

Monday, 23rd January, 1939

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THE  
**COUNCIL OF STATE DEBATES**

**VOLUME I, 1939**

*(23rd January to 18th April, 1939)*

**FIFTH SESSION**

OF THE

**FOURTH COUNCIL OF STATE, 1939**

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1939.

# Council of State

## *President :*

THE HONOURABLE SIR MANECKJI DADABHOY, K.C.S.I., K.C.L.E.,  
BAR.-AT-LAW.

## *Panel of Chairmen :*

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS, C.I.E.  
THE HONOURABLE SIR DAVID DEVADOSS.  
THE HONOURABLE SIR RAMUNNI MENON.  
THE HONOURABLE MR. HOSSAIN IMAM.

## *Secretary :*

THE HONOURABLE MR. SHAVAX A. LAL.

## *Committee on Petitions :*

THE HONOURABLE RAJA CHARANJIT SINGH, *Chairman*.  
THE HONOURABLE SIR A. P. PATRO, K.C.I.E.  
THE HONOURABLE SIR RAMUNNI MENON.  
THE HONOURABLE MR. P. N. SAPRU.  
THE HONOURABLE MR. R. H. PARKER.

} *Members.*

CONTENTS.

	PAGE.
<b>Monday, 23rd January, 1939—</b>	
Members Sworn . . . . .	1
Questions and Answers . . . . .	1—9
Motion for Adjournment <i>re</i> Railway disaster near Hazaribagh, E. I. R.	9—10
Amendments to Ottawa Trade Agreement Rules, 1932, laid on the table	10—11
Message from His Excellency the Governor General . . . . .	11
Committee on Petitions . . . . .	11—12
Congratulations to recipients of Honours . . . . .	12—13
Governor General's Assent to Bills . . . . .	13
Bills passed by the Legislative Assembly laid on the table . . . . .	13
Messages from the Legislative Assembly . . . . .	13—14
Death of Nawab Sir Muhammad Muzammil-Ullah Khan and Khan Bahadur Hafiz Muhammad Halim . . . . .	14
Motor Vehicles Bill—Motion to consider, adopted . . . . .	15—37
Statement of Business . . . . .	37—38
<b>Thursday, 26th January, 1939—</b>	
Questions and Answers . . . . .	39—46
Motion for Adjournment <i>re</i> Constitution of the Indian Sandhurst Committee—Disallowed . . . . .	46—48
Statement laid on the table <i>re</i> Draft Conventions and Recommendations adopted by the 21st (Maritime) Session of the International Labour Conference . . . . .	48—50
Governing Body of the Indian Research Fund Association . . . . .	50
Indian Tariff (Amendment) Bill—Considered and passed . . . . .	50—55
Indian Income-tax (Amendment) Bill—Motion to consider— <i>not concluded</i> . . . . .	55—90
<b>Friday, 27th January, 1939—</b>	
Indian Income-tax (Amendment) Bill—Motion to consider, adopted; consideration of clauses— <i>not concluded</i> . . . . .	91—129
Motion for Adjournment <i>re</i> Railway disaster near Hazaribagh, E. I. R.—Withdrawn . . . . .	129—139
<b>Saturday, 28th January, 1939—</b>	
Member Sworn . . . . .	141
Indian Income-tax (Amendment) Bill—Considered and passed, as amended . . . . .	141—189
Statement of Business . . . . .	189—190
<b>Monday, 30th January, 1939—</b>	
Member Sworn . . . . .	191
Questions and Answers . . . . .	191—194
Messages from His Excellency the Governor General . . . . .	194
Governing Body of the Indian Research Fund Association . . . . .	195
Ajmer-Merwara Municipalities Regulation (Amendment) Bill—Considered and passed . . . . .	195—196
Indian Cotton Cess (Amendment) Bill—Considered and passed, as amended . . . . .	196—197

