

16th September 1938

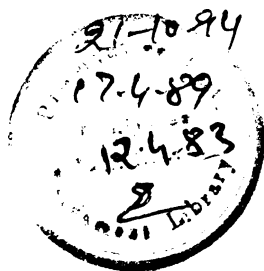
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VI, 1938

(12th September to 26th September, 1938)

EIGHTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1938



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1938.

Legislative Assembly.

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CONTENTS.

VOLUME VI.—12th September to 20th September, 1938.

	PAGES.		PAGES.
MONDAY, 12TH SEPTEMBER, 1938—		WEDNESDAY, 14TH SEPTEMBER, 1938—	
Starred Questions and Answers	1989—2033	Starred Questions and Answers	2363—2407
Unstarred Question and Answer	2033	Unstarred Questions and Answers	2407—11
Motion for Adjournment <i>re</i> mishandling of the Shiva Temple affairs in Delhi—Withdrawn	2033—35 2249—50	The Motor Vehicles Bill—Discussion on the consideration of clauses not concluded	2411—54
Criticism of Mr. President's Rulings outside the House	2035	THURSDAY, 15TH SEPTEMBER, 1938—	
Report of the Public Accounts Committee on the Accounts of 1936-37	2035—2218	Starred Questions and Answers	2455—86
The Motor Vehicles Bill—Discussion on the consideration of clauses not concluded	2218—49, 2250—63	Short Notice Question and Answer	2486—90
The Prevention of Cruelty to Animals (Amendment) Bill—Presentation of the Report of the Select Committee	2263	Unstarred Question and Answer	2490
Statement of Business	2263—64	The Motor Vehicles Bill—Discussion on the consideration of clauses not concluded	2490—2536
TUESDAY, 13TH SEPTEMBER, 1938—		FRIDAY, 16TH SEPTEMBER, 1938—	
Starred Questions and Answers	2265—2311	Starred Questions and Answers	2537—60
Unstarred Questions and Answers	2312—16	Unstarred Question and Answer	2561
Statements laid on the Table	2316—17	Statements laid on the Table	2561—62
The Import of Drugs Bill—Presentation of Report of the Select Committee	2317	Motion for Adjournment <i>re</i> Shiva Temple affairs in Delhi—Disallowed	2563
Resolution <i>re</i> Financial control of Military Expenditure—Adopted as amended	2318—62	The Railways (Local Authorities' Taxation) Bill—Introduced	2563
		The Ajmer Merwara Municipalities Regulation (Amendment) Bill—Introduced	2563—64
		The Motor Vehicles Bill—Discussion on the consideration of clauses not concluded	2564—2618

	PAGES.		PAGES.
SATURDAY, 17TH SEPTEMBER, 1938—		TUESDAY, 20TH SEPTEMBER 1938—<i>contd.</i>	
Members Sworn	2619	Unstarred Questions and Answers	2770—71
Arrangements <i>re</i> Ringing of the Division Bell	2619—20	Statements laid on the Table . .	2771—73
Statement laid on the Table . .	2620	Allotment of a day for the discussion of the Reports of the Public Accounts Committee and prolongation of Sessions without giving sufficient notice	2773—78
The Indian Income-tax (Amendment) Bill—Re-appointment and appointment of certain Members to the Select Committee	2620	The Prevention of Cruelty to Animals (Amendment) Bill—Passed as amended	2778—2804
The Motor Vehicles Bill—Passed as amended	2620—46	The Employment of Children Bill—Passed as amended . .	2804—14
The Indian Emigration (Amendment) Bill—Passed as amended	2647—72	The Employers' Liability Bill—Passed as amended	2814—21
MONDAY, 19TH SEPTEMBER, 1938—		The Indian Aircraft (Amendment) Bill—Passed as amended	2821—24
Starred Questions and Answers	2673—2702	The Indian Tea Cess (Amendment) Bill—Passed	2824—30
The Prevention of Cruelty to Animals (Amendment) Bill—Discussion on the consideration of clauses not concluded	2702—50	The Indian Patents and Designs (Amendment) Bill—Postponed	2830
TUESDAY, 20TH SEPTEMBER, 1938—		The Hindu Women's Right to Divorce Bill—Introduced . .	2830—31
Member Sworn	2751	The Muslim Dissolution of Marriage Bill—Referred to Select Committee	2831
Starred Questions and Answers	2751—70	Message from the Council of State	2843

LEGISLATIVE ASSEMBLY.

Friday, 16th 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.

INDIANS IN PALESTINE.

1087. ***Mr. S. Satyamurti** : Will the Secretary for External Affairs be pleased to state :

- (a) the number of Indians in Palestine today just now ;
- (b) whether their interests are safe in the present highly disturbed state of that territory ; and
- (c) whether Government are taking adequate steps to protect the lives and properties of Indians in Palestine ; if so, what they are ?

Sir, the words ' just now ' in part (a) should be omitted.

Sir Aubrey Metcalfe : (a) There are 50 to 60 Indians living in Jerusalem.

(b) Their interests are not less safe than those of any other community in Palestine at present.

(c) The authorities in Palestine are taking all possible steps to protect the lives and properties of all communities including Indians.

Mr. S. Satyamurti : With reference to the very cautious answer to part (b) of the question, may I know whether the interests of these Indians are as safe as those of the Jews or as those of the Arabs ?

Sir Aubrey Metcalfe : Presumably. That is the answer that I received from the High Commissioner in Palestine.

Mr. S. Satyamurti : With reference to the answer to part (c) of the question that as much care is being taken of Indians in Palestine as those of others, considering that they are foreigners in Palestine, may I know whether the Government of India are taking any special steps to protect the lives and property of Indians who are likely to be suspect by both Arabs and Jews ?

Sir Aubrey Metcalfe : I do not understand what the Honourable Member means by special steps. They are taking all possible steps and they cannot do more.

Mr. S. Satyamurti : Have they got the interests of Indians specially in view ? That is all that I want to know.

Sir Aubrey Metcalfe : It is exactly the same as in the case of all other British subjects ; they cannot do more than that.

Sardar Mangal Singh : Has any Indian been wounded in Haifa ?

Sir Aubrey Metcalfe : There has been no Indian wounded there, so far as I know.

RACIAL DISCRIMINATION IN CHARGING RENTS FROM REFRESHMENT ROOM CONTRACTORS ON RAILWAYS.

1088. ***Mr. S. Satyamurti :** Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that on certain railways in India European refreshment rooms are given to contractors without any rent or with only a nominal rent ;
- (b) if so, at which stations, and to how many contractors ;
- (c) whether Indian refreshment room contractors are compelled to pay the economic rent for the occupation of the refreshment rooms ;
- (d) the reasons for this racial discrimination ; and
- (e) whether Government propose to examine the whole question and see that all racial discrimination is eliminated in this matter ?

The Honourable Mr. A. G. Clow : (a), (b) and (c). I am calling for the information required by the Honourable Member and a reply will be placed on the table of the House after it has been received.

(d) and (e). Such particulars as I have are incomplete but do not suggest that differences are based on racial discrimination but the question of charging economic rents in all cases will be considered.

Mr. S. Satyamurti : With reference to the last answer, may I know what are the grounds on which my Honourable friend has come to the conclusion that there is no racial discrimination when information in his possession is incomplete, and no statement is placed before the House today ?

The Honourable Mr. A. G. Clow : I looked up such particulars as I had and the variations disclosed did not appear to be based on that principle ; but when the full information is available, the Honourable Member will be in a position to judge for himself.

Mr. S. Satyamurti : In view of the fact that we are adjourning in two or three days, does placing on the table of the House mean that it will be placed in the November Session, or will it be communicated to the Honourable Member asking the question ?

The Honourable Mr. A. G. Clow : It will be placed on the table in November.

Dr. Sir Ziaddin Ahmad : Will the Honourable Member see that the contracts of the Indian refreshment rooms, both Hindu and Muhammadan, are not auctioned and given to the highest bidder ?

The Honourable Mr. A. G. Clow : I do not see why a rule of that kind should be laid down.

Dr. Sir Ziauddin Ahmad : Am I right that they will be auctioned and given to the highest bidder ?

The Honourable Mr. A. G. Clow : It is for the Agent and General Manager to consider the most suitable method, having regard both to the interests of the public and the need for economy.

Dr. Sir Ziauddin Ahmad : I think it has been repeatedly stated in the Advisory Committee and on the floor of the House that these refreshment rooms are not intended to bring any money to the railway treasury, but they are intended for the comforts and convenience of the passengers.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is giving information. Next question.

PROVISION OF FANS IN THIRD CLASS COMPARTMENTS ON RAILWAYS.

1089. ***Mr. S. Satyamurti :** Will the Honourable Member for Railways be pleased to state :

- (a) whether Government have got an estimate of providing third class coaches only running on long distance trains, say, throughout the 12 hours of the day being fitted with electric fans ;
- (b) whether Government are prepared to classify the railway coaching traffic for this purpose separately as far as possible ;
- (c) whether Government also have considered the recurring cost of working these fans only during the hottest months of the year ; and
- (d) whether as a part of the scheme for meeting competition from bus traffic, Government are prepared to provide fans in third class coaches and place proposals for the same before the House ; if not, why not ?

The Honourable Mr. A. G. Clow : (a), (b) and (d). No. For the reasons indicated in connection with the provision of fans in intermediate carriages in my reply to Mr. Nabi Baksh Ilahi Baksh Bhutto's starred question No. 651 on the 31st August, 1938, Government do not propose to pursue the matter further.

(c) No. Government understand there would be no saving in the suggested limitation of the period of use as this equipment depreciates more rapidly when out of use.

Mr. S. Satyamurti : May I know, apart from the present intentions of the Government, the reason why they will not collect the relevant information for the benefit of a future Government which may pursue a different policy ?

The Honourable Mr. A. G. Clow : Because there is no point in collecting information when there is no prospect of taking any action on it.

Mr. S. Satyamurti : Surely my Honourable friend must know that the time is coming when this Government will be replaced by another Government. May I know why Government will not collect information, which may make it easier for that Government to pursue a policy that they may want to ?

The Honourable Mr. A. G. Clow : Because it is not at all a difficult matter to collect. If the then Government saw any prospect of embarking on that policy, they could collect the information quite expeditiously.

Mr. S. Satyamurti : Have Government examined the possibility of increasing the railway passenger traffic by introducing these fans in the longer trains as I have described here, and in the hottest months of the year, with a view to meeting the road rail competition, apart from the Bill which we are considering ?

The Honourable Mr. A. G. Clow : I think that suggestion was previously made in the House and I replied to it.

PERMISSION TO TRADE UNIONS ON THE NORTH WESTERN RAILWAY TO CARRY ON THEIR LAWFUL ACTIVITIES.

1090. ***Mr. S. Satyamurti :** Will the Honourable Member for Railways be pleased to state :

- (a) whether it is a fact that railway labour workers have been allowed to hold meetings during recess hours in Mughalpura Workshop area for the last 20 years ;
- (b) whether it is a fact that railwaymen employed in the workshops have a registered union by the name of All-India Railway Mechanical Workers' Federal Union, Lahore ;
- (c) whether it is a fact that, in spite of this practice, the office bearers of the Union are now being prosecuted by the railway for holding meetings in the workshop area ; and
- (d) whether Government have called upon, or will call upon, the General Manager, North Western Railway, Lahore, to withdraw these prosecutions and permit the leaders of trade unions to carry on their lawful activities ; if not, why not ?

The Honourable Mr. A. G. Clow : (a) The North Western Railway (Recognised) Union was occasionally allowed to hold meetings on suitable open spaces on railway land provided such meetings were orderly and properly conducted and convened. Later on some persons started holding meetings by the roadside in front of the Workshop without any authority from the Administration. These meetings were characterised by inflammatory speeches and in the interests of work and discipline, that area has been declared as a " Restricted Railway Area ".

(b) The General Manager, North Western Railway, reports that a Union by the name of " All-India Mechanical Workers Federal Union " came into existence in March, 1937, and was registered in August, 1937. This Union has not been recognised by the Administration.

(c) No office bearer of the Recognised Union has been prosecuted. Legal action is being taken against a few persons who disregarded the prohibitory notices which had been exhibited.

(d) In view of the reply to part (c) above, this does not arise. Government do not propose to interfere as trade union leaders are not being prevented from carrying on lawful activities.

Mr. S. Satyamurti : With reference to the answer to clause (d) of the question, may I know the reasons why the North Western Railway have not yet recognised this union ?

The Honourable Mr. A. G. Clow : I do not know the reasons, but the title of it does not suggest that it is confined to railways.

Mr. Lalchand Navalrai : In view of the fact that on this railway the labour people were giving lectures within the premises of the workshops for the last 20 years, may I know why they are prohibited from doing that now ?

The Honourable Mr. A. G. Clow : I have given the answer to that in my answer to part (a) of the question.

Mr. Lalchand Navalrai : May I know what that answer was ?

The Honourable Mr. A. G. Clow : Should I read it again, Sir ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should have listened to the answer.

Mr. Abdul Qaiyum : The meetings are not allowed near roads. May I know if meetings can be held on other railway lands and whether there is any railway property where meetings can still be held ?

The Honourable Mr. A. G. Clow : I must ask for notice.

Mr. Lalchand Navalrai : May I know if any meetings are being held within the premises of the workshops after this prosecution ?

The Honourable Mr. A. G. Clow : I do not know.

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

POSTAL INSURANCE.

1091. ***Mr. S. Satyamurti :** Will the Honourable Member for Communications be pleased to state :

- (a) the latest position with regard to postal insurance which has been extended to all Government servants ;
- (b) the number of people who have taken advantage of this extended postal insurance, the premia paid by them for the last financial year for which figures are available ;
- (c) the amounts paid by Government by way of maturity or on account of death, to the various claimants ;

- (d) the actual cost of management of this insurance branch ;
- (e) the rate of premia for postal insurance compared with the rates charged by private companies ; and
- (f) whether Government have considered, or are prepared to consider, the question of extending the Government insurance with a view ultimately to nationalise all insurance in this country ?

The Honourable Mr. A. G. Clow : (a) to (d). I would refer the Honourable Member to Appendices XIV to XVI to the Annual Report of the Indian Posts and Telegraphs Department for the year 1936-37, and to the Indian Insurance Book for the year 1936, copies of which are in the Library of the House.

(e) I would refer the Honourable Member to the reply given to part (e) of starred question No. 317 put by Mr. Amarendra Nath Chattopadhyaya on the 16th February, 1938.

(f) I would refer the Honourable Member to the reply given to the latter part of part (b) of unstarred question No. 132 put by Mr. Amarendra Nath Chattopadhyaya on the 6th April, 1938.

Mr. S. Satyamurti : I want you, Sir, to sympathise with us in this respect. When reference is made to some answer to an unstarred question asked some months ago, how can we pursue the matter here, if we are suddenly told to look up some answer given some months ago ?

The Honourable Mr. A. G. Clow : It was given in April.

Mr. S. Satyamurti : It takes away the whole point of a starred question. I quite agree that we cannot compel Government to read a long answer, but when only...

The Honourable Mr. A. G. Clow : The point of a starred question is to secure information, and I have stated where the information is.

Mr. S. Satyamurti : The answer to part (f) of the question is a matter of primary importance to me, and I want to see whether Government will extend this Government insurance, with a view ultimately to nationalise all insurance in this country, and the Honourable Member refers me to the answer to some unstarred question put months ago.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can give a gist of the reply....

The Honourable Mr. A. G. Clow : Yes, Sir. I can give the gist of the reply.

The gist of it was that a proposal to open the fund to the general public was considered and rejected. The Banking Inquiry Committee held that in view of the large number of insurance companies doing useful work such a proposal could not be supported.

Mr. S. Satyamurti : May I know whether Government will re-examine the position, in view of the change in public opinion in favour of state insurance as much as possible ?

The Honourable Mr. A. G. Clow : I am not aware of that change.

Mr. S. Satyamurti : You are not aware of the change in public opinion ? Has not the Honourable Member followed the discussions on the Indian Insurance Act amending Bill in which Honourable Member after Honourable Member got up and suggested that, as far as possible, insurance must be nationalised in this country ?

The Honourable Mr. A. G. Clow : I do not entirely agree with the Honourable Member's view.

Mr. S. Satyamurti : That is a different matter ; but may I ask, in view of the Honourable Member's inclinations towards socialism, whether the Government of India have examined this question from the point of view of the greatest good of the greatest number, and have come to the conclusion that they cannot even reconsider the matter now ?

The Honourable Mr. A. G. Clow : The Government have not re-examined the question since April but they see no reason for departing from the conclusion that was then announced.

Mr. N. V. Gadgil : Are Government considering the question of state insurance in the matter of third party insurance in connection with the Motor Vehicles Bill.

(No answer.)

FAILURE TO INCREASE MUSLIM QUOTA IN CERTAIN APPOINTMENTS ON THE EAST INDIAN RAILWAY.

†1092. ***Mr. Muhammad Nauman :** Will the Honourable Member for Railways be pleased to state why the East Indian Railway authorities have failed to increase Muslim quota in the posts of clerks in all grades in the Head Office of the East Indian Railway, and Claim Inspectors, Research Inspectors, Traffic Inspectors, Publicity Inspectors, employed on the whole of the East Indian Railway ? How many Muslims have so far been examined for selection for these posts ?

The Honourable Mr. A. G. Clow : Quotas are fixed only for initial recruitment and there are no quotas for grades or classes of appointment to which appointment is made by promotion. No question arises, therefore, of increasing the quotas for such appointments. The increasing of the quotas for initial recruitment is not a matter for the railway administration. As regards the last part of the question, I have no information.

SENIORITY OF THE TICKET CHECKING BRANCH OF THE HOWRAH DIVISION, EAST INDIAN RAILWAY.

†1093. ***Mr. Muhammad Nauman :** (a) Is the Honourable Member for Railways aware that the seniority of the Ticket Checking Branch on the Howrah Division of the East Indian Railway is now maintained according to the length of service ?

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

(b) If the reply to part (a) be in the affirmative, why was the seniority not prepared according to the length of service on the 1st June, 1931 when the Ticket Checking Branch was introduced ?

(c) If this rule of seniority according to the length of service was not framed at that time, what was the rule in vogue at that time ?

(d) How many Hindus were promoted according to the seniority of 1st June, 1931 in supersession of Muslims who were thus placed as junior to them ?

The Honourable Mr. A. G. Clow : (a) No ; but I should expect this to be the case.

(b) Does not arise.

(c) and (d). Government have no information. This is a matter of detailed administration within the competence of the General Manager, East Indian Railway, to whom I am sending a copy of the question for such action as he may consider necessary.

PROCEDURE TO FIND OUT THE EFFICIENCY OF RAILWAY STAFF.

†1094. ***Mr. Muhammad Nauman :** (a) Will the Honourable Member for Railways be pleased to state what are the rules to find out whether the service record of a particular staff is fair, good, better, best, bad, worse ?

(b) Is it a fact that in examining the efficiency of a particular staff from his service record, the offences committed during the last six months are only to be considered ?

The Honourable Mr. A. G. Clow : (a) and (b). Government are not aware of any such rules.

MUSLIMS APPOINTED TO INFERIOR SERVICES ON THE EAST INDIAN RAILWAY.

†1095. ***Mr. Muhammad Nauman :** (a) Is the Honourable Member for Railways aware of the fact that the recommendations of the Staff Superintendents' meetings (East Indian Railway) held at Moghalsarai on the 21st September, 1936, and the 25th January, 1937, and at Dhanbad on the 24th November, 1936, about reservation of one-third of the vacancies in inferior services for the redress of marked communal inequalities have not been carried out ?

(b) If the reply to part (a) be in the negative, will the Honourable Member be pleased to show how many vacancies in the inferior services occurred in all the Divisions of the East Indian Railway during the period from 21st December, 1935 to 31st July, 1938, and, out of them, how many went to Muslims, showing thereby an increased percentage thus effected ?

The Honourable Mr. A. G. Clow : (a) and (b). Government have no information, but the instructions are that one-third of the vacancies in the inferior services should be reserved for the redress of marked communal inequalities. Government have no reason to believe that these

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

instructions are not being followed on the East Indian Railway. I am, however, sending a copy of the question to the General Manager of that Railway for such action as he may consider necessary.

**MAKING THE PROCEEDINGS OF THE MEETINGS OF THE BOMBAY PORT TRUST
OPEN TO PUBLIC INSPECTION.**

1096. ***Mr. Abdul Qaiyum** (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Honourable Member for Communications state :

(a) whether he has received a reply to his letters to the Bombay Port Trust in the matter of making the proceedings of the Port Trust open to the public (in pursuance of his answer to starred question No. 376 asked on the 23rd August, 1938) ; and

(b) if so, what conclusion they have come to in this matter ?

The Honourable Mr. A. G. Clow : (a) and (b). I am not in a position to add to the reply given to the question to which the Honourable Member refers. The matter is still under correspondence.

**REPORT OF THE ENQUIRY INTO THE ACCIDENT IN THE TRICHINOPOLY
SHENCOTTAH RAILWAY LINE.**

1097 ***Mr. Abdul Qaiyum** (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Honourable Member for Communications state :

(a) whether they have received the report of the enquiry into the recent accident in the Trichinopoly Shencottah line ;

(b) what was the reason for the accident ;

(c) whether they have recommended compensation to be given ; and

(d) any steps to be taken to prevent such occurrences in the future ?

The Honourable Mr. A. G. Clow : (a) No.

(b) and (c). I would refer the Honourable Member to the reply I gave to Seth Govind Das' and Mr. Ananthasayanam Ayyangar's short notice questions and the supplementaries thereto on the 23rd August.

(d) This will be for consideration when the report of the Senior Government Inspector has been received.

Mr. Abdul Qaiyum : Apart from any report of the Senior Government Inspector will Government take up the question of compensating the relatives of those who lost their lives or were injured in this accident ?

The Honourable Mr. A. G. Clow : The matter will be considered when the report of the Senior Government Inspector is received.

Mr. Abdul Qaiyum : May I know when the report will be received ?

The Honourable Mr. A. G. Clow : I cannot say.

Mr. Abdul Qaiyum : Will a copy be laid on the table of the House ?

The Honourable Mr. A. G. Clow : If a question is put, the matter will be considered.

CHARGING OF RENTS FROM EUROPEAN AND INDIAN REFRESHMENT ROOMS ON RAILWAYS.

