position with regard to the lease of lands ; and

(d) what steps Government have taken or propose to take in the matter ?

**Sir Girja Shankar Bajpai** : (a) Government understand that many leases of native lands by Indians in Fiji will fall for renewal during the next few years.

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†Answer to this question laid on the table, the questioner being absent.



(b) and (c). I have nothing to add to the information contained in paragraphs 26—28 of the 'Review of Important Events relating to or affecting Indians in different parts of the British Empire during the year 1936-37', copies of which are available in the Library of the House.

(d) I would invite the attention of the Honourable Member to my reply to part (c) of Mr. Govind V. Deshmukh's starred question No. 432, on the 24th August, 1938.

**Mr. T. S. Avinashilingam Chettiar :** Are Government satisfied that these leases will be renewed as a matter of course ?

**Sir Girja Shankar Bajpai :** I think that the whole question of land tenure in Fiji is engaging the attention of His Majesty's Government and the Government are in communication with the Colonial Office on the matter.

**Mr. T. S. Avinashilingam Chettiar :** May I know whether this consideration will be finished in time, before the leases are over ?

**Sir Girja Shankar Bajpai :** I think myself that that will be the endeavour of His Majesty's Government but if some fundamental change of policy is involved, it is quite possible that *ad interim* action will be taken to extend the leases.

**Mr. T. S. Avinashilingam Chettiar :** Have Government represented the necessity of converting these leases into a permanent tenure ?

**Sir Girja Shankar Bajpai :** That is the fundamental question of policy, namely, as to whether you can give security by making the leases permanent.

#### COLONISATION OF KENYA BY THE JEWS.

684. **\*Mr. T. S. Avinashilingam Chettiar :** Will the Secretary for Education, Health and Lands state :

- (a) whether there is a proposal to colonise Kenya by the Jews ;
- (b) whether the Government of India have been consulted in the matter ; and
- (c) whether they have considered the matter, and if so, what effects it will have on the Indians settled in Kenya ?

**Sir Girja Shankar Bajpai :** (a) to (c). The attention of the Honourable Member is invited to the reply given by me on the 24th August last to the short notice question by Seth Govind Das.

**Mr. T. S. Avinashilingam Chettiar :** Have Government made inquiries of His Majesty's Government ?

**Sir Girja Shankar Bajpai :** We did inquire of His Majesty's Government. I said in reply to the short notice question by Seth Govind Das that inquiries had been made but that no reply has yet been received.

**Seth Govind Das :** When does the Honourable Member expect to get a reply ?

**Sir Girja Shankar Bajpai :** My Honourable friend will appreciate that the sending of the reply rests with the Colonial Office and not with me.

**Mr. Abdul Qaiyum :** What is the Evian scheme which has been published in this morning's *Hindustan Times* ?

**Sir Girja Shankar Bajpai :** There has been published in this morning's *Hindustan Times* a letter from Dr. Lohia, who is the Secretary of the Foreign Department of the All-India Congress Committee, and, as far as I can make out, his information is no more substantial than what has appeared in the Press before, namely, the report of a speech said to have been made by Lord Winterton in Evian.

**Mr. Abdul Qaiyum :** But it is mentioned in that extract that representations have been made by the Indian National Congress in East Africa. These are based on a scheme called the Evian scheme.

**Sir Girja Shankar Bajpai :** The representation referred to has also been received by the Government of India and that again is based upon the Press report of Lord Winterton's speech.

**Mr. T. S. Avinashilingam Chettiar :** Apart from the official information received from His Majesty's Government, have the Government of India received any unofficial information about this matter ?

**Sir Girja Shankar Bajpai :** My Honourable friend will appreciate the fact that if we want to start negotiations with any Government we must proceed upon official and not upon unofficial information.

**Mr. S. Satyamurti :** In view of the fact that vital Indian interests are involved, are the Government of India making any *ad interim* representation to His Majesty's Government or the Colonial Office that any scheme of colonising a part of Kenya with Jews should be considered by them, with a view to protecting Indian interests, and after hearing the Government of India ?

**Sir Girja Shankar Bajpai :** I can inform my Honourable friend that the Government of India have already impressed upon the Colonial Office that in case any such scheme is under their consideration, no decision should be taken on it before the Government of India have had an opportunity of considering and making their comments on it.

**Seth Govind Das :** Do Government propose to re-open the question of the Highlands to be occupied by Indians if those highlands are to be given to Jews ?

**Sir Girja Shankar Bajpai :** My Honourable friend will appreciate that that is a hypothetical question.

#### LEGISLATION FOR MATERNITY BENEFITS TO WOMEN WORKERS.

685. **\*Shrimati K. Radha Bai Subbarayan :** Will the Honourable the Labour Member be pleased to state :

- (a) which, if any of the Provinces, have introduced legislation for maternity benefits to women workers ;

- (b) whether and when the Central Government propose to introduce such legislation to ensure uniformity for the whole of British India ;
- (c) if the answer to part (b) above be in the negative, why Government do not intend to introduce such legislation and if they are prepared to take early steps to introduce such legislation to apply to the centrally administered areas ; and
- (d) whether Government propose to consider the advisability of calling a conference of Provincial Governments to discuss ways and means of uniformity in legislation regarding this and other similar matters ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) Legislation has been enacted in Bombay, Sind, Madras, the United Provinces, the Central Provinces and Berar, and legislation has been introduced in Bengal.

(b) No.

(c)

(c) The number of women working in perennial factories in areas where legislation has not been introduced is less than five per cent. of the total. The Bombay Maternity Benefit Act has already been extended to Delhi and Ajmer-Merwara.

(d) Yes.

**Shrimati K. Radha Bai Subbarayan :** May I know why the answer is " no " to part (b) of the question ?

**The Honourable Sir Muhammad Zafrullah Khan :** It is not necessary to have all-India legislation.

**Prof. N. G. Ranga :** When is it proposed to call this conference of Provincial Governments ?

**The Honourable Sir Muhammad Zafrullah Khan :** Government are prepared to consider the advisability of it—but whether the conference will or will not be held will depend upon the attitude of Provincial Governments in the matter.

**Mr. N. M. Joshi :** At what stage is the Bengal legislation standing now ? The Honourable Member said that in Bengal a Bill has been introduced.

**The Honourable Sir Muhammad Zafrullah Khan :** I could not say.

**Prof. N. G. Ranga :** Is it not a private Bill in Bengal ?

(No answer.)

**Mr. M. Ananthasayanam Ayyangar :** May I know how the Bombay Act will be extended to Delhi ?

**The Honourable Sir Muhammad Zafrullah Khan :** Under the Delhi Laws Act.

**Mr. President (The Honourable Sir Abdur Rahim) :** Order, order. Loud conversations are going on there—I must ask Honourable Members not to carry on such conversations.

**Mr. N. M. Joshi :** As regards part (b), I did not follow what the actual reply was. Do the Government of India propose to call a conference to consider this ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is not in the question.

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

#### HYDRO-DYNAMIC RESEARCH WORK CARRIED ON AT POONA.

686. **\*Mr. N. V. Gadgil :** (a) Will the Honourable Member for Commerce and Labour state whether it is a fact that hydro-dynamic research work for India is being done in Poona at the cost of the Central Government ?

(b) Is it a fact that Mr. C. C. Inglis, retired officer from the Irrigation Department, is appointed for a period of five years as a specialist ?

(c) Will the Honourable Member state whether this appointment was advertised ?

(d) What are the special qualifications of the gentleman appointed in the matter of research ?

(e) Are Government aware that there are similar Provincial research stations in Sind and the Punjab, and they are being worked by men from the Irrigation Department of the respective Provinces ?

(f) Are Government aware of the fact that already in the Irrigation Department of the Government of Bombay, there are capable men to look after the research station ?

(g) Are Government prepared to consider the advisability of transferring this research work to Provincial Governments and contributing a grant to the expenses ?

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

(b) No. Mr. Inglis is not due to retire till the 1st March next.

(c) Does not arise.

(d) Mr. Inglis has had many years practical experience of irrigation problems in Bombay, Deccan and Sind, and has built up a great reputation for research work in hydro-dynamics during the past 22 years.

(e) Yes.

(f) Government have no information on the point.

(g) The question of future arrangements for Irrigation Research is now under consideration.

#### ANXIETY FELT IN KATHIAWAR OVER EARTHQUAKES AND ERUPTIONS, ETC.

687. **\*Mr. Manu Subedar :** (a) Will the Honourable the Leader of the House please state whether Government are aware of the anxiety felt in Kathiawar over the rumblings of the ground, the earthquakes and the eruptions ?

(b) Have Government received any requests from any States for superior technical assistance in order to ascertain what is happening and to have their populations warned about the danger ?

(c) What steps have Government taken in this direction ?

(d) What machinery have Government got to handle a problem like this adequately in any part of India ?

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

(c) A geological expert has been deputed to visit the affected area for investigation as far as the geological aspects of the earthquake are concerned.

(d) There are at present six seismological observatories in various parts of India. A scheme for strengthening the seismological organisation is under the consideration of Government.

**Mr. Manu Subedar :** May I know from which States such requests were received by the Government of India ?

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

#### THE MOTOR VEHICLES BILL—*contd.*

**Mr. President** (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Motor Vehicles Bill.

The question is :

“ That clause 7, as amended, stand part of the Bill.”

**Mr. S. Satyamurti** (Madras City : Non-Muhammadan Urban) : Sir, we were discussing last evening amendment No. 11\* in List No. 3. My friend, Mr. Lalchand Navalrai, moved it, and that refers to part (b) of the proviso to sub-clause (5) of clause 7. There is another amendment to delete that proviso altogether. Copies of that amendment have been placed in the hands of every Honourable Member, so that if that amendment is allowed to be moved, this amendment may be withdrawn, if the House accepts this proposal.

**Mr. Lalchand Navalrai** (Sind : Non-Muhammadan Rural) : Sir, I should like to withdraw my amendment.

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

**Mr. Abdul Qaiyum** (North-West Frontier Province : General) : Sir, I beg to move :

“ That part (b) of the proviso to sub-clause (5) of clause 7 of the Bill be omitted and the subsequent part be re-lettered accordingly.”

““ That in part (b) of the proviso to sub-clause (5) of clause 7 of the Bill, the words ‘ at his own expense ’ be omitted.”

[Mr. Abdul Qaiyum.]

Sir, I am going to advance reasons to show that this part of the sub-clause is absolutely unnecessary and superfluous. Sir, we have provided in sub-clause (3) for a compulsory medical certificate from a registered medical practitioner. A driver can go to any registered medical practitioner of his choice, and submit a certificate along with his application for a license. Then, in sub-clause (5), we find that if that certificate is not up to the mark, or if there are certain other reasons which, according to the authority authorised to grant the license, disentitle that person to obtain a license, the licensing authority can refuse to give a license. I would also invite the attention of this House to clause 13, sub-clause (2)—where it has been provided that :

“ Any person aggrieved by the refusal of a licensing authority to grant or renew a license or by the revocation of a license may within thirty days of such refusal or revocation, after giving to the licensing authority notice of his intention so to do, appeal to the prescribed authority, and any order made on such appeal shall be binding on the licensing authority.”

Now, we find that in this Bill clause 13 gives the right of appeal to a driver, if he finds that his application has been wrongly rejected. It will, I fear, make the procedure very complicated if we make it possible for the driver to demand, and put Provincial Government to the trouble of constituting a medical board. It would also be unfair to force the poor driver to pay for such an expensive affair as a medical board. I think that, in view of the fact that sub-clauses (3) and (5) provide a satisfactory and ample procedure for a driver to obtain a license, this sub-clause (b) of clause 5 is absolutely unnecessary and it may be deleted.

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

“ That part (b) of the proviso to sub-clause (5) of clause 7 of the Bill be omitted and the subsequent part be re-lettered accordingly.”

**The Honourable Mr. A. G. Olow** (Member for Railways and Communications) : Sir, I cannot entirely agree with all the Honourable Member's arguments in favour of this amendment, but I do agree that, in view of the amendment which the House agreed to last night, this has become superfluous and I am prepared to accept the amendment.

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

“ That part (b) of the proviso to sub-clause (5) of clause 7 of the Bill be omitted and the subsequent part be re-lettered accordingly.”

The motion was adopted.

**Mr. Abdul Qaiyum** : Sir, I move :

“ That in part (c) of the proviso to sub-clause (5) of clause 7 of the Bill, for the word ‘ may ’, occurring in the eighth line, the word ‘ shall ’ be substituted.”

I think it is only fair that when a man is subjected to a very complicated test whereby he proves his fitness or ability to drive a motor vehicle, it should not be left to the option of the licensing authority to

grant or not to grant the licence. I think if the man comes up to the mark, it should be made obligatory on that authority to grant him the required licence. Sir, I move.

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

“ That in part (c) of the proviso to sub-clause (5) of clause 7 of the Bill, for the word ‘ may ’, occurring in the eighth line, the word ‘ shall ’ be substituted.”

**The Honourable Mr. A. G. Olow** : Sir, it is more difficult to drive some types of car than others, but I do not think that is quite a sufficient reason for objecting to the amendment and I do not propose to oppose it.

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

“ That in part (c) of the proviso to sub-clause (5) of clause 7 of the Bill, for the word ‘ may ’, occurring in the eighth line, the word ‘ shall ’ be substituted.”

The motion was adopted.

**Maulvi Abdur Rasheed Chaudhury** (Assam : Muhammadan) : Sir, I move :

“ That in the first proviso to sub-clause (6) of clause 7 of the Bill, for the word ‘ may ’ the word ‘ shall ’ be substituted.”

Sir, if the proviso is read carefully, it will be found that it contains two points, the first point being conditional on the second. So far as the second condition is concerned, namely, that the licensing authority must be satisfied that the applicant had previously held a licence to drive and has had not less than twelve months' recent experience of driving, I have nothing to say. On the other hand, I must say that the licensing authority must take all possible steps to satisfy itself that the applicant had a licence and that he had the recent experience of driving. But, when the licensing authority is satisfied that the man had previously held a licence and that he has had the recent experience of twelve months of driving, I think he should be automatically exempted from the operation of Part I of the Third Schedule. If he is not automatically so exempted, it means that the licensing authority will question the authority of the previous licensing authority to grant him the licence. So, it is only just that when the licensing authority is satisfied that the man held a licence previously and that he has recent experience of twelve months driving, he should be automatically exempted from the test provided in Part I of the Third Schedule of the Bill.

Sir, I move.

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

“ That in the first proviso to sub-clause (6) of clause 7 of the Bill, for the word ‘ may ’ the word ‘ shall ’ be substituted.”

**The Honourable Mr. A. G. Olow** : Sir, the remarks made on the previous amendment apply very much to this amendment also and we take the same attitude.

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

“ That in the first proviso to sub-clause (6) of clause 7 of the Bill, for the word ‘ may ’ the word ‘ shall ’ be substituted.”

The motion was adopted.

**Mr. Brojendra Narayan Chaudhury** (Surma Valley *cum* Shillong : Non-Muhammadian) : Sir, I move :

“ That the second proviso to sub-clause (6) of clause 7 of the Bill be omitted.”

This proviso seeks to exempt an applicant from a driving test who has obtained a certificate from an automobile association from being tested under Part I of the Third Schedule. I shall read to the House this proviso. It says :

“ Provided further that where the application is for a licence to drive a motor vehicle (not being a transport vehicle) otherwise than as a paid employee, the licensing authority may exempt the applicant from Part I of the test specified in the Third Schedule if the applicant possesses a driving certificate issued by an automobile association recognised in this behalf by the Provincial Government.”

Sir, in these few lines we have many brakes. First of all, the applicant shall not be one who seeks to drive a transport vehicle and also he must not be a paid employee. In other words, this proviso is for what I may call a gentleman driver. (Interruption.) Mr. Santhanam says “ owner driver ”. Not necessarily, for I may take a licence for driving my brother's car. The second brake is that the licensing authority “ may ” exempt. In other words, discretion is given to the licensing authority to examine him separately under Part I for the driving test. Then, the third brake is that the automobile association must be one which is ‘ recognised in this behalf by the Provincial Government ’. After putting in so many brakes, I do not know why any member of any automobile association should ask for the exemption of being tested by the official licensing authority. At any rate, it is for those who sponsor this proposal to say why they want this exemption. Under clause 21 (2) (a), the Provincial Governments will make rules for the appointment and functions of the licensing authority. So, even if there is no such proviso to sub-clause (6) of clause 7, there is nothing to prevent the Provincial Government under clause 21 (2) (a) from appointing and defining the functions of the licensing authority and to make a sub-rule whereby they may provide for this case by delegating some of the functions of the licensing authority to the automobile association. Now, it appears to me from the Third Schedule, Part I, that the driving test which is sought by this proviso is to be delegated to the Automobile Association itself is of a very serious matter requiring skill. I would ask Honourable Members of the House to pay special attention to articles 5 and 6 of Part I of Schedule III. Article 5 reads :

“ Stop the vehicle in an emergency and normally and in the latter case bring it to rest at an appropriate part of the road.”

