

15th November 1938

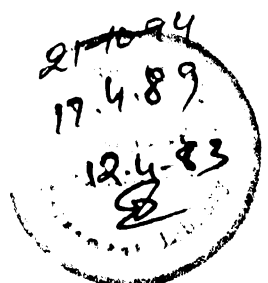
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VII, 1938

(10th November to 2nd December, 1938)

EIGHTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1938



PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, SIMLA.
PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI.
1939

M437LAD

Legislative Assembly.

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SYED GHULAM BHIK NAIRANG, M.L.A.

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

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LEGISLATIVE ASSEMBLY.

Tuesday, 15th November, 1938.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

LORD CHATFIELD'S ENQUIRY.

1240. *Mr. Abdul Qaiyum: Will the Defence Secretary please state:

- (a) whether the scope of Lord Chatfield's enquiry includes the question of relative liabilities of Indian and Imperial revenues regarding cost of defence services in India;
- (b) when the enquiry is likely to begin, and how long it is expected to last;
- (c) the names of persons who will work with Lord Chatfield in the said committee; and
- (d) whether Government propose to obtain the verdict of the House before entering into further commitments under the Chatfield Report?

Mr. C. M. G. Ogilvie: (a) The Honourable Member is referred to the terms of reference announced in this House by the Honourable the Finance Member on September the 13th. It will be for the Committee to interpret these terms which do not exclude consideration of the point referred to.

(b) The Committee began to function from November the 9th, and is expected to finish its enquiry in January.

(c) The Honourable Member is referred to the Press Communiqué of 14th of October.

(d) No.

Mr. Abdul Qaiyum: With reference to the answer to part (c) of the question, may I know the reasons why no Indian was appointed on this Committee?

Mr. C. M. G. Ogilvie: I think there is another question on the paper referring to that point.

Mr. Abdul Qaiyum: This arises out of part (c) of this question.

Mr. C. M. G. Ogilvie: Well, the reason is that the Committee was appointed on the request of the Government of India which asked His Majesty's Government to send out here an expert delegation versed in the British rearmament scheme, to investigate the problems of Indian defence on the spot.

Mr. Abdul Qaiyum: Does it mean that there is not a single Indian expert in India available in such matters?

Mr. O. M. G. Ogilvie: Yes.

Mr. Abdul Qaiyum: Is it not a sad commentary on British rule that this deplorable state of things should exist?

Mr. O. M. G. Ogilvie: I do not think so.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government are aware of a newspaper report that Lord Chatfield is supposed to have said that they will go into political questions also?

Mr. O. M. G. Ogilvie: No. I have not heard that he said so.

Mr. Abdul Qaiyum: With reference to the answer to part (d) of the question, may I know the reasons why Government will not consult this House before implementing the recommendations of this Committee?

Mr. O. M. G. Ogilvie: I think the Honourable Member is not perhaps quite accurate in talking about implementing the recommendations of this Committee. This Committee will report to His Majesty's Government, and finally, as a result of negotiations between the two Governments, something may happen.

Mr. Abdul Qaiyum: Is it not a fact that these recommendations will mainly affect the Indian people and the Indian exchequer? I want to know, as far as the financial aspect of this report is concerned, whether this House will be consulted before giving effect to the recommendations?

Mr. O. M. G. Ogilvie: It is impossible to make any forecast about the financial effects of the Committee's recommendations.

Mr. Abdul Qaiyum: I am not asking any question about any financial forecast. I want to know—and I put a plain question, namely, whether this House will be consulted before any decisions are arrived at by the Government as a result of the report and communications with the Home Government.

Mr. O. M. G. Ogilvie: The Honourable Member has already received a quite clear answer, which is in the negative.

Mr. Manu Subedar: May I know whether the material placed before the Lord Chatfield Committee will be made available to the Leaders of Parties in this House so that they may consider it and form their own opinions?

Mr. O. M. G. Ogilvie: No.

Mr. T. S. Avinashilingam Chettiar: May I know whether there are any civilians on that Committee—non-experts?

Mr. C. M. G. Ogilvie: Yes. There is one civilian member from His Majesty's Treasury.

Mr. T. S. Avinashilingam Chettiar: If there are British civilians who are included in the Committee, did Government find it difficult to get any politician or civilian here to be included in the Committee?

Mr. C. M. G. Ogilvie: Government did not think it necessary, because

Mr. T. S. Avinashilingam Chettiar: We cannot hear properly on this side of the House, Sir. The Honourable Member is replying in such a low voice.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member (Mr. Ogilvie) will speak up. I cannot hear him too.

Mr. C. M. G. Ogilvie: Government did not find it necessary.

Mr. T. S. Avinashilingam Chettiar: May I know whether the terms of reference to the Committee include reference to any political and financial questions?

Mr. C. M. G. Ogilvie: Political—no. The terms of reference are at the disposal of the Honourable Member.

Mr. S. Satyamurti: With reference to my Honourable friend's answer to the last question, may I know whether it is not a fact that the Chatfield Committee wanted evidence from some people on the constitutional and political situation in India with regard to Indian defence forces, in order to enable them to come to decisions on questions referred to them?

Mr. C. M. G. Ogilvie: They wished for evidence on those points, not that they might come to conclusions or make decisions about them—they are not in their terms of reference—but in order to obtain the views of distinguished Indian politicians on the general questions of Indian defence policy.

Mr. S. Satyamurti: With reference to the answer to part (a) of the question, may I know whether the scope of Lord Chatfield's enquiries—I am asking this question in the light of the information given to the House by the Honourable the Finance Member some time ago—includes—I have some doubt about it, that is why I am asking—includes the question of the sharing between Indian and Imperial revenues of the cost of Indian defence forces, treating them as part and parcel of the imperial defence forces?

Mr. C. M. G. Ogilvie: I can again only refer the Honourable Member to the terms of reference, which it is for the Committee to determine. But I have personally no doubt that such matters will receive due consideration.

Mr. S. Satyamurti: I am specifically asking whether the Government of India will place before this Committee this aspect of the question, namely, that Indian forces are, admittedly, partially at least, maintained

for Imperial defence purposes—whether, therefore, Government will, in their evidence before the Committee, place this aspect that, as a result of the maintenance of these forces as part of the Imperial defence forces, a part of that expenditure must come out of the Imperial revenues?

Mr. C. M. G. Ogilvie: Government are prepared, to the best of their ability, to place before the Committee the opinions of every kind held in India on this subject.

Mr. S. Satyamurti: What are the opinions of the Government of India which they are going to place on this question before the Chatfield Committee?

Mr. C. M. G. Ogilvie: I am entirely unable to disclose what evidence the Government of India would place before the Committee.

Mr. Lalchand Navalrai: Will the Honourable Member tell me whether this Committee will examine non-official Indians and also what kind of evidence they will take?

Mr. C. M. G. Ogilvie: The Committee will certainly examine non-official witnesses, but as regards the kind of evidence they will take, I am afraid I cannot possibly answer that in reply to a supplementary question, or indeed at all.

Mr. K. Santhanam: With reference to the answer to part (a) of the question, may I know whether the scope of Lord Chatfield's enquiry includes the question of the entire withdrawal of British regiments stationed in India?

Mr. C. M. G. Ogilvie: I can only refer the Honourable Member to the terms of reference, which it is, as I have said, the business of the Committee to interpret.

Mr. T. S. Avinashilingam Chettiar: May I ask for a little elucidation of the terms of reference? Government should certainly know.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has stated that it is for the members of the Committee.

Pandit Krishna Kant Malaviya: May I know from the Honourable Member if the policy of the Government of India is that Indians should take no interest in the defence of their own country?

Mr. C. M. G. Ogilvie: Certainly not.

Mr. S. Satyamurti: With reference to the answer to part (d) of the question, may I know whether Government contemplate, even in their most pessimistic moments, any further commitments on Indian revenues as a result of the Chatfield Committee's report?

Mr. C. M. G. Ogilvie: I can make no forecast whatever.

Mr. S. Satyamurti: May I know whether the Honourable Member is not aware that this Committee has been primarily appointed in order to see whether the Indian exchequer cannot be relieved to some extent at least, by a grant from Imperial revenues, whether this Committee is contemplated to report in favour of additional expenditure from the Indian exchequer?

Mr. C. M. G. Ogilvie: I cannot possibly say what the Committee may recommend.

Mr. Manu Subedar: May I ask whether the Government of India have put before the Chatfield Committee the question of the United Kingdom Treasury taking over the cost of all the British regiments and removing it from the head of the Indian revenues?

Mr. C. M. G. Ogilvie: I have already stated that I cannot disclose what the Government of India have said or propose to say.

Mr. K. Ahmed: In view of the fact that there is a great commotion in the country for not including one Indian on the Committee, do Government propose to follow the same example as the Simon Commission did in this country by adding at least one Indian, as a colleague of the Chatfield Committee and thus relieve the situation, or the situation may become worse still?

Mr. C. M. G. Ogilvie: I have already answered that question.

Mr. N. V. Gadgil: It is impossible to hear the Honourable Member.

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

GURKHAS SERVING IN THE INDIAN ARMY.

1241. ***Mr. Abdul Qaiyum:** Will the Defence Secretary please state:

- (a) the number of Gurkhas now serving in the Indian Army; the latest figures about them;
- (b) the total number of Indians, excluding Gurkhas, serving in the Indian Army;
- (c) the reasons for the retention of this non-Indian element in the Army;
- (d) the reasons for not recruiting people in India instead of the Gurkhas; and
- (e) whether the martial races cannot supply adequate men to enable Government to dispense with the services of the Gurkhas?

Mr. C. M. G. Ogilvie: (a) and (b). The required information is contained in the Actual Strength Return of the Army and Royal Air Force in India, copies of which are in the Library

(c), (d) and (e). Gurkhas have been recruited in the army in India for over a hundred and twenty years, and throughout that long period have proved themselves to be excellent soldiers who have served India bravely and loyally. To break this ancient tradition would not only be a poor return for the service they have rendered, but it would also close to us a

source of supply of first class military material. It is the policy of the military authorities to recruit in peace a proportion of every approved class in order to provide a sufficient basis for expansion in war, and it should be remembered that during the Great War of 1914-18 it was necessary to enlist 55,000 Gurkhas in addition to tapping every possible source in India.

Mr. Abdul Qaiyum: May I know the reasons why it is considered necessary to maintain this large non-Indian element in the Indian army?

Mr. C. M. G. Ogilvie: I have given the reasons in some detail.

Mr. Abdul Qaiyum: Is it due to distrust of the Indian people?

Mr. C. M. G. Ogilvie: Certainly not.

Mr. Abdul Qaiyum: Is there any other country where foreigners are recruited and maintained in the army; if so, what are they?

Mr. C. M. G. Ogilvie: Certainly, France and Spain.

Mr. Abdul Qaiyum: They are subjects of France and Spain. The Gurkhas are not British subjects. In view of the fact that there is a great demand from provinces like Bengal, Madras and Bihar for a share in the army, may I know why Government will not remove the Gurkhas and recruit people from these provinces, especially educated young men?

Mr. C. M. G. Ogilvie: I am not aware whether there is a demand from Bengal or the other provinces, but the answer is that the Gurkhas, as I have already said, are one of the approved classes, in order to provide a sufficient basis for expansion in war and for this purpose it is necessary to recruit a certain proportion of them in time of peace.

Mr. Abdul Qaiyum: After all, the Indian people pay for the Gurkha soldiers, and why should not Indians be recruited in the place of these people.

(No answer.)

Mr. N. V. Gadgil: May I ask the Honourable Member whether it is not a fact that there is a treaty with the Nepal Government under which the Government of India have agreed to recruit and maintain 20,000 Gurkhas in the Army?

Mr. C. M. G. Ogilvie: I do not think that arises from this question and in any case it is no business of the Defence Department.

Mr. S. Satyamurti: In view of the fact that it is now recognised that the defence of India should be increasingly the concern of the people of India in association with the British Government, may I know whether Government have re-examined or will re-examine the policy of confining the recruitment in the Indian Army to the people of India and not extending it to outsiders?

Mr. C. M. G. Ogilvie: No, Sir. They will not do anything of the kind.

Mr. S. Satyamurti: May I know the reasons why Government will not at least re-examine the question?

Mr. C. M. G. Ogilvie: The policy is quite clear and there is no need to re-examine it.

Mr. S. Satyamurti: Is it not a fact that even in the second Round Table Conference it was laid down that the defence of India must be the increasing concern of the people of India?

Mr. C. M. G. Ogilvie: I do not see how that concerns this. The question of the defence of India is being properly attended to.

Mr. Badri Dutt Pande: Is it a fact that the Nepal Government does not even allow Indians to enter into their territory and in view of that may I know why the Nepalese are recruited in the Indian army?

Mr. C. M. G. Ogilvie: I cannot say. I do not think that arises from this question.

Mr. Badri Dutt Pande: Is it not a fact that there are hillmen on the border of the Himalayas who are as stout and efficient as the Gurkhas? May I know why they are not recruited?

Mr. C. M. G. Ogilvie: I have no doubt that there are men as stout as anybody in those places. I have no doubt that they are also recruited.

Mr. Abdul Qayyum: Will the Honourable Member give us the total number of Gurkhas at present in the Indian army?

Mr. C. M. G. Ogilvie: To save the Honourable Member the trouble of looking it up in a book which is easily accessible to him, I may give from memory the figure of 18,000, which I think is approximately correct.

Mr. S. Satyamurti: May I know whether Nepal is being paid Rs. 10 lakhs for the privilege of having Gurkhas recruited in the Indian army, and whether, from the point of view of the Indian exchequer, which is getting poorer and poorer, Government will reconsider the position, stop this recruitment, and make this 10 lakhs available to the Indian people?

Mr. C. M. G. Ogilvie: I am unable to see how that arises from this question.

Mr. S. Satyamurti: It does.

Mr. President (The Honourable Sir Abdur Rahim): He is not prepared to answer it.

Mr. S. Satyamurti: That is a different matter. He cannot say that it does not arise from this question. It arises for this reason. The Honourable the Finance Member also is here. I am asking, in view of the fact that this 10 lakhs of rupees are going out of India every year whether Government will not save this money and get as good material from India for the Indian army?

Mr. C. M. G. Oglvie: I am unable to answer that question as a supplementary. I should have to examine the case. The Honourable Member had in any case better put any question on that subject to the Foreign Secretary.

RAILWAY AND CUSTOMS RETURNS.

1242. *Mr. Abdul Qaiyum: Will the Honourable the Finance Member be pleased to state:

- (a) the latest figures with regard to railway and customs returns for the current financial year;
- (b) whether anything has been done, or is proposed to be done, to reduce expenditure in the light of these returns; and
- (c) if so, what economies have been effected so far?

The Honourable Sir James Grigg: With your permission, Sir, I will answer questions Nos. 1242 and 1268 together.

I would refer the Honourable Members to the reply which I gave on the 7th September, 1938, to questions Nos. 806, 817 and 820. The savings so far secured amount to about Rs. 111 lacs and further savings will become effective in next year's budget. As I have stated in the House on a number of occasions, all possible economies are being effected, including, I may add, temporary restrictions on recruitment of staff; and no new expenditure has been sanctioned which was not absolutely inescapable or definitely remunerative.

Mr. S. Satyamurti: May I know whether, as a result of this ruthless campaign of retrenchment to which my friend has referred, any savings have been effected in the Defence Department?

The Honourable Sir James Grigg: Savings have been effected in the Defence Department but they have been unfortunately counter-balanced by extra expenditure in Waziristan and elsewhere.

Mr. S. Satyamurti: There has been increase of expenditure in the Defence Department, instead of saving?

The Honourable Sir James Grigg: For the current year, that may be so.

Mr. S. Satyamurti: May I know whether, as a matter of fact, the Government of India have considered and recommended a ten per cent. cut in salaries of Government officials and the Secretary of State turned the recommendation down?

The Honourable Sir James Grigg: No, Sir. The Honourable Member may not know that. I certainly do not want to anticipate the budget for next year.

Mr. S. Satyamurti: I am not asking about the budget of next year, May I know whether, as a part of the budget of this year, the Government proposed a ten per cent. cut in salaries?

The Honourable Sir James Grigg: I am not prepared to answer that question.

Mr. S. Satyamurti: May I know whether all departments have co-operated with the Honourable the Finance Member in respect of retrenchment proposals, and whether he has received equal co-operation from all.

The Honourable Sir James Grigg: I am not a judge of equality in these matters. It can only be a matter of opinion whether the co-operation has been equal. I can say that the co-operation has been general.

Mr. S. Satyamurti: May I know whether there has been any stoppage of recruitment of staff to the various departments?

The Honourable Sir James Grigg: Yes, I said "including, I may add, temporary restrictions on recruitment of staff".

Mr. S. Satyamurti: Temporary; up to what time and to what extent?

The Honourable Sir James Grigg: I suppose, as long as the necessity lasts.

Mr. S. Satyamurti: As regards the answer to clause (e) of the question, may I know whether apart from the retrenchment, there have been, as I have known more than once, new posts or new scales of pay or new allowances in any department including the department of my Honourable friend?

The Honourable Sir James Grigg: New scales of pay or new allowances—I do not think so. New posts, yes, mostly of a temporary character, but not in any case unless they are absolutely inescapable or definitely remunerative. For example, it would be folly not to appoint extra officers in the revenue-collecting departments if they brought in a good deal more money than their pay.

Mr. S. Satyamurti: May I take it that no new post has been created, which is not definitely remunerative?

The Honourable Sir James Grigg: Or unless it is absolutely inescapable.

Mr. S. Satyamurti: May I have some examples of those that were considered to be inescapable?

The Honourable Sir James Grigg: I can give the Honourable Member some examples. During the emergency in connection with foreign affairs certain preparations to meet the possible outcome of the emergency had to be made and staff had to be appointed for that purpose.

Mr. S. Satyamurti: Has the staff been disbanded, and what has been the cost of the staff?

The Honourable Sir James Grigg: I cannot give an answer about the cost; it has not been very much; and the staff will be disbanded as soon as the preparations are complete.

Mr. K. Santhanam: With reference to the answer to part (b), may I know if the Honourable Member, in his search for economies, is considering the desirability of abolishing all special pay and additional pay given to the officials today?

The Honourable Sir James Grigg: I have not considered that, because there are certain statutory vested interests.

Mr. Lalchand Navalrai: Is it a fact that orders have been issued that officers and subordinates who are on leave should be asked to come back, and that the temporary persons are to be asked to go away?

The Honourable Sir James Grigg: That is not within my personal knowledge: if Departments have done so, that is a matter of departmental routine.

Mr. Manu Subedar: May I know whether it is a part of the scheme of retrenchment that employees in a temporary grade, even if they have rendered five, ten or fifteen years' Government service, are being asked to go away in various Departments of Government including that of Audit?

The Honourable Sir James Grigg: I must have notice of that.

Mr. T. S. Avinashilingam Chettiar: May I know whether steps were taken to approach the Secretary of State for the necessary amendment of rules in case there are persons who are receiving extra sums for various reasons above their pay?

The Honourable Sir James Grigg: It is not a question of the amendment of rules; it is a question of the amendment of the Government of India Act.

Mr. S. Satyamurti: Have Government considered and passed orders on a matter which my Honourable friend undertook sometime ago to look into, viz., that certain public servants could get more pay if they went on leave after certain acting arrangements, and have the Government taken any steps to prevent that anomaly causing a waste of money to the Indian exchequer?

The Honourable Sir James Grigg: I gave a certain assurance on that matter which was conditional on the passage of the Indian Income-tax legislation substantially in its present form.

WASTAGE AMONGST CERTAIN OFFICERS OF THE ARMY.

1243. ***Sardar Mangal Singh:** Will the Defence Secretary please state the number and percentage of annual wastage amongst:

(i) the Kings's Commissioned British Officers;

(ii) the King's Commissioned Indian Officers; and
 (iii) the Viceroy's Commissioned Officers
 from 1932 to 1937?

Mr. O. M. G. Ogilvie: (i) British King's Commissioned Officers.—1,085, or approximately 6.42 per cent. per annum.

(ii) King's Commissioned Indian Officers.—33, or approximately 3.92 per cent. per annum.

(iii) Viceroy's Commissioned Officers.—1,618, or approximately 8.31 per cent. per annum.

Sardar Mangal Singh: May I know the factors out of which this wastage takes place?

Mr. O. M. G. Ogilvie: Retirement, death, resignation.

Sardar Mangal Singh: May I know if the figures relate only to the British officers attached to the Indian regiments, or do they relate to the officers in the British regiments?

Mr. O. M. G. Ogilvie: No, they relate only to British officers of the Indian Army.

Sardar Mangal Singh: As regards (ii), may I know whether the figure relates to the Indian commissioned officers turned out from the Dehra Dun Academy or only to Indian "King's Commissioned Officers"?

Mr. O. M. G. Ogilvie: The question asked for figures in respect of King's Commissioned Indian Officers, and the answer was, therefore, limited to that category.

ACTION ON THE RESOLUTION *re* IMPLEMENTING THE RECOMMENDATIONS OF THE INDIAN SANDHURST COMMITTEE.

1244. *Sardar Mangal Singh: Will the Defence Secretary please state:

- (a) whether Government have considered the resolution regarding implementing the recommendations of the Indian Sandhurst Committee passed by the Central Assembly on the 2nd September, 1938;
- (b) whether Government have decided to appoint a committee in the terms of that resolution;
- (c) if so, when that committee is likely to commence its work; and
- (d) what would be the terms of reference of that committee?

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

(b) Government have decided to appoint a committee but its composition has not yet been finally decided.

(c) Probably in the beginning of the new year.

(d) These have not yet been finally decided.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have decided to follow the Resolution passed by this House in this matter?

Mr. C. M. G. Ogilvie: I have informed the Honourable Member in part (b) of my answer that the Resolution has been accepted in principle.

Mr. T. S. Avinashilingam Chettiar: I want to know whether the amendment moved in this House and passed in this House has been accepted, viz., that the majority of the Committee should be elected Members of this House.

Mr. C. M. G. Ogilvie: I have already clearly replied to the Honourable Member but perhaps he did not hear my reply. I said that the composition of the Committee has not yet been finally decided.

Mr. T. S. Avinashilingam Chettiar: May I know whether the principle contained in that amendment to that Resolution has been accepted?

Mr. C. M. G. Ogilvie: I have already informed the Honourable Member that the composition of that Committee—whether it will be wholly or partly made up of elected Members of this House—has not yet been decided.

Sardar Sant Singh: May I know whether the Leaders of Parties will be consulted with regard to the personnel to be taken on that Committee?

Mr. C. M. G. Ogilvie: I cannot yet inform the Honourable Member on that point.

Mr. T. S. Avinashilingam Chettiar: May I know—when the Government consider Resolutions of this House—whether that is long or immediately after they are passed by this House?

Mr. C. M. G. Ogilvie: That varies from time to time.

Mr. T. S. Avinashilingam Chettiar: This Resolution was passed in September. If so, may I have an elucidation of that phrase “from time to time”?

Mr. C. M. G. Ogilvie: Some Resolutions, if they are of a simple type which require little consideration, are decided upon at once; others are decided upon after more mature consideration, and others after very mature consideration.

ILL-TREATMENT METED OUT TO MIAN IFTIKHAR-UD-DIN, M.L.A., BY THE BOMBAY CUSTOMS OFFICIALS.

1245. ***Sardar Mangal Singh:** Will the Honourable the Finance Member please state:

- (a) whether his attention has been drawn to the press statement issued by Mian Iftikhar-ud-Din, Member, Legislative Assembly (Punjab), Secretary, Congress Assembly Party, and published in the *Tribune*, dated on the 8th October, 1938, regarding ill-treatment meted out to him by the Bombay Customs officials on his return from Europe:

- (b) whether his person was searched in a way which would have enraged even a convict;
- (c) whether it is a fact that about 500 persons disembarked from the same boat;
- (d) whether all other persons were also subjected to a similar treatment, or Mian Itikhar-ud-Din, alone was singled out for such a humiliating treatment;
- (e) how long the search lasted;
- (f) whether it is a fact that his wife and child were not given clothes to change for the night up till 2-30 in the morning;
- (g) the number and names of the books and other papers that were taken away from him; and
- (h) whether all of them have been returned to him, or some of them have been retained as objectionable?

The Honourable Mr. R. M. Maxwell: (a) Government have seen the press statement referred to.

(b) No. The search was made in the normal courteous manner, under the supervision of a senior Customs Officer.

(c) No: the correct number is 344.

(d) No other passenger's person was searched.

(e) The search of his person was completed in a few minutes, the examination of books took about two hours.

(f) No restriction was placed on the clearance of wearing apparel and other personal effects.

(g) A list of those taken for examination is placed on the table.

(h) A large number was confiscated. Those released have not yet been taken over by the owner.

List of Literature detained from Mr. M. Itikhar-ud-Din, M.L.A., Passenger Ex N. 8. "Conte Biancomano", on 3rd October 1938.

1. "The Labour Monthly" Four Bound Volumes of all issues for :

Vol. 16 for 1934.

Vol. 17 for 1935.

Vol. 18 for 1936.

Vol. 19 for 1937.

} Edited by R. Palme Dutt.

2. "The Labour Monthly" Six monthly editions for April to September 1938. Edited by R. Palme Dutt.

3. "Why you should be a Socialist" by John Strachey (Pamphlets) Published by Victor Gollancz Ltd. Six copies.

4. "Pollitt Visits Spain". By Harry Pollitt. (Pamphlet). Published by International Brigade Wounded and Dependents Aid Fund, London.