1098. ***Mr. Abdul Qaiyum** (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Honourable Member for Railways state :

- (a) whether they have received information from Railway Administrations regarding the matter of charging rents to European and Indian Refreshment Rooms ;
- (b) whether any difference in treatment has been found between them ;
- (c) how many are paying economic and how many nominal rents ;
- (d) whether Government have considered the advisability of charging economic rents from all ; and
- (e) what will be the additional income to the company in that case ?

The Honourable Mr. A. G. Clow : (a) to (d). I would refer the Honourable Member to the reply I have just given to Mr. Satyamurti's question No. 1088.

(e) The Honourable Member has not indicated which Company he has in mind, but I have no particulars for any Company.

Mr. Lalchand Navarai : May I know from the Honourable Member whether Government are considering the desirability of charging economic rents for all ?

The Honourable Mr. A. G. Clow : I have replied to that question more than once.

REVISION OF THE FREE PASS RULES ON RAILWAYS.

1099. ***Mr. Abdul Qaiyum** (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Honourable Member for Railways state :

- (a) in continuation of his answer to starred question No. 518 of the 26th August, 1938, whether the matter of free passes to Railway employees, now before Government, has been decided ; and
- (b) what is the financial effect of these new rules ?

The Honourable Mr. A. G. Clow : (a) No.

(b) Does not arise.

LABOUR CONTRACT OF THE CALCUTTA PORT TRUST.

1100. ***Mr. Abdul Qaiyum** (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Honourable Member for Communications state :

- (a) whether Government have received the report of the proceedings of the Calcutta Port Trust referred to in starred question No. 529 and the following on the 26th August, 1938 ;

- (b) why the advice of the Indian Commissioners of the Port Trust, and the Accountant General to throw open the contract given to Messrs. Bird and Company to open tender was not accepted ;
- (c) whether Government have considered the matter, and, if so, to what conclusion they have come to ; and
- (d) how the latest contract was given and when ?

The Honourable Mr. A. G. Glow : (a) Yes.

(b) As I explained in my reply to part (e) of starred question No. 954 asked by Mr. Satyamurti on the 13th of September, three of the five Indian members were for calling for open tenders. The majority of the Commissioners considered that the terms offered by Messrs. Bird and Company justified a renewal of their contract.

(c) I would refer the Honourable Member to the reply I gave to parts (b) and (c) of starred question No. 985 asked by Mr. Subedar on the 13th September.

(d) The existing contract was entered into in 1934. The Commissioners resolved on the 3rd August last to renew the contract as from the 1st April, 1939, on condition of the revised scale of rebates offered for the new contract having effect from 1st April, 1938.

CONCESSIONS TO GOVERNMENT SERVANTS ON RAILWAYS.

1101. *Mr. Brojendra Narayan Chaudhury : (a) Will the Honourable the Railway Member please state if servants of the Government of India enjoy any concession in travel by railways in India either on service, or on their own account ?

(b) If so, will he state the class of officers, the nature of concessions and the approximate total fares they would have paid annually, if the concessions were not granted, i.e., the total value of the tickets (issued to them) at ordinary rates ?

(c) Is there a loss to railway revenues when they travel on service under concessions ?

(d) Is there any loss to Central Government thereby ?

(e) Do servants of Provincial Governments enjoy similar concessions ?

(f) Is there a loss to Central Government when the officers travel on concession on their own account ?

(g) Have superior army officers recently, or for a long time, been given any such concession, or is it intended to be given ? If so, what is the reason ?

(h) What is the reason behind the grant of railway concessions to Government servants generally ?

The Honourable Mr. A. G. Clow : I assume that the Honourable Member's question relates to servants of the Government of India other than railway employees. On this assumption the answers are :

- (a) to (d) and (h). I would refer the Honourable Member to the paragraph under the heading 'Concessions granted to Government Departments' appearing in Appendix III (pages 30 to 34) of the Report of the Public Accounts Committee on the accounts of 1934-35, Part II—Railways. Free passes are also issued to the telegraph staff for journeys on duty and to the Railway Police for journeys on duty and in some cases when travelling on leave. It is not practicable to ascertain the monetary value of these concessions.
- (c) Concessions similar to these admissible for military personnel are allowed over the North Western Railway for journeys otherwise than on duty, in certain cases, to Indian Officers, non-commissioned officers and men and families of non-commissioned officers and men of some Militia and Levy Corps and of the Frontier Constabulary in the North-West Frontier Province.
- (f) These concessions are given on commercial grounds, i.e. in the belief that they bring additional traffic. Government have no reason to believe that any loss is involved.
- (g) Yes. The concession of travelling first class on payment of second class fares, that was being allowed for officers not above the rank of Captain when travelling on leave at their own expense, has recently been extended to officers not above the rank of Lieutenant-Colonel. The extension which has been granted by Railways, on their own initiative, is intended to be experimental for a period of two years within which an examination will be made to ascertain whether the concession is commercially justified.

Mr. S. Satyamurti : With reference to part (f), may I know the criteria or the figures on which Government have come to the conclusion that there is no financial loss to the railways, on account of Government officers travelling on these concession rates ?

The Honourable Mr. A. G. Clow : It is more a matter of judgment than of statistical examination.

Mr. S. Satyamurti : That judgment must be susceptible of some expression and understanding. May I know what the judgment is on which my friend has come to the conclusion that the railways do not suffer any financial loss on account of these concessions ?

The Honourable Mr. A. G. Clow : It is not based on my independent judgment. I am advised by those who are expert in these matters that that is the position.

Mr. S. Satyamurti : Did they give any reasons or is it an *ex-cathedra* judgment passed on to my friend ?

The Honourable Mr. A. G. Clow : I presume they have examined the position.

Mr. S. Satyamurti : I want to know the basis on which that judgment is based. Is it based on any expectations or facts ?

The Honourable Mr. A. G. Clow : Not expectation but belief.

Mr. S. Satyamurti : What are the grounds for that belief ?

The Honourable Mr. A. G. Clow : The grounds are that those who are expert in this matter of railway traffic are the best persons to judge and on examination of the facts before them, they have come to this conclusion.

Mr. S. Satyamurti : In view of the fact that the tax-payer has to pay for their judgment, I want to know whether these gentlemen have any criteria for that judgment, or is it merely a case of justifying a concession which cannot otherwise be justified ?

The Honourable Mr. A. G. Clow : It is based on experience.

Mr. S. Satyamurti : There must be some facts on which that experience is based. What are those facts ?

Mr. President (The Honourable Sir Abdur Rahim) : This is a matter of argument.

Mr. Brojendra Narayan Chaudhury : Is it a fact that superior military officers consider it derogatory to travel in a lower class with officers of lower rank and hence this concession ?

The Honourable Mr. A. G. Clow : That is not the reason for the concession, if it is a fact at all.

MANUFACTURE OF TELEPHONE APPARATUSES IN INDIA.

†1102. ***Mr. T. S. Avinashilingam Chettiar :** Will the Honourable Member for Communications state :

- (a) what are the telephone apparatuses that are not manufactured in this country ;
- (b) whether the raw material necessary for their manufacture is not available in India ; and
- (c) what is the money spent in the last financial year on such imported apparatus ?

The Honourable Mr. A. G. Clow : (a) I lay a statement on the table. A beginning has been made with the manufacture of subscribers' instruments in the Telegraph Workshops at Alipore but certain parts have still to be imported.

(b) Certain raw materials are not available in India, such as carbon, magnet steel, ebonite, silvonite and switchboard connecting wire.

(c) Rs. 9,81,269.

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

1. Automatic exchange equipment of all types—imported complete.
2. Carrier equipment.
3. Voice Frequency repeater panels.
4. Power plant—motor-generators, rectifiers, ringing machines, power switchboard components, power cables.
5. Measuring instruments and transmission measuring apparatus of all types.
6. Repeating coils.
7. Condensers.
8. Telephone Instruments. Imported complete in the past. Of the Central Battery automatic type now being manufactured in Workshops the following parts are imported :
Handset, transmitter and receiver insets, cradle switch, dial, condenser, induction coil and cords.
9. Switchboard components—lamps, cords, telephone-meters, repeating coils, condensers, calculographs.
10. Wireless transmitters and receivers of all types.
11. Wireless components—valves, condensers, coils, resistances, etc.
12. Switchboard wire and cables.
13. Primary batteries—dry cells.
14. Secondary batteries—complete, and battery components.

PERSONS KILLED AND INJURED IN RAILWAY ACCIDENTS.

1103. *Mr. Brojendra Narayan Chaudhury : Will the Honourable Member for Railways please state :

- (a) the number of killed and injured in railway accidents, or otherwise, on railway lines or premises in the year ending with 31st March, 1937 (or 31st December 1937, if possible) ;
- (b) of the above, the number of persons (i) who have claimed compensation and the total amounts thereof ; (ii) who have received compensation amicably and the total amounts thereof ; (iii) who have applied to courts for compensation ; (iv) whose claims were still pending before courts ; (v) who have secured court decrees and the total amounts ; (vi) whose decrees have been paid off within a year of the happening of the injury and the amounts ; and (vii) whose decrees have been paid off after a year from the date of the injury ;
- (c) out of (b), (i) the claims still pending, and (ii) the decrees outstanding the number and the amounts ;
- (d) whether the department has any machinery for taking initiative in enquiring into such claims, without claims being preferred ; if not, why not ; and
- (e) regarding (b) (ii) and (v) the total amounts claimed ?

The Honourable Mr. A. G. Clow : (a) I would refer the Honourable Member to Appendix D (i), page 237 of Volume II of the report by the Railway Board on Indian Railways for 1936-37, a copy of which is in the Library of the House.

(b), (c) and (e). I regret that none of this information is available with Government and that it could not be collected without an amount of research which would be disproportionate to the value of the results.

(d) Each case is investigated as it arises : but the question of the payment of compensation is not considered until a claim has been preferred.

Mr. Brojendra Narayan Chaudhury : With reference to part (d), may I know by whom the claims are investigated ?

The Honourable Mr. A. G. Clow : It is investigated by the officers who deal with claims.

Mr. Brojendra Narayan Chaudhury : Are there any special officers for this purpose ?

The Honourable Mr. A. G. Clow : In some cases there are special officers, as in the case of the Bihta accident.

Mr. S. Satyamurti : With regard to parts (b) and (c) of the question, may I know whether Government will select one important major accident and find out the figures in regard to these matters ? I am asking because the other day we asked the Honourable Member whether they would have some special machinery for that purpose and the answer was " No ". I am asking whether, in view of the importance of the question, Government will consider the possibility of getting statistics with regard to one major accident.

The Honourable Mr. A. G. Clow : Yes, Sir, I am prepared to try and collect what information is possible regarding the Bihta accident.

CARRIAGE OF MOTOR SPIRITS BY RAILWAYS.

1104. ***Mr. Brojendra Narayan Chaudhury :** Will the Honourable the Railway Member please state :

(a) the earnings of Indian Railways by carriage of motor spirits in one year (for the latest year for which figures are available) ; and

(b) whether the above figure was deducted in Mitchell-Kirkness Report or Wedgwood Report in arriving at the " conjectural figure " of loss to Railways by motor vehicle traffic ?

The Honourable Mr. A. G. Clow : (a) The earnings were about Rs. 115 lakhs on Class I Railways during 1937-38. These figures are gross, i.e., they do not take into account the cost of carrying the traffic. Similar figures for other railways are not recorded.

(b) No.

PETITIONS REGARDING THE ERECTION OF FENCES ON THE DIBRU-SADIYA RAILWAY.

1105. ***Mr. Brojendra Narayan Chaudhury :** Will the Honourable the Railway Member please state :

(a) whether he has received a petition dated the 19th August, 1938, through the Chief Minister, Assam, signed by 84

persons of Dibrugarh, including pleaders and other persons of rank, requesting for the erection of fences on Dibru-Sadiya Railway ;

(b) whether the petition states that :

- (i) the railway runs within three to six feet of the public thoroughfare and the Assam Trunk road, carrying heavy vehicular (including motor) and foot traffic ;
- (ii) that during the last six months between Dikom and Chalkhowa stations—a distance of ten miles only—five persons and twelve heads of cattle were killed by trains, and that the list has been annexed to the petition ;
- (iii) that recently two rail cars running at great speed have been introduced and that the rail cars derailed once in running over an animal, once in June and again on the 27th July, 1938, badly knocking down a man who is in Dibrugarh hospital, and that the Public Prosecutor and other respectable gentlemen are eye-witnesses of the accident ; and
- (iv) that the petitioners demand immediately fencing on both sides of the entire line, failing which at least of the line between Dibru and Makum stations the most thickly peopled part ;

- (c) whether he has made any enquiry regarding the allegations made in the petition ;
- (d) whether he had made any enquiry before the receipt of the petition generally or specifically with regard to particular incidents brought to his notice about the special danger of this unfenced line ; if so, what, and through whom ;
- (e) whether the Chief Minister of Assam did communicate the Assam Assembly debates regarding fencing of Dibru Sadiya line to the Central Government as stated in the petition ;
- (f) the difficulty, if any, of fencing the line and his or the railways' relations, if any, with the Assam Government regarding fencing ;
- (g) with reference to the statement in the petition that " twelve heads of cattle and five men killed by railway in six months within a distance of ten miles," whether this is not a record figure for Indian Railways as regards petty accidents (barring train smash, subsidence and sabotage of permanent way) ; and
- (h) the steps taken, or proposed to be taken, to fence the line, at least in parts ?

The Honourable Mr. A. G. Clow : (a) No, but an advance copy of the petition has been received direct.

(b). (i) to (iv). Yes.

(c) Government will await receipt of the official copy from the Government of Assam.

(d) This railway was under the administrative control of the Assam Government till the 1st April, 1937. Since that date Government have received no representations regarding the danger of this line.

(e) Government are not aware of this.

(f) The cost of fencing the whole line would be so high that I understand the Assam Government suggested in 1935, when the line was under their administrative control, that fencing should be provided only along lengths particularly prone to accident, with sleeper posts elsewhere to prevent side collisions with carelessly driven motor vehicles.

(g) I am unable to say.

(h) The Government Inspector reports that additional sleeper posts were erected in 1937-38. The matter will be considered further on receipt of the petition with the Assam Government's remarks.

Mr. Brojendra Narayan Chaudhury : Do I understand that the recommendation of the Assam Government regarding fencing at particular spots and of a particular kind have not yet been given effect to ?

The Honourable Mr. A. G. Clow : I have not received the Assam Government's views on the petition yet.

GRIEVANCES OF GANGMEN WORKING ON THE RAILWAY BETWEEN BARKAKHANA AND GOMO.

†1106. ***Ram Narayan Singh :** Will the Honourable Member for Railways be pleased to state :

(a) whether he is aware of the fact that gangmen working on the railway line between Barkakhana and Gomo, of the Barkakhana Loop line of the East Indian Railway, are greatly harassed and oppressed by their superior officers by way of exacting bribes from and ill-treating the gangmen in various ways, and that consequently there is a great discontent among them, (12 petitions with thumb impressions of over 100 gangmen submitted to me have been sent to the Railway Department in original) ; and

(b) if the answer to part (a) above be in the affirmative, whether Government propose to enquire into the allegations ?

The Honourable Mr. A. G. Clow : (a) A representation was received from certain gangmen employed on the section of the line referred to by the Honourable Member, and was forwarded to the General Manager, East Indian Railway, for disposal, as control over subordinate railway services has been delegated to him.

(b) I am sending a copy of the question together with the petitions received from the Honourable Member to the General Manager, East Indian Railway, who is being asked to examine the allegations and to take such action as he may consider necessary.

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

TRANSFER OF PALAMAU DISTRICT TO THE RANCHI POSTAL DIVISION.

†1107. ***Mr. Ram Narayan Singh** : Will the Honourable Member for Communications be pleased to state :

- (a) whether the Palamu District of Chhota Nagpur, which was only recently taken from the Gaya postal division and annexed to the Hazaribagh division, is again going to be annexed to the Ranchi Postal Division and, if so, why ; and
- (b) whether he is aware that this rumoured or proposed change has already caused an alarm among the postal staff of the Palamau District ?

The Honourable Mr. A. G. Clow : (a) Government understand that the Postmaster-General has under his consideration certain proposals for the re-arrangement of the Ranchi and Hazaribagh Postal Divisions in order to secure a more equitable distribution of work and administrative convenience. No decision has yet been reached.

(b) No ; but I understand that a protest has been received by the Postmaster-General, Bihar and Orissa Circle, against the proposed transfer of the Daltonganj Head Office and its sub offices from the Hazaribagh to the Ranchi Division from a branch of the All-India Postal and R. M. S. Union.

AFFAIRS OF THE ASSAM BENGAL RAILWAY.

1108. ***Mr. Brojendra Narayan Chaudhury** : Will the Honourable Member for Railways please state, regarding affairs on the Assam Bengal Railway :

- (a) whether it is a fact that in November last some Travelling Ticket Examiners were placed at Karimganj for about two weeks and school students who had been allowed so long to take their evening walks in the station compound, were taken unawares without warning and charged for entering the platform (level, not raised) without tickets along with other innocent people ;
- (b) whether there is any fencing of the platform, and whether the platform is well defined ;
- (c) whether booking office, parcel office, station master's office, and refreshment room, can only be approached through the platform ;
- (d) the rules for entrance of people to the platform who go on business to booking office, parcels office and to the station master's office ;
- (e) whether the students were agitated and collected nearby but outside the station in large numbers and whether a criminal case was instituted in connection with the affair and whether the case was withdrawn by railway, if so, why it was withdrawn ;

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

- (f) whether ultimately compensation was demanded by people employed on the railway and on the students refusal to pay, the school has been blacklisted for two years and all concessions withdrawn for the same period; and
- (g) whether, in view of the peculiar circumstances of the case, the Honourable Member proposes to ask the Railway Board to investigate the matter?

The Honourable Mr. A. G. Clow : I have called for the information required by the Honourable Member and a reply will be placed on the table when it is received.

EXAMINATIONS TO FILL VACANCIES IN THE POSTS AND TELEGRAPHS DEPARTMENT.

1109. ***Maulvi Muhammad Abdul Ghani :** (a) Will the Honourable Member for Communications please state if it is a fact that in order to fill up a very large number of vacancies that had been previously kept in abeyance in the clerical cadre of the Posts and Telegraphs Department, competitive examinations were held in various Posts and Telegraphs circles in India during 1937, under the Director General of Posts and Telegraphs orders, and that no standard was previously set for these examinations?

(b) Is it a fact that the Director General of Posts and Telegraphs issued orders to all Heads of Circles to fill up vacancies reserved for members of the minority community by appointing candidates from the majority community on the plea that qualified candidates of the minority community were not available?

(c) Will Government lay on the table of the House a copy of such orders by telegraph or by letter issued by the Director General of Posts and Telegraphs to Heads of Circles?

(d) Did Government receive any communications on this and other subjects from the General Secretary, Muslim Rights and Protection Board, President, Muslim Alamgir Association, Punjab, during 1937 and 1938? What action, if any, did Government take on such representations?

The Honourable Mr. A. G. Clow : (a) The competitive examinations were not held in order to fill a very large number of vacancies which had been previously kept in abeyance. Vacancies occurring before the dates of announcement of the examinations in the different circles were filled by approved candidates on the waiting lists according to the regulations in force at the time. The examinations were held to obtain candidates to fill vacancies existing on the date of announcement of the examination and such other vacancies as occurred or were likely to occur after that date. All candidates who applied were furnished with full information regarding the subjects of the examination.

(b) In Circles where the number of candidates belonging to the minority communities who qualified was insufficient to fill the vacancies reserved for them, the Director-General, with the approval of the Gov-

ernment of India, issued orders that only such of the vacancies as could not be kept open till the next examination should be treated as unreserved and filled on merits irrespective of community.

(c) A copy of the orders in question is laid on the table.

(d) No communications were received on this subject from these gentlemen. I am unable to ascertain whether communications were received on any other subject without an indication of the subjects. The latter part of the question does not arise.

Telegram coded P., dated 9th March, 1938, from the Director General, Posts and Telegraphs, New Delhi, to all Heads of Circle.

EsB 20-3|38. My telegram EsB 220-48|37, 1st January, 1938. In connection with filling of reserved vacancies Government agree that such of the vacancies as are intended for minority candidates and which cannot be kept open till next examination should be treated as unreserved and be filled on merits irrespective of community under paragraph 7 (1) (v), Home Department Resolution No. F.14|17-B.|33, dated 4th July, 1934, circulated with my EsB 26-11|33, dated 13th June, 1935. You should now proceed to discharge all acting clerks who have been engaged on terms prescribed my memorandum Es.B 220-19|37, dated 7th June, 1937, on purely temporary basis having regard to Art. 436-C.S.R., i.e., clerks who have not definitely engaged on condition that service is terminable without notice should be served with month's notice and candidates who have qualified in examination on lower standard specially permitted be appointed in place of all clerks discharged. Wire at earliest possible date what shortages still exist after carrying out above so that decision may be reached regarding holding of further examination as soon as possible. Care must be taken that only substantive vacancies existing on the date of examination are filled up in this manner.

Dr. Sir Ziauddin Ahmad : With respect to the answer to part (d) of the question the Home Department gave us an undertaking that if in a particular year the number of Muslim candidates required is not available, then those places will be kept open for them for next year, and why was it not done in this case ?

The Honourable Mr. A. G. Clow : I think this is being enforced, but it cannot be an invariable rule : you cannot hold vacancies over indefinitely.

Dr. Sir Ziauddin Ahmad : But why were they not kept open for one year ?

The Honourable Mr. A. G. Clow : There is, I think, to be an adjustment for next year.

Mr. S. Satyamurti : Do I understand the Government to say that they have agreed to keep vacancies unfilled ? How then is the work to be done ?

The Honourable Mr. A. G. Clow : It is done by temporary employees.

Mr. S. Satyamurti : May I ask if they are to be employed on this work, or if the work is to be postponed till next year, or if the work is not to be done, or if the work is to be done by others by working overtime ?

The Honourable Mr. A. G. Clow : The reservation for next year will be increased to make up for the loss this year.

Dr. Sir Ziauddin Ahmad : The Honourable Member said that qualified and suitable Muslims were not available. Is he very serious about it ?

The Honourable Mr. A. G. Clow : In one or two cases a sufficient number were not available.

Dr. Sir Ziauddin Ahmad : I challenge the Honourable Member if he cannot get Muhammadans to fill up the whole of the Postal Department.

