

20th September 1938

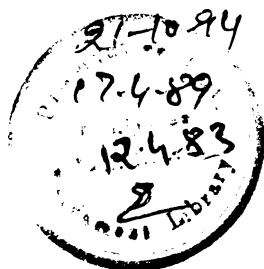
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VI, 1938

(12th September to 26th September, 1938)

EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



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

Legislative Assembly.

President :

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

Deputy President :

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

Panel of Chairmen :

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

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

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

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

Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistants of the Secretary :

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

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

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

Marshal :

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

Committee on Petitions :

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

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

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

SYED GHULAM BHIK NAIRANG, M.L.A.

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

M434LAD

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 mishandling of the Shiva Temple affairs in Delhi—Withdrawn	2033—35 2249—50	The Motor Vehicles Bill—Discussion on the consideration of clauses not concluded	2411—54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.

Tuesday, 20th September, 1938.

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

MEMBER SWORN.

The Honourable Sir Thomas Alexander Stewart, K.C.I.E., C.S.I.
(Member for Railways and Communications).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

REVISION OF PAY OF THE INDIAN CIVIL SERVICE.

1159. *Mr. Abdul Qaiyum (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Honourable the Home Member state :

- (a) how many years have elapsed since the revision of the pay of the servants of the Government of India ;
- (b) why the matter of revising the pay and emoluments of the Indian Civil Service men has not been taken up ; and
- (c) whether Government have considered the advisability of taking up this matter at once ?

The Honourable Mr. R. M. Maxwell : (a) The pay of services and posts under the rule-making control of the Government of India was last revised in 1933.

(b) and (c). I would refer the Honourable Member to the answer given on the 30th September, 1937, to Mr. C. N. Muthuranga Mudaliar's starred question No. 933.

Mr. Abdul Qaiyum : With reference to the answer to part (a) of the question, in view of the great demand for reduction of salaries, may I know whether the Government of India will take up the question of reduction of salaries, especially of the Indian Civil Service ?

The Honourable Mr. R. M. Maxwell : That was replied to in the answer to which I have referred the Honourable Member, namely, that it has been decided by the Secretary of State, with whom the matter rests as regards the Indian Civil Service, that the question should be deferred until the occasion arises to review the future recruitment and conditions of service of that Service.

(2751)

Seth Govind Das : Have the Government received any representation in this respect from the Provincial Governments ?

The Honourable Mr. R. M. Maxwell : No, not within my recollection.

Mr. S. Satyamurti : May I take it that the period referred to in the previous answer to which my Honourable friend referred is five years after the commencement of the Act as provided in the Government of India Act ?

The Honourable Mr. R. M. Maxwell : No definite period is prescribed by the Act. The matter may be taken up at any time, either before or after five years. The period of five years was merely suggested as a possible period by the Joint Parliamentary Committee.

Mr. S. Satyamurti : May I know, in view of the great financial stringency of the Government of India, in view of the falling revenues and the increasing expenditure on Waziristan and other things, whether Government are taking up this question, especially in view of my Honourable friend's answer that it can be taken up at any time, of urging upon the Secretary of State the need for bringing about retrenchment in these salaries, in order to have a balanced budget ?

The Honourable Mr. R. M. Maxwell : No, Sir. The matter was discussed as recently as 1936 and then it was decided that there was no advantage in taking it up when a possible review of the conditions of service might happen at any time. Any such revision would, therefore, relate only to a possibly limited period before that review.

Mr. Abdul Qaiyum : In view of the fact that the last occasion on which the question of revision of pay was considered was 1933, I want to know whether the Government of India are thinking of considering the revision of pay of officers who belong to services other than the Indian Civil Service ; and, if so, when ?

The Honourable Mr. R. M. Maxwell : 1933 was only five years ago. You cannot have a five yearly revision of all rates of pay.

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

POSSIBILITY FOR REDUCTION OF STAFF IN THE HOME DEPARTMENT.

1160. ***Mr. Abdul Qaiyum** (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Honourable the Home Member please state :

- (a) whether the subjects of law and order previously under the Home Department of the Government of India, have been taken away as regards the Provinces since the inauguration of Provincial Autonomy ;
- (b) the extent of the reduction of work consequent on the transfer of these subjects ; and
- (c) whether Government have enquired into the matter and examined whether any reduction of staff is possible under that Department, especially in view of the Honourable the Finance Member's answer to starred question No. 806 on the 7th September, 1938 ?

The Honourable Mr. R. M. Maxwell : (a) The main difference is that as regards a number of matters now within the executive authority of the Governors' Provinces the Government of India no longer exercise superintendence, direction and control.

(b) A comparison of statistics of receipts and issues in the Home Department shows no substantial reduction as regards the normal work of the Department. I may mention for the Honourable Member's information that the Department is now responsible for a great part of the administration of two Chief Commissioners' provinces with which it was not formerly concerned. If the Honourable Member will refer to the list of Home Department business in the circular of the Legislative Assembly Department No. XLIV of the 6th June last, he will see that the volume of work of the Home Department is still considerable.

(c) Consequent on the separation of the Governor General's work the ministerial staff of the Home Department has been reduced by two assistants and five clerks ; and very shortly it is proposed to convert the post of Joint Secretary into that of a Deputy Secretary and reduce the number of Under Secretaries from three to two.

Mr. S. Satyamurti : May I know what is the saving to the Home Department which the Honourable the Home Member expects to accrue on account of the reductions which he has mentioned just now ?

The Honourable Mr. R. M. Maxwell : I should require notice of that. I have not got the figures worked out.

Mr. S. Satyamurti : How is it, whenever reduction of work takes place in any Department of the Government of India, only the under-dogs get sacked and the superior people manage to keep on somehow or other ?

The Honourable Mr. R. M. Maxwell : I have mentioned that some of the superior staff are also being reduced.

Mr. S. Satyamurti : Only one.

The Honourable Mr. R. M. Maxwell : Two. The Joint Secretary is being converted into a Deputy Secretary and one Under Secretary is being reduced.

EXCHANGE RATIO FOR PAYMENT OF THE PAY OF BRITISH SOLDIERS.

1161. ***Mr. Abdul Qaiyum** (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Defence Secretary state :

(a) whether it is true that the pay of the British soldiers is fixed in sterling and whether that pay is changed into rupees by a 16d. per rupee ratio ;

(b) what is the extra expenditure involved in giving them a lower ratio ; and

(c) the reasons for giving them the special ratio ; and how long this practice has been in existence ?

Mr. C. M. G. Ogilvie : (a), (b) and (c). I refer the Honourable Member to my answer to Sardar Mangal Singh's starred question No. 1066 of September 15th and to my predecessor's answer to starred question No. 271 asked by Bhai Parma Nand on the 8th February, 1933.

RECRUITMENT TO THE INDIAN ARMY.

1162. ***Mr. Brojendra Narayan Chaudhury :** Will the Defence Secretary please state :

- (a) whether the attention of Government has been drawn to the address of the Punjab's Premier, the Honourable Sir Sikander Hyat Khan, to his ' brother soldiers ' in these words : " No patriotic Punjabi would wish to impair Punjab's position of supremacy in the Army," as reported by the Associated Press of India in the *Hindustan Times* of the 5th September, 1938 ; and
- (b) whether it is the policy of Government to maintain the supremacy of Punjabis in the army by continuing to recruit the major portion from the Punjab ; or to attempt recruitment of the army from all the Provinces without racial or Provincial considerations ?

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

(b) I refer the Honourable Member to the replies I gave to the supplementary questions arising from starred question No. 1060 asked by Mr. Amarendra Nath Chattopadhyaya on the 15th September, 1938.

Mr. Sri Prakasa : With reference to the answer to part (b) of the question, may I know if it is not a fact that the first Indian soldiers to be trained on the European model were recruited at Telingana in Madras and because of which they are still known as Telingas in the north of India ?

Mr. C. M. G. Ogilvie : I do not think that that arises, but the first soldier in India to be trained on the European model were the army of Maharaja Ranjit Singh in the Punjab.

Mr. S. Satyamurti : With reference to the answer to part (a) of the question, my Honourable friend referred to previous answers. As far as I remember, they were not given after this statement was brought before this House. May I know if the Government of India have examined this statement of the Punjab Premier, " No patriotic Punjabi would wish to impair Punjabi's position of supremacy in the Army " ? May I know whether Government have considered the dangerous implications of this statement, and will they take steps to prevent a responsible Minister going about and claiming provincial or communal supremacy in the Indian army, which ought to remain Indian first and Indian last ?

Mr. C. M. G. Ogilvie : I can only answer in exactly the same words as I answered to a precisely similar question of the Honourable Member on the 15th September last. The policy of Government with regard to recruitment has been repeatedly stated and is perfectly clear.

Mr. S. Satyamurti : That policy is to get the best material, and I am specifically asking my Honourable friend,—I hope he realises the implications of that statement of the Punjab Premier. I want to know

whether the Government have examined the dangerous implications of any provincial Premier claiming provincial supremacy in the Indian army and whether they propose to take any steps to correct this dangerous misapprehension ?

Mr. C. M. G. Ogilvie : Government consider that there are no dangerous implications whatever but rather the reverse.

Mr. S. Satyamurti : Do Government accept the supremacy of any province or any community as a desirable consideration, even if it is a fact, to be uttered by responsible public men and do not the Government consider that this will give rise to communal and provincial quarrels and jealousies inside the army and possibly a military dictatorship in this country ?

Mr. C. M. G. Ogilvie : Government consider that none of these forebodings have any justification at all.

Mr. M. S. Aney : Do the Government subscribe to the policy implied in the statement of Sir Sikander Hayat Khan ?

Mr. C. M. G. Ogilvie : Government's policy has been repeatedly stated and made clear.

Mr. M. S. Aney : Is it the policy that the Punjab should have its supremacy in the army ?

Mr. C. M. G. Ogilvie : The policy is that the best material should be recruited for the army.

Mr. M. S. Aney : I again repeat the question. Is it the policy of the Government that Punjab should have supremacy in the army ?

Mr. C. M. G. Ogilvie : I have repeatedly answered that question. The policy is that the army should get the best material from all provinces and Government are quite satisfied that it has the best material at present.

Mr. M. S. Aney : Is it not therefore necessary that Government should make a statement modifying the policy suggested by Sir Sikander Hayat Khan ?

Mr. C. M. G. Ogilvie : Government have no intention whatever of changing their policy in any particular.

BRITISH TROOPS MAINTAINED BY INDIA SENT OUTSIDE INDIA.

†1163. ***Mr. Manu Subedar :** (a) Will the Defence Secretary state how often during the last six years British troops maintained by India were sent outside India, and how often they were diverted to service elsewhere than India directly from the United Kingdom on their way to India ?

(b) What was the saving to the Indian military budget in each case ?

(c) How many troops (i) British and (ii) Indian, maintained by India are at present outside India, and what is the saving to the budget on this account expected during the current year ?

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

Mr. C. M. G. Ogilvie : (a) Once in each case.

(b) About Rs. 5.5 lakhs in case of British troops sent out of India and approximately Rs. 20.5 lakhs in the other case, or Rs. 26 lakhs in all.

(c), (i). No British troops maintained by India are at present serving outside this country.

(ii) One battalion of Indian infantry. If it remains abroad for the remainder of the current year the saving will amount to 6½ lakhs.

PAPER IMPORTED FOR THE PRINTING OF CURRENCY NOTES, ETC., AT NASIK.

†1164. ***Mr. Manu Subedar :** Will the Honourable the Finance Member state :

(a) whether Government are importing any paper for the printing of currency notes, securities, or any work at Nasik ;

(b) if the reply to part (a) be in the affirmative, what steps have been taken by Government to secure the production of the requisite quality in this country ;

(c) whether any negotiations have taken place between Government and paper manufacturing firms in India with a view to securing the production of the requisite paper in this country ; and

(d) the total amount spent on paper of all description at the Security Printing Press, Nasik, and how much of it is of Indian origin ?

The Honourable Sir James Grigg : (a) Yes ; Government import board for post cards, paper for bank notes and other high quality paper not available in the Indian market.

(b) and (c). This is a matter for private enterprise.

(d) About 17 lakhs of rupees per annum of which 2½ lakhs represents the cost of paper of Indian origin.

REVENUE UNDER THE HEAD OF OPIUM.

†1165. ***Mr. Manu Subedar :** (a) Will the Honourable the Finance Member please state in which year the Government of India received the highest revenue under the head of opium and how much ?

(b) What was the revenue under this head during the last year, and is any diminution therein expected ?

(c) If the reply to the above be in the affirmative, taking India's general consumption and export for medicinal use, at what stable figure is the income from this head expected to remain ?

(d) Have Government estimated the total amount of loss under excise revenue expected in all Provinces due to proposals for the establishment of universal prohibition, making allowance for the continuance of

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

that part of the revenue, which arises from the use of excisable articles and drugs in medicinal toilets and other preparations ? If so, what is the figure ?

(e) Can the Honourable the Finance Member now state to this House whether the difficulties expected to be experienced by the Provinces through the gradual disappearance of this revenue were discussed at the Finance Members' conference and, if so, the nature of the relief asked for by the Provinces, and whether any relief was promised by the Central Government ?

(f) Do Government expect to introduce any Bills for the levy and collection of taxes indicated in section 137 of the Government of India Act for distribution to the Provinces ? If so, for which items and when ?

The Honourable Sir James Grigg : (a) The year 1910-11 ; about 11½ crores.

(b) The Honourable Member's attention is directed to Statement V in the Explanatory Memorandum on the Budget for 1938-39. Exports to Far Eastern countries having ceased, it is not expected that there will be any serious further diminution in gross revenue unless the demand for Excise opium decreases.

(c) It is impossible to predict the future requirements of Provinces and States for the supply of Excise opium.

(d) No estimate has been made.

(e) I should not ordinarily be prepared to disclose what passed at the Conference, but I will say that this particular matter was not discussed.

(f) The Government of India have no intention at present of levying any tax under section 137 of the Government of India Act. They are, however, as has been announced in the press, deputing an officer to go into the question of the imposition of succession duties with the Provincial Governments.

APPLICATIONS INVITED FOR CERTAIN POSTS OF SUPERINTENDENTS OF EXCISE AND SALT.

1166. ***Mr. M. Thirumala Rao :** (a) Will the Honourable the Home Member please state whether Government are aware that the Federal Public Service Commission through an advertisement in the issue of the *Statesman*, dated the 23rd August, 1938, invited applications for certain posts of Superintendents of Excise and Salt ?

(b) Is the attention of Government drawn to the announcement in the advertisement referred to above excluding qualified persons belonging to the Provinces of Bombay, Madras, Orissa and Sind from applying for these posts ?

(c) Will the Honourable Member please state the reasons for such exclusion ?

(d) Is there any Provincial allotment of quotas in the cadre or cadres of the Government of India services ?

(e) If so, what are the proportions fixed for the Provinces ?

Mr. A. H. Lloyd : Sir, I shall answer this question, although it has been addressed to the Honourable the Home Member.

(a) and (b). Yes.

(c) Candidates belonging to the provinces of Bombay, Madras, Orissa and Sind have been excluded as these provinces are outside the jurisdiction of the Northern India Central Excise and Salt Department and there are separate Salt and Central Excise establishments in those provinces.

(d) No.

(e) Does not arise.

Mr. Sri Prakasa : Will Government consider the desirability of confining their recruitment to this department to the Punjab, so that they may be true to their salt.

(No answer.)

CREATION OF A POST OF SECRETARY TO HIS EXCELLENCY THE GOVERNOR GENERAL.

1167. ***Mr. S. Satyamurti :** Will the Honourable the Home Member be pleased to state :

- (a) whether Government have sanctioned or have under contemplation the creation of a new post of Secretary to His Excellency the Governor General or the Viceroy or the Crown Representative, in addition to that of the Private Secretary ;
- (b) if so, the reasons therefor ;
- (c) the extra cost involved including all charges ;
- (d) the duties of the new office ;
- (e) whether it is proposed to consult the Assembly in this matter ; and
- (f) if not, why not ?

The Honourable Mr. R. M. Maxwell : (a) to (f). I would refer the Honourable Member to the reply given on the 30th August, 1938, to Sardar Mangal Singh's starred question No. 604.

Mr. S. Satyamurti : As far as I remember, the Honourable Member will correct me if I am wrong, that answer did not give us the extra cost involved, including all charges.

The Honourable Mr. R. M. Maxwell : I am not in a position at present to state what the extra cost will be. The organisation, I understand, is not complete yet.

Mr. S. Satyamurti : When is the new post going to be created ?

The Honourable Mr. R. M. Maxwell : Some time in October.

Mr. S. Satyamurti : How is the money going to be found for this new office ? Has the Home Department got the sanction of the Finance Department ?

The Honourable Mr. R. M. Maxwell : It has nothing to do with the Home Department.

Mr. S. Satyamurti : Then, does the Home Department create these offices without finding the money ?

The Honourable Mr. R. M. Maxwell : This is not an office created by the Home Department. It is created by the Governor General under section 305 of the Government of India Act.

Mr. S. Satyamurti : With regard to clause (e) of the question, may I know whether it is proposed to make a statement before the Assembly, because the matter is concluded, as far as I understand, explaining the need for this office, the duties of this office and how it is opposed to finance it ?

The Honourable Mr. R. M. Maxwell : The appointment is one to be made by the Governor General in his discretion and therefore the matter is one which does not concern the Governor General in Council. Therefore a statement cannot be placed before this House.

Prof. N. G. Ranga : On whose initiative was this post created ?

The Honourable Mr. R. M. Maxwell : I have already said that the initiative is that of the Governor General in his discretion under section 305.

Seth Govind Das : Who is going to supply the funds for this ?

The Honourable Mr. R. M. Maxwell : These charges will be borne on the Central revenues, under section 67A (3), Item (vii) of the Ninth Schedule of the Government of India Act.

GRIEVANCES OF THE WORKERS OF THE CALCUTTA MINT.

1168. ***Prof. N. G. Ranga :** Will the Honourable the Finance Member be pleased to state :

- (a) whether Government have received any representations on behalf of the workers of the Calcutta Mint, regarding their grievances about pension, leave rules, etc. ;
- (b) whether Government are contemplating the restoration of pension, leave and sick allowance privileges to these workers, which, it is alleged, were withdrawn by Government ; and
- (c) whether the Mint Master had promised the restoration of such privileges at the time of the settlement of a strike which was resorted to by the workers in 1929 ?

The Honourable Sir James Grigg : (a) Yes.

(b) and (c). No such privileges were withdrawn by Government and, consequently, the question of their restoration does not arise.

Prof. N. G. Ranga : Have they made any representation as to the improvement of their conditions ?

The Honourable Sir James Grigg : That is the question I have answered in part (a).

EXCHANGE RATIO.

1169. ***Mr. S. Satyamurti** : Will the Honourable the Finance Member be pleased to state :

- (a) whether he is aware of the strong feeling in the House and outside against any opportunity being given to the House to discuss even the appointment of a committee to examine the rupee exchange ratio question ;
- (b) whether he has himself examined the whole question of ratio in the light of the most important and the most recent relevant Indian and world factors ;
- (c) whether he has consulted any economic experts, or even the Economic Adviser to the Government of India, Dr. Gregory, in the matter ;
- (d) whether Government are now satisfied that no beneficial purpose will be served by even examining the question of the continuance of the present ratio by an expert impartial Committee ; and
- (e) whether Government propose to issue a reasoned statement for the view they are taking in order to enable the public to test and discuss the soundness of their view ?

The Honourable Sir James Grigg : (a) I think I can best answer this by reminding the Honourable Member of the cases of the Tooley Street Tailors and of the Skibbereen Eagle.

(b) Yes.

(c) Yes.

(d) Yes.

(e) I will consider this suggestion between now and the next Session of the Assembly.

Mr. S. Satyamurti : With reference to the facetious answer given by my Honourable friend, may I ask whether it is not a fact, that in this country the Treasury Benches are the seven tailors of 20 Street in India, and that we on this side represent the people of India.

The Honourable Sir James Grigg : I have answered that.

Mr. S. Satyamurti : On the merits of the question, may I know whether Government are now satisfied that no purpose will be served even by examining the question by means of an expert impartial committee ?

The Honourable Sir James Grigg : That is the question which I have answered.

Mr. S. Satyamurti : What are the reasons on which Government have come to this conclusion ?

The Honourable Sir James Grigg : I gave my reply in an earlier answer.

Mr. S. Satyamurti : The reason given was that there would be speculation and he did not want to share his knowledge with others. I am asking my Honourable friend as the Finance Member of the Government

of India and keeper of their financial conscience, whether he has come to the conclusion that no purpose will be served by even having an expert impartial committee in connection with this matter, when all the world's Finance Members, bigger than he, are examining this question ?

The Honourable Sir James Grigg : I have answered that question and I gave more than one reason.

PROSCRIPTION OF BOOKS.

1170. ***Mr. S. Satyamurti :** Will the Honourable the Home Member be pleased to state :

- (a) the nature of the qualifications of the intellectual agency employed to read books which Government have proscribed or desire to proscribe ;
- (b) whether Government propose to retain the prohibition of books written by certain authors irrespective of the contents of the book ; if so, why ; and
- (c) whether Government propose to invite suggestions of the Provincial Governments in this behalf ; if not, why not ?

The Honourable Mr. R. M. Maxwell : (a) The Home Department of the Government of India assumes the responsibility of examining these books.

(b) Government do propose to continue the interception of books written by certain authors, according to the terms of notifications issued under the Sea Customs Act ; but by no means all books by those authors are prohibited entry into India. They are examined by Government, and are allowed entry if they are found harmless.

(c) No : because the statutory responsibility is on the Government of India.

Mr. S. Satyamurti : With reference to the answer to clause (a), may I ask for some elucidation ? My Honourable friend said that the Home Department is responsible. That is a very big responsibility. May I know the nature of the qualifications of the intellectual agency employed to read books ; the qualifications of the men or women who read these books and then advise the Home Department that, according to the criteria laid down by the Home Department, these books should be proscribed ?

The Honourable Mr. R. M. Maxwell : I am not able to give an exact account of the intellectual qualifications of the officers of the Home Department of the Government of India if that is what the Honourable gentleman requires.

Mr. S. Satyamurti : May I take it therefore that all books which are proscribed are read by one or other officer of the Home Department ?

The Honourable Mr. R. M. Maxwell : Of the Home Department or of its attached offices.

Mr. S. Satyamurti : May I know if customs offices are treated as attached offices for this purpose, at the various ports of entry ?

The Honourable Mr. R. M. Maxwell : No.

Mr. S. Satyamurti : May I take it that when customs officers proscribe these books, they have the advice of some agency responsible to the Home Department ?

The Honourable Mr. R. M. Maxwell : The Honourable Member is under a misapprehension. The Customs officers proscribe nothing. They merely carry out the notification in certain terms issued by the Government of India in the Home Department.

Mr. S. Satyamurti : May I take it whether these books, which come within the notifications of the Home Department, are read ?

The Honourable Mr. R. M. Maxwell : Well, if an individual book, after examination, has been proscribed, that is, prohibited entry into India under the Sea-Customs Act, then there is no further occasion for reading it when it is intercepted in the customs because it has been examined previously.

Mr. S. Satyamurti : With reference to the answer to part (c) of the question, may I know why Government have decided to continue the practice of proscribing books by authors irrespective of the contents of the book ? Even " bad " authors may produce good books.

The Honourable Mr. R. M. Maxwell : The Honourable gentleman is not quite correct in using the term " proscribed " in this connection. What happens is that a notification is issued under the Sea-Customs Act prohibiting entry into India. That is not the same thing as " proscribed ". It means that those books are intercepted. They are, however, afterwards examined and a certain number are passed for circulation.

RELIEF TO INDIA IN RESPECT OF DEFENCE CHARGES.

1171. **Mr. S. Satyamurti :** Will the Defence Secretary be pleased to state :

- (a) whether any settlement has been arrived at between the Government of India and the British Government over the defence charges of this country which have been the subject of discussion between them for some months now ;
- (b) whether India has got any relief at all ; if so, the extent of that relief ; and
- (c) whether Government propose to carry on the discussion with the British Government for greater relief being given to India in respect of her defence charges ?

Mr. C. M. G. Ogilvie : (a), (b) and (c). I refer the Honourable Member to the announcement made on the 13th September, 1938, on this subject by the Honourable the Finance Member.

Mr. S. Satyamurti : May I ask my Honourable friend whether the removal of these three battalions is a permanent reduction of the strength of British troops in India ?

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

Mr. S. Satyamurti : May I know if the removal of these three or four battalions are a permanent reduction of the strength of British troops in India ?

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

Mr. S. Satyamurti : May I know—with regard to the answer to clause (c) of the question—whether the Government of India are preparing the case for greater relief being given to India in respect of defence charges for presentation before the Committee that is coming out ?

Mr. C. M. G. Ogilvie : I cannot add to the information that was already given by the Honourable the Finance Member.

Mr. S. Satyamurti : Is it intended to replace these three British battalions by Indian soldiers ?

Mr. C. M. G. Ogilvie : Not at present.

CONDITIONS OF LEAVE FOR INDIAN COMMISSIONED OFFICERS IN THE ARMY.

1172. ***Mr. Abdul Qaiyum :** Will the Defence Secretary please state :

- (a) whether Indian commissioned officers in the Army are allowed to stay in India during long furlough ;
- (b) if not, the reasons for the restriction ; and
- (c) whether conditions of leave are similar in the case of British officers ?

