

THE

7th December 1938

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VIII, 1938

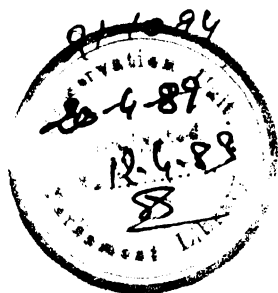
(5th December to 12th December, 1938)

EIGHTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,

1938



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9-10

Legislative Assembly.

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

Deputy President :

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SYED GHULAM BHIK NAIRANG, M.L.A.

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

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LEGISLATIVE ASSEMBLY.

Wednesday, 7th December, 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.

ALLOWANCE FOR MEALS GIVEN TO RAILWAY MAIL SERVICE VAN PEONS AND VILLAGE POSTMEN.

1856. *Mr. Abdul Qaiyum: Will the Honourable Member for Communications please state:

- (a) whether Railway Mail Service van peons and village postmen when on duty are given any daily allowance for meals; and
- (b) if not, whether Government propose to allow them reasonable food allowance?

The Honourable Sir Thomas Stewart: (a) Railway Mail Service van peons are only granted outstation allowance when they are required to be away on duty with running sections for over twelve hours. This is meant as a contribution towards their extra cost of food. No allowance for meals is given to village postmen.

(b) No change in the present position is considered necessary.

Mr. Abdul Qaiyum: In view of the fact that village postmen sometimes have to be away for days delivering letters, will Government consider the question of giving them allowances also?

The Honourable Sir Thomas Stewart: I answered that in reply to part (b) of the question.

Mr. Abdul Qaiyum: In view of the fact that highly paid officials get very decent daily allowances, will Government consider the desirability of giving allowances to these poor employees who are very low paid?

The Honourable Sir Thomas Stewart: Presumably, Sir, the rate of pay of the posts in question was fixed in relation to the nature of the duties that they have to perform.

Prof. N. G. Ranga: How many years ago was this rate fixed?

The Honourable Sir Thomas Stewart: I could not possibly say that.

Mr. N. M. Joshi: May I know what is the rate of allowance given?

The Honourable Sir Thomas Stewart: I shall want notice of that question.

Prof. N. G. Ranga: What is this out-station allowance granted to these people when they are away from their place of residence?

The Honourable Sir Thomas Stewart: I shall require notice with regard to details of that kind.

Prof. N. G. Ranga: Is it not a fact that some postmen are expected to go round from village to village and are therefore not able to go back to their place of residence for several days together?

The Honourable Sir Thomas Stewart: No, Sir. If the Honourable Member will bring to my notice any case in which a postman has to be away for days before he is allowed to go back to his home, I will make inquiries.

Mr. Abdul Qaiyum: Is the Honourable Member unaware of the fact that such a thing does exist?

Mr. President (The Honourable Sir Abdur Rahim): Order, order. That has been answered.

SAFETY OF POSTMEN IN RURAL AREAS.

1857. ***Mr. Abdul Qaiyum:** Will the Honourable Member for Communications please state:

- (a) whether postmen in rural areas, where there is danger to life and limb, are provided with revolvers for protection;
- (b) whether there have been many cases where postmen have been robbed and wounded;
- (c) whether any provision has been made at railway stations for mail peons to take rest and to keep the mail in safety; and
- (d) if not, whether steps are proposed to be taken to make such provision?

The Honourable Sir Thomas Stewart: (a) and (b). No.

(c) Yes.

(d) Does not arise.

Mr. Abdul Qaiyum: With regard to part (b), is it not a fact that there have been many cases where postmen have been robbed, wounded and even killed?

The Honourable Sir Thomas Stewart: I have given a reply in the negative.

Mr. Abdul Qaiyum: I may enlighten the Honourable Member and tell him that I recently had to defend two or three cases where postmen had been robbed and wounded.

The Honourable Sir Thomas Stewart: There are very large numbers of postmen in India and even the Honourable Member's experience of two or three does not convince me that there are many cases.

Prof. N. G. Ranga: Is there any special warm clothing supplied to these postmen who have to go to these railway stations and stop there at night time during winter?

The Honourable Sir Thomas Stewart: That, I submit, does not arise on this question.

Prof. N. G. Ranga: Sir, the question was whether any provision has been made at railway stations for mail peons to take rest and to keep the mail in safety. They cannot possibly be taking rest while they are suffering from cold. That is why I wish to know whether any warm clothing is provided for them.

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

RESOLUTION PASSED AT THE POSTMEN AND LOWER GRADE STAFF CONFERENCE AT LUDHIANA.

1858. *Mr. Abdul Qaiyum: Will the Honourable Member for Communications be pleased to state:

- (a) whether Government have seen the resolution passed at the Postmen and Lower Grade Staff Conference held at Ludhiana on the 16th October, 1938, demanding:
 - (i) that postal employees be compulsorily retired after twenty five years service or at the age of fifty; and
 - (ii) those retiring on production of medical certificate after twenty years service should be entitled to half the pay as pension; and
- (b) whether Government propose to give effect to the above; if not, the reasons therefor?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) No, the reason is that I can see no justification for such a proposal.

Mr. Abdul Qaiyum: What is the present age of retirement for postmen?

The Honourable Sir Thomas Stewart: I shall require notice.

Prof. N. G. Ranga: Even for that question?

The Honourable Sir Thomas Stewart: Yes, even for that.

Prof. N. G. Ranga: Then, why be here at all?

Mr. President (The Honourable Sir Abdur Rahim): Order, order. That is not a proper remark to make.

Prof. N. G. Ranga: I never wished to make any offensive remark

Mr. President (The Honourable Sir Abdur Rahim): But surely that is an offensive remark.

Prof. N. G. Ranga: Sir, the Honourable Member wants notice even to tell us for how many years these people are expected to put in service. That is certainly fighting shy of the real information which should be given to this House.

Mr. President (The Honourable Sir Abdur Rahim): But the Honourable Member says he does not remember, and so he wants notice.

The Honourable Sir Thomas Stewart: Sir, on a point of personal explanation, I have today to deal with 97 questions, and I think the Honourable Member is entirely unreasonable in thinking that I should have every minute detail in my mind for answering questions.

HOURS OF WORK FIXED FOR TELEGRAPH MESSENGERS.

1859. *Mr. Abdul Qaiyum: Will the Honourable Member for Communications please state:

- (a) whether any maximum hours of works have been fixed for telegraph messengers;
- (b) if so, whether these hours of work are being adhered to in practice;
- (c) whether any allowance is given for overtime work;
- (d) whether postmen and lower grade staff unions are permitted to take up cases of members and to take part in all investigations affecting their members; and
- (e) if not, whether Government are prepared to permit them to do so in future?

The Honourable Sir Thomas Stewart:, (a) and (b). Yes.

(c) Yes, except in the case of Task work messengers who are paid on the basis of the number of messages delivered by them.

(d) Unions are permitted to represent the cases of their members in regard to matters which are of common interest to the class represented by them, and may be permitted at the discretion of Government to take part in investigations relating to such matters. They are not allowed to take up the individual grievances of their respective members or to take part in investigations into them.

(e) If the question means whether Unions will be permitted to take part in investigations relating to matters concerning individual members, the reply is in the negative.

Mr. Abdul Qaiyum: With regard to part (a) of the question, may I know what is the maximum number of hours fixed for such people?

The Honourable Sir Thomas Stewart: I shall want notice of that.

Mr. Abdul Qaiyum: This is a thing which is obviously inter-connected with part (a).

Mr. President (The Honourable Sir Abdur Rahim): Then the Honourable Member should have put down that question.

Mr. S. Satyamurti: Sir, I submit the question is there, because the question is whether maximum hours have been fixed.

✓ **Mr. President** (The Honourable Sir Abdur Rahim): And the Honourable Member has answered that.

(At this stage several Honourable Members started putting supplementary questions.)

Order, order. The Chair cannot allow the House to be converted into a kind of bazar.

✓ **Mr. S. Satyamurti:** Sir, may I draw your attention to the fact that "bazar" is an offensive word?

✓ **Mr. President** (The Honourable Sir Abdur Rahim): The Chair said that because it found two or three Members speaking at the same time. The Chair has repeatedly drawn attention to this and yet the thing continues. If the Honourable Members do not want this sort of thing, there is one other way and that is that every Member must wait until his name is called before putting a supplementary question.

Mr. S. Satyamurti: But this thing must happen occasionally, because we have not got eyes at the back of our heads.

Mr. President (The Honourable Sir Abdur Rahim): But the occupant of the Chair has got eyes to look all round. It may be that the Chair will have to start the practice of not allowing any Honourable Member to put supplementaries unless his name is called.

Prof. N. G. Ranga: Then why have starred questions at all?

Mr. T. S. Avinashilingam Chettiar: Sir, we do agree that several Members putting questions at the same time is a matter of inconvenience to the Chair and to others. But we also expect better of the Chair than to remark that we are converting the House into a bazar.

✓ **Mr. President** (The Honourable Sir Abdur Rahim): The Chair did not make any remark regarding any individual Members, but it does become a scene like that of a bazar.

Mr. K. Ahmed: Sir, in view of the fact that during the Congress Sessions

Mr. President (The Honourable Sir Abdur Rahim): We do not want anything about the Congress.

Mr. K. Ahmed: Sir, I am asking whether, in view of the fact that during the Congress Sessions these telegraph messengers are overworked, Government propose to realise money from the Congress funds and spend it on these messengers for overtime work and whether Government propose to communicate with the financial department of the Congress in order to get this money from the Congress.

Mr. Abdul Qaiyum: Sir, I want your ruling on one point if you will have patience with me for one minute.

Mr. President (The Honourable Sir Abdur Rahim): That is an offensive remark.

Mr. Abdul Qaiyum: I did not mean any offence, Sir.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member knows that it is offensive.

Mr. Abdul Qaiyum: We were upset over the remark about the bazar.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member may be upset, but the Chair has to see that the proceedings are carried on in an orderly manner.

Mr. Abdul Qaiyum: Sir, I submit, part (a) of the question was whether any maximum hours of work have been fixed for telegraph messengers, and the supplementary question I asked was what were these maximum hours. The Honourable Member says he wants notice. That puts us in an awkward position.

Mr. President (The Honourable Sir Abdur Rahim): The obvious question to ask was whether maximum hours are fixed and, if so, what those hours are. Honourable Members should put questions so as to get the information which is exactly required. The Chair does not know why the Honourable Member did not ask that.

Mr. Abdul Qaiyum: I did not want to make the question lengthy.

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

CHANGE IN THE POLICY ABOUT TRIBAL AREAS.

1860. ***Mr. Abdul Qaiyum:** Will the Foreign Secretary please state:

- (a) whether he has read the *communiqué* by the Ministry of Foreign Affairs, Kabul, published in the *Islah* and the *Tribune*, Lahore, dated the 28th October, 1938;
- (b) whether the question of the frontier tribes was also discussed between him and the Afghan Government;
- (c) whether any decisions were arrived at, and whether these are likely to result in a change of policy regarding the tribal areas; and
- (d) if so, the nature of the proposed changes?

Sir Aubrey Metcalfe: The Honourable Member's attention is invited to the reply given to question No. 1210A asked by Mr. Satyamurti in the present Session.

Mr. Abdul Qaiyum: With reference to part (b) of the question, I want to know whether the Honourable Member's attention has been drawn to the following extract:

"The two Governments will do everything possible to co-operate in attaining this object and the Afghan Government trust that the visit of Sir Aubrey Metcalfe will result in increased prosperity for the frontier tribes."

This part of the question, as far as I recollect, was not answered. May I know what sort of co-operation or change in policy has been agreed upon between the Government of India and the Afghan Government in the matter of the tribes?

Sir Aubrey Metcalfe: I have already stated quite clearly that it will not be in the the public interest to publish any details regarding these informal conversations beyond what has already been published by the Afghan Government in their communique of which the Honourable Member has just read a portion.

Mr. Abdul Qayum: May I know if the mere disclosure of the fact that any arrangements were arrived at about the policy to be pursued as regards the tribes is also considered to be against public interest?

Sir Aubrey Metcalfe: Any further statement on the subject is against the public interest in the opinion of the Government.

Mr. Badri Dutt Pande: May I know if the Foreign Minister of the Afghan Government is coming to Delhi for these deliberations?

Sir Aubrey Metcalfe: That does not arise, but in point of fact he is not coming.

NON-OBSERVANCE OF REGULATIONS REGARDING DISCIPLINARY ACTION ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

1861. *Mr. Muhammad Nauman: Is the Honourable Member for Railways aware of the fact that regulations regarding disciplinary action against non-gazetted staff, including removal from service, dismissal and rights of appeals, are not strictly observed in the Howrah Division of the East Indian Railway and Eastern Bengal Railway?

The Honourable Sir Thomas Stewart: Government are informed that the facts are not as stated by the Honourable Member.

Mr. Muhammad Nauman: Is the Honourable Member aware that Mr. Hicks of the Watch and Ward staff of the E. B. Railway has been dismissing people, and that no chance of appeal has been granted to them?

The Honourable Sir Thomas Stewart: My answer is perfectly clear: I have no information that would support the Honourable Member's assertion.

Mr. Muhammad Nauman: Will the Honourable Member inquire into the matter as to how many cases of dismissal have been made and whether appeals have not been allowed?

The Honourable Sir Thomas Stewart: I think it is quite obvious from the answer I have given that enquiries in this respect have already been made.

"SMALLS QUICK TRANSIT SERVICE" ON THE EAST INDIAN RAILWAY.

1862. *Mr. Muhammad Nauman: (a) Will the Honourable Member for Railways be pleased to state when the S. Q. T. service was first introduced on the East Indian Railway?

(b) What was the pay and allowance given to the staff employed on it?

(c) How was the pay and allowance changed from time to time?

(d) How many Muslims have been employed in this service so far?

The Honourable Sir Thomas Stewart: (a) The "Smalls Quick Transit Service" was introduced on the East Indian Railway in 1929 in replacement of a former van goods service. The former was replaced by a combined van goods and pick up service in 1931. This latter service was in turn replaced in 1938 by a new service known as the 'revised van goods service'.

• (b) and (c). I lay two statements on the table giving the required information.

(d) I am endeavouring to obtain information and will lay a reply on the table of the House in due course.

Statement showing the pay and allowances given to staff employed on the revised Van Goods Service introduced from May 1938.

Pay.	Allowances.
<i>Guards, Grade I—</i>	
Rs. 105/110—10—210 (old E. I. R.)	Consolidated running allowance Rs. 150 p. m. Consolidated Sunday allowance for 4 Sundays in a month to those guards who are eligible for Sunday allowance under the running allowance rules Rs. 28 p. m.
Rs. 100—10—130 } (old O. & R.)	
Rs. 140—10—210 }	
Rs. 90—10—180 (Revised 1930)	
Rs. 100—10/2—120 (Revised 1934)	
<i>Guards, Grade II—</i>	
Rs. 45—5—100 (old E. I. Ry.)	Consolidated running allowance Rs. 60 p. m. plus consolidated Sunday allowance for 4 Sundays in a month to those guards who are eligible for Sunday allowance under the running allowance rules.
Rs. 35—5—55 (old O. & R.)	
Rs. 60—5—80 (old O. & R.)	
Rs. 30—5—70 (Revised 1930)	
Rs. 30—3—45/5—60 (Revised 1934)	
<i>Drivers and Firemen (old E. I. R.)—</i>	
Grade VI—65—5—85 ; Grades III—	
Rs. 19—21 and Grade IV Rs. 15—17	Consolidated running allowance 100 per cent. of pay.
<i>Drivers and Firemen (old O. & R.)—</i>	
Scale I—Rs. 30/65, Scale I at As. 7-6 to As. 10-6 per day	Consolidated running allowance of 150 per cent. of pay.
Scale II—Rs. 35/75 ; Scale II at As. 10-7 to As. 13-7 per day.	
<i>Firemen (1930 Scales)—</i>	
Grade II—Rs. 17—18 p. m.	
Grade III—Rs. 15—16 p. m.	
<i>Porter —</i>	
Rs. 12—1—17 p. m.	Consolidated travelling allowance Rs. 7-4 and Rs. 8-8 according to rate of pay.
<i>Cooks—</i>	
Rs. 15—1—20	Consolidated travelling allowance Rs. 7-4 and Rs. 8-8 according to rate of pay.

Statement showing the pay and allowances given to staff employed on the Smalls Quick Transit Service 1929-1938.

Pay.	Allowances.
<i>Guards, Grade I—</i>	
Rs. 105/110—10—210 (old E. I. Rly.)	Consolidated running allowance Rs. 150 p. m. Consolidated Sunday allowance to those who are eligible for Sunday allowance under the running allowance rules Rs. 28 p. m.
Rs. 100—10—130 (old O. & R.)	
Rs. 140—10—210 (old O. & R.)	
Rs. 90—10—180 (Revised 1930)	
Rs. 100—10/2—120 (Revised 1934)	
<i>Guards, Grade II—</i>	
Rs. 45—5—100 (old E. I. Rly.)	Consolidated running allowance Rs. 60 p. m.
Rs. 35—5—55 (old O. & R. Rly.)	
Rs. 60—5—80 (old O. & R. Rly.)	
Rs. 30—5—70 (Revised 1930)	
Rs. 30—3—45/5—60 (Revised 1934)	

NOTE.—On the Lucknow and Moradabad divisions the consolidated running allowances to guards were discontinued in 1931 and ordinary running allowances were paid instead.

Engine crews, i.e., drivers and firemen working these services were given their pay and allowances under the ordinary rules applicable to power running staff.

Porter —

Grade Rs. 14—1—17 upto 1931 and	Ordinary travelling allowances when earned.
Rs. 12 1—17 thereafter	Consolidated travelling allowance at Rs. 5 p. m. from 1933.

Cooks—

Grade Rs. 22—1—25 upto 1931 and	Ordinary travelling allowances when earned.
Rs. 20—1—25 thereafter	

APPOINTMENT OF WEIGH CLERKS AND STATION SERGEANTS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

1863. *Mr. Muhammad Nauman: Is the Honourable Member for Railways aware of the fact that no direct appointments, either in the lowest, or in the intermediate grades can be made without advertisements and Selection Boards? If so, who is responsible for the appointments of Weigh Clerks and Station Sergeants in the Howrah Division after the 18th December, 1934?

The Honourable Sir Thomas Stewart: Direct appointments either to the lowest or to the intermediate grades are made according to the Rules for the recruitment and training of non-gazetted staff on State-managed Railways, a copy of which is in the Library of the House. As regards the second part, the appointments of weigh clerks and station sergeants in the Howrah Division are made by the Divisional Superintendent, Howrah.

Mr. Muhammad Nauman: Is it done personally by him or by a body appointed by him?

The Honourable Sir Thomas Stewart: I understand from the information at my disposal that the appointments are made by the Divisional Superintendent.

APPOINTMENT OF WEIGH CLERKS IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

1864. *Mr. Muhammad Nauman: (a) Will the Honourable Member for Railways be pleased to state how many Muslims were examined, appointed, or retained in the approved list by the Selection Board held to examine candidates for the post of weigh clerks, Howrah Goods, East Indian Railway?

(b) Was the question of avenue of promotion considered at the time of examining candidates for those posts?

(c) How many vacancies of weigh clerks, Howrah Goods, have been filled by Muslims and non-Muslims during the period from the 18th December, 1934 to 31st October, 1938?

The Honourable Sir Thomas Stewart: (a) A Selection Board for the filling of posts of weigh clerks was held in April, 1937, from among existing employees and 21 candidates were selected and placed on a panel, of these one was a Muslim.

(b) There is no fixed avenue of promotion to these posts.

(c) The information asked for is not readily available.

Mr. Muhammad Nauman: Does the Honourable Member mean to say that out of 21 only one was a Muslim who was appointed?

The Honourable Sir Thomas Stewart: That is the purport of my reply.

REMODELLING OF HARDWAR RAILWAY STATION.

1865. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable Member for Railways be pleased to state what was the estimate of expenditure in connection with the remodelling of Hardwar railway station and what expenditure was actually incurred?

(b) During the construction of the said station how many of the following categories of staff were employed under the Inspector of Works on special duty, and what were the expenses in respect of each:

(i) temporary staff including labour,

(ii) permanent staff including labour, and

(iii) work charge staff including labour?

(c) Is it a fact that during the course of the construction the roof of the building suffered many cracks and leaked during rains?

(d) Is it a fact that immediately after the completion of the building the wooden doors and windows suffered serious bends and became unworkable?

(e) Is it a fact that the plaster inside the building got cracked?

(f) Is it a fact that the cement floor of the main platform also became defective?

(g) Was any penalty levied on the contractor for the defects in the construction? If not, who was held responsible?

The Honourable Sir Thomas Stewart: With your permission Sir, I propose to reply to questions Nos. 1865 and 1866 together. Enquiries are being made from the Railway Administration and replies will be laid on the table in due course.

Qazi Muhammad Ahmad Kasmi: It is more than three weeks since notice of this question was given. Will the Honourable Member let us know as to what is the time when he expects replies to be available?

The Honourable Sir Thomas Stewart: I accept the Honourable Member's statement that it is more than three weeks since notice was given but if the Honourable Member will refer to his question he will see that it is a very detailed question that involves reference to the outstations concerned. I do not know that it is reasonable to expect that a reply could have been given today.

REMODELLING OF HARDWAR RAILWAY STATION.

†1866. ***Qazi Muhammad Ahmad Kasmi:** (a) Will the Honourable Member for Railways be pleased to state if it is a fact that after the completion of the building of the Hardwar railway station it was discovered that the platform was about nine inches higher than the level and had to be subsequently lowered?

(b) Is it a fact that as a result of this lowering of the platform the railway line had also to be lowered for a distance of about a mile?

(c) What extra expenses were involved in the rectification of this defect and who was held responsible?

(d) Were the extra charges debited to the contractor, or were they borne by the railway?

RAILWAY ACCIDENT AT HARDWAR DURING THE KUMBH MELA.

1867. ***Qazi Muhammad Ahmad Kasmi:** (a) Will the Honourable the Railway Member please state whether it is a fact that a serious accident took place at Hardwar during the Kumbh Mela, 1938?

(b) How many persons lost their lives and how many sustained injuries?

(c) What was the main cause which led to this accident?

(d) Is it a fact that the dead end which was demolished and resulted in the empty rake pushing its way into the passengers' enclosure was constructed during the Kumbh Mela of 1927?

(e) Is there any proof to show that the dead end was properly tested before the present accident?

(f) Is it a fact that during the Kumbh Mela of 1927 the passengers' enclosures were built at a distance of 50 feet from the dead ends and during the present Kumbh Mela they were made at a distance of ten feet only? What was the cause of this variation?

The Honourable Sir Thomas Stewart: (a) to (c). I would refer the Honourable Member to the reply given to Mr. Badri Dutt Pande's starred question No. 38 on the 8th August, 1938.

(d) The material used for the 1938 Mela was the same as that used for the 1927 Mela, but the buffer stop was on another site.

(e) The buffer stop in question had been in use continuously since 1927 and no question of specially testing it could, therefore, arise.

(f) Yes, except that for the 1938 Mela, the buffer stop was at a distance of 12 feet from the passengers' enclosure. The reduced distance was considered sufficient.

†For answer to this question, see answer to question No. 1865.

Mr. Badri Dutt Pande: May I inquire if the bridges on the platform at the Hardwar Station have been covered or not?

The Honourable Sir Thomas Stewart: I suggest the covering of the platform does not arise from either the question or the answer that I have given.

Mr. Mohan Lal Saksena: May I know if any inquiry was held after the accident?

The Honourable Sir Thomas Stewart: I should be inclined to say that an inquiry was certainly held but if the Honourable Member wants precise information I should have to have notice of that.

Qazi Muhammad Ahmad Kazmi: With reference to part (f), am I to understand that the dead end was at a different place from where it was during the previous Kumbh Mela?

The Honourable Sir Thomas Stewart: My answer to part (f) was:

"Yes, except that for the 1938 Mela, the buffer stop was at a distance of 12 feet from the passenger's enclosure. The reduced distance was considered sufficient."

Qazi Muhammad Ahmad Kazmi: My question was whether the dead end was at a different place from where it was during the previous Kumbh Mela?

The Honourable Sir Thomas Stewart: From my answer it would appear that there had been some change.

Mr. Mohan Lal Saksena: May I know if any compensation was paid to the relatives of the deceased?

The Honourable Sir Thomas Stewart: I should require notice of that.

INDIANISATION OF SUBORDINATE MECHANICAL ENGINEERING SERVICE ON THE NORTH WESTERN RAILWAY.

1868. ***Mr. Sham Lal:** Will the Honourable the Railway Member be pleased to state:

- (a) whether the Indianisation of subordinate mechanical engineering service on the North Western Railway began in 1924;
- (b) whether the experiment was a success and there was a steady decrease in the repair expenses of rolling stock;
- (c) whether further recruitment of Indians was stopped for three years and Indians were also stopped from being promoted to higher position;
- (d) whether Government decided to import some fitters from England and styled them as experts;
- (e) whether it is a fact that the Railway Board have decided to import a limited number of supervisory staff of State-managed Railways from England;
- (f) whether this action of the Railway Board is in accordance with the undertaking given by Sir Sultan Ahmad on the 27th August, 1937;

- (g) whether suitable people are not available in India; and
- (h) whether Government are prepared to consider the advisability of stopping recruitment in England, and give chance to Indians?

The Honourable Sir Thomas Stewart: (a) Government had already accepted, before 1924, the policy of gradually Indianising all the public services of India including railway services.

(b) The decrease in the repair expenses is mainly due to the employment of more efficient methods and the installation of up-to-date machinery.

(c) and (d). No.

(e) to (h). I would refer the Honourable member to the reply given to starred question No. 387, asked by Mr. Satyamurti in this House on the 23rd August, 1938. It has, however, since been decided that the posts in question should also be advertised again in India. If men with the necessary qualifications are not available in India, recruitment to these posts will be made from the United Kingdom.

Mr. Lalchand Navarai: With regard to clause (b), may I know, Sir, if the decrease in the working expenses is due to the work by the Indian element?

The Honourable Sir Thomas Stewart: Sir, my answer to part (b), I think, was perfectly clear.

Mr. Lalchand Navarai: May I know if there are efficient Indians available for this service?

The Honourable Sir Thomas Stewart: Sir, I have informed the House that an advertisement is being issued with a view to ascertaining whether or not that is the case.

Sardar Sant Singh: With regard to part (a) of the question, may I know how many Indians are there in the mechanical branch of the service on the North Western Railway?

The Honourable Sir Thomas Stewart: I really must have notice.

Mr. Abdul Qaiyum: With regard to part (a), are the words "gradual Indianisation" defined anywhere? Do this mean a fixed number of years, or is it an interminable period?

The Honourable Sir Thomas Stewart: The words "gradual Indianisation" have not been defined.

Mr. S. Satyamurti: With reference to the answers to parts (e) and (h) of the question, may I know, Sir, whether my friend's statement covers all such appointments, i.e., that non-Indians will be imported only if the Railway Board is satisfied that there are no suitable Indians available for such posts?

The Honourable Sir Thomas Stewart: I think that is a reasonable interpretation of my answer.

CHARGE FOR A TELEPHONE CALL BETWEEN BENARES AND ALLAHABAD.

1869. *Mr. Sri Prakasa: Will the Honourable Member for Communications state :

- (a) if the telephone line between Benares and Allahabad goes *via* Lucknow;
- (b) if the charge for a telephone call between Benares and Lucknow is more than between Benares and Allahabad; and
- (c) if so, why?

The Honourable Sir Thomas Stewart: (a) The telephone exchange at Allahabad is connected with the main trunk system of India at Lucknow. Consequently, when a call from Allahabad is given to Benares it has to pass *via* the Lucknow exchange.

(b) Yes.

(c) Trunk call charges between two exchanges are based on the radial distances between them and not on the length of the circuit actually used for the purpose of giving the call. The radial distance between Lucknow and Benares is greater than that between Allahabad and Benares.

DETENTION OF MAILS FROM KALKA AT DELHI.

1870. *Mr. Sri Prakasa: Will the Honourable Member for Railways state :

- (a) if it is a fact that mails brought by the 2-Down Kalka-Delhi-Howrah mail train from Kalka are detained at Delhi and not carried on to Moghalsarai, unlike what is done in the other direction by the corresponding 1-Up mail, on the East Indian Railway;
- (b) if so, by which train the mails are sent afterwards;
- (c) if this does not delay letters from stations above Delhi to stations below Delhi from Ghaziabad to Moghalsarai; and
- (d) if Government are considering the desirability of taking the mails direct by the 2-Down mail train below Delhi?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) The mails are sent on by No. 146 Delhi-Agra Cantonment and No. 136 Agra-Cantonment-Cawnpore Passenger leaving Delhi at 09-07 hours.

(c) There is no appreciable delay in the delivery of the mails except to a few stations on the line.

(d) I would refer the Honourable Member to the reply I gave to part (d) of his starred question No. 816 on the 16th February last.

Mr. Sri Prakasa: With reference to the reply to part (d) of the question, is it not a fact, Sir, that letters from Benares to Delhi take about 36 hours to reach here, while letters from Delhi to Benares take from three to four days owing to the fact that those letters are not carried by these mails?

The Honourable Sir Thomas Stewart: Sir, I am reluctant to doubt the Honourable Member's statement, but I feel it is somewhat of an exaggeration to say that a letter from Benares to Delhi takes three to four days.

Mr. Sri Prakasa: It takes from Benares to Delhi only about 36 hours, but from Delhi to Benares it takes three to four days. I could send some envelopes to my Honourable friend, if he desires to see them, but I do not want any subordinates to get into trouble.

The Honourable Sir Thomas Stewart: If the Honourable Member would send me the envelope, I promise him that none of my subordinates will get into trouble, but I should like to investigate the case.

CARRIAGE OF MAILS BY SPECIFIED TRAINS.

1871. *Mr. Sri Prakasa: Will the Honourable Member for Railways state :

- (a) if it is a fact that mails are carried by specified trains only ;
- (b) if this fact is not mentioned in time-tables of the railways ; and
- (c) if Government intend to suggest to the Railways to mention in their time-tables that particular trains carry mails to offer facility to the general public ?

The Honourable Sir Thomas Stewart: (a) Mails are carried by a large number of trains, either in mail vans with postal sorters or in compartments with postal mail guards, and also as parcels in charge of railway guards.

(b) Certain of the more important trains on which mail vans are run and which are generally booked at high speed are designated in railway time tables as "Mail".

(c) I cannot see that any useful purpose will be served by the adoption of the Honourable Member's suggestion.

Mr. Sri Prakasa: Will there be any harm if the suggestion made in part (c) of the question is adopted? The public would be helped to know from the time table the trains which carry mails?

The Honourable Sir Thomas Stewart: I am not so much concerned with the harm of the suggestion as with its value.

Prof. N. G. Ranga: Will Government at least make some experiments on certain Railways by indicating by means of the letter M to show that the particular train would carry mails?

The Honourable Sir Thomas Stewart: I cannot think that the Honourable Member's suggestion would appeal to a very great section of the travelling public.

Prof. N. G. Ranga: Will it not?

The Honourable Sir Thomas Stewart: No.

OUTLETS FOR DRAINAGE OF FLOOD WATER BETWEEN DADASHI AND PACHOORIA STATIONS ON THE EASTERN BENGAL RAILWAY.