5. "A Letter to Ivanov". By J. Stalin. (Pamphlet). Published by International Publishers, New York.

6. "Consented Action or Isolation: Which is the Road to Peace". By Earl Browder. (Pamphlet). Published by International Publishers, New York.

7. "Lenin on the Jewish Question". (Pamphlet). By Lenin. Published by International Publishers, New York.

8. "The Constitution of the United States with the amendments also the, The Declaration of Independence". (Pamphlet). With an introduction by Earl Browder. Published by International Publishers, New York.

9. "Negro Liberation". By James S. Allen. (Pamphlet). Published by International Publishers, New York.

10. "Molotov on the New Soviet Constitution". (Pamphlet). Published by International Publishers, New York.

11. "The Soviets and the Individual". By Joseph Stalin. (Pamphlet). Published by International Publishers, New York.

12. "Austria". By Harry Pollitt. (Pamphlet). Published by the Communist Party of Great Britain.

13. "Truth about Trotskyism: Moscow Trial January 1937". By Harry Pollitt and R. Palme Dutt. (Pamphlet). Published by the Communist Party of Great Britain.

14. "Unity Against the National Government". (Pamphlet). By Harry Pollitt. Published by the Communist Party of Great Britain. Two copies.

15. "Fascist Agents Exposed in the Moscow Trials". By R. Page Arnot and Tim Buck. Published by the Communist Party of Great Britain. (Pamphlet).

16. "Colonies Mandates and Peace". By Ben Bradley. (Pamphlet). Published by the Communist Party of Great Britain.

17. "Passionaria". (Pamphlets). *Two copies.* One published by the Communist of G. B. and the other by Workers' Library, Publishers, Inc., New York.

18. "France Today and the People's Front". By Maurice Thorez. Published by Victor Gollancz.

19. "The Unity of the French Nation". By Maurice Thorez. (Pamphlet). Published by Workers' Library, Publishers.

20. "France of the Peoples' Front and her Mission in the World", by Maurice Thorez. (Booklet). Published by Workers' Library, Publishers, New York.

21. "Son of the People". By Maurice Thorez. Published by Lawrence and Wishart.

22. "What is Communism". By Earl Browder. Published by Workers' Library, Publishers, New York.

23. "The People's Front in the United States". By Earl Browder. Published by Lawrence & Wishart.

24. "Marxism and the National and Colonial Question". By J. Stalin. Published by Lawrence & Wishart.

25. "World Revolution 1917—1936". By C. L. R. James. Published by Martin Secker and Warburg, London.

26. "Marxism and Modern Thought". By N. I. Bukharin and others. Published by George Routledge and Sons, Ltd., London.

27. "The Working Class against Fascism". By G. Dimitrov. Published by Martin Lawrence, Ltd.

28. "The United Front". By G. Dimitroff. Pub. by Lawrence & Wishart.

29. "What are We to Do?". By John Strachey. Published by Victor Gollancz, Ltd.

30. "The Theory and Practice of Socialism". By John Strachey. Published by Victor Gollancz, Ltd.

31. "Selected Works of V. I. Lenin". Vols. 8, 9 & 10:—

Vol. 8. "The Period of War Communism" (1918—1920).

Vol. 9. "New Economic Policy-Socialist Construction".

Vol. 10. "The Communist International".

Published by Lawrence & Wishart.

32. "The Constitution and Bye-Laws of the Communist Party of the United States of America". (Pamphlet). Published by Workers' Library, Publishers, New York.

33. "James W. Ford. What He is and What he Stands For". By Ben Davis. (Pamphlet). Published for the National Campaign Committee of the Communist Party, New York City, by Workers' Library Publishers, New York.

34. "Resolutions of the Ninth Convention of the Communist Party". (Pamphlet). Workers' Library Publishers, New York.
35. "The Assassination of Kirov". By M. Katz. (Pamphlet) Published by Workers' Library Publishers, New York.
36. "Youth Marches towards Socialism". By Wolf Michal. (Pamphlet). Pub. by Workers' Library Publishers, New York.
37. "Youth and Fascism". By O. Kuusinen. (Pamphlet). Published by Workers' Library, Publishers, New York.
38. "Mother Bloor, the Spirit of '76". By Ann Barton. (Pamphlet). Pub. by Workers' Library Publishers, New York.
39. "For or Against the United Front". (Pamphlet). By Ernest Fischer. Pub. by Workers' Library Publishers, New York.
40. "Heroines". By Sasha Small. (Pamphlet). Published by Workers' Library Publishers, New York.
41. "Lenin on the I. L. P.". (Pamphlet). Introduction by W. Rust. Published by Workers' Library Publishers, New York.
42. "China: March towards Unity". By Mao Tse-Tung, Wang Ming, G. Dimitroff I. J. E. Snow. The Central Committee of the Communist Party of China. Published by Workers' Library Publishers, New York.
43. "The Communist". Monthly Magazine Copies for January to April and June to August 1938. (Seven edition). Pub. by the Communist Party of the U. S. A., Editors:—Earl Browder, Alex. Bittleman and V. J. Jerome.
44. "The Communist International". Magazine. Organ of the Executive Committee of the Communist International. Published by Workers' Library Publishers, Inc., New York. (Thirteen copies). (January, February, March, April, May, June, July, November and December 1937, January, February, April, June and July 1938).
45. "Engles in the Struggle for Revolutionary Marxism". By D. Z. Manuilsky (Pamphlet). Published by Modern Books Ltd.
46. "For Peace: For the Defence of the Soviet Union". By Andre Marty. (Pamphlet). Pub. by Modern Books, Ltd.
47. "The Revolutionary Movement in the Colonial Countries". By Wang Ming. (Pamphlet). Published by Modern Books, Ltd.
48. "The Working Class against Fascism", by G. Dimotrov. (Pamphlet). Pub. by Modern Books, Ltd., London, (Two copies).
49. "The Results of the Socialist Construction in the U. S. S. R.". By D. Z. Manuilsky. (Pamphlet). Pub. by Modern Books.
50. "The Fight Against War and Fascism". By Ercoli. (Pamphlet). Pub. by Modern Books, Ltd.
51. "The Working Class against Fascism. Speech in reply to the Discussion". By G. Dimitrov. Pub. by Modern Books. (Pamphlet).
52. "Full Text of the Resolutions Adopted at the Seventh Congress". Published by Modern Books. (Pamphlet).
53. "Youth and the Struggle against Fascism and War", by O. Kuusinen. (Pamphlet), Pub. by Modern Books.
54. "The Success of the Anti-Fascist United Front". By M. Thorez. Published by Modern Books, (Pamphlet).
55. "Indian Politics". (Pamphlet), By R. Palme Dutt and Ben Bradley. Published by Ben. Bradley, London.
56. "Young Communist Review". Monthly Magazine. (Two copies) for August 1938, Pub. by Young Communist Review, New York City. Official Publication of the National Council of the Young Communist League, New York.
57. "Hunger and Terror in Harlem". By James W. Ford. (Pamphlet). Pub. by the Harlem Section of the Communist Party. New York City.
58. "The Communist and the Struggle for Negro Liberation". By J. W. Ford. (Pamphlet). Pub. by the Harlem division of the Communist Party.
59. "Lessons of the Wrecking Diversionist and Espionage Activities of the Japanese-German-Trotskyite Agents. By V. M. Molotov. Pub. by the Co-operative Publishing Society of Foreign Workers, in the U. S. S. R., i.e., C. P. S. U.

60. "The Soviet Union and the Working Class of the Capitalist Countries". By G. Dimitrov. Pub. by C. P. S. U.
61. "Speech Delivered at a Meeting of Voters of the Stalin Electoral Area, Moscow, By J. Stalin". Published by C. P. S. U. (Pamphlet).
62. "The Twentieth Anniversary of the October Revolution". By V. M. Molotov (Pamphlet). Pub. by C. P. S. U.
63. "The Constitution of Socialism". By V. M. Molotov. (Pamphlet), Published by C. P. S. U.
64. "Defects in Party Work and Measures for Liquidating Trotskyite and other Double Dealers". By J. Stalin. Pub. by C. P. S. U. (Pamphlet).
65. "The Left News". Two copies. For July and September, 1938. Pub. and Edited by Victor Gollancz.
66. "The Life of Lenin". By P. Kerzhentsev. Pub. by C. P. S. U.
67. "World News and Views". Weekly paper, published by H. R. G. Jefferson and Printed by the Marston Printing Co. (Three copies).
68. "International Press Correspondence". Weekly paper, published by H. R. G. Jefferson, and printed by the Marston Printing, Co.
69. "Soviet Communism Dictatorship or Democracy?" By Sydney and Beatrice Webb. (Left Review Pamphlet), Published by the Left Review.
70. "Is Soviet Communism a New Civilization?" By Sydney and Beatrice Webb. (Left Review Pamphlet). Published by the Left Review.
71. "Science & Society". A Marxian Quarterly Magazine. Pub. by Science & Society Inc., New York. (Five copies) Spring, Summer and Winter 1937. Fall and Spring 38.
72. "The Meaning of Marx". A Symposium by Bertrand Russel, John Dewey, Maurice Cohen, Sydney Hook and Sherwood Eddy. Pub. by Farrar & Rinehart. (Pamphlet)
73. "Life Begins With Freedom". By Henry Winston. Pub. by New Age Publishers, New York. (Pamphlet).
74. "Young Communists and the Unity of the Youth". By Gil Green. (Pamphlet). Pub. by Youth Publishers, New York.
75. "Resolutions of the National Negro Congress". Held in Chicago February 14, 15, 16, 1936". (Pamphlet).
76. "Second All-Southern Negro Youth Conference". (Official Proceeding, April 1—3, 1938). Pamphlet, published by Southern Negro Youth Congress. (Two copies).
77. "Soviet Understanding". By R. Terrell. Pub. by William Heinemann, Ltd. London.
78. "Civil War in Spain". By Betram D. Wolfe. (Booklet). Pub. by Workers' Age Publishers, New York City.
79. "A Philosophy for a Modern Man". By H. Levy. Pub. by Alfred A. Knopf, New York.
80. "U. S. S. R. Handbook". Edited by Louis Segal. Pub. by Victor Gollancz.
81. "Crisis and Criticism". By Alick West. Pub. by Lawrence & Wishart.
82. "The Modern Quarterly". Magazine. Made and printed in Great Britain for Lawrence and Wishart and Victor Gollancz by Purnell and Sons, Ltd., London.
83. "New Masses". Paper. Published Weekly by Weekly Masses, Co., Inc., New York. Copy for August 30, 1938. (Containing an article by Earl Browder).
84. "Who Is Prosperous in Palestine". By British Resident. (Labour Monthly Pamphlet No. 7). Extract of matter published in the Labour Monthly for November.
85. "Writers Take Sides".
86. "Youth in Britain today for Peace and Social Justice".
87. "Arise".
88. "Italy's Failure in Abyssinia".
89. "Spain 1938".

90. "The New Soviet Constitution".
91. "Let Me Live".
92. "Czechoslovakia".
93. "From Spanish Trenches".
94. "The War Against the West".
95. "Biology and Marxism".
96. "The American on the Soviet Union".
97. "Empire—A Monthly Record".
98. "China Today".
99. "Italian Fascism".
100. "Creative Arts in War Time".
101. "American Legitimacy and Civil Liberty".
102. "Youth Seeks Peace Freedom and Progress".
103. "Youngville U. S. A.".
104. "Events".
105. "Germany Today".
106. "Indian Student".
107. "Why the League has Failed".
108. "Three copies (Typed Matter)."

Sardar Mangal Singh: May I know whether a list of these books was supplied to Mian Iftikhar-ud-Din at the time of the search, or after that?

The Honourable Mr. R. M. Maxwell: A list has since been supplied to him.

Sardar Sant Singh: May I know if the Honourable Member will make enquiries as to the time taken in the searching his person, because of the fact that Mian Iftikhar-ud-Din himself told me that he was kept in a room for two hours?

The Honourable Mr. R. M. Maxwell: The most minute inquiries have already been made on that point and it is certain that the search of his person only occupied a very few minutes. I think the Honourable Member must have misunderstood what he was told as regards the two hours. The two hours was an inclusive time and during most of that time the passenger was not present at all but left his servants and he himself had gone off to engage accommodation in a hotel.

Sardar Sant Singh: May I know if it is not a fact that he was taken to a room and was there detained for a long period?

The Honourable Mr. R. M. Maxwell: No, Sir, it is not a fact.

Mr. S. Satyamurti: May I know why he was picked out for personal search?

The Honourable Mr. R. M. Maxwell: Because there was reason to suppose that he was importing prohibited literature.

Sardar Sant Singh: Is it a fact that the books that were confiscated belonged to a popular library belonging to Government in Lahore?

The Honourable Mr. R. M. Maxwell: I am not aware of that.

Sardar Sant Singh: Will the Honourable Member kindly look at the stamp on that book that they belong to the Government Public Library at Lahore?

The Honourable Mr. R. M. Maxwell: If the Honourable Member assures me that this gentleman took books from the Public Library at Lahore along with his personal baggage to Europe and came back with them, I will see whether there is a case for an inquiry on that point.

PERMISSION TO RAJA MAHENDRA PRATAP OF MUTTRA DISTRICT TO
RETURN TO INDIA.

1246. *Mr. Badri Dutt Pande: (a) Will the Honourable the Home Member be pleased to state if the United Provinces Government have written to the Central Government to grant unconditional permission to Raja Mahendra Pratap of Muttra District to return to India?

(b) If so, what action have Government taken or propose to take in the matter?

The Honourable Mr. R. M. Maxwell: (a) A confidential communication was received from the United Provinces Government on the subject.

(b) I have nothing to add to the reply given by the Honourable Sir Henry Craik on 22nd March, 1938, to starred question No. 883.

Mr. S. Satyamurti: Was this communication from the United Provinces Government received before or after the answer to which my Honourable friend has referred?

The Honourable Mr. R. M. Maxwell: It was received after the answer was given.

Mr. S. Satyamurti: May I know whether, after the receipt of this communication from the United Provinces Government, Government have reconsidered the question?

The Honourable Mr. R. M. Maxwell: Yes, Sir, we went into the question.

Mr. S. Satyamurti: And have they come to the same conclusion that the embargo on his return should continue?

The Honourable Mr. R. M. Maxwell: That is not the exact decision that was expressed in my Honourable predecessor's reply that I have referred to.

Mr. S. Satyamurti: Is he free to return now?

The Honourable Mr. R. M. Maxwell: He has not applied.

Mr. Badri Dutt Pande: Is it a fact that this gentleman, Raja Mahendra Pratap, has written to the United Provinces Government that he will live peacefully if he is allowed to return and will also accept provincial autonomy? What is the hitch now in allowing this man to return to India from abroad?

The Honourable Mr. R. M. Maxwell: I am not aware of any such communication from the gentleman to the United Provinces Government.

PERMISSION TO LALA HAR DAYAL TO RETURN TO INDIA.

1247. *Mr. Badri Dutt Pande: Will the Honourable the Home Member be pleased to state whether the newspaper report that Lala Har Dayal has been permitted to return to India by Government is correct?

The Honourable Mr. R. M. Maxwell: The newspaper reports that Lala Har Dayal has been permitted to return to India by Government in view of his having given an undertaking not to participate directly or indirectly in any unconstitutional movement, are correct.

DISCONTINUANCE OF AUDIT SUPERVISION OF PROVINCIAL OFFICES.

1248. *Mr. Badri Dutt Pande: (a) Will the Honourable the Finance Member be pleased to state if supervision of some of the Provincial offices has been discontinued by Government?

(b) If so, from which date?

(c) What savings have accrued to the Indian Exchequer by the discontinuance of this practice?

The Honourable Sir James Grigg: (a) and (b). Presumably the Honourable Member has in mind the temporary suspension of local inspections by the Indian Audit Department as a measure of economy. If so, the position is that towards the end of last September orders were issued suspending local inspections of both Central and Provincial offices. These orders do not apply in the case of local Fund Audit where the cost is recovered from Provincial Governments, certain non-Government institutions from which the cost of audit is recovered, and some special items which it has been considered necessary to retain.

(c) It is anticipated that this measure will result in a saving of about Rs. 1½ lakhs during the current year.

Mr. Badri Dutt Pande: Have the United Provinces Government written to the Central Government that under the Government of India Act it is the duty of the Central Government to make provision for the inspection of all Provincial Government offices?

The Honourable Sir James Grigg: The Honourable Member has better put down a question on that subject. I cannot reply to it off-hand.

Mr. Badri Dutt Pande: May I know how many clerks have been retrenched?

The Honourable Sir James Grigg: The Honourable Member had better put that down too.

FACILITIES TO HOLDERS OF STERLING SECURITIES IN INDIA.

1249. *Mr. Manu Subedar: Will the Honourable the Finance Member be pleased to state:

(a) whether the investor in England in Rupee Paper has got the facility of registration of his holding in England and of interest being paid to him in England by a draft on Calcutta;

- (b) when this facility was created and for what reasons;
- (c) whether Government have considered the proposal for giving corresponding facilities to holders of sterling securities in India to have the same registered in India and to have interest paid to them in India by a draft on London;
- (d) whether any representation has been received by Government to this effect from any quarter; and
- (e) whether Government have decided to put right this discrimination between British holders of Indian Government securities and Indian holders of sterling securities?

The Honourable Sir James Grigg: (a) Yes.

(b) It is a practice of very long standing.

(c) and (d). No.

(e) There is no question of discrimination; the circumstances are different.

Mr. Manu Subedar: May I inquire whether there is any material difficulty in extending similar facilities to Indian holders of sterling securities?

The Honourable Sir James Grigg: That is not the question which the Honourable Member has put down. It is not a question of any particular difficulty, but there seems to be no reason for giving special facilities.

Mr. Manu Subedar: The question put down is in part (e):

"whether Government have decided to put right this discrimination between British holders of Indian Government securities and Indian holders of sterling securities?"

The Honourable Sir James Grigg: I deny the discrimination: I say that the circumstances are quite different.

Mr. Manu Subedar: After that denial, may I inquire whether Government have considered this question and whether there are any serious material difficulties in giving these facilities which I am suggesting should be given to Indian holders of sterling securities?

The Honourable Sir James Grigg: I have not considered it from the point of view of material difficulties. We have considered it from the point of view of the need for the facilities and we are of opinion that there is no need to give them. If the Honourable Member wants to know why the circumstances are quite different, then the reason is this: the rupee securities are held in England mostly by people who acquired them during their residence in India and it is undesirable that they should unload them on the market at the time of their leaving their service in India. No such consideration applies in the other case which the Honourable Member has in mind.

Mr. Manu Subedar: May I inquire why Indian holders of sterling securities should not be paid by drafts on Calcutta in that way? If the Honourable Member is not in a position to reply to this question rightaway, I shall be quite content if he will assure me that he will look into the matter.

The Honourable Sir James Grigg: I cannot give the Honourable Member any assurance for I do not think any special facilities are required. The Indian holders of sterling securities are people who buy and sell in the international market for securities and there is no special facility needed in those cases.

EXEMPTION FROM INCOME-TAX OF PERSONS HOLDING GOVERNMENT SECURITIES.

1250. *Mr. Manu Subedar: Will the Honourable the Finance Member state:

- (a) when the concession was given to those, who bought Government securities through the Post Offices and left them there, of exemption from income-tax;
- (b) what was the amount of revenue lost in this manner during 1936-37 and 1937-38;
- (c) is the decision to withdraw this concession now an isolated decision, or, is it part of any general policy;
- (d) if it is a general policy, could a statement of that policy be made to this House?

The Honourable Sir James Grigg: (a) In 1904.

(b) It is not possible to estimate the loss.

(c) The decision has been taken because of representations from certain Provincial Governments that the exemption gave an unfair advantage to the Government of India securities over those of Provincial Governments. It is not part of any general policy.

(d) Does not arise.

Mr. Manu Subedar: May I inquire whether Government will consider the continuation of the exemption hitherto on an assurance by the party that he is not holding Government securities beyond the Rs. 10,000 permitted under this rule?

The Honourable Sir James Grigg: That won't meet the case of the representations made to us by the Provincial Governments.

TYPE OF VESSEL FOR INDIA'S NAVAL DEFENCE.

1251. *Mr. T. S. Avinashilingam Chettiar: Will the Defence Secretary state:

- (a) whether Government have decided the type of vessel they will get for India's naval defence;
- (b) the cost of that vessel; and
- (c) how it is proposed to be met?

Mr. D. M. G. Ogilvie: (a) Not yet.

(b) and (c). Do not arise.

Mr. T. S. Avinashilingam Chettiar: May I inquire whether it is left to the Chatfield Committee to determine this matter?

Mr. O. M. G. Ogilvie: The Chatfield Committee will undoubtedly inquire into this matter.

Sir Cowasji Jehangir: May I ask the reason for this delay even in deciding the type of the ship? If the delay is so long when are we going to get the ships?

Mr. O. M. G. Ogilvie: I am afraid I cannot tell the Honourable Member when we are going to get these ships. These ships are extremely expensive and we want to be quite sure that we are getting the right type of ship as we do not want to spend our money without a proper return.

CHANGE IN THE PRESENT EXCHANGE RATIO.

1252. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable the Finance Member state:

- (a) from how many Provincial Governments the Central Government have received representations regarding the change of the present exchange ratio;
- (b) what reasons they give for advocating the change; and
- (c) whether in light of these representations, Government have considered the advisability of reconsidering the matter of the change of ratio?

The Honourable Sir James Grigg: I would refer the Honourable Member to my reply to Sardar Mangal Singh's question No. 107 on the 10th August, 1938.

Mr. T. S. Avinashilingam Chettiar: May I know if the Government of India have received any representations from the Provincial Governments after that?

The Honourable Sir James Grigg: I have answered questions on this subject at intervals during the last Session and I have nothing more to add to what I said on that variety of occasions.

Mr. T. S. Avinashilingam Chettiar: That answer which is referred to is that these communications are confidential or there is anything more communicative in the answer?

The Honourable Sir James Grigg: I should not be surprised if the answer contained a suggestion to that effect.

Mr. S. Satyamurti: In view of the answers of my Honourable friend previously, I recollect—I may be wrong and, if so, I hope he will correct me—they were uncommunicative on the ground that all the communications of the Central Government are confidential. May I know with reference to clause (c) of this question, whether Government have changed their mind, because of these representations from the various Provincial Governments, or have they rejected the idea of reconsidering this matter in spite of these representations?

The Honourable Sir James Grigg: Yes, Sir.

Mr. T. S. Avinashilingam Chettiar: May I know if Government have claimed this thing on the basis that it is in the interests of the agriculturists that there should be no change in the ratio?

The Honourable Sir James Grigg: I think this subject was fully dealt with in Simla in reply to supplementary questions.

Mr. Muhammad Ashar Ali: May I know why the Government is uneasy over receiving adjournment motions on the question of ratio?

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

APPOINTMENT OF AN INDIAN AS DEPUTY DIRECTOR OR ASSISTANT TO THE DEPUTY DIRECTOR OF CANTONMENTS.

1253. *Mr. Badri Dutt Pande: Will the Defence Secretary be pleased to state:

- (a) whether any Indian has been appointed as Deputy Director or Assistant to the Deputy Director of Cantonments in any of the Commands; and
- (b) if the answer to part (a) be in the negative, whether Government intend to make such appointment, and if so, when?

Mr. C. M. G. Ogilvie: (a) No Indian has been appointed as Deputy Director. One Indian officer was appointed Deputy Assistant Director in a Command to fill a temporary vacancy.

(b) The attention of the Honourable Member is invited to the reply I gave to part (c) of Mr. Sham Lal's starred question No. 874 on the 18th February, 1938.

Mr. Badri Dutt Pande: About this post of the Deputy Director, I want to know whether no Indian has been found who was fit enough to occupy this post or whether this post is reserved for Europeans?

Mr. C. M. G. Ogilvie: The post is not reserved for Europeans. It is filled entirely by selection from the commissioned ranks of the Indian army. At present there are no King's commissioned Indian officers or Indian commissioned officers in the Cantonment Department.

MILITARY ESTATES OFFICERS IN INDIA.

1254. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary be pleased to state the total number of Military Estates Officers in India? How many of them are Indians and how many are Europeans?

(b) Is it a fact that after the enactment of Cantonments (Amendment) Act, 1936, the number of Military Estates Officers has been increased? If so, by what number?

(c) What were the expenses per annum on the salary of Military Estates Officers and their office expenses before the Amendment Act, and after the new organisation?

(d) Is it a fact that none of the Military Estates Officers is a civilian? If so, why?

(e) What is the rate of pay of a European and an Indian Military Estates Officer?

(f) Is it a fact that the Military Estates Officers are paid higher rates of pay and allowances than Executive Officers in Cantonments?

Mr. O. M. G. Ogilvie: (a) The information required by the Honourable Member will be found on page 786 of the current Indian Army List, a copy of which is in the Library of the House.

(b), (c) and (e). Prior to the re-organisation of the Cantonments Department consequent on the enactment of the Cantonments (Amendment) Act, 1936, Military Estates Officers and their establishments were on a temporary or part time basis. There were twelve such appointments which were filled from the cadre of the Cantonments Department. It is not possible to state, with any accuracy, the expenses per annum on the officers or their office expenses as the former varied according to the rank and pay of the officers filling the appointments from time to time and the establishment was on a temporary footing on different rates of pay for different periods. There are now 17 Military Estates Circles. For the salary and conditions of recruitment and service of officers of the re-organised Cantonments Department (British and Indian) a reference is invited to Army Instruction (India) No. 214 of 1937, a copy of which is available in the Library. The average cost of a Military Estates office establishment and contingencies is Rs. 6,500 per annum.