Article 6 says :

“ Drive the vehicle backwards and whilst so doing enter a limited opening either to the right or left.”

These are two very important tests for a driver. What will happen if we allow this proviso to remain ? I know there are some automobile



associations in this country. I know also that they issue very nice guide books for tourists, and probably also they have got trainers to train the members in the art of driving. But we have to consider one thing. A trainer in this case will be the examiner to grant this certificate which may be accepted by the licensing authorities. A trainer may be a friend. I do not exactly know whether all automobile associations have trainers. I will assume they have. But in this case a trainer will either be an applicant's friend or he will be an employee for whom he himself pays by a subscription. Sir, in this country there have been discussions for a long time over the matter of school leaving certificate examinations in place of the matriculation examination and that proposal has always been turned down on the ground that the teacher himself would always be likely to be partial to his pupil. The same argument applies here. What would prevent the automobile association from starting a business of their own in the matter of grant of certificates to any gentleman?

**An Honourable Member :** What is the harm ?

**Mr. Brojendra Narayan Chaudhury :** I say what is the good ? It is not so much pertinent to ask what is the harm. I have explained what is the harm and further I will try to explain what other harm will be done. I see no meaning in it except an attempt to satisfy a feeling of isolation. The only argument found in favour is in the notes on clauses given in the select committee report under clause 7, sub-clause (6) :

“ We have made a provision similar to that contained in the Madras Motor Vehicles Rules for the acceptance of certificates given by recognised automobile associations.”

I submit, Sir, that Madras may be a benighted or a forward province. But this much I will say that I am not going to copy Madras lest we may get into trouble. I submit, in a matter like this, there ought to be *one* licensing authority which is empowered fully to discharge the functions and not to delegate the functions to somebody else. It may be said that these automobile associations may be ones recognised by the Provincial Governments. But, in spite of this proviso, the Provincial Governments “ may or may not recognise ” these automobile associations. There is a difference. The presence of this proviso is a direction to the Provincial Governments, and in nine cases out of ten, they will naturally be led to recognise these automobile associations. The proviso is a recommendation. In practice it will be mandatory. I, therefore, submit, that this proviso should be deleted. Sir, I move.

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

“ That the second proviso to sub-clause (6) of clause 7 of the Bill be omitted.”

**Mr. F. E. James** (Madras : European) : Sir, I must oppose this amendment moved by my Honourable friend. The position is this, that for some time, for many years past the Automobile Associations in the various provinces have, by arrangement with and subject to the conditions laid down by the Provincial Governments, been able to issue certificates of driving to their members subject of course to tests which are laid down and approved by the Local Governments. That is the position at present. In the Madras Presidency, for example, in the rules which have been made

[Mr. F. E. James.]

under the Madras Motor Vehicles Act, 1914, by the present Government, there is a provision that an applicant for license to drive, otherwise than as a paid employee, that means a private driver, may be exempted from the first part of the test required if the applicant possesses a driver's certificate issued by the Automobile Association of Southern India. Now, Sir, these drivers' certificates are issued only to members of the Association which is recognised by the Provincial Governments and authorised under certain conditions by them to issue their certificates. I am in a position to state that the facilities which are given to these Automobile Associations are welcomed by the Provincial Governments themselves because they relieve the strain upon the licensing authority of having to deal with a very large number of applications by private drivers who would have to apply for the test.

I heard my Honourable friend rather imperfectly. He made a lengthy speech, but I heard him sufficiently to understand his general line of argument, namely, that there should be one licensing authority and that no other body should be authorised to issue driving license. But I would remind my Honourable friend that this authority has been exercised by these Associations for a number of years past. I am not aware that there has been any single complaint about any of the certificates of driving issued by the Associations. There is in this Bill in a subsequent clause provision whereby these Associations have to be formally recognised by the Provincial Governments. Surely, that is a sufficient guarantee that the certificates of driving will not be issued by these Automobile Associations without some sense of responsibility. I may also add that the Automobile Associations do definitely impose a driving test very much on the lines of the test laid down in Part I of Third Schedule of this Act. I have been a member of the committee of such an Association myself and I have had some part in the drawing up of the provisions for the issue of driving certificates, and I may say that no test is applied to the applicant for a license by the Automobile Association which is not approved by the Provincial Governments. I, therefore, oppose the amendment. I have yet to hear any reason why this facility should be withdrawn from existing associations.

**Mr. S. Satyamurti :** Sir, I beg to support this amendment. Sir, we have heard in the last few days in this House powerful pleas for the abolition of the caste system. Now, I suggest, Mr. President, that this is a notorious example of creating a new caste of drivers who will not be compelled. . . .

**An Honourable Member :** What about the existing caste ?

**Mr. S. Satyamurti :** Abolition of castes implies all castes existing as well as proposed to be created, everything has to be abolished. When I say the abolition of caste, nobody need remind me of the existing castes. I know that it exists even among the drivers. Sir, this is a Bill to consolidate the law relating to all drivers.

Clause 7 contains a complete self-contained scheme for the licensing of drivers, and it prescribes various steps of procedure. And,

12 NOON. according to the amendments we have made, both with regard to the enlarging of the choice of registered medical practitioners and

the obligation on the approved licensing authority in clause (c) where the House has substituted "shall" for "may", the clause makes it easy for all persons who satisfy the minimum conditions to get licenses as drivers. I do not see why a special provision ought to be made for persons who, according to this proviso, are to be applicants to drive a motor vehicle not being a transport vehicle. Now, what does a transport vehicle mean? We have not yet passed that clause in this House but the Select Committee's definition is that :

"a 'transport vehicle' means a public service vehicle, a goods vehicle, a locomotive or a tractor, other than a locomotive or tractor used solely for agricultural purposes."

I rely on those words. A special license given by automobile associations may be available for drivers to drive locomotives and tractors used solely for agricultural purposes. Let not the House be under the misunderstanding that it is to be confined only to owner-driven motor cars. There is another class contemplated in the very definition of "transport vehicle" in sub-clause (33) of clause 2.

Then, Sir, it says that the automobile association may give a driving certificate. It does seem to me that this is too vague for this House to agree to, as it stands. We have prescribed the licensing authority and the authority will be constituted by the Provincial Government, and, I think we can leave that authority with complete power of issuing or not issuing licenses.

Then my Honourable friend, Mr. Chaudhury, made another point. If, in any particular province, there are Automobile Associations which satisfy all the standards which the Provincial Governments may require in this behalf, it is open to them for constituting them as licensing authorities,—and here I will request Honourable Members to look at sub-clause (2) of clause 21 which says :

"Without prejudice to the generality of the foregoing power, such rules may provide for :

- (a) the appointment, jurisdiction, control and functions of licensing authorities ;", etc.

If the Madras Provincial Government considers, for example, the Madras Automobile Association or its committee to be competent by their work, by their qualifications, by their experience, and by their conduct in the past, I submit that it is open to them under the rule-making power to make them a licensing authority. And, so far as the provisions for the Third Schedule are concerned, I want the House to look at that Third Schedule on page 65 of the Bill, which says as follows :

"The candidate shall satisfy the person conducting the test that he is able to :

1. Start the engine of the vehicle.
2. Move away straight ahead or at an angle.
3. Overtake, meet or cover the path of other vehicles and take an appropriate course.
4. Turn right and left corners correctly.
5. Stop the vehicle in an emergency and normally, and in the latter case bring it to rest at an appropriate part of the road.
6. Drive the vehicle backwards and whilst so doing enter a limited opening either to the right or left.

[Mr. S. Satyamurti.]

7. Cause the vehicle to face in the opposite direction by means of forward and reverse gears.
8. Give by hand and by mechanical means (if fitted to the vehicle), or, in the case of a disabled driver for whom it is impracticable or undesirable to give signals by hand, by mechanical means, in a clear and unmistakable manner, appropriate signals at appropriate times to indicate his intended actions.
9. Act correctly and promptly on all signals given by traffic signs and traffic controllers, and take appropriate action on signs given by other road users."

All these have got to be satisfied. I do not know whether the experience of other Honourable Members coincides with mine or not, but I feel that on the whole these gentleman-drivers more often happen to be road hogs than the paid drivers who are much more careful. It is these gentlemen who go about driving who think that they are masters of the road, who are really more dangerous, and, therefore, must be better controlled by a proper licensing authority. I do not believe that this House should be a party to creating a separate class of drivers who will go to the Automobile Associations, about whose composition, ability or functions or experience we have no knowledge whatever, and which may be recognised by the Provincial Governments in this behalf. I particularly stress the argument that under clause 21 it is open to any Provincial Government to constitute a licensing authority of that description. On the whole, I think clause 7 as it stands gives full chance to all competent qualified drivers to get a license, except on stated grounds which we have very much curtailed. In those circumstances, I strongly support the amendment.

**Mr. K. G. Mitchell** (Government of India : Nominated Official) : Sir, I must oppose the amendment. I cannot really understand why my Honourable friend, Mr. Satyamurti, should say that we are creating a new caste of drivers. Actually the provision was inserted by the Select Committee for the sake of simplicity and the saving of time of the official inspectors as well as the individual. There is no significance in the fact that transport vehicle excludes an agricultural tractor. The difference is this that the Automobile Association,—and I would add that I thought my Honourable friends opposite were going to move their amendment No. 100 which we were prepared to accept,—that Automobile Associations and recognised schools and establishments contain competent people who can give instructions and give certificates of ability to drive, and, therefore, relieve the licensing authority from a certain amount of labour and possibly to save applicants a certain amount of expense. The exclusion of the transport vehicle is partly due to this that Automobile Associations and schools of that sort are not likely to have in their possession heavy transport vehicles upon which they can train drivers and give certificates. This provision would cover the ordinary driver, and not only the owner-driver but professional drivers of your car and mine. I think it is a very reasonable proposal and I cannot really see any very strong objection. I think my Honourable friends opposite have given away their case by saying that if the Provincial Government chooses to do so they can make similar provision by rules under clause 21. There is no difference in substance because the association or school has to be recognised by the Provincial Government. So you are exactly where you were before.

Sir, there is one other point. My Honourable friend, Mr. Satyamurti, made great play about road hogs being people who ought to be better controlled. I think it will be admitted that in point of driving skill the road hog is probably as good as anybody else. His manners and his morals may be at fault but not his driving ability. So you will not effect anything as regards controlling road hogs by making them submit to an official test instead of a private test. Sir, I oppose the amendment.

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions : Muhammadan Rural) : Sir, my Honourable friend, Mr. Satyamurti, by using a rhetorical word attempted to divert us from the main argument. He said that we are now introducing a caste system among drivers, and, naturally, no one likes to introduce a caste system anywhere, because we have got enough of that in India and any further introduction is not desirable. But that is not the point, the point is entirely different. The point is that we have laid down in Part I of the Third Schedule a certain examination test. We have created a certain body to examine every driver according to those tests. The question simply is this : whether this particular licensing authority should be empowered to recognise examinations conducted by any competent authority. If any authority conducts any examination, whatsoever, then it is open to that authority to recognise a similar examination conducted by another competent authority. The second point is that about gentlemen drivers being very dangerous. I think the experience is just the reverse. Whenever, for example, any car is sold the price always goes up if it is proved that it is owner-driven and has not been driven by a professional driver. I know that these people who are not professional drivers keep and drive their cars much more carefully than paid drivers actually do. Therefore, instead of being more dangerous to the public, I think they are really much more careful than the professional drivers. I hold a driving licence myself and I never drive my car at a speed of more than ten miles an hour and whenever a car comes in front I always slow down to a speed of five miles in order to minimise all possible risks. A gentleman driver who is also the owner of the car is certainly much more careful and instead of being more dangerous I think they are more safe than the professional drivers. In this case I think there is no harm done if we simplify the work of these authorities by empowering them to recognise the tests conducted by similar authorities who are recognised by the Provincial Governments. With these words I resume my seat.

**Honourable Members** : The question may now be put.

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

“ That the question be now put.”

The motion was adopted.

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

“ That the second proviso to sub-clause (6) of clause 7 of the Bill be omitted.”

The motion was negatived.

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That in the second proviso to sub-clause (6) of clause 7 of the Bill, for the word ‘ may ’ the word ‘ shall ’ be substituted.”

The object of my amendment is that once a driver secures a licence from any Automobile Association recognised by Government he should not be put to the test provided in part 1 of Schedule III of the Act. The reason is the same as I explained in my previous amendment and as the Government have accepted my previous amendment I hope they will accept this. Sir, I move.

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

“ That in the second proviso, to sub-clause (6) of clause 7 of the Bill, for the word ‘ may ’ the word ‘ shall ’ be substituted.”

**The Honourable Mr. A. G. Clow** : Sir, I feel that this stands on much the same footing as the previous one and I am not prepared, therefore, to oppose it.

**Mr. S. Satyamurti** : Sir, I am surprised at the attitude of this Government. I really do not see why, after having given this power to the licensing authority, you must say that the licensing authority shall exempt the man from the test. Supposing a man looks lame or is obviously unable to do anything : even then he shall be exempted ! I am surprised. Either the Government do not follow the amendments, or they have not made up their minds. ....

**The Honourable Mr. A. G. Clow** : If I may explain, it is only from the tests that he is exempted : it is not from medical disabilities or anything of that kind.

**Mr. S. Satyamurti** : The amendment is this “ the licensing authority shall exempt the applicant. .... ”

**The Honourable Mr. A. G. Clow** : Not from all the tests surely !

**Mr. S. Satyamurti** : Yes—“ shall exempt the applicant from part 1 of the test specified in the Third Schedule ” : that test is starting, turning right or left, overtaking and all sorts of things. If a man looks paralytic or lame, and if he goes and says : ‘ I am exempted ’, why should the licensing authority be compelled to exempt him from all these tests ? It does seem to me that this amendment ought not to be accepted, and I am surprised that the Government get up and say : “ We have no objection ”. I oppose this amendment, and I hope the House will vote against it. (Interruption).

**Syed Ghulam Bhik Nairang** (East Punjab : Muhammadan) : Sir, I oppose the amendment. ....

**Mr. President** (The Honourable Sir Abdur Rahim) : I understand the Honourable Member who moved the amendment wishes to withdraw it.

**Maulvi Abdur Rasheed Chaudhury** : Yes, Sir. I find that the sense of the House is that ‘ may ’ is better than ‘ shall ’ : so I ask leave to withdraw this amendment.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member need not make a speech in withdrawing.

Has the Honourable Member the leave of the House to withdraw his amendment ?

**Honourable Members :** Yes.

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

**Mr. Lalchand Navalrai :** Sir, I move :

“ That in sub-clause (8) of clause 7 of the Bill, for the word ‘ five ’ the word ‘ two ’ be substituted.”

This is with regard to the fee that will be charged from the driver. This appears to me to be a heavy charge and I request it may be reduced to two rupees. My justification is also that I have received a resolution from the Hyderabad Motor Drivers’ Union—they also feel that Rs. 5 is too much. Therefore, I move that it should be Rs. 2.

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

“ That in sub-clause (8) of clause 7 of the Bill, for the word ‘ five ’ the word ‘ two ’ be substituted.”

**Mr. K. G. Mitchell :** Sir, I oppose this amendment : and as there are several amendments directed to reducing both the fee for licences and the fee for renewals, I would like, with your permission, to refer to the matter, not at great length, but at some little length. The fees go to the Provincial Governments and the fees are not capricious imposts but are put at a level which is considered reasonable to cover the cost of the licensing authorities, their records and so forth. The Bill consolidates and stabilises the position which is very beneficial to licence holders who can now get a licence which will be valid throughout India and which will be renewable anywhere. The Provincial Governments have accepted the scale of fees proposed in the Bill and there is one other very good reason for not reducing the fee for a new licence, that if the fee is not much more than that charged for renewal, a holder of a licence which has too many endorsements on it is less deterred, financially, than he should be from trying to get a new licence.

**Prof. N. G. Ranga** (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I find it difficult to associate myself, completely, with this amendment, but at the same time I must say that there is a case for reducing this fee in the case of a few people who are employed as paid employees on public carriers and state carriages because these people are ordinary wage earners who have obtained this licence in order to qualify themselves as paid drivers on these carriages which are run for trade purposes. It may be said that this licence is very valuable and is renewable also all over India and therefore this man must be made to pay five rupees. It was the same thing in regard to insurance licenses also. There the fee was reduced to one rupee in the case of all and sundry, of all insurance agents, most of whom are much better off than these motor drivers. And while the very same House agreed to reduce the fee to one rupee in the case of a much better off class of people like the insurance agents, it ought to be willing to make an exception at least in the case of paid drivers employed on state carriages and public carriers, if not in the case of all drivers. It may be said that by accepting this proposal it will affect the revenues of the Provincial

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Governments, and in several provinces a fee as high as Rs. 5 is being levied at present, but I learn that in some provinces it is much less than Rs. 5.....

