

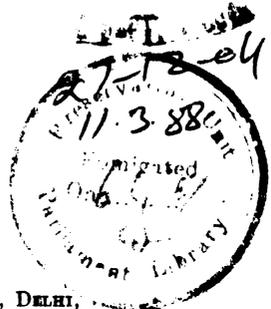
THE
COUNCIL OF STATE DEBATES

VOLUME I, 1938

(14th February to 8th April, 1938).

THIRD SESSION
OF THE
FOURTH COUNCIL OF STATE, 1938

Member designated... 18/4/38



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COUNCIL OF STATE.

Wednesday, 2nd March, 1938.

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

MEMBER SWORN :

The Honourable Mr. Frederic Hale Puckle (Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

TRANSPORTATION CHARGES AND AVERAGE TOUR OF DUTY IN INDIA OF BRITISH COMBATANT UNITS.

127. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Rai Bahadur Lala Ram Saran Das) : (a) Will Government state for how many years generally British combatant units serve in India ? How are their transportation charges when transferred abroad met ?

(b) Whether the Government of India pays such charges ? If so, why ?

(c) What is the average cost of such transportation ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) and (b). I lay on the table a statement showing the average tour of duty in India of British combatant units. The transportation charges are borne by India as this is one of the conditions on which British troops are lent to this country.

(c) The average cost of sea transport is Rs. 60 lakhs per annum and of inland transport Rs. 14 lakhs per annum.

(i) Royal Artillery—

(a) R. H. A. batteries 6 years.

(b) Medium brigades 10 years.

(c) Field brigades 10 years.

(ii) Cavalry 5-6 years.

(iii) Infantry 17 years.

(iv) Royal Air Force, Engineers, Signals and Royal Tank Corps.—The relief of these units is not carried out on a unit basis but by individual reliefs.

MECHANISATION EQUIPMENT OF BRITISH COMBATANT UNITS LEAVING INDIA AFTER THEIR TOUR OF DUTY.

128. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Rai Bahadur Lala Ram Saran Das) : Will Government state whether or

not mechanising equipment of British combatant units serving in India will be retained in India when any of such units is transferred abroad from India? If not, why not?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The equipment will be retained in India.

REASONS FOR THE PAYMENT OF CHARGES BY GOVERNMENT FOR MECHANISATION OF BRITISH COMBATANT UNITS, ETC.

129. **THE HONOURABLE MR. V. V. KALIKAR** (on behalf of the Honourable Rai Bahadur Lala Ram Saran Das): Will Government state the reasons for the payment of charges by the Government of India for the mechanisation of British combatant units which are lent to the Army in India for a short period?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: The question appears to be founded on a misunderstanding. The units concerned are not lent to the Army in India for a short period, but are a permanent part of it. When the time comes for one to be transferred it will be replaced by another, but this applies to personnel only. The equipment will be taken over as it stands by the relief, and is the permanent property of the Government of India.

Mechanisation of the units concerned was necessary in order to conform with reorganisation of the British Army, and was also militarily and financially advantageous to India, as explained in my answer to question No. 1 asked by the Honourable Raja Yuveraj Datta Singh on the 14th February last.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: May we take it that this reorganisation has taken place primarily owing to the needs of the British Army?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I have answered that. The mechanisation of the units concerned was necessary in order to conform with the reorganisation of the British Army and was also militarily and financially advantageous to India.

MILITARY TRAINING FOR INDIANS.

130. **THE HONOURABLE MR. G. S. MOTILAL:** Will Government state what steps they propose to take to train the people of India to play their part in the defence of the country and in the protection of their common interests?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I refer the Honourable Member to my speech of the 21st February, 1938, on the Honourable Mr. Susil Kumar Roy Chowdhury's Resolution regarding full military training to all Indians between the ages of 21 and 30.

THE HONOURABLE MR. G. S. MOTILAL: Can he add anything to that speech at present?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Nothing.

RATE WARS BETWEEN SHIPPING COMPANIES IN THE WEST COAST AND PILGRIM TRADES.

131. **THE HONOURABLE MR. V. V. KALIKAR** (on behalf of the Honourable Rai Bahadur Lala Ram Saran Das) : Will Government state what steps they are taking to stop the uneconomic rate war that is going on between shipping companies plying on the coast of India and in the Red Sea ? If none, why ?

THE HONOURABLE SIR MUHAMMAD YAKUB : The Government have no statutory power to interfere in a matter like this but on receipt of a representation from one of the parties they have recently addressed the Companies operating on the West Coast of India, who are understood to be engaged in a rate war there, asking them whether they are willing to submit the matters in dispute to arbitration, and are awaiting the Companies' replies. As regards the Companies plying in the pilgrim trade to the Red Sea, Government have received no representation and have taken no action.

GOVERNMENT OF INDIA PUBLICATIONS.

132. **THE HONOURABLE MR. G. S. MOTILAL** : (a) Will Government state which of the Government publications that are placed in the Assembly Library are not for sale ?

(b) How many copies of each such publication are printed ?

(c) Will Government state the reasons why they are not sold even to the Members of this House ?

(d) Will Government further state whether the Honourable Members of this House have the same facilities and privileges as the Members of the British Parliament in regard to the obtaining of Government publications ?

(e) Do Government contemplate the sale of these publications to the Members of the Legislature ?

THE HONOURABLE SIR MUHAMMAD YAKUB : (a) and (b). I would refer the Honourable Member to the annual " List of Non-confidential Publications not included in the General Catalogue of Government of India Publications " which contains the desired information. Copies of this list are available in the Library of the Legislature.

(c) and (e). Copies of some of these publications which are of special interest are distributed free to Members in accordance with the rules regulating the supply of official non-confidential publications of the Central Government to Members of the Central Legislature. The rules also provide for the supply of certain classes of publications to Members having any special responsibility for the subject and departments have been given discretion to supply a copy of those publications to any Member making a specific application to that effect. Government do not propose to make any change in the existing procedure which is considered adequate to meet the needs of Honourable Members of the House.

(d) The rules referred to above were framed in the light of the practice followed in the United Kingdom regarding the supply of Government publications to Members of Parliament.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : May we take it that any of those publications which are found in the Library will be supplied to Honourable Members if they ask for them ?

THE HONOURABLE SIR MUHAMMAD YAKUB : Certainly.

CONCESSION TICKETS AND OTHER FACILITIES TO BE GIVEN BY RAILWAYS TO PILGRIMS DURING THE KUMBH Mela.

133. THE HONOURABLE MR. G. S. MOTILAL : (a) What railway facilities do Government propose to give to pilgrims moving to and from Hardwar during the Kumbha Parab in the shape of concession tickets, provision of greater accommodation to passengers, the running of more trains, booking office facilities, provision of clean and pure food in restaurants at stations and other comforts ?

(b) How many persons do the Railway authorities expect will visit Hardwar and use the Railways ?

(c) How much additional income do the Railway authorities hope to make from this Kumbha traffic ?

THE HONOURABLE SIR GUTHRIE RUSSELL : (a) I am laying a statement on the table giving particulars on the points referred to.

(b) The local civil authorities anticipate a gathering of about 900,000 to a million pilgrims, out of which it is estimated that the railway will carry between four and five lakhs.

(c) It is not practicable to make any estimate of the additional revenue likely to accrue.

1. Concession Tickets.

Easter Holiday concession return tickets will be issued to Hardwar only from 10th March to 18th April, 1938 available for the completion of the return journey up to 2nd May, 1938. The basis of charge for these tickets is as follows :—

1st, 2nd and Inter class	101 miles and over	At one and one-third single journey fares.
Third class	101 miles to 150 miles	At one and three-fourth single journey fares.
	151 miles to 250 miles	At one and two-third single journey fares.
	251 miles to 300 miles.	At one and half single journey fares.
	Above 300 miles	At one and one-third single journey fares.

The N.W.R., B.B.&C.I.R. and G.I.P.R. are also allowing similar concessions.

2. Accommodation.

For the clearance of passenger traffic during the inward rush, it has been decided to duplicate the following trains during the period shown against each :—

Train Nos.	Period.
75-Up and 76-Down	15-3-38 to 25-4-38.
33-Up and 34-Down	1-4-38 to 25-4-38.
1. L.D. and 4 L.D. extended to and from Najibabad	1-4-38 to 30-4-38.
9-Up and 10-Down between Lucknow and Hardwar	6-4-38 to 12-4-38.
Additional train between Moradabad and Hardwar	6-4-38 to 12-4-38.

Besides this, special trains will be run according to requirements from all directions to Hardwar for clearance of third class passengers only.