1872. *Mr. Brjendra Narayan Chaudhury: Will the Honourable Member for Railways please state :

- (a) whether there are only two outlets for drainage of flood water each not more than approximately 12 to 15 feet wide in the three miles' length of Railway embankment between Dadashi and Pachooria stations on the Faridpore-Goalundo line, Eastern Bengal Railway ;

- (b) whether since the opening of the line, the course of the river Padma has changed in recent years from a distance of five miles to quite close to the Railway, in the surrounding area, particularly in Barat Union Board area, and that as a result of the changes in the river the above outlets for water have become quite insufficient for speedy discharge of water;
- (c) whether he is aware that for the last five years the accumulations of water in the rainy seasons on the north side of the railway embankment have been not less than two feet, which have been completely destructive to crops owned by the people of the villages Urakanda Bhabdia, Barat and more than twenty other neighbouring villages;
- (d) whether during the last three years the villagers have sent several representations to the railway authorities on the above subject asking for increased outlets in the embankment;
- (e) whether any officer or officer of the Provincial Government has or have corresponded with the Railway authorities on this subject; and
- (f) whether Government propose to consider the propriety of waiving the limitation plea imposed under the Railway Act and of providing for increased outlets at the cost of the Railway?

The Honourable Sir Thomas Stewart: Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

LATE ARRIVAL OF 42-DOWN PARCEL EXPRESS AT HOWRAH.

1878. *Mr. Brojendra Narayan Chandhury: Will the Honourable the Railway Member please state:

- (a) whether 42-Down Parcel Express scheduled to arrive at Howrah at 4-45 A.M. is almost regularly arriving late by six to seven hours every day (comparing date 15th November);
- (b) whether he is aware that owing to the late arrival of the train fruit merchants who import fruits in Calcutta by this train find it difficult to retail the fruits at noon or afternoon, and the fruits get stale, and whether as a result the purchasing public suffer by not getting fresh fruits and the merchants suffer by not getting full price;
- (c) the reasons for continual late arrival of the train; and
- (d) whether the train cannot be made to run with much greater punctuality?

The Honourable Sir Thomas Stewart: (a) The late arrival of this train at Howrah during November, 1938, averaged 4½ hours per day.

(b) I recognise the inconvenience which is being caused.

(c) and (d). The late arrivals are due to the fact that more time being taken at stations *en route* for loading parcels than is allowed in the time table. The booked stoppages of the train, at various stations, are based on normal requirements. There are, however, certain periods during the

year when the volume of parcels traffic offering necessitates considerably more time being taken for loading than is allowed in the time table. The heavy traffic in cauliflower for Calcutta is now contributing to the train running late.

Mr. Brojendra Narayan Chaudhury: May I know, Sir, what steps are Government taking to prevent the loss to the consignees by the late arrival of the trains at Howrah?

The Honourable Sir Thomas Stewart: Government are not in a position to take any steps.

UNIFORMS SUPPLIED TO LINEMEN OF THE POSTS AND TELEGRAPHS DEPARTMENT.

†1874. ***Mr. Amarendra Nath Chatteropadhyaya:** Will the Honourable Member for Communications be pleased to state:

- (a) whether it is a fact that only one set of drill uniforms is supplied to linemen of the Posts and Telegraphs Department in class II-B stations;
- (b) if the reply to part (a) above be in the affirmative whether Government expect those linemen to attend to their duties on all the working days of the year with the only set of uniforms on;
- (c) whether it is not a fact that the uniforms have to be frequently washed and always kept in a presentable condition;
- (d) if reply to part (c) alone be in the affirmative, whether Government realise the difficulty of the linemen to attend to their duties on all the working days of the year with only one set of uniforms;
- (e) whether it is a fact that linemen in class I-B stations are supplied with two sets of uniforms;
- (f) if reply to part (e) above be in the affirmative, why such difference is made in the supply of drill uniforms to linemen at different stations; and
- (g) whether Government propose to consider this matter and sanction two sets of uniforms to linemen at all stations?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) No.

(c) Yes.

(d) These linemen are not required to attend their duties in uniform when the uniform is being washed.

(e) Yes.

(f) Linemen employed in the large towns where they come into frequent contact with the public and officers of the Department are supplied with two sets of uniform so that they may always be in uniform when attending to their duties.

(g) I am afraid the present is not an opportune time for sanctioning a request of this kind.

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

NON-SUPPLY OF UNIFORM TO SWEEPERS IN TELEGRAPH OFFICES.

†1875. ***Mr. Amarendra Nath Chattopadhyaya:** Will the Honourable Member for Communications be pleased to state:

- (a) whether it is a fact that sweepers at the Central Telegraph Office, Calcutta, and other Telegraph Offices are in the permanent employ of Government and are in graded scale of pay;
- (b) whether it is a fact that most of the inferior servants of the Posts and Telegraphs Department are supplied with uniforms;
- (c) whether it is a fact that sweepers mentioned in part (a) above are not granted uniforms;
- (d) the difference between contingency menials and other inferior servants;
- (e) whether it is a fact that sweepers are termed as contingency menials and that is the reason why they are debarred from getting uniforms; and
- (f) whether Government propose to consider the case and supply the sweepers with uniforms?

The Honourable Sir Thomas Stewart: (a) Sweepers of the Central Telegraph Office, Calcutta, are on a time scale of pay but sweepers in other telegraph offices are generally on fixed pay.

(b) and (c). No.

(d) Contingency menials are employees paid from the grant for contingent expenditure. They do not belong to the permanent establishment of the Department and are not entitled to the benefits of leave and pension like other inferior servants on the permanent establishment.

(e) The reply to the first part is in the affirmative and to the latter part in the negative.

(f) No.

CHANGE IN THE DESIGNATION OF MISTRIES AND LINEMEN OF THE TELEGRAPH DEPARTMENT.

†1876. ***Mr. Amarendra Nath Chattopadhyaya:** Will the Honourable Member for Communications be pleased to state:

- (a) whether it is a fact that mistries and linemen of the Telegraphs Department desire to be designated as "mechanics" and "assistant sub-inspectors" respectively;
- (b) whether it is a fact that people from the lower middle class with some educational qualifications are being recruited to the cadres of mistries and linemen;
- (c) whether it is a fact that the change of designation from mistries to mechanics and from linemen to assistant sub-inspectors does not involve any financial loss to the Department;
- (d) if there is any objection to change the designations from mistries to mechanics and from linemen to assistant sub-inspectors;

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

- (e) if the reply to part (d) be in the negative whether Government propose to change the designation; and
- (f) if the reply to part (d) be in the affirmative, the reasons for the same?

The Honourable Sir Thomas Stewart: (a) I understand that a service association made a representation on the subject some time ago and that it was rejected.

(b) I have no information.

(c) A mere change of designation would not.

(d), (e) and (f). The change of designation suggested would not correctly describe the functions of the particular classes of officials and is, therefore, not acceptable.

REDUCTION OF THIRD CLASS FARES.

1877. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Railways be pleased to state:

- (a) if it is a fact that the third class railway fares charged at present are in excess of those of pre-war times;
- (b) if so, what is the amount of the excess;
- (c) if Government are aware that third class passengers, being usually very poor, cannot bear this excess; and
- (d) if so, whether Government are prepared to consider the desirability of reducing these fares to the pre-war rates?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) The amount of the increase in the fares charged varies on the different railways, but the average rate paid per third class passenger on all Railways in 1936-37 was 2.98 pies per mile, as against 2.29 pies in 1913-14: i.e., there has been an increase of 0.69 pie per mile.

(c) No.

(d) Financial considerations preclude the possibility of giving effect to the Honourable Member's suggestion.

Prof. N. G. Ranga: Is the Honourable Member aware of the fact that the incomes of individuals have gone down by more than 25 per cent. since the war, whereas the third class fare has gone up by .69?

The Honourable Sir Thomas Stewart: No, Sir, I am not aware of any decrease in the average income of the individual in India.

Prof. N. G. Ranga: Has the Honourable Member consulted the *Review of Trade* published by the Government of India every year?

The Honourable Sir Thomas Stewart: That is a publication which on many occasions I refer to.

INTERMEDIATE CLASS FARES AND PROVISION OF FANS.

1878. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Railways be pleased to state:

- (a) if it is a fact that the intermediate class railway fares charged at present are in excess of those of pre-war times;
- (b) if so, what is the amount of the excess; and
- (c) whether Government are prepared to consider the desirability of providing fans for the convenience of that class of passengers for the hot months of the year?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) The amount of the increase in the fares charged varies on the different railways, but the average rate paid per intermediate class passenger on all Railways in 1936-37 was 4.12 pies per mile as against 3.14 pies in 1913-14: i.e., there has been an increase 0.98 pie per mile.

(c) I would refer the Honourable member to the reply given to Mr. Nabi Baksh Illahi Baksh Bhutto's starred question No. 651 on the 31st August, 1938.

Mr. T. S. Avinashilingam Othettiar: May I know the considerations which make them increase the fares?

The Honourable Sir Thomas Stewart: I think it is part of the process of trying to make both ends meet.

Mr. T. S. Avinashilingam Othettiar: Has the increase of fares resulted in keeping up the traffic or has the traffic gone down, with respect to this intermediate class?

The Honourable Sir Thomas Stewart: I could not on the spur of the moment give the Honourable Member any statistics as to the volume of traffic.

Mr. Lalchand Navalrai: Does the Honourable Member know that the Central Advisory Board for Railways agreed to the desirability of having fans in the intermediate classes. Has anything been done with regard to that?

The Honourable Sir Thomas Stewart: That is precisely the question which I have answered by referring to the answer given by the Honourable Mr. Clow.

Mr. Lalchand Navalrai: Since the Central Advisory Council agreed to the desirability of having fans in the intermediate classes, has anything been done?

The Honourable Sir Thomas Stewart: The answer to that question was given on the 31st August of this year.

ABSENCE OF INTERMEDIATE CLASS WAITING ROOMS AT CERTAIN RAILWAY STATIONS IN SIND.

1879. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Railways be pleased to state:

- (a) if Government are aware that at many important railway stations in Sind there is no waiting hall for intermediate class passengers;
- (b) if so, whether Government are aware that the want of this convenience causes great hardship to this class of passengers and their families travelling with them; and
- (c) if so, whether Government are prepared to consider the desirability of providing such convenience for this class of passengers at all the important stations in Sind?

The Honourable Sir Thomas Stewart: (a) and (c). I would refer the Honourable Member to the reply given to Mr. Lalchand Navalrai's starred question No. 234 on the 10th February, 1936.

(b) No.

Mr. Lalchand Navalrai: After that reply which was given to me, have any more halls been created?

The Honourable Sir Thomas Stewart: I should require notice of that.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have considered the suggestion, which was agreed to during the Simla Session, of throwing open at least for the lady passengers of lower classes the waiting rooms intended for higher class passengers?

The Honourable Sir Thomas Stewart: No, Sir. That is an entirely new proposition to me. I should require notice of that before I give an answer to that.

Mr. T. S. Avinashilingam Chettiar: Mr. Clow agreed to consider the suggestion.

INCOME FROM THE SIND SECTION OF THE NORTH WESTERN RAILWAY.

1880. *Mian Ghulam Kadir Muhammad Shahban: Will the Honourable Member for Railways be pleased to state:

- (a) if it is a fact that the income from the Sind section of the North Western Railway exceeds the income from other sections of that Railway; and
- (b) if so, what is the amount of the excess?

The Honourable Sir Thomas Stewart: (a) As the accounts of railways are not maintained on a provincial basis, figures of revenue for the sections of the North Western Railway to which the Honourable Member refers are not separately available, but bearing in mind that less than one tenth of the system lies in Sind, and that in the Punjab, the density of traffic is much greater, it may safely be assumed that the reply to his question is in the negative.

(b) Does not arise.

PRINTING IN VERNACULAR OF CHARGES ON BADGES OF COOLIES.

1831. *Prof. N. G. Ranga: Will the Honourable Member for Railways be pleased to state:

- (a) if it is not a fact that on the badge worn by Railway coolies the indication that "one anna per each baggage carried has to be paid" is stated in English;
- (b) whether he is aware that most of the third class passengers, owing to their ignorance of English, are often troubled by coolies for higher charges; and
- (c) whether Government propose to consider the advisability of printing this indication in the most widely known Indian language of the locality concerned?

The Honourable Sir Thomas Stewart: (a) The charge payable is shown in English only on the Assam Bengal, Eastern Bengal, Madras and Southern Mahratta and North Western Railways: in both English and the vernacular on the Bengal Nagpur, East Indian and South Indian Railways. The charge is not shown on the Bombay, Baroda and Central India, Bengal and North Western and Rohilkund and Kumaon Railways. On the Great Indian Peninsula Railway the charge is shown in English, except at Victoria Terminus, where it is shown both in English and Hindi. Enamelled metal badges showing the charge in English on one side and in Hindi on the other are being introduced experimentally on the Great Indian Peninsula Railway.

(b) I am aware that allegations of this kind have been made.

(c) I will convey the Honourable Member's suggestion to Railway Administrations for consideration.

Mr. Sri Prakasa: Is it not a fact that a maximum amount of luggage is prescribed which can be carried for this one anna, and is it not also a fact that very often passengers load the porters with an extraordinary amount of luggage and then quarrel if at the end they ask for a little more than one anna?

The Honourable Sir Thomas Stewart: Human nature being what it is, I think it is extremely likely that there have been such cases.

Maulana Zafar Ali Khan: When you speak of Hindi, does this mean Urdu? Is it Nagari or Persian character?

The Honourable Sir Thomas Stewart: My impression is that the reference to Hindi means the Devanagri script.

Maulana Zafar Ali Khan: Does the Honourable Member know that Mussalmans can only decipher Persian characters and not Nagri characters?

The Honourable Sir Thomas Stewart: No, Sir.

Mr. Mohan Lal Saksena: Is it not a fact that the people of this country object to the term vernacular in relation to Indian languages?

The Honourable Sir Thomas Stewart: I do not quite understand what the Honourable Member means, but if he is suggesting that there is something not quite right about the word vernacular, then, so far I am concerned, I entirely dissociate myself from any invidious meaning.

Maulana Zafar Ali Khan: May I suggest to the Honourable Member that if Persian characters are used, it will be useful to the Muslim travelling public?

The Honourable Sir Thomas Stewart: I said that I would convey the Honourable Member's suggestion to the various administrations concerned. I will leave it to their discretion to see what script should be used, if they choose to make any alterations.

Prof. N. G. Ranga: Will the Honourable Member consider the advisability of asking the B., B. and C. I., N. W. and the Rohilkund Railways to introduce this system of putting on badges to indicate charges?

The Honourable Sir Thomas Stewart: I have promised to send the suggestion for their consideration.

Mr. Abdul Qaiyum: As Hindustani is the language of India with the two scripts, Urdu and Devanagri, will Government order that all such badges should be in Hindustani, in both the scripts?

The Honourable Sir Thomas Stewart: That would be unworkable in places like Trichinopoly, for instance.

Mr. K. Ahmed: In the Frontier Province, where the majority of the people are Pathans, they do not understand Hindustani, but only Urdu. I suggest it will not be to the advantage of the Honourable Member's constituency.

CONTRACT SYSTEM OF ENGAGING RAILWAY COOLIES.

1882. *Prof. N. G. Ranga: Will the Honourable Member for Railways be pleased to state:

- (a) if it is not a fact that he stated during the last Budget discussions that Government were considering the advisability of stopping the contract system of engaging railway coolies and engaging them directly by the railways;
- (b) whether Government have come to any conclusion as a result of their considerations about this matter, and if so, what it is;
- (c) if not, how soon Government expect to come to a final decision on this matter; and
- (d) if Government have received any representations on this matter from the Railway Coolies Unions of Calcutta, Benares and Lahore?

The Honourable Sir Thomas Stewart: (a) No.

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

(d) Yes.

Prof. N. G. Ranga: What is the conclusion that the Government of India have come to in regard to the representation they have received from the various organisations?

The Honourable Sir Thomas Stewart: In regard to two representations, it was decided that no action was necessary. In regard to the third representation, the matter is under consideration.

INTRODUCTION OF THIRD CLASS CARRIAGES OF IMPROVED DESIGN.

1883. *Prof. N. G. Ranga: Will the Honourable Member for Railways be pleased to state:

- (a) on which Railways the new third class carriages of improved design have been introduced;
- (b) how many such carriages are introduced in all and on each railway;
- (c) whether the Company-managed Railways have introduced such carriages, and if so, how many, and if not, which of them propose to introduce them, and how many, during the next two years;
- (d) what has been the experience of Government in regard to the working and the satisfaction given to passengers by these improved carriages; and
- (e) whether Government propose to introduce any more such carriages and, if so, on which railways and to what extent, during the next two years?

The Honourable Sir Thomas Stewart: (a) to (c) and (e). I am placing on the table of the House a statement explaining the position.

(d) The number of carriages of the new design or approximating that design in service is yet too few to permit of a full appreciation of the position, though reports indicate that the new design has been appreciated by the travelling public.

Statement.

A statement was laid on the table of the House in connection with Mr. Amarendra Nath Chattopadhyaya's starred question No. 303 on 3rd September, 1937, in which it was stated that carriage bodies were no longer being built in accordance with standard designs. Strict uniformity in design among the carriages constructed by different railways at the present time does not, therefore, exist. The improved design to which reference is made in the question is presumably that of the sample full III class broad gauge carriage built by the Great Indian Peninsula Railway and inspected by the Central Advisory Council for Railways in 1936. No further full III class carriages conforming strictly with that design have yet been built. The Great Indian Peninsula Railway has, however, constructed 19 brake, luggage and III class carriages, the III class accommodation in which agrees strictly with the design. The South Indian Railway has also constructed one full III class carriage agreeing very closely with the design, and the Bengal Nagpur Railway will undertake the building of 59 full III class carriages next year which will be practically speaking identical in design. The Bombay, Baroda and Central India Railway is also at present building 28 full III class carriages on the same six compartment principle but with a somewhat different arrangement of seats.

The III class accommodation in all carriages recently constructed or to be constructed in the future shows or will show an appreciable improvement over the accommodation provided in new carriages some years ago regardless of whether full III class or

composite construction was or is to be followed. A statement is appended showing carriages having lower class accommodation programmed for construction during 1939-40. Similar information in respect to 1938-39 is embodied in the statement laid on the table of the House on the 8th. August 1938 in connection with Babu Kailash Behari Lal's Starred Question No. 599 asked on the 2nd March, 1938.

Statement showing lower class carriages and compartments which have been programmed for construction during 1939-40.

(Excludes throw-forwards.)

Railways.	Broad Gauge.	Metre Gauge.	Remarks.
A. B.		3 Bogie III class. 1 4-wheeled III and Brake.	On old under-frames.
B. N.	3 Bogie Inter. and III class. 59 Bogie III class.	
B., B. & C. I.	22 Bogie III class 2 Bogie II and III class	3 Bogie II and III class. 15 Bogie III and Brake.	
B. & N. W.	20 Bogie lower class. 20 Bogie lower class. 31 6-wheeled lower class.	} On old under-frames.
G. I. P.	1 Bogie I, II and III driving trailer. 1 Bogie III, driving trailer. 6 Bogie III non-driving trailer.	For electric service.
M. & S. M.	4 Bogie II, Inter. and III. 2 Bogie II and III. 2 Bogie Inter., Luggage and Brake. 3 Bogie Inter. and III. 2 Bogie III with Indian Refreshment compartment.	2 Bogie Inter, Brake and luggage. 4 Bogie Inter. and III. 4 Bogie III and Post.	
R. & K.	6 Bogie III class. 2 Bogie Inter. and III. 2 Bogie, III and Postal. 1 Bogie I, II and III. 3 6-wheeled III class.	On old under-frames.
S. I.	3 Bogie II and III	3 Bogie II and III. 15 Bogie III class. 1 Bogie Brake and III. 1 Bogie III and Indian Buffet.	

Prof. N. G. Ranga: Are we to understand that the statement contains proposals for the increase of these carriages for the next two years?

The Honourable Sir Thomas Stewart: The construction programme does not take us two years forward, but the statement will give you the 1939-40 programme.

Prof. N. G. Ranga: Is there any proposal that the Government of India should try to increase the number of these carriages year by year?

The Honourable Sir Thomas Stewart: Yes.

Maulana Zafar Ali Khan: With regard to improving the third class carriages, I should like to know whether Government will see the desirability of making sleeping arrangements for third class travellers on long distance journeys by extra payment of course.

The Honourable Sir Thomas Stewart: I think that was a matter with which I dealt in the course of the last Budget debates and I explained how impossible it was.

CHARGES FOR FOOD ON THE EAST INDIAN RAILWAY STATIONS.

1884. *Prof. N. G. Ranga: Will the Honourable Member for Railways be pleased to state:

- (a) if it is a fact that at the Moghalsarai station, *thalis* containing food can be had at six annas each at the orthodox Hindu refreshment room;
- (b) if such facilities exist at any other stations on the East Indian Railway, and if so, at how many stations and what are their names; and
- (c) if not, whether Government propose to consider the advisability of providing such facilities at other stations also?

The Honourable Sir Thomas Stewart: (a) and (b). Government have no information other than that contained in the East Indian Railway's Time Table and Guide in force from 1st October, 1938, a copy of which is in the Library of the House. Pages 224 and 225 of this publication show the tariff of charges in the Indian refreshment rooms, and page 223, the stations at which there are such rooms.

(c) Full meals, third class, for six annas can be had at several Indian refreshment rooms.

Prof. N. G. Ranga: Will Government consider the advisability of increasing the number of the stations at which such meals can be had because I can say from personal experience that from Calcutta to Delhi there are not many stations at which these meals can be had although at several stations the trains stop for a sufficiently long time?

The Honourable Sir Thomas Stewart: I think it really is a matter for the consideration of the administration of the Railways themselves, but I think it is an obvious proposition that if the demand rises, the supply will also rise.

Prof. N. G. Ranga: Will the Honourable Member send a copy of this question and the answer to the Railway Administration concerned?

The Honourable Sir Thomas Stewart: I am perfectly prepared to do that.

SALE OF BRITISH AND INDIAN POSTAL ORDERS IN INDIA AND ENGLAND, ETC.

1885. *Mr. Manu Subedar: (a) Will the Honourable Member for Communications please state the total amount of British Postal Orders sold in India by the Indian Post Offices during 1936-37 and 1937-38? Does the recent modification of rate prejudice the income of the Posts and Telegraphs Department from sterling money orders?

(b) What is the total amount of remittance through the Posts and Telegraphs Department of foreign money orders during the same period?

(c) Have Government got any machinery for the sale in the United Kingdom of Rupee Postal Orders for persons wishing to make a remittance to India?

(d) What remuneration is the Indian Postal Department receiving for selling British Postal Orders in this country?

The Honourable Sir Thomas Stewart: (a) and (b). I place a statement on the table giving the required information. As regards the latter part of part (a) of the question the reply is in the negative.

(c) No.

(d) £ 2 per thousand on orders sold *plus* a share of the poundage on the Orders sold.

Statement.

(a) The amount of British Postal Orders sold in India :

1936-37	?	:	:	:	:	:	£ 212,713	6	7½d.
1937-38	.	:	:	:	:	:	£ 183,555	7	5½d.

(b) The amount of remittance, through the Posts and Telegraphs Department of Foreign money Orders :

1936-37	.	:	:	:	:	.	Rs. 41,98,535	11	0
1937-38	.	:	:	:	:	.	Rs. 51,54,246	1	11

Mr. Manu Subedar: I am anxious to find out why the Indian Posts and Telegraphs Department is not making arrangements on a reciprocal basis with the British post office by offering to sell in the United Kingdom rupee postal orders just as the British post office is selling sterling postal orders in this country?

The Honourable Sir Thomas Stewart: I realise the importance of reciprocity as a theory, but the reason why there is no reciprocal arrangement is that there is no effective demand for it.

Mr. Manu Subedar: I would like to know whether the sale of British postal orders in this country is not competing with the Indian Posts and Telegraphs Department in regard to the sale of their own sterling money orders?

The Honourable Sir Thomas Stewart: No, Sir.

Mr. Manu Subedar: Is the competition not there because the rates are different or is the competition not there because they are two different categories?

The Honourable Sir Thomas Stewart: No, Sir, the competition is not there because in carrying out the agency functions we are being paid for it. It might even pay us better to sell the British postal orders than to sell our own.

Mr. T. S. Avinashilingam Chettiar: May I know if any calculation was made about the need and the use of this system if the Indian postal orders are made available to be sent to England?

The Honourable Sir Thomas Stewart: I do not think that any accurate calculation can be made. As Honourable Members will realise, the majority of Indians who are in England are concerned in transactions involving remittances from India rather than remittances to India.

NEW PASS RULES FOR STATE RAILWAY EMPLOYEES.

1886. *Mr. Mohan Lal Saksena: (a) Will the Honourable Member for Railways be pleased to state whether Government have considered the representation of the State Railway employees against the new pass rules?

(b) Is it not a fact that the question has been greatly agitating the mind of railway employees?

(c) Did the Railway Board discuss the question with the representatives of the Railwaymen's Federation?

(d) What is the decision of Government on this question?

The Honourable Sir Thomas Stewart: (a) and (c). Yes.

(b) Representations have been received from the staff.

(d) I would refer the Honourable Member to the reply I gave to Mr. P. R. Damzen's unstarred question No. 92 on the 16th November, 1938.

Mr. Mohan Lal Saksena: Will the Honourable Member read the answer?

The Honourable Sir Thomas Stewart: Yes, Sir, though there might be ground for protest that one should be asked to read answers given a fortnight ago.

Mr. President (The Honourable Sir Abdur Rahim): In particular cases this can be done.

The Honourable Sir Thomas Stewart: The answer was:

"(a) Yes.

(b) The conclusions arrived at are:

(i) that the number of passes admissible per annum to officers recruited hereafter will be six sets, instead of twelve sets as at present.

(ii) that subordinate employees on the old scales of pay, with not less than 25 years' service, will be given annually four sets of passes, instead of three sets as at present.

(c) Does not arise."

Mr. K. Ahmed: In view of the fact that some officers are getting more passes than they are allowed under the rules, have they been seriously dealt with by the Department, such as, dismissal and the reduction of pay?

The Honourable Sir Thomas Stewart: If the Honourable Member is putting in a plea for the officer who dishonestly uses the passes, then I am afraid I cannot give any answer.

Mr. K. Ahmed: If the principle of non-payment of fares is applied to the public at large who are asked to pay double the price of the fare, why should not that principle be applied to the officers instead of allowing them to become the victims of the departmental heads and not deal with them properly and less severely? Does not equity demand that they should be dealt with in the same way as anybody else?

Mr. President (The Honourable Sir Abdur Rahim): That is an argument. Next question.

REPRESENTATION FROM THE EXTRA-DEPARTMENTAL SUB-POSTMASTERS.

1887. *Mr. Mohan Lal Saksena: Will the Honourable Member for Communications be pleased to state whether any representation has been submitted by the Extra Departmental Sub-Postmasters to Government? If so, what action, if any, has been taken thereon?

The Honourable Sir Thomas Stewart: The reply to the first part is in the negative; the second part does not, therefore, arise.

BROADCASTING STATIONS IN INDIA.

1888. *Mr. Nabi Baksh Illahi Baksh Bhutto: (a) Will the Honourable Member for Communications be pleased to state the income and expenditure of the Radio Department?

(b) How many Broadcasting Stations are there in India, and what are the methods adopted at a Radio station for selecting persons to give songs and deliver lectures, and how are their remunerations fixed?

The Honourable Sir Thomas Stewart: (a) The revenue from license fees and sale of Radio publications amounted to Rs. 5,41,622 during 1937-38. Expenditure during the year 1937-38 was Rs. 13,95,634.

(b) There are at present twelve transmitting stations of All-India Radio at seven places. As regards the latter part of the question, artists and talkers are selected by the Station Directors after holding auditions, if necessary. The fees are fixed by the Station Directors with due regard to the abilities of the persons engaged.

Mr. Lalchand Navalrai: May I know if in the interests of Sindhis, Sindhi songs are also selected. I want Sindhi singers to be engaged for the purpose of giving Sindhi songs.

The Honourable Sir Thomas Stewart: I am told that the Controller of Broadcasting has a very considerable "fan mail", and if the Honourable Member would convey his suggestion by adding to the "fan mail", I am sure it would be sympathetically considered although I should say that, *prima facie*, travelling allowance would be a considerable item in the expense of the Delhi station.

Mr. Lalchand Navalrai: Then why does not the Honourable Member give us a Radio Station at Karachi?

The Honourable Sir Thomas Stewart: The Honourable Member's question should be addressed to the Finance Member.

Maulana Zafar Ali Khan: In this connection, I should like to know whether the attention of the Honourable Member has been drawn to a leaderette of the *Statesman* in which it is pointed out that in America a new device has been invented for extending the activity of the radio to 50 miles? Do Government propose to avail themselves of this American device?

The Honourable Sir Thomas Stewart: We have no immediate intention of introducing the "bullphone".

Mr. Abdul Qaiyum: In view of the fact that the selection of singers is based more on favouritism than on merit—as is evident from public criticism, is it not possible to devise some better method of selection whereby this criticism can be met?

The Honourable Sir Thomas Stewart: I am not prepared to admit the propriety of the criticism.

Mr. Abdul Qaiyum: Is it the policy of the Government of India to organise advisory committees at every broadcasting station to enable broadcasting officers to select the right type of singers and artists?

The Honourable Sir Thomas Stewart: The policy is that there should be advisory committees to advise station authorities on the general policy that they should follow.

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

FINANCIAL CONDITION OF THE VIZAGAPATAM PORT.

1889. ***Mr. K. S. Gupta:** (a) Will the Honourable Member for Communications please state whether, in view of the low remunerative financial condition of the Harbour of Vizagapatam, there is any proposal to send an officer from the Government of India to find out ways and means to improve the financial and trade conditions both by retrenchment of expenditure and granting extra trade facilities for the Port? If so, when is he to be sent?

(b) Is the Honourable Member prepared to consider the necessity of retrenching the number of officers in the Port of Vizagapatam in view of the very limited number of ships calling at the Port i.e., on the average one per day in many weeks and none on some days?

The Honourable Sir Thomas Stewart: (a) and (b). I would refer the Honourable Member to the reply I gave to parts (c) and (g) of Seth Govind Das's starred question No. 1610 on the 23rd November, to which I have nothing to add. The financial position of the Port is under review.

Prof. N. G. Ranga: Has anything been done by the Government of India to see that the G. I. P. Railway gives proper facilities for people who have to send their goods to Vizagapatam and does not favour Calcutta at the expense of Vizagapatam?

The Honourable Sir Thomas Stewart: Considering the fact that the G. I. P. Railway do not run into Vizagapatam, it is unreasonable to impose any conditions on them.

Prof. N. G. Ranga: I made a mistake, it should be B. N. R. A note submitted by the Department of my Honourable friend to the Public Accounts Committee has itself made it perfectly clear that this kind of discrimination is being shown by that Railway as between Calcutta and Vizagapatam, and, in view of the fact that the finances of these particular ports are in a very bad way in which the Government of India also are so much interested, will Government see that this Railway will discontinue this discrimination?

The Honourable Sir Thomas Stewart: The next question deals with this problem of discrimination.

PORT DUES AND LANDING CHARGES IN THE VIZAGAPATAM PORT.

