

7th September 1938

THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume V, 1938

(26th August to 9th September, 1938)

EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI.
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, SIMLA.
1938

Legislative Assembly.

President :

THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I.

Deputy President :

MR. AKHIL CHANDRA DATTA, M.L.A.

Panel of Chairmen :

MR. S. SATYAMURTI, M.L.A.

DR. SIR ZIAUDDIN AHMAD, C.I.E., M.L.A.

SIR H. P. MODY, K.B.E., M.L.A.

MR. A. AIKMAN, C.I.E., M.L.A.

Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistants of the Secretary :

MR. M. N. KAUL, BAR.-AT-LAW.

KHAN SAHIB S. G. HASNAIN, B.A. (upto 15th August, 1938).

RAI BAHADUR D. DUTT (from 16th August, 1938).

Marshal :

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

Committee on Petitions :

MR. AKHIL CHANDRA DATTA, M.L.A., *Chairman.*

MR. A. AIKMAN, C.I.E., M.L.A.

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

SYED GHULAM BHIK NAIRANG, M.L.A.

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

CONTENTS.

VOLUME V.—26th August to 9th September, 1938.

PAGES.	PAGES.
FRIDAY, 26TH AUGUST 1938—	
Starred Questions and Answers 1053—90	WEDNESDAY, 31ST AUGUST, 1938—contd.
Statements laid on the Table 1090	Unstarred Questions and Answers 1338—42
The Muslim Dissolution of Marriage Bill—Discussion on the motion to refer to Select Committee not concluded 1090—1124	Statements laid on the Table 1342—47
MONDAY, 29TH AUGUST, 1938—	
Starred Questions and Answers 1125—65	Motion for Adjournment re Demolished Siva Temple in the Queen's Gardens of Delhi—Ruled out of order 1347—52
Unstarred Question and Answer 1165—66	The Motor Vehicles Bill—Discussion on the consideration of clauses not concluded 1352—92
The Commercial Documents Evidence Bill—Appointment of Mr. Y. N. Sukthankar to the Select Committee 1166	THURSDAY, 1ST SEPTEMBER, 1938—
The Destructive Insects and Pests (Second Amendment) Bill—Introduced 1166	Starred Questions and Answers 1393—1417
The Motor Vehicles Bill—Discussion on the motions to consider and to circulate not concluded 1166—1205	The Motor Vehicles Bill—Discussion on the consideration of clauses not concluded 1417—70
TUESDAY, 30TH AUGUST, 1938—	
Starred Questions and Answers 1207—48	FRIDAY, 2ND SEPTEMBER, 1938—
Unstarred Questions and Answers 1248—51	Starred Questions and Answers 1471—91
Election of Members to the Standing Committee on Pilgrimage to the Hedjaz 1251	Unstarred Questions and Answers 1491—92
The Motor Vehicles Bill—Discussion on the motions to consider and to circulate not concluded 1251—96	Resolution re—
WEDNESDAY, 31ST AUGUST, 1938—	
Starred Questions and Answers 1297—1338	Implementing the Recommendation of the Indian Sandhurst Committee—Adopted as Amended 1493—1534
	Financial control of Military Expenditure—Discussion not concluded 1535—40
	MONDAY, 5TH SEPTEMBER, 1938—
	Members Sworn 1541
	Starred Questions and Answers 1541—80
	Unstarred Questions and Answers 1580—82

MONDAY, 5TH SEPTEMBER, 1938— <i>contd.</i>	PAGES.	WEDNESDAY, 7TH SEPTEMBER, 1938—	PAGES.
Motions for Adjournment re—		Starred Questions and Answers	1745—71
Rate war between Messrs. Turner Morrison and Company and Messrs. Scindia Navigation Com- pany in the Haj Traffic— Ruled out of order	1582—83	Motion for adjournment re Alleged sacrilege com- mitted by the Police in a Simla Mosque—Ruled out of order	1771—72
Condition of Indians in Burma—Adopted	1583, 1618—42	The Motor Vehicles Bill—Dis- cussion on the considera- tion of clauses not con- cluded	1772— 1819
Remarks by Mr. President on the Point of Order whether an Honourable Member, who is on the Panel of Chairman, can take the Chair while the Deputy President is in the House	1583—86	THURSDAY, 8TH SEPTEMBER, 1938—	
The Repealing and Amending Bill—Introduced	1586	Member Sworn	1821
The Motor Vehicles Bill—Dis- cussion on the considera- tion of clauses not con- cluded	1586— 1618	Starred Questions and Answers	1821—63
TUESDAY, 6TH SEPTEMBER, 1938—		Unstarred Questions and Answers	1863—65
Starred Questions and Answers	1643—93	Statement re preparation of summaries of opinions on Bills	1665—66
Unstarred Questions and Answers	1694—95	Statement re criticism of Presi- dent's Rulings	1866—67
Statements laid on the Table	1696—98	The Motor Vehicles Bill—Dis- cussion on the considera- tion of clauses not con- cluded	1867— 1910
The Motor Vehicles Bill—Dis- cussion on the considera- tion of clauses not con- cluded	1698— 1743	FRIDAY, 9TH SEPTEMBER, 1938—	
		Starred Questions and Answers	1911—48
		Statements laid on the Table	1948—51
		Message from the Council of State	1951
		The Muslim Dissolution of Marriage Bill—Discussion on the motion to refer to Select Committee not con- cluded	1951—88

LEGISLATIVE ASSEMBLY.

Wednesday, 7th 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.

RAILWAY AND CUSTOMS RETURNS AND RETRENCHMENT IN EXPENDITURE.

806. *Mr. S. Satyamurti : Will the Honourable the Finance Member be pleased to state :

- (a) the latest figures with regard to railway and customs returns for the current financial year ;
- (b) whether any attempt is being made by the Government of India to retrench expenditure in the light of these returns ; and
- (c) what the results of such retrenchment of expenditure under the Central Government so far are ?

The Honourable Sir James Grigg : With your permission, Sir, I will answer question Nos. 806, 817 and 820 together.

I would refer the Honourable Members to the reply which I gave on the 10th August last to Mr. Brojendra Narayan Chaudhury's starred question No. 122. The figure of Rs. 80 lakhs for the savings, already secured, has now been somewhat increased. Other avenues of economy are being explored, but I am unable to say at present what the final results will be nor can I attempt to forecast the effect on next year's budget. Naturally, in the pursuit of savings comparisons of the estimates with the results of previous years are instituted but, as Honourable Members are no doubt aware, some Government activities have to all intents and purposes only come into existence since 1931, e.g., Civil Aviation, Broadcasting, Agricultural Marketing and so on.

As regards part (a) of question No. 806, I would refer the Honourable Member to the published returns.

Mr. S. Satyamurti : Apart from the figures which are available in the published documents, can my Honourable friend help this House by giving the latest figures available to him under the two heads, railways and customs returns if they are later than the published figures, as I believe they are ?

(1745)

The Honourable Sir James Grigg : No, Sir. I think the July figures for customs are the latest published ones and I have not yet got the full August figures yet. As regards railway returns the latest figures are those published on 20th August.

Mr. S. Satyamurti : In view of the fact that on the whole the customs returns are not very promising, may I know whether Government are contemplating any steps during the year to make the budget balance ?

The Honourable Sir James Grigg : Economy steps are being taken during the year. But if the Honourable Member asks whether there will be any increase in taxation, that is a question on which I must exercise a certain amount of caution in answering.

Mr. S. Satyamurti : I am asking whether any steps have been taken towards retrenchment. May I know whether my Honourable friend has sanctioned, since the last budget was passed, any new posts either in his department or in any other department of the Government of India ?

The Honourable Sir James Grigg : I think there might be some posts, but speaking generally practically the whole of the new services included in the original budget have been excised and I am afraid we shall have to go further than that.

Mr. S. Satyamurti : May I know whether Government are applying their minds to the question of retrenchment, with regard also to the creation of new posts ?

The Honourable Sir James Grigg : Yes, Sir. Not only cessation of expansion but also retrenchment of existing services will have to be undertaken.

Mr. S. Satyamurti : With regard to civil aviation and broadcasting which are new departments, may I know whether Government have not made more or less block grants for them, and what is the relevancy of mentioning these departments regarding retrenchment this year ?

The Honourable Sir James Grigg : The Honourable Member must know that although we have made block grants for capital expenditure on broadcasting, yet each new station opened involves a certain recurring cost which cannot be met from the block grants but which must be met from the annual estimates. My recollection is that the annual expenditure on broadcasting on running the various stations is now to the tune of 20 lakhs.

Mr. S. Satyamurti : May I know, with regard to Waziristan and the new defence charges put forward by Mr. Hore-Belisha, whether the Honourable the Finance Member has thought of any steps, in view of falling revenues and in view of his policy of retrenchment, by which he can meet these extra charges ?

The Honourable Sir James Grigg : I should say that I spend one-third of my time in thinking of these problems.

Mr. S. Satyamurti : What is the result of that thinking for eight hours a day ?

The Honourable Sir James Grigg : It is only one-third of my waking time.

Mr. Manu Subedar : As two of the questions to which replies have been given together were mine, will I now get a chance to put supplementary questions ?

Mr. President (The Honourable Sir Abdur Rahim) : It is one of his own leaders that was all this time putting supplementary questions. The Honourable Member ought to realise that.

Mr. Manu Subedar : May I elicit from the Honourable Member the reply to the specific query in my question : whether he detailed an officer of his Department to pursue this matter of retrenchment in detail and to make comparisons between existing outlays and the retrenchments proposed by the Committees of this House in 1931-32 ?

The Honourable Sir James Grigg : As regards special officer, no, Sir. That is part of the normal functions of the Finance Department. As regards comparisons with earlier years, I had already answered that, if the Honourable Member will remind himself. I said :

“ Naturally in the pursuit of savings comparisons of the estimates with the results of previous years are instituted but, as Honourable Members are no doubt aware, some Government activities have to all intents and purposes only come into existence since 1931.”

Mr. Manu Subedar : May I know whether the causes leading up to increase in administrative expenditure since the last retrenchment committee made its recommendation are being carefully combed out and ascertained and whether the Honourable the Finance Member will be in a position to inform this House sometimes as to the particular causes which have led to this increase ? He has mentioned one of them, that some departments were newly created. I made the query with regard to the departments which were old and why increase has taken place ?

The Honourable Sir James Grigg : Restoration of the pay cut is one thing, increase in prices another, and the general growth of Government activities is yet another. As regards the making of any general statement, I do not suppose that I will be in a position to make that statement until the demands for the next budget are presented.

Mr. Manu Subedar : The Honourable Member referred to increase in prices : may I know increase in which prices ?

The Honourable Sir James Grigg : Owing to the protective policy of the Government of India, a number of prices has increased.

Dr. Sir Ziauddin Ahmad : May I ask if there is any truth in the statement that Government are contemplating to apply a ten per cent. cut in the salaries of the staff in the Secretariat as a matter of retrenchment ?

The Honourable Sir James Grigg : I have not seen the statement. I cannot therefore say whether it is true or not.

Prof. N. G. Ranga : Is it not a fact that the expenditure on the Home Department and on the Commerce Department has been going up in the last five years ?

The Honourable Sir James Grigg : In the Commerce Department, I think it is extremely likely that the expenditure has gone up and in the Home Department the Honourable Member makes so many speeches that they probably have got to employ extra staff to read those speeches.

Mr. S. Satyamurti : May I know whether, in view of the need for retrenchment, Government have considered or will consider the imposition of a ten per cent. cut in the salaries of Government servants ?

(No answer.)

Dr. Sir Ziauddin Ahmad : Is there any truth in this statement that a ten per cent. cut is going to be imposed ?

The Honourable Sir James Grigg : I have not seen the statement.

Dr. Sir Ziauddin Ahmad : Is there any truth that Government are contemplating to have a ten per cent. cut ?

The Honourable Sir James Grigg : I am not going to make any statement on that point.

Mr. S. Satyamurti : May I know whether as a matter of fact the Government are contemplating the imposition of a ten per cent. cut ?

The Honourable Sir James Grigg : The same answer applies. The Honourable Member must assume that Government will consider all possible sources of economy.

LLOYD BARRAGE DEBT DUE FROM SIND.

807. ***Mr. S. Satyamurti :** Will the Honourable the Finance Member be pleased to state :

- (a) whether any action was taken by the Government of India recently in respect of a satisfactory arrangement about the Lloyd Barrage debt due from Sind ;
- (b) what the nature of that action is ; and
- (c) whether the Governor and the Ministry of Sind were consulted in the matter, and if the action taken was on their advice ?

The Honourable Sir James Grigg : (a), (b) and (c). The Government of India have had no occasion to reconsider the terms of repayment of the Sind Barrage debt which were finally settled by the orders passed at the time of the Niemeyer award.

Mr. S. Satyamurti : May I take it, therefore, that all the news in the press with regard to the present political situation in Sind owing to some differences of opinion between the Governor and his Ministers with regard to revenue in this area was wrong, and that it was never referred to the Government of India at all and the Government of India never interfered in this matter ?

The Honourable Sir James Grigg : The question of the resettlement which I gather is what the Honourable Member is referring to is not a matter for the Governor General in Council.

Prof. N. G. Ranga : Has the proposal for declaring a moratorium for two or three years for the repayment of this particular debt been placed before the Government of India by the Sind Government ?

The Honourable Sir James Grigg : No such proposal has come to the Government of India and if any such proposal comes it will get a pretty reception.

Prof. N. G. Ranga : Are the Government of India aware that in Sind the agriculturists who are concerned are not in a position to pay the enhanced water rates and therefore the Government there is in hot waters ?

The Honourable Sir James Grigg : The Honourable Member is giving information and not asking for it.

CONCESSIONS IN RAILWAY FARES TO CERTAIN MILITARY OFFICERS.

808. *Mr. S. Satyamurti : Will the Defence Secretary please state :

- (a) whether a decision has recently been taken by the army authorities in consultation with the railways to extend to majors and lieutenant-colonels the concession at present available to subalterns and captains on leave, who are allowed to travel first class on payment of second class fare ;
- (b) whether this concession is going to be tried for two years ; and
- (c) what is the extent of the monetary value of the concession to the army authorities and the reasons why the concessions have been claimed by the army authorities ?

Mr. C. M. G. Ogilvie : (a) and (b). Yes.

(c) The concession has been agreed to by the railway authorities as a business proposition to increase their own revenue. It has no monetary value to the military authorities, but to individual officers. The actual amount involved is entirely dependent on the extent to which officers on leave travel by rail.

Mr. S. Satyamurti : With reference to the answer to clause (a) of the question, may I know the reasons why this concession was extended ?

Mr. C. M. G. Ogilvie : I have given the reason,—as a business proposition by the railway authorities.

Mr. S. Satyamurti : But have the railway authorities addressed the Defence Department and told them that this concession will result in increased revenue for the railways ?

Mr. C. M. G. Ogilvie : They have agreed to make this concession in the hope that it will yield an increased revenue, and until they have seen how it is working they cannot possibly tell ; but they think it will.

Mr. S. Satyamurti : But who took the initiative in the matter ? And may I know if the Defence Secretary can give this House some information on which he based his statement that the Railway Department expect an increased revenue by the grant of this concession ?

Mr. C. M. G. Ogilvie : All I can say is that they do expect it or they would not have granted it.

Mr. S. Satyamurti : So far as the Defence Department is concerned, I thought I heard my Honourable friend say that this will not mean any extra expenditure to the Defence Department. Am I right ?

Mr. C. M. G. Ogilvie : Yes.

Mr. S. Satyamurti : Does not the Defence Department pay the Railway Department for all these concessions ?

Mr. C. M. G. Ogilvie : No, not this particular one.

PURCHASE OF STORES FOR THE DEFENCE SERVICES.

809. ***Mr. S. Satyamurti :** Will the Defence Secretary be pleased to state :

- (a) the nature and the value of the indigenous stores purchased for all the Defence services in India for the last year for which figures are available ;
- (b) the nature and the value of the stores still imported from abroad for the Defence services for the last year for which figures are available ;
- (c) the results of the adoption of normal standards for stores by the Defence services in promoting indigenous production thereof ;
- (d) whether any Defence service specifications have been modified in order to establish indigenous production and if so, what they are ;
- (e) the amount of price preference granted for indigenous products ;
- (f) what are the steps which are taken to increase the extent and value of the purchase of indigenous stores ; and
- (g) the results thereof for the last financial year ?

Mr. C. M. G. Ogilvie : (a)—(g). I lay a statement on the table containing the required information.

Statement.

(a) The following classes of stores were purchased in India during 1937-38 :

Acids, paints and enamels.
Textile and leather goods.
Engineering stores.
Foodstuffs.
Petrol, oil and lubricants.
Timber and woodware.
Iron and steel including items of hardware.
Cigarettes, tobacco and matches.
Medicines and surgical instruments.

The value of the stores purchased in India in 1937-38 was approximately Rs. 4,55,76,118.

(b) The following classes of stores were imported from abroad during 1937-38.

Acids, paints and enamels.
Textile and leather goods.
Foodstuffs.
Petrol, oil and lubricants.

Timber and woodware.

Iron and steel including items of hardware.

Medicines and surgical instruments.

Aircraft and spare parts.

Mechanical vehicles and accessories.

Other engineering stores and machinery.

The value of the stores imported by the Defence Services in 1937-38 was approximately Rs. 3,54,65,923.

Reasons why certain quantities of stores which are procurable in India as shown in answer (a) have also to be imported are given below :

Acids, paints and enamels.—Special types are purchased from abroad as India is unable to supply up to specification. Examples are lead free paints and varnishes for use with ammunition. Pure acids for the manufacture of explosives.

Textiles and Leather goods.—The same remarks apply. Examples are shalloon bags and silk in which howitzer cartridges are packed. It is essential for all articles used for the manufacture or packing of explosives and ammunition to be absolutely free from impurities so that the specifications for these stores cannot be modified or relaxed.

Foodstuffs.—Certain foodstuffs are not procurable in India.

Petrol, oil and lubricants.—India is unable to produce all the Defence Services requirements so a certain amount must be imported.

Timber and woodware.—Certain stores are of necessity made of wood which is not procurable in India, therefore such stores must be imported. Whenever possible Indian timbers are being used.

Iron and steel including items of hardware.—India cannot as yet produce a number of alloy steels which are necessary for a number of Defence Service stores.

Medicines and surgical instruments.—Medicines and instruments which India is unable to produce and for which the specifications cannot be relaxed.

(c) The adoption of normal standards has enabled the Defence Services to widen the sources of supply and to utilize indigenous manufacture to an increasing extent thereby promoting indigenous production.

The majority of textile stores are now manufactured in India up to the normal standards and it is only in rare cases that it is found necessary to accept a lower standard.

Examples of stores purchased to normal trade standards are :

Cables and wires.

Paints and enamels.

Petrol and kerosine.

Mild steel.

Tools.

(d) Yes. Defence Services specifications have either been modified or relaxed so as to permit of articles of indigenous manufacture being purchased.

Examples are :

Axes.

Pick heads.

Felling axe heads.

Brushware.

Electric cells.

Locks and padlocks.

High speed Diesel oil.

Grease.

Barbed wire.

Drill drab.

Drill, khaki, rainproof.

(e) No fixed price preference is granted. Each case is considered and determined on its particular merits.

A small price preference (Rs. 21 only) was given to an Indian firm (Messrs. B. C. Nawn and Brothers, Calcutta—agents for the Ahmedabad Manufacturing and Calico Printing Company, Ahmedabad), in an order worth Rs. 3,975 for sewing cotton Cord No. 40 to encourage the manufacture of this material in India.

(f) (i). All indents for imported stores are scrutinised with a view to the possibility of indigenous supply and investigations are made in order to establish indigenous manufacture of suitable items.

(ii) Whenever practicable specifications are modified or relaxed, with a view to stores manufactured in India being purchased.

(iii) The nature of all stores, including imported stores, purchased from time to time, is notified periodically in the *Indian Trade Journal*, for the guidance of likely manufacturers in India.

To increase the extent of purchase of indigenous stores the following steps are taken :

1. Exploration of indigenous sources of supply.
2. Technical advice rendered to manufacturers.
3. Provision of adequate inspection facilities.
4. Standardisation of stores.
5. Investigations carried out and testing facilities afforded at the Government Test House and Metallurgical Inspectorate.
6. Scrutiny of indents for imported stores.
7. Publication of a statement of articles still imported from abroad to draw the attention of manufacturers in India.
8. Research work carried out at the Industrial Research Bureau.

(g) As a result, the following additions were made during 1937-38 to the list of stores (previously imported) the indigenous manufacture of which has been established :

Axes, Felling, Heads.

Barbed wire.

Outlery.

Combs curry.

Drills Twist.

Eyelets Brass.

Glycerine (for nitro-glycerine).

Hay forks.

Hoods for Milk bottles.

Kit, Tool Empty.

Respirator Antigas (Rubber components).

Rings (tin fasteners) for milk bottles.

Rings Rubber.

Shoes Canvas with crepe rubber sole.

Spurs Jack.

Certain items which were previously obtainable by importation only and in respect of which manufacture in India has been established prior to 1937-38 are also listed below for reference :

Axes, Pick, Heads.

Batteries and Cells.

Certain items of tools.

Certain items of Brushware.

Enamel Plates.

Garniture :

Buttons aluminium,

Buttons horn,

Hooks and Eyes, brass.

Hooks, waist, brass,

Buckles, brass, nickle-plated,

Rings, split, brass.

Certain items of grease.

Ground sheets.

Hurricane lanterns.

Line Whip Cord.

Lamp Reservoirs and Burners.

Mr. S. Satyamurti : With reference to clause (f), I should like to know what steps are being taken to increase the extent and value of the purchase of indigenous stores for the Defence Department. I do not know if the statement contains that information.

Mr. C. M. G. Ogilvie : The answer is very long but I can read it if the Chair directs.

Mr. President (The Honourable Sir Abdur Rahim) : It may be read if it is not too long.

Mr. C. M. G. Ogilvie : The answer to clause (f) is as follows :

“(4) All indents for imported stores are scrutinised with a view to the possibility of indigenous supply and investigations are made in order to establish indigenous manufacture of suitable items.