Mr. C. M. Ogilvie : (a) Leave in India of two or three months is normally admissible to Indian commissioned officers. Those who wish to travel abroad may get special leave up to six months for this purpose.

(b) and (c). The leave rules are intended to approximate to those applicable to British Officers serving in the United Kingdom.

Mr. Abdul Qaiyum : May I know, if an Indian officer takes leave beyond three months, whether he can stay in India ?

Mr. C. M. G. Ogilvie : No, he cannot

Mr. Abdul Qaiyum : May I know if Government realise that this works as a great hardship on people coming from Dehra Dun on account of their getting half pay or less pay than their British colleagues ?

Mr. C. M. G. Ogilvie : No. The leave rules, as I said, were intended to approximate to those of British officers serving in the United Kingdom ; but having in view the fact that the distances and so on are greater, they are considerably more generous.

Mr. Abdul Qaiyum : May I know whether British officers serving in India can spend long leave in India ?

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

Mr. Abdul Qaiyum : May I know why there is this discrimination against Indians ?

Mr. C. M. G. Ogilvie : There is no distinction against Indians. Indians serving in their own country are treated rather better than British officers serving in their country.

Mr. Abdul Qaiyum : May I know if the Government realise that it is very difficult for Dehra Dun officers to spend money on European tours if they have to take long leave ?

Mr. C. M. G. Ogilvie : There is no compulsion for them to spend money on European tours if they do not want to.

Mr. Abdul Qaiyum : Does it not then mean that they have to forego long leave and to be content with very short leave ?

Mr. C. M. G. Ogilvie : That is no reason why they should have long leave unless they wish to go abroad.

Mr. Abdul Qaiyum : May I know if a similar restriction does not usually apply to British officers ?

Mr. C. M. G. Ogilvie : Exactly a similar restriction applies to all British officers stationed in England.

**INDIAN MECHANISED REGIMENT PROCEEDING TO PESHAWAR TO TAKE
OVER FROM THE ROYAL TANK CORPS.**

1173. ***Mr. Abdul Qaiyum :** Will the Defence Secretary please state :

- (a) whether an Indian mechanised regiment is shortly proceeding to Peshawar to take over from the Royal Tank Corps ;
- (b) whether the Indian regiment will occupy the quarters of the Royal Tank Corps ;
- (c) whether any changes are intended to be effected in these barracks for the Indian regiment ; and
- (d) if so, the nature of the proposed changes ?

Mr. C. M. G. Ogilvie : Yes, but the date of the move is not yet fixed.

(b) Yes.

(c) Yes.

(d) The proposed changes comprise additions and alterations to existing barracks to make them suitable for use by the Indian regiment by conversion of existing buildings into Viceroy's Commissioned Officers quarters, and religious teachers quarters, and by the addition of cook-houses and dining halls.

Mr. Abdul Qaiyum : May I know—with reference to the answer to part (c) of the question—whether these changes will not actually result in a deterioration of the condition of these barracks ?

Mr. C. M. G. Ogilvie : I think that the Honourable Member is asking for a portion of his original question which was excluded.

Mr. Abdul Qaiyum : May I know if wire gauze for windows is being removed, and electric fans also ?

Mr. C. M. G. Ogilvie : Not that I am aware of ; but fans probably are in the barrack quarters.

Mr. Abdul Qaiyum : Is it a fact that British troops in such barracks are entitled to the use of ceiling fans and that Indian troops are not ?

Mr. C. M. G. Ogilvie : That, I imagine, is the reason.

Mr. Abdul Qaiyum : May I know what is the reason for this palpable racial discrimination ?

Mr. C. M. G. Ogilvie : Because it is found that Indian troops do not require fans, and British troops do.

Mr. Abdul Qaiyum : May I know if Indian troops were consulted in this matter, and have they agreed to this discrimination ?

Mr. C. M. G. Ogilvie : The opinions of troops are not usually asked in this matter, but their views are perfectly well-known and no complaints have ever been received on that score.

Mr. Abdul Qaiyum : May I know the agency through which Government have come to know that they do not want fans, etc. ?

Mr. C. M. G. Ogilvie : The troops have officers.

Mr. Abdul Qaiyum : Indian officers, or British ?

Mr. C. M. G. Ogilvie : Both.

TAKING UP OF INDIAN LANGUAGES IN THE ENTRANCE EXAMINATION FOR THE STAFF COLLEGE.

1174. ***Mr. Abdul Qaiyum :** Will the Defence Secretary please state :

- (a) whether in the entrance examination for the Staff College, Indians are not allowed to take up Indian languages ;
- (b) whether British officers are allowed to take up Indian languages ; and
- (c) the reasons for the discrimination against the Indians ?

Mr. C. M. G. Ogilvie : (a) and (b). British officers are allowed to offer Urdu and Indian officers also are allowed to, if it is so foreign to them as to render its acquisition a matter of difficulty.

(c) There is none.

Mr. Abdul Qaiyum : May I know if it is a fact that British officers have to write answers in their own mother tongue and that the Indians are handicapped in this respect ?

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

Mr. Abdul Qaiyum : May I know if Government will consider the desirability of altering these rules so that Indian officers can answer in their own mother tongue ?

Mr. C. M. G. Ogilvie : Government will not alter these rules.

Mr. Abdul Qaiyum : Does it not work as a great hardship to Indian officers ?

Mr. C. M. G. Ogilvie : It is hoped not.

**AMOUNT OF TRIBUTES OR OTHER PAYMENTS RECEIVED FROM OR OFFERED
TO INDIAN STATES.**

†1175. ***Mr. Manu Subedar :** (a) Will the Honourable the Finance Member state the total amount of tributes or other payments of like nature received from the Indian States ?

(b) What is the percentage of the relief offered to the States under this head during the last budget ?

(c) What are the amounts of relief given to each State ?

(d) On what principle were these amounts of relief determined ?

(e) Have Government come to a decision as to the procedure, which they will adopt in future with regard to this matter ?

The Honourable Sir James Grigg : (a) The total amount of tributes, now known as cash contributions for the year 1937-38 was Rs. 72 lakhs approximately before the provisional remissions were made.

(b), (c) and (d). Attention is invited to the reply given by the Honourable Mr. (now Sir John) Nixon in the Council of State to question No. 235 on the 22nd March, 1938.

(e) Attention is invited to section 146 of the Government of India Act, 1935, under which the cash contributions due from Indian States shall be received by His Majesty and it rests with His Majesty to remit at any time, if he thinks fit to do so, the whole or any part of such contributions. Without prejudice to this right, the conditions under which His Majesty may remit the cash contributions of States which may federate are laid down in section 147 of the same Act.

**AGREEMENT WITH THE MARITIME STATES OF KATHIAWAR REGARDING
CUSTOMS DUTY.**

†1176. ***Mr. Manu Subedar :** (a) Will the Honourable the Finance Member state whether it is a fact that Government are under an agreement with the maritime States of Kathiawar with regard to the amount which such States are permitted to retain from the customs duty collected at their ports ?

(b) If the reply to part (a) be in the affirmative, what is that amount, and will the Federal Ministry be free to negotiate fresh agreements, or will these agreements be binding on them ?

(c) In making these agreements, has the criterion of the population of the State been applied uniformly to all the States, including Baroda ?

(d) Are Government aware of the acute discontent amongst the business community and the travelling public with regard to the land frontier at Viramgam ?

(e) Have Government formulated any scheme, by which, subject to such arrangements as they might make with the States in regard to sharing of the revenue from the customs duty, the land frontier at Viramgam may be completely removed ?

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

(f) Has any such scheme been the subject matter of negotiations between the Central Government and the maritime States as a whole ?

(g) Has any conference been held since the Mount Abu conference in June 1927 ?

The Honourable Sir James Grigg : (a) Yes.

(b), (i). In most cases a maximum of Rs. 5 lakhs duty per annum on goods entering British India (in addition to the duty collected on goods consumed in Kathiawar).

(ii) As it is not known whether the States will accede to Federation and, if so, on what terms, this part of the question is hypothetical.

(c) No.

(d) The Government are aware that there is certain inconvenience involved in the maintenance of this land frontier.

(e) No.

(f) No.

(g) No

LEVY OF INTERNAL DUTIES BY INDIAN STATES AND SUGAR EXCISE DUTY.

†1177. ***Mr. Manu Subedar :** (a) Will the Honourable the Finance Member please state whether Government have under consideration any scheme for buying out the rights of levying internal duties by Indian States ?

(b) If the reply to part (a) be in the affirmative, what is the estimated amount which such a scheme might involve ?

(c) Have any negotiations taken place either with the States as a whole, or with any individual State, for fixing the amount by the payment of which Government or their successors would induce Indian States, or any of them, to terminate import and export duties at their borders ?

(d) Has any similar scheme been thought of in respect of sugar excise ?

(e) In which States are sugar manufactories located and what is the amount of sugar excise collected by them now ?

(f) Have Government come to a decision as to the manner in which this question will be settled between them and the States ?

The Honourable Sir James Grigg : (a) to (d) and (f). It is not in the public interest to answer these questions.

(e) A statement is laid on the table giving such information as is available.

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

Statement showing the names of Sugar Producing Indian States and the approximate amount of Excise Duty calculated at the British Indian rate of Rs. 2 per cwt.

	Approximate duty in lakhs of rupees, on production during 1936-37.		
Kolhapur	2.0
Phaltan	2.7
Mysore	9.3
Jaora	1.9
Kapurthala	2.6
Rampur	10.7
Baroda	0.3

RESIGNATIONS, ETC., OF OFFICERS OF THE IMPERIAL SERVICES.

1178. ***Mr. Brojendra Narayan Chaudhury** : Will the Honourable the Home Member please state :

- (a) the number of incumbents of the Imperial Services who resigned during the year preceding the inauguration of the Provincial Autonomy part of the Government of India Act, 1935 ;
- (b) the number who have resigned since the inauguration of Provincial Autonomy ; and
- (c) the number of those who have taken jobs under the Central Government, and in the Indian States with the salaries they get there ?

The Honourable Mr. R. M. Maxwell : (a) and (b). I presume, the Honourable Member refers to retirements on proportionate pension. A statement is laid on the table which shows the number of officers of the Indian Civil Service and the Indian Police who retired on proportionate pension during the periods in question. The information in regard to the Indian Police however is based on the date of the Secretary of State's sanction to the retirement and not on the date of actual retirement. I have no information as regards members of other services.

- (c) Government have no information.

Indian Civil Service.

Number of Indian Civil Service officers who retired on proportionate pension during the period :

(a) 1st April, 1936 to 31st March, 1937 ..	2
(b) 1st April, 1937 to 15th September, 1938 ..	11

Indian Police.

Number of Indian Police officers whose retirement on proportionate pension was sanctioned by the Secretary of State during the period :

(a) 1st April, 1936 to 31st March, 1937 ..	4
(b) 1st April, 1937 to 15th September, 1938 ..	11

POSITION ON THE NORTH-WEST FRONTIER AND IN WAZIRISTAN.

1179. ***Mr. S. Satyamurti** : Will the Defence Secretary be pleased to state :

- (a) the latest position on the North-West Frontier and especially in Waziristan, the number of troops, British and Indian, still actually employed in warfare in those areas ;
- (b) the amount of money spent on these operations up to the latest date for which figures are available ;
- (c) how long these operations are expected to continue, and what their future cost is estimated to be ; and
- (d) what is the objective, or what are the objectives specifically for which the present war is being fought ?

Mr. C. M. G. Ogilvie : (a) As regards the latest position on the North-West Frontier, I refer the Honourable Member to the press communiqué issued on the subject on the 30th August, 1938. As regards additional troops, British and Indian, now in Waziristan, I refer the Honourable Member to the reply I gave to part (b) of starred question No. 358 asked by Mr. Abdul Qaiyum on the 22nd August, 1938.

(b) I again refer the Honourable Member to my reply to part (c) of Mr. Abdul Qaiyum's question.

(c) I am entirely unable to say.

(d) The objectives are the restoration of peace and order in the areas in question and the checking of acts of brigandage and kidnapping on the part of the tribes concerned.

Mr. S. Satyamurti : With reference to the answer to clause (d) of the question, may I know if the attention of Government has been drawn to an editorial note in the *Statesman* of yesterday ? I shall refer only to two or three sentences :

" The comprehensive review of happenings in Waziristan recently issued contained much interesting matter but the latest month covered by it was July. The deductions to be drawn from it, moreover, could hardly be called cheering. It is now nearly two years since the disorders there began and to few of those concerned can the prolonged and apparently unprogressive guerilla warfare which has been taking place have afforded much satisfaction. The Faqir of Ipi remains as elusive as ever. So far as we are aware not even the gang responsible for the raid on Bannu has yet been effectively dealt with."

Will the Honourable Member please state whether any portion of the objective or the objectives which he mentioned in answer to certain questions in this House has been achieved or is in sight of achievement ?

Mr. C. M. G. Ogilvie : I cannot answer that question in any detail at all. At present the situation is somewhat better than it has been.

Mr. S. Satyamurti : Do the Government want in this part of the world peace by conquest of the tribal areas, or by settlement with them ?

Mr. C. M. G. Ogilvie : It has merely to be peace.

Mr. Lalchand Navalrai : May I ask if any methods have been adopted to bring about a compromise and settlement between these tribesmen and Government ?

Mr. C. M. G. Ogilvie : I do not think myself that the tribesmen concerned understand compromise very well.

Maulvi Abdur Rasheed Chaudhury : May I ask who broke the peace at Waziristan ?

Mr. C. M. G. Ogilvie : If the Honourable Member will take the trouble to read the very lengthy communique which I have quoted, he will have a detailed account of the many acts of outrage and aggression perpetrated by the various tribes in Waziristan.

Mr. Abdul Qaiyum : With reference to part (d) of the question, may I ask when a decision about the military policy to be pursued by Government was last taken by the Government of India ?

Mr. C. M. G. Ogilvie : I do not understand what the Honourable Member's question is or means, but it sounds much too wide to be answered as a supplementary question.

Mr. Abdul Qaiyum : May I know if Government now intend to review their military policy in Waziristan ?

Mr. C. M. G. Ogilvie : I am not at all sure what the Honourable Member means by "military policy".

Mr. Abdul Qaiyum : I want to know whether this is intended to be a war of extermination or whether there is a possibility of an amicable settlement ? The Honourable Member remarked that he wanted peace. I want to know whether it is going to be a peace of the grave-yard or something like it ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is using all sorts of expressions based on inference and assumptions.

Mr. S. Satyamurti : Will the Honourable Member inform the House whether they will secure the good offices of the Provincial Government of the North-West Frontier Province in order to explore the possibility of a peaceful settlement between the tribes and the Government of India ?

Mr. C. M. G. Ogilvie : I think that question has been answered several times before by the Foreign Secretary.

UNSTARRED QUESTIONS AND ANSWERS.

LAVATORIES IN THE ARMY HEADQUARTERS BUILDINGS.

62. **Babu Kailash Behari Lal :** Will the Defence Secretary be pleased to state if it is a fact that in the Army Headquarters buildings the lavatories are labelled as "for Indian clerks only" and "for European clerks only" ? If so, will the Defence Secretary please state the reasons for this distinction ?

Mr. C. M. G. Ogilvie : Yes. The distinction is practical and necessary, owing to the differing customs of the clerks concerned.

**APPOINTMENT OF A COMMITTEE TO EXAMINE THE ACCELERATION OF THE
PACE OF INDIANISATION OF THE ARMY.**

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

- (a) whether Government have considered the Resolution passed by the House without any division, recommending the appointment of a committee with a majority of elected members in order to examine the acceleration of the pace of Indianisation of the army ;
- (b) the conclusions they have arrived at on that examination ;
- (c) whether they propose to appoint a committee ; if so, when ;
- (d) what the terms of reference of that committee will be ;
- (e) whether the personnel of the committee has been settled ;
- (f) whether in selecting the personnel of the committee from the elected members of the House, the leaders of parties will be consulted ; and
- (g) when the committee is expected to report and when Government propose to take action to implement the recommendations of that committee ?

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

(b), (c), (d) and (e). Government propose to appoint a committee. They have, however, not yet decided its personnel and terms of reference.

(f) and (g). Do not at present arise.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to parts (d) to (g) of starred question No. 414 asked by Mr. K. S. Gupta on the 23rd August, 1938.

FINANCIAL CONDITION OF THE VIZAGAPATAM PORT.

(d) Yes. At the time of the opening of the Harbour, capital works were still in progress. On the completion of those works, the staff employed thereon was discharged.

(a) 1930	..	..	..	2,230
1934				3,479
1936				1,698
1938	..	..	..	1,664

(f) No. There has, generally speaking, been a decrease in numbers and in rates of pay.

(g) The following table gives the number of supervisors down to charge-hands. This does not include staff engaged on special work such as pilotage, dredging and electrical generation.

Supervisors.				European.	Anglo-Indian.	Indian.	Total.
1930	..	..	..	10	6	29	45
1934	..	..	..	8	17	41	66
1936	..	..	..	7	14	32	53
1938	..	..	..	7	14	30	51

Information promised in reply to part (a) of starred question No. 507A asked by Mr. K. B. Jinaraja Hegde on the 25th August, 1938.

FAILURE OF BANKS.

The number of banks with above Rs. 50,000 subscribed capital registered in British India and Indian States that have failed from the year 1914 to 1937 is 136.

Information promised in reply to part (d) of starred question No. 659 asked by Mr. Lalchand Navalrai on the 31st August, 1938.

INADEQUATE STAFF IN THE RAILWAY CLEARING ACCOUNTS OFFICE.

Number of sanctioned establishment.	Perma- nent.	Tem- porary.	Total.	Number of sanctioned establishment.	Perma- nent.	Tem- porary.	Total.
As on 1-4-31 ..	1106	136	1242	As on 1-4-37 ..	1181	52	1233
As on 31-3-32 ..	1111	106	1217	As on 31-3-38..	1184	52	1236
Number of vouchers dealt with.	Correct figures not available.				15,29,136 (figures relate to April 1937 only).		

Information promised in reply to unstarred question No. 23 asked by Mr. Muhammad Azhar Ali on the 31st August, 1938.

REVENUE DERIVED FROM THE SALE PRODUCE OF TREES AND CULTIVATED AREA ON THE SHAHDARA-SAHARANPUR LIGHT RAILWAY.

(a) No revenue for cultivated area of land is paid by the Shahdara-Saharanpur Light Railway Company to the Government of the United Provinces.

(b) The income from this source which was mainly derived from the sale of dry trees and grazing fees and auction of mango orchards, etc., was as follows :

				Rs.
1934-35	..	..	..	1,940
1935-36	..	..	..	2,135
1936-37	..	..	..	2,915

Information promised in reply to a supplementary question to starred question No. 915 asked by Mr. S. Satyamurti on the 12th September, 1938.

INDIAN COMMISSIONED OFFICERS SERVING WITH BRITISH UNITS IN INDIA.

On the 1st September, 1938, fifty-seven Indian commissioned officers were serving with British units in India.

ALLOTMENT OF A DAY FOR THE DISCUSSION OF THE REPORTS OF THE PUBLIC ACCOUNTS COMMITTEE AND PROLONGATION OF SESSIONS WITHOUT GIVING SUFFICIENT NOTICE.

Mr. President (The Honourable Sir Abdur Rahim) : Legislative business.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, before you proceed with the legislative business, may I just make a few observations ? Some time ago, I asked the Honourable the Leader of the House whether he will be pleased to give the first day of the November Session for the discussion of the three years' reports of the Public Accounts Committee. At that time, although he promised to consider it, he was not in a position to give any such assurance. I am simply asking him today not for the exact day, but for some day or some longer time in the first week of the November Session, because, if the Honourable Members know the approximate time when these reports will be taken up, they will have time to read these three years' reports. I should also like to ask his colleague, the Honourable the Finance Member, through him, when the evidence volumes of this year's Public Accounts Committee will be ready.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions . Muhammadan Rural) : May I add one word, Sir, about this matter ? I think it is very desirable that we should know the approximate time when we will discuss the Public Accounts Committee report so that we may be ready for it.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House) : Sir, subject to the exigencies of official business, I shall make every effort that a day should be allotted in the first week of the November Session for the discussion of the reports.

Sir, I had hoped that it might be possible to conclude the consideration of official business today, but it is now clear that that would not be possible. I have, therefore, to request that tomorrow may be fixed as a working day for the consideration of official business.

Honourable Members : No, no.

The Honourable Sir Muhammad Zafrullah Khan : I request you, Sir, to fix a meeting of the Assembly for tomorrow for the consideration of official business, and if it is not finished tomorrow, then I shall have to ask you for further days.

Dr. Sir Ziauddin Ahmad : Sir, we are all anxious that Qazi Muhammad Ahmad Kazmi's Bill be taken up, and, if that is allowed, we are prepared to sit tomorrow.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Sir, it is rather inconvenient for the Members of this House to be told at the eleventh hour that the Session will be prolonged by a day. Members have made certain arrangements thinking that the Session will last up to a particular day and they also made margin for some more days. But we are told today that the Session will be prolonged by a day. The result will be that all the arrangements that we have made for the future programme will be seriously dislocated. Therefore, this suggestion of the Honourable the Leader of the House, which would otherwise have not been very unwelcome, is, for this reason, certainly very unwelcome and undesirable. I submit that it would be very inconvenient to most of the Members to be detained for a day more by prolonging the Session till tomorrow. I, therefore, oppose the motion.

Mr. S. Satyamurti : Sir, I do not know how these things are being arranged now, but normally, to the best of my knowledge, whenever the Sessions of the Assembly have got to be extended or fresh meetings are to be held, the Honourable the Leader of the House usually consults the Leaders of Parties in the House, before he approaches the Honourable the President. But today is the first time when I hear on the floor of the House, my Honourable friend facing the House with a proposition that we should sit not only tomorrow but even the day after for the despatch of the official business. So far as Mr. Kazmi's Bill is concerned, we are anxious that it should be referred to the Select Committee this Session, if possible. I have a constructive suggestion to make in regard to his Bill, namely, that his Bill may be referred to the Select Committee with just one or two speeches, in the course of the day. I am perfectly agreeable to that, if Government are also agreeable to it. But I want to mention a practical inconvenience. So far as the 19th and the 20th were concerned, they were fixed as early as a fortnight ago in consultation with all of us, so much so that we could and did send notices of questions to your office in time. But today, when several of our Members have left Simla on the basis that the sitting of the Assembly will not be continued beyond the 20th, it is very inconvenient to ask the House to sit tomorrow. My Leader was here till half-past four yesterday, and he was not told a word about it nor I. He has left Simla and several others have left Simla and I think it is not fair to the House that a truncated House should be called upon to sit just for a day or so at the end of the Session, especially as previous practice has been to consult us. Even these two particular days, namely, yesterday and today, were allotted long before those days, at least a fortnight before.

The Honourable Sir Muhammad Zafrullah Khan : Sir, to begin with, over a week ago the official list of business was announced and Honourable Members could judge for themselves, apart from any other indication, as to what the length of the Session would be. But I did not

leave the matter at that stage. Throughout last week, inquiries were made from me either by Leaders or Deputy Leaders of Parties or by Whips of Parties and I made it perfectly clear to them that I shall have to ask for the sitting to be extended beyond Tuesday in case official business was not finished.

Mr. S. Satyamurti : I was not consulted.

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member was not himself one of them. If necessary, I can name those Honourable Members who made the approach to me and to whom I gave that information. But we were all hoping—and I was receiving assurances from time to time from different Parties—that official business might be concluded by Tuesday. It was only yesterday that it became apparent that the consideration of official business would not be concluded today and that is why I have had to ask for extension of time at the end. But I have throughout made it clear—and there are several Members in this House who will bear witness to it—that it was Government's desire that official business, set down in the list, should be concluded. It is for that purpose that the Council of State is being kept in session so that they might be able to wind up that business. Therefore, I would respectfully submit that the complaint made by Mr. Satyamurti is really not correct because it was not till yesterday that it became apparent that it would be necessary to sit beyond Tuesday.

Dr. Sir Ziauddin Ahmad : Sir, may I just add one word to this discussion. At the time when Sir Shanmukham Chetty was the President, the Government definitely fixed the last day of the session of the Assembly. On that day, I was speaking on the report of the Public Accounts Committee. I was not able to finish my speech on that day and the Government did extend the Session by one day to enable me to finish my speech.

Mr. J. Ramsay Scott (United Provinces : European) : Sir, I would suggest for your consideration that we should sit for a couple of hours tonight and see how far we can get along.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, in consideration of the fact that the business of the House will be concluded today, I made arrangements last evening for my departure tonight. I am deeply interested in some of the Bills, especially Dr. Deshmukh's Bill.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : Sir, I certainly want the Assembly Session to be extended.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable the Leader of the House has said that he did consult, at any rate some of the prominent Members of the House.

Sardar Sant Singh (West Punjab : Sikh) : None.

The Honourable Sir Muhammad Zafrullah Khan : Sir, Sardar Sant Singh was one of the Members who made the enquiry from me as to when the Session would be concluded, and I told him quite clearly that the Session will not be concluded at least until official business was concluded.

Sardar Sant Singh : I rise to a point of personal explanation. The Honourable the Leader of the House has been pleased to remark that he spoke to me and informed me that the Session would be extended. It is a fact that he spoke to me, but I never agreed to the extension of the Session. By merely speaking to some Members the Honourable the Leader of the House could not take it for granted that they agree to the extension of the Session. I wish to submit further

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

Sardar Sant Singh : I have not finished my speech yet. I submit, Sir, that the Chair cannot ask me to stop until I have finished my statement.