1890. *Mr. K. S. Gupta: (a) Is the Honourable Member for Communications aware that the Port dues and landing charges are higher in the Port of Vizagapatam than in other parts of India?

(b) Is it a fact that the Port dues on manganese, the chief item of the Port exports, was raised from Rs. 1/2 to Rs. 1/4?

(c) Is it a fact that much of the manganese traffic is being diverted to other ports like Bombay and Calcutta consequent upon the increase of the Port dues?

(d) Is it a fact that much of the goods traffic from the Central Provinces is being diverted to Bombay and Calcutta due to high freights charged by the steamer companies for exports from the Port of Vizagapatam?

(e) Was it not the intention and expectation of the Government of India that the Port of Vizagapatam would offer very great facilities to the Central Provinces trade and traffic?

(f) Is it a fact that only linseed and linseed cake from the Central Provinces are being exported from this Port?

(g) Is it a fact that the Bengal Nagpur Railway offers the same rates for cargo from the Central Provinces stations to Calcutta and Vizagapatam though the railway route to Vizagapatam is much shorter than to Calcutta from the Central Provinces? If so, why?

(h) Is the Honourable Member aware that myrabolams from Jimmidepet, a station on the Vizagapatam-Raipur Railway, are carried all the way to Calcutta for shipments? If so, why?

(i) Is it a fact that the channel is not made deep enough for the tugs to come in to tow the cargo boats to the side of the vessels?

(j) Is the Honourable Member prepared to consider the necessity of improving the trade facilities to the Port of Vizagapatam to attract foreign and Indian companies to establish their branches at Vizagapatam?

The Honourable Sir Thomas Stewart: (a) No.

(b) If, as I presume, the Honourable Member is referring to the landing and shipping fees, the answer is in the affirmative.

(c) I have no information to that effect.

(d), (f) and (i). The information is being collected and will be laid on the table of the House in due course.

(e) Yes.

(g) The freight rates to Vizagapatam Port are generally lower than to Calcutta from stations, where the distance to Vizagapatam Port is less than to Calcutta. There may be some cases in which the position is somewhat different, and if the Honourable Member will let me have particulars of the commodity he is referring to and the stations from which they are booked to Vizagapatam Port and Calcutta, I will have the matter examined.

(h) I have no information as to why Calcutta should be preferred to Vizagapatam, but it may interest the Honourable Member to know that the railway freight per maund to Calcutta is nearly three times that of the freight to Vizagapatam.

(j) Government are exploring all avenues for increasing the prosperity of the Port.

NON-RECOGNITION OF THE LABOUR UNION OF THE VIZAGAPATAM PORT.

1891. *Mr. K. S. Gupta: (a) Will the Honourable Member for Communications please state whether it is a fact that the Labour Union of the Vizagapatam Harbour is still unrecognised? If so, why?

(b) What are the conditions to be fulfilled by the Labour Union to merit its recognition by the authorities?

(c) Is the Honourable Member prepared to settle the differences between the Labour Union and the Harbour authorities of Vizagapatam Port and grant recognition to the Union?

The Honourable Sir Thomas Stewart: (a) The Honourable Member presumably refers to the Vizagapatam Port and Harbour Workers' Union. I would invite his attention to the reply given by the Honourable Mr. A. G. Clow on the 23rd August, 1938, to part (b) of his starred question No. 416.

(b) A copy of the Rules for the recognition of associations of industrial employees (including railway employees) of the Government of India is in the Library of the House.

(c) The Union must, if it wishes for recognition, comply with the rules and afford facilities for verification of active membership.

DISCHARGE OF CERTAIN WORKERS FROM THE VIZAGAPATAM HARBOUR.

1892. *Mr. K. S. Gupta: (a) Is the Honourable Member for Communications aware that some twenty workers were discharged from the Harbour works very recently?

(b) Is it not a fact that all or most of these discharged workers have put in fourteen to fifteen years of service to the entire satisfaction of their superiors?

(c) What are the grounds on which their services were dispensed with?

(d) Is it a fact that the administrative officer offered them temporary jobs for three months on the receipt of a lawyer's notice on behalf of the discharged workers?

(e) Is there any capital work on hand? If not, when was the last capital work finished in the Port of Vizagapatam?

(f) Was not the question of regular (permanent) cadre settled with regard to the then existing staff on the 23rd November, 1936?

(g) Was there any capital (temporary) cadre in addition to the regular (permanent) cadre of workers?

(h) Is the Honourable Member aware that several senior men amongst the workers are placed in the temporary cadre and junior men placed in the permanent cadre, and this fact was not communicated to the individual workers concerned?

(i) Is it a fact that severe reductions in the numbers of workers were accompanied by rapid increase of supervising staff prior to 1936?

(j) Was there any protest from the Labour Union against the policy of reducing the working staff and increasing the supervising staff? If so, to what effect?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) I believe that some of them have put in long periods of service.

(c) The policy of economy, as a result of which all posts not essential for the work of the Port are being abolished or kept unfilled.

(d) I have no information.

(e) As a measure of economy a comparatively small sum was sanctioned for essential capital works in the current year and to the best of my knowledge these have been completed, and there is no important capital work now in progress.

(f) and (g). Early in 1937 the Government of India sanctioned the creation of certain permanent posts and agreed to the continuation of certain temporary staff. With regard to these latter it was directed that any temporary staff not required should be discharged and the number of temporary posts should be reduced as far as possible.

(h) and (i). I have no precise information.

(j) A representation was received from the Vizagapatam Harbour and Port Worker's Union protesting against the notice of discharge served on certain personnel. It was brought to the notice of the Harbour authorities

POSITION OF THE NORTH-WEST FRONTIER PROVINCE OPERATIONS.

1893. *Mr. S. Satyamurti: Will the Foreign Secretary be pleased to state:

(a) the latest position of the North-West Frontier Province operations;

(b) the expenditure incurred so far on these operations; and

(c) the results of those operations and the loss of men up to date?

Sir Aubrey Metcalfe: (a) The Honourable Member is referred to the reply given to parts (a) to (c) of question No. 1180, asked by Mr. Abdul Qaiyum on the 10th November, 1938.

(b) The expenditure incurred on Waziristan operations to the end of September, 1939, amounts to Rs. 2.83 lakhs.

(c) As regards the results of these operations, they have been successful in pacifying the majority of the hostile elements amongst the Waziristan tribes. The present situation has been described in the reply to question No. 1190 to which I have already referred the Honourable Member. Casualties incurred by Government forces since the beginning of the operations in November, 1936, up to 31st October, 1938, are 291 killed and 851 wounded.

Mr. S. Satyamurti: In view of the improved situation to which my Honourable friend referred, has there been any reduction in the number of troops engaged in these operations?

Sir Aubrey Metcalfe: Considerable reductions have been made from time to time but it is obviously undesirable to make premature reductions before the situation has returned to normal.

Mr. S. Satyamurti: Have Government got any information in their possession on which they can give some indication to this House of the time when they expect these operations to come to an end?

Sir Aubrey Metcalfe: No, not at present; I can give no definite forecast.

Mr. Abdul Qayum: With reference to the answer to part (c) of the question, may I know if it is a fact that the policy in Waziristan, from where there have been so many raids, has reacted very badly on law and order in the Frontier Province?

Sir Aubrey Metcalfe: The Honourable Member is quite aware that there have been raids; he will find the details given in the Press and in the communiqués published by Government.

FACILITIES FOR MAHATMA GANDHI TO VISIT TRIBAL AREAS.

1938. **Mr. S. Satyamurti:** Will the Secretary for External Affairs please state:

- (a) whether his attention has been drawn to the report of Gandhiji's speech at Bannu on the 25th October, 1938, published in the issue of the *Harijan*, dated the 5th November, 1938;
- (b) whether the attention of Government has been specially drawn to the following passage in Gandhiji's speech:

"If I had my way, I would go and mix with tribes and argue it out with them and I am sure they won't be impervious to the argument of love and reason. But I know, to-day, that door is shut to me. The Government won't permit me to enter the tribal territory"; and

- (c) whether Government are prepared to give facilities for Mahatma Gandhi to visit tribal areas with a view to settle this problem permanently?

Sir Aubrey Metcalfe: (a) and (b). Government have seen the speech in the Press.

(c) The attention of the Honourable Member is invited to the reply given to his question No. 1840 on the 21st November, 1935, and to the replies given to supplementary questions put by him on the same occasion.

Mr. S. Satyamurti: With reference to the answer to clause (b) of the question, may I know whether Government have considered these two sentences in Gandhiji's speech:

"But I know, today, that door is shut to me. The Government won't permit me to enter the tribal territory."

May I know whether that is a proper description of the position of the Government?

Sir Aubrey Metcalfe: There was quite a considerable argument on the subject between myself and the Honourable Member the other day. I gave all the information I could give on the point, and what I explained was that the Mahatmaji had not yet asked for permission to go. Therefore, I said it was incorrect to say that Government had refused to give him that permission.

Mr. S. Satyamurti: I am glad the Honourable Member says "Mahatmaji". The Honourable Member knows that Mahatmaji is a man who speaks the truth, and since he says that "Government won't permit me to enter the tribal territory", may I know if that is the position of the Government?

Sir Aubrey Metcalfe: The Mahatmaji may know the answer to a hypothetical question, but I do not.

SPEECH OF THE PREMIER OF THE NORTH-WEST FRONTIER PROVINCE ABOUT PERMANENT SOLUTION OF THE TRIBAL PROBLEMS.

1895. **Mr. S. Satyamurti:** Will the Secretary for External Affairs be pleased to state:

- (a) whether his attention has been drawn to a recent speech of the Premier of the North-West Frontier Province to the effect that a permanent solution can be found for the tribal problem only by handing over the administration of the same to the Government of the North-West Frontier Province, and that he had pressed this view on His Excellency the Viceroy recently; and
- (b) whether Government have any intention of accepting the advice of the Frontier Premier; if not, why not?

Sir Aubrey Metcalfe: (a) Government are aware that Dr. Khan Sahib made a statement to this effect to a Press representative.

(b) The Government of India have not considered the question since control over the tribal areas is under the provisions of the Government of India Act, 1935, the responsibility of the Central Government.

Mr. S. Satyamurti: May I know who is the representative of the Central Government in this House to whom we can address this question?

Sir Aubrey Metcalfe: The representative for External Affairs, as my Honourable friend is well aware, is the Foreign Secretary.

Mr. S. Satyamurti: Therefore may I ask the Honourable the Foreign Secretary why the Central Government have not yet considered this suggestion of the Premier of the North-West Frontier Province especially when he says that he had pressed that view on His Excellency the Viceroy recently?

Sir Aubrey Metcalfe: The Government have not considered the question because it would be contrary to the existing constitution to take such a step.

Mr. Abdul Qaiyum: Will the Honourable Member now ask the British Government to amend the Government of India Act in this respect?

Mr. President (The Honourable Sir Abdur Rahim): Such a question cannot be discussed now.

PROGRAMME FOR INCREASED PROSPERITY OF THE FRONTIER TRIBES.

1896. ***Mr. S. Satyamurti:** Will the Secretary for External Affairs please state:

- (a) whether his attention has been drawn to the *communiqué* of the Afghan Government on the talks between himself and the Afghan Government;
- (b) whether the attention of Government has specially drawn to the following two sentences in that *communiqué*:

“They (Afghanistan and India) hope that in future Frontier tribes and tribesmen will live a peaceful life and the existing difficulties will be overcome. The two Governments will do everything possible to co-operate in attaining this object, and the Afghan Government trust that the visit of Sir Aubrey Metcalfe will result in increased prosperity for the Frontier tribes”;

- (c) whether Government will throw any further light on this matter;
- (d) whether Government are contemplating any programme for increased prosperity of the Frontier tribes; if so, what it is; and
- (e) whether Government have on hand any programme for enabling the Frontier tribesmen to live a peaceful life; if so, what that programme is?

Sir Aubrey Metcalfe: (a) to (c). The Honourable Member's attention is invited to the reply given to his question No. 1210A, in the present Session.

(d) and (e). The Honourable Member's attention is invited to part (b) of the reply given to question No. 1017 on the 5th October, 1936, and

to part (c) of the reply given to question No. 609 on the 10th March, 1937, to which I have nothing to add.

Mr. S. Satyamurti: May I know, with regard to the two points in the Afghan Government's communique, namely, that in future the Frontier tribes and tribesmen will live a peaceful life and they will have increased prosperity for the frontier tribes, whether, apart from what took place in 1936-37, as a result of my Honourable friend's visit to Kabul, there is any programme or any suggestions actively under the consideration of Government to bring about peace and prosperity, to which the Afghan Government communique refers, in these tribal areas?

Sir Aubrey Metcalfe: I would remind the Honourable Member that the visit took place rather less than six weeks ago and the state of affairs in Waziristan has not yet returned to normal. Therefore, it is somewhat difficult in that short space of time to work out a complete programme on the lines which he suggests.

Mr. S. Satyamurti: In view of the specific reference in the Afghan Government's communique to peaceful life and prosperity in the tribal areas, may I know whether Government are considering this, apart from working out any ideas for bringing about peace and prosperity in these areas?

Sir Aubrey Metcalfe: Government are always considering that problem with great anxiety.

(b) WRITTEN ANSWERS

EARNINGS AND WORKING EXPENSES OF RAILWAYS.

1897. *Mr. S. Satyamurti: Will the Honourable Member for Railways be pleased to state:

- (a) what are the railway earnings for the month of October 1938;
- (b) what are the railway earnings from 1st April to 31st October;
- (c) the receipts and the working expenses from 1st April to 31st October in respect of each State Railway and each Company Railway; and
- (d) whether there has been any reduction in the working expenses of railways corresponding to the reduction in the earnings; if not, why not?

The Honourable Sir Thomas Stewart: (a) to (c). With your permission Sir, I lay a statement on the table of the House, giving the information desired.

(d) I presume the Honourable Member is referring to a comparison between the approximate working expenses of this year with the actuals of last year. The approximate earnings up to the 10th November this year fall only slightly short of the earnings of the corresponding period of last year. There has, however, been an increase in the working expenses

to the end of October, 1938. This is mainly due to the increase in the price of coal and also of materials required for repair and maintenance of works.

Statement.

(a) The approximate gross earnings of State-owned railways for October, 1938 were Rs. 746 lakhs.

(b) The approximate gross earnings of State-owned railways from the 1st April, to the 31st October, 1938, were Rs. 52.87 crores.

(c) The approximate gross earnings and working expenses from 1st April to the 31st October, 1938, in respect to State-owned and managed, and State-owned and Company-managed railways were as follows :

(Figures in lakhs.)

Railways.	Gross Earnings.	Working Expenses.
<i>State-managed—</i>		
E. B.	3.23	2.30
E. I.	11.86	6.21
G. I. P.	7.12	4.05
N. W.	9.11	5.35
<i>Company-managed—</i>		
A. B.	1.06	70
B. N.	5.24	3.32
B. B. & C. I.	6.61	3.35
M. & S. M.	4.10	2.20
S. I.	3.10	1.07
Tirhoot and Lucknow Bareilly	1.15	47
Other Railways	28	16
Totals	52.87	29.78

TERMINATION OF CONTRACT WITH THE IMPERIAL AIRWAYS.

1898. *Mr. Lalchand Navarai: Will the Honourable Member for Communications be pleased to state :

- (a) whether it is a fact that the Imperial Airways' contract with Government has terminated; and
- (b) whether the Imperial Airways have given contract of their airways concern to the National Indian Airways, Delhi?

The Honourable Sir Thomas Stewart: (a) Imperial Airways have no contract with the Government of India.

(b) Imperial Airways have entered into an agency agreement with Indian National Airways whereby the latter act as the principal agents of Imperial Airways in India and carry out all traffic duties on behalf of Imperial Airways and its associated companies.

HARDSHIPS OF INDIAN MERCHANTS IN CHINESE TURKISTAN.

1899. *Mr. T. S. Avinashilingam Chettiar: Will the Foreign Secretary state:

- (a) whether Government have taken further steps, after his answer in the last session, to alleviate the hardships of Indian merchants in Chinese Turkistan;
- (b) if so, with what results; and
- (c) what is the latest position of the conditions of Indian merchants there?

Sir Aubrey Metcalfe: (a) The difficulties experienced by Indian traders in Sinkiang are the subject of constant representations to the Chinese Provincial authorities by His Majesty's Consul-General at Kashgar and the Government of India are satisfied that everything possible is being done by His Majesty's Consul-General, in very difficult circumstances, to effect an improvement in the treatment accorded to Indian subjects.

(b) and (c). In Yarkand there has been some relaxation of the restrictions imposed on Indian traders elsewhere, I regret to say, they are still boycotted and their activities restricted.

OPENING OF A SEASONAL POST OFFICE AT KEDARNATH.

1900. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Communications state:

- (a) whether a seasonal post office is opened at Kedarnath for the convenience of pilgrims;
- (b) whether the post office is closed about a month before the temple is closed, and if so, why; and
- (c) whether they have considered the advisability of keeping the post office so long as the temple is kept open?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) It is reported that the temple is closed about the middle of October. The seasonal post office used to be closed on the 14th September but in deference to the wishes of the local public it has been kept open until the 30th September since 1936.

(c) The matter is within the competence of the Postmaster-General, United Provinces Circle, who may be approached by those interested.

INTERIM REPORT OF THE COMMITTEE ON XB ENGINES.

1901. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Railways state:

- (a) whether the committee on the XB engines have given any interim report regarding safety measures that have to be taken immediately;
- (b) if so, what are those recommendations;

(c) whether they involve any financial commitment; if so, to what extent; and

(d) whether Government have considered those proposals?

The Honourable Sir Thomas Stewart: (a) No.

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

REPORT OF THE COMMITTEE ON THE ACCIDENT BETWEEN DINDEGAL AND MADURA ON THE SOUTH INDIAN RAILWAY.

1902. *Mr. T. S. Avinashilingam Chettiar: Will the Honourable Member for Railways state:

(a) whether the committee appointed to report on the accident between Dindegall and Madura on the South Indian Railway has submitted its report;

(b) if so, what are its findings; and

(c) whether compensation was paid to the victims; if so, to how many and how much?

The Honourable Sir Thomas Stewart: (a) and (b). No committee was appointed to report on the accident. I would, however, refer the Honourable Member to the reply I gave to Shrimati K. Radha Bai Subbarayan's starred question No. 1359 on the 21st November, 1938.

(c) I would refer the Honourable Member to the reply I gave to part (c) of Mr. Satyamurti's starred question No. 1209 on the 10th November, 1938.

INCREASE IN THE REVENUES OF STATE RAILWAYS.

1903. *Seth Govind Das: Will the Honourable Member for Railways please state:

(a) whether there has been an increase in the revenues of the State Railways during the last half year corresponding to that of the last year;

(b) if so, by what amount approximately;

(c) the causes the increase is due to;

(d) whether Government contemplate reducing freight and fare rates on principal commodities, such as, coal, rice, wheat, etc., to provide the encouragement for better trade returns;

(e) whether Government propose also to give reduced rates facilities in passenger traffic with a view to getting a larger volume of traffic and return; if so, how and from when; and

(f) if not, his reasons therefor?

The Honourable Sir Thomas Stewart: (a) to (c). The gross earnings of State-owned lines for the half-year ending 30th September, 1938, were four lakhs less than for the corresponding period of 1937.

(d) to (f). Government have no proposal under consideration for any general reduction in fares and rates, as they can see no justification for the

sacrifice of revenue which any such reduction would involve. Individual Railway Administrations have constantly under examination proposals for encouraging traffic movements and thereby increasing their revenues.

CHANGES CONTEMPLATED IN THE ORGANISATION OF THE RAILWAY ACCOUNTS DEPARTMENT.

1904. *Seth Govind Das: Will the Honourable Member for Railways please state:

- (a) whether changes are contemplated in the organisation of the Railway Accounts Department so as to place the department under General Managers instead of under the Finance Department;
- (b) whether it is a fact that the Auditor-General finds objection to the scheme being put into force as a whole without preliminary trial;
- (c) whether Government have with them expert opinion in support of the scheme;
- (d) whether Government propose to resolve the difference between the two by means of some form of experiments;
- (e) the stage at which the experiments in this matter are at present; and
- (f) the conditions under which the experiments are being conducted?

The Honourable Sir Thomas Stewart: (a) to (f). I would invite the attention of the Honourable Member to paragraph 7 of the Report of the Public Accounts Committee on the accounts of 1936-37, Volume I, Part II, paragraph 23 of the Proceedings of the Committee and Appendix XIV to the same. The Accounts Departments on the North Western and Great Indian Peninsula Railways have been placed experimentally under the control of the respective General Managers since the 1st November of this year.

CONNECTION OF BARISAL-MADARIPUR WITH KHULNA BY A RAILWAY LINE.

1905. *Maulvi Sikandar Ali Choudhury: Will the Honourable Member for Railways be pleased to state:

- (a) whether it is a fact that the scheme of connecting Barisal-Madaripur (Faridpur) with Khulna had been recommended by the District Magistrate and Commissioner of the Division and thrice by the Eastern Bengal and Assam Government (when the district was under that Government) and as many times by the Government of Bengal;
- (b) whether it is also a fact that survey of different alignments had been made several times at no inconsiderable expense and

the scheme was at last incorporated in the budget of the Eastern Bengal Railway in 1927-28, *vide* No. 401-R. B., dated the 16th February, 1927;

- (c) whether it is also a fact that Government notification for acquisition of land for the purpose was issued, *vide* No. 2704-L. A., dated the 21st February, 1927, in the *Calcutta Gazette*; and
- (d) if replies to parts (a) to (c) be in the affirmative, whether Government propose to give practical shape to the proposal at an early date?

The Honourable Sir Thomas Stewart: (a) It is a fact that the project was recommended for construction prior to 1916.

(b) Yes, but the scheme put into the budget in 1927-28 was for a line from Faridpur to Barisal *via* Charmaguria.

(c) The Government notification in question referred to entry upon land for the purpose of survey, and not to acquisition of land, and related to the project mentioned in (b).

(d) The Honourable Member is referred to the reply given to his starred question No. 666 on the 5th March, 1938.

REFRESHMENT CARS ON STATE RAILWAYS.

1906. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable Member for Railways state, with reference to question No. 4 of the 8th August, 1938:

- (a) whether the information has now been received in full;
- (b) whether there is any proposal on any railway to increase the number of refreshment rooms supplying food to Indians;
- (c) whether Government propose to issue instructions to all the Railways that an Indian refreshment car (or a portion of a carriage as is done on the Grand Trunk Express) is run on all mail trains running between:
 - (i) Bombay and Delhi,
 - (ii) Bombay and Calcutta,
 - (iii) Bombay and Madras,
 - (iv) Howrah or Calcutta and Delhi or beyond; and
 - (v) Peshawar and Delhi,
 and also on all express trains which do not at present have any refreshment cars or compartments?

The Honourable Sir Thomas Stewart: (a) A statement giving the information required was published in the Legislative Assembly Debates of the 22nd August, 1938.

(b) I am not aware of any proposal. The provision of refreshment rooms as and where required is within the competence of individual Railway Administrations and does not require the Railway Board's approval.

(c) This is a detail of administration which Government must leave to Railway Administrations to decide according to the circumstances obtaining in connection with each train.

CLASSIFICATION OF BROADCASTING STATIONS.

1907. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable Member for Communications please state

- (a) whether it is a fact that the Radio Stations at Delhi, Bombay and Calcutta are classified as "A" class stations and that they are manned by staff suitable for such "A" class;
- (b) whether it is a fact that the Madras Radio Station is classified as "B" class; and
- (c) whether it is a fact that the Madras Presidency is the first of the major Provinces; if so, whether Government propose to consider the advisability of raising the Madras Radio Station to "A" class and recruit suitable staff for the same?

The Honourable Sir Thomas Stewart: (a) and (b). No, Sir.

(c) Does not arise.

COMMUNAL COMPOSITION OF EMPLOYEES IN CERTAIN WORKSHOPS ON STATE RAILWAYS.

1908. *Mr. C. N. Muthuranga Mudaliar: (a) Will the Honourable the Railway Member please state how many men are employed in the Jamalpur, Moghulpura and other workshops on the State-managed Railways:

- (i) getting between Rs. 50 and Rs. 200,
- (ii) getting between Rs. 201 and Rs. 500, and
- (iii) getting over Rs. 500 (inclusive of any allowances)?

(b) How many of these in the various grade are (i) Indians, (ii) Anglo-Indians, and (iii) Europeans?

The Honourable Sir Thomas Stewart: (a) and (b). So far as the subordinate staff is concerned, I would refer the Honourable Member to the available information given in the 'Classified Lists of Subordinate Staff of all Departments on scales of pay rising to Rs. 250 and above', published by the Eastern Bengal, East Indian, Great Indian Peninsula and the North Western Railways. Copies of these lists are in the Library of the House.

I am afraid those documents do not give all the information asked for by the Honourable Member but no records are maintained of communal proportions of staff in scales of pay rising to less than Rs. 250. To obtain this information would entail the examination of all the pay sheets of all the State Railway Workshops, an amount of labour which I submit would be incommensurate with the value of the result.

In regard to Gazetted Officers, the available information will be found in the 'Classified List of State Railways Establishment and Distribution

Return of Establishment of all Railways, corrected up to 31st December 1937', a copy of which is also in the Library of the House.

AFFAIRS OF THE ASSAM BENGAL RAILWAY.

1909. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state:

- (a) whether the Assam Bengal Railway is partly State-owned; if so, the proportion of capital owned by the State; whether the land taken up for the Railway has been paid for by the State, or whether State land has been given free; and whether a minimum dividend is guaranteed to the shareholders of this Company;
- (b) the policy of the Government of India as regards recruitment, promotion and treatment of employees and selection of contractors in this Railway;
- (c) whether minimum qualifications are laid down for appointments to the post of Assistant Loco. Superintendents; if so, whether the two appointments recently made at Chittagong of one Punjabi and one Bombay gentlemen fulfil those conditions;
- (d) whether degrees or diplomas from recognised institutions are part of the qualifications required and whether the two gentlemen possess any;
- (e) whether the claims of Bengal Engineering College passed candidates trained in the Railway Workshop were considered in connection with these appointments; and
- (f) the number of Bengal Engineering College passed students (Mechanical) deputed so far by the Assam Government for practical training as students engineers on this Railway; of these, how many are now employed in this Railway, and in what capacity and how many resigned and why?

The Honourable Sir Thomas Stewart: (a) The total capital at charge on the 31st March, 1938, of the Assam Bengal Railway was approximately Rs. 24 crores of which the State share was approximately Rs. 22 crores. As regards the rest of the question, I would refer the Honourable Member to paragraphs 1 and 2 under the heading "Main provisions of contracts" of the Assam Bengal Railway appearing on page 4 of the History of Indian Railways corrected up to 31st March, 1937, a copy of which is in the Library of the House.

(b) The Assam Bengal Railway, like other Company-managed Railways, have full powers under their contract in regard to the recruitment and promotion, etc., of their staff. The Railway also exercise full control in the matter of the selection of contractors.

(e) and (f). Government have no information and are not prepared to interfere in these matters of detail which are entirely within the competence of the Company-managed Railway Administrations. ●

**GOVERNMENT'S POLICY ABOUT COMMUNAL REPRESENTATION ON THE ASSAM
BENGAL RAILWAY.**

1910. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Railway Member please state:

- (a) the policy of Government as regards communal representation (Hindus, Muslims, Christians; also Bengali speaking, Assamese speaking, etc.), in the Assam Bengal Railway's employment;
- (b) how the term "Assamese" is interpreted in this connection: whether the term includes the Bengali speaking population of Sylhet, Cachar and the Bengali speaking domiciled population of Assam; and
- (c) the percentage, if any, of Muslims; the actual percentage of Muslims in the Pahartali Workshop, including those who are paid daily wages but have the benefit of Provident Fund?

The Honourable Sir Thomas Stewart: (a) and (b). The policy of Government as regards communal representation in railway services is contained in the Railway Department (Railway Board) letters No. E34CM113, dated 12th December, 1934, to the Agent, Assam Bengal Railway, and enclosure thereto, a copy of which is in the Library of the House. The Assam Bengal Railway Company have agreed to observe the communal proportions suggested in the letters referred to above. Recruitment to railway services is not made on a territorial basis or on the basis of language.

(c) The Assam Bengal Railway have agreed that from 1934, 35 per cent. of all vacancies in the subordinate posts filled by direct recruitment should be reserved for Muslims. As regards the latter part, Government have no information.

**POSTS OF FOREMEN AND ASSISTANT FOREMEN IN THE MECHANICAL BRANCH
OF THE NORTH WESTERN RAILWAY.**

1911. *Mr. Lalchand Navalrai: Will the Honourable Member for Railways please state:

- (a) the number of posts of Foremen and Assistant Foremen employed in the Mechanical Branch of the North Western Railway and the number of posts in the lower gazetted services; and
- (b) the number of such posts held by Indians, Anglo Indians and Europeans, respectively?

The Honourable Sir Thomas Stewart: (a) and (b). I lay on the table a statement giving the required information.

Statement showing the number of posts of Foremen and Assistant Foremen and Lower Gazetted Service officers in the Mechanical Branch of the North Western Railway and the number of such posts held by Indians, Anglo-Indians and Europeans.

Foremen and Assistant Foremen.

No. of posts.			How filled.										Total.		
Mechanical Workshops.	Transportation (Power)	Electrical.	Total.			Mechanical Workshops.			Transportation (Power)			Electrical.			
			Indians.	Anglo-Indians.	Europeans.	Indians.	Anglo-Indians.	Europeans.	Indians.	Anglo-Indians.	Europeans.	Indians.		Anglo-Indians.	Europeans.
80	42	23	15	39	26	1	13	28	8	6	9			143	

Lower Gazetted Service.

No. of Posts.	How filled.			
	Indians.	Anglo-Indians.	Europeans.	Total.
Mechanical & Power including Electrical.				
17	2	3	9	14*

* The difference is due to excesses in the Superior Service being carried against posts in the Lower Gazetted Service.

DEMOTIONS FROM THE GRADES OF FOREMEN AND ASSISTANT FOREMEN ON THE NORTH WESTERN RAILWAY.

1912. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways please state the number of Indians promoted to and demoted from the grades of Foremen and Assistant Foremen on the North Western Railway during the last two years?

(b) Why were the demotions made?

(c) Will the Honourable Member lay on the table the instructions issued to the General Manager, North Western Railway, from time to time since 1923, regarding furtherance of the policy of Indianisation in this branch regarding Foremen and Assistant Foremen, etc.?

(d) Is it a fact that recently duly qualified Assistant Foremen and officiating Foremen have been demoted to make room for covenanted hands? If so, will Government please state why it has gone against the statement made by Sir Sultan Ahmed in reply to the discussion of the Wedgwood Report on the floor of this House on the 27th August, 1937?

(e) Will Government please state if they have fallen back from their policy of Indianisation, and whether, in view of their assurance given to the House, they propose to consider the desirability of not stopping the promotions of Indians in the North Western Railway Mechanical Workshops and also stopping recruitment in England for this purpose?

The Honourable Sir Thomas Stewart: (a) Eleven Indians were promoted to officiate as Foremen and Assistant Foremen, one of whom was reverted to chargeman for inefficiency. No demotion has been made during the last two years.

(b) Does not arise.