(d) Yes, as they are recruited from the Indian Army and from no other service.

(f) Yes.

Mr. Badri Dutt Pande: What are the special qualifications required for Military Estate officers? Are there any such qualifications attached to this office?

Mr. O. M. G. Ogilvie: It is rather a long question to answer in the course of a supplementary. Estate management generally which involves a knowledge of acquisition proceedings and so forth.

Mr. Badri Dutt Pande: Are they recruited in England?

Mr. O. M. G. Ogilvie: They are recruited from the Indian army and from no other source.

Mr. Badri Dutt Pande: Have they to pass survey and settlement examination?

Mr. O. M. G. Ogilvie: They have at various times of their service to pass examinations.

PUBLICATION BY THE GOVERNMENT OF INDIA GIVING THE YEAR'S
ACTIVITIES OF VARIOUS DEPARTMENTS IN ONE BOOK.

1255. ***Mr. Brojendra Narayan Chaudhury:** Will the Honourable the Home Member please state:

(a) the latest year for which the publication styled "India in ... " prepared for presentation to British Parliament, has been published and circulated to members of this House;

- (b) whether it is a fact that the issue for 1934-35 was circulated to members as late as October, 1937;
- (c) the reason for the delay;
- (d) the steps, if any, proposed to be taken to issue the publication within six months of the expiry of the year to which it relates; and
- (e) whether there is any other single publication by Government of India which gives the year's activities of various departments together in one book?

The Honourable Mr. R. M. Maxwell: (a) 1934-35.

(b) Yes.

(c) There was some difficulty in obtaining the services of a suitable officer to compile the Report and the matter was delayed for that reason until June, 1936, when the officer selected began the work. The draft of the report was completed in the middle of April, 1937, and the Secretary of State's approval to the final chapter was received in June. The report was published on 12th October, 1937.

(d) No further reports will be prepared. In this connection I invite the attention of the Honourable Member to the reply given to Mr. Sri Prakasa's question No. 44, dated the 24th August, 1937.

(e) No.

EXAMINATION FEES CHARGED BY THE FEDERAL PUBLIC SERVICE COMMISSION.

1256. *Dr. Sir Ziauddin Ahmad: (a) Will the Honourable the Home Member please state if it is a fact that every candidate who applies for appearing at any examination conducted by the Federal Public Service Commission, pays prescribed fees with his application form?

(b) Is it a fact that the Federal Public Service Commission rejects a number of candidates who are otherwise qualified to appear in the examination, without giving reasons?

(c) Are the examination fees of the candidates who are not allowed to appear at the examination returned to the candidates? If not, why not?

The Honourable Mr. R. M. Maxwell: (a) Yes.

(b) No.

(c) Examination fees are not charged to candidates not admitted to the examination. Application fees or, in the case of the Ministerial Service Examination, consolidated fees are not returnable as they are intended to cover the cost of dealing with the applications.

Mr. Lalchand Navarai: May I know with regard to part (b) why is it that reasons are not given to the candidate so that he may remove those defects and reappear at another examination?

The Honourable Mr. R. M. Maxwell: The question was whether the Federal Public Service Commission rejects candidates without giving reasons, and my reply was, No. That is, reasons are given.

Dr. Sir Ziauddin Ahmad: Is it not a fact that the candidate is simply informed by the Secretary that the Federal Public Service Commission regret that they are unable to grant such permission, and when such is the case, why should not the fees be returned?

The Honourable Mr. R. M. Maxwell: I understand that in all cases where a candidate is not admitted to the examination, the rule under which he is not admitted is quoted to him so that he may know the reasons.

Dr. Sir Ziauddin Ahmad: Is it not a fact that the reasons are not given and the public does not know for what reasons these applications are rejected, so much so that there is great dissatisfaction among the public for not knowing the reasons. Publicity is given to all kinds of rumours.

The Honourable Mr. R. M. Maxwell: All the information that I have been able to get from the Federal Public Service Commission as regards their practice in the matter suggests that there is no reason why the public should be under a misapprehension. The candidates would be aware of the reasons for which they have been excluded.

Dr. Sir Ziauddin Ahmad: The Public Service Commission may have their own good reasons. But unfortunately these reasons are not communicated to the candidates and they do not know what those reasons are. The candidates do not know who scrutinises their applications, whether they are scrutinised by a clerk, or whether they are scrutinised at all, or whether decision is arrived by weighing the application. In fairness to the candidate it is desirable that the whole thing should be published.

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

LEGISLATION FOR THE SPECIAL TRIAL AND CARE OF JUVENILE DELINQUENTS.

1257. *Shrimati K. Radha Bai Subbarayan: Will the Honourable the Home Member be pleased to state:-

- (a) which of the Provinces have introduced legislation, such as Children's Acts, for the special trial and care of juvenile delinquents;
- (b) whether such enactments are in force in the centrally administered areas; and
- (c) if the answer to part (b) be in the negative, whether and when Government propose to introduce such legislation, and, if not, why not?

The Honourable Mr. R. M. Maxwell: (a) So far as the Government of India are aware Children's Acts have been passed by the Provincial Legislatures of Madras, Bombay, Bengal and the Central Provinces, and a similar Bill was introduced in the United Provinces Legislative Assembly in January, 1938.

(b) The Bombay Children's Act is in force in the Province of Ajmer-Merwara with certain modifications.

(c) There is no such proposal under consideration as the need for such an Act in other Chief Commissioners' Provinces has not so far been felt.

Shrimati K. Radha Bai Subbarayan: May I ask, Sir, how have Government come to the conclusion that the need is not felt?

The Honourable Mr. R. M. Maxwell: If representations are made showing the need for such a measure, Government would certainly be prepared to consider them at any time.

Shrimati K. Radha Bai Subbarayan: Is it not a fact, Sir, that there has been a demand for such legislation?

The Honourable Mr. R. M. Maxwell: Not so far as my records show.

Shrimati K. Radha Bai Subbarayan: Have not societies, like the Children Aid societies, appealed to the Government to introduce such legislation?

The Honourable Mr. R. M. Maxwell: I am not aware of that.

Mr. Sri Prakasa: Is the Honourable Member waiting for applications from the children themselves?

The Honourable Mr. R. M. Maxwell: Any such applications would no doubt receive due attention.

REGULATION OF MONEY-LENDER'S BUSINESS AND DEVELOPMENT OF ALTERNATIVE CREDIT AGENCIES FOR AGRICULTURISTS.

1258. *Mr. Manu Subedar: Will the Honourable the Finance Member state:

- (a) whether a communication, dated the 15th August, 1938, has been received from the Governor of the Reserve Bank of India dealing with paragraph 41 of the Statutory Report of the Reserve Bank under section 55 (1) of the Reserve Bank of India Act;
- (b) whether it is the opinion of the Reserve Bank of India that the agricultural debt relief legislation is restricting the amount of capital hitherto made available to agriculturists by the money-lender and is a material deterrent to them to avail themselves of any facilities for additional capital from scheduled banks, or from the Reserve Bank through re-discount of their bills;
- (c) whether Government have considered the advisability of discussing this matter with the Finance Ministers of the Provinces or the Revenue Ministers, with a view to evolving a plan for financial assistance to the cultivator on lines indicated by the Central Banking Committee;
- (d) whether it is a fact that the Reserve Bank of India themselves in the Statutory Report made suggestions for the regulation of the business of the money-lender and developing alternative credit agencies; and

- (e) what steps have Government taken to bring to the notice of the Provincial Governments the communication of the Reserve Bank of India, dated 15th of August, 1938?

The Honourable Sir James Grigg: (a), (b) and (d). I would refer the Honourable Member to the reply given in the Council of State to question No. 147 on the 20th September, 1938.

(c) This is for Provincial Governments to consider in the first instance with reference to local conditions in each province.

(e) It has been communicated to the Provincial Governments.

Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member please read out the answer which was given in the Council of State?

The Honourable Sir James Grigg: I do not think it would be in order to read out every answer to which reference has been made.

Mr. President (The Honourable Sir Abdur Rahim): Is the answer a long one?

The Honourable Sir James Grigg: The answer is a long answer to the extent that it circulate certain correspondence and certain documents which cover three or four pages.

Mr. T. S. Avinashilingam Chettiar: Without the correspondence portion, the main answer alone may be read out.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member says it is a long answer.

Mr. Mann Subedar: With reference to part (c), may I enquire—the Honourable Member said that this is for Provincial Governments to consider in the first instance with reference to local conditions in each province—even if the Provincial Governments were to decide that they would have to receive financial assistance, for such financial assistance to reach the poor cultivators, they would have to receive from the Government of India either directly or through the Reserve Bank which has been specifically charged under the Act with certain functions. Might I enquire what the Government of India have done to prompt the Reserve Bank to go further with this and bring about co-operation between them and the Provincial Governments for securing additional financial facilities to the cultivators?

The Honourable Sir James Grigg: There is no reason to suppose that the Reserve Bank are unaware of their responsibilities in this matter or that they would fail to discharge them. With regard to the other question which the Honourable Member has raised, namely, "Am I aware that Provincial Governments cannot do anything unless I give them money", unfortunately that has been represented to me on more than one occasion.

Mr. Mann Subedar: My query is specifically this. At the Finance Ministers' Conference does the Finance Member propose to raise this issue and to draw the attention of the Provincial Ministers to draw up a scheme in which material assistance can be given by the Reserve Bank?

The Honourable Sir James Grigg: I should have thought that there was no need to do this, at any rate for the Governments which are represented by the same Party to which the Honourable Member belongs.

Mr. Manu Subedar: I am referring to all Governments.

The Honourable Sir James Grigg: I do not think the implication that all the Provincial Governments are unaware of their responsibilities in this matter is one which will be pleasing to the rest of his Party.

Mr. Manu Subedar: My implication only was whether all Provincial Governments—not merely those belonging to my Party, but all Provincial Governments—are alive to this issue and are actively considering it. But the whole rub is whether they would have the necessary financial assistance on capital account. The Honourable Member has got a bee in his bonnet about help from the Government of India on revenue account. I am not referring to any revenue assistance. I am referring to the question whether on capital account, either from the Government of India direct or through the Reserve Bank they will receive the necessary financial assistance and whether this matter has been considered.

The Honourable Sir James Grigg: The Honourable Member had better read the correspondence to which I referred. At any rate he will then have an appreciation of the difficulties involved.

INDIAN ORDNANCE FACTORY APPRENTICE SCHEME.

†1259. ***Seth Govind Das:** (a) Will the Defence Secretary please state for how many years now the Indian Ordnance Factory apprentice scheme is being worked?

(b) How many years' course is it?

(c) What kinds of engineering posts are the apprentices trained for?

(d) Is it a fact that the scheme was originally inaugurated with the object of stopping foreign recruitment for such posts in the Ordnance Factories as Foremen, Assistant Foremen, etc?

(e) Is it a fact that non-Indians continue to be recruited for the above-mentioned posts, while Indian apprentices on completion of their course either go unemployed or are offered temporary jobs on meagre salaries? If so, why?

(f) Are Government prepared to re-organise the Ordnance Factories apprentice scheme on the Indian State Railway Mechanical Apprentice Scheme offering the same prospects to ex-Ordnance apprentices as are enjoyed by the Railway apprentices? If not, why not?

Mr. C. M. G. Ogilvie: (a) A regular scheme for the training of Apprentices in Ordnance Factories was started in 1934.

(b) The courses vary with different factories. It is three years in the Cordite Factory, four years in the Metal and Steel, and the Harness and Saddlery Factories, five years each in the Gun Carriage, the Rifle and the Gun and Shell Factories and six years in the Clothing Factory.

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

(c) Appointments as Supervisor, Chargeman, Assistant Foreman and Foreman in General Mechanical Engineering at Gun Carriage Factory, Rifle Factory and Gun and Shell Factory and in Specialised Trades, e.g., steel and non-ferrous metal production at the Metal and Steel Factory, tanning and Currying at the Harness and Saddlery Factory, acid and Explosives manufacture at the Cordite Factory and tailoring and cutting at the Clothing Factory.

(d) The object of the scheme now in existence is to provide for the Indianisation of the factory staffs.

(e) No. Non-Indians are recruited for higher appointments such as Foreman or Assistant Foreman when suitably qualified Indians are not available.

(f) No. The State Railways scheme is intended for a different purpose, namely, recruitment to the Superior Revenue Establishment of State Railways.

HEADQUARTERS OF THE OFFICES OF THE ARMY HEADQUARTERS.

†1260. *Beth Govind Das: (a) Will the Defence Secretary please state whether the headquarters of some units of the Defence Headquarters are Delhi and Simla, while the headquarters of others are only Simla? If so, the reason therefor?

(b) Is it a fact that the headquarters of such departments as Military Finance, Military Accountant General, Military Lands and Cantonments, are Simla and Delhi, while the headquarters of departments, such as Supply and Transport, Munitions Production, Arsenal, Military Training, etc., are only Simla? If so, why?

(c) Is it a fact that the effect of Delhi/Simla headquarters is the move of officers and clerks of these departments between Simla and Delhi at considerable Government expense plus grant of house allowance to clerks; while the Simla offices are permanently located at Simla without the grant of house allowance to the clerks?

Mr. O. M. G. Ogilvie: (a) Headquarters of the Army and Air Force in India are permanently located at Simla. Only the minimum staff required for efficient administration are moved to Delhi during the cold weather.

(b) Defence Department Secretariat, including the Military Accounts Department and Military Lands and Cantonments, normally move to Delhi, whilst the offices of Army Headquarters, which include the Directorates dealing with the subjects mentioned by the Honourable Member, are divided between Delhi and Simla for the reasons given above.

(c) Officers and clerks detailed to proceed to Delhi with the Government of India are moved at Government expense. Owing to the shortage of residential accommodation in Delhi, a certain number of clerks have to make their own arrangements. Such clerks as are not allotted Government accommodation are eligible for the Delhi compensatory house rent allowance. This allowance is to compensate individuals for absence from their permanent headquarters.

**RACIAL DISCRIMINATION IN THE SCALES OF PAY AND SERVICE CONDITIONS
FOR CLERICAL PERSONNEL OF THE ARMY HEADQUARTERS.**

†1261. ***Seth Govind Das:** Will the Defence Secretary please state whether it is a fact:

- (a) that scales of pay and service conditions for clerical personnel of Army Headquarters offices are drawn up on racial basis;
- (b) that while an Indian member of the Indian Army Corps of Clerks with high academic qualifications has to start service on Rs. 50 per mensem, a non-Indian member of the same Corps is paid more than Rs. 300 per mensem (including allowances) to start with; if so, why; and
- (c) that whenever a policy of economy in expenditure on clerical establishments at Army Headquarters is given effect to, it is always the Indian who suffers, the non-Indian element being left untouched; if so, why?

Mr. O. M. G. Ogilvie: (a) No, but they are necessarily different for the reasons given in reply to part (b) of Mr. Satyamurti's starred question No. 826 of 27th September, 1937.

(b) No. I would refer the Honourable Member to the terms and conditions of service for Indian and British clerks of the Indian Army Corps of Clerks which are reproduced on pages 2016-18 of the Legislative Assembly Debates of the 12th September, 1938, and to the reply I gave on the 27th September, 1937, to Mr. Satyamurti's starred question No. 826.

(c) No.

CLERKS IN CERTAIN BRANCHES OF THE ARMY HEADQUARTERS.

†1262. ***Seth Govind Das:** Will the Defence Secretary please state:

- (a) the number of clerks employed in the Central Registries of the various departments of the Defence Headquarters, and their financial effect;
- (b) the number of clerks employed in the Establishment Sections dealing with questions of pay and allowances for officers, clerks and menials in the various departments of Defence Headquarters, and their financial effect;
- (c) the total number of clerks designated *Cashier* and who are in receipt of a special allowance of Rs. 50 per mensem in the various departments of Defence Headquarters, and their financial effect; and
- (d) whether Government have ever considered the question, with a view to economy in public expenditure, of centralizing the activities of the present multiple Central Registries, Establishment Sections and Cashiers in Defence Headquarters, in one office to serve all the departments?

Mr. O. M. G. Ogilvie: (a) 64 clerks; Rs. 1,39,356 per annum.

(b) 44 clerks; Rs. 1,13,638 per annum.

(c) 12 clerks; Rs. 7,200 per annum.

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

(d) The question of establishing a combined Central Registry for all the Branches of Army Headquarters was considered in 1929 but has up to the present been found to be impracticable.

STRENGTH OF INDIAN MINISTERIAL STAFF IN CERTAIN BRANCHES OF THE ARMY HEADQUARTERS.

†1263. *Seth Govind Das: Will the Defence Secretary please state:

- (a) the sanctioned permanent strength of Indian ministerial staff in the following offices of Army Headquarters:

General Staff Branch.

Adjutant General's Branch,

Military Secretary's Branch,

Quartermaster General's Branch,

Ordnance Branch, and

Engineer-in-Chief's Branch;

- (b) the number of Indian courtesy titles conferred during the last ten years on Indian members of the above-mentioned offices;

- (c) the sanctioned permanent strength of Indian clerks in the following offices:

(i) Defence Secretariat, and

(ii) Military Finance Branch; and

- (d) the number of Indian courtesy titles awarded during the last ten years to Indian members of the above-mentioned two offices?

Mr. O. M. G. Ognvie: (a) to (d). The figures asked for by the Honourable Member are as follows:

	Sanctioned strength.	No. of titles.
General Staff Branch	47	3
Adjutant General's Branch	70	1
Medical Directorate	40	Nil.
Judge Advocate General's Office	8	Nil.
Quartermaster General's Branch	86	1
Master General of the Ordnance Branch	131	Nil.
Contracts Directorate	80	1
Assistant Director of Ordnance Services* (Provision) Office	51	Nil.
Engineer-in-Chief's Branch	66	Nil.
Defence Department Secretariat	86	3
Military Finance Branch	89	2

SPECIAL ALLOWANCES GRANTED TO OFFICERS AND CLERKS OF THE ARMY HEADQUARTERS.

†1264. *Seth Govind Das: Will the Defence Secretary please state:

- (a) the designations of officers and military clerks of Army Headquarters who are granted the following special allowances in addition to the salaries attached to the posts held:

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

- (i) Simla local allowance, and
- (ii) Duty allowance;
- (b) what are the amounts of these allowances, and the substantive salary drawn by the individuals; and
- (c) the reason for granting such allowances to highly paid staffs?

Mr. C. M. G. Ogilvie: (a), (b) and (c). The information required by the Honourable Member is as follows:

- (1) **Civil Engineer Adviser to the Director of Ordnance Factories:**
pay Rs. 1,250 per mensem, duty allowance Rs. 100 per mensem, local allowance Rs. 50 per mensem.
- (2) **Assistant Civil Engineer Adviser to the Director of Ordnance Factories:**
pay Rs. 1,050 per mensem, duty allowance Rs. 100 per mensem, local allowance Rs. 50 per mensem.
- (3) **Train Conducting Warrant Officer:**
pay Rs. 420 per mensem, local allowance Rs. 50 per mensem.
- (4) and (5). **Two technical military clerks:**
pay Rs. 460 and Rs. 380 per mensem, local allowance Rs. 50 per mensem each.
- (6), (7) and (8). **Three military clerks:**
pay Rs. 250, Rs. 250 and Rs. 190 per mensem—draw a duty allowance for working as stenographers in addition to their clerical duties. One of them gets Rs. 40 per mensem and the other two Rs. 20 each per mensem.

The reason for the grant of duty allowance to the Civil Engineer and his Assistant is that their duties at Army Headquarters are more onerous and responsible than in ordnance factories or arsenals. The duty allowance to clerks acting as stenographers is to compensate them for extra work. The local allowance in each case in which it is granted is intended to meet the increased cost of living at Simla.

NON-APPOINTMENT OF AN INDIAN TO THE CHATFIELD COMMITTEE.

1265. *Mr. S Satyamurti: Will the Defence Secretary be pleased to state:

- (a) the reason why no Indian, or Indians, has been appointed to the Chatfield Committee;
- (b) the arrangements which are being made for presenting India's case before that Committee; and
- (c) whether any non-official opinion will be consulted in respect of the evidence to be laid before the Committee; if not, why not?

Mr. C. M. G. Ogilvie: (a) The Committee was appointed by His Majesty's Government on the invitation of the Government of India, which desired that an expert body from the United Kingdom should investigate on the spot the problems of Indian defence. In the circumstances and in view of the terms of reference the appointment of any member from India other than a military expert was not to be expected.

(b) The Committee will be placed in possession of full documentary evidence and will examine witnesses. It will also visit certain areas of primary importance from the point of view of defence.

(c) Yes.

Mr. S. Satyamurti: With reference to the answer to clause (a) of the question, do the words "military experts" only mean soldiers or also civilians conversant with military matters?

Mr. O. M. G. Ogilvie: No, Sir. It means only soldiers versed in the technical aspects of defence.

Mr. T. S. Avinashilingam Chettiar: How many civilians are there in the Committee?

Mr. O. M. G. Ogilvie: I informed Honourable Members—I think in answer to a previous question—that there was one.

Mr. Abdul Qaiyum: With reference to part (b) of the question what are the areas to be visited by this Committee?

Mr. O. M. G. Ogilvie: I do not think they have been finally decided.

REVENUE RETURNS AND EXPENDITURE OF THE GOVERNMENT OF INDIA.

1266. ***Mr. S. Satyamurti:** Will the Honourable the Finance Member be pleased to state:

- (a) the latest figures of all revenue returns of the Government of India, including Customs, Railways, Income-tax and other Departments as compared with the previous year;
- (b) the latest figures of expenditure for the same period as compared with those of the previous year; and
- (c) what, according to the present expectations, is likely to be the deficit in the general and in the Railway revenues at the end of the financial year, if the present tendencies continue, more or less?

The Honourable Sir James Grigg: (a) and (b). I would invite a reference to the published returns.

(c) I cannot anticipate my budget speech.

Mr. S. Satyamurti: I am asking whether, taking the figures as they are today, according to the latest figures available, there is likely to be a deficit in the revenue side of this year's budget.

The Honourable Sir James Grigg: I also made my customary refusal to be a prophet before I must.

Mr. S. Satyamurti: I do not want the Honourable Member to be a prophet. I want him to be a factual and truthful speaker. I am asking, Sir, what according to the Honourable Member's opinion, based on the figures available to him on the customs, railways, income-tax and other receipts, will be the deficit—on the figures just now available.

The Honourable Sir James Grigg: I am at present engaged in considering the figures as they come in.

Mr. S. Satyamurti: In view of the fact that we have got to pay while he calls the tune, I am asking him whether he will take the House into confidence and tell us on the figures which are now available to him and from which he can draw the inference, what will be the deficit.

The Honourable Sir James Grigg: I am sorry. The Honourable Member is extremely persuasive and extremely persistent but I do not propose to answer his question.

Mr. S. Satyamurti: Will the Honourable Member confirm or contradict me if I say that 8 crores will be the deficit in the budget?

The Honourable Sir James Grigg: I do not think the Honourable Member need take an unduly pessimistic view nor do I think he need embark on a series of figures until he guesses the right one.

Mr. Muhammad Azhar Ali: Is it a fact that the Customs revenue is falling?

The Honourable Sir James Grigg: Will the Honourable Member refer to the returns?

Mr. Lalchand Navalrai: The Honourable Member has established the practice of not giving information. Is it good or bad?

The Honourable Sir James Grigg: That is a matter of opinion. My own opinion is that it is a good one.

An Honourable Member: Ours is that it is not.

INTRODUCTION OF A COMPREHENSIVE BANKING LEGISLATION.

1267. ***Mr. S. Satyamurti:** Will the Honourable the Finance Member be pleased to state:

- (a) whether he has heard from the Reserve Bank on the question of the need for any amendment of the Act in regard to their relations to schedule banks;
- (b) whether he has examined the question; and
- (c) whether he proposes to introduce suitable legislation, or take steps to introduce a comprehensive Banking Act, for India; if not, why not?

The Honourable Sir James Grigg: (a), (b) and (c). I am not at present in a position to add anything to what I said in this respect in the statement I made in reply to certain short notice questions on the 22nd August, 1938.

Mr. S. Satyamurti: In view of the fact that much water has flown in the river near Delhi since that answer was given, may I know whether the Government of India have re-examined the question in view of strong

public opinion in the country, and whether they will consult the Reserve Bank on this very important question which affects the future of Indian banking in this country?

The Honourable Sir James Grigg: If the Honourable Member will refer to the statement I made, he will find that it contained a remark of this kind:

"This is the first occasion in the history of the Reserve Bank in which assistance has been required on account of a run, and though, so far, it considers its legal powers adequate (and, after all, the powers given to the Bank in the Act were based on a most careful examination of central banks in other countries), it is examining them in the light of their recent practical application and will invite the comments of the scheduled banks. If, thereafter, the Bank considers any further powers desirable it will no doubt report to Government."

There is the process of consulting other banks to be gone through first before any question of representation to the Central Government arises. I have no doubt that that process is going on.

Mr. S. Satyamurti: What, according to the information of the Government, is the stage which this consultation with scheduled banks has reached? When is it expected to be completed? When do Government expect to hear from the Reserve Bank on the question of the need or otherwise for amending the Reserve Bank Act?