For the outward rush, arrangements have been made to run 36 special trains and four duplicate trains—a total of 40 additional special and duplicate trains—24 above Saharanpur, three to Saharanpur, ten to Delhi and three to Moradabad side. Special trains will carry only third class passengers. Apart from this, for Rikhikesh traffic, arrangements have been made to run six special trains, in addition to three regular trains daily. With these additional train facilities it is expected to clear daily 50,000 to 60,000 pilgrims from Hardwar to different directions.

3. Booking facilities.

Twelve additional booking offices have been provided with 29 windows. To facilitate passengers purchasing tickets and getting on to the right trains, symbols of common objects will be used, each symbol signifying a certain direction. Similar symbols will be repeated in the passenger enclosure and on the train for the particular direction.

Three enquiry offices are also being provided in the circulating area at Hardwar to assist passengers desiring information.

A separate booking office for ladies unattended by male passengers is being provided in the third class passenger hall.

Staff is being arranged to help passengers in purchasing tickets and in being directed to the correct enclosures and to the correct trains.

4. Catering.

Special arrangements are being made to extend the refreshment rooms and vendors' stall. Adequate supervision of the railway medical staff has been ensured for the supply in the *meta* area of pure and wholesome food.

5. Miscellaneous.

All necessary conveniences in the way of proper shelter in passenger enclosures, supply of cool drinking water, provision of necessary urinals and sanitary latrines in the circulating area, provision of hospital and first aid posts at the station and in the circulating area are being provided.

RETURN TO INDIA OF LALA HARDAYAL.

134. THE HONOURABLE MR. B. N. BIYANI: Will Government please state:

(a) Has the attention of Government been drawn to a reply given in the Punjab Assembly to a question put by Deshbandhu Gupta about the return to India of Dr. Hardayal, a political exile?

(b) Has Government seen the statement of Sir Tej Bahadur Sapru and Mr. C. F. Andrews testifying that Dr. Hardayal's political views had undergone a definite change and no harm could result if he was allowed to return?

(c) Has the enquiry of the case as given out in reply in the Punjab Assembly been completed?

(d) If yes; with what result?

(e) If no; how long will it take to come to a decision?

THE HONOURABLE MR. F. H. PUCKLE: (a) and (b). Government have seen the statements in question and a press report of the answer given recently in the Punjab Assembly to a question about Hardayal.

(c), (d) and (e). I have nothing to add to what was stated on the subject on the 17th February in reply to the Honourable Raja Yuveraj Datta Singh's question No. 82.

RAILWAY AND STATE COLLIERIES.

135. THE HONOURABLE MR. HOSSAIN IMAM: Will Government lay on the table the following information in respect of the Railway and State

collieries : the names, rates per ton for coal cutting and handling ; the dates of termination and period of the contracts ; the reasons for differences in rates ; and the method of inviting tenders and giving contract ?

THE HONOURABLE SIR GUTHRIE RUSSELL : The information is being obtained and will be laid on the table of the House in due course.

INDO-BURMA FINANCIAL ADJUSTMENT.

136. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state the attitude taken by them on the question of dead assets and part earned pensions in the settlement of Indo-Burma financial adjustment ?

THE HONOURABLE MR. J. C. NIXON : The manner of dealing with these two elements as set out in the press communique issued on the 15th of February, 1938 is that advocated by myself in the first instance in the Howard-Nixon Memorandum and opposed by Sir Henry Howard. It was that proposed at the instance of the Government of India by me before the Amery Tribunal and objected to by the representatives of the Government of Burma.

The Amery Tribunal recommended an evaluation of the two elements. But when Mr. Sanjiva Row, the representative of the Government of India on the Application Committee, came to consider the problem again, he concluded that it was practically impossible to make any even approximate evaluation. He placed the practical difficulties before the representative of the Government of Burma on the Application Committee and urged the acceptance of my original idea of a pairing off of the two elements. The Burma representative and the Government of Burma eventually acquiesced in the suggestion. A joint recommendation to this effect was made to the Secretary of State for India and accepted by him. It has now been embodied in the Interim Report of the Application Committee.

INDO-BRITISH TRADE NEGOTIATIONS.

137. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state the position with regard to Indo-British trade negotiations ?

THE HONOURABLE SIR MUHAMMAD YAKUB : The Government of India have for the present nothing to add to the information contained in the Press Communique on the subject dated the 6th January, 1938, a copy of which is in the Library.

NAMES, PERIOD OF CONTRACT, CAPITAL INVESTED, ETC., OF LINES WORKED BY STATE-MANAGED RAILWAYS.

138. THE HONOURABLE MR. HOSSAIN IMAM : Will Government lay on the table a statement showing the names, period of contract, capital invested, amount paid during the last three years, and the method of termination of the present contract of lines worked by the Indian State Railways ?

THE HONOURABLE SIR GUTHRIE RUSSELL : I lay on the table a statement giving the information required by the Honourable Member. The dates mentioned in the statement are the dates on which the agreements may be terminated in the normal course. Most of them contain also provision for their termination in certain special circumstances.

Information on this and other points can be found in the History of Indian Railways, a copy of which is in the Library of the Legislature.

Working Agency.	Name of worked lines.	Amount of Capital Invested upto 1936-37.	Amount paid during last three years.						Period of contract and the method of termination of present contract by notice of purchase, or otherwise.
			1934-35.		1935-36.		1936-37.		
			4	5	6	7	8	9	
A. B. R.	2	3	Net earnings.	Rebates (a) or Subsidy (b).	Net earnings.	Rebate (a) or Subsidy (b).	Net earnings.	Rebates (a) or Subsidy (b).	
	Chaparmuth Sughat Railway.	35,01,528	62,925	33,907(6)	77,347	43,655(6)	86,388	38,760(6)	31st March 1948 or at the end of any subsequent period of 10 years by giving 12 months' previous notice.
	Kashmir Lalbazar Rlys.	17,19,233	23,230	36,672(6)	23,10	27,423(6)	21,151	42,247(6)	31st March 1954 or on the last year of any subsequent period of 10 years by giving to the Company 12 months' previous notice.
E. N. R.	Mysoreing Bhatrab Hoar Rly.	1,24,12,392	4,13,657	32,704(e)	4,26,44	21,396(e)	4,68,315	11,757(e)	31st day of March 1948 or at the end of any subsequent period of 10 years by giving 12 months' previous notice.
	Mayerbhanj Rly.	24,74,469	63,815	36,735(6)	74,221	69,853(6)	73,401	58,244(6)	31st day of March 1950 or on the 31st March in the last year of any subsequent period of 10 years on 12 months' notice.
	Chandernagore Rly.	25,89,490	13,926						
B. B. & C. I. R.	Jalpur State Rly.	76,92,319 (Upto end of 1935-36.)	4,74,680		22,405		9,119		31st December of any year on three months' previous notice.
	Tapar Valley Rly.	1,37,14,014	11,73,864		5,28,721		Taken over by Jalpur Division.		31st day of March, 1932 or at the end of any subsequent period of 10 years on 12 months' notice. The option was not exercised on the 31st March, 1932.

• Owned by Indian States but worked by State-owned Railways.

Working Agency.	Name of worked lines.	Amount of Capital Invested upto end of 1986-87.	Amount paid during last three years.						Period of contract and the method of termination of present contract by notices of purchase or otherwise.	
			1984-85.		1985-86.		1986-87.			
			Net earnings.	Rebate (a) or Subsidy (b).	Net earnings.	Rebate (a) or Subsidy (b).	Net earnings.	Rebate (a) or Subsidy (b).		
1	2	3	4	5	6	7	8	9	10	
B. R. & C. Ltd.	Ahmedabad Prantij Guzerat-Champaner- Shivrajpur Pal L.A. Ry.	88,06,480 21,06,806	3,52,116 -27,978	...	3,89,726 -28,734	...	3,97,299 368	31st December, 1946. 31st March, 1944 or on the 31st March in the last year of any subsequent period of 10 years on 12 months notice. Ditto. Ditto.
	Guzerat-Godhra- Lunavada.	14,19,686	4,185	72,380(a)	19,090	56,488(a)	31,784	48,591(a)		
	Guzerat-Nasik Kapurthala.	16,29,655	40,686	47,132(a)	83,370	3,175(a)	1,80,598	-84,072(a)		
	* Nagda Ujjain	22,83,817	2,84,375		3,17,472		57,648			On one year's notice from either party expiring on the 31st March in any year.
	* Pottad-Cambay Ry. (Asand Tarapur Sections).	14,60,784	1,77,506		4,21,531		2,09,563			Either party at any time determine the agreement on giving 12 months' notice to the other.
	* Pottad-Cambay Ry. (Tarapur Cambay Sections).	9,28,237	45,146		47,309		52,046			
	* Dharwadra .	15,09,824	1,15,316		1,09,563		1,06,087			Either party may at any time determine the agreement on giving 12 months' notice to expire either on the 30th September or the 31st March in any year.
	* Palanpur State	5,94,580	40,186		4,253		53,012			The terms of the working agreement are under consideration.
	* Pipri Dergad	9,76,927	26,397		36,138		36,374			As under Rajpipla State Railway below.