Maulvi Muhammad Abdul Ghani : Do Government propose to advertise these vacancies reserved for Muslims in Muslim papers—as for instance, the *Star of India*, the *Eastern Times*, and the *Deccan Times* ?

The Honourable Mr. A. G. Clow : Examinations are advertised ; I cannot say in what papers, without notice.

RULES FOR THE RECRUITMENT OF ASSISTANT SUPERINTENDENTS OF POST OFFICES.

1110. ***Maulvi Muhammad Abdul Ghani :** Will the Honourable Member for Communications please state whether it is a fact that the rules for the recruitment of Assistant Superintendents of Post Offices, have been changed ? If so, to what extent ? Will the Honourable Member be pleased to lay a copy on the table ?

The Honourable Mr. A. G. Clow : There are no posts of Assistant Superintendents of Post Offices. The question does not, therefore, arise.

CARRIAGE OF MOTOR CARS, ACCESSORIES AND MOTOR SPIRIT BY RAILWAYS.

1111. ***Mr. Kuladhar Chaliha :** Will the Honourable the Railway Member please state :

- (a) the amount of freight and other charges collected by the Indian Railways in the latest year for which figures are available, for carriage of motor car, accessories, and motor spirit by railways ;
- (b) whether this amount is deducted in computing the figures of loss of railways from road competition, which have been given to the House in this and the last Delhi Session by the Railway Member on several occasions ;
- (c) the total earnings by railways in that year given to the railway by road motor traffic, directly or indirectly ; and
- (d) the amount of loss to upper class traffic from private cars and motor cars ?

The Honourable Mr. A. G. Clow : (a) and (b). I would refer the Honourable Member to the reply I have just given to Mr. Brojendra Narayan Chaudhury's question No. 1104 as regards motor spirit. No figures are available in regard to the earnings from motor cars and accessories.

(c) and (d). Government have no particulars.

SUSPENSION OF RAILWAY COMMUNICATIONS DUE TO FLOODS ON THE BENGAL AND NORTH WESTERN RAILWAY.

†1112. ***Babu Kailash Behari Lal** : Will the Honourable Member for Railways be pleased to state :

- (a) if it is not a fact that, owing to high floods in the Koshi, railway communications have been suspended between Madhipura and Saharsa and between Koparia and Mansi stations on the Mansi Bhaptiahi sections on Bengal and North Western Railway ;
- (b) if he is aware that litigant public and passengers have to undergo insurmountable difficulties in going to Madhipura and Bhagalpur, which is the district headquarters ;
- (c) if it is a fact that the flood is subsiding and if he has considered that the breaches can be repaired easily at a small expense and care ;
- (d) if it is a fact that the railway authorities have not moved in the matter, in spite of representations from the public ; and
- (e) if it is a fact that, owing to the dislocation of the railway communications between Saharsa and Mansi stations, there is delay in the delivery of *dak* at Madhipura and if he has considered whether it is possible to arrange the delivery of *dak* at Madhipura from Murliganj, which is only 12 miles from Madhipura ?

The Honourable Mr. A. G. Clow : (a) Yes.

(b) I have no doubt that the public are seriously inconvenienced.

(c) and (d). I understand that flood conditions still persist and that restoration of through communications is not at present practicable. It is hoped that a low level diversion at a bridge on the Dauram Madhepura branch will be feasible shortly. On the section between Mansi and Koparia, a 280-foot bridge has been destroyed and a diversion to permit of through communications being restored is not likely to be practicable until early in November.

(e) The reply to the first part is in the affirmative. As regards the second part, the possibility of diverting the mails *via* Murliganj was considered in the early stages of the flood, but the route was not adopted owing to three river crossings and its unfrequented character.

DIVISIONAL ENGINEERS, TELEGRAPHS.

†1113. ***Mr. Umar Aly Shah** : (a) Will the Honourable Member for Communications please state the total number of Divisional Engineers, Telegraphs, in the Indian Posts and Telegraphs Department ?

(b) How many are Muslims ?

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

The Honourable Mr. A. G. Clow : With your permission, Sir, I propose to reply questions Nos. 1113 to 1116 together. I lay on the table a statement furnishing the information asked for.

	Total Number.	Number of Muslims.
Divisional Engineer, Telegraphs, in the Indian Posts Telegraphs Department	18	1
Sub-Divisional Officers, Telegraphs, in the Posts and Tele- graphs Department	49	5
Engineering Supervisors, Telegraphs and Telephones, in the Rawalpindi Division	12	1
Clerks in the office of the Divisional Engineer, Telegraphs, Rawalpindi Division	22	7

SUB-DIVISIONAL OFFICERS, TELEGRAPHS.

†11114. ***Mr. Umar Aly Shah :** (a) Will the Honourable Member for Communications please state the total number of Sub-Divisional Officers, Telegraphs, in the Posts and Telegraphs Department ?

(b) How many are Muslims ?

ENGINEERING SUPERVISORS, TELEGRAPHS AND TELEPHONES, IN THE RAWALPINDI DIVISION.

†11115. ***Mr. Umar Aly Shah :** (a) Will the Honourable Member for Communications please state the total number of Engineering Supervisors, Telegraphs and Telephones, in the Rawalpindi Division ?

(b) How many are Muslims ?

CLERKS IN THE TELEGRAPH DIVISIONAL OFFICE, RAWALPINDI.

†11116. ***Mr. Umar Aly Shah :** (a) Will the Honourable Member for Communications please state the total strength of clerks in the Divisional Office, Telegraphs, Rawalpindi ?

(b) How many are Muslims ?

POSTING OF A MUSLIM DIVISIONAL ENGINEER, TELEGRAPHS, TO THE RAWALPINDI DIVISION.

†11117. ***Mr. Umar Aly Shah :** Will the Honourable Member for Communications please state whether any Muslim Divisional Engineer (Telegraphs) was ever posted in the Rawalpindi Division ?

The Honourable Mr. A. G. Clow : No.

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

†For answer to this question, see answer to question No. 1113.

**PENSIONARY BENEFITS FOR MECHANICS AND MISTRIES IN THE POSTS AND
TELEGRAPHS DEPARTMENT.**

†1118. ***Mr. Muhammad Azhar Ali :** (a) Will the Honourable Member for Communications be pleased to refer to the answer to starred question No. 1368 given on the 16th October, 1936, and state whether Government have yet placed mistries and mechanics of the Indian Posts and Telegraphs Department on a pensionary basis ? If not, what is the reason for this exclusion ?

(b) Is it true that subsequent representations made to the Director General, Posts and Telegraphs, have been invariably rejected ? What is the reason for this ?

(c) How do Government justify their attitude, when a pension is admissible to all sections of the service, that this small body should be treated differently ?

The Honourable Mr. A. G. Clow : (a) and (c). The question of bestowing pensionary status on certain classes of non-pensionable employees of the Indian Posts and Telegraphs Department including mechanics and mistries is still under consideration.

(b) No. The Director-General informed those who made the subsequent representations that the matter was under consideration.

**AGITATION AGAINST THE MONOPOLY EXISTING ON THE DEOLI-NASIRABAD
ROAD.**

†1119. ***Pandit Sri Krishna Dutta Paliwal :** Will the Honourable Member for Communications please state :

(a) whether Government are aware of the agitation among the public of Deoli, Nasirabad, Kekri and surrounding areas against the existing monopoly on the Deoli-Nasirabad road ;

(b) if it is a fact that complete *hartal* was observed in Deoli and Kekri ; and

(c) whether Government have renewed the monopoly ; if so, for what reasons and on what conditions ?

The Honourable Mr. A. G. Clow : (a) No.

(b) I have received no information of such a *hartal*.

(c) I understand that the Ajmer-Merwara District Authority decided to continue the existing arrangements, and decided that existing charge of five pies per mile was a fair one.

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

UNSTARRED QUESTION AND ANSWER.

RAILWAY PASSES HELD BY MEMBERS OF THE CENTRAL AND PROVINCIAL LEGISLATURES.

61. **Dr. Sir Ziauddin Ahmad** : Will the Honourable the Railway Member please state whether the Government of India will enquire from the Railway Agents and Divisional Superintendents about the numbers of the Members of the Central and Provincial Legislatures who are now holding the passes for a definite or for an indefinite period ?

The Honourable Mr. A. G. Clow : Government are not aware of any such passes being issued and see no reason, therefore, for making the enquiry suggested.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to starred question No. 249 asked by Mr. Badri Dutt Pande on the 16th August, 1938.

INCLUSION OF CERTAIN VILLAGE LANDS WITHIN THE LAHORE CANTONMENT LIMITS AND REJECTION OF CERTAIN PLANS FOR THE CONSTRUCTION OF HOUSES.

(a) Yes, not as a result of any 'prohibition scheme' for putting up further buildings, but for the simple reason that the conservancy arrangements, surface drainage, etc., in respect of the proposed buildings being conspicuous by their absence, the locality is extremely insanitary and unhealthy.

(b) and (c). Yes.

(d) The area has not been included in the cantonment limits and the question of compensation does not arise. The Cantonment Board are willing to allow further constructions provided that satisfactory conservancy and drainage arrangements are made.

(e) No, as the provisions of Chapters XI and XV of the Cantonments Act, 1924, alone have been applied and no taxes are levied from this area.

Information promised in reply to parts (a), (b), (d), (e), (g) and (h) of starred question No. 415 asked by Mr. K. S. Gupta on the 23rd August, 1938.

CERTAIN STAFF OF THE VIZAGAPATAM PORT.

(a) There are three European Pilots (Assistant Harbour Masters) employed at the Port of Vizagapatam.

(b) Yes. On an average nine times per week. About 2½ to 3 hours.

(d) No.

(e) Seven. Their duties are similar to those of engineers on board a trading vessel, and in addition they are in charge of the dredging gear.

(g) Yes. The number of men under the supervision of the Superintendent of Machinery is approximately 500. The reply to the second part of the question is in the negative.

(h) Ninety-seven. The Foreman's salary is Rs. 600 per mensem. The Senior Assistant Foreman is paid Rs. 240 per mensem, and the Junior Assistant Foreman, Rs. 102-8-0 per mensem. The Senior Assistant Foreman is an Indian and the Junior

Assistant Foreman an Anglo-Indian. The qualifications of the Foreman are technical knowledge and experience of workshop management. The answer to the last part is in the negative.

Information promised in reply to parts (c) and (d) of starred question No. 529 asked by Mr. Manu Subedar on the 26th August, 1933.

LABOUR CONTRACT OF THE CALCUTTA PORT TRUST.

(c) Two formal contracts, one covering general cargo and the other covering coal, were executed in 1895. They continued in force until they were replaced in 1906 by two other formal contracts. These again continued in force until they were respectively replaced in 1923 by a formal contract for general cargo and in 1924 by a formal contract for coal. Upon these last two formal contracts as amended from time to time the rebate contracts have been superimposed.

(d) Does not arise.

Information promised in reply to starred question No. 707 asked by Mr. Ramayan Prasad on the 2nd September, 1938.

NON-APPOINTMENT OF BIHARIS AS DIVISIONAL ACCOUNTANTS IN BIHAR.

(a) Yes, but a Behari has officiated for more than six months in a temporary vacancy in 1936-37.

(b) The reply to the first part of the question is in the affirmative. Behari clerks will probably in the ordinary course officiate as Divisional Accountants in four or five years.

(c) Yes.

(d) No special encouragement is necessary in view of the fact that recruitment to the clerical grades is now confined strictly to Beharis and that Behari passed clerks will be officiating as Divisional Accountants within a few years.

(e) Government do not propose to issue any instructions as suggested by the Honourable Member, as this would involve the supersession of seniors, who are fully qualified to discharge the duties of Divisional Accountant.

Information promised in reply to starred question No. 823 asked by Mr. Amarendra Nath Chattopadhyaya on the 7th September, 1938.

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

(a), (e) and (f). No.

(b) and (d). This is not a fact.

(c) It is a fact that the Auditor-General issued instructions that arrangements were not to be made for special additional work by granting special pay for work beyond normal office hours and that duties involving overtime work were not to be allotted to subordinate members of the office staff except in exceptional circumstances and then only with the express permission of the head of the office.

(g) Does not arise.

MOTION FOR ADJOURNMENT.

SHIVA TEMPLE AFFAIRS AT DELHI.

Mr. President (The Honourable Sir Abdur Rahim) : I have received notice of a motion for adjournment from Sardar Sant Singh to this effect. He asks for "leave to make a motion for the adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance, namely, the unsatisfactory answer given by the Honourable the Home Member to short notice question of Mr. Baijnath Bajoria regarding the Shiva temple trouble at Delhi, particularly with regard to the upholding of the settlement dated the 3rd September, at the suggestion and with the concurrence of the authorities concerned".

The Honourable Member is aware that if an answer given by the Member of Government is in the opinion of any Honourable Members unsatisfactory, that in itself cannot constitute a good ground for a motion for adjournment.

Sardar Sant Singh (West Punjab : Sikh) : May I submit that on the first motion for adjournment that was tabled a few days back, the Honourable the Home Member agreed to give answers to short notice questions, and we postponed the moving of the adjournment motion on account of that till after the replies had been given by the Honourable the Home Member.

Mr. President (The Honourable Sir Abdur Rahim) : The motion was not postponed ; the Honourable Member did not move it.

THE RAILWAYS (LOCAL AUTHORITIES' TAXATION) BILL.

The Honourable Mr. A. G. Clow (Member for Railways and Communications) : Sir, I move for leave to introduce a Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province.

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

"That leave be granted to introduce a Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province."

The motion was adopted.

The Honourable Mr. A. G. Clow : Sir, I introduce the Bill.

With your permission, I would like to add that on comparing the original Statement of Objects and Reasons which I signed with the copy printed in the Bill I find that there are several errors. I, therefore, lay on the table a correct copy in accordance with the Statement I signed.

THE AJMER-MERWARA MUNICIPALITIES REGULATION (AMENDMENT) BILL.

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands) : Sir, I move for leave to introduce a Bill further to

[Sir Girja Shankar Bajpai.]

amend the Ajmer-Merwara Municipalities Regulation, 1925, for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector.

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

“ That leave be granted to introduce a Bill further to amend the Ajmer-Merwara Municipalities Regulation, 1925, for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector.”

The motion was adopted.

Sir Girja Shankar Bajpai : Sir, I introduce the Bill.

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 132 of the Bill be omitted.”

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhamadan Rural) : Sir, the amendment moved by my Honourable friend, the Law Member, asking for the deletion of clause 132 leaves the position rather uncertain with regard to the right of appeal conferred by different clauses which we have already passed. In this Bill we have so far created a number of offences with specific penal provisions for the commission of the same, and the House has been agreeable to confer the right of appeal in certain cases. The difficulty that now arises is this. If this clause is allowed to remain, then the question will arise as to whether there will be the right of appeal in case of conviction by second class and third class magistrates as is now allowed under the provisions of the Code of Criminal Procedure. According to the provisions of the Code of Criminal Procedure, as it stands today, anybody convicted by a second class or a third class magistrate to any sentence of fine or to any term of imprisonment may have the right of appeal to the District Magistrate. It is only in case of conviction by a first class magistrate that an appeal is not allowed when the sentence of fine does not exceeds Rs. 50. There is, of course, a right of revision, but as you know very well, Sir, that in the revisional proceedings only the points of law, if any, can be considered and not the facts.

I am not very clear in my mind if by deleting this clause, we will be really continuing the right of appeal enjoyed by people convicted by second class or third class magistrates or whether we shall be straight-away taking away the right. That is a matter which requires the serious consideration of the House, for, if by a provision the whole right of appeal conferred by the different clauses accepted by the House is taken away, then it will be a most unfortunate retrograde step. It may be argued that if this clause is allowed to remain, then it will, contrary to the provisions of the Code of Criminal Procedure, confer a right of appeal against a conviction and sentence by Presidency Magistrates to any term of imprisonment and to an amount of fine exceeding Rs. 25. So, it was argued that it will mean a multiplication of appeals in the High Courts. But the other point that distresses me is whether, by trying to benefit the few Presidency Towns, which are only three in number, we

will be taking away the right of appeal from the people of the rest of the country. This is a matter which really requires serious consideration, and I have just now circulated an amendment in which I seek to provide that in all cases of conviction by a Presidency Magistrate, if the fine exceeds Rs. 50, there will be a right of appeal, notwithstanding anything that is contained in the Code of Criminal Procedure. This is really a very delicate matter and I would ask the House to consider very carefully the position. The position, as I submitted, is whether by the deletion of this clause, as moved by the Honourable the Law Member, we shall be taking away the right of appeal from persons convicted by second class and third class magistrates. I think everybody should agree that this valued right, which is already enjoyed, should not be taken away by any provision. This is a matter to which I again invite the serious consideration of the House.

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadan Rural) : Sir, I want to oppose this amendment. In the first place, having incorporated this provision in clause 132, it has already given rise to certain expectations. Sir, we have provided many offences and some of them are quite new offences, and it is only a salutary safeguard if an appeal is provided both in the provisions of this Bill as well as under the general provisions of the Code of Criminal Procedure. I, therefore, think that if this clause is deleted, it might mean that in certain cases there will be no appeal at all. The Honourable the Law Member differs from me, but, unless he convinces us that the effects will be not those which I contemplate, my opposition stands. I, therefore, submit that this clause, as reported by the Select Committee, should stand.

Mr. J. D. Anderson (Secretary, Legislative Department) : Sir, may I say briefly what I imagine the practical result of the omission of this clause will be from the point of view of the convict. If this clause be removed from the Bill, then the ordinary law of the land, which is already in force, will automatically come into operation. That is to say that Chapter XXXI of the Code of Criminal Procedure will govern all appeals on convictions under this Bill. I need hardly remind the House that now, since the amendment which was passed in 1923, there is a right of appeal in every case when a man has been sentenced to a term of imprisonment however short by any magistrate.....

Pandit Lakshmi Kanta Maitra : Not any magistrate : not in the case of a Presidency Magistrate.

Mr. J. D. Anderson : Please look at section 413 of the Criminal Procedure Code as amended in 1923. A Sessions Judge can sentence a man to one month's imprisonment and there would be no appeal. But these offences are not tried by Sessions Judges. They would invariably be tried by magistrates. There is no need, whatsoever, to make any provision in this Bill for a right of appeal by a person who is sentenced to a period of imprisonment. Then, as far as convictions of fines imposed by second class magistrates go, already there is a right of appeal given under section 407. There is invariably a right of appeal however petty the amount of fine may be. There remains only one case inserted in this clause, for which no right of appeal is given under the Criminal Procedure Code. That is the case of a man sentenced by a first class magistrate to a fine of Rs. 50 or less. He has, at the moment, no right

[Mr. J. D. Anderson.]

of appeal and I cannot see why we should discriminate between these very ordinary offences and the other offences which are already in the Statute-book.

Mr. M. Ananthasayanam Ayyangar (Madras Ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I have heard the Honourable Member who has just preceded me, but he did not address himself to the case where a Presidency magistrate, in one of the Presidency towns, either imposes a sentence of imprisonment for however short a term it might be or imposes a fine of less than Rs. 200. An appeal from a sentence of a conviction passed by a Presidency Magistrate lies to the High Court, under section 411, Criminal Procedure Code. An appeal lies only in the case of a sentence of imprisonment if it is over six months or in the case of fine if it is over Rs. 200. Here, the Honourable Member observes that in all cases by a modification of section 413 however short the term of imprisonment may be, an appeal has been provided for. The amendment does not apply to cases of conviction of imprisonment imposed by a Presidency Magistrate. A majority of these cases are those in the presidency headquarters and, therefore, not to allow appeal against the sentence of the Presidency Magistrate will be a very great handicap. I, therefore, think that the clause as it was reported by the Select Committee ought to stand.

As regards first class magistrates, it is no doubt true that the sentence of a fine of over Rs. 50 is appealable and a sentence of imprisonment, however short the term may be has been made appealable by the modification of the Code in 1923. It is also true that these cases are not tried by Sessions Courts directly. The object of the modification that was made in the Select Committee was that even if the sentence of fine should be less than Rs. 50 there ought to be an appeal provided and a safeguard is also to be imposed by making convictions in petty cases not appealable. There a limit of Rs. 25 has been imposed. All sentences of fine above Rs. 25 and below Rs. 50 which are not covered by the Code of Criminal Procedure and treated as petty cases where no appeal has been allowed till now are now sought to be made appealable by clause 132. Therefore, it is absolutely necessary that this clause should stand as it is.

As regards the remarks made by my Honourable friend, Pandit Lakshmi Kanta Maitra, I want to remove one misapprehension. He was under the impression that this clause 132 removes the right of appeal on a conviction made by a second class magistrate if the sentence of fine should be less than Rs. 25. That is an erroneous impression. It is an absolute misapprehension. The clause starts with the words 'Notwithstanding anything to the contrary in the Criminal Procedure Code'. It is only if the Criminal Procedure Code does not allow appeals in particular cases, to that extent only those provisions are made appealable by this clause 132. This clause does not, therefore, take away the right of appeal which is conferred by the Code of Criminal Procedure. I am surprised to see such a construction put by my Honourable friend. I am certain it is erroneous. Therefore, clause 132 is an enabling provision. The only point is whether we are prepared to make up our minds that in these non-appealable cases, where the sentence of the Presidency

Magistrate is for less than six months, we should allow appeals and in the case of a fine of Rs. 200 also or if no appeal should be allowed merely because the appeal goes to the High Court. It is unfortunate that we are not in a position to substitute the High Court by any other tribunal. The High Court is the appellate authority so far as convictions imposed by the Presidency Magistrates are concerned. In the case of *mafassil* there is an appeal even if the sentence is one day's imprisonment, but merely because there is a change of venue, and the cases are tried in Presidency Magistrates' courts, why should no appeal be allowed. I should say this is an invidious distinction. Therefore, there is every justification for the retention of clause 132 as it stands.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, the chief difficulty that has arisen in this particular clause was pointed out by the Honourable the Law Member yesterday that the circumstances in the three Presidency towns differ from the circumstances in the rest of India. I think we should care more for the rest of India than for the three Presidency towns in the country. It has been very clearly put by the Secretary to the Legislative Department just now that as the law stands at present, we can appeal for an offence tried by a second or third class magistrate. But there is no appeal for any case tried by a first class magistrate in which the punishment is a fine for less than Rs. 50. But if we accept this particular amendment, then there is one provision at least which we are preventing from availing. We have gained at least one point that in the future there would be appeal for a fine between Rs. 25 and Rs. 50. This would be achieved if we accept the original clause. I have tabled an amendment which will come later on. I would like an appeal for all cases, even those tried by first class magistrates. But even if my amendment is not accepted, I think I would rather stand for something which is better than that, that a fine amounting to a sum between Rs. 25 and Rs. 50 ought to be appealable ; and I think there is a slight advantage in this particular clause compared with the law that now stands.