**Mr. K. G. Mitchell :** May I know in which provinces it is less than Rs. 5 ?

**Prof. N. G. Ranga :** Even if any Province were to think it advisable to charge much more than Rs. 5 or even Rs. 5, there is no reason why we who are making the law for all India and who have to consider the economic circumstances of classes of drivers should agree to perpetuate the present inequitable system and then say everybody should pay Rs. 5. I therefore appeal to the leaders of all parties to help these poor people in trying to get some amendment accepted so that the poor drivers employed on state carriages and public carriers may pay much less than Rs. 5.

**Dr. Sir Ziauddin Ahmad :** Sir, there are many amendments tabled in connection with the amount of fees, and I think that instead of having a debate on each amendment separately, I should like to express an opinion on all these. I am very strongly in favour of maintaining the *status quo*. At present in most provinces we charge a fee of Rs. 5 for the first license.....

**An Honourable Member :** In some provinces it is much less.

**Dr. Sir Ziauddin Ahmad :** .... and Rs. 2 for the renewal fee, and if a person does not renew a license in proper time, then he has to pay Rs. 5. I think the drivers and all those who take these licenses have now got used to it. I have never heard of any complaints from the drivers that the fees charged now are excessive, and therefore I think that in matters of fees we should keep the *status quo*, that is the system which is followed in the majority of the provinces, namely, Rs. 5 for the first license, and Rs. 2 for the renewal, should be maintained.

**The Honourable Mr. A. G. Olow :** Sir. I should just like to say a word to try and allay Professor Ranga's fears. I think the fee for paid employees is practically always paid by their employer, and so it does not fall as a hard burden on the employee. Actually the schedule we are proposing represents a reduction on the general level of fees throughout India. So far as the original fee is concerned, they are only charging Rs. 2 in the Frontier Province, Rs. 5 in the great bulk of the provinces, Rs. 10 in Bengal and Rs. 20 in Sind. And, in other respects, the general level taken on an average is rather higher than the scale we are putting in the Bill.

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

“ That in sub-clause (8) of clause 7 of the Bill, for the word ‘ five ’ the word ‘ two ’ be substituted.”

The motion was negatived.

**Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) :** Sir, I beg to move :

“ That in sub-clause (8) of clause 7 of the Bill, for the word ‘ five ’ the word ‘ three ’ be substituted.”



My demand, Sir, is more modest than the demand contained in the previous amendment. Most of the drivers are very poor, and it would be giving them a great concession if the amount of license fee is reduced from Rs. 5 to Rs. 3. It has been admitted by the Honourable Mr. Clow that in one province at least the fee is considerably lower. Is it desirable to raise the fee in that province? As this affects very poor people, I do not think there will be any objection to the Government accepting this amendment, and I hope it will be accepted by the House.

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

“ That in sub-clause (8) of clause 7 of the Bill, for the word ‘ five ’ the word ‘ three ’ be substituted.”

The motion was negatived.

**Dr. Sir Ziauddin Ahmad** : Sir, I beg to move :

“ That in part (a) of the proviso to sub-clause (8) of clause 7 of the Bill, for the word ‘ three ’ the word ‘ two ’ be substituted.”

Here also I want to maintain the *status quo*. In most provinces the renewal fee is Rs. 2, and I do not see why we should alter this amount which people have been accustomed to pay for a considerable time.

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

“ That in part (a) of the proviso to sub-clause (8) of clause 7 of the Bill, for the word ‘ three ’ the word ‘ two ’ be substituted.”

**The Honourable Mr. A. G. Clow** : Sir, the position is not quite as described by the Honourable Member. I have a list here of the renewal fees so far as the professional drivers are concerned, who may be regarded as having a stronger claim, and the average works out to Rs. 3-12-0. I admit that in the case of owner-drivers there are a good many who pay Rs. 2, but I do not think that the House will feel that the owner-driver ought to get off easier than the professional driver.

**Dr. Sir Ziauddin Ahmad** : Will you kindly quote the renewal fees in the different provinces?

**The Honourable Mr. A. G. Clow** : I have got them here.

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

“ That in part (a) of the proviso to sub-clause (8) of clause 7 of the Bill, for the word ‘ three ’ the word ‘ two ’ be substituted.”

The motion was negatived.

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

“ That clause 7, as amended, stand part of the Bill.”

The motion was adopted.

Clause 7, as amended, was added to the Bill.

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

“ That clause 8 stand part of the Bill.”

**Dr. Sir Ziauddin Ahmad** : Sir, there are four amendments to clause 8 standing in my name. I do not like to move them at this stage, because they are all consequential to clause 2 which we have not yet discussed. So I think it would be premature for me to move these amendments until we take up clause 2.....

**Mr. President** (The Honourable Sir Abdur Rahim) : I take it that there are no other amendments.

**Dr. Sir Ziauddin Ahmad** : I suggest that these amendments be postponed till we come to clause 2.

**The Honourable Mr. A. G. Clow** : I understand, Sir, there is no objection to moving consequential amendments. I suggest that the clause might be passed. I suggest that consequential amendments can be moved before the third reading.....

**Dr. Sir Ziauddin Ahmad** : There are certain terms mentioned here. If these terms are omitted.....

**The Honourable Mr. A. G. Clow** : A consequential amendment can be moved if it is purely a consequential one.

**Dr. Sir Ziauddin Ahmad** : These are not purely consequential.

**The Honourable Mr. A. G. Clow** : It would save the time of the House if we discuss the points on this clause.

**Dr. Sir Ziauddin Ahmad** : May I point out, Sir, that we adopted almost the same procedure with the consent of the Leaders of Parties in connection with the Insurance Bill ? There we omitted clause 2 and began with clause 3. On the same analogy, I think this clause might be held over. We have done that in the case of the Insurance Bill, and I suggest.....

**Mr. K. Santhanam** (Tanjore *cum* Trichinopoly : Non-Muhammadian Rural) : They cannot be any substantial amendments to this, if any amendments to clause 2 are carried.

**Dr. Sir Ziauddin Ahmad** : If certain definitions are altered, then I do not like to move my amendments.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member had better explain what will be the effect of the adoption of his amendments. Let him take the first amendment. What is the object of his moving amendment No. 106.

**Dr. Sir Ziauddin Ahmad** : The effect would be, I want to abolish the distinction between the different classes of motor vehicles. If clause 2 is agreed upon as it stands in the Bill, then I will not move any of these amendments.

**Mr. President** (The Honourable Sir Abdur Rahim) : What are the amendments of the Honourable Member to clause 2 of the Bill ? What are the numbers ?

**Dr. Sir Ziauddin Ahmad** : They are not standing in my name, but in the name of other persons.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member himself has not given notice of any amendments to clause 2 ?

**Dr. Sir Ziauddin Ahmad** : No, because I found that other Honourable Members had already given notice.

**Mr. President** (The Honourable Sir Abdur Rahim) : I cannot anticipate what the Honourable Member may or may not move. If he wants to move any of his amendments to clause 8 now, he can do so. The Honourable Member has not given notice of any amendment to clause 2 which will affect his amendments here, and so he ought to move his amendments to clause 8 now if he wants to.

**Dr. Sir Ziauddin Ahmad** : I move No. 106, namely :

“ The part (c) of sub-clause (2) of clause 2 of the Bill be omitted.”

I do not like to make any distinction between motor car and motor cabs. They should all be amalgamated into one, and the distinction that has been maintained in clause 2 ought not to exist there. Sir, I move.

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

“ That part (c) of sub-clause (2) of clause 8 of the Bill be omitted.”

**Mr. K. G. Mitchell** : I oppose the amendment. It is really a technical matter for licensing authorities in the controlling of licenses. The distinctions have been agreed to by all the provinces and local administrations and I think there is a difference in licensing a driver to drive a motor car and a driver to drive a motor cab.

**An Honourable Member** : Will you please explain the difference between the two ?

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

“ That part (c) of sub-clause (2) of clause 8 of the Bill be omitted ”

The motion was negatived.

**Dr. Sir Ziauddin Ahmad** : It is rather unfair to move the other amendments, because we have not discussed the definitions of a motor car and a motor cab.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member ought to have given notice.

**Dr. Sir Ziauddin Ahmad** : It has been given already by some other Honourable Members and when I saw it I did not want to repeat them.

**Mr. President** (The Honourable Sir Abdur Rahim) : I have given my ruling. If the Honourable Member wants to move his amendments, let him do so.

**Dr. Sir Ziauddin Ahmad** : Then, I do not want to move the other amendments to this clause.

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

“ That clause 8 stand part of the Bill.”

**Dr. Sir Ziauddin Ahmad** : I oppose the clause as a whole. My reason for doing so is that we have not followed the right procedure for the discussion of this clause.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member cannot use that argument. I have given my ruling. If he has no other argument he can resume his seat.

**Dr. Sir Ziauddin Ahmad** : I think I am placed in a position of very great disadvantage in the discussion of this particular clause before discussing the definition of motor cars. I feel that some of these words are redundant which ought to have been omitted. We are rather handicapped because we do not know what the meanings are and we have not exactly defined them. I think it is rather premature to pass this clause and I oppose it.

**Mr. President** (The Honourable Sir Abdur. Rahim) : I ought to point out this much, that if the Honourable Member had really had any objection to any of the terms in clause 2 he ought to have given notice of amendments to them. But he has not taken the trouble to put down any amendment and it does not lie in his mouth to complain about the procedure. The question is :

“ That clause 8 stand part of the Bill.”

The motion was adopted.

Clause 8 was added to the Bill.

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

“ That clause 9 stand part of the Bill.”

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

“ That in sub-clause (2) of clause 9 of the Bill, after the figures ‘ 1926 ’ the word ‘ or—(I should like, with your permission, to have the word ‘ of ’ inserted)—of any convention modifying the same ’ be inserted.”

I want to insert that word ‘ of ’ in order to make it more grammatically correct. The object of this amendment is that we should not be tied down to what passed in 1926. The convention may in course of time be modified and I want that this clause should apply to such modifications also. I move.

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

“ That in sub-section (2) of clause 9 of the Bill, after the figures ‘ 1926 ’ the words ‘ or of any convention modifying the same ’ be inserted.”

**The Honourable Mr. A. G. Clow** : I accept the amendment.

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

“ That in sub-clause (2) of clause 9 of the Bill, after the figures ‘ 1926 ’ the words ‘ or of any convention modifying the same ’ be inserted.”

The motion was adopted.

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

“ That clause 9, as amended, stand part of the Bill.”

The motion was adopted.

Clause 9, as amended, was added to the Bill.

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

“ That clause 10 stand part of the Bill.”

**Maulvi Abdur Rasheed Chaudhury** : Sir, I move :

“ That to clause 10 of the Bill, the words ‘ provided that a licence may be renewed by paying usual fees for a period not exceeding three years at a time ’ be added at the end.”

**The Honourable Mr. A. G. Clow** : I rise to a point of order. I do not think that this arises on this clause at all. The clause relating to renewal of licences is clause 11.

**Mr. President** (The Honourable Sir Abdur Rahim) : This amendment does not seem to be appropriate to this clause.

**Maulvi Abdur Rasheed Chaudhury** : As I read it, it is applicable to clause 10.

**Mr. President** (The Honourable Sir Abdur Rahim) : I think the point of order taken is correct. The amendment that is sought to be moved now will be more appropriate if it is applied to clause 11. Therefore, I rule this amendment out of order.

The question is :

“ That clause 10 stand part of the Bill.”

The motion was adopted.

Clause 10 was added to the Bill.

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

“ That clause 11 stand part of the Bill.”

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

“ That in sub-clause (2) of clause 11 of the Bill, after the word ‘ applicant ’, occurring in the fourth line, the words ‘ does not, or ’ be inserted.”

This is a more or less verbal alteration. The clause says that if the applicant is unable to state certain particulars the application for renewal shall be refused. I say that it should be refused if he does not state or is unable to state. Sir, I move.

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

“ That in sub-clause (2) of clause 11 of the Bill, after the word ‘ applicant ’, occurring in the fourth line, the words ‘ does not, or ’ be inserted.”

**The Honourable Mr. A. G. Clow** : This is a verbal improvement. I accept it.

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

“ That in sub-clause (2) of clause 11 of the Bill, after the word ‘ applicant ’, occurring in the fourth line, the words ‘ does not, or ’ be inserted.”

The motion was adopted.

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

“ That in sub-clause (2) of clause 11 of the Bill, for the words ‘ shall apply ’ the words ‘ shall be made applicable ’ be substituted.”

[Mr. M. Ananthasayanam Ayyangar.]

This is a verbal amendment and intended to improve the language of the clause. Sir, I move.

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

“ That in sub-clause (2) of clause 11 of the Bill, for the words ‘ shall apply ’ the words ‘ shall be made applicable ’ be substituted.”

**The Honourable Mr. A. G. Clow** : I cannot agree that this is an improvement. It is not at all clear who is to make it applicable. The wording of the clause as it stands is quite clear. I suggest that the Honourable Member might withdraw the amendment.

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

“ That in sub-clause (2) of clause 11 of the Bill, for the words ‘ shall apply ’ the words ‘ shall be made applicable ’ be substituted.”

The motion was negatived.

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

“ That clause 11, as amended, stand part of the Bill.”

The motion was adopted.

Clause 11, as amended, was added to the Bill.

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

“ That clause 12 stand part of the Bill.”

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

“ That in clause 12 of the Bill, after the word ‘ hold ’, occurring in the fourth line, the words ‘ or of obtaining a renewal of ’ be inserted.”

The clause as it stands says that it is open to a licensing authority at any time to revoke a licence or may require the furnishing of a fresh medical certificate. I am adding these words in order to make it clear that even if he renews the licence he may be asked to furnish a certificate. This is wanting in the clause as it stands. I think the framers of the Bill and the Select Committee never wanted to ignore this matter. It is only a slip which I am trying to fill up. Sir, I move.

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

“ That in clause 12 of the Bill, after the word ‘ hold ’, occurring in the fourth line, the words ‘ or of obtaining a renewal of ’ be inserted.”

**The Honourable Sir Manmatha Nath Mukerji** (Law Member) : Sir, I oppose this amendment on the ground that it is wholly superfluous. The expression in the clause is ‘ continuing to hold such licence ’, and it would include not merely the holding of the licence, but also obtaining a renewal of the licence. On that ground I object to this amendment.

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

“ That in clause 12 of the Bill, after the word ‘ hold ’, occurring in the fourth line, the words ‘ or of obtaining a renewal of ’ be inserted.”

The motion was negatived.

**Mr. T. S. Avinashilingam Chettiar** (Salem and Coimbatore *cum* North Arcot : Non-Muhammadian Rural) : Sir, I move :

“ That in clause 12 of the Bill, the words ‘ in a public place ’, occurring at the end, be omitted.”

It will be seen from clause 12 that it deals with the revocation of a licence on the ground that the holder of it suffers from any disease or disability. If the holder is unfit to drive a vehicle in a public place, then he should be disqualified from driving in any place. So I move for the deletion of these words. Sir, I move.

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

“ That in clause 12 of the Bill, the words ‘ in a public place ’, occurring at the end, be omitted.”

**The Honourable Mr. A. G. Clow** : I agree that these words are unnecessary. I accept the amendment.

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

“ That in clause 12 of the Bill, the words ‘ in a public place ’, occurring at the end, be omitted.”

The motion was adopted.

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

“ That clause 12, as amended, stand part of the Bill.”

The motion was adopted.

Clause 12, as amended, was added to the Bill.

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

“ That clause 13 stand part of the Bill.”

**The Honourable Sir Manmatha Nath Mukerji** : Sir, I move :

“ That in sub-clause (1) of clause 13 of the Bill, for the words ‘ furnish the applicant or the holder, as the case may be, with ’ the words ‘ do so by an order communicated to the applicant or the holder, as the case may be, giving the ’ be substituted.”

I may explain to the House the object of this proposed amendment. So far as clause 13 is concerned, we have provided that the order of revocation or refusal of a licence should contain the reasons therefor, and we have also given in sub-clause (2) of clause 13 the right of appeal within thirty days of such refusal or revocation. Objection may rightly be taken, and indeed has been taken, on the ground that it may be that the order may not have been served upon the applicant within a reasonable time, in which case the time taken for the service of the

[Sir Manmatha Nath Mukerji.]

order on the applicant ought to be deducted from the period allowed for preferring the appeal. Now in order to meet these difficulties, we have tabled this amendment which will make the clause read thus :

“ 13. (1) Where the licensing authority refuses to issue or revokes or refuses to renew any license, it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation.”

So that the refusal or revocation will consist not merely in the passing of the order and giving the reasons therefor, but also in communicating the order to the applicant. That will remove all difficulties and I submit that this House should accept this amendment.

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

“ That in sub-clause (1) of clause 13 of the Bill, for the words ‘ furnish the applicant or the holder, as the case may be, with ’ the words ‘ do so by an order communicated to the applicant or the holder, as the case may be, giving the ’ be substituted.”

The motion was adopted.

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

“ That in sub-clause (2) of clause 13 of the Bill, after the words ‘ thirty days of ’ the words ‘ the service on him of the order of ’ be inserted.”