	PAGES.
<b>Monday, 30th January, 1939—contd.</b>	
Destructive Insects and Pests (Amendment) Bill—Considered and passed . . . . .	197—198
Motor Vehicles Bill—Considered and passed, as amended . . . . .	198—236
Statement of Business . . . . .	236
<b>Monday, 13th February, 1939—</b>	
Members Sworn . . . . .	237
Questions and Answers . . . . .	237—246
Message from His Excellency the Governor General . . . . .	246
Bill passed by the Legislative Assembly laid on the table . . . . .	247
Messages from the Legislative Assembly . . . . .	247
Presentation of the Railway Budget for 1939-40 . . . . .	247—253
Statement of Business . . . . .	253
<b>Wednesday, 15th February, 1939—</b>	
Information promised in reply to questions laid on the table . . . . .	255
Messages from His Excellency the Governor General . . . . .	256
Indian Naval Reserve Forces (Discipline) Bill laid on the table . . . . .	256—257
Bills passed by the Legislative Assembly laid on the table . . . . .	257
Message from the Legislative Assembly . . . . .	257
Indian Income-tax (Amendment) Bill—Consideration and adoption of amendments made by the Legislative Assembly . . . . .	257—258
Indian Merchant Shipping (Amendment) Bill—Considered and passed . . . . .	259—260
<b>Saturday, 18th February, 1939—</b>	
Member Sworn . . . . .	261
Questions and Answers . . . . .	261—268
General Discussion of the Railway Budget for 1939-40 . . . . .	268—320
<b>Monday, 20th February, 1939—</b>	
Questions and Answers . . . . .	321—328
Ruling—That the question whether a Bill is <i>ultra vires</i> of the Constitution should be decided by the House . . . . .	328—333
Resolution <i>re</i> Excluded and partially excluded areas—Negatived . . . . .	333—360
Hindu Polygamous Marriage Restraint Bill—Withdrawn . . . . .	360—364
Indian Succession (Amendment) Bill—Introduced . . . . .	364—365
Resolution <i>re</i> Inland water communication, irrigation and prevention of floods—Negatived . . . . .	365—367
Statement of Business . . . . .	367
<b>Thursday, 23rd February, 1939—</b>	
Death of His Excellency Lord Brabourne, Governor of Bengal . . . . .	369
<b>Monday, 27th February, 1939—</b>	
Questions and Answers . . . . .	371—376
Resolution <i>re</i> Purchase of stationery, etc., of Indian make—Adopted . . . . .	376—388
Resolution <i>re</i> Appointment of a Committee for undertaking legislation in regard to Hindu marriages—Negatived . . . . .	388—409
Civil Procedure Amendment Bill—Motion to circulate, negatived . . . . .	409—411
Parsi Marriage and Divorce (Amendment) Bill—Introduced . . . . .	411
Shebaity Bill—Withdrawn . . . . .	411—413
Indian Succession (Amendment) Bill—Motion to refer to Select Committee, adopted . . . . .	413
Statement of Business . . . . .	413

**Tuesday, 28th February, 1939—**

Bills passed by the Legislative Assembly laid on the table . . . . .	415
Presentation of the General Budget for 1939-40 . . . . .	415—421

**Tuesday, 7th March, 1939—**

Questions and Answers . . . . .	423—435
Information promised in reply to questions laid on the table . . . . .	435—475
Standing Committee for the Labour Department . . . . .	475
Standing Committee for the Department of Commerce . . . . .	475
Standing Committee on Emigration . . . . .	475
Indian Naval Reserve Forces (Discipline) Bill—Considered and passed	475—510
Employment of Children (Amendment) Bill—Considered and passed, as amended . . . . .	510—514

**Thursday, 9th March, 1939—**

Bills passed by the Legislative Assembly laid on the table . . . . .	515
General Discussion of the General Budget for 1939-40 . . . . .	515—566

**Monday, 13th March, 1939—**

Questions and Answers . . . . .	567—576
Indian Succession (Amendment) Bill—Presentation of the Report of the Select Committee . . . . .	576
Resolution <i>re</i> Prohibition of the sale of alcoholic liquors in railway refreshment rooms—Negatived . . . . .	576—590
Resolution <i>re</i> Submission by employers of protected industries of annual wage bills—Withdrawn . . . . .	590—594
Dissolution of Muslim Marriages Bill—Considered and passed . . . . .	594—613
Delhi Masjid Bill—Introduced . . . . .	613—614
Parsi Marriage and Divorce (Amendment) Bill—Motion to circulate, adopted . . . . .	614—615
Dividends and Interest Returns Bill—Motion to circulate, negatived . . . . .	615—619

**Thursday, 16th March, 1939—**

Members Sworn . . . . .	621
Questions and Answers . . . . .	621—627
Standing Committee for Roads, 1939-40 . . . . .	627
Standing Committee for the Labour Department . . . . .	627—628
Standing Committee for the Department of Commerce . . . . .	628
Standing Committee on Emigration . . . . .	628
Resolution <i>re</i> Kenya (Highlands) Order-in-Council—Adopted . . . . .	628—644
Resolution <i>re</i> Revision of pay of Indian commissioned officers—With- drawn . . . . .	644—655
Delhi Masjid Bill—Motion to circulate, adopted . . . . .	655—656
Resolution <i>re</i> Constitution of the Legislatures in India on a uni-cameral and entirely elected basis—Withdrawn . . . . .	656—662
Statement of Business . . . . .	662