The Honourable Sir James Grigg: The Honourable Member is trying to break down my customary silence on matters of this nature. He wants consultation between the Government and the Reserve Bank before the stage at which it is possible to have it.

Mr. S. Satyamurti: I am not trying to break his "customary silence". I know it very well. But, I am asking, Sir, whether Government can throw any light on the stage at which the matter stands at present, and in view of the fact that the public are vitally interested in the matter, when Government expect to hear from the Reserve Bank on this very important question.

The Honourable Sir James Grigg: I honestly cannot tell the Honourable Member any specific date but I can assure him from my private knowledge that there has not been any delay or desire to burke the question.

Mr. S. Satyamurti: Clause (c) of my question. Have Government taken any steps to introduce a comprehensive Banking Act for India?

The Honourable Sir James Grigg: A good deal of the banking legislation recommended by the Banking Enquiry Committee has been in one place or another already passed into law.

Mr. Mann Subedar: Have representations been received as to the necessity of changing the Reserve Bank Act, and if so, what have Government done over those representations?

The Honourable Sir James Grigg: I cannot answer that off-hand. The Honourable Member had better put it down.

RETRENCHMENT IN THE GOVERNMENT OF INDIA DEPARTMENTS.

†1268. ***Mr. S. Satyamurti:** Will the Honourable the Finance Member be pleased to state:

- (a) whether he has undertaken any campaign of retrenchment in view of the possible loss of revenue; if so, what the main lines of retrenchment are;
- (b) whether Government considered and recommended a ten per cent. cut in salaries of Government officials, and whether the Secretary of State turned down the recommendation;
- (c) whether all Departments have been addressed to retrench their expenditure drastically, and what the response of the various Departments has been;
- (d) whether there has been or will be any retrenchment in the recruitment of the staff to the various Departments; if so, what; and
- (e) whether any new posts, or new scales of pay, or new allowances have been created, or sanctioned, since the 1st April, 1938, in the Government of India; if so, what they are?

CONTROL OVER DEFENCE EXPENDITURE EXERCISED BY THE FINANCE DEPARTMENT.

1269. ***Mr. Brojendra Narayan Chaudhury:** Will the Honourable the Finance Member please state:

- (a) the nature of control over Defence expenditure exercised by the Finance Department;
- (b) the total amounts of the proposed expenditure sent by Defence Department to Finance for scrutiny and sanction during each of the last five years;
- (c) the total amounts objected to in the first instance by Finance Department in those years;
- (d) the total amounts ultimately agreed to by Finance Department in those five years;
- (e) the total amounts ultimately demanded as grants in those years;
- (f) whether it is the function of audit only to scrutinise whether the actual expenditure is within the grant; and
- (g) whether audit can cut down proposals?

The Honourable Sir James Grigg: (a) The Honourable Member's attention is invited to my speech and that of the Defence Secretary in the House on the 18th September, 1938, on the Resolution moved by Ralzada Hans Raj wherein the nature of control over Defence expenditure exercised by the Finance Department was dealt with.

†For answer to this question, see answer to question No. 1242.

(b), (c), (d) and (e). Figures for five years are not readily available. Figures for the years 1936-37, 1937-38 and 1938-39 are given below:

	(In lakh of Rupees.)		
	1936-37.	1937-38.	1938-39.
Total amount originally proposed by administrative authorities	45.75	45.65	45.99
Total amount agreed to by the Finance Department	45.45	44.62	45.18
	<hr/>	<hr/>	<hr/>
Total amount reduced	30	1.03	81
	<hr/>	<hr/>	<hr/>

(f) No. Audit also sees that the expenditure incurred is covered by proper sanction of the competent authority.

(g) Audit scrutinises all orders having a financial implication and can challenge them if, in its opinion, the orders are issued by an authority not competent to issue such orders or infringe any of the canons of financial propriety.

Mr. Manu Subedar: May I know, Sir, whether this check from the Finance Department is on the expenditure as a whole on what they call the net expenditure or whether it is on each separate grant under each separate head?

The Honourable Sir James Grigg: Both.

Mr. Manu Subedar: May I know whether it is a fact that the Army has frequently spent more than what was settled between the Finance Department and the Army Department, and particularly may I inquire what is the position with regard to the last official year for which the full figures of expenditure are now available to the Honourable Member?

The Honourable Sir James Grigg: I cannot give details with regard to the last official year without notice, but it is obvious that if the necessity for military operations arose during the course of the year, or for other extraneous causes extra expenditure is thrust upon the army estimates, there will be an excess over the amount originally sanctioned.

Mr. S. Satyamurti: May I know whether, in respect of those items, the Finance Department must actually sanction the expenditure or they have no voice at all in the matter? What I mean is, has the Finance Department simply to accept the excess expenditure and has no voice in the matter at all?

The Honourable Sir James Grigg: It depends on circumstances. In some cases the necessity is so compelling that they have no voice in the matter; in other cases which involve a new policy, the Finance Department and the Finance Member have a right to be consulted in the inception of that policy.

Mr. S. Satyamurti: Does the Defence Department spend in advance out of the reserves with them and then present the bills to the Finance Department, or do they wait before expending even a pie beyond the budget for the sanction of the Finance Department?

The Honourable Sir James Grigg: The Honourable Member can rest assured that for expenditure out of reserves the sanction of the Finance Department is required, and he may rest assured that there is no question of small expenditures being incurred in the first year which commit Government to big expenditure in subsequent years without specific sanction of the Finance Department before any expenditure at all is incurred.

Mr. Manu Subedar: Is it a fact that the arrangement between the Finance Department and the Army Department is one-sided in that if money which has been already sanctioned is not expended, it is used by the Commander-in-Chief in any manner he likes whereas if there is an excess on account of reasons which the Honourable Member stated like unexpected operations elsewhere that excess is to be met from the general revenues?

The Honourable Sir James Grigg: No, Sir; no expenditure is allocated to the Defence Member to spend as he likes, and if the Honourable Member thinks that that arrangement is one-sided, I can assure him that the defence authorities regard the arrangement as one-sided in that they say 'it is all giving and no taking', and that they are doing the giving.

Mr. Manu Subedar: May I know what happens to the amount which was proposed to be spent in any particular year which was sanctioned and which was agreed between the Finance and Defence Departments, but which for some reason or other was not spent by the Defence Department?

The Honourable Sir James Grigg: There are various arrangements. If there is a saving on the budget as a whole, that goes into the defence reserve fund to be allocated with the consent of the Finance Department, but for projects for which it has not yet been possible to find expenditure. There is also a fairly general arrangement that if a scheme for which provision has been made cannot for whatever reasons be started in a particular year, the allocation is put in the defence reserve fund, but if the contention or the question is, do the Defence Department get a free hand in spending any savings on their budget, leaving out of question the fact that there has not been any saving in the last two years, the answer is quite unmistakably no.

Mr. S. Satyamurti: May I know whether the Government work on the principle that the Finance Department has more or less a contract budget of 45 crores a year, and may I know if the Honourable Member is satisfied as a result of his experience during the last four or five years that his control over the Defence Department is just as complete and as comprehensive as over other civil departments?

The Honourable Sir James Grigg: I think I would rather like the Honourable Member to address that question to the Defence Department.

Mr. S. Satyamurti: I am asking whether the Honourable the Finance Member is working on the assumption that there is a contract budget as it were,—I am using that phrase in a loose sense,—for the Defence Department of 45 crores?

The Honourable Sir James Grigg: Not in any statutory or strict sense is there any contract. The budget figure is fixed from year to year in discussion between the Defence authorities and myself, and once it is fixed, if for any reason they make savings during the year they are allowed to put them into the defence reserve fund in order to lighten the burden on future defence estimates, but the arrangement which was adopted in 1926, under which the Defence Department was promised a budget of 55 crores for 4 years is no longer in operation and never was in operation for more than about a year.

(b) WRITTEN ANSWERS.

RELIEF IN RESPECT OF INDIAN AND UNITED KINGDOM INCOME-TAX.

1270. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state:

- (a) the amounts of relief in respect of the United Kingdom income-tax given under section 49 of the Indian Income-tax Act, 1922 (XI of 1922), in each of the last four years;
- (b) whether the Honourable Member has any idea as to the corresponding amount of relief given in the United Kingdom in respect of Indian income-tax; whether he is aware that the reliefs in the United Kingdom are not even a tenth of the reliefs given in India;
- (c) whether his department intends to move for the abrogation of the mutual relief arrangements with the United Kingdom and deletion of section 49; if not, why not;
- (d) whether his Exchequer gains or loses by the existence of section 49;
- (e) whether the Indian people gain or lose as a whole by the existence of section 49;
- (f) the reason for differentiating United Kingdom from other foreign countries and from other British Dominions for income-tax relief; and
- (g) how old the reciprocal arrangements with the United Kingdom are; whether it is only since 1920?

The Honourable Sir James Grigg: (a) I would refer the Honourable Member to Return No. III in All-India Income-tax Reports and Returns, copies of which are in the Library.

(b) No.

(c) I would refer the Honourable Member to my speech in the Legislative Assembly on the 7th April, 1938, moving for a Select Committee on the Income-tax (Amendment) Bill.

(d) and (e). It is obvious that it costs the Exchequer money to give this or any other relief but whether the country as a whole gains or loses in consequence it is impossible to say seeing that to decide the question would

mean comparing the state of development as it is when the external capital has been attracted and as it would have been if there had been no relief and the amount of United Kingdom capital attracted to India had been correspondingly smaller.

(f) It is a question of reciprocity; foreign countries and other British Dominions (except Burma, Ceylon and Aden) have not expressed a desire to enter into arrangements with British India for double income-tax relief.

(g) They have been in force since 1922.

EXEMPTION OF CERTAIN PERSONS FROM INCOME-TAX AND SUPER-TAX.

1271. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state:

(a) the total amounts of relief given, *i.e.*, loss incurred by exemptions in the matter of income-tax and super-tax and corporation tax under section 60 of the Indian Income-tax Act, 1922 (XI of 1922), in the last year for which figures are available (paragraph 17 Manual):

(i) to Ruling Chiefs and Princes of India in respect of different classes of income;

(ii) to Indian States in respect of different classes of income under the Income-tax Act or any other Act;

(iii) to officers of Government on leave allowance or salary;

(iv) to officers of local authorities, or to employees of companies, or to private employers under any circumstances; and

(b) the reasons or the principle followed in the grant of concession or exemption in each case of the above mentioned items, *i.e.*, Ruling Chiefs, States, et cetera?

The Honourable Sir James Grigg: (a) (i) The information is not available.

(ii) The Indian States are not liable to income-tax under the Indian Income-tax Act. They are liable to income-tax if the provisions of the Government Trading Taxation Act of 1926 are attracted. No question of loss by exemption under section 60 of the Act, therefore, arises.

(iii) and (iv). I would refer the Honourable Member to the reply given to starred question No. 926 on the 12th September, 1936.

(b) *Ruling Chiefs and Princes.*—The exemption was apparently given at a time when the Government of India were anxious to attract subscriptions to their loans.

Indian States.—In view of the reply to part (a) (ii) above, this does not arise.

Leave allowance or salary of officers of Government and officers of local authorities or employees of companies, etc.—I would refer the Honourable Member to the reply given to part (a) of starred question No. 924 on the 3rd March, 1936.

TAKING OF EVIDENCE BY THE CHATFIELD COMMITTEE.

1272. *Mr. T. S. Avinashilingam Obettlar: Will the Defence Secretary state:

(a) whether the Chatfield Committee has begun taking evidence;

- (b) whether they have prepared the names and numbers of persons from whom evidence is to be taken;
- (c) if so, whether the evidence will be taken only from officials, or non-officials also; and
- (d) when they are expected to submit their report?

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

(b) Yes.

(c) From both.

(d) Early in 1939.

NOTIFICATION TO VILLAGERS FOR HOLDING MILITARY MANŒUVRES.

1273. *Mr. T. S. Avinashillingam Chettiar: Will the Defence Secretary state:

- (a) whether they are aware of the news titled 'peasants ousted for military manœuvres' on page 8 of the *Hindustan Times*, dated the 28th October, 1938;
- (b) whether the facts stated in it are true, and whether a memorandum signed by the villages of Ujrai, Mulpur, Sarai Garhi, etc., have been received;
- (c) whether they have been paid compensation; if so, how much; and
- (d) how is the holding of manœuvres usually notified to the villages, and how the authorities satisfy themselves that there is proper notification to the villagers?

Mr. C. M. G. Ogilvie: (a), (b), (c) and (d). The article in the *Hindustan Times* has been brought to the notice of Government, who have not yet received any other intimation of the alleged occurrences. Enquiries have been instituted, and a detailed answer will be furnished as soon as the information required has been received.

UNSTARRED QUESTION AND ANSWER.

SUPERANNUATION OF STAFF IN THE CUSTOMS SERVICES.

90. Mr. P. R. Damzen: Will the Honourable the Finance Member please state if it is proposed to introduce superannuation into the Custom Services, and whether this superannuation will be based on the principle of thirty years' service or fifty years of age, and the reason for such superannuation if it is to be introduced?

The Honourable Sir James Grigg: The rules governing superannuation and retirement in the Customs Department are Fundamental Rule 56 and Articles 465 and 465-A of the Civil Service Regulations, copies of which are in the Library of the House. There is no proposal under consideration to modify these rules.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to starred question No. 21 asked by Mr. Sham Lal on the 8th August, 1938.

OFFICERS PUNISHED FOR DISHONESTY AND CORRUPTION ON RAILWAYS.

(a) The number of non-gazetted staff on the State-managed Railways punished during the financial year 1937-38 for dishonesty and corruption was 72 on the Eastern Bengal, 41 on the East Indian, 31 on the Great Indian Peninsula and 19 on the North Western Railway. There was no case of a similar nature amongst gazetted staff during the same period.

(b) and (c). In respect of non-gazetted staff, the practice on all State-managed Railways is not uniform. On the East Indian and North Western Railways, the name of an employee dismissed for a serious offence with brief particulars of the case is notified through the Railway Gazette or through the monthly bulletins, circulars, etc. On the Eastern Bengal Railway, a list of non gazetted staff dismissed or discharged is circulated to District Officers only once a month, while on the Great Indian Peninsula Railway, the names, etc., of dismissed inferior staff only are notified in the Weekly Gazette.

As regards gazetted staff on State-managed Railways, the practice is to notify in the *Gazette of India* the names of officers dismissed or removed from the service.

Information promised in reply to unstarred question No. 19 asked by Mr. Muhammad Ashar Ali on the 31st August, 1938.

NON-ADMISSION OF CERTAIN NON-GAZETTED STAFF TO THE STERLING BRANCH OF PROVIDENT FUND ON THE EAST INDIAN RAILWAY.

Government are informed that the member of the non-gazetted staff to whom the letter quoted by the Honourable Member related has since been admitted to the sterling branch of the provident fund.

Information promised in reply to parts (b) and (c) of starred question No. 804 asked by Dr. P. N. Banerjee on the 6th September, 1938.

PRICE AND SYSTEM OF EXTRACTION OF COAL FROM MINES IN ASSAM.

(b) and (c). The ordinary 'pillar and stall' system of working which prevails in the Bengal, Bihar and Central Provinces coalfields is followed in coal mines in Assam, other than those belonging to the Assam Railways and Trading Company, Limited. In the latter mines, this seams are extracted in one operation, retreating from the far end, while thick seams are worked in two to four sections, depending on the thickness of coal and the bands in them, in accordance with what is known as the "chamber" or "opening" system of working.

Information promised in reply to starred questions Nos. 857, 858 and 859 asked by Mr. Muhammad Nauman on the 8th September, 1938.

APPOINTMENT OF TRACERS AND DRAUGHTSMEN IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

Starred question No. 857.—(a) The rules for the recruitment and training of subordinate railway staff were made applicable to the recruitment of draftsmen on the East Indian Railway in 1937. The recruitment conditions mentioned in these rules did not, therefore, apply to draftsmen and tracers recruited prior to March, 1937, and none has been recruited since that date. Communal allotment was not obtained when certain temporary draftsmen selected from a panel of approved draftsmen were made permanent owing to an oversight, but steps have been taken to prevent a recurrence.

(b) Does not arise.

VACANCIES OF TICKET COLLECTORS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

Starred question No. 858.—(a) Presumably the Honourable Member is referring to the Government of India, Home Department Resolution, No. F-14/17-B./33 of the 4th July, 1934, regarding the representation of Muslims and other minority communities in Government service. If so, the position is that owing to certain enquiries which had to be made from railway administrations before fixing separate percentages for various minority communities on different railways, the Railway Board issued detailed instructions in the beginning of December, 1934. The Railway administrations took some time to frame detailed instructions to ensure that there would not be any difficulty in the practical application of the orders, and on the East Indian Railway, the orders were circulated to all concerned in April, 1935, from which date they have been given effect to.

(b) In view of the reply to part (a) above, this does not arise.

RECRUITMENT AND TRANSFER OF MUSLIM CLERKS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

Starred question No. 859.—Communal percentages are applicable to initial recruitment of staff. Subsequent transfers of staff from one category to another are made in the interest of service irrespective of the proportion of various communities in each category.

Information promised in reply to parts (e) to (h) of starred question No. 974 asked by Mr. Akhil Chandra Datta on the 13th September, 1938.

BREACHES DUE TO FLOODS IN THE EAST INDIAN RAILWAY LINE IN MURSHIDABAD DISTRICT.

(e) The examination was conducted solely by railway officers and not in the presence or with the aid of Provincial or District Engineers.

(f) and (g). Mr. S. Tidy, Superintendent, Way and Works, and Mr. K. C. Goswami, Assistant Superintendent, Way and Works, watched the flood from 19th to 24th August, 1938.

Mr. S. F. Ahmed, Deputy Chief Engineer, examined the flood from Katwa to Barharwa on the 22nd, 23rd and 24th along with the above-mentioned officers.

The portion between Azimganj and Manigram was inspected on the 24th August, 1938, and the vicinity of Azimganj between 12 hours and 14 hours on that date.

(h) The embankment in question is owned by the Irrigation Department of the Government of Bengal, but so far as Government are aware, though it was found to be badly damaged by scour opposite Bahrapur on the 28th August, 1938, it had neither been breached nor overtopped.

STATEMENT OF BUSINESS.

The Honourable Sir Nripendra Sircar (Leader of the House): Sir, may I make a submission with reference to the business to be taken up tomorrow? The members of the Select Committee on the Income-tax Bill were, I understand, unanimous in desiring that the motion for the consideration of the Bill as reported by the Select Committee should be taken up tomorrow with one day's curtailment of the period of one week referred to in the proviso to clause (a) of Standing Order 44 (1). If this arrangement has your approval, the Income-tax Bill will be taken up tomorrow and proceeded with *de die in diem* and any business on the current list which is not disposed of today will stand over.

Mr. President (The Honourable Sir Abdur Rahim): If that is the general desire of the House, I am prepared to waive the Standing Order so far as one day is concerned. Is it the general desire of the House that the Income-tax Bill should be taken up tomorrow?

Several Honourable Members: Yes, yes.

THE PREVENTION OF CRUELTY TO ANIMALS (AMENDMENT) BILL.

The Honourable Mr. R. M. Maxwell (Home Member): Sir, I move:

"That the amendment made by the Council of State in the Bill to amend the law relating to the prevention of cruelty to animals be taken into consideration."

The amendment relates to item (h) in sub-section (2) of proposed section 15 inserted by clause 13 in the original Bill. This clause was inserted by an amendment during the Second reading of the Bill, and although Government accepted the substance of the amendment, I took the occasion to point out that the drafting stood in need of some improvement. That has now been done, and the result is clause (h), as it appears in the Bill returned by the Council of State. This preserves the sense of the original amendment and puts it into a satisfactory form.

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

"That the amendment made by the Council of State in the Bill to amend the law relating to the prevention of cruelty to animals be taken into consideration."

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I rise on a point of order, Sir. No Bill, as amended by the Assembly, is supplied to the Members, and now we are supplied with a statement and a Bill as amended by the Council of State. We have no means of comparing the section as it stood after the Assembly sent it to the Council of State with the section as it stands

Mr. President (The Honourable Sir Abdur Rahim): Surely the Honourable Member had the Bill before him before?

Mr. K. Santhanam: No, Sir. The Bill, as amended by the Assembly, has never been placed in the hands of the Members of the Assembly, in fact the Honourable the Home Member himself said that the particular section which was amended by the Assembly was re-amended by the Council of State. We have not been supplied with a comparative statement showing what amendments were carried out in the Council of State in the Bill as passed by the Assembly. Unless we have some means of comparing it, we cannot intelligently consider it.

Mr. President (The Honourable Sir Abdur Rahim): Can the Honourable the Home Member tell the House what was the amendment carried out in the Council of State?

The Honourable Mr. R. M. Maxwell: Clause (h), as passed by the Assembly, read as follows. The governing words are:

"The Provincial Government may make rules."

[Mr. R. M. Maxwell.]

That is, section 15 (h) reads as follows:

"prohibiting the impounding of cattle in any cattle place without adequate provision being made for adequate space, food and water."

The point raised by the Honourable Member himself in regard to one of these rules was that the rules should not prohibit things but that they should prescribe the conditions under which a thing should be carried on. At the time when that clause was moved, I pointed out that the drafting of this amendment which was moved by my Honourable friend, Prof. Ranga, was not quite satisfactory in form, but at that time it was not possible on the spur of the moment to make a drafting amendment and it was, therefore, left to put the matter right in the Council of State.

Mr. K. Santhanam: I am glad that my Honourable friend has made a drafting correction there, but I should like to know why he has not made a similar correction in clause (e), which says, "prohibiting the use of any bit . . ." where also the word "prohibiting" appears. I am afraid the Government do not care to look into these matters with the attention that they deserve. If the word "prohibiting" is not applicable to a clause like (h), why should it have been removed from (h) and not from (e)? May I know whether my friend would make an amendment here and sent it back to the Council of State so far as section 15 (2) (e) is concerned?

Mr. President (The Honourable Sir Abdur Rahim): Is it necessary?

Mr. K. Santhanam: That is the argument which the Honourable Member gave for the amendment which we are asked to pass.

The Honourable Mr. R. M. Maxwell: That clause (e) was passed by this House without amendment, and the only clause which is now under the consideration of the House is clause (h), and not clause (e).

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): I want to raise the general point arising out of this matter raised by my Honourable friend, Mr. Santhanam. We never get copies of the Bills as passed by the Assembly at all. Take, for example, the Motor Vehicles Bill. According to the Standing Orders, we can insist on copies of a Bill being supplied to us before the third reading is taken up. But, generally by the time the third reading is reached, the Members become tired, and the Standing Order is waived and we pass the Bill. I have been in this House for the last four years, and I have never got copies of any Bill as passed by this House, until it is passed by the other House and becomes an Act. You need not give a final ruling today, but I should like you to consider it and give us some opportunity of looking at our own handiwork,—what we have done with regard to the Bills coming before us. We go through the Bill clause by clause and make amendments, but after that what happens I do not know. I believe it goes to the other House, but we must get copies of the Bill some time or other.

Mr. President (The Honourable Sir Abdur Rahim): You get it after it is passed by the other House and consented to by the Governor General.

Mr. S. Satyamurti: I am not thinking of that stage. I am thinking of the stage after it is passed by this House. Because, after all, in the other place, so far as this Party is concerned, we have got friends working in the other House. Moreover, it is the House of Commons practice,—I speak subject to correction—that a Bill passed by the House must be available to the House. Otherwise, we will have to consider whether the third reading should not be put off till we get copies of the Bill as amended, clause by clause, by us. You may issue orders that as soon as the office can prepare copies of the Bill as passed by this House they may be supplied to Honourable Members.

Mr. President (The Honourable Sir Abdur Rahim): Before the third reading?

Mr. S. Satyamurti: No. After the third reading, but within a week or ten days we should be able to get copies of Bills as passed by this House. I think it will help all Parties, including the Government, to see their own handiwork and if there is any improvement to be suggested, then either the Government or our friends in the other place may take it up and do the needful.

The Honourable Sir Nripendra Sircar (Leader of the House): I do not know whether it is really a matter for you or for me to direct your office to do it, but in any case the matter is of importance and I am quite prepared to consider it and see what can be done.

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

"That the amendment made by the Council of State in the Bill to amend the law relating to the prevention of cruelty to animals be taken into consideration."

The motion was adopted.

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

"That the following amendment made by the Council of State be agreed to:

"In clause 13, for item (h) of sub-section (2) of the proposed Section 15, the following item was substituted, namely:

"(h) prescribing the manner in which cattle may be impounded in any place appointed for the purpose, so as to secure the provision of adequate space, food and water."

The motion was adopted.

THE EMPLOYMENT OF CHILDREN BILL.

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

"That the amendment made by the Council of State in the Bill to regulate the admission of children to certain industrial employments be taken into consideration."

This is a purely consequential matter and need not detain the House for more than a minute. The House will recollect that in the Bill as presented in this House, sub-clause (1) of clause 3 prescribed a limit of age of 15 years, and sub-clause (2), of 14 years, and consequently, clause 5 (2) provided for a certificate that the child had attained the age of 15 years or of 14

[**Sir Muhammad Zafrullah Khan.**]

years as the case may be. This House was pleased to raise the age limit in sub-clause (2) of clause 3 to 15 years also, so that in both the sub-clauses of clause 3 the age limit became 15 and the certificate, therefore, will be that the child has attained the age of 15 years and the necessity of providing for a certificate that he has attained the age of 14 years for the purposes of sub-clause (2) of clause 3 has ceased. This is a consequential amendment to that effect. It was not made here by an oversight and the Council of State has now made that amendment so as to provide in sub-clause (2) of clause 5 that such certificate shall be that the child has completed his fifteenth year and they have omitted the words "or fourteenth" and "as the case may be". It is a purely consequential amendment. Sir, I move.