Sir, this amendment does not require a long speech. It becomes all the more necessary on account of the amendment that was moved by my Honourable friend, the Law Member. Sir, unless the man concerned is in receipt of the notice in question, it may not be possible for him to file an appeal and the time ought not to be curtailed. I, therefore, move this amendment.

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

“ That in sub-clause (2) of clause 13 of the Bill, after the words ‘ thirty days of ’ the words ‘ the service on him of the order of ’ be inserted.”

**The Honourable Sir Manmatha Nath Mukerji** : Sir, in view of the amendment proposed by me which has already been accepted by the House, I submit that this amendment has become unnecessary for the reason that the revocation or the refusal will not be complete until the order has been communicated to the applicant. I would ask the Honourable Member to withdraw this amendment.

**Mr. K. Santhanam** : Sir, this requires some clarification. The order will be dated when it is issued. From which date will the thirty days be counted—the date on which the order is communicated to the person, or the date on which the order is passed ? Therefore, I do not see any harm in making this point quite clear that it should be within thirty days of the receipt of the order by the person who suffers from it. I do not think the amendment moved by the Honourable the Law Member covers this point of the date from which the period is to be calculated.

**The Honourable Sir Manmatha Nath Mukerji** : Sir, I submit that this objection is not valid, and for this reason, that sub-clause (2) of clause 13 says :

“ within thirty days of such refusal or revocation.”



Now, if the revocation or refusal consists not merely in the passing of the order but also in communicating it to the applicant, then the thirty days will count from the date on which it is received. So I submit that it is wholly unnecessary. As regards the receipt of the order, the difficulty is this. There may be a case where it may not be possible to prove the actual date on which the order was received; but if the words which we have put in in the amendment are there, then, if the order is communicated by post, the revocation will take effect at the time when the letter must have reached the addressee. For these reasons I think it is not necessary that this amendment should be accepted.

**Mr. N. C. Chunder** (Calcutta : Non-Muhammadan Urban) : Sir, may I suggest an amendment which may be consequential upon the Honourable Sir Manmatha Nath Mukerji's amendment? Instead of "such refusal or revocation", if we put down there "such communication of refusal or revocation", that would meet the points which we have been making.

**Mr. President** (The Honourable Sir Abdur Rahim) : I do not think I can allow that now.

**Mr. Bhulabhai J. Desai** (Bombay Northern Division : Non-Muhammadan Rural) : Sir, the point is so clear that I am rather amazed at the manner in which it is supposed to have been met. The point is—what is the starting point of the period of appeal of thirty days? What you have to provide in (2) is the point. There should be two obligations—an obligation to communicate, and yet there may be another starting period of limitation. The second one is the point in issue : and therefore to suggest "within thirty days of refusal" means "within thirty days of the communication of refusal" is something which I cannot for myself accept, and which I also believe the Government will not press.

**Mr. M. S. Aney** (Berar : Non-Muhammadan) : Sir, I submit the point of view presented by the Leader of the Opposition is very important from the point of view of those who would be affected adversely by the order. It is necessary that the date of the starting point should be made perfectly clear, otherwise it would be difficult to count the thirty days. It only says that the order will be communicated to that man. It may be communicated, but the date from which it is to be counted is the date on which the order is to be passed or the date on which it has been actually received, that point is not made clear and cannot be made clear in the amendment which we have just accepted, and, for the purpose of clarifying that point, it is necessary to accept the amendment moved by my friend, Mr. Ananthasayanam Ayyangar.

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

"That in sub-clause (2) of clause 13 of the Bill, after the words 'thirty days' the words 'the service on him of the order of' be inserted."

The motion was adopted.

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

"That in sub-clause (2) of clause 13 of the Bill, the words 'after giving to the licensing authority notice of his intention so to do' be omitted."

[Mr. Sri Prakasa.]

Sir, I do not see any reason why the person who feels aggrieved by the refusal of a licence and is going to the prescribed authority in appeal should be compelled to give notice that he is doing so to the authority against whom he is aggrieved. Surely, the original authority will get a proper notice from the appellate authority and, therefore, there seems to be absolutely no necessity of having any provision in the law which should in any way make it compulsory for the person appealing to give any notice to the authority against which he is aggrieved. I hope that this amendment will be adopted by the House.

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

“ That in sub-clause (2) of clause 13 of the Bill, the words ‘ after giving to the licensing authority notice of his intention so to do ’ be omitted.”

**The Honourable Mr. A. G. Clow** : Sir, I think those words serve a useful purpose in the Bill as it stands at the moment, but there is an amendment coming later on, on which I believe there is likely to be an agreement, and it will meet the difficulty that was intended to be met by these words. I am prepared to accept this amendment.

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

“ That in sub-clause (2) of clause 13 of the Bill, the words ‘ after giving to the licensing authority notice of his intention so to do ’ be omitted.”

The motion was adopted.

**Mr. S. Satyamurti** : Sir, I beg to move :

“ That to clause 13 of the Bill, the following provisos be added at the end :

‘ Provided that the order of the licensing authority shall be in force pending the disposal of the appeal, unless otherwise ordered by the prescribed appellate authority :

Provided further that the prescribed appellate authority shall give an opportunity of being heard to the licensing authority before passing any orders on the appeal.”

So far as the second proviso is concerned, both my friend, Mr. Sri Prakasa, and the Honourable Member in charge of the Bill, have agreed that the obligation ought not to be cast on the applicant of giving notice to the licensing authority, but that the prescribed appellate authority shall give an opportunity on the appeal being filed to the licensing authority to be heard, if it so chooses, before passing its final orders. So far as the first proviso is concerned, I submit, it supplies an obvious lacuna in the Bill. These provisos are drafted according to the terms of the Civil Procedure Code which says that it is open to the prescribed appellate authority to pass any orders staying the orders passed by the lower court. These two provisos are self-evident, and I hope, will be accepted by the House. Sir, I move

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

“ That to clause 13 of the Bill, the following provisos be added at the end :

‘ Provided that the order of the licensing authority shall be in force pending the disposal of the appeal, unless otherwise ordered by the prescribed appellate authority :

Provided further that the prescribed appellate authority shall give an opportunity of being heard to the licensing authority before passing any orders on the appeal.”

**The Honourable Mr. A. G. Clow** : Sir, I have no objection to the amendment in substance. I feel a little doubt as to whether these are really provisos in the sense of taking away anything from the substantive clause. We may have to consider on the third reading a verbal amendment with regard to these provisos, but I accept the amendment in the meantime.

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

“ That to clause 13 of the Bill, the following provisos be added at the end :

‘ Provided that the order of the licensing authority shall be in force pending the disposal of the appeal, unless otherwise ordered by the prescribed appellate authority :

Provided further that the prescribed appellate authority shall give an opportunity of being heard to the licensing authority before passing any orders on the appeal.”

The motion was adopted.

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

“ That clause 13, as amended, stand part of the Bill.

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Clause 14 was added to the Bill.

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

“ That clause 15 stand part of the Bill.”

I understand a number of new amendments have just been handed in to clause 15.

**Mr. S. Satyamurti** : Copies of those amendments have been circulated to every Honourable Member.

**Mr. President** (The Honourable Sir Abdur Rahim) : I do not know whether there is any objection to them. There are quite a number of them. When were these amendments circulated ?

**Mr. S. Satyamurti** : This morning.

**Mr. F. E. James** : May I ask what amendment is to be moved exactly ? Is it the one circulated before ?

**Mr. S. Satyamurti** : No amendment has yet been moved.

**Mr. Brojendra Narayan Chaudhury** : Sir, before I move my amendment, I wish to make a request to you. My request is that I should move my amendment after all the amendments to sub-clause (1) have been moved. I want that they should first be disposed of, otherwise, it will be asking the House to give me a blank cheque.

**Honourable Members :** You can move it just now.

**Mr. Brojendra Narayan Chaudhury :** If it is the desire of the House that I should move it just now, I will do so. Sir, I move :

“ That in sub-clause (1) of clause 15 of the Bill, after the words ‘ is satisfied ’ the words ‘ after hearing him ’ be inserted.”

My request is a very simple one. I do not want any order to be passed in such serious matters as in this clause without hearing the man concerned. I hope the House will accept it. Sir, I move.

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

“ That in sub-clause (1) of clause 15 of the Bill, after the words ‘ is satisfied ’ the words ‘ after hearing him ’ be inserted.”

**The Honourable Mr. A. G. Clow :** Sir, I see no objection to the substance of what my Honourable friend is proposing. I would suggest, however, that it might be adopted in the following form : ‘ after giving him an opportunity of being heard ’.

**Mr. Brojendra Narayan Chaudhury :** Sir, I accept the modified amendment.

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

“ That in sub-clause (1) of clause 15 of the Bill, after the words ‘ is satisfied ’ the words ‘ after giving him an opportunity of being heard ’ be inserted.”

The motion was adopted.

**Mr. T. S. Avinashilingam Chettiar :** Sir, I beg to move :

“ That for part (a) of sub-clause (1) of clause 15 of the Bill, the following be substituted :

‘ (a) has been convicted of any offence involving violence or moral turpitude ’.”

Sir, this is a very important amendment. If the clause is allowed to stand as it is, I think most of us on this side of the House would be debarred from holding a license. I will tell the House the reason why I think so. In the Criminal Procedure Code by Ratanlal Ranchhoddas, under section 110 a definition is given of “ habitual offender ”. “ Habitual offender ” means, among other things, habitually committing offences involving breach of the peace. This House is aware that many of us, on this side of the House, have been convicted under charges for breach of peace. The expression “ desperate and dangerous ” means a person who is so desperate and dangerous as to render his being at large without security hazardous to the community. Sir, many of us have been declared by magistrates to be dangerous and hazardous to the community. Not only young men, Sir, but respectable old gentlemen like my Honourable friend, Dr. Bhagavan Das, whom nobody could suspect of violence, have been served with notice under this section of being dangerous and hazardous to the community. Under this clause anybody can be roped in as habitual criminal and dangerous character by the licensing authority. All of us, on this side of the House, have been criminals within the meaning of this sub-clause. This clause can easily debar any one of us and I believe it is not intended to act in such a way. I do think that an amendment like the one I have moved is necessary. I commend it for the acceptance of the House.

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

“ That for part (a) of sub-clause (1) of clause 15 of the Bill, the following be substituted :

‘ (a) has been convicted of any offence involving violence or moral turpitude ’.”

The motion was negatived.

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

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

**Mr. Amarendra Nath Chattopadhyaya** (Burdwan Division : Non-Muhammadan Rural) : Sir, I move :

“ That in part (a) of sub-clause (1) of clause 15 of the Bill, after the word ‘ criminal ’ the words ‘ or a habitual drunkard ’ be inserted.”

**Mr. Sri Prakasa** : Sir, on a point of order, is not that widening the scope of the Bill ?

**Mr. Amarendra Nath Chattopadhyaya** : Sir, I hope Mr. Clow will readily accept this amendment. An intoxicated driver is a danger to the passengers and the public. In my part of the country, I have seen in many cases intoxicated drivers driving cars and running over people along the Grand Trunk Road. Therefore, the licensing authority should place a restriction upon habitual drunkards who are never proper persons to drive a car. I hope the Honourable Member in charge will accept this small amendment.

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

“ That in part (a) of sub-clause (1) of clause 15 of the Bill, after the word ‘ criminal ’ the words ‘ or a habitual drunkard ’ be inserted.”

**The Honourable Mr. A. G. Clow** : Sir, I think this may give a little difficulty in administration, but the principle is obviously sound and I accept the amendment.

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

“ That in part (a) of sub-clause (1) of clause 15 of the Bill, after the word ‘ criminal ’ the words ‘ or a habitual drunkard ’ be inserted.”

The motion was adopted.

**Prof. N. G. Ranga** : Sir, I move :

“ That in part (a) of sub-clause (1) of clause 15 of the Bill, after the words ‘ habitual criminal ’ the words ‘ excepting a political offender not convicted of any offence involving moral turpitude ’ be inserted.”

I need not say very much in support of this, because my Honourable friend, Mr. Chettiar, has already spoken in favour of the principle underlying this. The words “ habitual criminal ” are very wide and are likely to be misused by police officials and others in various parts of the country. It is a fact that several of us who were convicted of political offences, more than once came to be considered as habitual criminals, and, therefore, an invidious distinction was made when rations were granted to us and also

[Prof. N. G. Ranga.]

when punishments were meted out. There is in this country a large number of political offenders who, for no moral turpitude of their own, but because of their exalted moral conceptions of life, had to be convicted more than once in the courts of law of this country, and these people are likely to come within the mischief of this Bill if these words "habitual criminal" were to be allowed to remain there without any qualification. The number of these people is not inconsiderable, and we cannot even say that these offences have ceased and there will be no more political offenders in this country. Even now, we find political offenders being convicted in different parts of the country, *e.g.*, in the North-West Frontier Province and the Punjab, and even in Madras and Bengal, not once, but again and again. Therefore, the mischief of this is likely to be very great and is likely to affect a large number of people who have not only been convicted in the past, but are likely to be convicted in the future and are being convicted today. I sincerely hope that Government will see their way to accept this amendment which only means that we are making an exception in the case of political offenders who were not convicted of any offence involving moral turpitude. We hold the view with Government, and just as strongly, if not more strongly, that people convicted of violence in regard to political offences should not be exempted. But, at the same time, those who were convicted of non-violent political offences without any moral turpitude should be exempted from the mischief of this particular clause, and I hope Government will accept this amendment.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I ought to bring to the notice of the House that having regard to the terms of amendment No. 137 which has been already accepted by which certain words are to be added after the word "criminal", here again certain other words are proposed to be added after that word; and, therefore, it should be settled which set of words out of these two should come first after the word "criminal". This is a matter of drafting and I think the Leader of the Opposition may help us.

**Mr. Bhulabhai J. Desai :** If the House accepts this amendment, these words must necessarily come first for the simple reason that, that cannot be a qualification for "habitual drunkards", so that these words must come after the word "criminal".

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I may suggest to Prof. Ranga that as amendment No. 137 has been already accepted, this amendment may be like this that instead of saying "after the word 'criminal'" it may be "before the words 'or a habitual drunkard'".

**Prof. N. G. Ranga :** I accept the suggestion.

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

"That in part (a) of sub-clause (1) of clause 15 of the Bill, before the words 'or a habitual drunkard' the words 'excepting a political offender not convicted of any offence involving moral turpitude' be inserted."

**The Honourable Mr. A. G. Olow :** Sir, I oppose this amendment.....

**Mr. B. Satyamurti :** Why ?

**The Honourable Mr. A. G. Clow :** If it is compared with the amendment moved by Mr. Chettiar which was rejected by the House, it will be found that there are two points of difference. Mr. Chettiar was willing to include crimes of violence : Prof. Ranga does not. Mr. Chettiar was willing to treat political and non-political offenders who were not guilty of an offence involving moral turpitude alike : Prof. Ranga wants a special privilege for people claiming to be political offenders. There is no definition of moral turpitude. It is a question of weighing motives. A man may perfectly well claim that he committed murder without any moral turpitude because his motive was of the highest kind : it has been so claimed, I believe, in some cases. I submit that a special privilege for political offenders, when other offenders are in exactly the same position, is objectionable and a clause which does not exclude crimes of violence is a clause which should not be accepted by this House.

**Mr. Bhulabhai J. Desai :** Sir, I am somewhat surprised at the Honourable Mr. Clow not seeing the difference between the amendment that has been rejected and the one that is moved now, notwithstanding that he said there were two differences between the two. The point is a short one, and I think the House remembers—as it must remember—so far as the words “ moral turpitude ” are concerned, it is a term of art which I believe the Honourable the Law Member will tell you was used by the Privy Council in exactly the case which we want to except. The case arose out of the disciplinary action sought to be taken by the Bombay High Court against two barristers who had been guilty of a breach of the Criminal Law Amendment Act ; and the whole question arose whether or not disciplinary action should be taken by way of disbarring them, or any lesser punishment should be inflicted in that behalf. We are in this country in a transitory stage, and I do not make any secret of it—whatever Government may be there—we are in a stage at which, even for the purposes of getting a licence for a motor car, if there is to be a disqualification, any man or woman, who in the course of these political struggles, takes part and is to be called a habitual criminal, I suppose we would not allow such a thing : they may be in the legal sense habitual criminals—it may be that during three or four civil resistance movements people get convicted on more than one occasion, and, therefore, may be so described. I can easily see the purblind condition of the other side. To them every offender is an offender. I do not deny that, because otherwise they cannot continue to exist in the same comfortable condition. But, for the rest of the House, we are in a position to see what we mean and all that I put to the House is that the exception that we are seeking to make is a legitimate one, namely, except in the case of a political prisoner not convicted of an offence involving moral turpitude. In other words, if it is a political offence as such which does not require any definition, it is well-known they have added one of their wonderful extra Bills—I do not know what the fate the Bill will meet, though I know exactly what is going to happen in the Council of State and later on ; but they have added to the list of political offences one more, and it may well be that for making two or three speeches a man may not be able to get a licence for his car. I think it will be recognised even by the obdurate hearts of our opponents that that certainly is not a disqualification for not being able to drive a motor car or getting a licence. I therefore, put it to the House that this is an amendment which ought to be accepted.