**Monday, 20th March, 1939—**

Questions and Answers . . . . .	663—668
Standing Committee for the Labour Department . . . . .	669
Resolution <i>re</i> Contribution of railways to general revenues—Negatived . . . . .	669—684
Resolution <i>re</i> Replacement of the Royal Air Force by an Indian Air Force—Negatived . . . . .	684—707
Standing Committee on Emigration . . . . .	693

	PAGES.
<b>Wednesday, 22nd March, 1939—</b>	
Central Advisory Council for Railways . . . . .	709
Standing Committee for Roads, 1939-40 . . . . .	709
Standards of Weight Bill—Considered and passed . . . . .	709—710
Indian Merchant Shipping (Second Amendment) Bill—Considered and passed . . . . .	710—711
Insurance (Amendment) Bill—Considered and passed . . . . .	712
Indian Patents and Designs (Amendment) Bill—Considered and passed . . . . .	712—713
Workmen's Compensation (Amendment) Bill—Considered and passed . . . . .	714
Cotton Ginning and Pressing Factories (Amendment) Bill—Considered and passed . . . . .	714—715
<b>Thursday, 23rd March, 1939—</b>	
Question and Answer . . . . .	717—718
Resolution <i>re</i> Increase in recruitment of Indians of pure descent to senior subordinate services on railways—Negatived . . . . .	719—735
Central Advisory Council for Railways . . . . .	735—736
Resolution <i>re</i> Expansion and protection of the Indian Mercantile Marine—Adopted . . . . .	736—754
Resolution <i>re</i> Censoring or stopping of telegrams—Withdrawn . . . . .	754—100
Indian Succession (Amendment) Bill—Considered and passed, as amended . . . . .	758—762
Statement of Business . . . . .	762—763
<b>Saturday, 25th March, 1939—</b>	
Messages from His Excellency the Governor General . . . . .	765
Indian Finance Bill, 1939, laid on the table . . . . .	765—766
<b>Tuesday, 28th March, 1939—</b>	
Member Sworn . . . . .	767
Questions and Answers . . . . .	767—770
Death of Khan Bahadur Syed Abdul Hafeez and Sir Ernest Miller . . . . .	770—771
Standing Committee for the Department of Communications . . . . .	771—772
Indian Finance Bill, 1939—Considered and passed . . . . .	772—797
Standing Committee for Roads, 1939-40 . . . . .	797
<b>Thursday, 30th March, 1939—</b>	
Member Sworn . . . . .	799
Questions and Answers . . . . .	799—800
Central Advisory Council for Railways . . . . .	800
Resolution <i>re</i> Indo-British Trade Agreement—Adopted . . . . .	800—86 2
Statement of Business . . . . .	832
<b>Saturday, 1st April, 1939—</b>	
Central Advisory Council for Railways . . . . .	863
Standing Committee for the Department of Communications . . . . .	863
Bill passed by the Legislative Assembly laid on the table . . . . .	863
Message from the Legislative Assembly . . . . .	864
Statement of Business . . . . .	864
<b>Monday, 3rd April, 1939—</b>	
Presentation of a Mace to the Council of State by the Honourable Maharajadhiraja Sir Kameshwar Singh of Darbhanga . . . . .	865—871

