

# COUNCIL OF STATE DEBATES

TUESDAY, 28th SEPTEMBER, 1937

Vol. II—No. 7

## OFFICIAL REPORT



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# COUNCIL OF STATE.

*Tuesday, 28th September, 1937.*

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The Council met in the Council Chamber at Viceregal Lodge at Eleven of the Clock, the Honourable the President in the Chair.

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## MEMBER SWORN:

The Honourable Mr. Hugh Dow (Commerce Secretary).

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## STATEMENT RE SUPPLEMENTARY QUESTIONS.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU** (United Provinces Northern: Non-Muhammadan): Before the business of the day begins may I ask you for your permission to make a submission to you.

**THE HONOURABLE THE PRESIDENT**: Most certainly.

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU**: On the 22nd instant you referred to the limits within which supplementary questions could be put and said that you were collecting material to give your considered opinion on the subject. You expressed yourself strongly on the subject and as you know this has caused dissatisfaction on this side of the House, especially because the right of putting supplementary questions has been exercised on few, too few, occasions in this House. We are therefore naturally anxious to know what our rights in regard to asking supplementary questions are and hope that you will soon be able to clear up the position and give a decision which will enable us to discharge fully our duties as the representatives of the people. It has always been your endeavour to secure for Members of the Council of State the same rights as are enjoyed by Members of the Assembly. We therefore trust that your ruling will enable us to enjoy equal opportunities of eliciting information on matters of public importance from Government with the Members of the other House. We hope, however, that it will be possible to take steps to restore harmony even before you announce your final decision. It is our earnest desire to co-operate with you in maintaining the dignity and privileges of this House and we can assure you that it has always been our endeavour to help the Chair to regulate the proceedings in such a way as best to serve the public interests.

**THE HONOURABLE THE PRESIDENT**: Honourable Members and the Honourable Mr. Kunzru, I am glad that you have given me this opportunity of removing a serious misunderstanding and misapprehension under which your Party is labouring. I am myself most anxious to maintain the most harmonious relations between the Chair and this House. (Applause.) And

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[Mr. President.]

it is my constant desire, my great ambition ever since I occupied this Chair to put this House on the level of the best Legislatures in the world and that the dignity and prestige of this House, which is the second premier House in the Empire, should be fully maintained. As regards my rulings there have been unfortunately three rulings on this point. Some of the Members are new and are not aware on what grounds I gave those rulings; secondly, I say with great respect, many of you Gentlemen are unacquainted with Parliamentary practice in other Parliaments and in the House of Commons. I think it is right, instead of using any words, to quote my three rulings *in extenso* which will give you all satisfactory and full explanation, and if you will very kindly give your careful attention to them, I feel absolutely sanguine that you will agree with the propriety of those rulings.

The first ruling which I gave in this House was on the 28th of September in the last Simla session, when on account of this growing practice of putting many supplementary questions, I thought it my duty in general terms to explain the position to Honourable Members as regards that extent to which the privilege of putting supplementary questions could be fairly exercised. As many of you were not present then it would be of interest to you. In that ruling I said :

“ I am afraid some Honourable Members are under a misapprehension regarding the right of putting supplementary questions, and I would therefore take this opportunity of enlightening them on that point. The object of a supplementary question is only to clear up any ambiguity in the reply of the Government Member. This power is not meant to be exercised for the purpose of putting several new questions which may have a remote bearing on the question replied to, nor is this power to be exercised for the purpose of heckling Government Members and to extort from them information on certain matters which are wholly irrelevant. This procedure has not been correctly understood. If any point arises out of the actual answer, the Honourable Member is fully entitled to put any number of supplementary questions ”—Mark the words *any number of supplementary questions*. “ The power to put questions by giving notice is amply and adequately provided for by the Standing Orders and I therefore request Honourable Members to bear in mind that this power is not to be widely and loosely exercised but should be exercised only in cases where further information arising from the answer given by the Government Member is necessary. The Honourable Rai Bahadur Lala Ram Saran Das's question can be put by giving a fresh notice and I therefore disallow it ”.