**Mr. Brojendra Narayan Chaudhury :** Sir, it appears to me there is a point of order involved in this. What is the object of this clause ? If the object is to facilitate safety, co-ordination of traffic and things like that, it is in order ; but if the object be to strengthen the ordinary criminal law of the country, I submit it is out of order as it goes beyond the scope of the Bill and I would like to know from the Honourable Member in charge what it means. From the discussion that has been going on and from the wording of the clause, it appears to me that the object of the Government is the latter and, as such, it goes beyond the scope of the Bill. May I have a reply ?

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** It is not a point of order at all. Is it a question you wish to put to the Honourable Mr. Clow ?

**Mr. Brojendra Narayan Chaudhury :** I put it to the Chair. I say that a person has an inherent right to get a licence unless his efficiency and responsibility for driving may be doubted. Part (b) says " about to commit a cognisable offence ". This need not necessarily prove that he is inefficient and irresponsible for driving. The object of this clause is to strengthen the ordinary criminal law of the country and as such goes outside the object of reasons of the Bill.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I do not think this amendment is out of order. You may agree or disagree, that is another matter on the merits—but is an amendment within the scope of the Bill.

**Mr. Brojendra Narayan Chaudhury :** I say that the whole section is out of order.

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

" That in part (a) of sub-clause (1) of clause 15 of the Bill, before the words ' or a habitual drunkard ' the words ' excepting a political offender not convicted of any offence involving moral turpitude ' be inserted."

The Assembly divided :

[When the division was proceeding, Mr. Deputy President (Mr. Akhil Chandra Datta) vacated the Chair for a while, and Mr. S. Satyamurti (one of the Panel of Chairmen) occupied it. After a couple of minutes, Mr. S. Satyamurti vacated the Chair and Mr. Deputy President (Mr. Akhil Chandra Datta) re-occupied it.]

(When the Deputy President was on his legs to announce the result of the division.)

**Dr. Sir Ziauddin Ahmad :** On a point of order, Sir. Before you announce the result, I should like to know whether any Honourable Member who is in the Panel of Chairmen can take the Chair while the Deputy President is in the House ?

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** On the present occasion, the point does not arise.

**Dr. Sir Ziauddin Ahmad :** Will you please give me your ruling on this point ?



**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I have given my ruling.

**Dr. Sir Ziauddin Ahmad :** What is it ?

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** That on the present occasion that question does not arise.

**The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour) :** Supposing there is a tie, what will happen ?

**Mr. S. Satyamurti :** May I submit to the Chair that, just as the Government often tell this side of the House, no hypothetical points of order can be raised.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Being personally concerned, I should not like to take my stand on the technical ground that it is a hypothetical question. My own view is,—I may be wrong,—.....

**Mr. M. S. Aney :** You cannot be wrong.

**Dr. Sir Ziauddin Ahmad :** The Chair may be right, but it ought to give a ruling.....

*(Cries of " Order, order " from several parts of the House.)*

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** As I said, I may be wrong or I may be right for the moment.....

**Dr. Sir Ziauddin Ahmad :** Sir, I want a ruling from you on the point of order I have raised.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** What is it ?

**Mr. Sri Prakasa :** Sir, he is an old wrangler, never mind.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** What will happen in the event of an equality of votes is a question that has been raised. Although I am not bound to answer it on the ground suggested by Mr. Satyamurti, still as one personally concerned in the matter, although as I have already said I should not like to stand on that technical ground, I propose to give my ruling. What happened on the present occasion was this,—while I voted, I was not in the Chair, and when Mr. Satyamurti voted, he was not in the Chair.

**The Honourable Sir Muhammad Zafrullah Khan :** May I make a submission, Sir. You said you would not take shelter behind a technical ground, and, therefore, you proposed to give your ruling, but what will happen in the event of an equality of votes ? No ruling has been given on that point.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The ruling I have given covers that case also, because when I voted I was not in the Chair, and, therefore, I had a right to vote.

**Dr. Sir Ziauddin Ahmad :** I bow to your ruling, Sir, I stand on my rights. I have a right to demand a ruling.

*(Cries of " Order, order " from several sides of the House.)*

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Is it necessary for a senior and experienced Member of this House to interrupt like this more than once when the Chair has given its ruling ?

The result of the Division is : Ayes 51 ; Noes 52.

**AYES—51.**

Abdul Qaiyum, Mr.  
 Abdul Wajid, Maulvi.  
 Aney, Mr. M. S.  
 Asaf Ali, Mr. M.  
 Ayyangar, Mr. M. Ananthasayanam.  
 Banerjee, Dr. P. N.  
 Chaliha, Mr. Kuladhar.  
 Chattopadhyaya, Mr. Amarendra Nath.  
 Chaudhury, Mr. Brojendra Narayan.  
 Chettiar, Mr. T. S. Avinashlingam.  
 Chetty, Mr. Sami Venkatachalam.  
 Chunder, Mr. N. C.  
 Das, Mr. B.  
 Das, Pandit Nilakantha.  
 Datta, Mr. Akhil Chandra.  
 Desai, Mr. Bhulabhai J.  
 Deshmukh, Dr. G. V.  
 Deshmukh, Mr. Govind V.  
 Gadgil, Mr. N. V.  
 Govind Das, Seth.  
 Gupta, Mr. K. S.  
 Hegde, Sri K. B. Jinaraja.  
 Hosmani, Mr. S. K.  
 Jedhe, Mr. K. M.  
 Jogendra Singh, Sardar.  
 Joshi, Mr. N. M.

Kailash Behari Lal, Babu.  
 Lahiri Chaudhury, Mr. D. K.  
 Lalchand Navalrai, Mr.  
 Mnitra, Pandit Lakshmi Kanta.  
 Malaviya, Pandit Krishna Kant.  
 Mangal Singh, Sardar.  
 Misra, Pandit Shanibhu Dayal.  
 Paliwal, Pandit Sri Krishna Dutta.  
 Pande, Mr. Badri Dutt.  
 Parma Nand, Bhai.  
 Raghubir Narayan Singh, Choudhri.  
 Ramayan Prasad, Mr.  
 Ranga, Prof. N. G.  
 Rao, Mr. M. Thirumala.  
 Santhanam, Mr. K.  
 Satyamurti, Mr. S.  
 Sham Lal, Mr.  
 Sheodass Daga, Seth.  
 Singh, Mr. Gauri Shankar.  
 Singh, Mr. Ram Narayan.  
 Sinha, Mr. Satya Narayan.  
 Som, Mr. Suryya Kumar.  
 Sri Prakasa, Mr.  
 Subbarayan, Shrimati K. Itadha Bai.  
 Varma, Mr. B. B.

**NOES—52.**

Abdul Ghani, Maulvi Muhammad.  
 Abdul Hamid, Khan Bahadur Sir.  
 Ahmad Nawaz Khan, Major Nawab Sir.  
 Aikman, Mr. A.  
 Anderson, Mr. J. D.  
 Ayyar, Mr. N. M.  
 Bajoria, Babu Baijnath.  
 Bajpai, Sir Girja Shankar.  
 Bewoor, Mr. G. V.  
 Bhutto, Mr. Nabi Baksh Illahi Baksh.  
 Boyle, Mr. J. D.  
 Chanda, Mr. A. K.  
 Chapman-Mortimer, Mr. T.  
 Chatterjee, Mr. R. M.  
 Clow, the Honourable Mr. A. G.  
 Conran-Smith, Mr. E.  
 Dalal, Dr. R. D.  
 Dalpat Singh, Sardar Bahadur Captain.  
 Dutt, Mr. S.  
 Enak Sait, Mr. H. A. Sather H.

Faruqui, Mr. N. A.  
 Ghulam Bhik Nairaug, Syed.  
 Ghulam Muhammad, Mr.  
 Griffiths, Mr. P. J.  
 Grigg, The Honourable Sir James.  
 James, Mr. F. E.  
 Jawahar Singh, Sardar Bahadur Sardar Sir.  
 Kamaluddin Ahmed, Shams-ul-Ulema.  
 Lloyd, Mr. A. H.  
 Mackcown, Mr. J. A.  
 Maxwell, The Honourable Mr. R. M.  
 Metcalfe, Sir Aubrey.  
 Miller, Mr. C. C.  
 Mitchell, Mr. K. G.  
 Mukerji, The Honourable Sir Manmatha Nath.  
 Mukharji, Mr. Basanta Kumar.  
 Nur Muhammad, Khan Bahadur Shaikh.  
 Ogilvie, Mr. C. M. G.

Rahman, Lieut.-Colonel M. A.  
 Scott, Mr. J. Ramsay.  
 Shahban, Mian Ghulam Kadir Muhammad.  
 Sher Muhammad Khan, Captain Sardar Sir.  
 Sikandar Ali Choudhury, Maulvi.  
 Sivaraj, Rao Sahib N.  
 Smith, Lieut.-Colonel H. C.

Sukthankar, Mr. Y. N.  
 Sundaram, Mr. V. S.  
 Town, Mr. H. S.  
 Tylden-Pattenson, Mr. A. E.  
 Walker, Mr. G. D.  
 Zafrullah Khan, The Honourable Sir Muhammad.  
 Ziauddin Ahmad, Dr. Sir.

The motion was negatived.

**Dr. Sir Ziauddin Ahmad :** Now that you have announced the result of the division, I want to raise my point of order again. I bow to your ruling, but I still want to ask a question, and it is this. Can a Chairman take the Chair when the Deputy President is in the House. That is my point of order ?

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** The same point of order has been raised again, and I have given my ruling finally.

**Dr. Sir Ziauddin Ahmad :** What is your ruling, Sir ?

**The Honourable Sir Muhammad Zafrullah Khan :** I should like....

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Is it on this point ? If it is on the question of the result of the division, then I hold that that question should not be raised.

**The Honourable Sir Muhammad Zafrullah Khan :** We are now considering a Bill clause by clause, and the same situation might arise any moment. I submit that there is from you at the present moment no ruling as to whether under the rules and standing orders, while the Deputy President is still in the House, anybody from the panel of Chairmen can occupy the Chair.

**Mr. Sri Prakasa :** Will you permit me, Sir, to make some observations on this point.....

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** Order, order. So far as the present occasion is concerned, it is finished. As regards future occasions, in the interests of the Honourable the Leader of the House, from his own point of view it will be more welcome to have a decision on this point from the President, because my opinion may, after all, be biased. Therefore, he will better have a ruling from the President.

**The Honourable Sir Muhammad Zafrullah Khan :** That occasion 3 P.M. cannot arise while the President is in the Chair.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** When a similar occasion arises and if there is an equality of votes, if I am in the Chair at the time I shall give my ruling then.

**Mr. M. S. Aney :** I fail to see where the point of order arises. If there is an equality of votes, what the Chair should do is a matter for the Chair to determine for itself and not by any ruling to be laid down by anybody in this world. When there is an equality of votes it is for the Chair.....

[At this stage, the Honourable Sir Muhammad Zafrullah Khan rose in his place.]

[Mr. M. S. Aney.]

I know what my Honourable friend is going to say. I know. But my point is that it is the inherent right of the President or any one occupying the Chair to vote as he likes when there is an equality of votes. So far the practice has been that he should vote for the *status quo*, but it is not a practice which is binding upon any Chairman or any President.

**The Honourable Sir Muhammad Zafrullah Khan :** With reference to the point raised by my Honourable friend, Mr. Aney, may I draw your attention and through you the attention of the House to section 63D (4) of the Government of India Act ? It is not a question of even rules or standing orders, it is a statutory provision :

“ All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.”

Even if by some technicality it was either yourself or Mr. Satyamurti who was in the Chair when the division was taken, it can only be either the one or the other who was not in the Chair at the time that could vote.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I really do not see the point now. My ruling may have been right or may have been wrong, but the ruling is there so far as the present occasion is concerned.

**Mr. S. Satyamurti :** I beg to move the the amendment which stands in my name and which runs as follows :

“ That in part (a) of sub-clause (1) of clause 15 of the Bill, the words ‘ or of a dangerous character ’ be omitted.”

I sincerely hope that, in spite of the narrow vote on the last division in this House, the better mind of the House will accept this amendment. Let me read the clause as it stands.

“ If a licensing authority is satisfied that any person in a habitual criminal—  
(I will add the words ‘ a habitual drunkard ’ which has been accepted by this House)  
or of a dangerous character.....”

I suggest that it is very dangerous to put in any statute we may make words which are vague, ambiguous, and capable of almost any interpretation. I do not want to characterise my colleagues of this House, I do not want my colleagues of this House to characterise me, but I am sure, in my mind, that some of them are dangerous, in some of their minds I am dangerous. Therefore, it seems to me that to put in words like “ of a dangerous character ” is putting a weapon, whose potentiality is unknown and unknowable, in the hands of a licensing authority. What do those words exactly mean ? On the question of moral turpitude, my Honourable friend, Mr. Clow, raised the point that those words are not capable of precise meaning. I submit, with some confidence, that the words “ of a dangerous character ” are even more incapable of a definite meaning. Moreover, for the purpose of regulating the issue of licenses by the licensing authority, we have already got prohibitions. If he is a “ habitual criminal ”, it includes, according to the vote of the House, all the people on this side of the House because they have all been convicted thrice, four, five or six times,—some of us, at least—and they are all “ habitual criminals ”. It depends upon the grace of the licensing authority, whether he will give a licence or not to us. We have got that category. Then you have habitual drunkards. I mention

this to show what wide powers you are giving to the licensing authorities. The language is "is using or is likely to use a motor vehicle in the commission of a cognisable offence or has by his previous conduct shown that his driving is likely to be attended with danger to the public". I say that you have got enough categories of exclusions in this clause, not to justify your asking for the inclusion of this clause also, namely, "of a dangerous character". It is likely to be used improperly and it can be used improperly. These words in this clause (a) put too much of a burden on any licensing authority, and too great a power for abuse in the hands of unscrupulous authorities. I, therefore, sincerely hope and trust that all sections of the House will accept this amendment, because otherwise you are giving a dangerous power in the hands of the licensing authority. Sir, I move.

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

"That in part (a) of sub-clause (1) of clause 15 of the Bill, the words 'or of a dangerous character' be omitted."

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhamadan Rural) : Sir, I rise to support the amendment moved by my Honourable friend, Mr. Satyamurti. When we are going statutorily to debar certain classes of people from obtaining licences, it is up to us to be very clear and precise as to the classes of people we want to exclude. "Dangerous character" has never been defined anywhere, so far as I am aware. What is dangerous to some may be perfectly innocuous to others ; so to put in a vague expression like this in the Act would be to exclude people who are normally not dangerous but perfectly innocent but who, in the opinion of the licensing authority, may be dangerous. Whether a man is dangerous or not is a matter of personal opinion, and I suggest that the House should not accept such a vague and indefinite expression. Besides, the succeeding sub-clauses definitely provide that a person who is likely to use a car for the commission of a cognisable offence is not to get a licence. In sub-clause (c), you provide that he cannot get a licence if his previous conduct shows that his driving is likely to be attended with danger to the public. So, I think you have adequately provided for all possible cases of disqualification and I suggest that the expression 'dangerous character' should not be allowed to remain as it will give a handle to the magistrates to harass people and there is likelihood of the power being abused. With these few words, I support the amendment.

**The Honourable Sir Manmatha Nath Mukerji :** I oppose this amendment and I submit it would be too dangerous to accept it. 'Dangerous character' is an expression well-known to law and has been used in the Code of Criminal Procedure. It is not intended to include within the words 'dangerous' anybody who is not really dangerous for the purpose of being given a licence with regard to motors. A man may not be a habitual criminal and yet may be a dangerous character. It is meant to include only those classes of persons who are known by repute to be *goondas* and I submit that to take out these words would be to limit the operation of the clause. It will be seen that there is a right of appeal provided in sub-clause (3) of clause 15 and if the power conferred by sub-clause (1) is not exercised properly, the remedy would lie in an appeal under sub-clause (3). Having regard to all these facts, I would ask the

[Sir Manmatha Nath Mukerji.]

House to take a dispassionate view of the whole situation and to consider whether it would be right to take out these words excluding from the category of persons falling under sub-clause (1) of clause 15 a well-known class of persons whose reputation is that they are *goondas*.