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

"That the amendment made by the Council of State in the Bill to regulate the admission of children to certain industrial employments be taken into consideration."

The motion was adopted.

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

"That the following amendment made by the Council of State be agreed to:
'In clause 5, in sub-clause (2) the words "or fourteenth" and the words "as the case may be" were omitted.'

The motion was adopted.

THE AJMER-MERWARA MUNICIPALITIES REGULATION (AMENDMENT) BILL.

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

"That the Bill further to amend the Ajmer-Merwara Municipalities Regulation, 1925, for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector be taken into consideration."

Sir, at present, the educational qualification prescribed for an elector to a municipality in Ajmer-Merwara is the possession of a graduate's degree. The qualification which we propose in the amending Bill is the holding of a certificate of having passed the examination of the fourth standard of an upper primary school. This is the qualification which is prescribed for elections to the Legislative Assembly of the United Provinces, but there are certain other features of the qualification on which I should like to comment. Actually, so far as the educational qualification for a municipal election is concerned, the qualification we are proposing now is lower than that prevalent in any province except in Madras. And, even so far as the qualification for election to Provincial Legislative Assemblies is concerned, it is lower than what prevails in any presidency except Madras. This, Sir, is the qualification which the Municipal Committee of Ajmer-Merwara recommended and also the qualification which has the approval of the Municipal Reform Association of Ajmer-Merwara which, I believe, is a fairly advanced body, in so far as its views on these questions are concerned. Together with the other reductions of qualifications that are being made by the Chief Commissioner under his own powers, this will have the effect of increasing the number of electors from 7,000 to 80,000. I

think it will be agreed that this marks a substantial step forward. Nevertheless, I notice from certain amendments of which my Honourable friends, like Mr. Santhanam and Mr. Avinashilingam Chettiar, have given notice that they think that we have not gone far enough and that we ought to follow the example of Madras and prescribe a pure literacy test. I should like to say that if we are not going as far as that it is not because we have insufficient respect for the example of Madras or any distrust of democracy but really because two practical considerations stand in the way. In the first place, it is the view of our educational advisers that the possession of a certificate of having passed the fourth upper primary standard examination is the minimum qualification necessary to establish permanent literacy, and the second is that, whereas the test which we propose is a simple and automatic one, namely, the production of a certificate, the other would involve an examination of each individual who claims that he is literate within the prescribed rule, and for that in a small area such as Ajmer-Merwara we have not adequate administrative staff at present. But there is another aspect of the question which has been brought to our notice, namely, that this change which we are making now is not immutable or expected to stand for all time. It is almost certain that sooner or later there will be the necessity for a further broadening of the basis of the franchise. Now, with regard to the income and property qualifications, provision for that exists in the regulation without the necessity of resorting to fresh legislation. As regards the educational qualification, such power of amendment is not vested in the Executive, but that particular point can be met by the acceptance of Mr. Santhanam's second amendment if it finds favour with the House. I have already explained the reasons why it will not be possible for us immediately to adopt any standard other than the one which we have indicated in the Bill, namely, the fourth upper primary standard, but I can assure the House that when the time is ripe for a change, neither the Government of India nor the local administration will be found either tardy or unsympathetic. That, Sir, is all I need say. I move.

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

"That the Bill further to amend the Ajmer-Merwara Municipalities Regulation, 1925, for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector be taken into consideration"

Mr. N. V. Gadgil (Bombay Central Division: Non-Muhammadan Rural): I am glad that the Honourable Member in charge of the Bill has shown his willingness to accept the amendment of which notice has been given by my friend, Mr. Santhanam. In the Government of India Act, a special lower educational qualification has been provided for women and for certain other people. In my province of Bombay, those who are on the electoral roll of the Provincial Legislative Assembly or the Provincial Council are entitled to be on the electoral roll of the municipality as well as the district local boards. Taking these two categories, namely, women and the scheduled castes, according to the Government of India Act, 'literate' means in relation to any person, "able to read and write in some language or dialect selected by him, being a language or dialect in common use in some part of India". A woman who is literate in this sense is entitled to be on the electoral roll. A similar qualification has been laid down in the case of the scheduled castes. In fact, their number works out at one-tenth in every constituency, whether it is municipal or under

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the district local boards. I, therefore, submit, that if Ajmer-Merwara cannot be given the benefit of the reforms for which it is clamouring, at least in the matter of franchise it should be as wide as possible and merely declaring that it is not practical to do it immediately is not enough. I think if it is practical in all other provinces it should be more practical and easier in a particularly small province like Ajmer-Merwara. Therefore, I am not entirely satisfied with the mere intention of the Honourable Member that he is going to accept the amendment to be moved by Mr. Santhanam. I shall be satisfied only if he is in a position to assure us that this franchise so far as the educational franchise is concerned will be as wide as is provided for women and the scheduled castes. With these words, I support the motion for consideration.

Mr. M. S. Aney (Berar: Non-Muhammadan): I only want a little explanation from the Honourable Member who moved this motion. He has himself admitted that the franchise which he has now proposed is not sufficiently wide and is certainly much below the franchise allowed in other provinces but I am not rising to speak on that point now. I want to ask him for an explanation on a different point. The qualification which is laid down here is 'the holder of a certificate proving that he has passed the Upper Primary examination or any other examination prescribed by rule in this behalf as at least equivalent to that examination'. It means that the man who can produce the certificate will be entitled to vote. But there might be men who have passed higher examinations but they may not hold the certificate for the upper primary examination. I want to know in such a case whether those persons who have passed the higher examination will be entitled to be on the electoral roll if they are unable to produce the certificate of the upper primary examination. I am not suggesting an imaginary difficulty. A case like that has actually occurred in my province. For certain purposes a boy who has passed the primary examination is held eligible under certain local laws in Berar. The eligibility of a boy who has passed the matriculation examination was considered to be of doubtful nature as he could not convince the officer that he held the certificate of having passed the primary examination. It was seriously contended that unless he produced a certificate for the upper primary examination, he was not in a position to consider whether this man was eligible under this rule or not, and here, unless he holds a certificate. I do not know whether my Honourable friend there will be entitled to be a voter on the list of Ajmer-Merwara Municipality at all. If he has not preserved his certificate for the upper primary examination and is not in a position to produce it before the returning officer who is entrusted with the duty of preparing the electoral roll, he certainly stands the risk of being rejected. Considering these difficulties, I think the wording of the clause will have to be modified to some extent so as to avoid the same difficulty. I wish my Honourable friend also to consider the other suggestion made by my Honourable friend, Mr. Gadgil, viz., whether the literacy test, at least in the case of women and the scheduled castes so far as Ajmer-Merwara is concerned, cannot be brought down to the level existing in the Bombay Presidency. With these words I support this amendment.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I have reason to be thankful to my Honourable friend, Sir Girja Shankar Bajpai, for the alacrity and considerateness with which he

has listened to my representations in this behalf. Friends from Ajmer-Merwara have been writing to me for some time past pressing upon me the desirability of getting the franchise lowered in their Province. The United Provinces to which I belong and the province of Ajmer-Merwara are culturally very much alike; and naturally I was anxious that the franchise of both these places should be as far as possible one and the same. In fact there are rumours that not before long Ajmer-Merwara might be tacked on to my Province; and then we should not like to have people who are lagging behind and who might pull us down instead of being pulled up by us. I am, therefore, naturally anxious that the franchise should be on the same basis as that in my Province and I am glad that the representations that I then made to my Honourable friend opposite were listened to with sympathy by him and that he has brought forward this Bill before the House.

I have a letter in my possession from the General Secretary of the Provincial Congress Committee of Ajmer-Merwara who took the lead in this matter, saying that he and others for whom he spoke would at least for the present be satisfied if the educational qualification was put at the primary or the upper primary stage; but the problem that the Honourable the Leader of the Nationalist Party has put forward is rather a serious one, and while he was speaking I said to myself that if clever lawyers were to interpret not the spirit but the letter of the law, I should not have the franchise myself if I went to Ajmer, for, though I have passed so many so-called higher examinations, this particular examination I have never passed; and if I were put to the test I would be sure to fail today as I think I should fail in most of the examinations I have already passed. Therefore, it is a problem into which my Honourable friend opposite should carefully go, so that these legal subtleties which my Honourable friend, Mr. Anev, has referred to may not arise later on depriving large numbers of desirable people of the vote.

Sir, the difficulty, so far as I can find out, has been that franchise qualifications in Ajmer-Merwara have to be prescribed by Statute and that they could not so far be prescribed from time to time by administrative rules. In most Provinces, and certainly in my Province, the qualifications are lowered from time to time and have been considerably lowered of late by the rule-making powers of Government. There also formerly one had to be a graduate before he could be a candidate in municipal elections. Now the educational qualification has been very much lowered. I am glad that my Honourable friend opposite is accepting Mr. Santhanam's amendment because that amendment specifically gives the right to Government to frame rules so that from time to time they may lower the franchise. I have a comparative statement in my hands, also supplied by the General Secretary of the Provincial Congress Committee of Ajmer-Merwara, to the effect that the other qualifications, besides the educational, for the franchise in Ajmer-Merwara, were very high as compared with the franchise in, say, the United Provinces or in the Central Provinces and Berar. I think that that also is a matter which should be taken into consideration by Government. Today they are lowering the educational franchise but there are other and perhaps more important matters regarding the franchise that have also to be looked into. For instance, while in the United Provinces Assembly a land revenue of only Rs. 5 is necessary to give the franchise.

Mr. President (The Honourable Sir Abdur Rahim): It is not necessary for the Honourable Member to go into all that now.

Mr. Sri Prakasa: I was trying to induce the Honourable Member to look into the other point also; but I shall leave that for the moment. I would only say that I am glad that the educational franchise is being lowered; and as my friends of Ajmer-Merwara seem to be satisfied at least for the present with the proposal as made by Government, I think the House would be wise in accepting this along with the amendment of my friend, Mr. Santhanam, so that the franchise may be lowered later on without Government having to come before the Legislature for the purpose. Sir, I welcome the Bill and support it.

Rai Bahadur Seth Bhagchand Soni (Ajmer-Merwara: General): Sir, I am very glad that my Honourable friend, Sir Girja Shankar Bajpai, has brought forward this present Bill to amend the Ajmer-Merwara Municipalities Regulation so as to lower the educational franchise. I am sure and confident that the people of my constituency will feel very very grateful to Government for giving them this long-needed reform. Of course, it will increase the number of the electors from some seven thousand to thirty thousand, and that is very satisfactory; and let us hope that more reforms will come from the Government in course of time. With these words, I again thank my Honourable friend, Sir Girja Shankar Bajpai, for this Bill.

Prof. N. G. Ranga (Guntur cum Neilore: Non-Muhammadian Rural): Sir, I am not surprised at all at the unqualified satisfaction which my Honourable friend, Rai Bahadur Bhagchand Soni, has expressed to Sir Girja Shankar Bajpai for this Bill, but the Bill is certainly not due to my friend, Rai Bahadur Bhagchand Soni's efforts, and if my friend goes on expressing his satisfaction, I am sure Government will not be coming forward to improve the political conditions and status of these people in Ajmer-Merwara.

Sir, I find that sub-clause (b) of sub-section (2) of section 30 of this Regulation of 1925 gives a number of qualifications ranging up to a big number which are prescribed for enabling any one to become a voter, and in all the other series of qualifications except for the first one power is given to the Local Government to prescribe any lower or higher qualifications of property in land or buildings or in other things. It is only when we come to the question of education that such a power has not been given and if my Honourable friend, Mr. Santhanam's amendment is accepted that power will be given to the Local Government. So, what I would like to know is the use that has been made so far of this permissive power that has been given to the Local Government to reduce these qualifications in regard to any of these six items? It is not fair to the House to be asked to consent to an amendment of only one of these items without, first of all, knowing exactly to what extent in regard to other qualifications action has been so far taken by the Local Government to increase the number of voters or to make it more easy to more people to enrol themselves as voters. We are only told that from 7,000 the list of voters will go up to 30,000. We would like to know whether it is going to be as a result of this proposed amendment here or whether it has been the result of various other amendments that had already been made by the Local Government in its discretion. If so, in regard to which of these particular qualifications, they have taken action and to what extent, as a result of that action the number of voters has gone up, and so on. That information has not been vouchsafed to us. It is only fair to ask for that information. We

should be supplied with as full information as possible so that we may be in a better position to come to proper judgment in regard to the value of this amendment. In the second place, I am rather doubtful whether many of these adults who consider themselves to be educated today but who had not had the opportunity of going to any of these primary or upper primary schools 10 or 20 years ago, when, I dare say, most of these schools were not in existence, would be able to get themselves qualified under this particular prescribed condition. There are, I am sure, thousands of people in villages as well as in the towns of Ajmer-Merwara who will experience this particular difficulty. They have not had this particular certificate at all.

Sir Girja Shankar Bajpai: If I may correct my Honourable friend, the villages of Ajmer-Merwara are not concerned, because we are dealing only with municipalities.

Prof. N. G. Ranga: What will happen to those people who hail from villages and live in towns where they work as labourers? They have studied somewhere in village schools as a result of which they have learnt how to read and write. Are they not to be enabled to qualify themselves for this vote? If this particular certificate is insisted upon, it would be impossible for these people to become voters. Then, I do not know whether the Local Government is going to be advised to issue instruction to the headmasters of these upper primary schools to examine all those persons who wish to be examined that way as to whether they have the capacity to read and write and then to issue certificates. If they are not going to issue such certificates, then certainly it is going to disqualify a large number of people who otherwise ought to be considered as properly qualified for this vote. Therefore, I want the Government to think of a suitable way by which this particular difficulty can be overcome and these people can be helped to qualify themselves for the vote.

Then, my Honourable friend said that there is a difficulty in adopting the Madras method of examining anyone, who comes to qualify himself for the vote, whether he knows how to read or write and then agreeing to give him the vote. He says there are not enough administrative officers and so on. If that is so, that particular difficulty must be experienced by every other Provincial Government. After all, the other Provincial Governments are not having many officers than the Provincial Government of Ajmer-Merwara.

Sir Girja Shankar Bajpai: The point I wanted to bring to my Honourable friend's notice was that with the exception of Madras no other province has adopted this method.

Prof. N. G. Ranga: But, at the same time, under the Government of India every woman and depressed class

Sir Girja Shankar Bajpai: That is another point.

Prof. N. G. Ranga: As has already been pointed out, this particular qualification exists and it is being satisfied by millions and millions of people of this country and certainly administrative officers have been found to cope with this work. Unless it is due to the usual inertia and

[Prof. N. G. Ranga].

unwillingness on the part of the Government officers not to undertake any further responsibility, there can be no legitimate reason in the way of accepting this amendment given notice of by my Honourable friend, Mr. Avinashilingam Chettiar.

But, really speaking, we need not unnecessarily worry ourselves even about this particular difficulty because the proper thing to do is the universal franchise. I do not know why the Government of India should fight shy of it. After all, we should aim at it and we should achieve it as soon as possible, if not immediately. If we are to achieve it for the sake of this Central Legislature as well as the Provincial Legislatures, then the best thing to do is to make a beginning in the case of the municipalities. I would like to know whether the Government of India are prepared to give a lead to the various Provincial Governments in this regard by making this departure and establishing the universal franchise for these municipalities which are in the centrally administered areas. If the Central Government wishes to be as backward as it has been now, then, of course, the Provincial Governments will teach them a lesson.

Babu Baijnath Bajoria (Marwari Association: Indian Commerce): Sir, I rise to contradict an uncharitable remark which has fallen from the lips of my Honourable friend, Prof. Ranga, when he said that Rai Bahadur Seth Bhagchand Soni had no hand in this measure for which he should be thanked.

Mr. M. S. Aney: Rai Bahadur Seth Bhagchand Soni does not stand in need of charity!

Babu Baijnath Bajoria: That is so. The fact is that my Honourable friend drew the attention of the Government about this reform several times by bringing questions on the floor of the House.

Prof. N. G. Ranga: If that is so, I am sorry for having said that.

Babu Baijnath Bajoria: I am glad that my Honourable friend has realised that. Another thing which I would like to say is that my Honourable friend, Mr. Sri Prakasa, assumed that before long the territory of Ajmer-Merwara may be merged in his province. He is probably counting his chickens before they are hatched. Sir, I am glad that this measure has been brought by the Government. It is a long-needed reform and it will be welcomed by all. I do not know what the qualification for the Delhi Municipality is. If it is higher, I think Government will take a leaf from this measure and try to bring a similar measure for lowering the qualification of franchise for election to the Delhi Municipality. With these words, I support the motion.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): Sir, I welcome the principle which underlies this Bill and I congratulate my Honourable friend, Sir Girja Shankar Bajpai, on having introduced this Bill and for having placed so many educational facilities in the way of those who want to avail themselves of the right of being electors in the municipalities of Ajmer-Merwara. But I should like to point out that every civilized Government must see to it that all people living in its

country should be educated and there should be no ignorance. In this case, if a man does not hold the prescribed certificate and if he has not passed the upper primary standard, whose fault it is? There is no reason why he should not be given the right to vote. We must have adult franchise, and if a young man does not possess that certificate, it is not his fault.

Mr. K. Ahmed (Rajshahi Division: Muhamnadan Rural): In that case all the illiterate masses would vote for the Maulvies.

Maulana Zafar Ali Khan: Then, there are certain other things to be taken into consideration. How are we to know that, if a man has been educated at some private seminary, for instance, a *pathshala* or a *masjid* and his qualifications are higher than those who hold this upper primary certificate, such a man should not be permitted to be elected on the basis of that education. If the Honourable Member can give us an assurance that the men who have received their education in institutions other than Governmental institutions will be entitled to be voters and electors, then I will be satisfied. In the villages, of course, there is a system of education. People read at *pathshalas* and at *masjids* and their standard of education, as compared with the standard prescribed in Governmental institutions, is higher in my opinion. So they must be given credit for that. In the case of those people who have educational qualifications from whatever sources, whether Governmental or non-governmental, they should be brought within the ambit of this Bill. That is one thing.

Then, last but not the least, I should like to say that higher education has been given by nature to man—our ears, our noses, our eyes, our hands and even our mouths. The Government should see to it that there is compulsory education, then there will be no use in introducing this Bill. If there is compulsory education, then naturally everybody would be educated. If not, let us have adult franchise. Ignorant persons are better than many Members here. They are more clever. With these remarks, I extend my support to the Bill, and I hope that the Honourable the Mover of this Bill will assure us that, so far as those men who receive education at non-Governmental institutions are concerned they will not be removed from the sphere of the Bill.

Shrimati K. Radha Bai Subbarayan (Madura and Ramnad *cum* Tinnevely: Non-Muhammadian Rural): Sir, I am glad that the Government have considered the need for extending the franchise in Ajmer-Merwara by lowering the educational qualification, and I also appreciate very much that the Honourable the Mover of the Bill has accepted the amendment which has been suggested by my Honourable friend, Mr. Santhanam. I should like to express the earnest hope that the administration of this Province will use the power that they are being entrusted with for lowering the educational qualification to literacy as soon as possible. I should like to put in a strong plea on behalf of women in particular. It is a fact, Sir, that school education and passing of examinations are comparatively more backward among women than among men. This is particularly so in a province where the system of purdah exists and this fact was brought home to me during my work on the Indian Franchise Committee. I understand that purdah prevails very strongly in Ajmer-Merwara and it follows, therefore, that it will be difficult for women to

[**Shrimati K. Radha Bai Subbarayan.**]

have school education which would enable them to pass examinations. I myself know that there are several women, even in the most orthodox families, who are quite literate and quite intelligent and able to exercise their franchise. It will be unfair to insist on such women having educational qualifications which prescribe the passing of an examination. I do most earnestly hope that the Government as well as the Administration of this province will give their very earnest attention to this question.

Then, Sir, there are one or two points in the remarks of my Honourable friend the Mover which I should like to reply to. With regard to following the lead of Madras he said—if I heard his words correctly—that it was not lack of respect which stopped them from following that lead. I should like to point out, that, it is not a matter of courtesy or respect, but one of wisdom and necessity to accept the lead that a progressive province gives. He also mentioned that the Educational Commissioner was of opinion that in this Province the passing of an examination, I think it is primary examination, is necessary for a person to be classified as literate. I am open to correction, but I got that impression.

Sir Girja Shankar Bajpai: I might correct the Honourable Lady. What I did say was that both the Indian Franchise Committee of 1932 and our Educational experts felt that permanent literacy was not likely to be acquired unless a person had read up to and passed that standard of examination.

Shrimati K. Radha Bai Subbarayan: Since then we have made great progress in this country, I hope. What I should like to point out, Sir, is that the lowering of educational qualification to literacy is not going to cause any harm, is not going to lead this country into any danger. There need be no fear of any revolution. Madras has proved that literacy, qualification can be used with great benefit and advantage to the province. If it has been successful in Madras, there is no reason why it should not be successful in other provinces. I hope I shall be pardoned if I say, that it seems to me that an unfair reflection is cast on the intelligence of the people of those provinces where the Government refrain from introducing literacy as a qualification for franchise. I do hope that Government will pay some heed to these points.

Mr. K. Ahmed: Sir, I want to say just a word or two. Sir, it is very encouraging to the House to see a Lady Member speak on a subject like this. But, Sir, after giving so much encouragement and so much facility to the fair sex at the last Session of this Assembly, I am sorry to make a remark against the Honourable Lady Member today. I should say that the Honourable Lady Member has neglected to take her due share in the propaganda work in Ajmer-Merwara. If only the Honourable Lady Member goes to Ajmer-Merwara and brings out all the members of her sex of the purdah, she would have done a great service. Sir, if all the faults are to be laid at the door of the Government of India and of the Ajmer-Merwara Administration, if all the blame is thrown on them, then what have these ladies been doing till now? Why could they not penetrate into the purdah and do propaganda work and try to bring their sisters from inside the purdah? I do not find any such activities in that province. It is but right that voters should send the right sort of persons to the municipalities. I ask the

Honourable Lady Member to raise the standard of the fair sex by doing propaganda work. They must take advantage of the situation and act in the living present. Surely, if women are allowed to remain in darkness and if enlightened Members like the Honourable Lady do not take the trouble of bringing light to these women, how can the Government help them? The members of the fair sex have got an organisation even in this Imperial City. I find all sorts of ameliorative measures are brought forward in this House to help the women. The ladies, the members of the fair sex, come here to this Assembly and if they do not utilise their time by doing propaganda work, I shall be very sorry that the thing which we expected has not come.

With these few remarks, Sir, I congratulate the Government on giving this facility to Ajmer-Merwara by lowering the educational qualification, so that more persons will become enrolled as electors thereby.

Sir Girja Shankar Bajpai: Sir, I think I am entitled to claim that the

1 P.M.

Bill has on the whole had a favourable reception from the House. There are certain points raised by different Honourable speakers which call for comment, and I propose to take them up, not necessarily in the order in which the Honourable Members spoke, but in the order of their importance. The first and foremost is the practical point raised by my Honourable friend, Mr. Aney, and also supported by my Honourable friend, Maulana Zafar Ali, namely, what is to happen to persons who may in effect possess a higher educational qualification but may not be able to produce a certificate of having passed the Upper Primary (fourth standard) examination or any other examination prescribed by rule in this behalf as at least equivalent to that examination. In so far as the evidence depends upon having passed an examination, it may be possible for us to cover that by the latter part of this particular clause. But I can assure my Honourable friends that I shall have the point further examined, and if I find our wording is not adequate for the purpose which is mentioned, then in that case, we shall take the opportunity, when this Bill goes before the Council of State, to have the position rectified. That also covers what my Honourable friend, Maulana Zafar Ali, said, and I hope that my assurance on this point will satisfy him.

I then pass on to my Honourable friend, Mr. Gadgil. Mr. Gadgil drew attention to the fact that not merely in Madras but in all other provinces, so far as women and members of the scheduled castes are concerned, the test is a literacy test and not the test of a certificate of a particular examination. That is perfectly true, and if I may say so, the reason why the administrations concerned have been able to cope with this particular qualification adequately is that the numbers involved are comparatively small. I have not had an opportunity of examining the point as regards women and the scheduled castes in Ajmer-Merwara in consultation with the Local Administration, but my Honourable friend may rest assured that we shall take this up with the Local Administration and if a lowering, immediately, of these qualifications for women and the scheduled castes is practicable, we shall make the requisite rules.

I do not know that there is any other point of substance by way of suggestion that remains to be dealt with. My Honourable friend, Professor Ranga, who is nothing if not always disparaging, felt that on this occasion also Government had been guilty of something nefarious. Well, the truth of the matter is that, as I explained in my opening speech, Government's

[Sir Girja Shankar Bajpai].

measures will have the effect of raising the number of electors from 7,000 to 30,000 and that fact will follow not from the lowering of the educational qualification, because the standard of education in Ajmer-Merwara is not very high, but from the substantial reduction which has been made in the proprietary and income qualifications, a reduction which the Chief Commissioner can make in exercise of the powers that are vested in him under the existing regulations. I do not happen to have a comparative statement with me now of the qualifications that prevailed before and the qualifications which are being introduced now, but I can get the Honourable Member a comparative statement which will satisfy him that the claim of substantial reduction which I am making on behalf of the Local Administration is correct.