(4) Whenever practicable specifications are modified or relaxed, with a view to stores manufactured in India being purchased.

(iii) The nature of all stores, including imported stores, purchased from time to time, is notified periodically in the *Indian Trade Journal*, for the guidance of likely manufacturers in India.....”

Mr. President (The Honourable Sir Abdur Rahim) : If it is too long, the Honourable Member should not read it.

Mr. Manu Subedar : What is the nature of the assistance which the Defence Department has given to any industries established in India in order to enable them to be able to supply the requirements of defence ?

Mr. C. M. G. Ogilvie : The Honourable Member will find a full description of the steps taken in this answer.

Mr. Manu Subedar : What is the nature of the assistance, namely, subsidy or continuity of orders, guarantee of orders, or any other form of assistance which is indicated there ?

Mr. C. M. G. Ogilvie : These are the steps taken :

1. Exploration of the indigenous sources of supply.
2. Technical advice rendered to manufacturers.
3. Provision of adequate inspection facilities.
4. Standardisation of stores.
5. Investigations carried out and testing facilities afforded at the Government Test House and Metallurgical Inspectorates.
6. Scrutiny of indents for imported stores.
7. Publication of a statement of articles still imported from abroad to draw the attention of manufacturers in India.
8. Research work carried out at the Industrial Research Bureau.

Mr. Manu Subedar : May I assume, therefore, that the Defence Department has not given any assistance to any indigenous manufacturing concern by way of subsidy, bounty or by way of continuity of orders or guarantee of orders ?

Mr. C. M. G. Ogilvie : No, Sir, the Honourable Member cannot make such a supposition, though as regards price preferences no fixed price preference is granted but each case is considered and determined on its particular merit.

Mr. T. S. Avinashilingam Chettiar : May I know whether the Honourable Member can specify the industries that have been started in the last one or two years out of help given in this manner ?

Mr. C. M. G. Ogilvie : I think I shall have to end up by reading out the whole of this answer.

Mr. President (The Honourable Sir Abdur Rahim) : If the information is there, it should not be read out.

Mr. S. Satyamurti : May I know whether a 10 per cent. price preference is given to all indigenous articles by the Defence Department ?

Mr. C. M. G. Ogilvie : No, Sir.

Mr. S. Satyamurti : Why not ?

Mr. C. M. G. Ogilvie : I really cannot say.

Prof. N. G. Ranga : Is it or is it not a fact that most of the army purchases are made from a very few big concerns ?

Mr. C. M. G. Ogilvie : I cannot possibly answer that ; I should think it is likely.

CERTAIN LANDS FORMERLY VESTED IN THE GOVERNMENT OF INDIA.

810. ***Mr. Badri Dutt Pande** : With reference to Finance Department Notification No. 3-General of the 16th July, 1938, will the Honourable the Finance Member be pleased to state :

(a) why certain lands mentioned therein that were formerly vested in the Government of India, have now been transferred to the Federal Government which does not exist at present ; and

(b) whether these lands are going to be sold by public auction ?

Mr. A. H. Lloyd : (a) The attention of the Honourable Member is invited to sub-section (1) (a) of section 172 of the Government of India Act, 1935. The lands and buildings in question have merely been certified to have been retained for the purposes mentioned in the preamble of the notification and not transferred to the Federal Government.

(b) There is no proposal for sale of these lands under consideration.

Mr. Badri Dutt Pande : How did the necessity for this Resolution arise now ?

Mr. A. H. Lloyd : As a consequence of the passing of the Government of India Act, 1935, and its coming into force.

Mr. Badri Dutt Pande : Why are these lands and plots in charge of the Finance Department and not in charge of the Department of Education, Health and Lands ?

Mr. A. H. Lloyd : The Honourable Member's question specifically referred to notification No. 3-General of the 16th July, 1938. All the lands mentioned in that notification are lands in the possession of Departments working under the Central Board of Revenue. We have no responsibility for lands occupied by other departments of the Government of India.

CERTAIN FUNCTIONS UNDER THE CANTONMENT ACTS PREVIOUSLY PERFORMED BY PROVINCIAL GOVERNMENTS.

811. ***Mr. Badri Dutt Pande** : (a) Will the Defence Secretary kindly state if it is a fact that the functions under the Cantonment House Accommodation Act, 1923, and the Cantonments Act, 1924, were hitherto performed by the Provincial Government in accordance with the provisions of these Acts ?

(b) Is it a fact that the General Officer Commanding-in-Chief, Eastern Command, has issued instructions to the Presidents of the Cantonment Boards that these functions would no longer be performed by Provincial Government ?

(c) Is it a fact that these powers have been withdrawn with the grant of Provincial Autonomy to the Provinces ?

(d) If so, why ?

Mr. C. M. G. Ogilvie : (a) and (b). Yes.

(c) All functions under the Cantonments (House Accommodation) Act, 1923, and the Cantonments Act, 1924, hitherto performed by the Provincial Governments, were transferred to the Central Government by the Government of India (Adaptation of Indian Laws) Order, 1937, and the transfer became effective on the 1st April, 1938, when the provisions of paragraph 8 of the India and Burma (Transitory Provisions) Order, 1937, ceased to have effect.

(d) It is more convenient and economical to retain control of cantonment administration at the Centre and thereby ensure uniformity throughout India.

Mr. Badri Dutt Pande : Why have these powers been transferred to the General Officers Commanding-in-Chief without amending the Act which says that the Local Government will have these powers ?

Mr. C. M. G. Ogilvie : The Act has been amended where "Local Government" was previously found, "Central Government" is now to be found.

CONCESSIONS IN RAILWAY FARES TO CERTAIN MILITARY OFFICERS.

812. ***Mr. Badri Dutt Pande :** (a) Will the Defence Secretary be pleased to state which military officers are allowed concessions to travel first class on payment of second class fare ?

(b) Has this concession been extended to officers of the higher grade ? If so, to whom and on what grounds ?

(c) What would be the extra cost involved to the public exchequer ?

Mr. C. M. G. Ogilvie : (a), (b) and (c). I refer the Honourable Member to my answer to question No. 808, asked a few minutes ago by Mr. Satyamurti.

Mr. T. S. Avinashilingam Chettiar : May I know whether the Defence Department pays any compensation to the railways for any part of this concession or nothing at all ?

Mr. C. M. G. Ogilvie : As far as I know they pay nothing whatever.

Prof. N. G. Ranga : Will the military officers cease to travel if the particular concession is not given by the railway authorities ?

Mr. C. M. G. Ogilvie : There seems to be some misunderstanding. The officers in question are officers on leave. It is hoped that if they get this railway concession they will choose to travel by rail rather than by road.

Mr. Badri Dutt Pande : Who were the officers who were getting this concession hitherto and to whom has it been extended ?

Mr. C. M. G. Ogilvie : It has been extended to Majors and Lieutenant-Colonels.

Pandit Lakshmi Kanta Maitra : Does the Honourable Member say that these officers are entitled to these concessions only when they are on leave and not when on active duty ?

Mr. C. M. G. Ogilvie : Yes.

Mr. M. Ananthasayanam Ayyangar : Is the concession given on State Railways only or on Company-managed Railways also ?

Mr. C. M. G. Ogilvie : I must have notice of that.

Mr. Manu Subedar : Do I understand the Honourable Member to say that by this concession the railways were trying to reduce the competition of the roads and that by giving this concession they were inducing these military officers to travel by rail by allowing them to travel first class after paying second class fare ?

Mr. C. M. G. Ogilvie : The hope is that they will travel more by rail when on leave than by other methods.

Mr. S. Satyamurti : May I know if the railways expect an increase of revenue by allowing people to travel first class by paying second class fare ?

Mr. C. M. G. Ogilvie : I recommend that the Honourable Member should address his question to the Communications Department.

INCREASE IN THE PAY AND ALLOWANCES OF INDIAN SOLDIERS.

813. ***Mr. Badri Dutt Pande :** With reference to my supplementary query to starred question No. 225 of the 16th August, 1938, will the Defence Secretary be pleased to state if any increase in the pay and allowances of Indian soldiers has been made since 1932 ?

Mr. C. M. G. Ogilvie : Minor increases in the pay and allowances of Indian troops have been sanctioned since 1932. They involve recurring expenditure of about Rs. 1½ lakhs per annum.

TENURE OF APPOINTMENT OF SECRETARIES IN THE GOVERNMENT OF INDIA.

†814. ***Maulvi Muhammad Abdul Ghani :** (a) Will the Honourable the Home Member please state the period for which the Secretaries in the Government of India are appointed ?

(b) How many Secretaries have been holding such appointments for more than five years ? What are the reasons ?

The Honourable Mr. R. M. Maxwell : (a) Except in certain Departments, where there is no definite tenure, the tenure of Secretaries to the Government of India is now fixed at five years with eligibility for re-appointment for a further term of five years subject to the superannuation limit.

(b) Only one who is subject to the limit in question. He has been granted an extension on public grounds.

ASSAMESE IN THE CALCUTTA AND CHITTAGONG CUSTOMS SERVICES.

†815. ***Maulvi Abdur Rasheed Chaudhury :** (a) Will the Honourable the Finance Member please state how many appointments are held by *bona fide* inhabitants of Assam under the Calcutta and Chittagong Customs ?

(b) Is it a fact that some Assamese candidates submitted applications for appointments through the Government of Assam to the Customs Authorities, but their applications were not considered while appointments were made ?

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

(c) Is it also a fact that no advertisement, inviting applications from candidates for services under Customs, are sent for publication in newspapers of Assam ?

Mr. A. H. Lloyd : (a) One only : in Chittagong.

(b) No.

(c) Advertisements, when necessary, are inserted in the leading Calcutta newspapers, which are on sale in Assam.

RATE OF RETURN FROM CIRCULATION OF SILVER RUPEE.

816. ***Mr. Manu Subedar :** (a) Will the Honourable the Finance Member state whether the rate of return from circulation of silver rupees has accelerated since January this year ?

(b) How many rupees have been returned to Government by the Reserve Bank of India ?

(c) How much silver have Government disposed of since the date up to which figures were given on the 18th February, 1938 by the Honourable the Finance Member in reply to my starred question No. 361 ?

(d) What is the total amount of surplus silver in the hands of Government ?

The Honourable Sir James Grigg : (a) A statement giving figures for the last three years is laid on the table.

(b) Rs. 10 crores.

(c) None up to the end of August, 1938.

(d) 445 million standard tolas as on 31st March, 1938.

Absorption of Rupees.

(In lakhs of rupees.)

Month.	Absorption (+) or return from circulation (—)			
	1935-36.	1936-37.	1937-38.	1938-39.
April	—23	+30	+1,18	—64
May	—16	—1,39	+61	—82
June	—1,57	—2,81	—1,21	—2,93
July	—2,81	—3,17	—3,14	—4,24
August	—2,21	—94	—1,68	
September	—1,08	—64	—60	
October	—58	—8	—66	
November	—23	+1,02	—40	
December	+1,71	+3,12	+24	
January	—65	+91	—36	
February	—99	+90	—23	
March	—66	+29	—27	

Mr. Manu Subedar : May I enquire whether Government are taking advantage of every rise in the silver market in the world to sell silver and whether they have considered it necessary to sell at all bulges and pick up again at a fall, if they desire to maintain a certain stock ?

The Honourable Sir James Grigg : I do not think that I am either in a position or that it is desirable that I should make a statement on the Government's silver policy. But I am bound to say that the suggestion that the Honourable Member has made is opposed to the view of some of his Bombay colleagues.

Prof N. G. Ranga : Has the return of this Rs. 10 crores to the Reserve Bank resulted in any decrease in the currency circulation or has it been replaced by notes of equivalent value ?

The Honourable Sir James Grigg : As a matter of fact unless special steps are taken to contract or expand currency the return of silver rupees is compensated direct by an addition to the note circulation ; but in point of fact over the period covered by the return of the 10 crores of silver rupees, there has been a net expansion of currency.

Mr. S. Satyamurti : Do the Government believe in hoarding either silver or gold ?

The Honourable Sir James Grigg : That is a tendencious question which I should like to have notice of.

Mr. Manu Subedar : In view of the fact that the Honourable Member has drawn a distinction between my question and the alleged views of some of my Bombay colleagues, may I repeat my question, namely, will the Honourable Member say what is the policy of the Government in regard to the disposal of surplus silver ? The Honourable the Finance Member has refused to answer it. May I again request him, if not now, in a press communique later, to declare the policy of Government in regard to the sale of surplus silver so that we may find out what the policy is ?

The Honourable Sir James Grigg : I have not the slightest intention of giving any advance notice of my intentions in the matter of operations in silver.

Mr. M. Ananthasayanam Ayyangar : May I know how far the Government of India is carrying out the recommendations of the Hilton Young Commission's Report in the matter of the sale of silver from time to time ?

The Honourable Sir James Grigg : Which particular recommendation is the Honourable Member referring to ?

Mr. M. Ananthasayanam Ayyangar : Regarding silver to be sold and replaced by currency notes so that ultimately there may be a gold currency ?

The Honourable Sir James Grigg : The Honourable Member can draw his own conclusions from the facts I have given in the answer.

PROPOSALS FOR RETRENCHMENT RECEIVED FROM THE GOVERNMENT OF INDIA DEPARTMENTS.

†817. ***Mr. Mann Subedar** : (a) Will the Honourable the Finance Member state, with reference to his assurance to this House that he has sent round circulars to all Departments, including his own, inviting proposals for retrenchment, whether proposals have been received from all Departments, including the External Affairs and Political Departments ?

(b) What is the total amount by which he expects expenditure to be reduced in the current year up to the 31st March, 1939 ?

(c) What further proposals is he making, and how much does he expect to retrench during the official year 1939-40 ?

(d) Has he detailed an officer of his Department to pursue this matter in detail ?

(e) Are comparisons between existing outlays and the retrenchments proposed by the Committees of this House in 1931-32 being made ?

CREATION OF A POST OF DEPUTY PRINCIPAL OFFICER IN THE PUBLIC INFORMATION BUREAU.

, 818. ***Seth Govind Das** : Will the Honourable the Home Member be pleased to state :

(a) whether it is a fact that the post of a Deputy Principal Information Officer has been created in the Public Information Bureau ;

(b) the salary and other emoluments involved in the post ;

(c) the reason for the creation of this post ;

(d) whether any provision has been made in the budget for the post ;

(e) whether Government propose consulting this House before the post is finally filled up ;

(f) whether Government propose taking an Indian in the post ;

(g) whether Government have any senior officials in the Department who could be made to work in the post ; and

(h) whether Government has advertised for the post, calling for applications from prospective candidates ?

The Honourable Mr. B. M. Maxwell : (a) and (c). The post of Deputy Principal Information Officer is not a new one. It is the same as that which was previously called Deputy Director of Public Information, and it recently fell vacant.

(b) The salary is Rs. 1,100—50—1,300.

(d) Yes.

(e) No.

(f) The Officer selected is an Indian. He will be appointed subject to his passing a medical examination.

(g) No senior official in the department had the requisite qualifications.

(h) The Federal Public Service Commission advertised the post.

Seth Govind Das : Did the Honourable Member say that the officer who is going to be appointed is an Indian ?

The Honourable Mr. R. M. Maxwell : Yes.

RECOVERY OF LOSSES CAUSED TO GOVERNMENT BY OFFICERS.

819. ***Mr. C. N. Muthuranga Mudaliar :** (a) Will the Honourable the Finance Member please state the measures in force now for the recovery from officers serving under the Government of India of losses caused to Government by the fraudulent or negligent conduct of the officers ?

(b) What are the measures taken to recover the loss caused to Government by an officer while in service ?

(c) Is any distinction made in this matter between officers appointed by the Secretary of State for India and those appointed by the Government of India ? If so, what is the justification ?

(d) Is it a fact that recently the Government of India recommended to the Secretary of State for India that provision should be made in the rules on the subject for the recovery from pension of the officers concerned of the losses caused to Government by the negligent and fraudulent conduct of the officers ?

(e) Is it a fact that this recommendation has not been accepted by the Secretary of State so far as the officers appointed by him are concerned ? If so, how do the Government of India propose to recover losses caused to them and to the Indian tax-payer by the negligence and fraud of any officer or officers of the All-India Services protected by the Secretary of State ?

(f) Is it a fact that, as a result of the Secretary of State's decision, the Government of India have decided not to proceed with their proposals regarding their own services ? If so, why ?

(g) Are Government aware that the Government of Madras have decided to adopt the proposal originally made by the Government of India so far as their services are concerned ? If so, are the Government of India prepared to consider the desirability of asking the Secretary of State to reconsider the matter, in so far as his services are concerned and in the meanwhile themselves proceed to give effect to their proposal in respect of their services ? If not, why not ?

The Honourable Sir James Grigg : Sir, the answer is rather long. I shall read it if the Honourable Members wish me to do so or if...

Mr. President (The Honourable Sir Abdur Rahim) : If the answer is not very long, he may read it out ; otherwise he can place it on the table.

The Honourable Sir James Grigg : (a) and (b). In cases where actual fraud is believed to be involved recourse is ordinarily had to judicial proceedings. In cases of loss through negligence departmental action is taken and after the liabilities to be enforced against

the persons concerned have been determined, recovery is made either *directly* by requiring the officers responsible to make good the loss to the extent of their pecuniary liability or *indirectly* by a reduction in pay or a stoppage of increments of pay.

(c) No.

(d) Yes.

(e) The reply to the first part of this clause is in the affirmative. No enforced recovery from pension is permissible under the rules in force at present ; but in cases of fraud it is open to Government to prosecute a pensioner and in the event of conviction to apply to the court for an award, in addition to any other punishment which the court may consider suitable, of an adequate fine which can be recovered from pension-money after it reaches the hands of the pensioner.

(f) It had been so decided, but, as a result of a suggestion of the Public Accounts Committee, the Government of India have decided to re-examine the question in respect of officers under their rule-making control.

(g) The attention of the Government of India has been drawn to the Madras Government's decision referred to by the Honourable Member. So far as the Secretary of State's officers are concerned the Government of India do not propose to ask the Secretary of State to reconsider his orders. In respect of other officers under the Central Government, the position is being examined further, as stated in my reply to clause (f).

Mr. T. S. Avinashilingam Chettiar : May I know whether there have been cases till now....

The Honourable Sir James Grigg : The Honourable Member had better go through my answer fully before putting any supplementary questions.

Mr. S. Satyamurti : May I know why Government do not propose to address the Secretary of State in regard to officers who are responsible to them, when they have made up their mind themselves to reconsider the question ?

The Honourable Sir James Grigg : At the end of our reconsideration of the question, it might possibly form the subject of further representations, but I imagine the decision is due to the fact that recovery is not very important in the case of the Secretary of State's officers.

Mr. N. M. Joshi : May I know when Government makes deduction from the pensions of their subordinates.....

The Honourable Sir James Grigg : It does not. Pay yes, not pensions.

Mr. N. M. Joshi : Even making deductions from pay, is it the court which decides that the conduct of the person had been fraudulent or negligent or it is merely the whim of the Government.

The Honourable Sir James Grigg : I do not think I am called upon to answer a question which throws doubts on the *bona fides* of the Government in dealing with these cases.

Mr. Manu Subedar : May I know, Sir, whether the decision in the case of pensions taken by the Secretary of State is different from that which is taken in the United Kingdom ?

The Honourable Sir James Grigg : I am not quite sure about that, because the position of pensions in the United Kingdom is quite different. The pensioner in England has no statutory right to his pension at all. It is given to him as a matter of treasury discretion, and not as a matter of strict law.

Mr. N. M. Joshi : May I ask, Sir, whether the Government of India are aware that deductions are made according to the whims of the officers from the pay of the subordinates, and whether it is not against the spirit of the Payment of Wages Act ?

The Honourable Sir James Grigg : The Honourable Member is asking me in another form a question which I refused to answer just now. The whole basis of the question is that the deductions from pay are made at the caprice of the Government whereas it is well-known that the ordinary rights of appeal are enjoyed by all classes of servants.

Mr. M. Ananthasayanam Ayyangar : Are the Government aware that pensions are not attachable by court decrees and therefore with a view to recover monies they must be withheld from the pensions ?

The Honourable Sir James Grigg : The Honourable Member is giving me information and not asking for it.

Mr. K. Ahmed : May I ask one question, Sir ? In view of the fact that Government can make deductions from the pay and pensions of their officers for committing any fraud or negligence, may I know how they can compound felony ? Without informing the police if Government make any deductions, they are also liable to be prosecuted for not informing the police ?

The Honourable Sir James Grigg : I think the Honourable Member is making a rash assertion. He had better read my answer.

Mr. K. Ahmed : There is no room for it^{at} in your answer, Sir ; if there is, will you please specify it ?

RETRENCHMENT IN EXPENDITURE IN THE GOVERNMENT OF INDIA DEPARTMENTS.

†820. ***Mr. Manu Subedar :** (a) Will the Honourable the Finance Member state which Departments of Government are spending more to-day than they did in 1931-32 and 1932-33 ?

(b) In accordance with his promise for retrenchment in expenditure, are all the causes leading up to such an excess being seriously considered and pursued in detail by his Department ?

(c) Have Government discovered in the course of their examination of this problem any serious reason why the scale of administrative expenditure could not be reduced as recommended by the Retrenchment Committees of this House in 1931-32 ?

(d) If so, could some general reasons be given for the major portion of such excess ?

†For answer to this question, see answer to question No. 806.

TREATMENT OF INDIANS IN THE ARMY DENTAL CORPS.

821. *Mr. N. V. Gadgil (on behalf of Mr. K. Santhanam) : Will the Defence Secretary please state :

- (a) whether, with reference to his answer to question No. 339, dated the 22nd August, 1938, there is any difference in treatment between Indian and British Officers in the matter of medical attention in dental cases ;
- (b) if the services of the Army Dental Corps are available for Indian officers and their families ; and
- (c) whether there are any arrangements for the treatment of such cases for Indian troops and their families ?

Mr. C. M. G. Ogilvie : (a) No.

(b) Military officers and their families, whether British or Indian, are not entitled to the free services of the Army Dental Corps.

(c) Yes. With regard to Indian troops I refer the Honourable Member to my answer to question No. 339 of 22nd August. The families of Indian soldiers are given gratuitous medical attendance, including dental attendance as outdoor patients at Indian Military Hospitals.