(c) Actually Government had accepted, before 1923, the policy of gradually Indianising all the public services of India including railway services. The policy has, however, been systematically pursued since 1925. The latest orders concerning recruitment to subordinate posts on Indian Railways are contained in the Railway Board's letter No. 1799-EG., dated 5th September, 1933, a copy of which is in the Library of the House.

(d) The reply to the first part is in the negative, the second part does not arise.

(e) The reply to the first part is in the negative. As regards the latter part, I may explain that promotion of Indians in the North Western Railway Mechanical Workshops has not been stopped because of their being Indians. With regard to recruitment to certain supervisory posts in the Mechanical Workshops of the North Western Railway, I would refer the Honourable Member to the reply given to Mr. Satyamurti's starred question No. 367 asked on 23rd August, 1938. It has, however, since been decided that the posts in question should also be advertised again in India in order to find out if men with the necessary qualifications are available in this country.

INTRODUCTION OF THE BENEFIT OF PROVIDENT FUND FOR INTERIOR RAILWAY STAFF.

1913. *Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways please state when Government propose to introduce the benefit of Provident Fund for the Railway staff drawing Rs. 20 and above and not entitled to such benefits at present?

(b) Are Government prepared to consider the desirability of making a provision in the next budget for the same?

(c) Are Government aware that the Chief Commissioner, Railways, while discussing the matter with the Railwaymen's Federation has been holding out the hope of making such a provision when the finances permit?

(d) Will Government please state if anything has been done so far in doing away with anomalies existing in rules regarding Provident Fund for staff drawing Rs. 30 and above as agreed upon by the Chief Commissioner, Railways, with the Railwaymen's Federation?

The Honourable Sir Thomas Stewart: (a) and (b). I would refer the Honourable Member to the reply given to part (b)(ii) of starred question No. 170, asked by Prof. N. G. Ranga, in this House, on the 12th August, 1938.

(c) No.

(d) **The Honourable Member** is, presumably, referring to paragraph 23 of the amplified report of the proceedings of the fourteenth half-yearly meeting between the Railway Board and the All-India Railwaymen's Federation, a copy of which is in the Library of the House. If so, what the Chief Commissioner said was that the Federation could make out a list of what they called anomalies and send it on to the Board who would look into them. The All-India Railwaymen's Federation has not yet sent the list referred to.

ESTABLISHMENT OF A BROADCASTING STATION AT KARACHI.

1914. ***Mr. Lalchand Navarai:** Will the Honourable Member for Communications be pleased to state when he proposes to establish a Broadcasting Station at Karachi?

The Honourable Sir Thomas Stewart: The financial position has deteriorated considerably since I answered a similar question put by the Honourable Member in this House on the 8th April last and I am even less able now to give the Honourable Member an idea of the time when it may be possible to establish a station at Karachi.

REDUCTION IN THE NUMBER OF SALOONS FOR RAILWAY OFFICERS.

1915. ***Mr. Lalchand Navarai:** Will the Honourable the Railway Member be pleased to state if the Railway Public Accounts Committee was of opinion that the number of saloons for officers be kept down to a minimum required for efficient despatch? If so, how many saloons have been reduced since 1935-36? If none, why it is so?

The Honourable Sir Thomas Stewart: The opinion to which the Honourable Member refers was recorded by the Committee at their meeting on the 14th July, 1938, when they asked for a further report to be submitted next year. Particulars for this report have since been called for. The information required by the Honourable Member in the latter part of his question is not at present available.

OPENING OF A TELEGRAPH OFFICE AND CONSTRUCTION OF THE POST OFFICE BUILDING AT CHAKULYA IN SINGHBHUM DISTRICT.

1916. *Mr. Ram Narayan Singh: (a) Will the Honourable Member for Communications be pleased to state whether Chakulya, one of the stations on the Bengal Nagpur Railway in the district of Singhbhum in Bihar, is a great trading centre and whether the traders and the public of the locality have several times approached the Superintendent of Post Offices, Ranchi, with a request to him to open also a postal telegraph office there, and if so, what are the considerations which have hitherto prevented the department from doing so and thereby from providing the crying needs of the people there?

(b) Is it a fact that at Chakulya there is some land belonging to the Postal Department which was long ago purchased with a view to construction of a postal building thereon, but that this has not been done yet, and, if so, why?

(c) Is it a fact that one Mr. Khooblal Kadia of Chakulya has offered to get the transfer of the land to him either by sale, or otherwise, on conditions that he would, according to the plan given to him by the department, construct a building on the land and that on its completion he would let the building to the department at a reasonable rate of rent and if so, why the transaction has failed?

(d) Is it a fact that owing to the increase in business, the grade of the Branch post office at Chakulya has been raised to that of a sub-post office and that there is no proper building of this department for this purpose?

The Honourable Sir Thomas Stewart: (a) I have no information.

(b) Yes. It has not been built upon owing to lack of funds.

(c) and (d). I have no information, but a copy of the question is being sent to Postmaster-General, Bihar and Orissa Circle, within whose competence the matter lies.

DISCONTINUANCE OF THE PAYMENT OF COOLY CHARGES, ETC., TO LINEMEN.

1917. *Mr. Ram Narayan Singh: Will the Honourable Member for Communications be pleased to state:

(a) whether a circular dated the 4th April, 1938, has been issued by the Director General of Posts and Telegraphs, discontinuing the payment to linemen of the cooly charges and the cart hire for carriage of tools, which were previously allowed to them by rules 247 and 248 of the Posts and Telegraphs Manual, Volume X, and, if so, why;

(b) whether he is aware of the fact that several parts of the country, such as, the Chhota Nagpur Division of Bihar, abound with deep and dreadful forests full of wild, ferocious animals and that telegraph lines generally pass through such forests;

(c) whether he is aware of the fact that linemen while on duty to inspect telegraph lines have generally to travel on foot pretty long distances almost every day and also to carry with them a lot of tools generally weighing some 50 pounds or so besides their own necessary luggage weighing at least half of it;

- (d) whether the circumstances which led the then authority to allow the payments mentioned in part (a) above have altered justifying their discontinuance; and
- (e) whether the Director General has received any representation from any lineman or linemen, with a prayer to him to recommend the case to the Government for the reconsideration of this question and also for the consequent withdrawal of the said circular and if so, what is the Government's decision thereon?

The Honourable Sir Thomas Stewart: (a) The rules mentioned by the Honourable Member give a list of tools to be carried but do not authorise the payment to linemen of cooly charges or cart hire for carriage of tools. The circular referred to was issued to indicate the circumstances in which alone such charges should be allowed.

(b) Government are aware that telegraph lines sometimes pass through forests.

(c) No. When on ordinary patrol or inspection duty, linemen are required to carry tools weighing approximately 20 lbs. They usually return to their headquarters on the same day and, therefore, need not carry much personal luggage.

(d) Does not arise in view of the reply to part (a).

(e) The reply to the first part is in the affirmative. The petitions were rejected.

EXPULSION OF CERTAIN BHOTIA TRADERS FROM TIBET.

1918. *Mr. Badri Dutt Pande: (a) Will the Secretary for External Affairs be pleased to state if it is a fact that Bhotia traders, living on the borderland of the Kumaon Division of the United Provinces, have trade relations with the Tibetan Government?

(b) Is it their inherent right from time immemorial to go to the trading centres of Tibet, *e.g.*, Gartok, Gyamina and Taklakot, etc., for trading purposes according to treaty rights between the British and the Tibetan Governments?

(c) If so, how is it, that the British Trade Agent at Gartok ordered certain Bhotia trader or traders by a written order of the 6th September, 1938, to leave Tibet at once under pain of arrest, resulting in inconvenience and loss to certain interested parties?

(d) Will the Honourable Member please explain the full circumstances under which this order of expulsion was issued by the Trade Agent?

(e) Were the Provincial Government or the Deputy Commissioner of Almora consulted in any way in the affair?

Sir Aubrey Metcalfe: (a) and (b). If the Bhotia traders referred to are British subjects they are entitled to most-favoured-nation treatment under the Anglo-Tibetan Convention, 1914, and their rights to trade at certain specified trade marts in Tibet are further secured under the Anglo-Tibet Trade Regulations of 1914.

(c) and (d). The Honourable Member is presumably referring to the case of Thakur Moti Singh Rautal of Almora. The circumstances of the case are that Thakur Moti Singh was endeavouring to instigate the traders at Taklakot to foment trouble between the local Tibetan officials and the British Trade Agent in connection with trading facilities. He behaved generally in a manner prejudicial to good relations between British Indian traders and the Tibetan officials, and consequently between Tibetan officials and the British Trade Agent. The latter therefore warned him on several occasions to desist from such activities, and as he continued to act in a manner embarrassing to the Tibetan officials, the British Trade Agent, Gartok, apprehending further trouble, served him with a written notice on the 5th September, 1938, to leave Taklakot.

(e) No. But the Provincial Government were on several occasions informed of the undesirable activities of this man.

ACCIDENTS ON RAILWAYS.

1919. *Maulvi Muhammad Abdul Ghani: (a) Will the Honourable the Railway Member please state whether the Railway Board keep a record of all accidents, including usual derailments of engines and carriages which may or may not involve injury to passengers?

(b) If the answer to part (a) be in the affirmative, will the Railway Board state the number of accidents per week and how many passengers were hurt during the period of three years ending 31st October, 1938?

The Honourable Sir Thomas Stewart: (a) and (b). I would refer the Honourable Member to the reply I gave to Mr. T. S. Avinashilingam Chettiar's starred question No. 1698 on the 2nd December, 1938.

COMMISSIONED OFFICERS IN THE FRONTIER IRREGULAR CORPS.

1920. *Mr. Abdul Qaiyum: Will the Foreign Secretary please state:

- (a) the number of the King's and the Indian commissioned officers in the Frontier Irregular Corps;
- (b) how many of those are Indians;
- (c) whether it is a fact that Indians are not encouraged to apply for the Frontier Irregular Corps by their own Commanding Officers, as well as the Commanding Officers of such Corps; and
- (d) whether officers who are transferred to the Frontier Irregular Corps get more allowances and pay; whether he will lay on the table a statement showing such increase in pay and allowances?

Sir Aubrey Metcalfe: (a) 47.

(b) one.

(c) Government have no information to this effect.

(d) The Honourable Member is referred to the reply given to part (c) of his question No. 421 asked on the 23rd August, 1938.

REPRESENTATION RE CONTINUATION OF THE BERLIN-KABUL AIR SERVICE OVER INDIA.

1921. *Mr. Manu Subedar: (a) Will the Foreign Secretary please state what representation was made to the Government of India with regard to the continuation of the Berlin-Kabul air service over the continent of India?

(b) At what stage are these negotiations?

(c) Are the Government of Afghanistan interested in this service, and was this one of the topics discussed during the last visit of the Secretary for External Affairs?

(d) Is it a fact that the permission to the Berlin-Kabul service to go over the continent of India has been definitely rejected on the plea that the tribal territory is a prohibited area?

Sir Aubrey Metcalfe: (a) No such representation has been made to the Government of India.

(b) to (d). Do not arise.

RAIL-ROAD COMPETITION BETWEEN KALKA AND SIMLA.

1922. *Mr. Manu Subedar: Will the Honourable Member for Railways please state:

(a) whether it is a fact that motor transport is taking away more and more of the traffic between Kalka and Simla;

(b) whether any measures have been suggested to, or discussed by, the Railway Board to counteract this competition; if so, what are those measures;

(c) when the railway fares between Kalka and Simla were fixed last; and

(d) whether Government have considered the desirability of reducing railway fares to meet motor competition?

The Honourable Sir Thomas Stewart: (a) Motor competition on this section, as elsewhere, is becoming more intensive, but detailed figures showing the effect on the traffic carried by the railway are not readily available.

(b) and (d). The only practicable step that can be taken is a reduction in fares, but such experiments as have been made in this direction show that the increase in the number of passengers carried is not sufficient to counter-balance the loss of earnings consequent on lower fares being charged.

(c) 1st March, 1934. The Railway Administration have, however, since introduced return tickets at reduced fares to stations on the Kalka-Simla section, particulars of which appear on pages 192, 195 and 196 of the North Western Railway's Time and Fare Table in force from 1st October, 1938 (a copy of which is in the Library of the House.)

CLAIMS OF MESSRS. MOHAMEDALLY AND COMPANY IN ABYSSINIA.

1923. *Mr. Manu Subedar: (a) Will the Secretary for External Affairs please state what was the total claim of Messrs. Mohamedally and Company in respect of their business, property and other assets in Abyssinia, which were taken over by the Government of Italy?

(b) What is the amount actually awarded?

(c) Is it a fact that this amount was awarded from a loan given by His Majesty's Government to Italy?

(d) Have His Majesty's Government made representations on the inadequacy of the award amounting, in effect, to confiscation of capital assets of an Indian national?

Sir Aubrey Metcalfe: (a) Accurate figures are not available, but it is believed the amount of the firm's total claim was about £380,000.

(b) £228,343.

(c) No.

(d) No. Government understand that the firm are satisfied that the amount of the award is adequate.

EXAMINATION FOR RECRUITMENT OF TELEPHONE OPERATORS HELD AT LUCKNOW.

1924. *Mr. Mohan Lal Saksena: (a) Will the Honourable Member for Communications please state whether it is a fact that a competitive examination was held on the 26th May, 1937, in the office of the Divisional Engineer, Telegraphs, Lucknow, for recruitment of telephone operators?

(b) If so, is it also a fact that as a result of this competitive examination, 18 persons were selected to work as telephone operators and that their names were published in order of merit by the Department in the issues of the *Pioneer* and the *Leader* of the 10th and 12th June, 1937, and that they were to wait for their appointments in the Department in turn?

(c) If so, are Government aware that no understanding, whatsoever, to the effect that they would be required to undergo another competitive test, or that their services were liable to be terminated at a moment's notice, was given to these persons either at the time of examination, or at the time of their first appointments?

(d) Are Government also aware that after bringing the names of these telephone operators on the approved list, they were ordered to undergo three weeks' technical training at their own expense and on which, they were definitely told, their future appointment in the department depended?

The Honourable Sir Thomas Stewart: (a) and (b). The facts are substantially as stated except that the examination was not a competitive one. It was a qualifying test.

(c) and (d). Yes.

EXAMINATION FOR RECRUITMENT OF TELEPHONE OPERATORS HELD AT LUCKNOW.

1925. *Mr. Mohan Lal Saksena: (a) Will the Honourable Member for Communications please state whether it is a fact that the telephone operators, who were placed on the approved list by the Divisional Engineer, Telegraphs, Lucknow, as a result of the competitive examination held on 26th May, 1937, were made to undergo another competitive test which was held in the United Provinces Circle in November, 1937?

(b) Is it true that those operators who could not pass this examination were retained in the department? If so, why?

(c) Is it a fact that even then they were not given any warning or understanding that their retention would not give them any claim to permanency, or render them eligible to appear as departmental candidates or otherwise, in any ensuing examination?

(d) Is it a fact that these persons appealed to the Governor General in Council for mercy with a view to exempting them from any further test, as they had already passed the prescribed test in the first instance as referred to above?

(e) Is it also a fact that these persons were ordered by wire on the 6th October, 1938, to appear at the competitive examination again as outside candidates only four days before the examination which came off on the 11th October, 1938?

(f) Is it a fact that the Post Master General, United Provinces, recommended to the Director General for exemption from any further test?

(g) Do Government propose to reconsider their cases sympathetically?

The Honourable Sir Thomas Stewart: (a) and (b). The correct position is as follows. Under the orders passed, these candidates, having passed a local test before the issue of new rules for competitive examinations, were not eligible for appointment to any vacancies existing on, or occurring after, 25th September, 1937, the date of announcement of the competitive examination held in the United Provinces Circle in November, 1937. In October, 1937, Government ordered that candidates, who had been enlisted under the old system, could be allowed to appear at the competitive examination of November, 1937, relaxing the condition of age limit in their favour, but if they failed they should be discharged. Under these orders these men were allowed to appear for the competitive examination but failed to qualify. They should then have been discharged but were retained as temporary hands as an adequate number of qualified candidates had not been secured on the result of that examination.

(c) Yes.

(d) Yes. It is not a fact that the candidates had passed the 'prescribed test' for permanent employment.

(e) As a result of their appeal they were permitted to appear again at the competitive examination of 1938 as a matter of grace?

(f) No.

(g) No. The candidates have already been allowed as a special case to appear at this year's competitive examination.

EXAMINATION FOR RECRUITMENT OF TELEPHONE OPERATORS HELD AT LUCKNOW.

1928. *Mr. Mohan Lal Saxena: (a) Will the Honourable Member for Communications please state whether Government are aware that the telephone operators placed on the approved list by the Divisional Engineer, Telegraphs, Lucknow, as a result of the competitive examination held on 26th May, 1937, have put in more than 12 months service in the Department?

(b) Will Government please state why these qualified telephone operators, who are serving the Department, are not considered fit for the post in comparison to raw recruits?

(c) Is it a fact that some telephone operators who had put in 12 months aggregate service, were exempted from any further test in the last examination, i.e., in November, 1937?

(d) If so, are Government prepared to consider the advisability of applying the same principle this year also?

The Honourable Sir Thomas Stewart: (a) The candidates referred to were not recruited by a competitive examination. Some of them have by now put in 12 months' service

(b) The candidates are not qualified according to the existing rules for recruitment of telephone operators.

(c) Yes; only those candidates who had put in not less than 12 months' service prior to 15th July, 1937.

(d) No. Government are not prepared to extend this concession to candidates who completed 12 months' service after the 15th July, 1937.

RAILWAY TELEGRAPH TRAINING SCHOOL ON EGERTON ROAD, DELHI.

1927. *Mr. M. Thirumala Rao: (a) Will the Honourable Member for Railways and Communications please state whether Government are aware that there is an institute called "The Railway Telegraph Training School" on Nai Sarak (Egerton Road) near Chandni Chowk, Delhi?

(b) Are Government aware that the said school in its prospectus under the heading aims and objects says "With a view to face the increasing problem of unemployment, this institution has undertaken to impart practical and theoretical training in Morse Telegraphy, Goods, Coaching and Traffic duties . . . and to give every help in securing service for its qualified candidates"?

(c) Have Government authorised and recognised this institution to impart instructions in the above subjects?

(d) Is the certificate issued by this school sufficient qualification for employment in the Telegraph and Railway Departments?

(e) Does the Honourable Member propose to make an investigation into the activities of this school to which young men are drawn from all parts of the country under alluring advertisement?

The Honourable Sir Thomas Stewart: (a) Yes.

(b), (c), (d) and (e). No.

CONSTRUCTION OF THE PROPOSED BROADCASTING STATION AT RAJAHMUNDRY.

1928. *Mr. M. Thirumala Rao: (a) Will the Honourable Member for Communications please state whether Government are aware that there is not a single Radio Station between Madras and Calcutta over a distance of eleven hundred miles?

(b) Are Government prepared to expedite the construction of the proposed station at Rajahmundry?

The Honourable Sir Thomas Stewart: (a) and (b). I would refer the Honourable Member to the reply given by Mr. Clow to parts (a)–(c) of Mr. K. S. Gupta's starred question No. 412 on the 28th August last.

SUCCESSFUL TRIAL OF A LOCOMOTIVE CALLED "GUIDEWAYS".

1929. *Mr. M. Thirumala Rao: Will the Honourable Member for Railways please state whether his attention has been drawn to the piece of news published in column 2, page 13 of the *Hindustan Times*, dated the 20th November, 1938, that "a locomotive called 'Guideways' running on a single line was given a successful trial run in Poona before the ministers"?

The Honourable Sir Thomas Stewart: Government have seen the report referred to.

NON-ISSUE OF RETURN TICKETS ON THE GREAT INDIAN PENINSULA RAILWAY.

1930. *Mr. Sri Prakasa: Will the Honourable Member for Railways state:

- (a) if no ordinary return tickets are issued on week days on the Great Indian Peninsula Railway;
- (b) if so, the reason therefor;
- (c) if it is not a fact that the issue of return tickets is an incentive to travel by the general public; and
- (d) if Government propose to recommend to the Company concerned to introduce this system on its railways?

The Honourable Sir Thomas Stewart: (a), (b) and (d) Ordinary return tickets are not issued generally over the entire system. The Administration are, however, experimenting by issuing such tickets between certain stations, with a view to ascertaining whether their continuance or extension is justified. The stations between which these return tickets are now being issued are shown on pages 117 and 118 of the Great Indian Peninsula Railway's Time Table and Guide (in force from 1st October 1938), a copy of which is in the Library of the House.

(c) Yes: but the increase in numbers is frequently not sufficient to counterbalance the loss in revenue from those who would have travelled in any case.

NON-PAINTING OF THE NAMES OF STATIONS ON SHADES OF LAMPS ON THE GREAT INDIAN PENINSULA RAILWAY.

1931. *Mr. Sri Prakasa: Will the Honourable Member for Railways state:

- (a) if it is a fact that the names of stations are not painted on the glass-shades of lamps at wayside stations on the Great Indian Peninsula Railway;
- (b) if Government realise the inconvenience experienced by passengers travelling at night by the said railway because of this; and
- (c) if Government propose to recommend to the Company concerned, the desirability of painting the names of stations on the lamps at their stations?

The Honourable Sir Thomas Stewart: (a) Government have no information.

(b) and (c) I will convey the Honourable Member's views and suggestions to the General Manager of the Great Indian Peninsula Railway for consideration.

ILL-TREATMENT METED OUT TO INDIANS IN PARIS.

1932. *Mr. M. Ananthasayanam Ayyangar: Will the Secretary for External Affairs please state:

- (a) whether the Government of India are aware that the French Government have recently taken strong steps against a number of Indian residents in Paris;
- (b) whether it is a fact that Nawabzada Imtiaz Ali Khan of Karnal was turned out of Paris within about two hours and without any explanation and was sent to Belgium under French police escort;
- (c) whether Mr. Iqbal Shaidi, one of the Indians who had married in France and was carrying on business in Paris for a number of years, has been summarily deported from the country;
- (d) whether the Government of India have made or propose to make any enquiries in regard to these two cases and find out the cause of this ill-treatment to them; and
- (e) whether Government will place a report of the results of their enquiries on the table of the House?

Sir Aubrey Metcalfe: (a) to (c). The Government of India have no information.

(d) and (e). Enquiry is being made from His Majesty's Government and the information when received will be placed on the table of the House.

MURDER OF MR. N. G. MAJUMDAR AND DANGER OF DACOITS IN DADU DISTRICT OF SIND.

1933. *Mr. M. Ananthasayanam Ayyangar: Will the Secretary for External Affairs please state:

- (a) whether his attention has been drawn to a statement of Mr. Jamshed Mehta, M.L.A., (Sind), published in the *Hindustan Times* of the 17th November, 1938, regarding the death of Mr. Majumdar, Superintendent of Archaeology;
- (b) whether his attention has been drawn to the particular statement of Mr. Mehta that the Dadu district on account of its proximity to the Kalat and Baluchistan States and its hilly tracts, is exposed to the danger of dacoits, who find safe hiding-places in the mountainous regions and the adjoining States;
- (c) whether Government have taken or propose to take, any steps to examine this matter and to protect the villagers by arming them so that they may face the dacoits bravely; and
- (d) whether Government are considering, or propose to consider, the suggestion in the statement that an arrangement should be entered into between the Sind Government and the Government of India and the neighbouring States of Kalat and

Baluchistan whereby it would be possible to trace the culprits and bring them to book without involving laborious formalities which help the criminals to escape the arm of the law?

Sir Aubrey Metcalfe: (a) and (b). Yes.

(c) This is a matter for the consideration of the Provincial Government

(d) Arrangements have recently been made between the Sind Government, the Baluchistan Administration and the Kalat and Las Bela States providing for the pursuit and arrest of offenders crossing the Sind-Baluchistan border.

LEVY OF A POLL TAX ON FOREIGNERS IN FRENCH INDIA.

1934. ***Mr. M. Ananthasayanam Ayyangar:** Will the Secretary for External Affairs please state:

- (a) whether he is aware of the proposal to levy a poll tax on foreigners in French India;
- (b) whether it is a fact that as a result thereof thousands of British Indian residents in French India, most of whom are either labourers or employees, will come under the scope of this tax; and
- (c) whether Government have taken or propose to take steps to see that this tax is not levied on British Indians resident in French India?

Sir Aubrey Metcalfe: The attention of the Honourable Member is invited to the answer to Mr. K. Santhanam's question No. 1612A, given in this House on the 29th November, 1938.

AFFAIRS IN PALESTINE.

1935. ***Mr. M. Ananthasayanam Ayyangar:** Will the Secretary for External Affairs please state:

- (a) whether his attention has been drawn to the statement of Sir Sikandar Hayat Khan, the Premier of the Punjab, made at a meeting the proceedings of which are reported in the *Statesman* of the 19th November, 1938, where he is reported to have said that in his personal capacity he had conveyed the feelings of Muslims of the Punjab in respect of Palestine to the British Government and had also warned them that if Government would not respect the feelings of the Muslims, they would lose their confidence;
- (b) whether this representation was made to the Government of India, or directly to the British Government;
- (c) whether the Government of India have any information in this matter;
- (d) whether the attention of Government had also been drawn to a further statement that the representation had the desired effect, inasmuch as the partition scheme had been deferred;
- (e) whether it is not a fact that the partition scheme had been abandoned;

- (f) whether it is the policy of Government to allow Premiers of Provinces to make representations directly to the British Government over the head of the Government of India on foreign affairs; and
- (g) whether this privilege will be extended to the Premiers of all the Provinces?

Sir Aubrey Metcalfe: This is a question which should have been addressed to the Honourable the Home Member.

NON-INDIANS IN WORKSHOPS OF STATE RAILWAYS.

1936. *Mr. M. Ananthasayanam Ayyangar: Will the Honourable Member for Railways please state:

- (a) the number of non-Indians who have been imported for service in the State Railway workshops during the last five years, year by year;
- (b) the number of posts held by non-Indians today in the various railway workshops and the salaries attached to them;
- (c) whether any condition is attached to the employment of these non-Indians to the effect that they should train a specified number of Indians year after year;
- (d) whether Government are continuing the policy of recruiting non-Indians; if so, why;
- (e) whether today Government are confining the recruitment of non-Indians only to special cases where adequate Indian talent is not available; and
- (f) whether Government have considered, or propose to consider, the desirability of sending Indians for training abroad rather than importing non-Indians; if not, why not?

The Honourable Sir Thomas Stewart: (a) Presumably the Honourable Member is referring to subordinate staff. If so, no non-Indian has been recruited from abroad during the last five years for the State Railway Workshops.

(b) I would refer the Honourable Member to the available information given in the classified lists of subordinate staff of all Departments on scales of pay rising to Rs. 250 and above published by the Eastern Bengal, Great Indian Peninsula, East Indian and North Western Railways. Copies of these lists are in the Library of the House.

(c) I would refer the Honourable Member to the reply given to part (c) of starred question No. 387 asked by Mr. S. Satyamurti in this House on the 23rd August, 1936, and the supplementaries asked in that connection.

(d) I would refer the Honourable Member to the reply I have just given to parts (e) to (h) of starred question No. 1868 asked by Mr. Sham Lal.

(e) Yes.

(f) There is already a scheme according to which Indian boys are recruited as special class apprentices, and, after they have had training

in India for four years, are sent to the United Kingdom for further training to fit them to become officers in the Mechanical Engineering Department of the State-managed Railways. Government do not consider it practicable to send Indians abroad for the necessary long period of training which is required to produce an efficient supervisory subordinate for Mechanical Workshops.

GAZETTED OFFICERS IN THE SIGNAL DEPARTMENT OF THE NORTH WESTERN RAILWAY.

1937. *Mr. H. M. Abdullah: Will the Honourable Member for Railways be pleased to state:

- (a) how many gazetted officers there are in the Signal Department of the North Western Railway; and
- (b) how many of these officers are Muslims?

The Honourable Sir Thomas Stewart: (a) There are ten gazetted officers of whom two are subordinates officiating in the Lower Gazetted Service in the Signal Engineering Branch of the North Western Railway.

(b) None.

ASSISTANT BLOCK INSPECTORS APPOINTED IN THE SIGNAL DEPARTMENT OF THE NORTH WESTERN RAILWAY.

1938. *Mr. H. M. Abdullah: Will the Honourable Member for Railways be pleased to state:

- (a) if it is a fact that five Assistant Block Inspectors were appointed recently in the Signal Department of the North Western Railway; and
- (b) if so, how many of these appointments were given to Muslims?

The Honourable Sir Thomas Stewart: (a) and (b). Presumably the Honourable Member has in mind the posts of Block Maintainers and not Assistant Block Inspectors. If so, the position as regards Block Maintainers is that a Selection Board was held in May, 1937, to fill six permanent vacancies. Three Muslims and one Hindu were selected. One of the Muslims did not join the service by the specified date and the offer of appointment to him was subsequently cancelled. The Administration could not get Muslims or Anglo-Indians to fill the remaining posts.

FUNCTIONS OF THE DIRECTOR OF SOLAR OBSERVATORY AT KODAIKANAL.

1939. *Mr. O. N. Muthuranga Mudaliar: Will the Honourable Member for Communications please state:

- (a) the functions of the Director of the Solar Observatory at Kodaikanal; which of them are of a scientific and which of them of administrative character;
- (b) who the present Director of the Observatory is and how long he has been there; and

- (c) what the nature of his scientific work is, since he was first appointed and what work he has been doing since he became Director?

The Honourable Sir Thomas Stewart: (a) The Kodaikanal Observatory specialises in the study of the physics of the sun and is specially equipped for spectroscopic observations and research. It is also a seismological station and a first class weather observatory. The observatory issues bulletins from time to time describing the results of its observations of the surface of the sun and of special investigations on the subject. The scientific functions of the Director of the observatory comprise the planning and direction of all this work, the maintenance of the specialised instruments of the observatory and participation in the actual work of observations and research. His administrative duties include the control of the staff of the observatory, supervision of its buildings, lands and stores and responsibility for the proper disbursement of budget allotments.

(b) Dr. A. L. Narayan. He was appointed Director in March, 1937, having previously held the post of Assistant Director since December, 1928.

(c) As Assistant Director, his main work was to assist the Director in carrying out the scientific programme of the observatory as well as to take his own share in observations and research. His work as Director has been described in the reply to part (a).

OFFICERS IN THE DEPARTMENT OF COMMUNICATIONS.

1940. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable Member for Communications please state:

- (a) the number of officers above the rank of Superintendents in the Department of Communications and how many of them belong to the Indian Civil Service;
- (b) the expenditure involved in the employment of these officers, and what proportion it bears to the total expenditure incurred on all kinds of staff in the Department; and
- (c) how the officers above the rank of Superintendents have been recruited, that is, the machinery employed?

The Honourable Sir Thomas Stewart: (a) Six, of whom four belong to the Indian Civil Service.

(b) The salaries of these officers and of other staff during 1938-39 will amount to Rs. 1,42,375 and Rs. 1,76,800 respectively.

(c) The officers are recruited in the same manner as in all other Departments of the Government of India, viz., by selection from amongst officers employed in different provinces.

CONSTITUTION OF THE DEPARTMENT OF COMMUNICATIONS.

1941. *Mr. C. N. Muthuranga Mudaliar: (a) Will the Honourable Member for Communications please state when the Department was constituted and why?