Later on in the Budget session this year at Delhi supplementary questions were profusely asked and I was forced to intervene and gave a second ruling. On that occasion the Honourable Mr. Kunzru had put certain questions which were answered freely and candidly by the Leader of this House and we all know that his patience is almost inexhaustable and his unfailing courtesy to all Members of this House (Applause) is proverbial. I will read that portion. On that occasion the Leader of the House replied to a question of Mr. Hossain Imam. The Leader of the House said :

“ I cannot at this stage reply to that. This question does not arise out of my answer and I cannot really say straightaway whether a representation will or will not be made. Honourable Members will recognise that in matters like this I cannot on the spur of the moment give an answer to a question about which I had no notice at all ”.

Then the President said :

" I do not think any further questions need be asked after the Honourable Leader's explanation ".

That is all what I said. Then—

" THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I do not quite understand the effect of your ruling. I should like, if you will pardon me, to request you to amplify it.

" THE HONOURABLE THE PRESIDENT : The Honourable Member, as Leader of the House, has stated that he had no notice of this question and he is not in a position to reply on the spur of the moment, and that explanation is quite enough and applies to all questions you may wish to put in this connection.

" THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Sir, this matter does not arise out of my question. We regard a protest as necessary to protect our community ".

I believe you meant your community or Party.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : I never used that word.

THE HONOURABLE THE PRESIDENT : Here it is in the Report :

" We regard a protest as necessary to protect our community ".

I then said :

" He has already answered that. He said he has protested against the Bill but not against the speech. Will you proceed further ? "

" THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : The object of our question was only to protest against this supine attitude of the Government of India. "

Then the Honourable the Leader got up again and made a most emphatic statement :

" I think the House will recognise that if my Honourable friend wanted a reply to that question he could easily have tabled a question and given me an opportunity of considering an answer. Here, on a supplementary question a new point is raised and I am supposed straightaway to give a reply on a very important question. I think it is only fair that if my Honourable friend wanted a reply to that question he should have tabled it and given me time to consider the matter. The House will recognise that a supplementary question concerning a foreign Government, which does not arise out of the original question, is not one I can answer straightway ".

At this stage I had to intervene as I thought it my duty to do so and here is my ruling on the second occasion :—

" The Honourable Member is a new Member and probably does not know the ruling which I gave last year in connection with the putting of supplementary questions, and I must bring to his notice that supplementary questions are not to be put for the purpose of heckling the Member in charge or cross-examining him or to compel him to answer any question. Supplementary questions are only allowed in this House in order to clear up any ambiguity in the reply which the Honourable Member in charge has given. That is my decision. The Honourable Leader of the House is perfectly justified in saying that this is an entirely new question and ought not to have been allowed. I was going to stop the Honourable Member from even putting that question, but I thought the reply to one question would satisfy him and I now hold that I stick to my former ruling and no questions which do not arise out of the reply will be permitted in this House ".

Then unfortunately on the 22nd of this month we had a non-official day. Most of the non-official business of the previous two days had not been completed and was in arrears for disposal. On the original Question List there were 151

[Mr. President.]

questions to dispose of, of which 74 questions were to be asked by Raja Yuvraj Datta Singh. Our friend Mr. Mahapatra had a formidable list of 44 questions that day. I never stopped the putting of supplementary questions and I exercised a great amount of forbearance that day. When 45 minutes of the question time had elapsed I discovered that only 24 questions had been answered and that day we had a formidable list of business—non-official business—to go through and I was endeavouring to help Honourable Members as it was my duty to see to the quick and expeditious despatch of public work. On that occasion I made a speech which I understand now has been objected to and resented by members of the Progressive Party. I think it is only fair to them and fair to me and fair to the House that in their cooler moments after I have read the speech I will leave them to decide whether there was one single word offensive or unparliamentary in that speech or whether there was any attempt to stop the putting of supplementary questions, which statement I say is entirely incorrect. I have not stopped the putting of supplementary questions as this and my previous rulings will immediately show. I have sent for this ruling of mine from the Legislative Department particularly to read to you, Honourable Members, in order to enable you to form your own correct judgment. I said :

“ I must intervene at this stage as regards the right to put supplementary questions. Some time ago I gave a ruling in this House that supplementary questions should only be asked for the purpose of filling up any ambiguity in the reply or requiring information in regard to any doubt which may exist. Supplementary questions are not to be asked in respect of matters distantly connected with the original question. I have been a little lax myself in seeing that this rule is studiously observed for the simple reason that I wanted to give a more authoritative ruling on the subject later on. I am collecting certain information from England at present and I propose shortly to review the whole situation—the privilege of putting supplementary questions, the length to which this right can possibly extend, and the limitations thereof. I would also draw the attention of this Council to the fact that these supplementary questions as they have been put in for the last few days have been obstructing the legitimate work of this House. There are several Resolutions which have appeared on the list of business from day to day and we have not been able to dispose of them. Nor is it possible on the two non-official days we have if this system of asking supplementary questions proceeds that we will be able to finish our work ”.