DEMOLITION OF A TEMPLE OF GOD SHIVA IN DELHI.

822. *Babu Baijnath Bajoria : (a) Will the Honourable the Home Member be pleased to state whether a temple of God Shiva has been demolished in Delhi, near the Municipal Town Hall ? If so, who were responsible for such demolition ?

(b) Are Government aware of the fact that the Hindus of Delhi are greatly perturbed over this matter, and great resentment prevails amongst them ?

(c) Are Government aware of the fact that committees have been formed to continue the agitation to secure redress of the grievances ?

(d) What steps are Government taking to pacify the situation and to allay the wounded feelings of the Hindus in the matter ?

(e) Have any arrests been made in this connection ? If so, what is the number of persons arrested and the charge made against them ?

The Honourable Mr. R. M. Maxwell : (a) and (b). I refer the Honourable Member to the reply given to parts (a) and (c) of Bhai Parma Nand's starred question No. 616 on the 30th August, 1933.

(c) and (d). I understand that a settlement has been reached.

(e) Some arrests were made : but, I understand that there are no prisoners in jail now and that all pending proceedings have been or will shortly be withdrawn.

INADEQUATE STAFF IN THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES.

823. *Mr. Amarendra Nath Chattopadhyaya : Will the Honourable the Finance Member please state :

- (a) whether it is a fact that there has been no increase in the establishment of the Office of the Accountant General, Central Revenues, after the re-organisation of that office by Mr. G. Kaula, Accountant General, in 1927, though the amount of work has increased by about fifty per cent, due to the abolition of the scheme of separation of accounts and audit and also due to the general increase of work ;
- (b) whether Government are aware of the fact that the office of the Accountant General, Central Revenues, is under-staffed and that most of the clerks and superintendents of the office are usually required to work in the office till late hours regularly and have to attend on Sundays and recognised holidays ;
- (c) whether it is a fact that at the time of withdrawing from the staff the periodical grant of special pay in 1931 for extra work, an order was issued generally prohibiting the Accountant General not to require his subordinate staff to work extra hours, or to attend office on holidays ;
- (d) whether Government are aware of the fact that there are about seventy clerks working in the establishment for about five to seven years without being made permanent ;
- (e) if it is a fact that of the thirty-three sanctioned posts for superintendents, nearly fifteen are generally filled up by temporary and officiating superintendents ;
- (f) whether Government are aware that in August, 1937, the then Accountant General recognised the necessity of increase in staff, but that nothing has yet been done to give effect to his scheme ; and
- (g) if Government propose to take any action to remedy the unsatisfactory condition of that office in the near future ?

The Honourable Sir James Grigg : The information is being obtained and will be laid on the table in due course.

NON-SELECTION OF A BENGALI FOR A SUPERIOR APPOINTMENT IN THE CENTRAL EXCISE AND SALT DEPARTMENT.

824. *Mr. D. K. Lahiri Chaudhury : (a) Will the Honourable the Finance Member be pleased to state whether it is a fact that none of the superior officers employed in the administration of the Central Excise and Salt in the Presidency of Bengal in the grade of Deputy Commissioner, Assistant Commissioner, Superintendent and Deputy Superintendent, is a native of Bengal, or an officer having previous knowledge and experience of Bengal ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to state the reasons why a Bengali, or an officer serving in the Bengal Excise and Salt Department, was not selected for any of the aforesaid appointments ?

(c) Will Government be pleased to state whether these appointments were made on the recommendations of the Public Service Commission ? If not, why not ?

Mr. A. H. Lloyd : (a) No. One Deputy Superintendent is a Bengali domiciled in the United Provinces and the Deputy Commissioner's post is held by an officer of the Imperial Customs Service who has served in the Calcutta and Chittagong Custom Houses for about ten years.

(b) Does not arise.

(c) The answer to the first part is in the negative. A reference to the Federal Public Service Commission was not necessary under the rules in respect of the appointments made to the posts of Deputy and Assistant Commissioners and Deputy Superintendents. The post of Superintendent was filled as an emergency measure by the Commissioner of Central Excises and Salt, Northern India, on a temporary basis as the Federal Public Service Commission could not be expected to recruit a candidate at short notice. A regular appointment to the post will be made through the Commission shortly.

Mr. D. K. Lahiri Chaudhury : May I know, Sir, whether the Honourable Member could not find any suitable officer from Bengal itself to hold this post ?

Mr. A. H. Lloyd : The most suitable officers were selected for these appointments.

TAKING OVER OF THE ADMINISTRATION OF THE SALT DEPARTMENT FROM THE BENGAL GOVERNMENT.

825. ***Mr. D. K. Lahiri Chaudhury :** (a) Will the Honourable the Finance Member be pleased to state whether Government have decided to take over the administration of the Salt Department from Bengal with effect from the 1st April, 1939 ?

(b) If the answer to part (a) be in the negative, will Government be pleased to state when the decision is likely to be arrived at ?

(c) Are Government aware that there was a Salt Commission, with Sir Henry Wheeler as Secretary, appointed some years ago by the Government of India to report on the advisability of amalgamating the salt administration of Bengal with the Northern India Salt Revenue and that the Commission advised against such amalgamation ?

Mr. A. H. Lloyd : (a) and (b). The question is under consideration and it is not possible to say when a decision is likely to be reached.

(c) Yes, there was a Committee in 1903-04 which advised against amalgamation.

Mr. D. K. Lahiri Chaudhury : May I know, Sir, since this Department came to the Central Government on the 1st of April, 1938, how many officers and peons were discharged ?

Mr. A. H. Lloyd : I am afraid I must have notice of that question.

NON-SELECTION OF A BENGALI FOR A SUPERIOR APPOINTMENT IN THE CENTRAL EXCISE AND SALT DEPARTMENT.

826. ***Mr. D. K. Lahiri Chaudhury :** (a) Is the Honourable the Finance Member aware that there is a strong public feeling in Bengal against the decision of the Central Government in not selecting any qualified Bengali for any of the superior appointments of Deputy Commissioner, Assistant Commissioner, Superintendent and Deputy Superintendent in the Central Excises and Salt, in Bengal ?

(b) Do Government propose to consider the claims of deserving officers of the Bengal Excise and Salt Department for appointment to the superior posts of Deputy Commissioner, Assistant Commissioner, Superintendent and Deputy Superintendent in future vacancies ?

Mr. A. H. Lloyd : (a) No.

(b) Yes.

CIRCULAR REGARDING MORTGAGES WITHOUT POSSESSION IN CANTONMENTS.

827. ***Mr. N. V. Gadgil :** (a) Will the Defence Secretary be pleased to state whether it is a fact that any circular has been issued, either by the Government of India in the Defence Department, or by the General Officer Commanding-in-Chief, Northern Command, informing the Cantonment Boards that mortgages without possession in Cantonments are not allowed ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to place a copy of the circular on the table of the House ?

(c) Is it not a fact that the Transfer of Property Act is applicable to cantonments in those Provinces where the same is promulgated, and its principles are followed in those Provinces where it has not been applied ?

(d) If the answer to part (c) be in the affirmative, for what reasons has the circular been issued ?

Mr. C. M. G. Ogilvie : (a) Yes. The Government of India have been advised that sanction should not, as a rule, be accorded under clause (3) of condition 6 of General Order by the Governor General in Council No. 179, dated 12th September, 1936, to mortgages without possession of property held under the terms of that order. Instructions have accordingly been issued.

(b) No. The instructions are departmental and are intended for the guidance of officers.

(c) The proposition of law is substantially correct but has no application in the circumstances mentioned in answer to part (a) of the question.

(d) The instructions have been issued to safeguard the rights of the Government under the aforesaid General Order and any contravention of them will entail the consequences, which under the ordinary law follow the breach of the terms of a license as between private individuals.

REGULATIONS GOVERNING THE CONDUCT OF THE LAHORE CANTONMENT BOARD MEETINGS.

828. ***Mr. N. V. Gadgil :** (a) Will the Defence Secretary be pleased to state whether recently the Lahore Cantonment Board by its official majority has decided to change regulations governing the conduct of the meetings of the Board, and submitted the same for the sanction of the Government of India ?

(b) Is it a fact that one of the regulations prescribes that any resolution which is offensive to the President, or the Executive Officer, will be disallowed by the official President ?

(c) Have Government given their sanction to the regulations ?

Mr. C. M. G. Ogilvie : (a) The Government of India understand that revised regulations have recently been framed by the Board and not by the official majority, and are still the subject of correspondence between the Officer Commanding-in-Chief, Northern Command, and the Board.

(b) and (c). No.

MECHANISATION OF THE INDIAN ARMY.

829. ***Mr. T. S. Avinashilingam Chettiar :** Will the Defence Secretary state :

(a) whether they have finished consideration of the matter of mechanising some Indian units ;

(b) if so, which units, and how many have they decided to mechanise ; and

(c) the financial effect of this step ?

Mr. C. M. G. Ogilvie : (a), (b) and (c). I refer the Honourable Member to the replies I gave to Seth Govind Das' starred question No. 467 of the 25th August, 1938, and the supplementary questions arising therefrom.

ACTION TO IMPROVE INDIA'S BALANCE OF FOREIGN TRADE.

830. ***Mr. T. S. Avinashilingam Chettiar :** Will the Honourable the Finance Member state :

(a) in pursuance of his answer to starred question No. 465 on the 25th August, 1938, whether Government have taken any action to improve the balance of foreign trade of this country ; and

(b) if so, what are the steps they have taken ?

The Honourable Sir James Grigg : (a) and (b). As I suggested in the reply referred to, this is too big a question to be dealt with by way of question and answer. But, perhaps, I may say compendiously that Government carefully refrain from all forms of action which would

damage India's balance of trade and they take whatever steps are possible, *e.g.*, by trade negotiations, appointment of trade representatives abroad, etc., to improve it.

Mr. S. Satyamurti : In spite of the excellent intentions of the Government and the steps taken by them, but seeing that the present balance of trade is very unfavourable today compared to what it was five or six years ago, may I know, Sir, in view of the present state of Indo-British trade negotiations of the Government, whether they will take on hand the negotiations for bilateral trade agreements with *other* countries, with whom we have good trade relations ?

The Honourable Sir James Grigg : The Honourable Member had better address that to the Honourable the Commerce Member.

Mr. S. Satyamurti : The Honourable the Finance Member mentioned, in answer to this question, some of the steps he is taking by way of trade negotiations and so we cannot fly away from that. I am asking him to supplement it by throwing further light on the subject. May I know whether, in view of the present state of Indo-British trade negotiations, Government will take on hand the negotiations for bilateral trade agreements with other countries, with whom we have good trade relations ?

The Honourable Sir Muhammad Zafrullah Khan : I have already answered that question in the course of the session.

Mr. T. S. Avinashilingam Chettiar : If these trade negotiations do not end successfully, do the Government propose to look merely on or do they propose to take any steps by way of exchange or other things ?

Mr. President (The Honourable Sir Abdur Rahim) : He has already answered it.

Mr. T. S. Avinashilingam Chettiar : Apart from these trade agreements, may I know, Sir, if the Government are taking any further steps ?

The Honourable Sir James Grigg : I have already answered that.

Mr. T. S. Avinashilingam Chettiar : No, Sir ; he has not answered that.

Mr. S. Satyamurti : What are the steps which Government have taken since the beginning of this year to promote a favourable balance of trade in favour of India ?

The Honourable Sir James Grigg : That is covered by my answer.

Mr. S. Satyamurti : No, Sir. His answer refers merely to the general steps taken which all decent Governments are expected to take and do take. I am asking specifically with regard to recent figures what are the definite steps which the Government have taken since the beginning of this year ?

The Honourable Sir James Grigg : I merely mentioned certain examples. The first part of my answer was " As I suggested in the reply referred to, this is too big a question to be dealt with by way of question and answer ".

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

PUBLICATION OF THE PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY IN THE
Information Series.

831. *Mr. T. S. Avinashilingam Chettiar : Will the Honourable the Home Member state :

- (a) whether the proceedings of this House are published in the *Information Series* of their Public Information Bureau ;
- (b) if so, whether only the Government side is given, or whether all sides are published ; and
- (c) whether there is any arrangement to come into contact with the vernacular press also ; if so, what is that arrangement ?

The Honourable Mr. R. M. Maxwell : (a) and (b). The proceedings of this House are not published in the *Indian Information Series* : from time to time extracts of the more important statements made on behalf of Government in this House are reproduced in the *Indian Information Series*.

(c) The Bureau distributes copies of speeches by Government Members to the English and the Indian languages press. The *Information Series* is also distributed to both.

Mr. T. S. Avinashilingam Chettiar : May I know who is asked to select those speeches which are to be published in the *Indian Information Series*.

The Honourable Mr. R. M. Maxwell : The Information Bureau select them according to the amount of public interest which they are likely to arouse.

Mr. T. S. Avinashilingam Chettiar : May I know whether in their selection they do it in such a way that the whole debate is not fully represented but only particular speeches of particular Members are given more attention ?

The Honourable Mr. R. M. Maxwell : As I have said in answer to the question, the whole proceedings are not reproduced or summarised in the *Indian Information Series*, but only particular speeches which are likely to be of public interest.

Mr. S. Satyamurti : May I know what is the criterion or what are the criteria by which the Honourable the Home Member's speech on the Army Recruitment Bill of which the Honourable the Defence Secretary was in charge,—it was considered that his speech alone would arouse public interest ? Is it seriously contended that the public are more interested in the speech of the Honourable the Home Member, and not in that of the Leader of the Opposition on that Bill ?

The Honourable Mr. R. M. Maxwell : So far as I am aware, the speech in question was not published in the *Indian Information Series*. Certainly it was not in the last issue of that *Series* which reached me. But in answer to the Honourable Member's general question, the Information Bureau is the publicity organ of the Government.

Mr. S. Satyamurti : May I know whether it is or it is not a fact that the Honourable the Home Member's speech on the Army Recruitment Bill of the Honourable the Defence Secretary was published in the *Information Series* ?

The Honourable Mr. B. M. Maxwell : I have said that I am not aware of that.

GORDON SINCLAIR, WRITER OF AN ARTICLE REGARDING LOVE PARADES IN THE ANDAMANS.

832. ***Mr. Brojendra Narayan Chaudhury :** (a) Will the Honourable the Home Member please state who is ' Gordon Sinclair ', the writer of the article referred to in starred question No. 484 of the 25th August, 1938. (regarding Love Parades in the Andamans) ?

(b) When did he visit the Andamans and at whose invitation ?

(c) Is it open to anybody to visit the Andamans ?

(d) What was the object of his visit ? How long did he stay ? Where did he stay ?

(e) Did he stay with any official ? If so, with whom ?

(f) Was he given access to the jail ? If so, by whom, and under which rule of the Jail Code in force in the Andamans ?

(g) In view of the fact that the reply to starred question No. 484 is—" Parts of the article to the best of my belief are almost wholly fictitious ", what steps do Government propose to take against Gordon Sinclair for dissemination of fictitious news ?

The Honourable Mr. B. M. Maxwell : (a) I believe the author to be a Canadian journalist.

(b) to (f). I am not aware that he has ever visited the Andamans.

(g) On receipt of the Chief Commissioner's detailed report I shall consider what further steps are appropriate.

Mr. Abdur Rasheed Chaudhury : May I ask my question No. 815 now, Sir ?

Mr. President (The Honourable Sir Abdur Rahim) : No. The Honourable Member should have been in his place at the time it was called.

MOTION FOR ADJOURNMENT.

ALLEGED SACRILEGE COMMITTED BY THE POLICE IN A SIMLA MOSQUE.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. I have received notice of a motion for adjournment from Mr. Ghulam Bhik Nairang " for the purpose of discussing a definite matter of urgent public importance of recent occurrence, namely,—the sacrilege committed by the A. D. M. and Inspector and Sub-Inspector of Police, Simla, by entering the Juma Mosque with shoes on and thus wounding the feelings of the Muslims ".

[Mr. President.]

I should like to know where this mosque is, and whether the Governor General in Council has anything to do with it.

Syed Ghulam Bhik Nairang (East Punjab : Muhammadan) : The mosque is no doubt situated in Simla, and Simla happens to be a place which is technically within the jurisdiction of the Punjab Government, but the Government of India also are here. If, under the very nose of the Government of India things like this happen, what will happen elsewhere, I do not know. When a peaceful meeting is going on in a mosque, some difference of opinion arises among the members at the meeting, on that somebody quietly goes and tells the Magistrate to walk in. The Magistrate, accompanied by the Inspector of Police, the Sub-Inspector of Police and a number of constables, all with shoes on, rushes into the meeting, and, according to my report, the Police assaulted those present at the meeting with batons, although I have not been able to find out if anybody has been injured. The sacrilege of entering the mosque like that, disturbing a religious meeting and assaulting those present, without any cause or any reason, is quite enough, and if such a thing happens under the very nose of the Government of India, surely this House ought to discuss this motion.

Mr. President (The Honourable Sir Abdur Rahim) : I take it that this is a matter of police administration which is the concern of the Local Government, that is the Punjab Government, I suppose that is so ?

The Honourable Mr. R. M. Maxwell (Home Member) : That is correct.

Mr. President (The Honourable Sir Abdur Rahim) : In that case, I rule that the motion is out of order.

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 42 of the Bill be omitted.”

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : I should like to mention very clearly that no Party in the Assembly and no individual is against the railway. We all consider that it is a national asset and as such that it ought to be maintained. But what we do stand for is that there should not be any monopoly, and that there ought to be healthy competition in the interests of the people of India. That is all that we want. There should be a fair chance to both. Give a fair chance to the railway, give a fair chance to the road service and remember the principle which I have already enunciated from quotations from Professor Copeland. I just wish to give one example which will explain this clearly. This is a thing which happens not only here in India but in every other country in the world. Now, taking the case of goods service from one station to another, on account of the competition of motor buses the railways have gone far ahead in handling goods. They have now invented in many countries what they call small containers. These containers are

sent to the godowns of the merchants. They are filled up there, they are then brought to the railway station and sent to the destination and emptied there. These facilities are provided in other countries on account of the competition of the motor bus. The facilities here are just the reverse. Whenever you go to any railway station to send your goods they will not listen to you unless you tip the clerk first, and if it is a large consignment and you want a whole wagon, that wagon will not be given to you unless you pay Rs. 10 for getting a wagon, and later on, if it is despatched to some other place, you will have to pay enormous freight, and the merchant who sends these goods add all these expenses to the cost of despatch. This ought to be minimised and the railways should arrange that the goods are collected at the warehouses of merchants and delivered at the other end at the warehouses of the consignees. If the railways undertake that, I am sure a large number of people will be glad to send their goods by railway and not by road. This competition is very desirable in order to impress on the railways to have all possible improvements, as they have done in England, in Germany and other European countries. If you expedite the transport of goods and provide good facilities to the merchants, I am sure that they will rely upon this form of transport and do away with the motor transport. At the same time I do not like that the cream of the transport should be taken away by the motor and that only heavy and dirty goods should be carried by the railway.

Now, stones, coal and these things are transferred by rail and cotton, piece-goods and the better quality of goods are transported by road. This is also rather unfair competition. We should give fair opportunities to both forms of transport. But if this clause is left as it is, I am afraid there will not be co-ordination of the rail and the road transport. As the Leader of the Opposition said, we should not like to have either the annihilation of any form of transport or the domination of one form of transport over another. What we want is co-ordination of both forms of transport and any proposal which leads to this co-ordination is welcome to us. With these words, I resume my seat.

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban) : Sir, clause 42 is the most important and the most contentious clause in the Bill. This is a new clause. It has been inserted by the Select Committee. When a new clause of this nature was inserted by the Select Committee, naturally, it was expected that the Select Committee would give adequate reasons for its insertion. But no adequate reasons have been given. In their Report they only say that this section has been inserted for the purpose of co-ordination between railways and motor transport and that power is given to the Provincial Governments to bring about this co-ordination. These reasons do not satisfy us.

What are the powers which are entrusted under this clause. These powers are those which relate to prohibition or restriction of long distance goods traffic and the fixing of minimum and maximum fares. These are very large and extensive powers ; but they are sought to be made more extensive by an amendment which, I understand, is going to be moved by some of my Congress friends so that they may include passenger traffic. Now, what are the objects which are at the bottom of giving these wide and extensive powers to the Provincial Governments ?

[Dr. P. N. Banerjee.]

Two objects are mentioned in the Statement of Objects and Reasons and these are co-ordination and the safety and convenience of the public. In addition to that we find another object mentioned in this clause and that is to safeguard the interests of the railways. Sir, I am not opposed to a policy of safeguarding the interests of the railways. But I urge that such safeguarding should be done in the proper manner. Unfair measures should not be taken to safeguard the interests of the railways. That is what I insist on.

This rail-road problem has arisen in other countries and how has that problem been solved in those countries ?

Mr. President (The Honourable Sir Abdur Rahim) : This is not second reading. We are discussing a single clause and a certain amendment to it. You cannot have a general discussion. The Honourable Member must address himself to the amendment before the House.

Dr. P. N. Banerjee : I want that this clause should be deleted and what I say is pertinent to the question of deletion.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not embark on a general discussion. He must confine himself to the proposal for deletion of this clause.

Dr. P. N. Banerjee : I shall confine myself to this clause. The object of this clause is co-ordination. I want to show how co-ordination can be secured.

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member indulges in a general discussion, it will simply mean repetition of what has already been said. The only question before the House is whether this clause 42 should be accepted or not by the House.

Dr. P. N. Banerjee : What I wanted to say is this—that this co-ordination can be secured without resorting to the measures which are sought to be resorted to in this clause, and this has been done in other countries.

Which is the authority that is going to secure this co-ordination ? For this purpose, power has been given to the Provincial Governments. Is a Provincial Government competent to exercise this power of co-ordination ? That is the question which we will have to answer. In my view, the Provincial Governments are not in a position to secure co-ordination between railways and motor transport. They are handicapped in three ways. In the first place, the Provincial Governments are not entirely disinterested. They will always have their eyes fixed on the earnings of railways, because as soon as the railway earnings increase they expect to get a share of the income-tax proceeds. This is quite natural. It is quite right and proper that the Provincial Governments should look to their own finances. I am not one of those who are opposed to the provinces getting a substantial share of the financial resources of the country. We should see to it that the resources of the country are properly distributed. For the last 20 years, I have always urged before the public and upon the Government the desirability of making an equitable distribution of the financial resources of the Government between the Central Government and the Provincial Govern-

ments. Even in this very House I have often raised my voice in favour of granting larger resources to the provinces. So far as larger resources for the provinces are concerned, I am in full sympathy with my friends but this should be secured by proper means and by stifling motor transport. This is not, in my opinion, the proper measure for securing larger resources.