(b) How were its functions performed before its constitution, and what is the extra expenditure which it has entailed for the Central Government?

The Honourable Sir Thomas Stewart: (a) The Department of Communications was constituted from the 8th November, 1937, to give effect to the principle that the various branches of activity in the Central Government relating to communications should be combined to form a single portfolio.

(b) Before its constitution the work of these branches done by the Department of Communications proper was performed by the late Industries and Labour Department, while the Railway Department which is now under the Member for Communications was under the Commerce Member. The redistribution of work involved in the creation of the Department resulted in a net increase of cost which is estimated to be Rs. 47,025 during the current year.

CONSTITUTION AND STRENGTH OF THE RAILWAY BOARD AND APPOINTMENT OF AN INDIAN AS CHIEF COMMISSIONER OF RAILWAYS.

1942. ***Mr. C. N. Muthuranga Mudaliar:** (a) Will the Honourable Member for Railways please state when the Railway Board was first constituted, and what was its strength then? What is its strength now?

(b) Since its constitution, how many were Europeans or Anglo-Indians and how many Indians?

(c) Has there ever been an Indian Chief Commissioner of Railways? If not, do Government propose to consider the desirability of appointing one at the next opportunity?

(d) What are the qualifications required for the post of Chief Commissioner? Is there no Indian who possesses those qualifications?

The Honourable Sir Thomas Stewart: (a) The Railway Board was first constituted in 1905. Its strength then was three. The constitution has been revised several times since and the present strength is four.

(b) Altogether 31 Europeans, four Indians and one Anglo-Indian have held office as Members of the Railway Board since its constitution.

(c) No. The question of the appointment of a Chief Commissioner will be considered when the necessity arises.

(d) The qualifications are stated in the reports of Sir Thomas Robertson and Sir William Ackworth, a summary of which appears at pages 128—130 of the Railway Administration Report, 1936-37, Volume I, a copy of which is in the Library of the House. As regards the second part in view of the fact that the post of Chief Commissioner is not vacant the question does not arise.

INDIANISATION OF SUPERIOR POSTS IN THE COMPANY-MANAGED RAILWAYS.

1943. ***Mr. C. N. Muthuranga Mudaliar:** (a) Will the Honourable Member for Railways please lay a statement on the table of the House showing the progress of Indianisation of superior posts in the Company-managed Railways during the last quinquennium ending 31st March, 1938?

(b) What is the nature and extent of control exercised by Government in matters of recruitment to these posts? Are there any principles or rules which they have laid down and, if so, what are they?

The Honourable Sir Thomas Stewart: (a) For the years 1933-34 to 1936-37, I would refer the Honourable Member to Chapter VI of Volume I of the Reports by the Railway Board on Indian Railways for those years, copies of which are in the Library of the House. As regards 1937-38, the number recruited direct to the superior services on Company-managed Railways was seven Europeans and 40 Indians.

(b) Company-managed Railways have full powers to make recruitment to their superior services. In the matter of Indianisation, however, Government laid down a policy in 1925 that 75 per cent. of the recruitment to those services should be of Indians. This policy has been accepted by Company-managed Railways also.

CLASSIFICATION OF ARMENIANS AND JEWS EMPLOYED ON STATE RAILWAYS.

1944. *Mr. P. R. Damzen: (a) Will the Honourable Member for Railways and Communications please state whether there are any Armenians or Jews employed on the State Railways?

(b) If the answer to part (a) be in the affirmative, under what nomenclature are these men classified? If not as Anglo-Indians, are they classified in the list of other minority communities?

(c) Has any provision been made for the employment of aliens in the Railways by the Government of India Act, 1935?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) They are not classified among the minority communities for whom reservation of posts has been made.

(c) The Honourable Member's attention is invited to the provision made in section 262 (4) of the Act.

ADVISABILITY OF PATROLLING THE PERMANENT WAY ON THE EAST INDIAN RAILWAY.

1945. *Mr. P. R. Damzen: In view of the numerous accidents of a major character occurring on the East Indian Railway, will the Honourable Member for Railways please state:

(a) whether Government propose to consider the advisability of appointing night patrolmen or keymen to patrol the permanent way on the East Indian Railway; and

(b) what the cost of this increased staff over the main lines only would be?

The Honourable Sir Thomas Stewart: (a) and (b). The Honourable Member's question obviously has reference to cases of sabotage resulting in trains being wrecked. There have been only two such cases during this year on the East Indian Railway. The appointment, for purely patrol work, of the extra staff suggested would be no safeguard against deliberate attempts to wreck trains.

OPENING OF A BROADCASTING STATION AT DACCA.

1946. *Sri K. B. Jinaraja Hegde: Will the Honourable Member for Communications please state:

- (a) whether it was proposed to open a broadcasting station at Dacca (Bengal), and whether the proposal has been abandoned, or is in abeyance, and the reasons therefor;
- (b) whether applications were invited in the month of July last for the post of programme assistants who were required to deposit fees; and
- (c) whether any appointments have been made; if not, whether the fees will be returned?

The Honourable Sir Thomas Stewart: (a) The question whether, in view of the need for economy, the opening of the Dacca Station should be postponed is under the consideration of Government.

(b) Yes.

(c) No. In view of my reply to part (a), the question of the refund of the fees does not arise at present.

OVERCROWDING AND DETENTION OF A TRAIN WITHOUT LIGHTS AT GHOL-SHAHPUR ON THE KALIGHAT-FALTA RAILWAY.

1947. *Mr. Govind V. Deshmukh: Will the Honourable the Railway Member please state:

- (a) whether the train timed to leave Majherhat station Kalighat-Falta Railway 3/19 hours on 22nd Kartik last (Bengali Calendar) left that station at 18 hours with no lights in any passenger compartment and stopped at the next station Ghol-Shahpur where it was detained for an hour for checking tickets in the darkness in the presence of the General Manager and Officer in charge;
- (b) whether after checking only two carriages with the help of hand lanterns assisted by *Hindusthani* guards with *lathis*, the attempt to check was given up as impossible;
- (c) the reason why anticipating the rush of pilgrims for the *Churamoni Joga*, extra arrangements were not made at the entraining and detraining stations for checking;
- (d) whether the train was very much over-crowded, and whether the rules permit of running night trains without lights in passenger compartments; and
- (e) whether the detention of the train at a wayside station for extra one hour for the above purpose is justified by rules and approved by the Railway Board?

The Honourable Sir Thomas Stewart: I have called for the information required by the Honourable Member and will place a reply on the table of the House when it is received.

EMPLOYMENT OF BENGALIS AND ASSAMESE ON THE ASSAM-BENGAL RAILWAY.

1948. *Mr. Govind V. Deshmukh: (a) Will the Honourable Member for Railways please state whether Government propose to ask the Assam-Bengal Railway to give employment to the sons of the soil, *viz.*, Bengalis and Assamese in preference to Goanese and other foreigners?

(b) What is the percentage of Muhammadan employees recommended either by Government or Railway authorities for the Assam-Bengal Railway, and what is the percentage of Muhammadan employees in the Pahartali workshop?

(c) Are the officers appointed on the Assam-Bengal Railway selected by Public Service Commission, like other State-owned Railways? If not, why not?

The Honourable Sir Thomas Stewart: (a) Government cannot accept a policy of recruitment to railway services on a territorial basis. I may, however, add that Government had already consulted the Assam-Bengal Railway Administration on the subject, and were satisfied that that Administration endeavour, as far as practicable, to secure representation of the provinces which it traverses, in the subordinate services.

(b) The Railway Board suggested to the Assam-Bengal Railway in 1934 that 35 per cent. of all vacancies in the subordinate posts to be filled in future by direct recruitment should be reserved for Muslims. This was accepted by the Board of Directors of the Assam-Bengal Railway. As regards the latter part, Government have no information.

(c) The reply to the first part is in the negative. As regards the second part, under the terms of contract the Assam-Bengal Railway like other Company-managed Railways, have full powers in regard to recruitment of staff and Government are unable to interfere.

TRADE UNION OF EMPLOYEES ON THE ASSAM-BENGAL RAILWAY.

1949. *Mr. Govind V. Deshmukh: (a) Will the Honourable the Railway Member please state whether there is any trade union association organised by the employees of the Assam-Bengal Railway?

(b) If not, do Government propose to direct the Railway to permit the establishment of such a union?

(c) Do the Administration permit employees joining the Muslim League?

(d) Do the Administration permit employees joining the Congress?

The Honourable Sir Thomas Stewart: (a) According to information received in August, 1937, there was in existence on the Assam-Bengal Railway an association known as the Assam-Bengal Railway Employees Association.

(b) Does not arise. I may, however, add that under the terms of their contracts, Company-managed Railways have full powers in such matters and Government of India do not interfere.

(c) and (d). Government have no information. I may, however, mention that the staff employed on the Assam-Bengal Railway are not Government servants, but are the servants of the Assam-Bengal Railway Company.

RAISING AND COVERING OF PLATFORMS OF CERTAIN STATIONS ON THE ASSAM BENGAL RAILWAY.

1950. *Mr. Govind V. Deshmukh: Will the Honourable the Railway Member please state:

- (a) whether Sylhet is the station which has the highest rainfall on the Assam Bengal Railway;
- (b) whether it is proposed to cover the platform as a special case for extraordinary rainfall for passengers' convenience;
- (c) whether any station on the Assam Bengal Railway has covered platform;
- (d) whether it is proposed to cover up certain platforms and whether Sylhet is first on the list;
- (e) whether Sylhet is the terminal station for the second important town in Assam and the junction with the road system connecting the capital of the Province;
- (f) whether the passenger traffic of Gauhati or Sylhet is bigger;
- (g) whether it is proposed to raise the Sylhet platform; and
- (h) whether Gauhati has raised platform or not?

The Honourable Sir Thomas Stewart: (a) Government are prepared to accept the suggestion that the rainfall at Sylhet is heavy.

(b), (d), (f), (g) and (h). Government have no information.

(c) Yes.

(e) Sylhet is the terminal station for Shillong and is connected with Shillong by a road.

Government consider that General Managers of Railways are in the best position to decide on the distribution of funds allotted to their Railways for covered and high level platforms, and that the best method of dealing with such matters of local importance is through the Local Advisory Committee who can bring specific cases of hardship to the notice of the Railway Administration.

I will send a copy of this question to the Railway Administration.

BOY KILLED IN SHUNTING OPERATIONS AT CHORGOLA STATION ON THE ASSAM BENGAL RAILWAY.

1951. *Mr. Govind V. Deshmukh: Will the Honourable the Railway Member please state:

- (a) whether a boy was killed in shunting operations at Chorgola station, Assam Bengal Railway on Friday, the 16th Bhadra (Bengali calendar) last; if so, under what circumstances; and
- (b) whether responsibility has been fixed on any employee or other person and how he has been dealt with?

The Honourable Sir Thomas Stewart: (a) Yes. The Agent and General Manager of the Assam Bengal Railway states that the boy suddenly

darted from the off side in front of a moving vehicle and fell directly under one of the leading wheels.

(b) No railway employee or other person was responsible for the accident.

REFUSAL TO RENEW A PASSPORT ISSUED TO ONE MR. ANAND MOHAN SAHAY.

1952. *Babu Kailash Behari Lal: Will the Foreign Secretary be pleased to state:

- (a) if it is not a fact that a passport was issued to one Mr. Anand Mohan Sahay in 1928 to go abroad, and that Mr. Sahay went to Japan;
- (b) if it is a fact that, on the expiry of the said passport, Mr. Sahay sent it to the British Consulate in Kobe to get the same renewed;
- (c) if it is a fact that the Government of India did not renew the passport;
- (d) if the Government of India have issued any instructions to the British Consulate in Japan not to issue a passport to Mr. Anand Mohan Sahay for travelling in Siam, China or the United States of America;
- (e) if the answer to part (d) be in the affirmative, what is the charge against Mr. Anand Mohan Sahay;
- (f) whether, if there is any charge against Mr. Anand Mohan Sahay, Government propose to start any proceedings against him in a law court on his return to India; and
- (g) if not, whether Government propose to issue instructions to the British Consulate in Kobe to let Mr. Sahay have a passport for travelling in countries for which the previous passport was good?

Sir Aubrey Metcalfe: (a) Yes. Mr. Anand Mohan Sahay was granted a passport in 1923 by the then Bihar and Orissa Government to enable him to proceed to Japan.

(b) Government have no information.

(c) Does not arise.

(d) In October, 1937, Mr. Sahay applied to His Majesty's Consul, Kobe, for a new passport for travel to French Indo-China, the Philippines, Siam and the Dutch East Indies. His application was refused, but instructions were issued that he should be granted an Emergency Certificate to enable him to return to India by the direct route at any time.

(e) The reason for the refusal was that Mr. Sahay had been engaging in violent anti-British propaganda in Japan.

(f) No.

(g) No.

UNSTARRED QUESTIONS AND ANSWERS

MEMBERS OF THE MINORITY COMMUNITY APPOINTED AS WIRELESS INSPECTORS IN THE UNITED PROVINCES.

137. Pandit Sri Krishna Dutta Paliwal: Will the Honourable Member for Communications be pleased to state:

- (a) the position as it exists at present regarding a fixed percentage of communities in the United Provinces Postal services; and
- (b) whether it is a fact that in the United Provinces Postal Circle members of the minority community have been exclusively appointed to all the six posts of Wireless Inspectors; if so, on what consideration; whether no member of the majority community was available and eligible for the appointment?

The Honourable Sir Thomas Stewart: (a) The percentage of the vacancies reserved for members of minority communities when direct recruitment is made to the subordinate services in the United Provinces Postal Circle is shown below:

	In the cadres of		
	Telegraphists.	Clerks, Telephone Operators, Mistries, Cable Jointers, Assistant Cable Jointers, Conservancy Inspectors, Time-Keepers and Sircars.	Others.
Muslims	16½	16½	16½
Anglo-Indians	12½	4½	4½
Other minorities (i.e. minority communities other than Muslims and Anglo-Indians.)	1½	2½	

(b) Yes. Five of the six posts were posts of Wireless License Inspectors which are temporary and for which special conditions were laid down. They were filled by the best available candidates. The sixth post which was that of a Wireless Investigating Inspector was filled by promotion of the most suitable departmental official.

POWER OF DISMISSING EMPLOYEES OF THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY GIVEN TO THE WATCH AND WARD AND COMMERCIAL CANVASSERS.

138. Pandit Sri Krishna Dutta Paliwal: Will the Honourable Member for Railways be pleased to state:

- (a) if the Watch and Ward and Commercial Canvassers are empowered to dismiss the employees under them in the Bombay, Baroda and Central India Railway (meter gauge);

- (b) whether the persons so dismissed are given an opportunity to explain the charges levied against them;
- (c) whether these employees have got any right of appeal, if so, what; if not, why not;
- (d) if it is a fact that these employees are dismissed merely on the reports of the Watch and Ward and the Commercial Canvas-sers;
- (e) the status and pay of these Watch and Ward men and the Commercial Canvasers; and
- (f) how many employees have so far been dismissed in the past twelve months?

The Honourable Sir Thomas Stewart: (a) to (f) These are matters of detailed administration of a Company managed Railway on which Government have no information. I am, however, sending a copy of the question to the Agent and General Manager of the Bombay, Baroda and Central India Railway for such action as he may consider necessary.

INSTRUCTIONS RE ECONOMY IN THE EXPENDITURE OF THE POSTS AND TELEGRAPHS DEPARTMENT.

139. Pandit Lakshmi Kanta Maitra: With reference to the reply given by the Honourable Sir Thomas Stewart to Mr. Satyamurti's interpellation on the 16th November, 1938, will the Honourable Member for Communications please lay on the table a copy of the instructions issued by the Director General, Posts and Telegraphs, to heads of Circles regarding economy in the expenditure of the Department?

The Honourable Sir Thomas Stewart: It will be apparent from the reply I gave to part (c) of Mr. Satyamurti's starred question No. 1284 and the supplementaries arising out of it that a number of instructions have been issued from time to time on the subject of economy. I do not know what particular instructions the Honourable Member is referring to.

CANDIDATES WHO APPEARED AT THE EXAMINATION FOR RECRUITMENT OF POSTAL CLERKS IN BOMBAY.

140. Pandit Lakshmi Kanta Maitra: Will the Honourable Member for Communications be pleased to state:

- (a) the number of departmental candidates who appeared at the last examination in the Bombay Postal Circle held in October 1937 for recruitment as postal clerks, the number having minimum educational qualifications and others being shown separately; and
- (b) the number of departmental postal employees below the clerical grade in service having the minimum educational qualifications with less than five years but more than three years of service in the department till October 1937?

The Honourable Sir Thomas Stewart: (a) 23 departmental candidates appeared. No minimum educational qualification is prescribed for such candidates.

(b) The information is not available and cannot be collected without an undue expenditure of time and labour.

PERMISSION TO POSTMEN, ETC., TO QUALIFY FOR APPOINTMENT AS CLERKS IN THE POSTAL DEPARTMENT AND RELAXATION IN AGE-LIMIT.

141. Pandit Lakshmi Kanta Maitra: Will the Honourable Member for Communications be pleased to state:

- (a) whether in the Postal Department the departmental officials of the postmen and inferior servants are permitted to qualify for appointment to the clerical grades after five years of permanent service;
- (b) whether later a further relaxation has been made in the case of departmental officials who will have completed 28 years of age; and
- (c) if the reply to part (b) above be in the affirmative, whether Government are prepared to consider the question of reducing the minimum service qualification to three years in the case of officials possessing the minimum educational qualifications as against those who do not possess such a qualification?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) No. After the publication of the rules of recruitment another rule was framed under which any official of the department possessing the minimum educational qualification required of an outsider and being not below 28 or over 35 years of age could compete with outsiders for appointments open to outsiders. This rule has no connection with the rule applicable to departmental candidates who compete among themselves for appointments open only to departmental men.

(c) Does not arise.

CANDIDATES WHO APPEARED AT THE EXAMINATION FOR RECRUITMENT OF POSTAL CLERKS IN BOMBAY.

142. Pandit Lakshmi Kanta Maitra: Will the Honourable Member for Communications be pleased to state:

- (a) the total number of candidates who appeared for the postal recruitment examination held in the Bombay Postal Circle in October, 1937, Anglo-Indians, Muslims and other communities being shown separately;
- (b) the number of Anglo-Indians, Muslims and other minority community candidates who secured a pass with fifty per cent. marks in the said examination and the number of appointments reserved for them;

(c) whether the percentage of marks required for a pass was reduced or grace marks were given to the communities mentioned in part (a) above to secure the required number of qualified candidates; and

(d) if the reply to part (c) above be in the affirmative, whether the percentage of marks to secure a pass has been reduced to 35 per cent. in the next examination?

The Honourable Sir Thomas Stewart: (a) Total number 474; Anglo-Indian one, Muslims 20, other minority communities 29, Jews three and Hindus 421.

(b)

	Number of candidates who passed with 50 per cent. marks.	Number of appointments reserved.
Anglo-Indians .	Nil	8
Muslims .	5	43
Other minority communities .	15	8

(c) The percentage of marks required for a pass was reduced for candidates of all communities and no grace marks were given.

(d) The reply is in the affirmative.

CANDIDATES DECLARED ELIGIBLE FOR SERVICE IN THE BOMBAY POSTAL CIRCLE.

143. Pandit Lakshmi Kanta Maitra: Will the Honourable Member for Communications be pleased to state:

(a) the number of candidates who have been declared as eligible for admission to the Postal Services in the Bombay Circle as a result of the examination held in October 1937;

(b) the number of candidates already employed since then and on the waiting list on 1st July, 1938, in Bombay proper and in the *mofussil* in the Bombay Circle;

(c) if the number on the waiting list on the 1st July, 1938, in Bombay proper and in the *mofussil* is more than 50 per cent., why an examination is proposed to be held in October, 1938, in that Circle;

(d) whether the result of the last recruitment examination of 1937 was not declared or published in any departmental circular of that circle; and

- (e) if the reply to part (d) above be in the affirmative, whether steps are proposed to be taken to publish them in the departmental circular hereafter?

The Honourable Sir Thomas Stewart: (a) 291.

(b)

	Number of candidates.	
	Already employed.	On the waiting list on the 1st July, 1938.
In Bombay proper .	12	102
In the mofussil in the Bombay Circle .	45	115

(c) To make up the short recruitment of minority community candidates in the previous examination.

(d) The result was not published.

(e) No.

THE INDIAN TARIFF (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I beg to move for leave to introduce a Bill further to amend the Indians Tariff Act, 1934.

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

"That leave be granted to introduce a Bill, further to amend the Indian Tariff Act, 1934."

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I introduce the Bill.

THE INDIAN INCOME-TAX (AMENDMENT) BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the Bill further to amend the Indian Income-tax Act, 1922, as reported by the Select Committee. The question is:

"That clause 32 stand part of the Bill."

Mr. Sami Vencatachelam Chetty (Madras: Indian Commerce): Sir, I beg to move:

"That in clause 32 (a) of the Bill, in the proposed sub-section (1), the word 'twice', wherever it occurs, be omitted."

Sir, with this clause we enter upon the operative portion of the Bill. So there is less for argument and more for sympathy towards the assessee. Under section 28 (2) the officer can call upon the assessee to produce such evidence as the assessee deems fit in support of his return. If the

assessee does not produce evidence, then it is open to the officer to get at that evidence by invoking section 37 or straightaway estimate the income. To think of imposing a further penalty in such cases is highly unjust. Under section 22(4) the officer is empowered to call for any documents or account book he wants from the assessee. It may be relevant or irrelevant. It may be possible to produce such evidence or not. It may be against the interests of the person producing the documents for reasons other than that of income-tax. It may be that the accounts and documents called for are in a foreign country in a foreign business and incapable of being removed from that place without serious handicap to the business there. It may be that those documents called for relate to a long period and have become unavailable by reason of the lapse of time. But in all cases the officer has got a right of calling for those documents, the only restriction being that he cannot call for books relating to more than three years prior to the year of assessment. Under the civil law, if a party does not produce documents called for, an adverse inference is drawn against him. That is all. So also under the income-tax Act, if such documents are not produced the officer is entitled to draw an adverse inference by estimating income under section 23(4). It must be noted that in the United Kingdom there is no power vested in the Commissioners or the Inspector to call for and inspect account books and documents. They may call for balance sheets and other such statements and, if they are not produced, they may estimate the income. There is not even a section analogous to section 22(4), failure to comply with which will enable the officer to invoke section 23(4). While so the proposal to impose a heavy penalty of twice the amount of super-tax and income-tax for non-compliance with a notice under sections 23(2) or 22(4) is unjustifiable and without a parallel in the United Kingdom Law, or anywhere.

Sir, I find that it may be said that the penalty provided for is the maximum amount and the officer imposing the penalty will exercise due discretion in imposing the fine according to the seriousness of the offence. But if the long experience, which the Honourable the Finance Member quoted the other day is to be guiding factor of the actions of the Income-tax officer, our experience is on the other side. Even for small offences the Income-tax officers are inclined to glorify them into big offences and impose heavy penalties. It is true that these penalties are appealable but even there again the law of experience has taught us that this appellate authority very often confirms the orders of the subordinate officers. There is also an appeal provided in the courts, but here again even the superior officers of the department ignore the decisions of courts in civil cases so much so that in several matters even the High Courts are obliged to make adverse comments of the compliance of decrees of courts. In a recent case, which has been published in the newspapers, it was found that a large amount of money was taken from an assessee and was kept in the Income-tax Department though the appellate authority reduced the tax to a certain figure. The excess amount was not returned and, when the assessee appealed to the court for directions to the department to refund the amount that was collected in excess, the department at once instituted proceedings under another section, on a fresh case so much so that the amount amounting to much more than a few lakhs of rupees was lying with the department without being returned to the assessee though that was excess amount that was collected from the assessee. Therefore, the fact that there is a provision to appeal against these penalties imposed by Income-tax Department subordinate officers to the courts does not

[Mr. Sami Vencatachalam Chetty.]

afford much relief to the much victimised assessee. As I said earlier in my speech it is not a matter for argument, but it is a matter for sympathetic action. And the Honourable the Finance Member who has even said that he wanted to relieve the small assessee from being victimised either in the matter of assessment or by executive orders of these officers will please see the desirability and the justness of reducing the amount of penalty to the increased assessment made by the Income-tax Officer instead of an additional penalty either by twice or any more than the actual difference between the tax according to the income returned by the assessee and the tax discovered to be leviable on the income that has been assessed by the Income-tax Department. Sir, I move.

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

"That in clause 32 (a) of the Bill, in the proposed sub-section (f), the word 'twice', wherever it occurs, be omitted."

Mr. S. P. Chambers (Government of India: Nominated Official): Sir, I oppose this amendment and I should like to draw the attention of the House to the fact that the penalties laid down in the clause are not fixed penalties but only maximum penalties and that the intention is that the amount of penalties should be fitted to the offence. That is to say, where the offence is definitely a bad one the penalty will be near the maximum; where the offence is a somewhat doubtful one it will be less; where there has been an error made but there has been no deliberate concealment or deliberate failure to furnish information or deliberate falsification of books or accounts or returns, then in no circumstances can any penalty be imposed. That I think disposes of one argument against having penalties under this section.

The next point is that, as we have now suggested, twice the amount of duty is the penalty. That leaves in the hands of the Income-tax Officer a very great discretion. He is left with the discretion to impose either a very large sum or a smaller sum at his own discretion. Now, objection has been taken to that and I think rightly. But, on an earlier occasion I think in this House it was explained that the intention is that in future all these penalties shall be co-ordinated under the aegis of the Central Board of Revenue. By that I do not mean merely that instructions will be given but that the cases themselves will be examined in detail. That would conform to the practice in the United Kingdom whereby no Inspector of Taxes is allowed any discretion whatever in imposing penalties. That discretion is only left at the Centre with the Board of Inland Revenue. And I think that the fear that has been expressed by the Honourable Member that there will be lack of uniformity in imposing penalties and hardship in some cases and unduly light treatment in others will entirely disappear if that is done.

Another point that I should make is that by imposing penalties in this way we can do something which otherwise cannot be done with regard to past years. Even in cases where the offence is not a very bad one we should put the person who has failed to make a return or has made a wrong return into a position which is no better than it would be if he had made correct returns all through. This system of penalties would make it possible for the Central Board of Revenue to see that such persons did at least pay the whole of the tax for all the past years. Without penalties it might be that some years were out of date for assessment and

that therefore a dishonest person will be better off than an honest person; and that is a position which we wish to avoid. However, Sir, I understand that it is the general feeling of the House that the maximum of twice the penalty is somewhat too high. Personally I feel that it is not very high; it is three times in the United Kingdom and it has not worked badly at three times there. But if it is the feeling of the House that this maximum should be reduced somewhat, I am authorised to say that Government would offer no objection to this amendment if for the word "twice" the words "one and a half time" were substituted.

Mr. Sami Vencatachalam Chetty: Does it include the tax or exclude it?

Mr. S. P. Chambers: Excluding the tax, as before.

The Honourable Sir James Grigg (Finance Member): Sir, I suggest that if it commends itself to the House, the amendment itself may be amended in some such form:

"That in clause 32 (a) of the Bill, in the proposed sub-section (1), for the word 'twice', wherever it occurs, the words 'one and a half times' be substituted."

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): Sir, I am glad that the Finance Member has been in a merciful mood, and I hope the Mover of the amendment will accept that, because I think it is reasonable.

Mr. Sami Vencatachalam Chetty: Sir, I accept the suggestion.

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

"That in clause 32 (a) of the Bill, in the proposed sub-section (1), for the word 'twice', wherever it occurs, the words 'one and a half times' be substituted."

The motion was adopted.

The Honourable Sir James Grigg: Sir, before my Honourable friend, Mr. Lalchand Navalrai, moves the next amendment standing in his name, I may be permitted to suggest, in order to encourage the Honourable Member not to push an open door too wide, that if he likes to move his amendment briefly, Government will accept it.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I beg to move.

"That to clause 32 of the Bill, the following sub-clause be added:

'(d) after sub-section (5), the following sub-section shall be added, namely:

'(6) The Income-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner'."

Sir, I move.

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

"That to clause 32 of the Bill, the following sub-clause be added:

'(d) after sub-section (5), the following sub-section shall be added, namely:

'(6) The Income-tax Officer shall not impose any penalty under this section without the previous approval of the Inspecting Assistant Commissioner'."

The motion was adopted.

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

"That clause 32, as amended, stand part of the Bill."

The motion was adopted.

Clause 32, as amended, was added to the Bill.

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

"That clause 33 stand part of the Bill."

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

"That in clause 33 of the Bill, after the word 'or' the words 'under section 27 or' be inserted."

This refers to section 29 which reads:

"When the Income-tax Officer has determined a sum to be payable by an assessee under section 23, or under section 49 (2) or when an order has been passed under sub-section (2) of section 25 or section 28, etc., etc."

This notice of demand should be served on him even if the assessment is made under section 27, and so I hope the Government will accept it.

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

"That in clause 33 of the Bill, after the word 'or' the words 'under section 27 or' be inserted."

The Honourable Sir James Grigg: I have no objection, Sir.

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

"That in clause 33 of the Bill, after the word 'or' the words 'under section 27 or' be inserted."

The motion was adopted.

Mr. J. F. Sheehy (Government of India: Nominated Official): Sir, I move:

"That in clause 33 of the Bill, after the word 'inserted', where it occurs for the first time, the following be inserted:

'after the words and figures 'or section 28' the words, brackets and figures 'or sub-section (1) of section 46' shall be inserted'."

The object of this amendment is to provide for the issue of a notice of demand in the case where an Income-tax officer imposes a penalty under 46. I commend it to the House.

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

"That in clause 33 of the Bill, after the word 'inserted', where it occurs for the first time, the following be inserted:

'after the words and figures 'or section 28' the words, brackets and figures 'or sub-section (1) of section 46' shall be inserted'."

The motion was adopted.

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

"That to clause 33 of the Bill, the following be added at the end :

'and the words 'and the time which shall not be less than thirty days within which the sum shall be paid' shall be added at the end'."

Because of this continuing fever I would ask you, Sir, to extend to me today a little more of the extraordinary indulgence that you are pleased invariably to extend to me when I speak in this House and that you will also please forgive any slight irrelevancy. Before I come to the point in my amendment, I should like to recall a little scene of yesterday and clear away any possible suspicions. I want to assure my Honourable friend opposite who I think is not unaware of my personal high regard for him, that the only purpose for which I move this amendment, or any other with which I may be associated, is that as far as possible without injuring the revenues of the State, the inconveniences and harassments suffered by the assesseees may be avoided. And it does pain me when I find that my Honourable friend suspects that *as usual* I am misunderstanding and misrepresenting, as if that is my *forte* in life

The Honourable Sir James Grigg: I said misunderstanding: that is quite different.

Mr. Sri Prakasa: Or merely misunderstanding; or that the motive of those who move amendments cannot but be to help the tax-dodger; although he himself admitted that it is almost impossible to fathom the motives of men; or what hurt me most, that I am capable of taking any advantage of the privilege which I may happen to enjoy because of my chance membership of this House. Even when he cannot agree with us, he can surely give us credit for *bona fides*.