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 132 of the Bill be omitted.”

The Assembly divided :

AYES—35.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Anderson, Mr. J. D.
Ayyar, Mr. N. M.
Bajpai, Sir Girja Shankar.
Bewoor, Mr. G. V.
Chanda, Mr. A. K.
Chatterjee, Mr. R. M.

Clow, The Honourable Mr. A. G.
Conran-Smith, Mr. E.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
Dutt, Mr. S.
Faruqui, Mr. N. A.
Ghulam Muhammad, Mr.
Grigg, The Honourable Sir James.

Highet, Mr. J. C.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Kamaluddin Ahmed, Shams-ul-Ulema.
 Lloyd, Mr. A. H.
 Mackeown, Mr. J. A.
 Maxwell, The Honourable Mr. R. M.
 Metcalfe, Sir Aubrey.
 Mitchell, Mr. K. G.
 Mukerji, Mr. Basanta Kumar.
 Mukerji, The Honourable Sir Manmatha Nath.

Nur Muhammad, Khan Bahadur Shaikh.
 Rahman, Lieut.-Colonel M. A.
 Shahban, Mian Ghulam Kadir Muhammad.
 Sher Muhammad Khan, Captain Sardar Sir.
 Singh, Maharaja Bahadur Ram Ran Vijai Prasad.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Walker, Mr. G. D.
 Zafrullah Khan, The Honourable Sir Muhammad.

NOES—35.

Abdul Ghani, Maulvi Muhammad.
 Abdul Qaiyum, Mr.
 Abdur Rasheed Chaudhury, Maulvi.
 Aikman, Mr. A.
 Ayyangar, Mr. M. Ananthasayanam.
 Banerjea, Dr. P. N.
 Boyle, Mr. J. D.
 Chahha, Mr. Kuladhar.
 Chaudhury, Mr. Brojendra Narayan.
 Damzen, Mr. P. B.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 Deshmukh, Mr. Govind V.
 Gadgil, Mr. N. V.
 Gupta, Mr. K. S.
 Hans Raj, Raizada.
 James, Mr. F. E.
 Jogendra Singh, Sirdar.

Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Mangal Singh, Sardar.
 Miller, Mr. C. C.
 Pande, Mr. Badri Dutt.
 Parma Nand, Bhai.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Sant Singh, Sardar.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Scott, Mr. J. Ramsay.
 Smith, Lieut.-Colonel H. C.
 Sri Prakasa, Mr.
 Subbarayan, Shrimati K. Radha Bai.
 Town, Mr. H. S.
 Ziauddin Ahmad, Dr. Sir.

Mr. President (The Honourable Sir Abdur Rahim) : There being an equality of votes, I vote with the 'Ayes'.

The motion was adopted.

Mr. S. Satyamurti (Madras City : Non-Muhammadian Urban) : Sir,
 12 Noon. on a point of order. This point has been decided, and I do not want to say anything more upon it. It is only as a guide for the future that I am submitting this. It is a well-known fact that, according to the practice in the House of Commons, in the event of an equality of votes, the casting vote is always given for the *status quo ante*, or so that the particular matter may come before the House in a more definite form later,.....

Mr. President (The Honourable Sir Abdur Rahim) : I have taken that principle into consideration. I took into consideration not only the clause and the amendment proposed, but the existing law as embodied in the Criminal Procedure Code which was sought to be modified.

I must say on the point of order raised by Mr. Satyamurti that the *status quo ante* is a good rule in ordinary cases, but it is not an invariable rule.

Mr. S. Satyamurti : Sir, I merely made a submission. I am not saying anything more on it.

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

“ That before clause 133 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

- ‘ 133. (1) For the purpose of giving advice and assistance to the Member in charge of Communications (referred to as Member in this section) in connection with the discharge by him of his functions in relation to means of, and facilities for transport and their condition, improvement and development, there shall be constituted a Council which shall be called the Communication Advisory Council and is in this section referred to as ‘ the Council ’.
- (2) The Members of the Council shall be appointed by the Member and shall include representatives of various interests.
- (3) Members of the Council shall hold office for three years from the date of their appointment.
- (4) The Member shall be the President of the Council.
- (5) The Council may appoint one or more Committees and delegate any of its powers and duties to such Committees.
- (6) The Council may make rules for regulating the proceedings including the quorum of the Council or of any Committee thereof ’.”

Sir, this particular clause is taken from the British Act. They have passed the Motor Vehicles Act, but, at the same time, for purposes of co-ordination, they have established an Advisory Committee. We have got here an Advisory Committee for Railways, an Advisory Committee for Roads, an Advisory Committee for Post Offices, and so on, and it is very desirable that all branches of communications should be co-ordinated and they should all be administered by one Member. We see very clearly that the Committee will be nominated by the Member in charge of Communications, and its function will be only advisory. Therefore, when a thing is working quite satisfactorily in the United Kingdom from where we have taken the major portion of the clauses of the particular Act, I think it is very desirable that we should follow them in this matter also. Sir, I move.

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

“ That before clause 133 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

- ‘ 133. (1) For the purpose of giving advice and assistance to the Member in charge of Communications (referred to as Member in this section) in connection with the discharge by him of his functions in relation to means of, and facilities for transport and their condition, improvement and development, there shall be constituted a Council which shall be called the Communication Advisory Council and is in this section referred to as ‘ the Council ’.
- (2) The Members of the Council shall be appointed by the Member and shall include representatives of various interests.
- (3) Members of the Council shall hold office for three years from the date of their appointment.
- (4) The Member shall be the President of the Council.
- (5) The Council may appoint one or more Committees and delegate any of its powers and duties to such Committees.
- (6) The Council may make rules for regulating the proceedings including the quorum of the Council or of any Committee thereof ’.”

The Honourable Mr. A. G. Clow (Member for Railways and Communications) : Sir, I am grateful to Dr. Sir Ziauddin Ahmad for the trust he proposes to repose in the Member for Communications. This is going to be a purely nominated body. It is apparently to have no statutory functions, and it is not very clear what its duties are going to be. Actually, we have in existence already a Transport Advisory Council which is constituted in a much better fashion. It consists of two representatives of the Government of India including the Member in charge of Communications and of Ministers from each of the Provinces ; these are accompanied by technical advisers, and we owe a great deal to the advice of that Council in connection with this Bill. Further, if we wanted to set up another body, it would not be necessary to have such a clause in the Bill empowering us to do so, because, as I said earlier, it is not going to have any statutory functions. I suggest to the House that it is not merely unnecessary but superfluous.

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

“ That before clause 133 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 133. (1) For the purpose of giving advice and assistance to the Member in charge of Communications (referred to as Member in this section) in connection with the discharge by him of his functions in relation to means of, and facilities for transport and their condition, improvement and development, there shall be constituted a Council which shall be called the Communication Advisory Council and is in this section referred to as ‘ the Council ’.

(2) The Members of the Council shall be appointed by the Member and shall include representatives of various interests.

(3) Members of the Council shall hold office for three years from the date of their appointment.

(4) The Member shall be the President of the Council.

(5) The Council may appoint one or more Committees and delegate any of its powers and duties to such Committees.

(6) The Council may make rules for regulating the proceedings including the quorum of the Council or of any Committee thereof ’.”

The motion was negatived.

Dr. Sir Ziauddin Ahmad : Sir, I wish to move this amendment.....

Mr. J. D. Anderson : On a point of order. The Honourable Member is, I think, seeking to move amendment No. 818* with a view to earmarking certain monies, that is to say, he is creating a charge on the revenues of India, and, therefore, he attracts to his amendment the provisions of section 67 (2A) of the Government of India Act, which is kept alive by section 12 of the Government of India (Commencement and Transitory Provisions) Order. The amendment, I submit, requires the previous sanction of the Governor General, and I am very doubtful if the Honourable Member has secured it.

“ That before clause 133 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 133. All money realised from the licensing of drivers, the registration of motor vehicles and the fines imposed under any section of this Act shall be credited to the account of Road Fund of the province concerned ’.”

Mr. President (The Honourable Sir Abdur Rahim) : As the Honourable Member has not obtained the previous sanction of the Governor General, I rule this amendment out of order. The same applies to No. 819^a. The question is :

“ That clause 133 stand part of the Bill.”

Mr. J. D. Anderson : I beg to move :

“ That for clause 133 of the Bill, the following be substituted :

‘ 133. The Provincial Government may by notification in the official Gazette direct that the First, Seventh, Ninth, Tenth, or Eleventh Schedule to this Act (except regulation 1 contained in the Tenth Schedule) shall in its application to the province be modified in any manner specified in the notification and thereupon such Schedule shall be deemed to have been amended accordingly ’.”

The intention behind this amendment is to remove what I venture to submit is a conflict between the clause as it stands in the Bill and the Government of India Act, 1935. The clause as drafted, begins : “ The Central Government may.....direct..... ”. That is to say, the clause seeks to confer upon the Central Legislature executive authority. The subject matter of these schedules is covered by the 20th item of the third or Concurrent Legislative List, in the 7th Schedule of the Government of India Act, 1935. That being so, in the case of an item of the concurrent list the executive authority must be exercised by the Provincial Government and no Legislature can confer on the Central Government any power to exercise that authority. So far as what I may describe as the practical merits of the amendment are concerned, I shall not mention the reasons why those schedules mentioned in the amendment are allotted to the Provincial Governments ; I will leave this duty to my Honourable friend, Mr. Mitchell. Sir, I move.

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

“ That for clause 133 of the Bill, the following be substituted :

‘ 133. The Provincial Government may by notification in the official Gazette direct that the First, Seventh, Ninth, Tenth, or Eleventh Schedule to this Act (except regulation 1 contained in the Tenth Schedule) shall in its application to the province be modified in any manner specified in the notification and thereupon such Schedule shall be deemed to have been amended accordingly ’.”

Mr. S. Satyamurti : I oppose the amendment. Indeed, I am not happy over the clause as it stands. My Honourable friend referred to this as an executive power. I differ. After all, when you put schedules in an Act, that is legislation, and these schedules are put in under the various clauses of this Bill. They are to carry out the objects of the various clauses which are mentioned at the top of the schedules, and I take it that these schedules have been drafted on expert advice by the Government, and considered by the Select Committee as apposite in order to carry out the purposes of the Act. So far as the original

“ That before clause 133 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 133. In spite of anything in any Act, money realised from the customs and excise duties on petrol and customs duties on motor vehicles and motor accessories shall, after deducting thirty-three per cent., be deposited in the Road Fund administered by Central Government ’.”

[Mr. S. Satyamurti.]

clause stands, it provides that the Central Government may direct that any schedule to this Act may be altered and on such notification the schedule shall be deemed to have been amended accordingly. That is a bad enough power because, if these schedules are to be placed before this House and accepted by the House with or without amendment, it does seem to me that to agree to transfer the entire power of altering these schedules, re-making them, adding to them or removing from them to the executive, is really one of those cases of delegated legislation which have been condemned by constitutional experts in England. So far as minor matters are concerned which do not involve any questions of policy or of principle, and where uniformity is not needed, I perfectly concede that such small matters may be left to the executive authority. Let us see what the amendment wants. The amendment wants, "the Provincial Government may by notification in the official Gazette direct that the First. . . ." Let us take the first schedule. It merely relates to forms, and so far as that is concerned, I am willing to concede that they do not raise any question of large principle. Forms can, after all, be modified without any serious consequences, and that may be conceded. But when we come to other schedules, you will find that the amendment seeks to give power to the Provincial Government to alter the 7th, the 9th, the 10th and the 11th schedules of this Bill. Let us take the 7th schedule. It relates to the maximum axle weights permissible for transport vehicles, Tables A and B. I know that Government have very strong opinions on this matter and it does seem to me that to allow each Provincial Government, Madras, Bombay, the Central Provinces or the Frontier Province, or Bengal or any other province, to vary the maximum axle weight permissible for transport vehicles under either table, would only lead to confusion. There will be confusion in the eleven provinces of this country, as regards the maxima of these axle weights, and each Provincial Government will have its own way without reference to another, because there is no provision made here for the Provincial Governments to put their heads together and evolve any common formula which may be applicable throughout the country. I do not know whom it is proposed to help by this. Our hope is that India will develop into one country, and will become more unified, and when it does so develop, then these lorries and buses and motor cars will ply over all our provinces. What is the idea of giving to each of the eleven Provincial Governments power to alter the 7th schedule by itself, without reference to the other Provincial Governments ?

Let us come to the 9th schedule. With regard to that, I have nothing much to say, except that if there are to be eleven different kinds of traffic signs all over India, according to each Provincial Government's conception of geometry or of geography, it does seem to me that it will lead also to great confusion. I should like to know what is the public purpose which is sought to be served by giving these eleven Provincial Governments power to alter the 9th schedule, as they like. In the 10th schedule, there is a common factor between the clause as it stands in the Bill and the amendment. In the clause as it stands, you will find that power is given to the Provincial Government to "direct that the 10th schedule to this Act except regulation 1 in its application to the province shall be modified in any manner specified in the notification." There-

fore, so far as the original clause and the amendment are concerned, regulation 1 at page 81, 10th schedule, can be modified whether the clause stands or the amendment stands. But I will request my Honourable friends to look at the whole of the 10th schedule and see whether, if the idea is to develop a proper road sense on the part of our motorists and pedestrians, it is not right that all these regulations should be uniform for the whole of India.

Mr. F. E. James (Madras : European) : May I ask my Honourable friend one point ? I am sure the House agrees with him on many of these points. But is not the real difficulty this ? Whether the Central Government have the power to direct alterations in the schedules which relate to the control of traffic, which under the Government of India Act is in the hands of the Provincial Governments. That is the real difficulty.

Mr. S. Satyamurti : Under section 124 (2) of the Government of India Act,—

“ An Act of the Federal Legislature may, notwithstanding that it relates to a matter with respect to which a Provincial Legislature has no power to make laws, confer powers and impose duties upon a Province or officers and authorities thereof.”

The Honourable Mr. A. G. Clow : That does not apply here. This is a case in which the Provincial Government has power to make laws. The clause which you read relates to federal subjects.

Mr. S. Satyamurti : The clause as it stands, gives power to the Provincial Government by notification in the official Gazette to direct that the various schedules may be altered. The clause as it stands says :

“ The Central Government may, by notification in the official Gazette, direct that any Schedule to this Act and a Provincial Government may in like manner direct that the Tenth Schedule.... shall be modified.”

Now, Sir, I take it that the sense of the House is that there is need for uniformity, in respect of all these regulations. I would rather let the clause remain as it is, that is to say, the Central Government should have the power of notification. If there is insuperable legal difficulty, I feel, Mr. President, that the need for uniformity is greater than trying to circumvent the Government of India Act somehow or other. I would rather delete the clause and let the schedules stand as they are, and if any need arises, an amending Bill can be brought in. There will be no controversy over these matters.

I want to make one more point, with regard to the Tenth Schedule, in order to illustrate the difficulty of allowing variety to grow in this country. Regulation 5 of that Schedule says : “ The driver of a motor vehicle shall not, when being overtaken or being passed by another vehicle, increase speed or do anything in any way to prevent the other vehicle from passing him ”. Now, do you or do you not want uniformity in all the provinces ? Don't you want the people to develop a road sense ? You are really trying to introduce confusion where we want to evolve uniformity. I have given the House illustrations enough to show that we want uniformity. If that is so, I would rather take the risk of the time of this House or of its successor being utilised for the purpose of amending these schedules by a short amending Bill, rather than give the power to the various Provincial Governments as under

[Mr. S. Satyamurti.]

the amendment to make their own changes which will introduce confusion, where we want uniformity. I oppose the amendment for the present ; but in view of the constitutional difficulties pointed out by my Honourable Leader, I suggest that when we come to the actual clause the House ought to delete it. Nothing will be lost by deleting it, and everything will be gained. We or our successors can devote sometime to it, and amend the schedules when and if the need arises.

Mr. K. G. Mitchell (Government of India : Nominated Official) : I should like to say a few words on the practical difficulty referred to by my Honourable friend, Mr. Satyamurti. We are at present between the devil and the deep sea. We cannot amend the schedules by executive action and it is a very laborious process to amend them by central legislation. As regards uniformity, we hope to establish a convention with all Provincial Governments that these schedules shall not be amended by them save with the consent of the Transport Advisory Council upon which they are represented and in that way we hope to set up a convention, which will secure that they are not separately amended by the different provinces. But if there is no provision at all for amendment by executive action we may be in difficulty with regard to certain of the schedules. Mr. Satyamurti himself said that he was free to admit that possibly in working there might be found minor defects in the forms which would need correction. Now, take the Seventh Schedule. It is not strictly correct to say that the Seventh Schedule absolutely regulates axle weights. It regulates the tyre equipment which must be fitted to axle of a certain weight and it is conceivable that from time to time as the manufacture of tyres improves and other trade sizes of tyres are introduced, we may want to make purely technical amendments to the schedules to conform to what is being actually sold at the time and that would be a rather laborious thing to do by Central legislation. When we come to the Ninth Schedule, there again it is possible that we may want to vary one or two signs or improve them or modify them and the same thing applies to other schedules. Our difficulty is this. We do realise that it is absolutely essential that these things should be uniform and standardised throughout India but in view of the constitutional difficulty, we have fallen back upon an arrangement which we hope to consolidate—that Provincial Governments will not in fact amend any of these schedules without the consent and agreement of the Transport Advisory Council, which, as the Honourable Mr. Clow has just explained, is representative of the Government of India and of all Provincial Governments. We thought that in the circumstances that was the most practical and workable solution of the constitutional difficulty.

Mr. F. E. James : I understand that this Bill will not be taken up in the other place till early in 1939. Therefore, let the Government postpone consideration of these amendments for the time being, and in the meantime they can get into touch with the Provincial Governments and find out whether they are willing to agree to a convention whereby there should be no alteration in the Schedules without the concurrence of the Transport Advisory Council on which they are represented. If they can secure that, there will be no difficulty in the forthcoming Session of the Upper House.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : I want to make a few observations on the constitutional point raised by Mr. Anderson. I suppose he bases his point on section 8 (1) of the Government of India Act read with proviso (1).

Mr. J. D. Anderson : Also on section 49 (2).

Mr. K. Santhanam : I wish to point out that Government have realised this constitutional point rather very late in the day. For instance in clause 92, they have given power to the Central Government to make rules relating to international permits. Again, I do not see any amendment on behalf of Government to delete clause 134 which again gives power to the Central Government, by notification, to exempt motor vehicles which are the property of the Central Government in the Defence Department. I do not see how Government can really seek to take power for one purpose and not consistently take power for other similar purposes.

The Honourable Mr. A. G. Clow : These are really federal subjects, like insurance.

Mr. K. Santhanam : The Honourable Mr. Clow does not quite realise what he is saying, because this legislation is about a concurrent subject. Either you can give executive authority on any part of such legislation to the Central Government or you cannot. If you can give such power, then this clause 133 is in order. If you cannot give such power, you cannot say : 'I can give power only for certain objects and not for certain other objects'. Therefore, I suggest that if the constitutional position is correct, the proper method is to rectify matters in the Council of State or bring in an amending Bill. After all, Mr. Mitchell has said that uniformity is necessary and that uniformity, as Mr. James has suggested, can be secured by a convention arrived at by agreement among the provinces and consistency may be secured in that way. If the Government carry this amendment, we propose to support the amendment which deletes 134 and I suppose they will also be amenable to support it. I suggest that Government should reflect on these constitutional points at much greater leisure and with much greater care than they seem to have done.

The Honourable Mr. A. G. Clow : I recognise that there is a great deal of force in what Mr. Satyamurti has said. The point is one which I must admit, as Mr. Santhanam said, came to our notice at a rather late stage and we have not had sufficient opportunity to give it proper consideration. I was going to suggest that with general agreement in the House we might allow this amendment standing in the name of Mr. Anderson to be confined to the First Schedule, and we could then later examine whether, with the concurrence of the Provinces or otherwise, we should introduce some modifying amendment in another place.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : Mr. President, I recognize that by reason of section 8 and the first proviso, there is a difficulty in the way of conferring any authority on the executive of the Federation regarding rules for the purpose of changing the schedules. At the same time, when considering that matter there is one other important point which I should like to mention very shortly. I did not expect for a moment that because

[Mr. Bhulabhai J. Desai.]

"military" or "defence" as a subject is mentioned in the first part of the three parts in Schedule VII, it follows that by using that word you can get away with all legislation incidentally; that is to say, if the power of dealing with any particular subject is vested in a Provincial Legislature, by merely saying that because particular subject occurs, therefore, you can do that. What I mean is this,—that the Central Legislature cannot acquire power exempting motor vehicles from such of the provisions of this Act by merely saying that those particular vehicles are to be used for military purposes. It is a point of considerable constitutional importance and I remember it was made when the Military Manoeuvres Bill was before this House. Therefore, I still wish to maintain and call the attention of the House to that point. Dealing with the immediate difficulty, the suggestion that I made to my Honourable friend on the other side is to omit clauses 133 and 134, and then, and so far as they may be advised, to carry the provisions in the Council of State so that they would have had time to consider what is the real way out of the difficulty. Then, undoubtedly, when it comes back to this House and if we feel that all our difficulties are met, we shall be the last to waste any energy in reorganizing or amending those provisions. The best way, therefore, is not to act on the impulse and say, "we will retain this, or omit that",—because I quite agree that so far as the Central Government is concerned with clause 133, that I recognize cannot be done. Then it would leave the Provincial Governments with one of the schedules which may or may not serve all the purposes that you want. In the meantime I also support the suggestion which my Honourable friend, Mr. James, made which may be one way out of the difficulty, but the fact remains that the difficulties are not of such a nature that by merely leaving one part of the schedule, you solve the difficulty. The hypothesis of sub-clause (3) is that the Central Government is able to make rules with reference to any matters contained in this Act. I have illustrated my point that in my humble judgment they are not yet able to do it by merely saying that it relates to one of the subjects "defence" or "military". In other words, you practically repeal every Act which is intended for the purpose of motor vehicles by simply saying,—"now as regards military vehicles, the Act shall not apply". It is a matter, as I said, of great constitutional importance and difficulty and I, therefore, suggest that clauses 133 and 134 might now be omitted. I suggest that the matter may be considered later and a proper clause may be introduced in the Council of State after considering the relevant points.