Now comes the most important point of my statement.

“ I appeal to Honourable Members again to be reasonable in the matter of putting supplementary questions till I have given a formal and authoritative ruling after gathering information on this question of the right to put supplementary questions ”.

You will see, Honourable Members, therefore, that I did not stop you from putting supplementary questions. I only requested you, I appealed to you, to exercise a reasonable spirit in order to enable me to expeditiously despatch the work of the House. I have given, as you are all aware, enormous latitude in the matter of putting supplementary questions and I have no desire whatsoever to stifle the right of putting interpellations. I have told you in the preface to my remarks that I am anxious that the Chair should have the most harmonious relations with you. I shall always support you in every reasonable attitude you take up. But it is likewise my obligatory duty to enforce the Standing Orders, the rulings of my illustrious predecessors of this House, and to promote the welfare and interests of this Council. (Applause.)

**THE HONOURABLE PANDIT HIRDAY NATH KUNZRU :** Is it possible for you to modify the language in which you expressed your disapproval of our supplementary questions? I refer particularly to the words "these supplementary questions as they have been put in for the last few days have been obstructing the legitimate work of this House". I hope that you will be able to say something which will modify the position in this respect because that seems to me to be the crux of the situation.

**THE HONOURABLE THE PRESIDENT :** I am afraid, Honourable Pandit Kunzru, you have taken the words in a limited sense. What I said cannot prevent the asking of supplementary questions. I only drew the attention of the Council to the fact that these supplementary questions as they have been put for the last few days have been obstructing the legitimate work of this House. I did not say that you Honourable Members have been obstructive. I made no aspersions on any Honourable Member. What I said was in perfectly parliamentary language and I can assure you with my long experience of observing parliamentary practice for several years in the House of Commons I confidently tell you that I am not guilty of using any unparliamentary expression.

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## QUESTIONS AND ANSWERS.

### BUILDING UP OF AN INDIAN NAVY.

**183. THE HONOURABLE MR. G. S. MOTILAL :** Will Government be pleased to state :—

(a) Whether they have considered the desirability of building up an efficient Indian Navy, so that India may not be dependent on any other country for her naval defence ?

(b) What steps do Government propose to take in this matter ? and

(c) What will be the expenditure for the building up of an Indian Navy ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** (a) The answer to the first part of (a) is yes. The second part however contains an assumption which is unwarrantable. Financial considerations must, so far as can be foreseen, always make India dependent on another country for her naval defence. The cost, for example, of the British Navy in the current year was £108 millions.

(b) Government have under consideration certain proposals of expansion and improvement which will enable the Royal Indian Navy to undertake the local defence of Indian ports and more substantially to assist the Royal Navy in such ways as its small fighting strength allows.

(c) Until these proposals have been accepted no statement of cost can be given.

**ENLISTMENT OF INDIAN SOLDIERS FOR THE BRITISH ARMY AT HOME.**

184. **THE HONOURABLE MR. G. S. MOTILAL :** Do Government propose to recommend to His Majesty's Government the employment of Indians as soldiers for the army in Britain.

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** No.

**DISCRIMINATION AGAINST INDIAN SOLDIERS IN THE DEFENCE FORCES IN REGARD TO PAY, ETC.**

185. **THE HONOURABLE MR. G. S. MOTILAL :** (a) Do Government propose to do away with the discrimination against Indian soldiers in the Indian Defence Forces as regards pay, pension and allowances as compared with the British soldiers ?

(b) Do Government propose to press upon the British Government that pay, pension and allowances of the British soldiers employed in the Indian Defence Forces, which are in excess of the scale that applies to Indian soldiers, should be borne by His Majesty's Government ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** (a) No discrimination exists. The conditions of service and standards of living of British and Indian troops are different, and each receive suitable emoluments, having regard to that fact.