Coming to my amendment, I shall just relate my own incident in order to bring home to my Honourable friend opposite the difficulties from which we suffer, when there is no minimum time fixed which the income-tax officers are bound to give to the assesseees to pay the money demanded. In the law, as it stands, there is no limit and the Bill, as it is presented to the House, has also given no relief in this matter. Last year, to take the latest incident, the income-tax officer at Benares signed my income-tax demand on the 22nd of March and it was sent by registered post the next day to my house in Benares, whence it was redirected to me at Delhi and I did not get it till the 26th; and the income-tax officer wanted the money to be paid on or by the 29th—i.e., within a week from the date he himself signed the paper, not a week from the time I received the notice. Now, being a nervous man, I always keep this money lying about because I know that the demand was bound to come; and so I was able to write to the Imperial Bank at Benares to pay the money, and, luckily, my letter got to them on the 29th itself on which date they paid the money to the account of the Government of India. But it is not always the case that large amounts of money will be kept floating by assesseees on the off-chance of a demand being suddenly made on a particular day.

I happen to use—and I have used it for many years—a table diary which comes from America and there I find on various dates a note made:

[Mr. Sri Prakasa.]

"First instalment of income-tax to be paid", "second instalment", "third instalment" and "final instalment of the Income-tax to be paid". But here, there is no payment by instalments.

An Honourable Member: It is the same in England.

Mr. Sri Prakasa: I am glad to know it. I have no knowledge about England or any other country myself,—my knowledge is derived by chance about America from this diary which I happen to use. When deductions are made from salaries at source, then the receiver of the salary knows that that is a part of his monthly expenses; but when a whole month's income of a family may be needed, as in many cases, for the payment of income-tax, then it is really hard not to have reasonable time given for payment. I, therefore, feel, that we should get some time. It will also help the income-tax officers: they will be on the alert. What happens nowadays is this: I speak from personal experience. The income-tax office issues notices to the assessee some time in the month of April and wants them to send in the returns sometime next month. Then the assessee writes, as I do, asking for some more time as I happen to have accounts in another province as well, and I have to get my books from there. Then he gives me some time, usually it is till the month of July, and then all these books have to be presented. I understood my Honourable friend opposite to say yesterday in answer to a query from me that he also has to present his pass and other account books to the income-tax officer and that the demand to that effect is made from him also. So he must also know how inconvenient it is to stand in the afternoon sun and hot wind under the shade of a tree in the income-tax compound in the hot months of May and June and await the pleasure of the income-tax officer and remain under orders not to go away till he is allowed to do so; and how unpleasant it is to have one's private pass books and not only business ledgers being ruthlessly scrutinised. My Honourable friend said yesterday, that these books were demanded from him also. So he ought to know and I am sure he does, what I am talking about. In any case, I am very glad that my Honourable friend, Mr. Chambers, even in the short time that he has been in India, has been able to gather a great deal of inside knowledge of how the department is working, and I am assured that he is taking every step so that all possible difficulties may be avoided, and I am thankful to him for that. I know that the strong hand of his Chief was being already felt by his department from end to end of the land.

Now, Sir, to come back to my story. The account books are examined about July, and we hear nothing more about the matter for months. At last comes the fateful month of March, and all officers get very anxious that monies should be paid up in that month because the financial year of the Government closes then, and they have to show a good record. In a hurry they issue all their demand notices, and then the assessee is put to a great deal of difficulty. If we get thirty days, as I propose in this amendment, then the income-tax office will also be vigilant, and they will be gathering their taxes practically all the year round; they will send out notices giving thirty days to the assessee for payment; and thirty days is a reasonable time within which the assessee can and should find the money, to leave a loophole, however, like what we have today and to leave it entirely to the discretion and the individual judgment of the income-tax officer to give a day or two days notice is, I fear, not at all safe. In fact, once it happened in

my case many years back, when the notice was served on the 29th March, and a man from the Income-tax office came up to me with a special request that the money may be paid up by the 31st March. I was able to pay it; but there may be others who may not be able to pay. So I hope my Honourable friend opposite will realise the justice of the claim I am putting forward and will accord this much needed relief to the assesseees. Sir, I move.

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

"That to clause 33 of the Bill, the following be added at the end:

'and the words 'and the time which shall not be less than thirty days within which the sum shall be paid' shall be added at the end.'"

The Honourable Sir James Grigg: Sir, let me say at once that nothing was further from my thoughts than to make any insulting insinuations against my friend or to make any general accusation about his being a friend of the tax-dodger. What I did say was, to the best of my recollection, that even if he had come across particular instances of petty tyranny on the part of income-tax officials, he should not say it was a general complaint, but merely a specific one. But if even what I said appeared to him to cast aspersions on his personal motives, I have no hesitation in withdrawing it. There was no question of that at all. I will go further and say that the Honourable Member is quite right in saying that there are instances of petty tyranny on the part of income-tax officials and that this petty tyranny displays itself, particularly, towards the end of the financial year. That has been dealt with in a circular which the Central Board of Revenue has sent round, and I propose to read out the relevant paragraph:

"The Report finds that in some cases only one or two days' time have been allowed for payment of tax. In future, the time allowed for payment, except in cases where the revenue appears to be in danger, should be not less than 14 days. It would not be necessary to ask assesseees to pay their tax at short notice if assessments were completed in time. When, for unavoidable reasons, an assessment cannot be completed before the latter half of March, the Income-tax Officer must be content to allow the tax to be recovered in the following year. But such cases should be exceptional."

Mr. M. S. Aney (Berar: Non-Muhammadan): What is the date of that circular?

The Honourable Sir James Grigg: It is dated 26th April, 1937. I suggest to my Honourable friend that in course of time, and quite a short time I hope, that exhortation will produce the desired result. I would deprecate his pressing the actual amendment which gives a lead to all taxpayers to delay payment of their tax for a whole month even where it is quite unnecessary; in the majority of cases I think it would result in the slowing up of the machine, and I hope the Honourable Member will be content with the exhortation to the staff and with the assurance that it is the policy of the Central Board of Revenue to see that, in time, it will become fully operative. I would, therefore, ask the Honourable Member not to press his amendment.

Mr. Sri Prakasa: Sir, I am very thankful to the Honourable Member for what he has said both in reference to myself and also in reference to

[Mr. Sri Prakasa.]

the amendment, and in view of his assurance I should like to withdraw the amendment with the leave of the House.

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

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

"That clause 33, as amended, stand part of the Bill."

The Motion was adopted.

Clause 33, as amended, was added to the Bill.

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

"That clause 34 stand part of the Bill."

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

"That in part (i) of sub-clause (a) of clause 34 of the Bill, after the figures '23' occurring in the last line, the words and figures 'or section 27' be inserted."

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

"That in part (i) of sub-clause (a) of clause 34 of the Bill, after the figures '23' occurring in the last line, the words and figures 'or section 27' be inserted."

The Motion was adopted.

Mr. K. Santhanam: Sir, I move:

"That after part (i) of sub-clause (a) of clause 34 of the Bill, the following new part be inserted:

'(ia) after the words 'under section 27, or', where they occur for the second time, the word 'objecting' shall be inserted and the words 'against him' shall be omitted'."

Sir, it is only a verbal amendment. 'Against him' under sub-section (2) of section 25 here refers to refusal, and then, again, it is put in 'or to order against him under sub-section (2)',—there it is not a refusal, it is an objection to the order. Therefore it is purely a verbal amendment. Sir, I move.

The Honourable Sir James Grigg: We accept it.

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

"That after part (i) of sub-clause (a) of clause 34 of the Bill, the following new part be inserted:

'(ia) after the words 'under section 27, or', where they occur for the second time, the word 'objecting' shall be inserted and the words 'against him' shall be omitted'."

The Motion was adopted.

Mr. S. P. Chambers: Sir, I move:

"That after part (i) of sub-clause (a) of clause 34 of the Bill, the following part be inserted:

'(ia) after the word and figures 'section 28', the words, brackets and figures 'sub-section (1) of section 46' shall be inserted."

May I also, Sir, at this stage refer to No. 47 on the same list which is consequential to this? The only effect of these two amendments is to provide an appeal against an order imposing a penalty for non-payment of income-tax, that is to say, non-payment within the time specified. I feel sure that nobody is likely to object to the granting of such an appeal. Sir, I move.

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

"That after part (i) of sub-clause (a) of clause 34 of the Bill, the following part be inserted :

'(ia) after the word and figures 'section 28', the words, brackets and figures 'sub-section (1) of section 46' shall be inserted."

The Chair is informed that the previous amendment is numbered (ia), and so this should be (ib).

Mr. S. P. Chambers: This should now be (ib), Sir.

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

"That after part (i) of sub-clause (a) of clause 34 of the Bill, the following part be inserted :

'(ib) after the word and figures 'section 28', the words, brackets and figures 'sub-section (1) of section 46' shall be inserted."

The Motion was adopted.

Mr. K. S. Gupta (Ganjam *cum* Vizagapatam Non-Muhammadan Rural): Sir, I move:

"That in part (ii) of sub-clause (a) of clause 34 of the Bill, after the words and figures 'of section 23A' the words and figures 'or under sections 23 (4), 35, 43, 44, 44A, 44B, 44D, 45 and 46' be inserted."

I need not explain this amendment. I commend it for the acceptance of the House.

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

"That in part (ii) of sub-clause (a) of clause 34 of the Bill, after the words and figures 'of section 23A' the words and figures 'or under sections 23 (4), 35, 43, 44, 44A, 44B, 44D, 45 and 46' be inserted."

The Honourable Sir James Grigg: Sir, 45 and 46 have already been added. Government are prepared to put in 23A in its proper place later on. The others relate to the tax dodging sections. It is unnecessary to mention them specifically. When once an assessment is made, it will be under section 28 and the ordinary machinery of appeal lies.

Mr. President (The Honourable Sir Abdur Rahim): 45 and 46 have already been added? What will be left?

Mr. T. S. Avinashilingam Chettiar: Sir, I think an appeal under 48 is quite unnecessary, for this reason. Forty-three is an order which the income-tax officer may serve upon the person whom he treats as an agent of some other person. There is a proviso

Mr. President (The Honourable Sir Abdur Rahim): The House must know what the amendment is. The best course the Chair thinks is that the Mover should withdraw this amendment and another amendment put in with the proper words.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muham-madan Rural): Sir, there are far too many clauses added here. On examination, it appears now that many of them are not distinct orders by themselves; they will be merely grounds of appeal. Therefore, taking the amendment before the House, if I may point out what are the distinct orders, and all that remain of 493

Mr. President (The Honourable Sir Abdur Rahim): The Chair thinks the best course would be that the Mover should put in another amendment

Mr. Bhulabhai J. Desai: All that is left is 35, 43 and 44-B; none other is needed.

Mr. K. S. Gupta: Sir, I withdraw the amendment and wish now with your permission and the permission of the House to move the following amended amendment. I move:

“That in part (ii) of sub-clause (a) of clause 34 of the Bill, after the words and figures ‘of section 23A’, the words and figures ‘or under sections 35, 43 and 44B’ be inserted.”

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

“That in part (ii) of sub-clause (a) of clause 34 of the Bill, after the words and figures ‘of section 23A’, the words and figures ‘or under sections 35, 43 and 44B’ be inserted.”

Mr. T. S. Avinashilingam Chettiar: Sir, Government do not see to agree that an appeal against section 48 is necessary. Section 48 refers to an order which the income-tax officer can pass upon a person acting as an agent. Sir, the responsibilities of an agent are great under this Act, for this reason. If the assessee, that is, a foreigner, is not able to pay, the agent upon whom or any man who is regarded as an agent under section 48 on whom an order is passed declaring him an agent, will be treated as an assessee and he will have to pay, and in the case of such an important section as that, I do think that an appeal is necessary. If I may refer to this document, the Income-tax Enquiry Report, 1936, page 81—I hope the Honourable Member will hear me—says:

“There are several other types of order which should be subject to appeal.”

Then, they say:

“We agree, however, that an order under section 43 treating a person as an agent for a non-resident should be the subject of a distinct appeal.”

I would ask you to note the words, “should be the subject of a distinct appeal”, and that “assessment proceedings should not be continued until such appeal is disposed of”. I do think that an appeal under this section is quite necessary for the reason that the income-tax officer may serve upon any person an order saying that he will treat him as an agent of any other person and if an appeal is not provided for, then that person

who will be treated as such will have to suffer and I do think this is an important matter and an appeal should be allowed under this section. I support the motion.

Mr. S. P. Chambers: Sir, the Honourable Member has referred to what was in the Income-tax Enquiry Report and I think I ought to explain what has happened since then. This House has not yet come to the section which deals with section 48 but the Select Committee have left in the provision whereby the agent for a non-resident can retain the tax.

Now, if the agent for the non-resident can retain a sum in his hands to be taxed, there is no reason why the ordinary appeal procedure should not be followed. There are two stages in the treatment of the assessment of a non-resident. The first stage is to find out his agent and to treat him as such and the second stage is to assess. Thereafter, there is a right of appeal against the assessment. In the Bill, as it stands, and, as far as I know, there has been no objection to this provision, there is a provision that the agent shall retain the tax. There is, therefore, no hardship in proceeding with the assessment and making the assessment and asking the agent to pay the tax, or holding it over at the discretion of the Income-tax officer, and there is no purpose whatever in having a further right of appeal. I think the same or similar considerations apply to the other sections which have been mentioned. Sir, I oppose the amendment.

Mr. M. S. Aney: Does he not refer to the recognition of a particular man as an agent? It is against that order that he wants to
I P. M. go in appeal.

Mr. S. P. Chambers: He makes that order and in following that order he makes an assessment. Now, this would have the effect of slowing up the procedure. First of all, the man would have to be deemed as an agent. Then, there will be the right of appeal to the Assistant Commissioner and then, if the House accepts the amendment, to the Appellate Tribunal and then perhaps to the High Court and to the Privy Council. And not until that stage is reached, we will start making the assessment. That is altogether a cumbersome procedure. The right of appeal against the assessment itself is all that is necessary.

Mr. H. S. Town (Nominated Non-Official): Sir, under section 48 the Income-tax officer can make a person or treat a person as the agent of a non-resident and that person has the right of being heard before the Income-tax officer. We quite understand that the agent has the right of appeal when he is assessed but what rather worries us is that the agent may be assessed and, I wonder whether it would be a perfect reason for appealing to us that at the time when he was assessed he had nothing in his hands. He might have known that he was going to be treated as an agent and might have parted with all the assets of the non-resident principal. We see the danger of allowing an appeal against being treated as an agent before the assessment takes place, because that appeal might hang up the assessment for a considerable time. Then, there may be an appeal from this appeal and it may be a very long time before Government will get any money and in the meantime the position may have changed and the assets, which could have been attached to provide the tax, might

[Mr. H. S. Town.]

have disappeared. We would be quite content with an assurance from Government that they would not seek to collect tax until the actual question of the agency had been decided.

The Honourable Sir James Grigg: Sir, I have not the slightest hesitation in giving that assurance which seems to me to be only reasonable and that was the intention of the Government in any case.

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

"That in part (ii) of sub-clause (a) of clause 34 of the Bill, after the words and figures 'of section 23A', the words and figures 'or under sections 35, 43 and 44B' be inserted."

The motion was negatived.

Mr. S. P. Chambers: Sir, I move:

"That after part (iii) of sub-clause (a) of clause 34 of the Bill, the following part be inserted:

'(iiia) in the proviso, after the word and figures 'section 27' the words, brackets and figures 'or, unless the tax has been paid, against an order under sub-section (1) of section 46' shall be inserted'."

Sir, this is consequential on amendment No. 45 on the same list which I have already explained. Sir, I move.

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

"That after part (iii) of sub-clause (a) of clause 34 of the Bill, the following part be inserted:

'(iiia) in the proviso, after the word and figures 'section 27' the words, brackets and figures 'or, unless the tax has been paid, against an order under sub-section (1) of section 46' shall be inserted'."

The motion was adopted.

Mr. T. S. Avinashlingam Chettiar: Sir, I move:

"That in part (iv) of sub-clause (a) of clause 34 of the Bill, for the words 'after the proviso the following provisos shall be added, namely:' the words 'for the proviso the following provisos shall be substituted, namely:' be substituted."

The effect of omitting that proviso which denies the appeal under section 28 (4) is to allow appeals against cases under that sub-section. This has been accepted by the Government. Sir, I move.

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

"That in part (iv) of sub-clause (a) of clause 34 of the Bill, for the words 'after the proviso the following provisos shall be added, namely:' the words 'for the proviso the following provisos shall be substituted, namely:' be substituted."

The Honourable Sir James Grigg: Sir, I understand that the intention is to give a right of appeal under section 28(4) by moving Amendments Nos. 448 and 444. Government accept that.

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

"That in part (iv) of sub-clause (a) of clause 34 of the Bill, for the words 'after the proviso the following provisos shall be added, namely:' the words 'for the proviso the following provisos shall be substituted, namely:' be substituted."

The motion was adopted.

Mr. K. S. Gupta: Sir, I move:

"That in part (iv) of sub-clause (a) of clause 34 of the Bill, in the proposed first proviso, the word 'further' be omitted."

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

"That in part (iv) of sub-clause (a) of clause 34 of the Bill, in the proposed first proviso, the word 'further' be omitted."

Mr. S. P. Chambers: Government have no objection to this amendment.

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

"That in part (iv) of sub-clause (a) of clause 34 of the Bill, in the proposed first proviso, the word 'further' be omitted."

The motion was adopted.

Babu Baljnath Bajoria (Marwari Association: Indian Commerce): Sir, I beg to move:

"That in sub-clause (b) of clause 34 of the Bill, after the words 'of the date' the words 'of receipt of intimation' be inserted".

Sir, the effect of this amendment will be to give a little more time for appeals. Instead of "or of the date of the refusal to make a fresh assessment under section 27", the clause will read:

"or of the date of receipt of intimation of the refusal to make a fresh assessment under section 27."

I need not say much to commend this amendment for the acceptance of the House. Sir, I hope the Government will not object to this amendment. Sir, I move:

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

"That in sub-clause (b) of clause 34 of the Bill, after the words 'of the date' the words 'of receipt of intimation' be inserted".

The Honourable Sir James Grigg: Government do object to this amendment. The only effect of it will be to give a little more time for appeals and so slow up the machinery. I think the present time for appeal is quite long enough and I, therefore, ask the House to reject the amendment.

Mr. M. S. Ansy: Sir, generally the Income-tax officers do not fix dates for passing their orders and, therefore, if the date of refusal be taken as the time for limitation, it will be difficult. It is, therefore, necessary that

[Mr. M. S. Aney.]

the date on which that order should be intimated should be the proper date. I believe the Honourable the Finance Member will see the reasonableness of this amendment and accept the same.

The Honourable Sir James Grigg: He has got thirty days margin anyhow.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): Sir, it seems to me that the Honourable the Finance Member began well this morning, and he must not get tired of his generosity. After all, while we undoubtedly must protect the rights of the exchequer, we must also protect the normal rights of the assessee. As my Honourable friend, Mr. Aney, pointed out, the Income-tax Officers do not fix dates for passing their orders. If the date is announced, then we can count from that date. Surely, the assessee has a right to have thirty days from the date of the receipt of intimation of the order. Surely, it looks quite fair to both sides. When "A" is assessed and told "you have been assessed at such and such an amount; thirty days from now you shall have to appeal, otherwise penalties will follow". If the date of intimation is not taken into consideration, otherwise it means even 15 days sometimes. Sometimes, nearly 15 days will be taken in the transit of the order and thus half the time allowed for appeal will be lost to the assessee. I do hope that Government will see their way to accept this amendment and raise no objection.

Mr. S. P. Chambers: I can only repeat first of all what the Honourable the Finance Member said that thirty days are quite long enough. There is a provision in section 30 (2) which says:

"The Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period."

Mr. S. Satyamurti: Why not we ourselves do it by law?

Mr. S. P. Chambers: The point is that 30 days are given and if the Assistant Commissioner thinks the assessee has not had long enough time, he can give him more. But why should we then say, let us have two or three days extra before the thirty days begin to operate. Sir, I oppose the amendment.

Mr. M. A. Jinnah: Sir, I am afraid the Government do not appreciate the point. The point is this: If you say thirty days from the date of the order, when the order is made, the assessee knows nothing about it. It may take a week or two weeks or even three weeks or it may be on the very day, that is the thirtieth day, that the assessee receives the intimation. He does not get sufficient time to make up his mind whether he would appeal or not. Then, with regard to the power of the Assistant Commissioner that the time may be extended, that is a very different proposition altogether. The first is his right, and the other the discretion of the Court. Why should you take away his right of thirty days within which he is entitled to appeal on the mere ground that the order is made, but no communication is made for a fortnight or three weeks? It seems to me really most unreasonable, and I do ask the Government really not to oppose this amendment.

Mr. K. Santhanam: Sir, this question repeatedly came up during the discussion on the Motor Vehicles Bill and, in every case, Government accepted that it should be the date of receipt of intimation. This has been carried out throughout the Motor Vehicles Bill. I do not see why Government should object to this.

The Honourable Sir James Grigg: The point that is worrying me is that this seems to me to make it easier for the person to avoid receiving notice. That is the point which has not been met. How, except in so far as it is a postal error which is met by the right to extend, we can meet the case of the person who avoids taking receipt of notice.

Mr. Bhulabhai J. Desai: It is quite obvious, and it is somewhat of a pity that there is no lawyer among the three experts sitting over there. They do not appreciate what we say. There is no day appointed for the purpose of passing the order. It is from the date of the order that you want the time to run. That by itself is sufficiently absurd. There is a sound answer to the difficulty pointed out by the Honourable the Finance Member, that is in the case of a person who avoids receiving notice of intimation. My Honourable friends are not aware that under the General Clauses Act, there is a definition whereby if it is properly pasted and proper stamp affixed and posted, it is presumed to have reached the destination, and it is up to the addressee to point out that he has not received it. We are not really asking for too much. After my Honourable friend, Mr. Jinnah's speech, I should have thought that no other speech was needed, but it seems to me rather hard that on a very little point, there should be unnecessary amount of—I do not want to use that word—excitement not worth it.

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

"That in sub-clause (b) of clause 34 of the Bill, after the words 'of the date' the words 'of receipt of intimation' be inserted."

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.

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

"That in sub-clause (b) of clause 34 of the Bill, after the figures '49E' the words and figures 'or sub-section (1) of section 23A' be inserted."

Sir, I move.

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

"That in sub-clause (b) of clause 34 of the Bill, after the figures '49E' the words and figures 'or sub-section (1) of section 23A' be inserted."

The motion was adopted.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is: "That clause 34, as amended, stand part of the Bill."

The motion was adopted.

Clause 34, as amended, was added to the Bill.

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

"That clause 35 stand part of the Bill."

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

"That in part (iii) of sub-clause (c) of clause 35 of the Bill, after the figures '49E' the words and figures 'or sub-section (I) of section 23A' be inserted."

This is a purely consequential amendment. Sir I move.

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

"That in part (iii) of sub-clause (c) of clause 35 of the Bill, after the figures '49E' the words and figures 'or sub-section (I) of section 23A' be inserted."

The motion was adopted.

Mr. J. F. Sheehy: Sir, I beg to move:

"That in part (iv) of sub-clause (c) of clause 35 of the Bill, after the word and figures 'section 28' the words, brackets and figures 'or sub-section (I) of section 46' be inserted, and after the proposed clause (f) the following be inserted:

'or, in the case of an appeal against computation of loss under section 24, (g) confirm or vary such computation,'."

The object of this amendment is to repair an omission in the initial draft by providing for orders on appeal in the case of a penalty under section 46 and in the case of a computation of loss. Sir, I move.

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

"That in part (iv) of sub-clause (c) of clause 35 of the Bill, after the word and figures 'section 28' the words, brackets and figures 'or sub-section (I) of section 46' be inserted, and after the proposed clause (f) the following be inserted:

'or, in the case of an appeal against computation of loss under section 24, (g) confirm or vary such computation,'."

The motion was adopted.

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

"That clause 35, as amended, stand part of the Bill."

The motion was adopted.

Clause 35, as amended, was added to the Bill

Clauses 36, 37 and 38 were added to the Bill

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

"That clause 39 stand part of the Bill."

Mr. J. F. Sheehy: Sir, I move:

"That for part (a) of sub-clause (I) of clause 39 of the Bill, the following be substituted:

'(a) for the words 'for any reason' the words 'in consequence of information which has come into his possession the Income-tax Officer discovers that' shall be substituted.'"

Sir, I move.

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

"That for part (a) of sub-clause (f) of clause 39 of the Bill, the following be substituted:

'(a) for the words 'for any reason' the words 'in consequence of information which has come into his possession the Income-tax Officer discovers that' shall be substituted.'

The Honourable Sir James Grigg: Sir, perhaps I might say two words in support of this amendment. It was put in because a great many fears were expressed that under the clause, as worded, even after it left the Select Committee, a fishing inquiry without any sort of information whatever was possible for the Income-tax Officer. That was certainly not the intention of the income-tax administration and we put this in in order to make it clear and, indeed, in order to stop the Income-tax Officer from making purely fishing inquiries with no basis at all. I understand, Sir, that it would reassure Honourable Members opposite even more if instead of the vague word "information" we put in "definite information". If that is so I am quite agreeable.

Mr. Bhulabhai J. Desai: Sir, I agree that if the information is definite so as to entitle him to act, that will take away what we feel would be an improper sting of the section.

Mr. S. Satyamurti: Sir, I should like to say one word on this. Of course, I respectfully agree with our Leader that the amendment which Government have now moved takes away the improper sting as he called it. But I want to remind the House that the real anxiety of those who want to see this amendment incorporated is that this "definite information" should be made available to the assessee, and that the assessment, ultimately, made must be based on this information. My Honourable friend, the Finance Member, stated, that it is not the intention of Government to start a fresh fishing inquiry covering the whole field. The amendments which we had given notice of were to compel the officer to state the grounds and to confine the ultimate assessment to the grounds so stated in the notice to the assessee. But, in view of the statement of the Honourable the Finance Member, that it is not the intention of Government to start a wide inquiry into the whole affair, I shall be satisfied if an assurance can get into the records of this discussion in the Assembly proceedings that the intention of Government is that this definite information on which the Income-tax Officer proceeds to assess a fresh or to increase the assessment on the ground that the assessee has been under-assessed or has been a subject of excessive relief or that he has escaped assessment under the Act, will form the main basis of the fresh assessment or the fresh reassessment; and I think it will go still further to assure all people who are anxious that while the Income-tax Department should be protected in the realisation of its proper receipts, there should, at the same time be no undue harassment of the assessee. I trust, Sir, that that assurance will be forthcoming.

The Honourable Sir James Grigg: Sir, the intention is, as the Honourable Member suggests, that Government should indicate to the assessee, when starting a fresh round of inquiries, the basis on which they are proceeding. As Mr. Satyamurti supposes, to tie the executive down to specific and exact grounds and to proceeding only on that information would

[Sir James Grigg.]

be unduly restrictive of their activities and make it more easy for the evader to carry on his occupation. But there is every intention in proceeding under this section of informing the tax-payer of the grounds on which we are proceeding.

Babu Baijnath Bajoria: Sir, I am glad that the Government have put in this amendment that definite information must be received by the income-tax officer before he re-opens a case under section 34. This will go a long way to assure the public because, our experience has been that cases have been started on very vague information which has resulted in harassment to the assessee and no income to the Government and only loss of time of their officers, and it has also been a practice, to which I would like to draw the attention of the Honourable the Finance Member, that cases under section 34 are also started whenever any appeal is made against an assessment order of the income-tax officer. Generally to protect himself he gives notice under section 34. Also, whenever any superior officer calls for the file he is probably afraid that some defect may be found in his work and to protect himself he gives notice under section 34. Speaking, not on personal grounds because I have never come up against this section, but I learned from many of my friends . . .

1 **Mr. S. Satyamurti:** You keep bad company.

Babu Baijnath Bajoria: I am keeping your company too here! I would like to mention one more thing and that is that section 34 should not be started against the heirs and legal representatives after the death of an assessee . . .

Mr. Bhulabhai J. Desai: If he is dead after having committed fraud, he is to escape? It is not a correct limitation.

Babu Baijnath Bajoria: These are the points to which I want to draw attention. It is for the House to accept it or not. There is no amendment to that effect. Whatever fault a man has committed, if he dies, then the rest of his family will be in a predicament. With these words I support this amendment.

Mr. Muhammad Asrar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir I support what Mr. Satyamurti has said; but I would like to suggest this: if a commentary were to be written of this Income-tax Act, then those who are in the profession and also the clients will have great assistance after the statement, elucidating all the knotty points on this subject, by the Honourable the Finance Member. Otherwise, it will plunge the whole country into confusion when things are left indefinite. As regards what my friend, Mr. Bajoria, has said, that after an assessee's death, his heirs should not be mulcted in the way in which they are generally done, I support him and I say that something must be done really not to mulct and harass the heirs. It is not a question of fraud. Suppose the accounts have not been produced or something like that has happened: it cannot be called fraud, but still the heirs should not be harassed.

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

"That for part (a) of sub-clause (1) of clause 39 of the Bill, the following be substituted:

'(a) for the words 'for any reason' the words 'in consequence of definite information which has come into his possession the Income-tax Officer discovers that' shall be substituted'."

The motion was adopted.

Babu Baijnath Bajoria: Sir, I move amendment No. 53 on list 8. . . .

Mr. Bhulabhai J. Desai: What is it a copy of?

Babu Baijnath Bajoria: Quite right. It is a copy of amendment No. 456 and also of No. 460 which stand in the name of Mr. Sri Prakasa and Mr. Sami Vencatachellam Chettv. As they have been gagged, it has fallen to my lot to move this amendment, and so I move:

"That for part (c) of sub-clause (1) of clause 39 of the Bill, the following be substituted:

'(c) for the words 'within one year' the words 'within three years' shall be substituted'."

I want to limit the period of time which should be given for reopening cases under section 34. Instead of one year, as at present, I am prepared to give extension up to three years, but not up to four or eight years as proposed in the Bill. I do not want to take up very much of the time of the House, but I would only say that practically all the Chambers of Commerce have stressed this fact that four or six or eight years are very long periods and then there is the question of limitation: the general law of limitation in this land is three years. Then there is the question that there will be no finality of assessment. The cases may be reopened and reopened again and again and then it may be that within the period of eight years a man may die or the man who used to keep the accounts and conversant with the accounts of the assessee may be dismissed or may die; and so it will be difficult for the assessee to give all the information which the income-tax officer may require when the case is reopened. There are many other points on which I wish to speak, but I do not like to dwell on them at this stage. My purpose will be served if what I have said in connection with this amendment is left on record.

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

"That for part (c) of sub-clause (1) of clause 39 of the Bill, the following be substituted:

'(c) for the words 'within one year' the words 'within three years' shall be substituted'."

The Honourable Sir James Grigg: Sir, I oppose the amendment. There is a limit even to my complacency

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

"That for part (c) of sub-clause (1) of clause 39 of the Bill, the following be substituted:

'(c) for the words 'within one year' the words 'within three years' shall be substituted'."

The motion was negatived.

Babu Baijnath Bajoria: Sir, I move:

"That in sub-clause (2) of clause 39 of the Bill, after the proposed sub-section (2), the following new sub-section be inserted:

'(3) Any sums payable under this section shall be split up in reasonable instalments to be paid within twelve months of the order of assessment or re-assessment'."