Secondly, the Provincial Governments have no control over railways. The railways are a Central subject and, therefore, the Provincial Governments will not be able to exercise any power over railway administration. It has been said that although the provinces do not possess a direct power of control, they have indirect power. Sir, when this term 'indirect power' is used, it is admitted that this power is not adequate. And what is this indirect power? The indirect power means that the Provinces will exert a sort of pressure on the Central Government in order to gain what they want.

Mr. N. M. Joshi (Nominated Non-Official) : Then give direct power to the Central Legislature.

Dr. P. N. Banerjee : Then in that case you suggest that this power should be vested in the Central Legislature ?

Mr. N. M. Joshi : That is the best course.

Dr. P. N. Banerjee : I agree with you, but only in part. If there is a best course, why go to the second best ? So it is clear that this indirect power is not sufficient. The

12 Noon. Honourable the Leader of the Opposition said yesterday that the power which the Provincial Governments would possess may be used as a lever for gaining the end, namely, securing co-ordination between railways and motor transport. Now, this will mean that each Provincial Government will try to exert a certain amount of pressure on the Central Government and there will be a perpetual wrangle between the Provincial Governments and the Central Government. Besides there will be this difficulty that each Provincial Government will look to its own interest, ignoring the interests of the other Provincial Governments. This cannot be a satisfactory state of things.

Thirdly, the Provincial Governments will not have full control even over motor transport, because in many cases these motor buses and motor lorries traverse two Provinces. For instance, motor buses go from Delhi to Meerut, from Delhi to Muttra and from Delhi to Rohtak. These motor buses will be under the control of two Provincial Governments—the Delhi Province on the one hand and the Punjab Province or the United Provinces on the other. Now, who will fix the minimum and maximum fares ? Who will prohibit or restrict the activities of these motor buses and lorries ? That will raise a very difficult and complex question, and the position will become very serious at times.

In view of these things, Sir, we find that it will not be desirable to entrust these extensive and wide powers to Provincial Governments. If these powers are to be given to Provincial Governments, I can see clearly that failure will be writ large on the face of this Bill and the conse-

[Dr. P. N. Banerjea.]

quences will be serious to the trade and industry of the country as well as to the people as a whole. Sir, if co-ordination is really to be secured, then some authority will have to be set up which will have control not only over motor transport but over Railways. For this purpose I suggest that a central transport council be established which will consist of the representatives of the Central Government as well as the Provincial Governments. It is only a body of this sort which can secure co-ordination in a proper and satisfactory manner.

Sir, it has been said by several speakers that special interests have influenced the judgment of some of the Members. On my own behalf and on behalf of my Party I say, most emphatically, that we have not been influenced to the slightest extent by the sellers of petrol or the importers of motor cars or even by the purchasers of railway engines and machinery. The interests of the people have been our sole concern and our conscience has been our sole guide in this matter as well as in all other matters in the past, and, God willing, our duty to our country and our own conscience will always guide our conduct in future.

The Honourable Mr. A. G. Clow (Member for Railways and Communications) : Sir, the discussion on this important clause occupied a large part of the debate on the motion for consideration. That extended over five days in this House when most of the general arguments were given and countered, and the House will, therefore, excuse me if I do not go into the question again at any great length. I am encouraged in this attitude by the fact that the debate and subsequent reflection seem to have done a great deal to convince the House of the soundness of the clause. I detected even in Mr. Som's speech, I thought, an underlying suspicion that he might be mistaken. In fact the only uncompromising critic of the clause—for even Professor Banerjea, I think, was not quite uncompromising—was Mr. James : and so far as I could follow his argument, it really amounted to this : “as we cannot have full and proper co-ordination, do not let us have any co-ordination at all.” I admit that this is not co-ordination in the sense I should like to see. I entirely agree with Dr. Banerjea and Mr. James, that if a co-ordinating authority could be set up at the Centre, it would be a great improvement. But there are various difficulties in the way. The constitutional difficulties, I am assured, are very serious and even if these could be overcome—and I am not sure that they could be,—is it really practical politics to suppose that the Provinces will welcome at the moment an authority sitting here to control road development and with power to control the traffic on the roads ? Whatever attitude they took, I am sure there is one Member at least in this House who would not welcome that and that is Mr. James, because, I am perfectly certain, that if an authority of that kind were set up here and if it carried out its duties with determination and with sincerity, it would do a great deal more to protect the Railways and its influence would not be so tender on the road transport interests which Mr. James and his friends represent.

Dr. P. N. Banerjea : But it will be representative not only of the Central Government but also of the Provincial Governments ?

The Honourable Mr. A. G. Olow : But what I say is in spite of that fact. In fact, Mr. James seemed to me to be advocating in the economic sphere :

“ The good old rule, the simple plan
That they should take who have the power
And they should keep who can.”

An Honourable Member : Not a bad principle.

The Honourable Mr. A. G. Olow : Not a bad principle, I am told. I suggest that in this case it is a thoroughly bad principle. If motor transport was able to undertake all the traffic now carried by the railways at efficient and cheap rates, I would concede the point at once and I would say that all you have to do is to try and ensure that this transference from the railways to the roads should be accompanied as smoothly and with as little hardship as possible.

But the fact is that the roads cannot serve all the purposes that the Railways are now serving. So far as our limited vision can see, in no time within that vision will that be possible. You have also to realise that your rail-rate-structure is a unity and that its parts are interlinked. You cannot say, “ let us take the passengers and the cotton and you can carry the steel, the coal, the ores and the other heavy goods ”. The whole position would be altered if that kind of arrangement which I may call cream-skimming were done by the roads. Let me take an analogy, not quite an exact one, but one that is, I think, illuminating. We give to the post office what we have never given to the railways, an absolute monopoly. Private persons are prohibited from taking a share in postal traffic. Now, there are many places in India where private posts could be carried at a good deal lower rates than the post office offers. In a big city, even in Simla, possibly, you could carry the local traffic cheaper than the post office can. But if you did that, you would have to alter all your rates for long distance traffic and you would undoubtedly injure the community. I suggest that the same considerations apply to a large extent to this competition between rail and road.

I admit, of course, that in some places, railways are becoming obsolete and that road traffic must increase and almost certainly in some areas will displace it. We are even now considering whether certain lines should not be closed down ; but I am quite certain that no line will be closed down without causing a certain amount of hardship to those dependent on it. Mr. James said that I was enthusiastic about the clause. I do not remember ever expressing any enthusiasm for it. He also said that he knew exactly how it was going to work. Well, I cannot claim that power of foretelling the future. I am very doubtful as to how it will work, but I can assure the House that so far as the Railways are concerned, my hopes fall very far short of Mr. James' fears. I do not think that this is going to achieve for the Railways anything like what its opponents imagine, but, I believe, that the principle underlying this clause is unimpeachable and that, inadequate though it is, it goes in the right direction and for that reason I am opposed to the amendment.

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 clause 42 of the Bill be omitted.”

The Assembly divided :

AYES—20.

Abdur Rasheed Chaudhury, Maulvi.
Ahmed, Mr. K.
Aney, Mr. M. S.
Bajoria, Babu Baijnath.
Banerjee, Dr. P. N.
Boyle, Mr. J. D.
Chapman-Mortimer, Mr. T.
Chattopadhyaya, Mr. Amarendra Nath.
Datta, Mr. Akhil Chandra.
Griffiths, Mr. P. J.

James, Mr. F. E.
Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.
Miller, Mr. C. C.
Parma Nand, Bhai.
Sant Singh, Sardar.
Scott, Mr. J. Ramsay.
Smith, Lieut.-Colonel H. C.
Som, Mr. Suryya Kumar.
Town, Mr. H. S.

NOES—77.

Abdul Hamid, Khan Bahadur Sir.
Abdul Qaiyum, Mr.
Abdul Wajid, Maulvi.
Ahmad Nawaz Khan, Major Nawab Sir.
Asaf Ali, Mr. M.
Ayyangar, Mr. M. Ananthasayanam.
Ayyar, Mr. N. M.
Bajpai, Sir Girja Shankar.
Bartley, Mr. J.
Bewoor, Mr. G. V.
Chaliha, Mr. Kuladhar.
Chanda, Mr. A. K.
Chatterjee, Mr. R. M.
Chaudhury, Mr. Brojendra Narayan.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachelam.
Clow, The Honourable Mr. A. G.
Conran-Smith, Mr. E.
Dalal, Dr. B. D.
Dalpat Singh, Sardar Bahadur Captain.
Das, Mr. B.
Das, Pandit Nilakantha.
Desai, Mr. Bhulabhai J.
Deshmukh, Dr. G. V.
Deshmukh, Mr. Govind V.
Dutt, Mr. S.
Faruqui, Mr. N. A.
Gadgil, Mr. N. V.
Ghulam Muhammad, Mr.

Govind Das, Seth.
Grigg, The Honourable Sir James.
Gupta, Mr. K. S.
Hans Raj, Raizada.
Hegde, Sri K. B. Jinaraja.
Highet, Mr. J. C.
Hosmani, Mr. S. K.
Jogendra Singh, Sardar.
Joshi, Mr. N. M.
Kailash Behari Lal, Babu.
Kamuluddin Ahmed, Shams-ul-Ulema.
Lahiri Chaudhury, Mr. D. K.
Lloyd, Mr. A. H.
Mackeown, Mr. J. A.
Mangal Singh, Sardar.
Maxwell, The Honourable Mr. R. M.
Metcalfe, Sir Aubrey.
Misra, Pandit Shambhu Dayal.
Mitchell, Mr. K. G.
Muhammad Ahmad Kazmi, Qazi.
Mukerji, Mr. Basanta Kumar.
Mukerji, The Honourable Sir Manmatha Nath.
Nur Muhammad, Khan Bahadur Shaikh.
Ogilvie, Mr. C. M. G.
Paliwal, Pandit Sri Krishna Dutta.
Pande, Mr. Badri Dutt.
Raghubir Narayan Singh, Chaudhri.
Rahman, Lieut.-Colonel M. A.

NOTES—77—contd.

Ramayan Prasad, Mr.
 Banga, Prof. N. G.
 Rao, Mr. M. Thirumala.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sham Lal, Mr.
 Sheodass Daga, Seth.
 Sher Muhammad Khan, Captain Sardar
 Sir.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.

Sinha, Mr. Satya Narayan.
 Sivaraj, Rao Sahib N.
 Sri Prakasa, Mr.
 Subbarayan, Shrimati K. Radha Bai.
 Subedar, Mr. Manu.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Varma, Mr. B. B.
 Walker, Mr. G. D.
 Zafrullah Khan, The Honourable Sir
 Muhammad.

The motion was negatived.

Mr. F. E. James (Madras : European) : Sir, I beg to move :

“ That in sub-clause (1) of clause 42 of the Bill, for all the words beginning with the words ‘ A Provincial Government ’ and ending with the words ‘ the deterioration of the road system ’, the following be substituted :

‘ A Provincial Government having regard to the needs of the province as a whole in relation to traffic and the co-ordination of all forms of transport including transport by rail ’.”

Sir, I understood from the Honourable the Leader of the Opposition yesterday that the Congress Party had an amendment which was more comprehensive.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : We have a better amendment, if you want it.

Mr. F. E. James : I know perfectly well without asking the Honourable Member's advice.

Mr. Bhulabhai J. Desai : On a point of personal explanation, Sir. As the Honourable Member referred to me as to what I said yesterday, I had to say that there was a better amendment.

Mr. F. E. James : The Honourable the Leader of the Opposition did not tell us exactly what that amendment was. I propose to ask him whether he is actually referring the amendment No. 8 in supplementary list No. 7. If that is the one to which he refers, and if Government are prepared to accept that, I should ask the leave of the House to withdraw my amendment and support that amendment.

Dr. P. N. Banerjea : Sir, I submit that my amendment No. 283 is more comprehensive than this amendment of Mr. James. My amendment seeks to remove all the three parts (a), (b) and (c), and so my amendment should come first. I should be allowed to move my amendment first.

Mr. President (The Honourable Sir Abdur Rahim) : I understand that the Honourable Member, Dr. Banerjea, wants to delete all the three parts (a), (b) and (c), while Mr. James wants certain words to be substituted for those. In that case, Dr. Banerjea will move his amendment first.

Dr. P. N. Banerjea : I beg to move :

“ That in sub-clause (1) of clause 42 of the Bill, all the words beginning with the words ‘ having regard to ’ and ending with the word ‘ and ’, occurring in the tenth line, be omitted.”

[Dr. P. N. Banerjee.]

Sir, in this connection, I wish to ask a question whether these considerations mentioned in parts (a), (b) and (c) of this sub-clause are consistent with the Statement of Objects and Reasons. Sir, in the Statement of Objects and Reasons what do we find ?

"In the interests of the safety and convenience of the public and of the development of and co-ordinating the system of transport."

These are the objects mentioned in the original Bill. Now, are the considerations mentioned in this sub-clause included in these objects or not ? If they are not included, they are inconsistent with the Statement of Objects and Reasons and they are out of order. But if they are included I suggest that they are unnecessary and also irrelevant. Sir, I am not a lawyer, at least not a practising lawyer, but, there are many eminent lawyers in this House to whom I appeal to say whether such considerations are to be found in any clause in any Act passed in India. The Honourable the Law Member is an ex-Chief Justice of the Calcutta High Court, and he will be able to enlighten us on this point. So far as I know, there is no Act passed by the Central Legislature or by any Provincial Legislature which contains a consideration or a preamble or an additional object,—by whatever name you may call it,—with such a cumbrous phraseology as is to be found in this sub-clause. Then, Sir, these parts of the sub-clause are highly contentious and are open to objection on that ground. In part (b), we read :

"The desirability of preventing the deterioration of the valuable national assets in Indian railways."

How does deterioration take place, and what are your methods for preventing deterioration ? These are very complex questions and questions on which we may not always see eye to eye. Then, also in part (c), we find :

"The desirability of preventing the deterioration of the road system."

Now, the term "road system" is a very comprehensive term. Does it mean particular roads or all the roads in a province ? These, again, are very controversial questions. I do not think we should have a preamble or additional objects and reasons attached to a particular clause of the Bill. This is an unusual procedure to adopt and I strongly oppose the insertion of these considerations by the Select Committee.

Sir, I move.

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

"That in sub-clause (1) of clause 42 of the Bill, all the words beginning with the words 'having regard to' and ending with the word 'and', occurring in the tenth line, be omitted."

The Honourable Mr. A. G. Clow : Sir, the portions of the clause which my Honourable friend wishes to delete are precisely those portions over which we have been debating all this morning, and last night, and through a considerable part of the motion for consideration.

Dr. P. N. Banerjee : No, that is a mistake. We had been debating on prohibition, on restriction and fixing of maximum and minimum fares.

The Honourable Mr. A. G. Clow : We have been debating on the considerations on which these should be based, and my Honourable friend wishes to remove all the considerations and to leave the Provincial Governments in the dark as to the considerations which should guide them in fixing minimum or maximum rates or in restricting long distance traffic. I do not think I need develop the argument any further.

Mr. Bhulabhai J. Desai : Sir, I wish to say one word as regards the question asked of lawyers. I understand my Honourable friend **Dr. Banerjea** is also a lawyer, but as he says he is not a practising lawyer, I may tell him, in spite of his appeal to the Law Member to come to his assistance, that the decisions are quite clear that you cannot read the Statement of Objects and Reasons for the purpose of construing a section. And in my humble judgment every one of the considerations is not within the Statement of Objects and Reasons.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Sir, in view of what the Leader of the Opposition has stated, I submit that the statement with regard to objects and reasons which is made in this clause itself becomes redundant and useless, both for the purpose of understanding the clause and for the purpose of administering it. I therefore think the amendment moved by my Honourable friend should be accepted.

Dr. Sir Ziauddin Ahmad : Sir, I think these three parts (a), (b) and (c), and specially (b) is very badly drafted, and I think it is not desirable to put them in this particular form. I would welcome these parts to be put in a better form but if Government do not want any change and they are anxious that they should be there as drafted, I should like to submit one or two points. Take (b) for example, "The desirability of preventing the deterioration of the valuable national assets in Indian railways". The moment you tell your transport authority that here is a deterioration of national assets, naturally everybody will say that there should be no deterioration and so, in every case, their decision will be in favour of the railways by virtue of clause (b) as now drafted. Railways are national assets, Motor vehicles are private assets. The other thing is about the condition of the roads. This is a very general thing. Whenever they want to stop traffic they can always say that the condition of the road does not permit it. The condition of the road is a thing to which the transport authority will themselves lay the greatest possible value because they will be responsible for damages which may be done to the motor cars on account of bad roads. Therefore, there is no need to tell them to look to the condition of the roads, because they will do it themselves. And roads are spoiled not so much by the weight of the lorry as by its speed. As regards speed Government are not willing to put down any maximum limit. This means that they are, themselves, anxious that the roads should be spoiled on account of high velocity. Therefore, while on the one hand they say that attention should be paid to the condition of the road, on the other hand they say that there should be no limit on the speed. It is a contradiction in terms because I do maintain that the roads are not spoiled on account of the weight of the vehicle but more by the high speed (velocity). My friend is a mathematician, and he will work it out that if you take the horizontal stress on any road it depends more on velocity, than on weight, and it is the horizontal stress which deteriorates roads more than the vertical stress.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : What about bullock carts ? There it is weight and not velocity.

Dr. Sir Ziauddin Ahmad : I say that the deterioration of roads is effected more by speed than by weight. And I think you need not go very far to see the proof of that. For a long time the *kankar* roads held away and they were considered to be very good, but the moment these motor cars and buses came in they have become hopeless. Therefore, these roads which stood the slow traffic of bullock carts very well cannot now stand the high velocity traffic of motor cars. Therefore, I do say that parts (a), (b) and (c) as they stand require a good deal of consideration. Otherwise I fear that motor traffic will be seriously handicapped if they stand as they are.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Mr. President, I must say I am surprised at the amendment, and at the arguments advanced in support of the amendment. For nearly seven days in this House, we have been told by friends of the motor transport industry, as it is euphemistically called, that we must not vest in these Provincial Governments these arbitrary powers, lest they may use them against the development of the motor transport ; and yet what are they doing ? Look at clause (a) :

“ A Provincial Government, having regard to the advantages offered to the public, trade and industry by the development of motor transport.....”

Why do you want that to be deleted, may I ask ?

Dr. P. N. Banerjee : Quite unnecessary.

Mr. S. Satyamurti : It seems to me that this logic is beyond me altogether. You once argued Provincial Governments ought not to be trusted lest they may use these powers against the development of motor transport. But this clause provides categorically in clause (a) that the Provincial Government shall have regard to the advantages offered to the public trade and industry by the development of motor transport. What is wrong with it ? Why do you want it to be deleted ? Why do you want arbitrary power in the hands of the Provincial Government ? As for its being unnecessary, I thought that after the speech of the Leader of the Opposition, that no Statement of Objects and Reasons is considered by any court of law in interpreting a statute, this argument would not be repeated. But there are some who have eyes and will not see, and who have ears and will not hear.

Then, so far as clause (b) is concerned, the desirability of preventing the deterioration of valuable national assets in Indian railways, we have said in this House more than once that we have an amendment to replace this clause (b). I quite agree with my Honourable friend, Dr. Sir Ziauddin Ahmad, that we do not want to put in adjectives here, which may give rise to misunderstanding or ambiguity,—‘ valuable national assets ’ and all that. Our amendment is simply “ to promote road and rail co-ordination ”. I hope the House will accept it. Therefore, there is no argument to be based on the wording of clause (b). On the point of the desirability of preventing the deterioration of the road system, we had a learned discourse from Dr. Sir Ziauddin Ahmad as to the effects on the roads of speed and of weight. I quite agree that there may be

differences of opinion on that ; but I think the whole object of this clause is to enable the Provincial Government, with expert assistance, I believe, of road engineers and of motor engineers, to decide what will prevent the deterioration of the road system. On the whole, the clause as it stands puts restrictions on the discretion of a Provincial Government before they can exercise powers under clause (1) and clause (2) of this section. I do think that all those who are friends of motor transport.....

Dr. P. N. Banerjee : We are not friends of motor transport....

Mr. S. Satyamurti : I am very glad to have that assurance....

Dr. P. N. Banerjee : We are friends of our people and of our own country.....

Mr. S. Satyamurti : Yes, yes : and in the people of your country you include the exploiters just behind my Honourable friend's back. I quite see that day after day, and I am quite content to leave it at that. But, so far as the question of protecting the people of the country is concerned, I suggest that the Provincial Governments today, whatever their temporary political complexion may be, undoubtedly represent the people of this country far more than any of us here. They are responsible, representative, democratic governments, and we are giving this power to those Governments, and those Governments are asked to pay special regard to the development of motor transport and to the maintenance of the system of roads which are both necessary. Therefore, I repeat that all those who feel that this Bill may affect motor transport adversely ought to reject this amendment and keep the clause as it is, unless they want to produce a *reductio ad absurdum*. I oppose this amendment.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadian Rural) : Sir, the arguments on the amendment just moved seem to have carried an entirely different impression on a particular part of the House. I quite agree with the Honourable the Leader of the Opposition when he says that in construing a particular legislative enactment and in the administration of it the question of Objects and Reasons of the law never counts with the judge, and even the judges are debarred from taking into consideration what is contained in the Statement of Objects and Reasons given in a Bill before it is enacted into law. Equally it is true to say that even the debates of legislators relating to that particular enactment are not admissible for the purpose of proving the objects of the provisions. That is also admitted. But that leads further support to the argument in favour of this amendment. If in construing a particular statute the courts and lawyers are debarred from entering into the consideration of the Statement of Objects and Reasons given in connection with the particular Bill, why is it that in enacting the Bill into law, in connection with a particular clause, something more comprehensive than the Objects and Reasons is tacked on ? This is extremely unusual and is very seldom to be found. Of course my Honourable friend, the Leader of the Opposition, is an eminent lawyer and it is open to him to show on the floor of this House any legislation to which he can point his finger where, in connection with a particular section, a whole argument also has been embodied in the section, providing that particular judges or particular authorities, who may have to administer the law, should also know

[Pandit Lakshmi Kanta Maitra.]

the object for which that particular section of law has got to be administered. I say without any fear of contradiction that it is wholly unusual, unnatural and is not to be seen in any piece of legislation.