(b) No.

**THE HONOURABLE MR. HOSSAIN IMAM :** Has the Government changed the position which it took up before the Garran Tribunal of asking the British Government to pay the extra cost ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** The second part of this question indicates an argument for our asking for a larger contribution than we are getting at present under the Garran Award. Government do not, however, consider that this particular argument would carry any weight. In this connection I would however like to remind Honourable Members that we are fully alive to the necessity for advocating our claims in this respect for other good reasons and we shall not fail to make it when a favourable opportunity presents itself. As the Finance Member has recently stated in another place, the opportunity is not at present favourable for the simple reason that if it was made now, our claim would be unlikely to be successful, seeing that His Majesty's Government has trebled her armament expenditure during the current year and has borrowed some £80,000,000 in order to meet it.

**POLICY FOLLOWED BY GOVERNMENT IN THE PLACING OF ORDERS FOR STORES ABROAD.**

186. **THE HONOURABLE MR. G. S. MOTILAL :** Will Government be pleased to state :—

(a) Whether contracts of the Government departments for the purchase of stores, machinery and other manufactured articles contain a clause to the effect that the manufacturers of the articles concerned shall afford all

possible facilities to Indian apprentices for practical training in factories and workshops concerned? and

(b) If not, do Government propose to direct all their departments to insert such a clause in the contracts?

THE HONOURABLE MR. A. G. CLOW: (a) No. But the general policy followed by Government in the placing of orders for stores with manufacturers abroad is to give preference to firms who offer facilities for the practical training of Indian students, if their tenders are equally favourable in all other respects.

(b) No. Government do not consider it either feasible or desirable to include such a clause in contracts for the supply of stores.

EXEMPTION OF AGRICULTURAL INCOME FROM INCOME-TAX.

187. THE HONOURABLE MR. CHIDAMBARAM CHETTIYAR: Will Government be pleased to state on what grounds agricultural income has been exempted from income-tax?

THE HONOURABLE MR. A. J. RAISMAN: The exemption of agricultural income from income-tax dates back to 1877. The primary reason for the exemption appears to have been that the landlords paid, besides land revenue, a cess on land corresponding to income-tax. At the time the exemption was granted, this cess was not inconsiderable having regard to the low rates of income-tax then prevalent and it was apparently considered that the landlords should not be asked to contribute to the general exchequer more than once.

EXEMPTION OF AGRICULTURAL INCOME DERIVED FROM INDIAN STATES FROM INCOME-TAX.

188. THE HONOURABLE MR. CHIDAMBARAM CHETTIYAR: Will Government be pleased to state whether agricultural income derived from Indian States has been exempted from the levy of British-Indian income-tax?

THE HONOURABLE MR. A. J. RAISMAN: Yes. I would refer the Honourable Member to the second proviso to sub-section 2 of section 4 of the Indian Income-tax Act, 1922.

LEVY OF INCOME-TAX ON AGRICULTURAL INCOME DERIVED FROM BURMA.

189. THE HONOURABLE MR. CHIDAMBARAM CHETTIYAR: Will Government be pleased to state whether agricultural income derived from Burma before separation would not enjoy exemption from the levy of British Indian income-tax?

THE HONOURABLE MR. A. J. RAISMAN: With your permission, Sir, I will reply to questions Nos. 189 and 190 together. These questions are now being examined as the result of a memorial from the Nattukottai Nagarathars' Association, Madras. Government have not yet arrived at any decision.

PROPOSAL FOR ASSESSING TO INCOME-TAX AGRICULTURAL INCOME DERIVED FROM BURMA IN 1936-37.

190. THE HONOURABLE MR. CHIDAMBARAM CHETTIYAR: Will Government be pleased to state whether there is any proposal under

the consideration of Government for assessing to Indian income-tax the agricultural income derived from Burma in 1936-37 or earlier ?

(See reply to question No. 189.)

**SALE OF CERTAIN PROPERTIES BY THE BOMBAY PORT TRUST.**

191. **THE HONOURABLE MR. G. S. MOTILAL:** (a) Was some property built in 1920 by the Bombay Port Trust at a cost of Rs. 1,95,000 sold by that authority recently for Rs. 3,500 ?

(b) What is the cause of depreciation in its value to such an extent ?