Mr. President (The Honourable Sir Abdur Rahim) : But the Honourable Member has already said what he had to say.

Sardar Sant Singh : I have not yet finished my statement.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must now resume his seat.

I must admit that it is rather inconvenient to many Honourable Members that after a date has been fixed by the Government the Assembly sitting should be prolonged from day to day. I think it is up to the Government to notify all the Members before hand as much as possible what will be the last date of the sitting. At the same time it cannot always be possible, it all depends upon the amount of Government business that has to be transacted. I find that in the notice that was circulated to Honourable Members, in the last paragraph it is said "the above allotment is provisional and if the state of Government business requires, the Honourable the President will appoint further days for the transaction of official business". I believe about a fortnight back the present list of official business was circulated to Honourable Members. I take it that the Honourable the Leader of the House did inform some Honourable Members that if the business was not concluded, the Session would be prolonged. I do hope that under the circumstances the business will be concluded by tomorrow. I, therefore, appoint tomorrow as the day when the Assembly will sit.

Mr. M. S. Aney : May I have your permission to say one word about the ruling which you have given ?

Mr. President (The Honourable Sir Abdur Rahim) : I have given no ruling.

Mr. M. S. Aney : About the statement you have just made on this point ? When an Honourable Member is in possession of the House, with the permission of the Chair, and if he makes a statement of personal explanation, I submit that the Chair should allow him to have his full say.

Mr. President (The Honourable Sir Abdur Rahim) : I heard his explanation. It does not follow that he was to be allowed to make another speech.

The Honourable Sir Muhammad Zafrullah Khan : In order that there may be no misunderstanding may I make one further observation with regard to the List of Business. Honourable Members are now con-

sidering the Bill to amend the law relating to Prevention of Cruelty to Animals. There are four more Bills down for the purpose of being taken into consideration and passed. I do not know exactly how much time would be required for these. In these matters, one is completely in the hands of the House. It is for Honourable Members to judge. With regard to three of them, I can assure the House that none of them need occupy much time, particularly the Bill relating to amendment of the Indian Tea Cess Act. If time does not permit, I am quite prepared not to make the motion to send the Bill relating to the protection of Inventions and Designs to a Select Committee, as I think that would require some time and perhaps it would prolong the Session unduly. I am quite prepared to allow that to stand over and the rest of the business after that is really non-official business.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : What about the Railway Property Bill. It is a very controversial matter and we are going to contest that Bill.

The Honourable Sir Muhammad Zafrullah Khan : With regard to the Railway Property Bill, I would persuade my Honourable friend, the Member for Communications, to let it stand over. If the House is prepared to agree to the speedy despatch of this much of Government Business—three Bills in my name and one standing in the name of Sir Girja Shankar Bajpai—I shall be prepared to leave out Nos. 11 and 15 on the List. Nos. 12, 13, 14 and 16 on the List are non-official business.

An Honourable Member : What about item No. 9, Tea Cess Bill ?

The Honourable Sir Muhammad Zafrullah Khan : It is not a controversial Bill, the whole purport of the Bill is to add a Member to the Board so as to give representation to Travancore.

Mr. K. Santhanam : Are we to understand, Sir, that the Session will be over by tomorrow evening ?

Mr. President (The Honourable Sir Abdur Rahim) : We must try to finish tomorrow evening.

Mr. S. Satyamurti : I wish to make a submission to you, with regard to the general statement that you made just now. You were pleased to direct that the Government should inform the House as early as possible with regard to the last date of the Session. I should like you to make it a convention of this House for the future—I am not talking of the ruling or order you have given just now so far as tomorrow's meeting is concerned—I want this convention to be observed by the Government and by the House that as early as possible—at least a week or ten days before,—the Government should inform Honourable Members of the last date of the Session. Secondly, as regards settling the matter, I submit that the Honourable the Leader of the House ought not merely to talk to certain Honourable Members of the House and then take it for granted—I am not raising this on account of any personal matter—he ought to consult Leaders of Parties, because if Leaders are approached, they naturally approach their Parties immediately and if all the Members of Parties agree or do not agree, you have the definite opinion of the various Parties in this House. On these two matters, I request you to establish this con-

[Mr. S. Satyamurti.]

vention that an early notice should be given to the House of the date of termination of the Session, and, secondly, Leaders of Parties should be consulted on these extensions, and not merely individual Members.

The Honourable Sir Muhammad Zafrullah Khan : Sir, it is not necessary for you to make any observation on this, because there is not the slightest doubt—and I have recognised it, as my predecessors have recognised it—that as early notice as possible should be given of any additional sittings that you may be requested to fix. On the other hand, I hope the House will also recognise that if, owing to factors over which nobody has any control, the consideration of official business which is considered urgent is not concluded by a particular date, it may become necessary, right at the end, to ask for the extension of the sittings by a day or two. As regards the formal consultations, I have recognised, that Leaders of Parties should be consulted ; but as I have said, right till yesterday, everybody was hoping that the consideration of, at least, urgent official business may be concluded by today. It is an exceptional case : at each stage of the business on the agenda the time that the House was expected to take has been exceeded and, therefore, we find ourselves in the position that we have to ask for the extension of the sittings by a day.

THE PREVENTION OF CRUELTY TO ANIMALS (AMENDMENT) BILL—*concl'd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill to amend the law relating to the prevention of cruelty to animals, as reported by the Select Committee. The question is :

“ That clause 10 stand part of the Bill.”

Mr. N. A. Faruqi (Government of India : Nominated Official) : Sir, I beg to move :

“ That in part (a) of clause 10 of the Bill, commas be inserted before and after the words ‘ Presidency Magistrate ’.”

This amendment is merely formal and it is required to make the meaning of the sub-section clear.

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

“ That in part (a) of clause 10 of the Bill, commas be inserted before and after the words ‘ Presidency Magistrate ’.”

The motion was adopted.

Mr. N. A. Faruqi : Sir, I beg to move :

“ That in sub-clause (b) of clause 10 of the Bill, the word ‘ and ’, occurring at the end, and sub-clause (c) be omitted.”

Sir, section 8 of the Act provides that when any offence is believed to have been committed against the Act certain magistrates who are specified there, and certain officers who are also specified there, may issue a warrant for search. If sub-clause (c), which I propose for deletion, is added to this section, the effect would be that the class of officers to

whom the warrant could be directed would be limited : that is to say, only sub-inspectors or higher officers could execute a search warrant. The idea underlying the proposal of the Select Committee probably was to prevent the harassment of people by inferior police officers. My submission is that such harassment is not possible under this sub-section because the police officer cannot act on his own authority : he has to take the previous sanction of the court in the form of a warrant ; and since there is only one sub-inspector in charge of a police station the result of the Select Committee's recommendation would be that the facilities for search, provided in this sub-section, would be greatly reduced. I would also like to point out that under the Criminal Procedure Code, which deals even with more serious offences, there is no such restriction. In section 98, which is the only section under which there is a restriction, the restriction is confined to officers above the rank of a constable. If my amendment is accepted by the House that restriction would still remain because it is already there in section 8. I submit that it would really be ludicrous that in this Bill we provide that a search warrant could not be executed by an officer below the rank of a sub-inspector, when in the Criminal Procedure Code in the case of more serious offences there is no such restriction. Sir, I move.

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

“ That in sub-clause (b) of clause 10 of the Bill, the word ‘ and ’, occurring at the end, and sub-clause (c) be deleted.”

Mr. K. Santhanam (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) : Sir, I regret to find that it is the Government which is prolonging the Session unnecessarily. Yesterday the House definitely pronounced its verdict that it does not want a constable to exercise these powers of search or seizure of animals. Here, it is a case of search and we do not want officers below the rank of sub-inspectors to go and execute search warrants and, therefore, I oppose the amendment.

The Honourable Mr. R. M. Maxwell (Home Member) : Sir, it is not a case of a police officer making a search : it is a case of executing a warrant : there is no initiative in the matter and it is merely a case of a magistrate issuing a warrant and the constable serving it on a particular person. Even now, as the Act stands, if the amendment is carried, the power of directing the issue of a warrant is limited to a police officer above the rank of a constable, and not to a constable.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, it is not so simple as the Honourable the Home Member wants to make it out. This section 8 of the original Act which is sought to be amended reads as follows :

“ he may either himself enter and search or by his warrant authorise any police officer above the rank of a constable to enter and search the place.”

The whole point of it is that the Select Committee in omitting these words and substituting, therefore, “ not below the rank of a sub-inspector ” recommended to this House the principle that wherever private premises are to be searched and such extraordinary powers are to be exercised they ought to be exercised only by persons who are not below the rank of

[Mr. S. Satyamurti.]

a sub-inspector. The amendment moved now seeks to delete that amendment—sub-clause (c) of clause 10 of the Bill. That sub-clause (c) says :

“ for the words ‘ above the rank of a constable ’ the words ‘ not below the rank of sub-inspector ’ shall be substituted.”

These are rather very difficult and delicate powers, and I think the House, consistently with its vote yesterday—although I recognise the force of what the Honourable the Home Member says that in this case the initiative is not with him—still, I think for the purpose of searching private premises, we should rather have police officers of the rank of sub-inspector or above. I do hope the House will reject this amendment of the Government.

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

“ That in sub-clause (b) of clause 10 of the Bill, the word ‘ and ’, occurring at the 12 Noon. end, and sub-clause (c) be deleted.”

The Assembly divided :

AYES—38.

Abdul Hamid, Kanan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Ahmed, Mr. K.
Aikman, Mr. A.
Anderson, Mr. J. D.
Ayyar, Mr. N. M.
Bajoria, Babu Baijnath.
Bajpai, Sir Girja Shankar.
Chambers, Mr. S. P.
Chanda, Mr. A. K.
Chatterjee, Mr. R. M.
Conran-Smith, Mr. E.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
Danzen, Mr. P. R.
Faruqui, Mr. N. A.
Highet, Mr. J. C.
Kamaluddin Ahmed, Shams-ul-Ulema.
Lloyd, Mr. A. H.
Mackown, Mr. J. A.
Maxwell, The Honourable Mr. R. M.

Metcalf, Sir Aubrey.
Miller, Mr. C. C.
Mitchell, Mr. K. G.
Mukerji, Mr. Basanta Kumar.
Mukerji, The Honourable Sir Manmatha Nath.
Nur Muhammad, Khan Bahadur Shaikh.
Ogilvie, Mr. C. M. G.
Rahman, Lieut.-Colonel M. A.
Scott, Mr. J. Ramsay.
Sheehy, Mr. J. F.
Sher Muhammad Khan, Captain Sardar Sir.
Stewart, The Honourable Sir Thomas.
Sukthankar, Mr. Y. N.
Sundaram, Mr. V. S.
Town, Mr. H. S.
Walker, Mr. G. D.
Zafrullah Khan, The Honourable Sir Muhammad.

NOES—43.

Abdul Ghani, Maulvi Muhammad.
Abdul Qaiyum, Mr.
Abdur Rasheed Chaudhury, Maulvi.
Aney, Mr. M. S.
Azhar Ali, Mr. Muhammad.
Banerjee, Dr. P. N.
Chaliha, Mr. Kuladhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chaudhury, Mr. Brojendra Narayan.

Das, Mr. B.
Das, Pandit Nilakantha.
Datta, Mr. Akhil Chandra.
Deshmukh, Dr. G. V.
Deshmukh, Mr. Govind V.
Gadgil, Mr. N. V.
Ghulam Bhik Nairang, Syed.
Govind Das, Seth.
Gupta, Mr. K. S.

Hans Raj, Raizada.
Hegde, Sri K. B. Jinaraja.
Jogendra Singh, Sirdar.
Lalchand Navalrai, Mr.
Maitra, Pandit Lakshmi Kanta.
Mangal Singh, Sardar.
Muhammad Ahmad Kazmi, Qazi.
Murtuza Sahib Bahadur, Maulvi Syed.
Nauman, Mr. Muhammad.
Pande, Mr. Badri Dutt.
Parma Nand, Bhai.
Rafiuddin Ahmad Siddiquee, Shaikh.
Raghunir Narayan Singh, Choudhri.

Ramayan Prasad, Mr.
Ranga, Prof. N. G.
Rao, Mr. M. Thirumala.
Sant Singh, Sardar.
Santhanam, Mr. K.
Satyamurti, Mr. S.
Shaukat Ali, Maulana.
Singh, Mr. Gauri Shankar.
Sri Prakasa, Mr.
Subbarayan, Shrimati K. Radha Bai.
Varma, Mr. B. B.
Ziauddin Ahmad, Dr. Sir.

The motion was negatived.

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

“ That clause 10, as amended, stand part of the Bill.”

The motion was adopted.

Clause 10, as amended, was added to the Bill.

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

“ That clause 11 stand part of the Bill.”

Mr. N. A. Faruqi : Sir, I move :

“ That in clause 11 of the Bill, in the proposed sub-section (2), the words ‘ above the rank of a constable ’ be omitted.”

Sub-section (2) of section 10 contained in the original Bill was based on section 25 (3) of the Bengal Prevention of Cruelty to Animals Bill, and its main object was to minimise the delay in dealing with animals injured in street accidents. The changes proposed by the Committee will, to a large extent, defeat that purpose. Since the first action to be taken by the police officer is to call in the veterinary officer, there is no need to limit the function to officers above the rank of constables who are not likely to be on or near the scene of accident. Sir, I move.

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

“ That in clause 11 of the Bill, in the proposed sub-section (2), the words ‘ above the rank of a constable ’ be omitted.”

Mr. Abdul Qaiyum (North-West Frontier Province : General) : Sir, we oppose this amendment. This clause gives very wide powers to police officers, namely, to initiate the question of the destruction of animals, and we should like to take extra precautions to see that a constable is not permitted to use such wide powers. I think the clause as it stands is good enough, and the amendment proposed is not acceptable to this side. Sir, we oppose this amendment.

Sri K. B. Jinaraja Hegde (West Coast and Nilgiris : Non-Muhammadan Rural) : Sir, I also oppose this amendment. Clause 11 authorises a police officer.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member had no right to begin his speech till his name was called.

Sri K. B. Jinaraja Hedge : Sir, clause 11, as it is, authorises any police officer to approach a magistrate or the veterinary officer before he enters a private house or premises in order to destroy an animal which is suffering from a serious disease or so severely injured that it cannot be removed without cruelty. This power has been given to a police officer. We all know how these police officers behave and what would be their evidence before the magistrate for him to order the destruction of the animal in private premises. We know that in criminal cases the police diary is no evidence at all, but in this case a special type of evidence is created. Under this Bill the magistrate can pass an order for the destruction of the animal on the report of a police officer. The Government now want that even on the report of an ordinary police constable the animal should be destroyed. This is a great hardship and this power ought not to be given to ordinary constables. No officer less than a sub-inspector of police should be permitted to report to the magistrate and get an order for the destruction of the animal.

The Honourable Mr. B. M. Maxwell : My Honourable friend who has just spoken has not presented a clear picture of the power under this clause. He says that the clause authorises any police officer to take steps to destroy an animal or words to that effect. The point is that the police officer is merely a finding agency—he has no authority whatever to destroy the animal, he is only the finding agency and he has to report to the veterinary officer who has to consider the matter of destruction. It is the veterinary officer who has to give a certificate in this connection. The object of not limiting the police officer is that intelligence should be brought to the veterinary officer as soon as possible of any animal involved in any street accident, for instance. The larger the number of officers who are available for that purpose, the greater the chances of the veterinary officer being summoned as early as possible. I hope that the House will agree that there is no use in restricting the number of officers who can obtain a report on the condition of an animal as soon as possible.

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : This is not only a case of reporting. If you will refer to clause 11, you will find in the end, “.....may....without the consent of the owner, destroy the animal or cause it to be destroyed”. This power of destruction of the animal ought on no account to be given to any police officer, meaning thereby even a constable. I oppose the amendment.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non Muhammadan Rural) : I oppose this amendment. I fail to understand the mentality of the Government. We went to the Select Committee and made a number of alterations. I find from the notices of amendments given by Members representing the Government and from those amendments which have been supported by my Honourable friend, the Home Member, that the Government want to upset everything that was done in the Select Committee. In that case I do not know why they asked us to go to the Select Committee at all. It was sheer waste of time of

Honourable Members of the House who were sent to the Select Committee and also a waste of time of the House, because the Select Committee is intended to economise the time of the House by making concrete amendments and by bringing about as much agreement as possible. I find, that even in this clause, two alterations were made; namely, the words "above the rank of a constable" and also the words "after obtaining orders from a Magistrate" were added. These two amendments they seem to want to delete, and we are dealing with the first thing. My Honourable friend, the Home Member, should remember this, that it is the constable who starts the mischief. He sets the ball rolling. He catches hold of a man and says, "Your animal is not fit to live at all. According to me, it is fit only to be destroyed. So, let me first of all see what the veterinary doctor says." Then he drags in the veterinary officer. After getting that man's certificate and after somehow or other managing to get orders from the local magistrate, he may get the animal destroyed, even without the consent of the owner. This is a very serious matter. In hundred cases of such seizures only 10 or 15 may be taken to the notice of the veterinary officer. All the others may be compounded in some private fashion with the poor owners. We want to protect the public from the mischief of the policeman and that is why, as a last resort, we saw to it that at least a head constable should be insisted upon. In fact, if I am not divulging the proceedings of the Select Committee, and if it is permissible for me to say so, it was an agreed settlement. We wanted the sub-inspector and they would not agree and in the end we agreed upon the head constable. And it is not really honourably open to Government to come forward and move this amendment. Yesterday, over the amendment of my Honourable friend, Mr. Rajoria, there was such a serious discussion and the House was split in twain almost because people held very strong views over the destruction of any animal. And in such a serious thing as this, it is only fair that some consideration should be shown by the Government to those Honourable Members who had agreed to this compromise of a head constable instead of insisting upon a sub-inspector and they should in fairness withdraw this amendment instead of pressing for it.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : The fact is this. The Government is trying its level best, by these amendments on this Bill, to introduce at every step the lowest rung of the police department. This amendment leads us to think that our lives, our honour, our houses, and our property are to be left to the sweet mercies of the lowest rungs of the police department officials. According to this amendment, a constable who finds any animal—the clause says this :

"Any police officer who finds any animal so diseased, or so severely injured, or in such a physical condition that it cannot, in his opinion, be removed without cruelty...."

These constables are mostly illiterate people. The clause says, if the owner is absent or refuses to consent to the destruction of the animal—what a great harassment will be caused to these owners of animals by the lowest class constables? If this amendment is carried, it means that nothing is safe in our hands. It is impossible to depend upon their discretion. It is a great pity that Government do not realise the feeling in the country and in the House against these low ranks of constable. The result will be that poor owners of these

[Mr. Muhammad Azhar Ali.]

animals will be harassed like anything. I submit that such discretion and such powers should not be given to constables. We have agreed to the most moderate amendment in the Select Committee, that is, above the rank of a constable, and we agreed to head constables. The head constables will be at least to a certain extent literate, and they might listen to reason. The police constables here are given power; they are absolutely illiterate and do not know how to behave towards gentlemen. I submit that this is too drastic and the amendment should not be pressed.

Some Honourable Members : Let the question be now put.

Mr. President (The Honourable Sir Abdur Rahim) : The question is that the question be now put.

The motion was adopted.

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

“ That in clause 11 of the Bill, in the proposed sub-section (2), the words ‘ above the rank of a constable ’ be omitted.”

The motion was negatived.

Mr. K. Santhanam : Sir, I move :

“ That in clause 11 of the Bill, in the proposed sub-section (2) of section 10, the words ‘ without the consent of the owner ’ be omitted.”

The section says, “if the owner is absent or refuses to consent to the destruction of the animal.....”. The clause applies only when the owner is either absent or refuses and I do not see the necessity of the words “ without the consent of the owner ” again. It is absolutely superfluous and may create confusion. So, I move.

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

“ That in clause 11 of the Bill, in the proposed sub-section (2) of section 10, the words ‘ without the consent of the owner ’ be omitted.”

The Honourable Mr. R. M. Maxwell : I accept the amendment.

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

“ That in clause 11 of the Bill, in the proposed sub-section (2) of section 10, the words ‘ without the consent of the owner ’ be omitted.”

The motion was adopted.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I move :

“ That in clause 11 of the Bill, to the proposed sub-section (2) of section 10, the following proviso be added at the end :

‘ Provided, however, that no order directing destruction shall be made in respect of any cow, bull or calf ’.”

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

Babu Baijnath Bajoria : No, Sir. The previous amendment to 6B related to an animal which was presumed to be in an infirmary but here the animal is presumed to be in the street. I submit that if any order for destruction is made in respect of any cow, bull or calf in a street or

in an open place, from where the animal cannot be removed, then it will be repugnant to the feelings of the Hindu public in general and also likely to cause a breach of the peace. I said yesterday that I am against the destruction of all animals and more so about the destruction of cow, bull or calf. This will be repugnant to the feelings of millions of Hindus and is also likely to cause a breach of the peace.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment No. 24 which has been negatived is in exactly the same terms.

Babu Baijnath Bajoria : The circumstances here are different. In the previous case the animal was presumed to be in an infirmary and it could be destroyed after obtaining a certificate from the veterinary officer. Here, the reference is to a police officer above the rank of constable. I submit the circumstances in the two cases are different.

Mr. President (The Honourable Sir Abdur Rahim) : But the principle is the same. I rule this out of order.

Mr. M. S. Aney (Berar : Non-Muhammadian) : It is true that yesterday you ruled a similar amendment as being out of order. But, I submit, that that clause having been retained intact by the House, the amendment of Mr. Bajoria was not really out of order. As his first amendment was rejected, the other amendment could not have been out of order. Here is a different set of circumstances. No other amendment has been moved to this clause. Therefore, the amendment under discussion cannot be in any sense out of order.

Mr. President (The Honourable Sir Abdur Rahim) : But the principle is the same, and I have given my ruling.

The question is :

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

The motion was adopted.

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

Sri K. B. Jinaraja Hegde : Sir, I move :

“ That after clause 11 of the Bill, the following new clause be inserted :

‘ 11B. In section 11 of the said Act, for the words ‘ nothing in this Act,’ the word ‘ It ’ shall be substituted ’.”

This is a section which deals with sacrifice of animals. Yesterday, when the Mover moved this Bill for the consideration of the House he said that under section 1 of the Act the Provincial Government could exempt the operation of section 11 of the Act in any area they like. But may I bring to his notice that though nearly 50 years have passed since this Act was enacted, not a single Provincial Government came forward to stop this barbarous animal sacrifice, in any of the British Indian Provinces. I may tell him that Native States, like Hyderabad and Mysore, have gone to a large extent in this matter. They have restricted the number of animals to be sacrificed and the number of places where the sacrifices take place. But in British India, everywhere this animal sacrifice is going on and the Central Government have not taken any steps, so far, in spite of public agitation in this regard. I may bring to his notice that the Madras province is the worst sinner in this respect. Several attempts were made by the Humanitarian

[Sri K. B. Jinaraja Hegde.]

Leagues and the S. P. C. As. They approached the Madras Government to bring in a Bill or pass certain orders under section 11 prohibiting this animal sacrifice. No steps have been taken so far. I shall bring to the notice of the House some of the worst cases of animal sacrifice which are taking place in my own presidency, the Madras Presidency :

" Young kids of two or three months are bitten in their necks and their blood sucked at Kulumiyayi temple in Puttur near Trichy. The womb of a pregnant sheep is cut open and the young ones are taken out for offering to Mariamma in Mayavaram to Kottayam at Devakottai and to Ayirathamman at Palamkotta. The stomach of a sheep is torn and the intestines are pulled out to be worn as garland before goddess Selliyyamman at Madambakkam in Chingleput District. Pigs are thrown from a height over sharp spikes until the spikes are filled up with such animals. This is prevalent in the Tinnevelly District. A buffalo is let into a pit about 4 feet deep and tied in it and then the persons who take oath to pierce the animal to death shall be in action before the goddess at Moppedu in Nellore District. A sharp stick is thrust into the anus of a pig and driven right through the mouth. This is a form of sacrifice at Anakapalli in Vizagapatam District. The young one of a pig is pierced with a lance and carried aloft in procession along the public streets of Maduvettimangalam in Viruddachalam Taluk. A simultaneous sacrifice of seven buffaloes at each time at the Maduvettimangalam temple at Viruddachalam Taluk, South Arcot. A long process of chiselling the neck of a goat before the goddess in Poovannur, Viruddachalam Taluk, South Arcot District. Drinking the blood of the animal during sacrifice at Uyanapalli is a common feature during sacrifices in many places."

These are some of the varieties prevalent in the Madras Presidency and similar sacrifices of all sorts of animals and birds take place throughout India. No British Indian Province, so far, has taken a single step to prohibit this sort of animal sacrifice ; and, in the face of such sacrifices, we see the movements for breeding better bulls and better stud bulls ? Sir, why all this farce ? When people are sacrificing all these poor animals before God in the name of religion, I wonder why we are sitting quiet and have not the courage to stop that barbarous practice of cruelty committed in the name of religion. Did Hinduism or any other religion, which has taken birth in this land of ours, ever preach that this animal sacrifice shall go on ? Sir, it is not for the first time that the Central Government has invaded the sphere of provincial subjects. Have you not seen recently instances of such invasions ? Were there not provincial subjects in the Motor Vehicles Bill wherein we entered very deeply into the provincial sphere ? Why should my Honourable friend the Home Member say that this was a subject which ought to be left to the Provincial Governments ? Sir, we have seen, during the last half a century, that they have not moved an inch in this respect. Is it too much if I move this amendment and say that we must take certain definite step in this regard in order to put an end to this sort of sacrifice of animals in the name of religion ? Sir, the present clause reads :

" Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class."