By this amendment I want, Sir, that the assessee who has been assessed under section 34 and made liable to pay a very large sum may not be able to pay the whole amount all at once, and so he should be given reasonable time to pay the tax in small instalments. In some cases, Sir, the claims come to several thousands of rupees, and so, such assessee should be given reasonable time to pay up in instalments. I hope the Finance Member will be pleased to accept this amendment.

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

"That in sub-clause (2) of clause 39 of the Bill, after the proposed sub-section (2), the following new sub-section be inserted:

'(3) Any sums payable under this section shall be split up in reasonable instalments to be paid within twelve months of the order of assessment or re-assessment'."

The Honourable Sir James Grigg: Sir, I think the Honourable Member would be well advised not to press this amendment and have it inserted in the law. There is every intention, even in the case of a discovered and condemned criminal, shall we say, that he shall be allowed reasonable time to atone for his offences, and I can even conceive of cases where it will be difficult for a man who has to pay a very large sum even to pay up in 12 months. I think the Honourable Member must leave it to administrative instructions to see that reasonable instalments are allowed in cases of discovery under section 34.

Mr. M. S. Aney: Am I to understand, Sir, that the Honourable Member will issue instructions empowering the Income-tax officers to permit payment of tax by instalments in reasonable cases?

The Honourable Sir James Grigg: I imagine that that is the ordinary practice in cases of this sort, but if instructions are necessary, they will certainly be issued.

Babu Baijnath Bajoria: In view of this assurance, Sir, I beg leave of the House to withdraw my amendment.

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

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

"That clause 39, as amended, stand part of the Bill."

The motion was adopted.

Clause 39, as amended, was added to the Bill.

Clause 40 was added to the Bill.

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

"That clause 41 stand part of the Bill."

Mr. Lalchand Navai: Sir, I move.

"That clause 41 of the Bill be re-numbered as clause 41 (a), and after the clause, as so re-numbered, the following be added :

'(b) section 37 of the said Act shall be re-numbered as sub-section (1) of that section, and after the section, as so re-numbered, the following sub-sections shall be added, namely :

'(2) The Officer, Appellate Assistant Commissioner or Commissioner, exercising the powers under the provisions of sub-clause (a) of sub-section (1) above shall serve a notice on the assessee of his desire to record the evidence of certain persons to be specified in the notice and calling upon the assessee to be present at a stated hour and place in order that the evidence may be recorded in the presence of the assessee and the assessee shall be entitled to cross examine such witness : provided that when the assessee does not attend the enquiry the officer may proceed to record the evidence in the absence of the assessee.

(3) The Officer, Appellate Assistant Commissioner or the Commissioner shall not use any of the documents called for under clause (b) of the foregoing sub-section (1) unless the assessee has been given an opportunity in writing of explaining such document or inference following from such document."

Sir, the amendment is a long one, but the principle underlying it is a recognised principle. Under section 37 which is sought to be amended now, the Income-tax officer, an Appellate Assistant Commissioner and a Commissioner have been given powers of enforcing the attendance of any person and examining him on oath or affirmation and compelling the production of documents. Now, it will be seen that in section 37 what has been done is that the Income-tax officer and the Assistant Commissioner are invested with the powers to take evidence and to call for documents, powers which the courts have at present. The words are these—'he shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908; when trying a suit in respect of the following matters'. My submission is this, that, when you are constituting the Income-tax officer as more or less a court with respect to the matter of taking evidence, I am merely asking that the evidence should be taken in the presence of the assessee. I don't think this principle will be denied by anybody, because when evidence is recorded it cannot be recorded in the absence of the assessee. Notice must be given to the assessee informing him that particular evidence is required and will be taken. That is what they do in courts. The assessee has got a right to see that no wrong is being done to him. He must be able to cross-examine witnesses so that a just decision may be reached. That just decision should not be avoided by only saying that the Income-tax officer has got the power to take evidence *ex-parte*. Lawyers in this House know that without this procedure no equitable decision can be arrived at. I hope the Congress Members and those who have been a party to the compromise on this Bill, will realise the necessity and fairness of an amendment of this kind.

As regards the second part, the documents must be inspected in the presence of the man. The assessee should know what the

3 P.M. Income-tax officer is doing with his documents and should see that they are not taken advantage of in any manner the Income-tax officer likes. It is, therefore, very necessary that when the evidence is taken and the documents are examined the assessee should be present. I am asking for a thing which is only natural justice. Sir, I move.

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

"That clause 41 of the Bill be re-numbered as clause 41 (a), and after the clause, as so re-numbered, the following be added :

"(b) section 37 of the said Act shall be re-numbered as sub-section (1) of that section, and after the section, as so re-numbered, the following sub-sections shall be added, namely :

"(2) The Officer, Appellate Assistant Commissioner or Commissioner, exercising the powers under the provisions of sub-clause (a) of sub-section (1) above shall serve a notice on the assessee of his desire to record the evidence of certain persons to be specified in the notice and calling upon the assessee to be present at a stated hour and place in order that the evidence may be recorded in the presence of the assessee and the assessee shall be entitled to cross examine such witness : provided that when the assessee does not attend the enquiry the officer may proceed to record the evidence in the absence of the assessee.

"(3) The Officer, Appellate Assistant Commissioner or the Commissioner shall not use any of the documents called for under clause (b) of the foregoing sub-section (1) unless the assessee has been given an opportunity in writing of explaining such document or inference following from such document."

Mr. S. P. Chambers: I oppose this amendment. In practice, as far as it is possible, when an Income-tax officer or an Assistant Commissioner is taking evidence from a third party, the assessee is present and that, I think is a very desirable practice but to make that statutory is rather difficult and objectionable. For one thing it means letting the assessee know some days in advance that this man is going to be there and if the person in question is a subordinate of the assessee or if he is a person who can be corrupted or liable to take bribe then he will say to the witness : 'How much is it worth if you don't turn up' or something like that. It is for this reason that it is undesirable to put this thing in the Statute. For this reason, I oppose the amendment.

Sardar Sant Singh (West Punjab : Sikh): I have never heard a stranger argument than that advanced by our new expert imported from England. If this argument be followed in judicial cases, particularly in criminal cases, you will condemn every person to the gallows. How does he want to rely upon the evidence of a man whom I have no right to show up as my enemy or who may give evidence which is clearly inadmissible, which I can show by cross examination. That argument about corruption can be advanced in any case. If a man can be corrupted, then how can he be relied on by the department. If he is a corruptible man, an informer, a base spy in the employment of the police, and the police always keep about a dozen such men with them always, then how can he be relied upon by any party. This is an argument which should not have come from the responsible quarters where my friend is given a seat. This very argument which has been advanced makes it more desirable that the amendment should be carried by the House and it should not be left to the discretion of the income-tax officer. If this is the mentality of the Income-tax Department, then we should combine together and force the Government to accept this amendment. In this country we are trying to bring about the rule of law in place of the rule of the executive and it is, therefore, surprising that such an argument should be advanced from those Benches. I appeal to Honourable Members in all parts of the House to carry this amendment.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural): Both my friends from Larkana and Lyallpur are floating in the wrong boat. They

are hopelessly wrong. The assessee is a rich man, richer than many of us and some of them cannot afford to be present in the court where the evidence is taken. Their place will be taken by their agents or they can engage pleaders to cross-examine the witness. The assessee may go to England or any place he likes. Why should you compel him to attend the court? Why do you want to tie down his legs? I think an amendment of this kind is improper. I am not a man who will table amendments in order to show to the world that I have taken part in the discussion of this Bill. I think this is an unnecessary waste of the time of the House and I ask the House not to accept the amendment.

Mr. M. S. Aney: I will say only a few words on this. After all, what does this amendment want? Section 37 lays down that this will be a kind of judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, the inquiry that is going to be made by the income-tax officer is a judicial proceeding and the witnesses who will be coming before them will have to bear in mind that this is a judicial proceeding and with that responsibility they will have to make their statements. All that my friend, Mr. Lalchand Navalrai, is asking for is this that if these witnesses are to be examined there should be a fair opportunity given to the assessee himself to be present and he may be informed of the names of the witnesses so that he may come in time and examine or cross-examine the witnesses and the ordinary procedure for the examination of witnesses should be gone through. What is really wrong in this I do not know, and what is the difficulty of the income-tax officer in sending for the assessee and giving notice to him to be present I fail to see. Now, the giving of information of the names of the witnesses to the assessee beforehand is considered by My Honourable friend, Mr. Chambers, as likely to be a serious menace to the cause of justice itself because witnesses are likely to be won over. With due deference to him, for those apprehensions, I may say that the courts of justice in this country deal with cases far more serious than merely the collection of a little revenue in the name of income-tax, and they invariably call upon the parties to submit their list of witnesses so as to be known by both parties. The work of examination goes on, nobody ever thinks that that procedure causes any inconvenience or defeats the ends of justice, and I think that that apprehension is due to my friend's want of knowledge of how things are done here in India; and then, I believe, that this is what an ordinary requirement of law is if the inquiry is to result in a justice that shall be satisfactory to the parties concerned; and in making this demand I believe it is only a reasonable demand that he is making. Of course, if he is unable to be present, his amendment has made the provision that the income-tax officer then has the right to proceed *ex-parte*—not that the income-tax officer is called upon to wait and say that unless he is present he cannot proceed. He is only called upon to issue a notice first and to give information that such and such persons will be examined as witnesses. I do not think it is a matter of difficulty. To deny him the opportunity of any knowledge as to what the income-tax officer is going to do and then to call that proceeding a judicial proceeding is a farce. I do not think the inquiry by the income-tax officer should be turned into an investigation made by a police officer. But the latter is a preliminary investigation, and the investigation here is an investigation where the finding will be binding upon this man and he will be called upon to pay. It is not a judicial inquiry in any sense of the term at all when the assessee may not have an opportunity to be present. My Honourable friend, Mr. Chambers, has admitted that that is the usual practice and is a

[Mr. M. S. Aney.]

very good practice, and if the usual practice has been found not to be in any way defective, I do not know why that salutary practice which is being observed generally should not be turned into a statutory obligation upon the income-tax officer to do the same. I, therefore, submit, that this amendment should be very favourably considered by the House and not be lightly disposed of. I support the motion.

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

"That clause 41 of the Bill be re-numbered as clause 41 (a); and after the clause, as so re-numbered, the following be added :

'(b) section 37 of the said Act shall be re-numbered as sub-section (1) of that section, and after the section, as so re-numbered, the following sub-sections shall be added, namely :

'(2) The Officer, Appellate Assistant Commissioner or Commissioner, exercising the powers under the provisions of sub-clause (a) of sub-section (1) above shall serve a notice on the assessee of his desire to record the evidence of certain persons to be specified in the notice and calling upon the assessee to be present at a stated hour and place in order that the evidence may be recorded in the presence of the assessee and the assessee shall be entitled to cross examine such witness : provided that when the assessee does not attend the enquiry the officer may proceed to record the evidence in the absence of the assessee.

'(3) The Officer, Appellate Assistant Commissioner or the Commissioner shall not use any of the documents called for under clause (b) of the foregoing sub-section (1) unless the assessee has been given an opportunity in writing of explaining such document or inference following from such document."

The Assembly divided :

AYES—8.

Abdur Raasheed Chandhury, Maulvi.
Aney, Mr. M. S.
Bajoria, Babu Baijnath.
Lalchand Navalrai, Mr.

Laljee, Mr. Huseenbhai Abdullahbhai.
Malaviya, Pandit Krishna Kant.
Parma Nand, Bhai.
Sant Singh, Sardar.

NOES—42.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Ahmed, Mr. K.
Aikman, Mr. A.
Ayyar, Mr. N. M.
Bejpai, Sir Girja Shankar.
Bartley, Mr. J.
Boyle, Mr. J. D.
Chambers, Mr. S. P.
Chanda, Mr. A. K.
Chapman-Mortimer, Mr. T.
Dalal, Dr. B. D.
Dalpat Singh, Sardar Bahadur Captain.
Damzen, Mr. P. R.
Gorwala, Mr. A. D.
Greer, Mr. B. R. T.
Grigg, The Honourable Sir James.
Hardman, Mr. J. S.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Kushalpal Singh, Raja Bahadur.
Mackeown, Mr. J. A.
Maxwell, the Honourable Mr. B. M.
Menon, Mr. P. A.

Menon, Mr. P. M.
Metcalf, Sir Aubrey.
Mukerji, Mr. Basanta Kumar.
Nur Muhammad, Khan Bahadur Shaikh.
Ogilvie, Mr. C. M. G.
Rahman, Lieut.-Col. M. A.
Row, Mr. K. Sanjiva.
Sheehy, Mr. J. F.
Sher Muhammad Khan, Captain Sardar Sir.
Sircar, The Honourable Sir Nripendra.
Sivraj, Rao Sahib N.
Sobha Singh, Sardar Bahadur Sardar.
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.

The motion was negatived.

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

"That clause 41 stand part of the Bill."

The motion was adopted.

Clause 41 was added to the Bill.

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

"That clause 42 stand part of the Bill."

Mr. B. Das (Orissa Division: Non-Muhaminadan): Sir, I move:

"That in sub-clause (1), of clause 42 of the Bill, in the proposed clause (3), for the words 'two hundred' the words 'four hundred' be substituted."

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

"That in sub-clause (1), of clause 42 of the Bill, in the proposed clause (3), for the words 'two hundred' the words 'four hundred' be substituted."

The motion was adopted.

Mr. Sami Vencatachalam Chetty: Sir, I move:

"That sub-clause (2) of clause 42 of the Bill be omitted."

I shall be very brief in making this motion. So far, whatever might be the fate of the assessee under this Bill; we are proceeding on a mutually agreed basis and, having regard to that, surely no Party on this side, can take responsibility for the retention of this clause in the Bill. I hope, therefore, that the Government in their present frame of reasonableness would see the equity and justice of the present motion and accept my amendment to omit this sub-clause.

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

"That sub-clause (2) of clause 42 of the Bill be omitted."

The Honourable Sir James Grigg: Sir, I oppose this amendment. From the very definite information which has come into my possession, it appears to me certain that the majority of the House wishes to carry this amendment, but as I believe that something of definite value to the Income-tax officer will be lost and the avoidance of tax will become easier if this amendment is carried, I am bound to oppose it and divide the House against it.

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

"That sub-clause (2) of clause 42 of the Bill be omitted."

[Mr. Deputy President.]

The Assembly divided:

AYES—64.

Abdul Ghani, Maulvi Muhammad.
Abdul Qaiyum, Mr.
Abdullah, Mr. H. M.
Abdur Rasheed Chaudhury, Maulvi.
Aney, Mr. M. S.
Asaf Ali, Mr. M.
Ayyangar, Mr. M. Ananthasayanam
Azhar Ali, Mr. Muhammad.
Bajoria, Babu Baijnath.
Basu, Mr. R. N.
Bhagchand Soni, Rai Bahadur Seth.
Chaudhury, Mr. Brojendra Narayan.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachelam.
Chunder, Mr. N. C.
Das, Mr. B.
Das, Pandit Nilakantha.
Desai, Mr. Bhulabhai J.
Deshmukh, Dr. G. V.
Deshmukh, Mr. Govind V.
Essak Sait, Mr. H. A. Sathar H.
Gadgil, Mr. N. V.
Ghiasuddin, Mr. M.
Ghulam Bhik Nairang, Syed.
Ghuznavi, Sir Abdul Halim.
Gupta, Mr. K. S.
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.

Laljee, Mr. Huseenbhai Abdullahbhai.
Malaviya, Pandit Krishna Kant.
Mangal Singh, Sardar.
Mehar Shah, Nawab Sahibzada Sir
Seyad Muhammad.
Misra, Pandit Shambhu Dayal.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Murtuza Sahib Bahadur, Maulvi
Syed.
Paliwal, Pandit Sri Krishna Dutta.
Pande, Mr. Badri Dutt.
Parma Nand, Bhai.
Ramayan Prasad, Mr.
Ranga, Prof. N. G.
Rao, Mr. M. Thirumala.
Sakeena, Mr. Mohan Lal.
Sant Singh, Sardar.
Santhanam, Mr. K.
Satyamurti, Mr. S.
Shahban, Mian Ghulam Kadir
Muhammad.
Sham Lal, Mr.
Sheodass Daga, Seth.
Siddique Ali Khan, Khan Bahadur
Nawab.
Singh, Mr. Gauri Shankar.
Singh, Mr. Ram Narayan.
Sinha, Mr. Satya Narayan.
Sri Prakasa, Mr.
Subedar, Mr. Manu.
Varma, Mr. B. B.
Zafar Ali, Khan, Maulana.
Ziauddin Ahmad, Dr. Sir.

NOES—45

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab
Sir.
Ahmed, Mr. K.
Aikman, Mr. A.
Ayyar, Mr. N. M.
Bajpai, Sir Girja Shankar.
Bartley, Mr. J.
Boyle, Mr. J. D.
Chambers, Mr. S. P.
Chanda, Mr. A. K.
Chapman-Mortimer, Mr. T.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Cap-
tain.
Damzen, Mr. P. R.
Gorwala, Mr. A. D.
Greer, Mr. B. R. T.
Grigg, The Honourable Sir James.
Hardman, Mr. J. S.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sar-
dar Sir.
Joshi, Mr. N. M.
Kushalpal Singh, Raja Bahadur.
Mackeown, Mr. J. A.
Maxwell, the Honourable Mr. R. M.
The motion was adopted.

Menon, Mr. P. A.
Menon, Mr. P. M.
Metcalf, Sir Aubrey.
Miller, Mr. C. C.
Mukerji, Mr. Basanta Kumar.
Nur Muhammad, Khan Bahadur
Shaikh.
Ogilvie, Mr. C. M. G.
Rahman, Lieut.-Col. M. A.
Row, Mr. K. Sanjiva.
Sheehy, Mr. J. F.
Sher Muhammad Khan, Captain
Sardar Sir.
Sircar, The Honourable Sir Nripen-
dra.
Sivaram, Rao Sahib N.
Sobha Singh, Sardar Bahadur Sar-
dar.
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.
Zafarullah Khan, The Honourable Sir
Muhammad.

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

"That clause 42, as amended, stand part of the Bill."

The motion was adopted.

Clause 42, as amended, was added to the Bill.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir I beg to move:

"That after clause 42 of the Bill, the following new clause be inserted:

'42A. After section 39 of the said Act, the following new section shall be inserted, namely:

'39A. If in the course of the proceedings before any appellate authority, it should appear that any officer or servant of the income-tax department, has in any particular case acted harshly, improperly or unjustly, the said officer and servant shall be punished by the same appellate authority with a fine which may extend to one thousand rupees payable to the aggrieved person:

Provided always that the appellate authority shall give an opportunity to the person concerned to be heard'."

Sir, we have provided all sorts of penalties and punishments for the assessee. Here I want that there should be some provision in the Act for officers who knowingly or maliciously harass the assessee. It is a most equitable demand. Sir, I move.

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

"That after clause 42 of the Bill, the following new clause be inserted:

'42A. After section 39 of the said Act, the following new section shall be inserted, namely:

'39A. If in the course of the proceedings before any appellate authority, it should appear that any officer or servant of the income-tax department, has in any particular case acted harshly, improperly or unjustly, the said officer and servant shall be punished by the same appellate authority with a fine which may extend to one thousand rupees payable to the aggrieved person:

Provided always that the appellate authority shall give an opportunity to the person concerned to be heard'."

The Honourable Sir James Grigg: Sir, I imagine the object of the Honourable Member is to call attention once more to the desirability of the income-tax staff not being tyrannical or capricious, and I will deal with it on that basis. I do not believe that he seriously wants to put it in the Bill but merely wants from me . . .

Mr. N. C. Chunder (Calcutta: Non-Muhammadan Urban): What about the costs which the man has got to incur in the appellate court?

The Honourable Sir James Grigg: There is nothing about costs here. I suggest to the Honourable Member that this is a kind of case which ought to be dealt with by disciplinary action on the part of the departmental authorities themselves. It is quite clear that if any Income-tax Officer were subjected to an adverse verdict of this sort by an appellate authority he could not remain an officer of the department and, therefore, the fine would have to be followed by disciplinary action. I suggest, therefore, that what is required is an assurance from me that we will do everything we can

[Sir James Grigg.]

to see that Income-tax Officers administer the law strictly and justly but not harshly and capriciously, and that if harshness is established against them they will be dealt with suitably,—and harshly!

Pandit Krishna Kant Malaviya: Sir, I beg leave of the House to withdraw the amendment.

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

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

“That clause 43 stand part of the Bill.”

The motion was adopted.

Clause 48 was added to the Bill.

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

“That clause 44 stand part of the Bill.”

Mr. S. P. Chambers: Sir, I beg to move:

“That in part (c) of sub-clause (f) of clause 44 of the Bill, after the words ‘under a duly executed trust deed’ the following be inserted:

‘(including the trustee or trustees under any *Wakf* deed which is valid under the Mussalman *Wakf* Validating Act, 1913).’”

The object of this is merely to remove any doubts that such trusts would in fact come within the meaning of the section. Sir, I move.

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

“That in part (c) of sub-clause (f) of clause 44 of the Bill, after the words ‘under a duly executed trust deed’ the following be inserted:

‘(including the trustee or trustees under any *Wakf* deed which is valid under the Mussalman *Wakf* Validating Act, 1913).’”

The motion was adopted.

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

“That in part (f) of sub-clause (f) of clause 44 of the Bill, in the proposed first proviso, for the words ‘at the maximum rate’ the words ‘at the rate applicable to the total income’ be substituted.”

This is only a matter of wording. The proviso says:

“Provided that where any such income, profits or gains or any part thereof, are not specifically receivable on behalf of any one person, or where the individual shares of the persons on whose behalf they are receivable are indeterminate or unknown, the tax shall be levied and recoverable at the maximum rate:”

The intention is to recover it at the rate applicable to the total income. Sir, I move.

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

“That in part (f) of sub-clause (f) of clause 44 of the Bill, in the proposed first proviso, for the words ‘at the maximum rate’ the words ‘at the rate applicable to the total income’ be substituted.”

Mr. S. P. Chambers: Sir, I oppose the amendment. I think perhaps the object of the clause in the Bill may not have been understood. Where the shares are specifically allocated between different persons then of course the rate applicable will be the rate applicable to that person. That person may be an individual and of course there may be other income. That person may, of course, be a company or something impersonal like a corporation or a club or something like that. Where the shares are not known and they are not determined, quite clearly we cannot determine what the total income is. That is the first point. The second point is that the other person may be a person liable at the maximum rate, and we put this in that where the shares are not specifically known then it should be the maximum rate. It follows the law and the practice in the United Kingdom. Sir, I oppose the amendment.

Mr. T. S. Avinashlingam Chettiar: Sir, I beg leave of the House to withdraw the amendment.

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

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

"That clause 44, as amended, stand part of the Bill."

The motion was adopted.

Clause 44, as amended, was added to the Bill.

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

"That clause 45 stand part of the Bill."

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

"That after part (iii) of sub-clause (c) of clause 45 of the Bill, the following be inserted:

'(iiiia) after the words 'this Act' the words 'except for the calculation of the rate and amount of tax payable' shall be inserted'."

It is provided that for all purposes of this Act the Agent shall be deemed to be the assessee. I take it it is not intended that for the purpose of the rate and the amount of the tax also the Agent should be deemed to be the assessee. The rate should be the rate applicable to the principle and the amount should be the amount applicable to the principal. I have only tried to make it clear. Sir, I move.

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

"That after part (iii) of sub-clause (a) of clause 45 of the Bill, the following be inserted:

'(iiiia) after the words 'this Act' the words 'except for the calculation of the rate and amount of tax payable' shall be inserted'."

The Honourable Sir James Grigg: Sir, I can assure the Honourable Member that his amendment is not necessary, that the Act, as drafted, cannot possibly make the income of the Agent who acts in the name of the principal taxable. With that assurance I hope the Honourable Member will be willing to withdraw the amendment.

Mr. Bhulabhai J. Desai: I want to make one thing clear. In the case where the agent is taxed as the assessee, as the agent of a non-resident foreigner, there being no other standard known as to what the proposed income is, if it is provided that the tax shall be levied at the maximum rate I am quite willing, because, otherwise, there is no other standard which is available.

The Honourable Sir James Grigg: Yes.

Mr. K. Santhanam: Sir, in view of that explanation, I beg leave of the House to withdraw the amendment.

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

Mr. H. S. Town: Sir, I move:

"That in part (v) of sub-clause (a) of clause 45 of the Bill, after the proposed proviso the following further proviso be added:

'Provided further that the amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate except to the extent to which such agent or person may at such time have in his hands additional assets of such non-resident person'."

The proviso will only come into operation when there is disagreement between the agent here and his non-resident principal. In such cases, it is very likely that the agent here will be left with very few funds of his non-resident principal, and it is for that reason that he would go to the income-tax officer and get a certificate as to the amount of tax he has to retain. But, as far as I can see, there is nothing in the Act to stop him being made liable for any greater liability than that shown in the certificate, and we do feel that if the income-tax officer has told the agent that he should retain, say, Rs. 5,000, if he retains that sum and has nothing further in his hands, he should not be liable to pay any greater sum. Sir, I move.

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

"That in part (v) of sub-clause (a) of clause 45 of the Bill, after the proposed proviso the following further proviso be added:

'Provided further that the amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate except to the extent to which such agent or person may at such time have in his hands additional assets of such non-resident person'."

The Honourable Sir James Grigg: Sir, I think, as I understand the subject expounded by Mr. Town, there is a point to be met, and therefore if the House is agreeable the Government raise no objection to this amendment.

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

"That in part (v) of sub-clause (a) of clause 45 of the Bill, after the proposed proviso the following further proviso be added:

'Provided further that the amount recoverable from such agent or person at the time of final settlement shall not exceed the amount specified in such certificate except to the extent to which such agent or person may at such time have in his hands additional assets of such non-resident person'."

The motion was adopted.

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

"That in sub-clause (c) of clause 45 of the Bill, in the proposed sub-section (3), after the word 'business', wherever it occurs, the words 'profession or vocation' be inserted."

I move this for this reason that a profession or vocation may be practised both in British India and in Indian states outside British India, and this provision should apply equally to them along with business. I move.

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

"That in sub-clause (c) of clause 45 of the Bill, in the proposed sub-section (3), after the word 'business', wherever it occurs, the words 'profession or vocation' be inserted."

Mr. J. F. Sheehy: Sir, I beg to oppose this amendment. I think it is inappropriate in this section which deals altogether with business. There is not a word about profession or vocation all-through this section, and it is very difficult to see how it would be appropriate in this section. Sub-section (3) says:

"In the case of a business of which all the operations are not carried out in British India."

You do not talk about the operations of a profession or vocation. I therefore suggest that it is inappropriate here but if the Honourable Member can give instances where the operations of a profession can take place in different places we will consider it

Mr. T. S. Avinashilingam Chettiar: For instance, a doctor can practise both in British India and outside in Indian states.

Mr. J. F. Sheehy: This section does not refer to that sort of thing. It refers for instance to a company buying goods here and selling them abroad or buying things abroad and selling them here. Such transactions are all part of one business or one trade. Therefore, I oppose.

Mr. T. S. Avinashilingam Chettiar: I do not press the amendment, Sir. The amendment was, by leave of the Assembly, withdrawn.

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

"That clause 45, as amended, stand part of the Bill."

The motion was adopted.

Clause 45, as amended, was added to the Bill.

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

Mr. S. P. Chambers: Sir, I move:

"That after clause 45 of the Bill, the following clause be inserted:

'45A: In section 43 of the said Act,—

(a) before the proviso the following proviso shall be inserted, namely:

'Provided that where transactions are carried on in the ordinary course of business through a broker in British India in such circumstances that the broker does not in respect of such transactions deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker who is carrying on such transactions in the ordinary course of his business and not as a principal such first mentioned broker shall not be deemed to be an agent under this section in respect of such transactions.'

(b) in the existing proviso after the word 'Provided' the word 'further' shall be inserted."

[Mr. S. P. Chambers.]

After the very clear explanation of this section by the Honourable the Leader of the Opposition in his speech at an earlier stage of the consideration of this Bill, I hardly think it is necessary for me to say anything about it. If any Honourable Member want any further explanation, I think it can be given at a later stage. Sir, I move.

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

"That after clause 45 of the Bill, the following clause be inserted:

'45A. In section 43 of the said Act,—

(a) before the proviso the following proviso shall be inserted, namely:

'Provided that where transactions are carried on in the ordinary course of business through a broker in British India in such circumstances that the broker does not in respect of such transactions deal directly with or on behalf of a non-resident principal but deals with or through a non-resident broker who is carrying on such transactions in the ordinary course of his business and not as a principal such first mentioned broker shall not be deemed to be an agent under this section in respect of such transactions.'

(b) in the existing proviso after the word 'Provided' the word 'further' shall be inserted."

The motion was adopted.

New clause 45A, was added to the Bill.

Clauses 46 and 47 were added to the Bill.

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

"That clause 48 stand part of the Bill."

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

"That in clause 48 of the Bill, in sub-section (5) of the proposed section 44F, after the word 'liable' the words 'when prosecuted before a magistrate' be inserted."

In this case, Sir, a heavy sum of Rs. 500 is provided as penalty for not submitting a return in time. My suggestion is that, when
4 P.M. such a heavy fine is to be imposed, this power should not be given to an income-tax officer, but the matter should be decided by a magistrate.

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

"That in clause 48 of the Bill, in sub-section (5) of the proposed section 44F, after the word 'liable', the words 'when prosecuted before a magistrate' be inserted."

Mr. S. P. Chambers: Sir, I oppose this amendment. The section in question is a very long one and deals with a technical question. I hope I need not explain that such a penalty can only apply to a very wealthy person who is paying super-tax. The penalty provisions are dealt with in general by the Income-tax officer, and it will be dealt with here also by the Income-tax officer, and he will be subject to the control of the Inspecting Assistant Commissioner, and I suggest that these officers are

more competent to deal with a very difficult technical matter than a court which has not specialised in such matters. Sir, I oppose the amendment.

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

"That in clause 48 of the Bill, in sub-section (5) of the proposed section 44F, after the word 'liable', the words 'when prosecuted before a magistrate' be inserted."

The motion was negatived.

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

"That clause 48 stand part of the Bill."

The motion was adopted.

Clause 48 was added to the Bill.

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

"That clause 49 stand part of the Bill."

The Honourable Sir James Grigg: Sir, may I offer a few observations on clause 49. To this clause we have down an amendment which is part of the general compromise in relation to clause 4 and allied subjects. I do not think that this raises any question of principle, and if the House is willing to take it up now, I should be quite glad; but if, on the other hand, they would like to take it up later, I have no objection to postponing it.

Mr. Bhulabhai J. Desai: You can take it after 4 and 5.

Mr. President (The Honourable Sir Abdur Rahim): The Chair takes it, the House agrees.

Several Honourable Members: Yes.

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

"That clause 50 stand part of the Bill."

The motion was adopted.

Clause 50 was added to the Bill.

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

"That clause 51 stand part of the Bill."

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

"That in clause 51 of the Bill, to sub-section (4) of the proposed section 48, the following be added at the end:

'or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act of 1939, which he would not be entitled to claim but for the passing of that Act'."

Sir, section 48 relates to refund of income-tax. In the old section, under sub-section (5) of section 48, relief of refund was not allowed to certain persons. It is said here:

"Nothing in this section shall entitle to any refund any person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, nor a subject of a State in India."