**Mr. M. S. Aney** : I think the justification given by the Law Member for the retention of these words is certainly not convincing. The point is—are the words “dangerous character” mentioned here defined anywhere. The conception of a dangerous character may vary with varying types of police officers. I shall narrate a story to show how queer interpretations have been put on these words by police officers in accordance with their limited or unlimited understanding. There was an occasion when the late Mr. Khaparde, whose death we all deplore, myself and another friend of mine, who is a leading member of the Bar, were travelling from Amraoti to another place to attend a Provincial Political Conference that was being held immediately after the famous Congress Session in Surat in 1908. In those days, we were all escorted by police officers. At some place one set of officers were replaced by another set, and the retiring set of officers wanted to introduce us to the new set and we had the benefit of listening to their conversation. One set said to the other “Here are three *badmashes* sitting”—I am not using exaggerated language—and as we were the persons over whom they were called upon to watch, they concluded that we were dangerous characters. Sir, the late Honourable Mr. Khaparde was a Member of the old Imperial Legislative Council, was as respectable as His Excellency the Governor General himself. But, in the police dictionary, there was no other phrase for him than a *badmash* or a *goonda*, meaning thereby a dangerous character, who can be roped in within the meaning of the words used here. We must remember who are the people whose duty it would be to administer this law. I, therefore, think that the Honourable the Law Member should suggest some better wording and not leave the thing in the vague and unequivocal phraseology in which it is left. I, therefore, think that the amendment which my friend, Mr. Satyanurti, has moved is eminently reasonable and should commend itself to the Honourable the Law Member himself, who, as an experienced lawyer and as an experienced Judge, ought to know how these things are abused by the officers and particularly the police officers.

**Mr. Bhulabhai J. Desai** : Mr. Deputy President, I am glad that the Honourable the Law Member has asked this House to judge of this matter in what he calls a dispassionate way. Now, I tried to discover how much passion on the other side has induced the inclusion of these words. I quite agree with the Honourable the Law Member that this expression is used in the Criminal Procedure Code,—and I believe my Honourable friend is also aware how this particular section has been looked at by the people and misused and abused by the instruments of law, the judges, because the police has got one-sided evidence about people who are called suspects and then they are bound over. There may be a few people who deserve to be so bound over but the logic that beats me is, because there are a few bad men, therefore, some others must also be so. I believe there are individual records by the C. I. D. sent up daily or periodically to the other side describing those individuals as dangerous characters. I, in fact, saw it in a telegram between two

detectives pursuing me. Therefore, we must have a little more propriety about these matters. I am not denying the view that bad people may exist in the world, but when you make a law, you must remember that it can be literally applied by people when it suits their convenience, and, therefore, I do not know where the dispassionate reason came in. My friend's eyes are concentrated on a few *goondas*. They exist in the town of Calcutta, but I can believe they can hire a car. That type of man we know. If this is the way in which we are to give legislative sanction—for the purpose of saying that he may not get even a license to drive a motor-car—I am certain that my friends have been encouraged to press this matter and to oppose this motion by the result of what happened a little while ago. At the same time, it is not a matter of any consequence to me, but it is up to me to warn this House as to what they are doing, because this is a matter of a legislative enactment in which we ought to be able to take a view not for today or tomorrow, but the manner in which the words actually would be construed by a court of law; and we cannot afford to be quiet merely on the ground that it does not matter. Therefore, I at least owe a duty to the House as much as my Honourable friend, the Law Member, does, and I must say that by including a disqualification of this kind, which would cover an infinitely larger innocent class than a microscopic dangerous class, you would lend yourself to the abuse of a legislation of which we cannot be very well proud.

**Mr. Suryya Kumar Som** (Dacca Division : Non-Muhammadan Rural) : Sir, the avoidance of this phrase has become more necessary now when the party system of Government is prevalent. Sir, I read during the last elections, in the Central Provinces, what happened when an ex-Governor, Sir Raghavendra Rau, was a candidate. I read in the papers that one of the contesting sides was deprived of motor-cars or any sort of conveyance for the purpose of propaganda because of the action of the executive authority, and because the police was the *ma-bap* of the motor-wallahs and taxi-wallahs, and so the other side found great difficulty in getting conveyances to go to these distant places. So I say that these words have a greater and more dangerous significance to us than they had before. Let the Government come forward and plainly tell us whether they want to include in this the politically inconvenient persons or not. If they are frank, then the word "goonda" can be put in; that word has got a definite meaning, defined in the Calcutta Goonda Act. From the speech of the Honourable the Law Member, we understand that in his mind he was thinking about *goondas*; if so, let this word be substituted; and I think I might ask my friends on our side to accept that. Unless you come forward and accept the word "goonda" in this place, I hold that you are not sincere and the word has been purposely put in.

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

"That in part (a) of sub-clause (1) of clause 15 of the Bill, the words 'or of a dangerous character' be omitted."

The motion was adopted.

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : There is another amendment to part (b) of sub-clause (1) of clause 15. I under-

stand that this was circulated to all Honourable Members. If so, and if the House has no objection, it may be taken.

**Mr. N. V. Gadgil** (Bombay Central Division : Non-Muhammadan Rural) : Sir, I beg to move :

“ That in part (b) of sub-clause (1) of clause 15 of the Bill, for the words ‘ is likely to use ’ the words ‘ has used ’ be substituted.”

There is no necessity for me to dilate on this. It is so obvious. I understand the Government are agreeable to this. I move.

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

“ That in part (b) of sub-clause (1) of clause 15 of the Bill, for the words ‘ is likely to use ’ the words ‘ has used ’ be substituted.”

The motion was adopted.

**Mr. Abdul Qaiyum** : Sir, there is another amendment on this very list which was circulated this morning. It is to sub-clause (1) (c).

**The Honourable Mr. A. G. Clow** : I have it in the name of Prof. Ranga.

**Prof. N. G. Ranga** : Sir, I beg to move :

“ That in part (c) of sub-clause (1) of clause 15 of the Bill, after the words ‘ by his previous conduct ’ the words ‘ as driver of a motor vehicle ’ be inserted.”

This is really.....

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : I take it that Honourable Members have got a copy of it, and if there is no objection, the Honourable Member, Prof. Ranga, can move his amendment.

**Dr. Sir Ziauddin Ahmad** : Sir, I object to its being moved at the present time because this amendment was handed over to me after the speaker was on his legs. It was not in our hands before that time. If we adopt the practice that the amendments can be moved as we are going along, then we do not know where it will end. We should have the amendments before us before the House meets.

**Sirdar Jogendra Singh** (Fyzabad Division : Non-Muhammadan Rural) : It was put on the table of the House before the House met.

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : If Dr. Sir Ziauddin Ahmad does not withdraw his objection, I am afraid I will not allow this amendment to be moved.

**Mr. M. S. Aney** : This amendment has already been circulated, and it was put on the seat of the Honourable Member. Perhaps he did not look at it.

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : But Dr. Sir Ziauddin Ahmad says that he did not receive the amendment until the Honourable the Mover was on his legs.

**Mr. S. Satyamurti** : It is a very ordinary amendment.

**Mr. Deputy President** (Mr. Akhil Chandra Datta) : Then, you can ask the Honourable Member to withdraw his objection. If he insists on it, I cannot allow the amendment to be moved.



**Some Honourable Members :** Sir, he has withdrawn his objection.

**Mr. Deputy President (Mr. Akhil Chandra Datta) :** I am told that Dr. Sir Ziauddin Ahmad has withdrawn his objection, and it is on that assurance that I am allowing Prof. Ranga to move his amendment.

**Prof. N. G. Ranga :** Sir, I have already moved the amendment. It is only an explanatory amendment, and I hope the Government as well as the House will have no objection to it. It does not need any speech from me. So, I move it.

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

“ That in part (c) of sub-clause (1) of clause 15 of the Bill, after the words ‘ by his previous conduct ’ the words ‘ as driver of a motor vehicle ’ be inserted.”

**The Honourable Mr. A. G. Clow :** Sir, I agree that this carries out the intention of the clause, and I accept it.

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

“ That in part (c) of sub-clause (1) of clause 15 of the Bill, after the words ‘ by his previous conduct ’ the words ‘ as driver of a motor vehicle ’ be inserted.”

The motion was adopted.

**Mr. T. S. Avinashilingam Chettiar :** Sir, I move :

“ That in sub-clause (3) of clause 15 of the Bill, after the words ‘ thirty days ’ the words ‘ of the receipt ’ be inserted.”

This is a very formal amendment. It only provides that the period should be counted only after the receipt of the orders because at the time of the issue of the orders, he may have no knowledge of them. Sir, I move.

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

“ That in sub-clause (3) of clause 15 of the Bill, after the words ‘ thirty days ’ the words ‘ of the receipt ’ be inserted.”

**The Honourable Mr. A. G. Clow :** I see no objection to this amendment.

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

“ That in sub-clause (3) of clause 15 of the Bill, after the words ‘ thirty days ’ the words ‘ of the receipt ’ be inserted.”

The motion was adopted.

**Mr. S. Satyamurti :** Sir, I move :

“ That in sub-clause (3) of clause 15 of the Bill, after the word ‘ shall ’, occurring in the fourth line, the words ‘ give notice to the licensing authority and ’ be inserted.”

I think it is an obvious amendment and I hope the House will accept it. I move.

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

“ That in sub-clause (3) of clause 15 of the Bill, after the word ‘ shall ’, occurring in the fourth line, the words ‘ give notice to the licensing authority and ’ be inserted.”

The motion was adopted.

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

“ That clause 15, as amended, stand part of the Bill.”

The Assembly divided :

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

#### AYES—55.

Abdul Ghani, Maulvi Muhammad.  
 Abdul Hamid, Khan Bahadur Sir.  
 Ahmad Nawaz Khan, Major Nawab Sir.  
 Aikman, Mr. A.  
 Anderson, Mr. J. D.  
 Ayyar, Mr. N. M.  
 Bajoria, Babu Baijnath.  
 Bajpai, Sir Girja Shankar.  
 Bewcor, Mr. G. V.  
 Bhutto, Mr. Nabi Baksh Illahi Baksh.  
 Boyle, Mr. J. D.  
 Chanda, Mr. A. K.  
 Chapman-Mortimer, Mr. T.  
 Chatterjee, Mr. R. M.  
 Clow, the Honourable Mr. A. G.  
 Conran-Smith, Mr. E.  
 Dalal, Dr. R. D.  
 Dalpat Singh, Sardar Bahadur Captain.  
 Dutt, Mr. S.  
 Essak Sait, Mr. H. A. Sathar H.  
 Faruqui, Mr. N. A.  
 Ghulam Bhik Nairang, Syed.  
 Ghulam Muhammad, Mr.  
 Griffiths, Mr. P. J.  
 Grigg, The Honourable Sir James.  
 James, Mr. F. E.  
 Jawahar Singh, Sardar Bahadur Sardar Sir.  
 Kamaluddin Ahmed, Shams-ul-Ulema.  
 Lloyd, Mr. A. H.

Mackeown, Mr. J. A.  
 Maxwell, The Honourable Mr. R. M.  
 Metcalfe, Sir Aubrey.  
 Miller, Mr. C. O.  
 Mitchell, Mr. K. G.  
 Mukerji, The Honourable Sir Maumatha Nath.  
 Mukharji, Mr. Basanta Kumar.  
 Nauman, Mr. Muhammad.  
 Nur Muhammad, Khan Bahadur Shaikh.  
 Ogilvie, Mr. C. M. G.  
 Rahman, Lieut.-Colonel M. A.  
 Scott, Mr. J. Ramsay.  
 Shahban, Mian Ghulam Kadir Muhammad.  
 Sher Muhammad Khan, Captain Sardar Sir.  
 Siddique Ali Khan, Khan Bahadur Nawab.  
 Sikandar Ali Choudhury, Maulvi.  
 Sivaraj, Rao Sahib N.  
 Smith, Lieut.-Colonel H. C.  
 Sukthankar, Mr. Y. N.  
 Sundaram, Mr. V. S.  
 Towa, Mr. H. S.  
 Tylden-Pattenson, Mr. A. E.  
 Umar Aly Shah, Mr.  
 Walker, Mr. G. D.  
 Zafrullah Khan, The Honourable Sir Muhammad.  
 Ziauddin Ahmad, Dr. Sir.

#### NOES—53.

Abdul Qaiyum, Mr.  
 Abdul Wajid, Maulvi.  
 Abdul Rasheed Chaudhury, Maulvi.  
 Aney, Mr. M. S.  
 Asaf Ali, Mr. M.  
 Ayyangar, Mr. M. Ananthasayanam.  
 Banerjee, Dr. P. N.  
 Chaliha, Mr. Kulaadhar.

Chattopadhyaya, Mr. Amarendra Nath.  
 Chaudhury, Mr. Brojendra Narayan.  
 Chettiar, Mr. T. S. Avinashilingam.  
 Chetty, Mr. Sami Vencatachelam.  
 Chunder, Mr. N. O.  
 Das, Mr. B.  
 Das, Pandit Nilakantha.  
 Datta, Mr. Akhil Chandra.

Desai, Mr. Bhulabhai J.  
 Deshmukh, Dr. G. V.  
 Deshmukh, Mr. Govind V.  
 Gadgil, Mr. N. V.  
 Govind Das, Seth.  
 Gupta, Mr. K. S.  
 Hans Raj, Raizada.  
 Hegde, Sri K. B. Jinaraja.  
 Hosmani, Mr. S. K.  
 Jedhe, Mr. K. M.  
 Jogendra Singh, Sardar.  
 Joshi, Mr. N. M.  
 Kailash Behari Lal, Babu.  
 Lahiri Chaudhury, Mr. D. K.  
 Lalchand Navalrai, Mr.  
 Maitra, Pandit Lakshmi Kanta.  
 Malaviya, Pandit Krishna Kant.  
 Mangal Singh, Sardar.  
 Paliwal, Pandit Sri Krishna Dutta.

Pande, Mr. Badri Dutt.  
 Parma Nand, Bhai.  
 Raghubir Narayan Singh, Choudhri.  
 Ramayan Prasad, Mr.  
 Ranga, Prof. N. G.  
 Rao, Mr. M. Thirumala.  
 Santhanam, Mr. K.  
 Satyamurti, Mr. S.  
 Sham Lal, Mr.  
 Sheodass Daga, Seth.  
 Singh, Mr. Gauri Shankar.  
 Singh, Mr. Ram Narayan.  
 Sinha, Mr. Satya Narayan.  
 Som, Mr. Suryya Kumar.  
 Sri Prakasa, Mr.  
 Subbarayan, Shrimati K. Radha Bai.  
 Subedar, Mr. Manu.  
 Varma, Mr. B. B.

The motion was adopted.

Clause 15, as amended, was added to the Bill.

**The Honourable Sir Muhammad Zafrullah Khan :** Sir, before you go on with the other amendments to the Bill, there is one matter to which I would beg to draw your attention for the purpose of obtaining your direction. While the Chair was occupied by the Deputy President this afternoon an occasion arose for a Division over a certain amendment. The Deputy President requested one of the Honourable Members of the Panel of Chairmen to take the Chair while he recorded his vote. The Honourable Member so called upon took the Chair, and that Honourable Member, after the Chair was resumed by the Deputy President, also recorded his vote. I forget exactly which of them voted first but both recorded their votes. Now the point that arises is this. Rule 3 of the Rules of this House lays down that any one of the Panel of Chairmen **may** preside over the Assembly in the absence of the President and the Deputy President. The first matter that arises is that the Deputy President was not absent from the House during the time that an Honourable Member from the Panel of Chairmen occupied the Chair.

**Pandit Krishna Kant Malaviya** (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Sir, on a point of order.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable the Leader of the House is himself raising a point of order and there can be no other point of order on that.

**The Honourable Sir Muhammad Zafrullah Khan :** As a matter of fact not only was the Deputy President not absent from the House but he was taking part in the activity of the House at the moment, i.e., the division. The first point, therefore, that arises is whether in those circumstances it is or is not open to the Deputy President or President, while remaining in the House, to request somebody out of the Panel of Chairmen to take the Chair. The second question that arises is this.

[Sir Muhammad Zafrullah Khan.]

Section 63-D, sub-section (4) of the Government of India Act of 1935 as set out in the Ninth Schedule of the Act provides :

“ All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.”

Now, Sir, the position is this. Who was presiding at the time when the division was taken ? Subject to your ruling on the first point, it may be either that it was the Deputy President or it was the Honourable Member from the Panel of Chairmen. But whichever of the two was in the Chair when the division was taken was disqualified from voting under this statutory provision. I merely state this by reference to how the record of that division will read. The record of the proceedings will say that at a certain moment the Deputy President took the Chair. Then there will be set out this division with the names of Honourable Members under “ Ayes ” and “ Noes ” ; and the Deputy President's name will be found in one of those lists. The question will be, was he in the Chair at that time ? If he was, he could not record his vote. It may be said that the particular Member who was requested to take the Chair was in the Chair but his name will also be found in one of the lists as having voted. The question will be, at the time of the division, who was in the Chair.

**Mr. President** (The Honourable Sir Abdur Rahim) : When do you say the division begins and ends ?

**The Honourable Sir Muhammad Zafrullah Khan** : The actual division begins when the Chairman announces “ Ayes to right, Noes to left ”.

**Mr. President** (The Honourable Sir Abdur Rahim) : Not when the division is called ?

**The Honourable Sir Muhammad Zafrullah Khan** : That is for you to decide. My submission is that it is really one continuing act from the moment that it is called up to the moment when it is concluded, and that, therefore, whoever occupies the Chair at the moment is not to vote. Whichever way you rule, one of the two gentlemen was not entitled to cast his vote. One of them had only a casting vote ; and, therefore, apart from the importance of the question itself, it is necessary to decide how the record should be kept.