My amendment seeks to delete the first four words. If the amendment is carried it will read like this :

" It shall render it an offence to kill any animals, etc., etc."

Therefore, Sir, I request the Mover of this Bill to accept this amendment straightaway. And by the next amendment No. 51 I will move that six months' time should be given so that all the temple

trustees and other people carrying on these animal sacrifices could be informed within that time, notifying that "the Act has come into force and they shall not perform such sacrifices". With these words, Sir, I move my amendment.

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

"That after clause 11 of the Bill, the following new clause be inserted :

'11B. In section 11 of the said Act, for the words 'nothing in this Act' the word 'It' shall be substituted'."

The Honourable Mr. B. M. Maxwell : Sir, my first objection to this amendment is that as a matter of drafting it does not make sense of the section. The Honourable Member has read out the section as it would stand after the word 'it' is substituted for the words "nothing in this Act". The section will then read, "it shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class". What would render it an offence it is not clear, but even if the Honourable Member's intention is that the section should read, "it shall be an offence, etc.", even so, the House will just consider how the section will stand : "It shall be an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class". The fact of the matter is that the section does not lend itself to amendment in this particular way. Section 11 of the original Act is a negative section,—excepting certain kinds of things from the other provisions of the Act, such as section 5. Section 5 of the Act is the governing section : "if any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend, etc., etc.". This is the section which governs the destruction of animals. Section 11 in the original Act merely excepted the killing of animals in accordance with religious usage from the operation of that section or any other sections which might be applicable to the case. I hope I have already explained to the House how the Select Committee did propose to deal with this matter. The Honourable Member who moved this amendment has remarked that not a single Province has taken action to stop these animal sacrifices. The reason was of course that wherever the Act was in force, section 11 was also in force by virtue of section 12 of the original Act. Section 12 is the section which has prevented Provincial Governments from making this method of destruction of animals an offence. What the Select Committee have done is to remove section 11 from its mention in section 12 and, therefore, Provincial Governments will now be in a position, wherever the Act is in force, not to apply section 11. If the Provincial Government does not apply section 11, then section 5 will apply to the destruction of these animals in the ordinary course. I hope, therefore, that Honourable Members will see that this amendment is really not necessary.

Mr. Muhammad Azhar Ali : Sir, I have every sympathy with what my Honourable friend behind me, who spoke just before the Honourable the Home Member, said about cruelty to animals. But, Sir, the only point that we have to say in this House is that this—as the Honourable the Home Member has said—is only a negative section ; it is a sort of exception ; and if my friend is very particular about these things,

[Mr. Muhammad Azhar Ali.]

he ought to approach the Local Government to modify the practices he referred to and to enact legislation for provincial purposes. In this House we have enacted this Bill simply to provide for those things where there has been a lacuna in the former Act, and, therefore, I oppose the amendment of my friend.

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

“ That after clause 11 of the Bill, the following new clause be inserted :

‘ 11B. In section 11 of the said Act, for the words ‘ nothing in this Act ’ the word ‘ It ’ shall be substituted ’.”

The motion was negatived.

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

“ That clause 12 stand part of the Bill.”

The motion was adopted.

Clause 12 was added to the Bill.

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

“ That clause 13 stand part of the Bill.”

Maulvi Muhammad Abdul Ghani : Sir, I move :

“ That in clause 13 of the Bill, the proposed section 14 be omitted.”

Sir, this new section which is going to be added gives wide powers to persons authorised by the Provincial Government. There are no stipendiary officers to whom this power is going to be given. The powers are too wide under this clause, and there is every likelihood of abuse of such powers, as, for instance, we have just adopted the provision in clause 3 (c) that the keeping of an animal thirsty is an offence. Now, under this clause, if any person is authorised and if he has reason to believe that an animal is thirsty, he will take drastic action under this clause. Had it been here provided that a sub-inspector or some other responsible officer, as laid down in the present Act, would be the person authorised to take action, then there would have been some consolation, but we are much afraid that this clause, if enacted, would specially hurt or injure the cause of the poor cultivators. As you know, Sir, they take away their cattle or bullocks for cultivation purposes into the fields sometimes in large numbers, and if any local person be the person authorised by the Local Government, then that local person might have some animosity against that poor cultivator and he may take the opportunity to wreak his vengeance or carry out his grudge....

An Honourable Member : That is far-fetched.

Maulvi Muhammad Abdul Ghani : That may be far-fetched in your opinion but I come from the cultivator class and I know where the shoe pinches.

Therefore, I thought it proper to ask the House to delete this clause. With these words I move my amendment and hope that the House will consider the difficulty of the poor *kisan* as has already been pointed out by the learned Member, Mrs. Subbarayan.

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

“ That in clause 13 of the Bill, the proposed section 14 be omitted.”

Babu Baijnath Bajoria : Sir, I rise to oppose this amendment. Yesterday, when the Deputy Leader of the Congress Party was speaking on my amendment about clause 9, giving power to a police officer of any rank, I wanted the word ‘ Sub-inspector ’ to be deleted, but he said that powers of this nature, seizure and arrest, should be given to the respectable persons of the locality. He also very kindly mentioned my name in that connection. Sir, this clause authorises the Provincial Government to give the power to any other person other than the police officer. If this clause is deleted, then the Local Government would not be in a position to authorise anybody except the police officer to help them in the detection of a crime under this Act. I submit that that will be very harmful because the intention is that men with a sense of public responsibility should come forward and help in the detection of crime under this Act. That purpose will be defeated if this amendment is accepted. I strongly oppose this amendment.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, my Honourable friend, Mr. Bajoria, has really given arguments in support of my Honourable friend, the Mover of the amendment. He said that he may be appointed as a person under this particular clause and it is just to avoid a person of his type that this amendment is moved. If my friend, Mr. Bajoria, is appointed under this particular clause, then I am certain that the first persons who will be presented will be the Honourable the Secretary of the Department of Education, Health and Lands, because he is the person who takes steps to destroy malarial mosquitoes. The next set of persons who may even be sent to jail will be all the Health Officers because they destroy all germs of cholera and of other diseases. Consequently, according to his point of view, they deserve punishment. May I just inform the House that whenever there are a good deal of bugs in the cots of the friends of my Honourable friend, Mr. Bajoria, they do not kill them, but they use a special phrase called *khatmal khilai*. They would not use the word of destruction, but pay four annas for the comforts of those bugs and it really means destruction. I think it is just to avoid a person of his type to be nominated by the Government under this clause that my friend, Maulvi Abdul Ghani, has moved its deletion. Unless the word ‘ person ’ is changed into some other form, there is every danger of a person of the mentality of Mr. Bajoria coming in and troubling the country.

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

“ That in clause 13 of the Bill, the proposed section 14 be omitted.”

The motion was negatived.

Mr. N. A. Faruqi : Sir, I beg to move :

“ That in clause 13 of the Bill, for the proposed section 14 the following be substituted :

- ‘ 14. (1) Any police officer may arrest without a warrant, and any person authorized by the Provincial Government in this behalf may arrest; any person who in the view of such officer or authorised person commits any offence against this Act or

Arrest of offenders.

[Mr. N. A. Faruqui.]

any person in respect of whom such officer or authorised person has received credible information of his having committed an offence against this Act, if the name and address of such offender or accused person is unknown to such officer or authorised person and if the offender or accused person, on demand, declines to give his name and address or gives a name and address which such officer or authorised person has reason to believe to be false.

- (2) When the correct name and address of a person arrested under sub-section (1) have been ascertained, such person shall be released on his executing a bond, with or without sureties, to appear before a Magistrate, if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

- (3) If the correct name and address of such person is not ascertained within twenty-four hours from the time of arrest, or if such person fails to execute a bond or, if so required, to furnish sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

- (4) Any person authorised by the Provincial Government in this behalf, who has reason to believe that an offence against this Act has been or is being committed in respect of any animal, may, if in his opinion the circumstances so require, seize the animal and produce the same for examination by the nearest Magistrate or by such Veterinary Officer as may be designated in this behalf by rules made under section 15 ; and such police officer or authorised person may, when seizing the animal, require the person in charge thereof to accompany it to the place of examination '."

Sir, there is nothing new in this amendment. There is a similar provision in the Criminal Procedure Code and I want it to be introduced in this Bill in order to enable the Provincial Governments to authorise persons, other than police officers, to have similar powers. Sir, I move.

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

" That in clause 13 of the Bill, for the proposed section 14 the following be substituted :

- ' 14. (1) Any police officer may arrest without a warrant, and any person authorized by the Provincial Government in this behalf may arrest, any person who in the view of such officer or authorised person commits any offence against this Act or any person in respect of whom such officer or authorised person has received credible information of his having committed an offence against this Act, if the name and address of such offender or accused person is unknown to such officer or authorised person and if the offender or accused person, on demand, declines to give his name and address or gives a name and address which such officer or authorised person has reason to believe to be false.

- (2) When the correct name and address of a person arrested under sub-section (1) have been ascertained, such person shall be released on his executing a bond, with or without sureties, to appear before a Magistrate, if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

- (3) If the correct name and address of such person is not ascertained within twenty-four hours from the time of arrest, or if such person fails to execute a bond or, if so required, to furnish sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

- (4) Any person authorised by the Provincial Government in this behalf, who has reason to believe that an offence against this Act has been or is being committed in respect of any animal, may, if in his opinion the circumstances so require, seize the animal and produce the same for examination by the nearest Magistrate or by such Veterinary Officer as may be designated in this behalf by rules made under section 15; and such police officer or authorised person may, when seizing the animal, require the person in charge thereof to accompany it to the place of examination."

Mr. K. Santhanam : Sir, there are two difficulties in accepting this amendment. It starts by saying that 'any police officer may arrest without a warrant'. This House has rejected the giving of power to anybody except officers above the rank of the police constable. Then there is another difficulty. Clause 14 (1) says :

"Any police officer may arrest without a warrant, and any person authorised by the Provincial Government in this behalf may arrest, etc."

I suppose it is intended that the person authorised by the Provincial Government should get a warrant before he arrests any person, and before a person is to be arrested under this section only, he must ascertain his name and address. It seems to me to be a very elaborate procedure that this person should go and get a warrant merely to ask for the name and address of the person who has committed the crime. I think that is the implication of this clause. For instance, if an officer of the S. P. C. A. is authorised by the Provincial Government to arrest a man and he finds that some person has committed an offence, then he must announce that fact to the Magistrate and get a warrant from him and then find out his name and address. It seems to me that this is not the intention of the Government of India in framing this amendment. So, I would suggest that they should remedy these two defects and then we shall be glad to consider this amendment with sympathy. I want the Government to explain these two difficulties and then it will be considered by our Party.

Prof. N. G. Ranga : Sir, I sincerely hope that the Government will see reason to amend their own amendment in the manner in which my Honourable friend, Mr. Santhanam, has suggested, namely, any police officer above the rank of a constable may arrest without a warrant and so on. In regard to the second suggestion made by my Honourable friend, I am sorry to have to say that I am not able to agree with him because, after all, these S. P. C. A. officers and others are expected to have much more knowledge than the police officers and, therefore, are expected to know the identification of these people. It is only to prevent any undue harassment to ordinary public bodies by these S. P. C. A. officers and other authorised officers that evidently Government have seen fit to make provision here for a warrant to be obtained previous to making any arrest of these people. That is why I am rather more in favour of the clause as it is. In regard to the various persons, I suggest that they had better agree to our suggestion of amending this amendment by making it any police officer above the rank of a constable. I hope the Government will agree to it.

The Honourable Mr. R. M. Maxwell : Sir, if the amendment were amended in the way suggested by my Honourable friend, it would actually

[Mr. R. M. Maxwell.]

give the police officer less power than he already possesses under section 57 of the Code of Criminal Procedure. This section reads :

“ When any person who in the presence of a police officer has committed or has been accused of committing a non-cognisable offence refuses on demand of such officer to give his name and residence.....he may be arrested by such officer in order that his name or residence may be ascertained.”

That is to say in regard to a non-cognisable offence under the Indian Penal Code and other Acts, the Code of Criminal Procedure gives them power to arrest solely for the purpose of ascertaining the name and residence of the offender. That is the only purpose which this amendment is intended to serve in regard to the police officers and other officers authorised by the Provincial Government. The power to be given by this proposed clause is solely for the purpose of ascertaining the identity of the offender and it is obviously impossible to issue a warrant against a person whose name and residence is not known. The idea that a warrant should be necessary is inconsistent with the purpose of the clause. I was saying that if the identity of the offender is not known, it is not possible to obtain a warrant. Therefore, it seems to me that the section as it stands is perfectly sound and in accordance both with the Code of Criminal Procedure and with the requirements of the case. I am not quite sure exactly what it is that the Honourable Member wants to change.

Mr. K. Santhanam : May I ask the Honourable Member whether the person authorised will get a warrant before he could ascertain the name ?

The Honourable Mr. R. M. Maxwell : Not under this clause. He does not know against whom to obtain a warrant.

Maulvi Muhammad Abdul Ghani : Sir, I moved for the deletion of the clause but unfortunately it has been rejected. Sir, the amendment of the Government reminds me of the famous proverb : “ *Rozā Bakhshwane gae Gale pari nemāz* ” “ I want to get the fasting forgiven but five times prayer was made obligatory instead thereof.”

Sir, the proposed section was opposed by the Punjab Government and several Associations as apparent from the Opinions received on the Bill.

Sir, the proposed section 14 simply deals with reporting the matter and taking action in consultation with veterinary surgeon but here the police officer of any rank, including a constable, is authorised to arrest a person without warrant. I cannot say why the Government are so much enamoured of police constable. This is the first time for me in this House when I see that Government are enamoured of police constables. It is, therefore, my duty to oppose this.

Mr. S. Satyamurti : Sir, I listened to the Honourable the Home Member's speech attentively, but it does seem to me that either the clause as it stands in the Bill or the section in the Code of Criminal Procedure ought to satisfy all reasonable demands of the case. The clause as proposed to be amended by my Honourable friend, Mr. Faruqui, authorises any police officer to arrest any person without a warrant. If the Honourable the Home Member's answer to my Honourable friend, Mr. Santhanam, is correct, any person also without a warrant can arrest a person for the purpose of finding out his name and residence, etc. Now, Sir, so far as

the Code of Criminal Procedure goes, the police officers get that power because an offence is defined as "any act or omission made punishable by any law for the time being in force", and, therefore, any offence which is committed under this Act in the presence of a police officer and if the man refuses to give his name and address, he can be arrested by a police officer. But the simple question is,—is the House prepared to give any person authorised by the Provincial Government the power to arrest persons? Now, so far as the clause in the Bill is concerned, as reported on by the Select Committee, what power is given is a much simpler one, that is a person authorised may arrest the animal and produce the same before a magistrate. No doubt, such authorised officer may, when seizing the animal, require the person in charge thereof to accompany it to the place of examination. It is a much less power than yours. Yours, *i.e.*, arrest, carries with it a number of other obligations and restrictions on the part of the man. On the whole, it seems to me, taking clause 14 as it stands in the Bill, and section 57 of the Criminal Procedure Code and the definition of offence in section 4 (o), it does seem to me that Government have ample powers. Of course, we have great confidence and trust in the Provincial Governments, ours and others, but it does seem to me to vest any person appointed by the Provincial Government to arrest a person with or without a warrant is a weapon out of all proportion to the purposes of this clause. I, therefore, do hope that Government will withdraw their amendment, and will let the clause as it stands. If I can do so, I will commend that amendment No. 54 be accepted and that will give power to any police officer above the rank of a constable to prevent these offences being committed and to give an order to save the animal. Otherwise, in the name of saving the animals, we shall be sacrificing men to the tender mercies of many people.

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

"That in clause 13 of the Bill, for the proposed section 14 the following be substituted :

- ' 14. (1) Any police officer may arrest without a warrant, and any person authorized by the Provincial Government in this behalf may arrest, any person who in the view of such officer or authorised person commits any offence against this Act or any person in respect of whom such officer or authorised person has received credible information of his having committed an offence against this Act, if the name and address of such offender or accused person is unknown to such officer or authorised person and if the offender or accused person, on demand, declines to give his name and address or gives a name and address which such officer or authorised person has reason to believe to be false.

- (2) When the correct name and address of a person arrested under sub-section (1) have been ascertained, such person shall be released on his executing a bond, with or without sureties, to appear before a Magistrate, if so required :

Provided that, if such person is not resident in British India, the bond shall be secured by a surety or sureties resident in British India.

- (3) If the correct name and address of such person is not ascertained within twenty-four hours from the time of arrest, or if such person fails to execute a bond or, if so required, to furnish sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

[Mr. President.]

- (4) Any person authorised by the Provincial Government in this behalf, who has reason to believe that an offence against this Act has been or is being committed in respect of any animal, may, if in his opinion the circumstances so require, seize the animal and produce the same for examination by the nearest Magistrate or by such Veterinary Officer as may be designated in this behalf by rules made under section 15 ; and such police officer or authorised person may, when seizing the animal, require the person in charge thereof to accompany it to the place of examination."

The motion was negatived.

Mr. K. Santhanam : Sir, I beg to move :

" That in clause 13 of the Bill, in the proposed section 14, before the words ' Any person ' the words ' Any police officer above the rank of a constable or ' be inserted."

Sir, in the proposed section 14, as it stands, in the latter part it is said " and such police officer ", whereas no mention is made of ' police officer ' at all in the beginning of the section. By putting it as ' Any police officer above the rank of a constable ' I have brought it into line with the other sections. Sir, I move.

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

" That in clause 13 of the Bill, in the proposed section 14, before the words ' Any person ' the words ' Any police officer above the rank of a constable or ' be inserted."

The Honourable Mr. R. M. Maxwell : Sir, I accept the amendment.

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

" That in clause 13 of the Bill, in the proposed section 14, before the words ' Any person ' the words ' Any police officer above the rank of a constable or ' be inserted."

The motion was adopted.

Mr. K. Santhanam : Sir, I beg to move :

" That in clause 13 of the Bill, in clause (b) of sub-section (2) of the proposed section 15, for the word ' prohibiting ' the words ' prescribing conditions to prevent ' be substituted."

Sir, you cannot create an offence in the rules about overcrowding of animals. It is already prohibited in clause 3 (3) (c). What the rules can do is to take steps to give effect to the prohibition which is already enforced by statute. So I am substituting the words ' preventing conditions to prevent '. I commend the amendment to the acceptance of the House.

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

" That in clause 13 of the Bill, in clause (b) of sub-section (2) of the proposed section 15, for the word ' prohibiting ' the words ' prescribing conditions to prevent ' be substituted."

The Honourable Mr. R. M. Maxwell : Sir, I accept the amendment.

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

“ That in clause 13 of the Bill, in clause (b) of sub-section (2) of the proposed section 15, for the word ‘ prohibiting ’ the words ‘ prescribing conditions to prevent ’ be substituted.”

The motion was adopted.

Mr. Abdul Qaiyum : Sir, I move :

“ That in clause 13 of the Bill, clause (c) of sub-section (2) of the proposed section 15 be omitted and the subsequent clauses be re-lettered accordingly.”

My object in moving this amendment is that a vast majority of the animals referred to in sub-clause (c) are used by the
1 P.M. agricultural population and we know that agriculture is not a regular profession. It might involve short periods of intensive work and long periods of absolutely no work ; and I think that to prescribe conditions under which such animals shall not be allowed to work for draught purposes and also introduce limitation of the hours of work would be introducing legislation which is really not called for in this country. It would mean unnecessary interference with a class of people called *Kisans* for whom my Honourable friend, Professor Ranga, and I entertain the greatest affection and regard. Sir, I move.

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

“ That in clause 13 of the Bill, clause (c) of sub-section (2) of the proposed section 15 be omitted and the subsequent clauses be re-lettered accordingly.”

The Honourable Mr. R. M. Maxwell : Sir, I must oppose this motion. It is particularly in regard to buffaloes that certain powers of regulation are necessary because they are the animals which probably suffer most from being driven during the hot hours of the day and I think it may safely be left to Provincial Governments to decide whether any regulation of the employment of buffaloes for draught purposes is required. This section only gives the rule-making power to the Provincial Governments and they need not use it unless it is required. Sir, I oppose.

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

“ That in clause 13 of the Bill, clause (c) of sub-section (2) of the proposed section 15 be omitted and the subsequent clauses be re-lettered accordingly.”

The motion was negatived.

Mr. K. Santhanam : Sir, I move :

“ That in clause 13 of the Bill, in clause (d) of sub-section (2) of the proposed section 15, after the word ‘ infirmaries ’ the commas and the word ‘ , pinjrapoles, ’ be inserted.”

My reason for this amendment is that we have permitted under clause 6 (b) a magistrate to send animals to the *pinjrapoles* ; and when he can send animals to the *pinjrapole* it is but fair that out of the fines collected the Provincial Government should have power to give money to *pinjrapoles*. It is not as if we are prescribing that money should be given—we are only giving power to the Provincial Governments to give money and so I move this amendment.

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

“ That in clause 13 of the Bill, in clause (d) of sub-section (2) of the proposed section 15, after the word ‘ infirmaries ’ the commas and the word ‘ , pinjrapoles, ’ be inserted.”

Babu Baijnath Bajoria : Sir, I rise to support this motion wholeheartedly. After all the work that the *pinjrapoles* are doing for the old and sick animals, I think it is only just and proper that we should empower the Provincial Governments to make rules that out of the fines some money may be paid to them. Sir, I support.

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

“ That in clause 13 of the Bill, in clause (d) of sub-section (2) of the proposed section 15, after the word ‘ infirmaries ’ the commas and the word ‘ , pinjrapoles, ’ be inserted.”

The motion was adopted.

Mr. Abdul Qaiyum : Sir, I move :

“ That in clause 13 of the Bill, in clause (g) of sub-section (2) of the proposed section 15, the words ‘ in a local language ’ be omitted and the words ‘ in a language or languages commonly understood in the locality ’ be added at the end.”

This sub-clause requires that persons owning or in charge of premises in which animals are kept or milked should register such premises. Next, it expects such persons “ to comply with prescribed conditions as to the boundary walls or surroundings of such premises, to permit their inspection for the purpose of ascertaining whether any offence against section 4 is being or has been committed therein ”. All these things are very important, and the Provincial Governments, under this Act, will be framing a number of complicated rules which these poor *gowalas* and other ignorant people will have to observe. It is but meet that the rules should be published in as many languages as are commonly understood in the locality. After all the fact remains that about most localities it may be said that one language is not the only language—there are several languages. Take the case of Simla. The Government notices here appear in English, and in Hindustani—in Urdu script and also Devnagari script ; and in Southern India the situation becomes even more complicated. I, therefore, commend this amendment for the acceptance of the House, because if this is accepted it will be possible for people to carry out more effectively the rules which have been framed by the Local Governments under this Act. Sir, I move.

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

“ That in clause 13 of the Bill, in clause (g) of sub-section (2) of the proposed section 15, the words ‘ in a local language ’ be omitted and the words ‘ in a language or languages commonly understood in the locality ’ be added at the end.”

The Honourable Mr. R. M. Maxwell : Sir, I would accept the amendment.

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

“ That in clause 13 of the Bill, in clause (d) of sub-section (2) of the proposed section 15, the words ‘ in a local language ’ be omitted and the words ‘ in a language or languages commonly understood in the locality ’ be added at the end.”

The motion was adopted.

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

“ That in clause 13 of the Bill, after clause (g) of sub-section (2) of the proposed section 15, the following new clause be added :

‘ (h) prohibiting the impounding of cattle in any place without adequate provision being made for adequate space, food and water ’.”

It happens, not infrequently, that no adequate provision is made for food and drink and space in these pounds with the result that the cattle which are impounded there are starved and are made to suffer also owing to thirst and sometimes congestion. And by the time they are put to auction they sell for very low prices with the result that the owners of these cattle have to suffer very considerably, in addition to causing so much cruelty to the animals themselves. Therefore, I suggest that this amendment may be accepted by the House.

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

“ That in clause 13 of the Bill, after clause (g) of sub-section (2) of the proposed section 15, the following new clause be added :

‘ (h) prohibiting the impounding of cattle in any place without adequate provision being made for adequate space, food and water ’.”

Mr. M. S. Aney : Sir, I have no doubt that the principle of this amendment will commend itself to all Members of this House, but there is one thing which I should like to point out here. There are Cattle Pound Acts in different provinces, at any rate in my province there is the Central Provinces Cattle Pound Act, and the Berars also have got the unique honour of having their own laws on many matters, and they have also got a Cattle Pound Act, which contain similar provisions. I can't say whether the same can hold good in regard to the laws of other provinces relating to cattle pounds. I think it would be advisable for all the provinces to incorporate provisions similar to this in their local Acts. Sir, I, therefore, support this amendment.

The Honourable Mr. R. M. Maxwell : Sir, I am quite in sympathy with the object of this amendment, but I find some difficulty about its drafting. We were told just now that the object of a rule is not to prohibit anything but to prescribe conditions. But here is an amendment which prohibits the impounding of cattle in any place without adequate provision being made for adequate space, food and water. Surely the object of the rule and what the Provincial Government should be empowered to do is to prescribe the provisions required relating to adequate food and water in a cattle pound and to see that that accommodation is not exceeded. That surely is the proper form.