With regard to the argument of my Honourable friend, Mr. Satyamurti, for whom I have great respect, (interruptions)—yes I have great respect for him in spite of all he has said, I say that though he always swears by logic, he usually believes in one form of it, namely, logic of abuse. What is it that we are asked to do? This is an important matter on which we are honestly differing. The amendment he has referred to just now has not yet been moved. We do not feel sure, knowing their ways, if they will at all move it. It is not before the House. If it really comes before the House then I would be in a position to see if that amendment is better than the present clause. But while it is not before the House it is perfectly open to any one to move or not to move or to withdraw any of his own amendments. I have once been a loser in this House : on one occasion I moved an amendment and when I was almost convinced that the majority of the House was with me, I was made to withdraw it because I was given to understand that that particular proviso to which I moved the amendment would be deleted the next morning. But the next morning that particular amendment was not moved. With that experience before me, how does my Honourable friend tell me, before the amendment is moved, "We have put in an amendment which is far more reasonable : why do you not accept it"? Sir, in support of his argument, my Honourable friend, Mr. Satyamurti, says "you have no eyes. you have no ears and you have no brains and no logic". I congratulate my Honourable friend for having a combination of all these things in a superabundant measure. I am very sorry to have to speak in this way but I find that my Honourable friend is over-stepping the limits of decency. The purpose of the amendment is simple. We do not want to create any bias in the minds of authorities in favour of the Railways and against the Motor Transport Industry. It will appear that the sub-clauses (b) and (c) are worded in such a manner that if they are allowed to remain, they are likely to influence the opinion of the transport authority in an adverse direction against motor transport. "Having regard to the advantages given by the motor transport industry", is far too mild compared to the second sub-clause which says 'the desirability of preventing deterioration of valuable national assets in the shape of railways'. The very phraseology of this will influence the judgment of the transport authority against the motor transport, because it is couched in very strong language in favour of the Railways. There is the expression "national", there is the question of "assets", there is the question of "desirability of preventing deterioration of these valuable national assets" and all that. So if we really want that the Provincial Governments, having regard to all the facts and circumstances of the country, should come to an impartial decision that certain changes are necessary, why should we put in these three arguments in the clause itself? This is why I support the deletion.

Some Honourable Members : Sir, 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 in sub-clause (1) of clause 42 of the Bill, all the words beginning with the words ‘ having regard to ’ and ending with the word ‘ and ’, occurring in the tenth line, be omitted.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : I do not know whether Mr. James wishes to move his amendment or withdraw it.

Mr. F. E. James : Sir, I understand that Mr. Brojendra Narayan Chaudhury wishes to move his, and if it is going to be supported by my friends, I would withdraw my amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Honourable Member the leave of the House to withdraw his amendment ?

Several Honourable Members : Yes.

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

Maulvi Abdur Rasheed Chaudhury (Assam : Muhammadan) : Sir, I wish to.....

Mr. President (The Honourable Sir Abdur Rahim) : I am afraid I overlooked some of the amendments on the supplementary list.

Dr. P. N. Banerjea : I should like to move No. 6 on supplementary list No. 8.

Mr. President (The Honourable Sir Abdur Rahim) : Certainly.

Dr. P. N. Banerjea : Sir, I beg to move :

“ That in sub-clause (1) of clause 42 of the Bill, for the words ‘ A Provincial Government ’ the words ‘ The Central Transport Council ’ be substituted.”

Sir, only a few minutes ago I pointed out that a Provincial Government was not competent to undertake the work of co-ordination between railways and motor transport, and I urged several arguments in support of my proposition. I need not repeat all those arguments now, but I should like to say once again that a Provincial Government is handicapped in various ways. In the first place, it is not a disinterested party ; in the second place, it does not possess power of control even over all the different forms of transport, and in the third place, it has not got complete control even over road transport. Sir, therefore, I suggest that the power of prohibiting or restricting the goods or passenger traffic on any route or in any area and also of fixing the maximum and minimum fares should be given to an authority which will be able to control all the different forms of transport.

Sir, I have tabled an amendment which seeks to define the Central Transport Council. I will move that amendment when the definition clauses are taken up. All I suggest now is that on this Central Transport Council the Provincial Governments and the Central Government

[Dr. P. N. Banerjee.]

should be represented, so that questions relating to railways and motor transport would be considered simultaneously and the interests of neither category of Government would be ignored. I am not quite insistent on the composition of the Council as mentioned in my amendment. I have mentioned in my amendment that the Council should consist of 14 members, of whom 11 should represent the provinces and three should represent the Central Government. If the present amendment of mine is accepted, I would agree to a modification of the words of the amendment in the way desired by my friends when I move it in connection with the definition clauses. Sir, the advantages which my amendment will have over the clause inserted by the Select Committee by which the Provincial Governments are vested with powers to prohibit or control and to fix maximum and minimum fares are obvious, and they are these : The Transport Council will consider the interests of the Railways as also the interests of road transport, they will be able to consider simultaneously the views of the Provincial Governments as well as the views of the Central Government. Thus, they will be able to arrive at decisions which will be better than the decisions of the Provincial Governments. The Provincial Governments will have no right to fix the maximum or minimum fares on the railways, nor will they have any right to suggest that a particular railway line should be scrapped. The Central Transport Council will have this right, and it will also have the right to co-ordinate road transport as between two Provincial Governments. Sir, even with regard to road transport, the powers of the Provincial Governments are very limited. There are bus services between Bengal and Bihar. Now, how are these to be controlled by the Provincial Governments ? If any question of prohibition or restriction arises or if the question of fixing maximum and minimum fares arises, who will decide,—the Bihar Government or the Bengal Government ? Then, there is this further difficulty that each Provincial Government will look at the question from its own point of view and will not have before it the view points of the other Provincial Governments. This is so far as road transport is concerned, and as regards the railway fares and the facilities given by railways the Provincial Government will have no power to control or regulate in any way. Therefore, this amendment should commend itself to the Government and I hope it will be accepted by the House.

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

“ That in sub-clause (1) of clause 42 of the Bill, for the words ‘ A Provincial Government ’ the words ‘ The Central Transport Council ’ be substituted.”

The Honourable Mr. A. G. Glow : I gave the arguments against this amendment briefly in speaking on the previous amendment to omit the whole clause, and I need hardly develop them now. Apart from the constitutional objections I said that there were practical objections. This is a matter in which the constitution entrusts the executive authority to the provinces and I suggest that it would be wrong for us to set up without the consent of any of the provinces an authority of that kind even if under the constitution they were able to discharge the functions which Professor Banerjee is going to entrust to them.

1 P.M.

Dr. Sir Ziauddin Ahmad : There are two points. One is whether we should have a Central Transport Council or not. It is not provided in the Bill as it now stands and I have given notice of an amendment which is not in the supplementary list but it is coming later on. In that amendment I have proposed that a central transport authority ought to be established and I have outlined a constitution on the lines similar to one provided in Part III of the British Act of 1933. Never mind about the constitution of the central transport authority, we will discuss it when the time comes. But what I would like to say, on this occasion, is that as far as the internal administration of the provinces is concerned, the jurisdiction of the provinces and their decisions are final. We do not contest that, but suppose there are certain questions which are inter-provincial questions, then who is going to decide? Take this case. Suppose a permit is given to a transport between Lahore and Patna, and the Punjab Government at one end and the Bihar at the other are agreeable, but that the United Provinces Government say, no. Who will decide in that case? I would ask Government before they oppose this amendment altogether, how they visualise in their mind in what way such inter-provincial questions will be solved. You need not agree with this amendment, nor do I agree with it either, but the problem is there. What should be the authority, what would be the method of solving such inter-provincial questions? And I think the Government and the framers of this Bill must have visualised in their minds as to how that should be dealt with. Not content with merely saying no to this amendment, they should state on the floor of this House how these inter-provincial questions and difficulties will be solved.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : I should like to say a few words as to how this amendment, if carried, would defeat its own purpose. The Honourable the Mover of the amendment thought that by setting up such a Central Transport Council, the activities of the railways, their methods, the existing inconveniences of the railway system, the absence of facilities could all form the subject-matter of deliberation by this Transport Council. At the outset I would like to remind my Honourable friend, that whatever we might do in this Motor Vehicles Bill cannot affect the railways in the least. It will be beyond the scope of this Bill to constitute such a Transport Council, which can, on the one hand, fix maximum and minimum fares for the railways and, on the other, also fix maximum and minimum fares for the road transport. It is absolutely beyond the scope of this Bill and, therefore, it is out of the question here. I would very much wish such a transport council as the Honourable the Communications Member said does exist in England, where it is a centralised Government and there is one Minister in charge of both communications, that is, the railways and the road. Unfortunately or fortunately here, in this country, roads have become a provincial subject and the Provincial Government alone has exclusive jurisdiction over it. No doubt, so far as the motor traffic is concerned, it is in the concurrent list, but it will be beyond the scope of this Bill to introduce such a provision. Therefore, let us understand, at the outset, what is the scope of the activities of the central transport council as is envisaged by the Honourable the Mover of this amendment. It will have nothing to do with the railways. The railways, even if the trans-

[Mr. M. Ananthasayanam Ayyangar.]

port council should come into existence, can be quite free to play ducks and drakes with the passenger traffic and the trade of this country. Therefore, this does not serve any purpose. The other purpose for which this transport council is intended, both according to my Honourable friend the Mover and also Dr. Sir Ziauddin Ahmad, is not also going to be served for this reason. But even if it is going to be served, such a costly machinery as is sought to be set up is not necessary, for this council will have very little work to do. Only in cases where motor traffic is sought to be taken from one province beyond its limits to another province the council will be useful, but such cases will be rare. There are provisions in the Bill itself where it is possible for one service if it is on the borderland between one province and another—it can easily, in advance, write to the provincial transport authority, or the regional transport authority if it wants to confine itself to a particular region in the other province, it can write to it in advance, and along with the other motor owners if it wants to ply its buses, it is open to that authority to weigh the relative advantages, and if it is advantageous, certainly it will allow inter-provincial transport of this kind and won't refuse the application. Another point is this. In the various provinces the taxation of motor vehicles is entirely provincial, and the rates of taxation are different, and by a central authority of this kind you cannot regulate the taxes that each Provincial Government is entitled to get. Therefore, besides merely having for our own satisfaction a central transport council, we would not have the substance of what we are agitating for by means of this transport council. All the rights and privileges of allowing a motor transport to run to another province are not entrusted to its hands. Again, unlike the Provincial Government which is a constitutional authority, we do not yet know who the persons will be that will constitute the transport council. Far from supporting they will defeat the very object which we have in view. In the transport council I am sure the Central Government will have weightage. A large number of nominees of the Central Government will sit as a dead weight against the provinces. They will, therefore, have a greater interest in the railways than the Provincial Governments.

Dr. P. N. Banerjee : You can constitute the council in such a manner that it will benefit the provinces. That will depend on you.

Mr. M. Ananthasayanam Ayyangar : The road system is a provincial subject and, if the rights and privileges of the Provincial Governments are entrusted to the transport council, the transport council will certainly be guided to a certain extent by the Central Government.

Dr. P. N. Banerjee : On a point of personal explanation. I did not suggest that. I suggested that powers should be given only under this clause, not under any other clause.

Mr. M. Ananthasayanam Ayyangar : My Honourable friend evidently did not mean what he said. The object with which this amendment has been moved is certainly different from what my Honourable friend would see, if he had realised the full implications of it. I am not attributing any motives to my Honourable friend. All I am suggesting is that this amendment is absolutely useless. Far from supporting the

road system, this will act as a dead weight against it. When he went into the lobby along with the Mover for the deletion of clause 42, I could certainly understand his action. He thought that this Bill ought not to have anything to do with co-ordination of road and rail. If he wants to be consistent, he must certainly see that the Provincial Government, which is in charge of the road communication, must be allowed a free hand. Instead of doing that, he is trying to bring into existence a central authority which will take away the powers of the Provincial Government, with no advantage to add. If along with entrusting the central transport authority with powers over the roads, he is also able, by this amendment, to bring power to the central authority over the railways also, I will certainly, whatever might be the attitude of others, walk into the lobby with him but this central authority which he will bring into existence has no such power. There need be no delusion on that matter. So far as possible, we should move in accord and try to get as much out of this Bill as possible and I suggest that this amendment, if adopted, would defeat its very purpose.

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

“ That in sub-clause (1) of clause 42 of the Bill, for the words ‘ A Provincial Government ’ the words ‘ The Central Transport Council ’ be substituted.”

The motion was negatived.

Maulvi Abdur Rasheed Chaudhury : Sir, I move :

“ That in sub-clause (1) of clause 42 of the Bill, after the words ‘ Provincial Government ’ the words ‘ with the consent of its Legislatures ’ be inserted.”

We have seen that this clause 42 is a very contentious one. Debates have been going on for days over this clause, and the last division has clearly shown that neither the Government nor their supporters could satisfy everybody in this House.....

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

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

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

Mr. Deputy President (Mr. Akhil Chandra Datta) : **Maulvi Abdur Rasheed Chaudhury**.

(The Honourable Member was absent from his seat.)

Mr. Brojendra Narayan Chaudhury.

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

“ That for part (b) of sub-clause (1) of clause 42 of the Bill, the following be substituted :

‘ (b) the desirability of co-ordinating road and rail transport ; ’.”

Sir, great apprehensions have been expressed in certain sections of this House that the effect of this item (b) will be that in the name of co-ordination a great deal of weightage will be given to the Railways

[Mr. Brojendra Narayan Chaudhury.]

and that the Railways will be given facilities for domineering. Personally, I am of the view that the best co-ordination would be to leave things to nature—which my Honourable friend, Mr. Mitchell, would call a *laissez faire* policy.....

Mr. K. G. Mitchell (Government of India : Nominated Official) : I would.

Mr. Brojendra Narayan Chaudhury :and the necessary co-ordination could be made also by means of negotiation,—as I showed during the general discussion,—which the Railways are even now doing with bus and between Railways and the river steamship companies. But we have, by accepting the motion for consideration of the Bill, committed ourselves at least morally to making some provision for co-ordination between road and rail. I will examine first how the wording of the present item will operate. It says :

“ the desirability of preventing the deterioration of the valuable national assets in Indian railways.”

I take the word “ deterioration ” first. My friend, the Honourable Mr. James, said something about that word and his apprehensions about it. I concur with him. The word “ deterioration ”, I say, does mean any loss caused to the Railways by whatever means. It will bring into the purview of this section losses which would be incurred by the branch lines and by wasteful, and top-heavy expenditure which are believed to be uneconomic ! Now, I would refer Honourable Members to the report of the Honourable Mr. Mitchell and the Wedgwood report about these losses. It would bring into the orbit of action by a Provincial Government to save those branch lines from being scrapped because they are suffering ‘ deterioration ’ or loss.

An Honourable Member : Why not ?

Mr. Brojendra Narayan Chaudhury : Because the meaning of “ deterioration ” in the matter of finance is “ loss ”. Just at present, we know, that the Honourable Member for Communications is considering the necessity of scrapping some branch lines and I put it to him whether, if this clause is passed as it is, he would not be encouraged to go to the Provincial Governments under this item to stop virtually all lorries and all buses on competitive routes so as to save the branch railways. Then there is another objection to this word “ deterioration ”. Now, deterioration might mean deterioration of engines, permanent-way and many other things which should not be considered in co-ordinating road and rail. Next I come to the words “ valuable national assets ”. These three words “ valuable national assets ” really give the object and reason for co-ordination. It is a little strange that they should find a place in the Bill itself. It is something new, and, moreover, its effect will be to mislead Provincial Governments into giving undue weightage. Next we come to the words “ Indian railways ”. This nice red report by the Railway Board, which Honourable Members have seen, contains a list of Railways that are technically called “ Indian railways ” and in that list I find not only State railways, company-managed railways, private-owned railways in British India but also railways in the Indian States. Not only that, I find in that list two

foreign railways. I ask whether my Honourable friend, the draftsman of this clause is going to save these foreign French railways also from deterioration. Well, Sir, as a Congressman I would certainly welcome it, i.e., the word "Indian", which includes the French Railways, if it were not detrimental to the interests of the road services which run close to the border of Pondicherry and other French Possessions. My meaning is this. I can quite conceive of the Madras Government having a secret object in placating the French authorities and entering into a secret alliance with the French Government for the purpose of fighting the British Government when the time came. Had I been in charge of the Madras Government, I might be tempted to take advantage of this clause to have a secret alliance with the French Government. Now having shown the effect of item (b) in giving a preponderating undue weightage to the Railways, let me examine the exact meaning of the wording I propose, viz. :

"the desirability of co-ordinating road and rail transport ;".

There are three things to be considered by the Provincial Government. The first is item (a), the advantages offered to the public by the development of motor transport. The idea is to bring to the attention of the Provincial Government the advantages of road transport, and then there is besides (b) the last item (c) :

"the desirability of preventing the deterioration of the road system."

At first sight it seems to refer to some benefit accruing to the road system and in favour of road, but in the case of a slack Provincial Government which does not agree for some reason or other to improve roads and which is normally handicapped in the matter of finances in improving roads, this clause might be an excuse not only for not improving the roads but for prohibiting heavy lorries on roads on the ground that they cut up the roads. So this item (c) is in favour of railways. Sir, I find I have made a great mistake. Instead of substituting the new phrase for (b) only as I now propose, I should have substituted my item for all the three, (a), (b) and (c). That would have been better. Sir, co-ordination includes really all these three items. What does co-ordination mean? Co-ordination does not mean that because we have to spend much on the upkeep of the metalled roads, the Provincial Government should not improve the feeder roads. That was the impression I got from the speech of the Honourable Mr. Mitchell if I heard him aright. It does not also mean what the Honourable Sir Thomas Stewart said on the first discussion of this Bill, namely, that he wants the buses on parallel roads to go to the feeder roads though there are no sufficient feeders. Co-ordination has best been explained by the Honourable Mr. Clow today. It is an arrangement for gradually taking over all the transport from the railways by the motor transport. I think, it will be admitted by this House, that the motor transport is a more advanced form of travel and so we must be prepared for the contraction of railways. By co-ordination, what is meant is that the impact with buses and lorries should not paralyse the railways. Let the antiquated old man die gradually and not be killed by a shock. Now, as regards co-ordination, we cannot say at what particular time what steps a particular Provincial Government will take. Sir, the railways and the roads are really the sons in the same household and we must leave it to the papa

[Mr. Brojendra Narayan Chaudhury.]

the Provincial Government as we have chosen to co-ordinate them as suits the occasion. As I am being worried by the Whip to bring my speech to a close, I commend my motion to the House and I hope it will be accepted unanimously.

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

“ That for part (b) of sub-clause (1) of clause 42 of the Bill, the following be substituted :

‘ (b) the desirability of co-ordinating road and rail transport ; ’ ”

The Honourable Mr. A. G. Clow : Sir, I understand that this amendment is very generally acceptable to the parties opposite and I do not, therefore, propose to waste the time of the House by setting out in detail arguments against it. I would only say that, speaking personally, I prefer the clause in the Bill. That is not so much because it contains a reference to ‘ the valuable national assets ’, although I do not think we need be ashamed of that, but because co-ordination seems to me a much vaguer phrase. My Honourable friend, the Leader of the Opposition, speaking last night said, I think, that there was very little practical difference between the phrase which is now proposed to be substituted and the one in the Bill. On the other hand, I was a little staggered to hear the Mover of the amendment saying that my description of co-ordination was the gradual taking over by motor transport of business from the railways. That is not my idea of co-ordination. If I thought that was really what the phrase meant in the amendment, I should oppose it even more strongly than I do.

Mr. Bhulabhai J. Desai : It means what it says and not what he says.

The Honourable Mr. A. G. Clow : I am only illustrating to show what different meanings can be attached to this rather cryptic word.

The only other point I wish to deal with is the argument that there should be no statement of objects and reasons in the clause. This is a suggestion on which the Mover of the amendment was misled by Professor Banerjee. If he had taken the trouble to look at clauses 46, 49, 52 and 54, he would have found that other authorities are charged to have regard to various considerations, but nobody suggests that these are statements of objects and reasons which should appear elsewhere.

Pandit Lakshmi Kanta Maitra : Sir, I rise to support the amendment moved by my Honourable friend, Mr. Brojendra Narayan Chaudhury. If we are going to support this amendment, it is because it represents a compromise of convenience and not an ideal of justice. The Mover in the course of his speech simply agreed with me when he said that he did not like these parts of the clause to remain. As a matter of fact, our objection to the retention of these reasons in the clause still subsists and we lend our support to the amendment because we believe that this is a more inoffensive phraseology than the one in the Bill. My Honourable friend, Mr. Clow, might think that the phraseology of sub-clause (b) would meet his purpose well, but the retention of this, as has been indicated to the House earlier, would

weigh heavily in the minds of the authorities against the motor transport. My Honourable friend, Mr. Clow, also suggests that there are reasons given in certain succeeding sections which make the position perfectly clear. I believe he was unconsciously supporting my argument for the deletion of at least sub-clause (3) because, in the succeeding clauses 53 and 54, the authorities are given a power while granting a licence to take into consideration the condition of the roads and the general road system. So, the retention of sub-clause at least (c) is absolutely unnecessary and redundant. However, when the Honourable Mr. Clow does not see any objection to it, we, on this side of the House, accept it as the next best that can be had in the circumstances.

Mr. M. Ananthasayanam Ayyangar : Sir, I wish to say only a few words on this amendment. Much surprise is expressed at the inclusion of the terms as set out in sub-clauses (a), (b) and (c) of sub-clause (1) of clause 42 where grounds are set out which are to be taken into consideration by a Provincial Government before it takes action in general or in particular restricting or prohibiting the service on a particular route or routes.