Working Agency.	Name of worked lines.	Amount of Capital Invested upto end of 1936-37.	Amounts paid during last three years.						Period of contract and the method of termination of present contract by notice of purchase of or otherwise.
			1934-35.		1935-36.		1936-37.		
			Net earnings.	Rebate (a) or Subsidy (b)	Net earnings.	Rebate (a) or Subsidy (b).	Net earnings.	Rebate (a) or Subsidy (b).	
1		3	4	5	6	7	8	9	10
G. I. P. R. —contd.	Paohora Jammu Rly.	17,81,708	38,026	55,755 (a)	39,171	59,241 (a).	34,930	42,910 (a)	31st day of March, 1949 or on the 31st March in the last year of any subsequent period of 10 years on 12 months' notice.
	*Bhopal Ujjain	33,05,948	10,83,911	...	11,52,876	...	12,75,444	...	The various agreements are terminable on the expiry of 10 years from the dates of opening of the respective sections to public traffic throughout on the 30th June or 31st December in any year on 12 months' notice by either party.
	*Rina-Gooma Baran	1,02,14,598	3,41,406	...	3,15,244	...	4,45,225	...	As under Bhopal Ujjain Railway except in the case of Chabra Baran section where the agreement dated 27th February, 1939 is terminable on the 31st March or 31st September in any year on 12 months' notice by one party to the other.
M. & S. M. R.	*Kolar Gold-Fields Rly.	12,47,400	56,973	...	55,832	...	66,264	...	Six months' notice expiring on the 30th June or 31st December of any year after 31st December 1937.
	Tenali Rayal	15,08,514	76,228	...	77,397	...	76,766	...	The terms of the Agreement are under consideration.
	Almavar-Dandoli	8,86,765	—3,902	...	—7,061	...	—11,454	...	The line is owned by the Government of Bombay. The Agreement for working can be terminated on six months' notice by either side.

Barrack-Manupatana.	25,15,583	3,85,174	...	4,91,204	7,17,206	...	The line which was owned by the District Board Kistna, has been purchased by Government on the 4th February 1938.
*Kolhapur State	23,60,047	1,65,163		1,65,346	1,51,802		The working agreement is terminable upon six months' notice from either party.
*Saugli State	2,04,314	31,332		27,916	29,707		The working agreement is terminable at the end of any year upon six months' notice from either party.
West of India Portuguese (Owned by Portuguese Government).		11,29,799		8,31,316	10,61,652		The working agreement has been extended to the 31st December, 1945.
*Bangalore Harthar (including Hindupur Yessanipur).	2,09,33,347	15,00,314	62,991 (Co's share of surplus profits).	14,36,542	14,88,946	62,296 (Co.'s share of surplus profits).	Taken over by the Mysore Government on the January 1938.
Hoshinpur Doab, Multan and Phagwara Bahon.	36,50,942 23,80,647	1,08,226 1,41,683	(a) 91,238 (e) 91,289	1,06,686 1,44,254	1,18,814 1,36,041	(a) 87,514	31st March, 1945 or on the 31st March in the last year of any subsequent period of 10 years on 12 months' notice.
Mandra Bahon	27,59,204	99,109	(a) 59,161	95,923	1,04,147	(a) 44,473	31st March, 1947 or on the 31st day of March of the last year of any subsequent period of 10 years on 12 months' notice.
Shikot Narowal	31,67,145	2,26,398	29,446 (surplus profits)	2,16,747	2,26,243	27,490 (surplus profits)	31st March, 1946 or on the 31st March in the last year of any subsequent period of 10 years on 12 months' notice.
Jacobabad Kashmir	24,55,592	78,556	(a) 51,109	75,787	81,327	(a) 46,298	31st March, 1945 or on the 31st March in the last year of any subsequent period of 10 years on 12 months' notice.
Lardiana Jacobabad	39,53,835	1,32,499	(a) 27,881	1,32,444	1,44,195	(a) 17,556	31st March, 1954 or on the 31st March in the last year of any subsequent period of 10 years on 12 months' notice.

M. W. B.

* Owned by Indian States but worked by State-owned Railways.

Working Agency.	Name of worked lines.	Amount of Capital Invested upto end of 1936-37.	Amount paid during the last three years.						Period of contract and the method of termination of present contract by notice of purchase " or otherwise.
			1934-35.		1935-36.		1936-37.		
			Net earnings.	Rebate (a) or Subsidy (b)	Net earnings.	Rebate (a) or Subsidy (b).	Net earnings.	Rebate (a) or Subsidy (b).	
N. W. E. - -contd.	1							10	
	*Jind Paslipat	17,56,439	60,029	...	59,508	...	60,318	...	The working agreement can be determined on 12 months' previous notice by either party to the other.
	*Jamun and Kashmir.	11,68,468	54,180		59,274		59,315		The working agreement can be determined on giving 6 months' notice by either party to the other.
	*Khaspur-Osachran	14,36,067	6,119	(a) 36,940	9,614	(a) 33,468	15,479	(a) 27,803	The working agreement can be determined on the 1st January or 1st July of any year after 1935 on six months' previous notice.
	*Jodhpur-Dhuri-Jabbar	49,70,789	4,76,661		4,72,964		5,85,531		The working agreement can be determined on the 1st January or 1st July in any year by giving six months' previous notice by either party to the other.
*Raipur-Bhatinda	79,87,013	7,56,186		9,16,561		9,11,608		The working agreement can be determined on the 1st January or 1st July in any year on six months' previous notice by either party to the other.	
*Sirhind-Exaur	31,60,972	90,776		76,982		76,210		The terms of the working agreement are under consideration.	
*Babwahagar Fort Abbas-Kul-Ali-Jindan Ry.	98,58,994	72,129		92,473		1,26,786		The terms of the working agreement are under consideration.	

S. I. R.	•Shoranur-Cochin Ry.	1,06,46,776	6,80,376	6,14,563	6,04,376	...	The working agreement can be determined on 12 months' notices expiring on the 30th September or before the 31st of March in the succeeding year.
	Pölslem-Kasarkhal Ry. (owned by French Government).	7,88,660	31,614	9,211	2,567	...	The working agreement can be determined on 12 months' notices expiring on the 30th June or 31st December in any year.
	Podanur-Pollachi	15,06,312	1,08,925	65,003	58,376	...	The terms of the agreement are under consideration.
	Thanevelly-Thruchendur.	27,10,877	1,42,452	97,923	90,466	...	The terms of the agreement are under consideration.
	Pondichery	5,88,080	53,080	42,400	58,680	...	The working agreement can be determined on the 31st December, 1945 on six months' notices expiring on the 31st December in any year or on the determination of the S. I. R. Co.'s agreement with the Government.

* Owned by Indian States but worked by State-owned Railways.

INCOME-TAX COLLECTED ON THE PROFITS OF COMPANIES IN BURMA.

139. THE HONOURABLE MR. HOSSAIN IMAM : Will Government state the amount collected as income-tax from companies having head offices in Burma in the years 1936 and 1937 ? Have their Indian offices been assessed for the profits of 1936-37 when Burma was part of India ?

THE HONOURABLE MR. J. C. NIXON : The income-tax collected on the profits of companies in Burma, irrespective of whether they had branches in British India or not, was Rs. 41·30 lakhs in 1935-36 and Rs. 67·74 lakhs in 1936-37. Information in respect of such companies as have branches in British India is not available. The reply to the second part is in the affirmative.

EXTENSION OF SERVICE TO THE EDUCATIONAL COMMISSIONER WITH THE GOVERNMENT OF INDIA.

140. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : (a) Has the Educational Commissioner with the Government of India been granted a year's extension ? If so, will Government state the reasons for extending the period of his service ?

(b) Did Government try to select a suitable Indian before extending his service ?

(c) Do Government contemplate giving preference to qualified Indians over Britishers in selecting his successor ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The extension was given to Mr. Parkinson in the interests of the public service. I am very glad that the extension was given because Mr. Parkinson has rendered me the most useful service and I am very glad to retain his services.

With regard to the second part of the question, Government are not prepared to make any statement at present as regards his successor.

UNITED STATES FARM BILL.