**Dr. Sir Ziauddin Ahmad** : Sir, before you give your ruling I wish to say something because it was I who first raised the point of order.

**Mr. President** (The Honourable Sir Abdur Rahim) : That does not matter.

**Mr. Akhil Chandra Datta** : Sir, it is more or less a personal matter and, therefore, it is a somewhat delicate thing, but I want to know if the Honourable the Leader of the House wants to challenge my ruling already given or anything that I have done as Deputy President. If that is the intention I will certainly protest.

**The Honourable Sir Muhammad Zafrullah Khan** : May I explain, with the permission of the Deputy President ? I raised this with the

Honourable the Deputy President when he was in the Chair and he said he had already given a ruling. I imagine he meant that having voted, his ruling was that he could vote, and he also said that if I wanted to raise it for guidance, then I should raise it when the Honourable the President was in the Chair.

**Several Honourable Members :** When the proper occasion arose.

**The Honourable Sir Muhammad Zafrullah Khan :** I am raising it for two purposes, (1) for the purposes of the record and (2) with regard to whether, on any future occasion, it should be possible for the same thing to be done. If it is under the Rules and Standing Orders permissible, then of course there can be no objection to it. If it is not, then for the future there will be that guidance available which you may give by your ruling.

**Mr. Akhil Chandra Datta :** If without questioning my ruling or without questioning anything that I have done so long as I was in the Chair.....

**Mr. President** (The Honourable Sir Abdur Rahim) : Supposing it is held that one of the votes was not valid.

**Mr. Akhil Chandra Datta :** I shall say this, with all the respect due to your position, that that is over once and for all, and the President has no right to review a decision of the Deputy President. As long as I am in the Chair my position and yours are absolutely identical and you cannot ignore my ruling. For future guidance you may take any measure you think proper, but at the same time I owe it to myself to say that whether I was right or wrong in my ruling, nobody has got any right to challenge the ruling that I have given. And, without meaning any disrespect, I must say that even you have not the right to review my decision.

**The Honourable Sir Muhammad Zafrullah Khan :** I submit, Sir, that the Honourable the President has every right to reverse his own ruling (*Voices of "When occasion arose"*) if on further consideration he is of the view that the ruling previously given by him was not correct ; and, therefore, the same thing is possible with reference to a ruling of the Deputy President.

**Mr. Akhil Chandra Datta :** I want you to give your ruling as to whether my decision.....

**Mr. President** (The Honourable Sir Abdur Rahim) : Yes, I will do that.

**Mr. Bhulabhai J. Desai :** Mr. President, my first objection to this is this. The Honourable the Leader of the House said the President can change his ruling. I think he does not apprehend the two meanings underlying that expression. Of course you can change your ruling in the sense that you may reinterpret your ruling differently, but you cannot change the ruling in the sense that the ruling which is given on the facts of the case on that occasion can be altered. Therefore, the real position with which the House is now confronted is this : a particular set of facts arose ; votes were taken ; the then presiding officer gave a ruling and now that ruling is recorded here.....

**Mr. President** (The Honourable Sir Abdur Rahim) : What was the ruling given ?

**Mr. Bhulabhai J. Desai** : The ruling that was given was that he could vote.

**Some Honourable Members** : No, no : there was no ruling.

**Mr. Bhulabhai J. Desai** : I will answer the question that you put to me, and I say, if I may say it with the utmost respect, without prejudice to the point that I am raising—I am quite willing that the question, if it had been opened for discussion, you may know the facts and revise them—but my point is that you cannot be called upon to give any decision on a matter that is already ruled upon and closed by the vote of the House.....

**Mr. President** (The Honourable Sir Abdur Rahim) : That is what I want to know : what was the ruling ?

**Mr. Bhulabhai J. Desai** : The motion was put to the House and a division was called. After the division was called during the course of the voting, the presiding Member, as he then was, vacated the Chair and requested one of the Members on the Panel to take the Chair and after the Member on the Panel had taken the Chair the vote was recorded by the one who was the presiding Member. Presiding Member includes everybody : it includes the President, the Deputy President and every Panel Member. It is equally correct to say that thereafter while still the voting was in progress the Member on the Panel vacated the Chair and the former presiding Member resumed it ; and he also voted on the division. It is perfectly true. The question that I am putting before you is not whether that particular procedure was right or wrong, whether the two votes could be recorded or whether only one should be recorded. If, for instance, in an actual division before the result was announced the question had arisen whether the voting was valid or invalid the question could be decided. But this question is in the nature of what I may call a hypothetical consideration. In other words, my friend cannot do two things—he cannot challenge a vote that has already been recorded and, therefore, the question of the facts under which the voting took place are not before you. Secondly, my friend cannot raise a question, without the facts having arisen, as to what interpretation should be put upon a rule or upon section 63D. I, therefore, ask you to rule that any matter—it is not a question of simply asking “ We want you to consider these rules.....

**Mr. President** (The Honourable Sir Abdur Rahim) : It is open to me to lay down a proper interpretation of the rules ?

**Mr. Bhulabhai J. Desai** : Only when the facts require it.

**Mr. President** (The Honourable Sir Abdur Rahim) : When it is brought to my notice ?

**Mr. Bhulabhai J. Desai** : With very great deference, that is the point I am trying to raise. In that way we can call upon you every morning and raise for fanciful consideration, taking all the past division lists for the past twenty years—“ in a certain division a set of facts took place and the president’s decision was this : we think it was wrong and will

you please now decide ? ” Therefore, it is a matter of a very serious nature. The point is you cannot be asked to do anything of the sort. You are asked in substance to change the nature of the interpretation, challenge or review the decision which has already been given, appropriate and applicable to that occasion and that voting only. There is no such thing. It might be that it is asked for a precedent, but there is no such thing as a general deduction for the purposes of the conduct of the House.

Let me, therefore, warn the Chair against giving what they call a decision without any particular immediate occasion and facts requiring it. Whether it is one or the other, the position can be equally reversed. Supposing the Deputy President was in the Chair or one of the Panel of Members was in the Chair, would it be right and how often can it be right that any one can get up and say, like the Leader of the House did : “ Yes, something was done : the President had given such and such a ruling : the matter is over and it cannot be challenged, but we want your guidance ”. And, Sir, with great deference, your guidance is no more than the guidance of any one who would be in the Chair for the time being. Therefore, let us not assume that there is any distinction between the person occupying the Chair at a particular time and a particular other Member.....

**Mr. President** (The Honourable Sir Abdur Rahim) : I want to know whether any ruling given by the President is binding on anybody !

**Mr. Bhulabhai J. Desai** : You can call this as a precedent ; the only value so far as I know and so far as everybody else knows, the only value of an interpretation of a particular rule is by way of precedent, and, therefore, it is that the Honourable Member without apprehending.....

**Mr. President** (The Honourable Sir Abdur Rahim) : What I want to know is whether you consider that a precedent is not to be of any value at all.

**Mr. Bhulabhai J. Desai** : But that is not the point at issue. The point at issue now is supposing a similar occasion arises when you were in the Chair and this ruling was quoted, then the question will arise whether you were obliged to follow the previous ruling. Then you may easily say : “ I am bound by my previous ruling ”. But I quite agree with my Honourable friend that that is not what I may call the practice, because I cannot call it the law. The practice is that you are entitled to say “ I reconsider either my own decision or my predecessor’s decision for the purpose of future guidance ”. But, there, again, the matter will rest at that. Therefore, I say the point is this : the ruling that is given is on facts : it is conclusive for the purposes of that particular division or question. As regards the second point, you may say it has a precedent value. What quality of precedent value it has it is very difficult to say ; but one thing is common ground between my Honourable friend and myself, that it has not precedent value in the sense that it cannot be altered, meaning that it cannot be altered in the second sense, not in the first sense : it cannot be altered in the sense that it will have any effect on the division already taken place. But it may be altered in the sense that you may say : “ This is the proper mean-

[Mr. Bhulabhai J. Desai.]

ing of that rule'' ; so that it can be applied again to the facts of the particular case on which it has arisen. I submit that it would be a most dangerous thing to ask the Chair—assuming that my friend apprehended or I apprehended that a particular ruling was wrong that when any actual occasion occurring requiring the interpretation of the rule and, therefore, involving or possibly involving a re-interpretation of the rule, possibly involving the revising of a decision given on a previous occasion,—I submit, you cannot be called upon to interpret the rules in that manner.

**Dr. Sir Ziauddin Ahmad :** Sir, the question is that the proceedings will have to be recorded and in those proceedings the Secretary will have to put down the name of the person on the Chair. Now, I draw your attention to page 23 of the Manual, section 62 (2)—which says :

“ All questions for the determination of the Assembly are decided by a majority of votes of the Members present other than the person presiding, who, however, has and shall exercise a casting vote in the case of an equality of votes.”

So there must be one man shown in the proceedings as the Chairman and his vote, according to this section, cannot be recorded in favour of or against any motion. So, in fact the terms of this section have not been followed. The other point of order I raised is this : I draw attention to page 9 of the Manual—para. 17 : it says :

“ At the commencement of every Session the President shall nominate from among the Members a Panel of not more than four Chairmen, any one of whom may preside over the Assembly in the absence of the President and Deputy President, when so requested by the President or, in his absence, by the Deputy President.”

That is, the Chairman can only take the Chair when the President and the Deputy President are both absent. Here in this case.....

**Mr. Bhulabhai J. Desai :** On a point of order, Sir, may I point out that my friend is now addressing the Chair on the point of the merits of the issue ?

**Mr. President** (The Honourable Sir Abdur Rahim) : I have allowed the Honourable Member to address the Chair on that point.

**Dr. Sir Ziauddin Ahmad :** It clearly says that the Chairman shall preside in the absence of the President and the Deputy President. The Deputy President was present in the House, because he actually voted, otherwise if he had not been present in the House, he could not have recorded his vote, and, therefore, while he was here and recorded his vote, the Chairman could not take the Chair. Sir, the proceedings will have to be recorded, and I request you to give a ruling as to who should be shown as being in the Chair at that particular time when the vote was recorded. . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : It raises a very important question, and I want to consider it carefully before I give a ruling. I shall give my ruling later.

**Mr. Bhulabhai J. Desai :** Will you give your ruling on the merits, Sir ? If that is so, we have a lot more to say. Assuming it is open to you to give a ruling, then what should be the correct ruling on the true interpretation. I am quite certain you fully appreciate the point. I did not read either the rule or section 63D, and I should like to assist



you, if possible, at this time. I do look upon this matter as purely a matter for legal interpretation. One of the two matters to which our attention was called by the Leader of the House was rule 3 at page 119. Rule 3 (1) says this :

“ At the commencement of every Session the President shall nominate from amongst the Members of the Assembly, a Panel of not more than four Chairmen, any of whom may preside over the Assembly in the absence of the President and Deputy President, when so requested by the President or, in his absence, by the Deputy President.”

As I understand the position, the rule means that there must be the physical absence of both the President and the Deputy President, and then only a Member of the Panel of Chairmen can preside. That is the first point raised. On the very language of the rule, that seems to be an absurd construction, because it says : “ when so requested by the President or, in his absence, by the Deputy President ”. So, at the moment, the Deputy President presides, he can and he is entitled to request any Member of the Panel of Chairmen to preside, otherwise how are you going to apply.....

**Mr. President** (The Honourable Sir Abdur Rahim) : Supposing the Deputy President is in the House, and the President calls a Member of the Panel of Chairmen to preside.....

**Mr. Bhulabhai J. Desai** : Certainly not. There the point is quite different. You please read the words : ‘ In the absence of the President and Deputy President ’,—that implies the physical absence of the two.

Then, the question is : “ when so requested by the President or, in his absence, by the Deputy President ”. Those are the words which we have to consider. I am not at all suggesting that if either called by you or when the Deputy President is actually present in the House that a Member of the Panel can preside. I hope they will take the trouble to understand.....

**The Honourable Sir Muhammad Zafrullah Khan** : We are trying to.

**Mr. Bhulabhai J. Desai** : I am absolutely certain, you may not succeed looking to the manner in which you are approaching this problem. The words are “ the President and the Deputy President ” and they should be treated as one phrase. Then the words are ‘ in the absence of ’ within brackets (‘ the President and the Deputy President ’). Therefore, I quite agree that the condition of the Panel Member to preside is the absence of both. I accept that position, and when you get to the next few words—“ when so requested by the President or in his absence by the Deputy President ”,—are matters which require your interpretation. The question is, the President being absent, the Deputy President wanted to vacate the Chair, whether it is permissible or right for him to ask a Panel Member to preside. That is the true issue. And, according to the ruling given by the Deputy President, and he said he had every right to call upon a member of the Panel to take the Chair and himself vacating it.

Then, we come to section 63D on the question of vote which my friend has raised. This is one of the schedules in the Government of India Act. Now, 63D (4) says this :

“ All questions in either chamber shall be determined by a majority of votes of Members present other than the presiding Member, who shall, however, have and exercise a casting vote in the case of an equality of votes.”

[Mr. Bhulabhai J. Desai.]

Now, the whole question is, as it was put, what was the point of time at which the presiding member is to be excluded. That is the only issue before the House—"and all questions shall be determined by a majority of votes of Members present". The question really is whether all Members, including the Deputy President, were present. The question arose whether or not while not presiding and while he was quite entitled to, being so entitled to do, call upon the panel member to preside, could he or could he not vote.....

**Mr. President** (The Honourable Sir Abdur Rahim) : Then you contend that both the votes are valid ?

**The Honourable Sir James Grigg** (Finance Member) : They cannot be.

**Mr. Bhulabhai J. Desai** : Whether that is allowed by the rules or not is not a matter of finance.

**The Honourable Sir James Grigg** : It is a matter of common sense.

**Mr. Bhulabhai J. Desai** : It seems to be a matter of legal interpretation.

**Mr. M. S. Aney** : May I make two observations on this, Sir ?

**Mr. President** (The Honourable Sir Abdur Rahim) : Not unless something has been omitted by the previous speakers.

**Mr. M. S. Aney** : The point which I wish to submit has not been touched by the previous speakers. It is under rule 3. We have first to see whether the action is within the meaning of section 3 or not. What is laid down here is this,—the occasion when a member of the panel of Chairmen can preside. It requires that he can preside in the absence of the President and Deputy President,—that is true, but he ought to do so when requested by the President or the Deputy President.....

**Dr. Sir Ziauddin Ahmad** : But he cannot vote.

**Mr. M. S. Aney** : My friend has not heard me fully. If the rule had been so simple as all that, I would not have got up. My point is this, when the Deputy President requested a member of the panel of Chairmen, he went and took the Chair, but where was the President or the Deputy President at that time. Is the lobby a part of the House or not,—that is the point for our consideration. Is the lobby a part of this House ? If the lobby is not a part of the House where his presence is necessary, then I submit he was absent technically within the meaning of rule 3 when a member of the panel was presiding.

**Mr. S. Satyamurti** : I want to mention one fact to you, Sir, as I happened to be the gentleman whose conduct is being questioned by some Honourable Members.

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

**The Honourable Sir Muhammad Zafrullah Khan** : I have not questioned your conduct.

**Mr. S. Satyamurti** : I protest against the remarks of the Leader of the House.

**Mr. President** (The Honourable Sir Abdur Rahim) : It is a common failing here.

**Mr. S. Satyamurti** : When I am addressing the Chair, I am entitled not to be interrupted.

**Mr. President** (The Honourable Sir Abdur Rahim) : It is a common failing.

**Mr. S. Satyamurti** : You can put it down to the other side. We always submit to the Chair.

Sir, I had voted *when* the Deputy President called on me, as he sometimes has done, and in this Session I have taken the Chair quite a number of times,—when the Deputy President called me to take the Chair, I had already voted. When I took the Chair, the Deputy President left the House, as he usually does, and went to a place outside the House called the lobby. I want to point out, Sir, that the lobby is not a part of the House, and when he returned to the Chair, as I always do, I bowed to him and vacated it ; and I want to add when you came, the Deputy President bowed to you and came back and recorded his vote in the later division.

**Mr. President** (The Honourable Sir Abdur Rahim) : All right, I will consider all the points raised.

The question is :

“ That clause 16 stand part of the Bill.”

**Mr. T. S. Avinashilingam Chettiar** : I move :

“ That in sub-clause (2) of clause 16 of the Bill, for the words ‘ of the making of such order ’ the words ‘ of the receipt of intimation of such orders ’ be substituted.”

This is a formal amendment, because the man must have notice before he can appeal against the order. Sir, I move.

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

“ That in sub-clause (2) of clause 16 of the Bill, for the words ‘ of the making of such order ’ the words ‘ of the receipt of intimation of such orders ’ be substituted.”

**The Honourable Mr. A. G. Clow** : I accept the amendment.

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

“ That in sub-clause (2) of clause 16 of the Bill, for the words ‘ of the making of such order ’ the words ‘ of the receipt of intimation of such orders ’ be substituted.”

The motion was adopted.

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

“ That clause 16, as amended, stand part of the Bill.”

The motion was adopted.