	PAGE.
<b>Tuesday, 4th April, 1939—</b>	
Questions and Answers . . . . .	873—888
Registration of Foreigners Bill—Considered and passed . . . . .	889—893
Statement of Business . . . . .	894
<b>Thursday, 6th April, 1939—</b>	
Information promised in reply to questions laid on the table . . . . .	895
Bills passed by the Legislative Assembly laid on the table . . . . .	895
<b>Tuesday, 11th April, 1939—</b>	
Members Sworn . . . . .	897
Questions and Answers . . . . .	897—910
Indian Tariff (Second Amendment) Bill—Considered and passed, as amended . . . . .	910—934
Statement of Business . . . . .	934
<b>Friday, 14th April, 1939—</b>	
Member Sworn . . . . .	935
Message from the Legislative Assembly . . . . .	935
Questions and Answers . . . . .	935—942
Information promised in reply to questions laid on the table . . . . .	942—948
Statement laid on the table <i>re</i> Draft Convention concerning statistics of wages and hours of work, etc., etc., adopted by the Twenty-fourth Session of the International Labour Conference . . . . .	943—949
Coal Mines Safety (Stowing) Bill—Considered and passed . . . . .	949—969
Statement of Business . . . . .	969
<b>Saturday, 15th April, 1939—</b>	
Messages from His Excellency the Governor General . . . . .	971
Indian Tariff (Third Amendment) Bill laid on the table . . . . .	971
Bills passed by the Legislative Assembly laid on the table . . . . .	971—972
Message from the Legislative Assembly . . . . .	972
Statement of Business . . . . .	972
<b>Monday, 17th April, 1939—</b>	
Questions and Answers . . . . .	973—977
Statements laid on the table . . . . .	977—990
Sugar Industry (Protection) Bill—Considered and passed . . . . .	990—1015
Chittagong Port (Amendment) Bill—Considered and passed . . . . .	1015
Criminal Law Amendment Bill—Considered and passed . . . . .	1015—1016
Indian Soft Coke Cess Committee (Reconstitution and Incorporation) Bill—Considered and passed . . . . .	1016—1017
<b>Tuesday, 18th April, 1939—</b>	
Indian Tariff (Third Amendment) Bill—Considered and passed . . . . .	1018—1048

THE  
COUNCIL OF STATE DEBATES

(OFFICIAL REPORT OF THE FIFTH SESSION OF THE FOURTH  
COUNCIL OF STATE.)

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VOLUME I—1939.

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COUNCIL OF STATE.

*Monday, 23rd January, 1939.*

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The Council met in the Council Chamber of the Council House in New Delhi at Eleven of the Clock, being the first day of the Fifth Session of the Fourth Council of State, pursuant to section 63D (2) of the Government of India Act. The Honourable the President (the Honourable Sir Maneckji Dadabhoy, K.C.S.I., K.C.I.E., Kt., Bar.-at-Law) was in the Chair.

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MEMBERS SWORN :

The Honourable Mr. Manockji Nadirshaw Dalal (Bombay : Non-Muhammadan).

The Honourable Mr. Frederick Hale Puckle (Home Secretary).

The Honourable Mr. Kenneth Grant Mitchell (Nominated Official).

The Honourable Mr. Narayana Raghavan Pillai (Nominated Official).

The Honourable Mr. Stanley Paul Chambers (Nominated Official).

The Honourable Mr. John Francis Sheehy (Nominated Official).

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QUESTIONS AND ANSWERS.

PAY AND ALLOWANCES OF KING'S COMMISSIONED OFFICERS, INDIAN COMMISSIONED OFFICERS AND VICEROY'S COMMISSIONED OFFICERS IN 1938, ETC.

1. THE HONOURABLE MR. RAMADAS PANTULU (on behalf of the Honourable Mr. G. S. Motilal) : (a) Will Government state the total amount of pay and allowances paid in the last year and payable in the current year to (i) K. C. Os., (ii) I. C. Os. and (iii) V. C. Os.

(b) How much additional expenditure will be required in a year for raising the pay and allowances of the I. C. Os. equal to that of the British officers (K. C. Os.) in the Indian Defence Forces ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** The Defence Services estimates are not compiled so as to show the required information separately.

A rough estimate has, however, been made and the amounts are as follows :—

	1937-38.	1938-39.
	Rs.	Rs.
K. C. Os. . . . .	8 crores.	8 crores.
I. C. Os. . . . .	10 lakhs.	13 lakhs.
V. C. Os. . . . .	64 lakhs.	61 lakhs.

(b) The extra expenditure on the basis of the existing numbers and ranks is estimated at Rs. 5 lakhs. This would progressively increase in proportion to the increase in the numbers of I. C. Os. and their promotion to higher ranks.

#### OUTFIT ALLOWANCE OF BRITISH AND INDIAN OFFICERS OF THE INDIAN ARMY.

2. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal) : Will Government state :

(a) Whether uniform and equipment expenses of Indian officers and British officers of the Indian Army are the same ?

(b) Whether actual expenses of the uniform and equipment are three times more than the allowances paid therefor ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** (a) Yes.

(b) No.

#### MESS AND BAND SUBSCRIPTIONS PAID BY BRITISH AND INDIAN OFFICERS OF THE INDIAN ARMY.

3. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal) : Will Government state whether mess charges and governmental and regimental subscriptions which the British and the Indian officers pay are the same or do they vary according to each commission, viz., King's Commission and Indian Commission ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** K. C. Os. and I. C. Os. both pay the same mess and band subscriptions. There are no such things as governmental subscriptions.