141. THE HONOURABLE MR. G. S. MOTILAL : (a) Will Government state whether their attention has been drawn to the press report regarding the United States Farm Bill passed by the Senate of the United States of America ? Are Government in a position to give more information as to the main provisions and features of the Bill ?

(b) What will be the effect of the Bill on the prices of agricultural commodities in India ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Government have seen a press report regarding this Bill, but have no information beyond what is contained in that.

(b) The circumstances, as the Honourable Member will perhaps agree, do not permit of such proposal at present.

SALUTING BY MILITARY AND POLICE GUARDS OF VISITORS TO THE VICEREGAL RESIDENCES AT NEW DELHI AND SIMLA.

142. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Rai Bahadur Lala Ram Saran Das) : (a) Will Government state whether any instructions have been given to the military and police guards on duty

at the entrances to the Viceregal Residences at New Delhi and Simla regarding the saluting of visitors who go there ? If so, what are they ?

(b) Are Government aware of the resentment felt by Indians against whom discrimination has been shown ?

THE HONOURABLE MR. F. H. PUCKLE : (a) No.

(b) Does not arise.

ACTION TAKEN OF THE REPORT OF THE GHEE COMMITTEE.

143. THE HONOURABLE MR. V. V. KALIKAR (on behalf of the Honourable Rai Bahadur Lala Ram Saran Das) : Will Government state what action they have taken on the Report of the Ghee Committee which enquired into production, marketing and sale of ghee ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : A statement is laid on the table.

Since the Report of the Ghee Conference held in Simla in September, 1937, was issued, experimental grading and marking stations have been established for ghee along with the Central Control Laboratory. So far over 7,500 maunds of ghee at six centres, mainly in the United Provinces, have been analysed and passed as being of the standard required in accordance with rules which have been drafted under the Agricultural Produce (Grading and Marking) Act. In view of certain representations made at that conference another conference was held in January at Bombay to consider points of technical difficulty in standardisation of Kathiawar ghee and certain modifications in the proposals made at the Simla conference are under consideration.

RULING *RE* SUPPLEMENTARY QUESTIONS.

THE HONOURABLE THE PRESIDENT : Honourable Members, it will be in your recollection that on the 22nd and 28th September last I made an appeal to Honourable Members to be reasonable in the matter of putting supplementary questions till I have given a formal and authoritative ruling after gathering all available information on the right, extent and scope of putting supplementary questions. I am now in a position to review the entire subject and give my final and authoritative decision. I regret the delay in doing so as I had some difficulty in collecting the information required. In order to enable the Honourable Members to thoroughly understand the extent, right, and the principle involved in asking supplementary questions, I am obliged in some measure to refer to the right and scope within which original questions can be asked as the principle in each case is inter-dependent. I shall therefore review as completely as possible the practice and procedure prevalent in both the Houses of Parliament and in the Central Indian Legislature.

In the House of Lords the procedure regarding questions is a somewhat novel one and not quite in keeping with the practice prevailing in the House of Commons. Before the commencement of public business questions are addressed to Ministers of the Crown concerning various matters, such as, proceedings pending in Parliament or matters of administration or public affairs for which any particular Minister is responsible. Within such limits members may seek information or explanation of the intentions of Government ; but they are not permitted to obtain an expression of Minister's opinion upon matters of policy. In the House of Lords on the submission of a question a debate is permitted by asking and replying to questions and also in commenting upon them without any actual motion being proposed in the House.

[Mr. President.]

When a question is meant to be asked for information only and not for the purpose of raising a debate or discussion an asterisk is prefixed to such question. The decision as to certain questions should be debated or not is left invariably to the decision of the House and not to the Lord Chancellor. Under such conditions important debates are frequently initiated. There they try to attain by initiating discussion on questions what we in India achieve by moving Resolutions in the Central and Provincial Legislatures. A general debate is permitted which dispenses with the necessity of putting supplementary questions, and it may be said that the supplementaries therefore become superfluous or unnecessary. In the practice prevailing in the House of Lords we therefore cannot obtain any information or clue regarding the exact right and the extent of the privilege of asking supplementaries. The main function of the House of Lords is the despatch of legislative business or judicial and other formal work which comes up for consideration before it. I may also point out that if the answer be refused by a Minister the Member is not entitled to insist on an answer and there the matter ends.

On the other hand, there is a great deal of similarity between the practice prevailing in the House of Commons—the Mother of Parliaments—and the practice prevailing in the Central Legislature and the Provincial Councils and Assemblies. Rather than the practice now prevailing in Indian Legislatures has been substantially borrowed from the practice in vogue in the House of Commons. The number of questions put in the House of Commons steadily grew ever since the first recorded question was asked. The Honourable Members can form a better idea of the nature, extent and manner of asking question in the House of Commons if I quote a passage in extenso at page 124 from a book entitled “An introduction of the procedure of the House of Commons by G. F. H. Campion” instead of stating my version :

“Most of these authorities agree also that the privilege of asking questions is liable to abuse and that the number of questions has increased inordinately. We shall come in a moment to the rules of order governing the form and subject-matter of questions, which have grown almost as rapidly as questions themselves (page 127). How rapidly questions have grown is shown by the following facts and figures. The first recorded question was asked in 1721 by Lord Cowper in the House of Lords : “whether there was any ground for a certain rumour” (a form of question which would now be out of order). For more than a century questions were infrequent and looked at somewhat askance as an irregular form of debate. In 1835 a notice of a question was first printed. In 1849 a special position was assigned to them on the Order Paper. In the session of 1847 there were 129 questions, or an average of one a day. In 1880 there were 1,546 or 13 a day. In 1900 there were 5,106 or 41 a day. After 1902, when the system of answering certain questions non-orally was introduced, and although the principle was adopted of restricting Members at first to eight, then to four, and finally in 1920 to three daily, the numbers still continued to rise until in 1923 the daily average was 109. Since then the numbers have declined somewhat, but probably the check is only temporary.”

It will be seen from the above that even in the House of Commons the authorities agree that the privilege of asking questions has been abused in the past and the number of questions have inordinately augmented. Not unlike in the case of the House of Lords questions addressed to Ministers should relate to the public affairs with which Ministers are officially connected and to proceedings pending in Parliament or to any matter of public interest or administration which the Ministers are responsible for. Within the limits prescribed above a Member can seek for any information regarding the intention of the Government, but he is restricted from seeking an expression of the Minister's opinion upon matters of public policy. Rules and Standing Orders have been framed for the purpose of regulating and formulating questions, but an appeal cannot be made to the Chair by a question except on points of order as they

arise or on a matter which immediately concerns the proceedings of the Chamber. If the Minister refuses to answer the question no Member can insist on his giving an answer nor the refusal of the Minister to give a reply to any question cannot be raised as a matter of privilege. It has been held in England that the plain and ordinary purpose of a question is to seek information from a Minister and not to supply information either to him or to the House and a question must not contain statement of facts unless they be necessary to make the question intelligible and easily understood. It is laid down both by conventions and rules that the reply should be confined to the points contained in the question with such remark or observation which renders the answer intelligible. It has been also the practice in the House of Commons that further questions may be asked which are necessary for the elucidation of the answers that the Ministers have given without any comment or debate. Invariably, the Speaker of the House when such further questions have been put has called the attention of the House to the delay, inconvenience and obstruction of the legitimate work of the House that may arise from an excessive demand for further replies. The Speaker has likewise occasionally felt it necessary to stop the asking of further questions by calling upon the Member in whose name the next question stands upon the notice paper to put his question, and the Speaker has for the same reason advised the Members not to ask supplementary questions and in many cases has suggested Ministers that lengthy answers should be circulated with the official report instead of being given orally. The Speaker has gone even further and ruled that a supplementary question in the House cannot be based upon a printed answer. The Speaker has also restricted questions on purely local matters and in dealing with individual cases.

It is evident from what I have stated above that the Member asking the original question is entitled to ask a supplementary question or questions, strictly arising out of the original question or reply and the speaker keeps a vigilant watch on the practice of putting supplementary questions so as to safeguard the rights of Members who have questions to ask later on in the list as the time prescribed for interrogatories is only one hour at the commencement of the work of the day. All the authorities agree in stating that only within due limits which are necessary for the elucidation of the answers that supplementary questions can be asked. It is apparent that the elucidation of the answers points definitely to the clearing up of any ambiguity or any unintelligible statement or any *lacuna* in the answer or any doubt or difficulty that may have suggested to the Member. I have searched in vain the text books and various authorities to find out that the supplementary questions may be extended to questions remotely or distantly connected with the answers given by Ministers or even with the original questions. The Speakers has infrequently adopted the odious duty of stopping the Member of putting supplementary questions by unceremoniously calling upon the Member in whose name the next question stands to put his question—a practice if regularly adopted in India may cause some resentment and even dissatisfaction among Members ; but any President should be shirking his duty if he failed to adopt such a course if any Member persisted in putting a succession of superfluous and irrelevant questions after repeated warnings given to him, and such a course would doubtless be justified in the interest of the House from a disciplinary and business point of view.