Then, Sir, the Honourable lady, Mrs. Subbarayan, suggested that there has been sufficient progress since 1932 so that the educationists' advice of 1932 has become inoperative. The point of the advice is not that there has not been an extension of education. The point is that unless you put in a certain minimum period, you are likely to relapse from literacy to illiteracy. That really is the point of the suggestion—that unless you have studied up to the fourth standard, you are not likely to have acquired permanent literacy.

I think that is all that I need say at this stage.

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

"That the Bill further to amend the Ajmer-Merwara Municipalities Regulation, 1925, for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector 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-Muhammadan Rural): I am moving amendment No. 4, Sir. I move:

"That in clause 2 of the Bill, to the proposed sub-clause (i) the following be added at the end:

'that he possesses such lower educational qualification as may be so prescribed, or'."

Sir, all the relevant points have been indicated by other speakers. I am no more convinced than Professor Ranga that either administrative or other convenience requires the postponement of the introduction of the literacy qualification. I would rather have moved my amendment No. 2, but in view of the fact that Government have taken the initiative and have reduced the qualification, and in view of the fact that this amendment gives the power to extend it further to literacy stage, and Government have promised to consider the desirability of its introduction as early as possible, I have not thought fit to divide the House on this matter. But I hope that whether Government immediately introduce the literacy qualification or not, they would at least make some provisions in virtue of my addition. They must accept the school certificate from a primary school. In my own province there is no Upper Primary examination. It has been abolished now for many years and a boy or girl from the Upper Primary School simply on the basis of his or her school certificate, goes over to the High School. There should be no difficulty in recognising the Upper Primary certificate.

Then, Sir, as Mr. Sri Prakasa and Mr. Aney have pointed out, the Primary Certificate should automatically include every higher examination. I hope that the Government will be able to make administrative arrangements to introduce literacy test as early as possible. I understand that if the literacy test were to be introduced today, there won't be an addition of more than 1,000 or 2,000 to the number of voters. We are not considering any franchise for a general electorate. We are considering a franchise only to the three municipalities in this area. And in municipal areas there should be little or no administrative difficulty in enforcing even adult franchise. I do not think they should be afraid of administrative difficulties for introducing only this adult franchise. I hope the Government will carry out their policy in regard to this matter as early as possible.

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

"That in clause 2 of the Bill, to the proposed sub-clause (i) the following be added at the end :

"that he possesses such lower educational qualification as may be so prescribed, or."

Prof. N. G. Ranga: Sir, I did not get any assurance from the Honourable Member which I asked for, in regard to those who have studied in private schools, but who have not been able to pass any examinations whatsoever. I am not concerned with those who have passed the higher examinations. After all, their number may not be very much,—it may be 50 or 100. If my friend has shown so much solicitude in regard to these 100 or 200 people who have obtained higher certificates than the certificate insisted upon here, then I do not know why my friend is not willing to give us the assurance that in regard to these people also he will see to it that the administration will try to be considerate towards their claims and consider them to be qualified for voting provided they satisfy some lower test that is prescribed by the local authority. Several people have not had the benefit of going to a regular registered or recognised educational institution, but yet they have studied. They know how to keep accounts, they also know how to read and write, and there is no likelihood of these people relapsing into illiteracy. I wish my friend had given us the assurance that steps will be taken to see that these people will also be given these electoral qualifications.

Sir Girja Shankar Gajpal: Sir, I do not think it is necessary for me to make a long speech. I may say at once that I propose to accept the amendment moved by my friend, Mr. Santhanam.

As regards what fell from Prof. Ranga, I do not think he is altogether consistent. If people who have not passed any examination have attained a higher standard than people who have passed an examination, then the action which is now suggested to be taken is not going to help. The practical question is whether there are any such people. I shall have to make inquiries on that point from the local administrations and see whether the difficulties are practical and what action is called for.

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

"That in clause 2 of the Bill, to the proposed sub-clause (i) the following be added at the end :

"that he possesses such lower educational qualification as may be so prescribed, or."

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.

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

"That clause 1 stand part of the Bill."

Mr. G. H. Spence (Secretary, Legislative Department): Sir, I move:

"That in clause 1 of the Bill, for the figures '1938' the figures '1939' be substituted."

I may explain that the Council of State will not have an opportunity of passing this Bill before 1939.

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

"That in clause 1 of the Bill, for the figures '1938' the figures '1939' be substituted."

The motion was adopted.

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

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

The motion was adopted.

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

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 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.

THE INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL.

Mr. Deputy President (Mr. Akhil Chandra Datta): The House will now resume consideration of the following motion moved by the Honourable Sir Muhammad Zafrullah Khan on Tuesday, the 20th September, 1938, namely:

"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. Sakhankar, 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."

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, this Bill was circulated for the purpose of eliciting opinions thereon on the 7th October, 1937. Opinions have been received and these and a precis thereof have now been in the hands of Honourable Members for some time. The principal object of this Bill is to put a stop to the import of goods bearing designs which are infringements of designs registered under the Act. This matter is dealt with in clauses 13 and 22 of the Bill. Advantage has also been taken to improve the law in certain other respects. So far as these other amendments are concerned, the more important ones are contained in clauses 3, 7 and 9 of the Bill which propose to amend sections 5, 26 and 38 of the Act with a view to improve the examination by the Controller of Patents of original applications for the grant of patents as well as for the application of uniform criteria in respect of novelty of an invention by the Controller and by the High Court. The opinions that have been received have also put forward detailed suggestions with regard to the Bill, and these will no doubt be examined by the Select Committee. It is not my purpose at this stage to enter into any discussion of these detailed proposals.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Sir, this Bill has been generally welcomed. I would like to draw the attention of the House to two points which, in my opinion, are very important. One is clause 3. Clause 3 of the Bill seeks to amend section 5 of the Act which refers to proceedings upon application. The Controller shall examine every application and various conditions are prescribed under this Act which any applicant has to satisfy before getting a patent. One of the conditions which this Bill freshly introduces is rather dangerous. It is this. Clause 3 (a) (iii) (g) says:

"the invention as described and claimed is of no utility."

It would be a difficult matter indeed if the Controller is to decide whether a particular invention is going to be of utility or not. As the Secretary of the Merchants' Chamber of the United Provinces, Cawnpore, points out, and as has been endorsed by the Government of the United Provinces, this will be rather dangerous. I now read from page 7 of the opinions:

"The new clause (g) proposed to be inserted to Section 5 (1) of the Act should also, in the opinion of the Chamber, be deleted. An invention which is supposedly of no utilitarian value is not likely to be offered for patent. In the rare cases, however, even when inventive skill is assiduously used over objects of little or no utility, no attempt should be made to turn down the application for patents of such invention. Seemingly worthless invention may, at a later stage, appear to have some utilitarian value."

This is endorsed by the Government of the United Provinces in their para. 2:

"This Government are of the opinion that the provisions of the Bill are suitable except that proposed clause (g) of section 5 (1) may be deleted; for, as pointed out by the Merchants' Chamber of the United Provinces, inventions which may appear to be worthless may at a later stage be found to be of value."

The next thing which I would like to refer to is clause 13. As has been pointed out by the Honourable the Mover of this motion, that is admittedly one of the most important clauses of this Bill. The purpose of that clause is this. I am reading from the Statement of Objects and Reasons.

"To deal with the piracy of designs abroad it is essential that the owner should have a remedy against the importer of pirated designs without being required to prove that the importer was aware that the design was pirated."

[Mr. T. S. Avinashilingam Chettiar.]

In the opinions received doubts have been thrown whether this will really be effective. I would refer to page 11, the opinion of the Solicitor to the Government of Bombay, and that gentleman claims that he has had a long experience of this law. This is what he says:

"The amendment so far as it goes affords some additional protection to the registered proprietor of Copyright but in my opinion it does not go far enough. I have had considerable experience of cases under Section 53 extending over a number of years and I have never yet come across a case in which it could fairly be said that the dealer or importer of the spurious article was not the original culprit. As such he is primarily liable; but as already indicated, with the law as it is, it is sometimes impossible to fix him with liability."

He goes on making suggestions as to how the law can be amended to make it more effective. I do not share his views completely but I do think that the amendment which is sought to be introduced in the present Bill by itself will be insufficient to meet the case. I do not like to refer to other clauses, these being in my opinion the most important which require proper attention in the Select Committee. With these few observations I support the motion.

Mr. C. C. Miller (Bengal: European): Sir, on behalf of this Group I have pleasure in supporting the motion to refer this Bill to Select Committee. It is a measure which is quite due, if not overdue, and we believe it to be part of a Government programme for the consideration of other aspects of commercial legislation which are somewhat akin to this and which require consideration.

At the same time this Bill is of a very highly technical nature, and whilst I do not wish at this stage to go into great detail, I would observe that in some points the Bill as it stands appears to us to be defective.

For instance, in clause 2 of the Bill it is proposed to eliminate the words "manner of" from Clause 8 of Section 2 of the Act as being redundant. Expert opinion, headed by the Calcutta Bar Library, maintain that these words, so far from being redundant, are of the very greatest importance in the proper interpretation of the Act. The words "manner of new manufacture" are those used in the Statute of Monopolies, on which are based the Patent laws both in the United Kingdom and in India, and from numerous and important legal decisions in the former country, and more recently in India, these words have now become settled in a legal sense, and may be said to form the basis of what is, and what is not, a patentable invention. Since the matter is so technical we hope that the Select Committee will give very careful attention indeed to the volume of expert and influential opinion offered, and will recommend to this House the deletion of Clause 2 of the amending Bill.

Clause 3 deals with the all important question of the procedure to be adopted in the initial stages of an application for a patent. It is, however, questionable, if it succeeds entirely in eliminating the unsatisfactory features of Section 5 of the Act and this Group's representative on the Select Committee will have a number of representations to make in the matter. Legal decisions over a number of years support the view that it is not desirable that the Controller of Patents should be permitted to oppose the grant of a patent on issues of prior user of the invention in British India, and of want of utility. It is quite obvious that however

large and able a staff the Controller may have at his disposal such questions can only be settled satisfactorily by means of examination of witnesses and technical experts and such methods. And here I may appropriately quote a decision of the Court of Appeal of the United Kingdom delivered as recently as November, 1937:

"Questions of utility, prior user, and subject matter as a rule depend for their solution upon the proper conclusions to be drawn from the conflicting oral evidence of experts in the relevant art, and such evidence would be wholly out of place in proceedings before the Controller."

It is also very important that definite provision should be made in the Act for the Controller to make a search from Indian Patent Specifications published prior to the date of an application for a patent, and it should be made mandatory for the Patent Office to do this. This will require the insertion of an additional sub-section after sub-section 1 of Section 5 of the Act.

Again we feel that sub-section B of Clause 3 of the Bill, as framed, is open to considerable objection from the point of view of the person applying for a patent, and requires alteration, or perhaps the substitution of another clause.

Lastly, we should like to see the opportunity taken to improve the protection at present afforded by the Act to heirs and successors of patentees.

These, Sir, are very brief and very general criticisms of a highly technical measure which includes many other points more properly dealt with in Select Committee than on the floor of the House. Sir, I support the motion.

Prof. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadian Rural): Sir, I am opposed to the very principle underlying this Bill. I am not at all in favour of conferring all these monopolies upon any one who claims to have invented or designed a new thing or a new process of manufacture, because by this kind of monopoly we give them an opportunity to exploit the general public and particularly the consumers of those commodities and services which are produced by these designs or inventions. What is the particular advantage for any society, especially as it is constituted in the modern world, to give this monopoly? Is it because they are afraid that if such a monopoly is not given, those who invent or design will not go on inventing or designing new things? Such a claim could have been made a century ago when there were very few people keen on discovering new things and improving the technique of the various processes of industry but today the fact is that there are too many people in the world who are all the time busy inventing new processes and designs for manufacturing various commodities. In some countries such as Sweden, Holland and Denmark legislation had to be passed to prevent new and improved machinery from being introduced into various processes of industry lest it might result in greater and greater unemployment. Under these circumstances, where is the need for us to go out of our way to confer this monopoly upon these people? And, secondly, Sir, who is really going to be benefited as a result of this monopoly?

Mr. K. Ahmed (Rajshahi Division: Muhammadian Rural): Cheats.

Prof. N. G. Ranga: Exactly. Not the people who actually invent these new designs, but those who finance them, those who help them. In fact, Sir, it is a well-known fact that most of these poor people who are inventing these designs are poor and they do become poor in the process of time. Then they are obliged to run from one manufacturer to another, from one capitalist to another, and after having been cast about by one man and then by another for a long time and being impoverished they go at last to somebody to whom they would be prepared to hand over the whole of their designs or inventions provided he gives them some pittance to maintain themselves, and that man then proceeds to apply for the patent. He gets it and then he goes on enjoying all the good profits and goes on appropriating for himself as much of the consumers' money as possible not only while he is alive but also after he is dead, for the benefit of his heirs and successors. Are we here called upon to agree to this kind of system in which not even the original designers and inventors but these manufacturers and others who are interested only in profiteering in this business should be given this particular monopoly? And why? Especially, Sir, is it the case in this country that we are dying for these people who are interested in discovering all these things? Think of all those great scientists in our own country, Sir Jagadish Bose, Sir Prafulla Ray, Sir C. V. Raman and several others who have invented and discovered so many things. How many patents have they asked for, and even if they have asked for any, are they really in need of these patents in order to maintain themselves? Is it not a fact that these inventions are being discovered and these designs are being made especially in this country mostly by scientists who are already employed in various Indian universities or by some other people who are employed in various colleges, and why is it that we should go out of our way to confer upon them this particular monopolistic power in order that they may be enabled or their employers or capitalists may be enabled to make profits?

Mr. K. Ahmed: What about the registration of trade marks and patterns of the Bengal Chemical and Pharmaceutical Works of Dr. Sir Prafulla Ray?

Prof. N. G. Ranga: That is a company, not designs. The company will be registered under your Companies Act. Therefore I am not at all in favour of having any such Act on our Statute-Book and that is why I am not at all in favour of even this amending Bill. I oppose the Bill as a whole and in doing so I wish simply to say that the genius of every scientist and contribution of every scientific student should be placed at the disposal of the whole of India and it should not be exploited for the advantage and benefit of only a few people including even themselves.

Mr. K. Ahmed: Sir, Prof. Ranga's object in standing up to oppose this piece of legislation is to help all the cheats and false persons who imitate the good name and patterns of this country and of other countries, so that those people who have really discovered these things, and which have not yet up till now been discovered even in India, should not get the credit and benefit of these things, but that anybody who uses the name of Dr. Sir Prafulla Ray is going to get the credit for, say the products of the Bengal Chemical Workshops of a certain branch,—for instance, any Marwari or Bania who puts imitations up on the streets of Burra Bazaar and elsewhere. Sir, Prof. Ranga seems to have lost all his common sense. He says: "the heirs will benefit and they will inherit whatever capital their

forefathers have left in the country". Sir, I ask, if a Ranga has written out something and if he has discovered something and if his pattern is registered and then his sons and grandsons inherit something, and then if the lawyers were to come and to tell them that "while your forefathers made such a beautiful discovery, we will not give the credit to Ranga, so that his sons and grandsons may not benefit out of this", how would he like that? Sir, otherwise the masses will suffer, and the masses will be cheated. They will say, "we have purchased a beautiful thing of that name" but when one of them would go to the village, the villagers would say, "*ek to nakli hai*,"—"it is not the real thing that he has purchased". Sir, I ask Prof. Ranga not to oppose the Bill but to withdraw his opposition to the Bill.

The Honourable Sir Muhammad Zafrullah Khan: Sir, Mr. Chettiar and Mr. Miller have pointed out that the Bill is capable of improvement in some respects, and I have no doubt that their suggestions as well as any others that may be put forward will be carefully considered in Select Committee. So far as Prof. Ranga's opposition is concerned, he is really against the whole principle upon which the law of patents and designs is based and it is scarcely relevant to the consideration of this Bill. In any case he has been more than fully answered by Mr. K. Ahmed.

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

"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."

The motion was adopted.

THE RAILWAYS (LOCAL AUTHORITIES' TAXATION) BILL.

The Honourable Sir Thomas Stewart (Member for Railways and Communications): Sir, I move:

"That the Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province be circulated for the purpose of eliciting opinion thereon."

Sir, the Objects and Reasons for this Bill have been fully set out in the Statement attached to the Bill and it is unnecessary for me, on a motion for circulation, to embark on any very considerable exposition of the provisions of the measure. The Bill deals with taxation on railway property by local authorities in the Provinces. This subject has hitherto, or at least until 18 months ago, been governed by the provisions of section 135 of the Railways Act. This section provided that no local taxation could be imposed on railway property, unless the Governor General in Council had by notification in the official Gazette declared that such taxation was permissible. The Governor General in Council had also the power to annul any such notification or to vary its terms. The position was entirely changed by the coming into operation of the Government of India Act, 1935, because section 154 provided that federal property should not be subject to local

[Sir Thomas Stewart.]

taxation save in accordance with the provisions of a Federal Act. It also provided as a safeguard that the existing taxation should remain in force with the result that in the absence of any Federal Act, we are faced with the situation that not only can no local body impose taxation on State Railway property but also the Railways can in no way get rid of taxation which has proved to be inequitable. That, Sir, is not entirely an academic position because in the past 18 months or so we have had a considerable number of applications from Provincial Governments on behalf of local bodies asking that approval might be given to the levy of taxes upon railway property. Though in many cases we have regarded these taxes as eminently reasonable, we have been unable to give permission for their imposition. It is for that reason that this Bill has been brought forward. It is a matter of a certain amount of urgency, more particularly for those local bodies who are seeking extra revenue, but I do not think that this Bill, which is of such intimate concern to the Provincial Governments, should be brought before this House with a motion for immediate consideration. It is because of its particular concern to Provincial Administrations that I now move that the Bill be circulated.

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

"That the Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province be circulated for the purpose of eliciting opinion thereon."

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Obittoor: Non-Muhammadian Rural): Sir, I rise to a point of order. The point is this that it is a measure which requires the previous sanction of the Governor General. I will request you to refer to section 141 of the Government of India Act which runs thus:

"No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested, or which varies the meaning of the expression 'agricultural income'.....shall be introduced or moved in either Chamber of the Federal Legislature except with the previous sanction of the Governor General in his discretion."

Sir, the matter relating to the taxation on lands is a provincial subject and comes under Item 42 in the Provincial List, Schedule VII. Entry 42 refers to taxes on lands and buildings, hearths and windows, and Entry 49 refers to cesses on the entry of goods into a local area for consumption, use or sale therein. Sir, by this measure it is intended that the Central Government should be clothed with authority to issue notifications regarding the imposition or the levy of taxes and cesses by local authorities on railway property within a local area. Under section 154 of the Government of India Act power is given to the Federal Legislature to modify any taxes imposed by a Provincial Government on a railway authority. Until then, the existing taxes will continue. Section 154 runs thus:

"Property vested in His Majesty for purposes of the government of the Federation shall, save in so far as any Federal law may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a Province or Federated State."

It is exactly on account of this provision that this Bill has been introduced to clothe the Central Government by means of a federal law, that is, the law passed by this Legislature with power to issue the notification that the railway property may be liable to certain taxes and cesses

imposed by the local authority. If this Bill is not passed, the Central Government will not be entitled to issue any notification to impose any fresh taxation or modify the existing taxes imposed by local authorities. It is for that reason that this Bill has been introduced. But it also affects those taxes which have been assigned to the provinces and which are to be found in the Provincial List. I have already referred to Item 42 of the Provincial List. Inasmuch as this Bill affects taxes which have been assigned to Provinces, section 141 requires that such measures ought to have the previous sanction of the Governor General. You will see, Sir, that no such previous sanction has been obtained and, therefore, this Bill is out of order.

The Honourable Sir Nripendra Sircar (Law Member): Sir, I beg to submit to the House and to you that my friend's submission based on section 141 of the Government of India Act is not right because the language of that section is:

"No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested, etc., etc."

This Bill does not impose or vary any tax or duty in which the provinces are interested. In fact, this Bill is not imposing or varying any tax at all and, therefore, I submit, with confidence, that section 141 is not in answer to the validity of the Bill. Then, as regards Entry No. 42. Here, the dominating factor is railway legislation and, therefore, it ought to come under the Central subjects. Lastly, there is a point of much greater importance than a ruling on this occasion and that is this. When a question like this arises as to whether a particular Bill comes under the Provincial List or under the Concurrent List or under the other List, whether that is a point on which the Chair is going to rule. I know something happened at Simla but we contend that really in a matter of this kind there should be no ruling by the Chair, and that is the practice which is followed in other parts of the world where there is federal system of Government. Of course, that is a point which can be taken by the Opposition in opposing the Bill. They may oppose it because they think it is *ultra vires*. That is quite permissible. If the Bill is passed and then there is any question of *ultra vires*, it ought really to go up before a proper tribunal. I do not think it would conduce either to convenience or it will appeal to the Chair to give a ruling of this kind. We know that on a similar question the Federal Court was engaged for four days with the help of five learned Advocates General. On a question of that kind, I submit no ruling ought to be given by the Chair and those Honourable Members who feel that this is *ultra vires* or that this is not to be passed by this House, they will bear that in mind in opposing the Bill on its merits.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): Sir, I feel that I can usefully say a few words with reference to the points which have been raised. My Honourable friend, the Leader of the House, referred to section 141. In fact, the only material sections are sections 141 and 154 of the Government of India Act and section 135 of the Railways Act. I will presently point out that, within the meaning of the first three lines of section 141 of the Government of India Act, this Bill must fall. Section 141 of the Government of India Act enacts:

"No Bill or amendment which imposes or varies any tax or duty in which the Provinces are interested".

[Mr. Bhulabhai J. Desai.]

—and the argument of my Honourable friend shortly stated is that this Bill does not purport either to impose or vary any tax or duty in which the Provinces are interested. That is the whole of his argument. Now, let us look at section 154 of the Government of India Act:

"Property vested in His Majesty for purposes of the Government of the Federation shall, save in so far as any federal law may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a province or Federated State."

That only partly applies to such portion of the Railways as have now become the property of the State. Section 154 proceeds further:

"Provided that, until any Federal law otherwise provides, any property so vested which was immediately before the commencement of Part III of this Act liable, or treated as liable, to any such tax shall so long as that tax continues, continue to be liable, or to be treated as liable thereto."

These are the important words. Now, Sir, let us see what the Bill proposes to do. By clause 4 of the Bill, which is the material clause for this purpose, it is provided:

"The Central Government may, by notification in the official Gazette, revoke or vary any notification issued under clause (1) of section 135 of the Indian Railways Act, 1890."

Now, turning to section 135 of the Railways Act, let us see what the revocation or variation of that notification is meant to convey. Section 135 of the Railways Act says:

"Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of railways and from railway administrations in aid of the funds of local authorities."

Therefore, it is a tax in which in the language of section 141 of the Government of India Act the provinces are interested. Section 135 of the Railways Act goes on to say:

"(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor General in Council has, by notification in the official Gazette, declared the railway administration to be liable to pay the tax."

Now, Sir, the power that is sought by clause 4 of the Bill is the revocation or the variation of any such notification. I do not think it can be seriously argued that the revocation or the variation of a notification will not affect—it is bound to affect—adversely the tax or duty in which the province is interested. Take the worst case. It is unnecessary to ask you anything more. The power that is taken is to revoke a notification. Now, sub-section (1) of section 135 of the Railways Act says:

"A Railway Administration shall not be liable to pay any tax in aid of funds of any local authority unless the Governor General in Council has by notification in the official Gazette declared the railway administration to be liable to pay the tax."

Now, Sir, notifications exist rendering them liable. The question is whether this Bill which purports to take the power to revoke any such notification is or is not one which affects the tax or duty in which a province is interested. A province is very much interested in getting the duty which it now gets by reason of the notification. As soon as power under this section is exercised, that is to say, the notification is revoked,

the result would be that the tax in which the province is interested is gone. Section 135 (2) of the Railways Act says:

"While a notification of the Governor General in Council under clause (1) of this section is in force the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor General in Council, may having regard to all the circumstances of the case from time to time determine to be fair and reasonable."

I may submit that I am quite familiar with section 135 (1) of the Railways Act in view of a recent dispute that arose between the B., B. and C. I. and the Municipal Corporation of Bombay. It happened in the end that both the parties finding that the Officer appointed—I do not wish to name him—did not understand the points raised agreed, though I was the Counsel for the Municipality, that in the interest of both the parties I should arbitrate between them. The point is merely this. If there is a power of revocation as it would be conferred by clause 4 of the Bill after it is passed into law, the result would be a revocation of the right to tax and therefore we submit that without the sanction of the Governor General this Bill cannot be introduced into this House and cannot be carried through any further.

The Honourable Sir Nripendra Sircar: Sir, will you allow me to point out a matter which was really my omission. I did not take the point earlier and my Honourable friend might reply again. My attention has been drawn to a ruling given by the Honourable Sir Abdur Rahim. If you turn to section 141(2) of the Government of India Act, it says:

"The Governor General shall not give his sanction to the introduction of any Bill or the moving of any amendment imposing in any year, etc., etc."