(c) Who was responsible for supervising the work while the building was being constructed ?

(d) Who were the contractors ?

(e) Have any steps been taken against any party or parties for this depreciation in value and the consequent loss to the Bombay Port Trust ?

(f) Was any resolution passed by the Board of Trustees of the Bombay Port Trust with regard to this sale ? If so, what ?

(g) Did the Bombay Port Trust purchase a piece of land admeasuring about 5,000 square yards on Charmichael Road in 1920 for building a bungalow for its Chief Engineer ?

(h) Was the proposed bungalow ever built on the said plot or on any other plot during the last 17 years ?

(i) Did the Port Trust sell this plot recently to the Reserve Bank of India for building a bungalow for their Governor ?

(j) What was the price the Bombay Port Trust paid for the said plot and what was the price realised by that body by its sale to the Reserve Bank ?

(k) At what prices are plots sold by private owners of land in the vicinity ?

**THE HONOURABLE MR. H. DOW:** The information is being collected and will be supplied to the Honourable Member when received.

**THE HONOURABLE MR. HOSSAIN IMAM:** May I request the Honourable Mr. Dow to lay it on the table of the House ?

**THE HONOURABLE MR. H. DOW:** I have no objection, Sir.

**CHARGING OF MAIL FARES BY THE G.I.P.R. ON PASSENGER RUNS.**

192. **THE HONOURABLE MR. B. N. BIYANI:** (1) Will Government be pleased to state :—

(a) Whether 29-Down Nagpur Express train on the Bombay Nagpur section of the G.I.P.R. runs as a passenger train between Chalisgaon and Badnera and No. 30-Up Nagpur Express on the same section runs as a passenger between Bhusawal and Kalyan ?

(b) Whether mail fare is charged for the stations between which the train runs as a passenger ?

(2) Did the Berar Chamber of Commerce make a representation to the G.I.P.R. authorities for charging passenger fare for the stations on which the train runs as a passenger ?

(3) Do Government propose to charge passenger fare only between the stations where the train runs as a passenger train ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am having enquiries made and will lay a reply on the table of the House in due course.

STAMP DUTY ON BILLS OF EXCHANGE.

193. THE HONOURABLE MR. B. N. BIYANI : (a) Has the attention of Government been drawn to the resolution adopted by the Federation of the Indian Chambers of Commerce and Industry in its Tenth Annual Meeting held at Delhi in April last, demanding that the stamp duty on all Inland Bills of Exchange of less than one year's usance should be reduced to two annas per thousand ?

(b) Is Government aware of the opinion expressed by the Royal Commission on Indian Currency and Finance (1926), the Central Banking Enquiry Committee (1931) and the Reserve Bank of India in regard to the present rate of stamp duty on Negotiable Bills of Exchange ?

(c) Do Government propose to reduce the stamp duty on Negotiable Bills of Exchange ? If not, why not ?

THE HONOURABLE MR. A. J. RAISMAN : (a) and (b). Yes.

(c) The question is under consideration in consultation with Provincial Governments.

WATER SUPPLY FOR THE STAFF OF THE SOLAR OBSERVATORY,  
KODAIKANAL.

194. THE HONOURABLE SIR DAVID DEVADOSS : Will Government be pleased to state whether (a) the Director, his Assistants and the staff of the Solar Observatory at Kodaikanal are dependent upon the uncertain supply of water from springs and wells ; and (b) Government have taken any steps to ensure a steady supply of good drinking water to them ?

THE HONOURABLE MR. A. G. CLOW : (a) Yes.

(b) The Director of the Observatory has been pressing the municipality to make satisfactory arrangements for water supply, and he was informed a few months ago that a tentative scheme was under consideration and would be placed before the Municipal Council in the near future. The Director was asked whether a partial grant towards the cost would be made by the Government of India, and replied that the question would be referred to the Government of India after the details of the scheme with the Municipal Council's decision thereon had been made known to him.

**PAYMENT OF WATER TAX, ETC., IN RESPECT OF THE SOLAR OBSERVATORY BUILDINGS, KODAIKANAL.**

195. **THE HONOURABLE SIR DAVID DEVADOSS :** (a) Will Government be pleased to state whether the Government of India have been paying to the Kodaikanal municipality water tax as well as drainage tax in respect of the residences of the Director of the Solar Observatory and of his staff for over 20 years without getting any advantage from the water supply scheme of the municipality? If so, what is the amount paid per year at present?