Mr. S. Satyamurti : Sir, I quite see the point of my Honourable friend, the Honourable the Home Member, but if he will kindly look at (c) of clause 15 (2) he will see it is stated there ‘ prohibiting the use of..... ’. In substance, I quite agree with the Honourable the Home Member's observations, but he has got an opportunity in the other place to correct both clause (c) and this clause if the House accepts it. We want the vote of the House on the principle of this amendment, and later on, in the other place they can look into the matter and change both the clauses. Sir, I commend the principle of this amendment for the acceptance of the House.

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

“ That in clause 13 of the Bill, after clause (g) of sub-section (2) of the proposed section 15, the following new clause be added :

‘ (h) prohibiting the impounding of cattle in any place without adequate provision being made for adequate space, food and water ’.”

The motion was adopted.

Mr. N. A. Faruqui : Sir, I move :

“ That in clause 13 of the Bill, after the proposed section 16, the following new section be added :

‘ 17. No suit, prosecution or other legal proceeding shall lie against any person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code, in respect of anything in good faith done or intended to be done under this Act ’.”

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

“ That in clause 13 of the Bill, after the proposed section 16, the following new section be added :

‘ 17. No suit, prosecution or other legal proceeding shall lie against any person who is, or who is deemed to be, a public servant within the meaning of section 21 of the Indian Penal Code, in respect of anything in good faith done or intended to be done under this Act ’.”

The motion was adopted.

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

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

The motion was adopted.

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

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Mr. R. M. Maxwell : Sir, I move :

“ That the Bill, as amended, be passed.”

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

“ That the Bill, as amended, be passed.”

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

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

Shrimati K. Radha Bai Subbarayan (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural) : Sir, I should like, first, to apologise to the House for rising at this late hour, and I am specially reminded of the reference made by one of my Honourable friends the

other day, to the sense of proportion in speeches at this stage of a Bill. I ask the House to pardon me if I do not conform strictly to that sense of proportion, because, fortune denied me an opportunity to join in the general discussion, and as I am deeply interested in this subject, I feel impelled to say a few words on this Bill.

Sir, this is one of the rare occasions when Members on this side of the House have the pleasure of welcoming a measure brought forward by the Government in response to public opinion. I wish that these instances would be more frequent than rare and that the Government of India would allow themselves to be influenced by public opinion in all matters. I am reminded now that there are certain measures that we are urgently in need of. There are others besides animals whom the State has to protect against cruelty and hardship, such as the working and poorer classes, women and children. This fact is brought home to us especially at Simla, if I may say so, where we have the pain of seeing weak, young and old people climbing up the steep paths of Simla with heavy loads, either as coolies or rickshawmen. Now, that the Government have dealt with the case of dumb animals, I do hope that they will give their attention to questions relating to the welfare of these others who, though not physically dumb, are still voiceless. I trust that they will not shirk their duty by holding up to our face the concurrent list. The Government of India must realise their responsibility of promoting a uniform national policy and of giving a lead and impetus to provinces in all matters just as they have done in this matter. When I wrote to some friends in Geneva for information about legislation on the subject with which this Bill deals, one of my friends in her letter mentioned that when this Bill became law, India would occupy a place among the most modern and civilised nations of the world. Well, we are very anxious that India should occupy the foremost place among all modern civilised nations with regard to all matters of national welfare. I shall not now say more about the subject.

I should like to say that as a woman also I welcome this measure. The women of India have repeatedly at their conferences and meetings expressed their earnest desire that Government should introduce legislation of this kind. Perhaps the reason for women having a special interest in this matter, is that they know what it is to suffer and yet have to carry on the daily task. Naturally, they can sympathise with the dumb sufferings of the animal servants of man. Also, Sir, women feel that the sight of cruelty has an unwholesome effect on children. Women have an innate repugnance to any form of cruelty and have deep sympathy for those in pain and suffering. I remember reading somewhere, "God has placed the genius of women in their hearts". I do not want to labour this point here and now.

My principal reason for intervening in this debate is to inform this House and others that my friends and I are painfully aware that there is an impression among some people in this country and outside, that Indians are prone to be cruel towards animals. I was afraid that the support of this House to this Bill, particularly, the support of the Congress Party, would be misinterpreted as an endorsement of this opinion. This impression has grown because of the condemnatory

[Srimati K. Radha Bai Subbarayan.]

Remarks of a peculiar class of foreigners who seem to come to this country to indulge in the unholy enjoyment of looking at the darkest and most unpleasant spots and then pointing out the finger of scorn at us. Naturally, they have eyes only for such sights as are seen in some of our public streets and places, as half starved animals and stray dogs suffering from open wounds or festering sores. There are dark spots in every country, not only in ours. And in our country nobody is more conscious of them than those people who are anxious to improve conditions in India. Sir, it is very wrong to generalise from any particular sight that a foreigner sees and then condemn the whole nation. I think it is an international crime, and I should like to take this opportunity to repudiate emphatically the charge that has been levelled against my nation. I agree with my Honourable friend, Mr. Bajoria, and my Honourable friend, Mr. Aney—I wish we could be in agreement on all questions of social reform—that tradition and custom have ordained that *Ahimsa*, kindness to animals, to all living creatures, should be part of our religion. All our ancient prophets, writers, sages, and others have emphasised the importance of this principle, and even in these modern days of hard materialism, the greatest living exponent of this creed is an Indian,—Mahatma Gandhi. With such tradition it is very difficult for us, if not impossible, to be cruel to animals. No doubt, it does seem cruel when we see half starved animals. But if those people who accuse us of cruelty would only give a few quiet moments to this matter, they would agree with me that the causes for the existence of these conditions in India are mainly two; first, the poverty, the appalling poverty of the great mass of our people and consequent ignorance and low economic life, and secondly, inertia due to a feeling of helplessness that is common to all subject nations in this world. Also human nature is the same all over the world, and certain failings in it give rise to a tendency in man to take an undue advantage of the helplessness of the meek and the humble. If there is a great deal of cruelty to animals in this country like *phooka*, it is due to the desire of man to exploit them for purposes of personal gain. I am as earnest as anybody in this House or outside that such people should be severely punished. In fact, I go further and I request the Government to consider whether they could not bring a legislation which would affect the owners of circuses and menageries. Sometimes the animals in these places are treated very badly and I think it is necessary to take some steps to prevent cruelty to these animals also. Wanton cruelty for commercial gain should always be punished with a strong hand.

With regard to animal sacrifice I cannot express in adequate language the abhorrence that I entertain. I fully share the feelings of my Honourable friend, Mr. Hegde. I was shocked at some of the descriptions that he read out from a pamphlet and I deeply regret that these practices are believed to exist in my own province. I am entirely unaware that these practices exist and I do hope and trust that they are an old story and that they do not continue to be in practice now, and if they do, I hope the Congress Government will take stern measures to suppress them. Even animal sacrifices are due to this spirit of exploitation of a group of people who are known in our parts as *pujaris*.

They prey on the ignorance and superstition of poor people and manage to make a living by inducing them to offer animal sacrifice. Also, as a woman, I resent that these people should depict the noble queen of these mountains as a blood thirsty dragon. That shows how unfair men can be to women !

I do not want to take up too much time of the House but I should like to say before I close, how much I appreciate the noble work of philanthropic societies like the Humanitarian League, the S. P. C. As. and others. They have done a great deal with regard not only to giving relief to sick animals but also with regard to propaganda which is of great importance if this Act is to be a success. I should like to draw the attention of the House, the Government and also these societies to two points and that is whether it would not be possible to give some kind of relief to the poor man whose only source of income and livelihood is an animal, which has to be sent to hospital or destroyed under the provisions of this Act and, second, that the poor paid employee should not be made to pay the penalty for the sins of omission and commission of his employer or for obediently carrying out the orders of his employer. This Act is meant for humane purposes and I congratulate the Home Member for introducing it but the success of it will depend on the manner in which it will be enforced. I do hope that the magistrates and the police and other agencies who will have to carry out the provisions of this Act will do so in the spirit in which this legislation has been introduced. Sir, I support the motion.

Mr. M. S. Aney : Before submitting any observations on the third reading I really want to offer my congratulations to my friend, Mr. Govindarao, Deshmukh, a distinguished Member of this House. It is he who first gave notice of a Bill to amend the Prevention of Cruelty to Animals Act with a view to make stringent provisions against *phooka* practice. After he gave notice of the Bill, official conscience was aroused and later on, a friendly suggestion was made that the Government was prepared to come forward with a more detailed and comprehensive measure and that it would be proper for Mr. Govindarao Deshmukh to withdraw his Bill in favour of the official Bill. Mr. Deshmukh ultimately agreed to this suggestion and we have now before us a Bill which has gone through all the stages in this House. Before thanking the Government, I think the House should really thank Mr. Deshmukh for having set the ball rolling in the proper direction in regard to this matter.

The horrifying atrocities we have heard about the *phooka* practice and the abhorrence with which it is held by the general public are not altogether new things. In the Press and elsewhere, agitation has been going on for some years in the past but for a number of years it went unheeded by the authorities. It was because that a private Member of this House brought forward a Bill to deal with the matter that the Government thought that they must not lag behind in this matter. Better late than never and we are now about to put a Bill on the Statute-book. No subject should interest a humanitarian more than the one in which an attempt is made to improve the condition of those who cannot and can never protest—the dumb driven cattle, the birds and other animals with whom man not merely comes in contact but from whom man even exacts some work and service also. They must be primarily the object of his attention and care. This is a subject to which the Indian people, being

[Mr. M. S. Aney.]

primarily a people engaged in the agricultural industry, depending entirely on the labour of the cattle, have paid a good deal of attention in olden times. In Sanskrit works, there are references to the treatment of animals. In the Smritis, a number of provisions have been laid down, which lay down rules for the treatment of animals. There is a passage in Yagnavalkya or Narada which says that that is a cruel man who allows his plough to be carried only by two-bullocks—an act for which he has to make some kind of atonement. My friend, Mr. Bajoria, in one of his amendments has referred to a suggestion to the effect that she-buffaloes and cows should not be used for the purpose of ploughing and other heavy work. There is an exact provision made on that point also in our old Sanskrit works. Detailed rules have been laid down for the treatment and care of animals. This is a subject in which the Indian people, who are primarily engaged in agriculture, were deeply interested. No cultured people can ever think of ignoring this matter altogether. I regard the treatment given to dumb cattle and the birds and other animals which we love or which we preserve as one of the signs or index of the culture and, therefore, the amount of compassion that we show to these animals is a measure of the culture which we have attained.

I am glad that a subject which has, unfortunately, been neglected for a number of years has now received a good deal of attention through the efforts of some humanitarian bodies and other individuals and many evil customs prevalent in our society in spite of all these religious injunctions in the Shastras have been found to exist and also prominently brought to the notice of the world, and, if we now find that by the present Bill we cannot adequately deal with all the evils mentioned by my Honourable friend, Mr. Hegde, then I believe, in the near future we shall have a new Bill introduced in this House which will enable us effectively to do away with the very cruel customs which have been so very feelingly described before us by the Honourable Member. And let us hope that we shall, hereafter, pursue this question and not be content with the achievement we have already made. We must take it as a good beginning in the right direction and conclude our labours with determination to pursue the matter further until we have substantially eradicated all these evils of which any civilized people ought to be ashamed. With these few words, I offer my congratulations to the House for having put this measure on the Statute-book and also to the Honourable the Home Member for having taken all the trouble to enable the House to deal with this question speedily and successfully.

Several Honourable Members : I move that the question be now put.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I want to take the sense of the House, because, ordinarily, before giving at least one Member of each Party the chance to speak, it would not be fair on the part of the Chair to close the debate, especially as the Deputy Leader of the Muslim League Party has got up. Before proceeding further I want to tell the House that if any Member of any Party who has not yet spoken gets up, I think I should give him a chance. Mr. Ghulam Bhik Nairang.

Syed Ghulam Bhik Nairang (East Punjab : Muhammadan) : Sir, I do not propose to occupy much time of the House with a speech ; in fact nothing like a speech is required,—and I do not in the least make any reflec-

tion on my Honourable friend, Mr. Aney, who has just preceded me because I do not think he has made any unnecessarily long speech. I wish simply by way of formality to tender my congratulations to the Honourable the Home Member for giving us a highly useful and long-needed measure and for having successfully piloted it through this House. There is no doubt that the subject of prevention of cruelty to animals is engaging the attention of all right-minded people in this country and the abominable practice of *phooka* has long been so much in vogue and so much agitation has been going on against it that people will feel very much gratified indeed that we have now passed this measure against that practice. It will be noted that in the Prevention of Cruelty to Animals Act of 1890 also there was section 4 making it an offence to practise *phooka* and prescribing a sentence of fine or imprisonment or both, but the term *phooka* was not defined in that Act, perhaps the subject remained vague on that account, and the maximum sentence which was prescribed was only three months' imprisonment or a fine of one hundred rupees or both. Now, of course, we have given the definition of what is meant by *phooka* and we have prescribed much heavier sentences,—two years' imprisonment, a fine of Rs. 500, and the confiscation of the animal on which *phooka* is practised. So, I think this heavier sentence will prove a deterrent and this abominable practice will cease. Sir, it is all the more revolting because the vast majority of people who practise it are *gowallas* who profess the Hindu faith which regards the cow as such an object of veneration and calls it *go-mata*. In spite of those sentiments, this cruel practice has been indulged in so long by these *gowallas* for the sake of filthy lucre and I hope that the more efficient measures that we have now prescribed for the detection of this crime will have the effect of stopping it altogether. With these words, I support the motion.

Several Honourable Members : I move that the question be now put.

Mr. Deputy President (Mr. Akhil Chandra Datta) : As I said before, I will first see that each Party gets its own turn. I now call upon Mr. Bajoria. But in view of the feeling in the House, I would request the Honourable Member not to speak for more than three or four minutes.

Babu Baijnath Bajoria : Sir, I have to draw the attention of this House to only one point and that is why I have insisted upon standing up. Sir, I am glad that this measure is going to be passed by this House and to be placed on the Statute-book in a very short time. Sir, now the whole responsibility of administering this useful measure will rest upon Provincial Governments. It is for the purpose of stressing that point that I have stood up. We know that even in the previous Act there was a provision for stopping *phooka* but, unfortunately, the Provincial Governments did not do their duty as they should have done. Now, I think, that these elaborate provisions which we have made here, and especially the provisions in clause 12, in which we have given powers that wherever any section of this Act is to be applied, all the sections relating to *phooka* will be applied by the Local Government in that area, are very useful, I think that all the Provincial Governments will make it a point to extend the sections of this Act which relate to *phooka* as early as possible, because otherwise there will be no use in our making an elaborate Bill which has received such a cordial reception from all sides of this House ; and I think the Government of India may also request Provincial Governments to move in this matter. Sir, I congratulate the House upon passing this useful measure.

Several Honourable Members : I move that the question be now put.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is that the question be now put.

The motion was adopted.

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

“ That the Bill, as amended, be passed.”

The motion was adopted.

THE EMPLOYMENT OF CHILDREN BILL.

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

“ That the Bill to regulate the admission of children to certain industrial employments be taken into consideration.”

Sir, this Bill, I venture to think, is not only non-controversial, but,

3 P.M.

I am sure, will have the sympathy of all sections of the House. What it seeks to do is to restrict the employment of children below 15 years and in one case below 14 years in the transport of goods, passengers or mail by railway and in the handling of goods in docks and wharves. Having regard to the anxiety of the House to finish the consideration of the remaining list of business as quickly as possible, I shall not enter into any details. Notice of certain amendments has been given ; I am sure that with regard to such of them as are likely to improve the Bill, there shall be no difficulty in accepting them. With regard to others, I am equally sure there will be no difficulty in persuading Honourable Members in whose names they stand not to move them. Sir, I move.

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

“ That the Bill to regulate the admission of children to certain industrial employments be taken into consideration.”

Sardar Sant Singh (West Punjab : Sikh) : Sir, it was in the fitness of things that after we have passed the Bill for the prevention of cruelty to animals there ought to have been another Bill to prevent cruelty to young children. I really congratulate the Honourable Member for having brought this useful measure in this House. The employment of children younger than 14 or 15 years is really very undesirable, especially in the case of those employments where the younger children are open to face certain risks. In the Statement of Objects and Reasons it is stated that this Bill has been introduced in conformity with the recommendations of the International Labour Conference and it is in that connection that certain provisions are to be made in employing children in handling the loads at ports. I do not want to make a long speech in this connection, but I do welcome this measure as necessary and it was probably overdue by this time.

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

“ That the Bill to regulate the admission of children to certain industrial employments be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

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

“ That clause 3 stand part of the Bill.”

Mr. K. Santhanam (Tanjore cum Trichinopoly : Non-Muhammadian Rural) : Sir, I beg to move :

“ That in sub-clause (1) of clause 3 of the Bill, for the word ‘ connected ’ the words ‘ involving the handling of loads in connection ’ be substituted.”

Sub-clause (1) runs thus :

“ No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation connected with the transport of passengers, goods or mails by railway.”

According to the wording of this sub-clause, even a newspaper boy or a boy who sells soda water or *pan* will be affected because he is engaged in an occupation connected with the transport of passengers. I want to avoid this contingency and restrict the clause to those who are engaged in heavy work. My amendment is also in line with the wording of sub-clause (2). Sir, I move.

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

“ That in sub-clause (1) of clause 3 of the Bill, for the word ‘ connected ’ the words ‘ involving the handling of loads in connection ’ be substituted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, it is no doubt true that the clause as it stands in the Bill would have the effect of prohibiting the employment of children below 15 years to work in any occupation connected with the transport of passengers, goods or mails by railway. On the other hand, the effect of the amendment is so to restrict the clause that such employment shall be prohibited only in connection with work involving the handling of loads. I am prepared to admit that the clause is perhaps rather widely framed but I am afraid the amendment is too restrictive. I discussed this amendment with the Honourable the Mover this morning and I put my difficulty to him. I am not particularly wedded to the wording of the clause itself but I will point out that if the provisions of the clause are restricted in the manner suggested in the amendment, then, apart from the actual handling of the loads, such as parcels or passengers' luggage and so on, the employment of children below 15 will still be open in all sorts of other capacities. It may be that with regard to some of these capacities, there may be no objection. For instance, as was pointed out by the Mover to me, a child below 15 may well take a tea tray to a passenger or sell a newspaper or something of that sort, but what I am worried about is that there may be other occupations or work in connection with the transport of goods, apart from these categories, where it may not be desirable that children should be employed. Therefore, after considering the whole position, I am prepared to accept whatever the sense of the House may be on this. I wish to leave this.

[Sir Muhammad Zafrullah Khan.]

matter to the free vote of the House. So far as the official block is concerned, we shall not vote on it and we shall accept whatever the House decides.

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadan Rural) : Sir, I think the object of this Bill is to prevent children being employed in actual work which involves physical strain. From that point of view, the amendment of my Honourable friend, Mr. Santhanam, is the best and it also leaves sufficient room for poor parents to employ their children in such branches of transport industry in which no physical strain is involved. I, therefore, hope that the House will accept the amendment moved by Mr. Santhanam.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, it is not quite easy for me to appreciate this amendment because, first of all, we do not have a definite provision as to what are those different things which these children can be expected and are being made to do on the railway platforms, railway workshops and in several other places connected with the railways. It is wrong to think that these people will be employed only in handling goods and passing them from the goods vans or godowns to the platforms or anything like it. I have known many children being employed even as news boys or messenger boys on the railway platforms. While the train is at a station, to allow children to run about from one end of the platform to the other in order to cater to the needs of the passengers is a very risky affair. Therefore, I personally, am not so sure whether by accepting this amendment we would be really doing any good to labour as such. I quite see the difficulty mentioned by my Honourable friend, Mr. Santhanam, that there are many people who employ their children in occupations where no risk is involved. But, on the whole, the balance of advantage lies on the side of the clause as it is in the Bill. It does not matter if a few people who are today employing their children will not be able so to employ them in future if this particular amendment were not accepted. Therefore, I cannot very well say that I am in favour of this amendment.

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan) : The scope of the Bill is very narrow.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The House is now discussing the amendment No. 3 moved by Mr. Santhanam. So the Honourable Member must confine himself to the amendment. He cannot discuss the scope of the Bill. That stage is over.

Maulana Zafar Ali Khan : In that case I will reserve my remarks for the third reading stage.

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

“ That in sub-clause (1) of clause 3 of the Bill, for the word ‘ connected ’ the words ‘ involving the handling of loads in connection ’ be substituted.”

The motion was negatived.

Shrimati K. Radha Bai Subbarayan (Madura and Ramnad *cum* Tinnevely : Non-Muhammadan Rural) : Sir, I beg to move :

“ That in sub-clause (2) of clause 3 of the Bill, for the word ‘ fourteenth ’ the word ‘ fifteenth ’ be substituted.”

Sir, I do not think it is necessary for me to make a long speech to commend this amendment to the House. A child of 14, I hope the House will agree, is too young to be employed for this kind of work, and also for the sake of uniformity, I think the age of 14 should be raised to 15. Sir, I move.

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

“ That in sub-clause (2) of clause 3 of the Bill, for the word ‘ fourteenth ’ the word ‘ fifteenth ’ be substituted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I accept the amendment.

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

“ That in sub-clause (2) of clause 3 of the Bill, for the word ‘ fourteenth ’ the word ‘ fifteenth ’ be substituted.”

The motion was adopted.

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

“ That clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

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

“ That clause 4 stand part of the Bill.”

Mr. N. M. Ayyar (Government of India : Nominated Official) : Sir, I beg to move :

“ That in clause 4 of the Bill, the words and figure ‘ section 2 or ’ be omitted.”

Sir, the object of my amendment is to rectify obvious error : there is no reference in clause 2 of the Bill, which is merely a definition clause, to children or the employment of children. Sir, I move.

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

“ That in clause 4 of the Bill, the words and figure ‘ section 2 or ’ be omitted.”

The motion was adopted.

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

“ That clause 4, as amended, stand part of the Bill.”

The motion was adopted.

Clause 4, as amended, was added to the Bill.

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

“ That clause 5 stand part of the Bill.”

Mr. K. Santhanam : Sir, I beg to move :

“ That in sub-clause (2) of clause 5 of the Bill, for the words ‘ either the employer of a child or the child himself has obtained a certificate ’, the words ‘ at the time of employment, a certificate had been obtained ’, be substituted.”

Sir, I move this amendment because a certificate can be obtained not only by a child or its employer but by a trade union or by any Association or contractor of labour or anybody who will be concerned with the child. There is no reason why the obtaining of a certificate should be restricted as proposed in the clause.

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

“ That in sub-clause (2) of clause 5 of the Bill, for the words ‘ either the employer of a child or the child himself has obtained a certificate ’, the words ‘ at the time of employment, a certificate had been obtained ’, be substituted.”

The Honourable Sir Muhammad Zafrullah Khan : I accept the amendment.

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

“ That in sub-clause (2) of clause 5 of the Bill, for the words ‘ either the employer of a child or the child himself has obtained a certificate ’, the words ‘ at the time of employment, a certificate had been obtained ’, be substituted.”

The motion was adopted.

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

“ That clause 5, as amended, stand part of the Bill.”

The motion was adopted.

Clause 5, as amended, was added to the Bill.

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

“ That clause 6 stand part of the Bill.”

Mr. K. Santhanam : I beg to move :

“ That in clause 6 of the Bill, for the words ‘ appoint persons to be inspectors ’ the words ‘ appoint any person or any person holding a particular office to be an inspector ’ be substituted.”

Sir, from the clause, as it stands, it appears to me that the Provincial Government may only appoint persons by name and not appoint persons by office. For the purpose of the Bill we must give them power to designate persons in virtue of their office to do it. I am not quite sure whether this is covered by the General Clauses Act ; if it is not covered I would press my amendment, but if it is covered then I will not press my amendment. Sir, I move.

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

“ That in clause 6 of the Bill, for the words ‘ appoint persons to be inspectors ’ the words ‘ appoint any person or any person holding a particular office to be an inspector ’ be substituted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I would submit that though I have no quarrel with the object of this amendment, it is really covered by the provisions of the General Clauses Act. Section 15 of that Act says :

“ Where by any Central Act or Regulation a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.”

And, of course, as everybody knows, sub-section (2) of section 13 of the same Act says that words in the singular shall include the plural and *vice versa*. I think this should clear up the doubt which Mr. Santhanam had, and I, therefore, submit that the amendment is unnecessary.

Mr. K. Santhanam : Sir, I do not press the amendment and I ask for leave to withdraw it.

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

Mr. K. Santhanam : Sir, I move :

“ That in clause 6 of the Bill, for the words ‘ all inspectors ’ the words ‘ any inspector ’ be substituted.”

I think this is the usual form in legislation and so I move it.

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

“ That in clause 6 of the Bill, for the words ‘ all inspectors ’ the words ‘ any inspector ’ be substituted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir I accept the amendment.

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

“ That in clause 6 of the Bill, for the words ‘ all inspectors ’ the words ‘ any inspector ’ be substituted.”

The motion was adopted.

Mr. K. Santhanam : Sir, I move :

“ That in clause 6 of the Bill, for the word ‘ servants ’ the word ‘ servant ’ be substituted.”

The Honourable Sir Muhammad Zafrullah Khan : Before you put the question, Sir, I think it ought to be “ a public servant ” in place of the words “ public servants ”.

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

“ That in clause 6 of the Bill, for the words ‘ public servants ’ the words ‘ a public servant ’ be substituted.”