Pandit Lakshmi Kanta Maitra : A Provincial Government will be hammered into taking this into consideration irrespective of whether it is theoretically controlled by the Central Government or not.

Mr. M. Ananthasayanam Ayyangar : I shall presently show as to which side the hammer will hit the hardest, whether from the people of the provinces or from the Central Government if the provision is allowed to stand. The other objection which was raised at an earlier stage was that this is a sort of preamble or something of the nature of the statement of objects and reasons, that it is novel and that it has no precedent. I would immediately refer to section 72 of the Road Traffic Act of 1930. Now, Sir, the amendment seeks to carry out and introduce that language which is used in that section itself. Section 72 relates to the considerations or matters which have to be taken into consideration by the Traffic Commissioners before a road service permit or license can be given. I crave the indulgence of the House to read that section : Section 72 (3) says :

“ The Commissioners shall not grant a road service licence in respect of any route if it appears to them from the particulars furnished in pursuance of sub-section (5) of this section that the provisions of Part I of this Act relating to the speed of motor vehicles are likely to be contravened, and in exercising their discretion to grant or to refuse a road service licence in respect of any routes and their discretion to attach conditions to any such licence shall have regard to the following matters.”

The only difference is that the following matters have been put in advance here and what they have to do and the discretion comes later on in our Bill. Except that I cannot see any difference between that Act and the present Bill. Sir, part (d) of section 72 (3) of the Road Traffic Act, 1930, says :

“ the needs of the area as a whole in relation to traffic (including the provision of adequate, suitable and efficient services, the elimination of unnecessary services and the provision of unremunerative services,) and the co-ordination of all forms of passenger transport, including transport by rail.”

I ask, Sir, is this a novel thing ? Persons who have been of course used to interpret the laws as they have been passed have also made a slight mistake in this matter in this House. The preamble of the Bill is

[Mr. M. Ananthasayanam Ayyangar.]

also to be taken into consideration to understand the scope and the object of a Bill. No doubt the Statement of Objects and Reasons does not form part of a Bill. But when once any matter forms part of the Bill, the interpretation of the rules requires that they also should be taken into account in interpreting the Bill as a whole, or, if it forms part of a section, then to understand that section. Therefore, Sir, it is legitimate and proper that these grounds should stand in sub-clauses (a), (b) and (c) of clause 42 (1). The objection of my Honourable friend, Pandit Lakshmi Kanta Maitra, is that in clauses 53 and 54, there are various considerations set out regarding the permits that have to be given to road transport vehicles as public carriers carrying goods. Why then is a repetition here? It is redundant. I would immediately ask my Honourable friend to refer to the powers conferred on the authorities that have been created to exercise powers under these clauses. Clause 42 relates to Provincial Governments prescribing certain routes and prohibiting service on particular routes. So far as clauses 53 and 54 are concerned, these authorities cannot have the general rights and privileges which are conferred upon the Provincial Governments. The Provincial Governments provide for the whole province for laying routes. Certain general directions are given. So far as the transport authority is concerned, it acts within the area or the region....

Pandit Lakshmi Kanta Maitra : I am afraid my Honourable friend has misunderstood me. If clauses 53 and 54 give certain powers to regional authorities they will take all the facts into consideration, therefore, the whole province will be governed virtually by the decisions of the regional authorities who will take into account the routes, the necessity of the number of vehicles and the difference in rates and so on.

Mr. M. Ananthasayanam Ayyangar : It is not open to the regional authority to prohibit service upon a particular route and to say that such and such a route shall not be open. If four persons apply for a permit, it is open to the regional transport authority to say that "I prefer 'A' or 'B' and that I shall restrict the traffic to one man because I am of the opinion that the road cannot bear the four traffic". These are the restrictions which the regional transport authorities can impose. My Honourable friend evidently does not know who are those blessed beings that are now constituting the regional transport authorities. You are not going to have a better authority than the Provincial Government who can be trusted to lay down rules for the whole province. I submit that a small regional transport authority cannot look beyond its nose and I am not able to see the wisdom of clothing such a small regional authority with such vast powers. I, therefore, think that the Provincial Government should be empowered to do many more things than the regional transport authority could exercise. That is where distinction is made between clause 42 and clauses 53 and 54. It is not a preamble, it is part of the section which is one of the relevant considerations and which is the basic foundation for action later on. If the amendment is accepted we will be giving a blank cheque to Provincial Governments which is exactly what Honourable Members want to avoid even in the case of Congress Governments. They have gone the length of saying that they have no confidence in Congress Governments.....

Pandit Lakshmi Kanta Maitra : We never said that at all. We have full confidence in Congress Governments though they may err at times.

Mr. M. Ananthasayanam Ayyangar : Then to that extent there is no objection to accept that the Provincial Governments should have this authority which is part and parcel of the Bill.

Mr. K. G. Mitchell : I only wish to move with your permission, Sir, and with the concurrence of the Honourable the Mover that the word "and" should be added at the end of the amendment.

Mr. Brojendra Narayan Chaudhury : I accept the alteration.

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

"That for part (b) of sub-clause (1) of clause 42 of the Bill, the following be substituted :

'(b) the desirability of co-ordinating road and rail transport ; and '."

The motion was adopted.

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

"That at the end of part (c) of sub-clause (1) of clause 42 of the Bill, the word 'and' be added, and, after the part, as so amended, the following new part be inserted :

'(d) the desirability of prevention of uneconomic competition of motor vehicles '."

With your permission, Sir, I should like to make a slight amendment, that is, in the place of "of motor vehicles" I should like to say "among motor vehicles".

Till now, Sir, there was an air of suspicion that the Bill sought to regulate motor traffic as opposed to railways. But, now, Sir, I come to the regulation of motor traffic within itself. It is my experience that in this competition of motor vehicles, many have suffered and many families have been ruined. There is today in many routes a lot of uneconomic competition. If support were necessary for this position, I should like to read from page 42 of the Opinions, Paper No. III :

"Competition on the roads which is not so much between the railway and motor vehicles but between owners of the motor vehicles, has certainly reached a stage when it can be called uneconomic. It is admitted by the owners that the margin of profit on the rates levied by them is extremely small. Many of the services which come into operation for the first time usually run at a loss in order to capture traffic from other buses. There can be no question that the road services are overcrowded and require regulation in their own interest."

I should like to point out to the House a few facts which have been gathered by Dr. D. R. Gadgil and Mr. L. V. Gogate, who, on page 100 of their book, called "A Survey of Motor-Bus Transportation in Six Districts of a Bombay Presidency", point out that among the bus services running in that area there have been only 8 which have been continuing to run for 7 years, 7 for 6 years, 12 for 5 years, 19 for 4 years, 29 for 3 years, and 35 for 2 years. From this they deduce that there are not many companies which have been con-

[Mr. T. S. Avinashilingam Chettiar.]

tinuing to run and continuing to make profits, and they make the following deductions :

" It is obvious, however, that regulation is no less necessary from the point of the bus transportation industry itself and that without outside regulation there is little hope of any order being established therein. It is useless to expect that the operation of pure competition will some time eliminate all the weak elements and leave others in an economic position ; for, the supply of new, ill-informed, incompetent of ill-equipped entrants is continuous. It is no doubt difficult to give a definite meaning to such phrases as ' the existence of wasteful competition in the industry '. These are things that cannot be directly proved. We believe, however, that our investigation into the profit-making capacity of the industry, the ruling rates of fares, the business units, the turnover of owners in the industry, etc., substantially supports the statement that the business is at present uneconomically organised and that this state of affairs could be changed only by means of outside regulation."

And so for the very existence and efficient running of the motor transport industry, regulation is necessary. I want this to be added to clause 42 as sub-clause (d). Sir, I move.

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

" That at the end of part (c) of sub-clause (1) of clause 42 of the Bill, the word ' and ' be added, and, after the part, as so amended, the following new part be inserted :

' (d) the desirability of prevention of uneconomic competition among motor vehicles '."

The Honourable Mr. A. G. Clow : Sir, I see no objection to this amendment which carries out what undoubtedly was one of our professed objects, to try and restrain the cut-throat competition which has caused so much loss to persons engaged in motor transport. I would merely like to suggest, with your permission, to the Honourable Member that in place of the words " prevention of " he might use the word " preventing ", because that is the word we have used in (c) as it is now.

Mr. T. S. Avinashilingam Chettiar : Sir, I accept it.

Pandit Lakshmi Kanta Maitra : Sir, I am sorry to have to oppose this amendment for the simple reason that I consider it absolutely unnecessary. For the reasons given by me in connection with the two previous amendments, I do not want to make another addition to the three parts already accepted by this House. This is a matter relating to permits to be given to certain applicants. The whole question has to be considered by the authorities giving permits as to whether a few more buses or a few more lorries would be allowed on the road ; and all these relevant matters will have to be carefully gone into by the authorities before issuing permits. The attention of my Honourable friend may be invited to clause 47 (1) (a) and also to the general provisions of clauses 54 and 55 which deal with the subject-matter of the granting of permits. I, therefore, submit that the present amendment does not fit in with this and the three parts (a), (b) and (c) which have been passed by this House lay down in clear terms the policy of co-ordination and the relevant considerations that have to be gone into by the Provincial Governments. I, therefore, think that the present amendment is a misfit with this. This matter has been provided for quite adequately in clauses 47, 54 and 55. Sir, I oppose.

Mr. K. Santhanam (Tanjore *cum* Trichonopoly : Non-Muhammadan Rural) : Sir, I want to make only one point. The regional and provincial transport authorities have not been given the power to fix maximum and minimum fares in any of the later clauses. These powers were given in the original Bill. They were deliberately taken away by the Select Committee, and, therefore, though in clause (a) also uneconomic competition might be considered to be covered, what my Honourable friend, Mr. Chettiar, has done is to put it explicitly. Therefore, I think the amendment may be accepted.

Pandit Lakshmi Kanta Maitra : Do you not think co-ordination covers all that ?

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

“ That at the end of part (c) of sub-clause (1) of clause 42 of the Bill, the word ‘ and ’ be added, and, after the part, as so amended, the following new part be inserted :

‘ (d) the desirability of preventing uneconomic competition among motor vehicles ’.”

The motion was adopted.

Mr. F. E. James : Sir, I move :

“ That part (i) of sub-clause (1) of clause 42 of the Bill be omitted.”

I do not want to repeat any arguments that were previously used. All I have to say is that our opposition to this has been rendered all the more strong by the amendment which has just now been accepted. The rapid acceptance of that amendment leaves me astonished. Sir, I move.

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

“ That part (i) of sub-clause (1) of clause 42 of the Bill be omitted.”

Maulvi Abdur Rasheed Chaudhury : Sir, I rise to support this amendment. This sub-clause may be called the strangulation of motor transport. This is the main clause on which the main discussion on this Bill has been centred. This very thing has been discussed in the preliminary stage on the motion for referring the Bill to Select Committee, and, again, when the report of the Select Committee was taken into consideration. The clause has been discussed in so many ways that, in spite of all the arguments put forward by the Government and their supporters, a good portion of this House remains unsatisfied that the Government have really made out a case for inserting a clause of this nature in the Bill. This is the prohibition or restriction clause if I may so call it. Under this, the Provincial Governments are under certain circumstances given unusual powers to strangle motor transport. In the preamble of clause 42, if I may so call it, certain circumstances have been put in under which a Provincial Government can exercise their power of prohibition or restriction. A good deal has been said about those circumstances and so I need not repeat what has already been said. But, after all this discussion, I have come to the conclusion that this clause is being carried through simply by an appeal to our patriotic sense that the railway is a national asset. The other condi-

[Maulvi Abdur Rasheed Chaudhury.]

tions put in are simply to conceal the bare truth that this clause is intended only for the sake of giving help to railway transport. So the other conditions may be brushed aside without saying a word. We now come to the question of rail-road co-ordination. A good deal has been said that there cannot be any co-ordination between motor transport and rail transport.

The Honourable Mr. A. G. Clow : Sir, on a point of order : we have dealt with rail-road co-ordination in clause (b) which we have just amended. This clause is one relating to purely maximum and minimum rates.

Honourable Members : No, no.

Maulvi Abdur Rasheed Chaudhury : So, in the name of false patriotism, this clause is being rushed through by the Government with the help of their supporters. There is really no case proved by the Government that the giving of such extraordinary powers to the Provincial Governments is a necessity.

Now, let us see what will be the effect of this. We may depict motor transport as having two limbs. This prohibition is intended, not only to cripple motor transport, but to kill it limb by limb, if necessary. We should bear in mind one fact that the motor transport is a new thing in India and it has not yet reached its full development. If we keep this in mind, we find that motor transport has not yet done any injury to the railways. The railways have really to stand on their own legs for support. The Railway Department has to undergo a good deal of reform in order that it can compete with motor transport. First of all, this top-heavy Department requires to be changed. It has to be run on an economic basis. That is not being done at present. This is why the supporters of the railways are now appealing to the country to make enactments in order to save the railways. Railway travel now is not a very attractive one. Motor transport is quicker and cheaper. Under the circumstances, if the railway is to survive, it will have to make a good deal of reform in its system. That was the case a few years ago with the Calcutta Tramways ; but what have the tramways done ? They have improved their system in such a way that a good portion of the travellers have got a taste now to travel only by tram, and not by motor transport. If the Railway Department carry out reforms, if they supply more amenities to third class passengers, if they give more support to our national industries by reducing the freight and other things, I am sure, the railways will be able to maintain themselves. This is not done. The railway is taking refuge under this enactment in order that the Provincial Governments may strangle the motor transport for the sake of keeping the railways alive.

Now, so far as the exercise of this power by the Provincial Governments is concerned, we have got to see a few points. Every Provincial Government is now dependent on the Central Government for more than one thing. Every Provincial Government is hard up so far as their finances are concerned, and every Government looks up to the Central Government to give them more support by giving more petrol

tax, by giving more jute duties, and so on. Under the circumstances, if the Central Government desire that the Provincial Government should take certain steps against motor transport, I do not think any Provincial Government will be able to exercise their power without being influenced by the Central Government.

Then, Sir, with due respect to the Members of the different Provincial Governments, we have still got in us some weaknesses which we cannot overcome. A word from my friend, Mr. Clow, or a laugh from my friend, Sir James Grigg, will be sufficient to influence many of us, whatever may be our inclinations.

Some Congress Members : Not with us.

Maulvi Abdur Rasheed Chaudhury : These are the considerations which should be borne in mind, and I think the House should rise to the occasion and see that so wide a power is not given to the Provincial Governments. Sir, I support this.

Pandit Lakshmi Kanta Maitra : Sir, I rise to support this amendment for the deletion of part (v) of sub-clause (1) of clause 42. This, I believe, is the most mischievous sub-clause, and, if I may say so, it is the plague spot in the whole Bill. If it is passed into law, it will serve as a most powerful weapon in the hands of the authorities, not only to cripple the motor transport system but also to interfere with the trade and industries of the country. So great are the potentialities of mischief of this sub-section that I need only point to certain expressions in it like 'Prohibit', 'Restrict', and so on. They will give enormous power to those administering this sub-clause to do plenty of mischief. In the first place, it can prohibit throughout the whole province the conveyance of long distance goods traffic. Long distance traffic has not been defined, it has been left vague so far, and it is extremely doubtful if "long distance traffic" can at all be clearly defined, because it will vary according to particular circumstances and conditions prevailing in particular provinces, particular regions and particular areas. In the second place, it seeks to prescribe certain classes of goods or commodities which alone can be carried by the Motor Transport Agency, and it gives power to direct which classes of goods only can be carried even by private carriers. There are so many things involved. In the first place, it can prohibit long distance traffic generally,—long distance traffic is another contentious subject,—then it can prescribe certain classes of goods that only can be carried by Motor and not all classes of goods, and then, Sir, even the owners of the private carriers may not be permitted to exercise their right of conveying all their goods by their own transport agency. Sir, I must admire the ingenious brain which could devise to press within such a small compass as this section such tremendous potentialities of mischief to the whole country. It is difficult to conceive that in such a minimum of space such a maximum of danger and mischief could be concentrated or squeezed in.....

Mr. Sri Prakasa : That is why they are called Satanic.

Pandit Lakshmi Kanta Maitra : If that is so, Sir, I feel that it is my duty to oppose, step by step and inch by inch, every part of this obnoxious sub-section of this clause, and if we fail in this, we shall at least have the satisfaction of having fought this menace to our ut-

[Pandit Lakshmi Kanta Maitra.]

most power. Sir, enough has been said already on this matter of Rail and Road competition and I do not want to go into the question once again. As to whether long distance traffic by public carriers should be permitted or not in the interests of the Railways, as to whether all classes of goods should be permitted to be carried or not a good deal may be said on either side. But I want to ask my friends who want to support this sub-clause,—what sense is there in telling the owner of a private carrier that he shall not be permitted to carry his own goods to a place where he wants them to be carried? Secondly, who is there to tell him that he is to carry only particular classes of goods specified in the permit and not any others? Why should you be empowered to lay down specifically in the permit that such and such classes of goods alone can be carried by private carriers? Supposing some of us start a sugar factory, a joint stock concern, and we maintain a fleet of buses or lorries for conveying raw materials and furnished produce to and from our factory. Would you note down in the permit that the lorry or bus is permitted to carry only sugar cane? If I require bleaching lime or other chemicals, if I require gunny bags, you cannot tell me that I must go to the Railways to carry them for me. It is, Sir, crass stupidity, to say the least of it. If anybody means to do real good to the country, let him not merely go on indulging in all kinds of pretensions and professions but stand up against it. It is really a matter which more seriously concerns our men who are in trade and industry than anybody else. It is not a case where you are simply befriending the cause of motor people. You are directly interfering with the country's right to establish and utilise an alternative mode of transport. The Railways in this country are a monopolistic system, and, therefore, we cannot support all the claims of any monopolistic concern. That is a consideration which weighs with me, but the consideration of trade and industry is uppermost in my mind. Sir, the way the Railway authorities have behaved with the trades and industries of this country is a matter of public notoriety. In the matter of wagon supply, it is a public scandal. I know the Railways have never been friendly to the collieries of Bengal. If 50 companies want 200 wagons for the transport of coal from their collieries to different places, they have to wait and wait and wait. The practice almost always is that first preference is given to my white friends on this side, and only after their category is exhausted, comes the turn of people who have the complexion of myself, and by the time my turn comes to get a wagon, I find the market is lost, my business is gone. This is the way in which the Railways have practically destroyed the coal industry of my country. The same is the story with regard to the textile industry and other industries. My friends of the Congress Party seem to have forgotten all about it too soon, but I still remember it. In the days of the Civil Disobedience Movement, the railway authorities refused to take *khadar*, country made cloth, for transport, they refused to accept consignments of *khadar* for despatch. Government also used to accept telegrams but intercept them on flimsy grounds and not deliver them to the addressees. The Railway authorities, in the days of the Civil Disobedience Movement refused to accept consignments of country made stuff. That is how they treated us, and now if we have built up and developed an alternative mode of transport, by our own initiative and enterprise, without asking for

any kind of protection from the Government even then we shall have to ask these people for permits to carry our own goods in our own private carriers, and they will have power to say you must not carry this ; let a certain favorite child carry everything ! If the Railways cannot stop their own deterioration by checking their own extravagance, by increasing their own efficiency, with what face do they seriously tell me,—‘ Well, Sir, we have got strategic railways, we have got all kinds of nonsensical and fantastic projects to carry through but they are your national assets after all, you must conserve them and for that you must cripple and strangle the alternative mode of transport you have built up so that we may grow ’ ? This is a kind of argument which no amount of sanctimonious humbug or nonsense can convince me.....

Mr. S. Satyamurti : Sir, on a point of order. My friend has used the word “ humbug ”, and it is not parliamentary.

Pandit Lakshmi Kanta Maitra : If “ humbug ” will not suit, I will use the word “ nonsense ”,—no amount of sanctimonious nonsense about Railways being our national assets will convince me. Sir, the whole country is in the stranglehold of foreigners, and you say this is our national asset and we must preserve it and so on. If we can get real hold of our country, then we shall say that the railways are our national asset, then we shall assert our right. We have been carrying on the fight for the freedom of our country, and if we win, we can then take all precautions to save our national assets. Let there be no delusion about it. Let us not always be deceived by those pleasant phrases that the Railways are our national asset. The Railways have been suffering all these years and we all know it. They are solely responsible for the losses or deterioration and not we. Government themselves never ventured to say all this. The Honourable Mr. Clow was very moderate when he made this speech for consideration of the Bill. And he put his case so mildly and in such a manner that he left no scope for controversy. He said, we are out here in this Bill to stop uneconomic competition between the motor transport industry itself and not to regulate the traffic on the road and the railways. That is how he started. Later on to our utter surprise, my Honourable friends of the Congress Party entered special pleading for the Railways and fought vigorously for the Railway administration. Sir, in their enthusiasm and extravagance of praise for the Railways they out-clowed Clow and out-Mitchelled Mitchell ! I have nothing to do with that. But for God’s sake, I beseech every Congressman here—after all we are all one, we are all Congressmen,—I beg of every Congressman to think for himself if he should be a party to a legislative measure, which is a grave menace to the trade and industry of this country. That is the point.