The point taken was that if there was valid objection based on the ground of want of sanction, that ought to be taken at the time of the introduction. Once a Bill has been introduced, that stage is gone. I had not had time to consider it but my attention has been drawn to a ruling which will be found in the Legislative Assembly Debates, Volume VII, page 3133 (6th October, 1937). It goes up to page 3134. I read only the relevant portion:

"I assume for the present, for the sake of argument, that this is a Bill which modifies rights of ownership in land for the purpose of military manœuvres; but the point that I have now to consider is whether, at this stage when the motion is made for consideration of the Bill as reported by the Select Committee, it comes within the meaning of the words 'introduced' or 'moved'. So far as my experience of this practice of the House and my reading of the Rules and Standing Orders goes, it would hardly be appropriate for any legislature, to say, at any rate, so far as our procedure is concerned, that a Bill is moved. It certainly has to be introduced and that stage has now passed."

Sir, without reading the whole of that long ruling, which I am sure you will consider, the short point which I wish to make is that the stage at which this objection could have been taken—not that I admit that the objection is valid—is passed. I do once more ask you to consider my other point, that is whether you are going to turn yourself into a Federal Court and give rulings.

Mr. Bhulabhai J. Desai: I have to give a very short answer. I think my Honourable friend's motion now is that the Bill be circulated for inviting opinion. I recollect the ruling referred to by the Honourable the Leader of the House. There the Select Committee had reported and the report came up for consideration. The stage here is "introduced or

[Mr. Bhulabhai J. Desai:]

moved". So far as the present Bill is concerned, we are still in the stage of making a motion either for purposes of introduction or for circulation. We are still at a stage where, without previous sanction of the Governor General in his discretion, this motion cannot be made.

Mr. Deputy President (Mr. Akhil Chandra Datta): The point of order raised is that this Bill cannot be proceeded with as there was no sanction of the Governor General under section 141 of the Government of India Act. On an examination of the terms of section 141 it appears to me that this Bill does not strictly come within the purview of that section. Section 141 says:

"No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested, etc,"

The whole question is, "Can it be said that this Bill by itself imposes or varies any particular tax?" I should think it does not. No particular tax is imposed and no particular tax is sought to be varied by the provisions of this Bill. I think that in that view of the matter it is hardly necessary to consider the other points raised. But it certainly appears to me—I shall be very frank—that on a technical point like this, it is extremely difficult—I do not know what other people in the Chair would have thought, but at all events I feel that it is extremely difficult—off hand and with a summary argument as we have had on the present occasion to make up one's mind very clearly on a point of order like this. We have our experience in a court of law where arguments are advanced on both sides and then the Judge retires and in his cooler moments looks up the case law and takes time to come to a decision. The view has been taken on previous occasions that it is not for the Chair to give a ruling throwing out a Bill on such grounds. I know there was a previous occasion on which it occurred to me at all events that the result would be far reaching. Supposing the Chair's ruling is wrong, what will happen?

Mr. Bhulabhai J. Desai: Get the Governor General's sanction.

Mr. Deputy President (Mr. Akhil Chandra Datta): That is another matter.

The question is whether in a matter like this the Federal Court should decide or whether it is a fit matter for decision by the Chair. I do feel that this is not a matter for the Chair to decide. There is also the other point raised by the Honourable the Leader of the House, namely, that objection should have been taken at an earlier stage. On all these grounds, the point of order must be over-ruled.

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

"That at the end of the motion, the words by 1st October, 1939' be added."

Sir, Standing Order 99 (3) says:

"Where a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried, and the Bill is circulated in accordance with that direction and opinions are received thereon, the member in charge, if he wishes to proceed with his Bill thereafter, must move that the Bill be referred to a Select Committee."

Sir, here in the motion itself there is no date fixed and unless you fix a date we could not have the opinion of every person to whom it is circulated, when the Bill is brought before us subsequently. We know from the Income-tax Bill that Provincial Governments take a long time to send their opinions. The motion for circulation of that Bill was made in April, and when the bulk of the opinions was circulated to us, many Provincial Governments had not reported by that time. It is only now, after the Select Committee has reported, that we are getting some of the Provincial opinions. So, there should be plenty of time given. It may be said that this Bill is quite simple, but it is not so. Every Provincial Government will have to collect information from every municipality and district board how much tax is paid now by the Railway Administrations. They must get statistics. After that, the Provincial Governments will have to ascertain from the Government of India in what way they are likely to use their powers when once this Bill is passed. If Provincial Governments have any reason to fear that the tax received by their local bodies will be affected by the way in which the Government of India will use the power under this Bill, then they will have to make a strong protest and to record it in their opinion. Today the local bodies get a definite tax which they are likely to lose under this Bill. When we transfer power from a responsible Government to an irresponsible Central Government, we must take jolly good care that we do not do it in a hurry. The Central Government is now irresponsible. It may become responsible at some future time. Today we are asked to transfer power from responsible provinces to the irresponsible Central Government. We may be told that the Central Government are likely to do nothing to affect the revenues of the provinces or of the local bodies. But we cannot be sure of that. No assurance from this Government can persuade us to give statutory power to them to take any money from the provinces. This matter requires serious and intensive study by all the provinces concerned. The Mover, either now or in the previous Session, has not said how much tax is being paid by the railways to the Municipalities and other local bodies. If he had given us statistics as to how many lakhs are being got by the Municipalities and District Boards from the Railways then we would be able to understand in what way the present notifications bear hardly or inequitably, and we might be in a position to discuss the question on the merits. Government refuse to supply such information. They want to keep us in the dark, whether in the matter of the statutory railway authority or in other matters concerning the railways. They want to bring in legislation into the purport of which the Assembly is not permitted to enter in full. They want to take powers and we have to give them in the hope that they are not likely to use them wrongly. I want to give ample time to Provincial Governments and the District Boards and Municipalities concerned to send their opinions. Between now and the 1st October, 1939, it is not too long a period. I hope the House will unanimously support my amendment. There is no hurry, because Government are not able to say today that any serious consequences will follow unless the Bill is taken up immediately. The present tax is there. The Railways are paying and the Local Boards are getting it. By taking this up on the 1st October, 1939, no serious consequences either to the Central Government or to the Railways or to the local bodies concerned are likely to happen. Therefore, I suggest that time should be given to provinces till the 1st October, 1939, to consider the matter and send us their views. I move the amendment, Sir.

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

"That at the end of the motion, the words 'by 1st October, 1939' be added".

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Sir, I rise to oppose the motion of my friend, Mr. Santhanam, because when he is himself irresponsible, when his power is nothing but zero, when his life will be extinguished, he is going to make a gift of his responsibility to people who will succeed him, to people who will come to take his place after his life is extinguished. Therefore, Sir, I consider that my friend is a very unreasonable man. He has forgotten his responsibility; he has taken a vow to the masses of his country, to the people whom he represents here, by whose vote he is returned here, to do some good to them, but by his present action he is telling them that he is doing nothing but opposing certain measures. People ask us to show by action what we have done for them. Well, here is a man like a Chinaman in the theatre playing the role of an imitator, because he asked his constituency to return him here promising them to do many things, but he does nothing here. Sir, my friend, Mr. Santhanam, able and experienced as he is, has forgotten himself today. Instead of suggesting a later date if he had suggested an earlier date in March, it would have been more sensible, because, in his own lifetime, he could have discharged his share of the responsibility by considering and discussing this question on the floor of the House himself, but now it does not lie in his mouth, being a responsible man, being a man of action, to suggest a date after the 31st of October. What is the reason for suggesting a date after the 31st of October? . . .

An Honourable Member: Because he is afraid of you.

Mr. K. Ahmed: Oh, he is afraid of me? He is afraid of the constituency and the voters who voted for him to discharge his duties here.

An Honourable Member: He is shifting.

Mr. K. Ahmed: This is not a place for shifting responsibility from one shoulder to another. He has to undertake the responsibility and find a solution. I think he has forgotten the famous lines of the poet. Without repeating those lines, I may say that people who are returned here to do their work should not shift their responsibility to the next generation or to somebody else whom he does not know. Therefore, in an important measure like this, you should either support or oppose it or throw it out if you like, but you must give convincing and cogent reasons for your action, or modify the Bill and bring it back on the floor of the House. Let that occasion come and let us see what happens. I suppose that will be the most sensible thing for my friend to do. Under these circumstances, Sir, I oppose the motion of my friend if he is not prepared to withdraw it.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): Sir, I rise to oppose the motion of the Honourable Member in charge of this Bill. After all, my friend Mr. Santhanam's motion is really to the same effect, and I want to give reasons which, I trust, will appeal to every section of the House and also to the Government.

First of all, Sir, I want to raise the point that the non-specification of a date in the motion for circulation shows that the Government have not themselves made up their mind, as to when they want to receive these opinions, and when they want to introduce the Bill. They have not made up their mind on these points, and I suggest that they must wait till every possible opinion has been received from all relevant interests. That is the first point. The second point is, you have given a ruling,—of course, you were good enough to say it was very tentative,—but tentative or otherwise, whatever falls from that Chair is binding on this House. The Honourable the Law Member was good enough to admit that it is open to Honourable Members of this House to argue that this Bill is *ultra vires*. On that matter, Sir, you also referred to the argument put forward by the Honourable the Law Member that it is not for the Chair to decide whether the Bill is *ultra vires* or *intra vires*. Sir, I happened to be there for a few minutes during the Simla Session, and I took a very different view. I feel it is a waste of public time, money, and energy for the occupant of the Chair not to decide such questions but leave it to the unfortunate persons or parties affected, and to compel them to go to the Federal Court to spend money and take a decision. On the other hand, Mr. Deputy President, nothing is easier than for the Government to take advantage of section 213 of the Government of India Act which says:

"If at any time it appears to the Governor General that a question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Federal Court upon it, he may in his discretion refer the question to that Court for consideration, and the court may, after such hearing as they think fit, report to the Governor General thereon."

We have already had two or three examples. These lists, Federal, Concurrent, or Provincial are not so scientifically worded that they do not or may not give rise to difficulties, and I suggest that, in the first few years of the working of the constitution, the Government will be consulting their own interests and the interests of the taxpayers of this country, if they make more frequent use of this section, especially as the Federal Court is just now not overworked. I suggest that they must take advantage of that, and not throw at us Bills and simply say: 'You shall not decide, we shall not go to the Federal Court to get a decision on it', and the unfortunate victims of *ultra vires* laws are compelled to go to the Federal Court. I submit, Sir, that no section of the House ought to agree to it. After all, the machinery of the Government is resourceful enough for them to go and obtain sound legal opinion, and come before us and ask us to vote upon Bills, about which there is doubt, and in respect of which the Federal Court has ruled that it is *intra vires* of the powers of the Federal Legislature.

But, Sir, so far as the actual Bill before the House is concerned, I want the House to remember just one or two things. Section 135 of the Indian Railway Act, 1890, is still in force. Let the House clearly understand it, and that Act says:

"Notwithstanding anything to the contrary in any enactment or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of Railways and from railway administrations in aid of the funds of local authorities, namely:

'The Railway Administration shall not be liable to pay any tax in aid of funds of any local authority unless the general controlling authority',—that is the Governor General in Council,—'has by notification in the official Gazette declared the railway administration to be liable to pay the tax.'

[Mr. S. Satyamurti.]

And—

"while a notification under this section is in force, the Railway Administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof such sum, if any, as an officer appointed in this behalf by the Governor General",—to which my Leader referred,—"may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable".

If this Bill does not become law, the heavens will not fall. Section 185 is in force; the notifications under it are also in force; notifications have been issued, and local authorities are now collecting taxes from Railways in the various provinces. No doubt, section 185 of that Act gives power to the Governor General, at any time, either to revoke or vary a notification under clause 1 of this section, but so far as the variation is concerned, section 154 of the Government of India Act which has come into force, modifies it, to a limited extent, but the main section 154 says:

"Property vested in His Majesty for purposes of the government of the Federation shall, save in so far as any federal law may otherwise provide, be exempt from all taxes imposed by or by any authority within a Province or Federated State." But there is also a proviso which says:

"Provided that, until any Federal law otherwise provides any property so vested which was immediately before the commencement of Part III of this Act liable or treated as liable, to any such tax, shall, so long as that tax continues, continue to be liable, or to be treated as liable thereto."

Therefore, the position is, that all these Railways will continue to pay the taxes which they were paying before the 1st of April to the various local authorities concerned. The only point is, the Central Government, in view of the terms of section 154 which talks of a federal law, cannot change the existing position, thanks to the elusiveness of the astrologer of whom the Honourable the Law Member is very fond,—they do not know when the Federation will come, or whether it will come at all. Therefore, they want to bring in, bit by bit, the powers which Federal laws will confer upon them, by means of these short Bills. This Bill now says:

"In respect of property vested in His Majesty for the purpose of the Central Government by virtue of sections 172 and 173 of the Government of India Act, 1935,—(They are long sections but so far as the purpose of this Bill is concerned, it vests railway property in the Federal Government)—being property of a federal railway, a railway administration shall be liable to pay any tax in aid of the funds of any local authority, if and to such extent as the Central Government, by notification in the Official Gazette, declare it to be so liable."

That is to say, hereafter, the Central Government will start on a clean slate and may either exempt all railway property from local taxes, or vary them, or add to them or subtract from them. I want to ask all my Honourable friends in this House whether they are agreeable to vest this extraordinary power in the hands of the Central Government, for the words are:

"a railway administration shall be liable to pay any tax in aid of the funds of any local authority, if and to such extent as the Central Government,.....declares it to be so liable."

On this point,—and this covers later points also, I want to say one thing to the House, if I may. Federal law contemplates a law enacted by the Federal Legislature. All of us have our opinions about the proposed Federation, and I do not want to indulge in them or refer to them.

But, there is one fact. Even so far as the Federal Legislature contemplated by the Government of India Act is concerned, the provinces will be represented much more strongly and much more intensively; they will be elected to the lower House through the Provincial Legislatures, and by means of direct election to the Upper House. Therefore, the provincial representatives will have a far greater voice in the making of the federal law, than we have. The Government of India Act contemplated that until a federal law so enacted by the Federal Legislature alters the position, the present position ought to continue. My Honourable friends in the Central Government who are neither here nor there want to get all the advantages which a federal law may confer, while they refer us to the astrologer when we ask them when the Federation will come. I suggest to the House that it is not right, it is not fair to ask this House to confer upon this Central Government, which we hope is vanishing, all these powers which will be conferred upon the Federal Government only by a federal law.

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

Sub-clause (2) of clause 3 says:

"A notification issued under sub-section (1) may modify any tax in its application to any railway administration and in particular and without prejudice to the generality of the foregoing power may reduce the rate of the tax in respect of all or any part of the property of the railway administration—*(the House will mark these words. The power they now seek and the power they now want to have is to reduce the rate of the tax in respect of all or any of the property of the railway administration)—*or may define the manner in which the tax shall be assessed on any such property—*(and mark these words)*—or may exempt any particular property or class of property or any specified area from the whole or any portion of the tax."

I submit to the House with some confidence that these extraordinary powers of upsetting the whole scheme of taxation of railway property by local authorities ought not to be vested by this House in this Government, while the Government of India Act contemplated that the present system should continue until a federal law directs otherwise. Then clause 4 is:

"The Central Government may, by notification in the Official Gazette, revoke or vary any notification issued under clause (1) of section 135 of the Indian Railways Act, 1890."

The Government of India Act says that those notifications shall not be varied except by the federal law. My Honourable friend says, give me power to revoke or to modify them just now. It does seem to me, apart from any other thing, this power ought not to be conferred except when there is a proper Federal Legislature here—I am not talking of any particular school of politics or of anybody, but merely speaking generally,—that is—a proper Federal Legislature in which provincial opinion will be amply represented.

The argument of the Leader of the Opposition on the point of order was that these are revenues in which the provinces are vitally interested. Let me remind the House that in every province, certainly in mine and I believe in all provinces, the Provincial Governments make large or small grants to all local self-governing bodies for various services. The finances of local self-governing bodies are a matter of vital concern to the Provincial Governments. If their finances are crippled, the Provincial Governments will have to make increased grants or starve their services. There-

[Mr. S. Satyamurti.]

fore, I submit to all those who want to preserve the real nature of the rights of Provincial Governments in respect of the finances of local bodies that we ought not to allow this Bill even to be circulated. They themselves admit that there is really no urgency about it, and the dilatory motion they have made—it is a dilatory motion in the words of our Rules and Standing Orders—that it be circulated for opinion without specifying any date shows that they are not dreadfully keen on this. But even though they may say later—they are dreadfully keen I ask the House not to take them at their word because, after all, the motion is that it should be circulated without any date being specified. The existing notifications will continue, the railway properties will be liable to tax by local bodies, railway authorities will pay their taxes, and the present position will continue, whereas if this Bill becomes law, without any further reference to this House or without waiting for any federal law to come, whenever that may come, this Central Government may exempt railway property from taxation altogether or revoke the tax altogether or reduce it, cripple the finances of local self-governing bodies, and thereby cripple the finances of the provinces. I do hope that the House will not take any smiling assurances from my Honourable friend, but will look at the Bill as it stands, and say that this Bill does not deserve any consideration at the hands of this House, and, therefore, ought to be rejected summarily, and ought not to be circulated.

Mr. M. S. Aney (Berar: Non-Muhammadian): The motion before the House raises a question of very great importance. So far as the legal aspect of the question is concerned, I will not say anything at all in view of the ruling that has been given by the Deputy President a few minutes ago before you occupied the Chair this afternoon. But one thing is quite clear from the discussion that took place on the floor of the House, namely, that the legality of the Government's right to introduce a Bill of this kind without the sanction of the Governor General is not free from legal difficulties at any rate. The other point which the Leader of the House tried to make out was this, that it would not be proper for the Chair to give any decision on a question like that on a point of order being raised. I am not quite sure whether that is the correct position to take also, but anyhow I have already stated that in view of the ruling that has already been given it would not be proper for me to reopen that question and argue the matter over again. The point, therefore, which I wish the House to consider carefully is this. Have the Government really made out any case at all for a measure of this kind, because one thing is clear. Under the Government of India Act as it is, under section 154 the Central Government is not entitled to make any rules or pass any regulation with regard to property which is federal property without a law of the Federal Legislature.

Now, Sir, if that is the position, Government must make out a very clear case as to what emergent reasons require them to come forward with a measure like this and claim the right which is intended really for the Federal Legislature by the Government of India Act. The Federal Legislature can certainly make a law. It is true that this House claims the right of the Federal Legislature also. We know it. But this House should be reluctant to exercise the right of the Federal Legislature unless a very strong case is made out that an emergency has arisen. The two

grounds that have been urged by the Honourable Member-in-charge of the Bill are that iniquitous duties have been imposed and that they cannot be removed unless some power is taken by the Central Government today. What are those iniquities and how are they working to the detriment of the interests of the people? These are matters of fact on which a mere statement of the Honourable Member-in-charge ought not to be regarded as sufficient. Somehow or other we know that the net result of this measure will be to affect the financial position of the Provincial Governments in one way or other. It may be that the powers that will be ultimately got by the Central Government may not be used against the Provincial Governments but that is not a matter on which we could take a chance today. Certain duties now exist of which the Provincial Governments take advantage but if we pass this Bill we give power to the Central Government the unfettered right to revoke a notification or vary it or add to it. Before the Government comes up with a Bill like this, it ought to show that the existing duties, are not proper and that some disadvantage is accruing to somebody and that somebody has got a grievance of which urgent notice must be taken.

The second thing is, it was urged that there are local bodies which want some new duties to be imposed. We do not know what is the nature of those duties. What are the local bodies which have wanted these new duties? These are matters on which detailed information ought to have been given and that would have enabled us to come to a decision as to whether those duties were just and proper but, in the absence of such information, this House should not arm the Government of India with this new power at all. Unless a case of emergency is made out, it would not be proper for this House to arm the Government of India with these powers which are of an autocratic nature. Once you give this power, the Central Government will not have to come to you at all. You are giving a kind of blank card. They are the sole arbiters to decide this matter. Whatever reasons have been adduced have not convinced me that there are any grounds of emergency which require the Government of India to claim these powers immediately. As a matter of fact, I am not inclined in favour of the motion moved by my friend, Mr. Santhanam, at all. I should rather like to oppose the motion for circulation altogether, because we are not convinced that there is a case on which the public should be asked to express their opinion. Then why should we allow the Bill to go into circulation at all? What are the points on which they will give opinions? The Honourable the Leader of the House said that this House is not competent to express an opinion on the question of law. He said that even the Chair could not exercise that right. If the Government had supplied us with the necessary data as to why they wanted these powers, then that would have been useful but this data is not forthcoming. If it comes now by way of reply at the eleventh hour, there is not sufficient time to enable us to consider it and come to a proper decision. If the Statement of Objects and Reasons had been made more comprehensive and lucid, that would have enabled us to know what are the facts on which the Government wanted a change in the law. In the absence of this information, I am inclined to ask the House to oppose this motion for circulation moved by the Honourable Member.

Mr. M. Ananthasayanam Ayyangar: There is one other ground on which this Bill should be opposed. Under this Bill the Central Government is

[Mr. M. Ananthasayanam Ayyangar.]

sought to be clothed with authority to issue a notification. After the Federal Railway Authority is brought into existence, the right to issue a notification automatically passes to the Federal Railway Authority. I would ask the House to refer to section 181 of the Government of India Act under which the executive authority of the Federation in respect of the regulation and the construction, maintenance and operation of railways automatically passes to the Federal Railway Authority. The executive authority of the Federal Government will be split into two portions. One is vested in the ministers and another in the Federal Railway Authority in so far as railway matters are concerned. So, once the Federal Railway Authority comes into being, it will step into the shoes of the Central Government so far as railway administration is concerned. The Federal Railway Authority will have the power to issue notification as to what property should be taxed. It will be the judge of its own cause. There is the Federal Railway Authority on one side and there is the Provincial Government on the other. As between these two, really a third party ought to decide as to whether railway property should be taxed or not for the purpose of local administration. Instead of doing so, you are arming the Central Government with this power which is liable to be abused. The Central Government ought not to be clothed with authority which will later on pass to the Federal Railway Authority. That is the construction which I would put on section 181 of the Government of India Act.

Then, there is another objection to supporting this Bill. I would ask the Honourable Member in charge of the Bill as to why he has not already obtained the opinion of the various Provincial Governments. Very often the opinion of the Provincial Governments are obtained in advance and their opinion ought to have been obtained as to whether the Bill is likely to affect their interests. I know of a particular case which came to my notice. It relates to Guntakal which is a railway junction in my presidency of Madras. That was a small village before it became a junction station. For a long time notifications were issued by the Central Government whereby the buildings and lands which were the property of the Railways were taxed and Rs. 20,000 had been brought year to year to the coffers of the Local Governments. By another notification recently issued these Rs. 20,000 have been taken away. If this Bill is passed over the heads of the Provincial Governments who are interested in this matter, then the local authorities who are interested in maintaining the health and the safety of the people will go to the wall. At present they have to manage their own affairs by raising funds from the general population and to provide amenities for the passengers that come; and that is the case of one local authority, Guntakal, that would not have developed into a union but for this railway station. Now persons who go to that town might bring in infection and epidemics and so the Union authorities have to maintain it in a healthy condition. Is the burden to be borne only by a few handful of villagers, who would not have developed it into a town or union, but for the railway administration? Why should the railway administration refuse to contribute a portion? That is a standing grievance. I do not know how many other places have got such a grievance, but it is necessary that these people should be taken into confidence by the Government. They may come forward with a suggestion that there should be an independ-

ent tribunal to which the railway administration would be a party and which tribunal would have a judge who would be absolutely disinterested and who will be able to decide as to whether the railway ought or ought not to pay. Even in regard to the existing section 135 of the Railways Act many grievances have arisen. There are many matters in which the Governor General in Council has not acted properly towards several local administrations. Under these circumstances my respectful submission is that this Bill is premature. Let us wait until a time when there will be a Federal Government; otherwise let the existing state of affairs continue. Sir, as regards my friend, Mr. K. Ahmed, I think his quarrel should be during the interpellation hours. He has now evidently sought a change and turned a new chapter in his life and has thought of giving advice to my friend, Mr. Santhanam, but my friend never thought of bestowing a moment's thought over this Bill. Sir, you were not here when my Honourable friend took some ten or fifteen minutes to show as to what our business is. (Interruption by Mr. K. Ahmed.) I am not giving way. Mr. K. Ahmed did not notice that there is no date fixed at all in the motion moved. Certainly it is up to everyone of us if we are interested in passing this Bill to give a date, but does my friend expect that between now and the date when we are going to meet in January, many opinions can be collected? Sir, the Assembly is not going to get extinguished, whether the lives of its individual members during a term are extinguished or not; so far as this Assembly is concerned, I assure my friend that the Assembly's life will continue, and I suggest that a larger and fuller Assembly might be allowed to consider the matter. Under these circumstances I would appeal to the House to reject this measure, and if it is the general desire, then my friend Mr. Santhanam may not have any objection to withdrawing his amendment.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I would first like to refer to a minor point raised by an Honourable Member about not fixing the date of circulation. Here I notice that it is not necessary in the original motion to fix the date of circulation because when a Bill is introduced, then the following motion in regard to this motion may be moved under clause 80 (1) of the Manual, "that it be circulated for the purpose of eliciting opinion thereon" and nothing is mentioned about the date to be specified. Therefore, as far as this formality is concerned, it was not necessary for the original mover to mention the date by which opinions should be obtained. Coming now to the second point, the difficulty mentioned in the Statement of Objects and Reasons attached to this particular Bill, I admit that difficulties are genuine, and I say that these difficulties could be got over by an Order in Council. The Order in Council could have modified the existing Act in order to meet the circumstances. But the difficulty I feel very strongly about this particular Bill is that we are legislating for a certain thing which does not exist and we do not know when it will come into existence and whether it will come into existence at all. The "Federal Railway Authority" is defined in Chapter VIII of the Government of India Act but that particular chapter is not in force. When the Government of India have notified that Chapter VIII of the Government of India Act, 1935, was in operation, the Government would be justified to come before the Legislature and say: "Now the Federal Railways are in existence and now you legislate in order to smoothen the work of the railway authority". Now, if we legislate anything in con-

[Dr. Sir Ziauddin Ahmad.]

nection with the Federal Railways, it would mean that Federal Railways have come into existence, and the difficulty will immediately arise, "under whom will the Federal Railways be?" Will the Federal Railways be worked by the Central Government in the absence of a Federal Authority? This will be an anomalous position, and for this there is no provision in the Government of India Act. Therefore that is really my difficulty, viz., that the moment we legislate anything whatsoever about Federal Railways here, then we assume that the Federal Railways have come into existence, and, at the same time, Chapter VIII is not in force. I think my Honourable friend will understand that Chapter VIII can be brought into force even before the Federation. It could come into operation at the same time as the Provincial Autonomy, but the Government of India decided not to bring this into force for the present. We are asked to legislate on a commodity which does not exist. I quite understand that it exists in the Government of India Act, 1935, but I do say that it does exist on paper, but not in practice.