(b) Is the reservoir intended to supply water to the houses in the Municipality about 100 to 200 ft. below the level of the said residences of the Director and of his staff?

**THE HONOURABLE MR. A. G. CLOW :** (a) and (b). The Honourable Member is referred to the reply I gave to his question No. 14 on 22nd September, 1936. I am making enquiries regarding the amount of the tax.

**SHIPPING CONFERENCE AT TOKIO.**

196. **THE HONOURABLE MR. G. S. MOTILAL :** (a) Will Government be pleased to state whether they have seen the report appearing in the issue of *The Times of India* of the 23rd August, 1937 that a Shipping Conference has been convened at Tokio for the purpose of settling, amongst other things, the outstanding questions relating to the competition carried on by the Japanese shipping interests in the Indo-Japanese maritime trade?

(b) Will Government be pleased to state whether they have received any official information in regard to the conference referred to in (a), as well as in regard to the subjects which may be discussed at that Conference?

(c) Have invitations been issued only to some of the British shipping companies for attending that Conference with the approval of the Japanese Ministry of Communications?

(d) If the answer to (c) be in the affirmative, will Government be pleased to state whether they propose to secure an invitation for the attendance of Indian shipping interests at that Conference?

**THE HONOURABLE MR. H. DOW :** (a) Yes.

(b) No.

(c) Government have no information, but presumably invitations were issued only to the firms included in the Conference.

(d) No. I should explain that the Honourable Member's question appears to be based on a misunderstanding of the word "Conference" which is here used as a technical term denoting a number of shipping companies working in collaboration for certain purposes.

**THE HONOURABLE THE PRESIDENT :** Honourable Members, before we proceed with the rest of the business I may point out to those Honourable Members who had withdrawn their questions as a protest on the 22nd of this month, that I have re-admitted them and they will appear on the List of Business before long.

## STATEMENT *RE* INSURANCE BILL.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD** (Leader of the House) : With your permission, Sir, I should like to make a statement. My Honourable colleague, the Law Member, has asked me to apologise on his behalf that owing to his engagements in another place he is unable to make a statement personally to Honourable Members in this House in regard to the Insurance Bill. He has therefore asked me to read out the following statement regarding the Insurance Bill to Honourable Members :—

“ Sir, it was expected that the Insurance Bill would be finished in the Assembly on Saturday, the 25th instant, at the latest, and the Members agreed to sit on two Saturdays to enable Government to get the Bill through the Council of State this session.

As matters have turned out the proceedings in the Assembly in connection with the Bill are not expected to be over till Thursday, the 30th instant. In the circumstances it is impossible to expect that the Bill can go through the two Houses this session.

I take this opportunity for contradicting reports which have appeared in the Press and elsewhere to the effect that Government desires to drop this Bill. I am authorised to state, that Government does not desire to drop this Bill, that the entire Government is behind it and it will resist all attempts to wreck the Bill, if any party desires it—a fact which the Government has no reason to believe to be well-founded.

In order to get speedy conclusion of this Bill, Government has decided to summon a special session of this Honourable House on the 15th November for consideration of the Insurance Bill.”

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## STATEMENT OF BUSINESS.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD** (Leader of the House) : Sir, I may also take this opportunity of indicating very briefly the course of business. Tomorrow of course is a non-official day. I understand that it is the general wish of Honourable Members that the Resolution as regards the ratification of the Sugar Convention should be taken up on Saturday, the 2nd of October, and I understand there is a desire,—that is entirely a matter for your decision, Sir,—that we might meet at 10-30 A.M. on Saturday so that we might be able to get through the Resolution before the Lunch hour. I do not know if it is the general wish of the House, but that suggestion was made to me—

**THE HONOURABLE RAO BAHADUR SIR A. P. PATRO** (Madras : Nominated Non-Official) : There is no necessity for such a rush. Let it take its course.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD** : I have no desire to rush it.

**THE HONOURABLE THE PRESIDENT** (to the Honourable Mr. Hossain Imam) : Have you anything to say on this ?

**THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan) : No, Sir.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD** : I think we can meet at 11 A. M. on Saturday. As regards the course of further business, I should probably be in a position to make a statement either tomorrow afternoon or on Saturday.