I will now endeavour to ascertain the practice prevailing in the Council of State. At present we are not directly concerned with the Lower House of the Central Indian Legislature nor with Provincial Councils which have enacted

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special rules and standing orders under the Government of India Act of 1915 though they are more or less drafted on similar lines. The printed proceedings of the Council of State furnish no adequate information or reliable guide ; but at any rate there is no direct ruling on the point and so far as I can ascertain it has never formed the subject of serious controversy till I gave my first ruling in this House. In the proceedings of the Central Legislative Assembly we find some rulings as to the scope within which supplementary questions can be asked and also on kindred matters. It has been ruled that the Honourable Member may put a question, but he must not make a speech in putting his question (page 49, 25th August, 1925). It was also held there that in the course of supplementary questions put after an answer had been given that the Member putting the question must not argue (page 441, 28th January, 1926). On another occasion when the President remarked that the Honourable the Government Member is perfectly entitled to say that the question does not arise the late Honourable Mr. V. J. Patel who was a Member of the Assembly then asked whether the Government Member could say so without the President's ruling. Thereupon the President Sir Frederick Whyte said that it required no ruling. (Page 2366, 30th May, 1924). At a later date it was ruled that any Member is at liberty to submit whether the particular Question does or does not arise out of the original question (page 798, 7th September, 1925). There are several rulings of the Assembly where in the course of certain supplementary interrogatories, questions were asked which did not arise out of the answers given. Whereupon the Speakers have invariably pointed out that the Honourable Member should put a specific question arising out of facts disclosed in the answer to the questions. The Speaker Mr. (now Sir) R. K. Shanmukham Chetty said :

“ Supplementary questions are intended to elicit further information arising out of the answers given by the Honourable Members of Government and supplementary questions are not intended to be utilized to enable Honourable Members to ask additional questions which they may bring ready made ”.

(Page 2637, 2nd March, 1933). In all these cases which I have enumerated above the rule clearly laid down is that supplementary questions arising out of the reply given are only permissible and the Member must put a specific question arising out of facts disclosed in the answer to the question. The rulings may be usefully and advantageously referred to : Page 161, 26th January, 1931 ; also page 906, 17th February, 1931 ; see also page 2637, 27th March, 1933 ; page 3034, 12th December, 1933 ; and page 2870, 28th March 1934.

I have also to refer to rules of business and procedure in the Council of State framed under the Government of India Act itself and the rules and standing orders made under that Act. The provisions of the Government of India Act of 1915 are set out with amendments in the Ninth Schedule to the Government of India Act, 1935. Under section 312 the provisions of Part 13 of the new Government of India Act shall apply with respect to the period elapsing between the commencement of Part 3 of the Government of India Act, 1935, which refers to the Governors' Provinces and the establishment of the Federation. In other words, these are transitional provisions between Provincial autonomy and the establishment of the Federation and under section 317 the provisions of the Government of India Act set out with amendments consequential on the provisions of the new Act in the Ninth Schedule to that Act regarding the Indian Legislature and provisions supplemental to those provisions shall subject to those amendments continue to have effect notwithstanding the repeal of the Act of 1915. Therefore for complete information regarding the rules of business

and procedure in the Council of State we have to fall back under the provisions of the old Act set out with amendments in the Ninth Schedule to the Government of India Act, 1935.

Under rule 8 a question may be asked for the purpose of obtaining information on a matter of public concern within the special cognizance of the Member to whom it is addressed, but this right of putting the interpellation is subject to certain restrictions put in the proviso to that rule. These restrictions embodied in rule 8 are not exhaustive and likewise under Standing Order 14 it is provided that in order that a question may be admissible it must satisfy the conditions embodied therein. The limitations imposed by Standing Order 14 are also not exhaustive but those limitations equally apply to supplementaries. The only provision regarding the putting of supplementary questions is contained under rule 10 which states that any Member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given, and the President shall disallow any supplementary question if in his opinion it infringes the rule as to the subject-matter of questions and that under Standing Order 19 no discussion shall be permitted in respect of any question or of any answer given to a question. I may bring to the notice of Honourable Members that the right to put a supplementary question under rule 10 is confined for the purpose of further elucidating any matter of fact only regarding which an answer has been given and does not cover a variety of questions distantly or remotely connected or arising out of or consequential to the original question or questions relating to the expression of opinion or on any questions affecting public policy or otherwise. Standing Order 15 gives power to the President to decide admissibility of questions and may disallow any question when in his opinion it is an abuse of the right of questioning or calculated to obstruct or prejudicially affect the procedure of the Council or is in contravention of the Standing Orders and logically the same principle applies in the case of supplementaries. I may also state that it is not sufficiently recognised that the disallowance of a supplementary question causes no hardship or serious inconvenience as the disallowed supplementary may be repeated by giving a formal notice.

Further, it may not be out of place to state here that in addition to rules, resolutions, sessional and standing orders, the proceedings of both the Houses of Parliament are also regulated by modern practice and ancient usage. Sir Thomas Erskine May in his valuable treatise on "The Law, Privileges, Proceedings and Usage of Parliament" states thus :

"Ancient usage, when not otherwise declared is collected from the journals, from history and early treatises, and from the continued experience of practised Members. Modern practice is often undefined in any written form ; it is not recorded in the journals ; it is not to be traced in the published debates ; nor is it known in any certain manner but by personal experience and by the daily practice of Parliament, in conducting its various descriptions of business ".

In India Councils and Legislative Bodies have been of very modern growth and have neither usage nor modern practice to fall back upon in elucidation of knotty, doubtful, and complicated questions ; but as in the administration of laws generally we fall back upon precedents of English Constitution, law and usage it is equally permissible for us in the interpretation of the rights and privileges of putting questions and supplementary questions to seek the aid of ancient usage and of modern practice prevailing in the Houses of Parliament.

I have summarised above the essence and purport of the numerous rulings that have been given from time to time by many learned and illustrious

[Mr. President.]

Speakers of the House of Commons. I have also referred to the equally significant and closely reasoned rulings of the many distinguished Speakers of the Legislative Assembly of the Central Legislature. I would now point out with all humility that these decisions regarding the privilege of asking supplementary questions are in substantial conformity with the rulings given by me in the past in this House. I have not, however, allowed the matter to rest at that stage. Through the kind intervention of my old and valued friend Sir Howard d'Egville, Secretary of the Empire Parliamentary Association, London, I had approached Captain the Right Honourable E. A. Fitz Roy, M. P., the very eminent and distinguished Speaker of the House of Commons, and I am glad to say that he has complied with my request and given me his valued opinion on the subject, and has also kindly permitted me to mention to the House that I had consulted him. For the information of the Council I shall state fully his own views as to the extent to which the privilege of asking supplementaries can be validly exercised.

The Right Honourable the Speaker of the House of Commons has informed me that in the House of Commons a Member is limited to three questions on the order form and if there is a fourth or fifth question down the Speaker does not call it. Happily this restriction ordinarily is not exercised in India. In his opinion, there is no limit to the asking of supplementary questions, but it is entirely within the discretion of the Speaker how many he allows. His views are very definite as regards the object of putting supplementary questions. He states that the supplementaries are intended only for

“clearing up any ambiguity in the reply given or extracting further information on the subject dealt with in the original question. The supplementary questions must be connected with the subject matter of the original question”.

The Right Honourable gentleman states further that

“If a supplementary question deals with an entirely different matter the Speaker rules it out of order and instructs the member to put it on the order paper”.

By order paper is meant that a formal written notice of the question should be given. As to my enquiry as to what extent is the latitude of putting supplementary questions permitted in the House of Commons by its traditional practice he states :

“this is entirely left to the discretion of the Speaker who is guided by the importance or urgency of the subject and by the number of questions down on the order paper on the particular day.” He adds that “a supplementary question must conform to the rules governing the framing of a question on the order paper”.

Sir Howard d'Egville whose opportunities of observing the practice are unrivalled states that as far as his own observation is concerned he would say that the speaker is generally very strict in keeping a Member who puts a supplementary question to the precise subject matter of his original question. He draws my attention to the words of Erskine May that

“further questions without debate or comment may within due limits be addressed to Ministers which are necessary for the elucidation of the answers that they have given”.