Dr. P. N. Banerjee (Calcutta Suburbs : Non-Muhammadan Urban): Sir, I should like to suggest that Government do withdraw their amendment and allow the clauses to stand as they are for the present; and, when the Bill goes up to the Council of State, then there may be fuller consideration and, if necessary, other amendments may be adopted.

Mr. J. D. Anderson: I ask for leave to withdraw the amendment, Sir.

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

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

"That clause 133 stand part of the Bill."

The Honourable Mr. A. G. Clow : Sir, I was proposing to accept Dr. Banerjea's suggestion to withdraw the amendment and keep the clauses and reconsider the matter later.

Mr. Bhulabhai J. Desai : If you keep the clauses, it is *ultra vires* on your own admission ? In any case, I cannot be a party to *ultra vires* legislation.

The Honourable Mr. A. G. Clow : I am prepared to admit that clause 133 is *ultra vires*, but clause 134 is on a somewhat different footing.

Mr. Bhulabhai J. Desai : I do not deny, but the better way is to withdraw both the clauses and reconsider the position and put them in the Council of State.

Mr. F. E. James : The difficulty is this. There is a difference of opinion on the interpretation of these clauses. If we allow them to stand now, it is quite possible that they may be allowed to stand in the Council of State. But in view of the fact that there is a definite difference of opinion it would be the wiser course to agree to the deletion for the time being so that the whole matter may be reconsidered and appropriate amendments moved.

The Honourable Mr. A. G. Clow : I am prepared to agree as regards clause 133.

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

“ That clause 133 stand part of the Bill.”

The motion was negatived.

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

“ That clause 134 stand part of the Bill.”

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

“ That clause 134 of the Bill be omitted.”

Sir, a glance at this clause will show that this clause is intended to exempt the driver of the Defence Department from the operation of this Bill. Sir, this clause intends to exempt a driver of the Defence Department from being taken to Court if he drives his motor vehicle under the influence of liquor. Sir, we have provided a punishment for rash driving, for reckless and dangerous driving and for other offences under this Bill. Now, if we exempt the drivers of the Military Department from the operation of this clause, it means that this House gives its sanction to the Military Department committing vagaries as they have been doing in the past. Sir, we are tired of hearing of the vagaries of the Defence Department, we are tired of hearing of soldiers running amok and shooting innocent people here and there, we are tired of hearing of attacks by soldiers on innocent people in the country in season and out of season, and we do not like giving sanction to the Military Department that they may be able to do similar vagaries with motor vehicles. I have given only a few examples for which we have provided punishment under this Bill. There are other clauses and

[Maulvi Abdur Rasheed Chaudhury.]

there are other offences for which punishment has also been provided under this Bill. We would like that all the drivers whether they belong to the Defence Department or the Military Department or whether they are independent drivers should come under uniform laws, and it will look awkward if one section of the drivers are exempted from the operation of this Bill and some other sections of drivers hauled up for punishment. It is for the sake of this uniformity that I have tabled this amendment, and I hope the House will give its full consideration to it and will not exempt the Military Department from the operation of this Bill. Sir, I move.

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

“ That clause 134 of the Bill be omitted.”

Mr. K. G. Mitchell : Sir, I oppose the amendment. Whatever may be the merits of the constitutional questions involved, I must take exception to what fell from the Honourable the Mover when he suggested that the effect of this clause would be to exempt drivers of the Defence Department vehicles from the operation of the ordinary laws regarding driving offences.

Mr. S. Satyamurti : Read the clause. What does it mean ?

Mr. K. G. Mitchell : It applies to motor vehicles and it has nothing to do with the drivers. The Honourable the Mover was telling us a long story about how army drivers will commit all sorts of offences and will be exempted from the operation of the ordinary law. That was never intended and it is ridiculous to suppose that it would be so. The Bill makes no exemption in the case of the Defence drivers and they would be subject to the ordinary laws. It should not be supposed that this power will be used in an arbitrary way. There might be certain regulations regarding which exemption will be necessary. I oppose the amendment.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Sir, apart from the grounds which my Honourable friend, Maulvi Abdur Rasheed Chaudhury, has advanced for the sake of omitting this clause, I think on constitutional grounds also it is necessary that we should not legislate it for the very reasons for which we have omitted clause 133. By putting in here that the vehicles which are the property of the Central Government in the Defence Department, we are trying to take them out of the jurisdiction of the Provincial Government. My point is this that it is essentially a matter for the Provincial Governments to legislate and it is a matter which concerns them primarily under the Government of India Act. Therefore, I think that it would not be proper for us to give a kind of exemption to these vehicles on the ground that they belong to the Defence Department. Probably, we shall be committing a great constitutional blunder if we do so. It would be better and the Government will be better advised in omitting this clause altogether and re-considering the matter again when the Bill will be taken to the other House and coming out with a proper and suitable clause to substitute in its place. I, therefore, support the amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Today being Friday, the House will now adjourn till quarter past two.

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

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

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Sir, I rise to a point of order. This morning, when the Division was called, I was sitting in the Deputy President's room on the ground floor and I did not hear the Division Bell ringing.....

Mr. Deputy President (Mr. Akhil Chandra Datta) : I am afraid I am myself concerned in this matter. I too did not hear the Division Bell ringing. I think the Honourable Member had better raise this question before the Honourable the President when he is in the Chair.

Mr. M. Ananthasayanam Ayyangar : Sir, when we last dispersed for Lunch, clause 134 was under discussion. The amendment was moved that this clause ought to be deleted. Sir, the objections to the retention of clause 134 are both constitutional and also on merits. As regards the constitutional point it was urged by the Honourable Mr. Clow, on another occasion, that inasmuch as this relates to the Defence Department, it is open to them to keep the power with the Federal executive authority, a power similar to the one that is set out in clause 134 of this Bill, namely, to exempt motor vehicles which are the property of the Central Government in the Defence Department. I would only ask him to consider the other analogy. In a matter which is absolutely a provincial subject the Provincial Legislature has the right to legislate with respect to that matter. Incidentally a matter which is peculiarly within the jurisdiction of the Federal Legislature may also arise. Take the case of Labour which is a provincial subject. Supposing there is a legislative enactment on the anvil with respect to the adjustment of labour wages, etc., and also with respect to the workmen if there should be any bodily injury or to protect them against any of these things and to give compensation, then the Local Government may enact a clause that that risk ought to be insured against. Taking advantage of the fact that the main object of the Bill is an absolutely provincial subject, is it open to the Provincial Legislature to introduce, incidentally, the kind of qualifications to the insurer, the deposit that must be paid and so on and so forth merely because it arises incidentally to the main subject which is a subject-matter exclusively within the jurisdiction of the Provincial Government ? I am sure my Honourable friend, Mr. Clow, would be the first person to rise and then say that so far this portion of the subject-matter is concerned, that is exclusively within the federal list and, therefore, the Federal Legislature is competent to enact that law and, therefore, such a provision would be *ultra vires* of the Provincial Legislature. Likewise, the same objection holds good in this matter also. It is no doubt true that if any subjects relating to any Depart-

[Mr. M. Ananthasayanam Ayyangar.]

ment are peculiarly within the province of the Provincial Government or have some relation to a subject-matter which is a matter in the provincial list, then, on that ground, alone the Federal Legislature will not have the right to decide or legislate upon matters which are exclusively within the provincial list. It may have nearer or remote relation. Take health, medical relief and other things which are peculiarly provincial subjects. If a person sells ghee is it open to the Federal Legislature to say that the ghee that is sold to the army must be of such and such a description and then whoever contravenes it will be punished. Is it open to the Central Government to say that as incidentally ghee is a necessary foodstuff or provision to the army and that otherwise the army will starve and defence cannot be conducted properly, therefore, the Central Government ought to exercise jurisdiction over the regulation of ghee which is a provincial subject? Let us take another example. It is said specifically that roads, whenever it was intended to be within the jurisdiction of the Federal Legislature the federal authority should also extend over matters which are within the peculiar jurisdiction of the Provincial Governments. I would ask the attention of the House to Part I of the Concurrent List where roads and communications in so far as they affect or are necessary for defence purposes have been put specifically and control is given to the executive Government of India to direct the provincial executive authority to take particular orders with respect to those roads. Section 126 (3) of the Government of India Act relates to the control of the Federation over Provinces in certain cases. I request the attention of the House to section 126 (3) :

“ The executive authority of the Federation shall also extend to the giving of directions to a Province as to the construction and maintenance of means of communication declared in the direction to be of military importance :

Provided that nothing in this sub-section shall be taken as restricting the power of the Federation to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.”

This is a case which has been specifically provided for and the need for making a specific provision with respect to means of communication empowering the Federal Government with authority for those means of communication is that means of communication have been put in the provincial list. Therefore, this very fact that a specific provision has been made amply demonstrates that without that specific provision being in the provincial list, the Federal Government by no stretch of language merely because the Federal Government is in charge of the Defence Department or military operations could have taken jurisdiction over the construction of roads. This is the connecting link. Without this the Federal Government, merely because it is in charge of defence, cannot have jurisdiction over the other. Likewise, so far as clause 134 is concerned, it is not open to Government to argue that merely because this is one of the things necessary—motor vehicles are necessary for defence purposes—the Federal Government should have authority over the issue of licenses to drivers and so on. This argument cannot hold water. The Act whenever it intended to interfere with the sub-division of this subject matter, that is whenever one executive authority—the federal authority—wanted to interfere with the provincial authority

would have specifically said so. Otherwise the earlier sections—103 and others—should confer powers over subject matter in any provincial list of the Federal executive authority.

This is sufficient argument to show that clause 134 is *ultra vires*. The Federal executive authority cannot be clothed with the right to exempt any class of vehicles from any one or other of the purposes of this Act. On the merits it is open to very grave objection. For over three years, ever since I have been in this Assembly, questions have been repeatedly put as to how soldiers run away with motor cars and drive them recklessly and do serious damage to person and property. It has been agitated on the floor of this House by other means also that investigation ought to be made into charges of grave misconduct on the part of soldiers ; but except a statement that the cases are *sub-judice* and that the local police and magistrates are in charge of those cases, nothing else has been done : there is one law for them and another law for the other erring human beings. That is what we all see here. Therefore, is it right for the Central Government to be judge in its own cause ? I would, therefore, say that there is very grave objection to clothing the Federal executive authority with power to exempt any of these vehicles which are the property of the Central Government or the Defence Department from all or any of the provisions of this Act. It is absolutely improper. There is no reason why the same law ought not to prevail. On this ground also I agree that clause 134 ought not to be allowed to stand. On both these grounds, I support the amendment moved by my Honourable friend.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muham-madan Rural) : Sir, in connection with this clause I should like to know whether it is some law like this that permits the Viceroy's cars being exempt from registration.

[At this stage, Mr. Deputy President (Mr. Akhil Chandra Datta) vacated the Chair which was then occupied by Mr. S. Satyamurti (one of the Panel of Chairmen).]

I find both at Delhi and at Simla that the Viceroy's cars carry no registration mark or number plates, and I do not know under what law the Viceroy acts when he allows his cars to go without number plates.....

The Honourable Mr. A. G. Glow : I submit, Sir, that this is not relevant to the clause under consideration.

Mr. Sri Prakasa : I submit that this clause seeks to give the Central Government the right to exempt certain motor vehicles, and I want to know whether the Viceroy's cars also come under the purview of this section.

Mr. Chairman (Mr. S. Satyamurti) : The Honourable Member must know, without being told, that the Viceroy's cars do not come under defence force cars.

Mr. Sri Prakasa : I thought they did. Perhaps my Honourable friend opposite will enlighten the House on this particular subject even if it is not very relevant because we are now at the end of the Bill and I do not see any clause that gives exemption to those cars and I want to know how they are exempted.....

Mr. Chairman (Mr. S. Satyamurti) : It may be we are at the end of the discussion on the Bill, and my Honourable friend may have no opportunity of dealing with it ; but yet he must be relevant ; otherwise, he cannot speak.

Mr. Sri Prakasa : We are not at the end of our troubles any way. In any case I support the deletion of this clause because even without the existence of this clause I find, as in the case of the Viceroy's cars, these exemptions occurring, and so I feel that the Central Government may exercise its power to too great an extent if this particular clause is allowed to be there. You say, Sir, and quite rightly that the Viceroy's cars have nothing to do with defence ; but we know how the words " public interest " are being misinterpreted by Honourable Members opposite and a lot of information is denied to us on the ground of it not being in the public interest. The Viceroy's cars may be regarded by them as defence cars, who knows. Therefore, it would be best to delete this clause.

Mr. Bhulabhai J. Desai : Sir, I indicated in the morning, when I was addressing the House on clause 133, that the view that I wished to submit to the House is that not only clause 133 but also clauses 134 and 135 (3) are entirely *ultra vires* ; and though I wish to argue the matter on the merits I would like to raise a point as a point of order. Turning to section 8, on which my Honourable friend, Mr. Anderson, last addressed, with great deference I accept every argument that he advanced ; but the result of that is that clause 134, in so far as the executive government is concerned, is entirely *ultra vires*. Turn to the clause : it says :

" The Central Government may by notification in the official Gazette....."

That means the Central executive authority : it is not a question of legislative power ; remember that, because it is a distinction which might be easily forgotten :

" exempt motor vehicles which are the property of the Central Government in the Defence Department, or any class of such motor vehicles from any of the provisions of this Act or of the rules made thereunder."

It, therefore, comes to this : that it is proposed, if this is passed into law, that the executive authority of the Federation will have the power to omit from its operation any class of vehicles. If you turn to section 8 of the Government of India Act, this cannot be done. It says :

" Subject to the provisions of this Act the executive authority of the Federation extends :

(a) to all matters with respect to which the Federal Legislature has power to make laws....."

I am not disputing that this Legislature has not the power to make laws, but when you come to the proviso the matter is met :

" Provided that the said authority, namely, the executive authority, does not, save as expressly provided by this Act"—

it does not exist in this case :

" extend in any Province to matters with respect to which a Provincial Legislature has power to make laws."

If you turn to the Concurrent List, No. 2, you will find there mechanically propelled vehicles—item 20. Therefore, I submit that it is perfectly clear and I entirely accept the argument which was advanced in the morning in support of the omission of the Central Government in

clause 133. If you could not have and may not have the power conferred upon the executive and the Central Government in clause 133, *a fortiori* you cannot have it under clause 134. I raise that as a point of order.

Mr. J. D. Anderson : Mr. Chairman, the Honourable the Leader of the Opposition has adopted the arguments which I attempted to place before the House when I moved my amendment to clause 133 ; but with great respect I submit that those arguments are not relevant to the clause now under discussion before the House. I submit, further, that it is inevitable that this clause has been drafted in the form in which it appears. My chief argument is the form in which the Statute-book of India has recently been adapted to bring it into conformity with the Constitution Act. We have these three lists, which determine the legislative authority. In certain cases there is a conflict between these lists. It is possible to argue that some particular subject falls in one list or in another list, and wherever there has been this apparent conflict, the draftsmen have invariably held that the first list prevails. My meaning will be clear if I give an actual example. Many Honourable Members know of what are called the multiple-unit universities. I think, Sir, there was no doubt that the original intention of Parliament was that those universities should be brought under " Education " which is an item in the second provincial list. In actual fact, those universities have been brought under " Corporations ", which is item 33 of the First list. Where there is a conflict between the lists, the first list prevails, and here there is that conflict. It may be a small one, and the result may be ridiculous. I say the example which I have already quoted may be held to be ridiculous, but here too defence comes in, and as defence comes in, it must prevail. I submit, Sir, the provinces have no power to legislate in this matter.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, may I submit one word with regard to the point of order raised. I have no desire to speak on the merits of the point of order. All that I want to submit to you is this. No doubt that may be made an argument to persuade the House to take one particular point of view, but I do not suppose it is intended by the Honourable the Leader of the Opposition that the Chair should decide whether the House can take this clause into consideration or not.

Mr. Chairman (Mr. S. Satyamurti) : That is the point of order he has raised.

The Honourable Sir Muhammad Zafrullah Khan : I submit it cannot.

Mr. Chairman (Mr. S. Satyamurti) : Why not ?

The Honourable Sir Muhammad Zafrullah Khan : I submit where there is a conflict whether a provision is or is not *ultra vires*, it is not for the Chair to decide. It may be used as a part of the argument to persuade the House to accept a particular view, but I submit it is not for the Chair to decide whether this provision is or is not *ultra vires*. The matter must be left for the Federal Court to determine.

Mr. M. S. Aney : Sir, when a point of order is raised, it is really for the Chair to decide whether it is really a point of order or not ; and if the Chair holds it is a proper point of order, then it is a matter for

[Mr. M. S. Aney.]

his ruling and not for the House to vote. It is I submit a principle of the constitution from which the Chair cannot depart. I, therefore, submit that this is a matter which is entirely for the Chair to decide, and it ought not to be allowed to be voted upon by the House.

Mr. Chairman (Mr. S. Satyamurti) : I do not want to hear any more Members on this point of order. A preliminary point has been raised by the Honourable the Leader of the House, that it is not in my jurisdiction to decide this point of order, but I should leave it to the House or to the courts of law. On the first point, I am thoroughly satisfied that, while in the House of Commons it is possible for the Speaker to share the responsibility with the House in certain doubtful cases of points of orders and ask the House to decide, working as we are under the Government of India Act and the rules and Standing Orders thereunder, I have no option but to rule according to the best of my lights,—I cannot invite the House to share that responsibility with me. As for the courts of law, I shall be shirking my duty as the occupant of the Chair, if I were to allow an obviously *ultra vires* amendment to be moved and passed by the House in the hope that some litigant will take it to courts of law and the courts of law will decide. It ought not to be done.

So far as the point of order raised by the Honourable the Leader of the Opposition is concerned, it was sought to be met by the Honourable Mr. Anderson on the ground that there is some conflict between list No. 1 in the Federal Legislative List, and item No. 20 in the concurrent list. Now, the Federal Legislative List No. 1 deals——

“ with His Majesty’s Naval, Military and Air Forces borne on the Indian establishment and any other armed force raised in India by the Crown, not being forces raised for employment in Indian States or military or armed police maintained by Provincial Governments ; any armed forces which are not forces of His Majesty, but are attached to or operating with any of His Majesty’s naval, military or air forces borne on the Indian establishment ; central intelligence bureau ; preventive detention in British India for reasons of States connected with defence, external affairs, or the discharge of the functions of the Crown in its relations with Indian States.”

I read the whole list in order to show that not only defence forces, but also items connected with defence forces which are sought to be brought under that list are mentioned there ; for example, preventive detention in British India for reasons of State connected with defence. Therefore, I see no conflict, express or implied, between item 1 in the Federal Legislative list and item No. 20 in the concurrent legislative list. So far as the actual provisions of the Government of India Act are concerned, it is obvious that, under section 8 (1) proviso 1 of the Act, this Legislature cannot extend the executive authority of the Federation to a subject matter in respect of which the Provincial Legislature has the power to make laws. I rule that under item 20 in the concurrent list, the Provincial Legislature has power to make laws with regard to “ mechanically propelled vehicles ”. Motor vehicles are mechanically propelled vehicles, and this clause 134 seeks to vest in the executive authority of the Central Government the power to exempt motor vehicles which are the property of the Central Government in the Defence Depart-

ment. The fact that these motor vehicles happen to be owned by the Defence Department do not take them out of the category of "mechanically propelled vehicles". I, therefore, rule that clause 134 is *ultra vires* of the Government of India Act.

The question is :

"That clause 135 stand part of the Bill."

The Honourable Sir Manmatha Nath Mukerji (Law Member) :
Sir, I move :

"That sub-clause (3) of clause 135 of the Bill be omitted."

In making this motion, Sir, I stand upon a very firm ground. The Honourable the Leader of the Opposition does not often see eye to eye with me, but I hope he will agree with me in holding that this clause creates serious constitutional difficulties. He has been pleased to refer to this clause twice, once in the course of his speech in connection with clause 133 and again in connection with clause 134, and has expressed the view that such a provision is *ultra vires* of this Legislature. I also find that there are other difficulties which are of an insuperable nature, and I shall briefly refer to some of them. Sir, the clause says, roughly speaking, that the Central Government shall frame rules, place them before the Central Legislature within a particular time, so that the Legislature, at its next Session, may be able to modify those rules. Similarly, provision is made with regard to rules framed by the Provincial Government. Now, my first submission in connection with this provision is that if sub-clauses (1) and (2) of clause 135 are looked into, it will be found that in those sub-clauses provision has been made that the rules shall come into force after certain conditions are fulfilled, previous publication in the official gazette and so on. This procedure that has been prescribed in these two sub-clauses is quite in consonance with the provision contained in section 23 of the General Clauses Act, and that, I submit, is a sufficient precaution in order that the Provincial Governments, who are empowered to frame rules, might not be in a position to abuse their powers and frame arbitrary rules. If it be thought that further safeguards are necessary, those safeguards can be provided for in many different ways, but my submission, before the House, is that the provision contained in sub-clause (3) is certainly not the way in which those safeguards can or should be provided. In the first place, I find that sub-clause (3) delegates certain powers or imposes certain duties upon the Provincial Legislature, and my Honourable friend, Mr. Santhanam, in the course of his speech, in connection with one of the clauses of this Bill, referred to section 124, sub-section (2) of the Government of India Act, as authorising the Central Legislature to make a provision of this character with regard to the Provincial Legislature. On looking at sub-section (2) of section 124, I find that this contention cannot be supported. That is my humble opinion. That sub-section says :

"An Act of the Federal Legislature may, notwithstanding that it relates to a matter with respect to which a Provincial Legislature has no power to make laws, confer powers and impose duties upon a Province or officers and authorities thereof."

The contention rests upon this, that Provincial Legislature comes within one or other of the words, "Province", "officers" and "authorities thereof". So far as "province" is concerned, on looking into the different provisions of the Government of India Act, I find that the

[**Sir Manmatha Nath Mukerji.**]

word has been used either in a territorial sense or in the sense of the provincial executive, and I am supported in my submission before the House by such provisions as are contained in sections 157, 163, 176, 204, 263, 264, and so on.