Clause 16, as amended, was added to the Bill.

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

“ That clause 17 stand part of the Bill.”

**Pandit Lakshmi Kanta Maitra :** I move :

“ That in sub-clause (4) of clause 17 of the Bill, for the word ‘ shall ’, occurring in the first line, the word ‘ may ’ be substituted.”

Sir, the only thing I want to do here is that instead of making the disqualification absolutely mandatory, I want that it should be made recommendatory for the simple reason that there might be extenuating circumstances in the case of an accident. After all, accidents, we know, do not always occur solely because of the fault of the motor driver. There may be a combination of circumstances just at the moment of the accident over which the driver may not have any control. Therefore, I want that each particular case should be judged on its own merits and that the presiding magistrate, who is in charge of such a case, should have the latitude to consider whether an order of disqualification is justified or not by the particular facts and circumstances of the case. If, in the course of the trial, the driver is in a position to show that there had been circumstances which really mitigated the offence, I do not want to tie down the hands of the trying magistrate by providing that he must order the disqualification even then. I do not want to minimise the importance of this clause ; only I want the House to remember that we do not want to make the provision mandatory. We do not want to compel any and every magistrate, irrespective of the merits, the facts and circumstances of the cases they may have to try, to order disqualification. This is a very simple matter and I hope that the House will accept this amendment. Sir, I move.

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

“ That in sub-clause (4) of clause 17 of the Bill, for the word ‘ shall ’, occurring in the first line, the word ‘ may ’ be substituted.”

**The Honourable Sir Manmatha Nath Mukerji** (Law Member) : I oppose this amendment. In the first place, it will be seen that sub-clause (4) of clause 17 deals with offences under clause 87 and clause 89 of the Bill. Clause 87 says :

“ The driver of a motor vehicle shall cause the vehicle to stop and remain stationary so long as may reasonably be necessary.....”

It is this offence which is intended to be covered by this provision. Similarly, clause 89 enjoins on the driver the duty of giving information in case of accident and injury to a person. These offences, I submit are very serious offences and it is necessary that if those offences are committed there should be some provision of law under which the court shall be bound to disqualify the offender. Again, if the word ‘ shall ’ be omitted and the word ‘ may ’ substituted, the whole sub-clause becomes superfluous because the case will come under sub-clause (1) of clause 17.

**Pandit Lakshmi Kanta Maitra :** What difference does it make ?

**The Honourable Sir Manmatha Nath Mukerji :** It would be covered entirely by sub-clause (1) of clause 17 and sub-clause (4) will not be necessary. I submit that this is far too serious a matter for the House to take the view that the disqualification should not be compulsory.

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

“ That in sub-clause (4) of clause 17 of the Bill, for the word ‘ shall ’, occurring in the first line, the word ‘ may ’ be substituted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : I move :

“ That in sub-clause (5) of clause 17 of the Bill, for the words ‘ shall, unless for special reasons to be recorded in writing it thinks fit to order otherwise ’ the word ‘ may ’ be substituted.”

Sir, the reason for this amendment is pretty much the same. In this particular case also I want to leave the matter entirely to the discretion of the court trying the particular case of accident contemplated by this sub-clause. This sub-clause as it stands now makes the disqualification absolutely obligatory on the magistrate.....

**The Honourable Mr. A. G. Clow** : Not absolutely.

**Pandit Lakshmi Kanta Maitra** : There is no doubt a qualification that “ unless for special reasons to be recorded in writing it thinks fit to order otherwise ”.

In ordinary experience we find that the accused, in the unfortunate position in which he stands, finds it extremely difficult to induce the magistrate to deviate from his usual course and to record a special order in his favour. If this portion is left out, there is absolute discretion left to the magistrate to proceed as he likes. If you drop this portion, it does not necessarily mean that the magistrate cannot disqualify. What I am opposed to, as I was opposed to in the previous amendment which has been unfortunately lost, is that we should not allow the magistrates as a matter of rule to enforce a certain rigid specific penal measure. In other words, if disqualification is thought necessary by the magistrate, let him do it. We do not stand in the way but let us not enjoin on him the statutory duty of “ disqualifying ” without regard to the special mitigating circumstances which the accused may prove and successfully plead. Sir, I move.

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

“ That in sub-clause (5) of clause 17 of the Bill, for the words ‘ shall, unless for special reasons to be recorded in writing it thinks fit to order otherwise ’ the word ‘ may ’ be substituted.”

**The Honourable Sir Manmatha Nath Mukerji** : I am afraid I shall have to oppose this amendment on the very same grounds on which I opposed the previous amendment moved by the Honourable Member. If ‘ shall ’ is changed into ‘ may ’, then the whole of this sub-clause would be unnecessary because it would be covered by sub-clause (1) of clause 17 which provides very generally that when a person is convicted of an offence under this Act, that is to say, including those sections that are mentioned in sub-clause 5, or of an offence in the commission of which a motor vehicle was used, the Court may declare the person so convicted to be disqualified. My second objection to this amendment is this. If Honourable Members will be pleased to look at sections 115, 119 and 122, they will find that they are very serious offences. Therefore, I submit

[Sir Manmatha Nath Mukerji.]

that it is no use altering the word 'shall' into 'may', so long as for safety's sake we have provided that the magistrate who does not want to make the order will be entitled to do so if he finds that there are special reasons in the case on which he may rely and so long as he records those reasons in writing. I submit that this amendment should not be accepted.

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

"That in sub-clause (5) of clause 17 of the Bill, for the words 'shall, unless for special reasons to be recorded in writing it thinks fit to order otherwise' the word 'may' be substituted."

The motion was negatived.

**Pandit Lakshmi Kanta Maitra** : Sir, I move :

"That in the proviso to sub-clause (5) of clause 17 of the Bill, for the word 'less' the word 'more' be substituted."

Sir, the principle I want to lay down is the maximum period for which a man may be disqualified. I am not prepared to ask the court or compel the court to give a certain period of sentence as the minimum irrespective of the particular nature of the case. That is the main principle which has been laid down in the Indian Penal Code where it is generally provided that whoever is guilty of a particular offence shall be liable to imprisonment of either description for a term which may extend to six months or one year or the like. We find that there is a specific maximum period of punishment laid down. The presiding officer takes into consideration the particular facts of the case and metes out proper sentence. The court has unfettered discretion to judge for himself whether in a particular case, having regard to the facts that are brought on record, the sentence should be a light one or heavy one or one up to the maximum. Sir, that is the established practice in criminal courts and that is the way in which criminal law is being administered in this country. But by the kind of provisions we are putting in this clause, we are reversing the established principle and practice and erring on the side of severity. My Honourable friend, Mr. Mackeown, says 'No'. He has probably not applied his mind to the subject and has never tried any criminal case. In all such cases, I submit, we should never prescribe the minimum of punishment that is to be meted out to the delinquent. Sir, I move.

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

"That in the proviso to sub-clause (5) of clause 17 of the Bill, for the word 'less' the word 'more' be substituted."

**Mr. M. S. Aney** : This is not a mere formal amendment in my opinion. It deals with a principle of legislation. When the Legislature has to enact any penal provision, what should be the duty of the Legislature in that matter. The penal provisions are enacted with a view to giving a warning to the would-be delinquent or the offender as to what is going to be the maximum punishment to which he is likely to be subjected in case he infringes the law. The usual way in which the penal provisions are enacted, as we all know, especially in the Indian Penal Code, is that if such and such an offence is committed, the man will be sentenced to rigorous imprisonment extending to such and such a period.

That is the maximum prescribed there. Everybody who commits an offence knows his fate, but here a minimum is prescribed. You say the man will not be sentenced to less than six months. It may be from six months to six years. One does not know. Much will depend upon the class of magistrate to whom the case will go. The nature of the offence will remain the same. The punishment awarded will vary according to the powers possessed by the magistrate. If he is a third class magistrate, it will go up to a few months. If he is a second class magistrate, it will go up to six months. If he is a first class magistrate, it will go up to two years, and if he is a magistrate with section 30 powers, it may go up to seven years, and so on. Knowing full well the nature of the offence for which we are providing a penalty here, why should it be impossible for this Legislature to provide that such and such is the maximum punishment to which the offender is liable? The House should make up its mind in a way that would be a proper and legal way and, in an equitable way, in my opinion, in a matter of legislating in a matter of this kind. Therefore, instead of leaving it to the magistrate to find out what period would be proper for a man to go to jail, for, if he commits a particular offence, it is necessary for the Legislature to give a clear instruction to the magistrate who will have to try these cases that he cannot award a punishment to this man beyond a particular period. This is what my friend, Pandit Lakshmi Kanta Maitra, wants to say. It is in conformity with the practice which we find is observed by all Legislatures in enacting penal law. In this law, however, the phraseology is the other way—"not less than three months, not less than six months"—and what is the ultimate limit? It ranges from one month to infinity. This is not the responsible way to legislate in a matter like this. As human beings, we are entitled to know, in case any man has the misfortune to offend against a law which is full of so many pitfalls—and many sensible men may unwittingly commit offences against this law,—what will happen. I, therefore, think that this is a very important principle underlying this amendment, and the House will, I hope, look at it from that point of view and give its approbation to it.

**Dr. Sir Ziauddin Ahmad :** Sir, I am not a lawyer and those who are expert in law can speak with authority, but in all the penal enactments that I have seen the maximum punishment is always prescribed. But this is the first time I have come across a section in which the minimum punishment is prescribed. I do not know if this is justifiable; if so, then we will be justified in introducing, in every case coming under the penal code, a minimum punishment instead of a maximum. So I think it is a point to be considered whether this sort of change should be introduced in a penal enactment.

**Mr. K. G. Mitchell :** Sir, I am afraid I must oppose the amendment. The whole scheme of this clause is that it provides that the courts may disqualify in certain cases, and then certain more serious offences are picked out, for which it is provided that they must disqualify, and in this case the offences are specified in which the disqualification period should not be less than a certain period. The matter was fully discussed in the Select Committee and, I submit, that whatever may be the merits or demerits of the proviso, the amendment would make it worse because it would definitely limit the discretion of the courts in a very undesirable way. Sir, I oppose.

**Mr. President** (The Honourable Sir Abdur Rahim) : I understand that the Honourable Member wants the leave of the House to withdraw the amendment ?

**Pandit Lakshmi Kanta Maitra** : Yes, Sir.

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

**The Honourable Sir Manmatha Nath Mukerji** : Sir, I move :

“ That in sub-clause (7) of clause 17 of the Bill, after the word, figure and brackets ‘ sub-section (1) ’ the words ‘ may make any order of disqualification which could have been made by the Court below or ’ be inserted.”

I may explain to the House that the whole object of this amendment is to give the appellate authority power to make an order of disqualification when the trial authority did not make any such order. Two kinds of cases are conceivable in which it may be necessary to give the appellate authority such a power. For instance, in any case in which the provisions of this Bill make it compulsory on the part of the trial authority to make an order of disqualification and the trial authority for some reason or other makes a mistake in not making such an order, there should be some power in the appellate court to make such an order. Also, there may be cases in which the discretion with regard to the making of an order of disqualification has been wrongly exercised and the case is of so gross a nature that it becomes absolutely necessary for the appellate court to make such an order, there ought to be a provision like this. With the object of arming the appellate court with such an authority this amendment has been tabled. Sir, I would ask the House to accept the amendment.

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

“ That in sub-clause (7) of clause 17 of the Bill, after the word, figure and brackets ‘ sub-section (1) ’ the words ‘ may make any order of disqualification which could have been made by the Court below or ’ be inserted.”

**Mr. K. Santhanam** : Sir, I oppose this amendment. Honourable Members in this House will note that these very words were deleted by the Select Committee, and the Government are trying to re-introduce these words. The effect of these words is that if the original court does not convict the man at all or if it convicts him to a fine or imprisonment but does not impose an order of disqualification, then, under this amendment, the appellate court in those cases may impose the order of disqualification. It will have this curious consequence that if the lower court does not deem fit or necessary to impose an order of disqualification, then on the basis of that acquittal, the man enters an employment, but when he is employed, suddenly the appellate court may impose an order of disqualification. I think this amendment is wholly unnecessary and it is not in the interests of public safety at all because the moment the lower court does not impose an order of disqualification, he is employed in his usual business and to call the appellate court to again disturb his business and bring him to trouble is wholly unnecessary. After all, the police officials who are in charge of the prosecution would press the case for disqualification in all cases and the Magistrates who try them are not over-lenient to these drivers. If the



Magistrate leaves the driver alone, there is no reason to allow the appellate court to re-impose this disqualification. Sir, I oppose the amendment.

**Mr. Sham Lal** (Ambala Division : Non-Muhammadian) : Sir, I think the Honourable the Law Member knows that this disqualification is an additional punishment, and, in law courts, when there is an acquittal, the appeal from acquittal is not allowed unless there is a great abuse of law, and only in very exceptional cases. What harm would result if there is a conviction and no disqualification. I think in such cases you will also find that if there is a case in which there is a risk of this disqualification being imposed by the appellate court, people will not file appeals. It would discourage appeals. In cases where a fine of Rs. 100 or Rs. 200 is imposed, and there is a risk of disqualification being imposed, people would be afraid of filing an appeal. I think that the Select Committee was right in arriving at the conclusion that this provision should go, and, therefore, I oppose this amendment.

**Mr. Abdul Qaiyum** : Sir, there is an additional reason why this amendment is not necessary at all. If a man is charged, and is brought before a court of law, and the court does not think that it is a case where disqualification should be imposed, then he is acquitted. If the Government think that it is not a case of acquittal, they have got provisions in the Criminal Procedure Code under which they can proceed. If a man is wrongly acquitted, the Crown can always appeal against the order of acquittal. Why should you hand over a power to the court of appeal, which would ordinarily be the court of the Sessions Judge, to enhance the sentence, which it does not possess under the Criminal Procedure Code ? Ordinarily, when a sentence is to be enhanced, the Crown moves the High Court. In this case, what you are trying to do is that you are investing the court of the Sessions Judge, which would ordinarily be the court of appeal, with a power which is not possessed by it under the Criminal Procedure Code. There is already a remedy open to the Crown. If they think that there has been a gross abuse of justice, they can always move the High Court and secure a verdict of conviction. The High Court can, I think, under the ordinary law even impose this disqualification. So, the object which it is sought to achieve by moving this amendment can very well be achieved under the ordinary law of the land. I really think that this amendment is superfluous, and absolutely unnecessary, and I hope the Honourable the Law Member will think it proper to withdraw it.

**The Honourable Mr. A. G. Clow** : Sir, there is a slight misunderstanding about the object of this amendment. It is not intended that in cases where a man is acquitted, the court above should have the power to order disqualification. Under clause 17 (1), which begins with the words 'Where a person is convicted of an offence under this Act', the court may order this disqualification. And clause 17 (7), which is the clause we are now dealing with, begins 'The court to which an appeal lies from any conviction of an offence of the nature specified in sub-section (1)', the only intention being that where the court above comes to the conclusion that the conviction was valid, it may impose an order of disqualification. If Honourable Members will refer to amendment No. 182, which is a later amendment, they will see

[Mr. A. G. Clow.]

that the Honourable the Law Member has another proposal which is intended to ensure that an order shall not be made to the prejudice of the accused without his being heard.

**Mr. M. Ananthasayanam Ayyangar :** Sir, amendment No. 182 does not give a very substantive privilege to the accused other than a right to be heard. We are now on the point as to what happens when he is acquitted. Sub-clause (7) is not governed by sub-clause (1). It is not so stated in sub-clause (1) that it shall govern all the later sub-clauses. That is my first point. My second point is that if he is acquitted—and my Honourable friend, Mr. Abdul Qaiyum, made a slight mistake here,—an appeal does not necessarily lie to the Session's Court. It may be confined to the court of a first class magistrate. In such cases, a very valuable right of upsetting the acquittal of the lower court can be exercised under this amendment by the prosecution. Even without preferring an appeal against the acquittal, an appeal against the lower court's order refusing to disqualify the man can be preferred under sub-clause (7). That is to say, even when the acquittal stands, it is open to the appellate court to come to a different conclusion without upsetting the acquittal. It may come to the conclusion that the conviction ought to have been made and the disqualification ought to have been imposed. Take another case which may happen like this. The accused prefers an appeal against the conviction where no disqualification was imposed by the lower court. To get rid of the conviction, although there is no disqualification, he prefers an appeal and the appellate court may dismiss it and at the same time impose disqualification if this amendment is accepted. So, all the benefit that he gets by the appeal is that the appeal is dismissed and he gets an additional disqualification under this new amendment if passed. I am afraid, practically every section now is taking the place of the Indian Penal Code. We are not enacting a Motor Vehicles Bill but another Criminal Law Amendment Code. This amendment is too onerous and too objectionable and I, therefore, oppose it.

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

“ That in sub-clause (7) of clause 17 of the Bill, after the word, figure and brackets ‘ sub-section (1) ’ the words ‘ may make any order of disqualification which could have been made by the Court below or ’ be inserted.”

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Friday, the 2nd September, 1938.