It will be seen from what I have stated above that the Right Honourable the Speaker of the House of Commons entirely agrees and supports me in the view that I have taken of the right, privilege and extent of putting supplementary questions. I hope that this authoritative decision will satisfy all the Honourable Members who take interest in the elucidation of this important subject. This decision will permit the Honourable Member of Government

to refuse to answer any supplementary question within the limits prescribed above. Speaking on behalf of his party my old and esteemed friend Pandit Kunzru on the last occasion in this House when some discussion took place said that—

“ It is our earnest desire to co-operate with you in maintaining the dignity and privilege 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 interest.”

I have no doubt that these worthy sentiments will be adopted by him and his party and the other Honourable Members. As long as I have the honour to occupy this Chair I shall consider it my duty and obligation to enforce the principles now enunciated justly and with discretion. I trust the Honourable Members of this House will now regard this as an authoritative ruling and they will give me their support in maintaining the practice which I have indicated in the past and which has been authoritatively supported by no less a person than the Right Honourable the Speaker of the House of Commons.

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

Nos. 1-UP AND 2-DOWN MAIL, A.B.R.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways) : Sir, I lay on the table the information promised in reply to question No. 107 asked by the Honourable Maulvi Ali Asgar Khan in the Council of State on the 21st February, 1938.

The Agent, A.B.R., states that the arrangement was agreed to at a meeting of his Local Advisory Committee, and that any extension of this arrangement will, it is feared, affect the punctuality of trains.

BILL PASSED BY THE LEGISLATIVE ASSEMBLY LAID ON THE TABLE.

SECRETARY OF THE COUNCIL : Sir, in pursuance of rule 25 of the Indian Legislative Rules, I lay on the table copies of the Bill to provide for the control of the export of tea from, and for the control of the extension of the cultivation of tea in, British India, which was passed by the Legislative Assembly at its meeting held on Tuesday, the 1st March, 1938.

STANDING COMMITTEE FOR ROADS, 1938-39.

THE HONOURABLE MR. S. N. ROY (Communications Secretary) : Sir, I move :

“ That this Council do proceed to elect, in such manner as the Honourable the President may direct, of three Members to serve on the Standing Committee for Roads which will be constituted to advise the Governor General in Council in the administration of the Central Road Fund during the financial year 1938-39.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : With reference to the Motion which has just been adopted by the Council, I have to announce that nominations to the Committee will be received by the Secretary up to 11 A. M. on the 7th March, 1938, and the date of election, if necessary, will be announced later.

MANŒUVRES, FIELD FIRING AND ARTILLERY PRACTICE BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, I move :

"That the Bill to provide facilities for military manœuvres and for field firing and artillery practice, 1938, as passed by the Legislative Assembly, be taken into consideration."

The Statement of Objects and Reasons explains the purpose of this measure and the necessity for it. In brief the Bill seeks to ensure that manœuvres and field firing practices shall be placed on a proper legal foundation, and that they shall be carried on with the least possible inconvenience to the public or loss and dislocation to those in whose lands they take place.

The Bill provides, in the first place, for prompt and adequate compensation which will be paid on the spot by the Revenue Officer detailed for the purpose. The procedure has intentionally been made as simple as possible in order that the peasants, who form the bulk of the people likely to be affected, may receive their money without having to go through any formalities or lose their time and labour in travelling backwards and forwards to tehsils or headquarters for payment. In the event of their being dissatisfied with the sums being paid out on the spot, provision has been made in the Bill for an appeal to a Commission on which local interests will be represented. The Government of India, it will be noted, has no appeal whatever, and its sole part in proceedings under the Bill is to pay the amount the Provincial authorities may decide upon as compensation. At one time it was proposed that the rule-making power under section 13 should be in the hands of the Governor General in Council, but it was eventually agreed that Provincial Governments would be better aware of local conditions and were the proper authorities to decide exactly how compensation should be paid and what minimum rates should be laid down. Secondly, Provincial Governments have been authorised to select the localities in which manœuvres and field firing are to take place, and provision has been made to prevent the repeated use of the same area.

Finally, places of business, education and worship have been expressly exempted, and detailed provisions in regard to timely warning of the inhabitants of areas over which firing takes place have been inserted.

The Bill as it now stands incorporates every possible concession that can be made if the training of troops is not to be hampered and restricted. It is, indeed, a liberal and generous measure, and should effectually remove any cause of complaint that there may have been in the past.

Sir, I move.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Clause 2.

***THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) :** Sir, I beg to move :

"That in the proviso to sub-clause (1) of clause 2 the word 'ordinarily' be omitted."

When it is the intention of the Bill that particular areas should not be occupied repeatedly so as to cause the least hardship to the people of the locality, I submit the word "ordinarily" should be omitted, so that it may be made clear that specified areas may not be utilised more than once in any period of three years.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I regret it is impossible for me to accept this amendment. There are, here and there, tracts of land which are practically uninhabited, and the use of them for manoeuvres occasions the least possible dislocation in the ordinary life of the people, and also the least possible damage. If it were impossible to use these more than once in three years, manoeuvres would have to be held in more thickly populated areas, with the result that one of the main objects of this measure would be defeated. More loss and inconvenience would ensue than is necessary, and the general taxpayer would have to meet a bigger bill than he need. The period originally decided upon was two years, and this was extended to three with misgivings. The extension was possible only because of the safeguard contained in the word "ordinarily". It must be remembered that in England the War Office own large tracts of country in which manoeuvres are constantly held, and that it is exceptional to go outside them. Here in India the Defence Department owns none, and if the most suitable areas from the point of view of the public, as well as that of the Army, are only obtainable once in three years, everyone concerned will suffer.

Sir, I oppose the amendment.

Question put and amendment negatived.

Clause 2 was added to the Bill.

Clauses 3, 4 and 5 were added to the Bill.

THE HONOURABLE THE PRESIDENT: Clause 6.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Sir, I beg to move:

"That in sub-clause (d) of clause 6 after the words 'and two' the word 'non-official' be inserted."

This is with regard to the two persons to be nominated by the District Board. When the Chairman of the Board is the Collector and there is an official representing the Military Department, the men nominated by the District Board, I submit, should be non-officials, and that is the object of my amendment.

THE HONOURABLE MR. G. S. MOTILAL (Bombay: Non-Muhammadan): Sir, I support this amendment. The very object of this clause is, although not specifically stated, that the two persons, to be nominated to form the appellate commission, should be non-officials. The amendment of my friend seeks to specify what is latent under the clause. The Collector of the district is to constitute a commission consisting of himself as chairman, a person commanding the forces engaged in manoeuvres and two persons nominated by the District Board, and such commission is to decide appeals. The District Board is given the authority to nominate these two persons. I do not suppose that it is intended that these two persons should be officials. In a tribunal of this

*Not corrected by the Honourable Member.

[Mr. G. S. Motilal.]

kind inclusion of a non-official element possessing knowledge of local conditions will be a distinct advantage. It is desirable that this should be clearly provided. I therefore request the Honurable House to accept the amendment.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, it seems to me quite unnecessary to fetter the discretion of District Boards. In all probability in the vast majority of cases the members whose constituencies were nearest to the areas in which manœuvres had been held would be appointed, and these would probably be non-official but there might be some cases in which the District Board would, for some reason or another, prefer to appoint an official and I can see no good reason for ruling out the possibility.

Sir, I oppose the amendment.

Question put and amendment negatived.

Clause 6 was added to the Bill.

Clauses 7 and 8 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 9.

***THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY :**
Sir, I beg to move :

“That in sub-clause (1) of clause 9 after the words ‘ terms of years ’ the words ‘ not exceeding three years ’ be inserted.”

Clause 2 of the Bill speaks of declaring a particular area for purposes of military manœuvres during a period not exceeding three months, but there is no such maximum limit imposed in the case of clause 9 where lands are to be taken possession of for purposes of field firing and artillery practice which are things of a more serious nature. Therefore I submit that the maximum period should also be limited in that case. The original purpose of the Bill was for acquiring lands permanently for these sections. That purpose has now been modified and temporary acquisition has been provided for. Therefore I submit the maximum limit should also be set down there and I provide a much larger period in the case of clause 9 than in the case of clause 2 which says that the period should not exceed three months ; I provide three years.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Here again, Sir, I cannot agree to this amendment. There are places which are eminently suited for the purpose of field firing, where there are no villages, and no permanent habitations of any kind. There is no reason whatever why desert country should not be used year after year for this purpose, and indeed every reason why it should, as otherwise inhabited areas may have to be employed, with consequent inconvenience to the people and loss to the taxpayer. It may safely be left to the Provincial Governments to specify the term of years. They will know local conditions and may be relied upon to have the interests of their people at heart, and there can be no justification for distrusting them in this matter.

Sir, I oppose the amendment.