Mr. Chairman (Mr. S. Satyamurti) : I am sorry to interrupt the Honourable Member. I have been informed that I should have disposed of clause 134, consequent on my ruling. I passed the judgment. I now pass the decree and rule that clause 134 stands out of this Bill.

The Honourable Sir Manmatha Nath Mukerji : These sections would show that the Provincial Legislature does not come within the meaning of the 'province' as used in the sub-section. It will also be seen that the word "Federation", wherever it has been used, has been used in a similar sense. I may, for example, refer to section 313, sub-section (4) of the Act. Now, Sir, does Provincial Legislature come within the meaning of the words "officers and authorities thereof"? I submit not, because it will be found on a reference to section 311, clause (5) of the Government of India Act, that in that section the words used are, "Legislatures, courts, or authorities in.". That is to say, the word "authorities" has been used in contradistinction to and separate from and as meaning something different from Legislature. I submit, therefore, that it is not possible for the Central Legislature to make a piece of legislation bringing within its scope a Provincial Legislature and conferring upon it either some power or imposing upon it some duties and functions. Then, there is a further difficulty. Supposing I am wrong in the submissions I have made before the House, it cannot be gainsaid that every Legislature has got power to rescind any law which has been made by itself, as also to cancel any rules which have been framed under such laws by the Government concerned. What we are doing by this sub-clause is this. We are saying that these rules which the Government will frame will be placed before the Legislature, and the Legislature will be able to modify the rules in some particular session, meaning thereby that, unless the rules are modified in that session, the rules will stand good,—which I submit is a curtailment of the power which every Legislature possesses and which curtailment cannot be effected by anything done by this Legislature. We cannot regulate the relations between Provincial Legislature and Provincial Government. Thirdly, there are also other difficulties. Even if the provision is a valid provision, it is incomplete and defective for the reason that we have not made it clear as to how this provision would have to be worked. A rule framed by a Provincial Government may be cancelled by the Legislature either by introducing a Bill or by moving a resolution condemning the rule.

Mr. B. Das (Orissa Division : Non-Muhammadian) : It has never happened like that.

The Honourable Sir Manmatha Nath Mukerji : Then, there is no machinery provided by which the Legislature will be able in this particular case to deal with the rule. I submit that if the provision is retained, further provisions will have to be made in order that the rule may operate. Suppose there is a difference between the two Houses of some Legislature, what will happen? Will the procedure with regard to Bills

be followed, or will the procedure with regard to resolutions be followed? I submit that there are various other constitutional difficulties in the way of the administration of this provision and that it is a provision which is not only unworkable but also objectionable from a constitutional point of view. Similar objections can very well be taken with regard to the part of the rule which enjoins that the Central Government will have to place the rules before the Central Legislature and so on. It is true that in the Insurance Act of 1938 there is a provision which says—I am reading from section 114 of the Act :

“ Provided that every rule made under this section shall be laid as soon as may be after it is made before both Chambers of the Central Legislature for one month while they are in session.....”

But then the rest of the proviso is very important and that shows that that provision is entirely different from the provision which is contained in sub-clause (3) of clause 135. The rest of the proviso runs in these words :

“ and if within one month from the later date on which the rule has so been laid both chambers agree in making any modification in the rule or both chambers agree that the rules should not be made, the rules shall thereafter have effect in such modified form or shall be of no effect, as the case may be.”

That is to say that the rules will come into effect after that procedure has been observed. Here the procedure that has been laid down is this, that the rules framed by the Governments will come into effect but they would be laid before the different Legislatures and it will be open to the Legislatures within a particular point of time to modify the rules. On all these considerations, I submit that sub-clause (3) of clause 135 is open to very serious objection and I move that it should be deleted.

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

“ That sub-clause (3) of clause 135 of the Bill be omitted.”

Mr. Bhulabhai J. Desai : Sub-clause (3) of clause 135 deals with two points. There are two sets of rules referred to in the sub-clause. The first set of rules refers to rules which may be made by the Central Government, the second set by the Provincial Government and, in this case, the reference to the Central Government is appropriate, because there is one part of this Bill which deals with insurance and in so far as that subject is concerned, it is an exclusive Central subject. Therefore, so far as that is concerned, the executive authority of the Federation has the right to make rules in that behalf competently under the Act. Equally so far as Provincial Governments are concerned, wherever other matters than insurance are concerned they are competent to make rules. The objection taken by my Honourable friend is this. In so far as it subjects those rules to modifications by the Provincial Legislature, he sees a difficulty. My friend's argument is that there is no authority by which legislative power exists in the provinces in so far as rules which may be made are concerned.

The Honourable Sir Manmatha Nath Mukerji : I have been misunderstood. That was not my argument. What I said was this. Every Legislature has got power either to cancel or rescind any law which it had previously made or to cancel any rule which has been made in pursuance of any law previously made, but in making a provision of the character such as is contained in sub-clause (3) of clause 135, we are limiting the

[Sir Manmatha Nath Mukerji.]

power of the Legislature in this way, that we are providing that the rules may be modified in the next Session, suggesting thereby that at no future time the Legislature will have any power to interfere with the rules.

Mr. Bhulabhai J. Desai : Then the objection is extremely limited.

3 P.M. I thought the objection was wider. My friend referred to 124 (2). Now, I do not understand that section in the way in which my friend has understood it. It limits the powers of the Provincial Government to make rules in respect of mechanically propelled transport. Therefore, there is no need to invoke the aid of 124 (2) at all. I need not detain the House over the question whether the words "a province or officers and authorities thereof" include the Legislature or not, though with great deference to my Honourable friend I would submit that the word 'authority' does include a Provincial Legislature but for the moment the question does not arise. Then we are merely left with the clause itself and what I may call a *priori* argument. All we say in this sub-clause is this :

"All rules made under this Act by the Central Government or by any Provincial Government shall be laid for not less than fourteen days before the Central or Provincial Legislature, as the case may be, as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid."

I cannot say, nor have we the power of saying that the amplitudes of the power of the Legislature, such as it exists, are sought to be limited at all. All that is sought to be done is that so far as we have the right to say, as we have in a case like the one before us, namely, mechanically propelled vehicles, that being a concurrent list, we have the power to legislate. That is an indication of one of the ways in which those powers may be exercised. I am not denying nor does the House deny that any other modification of such rules or any supplementary legislation is prohibited. That would not be *ultra vires* of us. Supposing these words *viz.*, "not less than fourteen days", did not exist, my friend would have to concede that this is within our power. I, therefore, submit that my friend's objection does not hold good and I ask the House not to delete this sub-clause.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

"That sub-clause (3) of clause 135 of the Bill be omitted."

The Assembly divided :

AYES—31.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Ahmed, Mr. K.
Anderson, Mr. J. D.
Ayyar, Mr. N. M.
Bajpai, Sir Girja Shankar.
Bewoor, Mr. G. V.
Chanda, Mr. A. K.
Chatterjee, Mr. B. M.
Clow, The Honourable Mr. A. G.
Conran-Smith, Mr. E.
Dalal, Dr. B. D.

Dalpat Singh, Sardar Bahadur Captain.
Dutt, Mr. S.
Faruqui, Mr. N. A.
Ghulam Muhammad, Mr.
Highet, Mr. J. C.
Kamaluddin Ahmed, Shams-ul-Ulema.
Lloyd, Mr. A. H.
Mackeown, Mr. J. A.
Maxwell, The Honourable Mr. R. M.
Metcalfe, Sir Aubrey.
Mitchell, Mr. K. G.

Mukerji, Mr. Basanta Kumar.
 Mukerji, The Honourable Sir Manmatha Nath.
 Nur Muhammad, Khan Bahadur Shaikh.
 Rahman, Lieut.-Colonel M. A.

Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Walker, Mr. G. D.
 Zafrullah Khan, The Honourable Sir Muhammad.

NOES—59.

Abdul Ghani, Maulvi Muhammad.
 Abdul Qaiyum, Mr.
 Abdullah, Mr. H. M.
 Abdur Rasheed Chaudhury, Maulvi.
 Aikman, Mr. A.
 Aney, Mr. M. S.
 Ayyangar, Mr. M. Ananthasayanam.
 Banerjea, Dr. P. N.
 Bhutto, Mr. Nabi Baksh Illahi Baksh.
 Boyle, Mr. J. D.
 Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chaudhury, Mr. Brojendra Narayan.
 Chunder, Mr. N. C.
 Damzen, Mr. P. B.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Desai, Mr. Bhulabhai J.
 Deshmukh, Dr. G. V.
 Deshmukh, Mr. Govind V.
 Essak Sait, Mr. H. A. Sathar H.
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
 Gadgil, Mr. N. V.
 Ghulam Bhik Nairang, Syed.
 Govind Das, Seth.
 Gupta, Mr. K. S.
 Hegde, Sri K. B. Jinaraja.
 Hosmani, Mr. S. K.
 James, Mr. F. E.
 Jedhe, Mr. K. M.
 Jogendra Singh, Sirdar.

Kailash Behari Lal, Babu.
 Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Mangal Singh, Sardar.
 Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad.
 Miller, Mr. C. C.
 Misra, Pandit Shambhu Dayal.
 Nauman, Mr. Muhammad.
 Paliwal, Pandit Sri Krishna Dutta.
 Pandey, Mr. Badri Dutt.
 Parma Nand, Bhai.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Rao, Mr. M. Thirumala.
 Sant Singh, Sardar.
 Santhanam, Mr. K.
 Scott, Mr. J. Ramsay.
 Shahban, Mian Ghulam Kadir Muhammad.
 Sheodas Daga, Seth.
 Siddique Ali Khan, Khan Bahadur Nawab.
 Singh, Mr. Gauri Shankar.
 Sinha, Mr. Satya Narain.
 Smith, Lieut.-Colonel H. C.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Town, Mr. H. S.
 Varma, Mr. B. B.
 Ziauddin Ahmad, Dr. Sir.

The motion was negatived.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That clause 135 stand part of the Bill.”

The motion was adopted.

Clause 135 was added to the Bill.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That clause 136 stand part of the Bill.”

Mr. K. G. Mitchell : With your permission, I would suggest that it would make for the convenience of the House if, in order to save time, this were postponed until after clauses 1 and 2 are taken. My reason is that we have two alternative amendments to this clause the moving of

[Mr. K. G. Mitchell.]

which depends on what the House decides with regard to the date of introduction of compulsory insurance which will be specified in clause 1, and, therefore, I am not really able to move one or the other.

Mr. Chairman (Mr. S. Satyamurti) : Does the Honourable Member, Mr. Mitchell's suggestion commend itself to the House that we may take clause 136 after clauses 1 and 2 ?

(Voices : " Yes, yes.")

Clause 136 is postponed.

We now come to the Schedules. The question is :

" That the First Schedule stand part of the Bill."

Mr. Mitchell.

Mr. K. G. Mitchell : Sir, I move :

" That in the First Schedule to the Bill, in Form A, in Item 1 of Part II, after the words ' Full name ' the words ' and name of father ' be inserted."

Sir, this is merely for identification, and no speech is needed.

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

" That in the First Schedule to the Bill, in Form A, in Item 1 of Part II, after the words ' Full name ' the words ' and name of father ' be inserted."

Mr. Sri Prakasa : Sir, I oppose the amendment. I see no reason why the father should be brought in this matter. The son is good enough and it may be that many persons who may like to become drivers may not be able to specify their fathers. Therefore, I think we had better stick to the name of the driver and not go to his parentage.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

" That in the First Schedule to the Bill, in Form A, in Item 1 of Part II, after the words ' Full name ' the words ' and name of father ' be inserted."

The motion was adopted.

Mr. Sri Prakasa : Sir, I beg to move :

" That in the First Schedule to the Bill in Form D, for the word ' Mr. ' the brackets and the word ' (Name) ' be substituted."

In these days when many ladies drive and ask for driving licences, it is quite possible that the licensing authority may say : " I only want Mr. and no Mrs. or Miss ". In order to save these lady drivers, I oppose that the word " Mr. " be deleted and the word " Name " be substituted.

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

" That in the First Schedule to the Bill in Form D, for the word ' Mr. ' the brackets and the word ' (Name) ' be substituted."

The Honourable Mr. A. G. Clow : Sir, a Miss is as good as mile, and I accept the amendment.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

" That in the First Schedule to the Bill in Form D, for the word ' Mr. ' the brackets and the word ' (Name) ' be substituted."

The motion was adopted.

Mr. K. G. Mitchell : Sir, I move :

“ That in the First Schedule to the Bill, in Form D, between the line commencing with the word ‘ Mr..... ’ and the line commencing with the words ‘ or (permanent address).... ’ the words and line ‘ Son of.... ’ be inserted.”

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

“ That in the First Schedule to the Bill, in Form D, between the line commencing with the word ‘ Mr..... ’ and the line commencing with the words ‘ or (permanent address).... ’ the words and line ‘ Son of.... ’ be inserted.”

Dr. Sir Ziauddin Ahmad : May I ask one question, Sir ? Suppose the driver is a lady, then will she be also called the son of so-and-so ?

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That in the First Schedule to the Bill, in Form D, between the line commencing with the word ‘ Mr..... ’ and the line commencing with the words ‘ or (permanent address).... ’ the words and line ‘ Son of.... ’ be inserted.”

The motion was negatived.

Mr. K. G. Mitchell : Sir, I move :

“ That in the First Schedule to the Bill, in Form E, in Item 1, after the words ‘ Full name ’ a comma and the words and a comma ‘, name of father,’ be inserted.”

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

“ That in the First Schedule to the Bill, in Form E, in Item 1, after the words ‘ Full name ’ a comma and the words and a comma ‘, name of father,’ be inserted.”

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan) : Sir, I suggest that it may be amended as it is by saying “ Name of father or husband as the case may be ”.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That in the First Schedule to the Bill, in Form E, in Item 1, after the words ‘ Full name ’ a comma and the words and a comma ‘, name of father,’ be inserted.”

The motion was adopted.

Mr. J. D. Boyle (Bombay : European) : Sir, I beg to move :

“ That in the First Schedule to the Bill, to Form E, the following be added at the end :

(Note.—The motor vehicle above described is held by the person to be registered as the registered owner, under a hire purchase agreement with.....

Signature of owner.

Signature of Hire Purchase Company ”.

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

“ That in the First Schedule to the Bill, to Form E, the following be added at the end :

(Note.—The motor vehicle above described is held by the person to be registered as the registered owner, under a hire purchase agreement with.....

Signature of owner.

Signature of Hire Purchase Company ”.

Mr. K. Santhanam : Sir, I am not opposing this amendment but there is one difficulty which I would like to point out to my friends. The registration certificate is permanent and if this note is inserted, it will continue when this hire-purchaser has become the permanent owner. Even

[Mr. K. Santhanam.]

after the vehicle has become the sole property of the person who has not entered into the agreement the note will persist unless means has been used to correct it. They must solve this problem and then we will support it.

Mr. F. E. James : This amendment is to Form E, which is the form of application for the registration of a motor vehicle. The difficulty to which my Honourable friend refers really applies to amendment No. 854. When we come to the registration certificate itself, perhaps it will be more convenient to deal with that difficulty.

Mr. K. Santhanam : Am I to understand that he does not want a registration certificate ?

Mr. F. E. James : That difficulty will be met when we come to that particular amendment.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That in the First Schedule to the Bill, to Form E, the following be added at the end :

‘ Note.—The motor vehicle above described is held by the person to be registered as the registered owner, under a hire purchase agreement with.....

Signature of owner.

Signature of Hire Purchase Company ’.”

The motion was adopted.

Mr. K. G. Mitchell : Sir, I beg to move :

“ That in the First Schedule to the Bill, in Form G, after the word ‘ Name ’, occurring in the fourth line, a comma and the words and a comma ‘, name of father,’ be inserted.”

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

“ That in the First Schedule to the Bill, in Form G, after the word ‘ Name ’, occurring in the fourth line, a comma and the words and a comma ‘, name of father,’ be inserted.”

Mr. Sri Prakasa : Sir, I really fail to understand why my Honourable friend is so keen about the father. I mean no disrespect to any person, but we cannot forget that the race of war babies is not over and it may be that a number of them may like to be drivers. How are they going to prove to my Honourable friends opposite that they have a father in the form of so-and-so. Really, we ought to be reasonable in this matter and not stretch our puritanical ideas too far.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That in the First Schedule to the Bill, in Form G, after the word ‘ Name ’, occurring in the fourth line, a comma and the words and a comma ‘, name of father,’ be inserted.”

The motion was adopted.

Mr. J. D. Boyle : Sir, I beg to move :

“ That in the First Schedule to the Bill, to Form G, the following be added at the end :

‘ Note.—The motor vehicle above described is held by the person registered as the registered owner under a hire purchase agreement with.....

Date.....

Signature of Registering Authority ’.”

In order to meet the point which was raised by the Honuorable Mr. Santhanam just now, I would like with your permission and the permission of the House to add at the end the following words : ' which terminates on '.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

" That in the First Schedule to the Bill, to Form G, the following be added at the end :

' *Note*.—The motor vehicle above described is held by the person registered as the registered owner under a hire purchase agreement with....which terminates on.....

Date.....

Signature of Registering Authority '."

The motion was adopted.

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

" That in the First Schedule to the Bill, for Form H, the following be substituted :

' FORM H.

(See section 38.)

Certificate of fitness (applicable in the case of transport vehicles only).

Number of Certificate.....

1. Description of vehicle.
2. Registered number.
3. Date of original registration.
4. Engine number.
5. Weight of vehicle, unladen.
6. Seating capacity including driver and *registered laden weight or carrying capacity* amount of luggage allowed.
7. Number and date of permit, if any.
8. Speed limit.
9. Number and date of last certificate of fitness.
10. Name and address of owner.
11. Special remarks.

Parts of machine examined.

Remarks.

1. Steering.
2. Brakes—foot.
3. Brakes—hand.
4. Gear and other controls.
5. Wheels and tyres (including spare).
6. Springs—front.
7. Springs—rear.
8. Engine, radiator and petrol tank.
9. Body-work, seats, door, roof, curtains, cushions, and wind-screen glass.
10. Lamps.

[Mr. F. E. James.]

11. Number plates.
12. Chassis.
13. Mudguards.
14. Warning devices—two.
15. Set of tools.
16. Taxi meters.

Motor vehicle No. _____ is certified as complying with the provisions of the Indian Motor Vehicles Act, 1938, with regard to its structural strength, condition and running order generally. This certificate will expire on _____ after which date the vehicle should not be used unless it has been inspected and the certificate of fitness has been renewed.

Station.

Date.

Signature and designation of

Inspecting Authority ' '

I understand that my Honourable friend, Mr. Mitchell, had suggested that instead of this detailed certificate appearing in the Schedule, it might properly be left to the rules that are to be made, possibly model rules which are to be suggested by the Central Government. I should be quite willing to straightaway ask the leave of the House to withdraw this amendment, if he would assure me that the details herein suggested would be referred to the Transport Advisory Council for their advice and, thereafter, if they eventually decide, to recommend that these should be included in the model rules for consideration by the Provincial Government.

Mr. Chairman (Mr. S. Satyamurti) : The Honourable Member must either move his amendment or not move his amendment. He cannot move and simultaneously say he will withdraw, if something happens. That is not parliamentary form.

Mr. F. E. James : I am grateful to you, Sir, for giving me instructions on parliamentary form.....

Mr. Chairman (Mr. S. Satyamurti) : The Honourable Member must remember that I am in the Chair and my authority is supreme over this House. I want to know from the Honourable Member whether he moves his amendment or he does not move his amendment. He cannot question or comment on my ruling.

Mr. F. E. James : I have already moved the amendment. In moving that amendment, I took the opportunity of explaining that we would like to have it in the Schedule, but that, if I could get that assurance, I would withdraw the amendment.

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

“ That in the First Schedule to the Bill, for Form H, the following be substituted :

‘ FORM H.

(See section 38.)

Certificate of fitness (applicable in the case of transport vehicles only).

Number of Certificate.....

1. Description of vehicle.
2. Registered number.
3. Date of original registration.
4. Engine number.
5. Weight of vehicle, unladen.
6. Seating capacity including driver and *registered laden weight or carrying capacity* amount of luggage allowed.
7. Number and date of permit, if any.
8. Speed limit.
9. Number and date of last certificate of fitness.
10. Name and address of owner.
11. Special remarks.

Parts of machine examined.

Remarks.

1. Steering.
2. Brakes—foot.
3. Brakes—hand.
4. Gear and other controls.
5. Wheels and tyres (including spare).
6. Springs—front.
7. Springs—rear.
8. Engine, radiator and petrol tank.
9. Body-work, seats, door, roof, curtains, cushions, and wind-screen glass.
10. Lamps.
11. Number plates.
12. Chassis.
13. Mudguards.
14. Warning devices—two.
15. Set of tools.
16. Taxi meters.

Motor vehicle No. _____ is certified as complying with the provisions of the Indian Motor Vehicles Act, 1938, with regard to its structural strength, condition and running order generally. This certificate will expire on _____ after which date the vehicle should not be used unless it has been inspected and the certificate of fitness has been renewed.

Station.

Date.

Signature and designation of
Inspecting Authority ‘.’’

Mr. K. Santhanam : I rise to a point of order. The Honourable Member sought to introduce a clause in this form, but that clause was defeated and as a consequence this form also has no place. This clause has no reference to the text of the Bill.

The Honourable Mr. A. G. Clow : The Honourable Member is referring to the wrong amendment. We are now discussing amendment No. 855.

Mr. Chairman (Mr. S. Satyamurti) : There is no point of order.

Mr. K. G. Mitchell : Sir, I do not know whether after your ruling, I can take cognisance of what my Honourable friend, Mr. James, said. I must oppose the amendment. It may be that this is a very excellent from and could well be included in the schedule. But these are matters which are to be decided in connection with model rules by the Technical committee of the Transport Advisory Council. I cannot say whether they will accept it in this form or not. Therefore, I must oppose the amendment.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That in the First Schedule to the Bill, for Form H, the following be substituted :

‘ FORM H.

(See section 38.)

Certificate of fitness (applicable in the case of transport vehicles only).

Number of Certificate.....

1. Description of vehicle.
2. Registered number.
3. Date of original registration.
4. Engine number.
5. Weight of vehicle, unladen.
6. Seating capacity including driver and *registered laden weight or carrying capacity* amount of luggage allowed.
7. Number and date of permit, if any.
8. Speed limit.
9. Number and date of last certificate of fitness.
10. Name and address of owner.
11. Special remarks.