**THE HONOURABLE THE PRESIDENT :** Honourable the Leader of the House, I must take this opportunity of congratulating the Government on the wise step they have taken in not bringing the Insurance Bill in this House at the fag end of the session. On three previous occasions I had to enter a protest regarding Government asking this Council to go into important measures like the Reserve Bank Bill, the Indian Companies Bill and such like important Bills, at the eleventh hour. It was not fair to my Council and the Honourable Members of this House because it did not give them a fair opportunity and time to study the Bill and discuss the same critically and properly. I am very glad, therefore, that this decision has been arrived at, because I had made up my mind this time that if this Bill was not laid on the table on the 4th of this month, I should have myself exercised my privilege and said, "Postpone the consideration of this Bill till the Budget session in Delhi."

**THE HONOURABLE MR. HOSSAIN IMAM :** May I, through you, Sir, appeal to the Leader of the House to remove our standing grievance of having only one day for the discussion of the Budget in the Delhi session ?

**THE HONOURABLE THE PRESIDENT :** I am sure the Leader will take that request into consideration.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD :** I shall pass that on to my Honourable colleague, the Finance Member.

**THE HONOURABLE MR. P. N. SAPRU (United Provinces Northern : Non-Muhammadian) :** May I also, through you, request the Leader of the House to give us a non-official day when we meet in November ?

**THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) :** Will there be any business next week ?

**THE HONOURABLE THE PRESIDENT :** There are several Bills, I understand, which are coming from the other House.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD :** I said I shall be in a position to make a statement either tomorrow evening or on Saturday.

#### PETROLEUM (BERAR EXTENSION) BILL.

**THE HONOURABLE MR. A. G. CLOW (Industries and Labour Secretary) :** Sir, I move :

That the Bill to extend the Petroleum Act, 1934, to Berar, as passed by the Legislative Assembly, be taken into consideration."

The purpose of this Bill is, I think, adequately explained by its short title but the House will perhaps wish me to explain in a sentence or two how the necessity for it has arisen. At the time when the present Petroleum Act, which is applicable to the whole of British India except Berar, was passed the Indian Legislature did not legislate for Berar and the practice was to extend any measures that were necessary under the Indian (Foreign Jurisdiction) Order in Council. Unfortunately the Petroleum Act, although passed in 1934, did not come into force till the 30th March last, and in the one day that elapsed after that it was not extended to Berar. The constitutional position then changed, and in order to ensure that this Act will apply in Berar and that the 1899 Act, which is entirely obsolete, will cease to apply, this Bill has been placed before you.

**THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan) : On a point of information, Sir. I would like the Honourable Secretary to inform us whether the Indian (Foreign Jurisdiction) Order in Council is now operative or not ?

**THE HONOURABLE MR. A. G. CLOW** : That is really a question which my Honourable friend Mr. Williams will be more competent to answer if the Honourable Member wishes information generally. It is not operative in respect of this particular matter.

**THE HONOURABLE MR. HOSSAIN IMAM** : Sir, I asked this question because the former Bill was extended under this Order. Why is that procedure now being discarded and another step taken ? That is what I want the Government to explain.

**THE HONOURABLE MR. A. DEC. WILLIAMS** (Government of India : Nominated Official) : I did not catch the original question, Sir.

**THE HONOURABLE MR. HOSSAIN IMAM** : Formerly the Acts of the British Legislature were extended to Berar, which is not exactly in British India, under the Foreign Jurisdiction Order. Now the position has been changed. I want the Government to explain how this position has been changed under the present Government of India Act, whether Berar has now become a part of British India and we are competent to legislate for it, or whether it is still something in between Indian India and British India.

**THE HONOURABLE MR. A. DEC. WILLIAMS** : I think that, if the Honourable Member refers to the General Clauses Act as modified by the Adaptation Order in Council, he will find that as regards anything to be done after 1st April this year Berar is included in British India.

**THE HONOURABLE THE PRESIDENT** : The Question is :

“ That the Bill to extend the Petroleum Act, 1934, to Berar, as passed by the Legislative Assembly, be taken into consideration.”

The Motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**THE HONOURABLE MR. A. G. CLOW** : Sir, I move :

“ That the Bill to extend the Petroleum Act, 1934, to Berar, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

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## RULES AND REGULATIONS CONTINUANCE BILL.