Sir, it has been pointed out by the Indian Chambers of Commerce also that such a provision would adversely affect the trade and commercial interests. The question is also, as I said before, whether we should strangle out of existence an alternative mode of transport by all these subterfuges, and also whether we will be justified in compelling our men to forego their choice of the conveyance by which they like to go and carry their goods. These are some of the points that I want the House to seriously consider. It is no use telling people unreal

[Pundit Lakshmi Kanta Mahtia.]

things and deluding them by all sorts of pompous and pious phrases. Profession and practice must tally, and if they do not tally, the people will seriously doubt the sincerity of our professions. The touchstone is here. I want to know whether, on any pretext whatsoever, be it the pretext of protecting the railways, of saving our national assets, you are going to enact a measure, which, I say, will have its greatest repercussions on the trade and industry of the country. I say, this will also interfere with our civil liberties. When my Honourable friend, Mr. Som, referred to it, he was laughed at. Is it not interfering with civil liberties when you are compelled to go, say, a distance of 50 miles, by a particular means of transport and you cannot choose your own transport? How can any one say, "you must not go by this conveyance, you must go only by the railway?" Then, Sir, the provision for prohibiting the carriage of goods by private carriers is absolutely atrocious. Sir Frank Noyce definitely stated, when this matter was raised before him, that the private carriers would not come under the scope of this sub-clause. That was a definite statement, so also was the statement of Sir Thomas Stewart, but their successors on whom their mantle has fallen have now joined hands with those who have suddenly developed inordinate love for Railways. Their professions were like those of ours, but in actual practice now we find them different. I, however, want to know whether the Honourable Mr. Clow who is in charge of the Railways and the Communications Department and also in charge of this Bill,—whether he wants to go back on the word of promise given by Sir Frank Noyce that private carriers would be excluded, whether he wants to go back on the promise given on the floor of this House by Sir Thomas Stewart. It is upto him to answer that. I do not want to take any further time of the House, but I feel very keenly on this. I believe that we shall stultify ourselves—we who are Congressmen—if we be a willing and consenting party to this. Mere tinkering with a word here or a word there will not change or improve the character of this clause. It is so obnoxious, so mischievous, so dangerous in principle that I would ask every single Congressman to oppose it and to have it deleted. With these words, I support the amendment.

Mr. P. J. Griffiths (Assam : European) : In rising to support this amendment I do not propose to recapitulate the general objections to that system of control, mis-called co-ordination, which is enshrined in the present clause, but I want in a few sentences to explain to the House the main reasons which have led this Group to regard the sub-clause, now under discussion, as particularly obnoxious. Our first objection and it is the main one—is based on the belief that in the present state of India's industrial development any form of restriction upon long distance transport is particularly harmful. Surely, we are now in a stage where India's industry is nascent and many of us here hope and pray that in course of time, sufficient industrial development will take place in this country to give the poor man—the one who used to be befriended by the Congress Party—a chance of improving his standard of living. If his standard of living is to be raised, that can only be done by the rapid development of the industrial resources of this country, and, I submit, that if these

is one thing more than another which, in other countries of the world, has been found to assist in a rapid industrial development, it is free, unhampered transport. For the sake of industry we want a system of transport which will be cheap, which will be efficient and which will be unhampered by bureaucratic restrictions. We are not likely to have a system of transport which will be cheap, which will be efficient, if that system is based on a set of provisions by which one form of transport is bolstered up at the expense of another. I am getting rather tired of this talk of road-rail competition. I submit that this talk of road-rail competition is petty in the extreme. It is a matter of indifference—or at any rate comparative indifference—whether the railway gains at the expense of the road or whether the road gains at the expense of the railway. That is a small thing compared with the very much greater consideration that the greatest possible facilities should be given to the development of industry in this country. And the granting of those facilities depends, first and foremost, upon the existence of a satisfactory system of transport. Do not—and I appeal to the Congress Party—do not, merely because the railway revenues assist the revenues of the provinces, do not lose sight of the consideration that if there is a growth of industry your revenues will be doubled in no time and what you lose temporarily as a result of any road-rail competition you will gain tenfold, as a result of the industrial development, which I am sure will take place if you remove these pettifogging restrictions from the means of transport. There is another aspect of this question. Already in some parts of this country there are signs of a tendency towards provincial separatism, and I want to submit that no one in India stands to gain by anything which encourages provincial separatism. What does this clause do? It empowers Provincial Governments to set up artificial barriers and to say, "We will not have in our province vehicles coming from another province". Could anything go further in the direction of encouraging this dangerous tendency towards provincial separatism, which is already working in some parts of the country? I spoke a minute ago about the value of competition in assisting the development of industry. A few weeks ago a question was asked in this House as to the rebate in the freight charges on cotton despatched from certain stations in the Punjab to Cawnpore. What happened? In 1935-36 transport between the Punjab and the United Provinces had begun to develop and that road transport was securing a good deal of the consignments of cotton from one province to the other. As might have been expected, the railways were supine for a long time, but, after a period, they began to think that something should be done, and they tried to protect themselves by granting a rebate of 20 per cent., as explained by my Honourable friend, Mr. Clow, in reply to a question by Mr. Manu Subedar in this House early in this Session. Here we have a first class example of the way in which healthy competition compels the railways to adapt their rules and their regulations to suit modern conditions and so to give greater facilities to the development of industry—which would not have been given but for the compelling hand of competition. I maintain, and I am satisfied in my mind, that that rebate would not have been given but for the competition of road transport which forced the hands of the railway authorities. We want cheap transport and India must have cheap transport, and it will not have it if transport becomes the virtual monopoly of the railways. As explained by my Honourable friend, Mr. James, we, on this side of the House,

[Mr. P. J. Griffiths.]

have not the least wish to damage the railways. We regard them, just as my Honourable friend, Mr. Clow, does, as valuable national assets....

An Honourable Member : Indian.

Mr. P. J. Griffiths : So far as I am concerned, there is no distinction between British and Indian, so long as I am in this country I am as much interested in the development of Indian industry as in that of British industry. But we are not prepared to agree that the right way of conserving these valuable national assets is to say to the people in charge, "You need not take any trouble to make arrangements which are more equitable. You need not reduce your rates. You can sit tight and do nothing, as you have so often done in the past, under the shelter of the protecting hand of Government which would save you from the competition of these detestable road people". I submit that the sub-clause as it stands in this Bill will strike a very serious blow at the development of industry in this country and I hope that everybody in this House who has the development of industry in this country at heart will join with us in trying to delete this extremely harmful sub-clause.

Mr. S. Satyamurti : It was very refreshing to me, as I am sure it was to this House, to hear a friend who made the most fierce speech on the Criminal Law Amendment Bill, about three and a half years ago.

Dr. P. N. Banerjee : He was a Government servant then. Now, he is a free man.

Mr. S. Satyamurti : I am glad he is now under the protecting wings of the Trinity. It was refreshing to hear Mr. Griffiths exclaim, as the wildest Congressman may exclaim, that the industrial development of the country should be freed from bureaucratic control.

Mr. P. J. Griffiths : Yes.

Mr. S. Satyamurti : I am glad to hear that, but I know certain other things also. Did these friends who talk so loud about the industrial development of the country walk into the same lobby with us when we condemned the Railway Board for not manufacturing locomotives in this country? May I ask my friends of the European Group as to why they voted with the Government then? Is that industrialisation of the country? Hypocrisy thy name.... I don't fill it up. It does seem to me that these crocodile tears for the industrial development of the country will deceive nobody, not even the most simple-minded Congressman in this House. We know what we are about. Morning after morning, we ask questions here about the monopoly prices of combines of petrol in this country which hamper industrial development. My colleagues there remain in holy silence and in conspiracy with the Treasury Benches. Where is the healthy competition there? They must all combine together and exploit our poor people. (Interruption by Mr. Survyra Kumar Som.) I am not referring to Mr. Som. I am answering my Honourable friend, Mr. Griffiths. Let me deal with him.

Mr. P. J. Griffiths : On a point of personal explanation, Sir. If the Honourable Member is referring to me, I have never conspired with the Treasury Benches.

Mr. S. Satyamurti : I have always "conspired" with the Treasury Benches for good objects and I will continue "conspiring" for the welfare and happiness of my country. We cannot agree to the deletion of this sub-clause, because it is the clause which the Congress Members of the Select Committee put forward and made the Government accept the same. Let us clearly understand that. It was done also with the help of the two representatives of the Muslim League on the Select Committee.

Mr. P. J. Griffiths : Is the Honourable Member in order in referring to the proceedings of the Select Committee ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : I know that it is strictly not in order but all the same these things have been referred to day after day.

Mr. S. Satyamurti : I was not a member of the Select Committee. I am referring only to the revelations of the Select Committee proceedings made on the floor of the House by the members of the Select Committee. I am revealing nothing. Again and again, we have asked for the manufacture of cheap radio sets in order to encourage broadcasting. Have the European Members co-operated with us on that matter ? Then there are the Indo-British trade negotiations which are hanging in the balance. We ask questions about it every day and what are they doing ? They are silently keeping quiet in order that their cousins in England may get the best advantage out of us for their own benefit. It does seem that all this talk about industrialisation is a kind of device to ask us to walk into their parlour.

Now, Sir, I had almost raised a point of order. Sometime ago, this House voted for the insertion of this clause as a whole. It voted against the amendment to delete this clause. Having failed in that attempt, it is now sought to kill this clause piecemeal. I want to draw the attention of the House to amendments 291 and 301. The first wants part 1 to be omitted and the second wants part 2 to be omitted. If these two amendments be unfortunately carried, the clause will be left without any life in it. There is no operative part in it at all.

Sardar Sant Singh (West Punjab : Sikh) : We want to amputate the diseased limbs.

Mr. S. Satyamurti : The two amendments taken together will take away the effect of the vote of this House for the retention of this clause. Many pictures were painted of the industrial degeneracy of our country. I want to remind the House that the Provincial Governments are the authorities who have got this power. They are pre-eminently interested in road revenue, in the maintenance of road transport. They are pre-eminently interested in the development of industries. Therefore, there need be no genuine fear that the Provincial Governments will abuse or misapply this clause. How is it inferred from this clause that the Provincial Governments will necessarily favour the railways at the expense of motor transport, especially as clause (1) remains there, namely, that the Provincial Government shall have regard to the various points mentioned there ?

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Why do you give this power, unless you intend them to use it ?

Mr. S. Satyamurti : We want to give this power, so that the Provincial Governments may use its indirect pressure, as the Leader put it, on the railways and bring about the co-ordination of road and rail transport in the interests of the industries of the country as a whole. Clause (b) no longer contains the words 'valuable national assets'. They have been replaced by the words 'the co-ordination of road and rail transport'. The argument has been advanced—what does it matter as to what happens to the railways. Year after year, the Indian taxpayer will have to pay 30 and odd crores by way of interest whether the railways earn anything or not. There is no use trying to escape that obligation. Therefore, I suggest that this power given to the Provincial Government in order to prohibit or restrict under certain conditions the long distance traffic of goods, having regard to all these considerations, is a necessary part of this clause and must stand part of it, and there is absolutely no danger to the industrial development or to the motor transport of this country by this power being vested in responsible Provincial Governments,—Governments responsible to the Legislatures, in which the interests of the roads and of the motor transport are predominantly represented, and the Railways are not represented at all.

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

The Honourable Mr. A. G. Olow : Sir, I do not want to prolong the debate because we seem to have been fighting our battles over again on every phrase. I just wanted to say one thing in connection with what fell from my Honourable friend, Mr. Griffiths. He said that industrial development depended on a satisfactory system of transport. I entirely agree but I do not know if he was in the House this morning when I spoke on the clause as a whole. The point I was then trying to make was that if you skim off all the cream from the railways, you are not going to have a satisfactory system of transport, and you are not going to have industrial development. That depends always—as I have been taught—primarily on a supply of cheap fuel : and if you are going to compel your Railways to charge high rates for coal, you are going to deal a very serious blow at the industrial development of this country.

Dr. Sir Ziauddin Ahmad : Sir, yesterday I referred to two new forms of fallacies. Today I just heard a new argument. Mr. Satyamurti said that if he conspires with the Government, he is a patriot and he is doing good to the country but that if anybody else is conspiring with the Government, he is a traitor. But I think my Honourable friend should give credit to everyone of us for his opinions. Everyone has got practically a freedom of opinion. He has the conviction of his conscience, he expresses his own opinion, and it is a matter of accident whether his opinion tallies with one Party or the other. So, I think, no one should find fault with any Group and say that they are doing it for the sake of their personal interest and so on and so forth. I think everyone of us is doing whatever best we can. Now, there is one point which my friend, Mr. Griffiths, referred to, that is, about the nightmare of road and rail competition. Unfortunately, I am writing something on the subject and I have sleepless nights when I begin to visualise how co-ordination can possibly be effected. I cannot visualize that in my mind. Now, one Government is the owner of one part of

this and the other Government is ~~the owner~~ the other part, there is nothing common between the Provincial Governments and the Federal Government and I fail to understand how co-ordination is possible, where is the common ground at which they meet—though I will propose later on a kind of a central committee for co-ordination. I doubt very much whether co-ordination is possible unless road and rail are brought under the same transport authority. To my mind, co-ordination is only a rhetorical word unless you can bring both under the same authority.

Several Honourable Members : I move :

“ That the question be now 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 part (i) of sub-clause (1) of clause 42 of the Bill be omitted.”

The Assembly divided :

Mr. Sri Prakasa : Sir, I want to raise a point of order. You were good enough to rule the other day that during voting time the Lobbies are a part of the House, and as smoking is not allowed in the House, it cannot be in the lobbies either. I found Members smoking in the lobby at the time of the Division.

Mr. President (The Honourable Sir Abdur Rahim) : Members are not entitled to smoke in the “ Ayes ” and “ Noes ” Lobbies, as these Lobbies are part of the House.

[At this stage, Mr. M. Asaf Ali made some remarks which were inaudible.]

AYES—31.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Abdur Rasheed Chaudhury, Maulvi.
Aikman, Mr. A.
Aney, Mr. M. S.
Bajoria, Babu Baijnath.
Banerjee, Dr. P. N.
Bhutto, Mr. Nabi Baksh Illahi Baksh.
Boyle, Mr. J. D.
Chapman-Mortimer, Mr. T.
Chattopadhyaya, Mr. Amarendra Nath.
Datta, Mr. Akhil Chandra.
Dasak Sait, Mr. H. A. Sathar H.
Ghulam Bhik Nairang, Syed.
Griffiths, Mr. P. J.
James, Mr. F. E.

Maitra, Pandit Lakshmi Kanta.
Miller, Mr. C. C.
Murtuza Sahib Bahadur, Maulvi Syed.
Parma Nand, Bhai.
Sant Singh, Sardar.
Scott, Mr. J. Ramsay.
Shahban, Mian Ghulam Qadir Mahammad.
Shaukat Ali, Maulana.
Siddique Ali Khan, Khan Bahadur Nawab.
Sikandar Ali Choudhury, Maulvi.
Smith, Lieut.-Colonel H. O.
Som, Mr. Saryya Kumar.
Town, Mr. H. S.
Umar Ali Shah, Mr.
Ziauddin Ahmad, Dr. Sir

NOES—80.

Abdul Hamid, Khan Bahadur Sir.
 Abdul Qaiyum, Mr.
 Abdul Wajid, Maulvi.
 Ahmad Nawas Khan, Major Nawab Sir.
 Ahmed, Mr. K.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Ayyar, Mr. N. M.
 Bajpai, Sir Girja Shankar.
 Bartley, Mr. J.
 Bewoor, Mr. G. V.
 Chaliha, Mr. Kuladhar.
 Chanda, Mr. A. K.
 Chatterjee, Mr. R. M.
 Chaudhury, Mr. Brojendra Narayan.
 Chettiar, Mr. T. S. Avinashilingam.
 Chetty, Mr. Sami Venkatachalam.
 Chunder, Mr. N. C.
 Clow, The Honourable Mr. A. G.
 Conran-Smith, Mr. E.
 Lalaj, Dr. R. D.
 Dalpat Singh, Sadrar Bahadur Captain.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 Deshmukh, Mr. Govind V.
 Dutt, Mr. S.
 Faruqi, Mr. N. A.
 Gadgil, Mr. N. V.
 Ghulam Muhammad, Mr.
 Govind Das, Seth.
 Grigg, The Honourable Sir James.
 Gupta, Mr. K. S.
 Hans Raj, Raizada.
 Hegde, Sri K. B. Jinaraja.
 Highet, Mr. J. C.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.

Kailash Behari Lal, Babu.
 Kamaluddin Ahmed, Shams-ul-Ulema.
 Lahiri Chaudhury, Mr. D. K.
 Lloyd, Mr. A. H.
 Mackeown, Mr. J. A.
 Mangal Singh, Sardar.
 Maxwell, The Honourable Mr. R. M.
 Metcalfe, Sir Aubrey.
 Misra, Pandit Shambhu Dayal.
 Mitchell, Mr. K. G.
 Muhammad Ahmad Kazmi, Qazi.
 Mukerji, Mr. Basanta Kumar.
 Mukerji, The Honourable Sri Mannanatha Nath.
 Nur Muhammad, Khan Bahadur Shaikh.
 Ogilvie, Mr. C. M. G.
 Palwal, Pandit Sri Krishna Dutta.
 Pande, Mr. Badri Dutt.
 Raghubir Narayan Singh, Choudhri.
 Rahman, Lieut.-Colonel M. A.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Rao, Mr. M. Thirumala.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Shama Lal, Mr.
 Sheodass Daga, Seth.
 Sher Muhammad Khan, Captain Sardar Sir.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Sivaraj, Rao Sahib N.
 Sri Prakasa, Mr.
 Subbarayan, Shrimati K. Radha Bai.
 Subedar, Mr. Manu.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Varma, Mr. B. B.
 Walker, Mr. G. D.
 Zafarullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

Pandit Lakshmi Kanta Maitra : Sir, I move :

“That in part (i) of sub-clause (1) of clause 42 of the Bill, the words ‘prohibit or’ be omitted.”

In connection with the previous amendment I gave my reasons which apply with equal force to the amendment now before the House. The clause provides that the Provincial Government may, under certain circumstances, ‘prohibit or restrict throughout the province the conveying of long distance goods traffic generally, or of prescribed classes

of goods, by private or public carriers'. This is a very drastic power which may be wielded with great detriment, as I said, to the trade and industry of the country. I do not want to clothe the provincial authority with this wide and extensive power. I, therefore, want these words to be deleted. Sir, I move.

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

" That in part (i) of sub-clause (1) of clause 42 of the Bill, the words ' prohibit or ' be omitted."

Sardar Sant Singh : Sir, I rise to support this amendment. In supporting this amendment, I just want to explain the position of my Party in regard to all the amendments relating to clause 42. I may assure the Congress Party if any assurance is needed at all that we have considered amendments one by one in our Party and we have decided to support or oppose each according to its merits. Let there be no misunderstanding on this point that our Party is lending its support without having bestowed their full thought over all these amendments tabled in this House. The second point which I want to place before the House in this connection is that we never knew so far that this clause was the pet child of our friend, Mr. Satyamurti. After his speech, we now know that Mr. Satyamurti feels as though we are amputating any limb of that pet child. We assure him that we have no such design or intention in that way. But we do feel that we are giving too much power to the Provincial Government by these clauses. There may be cases where two provinces are concerned in allowing or restricting or prohibiting the long distance traffic. In that case, the two provinces may not be the Congress provinces or they may not be subject to a single High Command. Therefore, it is likely that some conflict may arise between the two provinces. I know it as a matter of fact that we have been sending cotton in gunny bags from Lyallpur to Calcutta on routes which pass through two or three provinces, if these two or three provinces disagree, the whole course of the traffic from Lyallpur to Calcutta will be barred. I am not in favour of placing these powers in the hands of the Provincial Governments on that account.

The second fact which I have not been able to understand in all this discussion is, as to why it is not left to the choice of the trader or the passenger or the commercial man to choose his own carrier. Why should the wishes of the trader or the passenger in choosing the mode of transport he wants to employ for the carriage of goods or himself be totally disregarded. Therefore as we failed in getting clause 42 omitted altogether, we want to reduce the power of the Provincial Government to the minimum we can. With these words, I support the amendment.

Maulana Shaukat Ali (Cities of the United Provinces : Muhammadan Urban) : Sir, I have got a few words to say. I am personally connected with fruit farming and sending fresh fruits—perishable goods—by train to Bombay or the other way to Delhi and other north Indian cities. I think we ought to be allowed, if we cannot get wagons, to carry our fruits with the least possible delay, through motor lorries or busses so that we may not bear loss. I hope it will be in our interest if we get railway

[Maulana Shaikat Ali.]

wagons as soon as we apply for them ; in that case we will certainly prefer to use them. But in case we do not get railway wagons at the time we want, we must be given the liberty to use any other means of transport so that our goods may not perish. I, therefore, support the amendment.

The Honourable Mr. A. G. Clow Sir, as I have already said I regard clause 42 as inadequate and I, therefore, am opposed to efforts to make it less effective which otherwise it would be.

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

“ That in part (i) of sub-clause (1) of clause 42 of the Bill, the words ‘ prohibit or ’ be omitted.”

The motion was negatived.

Mr. N. C. Chunder (Calcutta : Non-Muhammadan Urban) : Sir, I beg to move :

“ That in part (i) of sub-clause (1) of clause 42 of the Bill, for the word ‘ or ’, where it occurs for the fourth time, the word ‘ except ’ be substituted.”

Then, the clause will read as follows :

“ prohibit or restrict throughout the province or in any area or on any oute within the province except subject to such conditions as it may think desirable, the conveying of long distance goods traffic generally, or of prescribed classes of goods by private or public carriers.”

Sir, my point is this : having regard to the present stage of motor transport in this country, and having regard to the fact that much of the motor transport is inter-provincial, I, for myself, would not like to give power of absolute prohibition to the Provincial Government or to anybody for the matter of that. I want, Sir, that the Provincial Government, if it chooses, should lay down conditions having regard to all the four things that are stated in the first part of sub-clause (i), and, having regard to all those things, the Provincial Government may lay down conditions under which such transport will be allowed so that the prohibition cannot be an absolute prohibition. After all, it is a public highway, and I do not want that, in the present stage of motor transport, and, in view of the fact that although this will give Provincial Governments a great deal of power to exercise their influence over the railways, yet, having regard to the fact that our control over railways is not direct and there is no prospect of its being direct for some time to come, I think, Sir, the House will be justified in limiting the power of the Provincial Governments so that the prohibition may not be absolute. With these words, I move.

I admit it is not very elegantly worded, but I have got to take the clause as it stands and to make the best of it.

“ That in part (i) of sub-clause (1) of clause 42 of the Bill, for the word ‘ or ’, where it occurs for the fourth time, the word ‘ except ’ be substituted.”