The motion was adopted.

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

“ That clause 6, as amended, stand part of the Bill.”

The motion was adopted.

Clause 6, as amended, was added to the Bill.

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

“ That after clause 6 of the Bill, the following new clause be added and the subsequent clauses be re-numbered accordingly :

‘ 7. The hours of work for a child shall be so arranged that they shall not spread over more than seven and a half hours in any day ’.”

Sir, this recommendation was made as long ago as 1931, by the Royal Commission on Labour, and I do not know why the Government have not thought it fit to implement this even now, seven years after it was made. In the Factories Act itself there are provisions—sections 54 to 57—dealing with the hours of work and the manner in which those hours should be spread over in any particular day and so on. My amendment is only a copy of section 54 (2) of that Act which says :

“ The hours of work of a child shall be so arranged that they shall not spread over more than seven and a half hours in any day.”

So, I do not know whether in these railways and ports, the Factories Act applies. In the definition of the word ‘ factory ’ I do not find any mention at all. If it does not apply, then I want to know what is the earthly use of simply prohibiting young children below 15 years from being employed here if no provision is made in this particular Bill for the manner in which their hours of work should be spread over in any particular day for those children who are going to be employed under this Bill. Therefore, I suggest that it is only reasonable that the Government should accept my amendment and thus make it impossible for them to employ these children for more than 7½ hours in any particular day. Sir, I move.

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

“ That after clause 6 of the Bill, the following new clause be added and the subsequent clauses be re-numbered accordingly :

‘ 7. The hours of work for a child shall be so arranged that they shall not spread over more than seven and a half hours in any day ’.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I am afraid I must oppose this amendment. The Honourable the Mover has said, “ What is the use of this Bill if you are not prepared to prescribe the maximum number of hours that a child may work ? ” I am afraid the matter is the other way about. What this Bill seeks to do is to prohibit altogether the employment, in certain professions and in certain kinds of work, of children below 15 years of age. That is the scope of the Bill ; and I am afraid the amendment is, in the first place, out of order, because it is outside the scope of the Bill : it seeks to regulate the hours of work of children in other employments : in cases covered by this Bill they will not be employed at all below 15 years of age.....

Prof. N. G. Ranga : But what about others ? Those who are above 15 years ?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member has not tried to insert in this Bill any definition of a child. The amendment is too general. It reads as if he is seeking to regulate the hours of work of children whose employment in this class of work the Bill seeks to prohibit altogether. But apart from that I would draw the Honourable Member's attention to the fact that to the extent to which these children are subject to the Factories Act the matter is regulated by the provisions of that Act. If the Honourable Member is anxious to carry that principle further, I am afraid he must seek some other opportunity to do so. This amendment is really out of place altogether in this Bill.

Prof. N. G. Ranga : Sir, I ask the leave of the House to withdraw my amendment.

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

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

“ That clause 7 stand part of the Bill.”

Mr. N. M. Ayyar : Sir, I move :

“ That in sub-clause (1) of clause 7 of the Bill, the bracket after the word ‘ Gazette ’ and the bracket before the word ‘ make ’ be omitted.”

This is merely a drafting change. Sir, I move.

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

“ That in sub-clause (1) of clause 7 of the Bill, the bracket after the word ‘ Gazette ’ and the bracket before the word ‘ make ’ be omitted.”

The motion was adopted.

Mr. K. Santhanam : Sir, I move :

“ That in part (b) of sub-clause (2) of clause 7 of the Bill, after the words ‘ which may issue such certificates ’ the words and comma ‘ the form of such certificate, ’ be inserted.”

Sir, it is desirable that certificates should be issued in an uniform manner, and so I move this amendment.

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

“ That in part (b) of sub-clause (2) of clause 7 of the Bill, after the words ‘ which may issue such certificates ’ the words and comma ‘ the form of such certificate, ’ be inserted.”

The Honourable Sir Muhammad Zafrullah Khan : Sir, I accept the amendment.

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

“ That in part (b) of sub-clause (2) of clause 7 of the Bill, after the words ‘ which may issue such certificates ’ the words and comma ‘ the form of such certificate, ’ be inserted.”

The motion was adopted.

Mr. K. Santhanam : Sir, I beg to move :

“ That to part (b) of sub-clause (2) of clause 7 of the Bill, the following proviso be added :

‘ Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned ’.”

Sir, after the passage of this Bill, every employer will automatically require certificates. I am only anxious that poor people who have got evidence of age either by birth certificates or other reliable evidence should not have to pay anything for that certificate. After all, by producing such evidence, they will make the work of those authorities who are entrusted with the task of issuing a certificate somewhat easy. I hope this amendment will be accepted by the House.

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

“ That to part (b) of sub-clause (2) of clause 7 of the Bill, the following proviso be added :

‘ Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned ’.”

The motion was adopted.

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

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

The motion was adopted.

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

Clause 8 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I move :

“ That the Bill, as amended, be passed.”

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

“ That the Bill, as amended, be passed.”

Maulana Zafar Ali Khan : Sir, it would be very audacious on my part after this Bill has passed through its various stages to raise my voice against it as a halting and lame measure. If you will go through the Statement of Objects and Reasons given by the Honourable Sir Muhammad Zafrullah Khan, you will see that this Bill relates only to those children who are employed either on the railways or on the ports, as if the enormous number of children of India with ages varying between 14 and 15 out of a total population of 37 crores, had no claim on the benevolence and generosity of our Honourable friend here. Sir, the scope of this Bill is very narrow. It extends only to a small number of children employed in the two industries mentioned in this Bill, but if you cast a glance at the miserable life of India, you will find that there are millions and millions of children who die before they actually

attain the age of 14 years, because they are under-fed, under-nursed and are not properly looked after, and their growth is arrested. Therefore, Sir, the Government, which has shown so much solicitude for the welfare of those children who are employed on the railways and the ports, should also have kept a soft corner in their heart for those children who throughout the length and breadth of India are suffering and suffering terribly. Take the case of a poor peasant who has got two children and has say about ten acres of land. He cannot employ a labourer, and so he has to employ his own children to do his work, and these poor children between five and six years of age have to sweat and labour from morn till night and there is no law which can prevent this. You may introduce these measures so far as the children employed on the railways, ports and mines are concerned, but what about those children who live in the 500,000 villages of India? You don't do anything for them. Unless you take upon yourself the responsibility of educating them, of providing them with medical relief, milk and other amenities of life, you have no right to introduce this Bill, we will not allow you to take credit for this Bill by saying: 'We are for the children of India'. First do something for those millions of children who are in the villages, then only this Bill can have some claim for our consideration. I, therefore, oppose this Bill, Sir.

Prof. N. G. Ranga : Sir, I only wish to say a few words. My Honourable friend, Sir Muhammad Zafrullah Khan, asked me to take another opportunity to see that some steps are taken to limit the hours of work and their spread-over also as far as the youngmen who will come to be employed hereafter on the railways and ports. I do recognise the fact that those who are above 15 years are today described as adolescents under the Factories Act of 1934, but even in regard to these people, certain provisions are already provided in the Factories Act which apply to the kind of young people as are to be employed in the two employments mentioned here, and that is why I wish to draw the attention of my Honourable friend to the provisions of the Factories Act and request him to consider whether it may not be possible for him in the not distant future to introduce a suitable measure to provide protection for these young people. For instance, section 52 of the Indian Factories Act says :

“(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that such person has completed his fifteenth year and is fit for a full day's work in a factory.”

This is insisted upon in respect of those employees who are to be employed in the two industries mentioned here, but in regard to those people who will come to be employed under railways and ports, there is no provision at all in this Bill, and I hope the Honourable Member will keep this in mind.

Then, there is one other point, Sir, which I should like to mention. There is section 58 (b) which says :

“that a child or adolescent working in a factory with a certificate is no longer fit to work in the capacity stated therein.”

That empowers the Factory Inspector to state that a child or adolescent working in a factory with a certificate is no longer fit to work in the capacity therein stated. That also empowers the Factory Inspector

[Prof. N. G. Ranga.]

to weed out from time to time those people who are not fit to work although they are beyond 15 years of age. This power should also be given hereafter to Factory Inspectors or others.

Then, there is also a third point. Section 59 says :—" The Provincial Government may make rules " and there is one item mentioned here " prescribing the physical standards to be attained by children and adolescents ". This is also needed. In fact, all these detailed powers are to be given to medical authorities to certify under what circumstances these medical certificates are to be given, and they should record their reasons in writing should they refuse to give a medical certificate. I sincerely hope that the Provincial Governments or the Central Government when they come to make rules under this particular Act will keep in mind these particular provisions in the Factories Act and see that the medical officers will issue certificates with due care to the age of the children as also their fitness to carry on work, and try to prevent all those who are really below 15 years of age from being employed, and all those who are above 15 years are allowed to work only when they are medically fit. I hope, Sir, Government will introduce such a measure in the next Session at least.

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

" That the Bill, as amended, be passed."

The motion was adopted.

THE EMPLOYERS' LIABILITY BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member of Commerce and Labour) : I move :

" That the Bill to declare that certain defences shall not be raised in suits for damages in British India in respect of injuries sustained by workmen be taken into consideration."

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

Sir, this is a Bill which will, I am sure, have the sympathy of the whole House. The object, briefly, is this. It is an old doctrine of the English Common Law that if a workman sustains injury by reason of something done or neglected to be done by another workman in the same employment, the employer is not normally liable to pay damages in respect of the injury. Again, there is the doctrine of assumed risk by which an employee is presumed to have accepted a risk if it is such that he ought to have known it to be part of the risks of his occupation. The Royal Commission on Labour held that these defences were inequitable defences and they recommended by a majority that they should be abrogated in India. So far as judicial pronouncements on this matter are concerned, on at least the first of these defences, that is to say, the defence of common employment, there have been conflicting decisions. Therefore, it has been considered desirable that it should be clearly laid down by Statute that in India these defences would not be available in suits to recover damages in respect of injuries sustained by a workman. Sir, I move.

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

“ That the Bill to declare that certain defences shall not be raised in suits for damages in British India in respect of injuries sustained by workmen be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

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

“ That clause 3 stand part of the Bill.”

Mr. K. Santhanam (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : I move :

“ That in sub-clause (d) of clause 3 of the Bill, after the words ‘ in that behalf ’ the words ‘ or in the normal performance of his duties ’ be inserted.”

As the clause stands, “ by reason of any act or omission of any person in the service of the employer done or made...or in obedience to particular instructions given by any persons...” it does not exclude consequences arising from the normal performance of duties by any person working along with the person injured. My amendment seeks to supply the omission. I hope that it will be accepted.

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

“ That in sub-clause (d) of clause 3 of the Bill, after the words ‘ in that behalf ’ the words ‘ or in the normal performance of his duties ’ be inserted.”

The Honourable Sir Muhammad Zafrullah Khan : I accept it.

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

“ That in sub-clause (d) of clause 3 of the Bill, after the words ‘ in that behalf ’ the words ‘ or in the normal performance of his duties ’ be inserted.”

The motion was adopted.

Mr. K. Santhanam : I move :

“ That in clause 3 of the Bill, after the words ‘ shall not fail ’ the words ‘ the assessment of damages shall not be affected ’ be inserted.”

I am told that legally the assessment of damages will be made only upon the extent of the injury and will not depend upon the fact of the person being in the employment or any other such reason. If that is the correct legal position I won't press the amendment. I want an authoritative pronouncement from the Honourable the Law Member before I consider the question of moving or withdrawing the amendment.

The Honourable Sir Manmatha Nath Mukerji (Law Member) : That is the correct legal position.

Mr. K. Santhanam : In that case, I ask for leave to withdraw my amendment.

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

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

“ That clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

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

“ That clause 4 stand part of the Bill.”

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : I move :

“ That for clause 4 of the Bill, the following be substituted :

‘ 4. Any claim for such damages shall not fail by reason only of the fact that the workman has either expressly or impliedly undertaken any risk attaching to his employment ’.”

If we allow clause 4 to stand as it is, it will come to mean in actual practice that in the case of a large number of workers it would be possible for employers to extract either written or unwritten agreements from them to the effect that they have understood the risk, and having understood the risk they propose to carry on the work. Their employers need not then consider themselves liable to pay compensation in regard to any of the risks that may be involved there. In view of the fact that our workers, in most cases, are not able to look after themselves either with the aid of an organisation or otherwise, it is only fair that my amendment should be accepted and their interests protected. Under the present law as it stands, it is on the same plane as the general provisions of the Workmen's Compensation Act. Even there it is stated that if a worker, either knowingly or unknowingly, disobeys any sort of instruction that may be given either by the employer or any of his agents and thereby incurs any risk and becomes a victim of any accident, he need not be paid any compensation at all. This provision does not exist in the English Workmen's Compensation Act, and to that extent already our workers are very much under a great disability. If on top of it we were to insist upon this clause 4, our workers would be subject to greater disabilities and it would not be fair. What is more. In England the workers are much more educated, they are better organised and are better able to look after themselves than our own workers, and in spite of that, so many privileges are allowed to those people even under the Workmen's Compensation Act in that country. In these circumstances it is only fair on the part of Government to accept my amendment and thus make it possible for our workers to entitle themselves to workmen's compensation if ever they were to incur any risks and thus come to suffer from any accident. Sir, I move.

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

“ That for clause 4 of the Bill, the following be substituted :

‘ 4. Any claim for such damages shall not fail by reason only of the fact that the workman has either expressly or impliedly undertaken any risk attaching to his employment ’.”

The Honourable Sir Muhammad Zafrullah Khan : I am afraid I must oppose this amendment. I am not prepared to carry this principle to the extent to which the Honourable Member desires but in order to make the position perfectly clear, I am prepared to accept amendment No. 8, which does not leave the matter merely at the stage of "understood" by the workman. I am not prepared to go beyond this.

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadan Rural) : The position of the worker is not sufficiently appreciated by my friend, the Mover of the Bill. In this country most of the workmen are illiterate and the contract of employment usually bears the thumb impression of the employee, on the authority of which the employer says that the nature of the risk has been fully understood by the worker. I take it that it is the object of this Bill to safeguard the interests of the worker and whether the worker has voluntarily or otherwise undertaken the risk, a suit for damages ought not to fail only by reason of that. That is the purpose of this amendment and I suggest that in the interest of the workers this amendment ought to be accepted by the House.

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

"That for clause 4 of the Bill, the following be substituted :

'4. Any claim for such damages shall not fail by reason only of the fact that the workman has either expressly or impliedly undertaken any risk attaching to his employment.'

The motion was negatived.

Mr. K. Santhanam : Sir, I move :

"That in clause 4 of the Bill, before the word 'understood' the words 'explained to and' be inserted."

I would have preferred the amendment of Mr. Ranga but as it has not been carried I move this. The object of this amendment has already been explained by the Leader of the House. So, I merely move it.

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

"That in clause 4 of the Bill, before the word 'understood' the words 'explained to and' be inserted."

The motion was adopted.

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

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

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

"That after clause 4 of the Bill, the following new clause be inserted and the subsequent clause be re-numbered accordingly :

'5. Any contract or agreement whether made before or after the commencement of this Act whereby a workman relinquishes any right conferred by this Act, shall be null and void in so far as it purports to confer upon the employer the defences which are not available to him under this Act.'

[Prof. N. G. Ranga.]

Under this amendment I only wish to prevent our workers from committing suicide. Ordinarily speaking, the attempt to commit suicide is a penal offence. A worker knows that a particular kind of employment is risky. Under the Workmen's Compensation Act, if he becomes the victim of any particular accident, he must be paid compensation. With the failure of my earlier amendment, it becomes quite easy for an employer to get a thumb impression or illegible signature and say that the workman has entered into a contract, knowing full well all the risks of that particular employment. Once that is done, the workman is finished. His fate is sealed. We know only too well how these agreements can be manufactured by our employers. Moreover, employment is so rare in this country that workmen are simply dying to get some kind of employment in order to maintain their wives and children. In the name of the families of these workers and in the name of the workers themselves, I appeal to my Honourable friend, the Leader of the House, to accept this amendment and thus save the workers from their own ignorance and their stupidity and helplessness and make it possible for them to claim compensation in case of accidents. Sir, I move.

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

"That after clause 4 of the Bill, the following new clause be inserted and the subsequent clause be re-numbered accordingly :

- '5. Any contract or agreement whether made before or after the commencement of this Act whereby a workman relinquishes any right conferred by this Act, shall be null and void in so far as it purports to confer upon the employer the defences which are not available to him under this Act.'

The Honourable Sir Muhammad Zafrullah Khan : The Bill does exactly what the Honourable the Mover of this amendment wants to secure. The Bill says :

"In any suit for damages, in respect of an injury instituted by a workman or by any person entitled in case of his death, the suit shall not fail by reason only of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of the employer."

Now, stop there for a moment. If a suit is instituted for damages for injury sustained under the circumstances mentioned in any one of the sub-clauses of clause 3, then according to Prof. Ranga, the defence might be that it is an injury resulting from common employment and that though the Statute has disallowed this defence—here is a contract which the workman has entered into, which says that he cannot claim damages on that account. The reply to that is that no such defence, whether it is by virtue of common law or anything else, can be pleaded in answer to a suit of this description. That is the statutory provision. Similarly, with regard to clause 4, unless it is proved that the risk was explained to and understood by the workman, the employer cannot successfully raise a defence on that account. So, I submit that this amendment is entirely unnecessary. Finally, may I say for the satisfaction of the Honourable the Mover of this amendment that if in actual practice employers are able to discover courts which give effect to these defences on the ground of such contracts, as he has in mind, in spite of the provisions of the Statute, Government will take steps to see that the provisions of the Statute are effectively put into operation.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) :

4 P.M.

The sum and substance of the argument of the Honourable the Leader of the House is this. In his judgment, this clause is superfluous. Secondly, if he is proved to be a false prophet and it turns out, in actual working, that this clause is necessary, Government will take steps to implement the necessary legislation. Now, as regards the second argument, I warn the House against accepting this promise, not because it is insincere or is not made in earnest. I know and the House knows the ways of the Government of India. Take this very law. The provinces were consulted in 1932 and they were unanimously in favour of legislation for the purpose. We are now nearing the end of 1938, and it has taken six years for the Government of India to bring in a short Bill like this which, almost every Provincial Government, whom they consulted, approved of. I am not blaming the Government,—I am simply pointing out that every Government legislation involves delay. Then we go back to the first point. I concede to the fullest the soundness of that argument of the Honourable the Leader of the House. Assuming he is right that all the clauses as drafted prevent any workman from contracting himself out of the rights conferred upon him by the Statute, still we are not unfamiliar with provisions in Statutes to the effect that no man shall contract himself out of the rights conferred upon him by a Statute, and amendment No. 9 merely seeks to give effect to that principle ; that is to say, that a workman shall not be entitled to contract himself out of the rights conferred upon him by this Bill. Therefore, I appeal to the House and to the Government also not to resist the amendment on either of these grounds. Even assuming that it is superfluous, I think that it is safe to put it in, considering the relative ignorance, poverty, and disorganized condition of most of our workmen in most of our industries ; and secondly that we ought not to wait for legislating until there is a lacuna found out in the working of the Bill. I, therefore, commend the amendment to the House.

The Honourable Sir Muhammad Zafrullah Khan : May I say one word of explanation ? The explanation I gave in answer to Professor Ranga's plea in support of his amendment was not merely my opinion, I have also fortified myself by competent legal opinion.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, I have heard the criticism which my friend, Mr. Satyamurti, has advanced in favour of his arguments, but there is another side of the question also to be looked at. He has appealed to the ignorance, to the poverty and to other things of these workmen, but he forgets that there is also a very great and important principle involved in this amendment, and it is this. Sir, we have to see here whether such suits, if they are brought into courts, are honest suits because of some injury or something of the kind. We have to see and study the point whether such consideration of ignorance only will have to be seen, or if it raises any other question. I will give an illustration. Supposing a zemindar or employer has a tenant or ryot, who is a work-man. Now, of course, his rights will be safeguarded by the Statute ; but if there is to be a compromise, why should you interfere with the free will of the man to enter into a compromise with his employers, and why should that free will be suppressed by this clause ? Sir, the latter portion of

[Mr. Muhammad Azhar Ali.]

the clause is only argumentative ; it does not show any reasons why such an amendment should be accepted by this House. I submit that we have also to see the other picture of the case, namely, why the workman should be stopped from entering into a compromise ? He may very well say, " although the Statute has given me a right, but I can very easily enter into a compromise ". So I do not agree with my Honourable friend and I oppose the amendment.

Mr. N. V. Gadgil : Sir, I rise to support the amendment. Clause 3 (d) says :

" a suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of, the employer."

It does mean that there are other defences open ; and the defendant employer may say that the party contracted himself out of the benefits of these provisions ; I may also point out to the Honourable Member that in England in all the labour legislation there is usually specific clause to the effect that no man on whom benefits are conferred shall contract himself out of those benefits, and I think that is a good provision. There is, therefore, no reason why even in this Bill, if we propose to confer certain benefits upon the workman, it should not be up to us to say that such benefits are conferred upon the workman permanently and there should be no loophole. Sir, I think the House will be justified in accepting this amendment.

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

" That after clause 4 of the Bill, the following new clause be inserted and the subsequent clause be re-numbered accordingly :

' 5. Any contract or agreement whether made before or after the commencement of this Act whereby a workman relinquishes any right conferred by this Act, shall be null and void in so far as it purports to confer upon the employer the defences which are not available to him under this Act '."

The Assembly divided :

AYES—37.

Abdul Qaiyum, Mr.
Abdul Wajid, Maulvi.
Aney, Mr. M. S.
Banerjea, Dr. P. N.
Chaliha, Mr. Kuladhar.
Chaudhury, Mr. Brojendra Narayan.
Chunder, Mr. N. C.
Das, Mr. B.
Das, Pandit Nilakantha.
Deshmukh, Dr. G. V.
Deshmukh, Mr. Govind V.
Gadgil, Mr. N. V.
Gupta, Mr. K. S.
Hegde, Sri K. B. Jinaraja.
Hosmani, Mr. S. K.

Jedhe, Mr. K. M.
Jogendra Singh, Sirdar.
Kailash Behari Lal, Babu.
Lalchand Navalrai, Mr.
Mangal Singh, Sardar.
Misra, Pandit Shambhu Dayal.
Muhammad Ahmad Kazmi, Qazi.
Paliwal, Pandit Sri Krishna Dutta.
Pande, Mr. Badri Dutt.
Parma Nand, Bhai.
Ramayan Prasad, Mr.
Ranga, Prof. N. G.
Rao, Mr. M. Thirumala.
Sant Singh, Sardar.

Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sheodass Daga, Seth.
 Singh, Mr. Gauri Shankar.

Sinha, Mr. Satya Narayan.
 Sri Prakasa, Mr.
 Subbarayan, Shrimati K. Radha Bai.
 Varma, Mr. B. B.

NOES—48.

Abdul Ghani, Maulvi Muhammad.
 Abdul Hamid, Khan Bahadur Sir.
 Abdullah, Mr. H. M.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Aikman, Mr. A.
 Anderson, Mr. J. D.
 Ayyar, Mr. N. M.
 Azhar Ali, Mr. Muhammad.
 Bajoria, Babu Baijnath.
 Bajpai, Sir Girja Shankar.
 Bewoor, Mr. G. V.
 Chambers, Mr. S. P.
 Chanda, Mr. A. K.
 Chatterjee, Mr. R. M.
 Conran-Smith, Mr. E.
 Dalal, Dr. R. D.
 Dalpat Singh, Sardar Bahadur Captain.
 Essak Sait, Mr. H. A. Sathar H.
 Faruqui, Mr. N. A.
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
 Ghulam Bhik Nairang, Syed.
 Grigg, The Honourable Sir James.
 Kamaluddin Ahmed, Shams-ul-Ulema.
 Lloyd, Mr. A. H.
 Mackeown, Mr. J. A.
 Maxwell, The Honourable Mr. R. M.

Metcalfe, Sir Aubrey.
 Miller, Mr. C. C.
 Mitchell, Mr. K. G.
 Mukerji, Mr. Basanta Kumar.
 Mukerji, The Honourable Sir Manmatha Nath.
 Nauman, Mr. Muhammad.
 Nur Muhammad, Khan Bahadur Shaikh.
 Rahman, Lieut.-Colonel M. A.
 Scott, Mr. J. Ramsay.
 Shahban, Mian Ghulam Kadir Muhammad.
 Shaukat Ali, Maulana.
 Sheehy, Mr. J. F.
 Sher Muhammad Khan, Captain Sardar Sir.
 Siddique Ali Khan, Khan Bahadur Nawab.
 Stewart, The Honourable Sir Thomas.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Walker, Mr. G. D.
 Yamin Khan, Sir Muhammad.
 Zafar Ali Khan, Maulana.
 Zafrullah Khan, The Honourable Sir Muhammad.
 Ziauddin Ahmad, Dr. Sir.

The motion was negatived.

Clause 5 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I move :

“ That the Bill, as amended, be passed.”

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

“ That the Bill, as amended, be passed.”

The motion was adopted.

THE INDIAN AIRCRAFT (AMENDMENT) BILL.

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands) : Sir, I move :

“ That the Bill further to amend the Indian Aircraft Act, 1934, be taken into consideration.”

[Sir Girja Shankar Bajpai.]

This is a very simple and uncontentious measure and is merely designed to empower the Central Government to deal with an emergency as regards the introduction of diseases by aircraft—I hope it will have a ready passage. Sir, I move.