Question put and amendment negatived.

*Not corrected by the Honourable Member.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY :
Sir, I beg to move :

"That in sub-clause, (3) of clause 9 for the words 'two months' the words 'three months' be substituted."

This is the same provision as in the case of section 2 where three months is mentioned and here a shorter period for a more serious purpose is provided for. I submit that the two periods should be the same.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, two months in advance is the absolute limit to which Government could agree. In the manœuvres section of the Bill it is true that a similar amendment was carried in the other House. This was a serious blow to the Bill, but it was not deemed fatal, as manœuvres can usually be foreseen for some time ahead and many arrangements have to be made before they can be carried out ; but if every firing practice had to be notified three months and more before it could be carried out, the training of the troops concerned would be most seriously hampered, and no advantage that I can see could accrue to anyone. Two months is ample for any conceivable purpose, and in my opinion more than ample. The necessity of giving more would make this part of the Bill unworkable in practice.

Sir, I oppose the amendment.

Question put and amendment negatived.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY :
Sir, I beg to move :

"That in sub-clause (4) of clause 9 after the words 'by like publication' the words 'one month and' be inserted."

Sir, I also move this with a view to make this section conform to the provisions of section 2, where one month and one week as nearly as may be before the commencement of the manœuvres is mentioned. My amendment also seeks to make that amendment, so that information may be communicated to the people one month before that and one week before actual firing takes place.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : Sir, in the opinion of many, the subject-matter in this sub-clause would more properly have been dealt with by rules under the Act. If the Provincial Governments consider that additional warnings of any kind are necessary, they will be able to make provision for them by virtue of the rule-making power which has been vested in them by section 13 of the Bill. I can see no reason for further interfering with their discretion and I therefore oppose the amendment.

Question put and amendment negatived.

Clause 9 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 10.

*THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Sir,
I beg to move :

"That at the end of the first proviso to sub-clause (1) of clause 10 the words 'and moveable property' be added."

[Mr. Kumarsankar Ray Chaudhury.]

The object of this amendment is that, if there are some moveable properties which can be removed from the locality the Military authorities should be empowered to remove those properties from those localities so as not to be made liable for the waste or damage caused to those properties. That clause deals with the removal of persons only and my amendment seeks to add moveable property so that the Military authorities may not be liable for any loss or damage to the moveable properties as well.

12 NOON.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, there seems to be no need for the proposed amendment. If people wish to take away their moveable property or part of it, for any particular reason, they will do so. If any of it was damaged, they would receive full compensation. It is most unlikely that any such property would in practice be damaged, and, to the best of my knowledge, no case has ever occurred where any such property was damaged. The whole purport of this proviso is to secure that human beings and livestock may be kept out of the way of stray bullets, and there is no need to confuse the issues.

Sir, I oppose the amendment.

Question put and amendment negatived.

Clause 10 was added to the Bill.

Clauses 11, 12 and 13 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move:

"That the Bill to provide facilities for military manœuvres and for field firing and artillery practice, 1938, as passed by the Legislative Assembly, be passed."

The Motion was adopted.

DESTRUCTIVE INSECTS AND PESTS (AMENDMENT) BILL.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD (Education, Health and Lands Member): Sir I move:

"That the Bill further to amend the Destructive Insects and Pests Act, 1914, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.

I do not wish to add very much to the Statement of Objects and Reasons which is already before Honourable Members. As Honourable Members will have seen from the Statement, the present Act is defective in two respects. The first is that, while we can prevent the import of pests into India, we have at present no power to regulate or to prevent the transport of these pests within India itself; and the second defect is that the present Act only applies to certain insects which can damage crops by infection. There are insects and pests which can do damage in other ways than by infection and we are providing for that in the present Bill. So it is a purely non-contentious measure and it fills up gaps in the present Act. The mere fact that there have been no amendments proposed leads me to assume that the Bill has the general approval of the House.

Sir, I move.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) : Sir, there is only one thing I want to mention. It is this ; that this Bill seeks to my mind to prevent the transport of destructive insects and pests from one province to another but if it is transported within the province there is no means adopted for preventing that.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : As my Honourable friend must have seen during the course of the discussion in another place, it is quite open to the Local Governments to take such action as they consider necessary.

The Motion was adopted.

Clauses 2, 3, 4 and 5 were added to the Bill.

Clauses 6 and 7 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, I move :

“ That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

RESOLUTION *RE* DRAFT CONVENTION AND RECOMMENDATIONS RELATING TO SAFETY IN THE BUILDING INDUSTRY.

THE HONOURABLE SIR MUHAMMAD YAKUB (Commerce and Labour Member) : Sir, I move :

“ That this Council having considered the Draft Convention and Recommendations relating to safety in the building industry, recommends to the Governor General in Council—

- (a) that Provincial Governments be consulted regarding the desirability and practicability of legislation to secure greater safety for workers in the building industry ; and
- (b) that their attention be drawn to the Recommendations concerning co-operation in accident prevention and vocational education.”

I should like to sketch briefly the history of the drafts which the International Labour Conference have approved. The Governing Body of the International Labour Office placed the subject of “ Safety provisions in the building industry ” on the agenda of the 20th Session of the Conference in June, 1936 for first discussion. The result of the Conference’s deliberations was a questionnaire, which was received so late that there was no time to consult Provincial Governments, and the Government of India had to reply to it on the information at its disposal. The safety provisions under consideration relate to scaffolding and hoisting machinery and are of importance only for the construction of buildings of more than one storey.

The Government of India accordingly felt that it was only the leading cities of India that were interested and that these already used up-to-date steel scaffolding. They considered that the Model Safety Code, which had been drawn up, was a useful guide but that ratification would be possible only by legislation, for which no particular public demand existed, and that the general enforcement of legislation would be impracticable in the absence of

[Sir Muhammad Yakub.]

organisation within the industry itself and in the face of the cost of the inspectorate that would be required. A Recommendation was consequently preferable to a Convention. The questionnaire, together with the Model Code, was forwarded to Local Governments and their replies indicated that they were in agreement with the views expressed by this Government. The great majority of countries were in favour of confining a Draft Convention, if any, to general principles and embodying the detailed Code in a supplementary recommendation.

The International Labour Office, however, put forward a detailed Convention and to add to it a Recommendation of a more detailed character intended partly to be an alternative for States which did not ratify the Convention. The Indian Government delegates report that the attempt to explain in Committee that the elaborate proposals before them were unsuited to Indian conditions produced no effect and the Convention and the Recommendations were passed by large majorities with slight amendments, amongst which was the deletion in Committee of a Recommendation requiring that Government building contracts should include provisions for safety. The Government of India had instructed their delegates to vote for this Recommendation.

I turn now to the actual drafts. Honourable Members have received copies of Bulletin No. 64 of Indian Industries and Labour. This Bulletin contains the report of the delegates of the Government of India, and the text of the Convention and Recommendations adopted at that the 23rd Session of the Conference, will be found in Appendix 1. The Draft Convention and Recommendations may be divided into two groups. There are first, Nos. 55 and 56. No. 55 will be found at pages 69-70 of the Bulletin and is entitled "Recommendation concerning co-operation in accident prevention in the building industry". This Recommendation requires that safety organisations should be set on foot within the industry to secure the collaboration of all concerned, that they should contain representatives of employers and employees, that they should co-operate with inspectors and with municipal authorities and that the inspection authority should arrange for training courses, demonstrations, lectures, cinemas, manuals, magazines, posters and notices to educate workers in accident prevention. There are already in India some safety organisations which are doing useful work, but there is here no question of legislating to carry out the provisions of the Recommendation and there is no inspection authority. If, in pursuance of the Recommendation on this particular subject, an inspection authority were established, it would be a matter merely for executive instructions to ensure its collaboration with safety organisations.

No. 56 is entitled "Recommendation concerning vocational education for the building industry" and will be found at page 70 of the Bulletin. This too does not contemplate legislation. It recommends that technical and vocational school curricula should include theoretical and practical instruction in methods of safety. With respect to these two Recommendations the only possible action is to draw the attention of Provincial Governments and Administrations to the principles which have been set out in the Recommendations.