#### AWARDS TO BRITISH AND INDIAN OFFICERS OF THE INDIAN ARMY ON PASSING AN URDU EXAMINATION.

4. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal) : What allowance does a British officer after passing an Urdu examination get in addition to his salary for it, and for what length of time ? Does an I. C. O. get a similar allowance ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** British officers of the Indian Army on passing an Urdu examination get no allowance in addition to their salaries, but are granted certain awards as laid down on page 35 of Language Regulations, India, by way of tuition grants. I. C. Os. are also entitled to the same awards if owing to their lack of knowledge in Urdu they are required to pass examinations in this language. A copy of the Language Regulations is in the Library.

LODGING ALLOWANCE OF KING'S COMMISSIONED OFFICERS AND INDIAN COMMISSIONED OFFICERS, ETC.

5. THE HONOURABLE MR. RAMADAS PANTULU (on behalf of the Honourable Mr. G. S. Motilal): (a) Does a K. C. O. in addition to his higher salary than that of an I. C. O. get lodging allowance while an I. C. O. has to pay 10 per cent. if married otherwise 5 per cent. of his pay as compulsory deduction ?

(b) How many months' furlough does a K. C. O. get in 33 months and how many months' furlough does an I. C. O. get in 33 months ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) A K. C. O. receives lodging allowance only when he is not provided with Government quarters of the requisite standard. An I. C. O. pays 10 per cent. of his pay if married and 5 per cent. if unmarried if he is provided with Government quarters. The reason for this difference is because the pay of the I. C. O. is consolidated and includes an element on account of lodging allowance, whereas that of a K. C. O. does not.

(b) As regards K. C. Os. I refer the Honourable Member to rules 29 and 58 of Military Leave Rules, India, and as regards I. C. Os. to rule 46 of the same publication under which special leave is admissible instead of furlough. The grant of leave of any kind in the Army is however not on an earned basis but is dependent on the exigencies of the service. A copy of the Military Leave Rules (India) is in the Library of the House.

THE HONOURABLE MR. HOSSAIN IMAM: Will His Excellency explain the difference between the two rules ?

THE HONOURABLE THE PRESIDENT: I do not understand your question ?

THE HONOURABLE MR. HOSSAIN IMAM: What is the difference between rule 46 and rule 58 to which His Excellency has referred ?

THE HONOURABLE THE PRESIDENT: Is that not covered by the answer given ?

THE HONOURABLE MR. HOSSAIN IMAM: His Excellency did not mention the difference between the two rules. He said that one is governed by one rule and the other is governed by another rule. I want to know what the difference between the two is.

THE HONOURABLE THE PRESIDENT: Will you answer that question, Your Excellency ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I can answer the question quite easily, as I have already answered it. The two types of officer are shown in different sections because the I. C. O. has just come in. The situation is this. All K. C. Os. and I. C. Os. are equally entitled to casual leave, privilege leave, wound, injury and disability leave and leave on medical certificate. Furlough is only admissible to K. C. Os., and is restricted in any one period to six months in India. Special leave is admissible only to I. C. Os. and is limited to six months which includes any privilege leave due.

### INDIAN REFUGEES FROM BURMA.

6. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government make a statement giving separately the number of Indian refugees, province by province, who have returned to India up to date, as a result of the disturbances in Burma, the sort of financial or other assistance given to them in Burma, or on their arrival in India; and the steps, if any, taken by Government for restoring their economic status?

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD**: The attention of the Honourable Member is invited to the replies given in the other House on the 14th and 17th November, 1938, to starred questions Nos. 1214, 1228, 1232 and 1303. Separate figures of refugees for each province are not available. As regards the last portion of the question, the Honourable Member presumably wants to know how the question of payment of compensation to the victims of the riots stands. The matter is under correspondence.

### GRANT TO THE PUNJAB IRRIGATION RESEARCH INSTITUTE.

7. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Have Government given any grant to the Punjab Irrigation Research Institute? If so, how much; and for what purpose?

**THE HONOURABLE MR. M. S. A. HYDARI**: A grant of Rs. 40,000 was made from the reserve in the Central Road Fund for a scheme of soil research in connection with earth roads.

### THEFTS OR ROBBERIES ON TRAINS.

8. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Have cases of railway train robbery and theft been increasing in number for some time past? If so, have Government taken any special measures in the matter; and if so, what?