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

“ That the Bill further to amend the Indian Aircraft Act, 1934, be taken into consideration.”

The motion was adopted.

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

“ That clause 2 stand part of the Bill.”

Mr. K. Santhanam (Tanjore *cum* Trichinopoly : Non-Muham-madan Rural) : Sir, I beg to move :

“ That in clause 2 of the Bill, in sub-section (1) of the proposed section 5B, for the words ‘ the outbreak of such disease or the spread thereof ’ the words ‘ such danger ’ be substituted.”

Sir, as the clause stands, the Central Government is given more power than is absolutely necessary for the purpose. Sub-clause 2 (1) says :

“and that the ordinary provisions of the law for the time being in force are insufficient for the prevention of danger arising to the public health through the introduction or spread of the disease by the agency of aircraft, the Central Government may take such measures as it deems necessary to prevent the outbreak of such disease or the spread thereof.”

The last part trenches seriously on the powers of the Provincial Governments which are interested in public health. I hope this amendment will be accepted by the House.

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

“ That in clause 2 of the Bill, in sub-section (1) of the proposed section 5B, for the words ‘ the outbreak of such disease or the spread thereof ’ the words ‘ such danger ’ be substituted.”

Sir Girja Shankar Bajpai : Sir, the language to which my Honourable friend has taken exception finds its place in the Bill because the draftsman reproduced the original language of section 2 of the Epidemic Diseases Act. I am quite satisfied with the amendment which he has moved and I accept it on behalf of Government.

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

“ That in clause 2 of the Bill, in sub-section (1) of the proposed section 5B, for the words ‘ the outbreak of such disease or the spread thereof ’ the words ‘ such danger ’ be substituted.”

The motion was adopted.

Mr. K. Santhanam : Sir, I beg to move :

“ That in clause 2 of the Bill, in sub-section (2) of the proposed section 5B, all the words occurring after the words ‘ as it deems necessary in the circumstances ; ’ be omitted.”

Sir, this sub-clause empowers the Central Government to levy fees and it is possible that this power may be used to levy fees from local bodies and Provincial Governments. That is why I have moved for the omission of those words. Sir, I move.

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

“ That in clause 2 of the Bill, in sub-section (2) of the proposed section 8B, all the words occurring after the words ‘ as it deems necessary in the circumstances ; ’ be omitted.”

Sir Girja Shankar Bajpai : Sir, in order to appease my Honourable friend's suspicion, I am prepared to accept the amendment.

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

“ That in clause 2 of the Bill, in sub-section (2) of the proposed section 8B, all the words occurring after the words ‘ as it deems necessary in the circumstances ; ’ be omitted.”

The motion was adopted.

Mr. K. Santhanam : Sir, I beg to move :

“ That in clause 2 of the Bill, in sub-section (3) of the proposed section 8B, for all the words occurring after the words ‘ but such rules shall not ’ the following be substituted :

‘ remain in force for more than three months from the date of notification :

Provided that the Central Government may by special order continue them in force for a further period or periods of not more than three months in all ’.”

As the clause stands, the Central Government is given power to extend the rules indefinitely. It is only to prevent such an extension that I am moving this amendment. Sir, I move.

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

“ That in clause 2 of the Bill, in sub-section (3) of the proposed section 8B, for all the words occurring after the words ‘ but such rules shall not ’ the following be substituted :

‘ remain in force for more than three months from the date of notification :

Provided that the Central Government may by special order continue them in force for a further period or periods of not more than three months in all ’.”

Sir Girja Shankar Bajpai : Sir, the form of wording suggested by my Honourable friend represents an improvement. and so I accept it.

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

“ That in clause 2 of the Bill, in sub-section (3) of the proposed section 8B, for all the words occurring after the words ‘ but such rules shall not ’ the following be substituted :

‘ remain in force for more than three months from the date of notification :

Provided that the Central Government may by special order continue them in force for a further period or periods of not more than three months in all ’.”

The motion was adopted.

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

“ That clause 2, as amended, stand part of the Bill.”

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Sir Girja Shankar Bajpai : Sir, I beg to move :

“ That the Bill, as amended, be passed.”

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

“ That the Bill, as amended, be passed.”

The motion was adopted.

THE INDIAN TEA CESS (AMENDMENT) BILL.

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

“ That the Bill further to amend the Indian Tea Cess Act, 1903, for a certain purpose, be taken into consideration.”

Sir, the object of the Bill is to amend the Indian Tea Cess Act, so as to provide for separate representation of tea planters of Travancore, the Government of which levy cess on tea at the same rate as it is levied elsewhere, but they have no representation on the Tea Market Expansion Board. Sir, I move.

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

“ That the Bill further to amend the Indian Tea Cess Act, 1903, for a certain purpose, be taken into consideration.”

Mr. Brojendra Narayan Chaudhury (Surma Valley *cum* Shillong : Non-Muhammadan) : Sir, I rise to oppose this motion and my reasons are these. The House should know how the Tea Market Expansion Board which is sought to be expanded by the addition of one new Member is working and what control the Government of India have in actual practice over the Board. Sir, as the House is aware this Board was set up under an Amendment of the Indian Tea Cess Act. Now that Act expired on 28th March last. In that Act it was provided that the life of the Tea Market Expansion Board should be extended either by legislation in this House or by a notification under the Act. But I should state here again that the Tea Market Expansion Board and its sister committee, the Tea License Committee, are nothing but branches of the Indian Tea Association. I ask the House not to imagine that the Indian Tea Association is an Association of Indians. It is an Association of European growers of tea in India. Now, Sir, before the expiry of that Act, I sent notice of a short notice question to the Honourable Member in charge of this, asking whether he intends to bring in legislation for the purpose of extending the life of that Board.

but even that small request which could be easily answered from the files in the office at Delhi was not conceded and when the full period of the notice for the question expired, I was told that the Act expired and that the Government of India have issued a notification extending the life of this Board. I ask this House to consider why this hole and corner method of extending the life of the Board which spends annually a sum of 42 lakhs of rupees, nearing half a crore from all the contributions of tea growers, both Indian and European and that expenditure is virtually in the hands of the Indian Tea Association with a joint Committee in London in which there are no representatives of Indian tea growers. This is my first complaint about the Board.

As regards the supervision of the Government of India, I again say that it is nil. The Honourable Member in charge was pleased to tell me, in this House, that the only kind of supervision exercised and they were satisfied with that kind of supervision is to receive an annual report from that Board and its audited accounts. Sir, by means of interpellations I tried to bring to the notice of the House the conditions of affairs in that Board. I asked certain interpellations regarding the Dacca office and the House knows that it is quite possible at the Dacca office for its officers to temporarily misappropriate moneys and be exonerated. Not only that. The House has heard that one Mr. Rendell temporarily misappropriated a sum of Rs. 3,000 and he was allowed the option of paying that amount in small monthly instalments out of his salary. If that officer has any deposit money, then the whole sum which was misappropriated could have been recovered from that deposit. Apparently he had no deposit whatsoever. But still he was allowed the option of making good the Board's money, which means the tea planters' money—both Indian and European—by easy instalments. May I ask the Honourable Member in charge what would happen to the monies of the Board if that officer took it into his head to resign his service and go away. Mr. Rendell is a European and, as the House knows, Europeans of that kind who accept such a low salary of Rs. 350 a month or even less are not the kind of people who have got any tangible property which we could assess and probably none in England also.

Now, Sir, I want the Government to withdraw this Bill at present and to make a thorough enquiry into the affairs of the Tea Market Expansion Board and then come before the House with a report and also for the expansion of this Board not by a single Member but by other representatives of other interests who claim to be on the Board. What about Kangra, what about Kumaon? Do not the Indian tea planters there pay tea cess and the cess there is as high as Rs. 1-4-0 per hundred lbs. I say that a thorough enquiry should be made into the affairs of this Board. The Government should come before this House with their report and then expand the Board not by a single Member but by several Members representing all other interests. The duties of the Board are expansion of the market for tea and the tea merchants are intimately interested in that. They will be very helpful to the Board, but strangely enough there are in that Board no representatives of Indian tea merchants. I would ask for representation on this board of representatives of the Bengal National Chamber of Commerce, the Indian National Chamber of Commerce and the Federation of Indian

[Mr. Brojendra Narayan Chaudhury.]

Chambers. I am told that representations have already been made by these bodies to be included on this Board, but the Government has paid no heed to it. So I would request the Honourable Member to withdraw the Bill and take action on the lines I have suggested and bring in a Bill which will satisfy all the interests concerned.

Mr. Kuladhar Chaliha (Assam Valley : Non-Muhammadian) : Sir, I wish I could respond cheerfully to the call of tea at tea time, but my position today is unfortunate. I shall have to sing a melancholy tune about the Tea Cess Fund and the Tea Cess administration.

I believe the House hardly knows that we contribute about 48 lakhs to the Tea Cess Fund, and, I think, Members here know very little of how it is administered. We contributed about Rs. 18 lakhs towards the Indian propaganda, but let us see how this money is administered, and whether it is administered to the satisfaction of the people in charge of this House. There were five superintendents or assistant superintendents who misappropriated money of the Tea Cess Fund. Mr. Powell, who is known as Captain Blood, and who owned five race horses, used to get Rs. 350 a month, and he misappropriated money to the tune of Rs. 8,000 for which he was sent to jail after trial. Several of the officers lost the money of the Tea Cess Fund, all of them Europeans of the third class variety. Mr. Rose lost Rs. 200 of the Fund, and who is either a superintendent or an assistant superintendent ; Mr. Farrel lost money to the extent of Rs. 1,408, but no drastic action has yet been taken against him ; another, Mr. Turnock also lost money which was meant for supervision or propaganda ; Mr. Kearney also lost money in the same way, yet we find that the Tea Commissioner has not taken sufficient action in the matter. We pay a very good sum to the President and we pay another Vice-President also a good sum ; but we have got no proper check to see whether they administer the funds properly. My submission is they have neither administered the funds properly, nor have they been able to carry on propaganda nor have organised marketing in a businesslike way. We have extended the consumption of tea from 50 million pounds to about 86 million pounds in India, but was it due to them only ? They do not know how propaganda should be carried on in cities and industrial centres ; but they go to East Bengal where there are very poor people and are opposed to tea-drinking—they do not know what is tea. They have not been doing things properly. I know Mr. Griffiths is trying to organise the whole thing now but after a lapse of valuable time. This Tea Cess Fund has been existing from 1903 and we have wasted a lot of money. The less said about foreign propaganda the better. On foreign propaganda we spend about 24 lakhs of rupees and in America alone we spend 10 lakhs, but it will surprise the Honourable Members to learn that the consumption in America has fallen from 67 million pounds last year to 63 million pounds this year—and this after spending 10 lakhs of rupees ! We have spent a total of 24 lakhs on foreign propaganda and, yet, we have been unsuccessful in increasing the tea consumption. I would even say we have lost a lot. We have lost the Russian market already. Java and other teas are making headway in America. The administration of the foreign propaganda is left in the

hands of the International Tea Market Expansion Board, London, over which we have no control and they do not even submit their budget to us. Like the Defence Department of the Government of India over which the Honourable Sir James Grigg has no voice, in the same way the International Tea Market Expansion Board in London go on spending without our having any voice in it. We have simply to send money to them on demand—one more surprising fact is that the London Branch of the Indian Tea Association though they have no connection with the Indian Tea Cess Fund here yet get Rs. 6,000 for their office expenses. I do not know who has sanctioned this sum. The whole difficulty is that we have not got enough control over this fund and we have not got enough Indian members; we do not have the representation we should have. Possibly the Commerce Member was obsessed with the idea that the capital invested in the industry is almost entirely European. But he has forgotten that we are the consumers: one-fourth of the total tea produced nowadays is consumed by the Indian people; and we have the land that pays land revenue; and we have the labour and we have the services of the other intelligentsia and added to it a certain percentage of Indian capital. If we take all this we should have at least 60 per cent. representation in the Indian Tea Cess Fund and then only we will have better administration of this fund; otherwise, we are sure, the money will be wasted in America and other places. Unless a more comprehensive Bill is brought in, we are almost inclined to oppose this; but for the time being we will give our support to it because the Honourable Member has given representation to Travancore under this Bill. We shall not oppose the Bill this time and I shall advise my friends of the Congress Benches to support it on the ground that the Commerce Member has provided representation for an Indian State.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, the object of this Bill as stated in the Statement of Objects and Reasons is simply to give representation to Travancore on the Tea Cess Committee, that Travancore exports tea to outside countries and pays cess but it has no representation at present on the Tea Cess Board. We desire to give it a representation. My friends who have spoken so far will admit that Travancore should have representation on this Board and there can be no two opinions on it. My friends have raised a wider issue which really does not arise out of this Bill and I shall say a few words on that. It has been mentioned that the funds are not properly administered. No arguments have been given nor any specific instances in support of that statement. The Honourable gentlemen may bring those specific cases, if any, either to the notice of the Honourable the Commerce Member or the President of Tea Cess Board. He can also draw the attention of the House in the shape of a Resolution, then I am sure we will go into the matter and see that the funds are properly administered; but it is not fair to make mere assertions without giving any specific illustrations with proof.....

Mr. Kuladhar Chaliha: On a point of personal explanation, Sir, I have given all the instances and all the names and if you require them, I shall pass on the list to you.

Dr. Sir Ziauddin Ahmad: If he hands over the names to the department in charge they will look into the matter; but as he himself has

[Dr. Sir Ziauddin Ahmad.]

pointed out that the President of the Tea Cess Board is now reorganising the whole department, and I confirm it from personal knowledge, his difficulties will disappear. Sir, we had occasion to discuss, in the last Session, the amount of work which is now being done by the Tea Cess Committee. I am not a tea planter myself but I have several Indian friends who are tea planters and I have taken the opportunity to discuss matters with them and they all say that if the Tea Cess Fund had not come into existence and the Government had not put down quotas, then the condition of the tea trade would have been very bad. We also know that the President is now carrying on experiments in large scale in this country. He is attempting to find out what particular water will suit what particular tea, and I think that his work ought to be appreciated. I am not in a position to say whether there is waste of some money in America or in other countries. I have no personal experience. We can't discuss it in this Bill. That ought to be taken up separately and not in connection with this Bill.

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

“ That the Bill further to amend the Indian Tea Cess Act, 1903, for a certain purpose, be taken into consideration.”

The motion was adopted.

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

“ That clause 2 stand part of the Bill.”

Mr. Kuladhar Chaliha : Sir, I beg to move :

“ That in sub-clause (a) of clause 2 of the Bill, for the word ‘ twenty-eight ’ the word ‘ twenty-nine ’ be substituted.”

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

“ That in sub-clause (a) of clause 2 of the Bill, for the word ‘ twenty-eight ’ the word ‘ twenty-nine ’ be substituted.”

Mr. Y. N. Sukthankar (Government of India : Nominated Official) : Sir, the Honourable the Mover of this amendment has not adduced a single reason in support of his amendment. It will be within the recollection of this House that it was only as recently as 1936 that the number of members of the Indian Tea Market Expansion Board was raised from 20 to 27, and one of the reasons for doing so was to give sufficient representation to Indians. In an earlier speech the Honourable Member complained that there was not sufficient representation of Indians on the Tea Market Expansion Board, but the House will be glad to know that facts are entirely different. The share of Indians in the tea industry, taking the basis of the area under tea, works out to roughly about 15 per cent. ; on the crop basis, that is to say, on the basis of productivity, the percentage is roughly about 20 ; whereas, actually, now, the number of Indians on the Tea Market Expansion Board has been raised from six to nine, that is to say, the representation of Indians is about 33 1/3 per cent. There is, therefore, no case for raising

the number of members still further, and if we do so, we shall not be adding to the efficiency of the Board inasmuch as we shall be making it unwieldy. Sir, I oppose this amendment.

Mr. Badri Dutt Pande (Rohilkund and Kumaon Divisions : Non-Muhammadian Rural) : Sir, I support this amendment. The object of raising the number from 28 to 29 is to give one representation to the Kangra Valley Tea Planters' Association, because one seat has been given to them in the Licensing Board. Therefore, I think, Sir, it is up to us to grant one seat to the Kangra Valley Tea Planters' Association in the Marketing Board also, because they are 2,563 in number. It is a large number and they are not adequately represented on the Board. Of course, they don't pay a direct cess, but they sell their quota to the tea planters of Assam and they pay an indirect tax. The Kangra Tea Planters send tea to Afghanistan, Kashgar and to various other parts, and therefore I think that one more seat should be given to them on this Board. That is the object of this amendment, and I support it strongly.

Dr. Sir Ziauddin Ahmad : There is one point, Sir, which was probably not mentioned by any of the previous speakers, and that is, that the tea from Kangra valley is not exported, and, therefore, they contribute nothing to the Cess Fund. Similarly, if you give the quota to all the tea plantations, irrespective of the fact whether they contribute anything to this fund or not, then I see no reason why they should not give representation to small planters of Almora, Dehra Dun and other places who grow tea but contribute nothing towards this fund. My point is, as Kangra Valley does not export any tea outside this country, and as it does not contribute anything to the Cess Fund, I see no reason why it should be singled out and be given representation on this Board. I, therefore, oppose this amendment.

Some Honourable Members : Sir, the question may now be put.

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

“ That the question be now put.”

The motion was adopted.

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

“ That in sub-clause (a) of clause 2 of the Bill, for the word ‘ twenty-eight ’ the word ‘ twenty-nine ’ be substituted.”

The motion was negatived.

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

“ That clause 2 stand part of the Bill.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan : Sir, I move :

“ That the Bill be passed.”

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

“ That the Bill be passed.”

The motion was adopted.

THE INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour) : Sir, this morning, I said that Government were willing that items 11 and 15 should stand over, but I have since been advised that it would be necessary to move formally the motion in my name, that is item No. 11, so as to secure that it shall not be necessary in the next Session to obtain the special permission of the House to proceed with this matter inasmuch as no formal motion has been made in respect of this Bill during two Sessions. Therefore, Sir, with your permission, and with the permission of the House, I will just move the motion and will request you that the debate on it may be adjourned till the next Session.

Sir, I beg to move :

“ That the Bill further to amend the law relating to the protection of Inventions and Designs be referred to a Select Committee consisting of Mr. Y. N. Sukthankar, Mr. M. Ananthasayanam Ayyangar, Mr. Sri Prakasa, Sardar Sant Singh, Mr. T. Chapman-Mortimer, Dr. Sir Ziauddin Ahmad, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

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

“ That the Bill further to amend the law relating to the protection of Inventions and Designs be referred to a Select Committee consisting of Mr. Y. N. Sukthankar, Mr. M. Ananthasayanam Ayyangar, Mr. Sri Prakasa, Sardar Sant Singh, Mr. T. Chapman-Mortimer, Dr. Sir Ziauddin Ahmad, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

I understand it is the desire of the House that the discussion on this motion should stand over.

Several Honourable Members : Yes, yes.

Mr. President (The Honourable Sir Abdur Rahim) : Very well.

THE HINDU WOMEN'S RIGHT TO DIVORCE BILL.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : Sir, I beg to move for leave to introduce a Bill to give a right to divorce to Hindu women under certain circumstances. I may mention here that out of deference to the long established convention in this House I am not going to move the next motion which stands in my name, that is No. 16 on the agenda. Sir, I move.

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

“ That leave be granted to introduce a Bill to give a right to divorce to Hindu women under certain circumstances.”

The motion was adopted.

Dr. G. V. Deshmukh : Sir, I introduce the Bill.

THE MUSLIM DISSOLUTION OF MARRIAGE BILL—*concl'd.*

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the motion moved by Qazi Muhammad Ahmad Kazmi.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : May I say a word, Sir, before Mr. Kazmi's Bill is taken up, I thank the Honourable the Leader of the House and the Government for giving time.....

Mr. President (The Honourable Sir Abdur Rahim) : No, he can't make a speech now.

Dr. G. V. Deshmukh : Very well, I shall publish whatever I have to say in the papers.

Mr. President (The Honourable Sir Abdur Rahim) : Further consideration of the motion moved by Qazi Muhammad Ahmad Kazmi on Friday, the 26th August last. Mr. Aney.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Sir, last time I only began when it struck five, and this time there are ten minutes to five.

An Honourable Member : You may speak tomorrow.

Another Honourable Member : Don't be long.

Mr. President (The Honourable Sir Abdur Rahim) : I understand that it is the desire of the House to finish the rest of the agenda today.

Mr. M. S. Aney : My Honourable friend is asking me not to speak long. Let me tell him that it is not my habit to be unnecessarily long. My previous record in the House, whatever worth it may have otherwise, is at least sufficient to give me credit for being not unnecessarily prolix or long.

The Bill which was introduced by my Honourable friend, Mr. Kazmi, and which is now at the stage of being referred to a Select Committee was, at first sight, thought by me to be not a very controversial one, and, therefore, when the motion for its circulation was made in this House I stated that with the exception of the two clauses 5 and 6 the remaining part of the Bill was acceptable to the House, and I, at least, accepted the principle of the same. Now, after having read all the opinions that have been received and heard the debate that took place in this House I feel that the measure is of a highly controversial nature. This proposition, I believe, will not be disputed now by any Member of this House. The nature of the Bill is so controversial that we have witnessed a somewhat unusual spectacle in this House during the course of the debate on this motion. Two Honourable Members from the front Treasury Benches got up and

[Mr. M. S. Aney.]

made speeches which annihilated the effect of each other. While the Honourable the Leader of the House made a very eloquent and learned contribution to the debate with some amount of religious fervour imported into it—it is a matter of credit that a man should have religious fervour—I found the Honourable the Law Member making a speech taking the exactly opposite view of the Bill ; although as a Member of the Government it might become necessary for him to follow the Honourable the Leader of the House into the lobby in case the motion is pressed to a division. This in itself is sufficient, in my opinion, to indicate that men who have given the best thought to the provisions do not find it possible to come to the same conclusion as regards the urgency or utility of the measure in its entirety that is before us now. I was, therefore, surprised at the attitude of the Government in regard to this Bill.

So far as regards legislation relating to moral, religious or social matters is concerned, the policy of the Government of India, hitherto pursued, is a policy of non-intervention. In fact, they very seldom take any initiative at all in such matters. The general policy is one of non-intervention. There are exceptions I know. The policy has been so defined as to admit of certain reasonable exceptions. But in those matters what we generally find is this. If a measure relates to a social usage and is admittedly intended to do away with a recognised abuse, or some usage which conflicts with principles of public policy or principles of public health and morals or natural justice, then the Government have now and then intervened and even taken the initiative in legislation in regard to social matters. But on a question about which no such thing can be said and about which there appears to be a very keen controversy and difference of opinion between men who can be credited with having given the best thought to the matter and with having examined the question both from its legal and practical aspects,—in such matters the policy of the Government of India has all along been one of non-intervention. I am, therefore, surprised to find that on this particular occasion the Government have declared its attitude to support this Bill through the speech which the Honourable the Leader of the House has made.

Syed Ghulam Bhik Nairang (East Punjab : Muhammadan) : Was the Honourable Member not surprised when the Law Member took as his adopted child the Arya Marriage Validation Bill ?

Mr. M. S. Aney : If my Honourable friend wants me to make a long speech, I am prepared to do that. I believe he is not interested in giving me new points for further prolonging my arguments, leaving aside the main arguments as regards this Bill, or diverting me into further ramifications and distant channels.

My point is this. So far as this Bill is concerned, there is no doubt that there are certain provisions in this Bill which are considered as not only controversial but even objectionable from various points of view. And about that, the difference of opinion is not merely confined to Members here, but from the bulk and volume of public opinions that we have received it is perfectly clear that High Court Judges and Provincial Governments have recorded opinions which indicate that a majority of the Judges and the Provincial Governments do not favour certain clauses of this Bill. With that kind of public opinion received and also the opinions to which the Gov-

ernment have listened to on the floor of this House, I really think that it is a very serious departure by the Government of India from the policy they have so far pursued in regard to social and religious matters, when they have announced that the Government of India is prepared to support this Bill on certain conditions. About those conditions I shall speak later on. But one thing I want to say. If we take those conditions into consideration, we find that Government have imposed such conditions that they will change the nature of this Bill to a very great extent, and I do not know whether it would be proper for the House to refer a measure to Select Committee with directions to make so many modifications as to change the entire nature of the Bill and make its appearance out of recognition altogether,—whether it would be advisable for the House to give its vote on a motion for reference to Select Committee like that.

To turn to the merits of the Bill itself, I shall first say this, that so far as clause 3 of the Bill is concerned, the main principle underlying that clause is unexceptionable because my Honourable friend, Mr. Kazmi, has lucidly explained to the House, and I entirely agree with him, that certain provisions ought to be made to enable Muslim women to claim divorce under the existing state of the divorce law. The divorce law relating to the Muhammadans is practically *ex parte*, a man can claim a divorce, but a woman cannot. So far as that particular aspect of the Bill is concerned, I believe nobody can take exception to the clause which is intended to meet that particular requirement. But even as regards that.....

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan) : The Muhammadan Law is perfect. A woman has the right of getting a divorce from her husband, and that is called *Khala*.

Mr. M. S. Aney : So far as the Muhammadan Law is concerned, I am not a scholar in Arabic or Persian, but so far this Bill proceeds on the assumption that there is no provision for Muhammadan women at present to claim a divorce in a court of justice and, therefore, this Bill is intended to meet that requirement and make up that defect in the Muhammadan Law as it is administered today.

An Honourable Member : It is not Muhammadan law, but Anglo-Muhammadan Law.