**THE HONOURABLE MR. A. G. CLOW** (Industries and Labour Secretary) : Sir, I move :

“ That the Bill to provide for the continuance in force of certain rules and regulations, as passed by the Legislative Assembly, be taken into consideration.”

[Mr. A. G. Clow.]

The House will remember that at our last session we passed two Bills the object of which was to transfer the powers previously exercised by the Government of India of making rules under the Indian Electricity Act and regulations under the Indian Boilers Act to Central Boards composed mainly of representatives of the Provincial Governments. After the passing of those Acts our legal advisers felt serious doubts as to whether, with the transfer of power from the Government of India, the rules and regulations made by the Government of India had not ceased to have effect. If those doubts were held to be justified in a court of law the effect of course would be that practically the whole of our existing Electricity and Boilers Codes would be rendered inoperative and the protection granted to the public by those Codes would entirely disappear. That contingency is one which cannot possibly be contemplated and the object of this Bill is to remove any possible doubt there may be on the subject.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. G. CLOW : Sir, I move :

" That the Bill, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

#### FEDERAL COURT BILL.

THE HONOURABLE MR. R. M. MAXWELL (Home Member) : Sir, I move :

" That the Bill to empower the Federal Court to make rules for regulating the service of processes issued by the Court, as passed by the Legislative Assembly, be taken into consideration."

Sir, as the House is aware, the Federal Court will come into existence on the 1st October next. This Bill relates to one of the procedural matters for which legislative provision is necessary in order that the Federal Court may be able to carry on its work without impediment, and it is for such purposes that section 215 has been included in the Government of India Act to enable the Federal Legislature, that is the Indian Legislature during the transitional period, to pass legislation on matters not enlarging the substantive jurisdiction of the Court. I will explain briefly why such legislation is necessary in regard to the matter before the House. By virtue of sub-section (2) of section 210 of the Government of India Act the Federal Court has power to make any order for the purpose of securing the attendance of any person; the discovery or production of any documents, etc. It is also provided by sub-section (1) of section 210 that all authorities, civil and judicial, throughout the Federation shall act in aid of the Federal Court. But this sub-section can come into operation only where the Federal Court is legally competent to make any order requiring the aid of the High Court for the purpose of its execution. It

is true that section 214 empowers the Federal Court to make rules for regulating generally the practice and procedure of the Court, but it is not empowered under this section to impose any duties on High Courts and this is clearly necessary where the service of process is concerned since the Federal Court has no other agency. What is required is a procedure similar to that by which the process of one High Court is served within the area of another by means of the machinery of the other and legislation on the lines of this Bill is necessary to enable the Federal Court to make such machinery available. I hope, therefore, that this simple but important Bill will commend itself to the House.

**THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan) : Mr. President, I neither wish to intervene in the debate nor to say anything about the merits of the Bill ; I only wish to elucidate some information. In clause 2 there is a provision giving powers to the Federal Court to make rules in cases where it can hear an appeal from a High Court. Now, I want Government to tell us whether this power has been given to the Federal Court or not, whether the Federal Court is competent to entertain appeals from the High Court at the present moment.

**THE HONOURABLE MR. R. M. MAXWELL** Section 206 under which the Federal Court can be empowered to hear certain appeals from High Courts has not yet been brought into order by Order in Council, but this provision will be necessary in that event.

**THE HONOURABLE MR. HOSSAIN IMAM** : Is it not placing the cart before the horse ?

**THE HONOURABLE MR. R. M. MAXWELL** : It is always wise to anticipate.

**THE HONOURABLE MR. P. N. SAPRU** : I have nothing to say after what the Honourable Mr. Maxwell has said. I was going to draw his attention to the section to which he referred.

**THE HONOURABLE THE PRESIDENT** : The Question is :

“ That the Bill to empower the Federal Court to make rules for regulating the service of processes issued by the Court, as passed by the Legislative Assembly, be taken into consideration.”

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

**THE HONOURABLE MR. R. M. MAXWELL** : Sir, I move :

“ That the Bill to empower the Federal Court to make rules for regulating the service of processes issued by the Court, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

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The Council then adjourned till Eleven of the Clock on Wednesday, the 29th September, 1937.