I now turn to the second group consisting of the Convention and the Recommendation, which is alternative to it, together with a special Recommendation, on the subject of inspection. The Convention begins on page 44

of the Bulletin. It is formally entitled, "Convention concerning safety provisions in the building industry". The Recommendation bears the same title and will be found at page 49. I have no intention of minimizing the importance of the subject. Most countries have found that safety regulations for building are necessary. In India the great bulk of the building work is unambitious and accidents of any gravity are very unlikely. The construction of village buildings, for example, cannot be regarded as a hazardous occupation. But there are a number of large buildings, particularly in the principal cities, and a certain degree of risk is inseparable from their construction. We know that accidents of a serious nature occur on these from time to time, and it is probable that some of these accidents could be prevented by suitable regulations. Unfortunately, there are no figures to indicate what the accident rate is or what proportion of accidents could reasonably be prevented. There are considerations which make it clear that no action can be taken unless the co-operation of Provincial Governments and municipal authorities is assured. In particular, Article 4 of the Convention requires that there shall be an adequate system of inspection to ensure the enforcement of the laws including the penalties required by Article 3. At page 69 of the Bulletin, Honourable Members will find the Draft Recommendation concerning inspection in the building industry. It requires that the authority responsible for inspection should be a public body and should have all powers necessary to enforce the law, that their inspectors should have technical training and that the building firms concerned should, in addition, provide trained supervisory inspection. The Convention itself is of a detailed and difficult nature and its enforcement would be entirely dependent on a complete and adequate compliance with the inspection Recommendation. It applies to all work done on the site in connection with the construction, repair, alteration, maintenance and demolition of all types of buildings. It permits exempting areas where by reason of the sparseness of the population or the stage of economic development of the area, the competent authority considers it impracticable to enforce the provisions of the Convention, and this power can be used in almost all areas of India with the exception of the large commercial cities. But the power of exempting one area does not lighten the burden on unexempted areas, and the crux of the whole question is, as I have already said, enforcement. That must be a matter for the discretion of Provincial Governments and that discretion cannot be fettered by decisions taken here. The necessity for legislation within their territories must be severally estimated, and the estimate can be made only by those who have intimate knowledge of the actual conditions in each area and are ultimately responsible for enforcement. The extent to which they will be able to provide for effective inspection will dictate largely to their decision. It would be idle to extend any hope of ratification at this stage, and the Resolution before this House can go no further than recommend consultation with the Provincial Governments.

Sir, I move the Resolution that stands in my name.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces-Northern : Non-Muhammadan) : Mr. President, the Honourable Member who moved the Resolution has given an account of the circumstances in which the Draft Convention and Recommendations relating to safety in the building industry were passed by the International Labour Conference. He has also explained the difference between a country like India and the more developed countries in the West in regard to the organisation of the building industry and the character of the buildings constructed. It may be readily conceded that India is in these respects vastly different from the industrially developed

[Pandit Hirday Nath Kunzru.]

European countries but I think the Draft Convention itself shows that the International Labour Conference was conscious of the fact that all the countries that are members of the Conference are not on the same footing in regard to these matters. The Conference tried to make Recommendations which it would be practicable for all countries to put into force. To illustrate my point, I would draw the attention of the House to Article 1 in Part I of the Convention. This Part I is entitled "Obligations on Parties to Convention". It is stated in Article 1 that the obligation undertaken by Governments which accept the Convention is to take power—

"to make regulations for the purpose of giving such effect as may be possible and desirable under national conditions to the provisions of, or provisions equivalent to the provisions of, the Model Code annexed to the Safety Provisions (Building) Recommendation, 1937", etc.

It will be seen from this that the International Labour Conference has not insisted on a rigid enforcement of the Model Code as framed by it. It has left a great deal of latitude in this matter to the Governments concerned. It has made both the Convention and the Code as flexible as it could in order to provide for the different conditions prevailing in different countries.

Another thing which the House should bear in mind is Article 5 of Part I of the Convention. My Honourable friend Sir Muhammad Yakub drew attention to it, but I think it ought to be read out to Honourable Members so that they may appreciate the extent to which freedom has been given to Governments ratifying the Convention. This Article 5 says :

"In the case of a member the territory of which includes large areas where by reason of the sparseness of the population or the stage of economic development of the areas the competent authority considers it impracticable to enforce the provisions of this Convention, the authority may exempt such areas from the application of the Convention either generally or with such exceptions in respect to particular localities or particular kinds of building operations as it thinks fit".

It appears, Sir, as if this Article had been put in on purpose to accommodate India which would have found it impossible to enforce the elaborate provisions of the Code which are applicable in their entirety to western countries only. These two Articles that I have quoted will show the degree of latitude which has been allowed to Governments ratifying the Convention in carrying out its object. It seems to me that the Convention could not have been made more flexible.

Apart from this, Sir, even when a Government brings the building industry under the provisions of the Convention, it is free to except from their purview such work as is carried on in reasonably safe conditions. If there are organisations of the employers and the employed in regard to that industry they will have to be consulted, but if there is no such organisation the Government will have full power to take appropriate action themselves. This is another safeguard which I think might have recommended the Convention to the Government of India.

Now, my Honourable friend pointed out that the Questionnaire and the Draft Convention were considered some time ago by the Government of India and the Local Governments and that all of them came to the conclusion that it was unnecessary to extend the provisions of the Convention to this country. My Honourable friend, however, in the course of his speech himself confessed that there were certain cities in India where the provisions of the Convention or of the Safety Code might be applied. In cities like Calcutta, Bombay,

and Madras where big buildings are being constructed it may be practicable and not merely practicable but also desirable to make rules which will provide for the safety of the workers. Now this is an additional reason why I think the Government of India should have adopted a more positive attitude towards the Convention than they have done. They are now going to consult the Provincial Governments. I do not know when they received the text of the Convention and the Recommendations and the Model Code as adopted by the International Labour Conference, but I should think that had they taken a little more interest in the matter they had sufficient time at their disposal to consult Provincial Governments and to come forward with constructive suggestions now.

It is obvious, Sir, that the Convention cannot be adopted unless it is supported by the Government of India. It will be useless therefore to oppose the Resolution moved by the Honourable Member. Indeed, I am not going to oppose it, but I do hope that in view of what I have said the Government of India will give their closer consideration to this matter and will not be disposed merely because of the smallness of the area to which the provisions of the Convention might be profitably applied to set aside the Convention. It will be good in a matter like this to make even a small beginning. We know the great handicaps under which illiterate labourers work in this country. Any provision relating to their welfare however small ought I think to be welcomed by Government and the Legislature.

There is one other point, Sir, to which I would like to draw the attention of my Honourable friend Sir Muhammad Yakub. Article 2 of the Recommendation concerning safety provisions in the building industry says :

“ Any members of the International Labour Organisation which have not ratified the Safety Provisions (Building) Convention, 1937, should communicate every third year to the International Labour Office on a voluntary basis a report indicating the extent to which effect has been given to the Model Code ”.

I listened attentively to my Honourable friend, but I found nothing in his speech relating to this Recommendation. I hope that the Government of India after they have received the opinions of the Local Governments will find it possible to give effect to the Convention even though to a limited extent ; but even if unfortunately they come to an adverse conclusion I hope that in accordance with Article 2 of the Recommendations which I have just read out they would agree to submit a report every third year to the International Labour Office showing to what extent it has been possible for them voluntarily to carry out any of the provisions of the Model Code. This will create no difficulties for them ; on the other hand, I think it will enable the International Labour Office to feel that the Government of India, though prevented by practical considerations in their opinion from giving effect to the Convention are trying on their own initiative to do whatever they can to provide for the safety of workers in the building industry.

THE HONOURABLE SIR MUHAMMAD YAKUB : Mr. President, I am glad that my Honourable friend Mr. Kunzru has made a speech which is rather a supplement to my speech. My Honourable friend would realise that now that provincial autonomy is established in the provinces and every one of us is anxious to see that autonomy should be carried out in the provinces to its fullest extent, I think it would not be possible, or desirable, for the Government of India to inflict its opinions in matters like this upon the provinces in greater detail than I have done. We are not averse, Sir, to take steps to help Provincial Governments in framing any legislation which they want in matters

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of the safety or anything like that, but probably it would not have been advisable for the Government of India just at present to do more than what I have done, that is, to seek the opinions of the Provincial Governments and find out what they are going to do. I do not think, Sir, I need add anything more, and with these observations I place my Resolution for the acceptance of the House.

THE HONOURABLE THE PRESIDENT : Resolution moved :

“ That this Council having considered the Draft Convention and Recommendations relating to safety in the building industry recommends to the Governor General in Council—

- (a) that Provincial Governments be consulted regarding the desirability and practicability of legislation to secure greater safety for workers in the building industry ; and
- (b) that their attention be drawn to the Recommendations concerning co-operation in accident prevention and vocational education.”

Question put and Motion adopted.

THE HONOURABLE THE PRESIDENT : Before I adjourn the Council I wish to remind Honourable Members that a group photograph will be taken on Friday, the 4th March, 1938, at 10-45 A.M.

The Council then adjourned till Eleven of the Clock on Friday, the 4th March, 1938.