Mr. M. S. Aney : I am not going to discuss a matter on which I cannot speak with personal ~~opinion~~. I can only understand the ~~law~~ cannot give any ~~explanation~~ expounded by the courts of justice and in the treatises written on Muhammadan Law by eminent scholars. If there is that lacuna at present and some remedy has got to be adopted, my friend, Mr. Kazmi, has really come up with a laudable object of removing that defect.

Having said that much in favour of clause 3, I really feel that the provisions thereafter made are not sufficient to enable the Members of this House to understand as to what it is that they are exactly going to legislate upon. We find that certain conditions are laid down in clause 3 and then clause 4 says that part (A) is to be governed in accordance with the procedure of the Hanafi law and part (B) is to be governed in accordance with the Maliki law. On that particular point the remarks made by the Honourable the Law Member, the other day, are very pertinent. We do

[Mr. M. S. Aney.]

not know exactly what the Maliki law is. I do not mean to say that there are no Members in this House who do not know it. When you, Sir, are in the Chair, I cannot say that there is no Member who does not know it at all. That is not the question but what I say is that it is the right of every Member of this House to understand the measure which is before the House and if there is something unintelligible, then the House should be made to understand what it is voting upon. But at this hour, it is unfair to ask us to record our vote one way or other. You must explain the subject in all its aspects, so that the House may know what it is called upon to decide. On account of these two technical clauses which have been introduced, we do not know exactly where we stand, whether the conditions which have been mentioned in parts (A) and (B) are those contained in the procedure of the two Muhammadan schools at all. It is a very peculiar measure that has been brought before the House. We have been asked to take things on trust. We have to take it on trust that the treatises dealing with the law of Hanafi and Maliki Schools contain something which is embodied in the Bill. That is the first point of objection. To a great extent that position was conceded also by the Honourable the Leader of the House when he said that Government gives its consent on condition that the position will be perfectly clarified in the Select Committee. Today we are called upon to record our vote even as regards that clause on which we have differences of opinion. This is a somewhat unusual procedure to follow. This has created a good deal of confusion of thought in the minds of many. After that my real difficulty is this. It is said in clause 4 that suits brought on grounds mentioned in section 3 (A) shall be heard and decided according to Maliki law and suits brought on grounds mentioned in section 3 (B) shall be heard and decided according to Hanafi law. Here we are called upon to observe a certain procedure which is not usual. The question of procedure is known to or can be explained only by those who know the Maliki law and who know the Hanafi law. I think the proper course, without meaning any disrespect to my friend, Mr. Kazmi, would have been to reproduce in the Bill the pertinent provisions of the Maliki and the Hanafi law. Then we would be in a position to know whether that is the proper procedure for the House to adopt, and whether it is one by which the court could be enabled to come to a proper adjudication of the questions submitted to it for decision. The Bill before the House wants to proceed without doing it.

I now come to the most controversial clause in the Bill, namely, clause 5. Clause 5 lays down a principle which I am afraid it will be difficult for anybody to subscribe to under any conditions. My friend, Mr. Kazmi, in the course of his speech on the motion, made a casual suggestion that he is prepared to exclude some kind of converted women out of the category of the operation of clause 5. I believe that kind of solution will never commend itself to any man who is prepared to consider it as a matter of principle. It is a question of principle. The principle laid down here is this. A Moslem woman who is converted to another religion shall still continue to be the wife of her Muhammadan husband. That is the position laid down here. The position of the present law, as laid down in the Statement of Objects and Reasons, is quite clear. If there is any conversion from Muhammadanism to any other religion of a woman, then the marriage would *ipso facto* become void,

Now, it has been stated to us that this position is not strictly in accordance with Muhammadan Law, as was expounded by very authoritative writers and reliance has also been placed on certain passages in the book on Muhammadan Law written by Justice Ameer Ali. My point is this—whether this is strictly in accordance with the principles laid down in the Muhammadan Law is not very material to great extent ; as it is admitted by Justice Ameer Ali himself that the law which is now in vogue and as it has been interpreted hitherto consistently by the Indian High Courts was in accordance with the view taken on this question by the old Muhammadan jurists and the view that is being propounded now by some Indian scholars is only a later modern development of that law in Samarkhand and Balkh. They do not follow the view taken by the Indian High Courts. If that is so, it cannot be said that the principle that has been adopted in this matter and recognised by the Indian High Courts for a long time has no sanction at all in Muhammadan Law. It is only a question of interpretation, an authoritative interpretation of the Muhammadan Law. For example, reference is made there to Fatwa Alam Giri and the Hedaya, in the book of Justice Ameer Ali, which clearly shows that there are eminent Muhammadan jurists who take the same view of this law as the Indian High Courts have taken. Therefore, the view that is now put down or accepted in India is the view which was propounded by Muhammadan jurists themselves about this matter in old times.

Now, there is another school of thought which has taken a different view during the last 200 or 300 years in another place. It is said that the old view is wrong and that the modern view is the correct one. It is rather difficult for any layman to say anything definitely one way or the other. Persons who are not followers of the faith of Islam are not interested in this matter from this point of view. They will ask what is wrong with the view which has been accepted during all these years. What is the particular difficulty which the Muhammadan faith has been feeling on account of the law being what it has been interpreted to be by the Indian High Courts for such a long period continuously and also enforced so long by the Government ? Unless you make out a case from that point of view, there is no justification for anybody to come forward and disturb a state of law, simply on the ground that there is also another interpretation and that we want that interpretation to be accepted in preference to the old interpretation which must be thrown out. Here is a state of law of Muhammadan jurisprudence itself which has been recognised for a long time and which has been conceded by Ameer Ali and also by other friends who spoke about this. If that is so, a much stronger case ought to have been made out for demanding a departure from that view. Particularly it is important for this reason. Had it been purely a question which affected the followers of Islam and none else, had it been purely a matter of the solution of a difficulty of a domestic nature concerning the Muhammadan population which has got no reference whatsoever to others and in which the interests of the followers of other religions have not been in any way concerned, I could have understood the matter being left solely to the option and choice of those who are the followers of Islam. The principle which the Honourable the Leader of the House wanted to enunciate was this, namely, that in a matter like that, the opinion of the Muslim world and, particularly, of the Muslim jurists ought to be the determining factor or criterion for everybody to follow. I can understand that princi-

[Mr. M. S. Aney.]

ple to be valid only in matters of Muhammadan Law and usage provided those matters affect and refer only and exclusively to the followers of Islam and in no way affect directly or indirectly the interests of the followers of other religions. What is the position here ? The position is this. Immediately a woman is converted to another religion and renounces Islam, she ceases to be a Muslim woman and becomes the follower of another faith. That fact is not denied there. Now the justification for treating her still as the wife of a Muslim is given out to be that she, according to the strict interpretation of Muslim Law, is not at all allowed to renounce her connection with her husband but, on the other hand, she is to be detained in prison till she repents. That is the position. When you say that the marriage of that woman still subsists, that the Muslim husband can still claim her as his wife in spite of her changing her religion, it means that although she may or may not like it, still she is to be detained and to remain under the custody or in the charge of her Muslim husband. There is no remedy provided for her to get out of this most undesirable state. The Bill does not make apostasy as a ground for a divorce at all anywhere ; the Bill only gives some other grounds for divorce, but, so far as the change of religion is concerned, the Bill reproduces in a somewhat modified form an old and archaic condition of detaining the woman in imprisonment until she repents. When she repents, she is entitled to embrace Islam again. You thus deny her the freedom of marrying anybody, or living independently, and she must be detained under the old Muhammadan Law till she repents, and if she does that, and if she so desires to do, she can only embrace Islam and be married with her husband again. That was evidently one of the ways in which women were not allowed to go out of their religious fraternity.

Now, I have nothing to say as I consider it simply futile against the doctrine as it prevailed in some Islamic countries at one time. But we have now come to and are living in different times altogether. Do we, or do we not, recognize the freedom of faith for women ? Are the Government not committed to the policy of the freedom of faith, and if so, how is it that a clause like that, which forcibly keeps a woman attached to a husband who belongs to Islam while she herself is converted to another faith can be supported by the Government ? How can Government accept a principle like that in the case of the Moslem woman ? Either the Government of India should see to it that so far as the policy of the freedom of faith is concerned, they do not stand any longer committed to that principle at all ; Or that they come out to oppose this pernicious clause boldly. Are the Government of India going to say that under certain conditions it is all right for the people of a particular religion to force a woman to remain in that religion, and not to allow her any independent choice or liberty of action ? I do not understand how according to Hinduism a Hindu woman can be forced to recognize a Muslim who happened to be her husband before conversion to Hinduism ? I maintain, Sir, that she cannot fulfil her duties as a Hindu properly while still discharging her duties as the wife of a Muslim husband.

Maulana Zafar Ali Khan : Just as in the case of a Christian woman or a Jewish woman ?

Mr. M. S. Aney : But your books of law have made a clear distinction between the so-called revealed religions and unrevealed religions. You cannot tolerate idolatry. I do not blame you if you cannot tolerate it as you consider it a superstition. If you believe that honestly, I respect you for your belief. But at the same time I cannot understand the hypocrisy that for the sake of preventing a woman from going out of your religion and compelling her to come back to Islam, you want to make a show of toleration of idolatry.

Maulana Zafar Ali Khan : You are using very strong language.

Mr. M. S. Aney : How can you tolerate that ? It is impossible, and I cannot understand a Hindu woman doing that. I have no feeling of anger against my Muhammadan friends, but the position created by this clause is of an impossible nature and I cannot understand how that position can be justifiable at all. It has been stated by the Honourable the Leader of the House that under Hindu Law when a woman is converted to any other religion, still the position remains that she is not allowed to marry any other man because that is bigamy. I, personally, am not here to justify a position like that. If a Hindu woman changes her religion, I declare that under the Hindu scriptural law, the position is altered. That is the correct position and if the present law is not like that, then I urge on the Honourable Members of this House that efforts should be made to change that law on the right lines rather than to make the existing Muhammadan Law irrational. Fortunately, you are in a better position. A status should be accorded to that woman by the court in my opinion in accordance with the principles of equity, justice and good conscience, and, therefore, her present position under the Muhammadan Law ought to stand. If you find that the position under Hindu Law is somewhat of a different nature, then your remedy is not to plead that you also must depart from the right principles but those who are departing from the right principles should be brought on the right path to follow. That should be the method for you to take and I, for myself, shall not object to a method of that kind, because, according to my scriptural law, what is the meaning of *patni* and *jāya* ? These are the words used by the Shastras in the case of the woman who is to be the companion of her husband for the sake of performing religious ceremonies. She is called a *patni* which, according to the grammarian Panini, means a female married to be a companion to perform sacrifices. "*Patur no yajna sanyoge*" is the aphorism which explains the derivation of the word *Patni*. If a woman cannot be the companion of her husband in the performance of his religious ceremonies, then there is no reason what soever for the man to marry that woman or to treat her as his wife, because marriage is intended to be a sacrament in order to enable the couple to perform certain religious ceremonies together. The entire scriptural literature requires the husband and wife to be treated as a kind of unity for the purpose of performing together their religious and sacrificial ceremonies. So that being the case, I am unable to understand the position that a Hindu can have a wife who belongs to a Christian faith or a wife who belongs to Islam. If such a position is tolerated by law anywhere, that is irrational and that requires to be remedied. Sir, I do not want the Government of India's representative in this House, the Leader of the House, taking up an altogether anomalous position and using it as an argument in defence of the wrong and indefensible provision

[Mr. M. S. Aney.]

embodied in clause 5. That is a wrong and misleading defence, in my opinion. Sir, I do not claim to be a student of Arabic or Persian but I have made a little reading of some translations. Some friends have obliged me with a few citations from the Holy Quran but I do not want to vouchsafe for the literal accuracy of the translation of the passages from the Holy Quran which I propose to cite, as I am not a student of Arabic. I will leave that to my learned friends to say whether the translation is correct or not. But certain passages have been cited to me by friends to show that in the Holy Quran there are specific passages which prevent a marriage between a believer and an unbeliever. If you cannot have a woman in marriage who belongs to a different faith, then the position is that. Immediately the woman embraces another faith, she must cease to be your wife. You cannot treat her as your wife at all any longer. The continuance of the marriage tie is impossible. Sir, it is my good fortune that you are in the Chair, but a friend of mine who is himself a scholar of Arabic has sent me the following translation of a passage from the Holy Quran :

“Do not marry non-Muslim woman until she believes. A believing slave girl is better than her, even though she should please you ; and do not give believing women in marriage to non-Muslim even though he should please you. These invite to the fire. (Dozak). Chapter II, section 27, Ayat 221.”

Now, therefore, it is perfectly clear that there are express passages in the Holy Quran which go counter to the doctrine that is being propounded here.

Maulana Zafar Ali Khan : The translation is wrong.

Mr. M. S. Aney : I have already admitted that I am not an Arabic scholar myself and I am not here to defend the literal accuracy of the translation. It is enough for the purpose of my argument that the Holy Quran does not tolerate a marriage between a Muslim and a non-Muslim. At least it regards it as the most undesirable and the worst kind of connection and as an evil which will lead the married couple to fire in the other world.

Maulana Zafar Ali Khan : We are allowed to marry a Christian or a Jew.

Mr. M. S. Aney : But they belong to the revealed faith.

Maulana Zafar Ali Khan : You also say that your religion is a revealed religion.

Mr. M. S. Aney : I do not want you to treat my religion as revealed only and solely for the purpose of shutting out a woman from the light of Vedic religion permanently. So far as clause 5 is concerned, I do not think any good case has really been made out in defence of that clause by the Honourable the Leader of the House, who certainly treated us to a very learned discourse on the point. Therefore, I feel that, if no practical difficulties have been felt by the people on account of the presence of the existing law and I take it that there are none as they have not at all been disclosed to us and if no other valid and rational ground has also been urged before us as to why this should be changed, there is no reason why this House should allow this Bill to go to the Select Committee without giving a clear and unambiguous direction that so far as clause 5 is concerned, we are entirely opposed to it. There is another thing which I want to say and it is this. It has been said that so far as clause

5 is concerned, we shall be trying in the Select Committee to help the Moslem woman of non-Moslem birth to be out of the scope of the Bill. On principle, I object to that clause. I maintain that it contravenes the principle which has been accepted by us and it also contravenes the principles which ought to govern us in legislating in these matters. If the position which has been mentioned in the passage from the Holy Quran be accepted as correct, what would be the relation between that woman and the man? It is immaterial whether that woman is a born Muslim or converted Muslim. It will not be the relation of a husband and a wife but something else. It will be an undesirable connection, that is all I can say. I do not want to use stronger language. A law ought not to be enacted by this House which will compel a woman to live not in a valid state of marriage with another man but in an invalid state of union of an altogether undesirable and reprehensible nature. On grounds of public policy and public morals, I would, therefore, object to any clause like that being enacted by this House, and the Select Committee ought to consider this matter very carefully.

Then, we come down to the last clause, clause 6. If we consider that clause, what do we find? So far as that clause is concerned, it has been condemned universally and the Government has also expressly told the Honourable the Mover of this Bill that they are not going to support this Bill if clause 6 is retained by the Select Committee. So, it comes to this that my Honourable friend will have to submit to the deletion of this clause. Clause 6 is concerned with the kind of court which is to adjudicate upon cases of divorce. Now, the attempt that is made in this clause is that the cases of divorce should be considered only by Muslim judges. That was the attempt. Certain suggestions were made to the effect that at least some Muslim assessors should be associated with the presiding Judge of the court. Even that suggestion I strongly condemn. The reason is this that if your law is perfectly clear, the matter can and ought to be decided by the court to which you apply for divorce and the personnel of that court must be immaterial. Any restriction upon the personnel of the court will tantamount to the creation of a communal court for the sake of deciding communal matters. I notice that the Government of India could not be a party to that thing and my Honourable friend has, I believe, agreed to that position. That being the case, what do we find left in this Bill? The procedure which is to be followed by the court is of a novel nature, not known to us. The courts which they want to be set up will not be subject to the existing law because they want the cases to be decided by the Hanafi and the Malaki laws. So, today we are called upon to give our consent for the reference of this Bill to the Select Committee without being in a proper position to know what it is exactly that we are doing.

Sir, I would like to shorten my remarks. After all, my object was to explain clearly the position which I have taken in this matter. I would have gone on with other reasons on which I oppose the Bill but I do not want to detain the House for another day and thus put a burden on the taxpayer to the tune of Rs. 3,000 for the sake of making a few other points which are more or less subservient to these points. I, therefore, want to say this that judged from any point of view, even if we have sympathy for the principle which underlies the Bill and the motive with which the Bill was brought here, the Bill, as it is, is not one to which this House ought to

[Mr. M. S. Aney.]

give its consent. If the Bill is to be transformed in the way in which it ought to be, then my Honourable friend ought to bring in another Bill on those lines and then ask this House to proceed to consider it and take it through its various stages. That is the proper thing for him to do. That being the case, I am unable to give my assent to the motion which is before the House and, therefore, I oppose the motion for referring the Bill to the Select Committee.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Mr. President, rising at this late hour on the last day of the Session, I want to make a very short and, I hope, a very sweet speech. So far as this Bill is concerned, we have had a strange phenomenon of two Members of Government, the Honourable the Leader of the House and the Honourable the Law Member, expressing different opinions. That is perhaps inevitable in the nature of things. But I want to say this to myself and to this House that while we may be Christians, Muslims or Hindus, by our oath when we took our seats here, we are bound to look at this question as Members of this House and promote a piece of legislation which will commend itself to the enlightened common sense of all sections of the House. We may look at the various interests purely from various points of view, but, ultimately, we have got to exercise our judgment as Members of this Honourable House. Sir, this question of this Bill being referred to the Select Committee is to be understood as subject to the limitations which have been already mentioned on the floor of the House by more than one Honourable Member. So far as clause 6 is concerned, I think it may already be called the late lamented clause 6 of this Bill, because listening to the speech of the Honourable the Leader of the House, I think Government made it perfectly clear that they are against that clause altogether. Speaking on behalf of the Congress Party, let me also say that we are against that clause altogether. We refuse to contemplate communal Judges for deciding communal cases. God knows we have enough communalism in this country and we do not want any more communalism. We do not accept clause 6 in any form either in its present form or in any altered form.

An Honourable Member : Is there no communalism in this House ?

Mr. S. Satyamurti : Yes, it is here, but I am hoping that all of us are ashamed of ourselves when we are told that we are communalists and when we talk of communalism, and in all other minds a constant struggle is going on between nationalism and communalism and I hope that very soon all of us will be nationalists and none a communalist. Therefore, Sir, we cannot have clause 6 altogether.

So far as clause 5 is concerned, as it stands, I feel that it cannot command the support of the House or of the Congress Party. But, Sir, from the very conciliatory speech which I had the pleasure of listening the other day both from Syed Ghulam Bhik Nairang, the Deputy Leader of the Muslim League Party, and from my Honourable friend, Bhai Parma Nand, I feel there is some hope left in me that in the Select Committee with the Honourable the Law Member, the Honourable the Home Member and the Honourable the Commerce Member,

there is a possibility of evolving something which will avoid fraud or force on the part of one community or another. We do not want any power which may be given by any clause to be used by any community for the purpose of promoting fraud or force, either in marriage or in divorce. We want to see that the Select Committee Members put their brains together and their hearts together; and if they can evolve a clause which will do no injustice to either community and no injustice to our own commonsense, if they produce it we shall look at it. As it is we are against clause 5 also. As regards clauses 3 and 4, I take the assurance of the Honourable the Leader of the House that as they stand, they do not command the support of the Government. They will want more precise and more accurate definitions of the various causes of divorce and the canons of law to be applied by the Judges who decide these cases to be specified more definitely in this clause. That, I think, we may confidently leave to the Muslim Members of the Select Committee. To this House it is purely a question of Muslim Law in which we shall abide by the majority verdict of the overwhelming majority of Muslims both in the Select Committee and in the House. It governs only the Muslims. My Honourable friend, the Leader of the Congress Nationalist Party, made it perfectly clear that, according to our own Congress traditions and Resolutions, we shall leave our Muslim brethren to decide this question according to the best tenets of their own religion and their customs, having at the same time in view the interests of the country. Our only desire is that whatever decisions we may come to here with regard to legislation shall be subject to public order and public morality. With these words, I want to lend our support to the reference of this Bill to the Select Committee in the hope that clause 6 of the Bill will go, that clause 5 of the Bill may go, but if at all it comes back, it will come back in a form acceptable to all sections of this House and not calculated, I would repeat, to permit fraud or force to be practised on one community by another. I do hope that clauses 3 and 4 will be so accurately drafted with the help of expert draftsmen and of lawyers in the Select Committee as to make it understandable for Advocates and Judges who will have to argue and decide these cases. That is all I have to say. I hope the Select Committee will be able to make something of this Bill, which will be acceptable to all sections of the House.

Qazi Muhammad Ahmad Kazmi (Meerut Divisions : Muhammadan Rural) : Sir, at this late hour of the day and at this fag end of the Session when the whole House has been so kind to me as to take up this Bill at this late hour, it will not be proper on my part to take up much of the time of the House. But still I feel in duty bound to thank the House for the criticism that has been advanced for the improvement of the Bill.

Now, Sir, from the very beginning I made it perfectly clear that I myself was convinced that so far as clauses 3 and 4 were concerned, they required considerable improvement in redrafting. I want to make it clear, in this connection, that reference to Maliki law and Hanafi law was put in the clause only to eliminate the incorporation of some cumbersome provisions which would be necessary if we had not made any reference to those laws. But I have found from the

[Qazi Muhammad Ahmad Kazmi.]

speeches that have been made in this House, and from the opinions that have been received that it will be much more convenient if we accept the suggestion that those detailed provisions should be incorporated in the Bill itself rather than be left to the courts to be found out by actually going into those text books of law.

As regards clause 5, I also made it perfectly clear what my position is. It was never intended by me in any way to encroach upon the rights of other communities. After reading the opinions of the Rajputana Hindu Maha Sabha and the opinions of other people and also after hearing the speech of my Honourable friend, Bhai Parma Nand, I thought it my duty to make my position perfectly clear. I have today heard a very interesting and elucidating speech from my Honourable friend, Mr. Aney, and I think, in the light of his opinion, we might be able further to consider that clause and find out how best we can evolve a clause so as to keep the principle of Muslim Law intact as well as not to encroach in any sense or in any way on the rights of other communities.

Now, Sir, as to clause 6, in the very beginning, I submitted that it was on account of the defects in the administration by Non-Muslim Judges that this part of Muslim law had not at all come into force. Any way, the Bill is not now in my hands, it is now in the hands of the House and in the hands of Honourable Members who represent various interests and communities in India. It will be too much on my part to insist on any particular provision being incorporated in the Bill. We are after all living here to be guided by the consensus of opinion of all Honourable Members who are here. The insistence of one man cannot be of any avail. I introduced this provision only after consulting the Ulemas. I went to different Ulemas and personally consulted them in this matter and in all other matters. I may assure this House and very particularly my Honourable friend, Mr. Aney, that whatever we are providing for in this law, I, personally, hesitated very much to interfere with the present practice without taking the consent and full consultation of all the leading Ulemas of India. I personally went to all persons of repute, and it was only after consulting those gentlemen that I framed the provisions of this Bill. I did not rely on my own convictions and beliefs only. At the same time I wish to say that in connection with the discussion on this Bill on the last occasion there has been a certain misunderstanding and some people said that the Congress Party was instrumental in not having allowed the discussion to terminate on that day. I must frankly admit the great support that I always have been receiving in the matter of this Bill from the Congress Party. There may be differences of opinion on other things; but I must in fairness mention to the House that my Honourable friend, Mr. Bhulabhai Desai, personally took the trouble of approaching the Honourable the Law Member and the Honourable the Home Member in the last Simla Session to set time for this Bill. Even on that occasion I never found the least hesitation from the Congress Party. It was a misunderstanding which I think I am bound to clear up before this House. With these words, I thank all the Honourable Members for their co-operation, and I thank the Congress Party and the Government.

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

“ That the Bill to consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable the Home Member, Captain Sir Sher Muhammad Khan, the Honourable Sir Muhammad Zafrullah Khan, Mr. N. A. Faruqui, Dr. G. V. Deshmukh, Mr. M. Asaf Ali, Maulvi Abdul Wajid, Sardar Mangal Singh, Bhai Parma Nand, Sir Muhammad Yamin Khan, Maulvi Abdur Rasheed Chaudhury, Syed Ghulam Bhik Nairang, Mr. H. M. Abdullah and the Mover with instructions to report by the 15th December, 1938, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : I understand that the motion that stands in the name of Mr. Clow is not going to be moved ?

The Honourable Sir Thomas Stewart (Member for Railways and Communications) : That is correct, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : I also understand that Dr. G. V. Deshmukh is not moving the motion standing in his name ?

Dr. G. V. Deshmukh : No, Sir. I have already said so.

MESSAGE FROM THE COUNCIL OF STATE.

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

“ I am directed to inform you that the Council of State, at its meeting held on the 20th September, 1938, agreed, without amendment, to the Bill further to amend the Indian Emigration Act, 1922, which was passed by the Legislative Assembly at its meeting held on the 17th September, 1938.”

Mr. President (The Honourable Sir Abdur Rahim) : The Assembly will now adjourn till Thursday, the 10th November, 1938, at Eleven O'clock at New Delhi.

The Assembly then adjourned till Eleven of the Clock on Thursday the 10th November, 1938, at New Delhi.