Parts of machine examined.

Remarks.

1. Steering.
2. Brakes—foot.
3. Brakes—hand.
4. Gear and other controls.
5. Wheels and tyres (including spare).
6. Springs—front.
7. Springs—rear.
8. Engine, radiator and petrol tank.

- Sir, the Schedule is in two parts, and it has prescribed some disqualifications for private owners and some more for public services vehicles. I think, Sir, there are some serious physical disabilities which should disable even private owners from obtaining licenses to drive cars and not only drivers of public service vehicles. Therefore, I propose that the two diseases mentioned in my amendment should be added to the list in Part I. Sir, I move.

Mr. Chairman (Mr. S. Satyamurti) : Amendment moved :

“ That in the Second Schedule to the Bill, after Item 5 of section I, the following be inserted :

‘ 6. Colour-blindness.

7. Night-blindness ’.”

Lient-Colonel M. A. Rahman (Nominated : Non-Official) : Sir, I wish to support the amendment moved by my Honourable friend, Mr. Sri Prakasa. He wants to introduce colour blindness and night blindness amongst the diseases absolutely disqualifying a person from getting a license. A driver who is suffering from any of these diseases is to be classed as totally disabled from the point of view of the safety of the public to hold a driver's license. Sir, I support the amendment.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That in the Second Schedule to the Bill, after Item 5 of section I, the following be inserted :

‘ 6. Colour-blindness.

7. Night-blindness ’.”

The motion was adopted.

Mr. Sri Prakasa : The next amendment No. 861 cannot be moved as it is, because it will then delete “ leprosy ” also from the list. If the House permits me, I shall suitably modify it before moving.

Mr. Chairman (Mr. S. Satyamurti) : It will be a consequential alteration, the Honourable Member may move it in an altered form.

Mr. Sri Prakasa : Sir, I beg to move :

“ That in the Second Schedule to the Bill, in section II, item 2 colour blindness and item 3 night blindness be deleted.”

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That in the Second Schedule to the Bill, in section II, item 2 colour blindness and item 3 night blindness be deleted.”

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That the Second Schedule, as amended, stand part of the Bill.”

The motion was adopted.

The Second Schedule, as amended, was added to the Bill.

The Third Schedule was added to the Bill.

The Fourth Schedule was added to the Bill.

Mr. Chairman (Mr. S. Satyamurti) : The question is :

“ That the Fifth Schedule stand part of the Bill.”

Mrs. Abdul Rashid Chaudhury : Sir, I move :

“ That in Part A of the Fifth Schedule to the Bill, Item No. 3 be omitted.”

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

If you look at the heading of this Schedule, it says :

“ Offences on conviction of which an endorsement shall be made on the licence of the person affected.”

Clause 118 says :

“ Whoever abets the commission of an offence under sections 115, 116 or 117 shall be punishable with the punishment provided for the offence.”

Suppose A is the driver and B, the abettor, is convicted of the offence of abetting. How is the court to endorse ? B has no licence and on his conviction nothing can be endorsed. I think this has been put here through a mistake or something like it. Sir, I move.

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

“ That in Part A of the Fifth Schedule to the Bill, Item No. 3 be omitted.”

Mr. K. G. Mitchell : Sir, I oppose the amendment. It is perfectly true that possibly some one may abet one of the offences—and these are very serious offences—who may not have a licence, in which case for that purpose part A of the Schedule will not be operative ; but it is also operative under the provisions of sub-clause (2) of clause 129 which empowers the courts to allow the benefit of the summary procedure—not appearing in court—to persons who are accused of offences other than offences in Part A of this Schedule. Therefore it has some effect. Sir, I oppose.

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

“ That in Part A of the Fifth Schedule to the Bill, Item No. 3 be omitted.”

The motion was negatived.

Maulvi Abdur Rasheed Chaudhury : Sir, I move :

“ That in Part A of the Fifth Schedule to the Bill, in Item No. 8, the words ‘ Defacing or ’ be omitted.”

The idea behind my amendment is that defacing should not be made a part of the offence because in damp places like Assam licences can be defaced if kept in a place for a few days. This should not be made a part of the offence and this should not be endorsed in the licence. I move.

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

“ That in Part A of the Fifth Schedule to the Bill, in Item No. 8, the words ‘ Defacing or ’ be omitted.”

The Honourable Mr. A. G. Clow : There is no objection, Sir, to this amendment.

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

“ That in Part A of the Fifth Schedule to the Bill, in Item No. 8, the words ‘ Defacing or ’ be omitted.”

The motion was adopted.

Maulvi Abdur Rahseed Chaudhury : Sir, I move :

“ That in Part A of the Fifth Schedule to the Bill, in Item No. 8, for the words ‘ a defaced or ’ the word ‘ an ’ be substituted.”

[Maulvi Abdur Rasheed Chaudhury.]

The reason is the same as I indicated in my previous amendment. Sir, I move.

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

“ That in Part A of the Fifth Schedule to the Bill in Item No. 8, for the words ‘ a defaced or ’ the word ‘ an ’ be substituted.”

The motion was adopted.

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

“ That the Fifth Schedule, as amended, stand part of the Bill.”

The motion was adopted.

The Fifth Schedule, as amended, was added to the Bill.

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

“ That the Sixth Schedule stand part of the Bill.”

Mr. K. G. Mitchell : Sir, I beg to move :

“ That for the Sixth Schedule to the Bill, the following be substituted :

‘ The Sixth Schedule.

[See Sections 24 (3) and 29 (2).]

Registration marks.

One of the pairs of letters specified in the second column shall be used in the registration mark of a vehicle registered in the province specified in the first column.

Assam	..	A followed by any one of the letters A to L and N to P.
Bengal	..	{ X followed by any one letter. Y followed by any one of the letters A to G.
Bihar	..	
Bombay	..	Z followed by any one letter.
Central Provinces and Berar.	..	E followed by any one letter.
Madras	..	{ M followed by any one letter. N followed by any one of the letters A to G.
North-West Frontier Province.	..	
Orissa	..	O followed by any one of the letters A to G.
Sind	..	K followed by any one of the letters A to L except the letters G and I.
Punjab	..	{ P followed by any one letter, except the letter S. Q followed by any one of the letters T to Z.
United Provinces	..	
	..	{ U followed by any one letter. W followed by any one letter.

Ajmer-Merwara	..	AM.	
Coorg	..	CG.	
Delhi	..	DA.	DB.

NOTE.—These letters shall be followed by not more than four figures, and the letters and figures shall be shown —

1. In the case of transport vehicles .. In black on a white ground.
2. In the case of temporary registrations In red on a yellow ground.
(section 25).
3. In the case of registration marks allotted In white on a red ground.
to dealers [section 40 (2) (i)].
4. In other cases In white on a black ground."

The object of this amendment I will briefly describe as this : in the Bill as introduced there was a three-letter system of registration—three letters accompanied by four figures : that is to say, each set gave you 9999 numbers ; and the intention was to allot so many groups of three letters to provinces as multiplying them by the total of 10,000 would give them enough to cover all their registrations. Subsequently, they said that they required a separate registration mark for every registering authority within the province, and the Bill, as amended by the Select Committee, sought to give effect to that ; that is to say, groups of two letters, sometimes one group and sometimes two, followed by any other letter, followed by four numbers. It then became apparent that there was a considerable body of criticism to the effect that it is quite unnecessary at the present stage in India to introduce a three letter system, that is to say, three letters and four figures—or seven digits—instead of a two letter system with six digits, which would suffice. Therefore, after the Select Committee had dispersed, we referred to Provincial Governments and the majority of them said that they would prefer the two-letter system which reduces the size of the registration mark....

Mr. F. E. James : Can my Honourable friend give me any indication as to which Government actually supported this proposal ?

Mr. K. G. Mitchell : Madras favoured the two letter system : Bombay favoured the two letter system : Bengal, United Provinces, Punjab favoured the three letter system ; and the remainder all favoured the two letter system. The Schedule being drawn up to provide for the two letter system, it looks a little bit complicated because owing to the reduced number of permutations and combinations available with two letters, we have had to be rather sparing in dealing them out because eventually a large number of States will have to be provided for ; and where certain letters have been excepted it means that these letters, in combination with that initial letter, are already in use somewhere and for over two years will remain in use and, therefore, have to be excepted. Sir, I move.

Mr. Sri Prakasa : May I know what is the three letter system ?

Mr. K. G. Mitchell : The three letter system is the system as in the Bill reported by the Select Committee. For example, Assam would have A. S. followed by another letter for each registering authority, followed by the numbers.

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

“ That for the Sixth Schedule to the Bill, the following be substituted :

‘ The Sixth Schedule.

[See Sections 24 (3) and 29 (2).]

Registration marks.

One of the pairs of letters specified in the second column shall be used in the registration mark of a vehicle registered in the province specified in the first column.

Assam	..	A followed by any one of the letters A to L and N to P.
Bengal	..	{ X followed by any one letter.
		{ Y followed by any one of the letters A to G.
Bihar	..	R followed by any one letter, except R and D.
Bombay	..	Z followed by any one letter.
Central Provinces and Berar.		E followed by any one letter.
Madras	..	{ M followed by any one letter.
		{ N followed by any one of the letters A to G.
North-West Frontier Province.		F followed by any one of the letters A to G.
Orissa	..	O followed by any one of the letters A to G.
Sind	..	K followed by any one of the letters A to L except the letters G and I.
Punjab	..	{ P followed by any one letter, except the letter S.
		{ Q followed by any one of the letters T to Z.
United Provinces	..	{ U followed by any one letter.
		{ W followed by any one letter.
Ajmer-Merwara	..	AM.
Coorg	..	CG.
Delhi	..	DA. , DB.

NOTE.—These letters shall be followed by not more than four figures, and the letters and figures shall be shown —

1. In the case of transport vehicles .. In black on a white ground.
2. In the case of temporary registrations .. In red on a yellow ground.
(section 25).
3. In the case of registration marks allotted to dealers [section 40 (2) (i)]. In white on a red ground.
4. In other cases In white on a black ground.’

Mr. K. Santhanam : Sir, I oppose this amendment. After all, these schedules are intended for public enlightenment, and they should be intelligible. What is the use of saying Bombay should be denoted by X followed by some letter ? Some policemen may not know what X means, and may not know where the car is coming from. The object of these letters is to enlighten the public as to the place where the car is registered. That is the primary purpose of this. After all, the simplicity of the two-letter system is no substitute for public enlightenment, and, therefore, I oppose this.

Dr. P. N. Banerjee : Sir, I also oppose this amendment, because if this amendment is accepted, the letters will be wholly unintelligible. For instance, in Bengal the letters to be used are X followed by any one letter or Y followed by any one of the letters A to G. This will be wholly unintelligible, and if any accidents occur at some distance, passers-by will not be able to understand what these letters stand for. It will be a very cumbrous system, and, therefore, I strongly oppose this amendment.

Mr. F. E. James : Sir, I oppose this amendment. I should like to draw the attention of the Honourable Member in charge to the reasons why the original Schedule was revised by the Select Committee. In the Select Committee's Report, it reads—"In the Sixth Schedule we have provided for a system of Registration Marks consisting of three letters followed by four figures, the first two letters being indicative of the Province, the third possibly indicative of the registering authority". There is some method in that, but there is no method in the amendment now suggested. If my Honourable friend will look at the Schedule now suggested, he will find that a car in the Punjab might be P. or Q, a car from the United Provinces might be U. or W, Bombay is Z,—perhaps because it is the last letter in the alphabets,—the Central Provinces is E, Bihar is R. I cannot imagine what R stands for. Bengal is X and if the second letter is B and all cars then are marked XB there will be serious trouble. I am very surprised that my friend, the Honourable Member for Communications, should even suggest a schedule which contains that kind of risk. Sir, I oppose this very strongly.

The Honourable Mr. A. G. Clow : Sir, I am sorry to hear these criticisms. It is of course a matter for judgment. My own inclination is very strongly in favour of the amendment. It is perfectly true that it gives no indication of the province to a person who sees the letters for the first time. But I suggest to those who have based their criticism on that view, that it is not the slightest use really knowing the name of the province unless you read the whole identification plate. If you are run down by a car, and you find it comes from Bombay, it is not going to help you at all. You have got to have the number, you have got to have the whole of the registration mark. The reason why I am personally in favour of this is that it is a good deal easier to read two letters than three.

Dr. Sir Ziauddin Ahmad : Sir, I was not very much enamoured by the Schedule which has now emerged from the Select Committee. Perhaps I could have suggested something better, but the Schedule now suggested really beats all imagination. The constables are expected to identify a car by seeing the number of the car. They are expected to identify from which province the car comes. Now, I ask my friend, the Mover of this amendment, if he will be able to say, if we give some of these letters, to say from what province a car is coming without looking to the amendment. No, I am certain he will not be able to reply if he is asked from what province a car is coming if I simply give him the letters. If that is the case, then what can we expect from these constables.

The Honourable Mr. A. G. Clow : What is done in England ?

Dr. Sir Ziauddin Ahmad : But there the constables are much more intelligent than in India. The table which is given here is one which I challenge every Member of the House to say whether after going through it twice over they will be able to repeat them and answer questions without referring to the Schedule. Sir, the whole thing is so complicated that it will be practically unworkable. With these words, I oppose this amendment.

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

“ That for the Sixth Schedule to the Bill, the following be substituted :

‘ The Sixth Schedule.

[See Sections 24 (3) and 29 (2).]

Registration marks.

One of the pairs of letters specified in the second column shall be used in the registration mark of a vehicle registered in the province specified in the first column

Assam	..	A followed by any one of the letters A to L and N to P.
Bengal	..	{ X followed by any one letter. Y followed by any one of the letters A to G.
Bihar	..	R followed by any one letter, except R and D.
Bombay	..	Z followed by any one letter.
Central Provinces and Berar.	..	E followed by any one letter.
Madras	..	{ M followed by any one letter. N followed by any one of the letters A to G.
North-West Frontier Province.	..	F followed by any one of the letters A to G
Orissa	..	O followed by any one of the letters A to G.
Sind	..	K followed by any one of the letters A to L except the letters G and I.
Punjab	..	{ P followed by any one letter, except the letter S. Q followed by any one of the letters T to Z.
United Provinces	..	{ U followed by any one letter. W followed by any one letter.
Ajmer-Merwara	..	AM.
Coorg	..	CG.
Delhi	..	DA. , DB.

NOTE.—These letters shall be followed by not more than four figures, and the letters and figures shall be shown —

1. In the case of transport vehicles .. In black on a white ground.
2. In the case of temporary registrations .. In red on a yellow ground.
(section 25).
3. In the case of registration marks allotted to dealers [section 40 (2) (i)]. In white on a red ground.
4. In other cases In white on a black ground.”

The motion was negatived.

Maulvi Abdur Rasheed Chaudhury : Sir, I move :

“ That in the Sixth Schedule to the Bill, after the words ‘ in the second column ’ the words ‘ provided that similar letters in vernacular are also permissible ’ be inserted.”

My friend, Mr. Santhanam, just said that these Schedules are intended for public enlightenment. If you use the English letters, there will be very little public enlightenment as the educational progress of the country is so little. We have got only seven per cent. of the people who are literate, and if literacy in vernacular is left out, then it will be only two per cent. who know something about English alphabets. Therefore, if these alphabets remain in English, the Schedule will be of no use for the enlightenment of the public. So I think it would be much better to use letters in the vernaculars so that people may understand them. Sir, I move.

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

“ That in the Sixth Schedule to the Bill, after the words ‘ in the second column ’ the words ‘ provided that similar letters in vernacular are also permissible ’ be inserted.”

Mr. K. G. Mitchell : Sir, on a point of order, I think this amendment is barred. My recollection is that Amendment No. 8 in Supplementary List 5 to the First Consolidated List was a similar amendment which was moved by Mr. Sri Prakasa, and that it was defeated.

Mr. President (The Honourable Sir Abdur Rahim) : I do not know.

Maulvi Abdur Rasheed Chaudhury : He did not press it.

Mr. K. G. Mitchell : It is No. 8 in Supplementary List 5.

Mr. President (The Honourable Sir Abdur Rahim) : It was put to the vote and lost. So this is barred.

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

“ That the Sixth Schedule stand part of the Bill.”

The motion was adopted.

The Sixth Schedule was added to the Bill.

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

“ That the Seventh Schedule stand part of the Bill.”

Maulvi Abdur Rasheed Chaudhury : I move :

“ That in the Seventh Schedule to the Bill, in Tables A and B, after the word ‘ pound ’, occurring in the heading of Column 2, the words ‘ or in maunds ’ be inserted and the equivalent weight in maunds in each case be shown.”

The Honourable Mr. A. G. Clow : I rise to a point of order. This amendment says, “the equivalent weight in maunds in each case be shown ”. I take it that the Secretary of the Legislative Assembly has got to perform a lot of complicated arithmetic if this amendment is carried.

Mr. President (The Honourable Sir Abdur Rahim) : This is an incomplete amendment, because the Honourable the Mover does not give the weight in maunds. So I rule it out of order. The question is :

“ That the Seventh Schedule stand part of the Bill.”

The motion was adopted.

The Seventh Schedule was added to the Bill.

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

“ That the Eighth Schedule stand part of the Bill.”

Dr. Sir Ziauddin Ahmad : I move :

“ That in the Eighth Schedule to the Bill, against clause (i) of Item I (a), for the words ‘ No limit ’ the figures ‘ 45 ’ be substituted.”

The whole object of this Bill is to provide for the safety of passengers and the safety of the third party, and I have repeatedly said that safety depends very largely upon the speed with which the motor cars are driven. If only we provide for two things, then the risk can be avoided, even though we may pass this elaborate Bill tomorrow. One is to provide the maximum limit of speed. When you say, no limit, the speed may be 100 miles or 70 miles an hour. The other thing is that you must provide separate roads for motor traffic. If we have these two, accidents will be minimised. What we are doing by this Bill is, after accidents have occurred, we provide what should be the penalty, what should be the compensation to be paid, and so on. What I want to do is to go to the root cause of these accidents and prevent them. I suggest that the maximum should be 45 miles an hour, because that is the limit fixed by Government for XB engines, and I think that the limit fixed for the XB engine should be the limit fixed for the speed of the motor cars. I have repeatedly said on the floor of the House that the roads are not spoiled so much by the weight of the motor car, as by the high speed with which it is driven. My Honourable friend, Mr. Mitchell, is a mathematician and a Wrangler himself, and he will agree that the effect on the road varies as the square of the velocity of the vehicle, though it may vary directly with the weight. Therefore, I submit that this speed limit ought to be fixed.

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

“ That in the Eighth Schedule to the Bill, against clause (i) of Item I (a), for the words ‘ No limit ’ the figures ‘ 45 ’ be substituted.”

Mr. K. G. Mitchell : Sir, while I have a great deal of sympathy with the Honourable the Mover, I fear that I must oppose this amendment. The Honourable the Mover has told us on many occasions during the course of this debate that he himself never drives more than five miles an hour, and, therefore, I do not think that he is really in a position to judge as to whether 45 miles an hour is a safe speed limit or not.

Dr. Sir Ziauddin Ahmad : I also told you the story of the blind man. Remember that too.

Mr. K. G. Mitchell : The point is this. For the prevention of accidents clause 115 of the Bill provides a sufficient
 4 P.M. punishment for driving recklessly or dangerously or at a speed in excess of that which is safe having regard to all the cir-

cumstances. Now, Sir, for the purposes of that, a speed of even 15 miles a hour may be reckless and dangerously driving. We are not necessarily providing for safety by putting in an artificial limit of 45 miles a hour. 30 miles an hour might be frightfully dangerous in certain circumstances and 45 or 50 miles an hour might be perfectly safe in other circumstances. That is one thing. The Honourable the Mover also referred to the question of the deterioration of roads. There, again, even a fairly heavy private car which has not an axle load of more than one ton. You are providing in the Bill for transport vehicles of axle loads of $4\frac{1}{2}$ tons. Even if I admit, which I do not, that the impact varies with the square of the speed, at least your private car can travel twice as fast as the heavy lorry, so that if you have a speed limit of 25 or 30 miles for your lorry, so far as the road is concerned, the private car could travel at 50 or 60 miles an hour if that argument held good. I, therefore, submit that there is nothing very much in that contention.

The main difficulty about creating an offence of this sort is that you have not got an establishment to enforce it. It will only lead to a lot of prosecutions and a lot of hard swearing and dissatisfaction with the decisions on both sides. Having regard to all the circumstances it will give far more trouble than it will be worth and I do not think that it will do any good at all.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : I support the amendment. I have put down in my note of dissent something on the lines of what Dr. Ziauddin has moved. I am sorry that the Government has taken an absolutely wrong attitude. If it is only after the accident happens that Government want to punish the offender, then this Bill is absolutely unnecessary. The whole idea underlying this Bill is that accidents should not take place. My friend, Mr. Mitchell, apparently does not go out into the country and see how the accidents happen. That is not our fault. Government ought to know that these accidents happen on account of negligence and rash driving at a very high speed, and they don't care about the lives of the people who happen to cross the road. The argument advanced on behalf of the Government is that because they cannot punish the guilty people, there should be no limit to speed. We know that murders and dacoities are taking place in spite of the fact that there are stringent provisions in the penal code, hanging and sentencing people to transportation for life. If you want to avoid accidents, then you must have some speed limit. It is not the business of the Government but of the Provincial Governments to catch the people who will be transgressing this law. If a speed limit of 45 miles an hour is fixed for the railway where there is no obstruction on the track, then it is all the more necessary, in a road where there is all sorts of traffic, such as camel carts, bullock carts and so on. On a road on which there is no traffic, sometimes a driver goes at a speed of 60 or 65 miles and, suddenly, a man crosses the road from behind a tree and a serious accident takes place and Government do not want to come to the help of the man who will be killed or injured and stop the silly action of the driver. The root cause in all cases of accidents is the excessive speed at which the car is driven. I have seen with my own eyes a driver, who drives at a speed of 30 or 40 miles an hour and, suddenly, a child crosses the road and he

[Sir Muhammad Yamin Khan.]

is unable to stop the car. I agree with Mr. Mitchell that 30 miles may be dangerous in a crowded street and 50 miles may be quite safe on other roads which are lonely. I was myself going in a car at a speed of 45 miles an hour and all of a sudden a man came up. The driver tried to swerve and, in spite of his efforts, the man was injured all over the legs. In another case, a man was driving at a high speed and a cow calf came up suddenly and the car could not be stopped. We have seen accidents in New Delhi in Connaught Place and other places. In all such cases, the speed should not exceed 45 miles an hour. The speed limit must be indicated in bold letters and anybody who transgresses that should be severely dealt with. My friend said that Dr. Ziauddin drives at five miles or ten miles an hour but there are some young people who are rash and some military officers who drive at a very high speed. They do not care for the lives of the people. I know a man who used to say : ' I don't care for the life of a dog which is sleeping on the road '. These are the people whom you should punish. If you put a proper limit and enforce it, then they would not drive at excessive speeds. Then my friend said that if you fix 25 for the lorries, then in the case of private cars it should be doubled. Now, Sir, the weight and the friction combined have the effect of destroying the road absolutely. Since the lorries and the motor cars came on the roads, the expenses of maintaining the roads has gone up tremendously. The *kankar* roads cannot stand the traffic of motors at all and Government is obliged to spend more in maintaining the roads, simply on account of the heavy strain on the roads. There is no reason why a speed of more than 45 miles an hour should be allowed, whether it is a Rolls-Royce or Baby Austin. I do not care about it but the speed limit should not be more than 45 miles an hour. Both on the ground of safety and the expense in maintaining the roads, I support this amendment.