I would, therefore, say that the difficulties which they are contemplating in their mind can be got over by an Order in Council in which they can modify the existing Act so as to make it understood and read in a particular manner. It is not necessary in order to meet that difficulty to ask us to legislate on a particular subject about which we do not know whether it will come into existence at all. So far as the Federation itself is concerned, I do not think anybody is very keen about it. My Honourable friends on the right (Congress Benches) have clearly expressed their position. They are not enamoured of it and they will oppose it, as they say, tooth and nail. We know that the Muslim League is very much in the same position, and there is no demand from the Indian States. So, there is no demand for the Federation from any quarter. When there is no demand for the Federation, why should any one be so much enamoured of it and introduce it in India? Demand must come at best from some quarter. So, I maintain that this legislation is premature and the difficulties can be met by an Order in Council.

The Honourable Sir Thomas Stewart: Sir, I am unaware whether the suggestion of one of the Honourable speakers for the Opposition has been accepted. The suggestion was that the amendment should be withdrawn. I do not know whether that suggestion has been accepted.

Mr. K. Santhanam: Sir, I request the permission of the House to withdraw my amendment.

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

The Honourable Sir Thomas Stewart: I am, therefore, saved the easiest part of my task, namely, dealing with the dilatory motion of my Honourable friend, Mr. Santhanam. Those who followed him in opposition to this measure concentrated on attacking the Bill on its merits. My Honourable friend, Mr. Satyamurti, reproved me for being half-hearted in this matter myself as evidenced by the fact that I had not proposed the return of opi-

nions before any specified date. I hardly think he was in earnest because as an older parliamentarian than I am he knows that the usual practice in a matter of this sort is not to specify any particular date. I do not propose to follow him through the very considerable portion of his speech which he devoted to the desirability of giving rulings from the Chair on the legal propriety of any measure that is before the House. I will proceed to take the first point that he endeavoured to make which was really a point of substance. He pointed out to the House that section 135 of the Indian Railways Act was still in force and that thereunder the Railways could still carry on as they carried on in the past. That is a perfectly true proposition except in regard to Government-owned railways. The effect of section 154 of the Constitution Act is that section 135 is, so far as the State railways are concerned, entirely nugatory until such time as a federal law comes into existence, and I would remind my Honourable friend that a federal law is not necessarily a law which will be passed by the Federal Legislature in the future but that any law passed by this Legislature after the 1st of April, 1937, is a federal law. If by mistake he misled the House into thinking that there was any difference between a federal law and a law passed by this Legislature, I am sure he will be happy to be corrected.

Mr. S. Satyamurti: I know it is a legal fiction: it is not a federal law.

The Honourable Sir Thomas Stewart: He also pointed out to the House that there was no emergency about this measure and that, after all, the only effect of section 154 was that the railways would continue to pay exactly what they have been paying before. Well, if that were the only justification for this Bill, I do not think I should have brought it before the House. Mr. Satyamurti did not mention what I myself had already said, that there had been several cases of applications since the 1st of April, 1937, on behalf of minor municipalities to which we could not give effect because of the present law which has crystallised things as they were on the 1st of April, 1937. In actual fact there are a considerable number of these applications which we consider quite justifiable and which we are perfectly prepared to accept but we cannot legally do so. Mr. Satyamurti went on to hold up his metaphorical hands in horror at the new power which was being taken to themselves by the Government of India. He did not mention that in practically all its features this is a power which was enjoyed by the Government of India until the 1st of April, 1937. By legislative accident that power became frozen and all we ask now is that we be put in a position to revive that power. I would have this House believe that this is no new power. It was also suggested that I was at fault in not having given the House an idea of what the Local Governments thought of this power and what had been our exercise of it in the past. Well, by moving for circulation, I have made it perfectly possible for any Provincial Government to make its views fully known to all Members of this Legislature.

Dr. Sir Ziauddin Ahmad: May I ask one question? Can it not be met by an Order in Council? Can we not legislate without mentioning the word "Federal" before "Railway"?

The Honourable Sir Thomas Stewart: I do not think these words occur in this Bill. There is no reference to the Federal Railway Authority in this Bill.

Dr. Sir Ziauddin Ahmad: But the words 'federal railway' are there. At present there is no such thing as the federal railway.

Mr. President (The Honourable Sir Abdur Rahim): This expression also occurs in the preamble.

The Honourable Sir Thomas Stewart: But there is no reference to the Federal Railway Authority.

My Honourable friend, Mr. Aney, has cast a certain amount of doubt on the existence of any inequities under which the railway administrations may suffer. For his information, I may describe one very common one and that is when a municipality or a local body imposes, let us say, a scavenging tax. This may become applicable to a railway in spite of the fact that no services are rendered by the municipality or the local body to the railway, the railway itself performing all necessary services on its own account. It is in such case that it is considered that it is inequitable to levy from the railway a rate for duties performed by the railways themselves. Finally, it has been argued that when Part VIII of the Constitution Act of 1935 comes into being the powers that we have given to the Central Government will automatically devolve on the Federal Railway Authority by virtue of section 181 of the Government of India Act. To that deduction I cannot in any way subscribe. It may be that by reason of the institution of Part VIII of the Constitution Act the power conveyed by this Bill to the Central Government will become of no avail. It will disappear. But it does not follow for a minute that that power will be automatically transferred to the Railway Authority.

Mr. M. Ananthasayanam Ayyangar: May I know who will exercise this power then?

The Honourable Sir Thomas Stewart: There will be no such power in existence, and if any such power is sought to be created it will have to be in virtue of fresh legislation. I fear that in some quarters at least the opposition to this Bill has arisen from the fact that in certain places, the word "federal" occurs. I can assure all sections of the House that there is nothing sinister in the word 'federal'. At the very most what you can accuse us of is trying to keep our draftsmanship up to date.

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

"That the Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province be circulated for the purpose of eliciting opinion thereon."

The Assembly divided:

AYES 41.

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

Aikman, Mr. A.

Ayyar, Mr. N. M.

Bajpai, Sir Girja Shankar.

Bewoor, Mr. G. V.

Boyle, Mr. J. D.

Chambers, Mr. S. P.

Dalal, Dr. R. D.

Dalpat Singh, Sardar Bahadur Captain.

Dutt, Mr. S.

Gorwala, Mr. A. D.

Greer, Mr. B. R. T.

Griffiths, Mr. P. J.

Grigg, The Honourable Sir James.

Highet, Mr. J. C.

James, Mr. F. E.

Jawahar Singh, Sardar Bahadur Sardar Sir.

Kanaluddin Ahmed, Shams-ul-Ulema.

Mackeown, Mr. J. A.

Maxwell, the Honourable Mr. R. M.

Menon, Mr. P. A.

Menon, Mr. P. M.

Metcalfe, Sir Aubrey,

Miller, Mr. C. C.

Mukerji, Mr. Basanta Kumar.

Nur Muhammad, Khan Bahadur Shaikh.

Rahman, Lieut.-Col. M. A.

Row, Mr. K. Sanjiva

Scott, Mr. J. Ramsay

Sheehy, Mr. J. E.

Sher Muhammad Khan, Captain Sardar Sir.

Sircar, The Honourable Sir Nripendra.

Sivaraaj, Rao Sahib N

Spence, Mr. G. H.

Stewart, The Honourable Sir Thomas.

Sukthankar, Mr. Y. N.

Sundaram, Mr. V. S.

Talukdar, Mr. J. N.

Town, Mr. H. S.

Zafrullah Khan, The Honourable Sir Muhammad.

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NOES 63.

Abdoola Haroon, Seth Haji Sir.

Abdul Ghani, Maulvi Muhammad.

Abdul Qaiyum, Mr.

Abdul Wajid, Maulvi.

Abdullah, Mr. H. M.

Abdur Rasheed Chaudhury, Maulvi.

Aney, Mr. M. S.

Ayyangar, Mr. M. Ananthasayanam.

Azhar Ali, Mr. Muhammad.

Bajoria, Babu Baijnath.

Basu, Mr. R. N.

Chaliha, Mr. Kuladhar.

Chaudhury, Mr. Brojendra Narayan.

Chettiar, Mr. T. S. Avinashilingam.

Chetty, Mr. Sani Vencatachelam.

Das, Mr. B.

Das, Pandit Nilakantha.

Datta, Mr. Akhil Chandra.

Desai, Mr. Bhulabhai J.

Deshmukh, Dr. G. V.

Deshmukh, Mr. Govind V.

Essak Sait, Mr. H. A. Sathar H.

Gadgil, Mr. N. V.

Ghiasuddin, Mr. M.

Ghulam Bhik Nairang, Syed.

Gupta, Mr. K. S.

Hans Raj, Raizada.

Hegde, Sri K. B. Jinaraja.

Hosmani, Mr. S. K.

Jedhe, Mr. K. M.

Jehangir, Sir Cowasji.

Jogendra Singh, Sirdar.

Kailash Behari Lal, Babu.

Lahiri Chaudhury, Mr. D. K.

Lalchand Navalrai, Mr.

Malaviya, Pandit Krishna Kant.

Mangal Singh, Sardar.

Mudaliar, Mr. C. N. Muthuranga.

Murtuza Sahib Bahadur, Maulvi Syed.

Nauman, Mr. Muhammad.

Paliwal, Pandit Sri Krishna Dutta.

Pande, Mr. Badri Dutt.

Parma Nand, Bhai.

Raghubir Narayan Singh, Choudhuri.

Ramayan Prasad, Mr.

Ranga, Prof. N. G.

Rao, Mr. M. Thirumala.

Saksena, Mr. Mohan Lal.

Sant Singh, Sardar.

Santhanam, Mr. K.

Satyamurti, Mr. S.

Sham Lal, Mr.

Shaukat Ali, Maulana.

Siddique Ali Khan, Khan Bahadur Nawab.

Singh, Mr. Gauri Shankar.

Singh, Mr. Ram Narayan.

Sinha, Mr. Satya Narayan.

Sri Prakasa, Mr.

Subbarayan, Shrimati K. Radha Bai.

Subedar, Mr. Manu.

Varma, Mr. B. B.

Yamin Khan, Sir Muhammad.

Ziauddin Ahmad, Dr. Sir.

The motion was negatived.

THE INDIAN COTTON CESS (AMENDMENT) BILL.

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

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into consideration."

This measure, as Honourable Members will have observed from the Statement of Objects and Reasons, is designed to rectify two minor defects. The first arises from the Adaptation Order in Council which says that any Act passed before 1935, if in such an Act the expression "British India" occurs should not be interpreted to include Berar as well. The purpose of the amendment on that point is to extend the operation of this Act also to Berar. I may inform the House that the Government of the Central Provinces and Berar have been consulted on this point, and are agreeable to the change.

The second defect was this. When the Act was adapted, we put in one representative for Bombay for the cotton growing industry and one for Sind, on the basis that before the adaptation the two representatives of Bombay had been divided between Bombay at one each. But actually the cotton area in Bombay would justify the representation of that province by two representatives and that is what we propose to do by the second change proposed in the Bill.

Sir, I move.

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

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into consideration."

Prof. N. G. Ranga (Guntur cum Nellore: Non-Muhammadan Rural): Sir, I am glad that at last we are given an opportunity of discussing this quasi-public organisation set up by the Government of India known as the Indian Central Cotton Committee. This came into existence as the result of the recommendations made by the Indian Cotton Committee and afterwards, from time to time, the Committee has been publishing annual reports of its work. We find that in actual practice its work has been directed till now more for the benefit of the big land owners interested in cotton growing, those interested in pressing, ginning and cleaning cotton and also cotton manufacturers.

Sir Girja Shankar Bajpai: Sir, on a point of order. May I submit that we are actually considering the question of the extension of this Bill to Berar and the question of representation or the activities of the Central Cotton Committee as a whole are, I submit, rather irrelevant to the present discussion.

Prof. N. G. Ranga: I submit that in the Statement of Objects and Reasons, paragraph 2, it is stated "It is also proposed to amend section 4 (viii) of the Act. Section 4 (viii) runs:

"10 members nominated by the Central Government to represent the cotton growing industry, of whom 2 shall be nominated to represent the industry of Madras and so on."

Therefore, I think it is perfectly relevant for me to say a few words about the work of this Indian Cotton Committee the constitution of which we are now to discuss. We are here to settle whether there should be a separate member for Sind or not, and if there is one member for Sind, then whether there should be 2 members for Bombay or one member, and also whether we should make particular mention of Berar and so on. Naturally I consider it is perfectly relevant for me to say a few words about the working of this particular Committee itself as a whole. If, for instance, the Committee has been absolutely useless, which I consider is not the case, then certainly there is no reason why we should busy ourselves about the manner in which its members should be appointed or elected and so on.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member considers that the Committee has been doing useful work?

Prof. N. G. Ranga: Not as useful as it should have been because of a defective constitution. I consider that up till now it has paid more attention to those interested in cotton ginning, cleaning and pressing factories and cotton mills and also those big holders interested in cotton growing but not to the small holders.

Mr. President (The Honourable Sir Abdur Rahim): Is there any provision for representation of the small holders?

Prof. N. G. Ranga: Of the cotton growing industry, there is. It comprises both small holders and the big holders as well as others. . . .

Mr. President (The Honourable Sir Abdur Rahim): The Cotton growing industry.

Prof. N. G. Ranga: Yes. If Honourable Members look into the annual reports of this particular Committee, it will be found that first of all the members who had been nominated by the Central Government hail from the big Jagirdar group of the peasant community in this country and also that the work has so far been concentrated upon the manner in which their group can be benefited. This Committee has to concern itself with the growing, marketing and manufacture of cotton, but when we come to the question of marketing we find that whatever this Committee has done has not been very fruitful, and to the extent it has been fruitful it has benefited only the bigger people and not the smaller people. Sir, it has conducted certain inquiries into the marketing of cotton in various provinces. And even there particular stress has been laid by those investigators upon the manner in which these big people are being benefited or their cotton is being financed and also marketed, and they do not pay any attention to the needs or the conditions of the poor people. Till now the erroneous view has been abroad that we are to grow cotton in this country not so much for the benefit of the cotton grower as for the benefit of the cotton manufacturer. It may be remembered that that particular Indian Cotton Committee was appointed by the Government of India at that time in order to find ways and means by which the production of long staple cotton could be stimulated in this country, and as a result of that Committee's recommendations, the Indian Cotton Committee was brought into existence. Most of its work was directed to the possibilities of growing

[Prof. N. G. Ranga.]

more and more long staple cotton in different parts of India so that Lancashire may depend upon our production as its reserves in case there was a shortage of the supply of cotton either from Egypt or from America. I also submit that our own Indian mill owners are interested in having as much of this long staple cotton as is possible to produce in this country so that they may be able to choose, according to their convenience and needs, between the Indian long staple cotton, the Egyptian cotton and the American cotton. As far as the small holders are concerned, and as far as the Indian cotton growers as a whole are concerned, the work of the Committee has not been as great and useful to them as it should have been. It would have been more useful to the small growers if only the members of that Committee had been recruited from the ordinary small cotton growers themselves. No effort has been made till now to get any representation of these people on this Committee and although it is stated here that the Central Government has to make these nominations, yet in actual practice the Central Government has continued the earlier practice of depending upon or asking the Local Governments to send them nominations, and then accept the nominations as their own with the result that the Local Governments have always nominated these *Bada Kisans*.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban): Who are the Local Governments just now?

Prof. N. G. Ranga: I am coming to that. We all know that the Ministry has been changed, but not the Civil Service, not the District Magistrates or District Collectors. If my friend refreshes his memory, when he himself acted as one of the Executive Councillors to the Bombay Government, he would be able to testify to the fact that most of the recommendations commence from District Magistrates, and these things are cooked up for the benefit of the Executive Councillors by the Board of Revenue or by the various heads of departments, and it is at that stage the Ministers make their nominations. And how long is it since the Congress Ministries have been in power? Even after the Congress Ministries have been in power, is my friend quite sure that these officials will not be able to make their own recommendations as they used to do till now with the other Ministries? It is a fact, and we cannot deny it, that big people, wherever they are, in whatever party they may be, are more powerful and more influential, and that is why the Congress itself wishes to safeguard its own smaller people as against the big people even within its own organization. That is why the Congress is trying to become more and more democratic. Under these circumstances, it does not lie in the mouth of my friend to say "because these people are becoming more and more democratic, we should leave everything to them". This House itself was a party to a clause in the Motor Vehicle Bill in which it was stated that any particular rule which was made under that Act should be placed before the Legislature for its approval. Now, the House was fully aware of the fact that the constitution of these Ministries has changed, yet it has found it necessary in the interests of the public to make such a stipulation, and such control should be placed on the unlimited powers of the local Ministries and Legislatures which will be functioning under the advice of the Ministers. That is why I suggest that unless the Government of India are prepared to give due consideration to the claims of small cotton growers, this particular committee cannot really become more useful than it has been or it cannot

become as useful as it should have been. Secondly, there will be this particular difficulty,—how are you going to distinguish these small people from the big people?

Sir Cowasji Jehangir: You can distinguish them.

Prof. N. G. Ranga: I do distinguish my friend who sits there all by himself. Unfortunately the problems of life cannot be settled by a mere rule of thumb, but some distinction has got to be made. That is why I want these *Kisan Sabhas* to be consulted by the Government before they make nominations. It may be contended with some justification by some people that these big Zamindars and Jagirdars also somehow or other have managed to get the ear of all parties in this country, and, therefore, they are able to call themselves agriculturists. It may be possible for them to say "Oh, we are not members of these *Kisan Sabhas*". That is why I don't propose to ask the Government that it should consult these *Kisan Sabhas* in making their nominations. In regard to these nominations, I propose to leave things as they are today. Therefore, it will be open to the Central Government, if it so chooses, to continue the present process of nominating some of these big people also, but in addition to that, I suggest that they should make provision for the nomination of a few more people to be suggested by the *Kisan Sabhas* which represent mostly small people, and also a few middle class people and thus try to make this committee a more and more representative and democratic body of the cotton growers in our country. With these suggestions, Sir, I support this motion for consideration.

Sir Girja Shankar Bajpai: Sir, I do not think that I am called upon to make a very long reply. I take it that my friend does not take exception to the proposal that this Bill should extend to Berar. He has made certain suggestions as regards the representation of what he called the small cotton grower. Now, Sir, he has himself conceded that under sub-section (viii) of section 3, the nominations made by the Central Government are made in consultation with the provincial ministries. It is, I submit, for the provincial ministries to adjust the balance between the small grower and the big grower. It is not a thing that we here sitting in Delhi or Simla can adjust without any knowledge of the local conditions or of the representative capacity of the different organisations, be they peasant organisations or Zemindar organisations. All that I can say for the satisfaction of my friend is that I shall bring his suggestions to the notice of the Provincial Governments, and in the light of their replies, see whether any action can be taken by us under a power which we possess already, in this connection. I would invite the attention of the House to sub-section (xi) of section 3 which says "such additional persons as the Governor General in Council may by notification in the Gazette of India appoint".

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

"That the Bill further to amend the Indian Cotton Cess Act, 1923, 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."

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

Sir Girja Shankar Bajpai: I would like to raise a point of order. There should have been two days' notice for the amendment*. This amendment was circulated only last night.

Mr. President (The Honourable Sir Abdur Rahim): If that is so, I cannot allow the amendment to be moved.

Mr. S. Satyamurti: Every Honourable Member has got a copy of the amendment.

Mr. President (The Honourable Sir Abdur Rahim): As there is objection, I cannot allow the amendment to be moved. The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

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

"That clause 1 stand part of the Bill."

Mr. G. E. Spence (Secretary, Legislative Department): Sir, I beg to move:

"That in clause 1 of the Bill, for the figures '1938' the figures '1939' be substituted."

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

"That in clause 1 of the Bill, for the figures '1938' the figures '1939' be substituted."

The motion was adopted.

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

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

The motion was adopted.

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

The Title and the Preamble were added to the Bill.

Sir Girja Shankar Bajpai: 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.

*"That for clause 3 of the Bill the following be substituted, namely:

3. In clause (viii) of section 4 of the said Act:

- (a) for the words 'ten persons' the words 'fifteen persons' shall be substituted;
- (b) for the words 'one to represent the industry in Bombay', the words 'two to represent the industry in Bombay' shall be substituted; and
- (c) the words 'one person to represent the small cotton growers of each of these five concerned provinces and selected in consultation with the local Peasants Associations (*Kisan Sabhas*), shall be added at the end."

**THE DESTRUCTIVE INSECTS AND PESTS (SECOND
AMENDMENT) BILL.**

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

"That the Bill further to amend the Destructive Insects and Pests Act, 1914, be taken into consideration."

Sir, I had occasion when dealing with the Indian Cotton Cess (Amendment) Bill to explain that the necessity for part of it arose from a defect in the Adaptation Order in Council. The same applies to the present Bill. We cannot apply the Destructive Insects and Pests Act, 1914, to the Province of Berar without the amendment that we have submitted for the consideration of the House. Sir, I move.

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

"That the Bill further to amend the Destructive Insects and Pests Act, 1914, be taken into consideration."

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): I would like to know if it is the policy of the Government of India to legitimise things which happened before 1937, by bringing in Bills in bits like this. Why cannot they bring in a general amendment to the General Clauses Act so that the difficulty of bringing in little Bills like this may be obviated? I want to draw the attention of the House to this aspect of the matter.

Sir Girja Shankar Bajpai: This is a very valid point and we shall certainly take it into consideration.

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

"That the Bill further to amend the Destructive Insects and Pests Act, 1914, 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 1 stand part of the Bill."

Mr. G. H. Spence (Secretary, Legislative Department): Sir, I beg to move:

"That in clause 1 of the Bill, for the brackets, words and figures '(Second Amendment) Act, 1938' the brackets, words and figures '(Amendment) Act, 1939' be substituted."

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

"That in clause 1 of the Bill, for the brackets, words and figures '(Second Amendment) Act, 1938' the brackets, words and figures '(Amendment) Act, 1939' be substituted."

The motion was adopted.

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

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

The motion was adopted.

[Mr. President.]

Clause 1, as amended, 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 REPEALING AND AMENDING BILL.

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

"That the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration."

This Bill is similar to other Bills of this kind which have come before this House before. The object of this Bill is not to make any change in the law or to make any law, but really to cut off dead branches of Bills which have become obsolete by reason of subsequent events. I should have thought that a Select Committee was not really necessary, but having talked informally with some of the Honourable Members opposite, I find that they really desire to have a Select Committee on this Bill. If that is so, I do not want to contest that position and I shall agree to a Select Committee. Sir, I move.

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

"That the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration."

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): I do think that a Select Committee is necessary, for I see some mistakes, but I find that the gentleman in whose name the Select Committee motion stands is not present now.

The Honourable Sir Nripendra Sircar: In that case may I make a suggestion? It is only two minutes more for five. The matter may stand over for another day.

Mr. President (The Honourable Sir Abdur Rahim): Very well. Sir Muhammad Zafrullah Khan. No. 13.

The Honourable Sir Muhammad Zafrullah Khan: That is not likely to finish in two minutes, Sir.

Dr. G. V. Deshmukh (Bombay City: Non-Muhammadan Urban): With your permission, may I move No. 15, my motion?

The Honourable Sir Muhammad Zafrullah Khan: I am not giving way to anybody else. I am prepared to make my motion. As it was only two minutes to five, I said that I might not be able to finish it.

Mr. President (The Honourable Sir Abdur Rahim): Very well. Sir Muhammad Zafrullah Khan.

THE INDIAN MERCHANT SHIPPING (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 Merchant Shipping Act, 1923, be taken into consideration".

Under section 62 of the Indian Merchant Shipping Act, no seaman is at liberty to contract to assign his pay which has not yet accrued to him. The difficulty that is being experienced is this. Some of the shipping companies have started schemes, provident fund schemes and other schemes, for the benefit of seamen which are based on contributions by seamen as well as contributions by the companies, and the companies want to amend the contracts of the seamen to that effect in order to enable them to recover seamen's contributions from them. They cannot do that without the sanction of the Government of India. But in view of the provisions of section 62 of the Merchant Shipping Act the Government have no power to authorise these changes in the agreements inasmuch as any such assignment would be illegal under section 62. The object of this Bill is to enable the Government to authorise such changes in seamen's contracts.

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

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, be taken into consideration."

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 16th November, 1938.