[Mr. M. Ananthasayanam Ayyangar.]

Thus, sub-section (5) of section 48 as it stands does not allow refunds to such of those persons who are either subjects of a State in India or who are not residents in British India and are not British subjects. Now that sub-section (5) is omitted in the new amendment, it means that even retrospectively there is no objection to allowing refund to such persons who were not entitled to a refund under the present Act. Under this Bill it is provided that if they pay income-tax after the passing of this Act they may be entitled to a refund. That is the amended provision, but as sub-section (5) has not been carried forward, this may enable the payment of a refund even in cases where income-tax was paid before the coming into existence of the Income-tax Act. I suppose I have made myself clear.

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

"That in clause 51 of the Bill, to sub-section (4) of the proposed section 48, the following be added at the end:

'or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act of 1939, which he would not be entitled to claim but for the passing of that Act.'"

Mr. S. P. Chambers: Sir, I oppose this amendment, and I oppose it on these grounds that the original section had in it under sub-section (5) these words:

"Nothing in this section shall entitle to any refund any person not resident in British India who is neither a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, nor a subject of a State in India."

That is to say, no person who is a foreigner in all senses of the word could claim a refund. In the Bill we have made provision for the deduction at source of tax which was formerly not deductible at the source. We have also provided for the deduction of super-tax in certain cases. It may happen that in some cases that tax has been deducted in excess of the true liability of that person, in particular you may get tax deducted by an agent on behalf of a non-resident, and it may prove, ultimately, that the liability from a business or from some other source is less than tax which has been deducted at source, and for that reason we must have some power to refund to those persons who have suffered at source excessively. There is no question of the section granting any refund which is not otherwise grantable under the Act, that is to say, a non-resident chargeable to income-tax at the maximum rate and also to super-tax, will not get any reduction in that, there is no question of reducing that at all, but we must have some provision for refunding to him in any case in which the tax deducted at source is in excess of his true liability.

Mr. M. Ananthasayanam Ayyangar: It should not have retrospective operation.

Mr. Bhulabhai J. Desai: I am afraid my Honourable friend has not understood the amendment at all in opposing it. The amendment is this:

"Or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act of 1939, which he would not be entitled to claim but for the passing of that Act."

If my Honourable friend opposite will appreciate that, he will see what we want to avoid is this. Under the old Act, a person was entitled to refund. He ought not to get it as the section would read along with these words. The beginning of the section is this. There is no claim to any refund of income-tax or super-tax under this chapter unless made within four years. That was not the provision before. Four years is the new provision.

The Honourable Sir James Grigg: That provision is not retrospective.

Mr. Bhulabhai J. Desai: What we want to do is to see that what he would not get but for this Act he ought not to get.

The Honourable Sir James Grigg: Questions of refunds, just as carry forward of losses and the reopening of cases under 94 may not go back to cases which are not now open. So there is no possibility of retrospection in that matter.

Mr. Bhulabhai J. Desai: That is precisely what we say. All that we want to do is this—to take care to see that any relief which, but for this Act, he was not getting he should not get by reason of this Act. That is a very necessary provision.

Sir Cowasji Jehangir: Am I to understand from the Leader of the Opposition that he said that clause 51 does not provide specifically that it shall not have retrospective effect and he wants to make the meaning clear?

Mr. Bhulabhai J. Desai: It might be treated as having retrospective effect. We want to make it quite clear. It is the common intention of both of us that it should have no retrospective effect.

The Honourable Sir James Grigg: I am sorry if we misunderstood the point at issue. We could not hear very well the Honourable Member who moved the amendment. So it is not entirely our fault. I do not think that the case can arise. Subject to the safeguard that if on examination we find that it does more than what the Honourable Member intends we should be at liberty to move amendments in another place, I raise no objection.

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

"That in clause 51 of the Bill, to sub-section (4) of the proposed section 48, the following be added at the end:

'or to entitle any person to claim a refund of tax payable before the commencement of the Indian Income-tax (Amendment) Act of 1938, which he would not be entitled to claim but for the passing of that Act.'"

The motion was adopted.

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

"That clause 51, as amended, stand part of the Bill."

The motion was adopted.

Clause 51, as amended, was added to the Bill.

Clause 52 was added to the Bill.

(Consideration of clauses 53, 54, 55 and 56 was postponed.)

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

"That clause 57 stand part of the Bill."

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

"That for sub-clause (c) of clause 57 of the Bill, the following be substituted:

'(c) the existing proviso shall be omitted'."

Section 50 provides for refunds. The present amendment to section 50 extends the time for applying for refunds to four years. The next two provisos provide for the transitory provisions and they read this way:

"Provided that where the claim is to a refund of income-tax or super-tax paid prior to the commencement of the Indian Income-tax (Amendment) Act, 1938, the claim shall not be allowed unless it is made within one year."

There is a further proviso which seeks to give an additional year's time to refunds that may be claimed under section 49. This is how it reads:

"Provided further that a claim to refund under section 49 of the tax paid prior to the commencement of the Income-tax amendment Act may be admitted after the period of limitation herein prescribed, when the applicant satisfies the Commissioner, or an Assistant Commissioner of Income-tax specially empowered in this behalf by the Central Board of Revenue, that he had sufficient cause for not making the claim within such period."

I do not see any reason for this differentiation between the refunds that may be claimed under other sections and the refund that may be claimed under section 49. Those people who want to claim refund under section 49 cannot in any case be considered ignorant. They are well versed in law and the law till now applicable is that they must apply within one year and there is no reason why an additional year should be given to them for applying for refunds. So, I think that this additional proviso is unnecessary. I, therefore, move my amendment.

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

"That for sub-clause (c) of clause 57 of the Bill, the following be substituted:

'(c) the existing proviso shall be omitted'."

Mr. J. F. Sheehy: I think the Honourable Member is under a misconception. As the law stands at present, there is a proviso to section 50 which says that the claim to refund under section 49 may be admitted after the period of limitation. If the Honourable Member will look at the bottom of the left hand column in the "concordance", he will see that this is in the present law. We are merely repeating it. The reason for the differentiation between claims under 49 and claims under other sections is that people who pay double income-tax in the United Kingdom find a lot of difficulty in getting certificates in time. Sometimes they are a year or two late and then they cannot establish their claim. That is why the income-tax authorities have discretion to extend the time within which they can make the claim.

Mr. S. Satyamurti: The Government have not made out a case against the amendment. I should like them to examine it.

The Honourable Sir James Grigg: Before the Honourable Member makes his case against the Government case, I should like to point out that the proviso has been altered by Government so as to apply only to the old tax (not the tax after the new law) which has been paid before this Act comes into operation. It merely keeps alive that proviso for that tax only and for no new taxes whatever. It is a dying provision.

Mr. S. Satyamurti: Let it die, as early as possible!

Mr. T. S. Avinashilingam Chettiar: I ask for leave, Sir, to withdraw my amendment

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

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

"That clause 57 stand part of the Bill."

The motion was adopted.

Clause 57 was added to the Bill.

Clauses 58 and 59 were added to the Bill.

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

"That clause 60 stand part of the Bill."

Qazi Muhammad Ahmad Kasmi (Meerut Division: Muhammadan Rural): Sir, I move:

"That clause 60 of the Bill be re-numbered as clause 60 (a), and to the clause, as so re-numbered, the following be added:

'(b) for the words 'be deemed to have committed an offence described in section 177 of the Indian Penal Code' the words 'be punished with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both. The said offence will be bailable and non-cognizable' shall be substituted'."

The reason for this amendment is that, as a legislature, we cannot define that a particular thing shall be deemed to be an offence under section 177 of the Indian Penal Code. It is for the judge to decide, after hearing the case, whether all the elements of section 177 of that Act are to be found or not in a particular case. At present, we are saying that any person who does such and such a thing shall be deemed to have committed an offence described in section 177 of the Indian Penal Code. The latter section provides certain ingredients for the offence and they have to be proved before the offence can be said to have been committed under that section. It is not for this Legislature to say that such and such things will be an offence under section 177. What we can do is only to make a particular act punishable if we so like to do. For that reason what I have done is to substitute the punishment that is given under section 177. With this change our intention can easily be carried out. We also provide that the offence would be bailable and non-cognizable. All these things will be contained in the Act itself. With these words, I move this amendment.

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

"That clause 60 of the Bill be re-numbered as clause 60 (a), and to the clause, as so re-numbered, the following be added:

'(b) for the words 'be deemed to have committed an offence described in section 177 of the Indian Penal Code' the words 'be punished with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both. The said offence will be bailable and non-cognizable' shall be substituted'."

Mr. M. S. Aney: Sir, my Honourable friend, Mr. Kazmi, is rather under a misapprehension. If he is prepared to provide for some kind of punishment, he must be prepared to say that it is an offence in some form or another, and the proper section under which an offence for a false statement can come is section 177 of the Indian Penal Code. That is the only section, so far as I can see, under which he can be proceeded against. Unless you call it an offence, you cannot provide any punishment for that. By merely providing a punishment, unless you say that it is an offence in one form or another, what is the form of offence committed? If a man makes a false statement in an income-tax inquiry, he should be punished like this. It is a new offence, you are creating outside the category of offences provided in the Indian Penal Code. Of course a local law can provide for a punishment in this sense that it infringes some other provisions of this law. Then it is a special offence under a special law. So far as the present Bill is concerned, I have not been able to find any clause and any provision which can be picked up so that we can say that by making a false statement of facts he is infringing that particular section or particular clause of this Bill, and, as he has not infringed any such particular clause of this Bill, then he cannot be treated as having committed a special offence under this special law. But we know that a false verification, etc., is already provided for elsewhere as an offence under the general Penal Statute, and, therefore, it being an offence under that, there is not necessity of providing a separate punishment under this law. One of two things you must say whether it shall be an offence under this law. You will have to say this. If a man does this, it shall be an offence under the income-tax law and he shall be proceeded against accordingly or punished. As it is worded, it is not capable of being construed in the way in which probably my Honourable friend, the Leader of the Opposition, seems inclined to interpret it. As far as I can understand I have not been able to appreciate the significance of the amendment of my Honourable friend, Mr. Kazmi.

Mr. Bhulabhai J. Desai: Sir, it requires some courage on my part to explain a matter that is not clear to my Honourable friend with his wide experience of criminal law and practice. But I wish to respectfully submit this to him. He has read the very section itself, 177, but I will read the one that follows, 178 or 179 only as a matter of illustration to explain my point:

"179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any questions demanded of him touching that subject by such public servant, etc. . . . shall be punished, etc. . . ."

In other words, every law that prescribes a punishment merely prescribes the conditions which we would popularly call the offences, but it is not at all necessary in any Act whatever to say that "whoever, being bound

to say the truth, does not say the truth is deemed to have committed an offence, commits the offence of telling an untruth". That is not at all necessary. The first point that I wish to make clear to my Honourable friend is this, that all you need say is this: "Whoever being required to do a particular act fails to do it shall be punished." That is enough to create it an offence in the sense in which we normally describe it. But it is not necessary to write in law that "whoever being required to do an act fails to do so shall be guilty of an offence" and then proceed to describe the nature of the offence. That is not at all required by law. My Honourable friend may look through any number of sections—in fact, every section of the Indian Penal Code—and I am sure that he will bear me out. I will now read section 177 under which this is supposed to be an offence:

"Whoever, being legally bound to furnish information on any subject to any public servant, as such furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment . . ."

There is no reference in section 177 that "whoever, being legally . . . fails so to do, is guilty of an offence for furnishing false information and shall be punished". In other words, an act or an omission becomes an offence by reason of the punishment attached to it. That is my first answer to him. But our real difficulty is what you may call the real legal conscience in this matter, not that the object which my Honourable friend has in mind is not carried out. All I am trying to say is that we do not describe a thing deemed to be an offence as a thing which is not known hitherto at all.

Mr. M. S. Aney: I agree with you on that point.

Mr. Bhulabhai J. Desai: You cannot possibly say that, if I scoff at my Honourable friend, I am deemed to have committed murder. You cannot have such a law. You may say that if I scoff at my Honourable friend, I shall be punished with imprisonment which may extend to life. That I appreciate. But you cannot possibly say that if I do a thing which is not provided for in this section, then I am deemed to have done the thing and be punished accordingly. That is really the mistake about it. When you say that if a person states an information as being true which he knows to be false shall be punished, you have created an offence and there is no objection to it and it will be a perfectly good section in the Indian Penal Code or in any Code, and inasmuch as this Legislature has the right to create as regards any act or omission which you think is improper that it shall be treated as punishable, then you provide for it.

Mr. M. S. Aney: Let me point out one more difficulty which my Honourable friend may answer also. Suppose that satisfies the requirements of section 177. Under many local Acts, when offences are provided like that, it is also left open to proceed against the offender under general statute also. I can point out a number of instances of that kind. If we make out an offence under this Act, then it is possible that he can be prosecuted under this Act as well as under section 177 in case it satisfies the ingredients of that section. Are you providing against this double prosecution? That is another point which I want you to consider.

Mr. Bhulabhai J. Desai: I quite agree with my Honourable friend, but that danger can be met by omitting the words "without prejudice to any other penalty to which he may be liable under the Indian Penal Code". It

[Mr. Bhulabhai J. Dessai.]

is they who have made it cumulative; we have not made it cumulative. If my Honourable friend will read section 177, he will find that it meets the point that he is trying to make. I will quote section 177 again:

"Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished."

Stop at that for the purpose of my point. You will see that every kind of information that is called for under this Act falls under the general provisions of section 177, and, therefore, you do not need anything new, but if you examine it in some detail, you will find that there are certain types of things which will not fall within the general words "being legally bound to furnish information". Supposing you are called upon to produce books, in my humble judgment that would not fall within the words "being legally bound to furnish information". While examining several of the ingredients in clause 52, I was able to see that only some of them would be an offence under section 177. Therefore, what I felt was—and that is the whole point I come back to again—that you can make every one of untrue statements which you wish to punish as punishable. With that I have no dispute. All that I am saying is this that I do not wish that a man must be deemed to have committed an offence under a section if the constituent elements of that are not satisfied by that particular act or omission. Therefore, as I said, it is purely a matter of legal conscience, and I hope my Honourable friend, the Leader of the House, will assist us in solving this canon. Sir, I support the amendment.

Mr. J. Bartley (Government of India: Nominated Official): Sir, I need only say that I entirely sympathise with the intention of the Mover of this amendment to substitute a simpler form of expression for the curious round-about illusive wording that was in the original section. The only reason why I desire to speak at all is to point out to the Mover of the amendment that the sentence "The said offence will be bailable and non-cognizable" is unnecessary, because, under the provisions of the second part of the Schedule to the Criminal Procedure Code, it is *ipso facto* bailable and non-cognizable. So, if, with the permission of the Honourable the President, the last sentence were left out . . .

Qazi Muhammad Ahmad Kasmi: I may just explain that section 177 is bailable and non-cognizable, but the offence that you are creating by this Act is a separate offence, and it is not described anywhere else. Therefore, you have got to say whether it is bailable or cognizable.

Mr. J. Bartley: The second part of the Schedule of the Criminal Procedure Code applies to offences under other Acts. So, this offence will be bailable and non-cognizable, and the last sentence, therefore, is unnecessary. If the amendment were moved without the last sentence, we won't be leaving out anything which is necessary.

Mr. President (The Honourable Sir Abdur Rahim): Is that agreed?

Qazi Muhammad Ahmad Kasmi: Yes, Sir.

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

"That clause 60 of the Bill be re-numbered as clause 60 (a), and to the clause, as so re-numbered, the following be added:

'(b) for the words 'be deemed to have committed an offence described in section 177 of the Indian Penal Code' the words 'be punished with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both' shall be substituted'."

The motion was adopted.

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

"That clause 60, as amended, stand part of the Bill."

The motion was adopted.

Clause 60, as amended, was added to the Bill.

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

"That clause 61 stand part of the Bill."

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

"That in sub-clause (a) of clause 61 of the Bill, after the words 'Inspecting Assistant Commissioner' the words 'or before giving the person notice to show cause why he should not be proceeded against under sections 51 and 52' be inserted."

This merely provides that before any case is taken up by the Income-tax officer, he must give notice to the person to show cause why he should not be proceeded against. Section 53 reads as follows:

"A person shall not be proceeded against for an offence under section 51 or section 52 except at the instance of the Assistant Commissioner."

I want to add "before giving the person notice to show cause why he should not be proceeded against under sections 51 and 52". Sir I move.

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

"That in sub-clause (a) of clause 61 of the Bill, after the words 'Inspecting Assistant Commissioner' the words 'or before giving the person notice to show cause why he should not be proceeded against under sections 51 and 52' be inserted."

The Honourable Sir James Grigg: Sir, I do not like this amendment, because it seems to me that we are merely carrying one stage further the process of interposing delays in the pursuit of the offender by the income-tax administration. But in this case the breach in the powers of the armoury of the Income-tax officer is a comparatively small one. So, if it is the general desire of the House, I do not propose to resist it very strongly, but I would like to plead with Honourable Members not continually to move amendments thus making it more and more difficult for the income-tax administration to chase the defaulter.

Mr. T. S. Avinashilingam Chettiar: I beg leave of the House to withdraw the amendment.

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

Mr. H. Ananthasayanam Ayyangar: Sir, I beg to move:

"That in sub-clause (b) of clause 61 of the Bill, all the words occurring after the words 'any such offence' be omitted."

[Mr. M. Ananthasayanam Ayyangar.]

Under section 53 (2), it is open to the Assistant Commissioner to stay proceedings or compound any offence either before or after the institution of the proceedings. But in the present Bill it is said that after the prosecution is launched, if he wants to compound any offence it can only be done with the leave of the Court. I want to delete all the words occurring after "any such offence". It is the Income-tax Commissioner that is responsible for the launching of the prosecution and he, therefore, is expected to know much more about it and if he gives permission to compound any offence why should the Court's leave be tagged on to it. Sir, I move.

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

"That in sub-clause (b) of clause 61 of the Bill, all the words occurring after the words 'any such offence' be omitted."

The motion was adopted.

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

"That clause 61, as amended, stand part of the Bill."

The motion was adopted.

Clause 61, as amended was added to the Bill.

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

"That clause 62 stand part of the Bill."

Mr. J. F. Sheehy: Sir, I beg to move:

"That in part (ii) of sub-clause (b) of clause 62 of the Bill, in the proposed clause (i), for the words 'Burma or Ceylon, or of any State in India', the words 'or of any Indian State or of any part of His Majesty's Dominions' be substituted."

Sir, the idea of the clause we are amending is to enable the Income-tax Department to disclose particulars to countries with which we have double income-tax relief arrangements. After this clause was drafted it was discovered that although we had double income-tax relief arrangements with Aden, it was not possible for us to make any disclosures and, consequently, we put down this amendment which is in line with the amendment we have put down in clause 54. Sir, I move.

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

"That in part (ii) of sub-clause (b) of clause 62 of the Bill, in the proposed clause (i), for the words 'Burma or Ceylon, or of any State in India', the words 'or of any Indian State or of any part of His Majesty's Dominions' be substituted."

The motion was adopted.

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

"That in part (ii) of sub-clause (b) of clause 62 of the Bill, after the proposed clause (i), the following be added:

'(m) of such facts to an Officer of a Provincial Government or to a court as may be necessary to give effect to any Act of a Provincial legislature'."

Sir, I shall give only one instance to show how this amendment is absolutely necessary. In the Madras legislature they have passed an Act called the Agriculturist Debt Relief Act in which any one who pays income-tax, does not get the advantage of the Act. Therefore, unless the Provincial Government can get information from the Income-tax officer whether

a particular person pays income-tax or not, they would not be able to give effect to the provisions of that Act. Similar Acts may be passed in other Provincial Legislatures. Therefore, it is necessary that we should have a provision like this and this amendment has been framed to limit it to the necessary extent, that is as may be necessary to give effect to any Act of the Provincial legislature. Therefore, I think the House ought to accept this amendment.

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

"That in part (ii) of sub-clause (b) of clause 62 of the Bill, after the proposed clause (I), the following be added:

'(m) of such facts to an Officer of a Provincial Government or to a court as may be necessary to give effect to any Act of a Provincial legislature'."

The Honourable Sir James Grigg: I think the Honourable Member will agree on reflection that this amendment goes much further than he wants to go and much further indeed than it ought to go. In the section, as drafted, we have got to provide for disclosure of information to enable a Provincial Government to levy or realise any tax imposed on agricultural income. That is provided for. We were advised, I think that the disclosure of the fact to a Returning officer that a man was an Income-tax payer did not come within the damage of the section. Nevertheless through the pressure of my Honourable friend, Mr. Satyamurti, we inserted that specific provision in the section in order to make that remove any possible doubt. And I quite see that in the case that the Honourable Member refers to it is quite right to disclose that the man is an income-tax payer. The clause goes much further than that, and I think it is better for him to allow us to consider the matter in consultation with him before we get to the Council of State and see if anything is required. I am quite sure that this will be absolutely terrifying if for the purpose of any provincial legislation which the womb of time may produce disclosure may take place. It is really going a very great distance indeed.

Mr. S. Satyamurti: Sir, I suggest that my Honourable friend is painting a too dreadful picture. I want him to read the actual words of the amendment. The amendment says: "to an Officer of a Provincial Government or to a court". It is not as if anybody can ask for this information. It has to be given either to a court or to a Provincial Government; and for such purpose "as may be necessary to give effect to any Act of a Provincial Legislature." So far as agricultural income is concerned, it will not cover the case mentioned by my Honourable friend. He referred to the Agricultural Debt Relief Act of the Madras province, in which all income-tax assesses have got to be ascertained by those who have got to administer the Act either as executive officers or as judicial officers. I am quite content to take the assurance of my Honourable friend that he will try and do something in the other place. But supposing he does not, and if the Bill comes back as it is, I do not think, at that stage, it will be open to this House to move amendments in respect of those clauses which have not been touched by the other House. Therefore, it seems to me that we cannot take that assurance, not because we have no trust in the Honourable Member, but because the rules and standing orders under which we work are such that if in the other place the amendment is not moved and accepted, this House will be powerless. I am quite content to have this wording

[Mr. S. Satyamurti.]

restricted in any manner which my Honourable friend may suggest; but the assurance he gives will not satisfy the purposes. And after all, Sir, there will be many occasions where the provincial legislative Acts may require such information to be given to officers and courts for carrying out their legislative purposes. I, therefore, suggest that Government will be well advised to reconsider their attitude, and let it stand over if necessary and have a talk with the Leader of the Opposition and suggest some means by which, without giving too much information, at any rate Government will not give too little information. I quite agree that we may allow this to stand over till tomorrow morning. In the meantime, the Finance Member and the Leader of the Opposition can have a talk and evolve a formula which will be acceptable for the purpose of the Provincial Legislatures, who have not got this power.

The Honourable Sir James Grigg: Sir, the one case which is sought to be covered we believe is covered already, that the disclosure of the fact that the man is an income-tax payer to a Returning Officer or a Provincial Government does not come within the damage of the section. We are advised to that effect. That being so, the special case which the Honourable Member wants to meet is not within the damage of the section. And all I say is that it will be necessary to look at this in all its aspects and try to conceive any kind of legislation which may be produced before it is safe to put in any clause of this sort. I do not honestly think that it is fair to expect us, when there is a good deal of work and activity going on including that relating to clause 4 and so on to try and find a waterproof and watertight clause by tomorrow morning. I suggest that the offer I made is really all that the Honourable Member is entitled to ask.

Mr. Bhulabhai J. Desai: Sir, I really ask a question in this House. I fortunately belong to that category, because I like to provide information to myself. But my Honourable friend stated, I believe on legal advice, that information can be conveyed, for the purpose of debt relief, for example. If my friend will call attention to the section, I have no desire to carry it any further, because supposing there is any further legislation, this Act can be amended. If I call a witness and ask him whether he pays income-tax, and he says he does not, I do not desire to call evidence to prove that he does. I at once admit it is too wide, but

The Honourable Sir James Grigg: In any case, I do not wish to pursue the legal argument, but perhaps I can supplement my pledge and say that if I am unable between now and the Council of State to convince the Leader of the Opposition that this particular piece of legislation is not covered, at any rate we can insert that in the Council of State.

Mr. Bhulabhai J. Desai: I shall be content with that.

Mr. K. Santhanam: Sir, in these circumstances, I beg leave of the House to withdraw the amendment.

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

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

"That clause 62, as amended, stand part of the Bill."

The motion was adopted.

Clause 62, as amended, was added to the Bill.

(Consideration of clause 63 was postponed.)

Clauses 64 to 67 were added to the Bill.

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

"That clause 68 stand part of the Bill."

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

"That in clause 68 of the Bill, after the word 'respectively' the words 'and in subsection (4) as so re-numbered after the word 'recognise' the words 'or an order withdrawing recognition' shall be inserted', be inserted."

The Honourable Sir James Grigg: Sir, I suggest that if the Honourable Member puts the word "from" after the word "recognition", it is acceptable to us.

Mr. M. Ananthasayanam Ayyangar: Sir, I have no objection.

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

"That in clause 68 of the Bill, after the word 'respectively' the words 'and in subsection (4) as so re-numbered after the word 'recognise' the words 'or an order withdrawing recognition from' shall be inserted', be inserted."

The motion was adopted.

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

"That clause 68, as amended, stand part of the Bill."

The motion was adopted.

Clause 68, as amended, was added to the Bill.

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

"That clause 69 stand part of the Bill"

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

"That in sub-clause (b) of clause 69 of the Bill, after the word 'concerned' the words 'or one thousand rupees whichever is less' shall be inserted."

This refers to exemption from tax of interest on provident fund accumulations. It is now provided that up to one-third of the salary interest may be exempted. Sir, one-third of the salary, for a person who is drawing Rs. 2,000 a month, will come to Rs. 8,000. Now, with the previous exemptions, up to 10 or 15 thousand rupees a year may become exempt. I do not see why after allowing exemption for contributions to provident fund, after making other allowances for life insurance premia, etc., we should again be asked to allow exemption for interest on the provident fund accumulations up to one-third of the salary. So, I want to put a reasonable limit of Rs. 1,000 as tax-free.

The Honourable Sir James Grigg: Sir, I suggest that if the Honourable Member is moving an amendment to restrict relief he increases the charge on the subject, and it, therefore, requires previous sanction so that he is put of order.

Mr. K. Santhanam: This is not an amendment of the original section but an amendment of the clause.

Mr. President (The Honourable Sir Abdur Rahim): There is no difference.

Mr. K. Santhanam: He has brought a proposal before the House putting a limit beyond which it is not allowable.

Mr. President (The Honourable Sir Abdur Rahim): That makes no difference.

Mr. S. Satyamurti: On a point of order, Sir, I want him to point out the section. Which is the section?

Mr. President (The Honourable Sir Abdur Rahim): It has been ruled over and over again and it is the practice of the House on **S. R.** the basis of the constitutional principle that no taxation or burden can be imposed on the subject without the sanction of the Governor General. There have been a number of rulings to that effect.

Mr. Bhulabhai J. Desai: Sir, the matter depends on section 141 of the Government of India Act

Mr. President (The Honourable Sir Abdur Rahim): Apart from that also

Mr. S. Satyamurti: You must at least hear us. I think it is a point of great importance.

Mr. President (The Honourable Sir Abdur Rahim): The Chair has considered it. The practice has been accepted by this House all along that if any proposal imposes any burden on the subject, in that case the sanction of the Governor General is necessary.

Mr. Bhulabhai J. Desai: The whole point is this. It is not a case in which an exemption exists under the law. I quite agree that if an exemption exists under the law and it is sought to be taken away by taxing, I can appreciate your point. The point I do not appreciate is this: This is merely a proposal to tax; there is no tax yet. The Bill is merely a proposal either to tax or to exempt and the question is now, are we bound to accept the proposal as they bring it?

Mr. President (The Honourable Sir Abdur Rahim): As the Chair understands it, in the original section there was a relief given in the existing Act. The Bill proposes to restrict that relief to a certain extent and the Honourable Member proposes to restrict it still further, and therefore, it is quite clear that in so far as it restricts relief, it increases the tax on the subject.

Mr. Bhulabhai J. Desai: I quite agree: if my Honourable friend will point out to me that under the existing Act the relief exists which I am seeking to restrict, I will at once withdraw; but that is not the law as I understand it: the Honourable Member cannot get away with mere words. If my friend points out now or at any other time that under the present statutes this is exempt

Mr. President (The Honourable Sir Abdur Rahim): The Chair understands, his argument is that he wants to give certain relief under this Act or to restrict the relief which is given by the existing law. The amendment wants to restrict further this relief. That is what the Chair understands it to be.

The Honourable Sir James Grigg: The original section says:

“Such interest shall be exempt from deduction of income-tax.”

The new clause as you find it in the Bill says “if and so far as it does not exceed one-third of the salary of the employed for the year concerned.”

Mr. Bhulabhai J. Desai: If that is the section of the Act, I entirely agree.

Mr. M. Ananthasayanam Ayyangar: I rise to another point of order. It is not open to you, Sir, under section 19 (a) to decide this matter

Mr. President (The Honourable Sir Abdur Rahim): The Chair has ruled only the other day that it is certainly for the Chair to rule. If the Chair feels any doubt about it, then it would be different.

Mr. M. Ananthasayanam Ayyangar: Will you kindly see the ruling?

Mr. President (The Honourable Sir Abdur Rahim): The Chair is not bound to see it again and again.

Mr. M. Ananthasayanam Ayyangar: Rule 19 is so clear

Mr. President (The Honourable Sir Abdur Rahim): That was discussed the other day.

Mr. S. Satyamurti: Why not hear us, Sir?

Mr. President (The Honourable Sir Abdur Rahim): The Chair is not bound to hear the same point of order over and over again. The point of order was raised, and the Chair has given its ruling.

Mr. M. S. Aney: Can another point of order not be raised if one point of order is disposed of? There is another point of order that strikes the Honourable Member and can it not be raised?

Mr. M. Ananthasayanam Ayyangar: Page 127 of the Manual—19A (2) says

Mr. President (The Honourable Sir Abdur Rahim): That is exactly the point on which the Chair gave a ruling the other day.

Mr. M. Ananthasaynam Ayyangar: May I say that that was a different matter altogether. This is altogether a different subject. I will refer to page 27 of the Manual. The other day we were referring to para. 76 at page 81:

"Any Member, other than a Member of the Government, desiring to move for leave to introduce a Bill, shall give notice of his intention, and shall, together with the notice submit a copy of the Bill, etc., etc."

Then you were referring to sub-section (3):

"If any question arises whether a Bill is or is not a Bill of the nature referred to in sub-paragraph (2) the question shall be referred to the Governor General. . . ."

Mr. President (The Honourable Sir Abdur Rahim): That is not the point at all. The Honourable Member is thinking of some other previous occasion. It is this rule No. 19A which the Chair interpreted—that under sub-section (1) the Chair has got to hold whether it requires previous sanction or not. The Chair rules this amendment out of order.

The question is:

"That clause 69 stand part of the Bill."

Mr. K. Santhanam: Sir, I wish to speak on this clause.

Mr. President (The Honourable Sir Abdur Rahim): Will the Honourable Member resume his seat? The Chair has put the question . . .

Mr. K. Santhanam: But, Sir, I rose as soon as you put the clause.

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

"That clause 69 stand part of the Bill."

The motion was adopted.

Clause 69 was added to the Bill.

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