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 in the Eighth Schedule to the Bill, against clause (i) of Item I (a), for the words ' No limit ' the figures ' 45 ' be substituted."

The motion was negatived.

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Sir, I move :

" That in the Eighth Schedule to the Bill, against clause (i) of Item 1 (a), for the words ' No limit ' the figures ' 40 ' be substituted."

The Honourable Mr. A. G. Glow : On a point of order. Is this not barred by the preceding amendment which has been negatived ?

Mr. President (The Honourable Sir Abdur Rahim) : I have allowed the amendment. The House may very well say that the proper figure should not be 45, but 40.

Mr. Suryya Kumar Som : In my preliminary speech I quoted figures to show, Sir, that far more accidents are caused by private cars than by lorries and buses. Let us dispassionately and without any bias consider this proposition. Now, the speeds for all sorts of buses and lorries have been specified and defined in this Bill, and it is only the private car and cabs that have been let off. Why ? No argument has been adduced why private cars and cabs should thus be let off. Having provided a speed limit for even taxis and lorries, why has the private car alone been let off so as to run at a risk, if they like ? Sir, it is our experience that the private cars are always driven at very excessive and most undesirably high speeds. In the Select Committee my Honourable friend, Mr. James, was pleased to make a remark that he had been fined twice for exceeding the speed limit....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member need not go into all that.—what happened in the Select Committee.

Mr. Suryya Kumar Som : My friend said that when driving a car he has got a tendency to drive fast and he was fined twice. That explains why so many accidents take place, accidents which are caused by private cars and, here, we have put the limit at forty miles for private cars and cabs. Sir, in a place like India where people are not so very busy as in England and America, I think a speed of forty miles is enough for business purposes. Of course, joy rides are quite a different thing. Let them have joy rides at 90 miles an hour and I shall have no objection provided they do not kill the pedestrians. Sir, I think innumerable provisions have been made in this Bill in order to regulate and control motor cars and buses so as to save the lives of pedestrians and passengers.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must confine himself to the amendment before the House.

Mr. Suryya Kumar Som : With one suggestion, Sir, I will finish my speech. This is the same mentality which is guiding the railway authorities in dealing with third-class passengers niggardly and providing air-conditioned coaches for first class.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is absolutely irrelevant. This has nothing to do with the amendment.

Mr. Surrya Kumar Som : I submit, Sir, that it is too inequitable for men in high position, owning private cars, to be allowed to drive their cars so recklessly and for the Government to leave this loophole for them—after having made innumerable provisions for the regulation of speed limits for all sorts of lorries and buses. I submit this is indefensible, and I hope all my friends will support me.

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

“ That in the Eighth Schedule to the Bill, against clause (i) of Item 1 (a), for the words ‘ No limit ’ the figures ‘ 40 ’ be substituted.”

Mr. K. G. Mitchell : Sir, I must oppose this amendment—and I would only add to what I said before that my Honourable friend, Mr. Som, commenced his remarks by saying that he had shown by figures

[Mr. K. G. Mitchell.]

that far more accidents were caused by private cars than by other cars. Well, Sir, there are approximately 150,000 motor vehicles of all sorts in India, and out of these perhaps forty or fifty thousand are buses and lorries, that is to say that the number of private cars is double that of the others ; and I would only conclude with one sentence from the report of the Committee on compulsory insurance of motor vehicles. It is as follows :

“ Although we have not been able to obtain figures from every province, it is clear that fatal accidents occur to a much greater extent from public than from private vehicles.”

The only pity is that the Honourable the Mover did not show his calculations to the Motor Vehicles Insurance Committee. Sir, I oppose.

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

“ That in the Eighth Schedule to the Bill, against clause (i) of Item 1 (a), for the words ‘ No limit ’ the figures ‘ 40 ’ be substituted.”

The motion was negatived.

Mr. Badri Dutt Pande (Rohilkund and Kumaon Divisions : Non-Muhammadian Rural) : Sir, I beg to move :

“ That in the Eighth Schedule to the Bill, the following be added at the end :

‘ On the hills the maximum speed shall be two-thirds of the above in each case ’.”

Sir, reckless and careless driving and driving at a high speed may be permissible in the plains. In the plains you can drive at any speed you like. But on the hills it is certainly dangerous. I think if these columns had been left blank and the Provincial Governments were asked to fill them in, it would have been much safer. At present on the hills the maximum speed allowed in my part of the country is 20 miles for the cars and 16 miles for the buses per hour. If there is no speed limit, the cars and the lorries will go into the *khud* and there will be great danger. I think my amendment is very important and reasonable and I hope it will be accepted by the House. Sir, I move.

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

“ That in the Eighth Schedule to the Bill, the following be added at the end :

‘ On the hills the maximum speed shall be two-thirds of the above in each case ’.”

Mr. K. G. Mitchell : Sir, while I entirely agree that speed-limits should be severely restricted in the hills, I submit that the amendment would not have that effect because there is no limit for private cars and two-thirds of no limit would mean nothing. Actually, if the Honourable Member will remember, the House has passed sub-clause (2) of clause 71 which provides that Provincial Governments shall have power to fix speeds lower than those specified in the Schedule where the condition of the road or other circumstances so require. I make no doubt whatever that every province will on hill and *ghat* roads have reasonable speed-limits imposed by rules made under sub-clause (2) of clause 71. I, therefore, oppose this amendment.

Dr. Sir Ziauddin Ahmad : Sir, last time when we moved an amendment to fix the maximum speed-limit, my Honourable friend, who has now moved this amendment, opposed that motion and said that there should be no speed-limit. Now, he comes forward and asks for two-thirds of no limit whatsoever. I cannot understand his calculations. In one breath he opposed the motion which we moved that the maximum speed-limit should be 45 miles per hour, and in the second breath he has moved an amendment fixing the maximum limit. I oppose the amendment.

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

“ That in the Eighth Schedule to the Bill, the following be added at the end :

‘ On the hills the maximum speed shall be two-thirds of the above in each case ’.”

The motion was negatived.

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

“ That the Eighth Schedule stand part of the Bill.”

The motion was adopted.

The Eighth Schedule was added to the Bill.

The Ninth Schedule was added to the Bill.

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

“ That the Tenth Schedule stand part of the Bill.”

Pandit Lakshmi Kanta Maitra : Sir, I move :

“ That in the Tenth Schedule to the Bill, in the proviso to Regulation 3, all the words occurring after the word ‘ road ’ be omitted.”

The proviso to regulation 3 runs thus :

“ Provided that in no case shall he pass a tram-car at a time or in a manner likely to cause danger or inconvenience to other users of the road.....”

I want to leave it at that and want to have the rest deleted. There may be cases where there will be enough space on the left side of the tram-car for any other car to pass by, while the right-hand side may be congested. When there is no danger to the public or to the public safety, there is no reason why cars should not be allowed to pass the tram-cars on the left. All that we need provide for is safety of the pedestrians on the road. In this connection, I might remind my Honourable friends that in the case of the Chowringhee Road or the Russa Road in Calcutta or the Dadar Road in Bombay, which are very wide and important roads, where there is very wide margin for the cars to pass, there should be no arbitrary restriction put by the Legislature that in no case the car can pass by the left side of the tram-car. I believe this is over-shooting the mark and betraying bias in favour of tramways. Sir, I move.

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

“ That in the Tenth Schedule to the Bill, in the proviso to Regulation 3, all the words occurring after the word ‘ road ’ be omitted.”

The Honourable Mr. A. G. Clow : Sir, I do not think the amendment would have the effect that my Honourable friend suggests because the amendment is to the proviso and not to the substantive clause. The substantive clause says that the cars may pass a tram-car on either side and this part of the proviso, which he is seeking to delete, is a part which is really for the protection of the passengers. I oppose the amendment.

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

“ That in the Tenth Schedule to the Bill, in the proviso to Regulation 3, all the words occurring after the word ‘ road ’ be omitted.”

The motion was negatived.

Mr. K. G. Mitchell : Sir, I move :

“ That in the Tenth Schedule to the Bill, in clause (1) of Regulation 9 (b), before the words ‘ it passes beyond ’ the words and a comma ‘ so far as may be practicable,’ inserted.”

Sir, this is merely formal. The provision regulates what to do on turning to the right. But the road may be so narrow that you cannot comply literally with the regulation. Sir, I move.

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

“ That in the Tenth Schedule to the Bill, in clause (1) of Regulation 9 (b), before the words ‘ it passes beyond ’ the words and a comma ‘ so far as may be practicable,’ be inserted.”

The motion was adopted.

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

“ That the Tenth Schedule, as amended, stand part of the Bill ”

The motion was adopted.

The Tenth Schedule, as amended, was added to the Bill.

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

“ That the Eleventh Schedule stand part of the Bill.”

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

The Honourable Mr. A. G. Clow : On a point of order, Sir. I suggest that this amendment is covered by the decision which the House has taken on clause 79. We have already passed the proviso to that clause and that fully covers the point to which this amendment relates.

Dr. Sir Ziauddin Ahmad : If my amendment is not covered by the proviso to clause 79, then I will move it. In any case, I would like to move it first and then, if necessary, I can withdraw it. Sir, I beg to move :

“ That in the Eleventh Schedule to the Bill, to paragraph 2, the following be added at the end :

‘ A driver may indicate his intention to turn to right or left by mechanical appliances attached to the cars ’.”

Now, Sir, it has been pointed out that in clause 79 it is provided :

“ Provided that the signal of an intention to turn to the right or left or to stop may be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle.”

Sir, what really troubles me is the word “ prescribed ”, because, in that case, we may obtain permission from somebody whose name has to be mentioned explicitly. Here no name is mentioned. That is my difficulty. If the word “ prescribed ” had not been there, perhaps I would think my amendment unnecessary. It is quite possible that this mechanical device which many motor cars have got just now may not be admitted by any authority. Therefore, I submit that the proviso to clause 79 does not really rule out my amendment. I think it is very desirable that my amendment should be there, because it is a simple device. If a man has got to show his hand to indicate the direction in which he has to turn, then one of his hands will have to be taken off the steering wheel, and, at the moment of turning, it is very desirable that his two hands should be at the steering wheel. In a crowded thoroughfare, it is very dangerous for the driver to have only one hand at the steering wheel. For this purpose we can avoid all risks if a mechanical device is recognised just as you have now in many motor cars. Sir, I move.

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

“ That in the Eleventh Schedule to the Bill, to paragraph 2, the following be added at the end :

‘ A driver may indicate his intention to turn to right or left by mechanical appliances attached to the cars ’.”

The Honourable Mr. A. G. Clow : Sir, I do not know why my Honourable friend, Dr. Sir Ziauddin Ahmad, enlarged on the advantages of signalling devices. No one questions that, and we have already provided for mechanical or electrical devices in clause 79. The only difference is that under clause 79 the device is to be of a prescribed nature. In other words, it is to be approved by the rules. I think the House will be stultifying itself if it attempts to go back on the decision it has already taken on clause 79. I think this amendment is out of order in view of clause 79 having already been adopted by the House.

Mr. President (The Honourable Sir Abdur Rahim) : The House has already given its verdict on clause 79, and I rule that this amendment is out of order.

The question is :

“ That the Eleventh Schedule stand part of the Bill.”

The motion was adopted.

The Eleventh Schedule was added to the Bill.

Pandit Krishna Kant Malaviya : Sir, I rise to a point of order. This morning, when the Division was called, I was sitting in the room of the Deputy President on the ground floor, and he himself was there. Both of us could not come up and take part in the voting, because the Division Bell was not in order. If we had come and taken part in the voting, the result of the Division would have been in our favour, because we lost the Division by the casting vote of the Chair.

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

Pandit Krishna Kant Malaviya : If the Bell had not been out of order, I would have been here, and so I suggest that my vote should be included in the voting.

Dr. Sir Ziauddin Ahmad : May I ask, Sir, whether it is provided anywhere in the Rules or Standing Orders that there should be a Bell ringing in every room when a Division is called. If any particular Bell is not ringing, I do not think that any Division can be declared null and void on that score. I submit, it is not provided anywhere in the rules that the Bell should be ringing in every room.

Mr. S. Satyamurti : Sir, there are two points that arise for your decision. The first point is that certain Honourable Members including the Honourable the Deputy President were in the Deputy President's room, where they are entitled to be, where there is a Division Bell provided, and that Bell did not strike. Therefore, those two Honourable Members could not come in here. The first point therefore that you must consider is that it was not the fault of the Honourable Members but the fault of the machinery of our office, and, therefore, they could not be ruled out for that Division. Because my Honourable friend, Dr. Sir Ziauddin Ahmad, raised that point that there is no need for Bells to ring in every room, I want to submit this. He seems to suggest that nobody need come and that a Division can even then be taken. I submit that, ever since this Assembly began to start working, there has been a consistent rule, at least I can speak from my four years' experience of the Assembly, that, whenever you declare a Division, the Secretary of the Assembly turns the sand glass upside down, and starts ringing an electric Bell which rings for a period of two minutes and then Honourable Members rush in to take part in the Division, on hearing the ringing of the Bell. I want your ruling on this point that when a Bell is not ringing in all the places where Honourable Members may be during the hours of sitting of the Assembly, the Deputy President's room or the Whip's room or the party rooms or the room of the Executive Councillors, or in the Library—these are the places where Honourable Members are expected to be—whether because they were shut out of the Division for no fault of their own, they could not request you to have their votes recorded again.

Mr. President (The Honourable Sir Abdur Rahim) : That is to say, the verdict of the House should be revised.

Mr. Satyamurti : The verdict of the House was not obtained according to the normal proper device, which is usually in force in this House.

Mr. M. Ananthasayanam Ayyangar : Sir, in 1912, a question arose in the House of Commons. One of the Members did not hear when the question was put and Division taken. After two or three more Divisions were taken, it was represented to the Speaker of the House of Commons by the Member who did not hear the first Division being taken that his vote should be recorded, and it was done again.

Mr. President (The Honourable Sir Abdur Rahim) : Was it after the Division was over ?

Mr. M. Ananthasayanam Ayyangar : Yes, after two or three Divisions were over.

Mr. President (The Honourable Sir Abdur Rahim) : Will the Honourable Member give me that reference ?

Mr. M. Ananthasayanam Ayyangar : It was in 1912. It can stand over till tomorrow.

Mr. President (The Honourable Sir Abdur Rahim) : Very well. Then we can go on with the business now before the House.

Mr. Bhulabhai J. Desai : May I suggest, with reference to clause 1, that there is a general agreement in the House that this should be taken up first ? There was a lot of controversy about it.

Mr. President (The Honourable Sir Abdur Rahim) : As you say that there is general agreement in the House, I have no objection to take it up first and clause 2 afterwards. The question is :

“ That clause 1 stand part of the Bill.”

Some Honourable Members : Clause 2 may be taken first.

Mr. President (The Honourable Sir Abdur Rahim) : I have said that I have taken up clause 1, because there is general agreement.

The Honourable Mr. A. G. Clow : Before you take up the other amendments, Sir, there is a formal amendment in the name of Mr. Anderson.

Mr. J. D. Anderson : Sir, I move :

“ That in sub-clause (1) of clause 1 of the Bill, for the figures ‘ 1938 ’ the figures ‘ 1939 ’ be substituted.”

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

“ That in sub-clause (1) of clause 1 of the Bill, for the figures ‘ 1938 ’ the figures ‘ 1939 ’ be substituted.”

The motion was adopted.

Mr. K. G. Mitchell : Sir, I move :

“ That in sub-clause (3) of clause 1 of the Bill, for all the words occurring after the words ‘ come into force on ’ the following be substituted :

‘ the first day of July, 1939 ; but Chapter VIII shall not have effect until the first day of July, 1943 ’.”

This shortens the clause considerably by providing a definite date for the commencement of the Act and a definite date for the commencement of Chapter VIII, which is roughly five years from now or four years from the commencement of the Act. Sir, I move.

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

“ That in sub-clause (3) of clause 1 of the Bill, for all the words occurring after the words ‘ come into force on ’ the following be substituted :

‘ the first day of July, 1939 ; but Chapter VIII shall not have effect until the first day of July, 1943 ’.”

The motion was adopted.

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

“ That clause 1, as amended, stand part of the Bill.”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

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

“ That clause 2 stand part of the Bill.”

Maulvi Abdur Rasheed Chaudhury : Sir, I move :

“ That in sub-clause (1) of clause 2 of the Bill, for the word ‘ surface ’ the word ‘ ground ’ be substituted.”

The word “ surface ” is often used as meaning surface of water or earth or with some such word, but here it has been used alone ; and the sentence does not seem to read well. If the House thinks so, it will support my amendment. Sir, I move.

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

“ That in sub-clause (1) of clause 2 of the Bill, for the word ‘ surface ’ the word ‘ ground ’ be substituted.”

Mr. K. G. Mitchell : Sir, I oppose. The Honourable the Mover said that “ surface ” is often used in different connections. I would draw his attention to the fact that in this particular clause it is intended to apply to the surface of a weighing machine.

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

“ That in sub-clause (1) of clause 2 of the Bill, for the word ‘ surface ’ the word ‘ ground ’ be substituted.”

The motion was negatived.

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

“ That in sub-clause (3) of clause 2 of the Bill, for the words ‘ contract carriage ’ the words ‘ reserved carriage ’ be substituted ”....

The Honourable Mr. A. G. Glow : On a point of order, Sir, these words do not occur in the Bill anywhere : the Honourable Member is seeking to define something which is not in the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : Then it cannot be moved.

Maulvi Abdur Rasheed Chaudhury : Sir, I move :

" That in sub-clause (4) of clause 2 of the Bill, for the figures and words ' 5,000 pounds avoirdupois ' the figures and words ' 62½ maunds ' be substituted."

I would not have tabled this amendment if this point had been discussed in the Select Committee. My information is that the question of local weights was not discussed in the Select Committee. We have provided for punishment for overloading under clauses 72, 73 and 123 of this Bill. It is obvious that before a man is punished he should know what overloading is. Here the weight has been put in pounds avoirdupois. I dare say that even half the Members of this House will not be able to explain what avoirdupois is. People must know what weight a motor vehicle can carry. Unless it is clear to the driver how can we punish him for overloading under the sections which have already been mentioned. In Amendment No. 67 I have stated what is meant by one maund. I have said there that one maund is equivalent to forty seers of eighty tolas weight, one tola being equivalent to a current rupee. It may be said, Sir, that even a rupee is not a local weight, but the current rupee has a constant weight since 1835,—it is equivalent to 165 grains of pure silver plus 15 grains alloy. It is more than a hundred years since the weight of the rupee has been constant. We all base our weight on the basis of the weight of the rupee which is the uniform weight throughout India. It may be said that the weight of maunds is different in different parts of India, that under the Weights and Measures Act, the weights of Bombay and C. P. differ from those of Bengal and Assam. But as against this, I may say, Sir, that the Railway Department is maintaining a uniform weight throughout the whole of India in maunds. So there cannot be any difficulty in adopting a uniform weight under this sub-clause. Then another argument may be advanced that motor cars are not produced in this country, and that the makers stamp the weight on the axles of the motor vehicles at the place the car is manufactured. It is a reasonable argument but, Sir, it will not be difficult to re-stamp the weights when the vehicles arrive in India. They can be re-stamped either at the Customs House office or by the dealers themselves. It is not an insurmountable difficulty. Nor can it be said it is an impossible thing to do.

Then, Sir, from the point of view of our country, and also considering the fact that the education has not yet sufficiently advanced in this country, it is very necessary to have local weights. It will also be in keeping with the dignity and self respect of this ancient country that we should adopt local weights without depending on foreign weights. In these days people are mad after Swadeshi. and I do not understand why local weights should not be adopted.

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

" That in sub-clause (4) of clause 2 of the Bill, for the figures and words ' 5,000 pounds avoirdupois ' the figures and words ' 62½ maunds ' be substituted."

Mr. K. G. Mitchell : Sir, I must oppose this amendment. As far
 5 P.M. as I can see, the Honourable Member has not only
 proposed to substitute another unit, but he appears
 to have made certain alterations in the weights provided. I have not
 checked all his figures, but in the amendment under discussion he says
 5,000 pounds are equal to 62½ maunds, and in amendment No. 42, he
 says 10,600 pounds, which is considerably more than double 5,000
 pounds, is equal to 120 maunds, which is considerably less than double
 62½ maunds. Also in amendment No. 52 he arrives at the weight
 of a motor cycle as 10 maunds 8 seers 2½ chataks. If it is difficult
 for anyone, as he says, to understand the weight in pounds, I think
 it will be still more difficult to understand this. Actually, I think
 pounds are understood by everybody. For the purpose of tyre capa-
 city, and tyre pressures the figures are stated in pounds, and the
 specifications of motor vehicles imported are in terms of pounds. Sir, I
 oppose this amendment.

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

“ That in sub-clause (4) of clause 2 of the Bill, for the figures and words ‘ 5,000
 pounds avoirdupois ’ the figures and words ‘ 62½ maunds ’ be substituted.”

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Saturday,
 the 17th September, 1938.