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

Mr. J. Bartley (Government of India : Nominated Official) : Sir, I have no objection whatever to the reasons which led the Honourable the Mover to make this amendment, but I fear that he has tackled a

very difficult problem. His amendment will fail to secure the results that he wants. I sympathise with him because I know how difficult it is, by a brief interpolation inserted among words with the original settlement, of which you have had nothing to do, to secure exactly what you want. I do not feel that the Honourable Member's amendment will secure what he wants. I think the result is very unhappy and if this amendment is carried, the clause would practically have no ascertainable meaning. Now, as originally drafted, the object of the clause was to give a very wide power of limitation or regulation in the matter of long distance goods traffic, but the draftsman avoided the word "regulating" quite correctly because you cannot 'regulate' a thing out of existence and, therefore, no power of prohibition would be given if that word had been used. He definitely used the word 'prohibit'. He took power to prohibit or restrict, firstly, by areas, that is to say throughout the province, or in any area or on any route within the province. Secondly, by the imposition of conditions for which purpose the draftsman added, "or subject to such conditions as the Regional Transport authority may consider desirable". There he was a little less happy because it is difficult to construe either the word 'prohibit' or the word 'restrict' with those words 'subject to such conditions as it may think desirable'. If you prohibit subject to such conditions, then you are in essence only restricting; and instead of saying "restricting subject to such conditions", it would be better to say, perhaps, "restrict by the imposition of such conditions as it may think desirable". But the clause has a fairly clear meaning as it stands. Now, the amendment proposes to introduce the word 'except' in place of the word 'or' so that you will have the power to prohibit or to restrict by areas "except subject to such conditions as the regional transport authorities may think desirable". The effect of that as far as I can see and so far as it is within my power to interpret an expression which is, after all, in my own mother tongue, would be quite the opposite of what the Honourable the Mover desires. I find it practically impossible to give any meaning either to the expression "prohibit except subject to such conditions" or "restrict except subject to such conditions".

Do the words "prohibit except subject to conditions" mean to allow only in accordance with such conditions? The Honourable the Mover said that was what he wanted. But I do not believe the form of words he proposes means that; and when you come to the expression "restrict.....except subject to such conditions as it may think desirable", I think that of the possible interpretations which any one attempting to interpret the mere words without a knowledge of the history or of the intention lying behind this amendment, could give—and, of course, no one when interpreting subsequently can go to that history or to that intention.—I think that at the end of a good deal of puzzlement neither of the solutions which I can conceive being offered would be in accordance with the wishes of the Mover. Sir, I oppose.

Mr. N. C. Chunder : Sir, may I then suggest that this may be held over and brought up some time later? If the principle is accepted.....

The Honourable Mr. A. G. Clow : What is the principle?

Mr. N. C. Chunder : The principle is that there should be no absolute prohibition. The Provincial Government should be at liberty to lay

[Mr. N. C. Chunder.]

down conditions. In fact they may be very stringent conditions but there must be no absolute prohibition.

The Honourable Mr. A. G. Glow : If that is the principle, then I submit that the amendment is barred. We have just defeated amendment No. 292 which covers that point.

Mr. N. C. Chunder : I submit not, because that was a question of not giving any power of prohibition at all. Here I am not taking away the power of prohibition ; the only thing is that the prohibition will be subject to certain conditions.

Mr. M. S. Aney : Sir, although I really feel that the object of my Honourable friend, the Mover, is one which is bound to find sympathy with a large majority of Members of this House, I think the purpose will not be served by the amendment as it is. I find some difficulty in construing the sentence if we substitute the word "except" for the word "or" in the place suggested. After all, it only comes to this that the Provincial Government may "prohibit or restrict except subject to such conditions as it may think desirable". This really means nothing as a matter of fact. His idea is that first the conditions may be thought out and properly framed and subject to those conditions the power of prohibition or restriction must be exercised. In order to bring that about completely, I believe, a different amendment will have to be made bearing this principle in mind ; and the mere substitution of the word "except" for "or" will not serve the purpose.

Mr. N. C. Chunder : Sir, I have a suggestion to make, if I may. I am told Government are prepared to omit the word "or" there, which is the subject matter of the next amendment. That will serve my purpose, and I beg leave to withdraw this motion.

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

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

"That in part (i) of sub-clause (1) of clause 42 of the Bill, the word 'or', occurring in the third line, be omitted."

I need not make any speech on this. Sir, I move.

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

"That in part (i) of sub-clause (1) of clause 42 of the Bill, the word 'or', occurring in the third line, be omitted."

The motion was adopted.

Mr. F. E. James : Sir I move :

"That in part (i) of sub-clause (1) of clause 42 of the Bill, the words 'private or' be omitted."

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

"That in part (i) of sub-clause (1) of clause 42 of the Bill, the words 'private or' be omitted."

Mr. Surya Kumar Som : Sir, there is an air of touchiness about any amendment of section 42 and so, I will simply explain the intention of this amendment and, I hope, I shall be able to convince the House

that it is a very proper and a very innocent amendment which we can accept. In sub-clause (1) you find that the Provincial Government will have the right to prohibit or restrict within the province any long distance traffic. But it includes public carriers and private carriers also. Even if public carriers can be prohibited, I want that the private carrier should be left alone. That is the only thing I want and I shall illustrate it by an example. We do not wish to attack the railways or public carriers at all. But I say unnecessary difficulty will be created if we bring in private carriers within the purview of this section. Suppose there are cotton mills in two or three areas owned by a single company. As a rule they have to store up their cotton to the value of Rs. 8 or 10 lakhs or more for their work throughout the year. Some times, these big godowns contain Rs. 8 to Rs. 10 lakhs worth of cotton in one godown as it is more advantageous and less costly than to have them in three separate godowns in three places : we can presume that the company has its own conveyances and keep dozens of lorries for carting raw materials and necessities to run the mills. Now, if they keep their own lorries they can take the cotton weekly to their mills. If this Act covers them, the private carriers, then the danger will be that they will not be able to bring those cotton bales in their own lorries. Why should you go to that extent ? How does it affect the railways at all ? Even if it does, I say, the railway is not here to rob third parties of their wealth which they can very well save. I can also cite the example which my Honourable friend, Maulana Shaukat Ali, gave, where in the case of perishable goods he finds it difficult to get railway wagons and, therefore, he has got to take to the public carrier. It is quite possible if he goes on to be a big merchant in fruit, he will have two or three buses for his own purposes. He cannot always get other buses at the desired moment : he may have to wait for some hours, just as in the railways we have to wait for three or four days. So, why should he not keep his own buses for his own purposes ? I appeal to the Government Members and to all the Members and I say : "Do not be so strict, as if you want to collect all the wealth of the country into the railway fund, all the money earned by transport services and by the energies of the people." That seems to be your intention, that the railways should have a monopoly in this respect. In a matter like this it is very difficult to keep one's temper. It reminds me of the 14th century when autocracy and bureaucracy ruled. With these observations, I appeal to the House to exclude private carriers from the purview of this section.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I do not want to make a big speech to hit any one

Mr. Sri Prakasa : Orthodox men cannot travel on buses !

Babu Baijnath Bajoria : They can travel more according to their religion on buses than on railways. In the interests of trade and industry, I support this amendment, and I am fortified by the opinion of the Federation of Indian Chambers of Commerce and Industry. I shall not read what they have said—I think Honourable Members have probably read it or are supposed to have read it. I would say that here it is not a question of competition between rail and road, but it is a question of taking away from or forcing a person to send his goods by rail and to pay for it if he can do so more cheaply by transport-

[Babu Baijnath Bajoria.]

ing in his own vehicle. As there are many mills which employ their own fleet of buses, may be two or more, for the carriage of raw materials to the factory and for the carriage of their finished goods to the big marketing centres, I think it will greatly hamper the industry and it will be so to say a burden to them if they also come under the mischief of the provision of this clause. In my opinion the advantages which the industry gets by having its own lorries for the carriage of goods should not be restricted but we should allow things to continue as has been done so far ; and I think the Government and the Congress Benches will see their way to grant this exemption for the benefit of the industries of the country.

Mr. P. J. Griffiths : Sir, very often when I rise to support an amendment of this kind, I am accused by my Honourable friends over there of having some particular or special interest in mind. But in the present connection I am fortified by finding myself in several directions in very good company. In the first place, when I plead that some distinction should be made between a private carrier and a public carrier, I find that I am only saying what was said much better by Sir Thomas Stewart when he introduced this Bill in the last Delhi Session. Speaking on this particular question of the prevention of uneconomic competition, he went on to say :

“ We make a distinction in favour of the private carrier. He is not required to justify his application as the public carrier may be called upon to do and provided the roads are fit to carry extra traffic, it should be the case that the private carriers permit will be issued as a matter of course.”

I find nothing in this present section to implement that considered statement made by the then Communications Member. But, apart from that company, it has encouraged me to find myself in the company of two Members of the Congress Party : both of them have put down this particular amendment but, for reasons best known to themselves, have now decided not to move it. Finally, and perhaps even more encouraging—and this will refute any suggestion that in this matter we are considering foreign interests—I find myself supported by the Indian Merchants' Chamber which has addressed to us a representation particularly asking that there should be no restrictions whatsoever on private carriers. As soon as I sit down I shall expect my friend, Mr. Manu Subedar, to rise and give his heartiest support to this amendment as he is the representative of the Indian Merchants' Chamber in this House. It does seem to us that there is a real case for distinction between the private lorry and the public lorry. After all, if a mill or a factory has to depend for the cartage of its goods upon public lorry services, it is not the expense that is the difficulty—the difficulty is that you cannot get those public services at every hour of the day. Just when you are ready with your goods, you cannot get the necessary transport and so your business is generally hampered. After all, in the United Kingdom where regulation of traffic has been carried to a great length, no provision of this kind exists. The ordinary C class license for a private carrier is issued automatically. We feel that the particular power to refuse such a permit here should not be left in the hands either of the Provincial Governments or the regional transport authority or anybody else. Sir, I support the amendment.

Mr. Bhulabhai J. Desai : Sir, I am sorry to disappoint my friend, Mr. Griffiths, in the hope that he entertained that, inasmuch as at least two Members had purported to give support to his amendment, he is going to get any support from me.....

Mr. F. E. James : Futile hopes.

Mr. Bhulabhai J. Desai : Yes, I know you have many futile hopes, and you are trying them on. Coming now to the subject-matter of this amendment, the only question is whether the private carriers should be omitted from the scope of this particular clause. My friends have already before them item "C" as one of the considerations to be borne in mind, and, therefore, when my friend read the statement of the then Member in charge of the Bill, I think he must have forgotten in his enthusiasm that this power is essentially necessary in view of consideration of item "C",—the desirability of preventing the deterioration of the road system, and therefore we have no desire, however much the richer manufacturers want to run a fleet of lorries, that they should be allowed to do so without any restrictions in proper cases where there is any danger of the deterioration of the road system. They will then have to choose between some other method of transport, and not merely have it all their own way. My friends cannot get away with the idea that they are the only protectors of the industries of this country. I hope they will remember that, during the last 15 years, so much has been done for the protection of Indian industries that if we occasionally tell them that they might consider other interests in this country that even the Merchants' Chamber will not desire to stand in the way. I know them well. Every one of them understands the interests of the trade and industries of this country, I know them fully well, and no amount of assertion by anybody is going to wean them away from me. You may, therefore, take it from me that undoubtedly individual interests do occasionally stress their particular interests whenever any question of any advantage arises, but fortunately they are not so selfish as to be blind to the larger considerations. And here the only question is not that we tell the Local Government that private carriers are to be prohibited. My friend, Mr. Bartley, is not in his place,—he talked of English as his mother tongue,—I do not claim that privilege. My friend, Mr. Griffiths, might.....

Mr. P. J. Griffiths : On a point of personal explanation, Sir. Welsh is my mother tongue.

Mr. Bhulabhai J. Desai : Then, I am not surprised that he did not understand this clause, because the clause does not say that private carriers should be altogether prohibited. I tried to point it out yesterday, but somehow it is forgotten, and, therefore, I am submitting again humbly to the House that all that this section says is that, should one of the considerations in the earlier part which we have now passed require it, there may be a prohibition order or restriction. Therefore, we must not create a scare, it is no use creating a scare which the section does not create at all, but some of us create it in our own imagination, in our own mind, and then hope that others should also be drawn into that scare. We have more prudence and we claim a better understanding of this section. We therefore say that neither the Indian Chamber of Commerce nor any statement made on a previous occasion against the retention of

[Mr. Bhulabhai J. Desai.]

this will convince us. The Provincial Governments will always remember that the only appropriate consideration is the desirability of preventing the deterioration of the road system, and so far as the omission of this is concerned, I oppose it.

The Honourable Mr. A. G. Clow : Sir, Mr. Griffiths has suggested that in some manner or other I had gone back on Sir Thomas Stewart's intentions in the original Bill. He read one sentence from his speech, but he omitted to read the preceding sentence, and, therefore, I shall read it to the House :

"There is the further consideration that while short distance traffic and the carriage of perishables by road should not be interfered with, long distance traffic should ordinarily be left to the railways."

And, if there was any doubt as to what was the intention of the Government at that time, surely the authoritative source to look to is the Bill as it was originally introduced. In clause 50, as it originally stood, the Regional Transport Authority, in deciding whether to grant or refuse private carriers' permits, was directed to have regard to two considerations. The first was the condition of the roads and the second was "the desirability of limiting long distance transport of goods by road where reasonable facilities for such transport already exist".....

Mr. P. J. Griffiths : On a point of information, may I ask why the sentence referring to the private carrier is in the same paragraph and in immediate juxta position to the sentence read by my Honourable friend ? If the second sentence does not qualify the first, what does it qualify ?

The Honourable Mr. A. G. Clow : We certainly make a distinction. It was in the original Bill, and it is still there. I certainly read Sir Thomas Stewart's speech as meaning that we should make that distinction. As I said, if the Honourable Member has any doubt as to what was said in that speech, there is no doubt whatever that it was there in the Bill as it was originally introduced....

Dr. Sir Ziauddin Ahmad : What was that section ?

The Honourable Mr. A. G. Clow : Section 50 as originally introduced. There were two considerations to be borne in mind,—the first was the condition of the roads, and the second was the desirability of limiting long distance traffic. I can find no other considerations in this clause which are likely in any way to interfere with the private carrier's permit, and although this clause, as Mr. Griffiths is well aware, is not my clause, I consider that in those respects at least it does not involve any departure of principle from the original Bill.

Mr. M. S. Aney : Sir, so far as I see the position, I do not think that the wording of the present clause really excludes the private carrier even from the order of prohibition if the Provincial Government thinks it necessary to do so. We have to look to the actual wording of the clause, and judge the effect of the clause by the language used in the section itself, and not depend too much upon what good sense and what considerations of equity may be brought to bear upon the application of the clause to a particular case that may be presented before the Provincial Government. Here we are legislating. If we really want

to make a distinction as regards the discretion vested in Provincial Governments between private and public carriers, we ought to have a separate clause in order to make that distinction perfectly clear, saying that for certain purposes it will not be used by the Provincial Governments in the case of private lorries. But the clause as it stands is comprehensive, and it is likely to be abused. Therefore, it is the duty of this Legislature to see that no opportunity for abuse is left there. From that point of view this House should consider this amendment, and not from any other point of view. Then the second point is this which, to my mind, is one of principle. Whenever we discuss social questions or questions affecting religion, we generally raise the question as to the limits of the rights of the State to interfere with the conscience of the individual. So also, I want to see what are the rights of the State in interfering with the right of private individuals in their use of the articles at their disposal in the way they like. That is an important question. If we do not find a parallel provision like that in other countries, which are enjoying democratic forms of government, and where the problems arising out of rail-road competition have arisen, we have to consider twice before introducing a provision like that....

Mr. N. M. Joshi : What about road ?

Mr. M. S. Aney : I am just talking of the road. You have got only road in your mind. You have forgotten everything else. There is the road sense, but it must be subordinated to the other higher considerations, namely, the liberty of a man to make use of the articles he has, provided it does not offend the public morals, or public safety, or public peace, or the public policy. These are certain well-known considerations. Can the right of the individual to use his own things or to go by the way he likes or use the conveyance he chooses, be restricted even when no such considerations exist ? The damage to the road has been mentioned. Are they going to restrict the transport on that consideration only ? I believe that could be met by not issuing permits to certain lorries, by putting in a higher rate if they like and so on. They could restrict the speed, but this is not the way by which you are expected to restrict the use of their lorries by public companies if they find it more profitable to do so. My Honourable friend, Mr. Clow, has just read out two things. When the distinction between private lorries and public lorries was brought to his notice, as it was made by my Honourable friend's predecessors in this connection, he immediately brought to the notice of the House another sentence in which it was stated that the long distance traffic must be reserved to the railways and short distance traffic to motor lorries, meaning thereby that the distinction that is being drawn here was with a view to securing long distance traffic for railways only and the private lorries along with public lorries were to be excluded from it. If that is the purpose, what is the guarantee that the prohibition would not be introduced against private lorries with a view to prevent them from making use of them for long distance traffic at all ? What is the guarantee that that discretion will not be used like this ? And if there is no guarantee and if every Member of the House sees that the clause will not be merely used for the sake of protecting the road and preventing its deterioration, but even for preventing industry from making use of its own lorries for long

[Mr. M. S. Aney.]

distance traffic, is there any clause in this Bill that will prevent the Provincial Government from doing so? It is up to the Legislature to see that a separate clause is put in in regard to private lorries, if we find that there is any need of restriction on private lorries in the interest of the roads only. We can sit down and frame a separate clause.

Dr. P. N. Banerjee : There is clause 46.

Mr. M. S. Aney : When that clause comes we shall discuss the point. But, so far as this is concerned, it may enable the Provincial Government to use that discretion in the most arbitrary manner, in a manner in which my Honourable friends there will certainly desire it not to be used at all. You should, therefore, see that that possibility does not exist, and that can be achieved only by leaving out that word 'private' from this sub-clause. Therefore, while sympathising with all the interests which my Honourable friends there represent—on behalf of the Provincial Governments in the roads which are their exclusive subject,—I maintain I have got the same interests at heart,—I say that that can be achieved in a different way and not by the manner in which it is sought to be done. Therefore, the word "private" ought to go.

Some Honourable Members : Let the question be now 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 in part (i) of sub-clause (1) of clause 42 of the Bill, the words 'private' or 'be omitted.'"

The Assembly divided.

AYES—30.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Abdur Rasheed Chaudhury, Maulvi.
Aney, Mr. M. S.
Bajoria, Babu Baijnath.
Banerjee, Dr. P. N.
Bhutto, Mr. Nabi Baksh Illahi Baksh.
Boyle, Mr. J. D.
Chapman-Mortimer, Mr. T.
Chattopadhyaya, Mr. Amarendra Nath.
Datta, Mr. Akhil Chandra.
Essak Sait, Mr. H. A. Sathar H.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
Ghulam Bhik Nairang, Syed.
Griffiths, Mr. P. J.

James, Mr. F. E.
Maitra, Pandit Lakshmi Kanta.
Miller, Mr. C. C.
Murtuza Sahib Bahadur, Maulvi Syed.
Nauman, Mr. Muhammad.
Parma Nand, Bhai.
Sant Singh, Sardar.
Scott, Mr. J. Ramsay.
Shahban, Mian Ghulam Kadir Musam-mad.
Shaukat Ali, Manlana.
Siddique Ali Khan, Khan Bahadur Nawab.
Smith, Lieut.-Colonel H. C.
Som, Mr. Suryya Kumar.
Umar Aly Shah, Mr.
Ziauddin Ahmad, Dr. Sir.

NOES—78.

Abdul Hamid, Khan Bahadur Sir.
 Abdul Qaiyum, Mr.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ahmed, Mr. K.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthassayanam.
 Ayyar, Mr. N. M.
 Bajpai, Sir Girja Shankar.
 Bartley, Mr. J.
 Bewoor, Mr. G. V.
 Chaliha, Mr. Kuladhar.
 Chanda, Mr. A. K.
 Chatterjee, Mr. R. M.
 Chaudhury, Mr. Brojendra Narayan.
 Chettiar, Mr. T. S. Avinashilingam.
 Chunder, Mr. N. C.
 Clow, The Honourable Mr. A. G.
 Conran-Smith, Mr. E.
 Dalal, Dr. R. D.
 Dalpat Singh, Sardar Bahadur Captain.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 Deshmukh, Mr. Govind V.
 Dutt, Mr. S.
 Faruqui, Mr. N. A.
 Gadgil, Mr. N. V.
 Ghulam Muhammad, Mr.
 Govind Das, Seth.
 Grigg, The Honourable Sir James.
 Gupta, Mr. K. S.
 Hans Raj, Raizada.
 Hegde, Sri K. B. Jinaraja.
 Highot, Mr. J. C.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.
 Kailash Behari Lal, Babu.

Kamaluddin Ahmed, Shams-ul-Ulema.
 Lahiri Chaudhury, Mr. D. K.
 Lloyd, Mr. A. H.
 Mackeown, Mr. J. A.
 Mangal Singh, Sardar.
 Maxwell, The Honourable Mr. R. M.
 Metcalfe, Sir Aubrey.
 Misra, Pandit Shambhu Dayal.
 Mitchell, Mr. K. G.
 Muhammad Ahmad Kazmi, Qazi.
 Mukerji, Mr. Basanta Kumar.
 Mukerji, The Honourable Sir Manmatha Nath.
 Nur Muhammad, Khan Bahadur Shaikh.
 Ogilvie, Mr. C. M. G.
 Paliwal, Pandit Sri Krishna Dutta.
 Pande, Mr. Badri Dutt.
 Raghubir Narayan Singh, Choudhri.
 Rahman, Lieut.-Colonel M. A.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Rao, Mr. M. Thirumala.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sham Lal, Mr.
 Sheodass Daga, Seth.
 Sher Muhammad Khan, Captain Sardar Sir.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Sivaraj, Rao Sahib N.
 Sri Prakasa, Mr.
 Subbarayan, Shrimati K. Radha Bai.
 Subedar, Mr. Mannu.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Varma, Mr. B. B.
 Walker, Mr. G. D.
 Zafrullah Khan, The Honourable Sir Muhammad.

The motion was negatived.

Mr. D. K. Lahiri Chaudhury (Bengal : Landholders) : On a point of order. This afternoon you ruled that smoking is not permitted in the lobbies. We find that Members

Mr. President (The Honourable Sir Abdur Rahim) : I have already said what I had to say on the point.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 8th September, 1938.