**THE HONOURABLE SIR GUTHRIE RUSSELL**: Information received from railways would indicate that, generally speaking, there has been no increase in the number of thefts or robberies on either passenger or goods trains.

### NEW YORK WORLD'S FAIR.

9. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Will the World's Fair be held in New York in 1940; and will India participate in it?

**THE HONOURABLE MR. N. R. PILLAI**: The Fair is to be held this year and not in 1940. India will not participate officially, but the Indian Government Trade Commissioner, New York, has been asked to render such assistance as is possible to any Indian organisations desiring to take part in the Fair.

### USE OF TEAR GAS.

10. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state whether any Provincial Governments have introduced the use of tear gas to disperse mobs since the question was last asked in this House? If so, which?

**THE HONOURABLE MR. F. H. PUCKLE:** Not so far as I am aware, Sir.

**INDIAN INCOME-TAX (AMENDMENT) BILL.**

11. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state whether they have received any representation from Provincial Governments protesting against certain provisions of the new Indian Income-tax Bill? If so, what those Governments are and to what provisions do they object?

**THE HONOURABLE MR. S. P. CHAMBERS:** I would refer the Honourable Member to Part I of the Volume of Opinions (Papers Nos. 1 to 3) on the Indian Income-tax (Amendment) Bill, and to the précis of opinions, copies of which have already been supplied to him.

**CEYLON VILLAGE COMMUNITIES ORDINANCE.**

12. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state what steps, if any, have been taken by them for securing for the Indian estate labourers of Ceylon the rights of franchise, which is denied to them under the Village Communities Ordinance, or any other measure which adversely affects their interests and with what result?

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD:** The Ceylon Village Communities (Second Amendment) Ordinance No. 61 of 1938 excludes all labourers, Indians and Sinhalese, resident on estates from the right of vote, though it has been suggested that, in effect, the exclusion would operate to keep out Indian estate labourers mainly. The Government of India represented the Indian point of view to His Majesty's Government, both when the original and the amended Ordinance were before the Ceylon State Council. They have also, as the House is aware, stopped the recruitment of assisted labour for Ceylon. In this connection attention is invited to the reply given by me on the 14th February, 1938 to the Honourable Mr. Kumarsankar Ray Chaudhury's question No. 43.

As regards the rest of the Honourable Member's question, I regret that I am unable to furnish an answer without specific mention of the measures that he may have in mind.

**MODIFICATION OF RAILWAY CONCESSIONS GRANTED TO THE DEFENCE DEPARTMENT.**

13. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): (a) Will Government state whether they propose to modify the special concession rates which the Indian Railways have to charge for the carriage of military traffic, and which entail a loss to the Railways?

(b) Will Government kindly state the approximate amount of loss per year to the Railways by reason of such arrangements?

**THE HONOURABLE SIR GUTHRIE RUSSELL:** I would refer the Honourable Member to the reply I gave to the Honourable Rai Bahadur Lala Ram Saran Das' question No. 42 on 5th September, 1938.

## UNLICENSED RADIO SETS.

14. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): (a) Will Government state to what extent is wireless "piracy" prevalent in India; and what is the approximate loss of revenue attributable to this source?

(b) What steps have Government taken, or propose to take, for stopping the use of unlicensed radio sets?

**THE HONOURABLE MR. S. N. ROY**: The practice of possessing and working broadcast receiving sets without license prevails to a considerable extent, but I am unable to state its precise extent or to give any estimate of the loss of revenue from this practice. Government have appointed a special inspecting staff for the purpose of detecting persons who possess and work unlicensed radio sets and to take action against them.

## FALL IN EXPORT OF RAW COTTON.

15. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal): (a) Will Government state whether the export of Indian cotton to the United Kingdom during the last seven or eight months as compared to 1936 and 1937 has gone down or gone up? If so, by how much?

(b) Similarly what is the position with regard to Japan and in respect of the total exports?

**THE HONOURABLE MR. N. R. PILLAI**: (a) and (b). The Honourable Member is referred to pages 230-31 of the Accounts relating to the Sea-borne Trade and Navigation of British India for November, 1938, a copy of which is in the Library.

## RAILWAY STATION, HARDWAR.

16. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal): (a) How much money has been spent on the recent reconstruction of the Hardwar Railway Station?

(b) What amenities have been provided by the reconstruction of the station for the first, second, inter and third class passengers?

(c) Will Government state whether any further amenities will be provided for third class passengers at the Hardwar Station?

**THE HONOURABLE SIR GUTHRIE RUSSELL**: (a) The estimated amount is Rs. 2,32,964. The final figures are not yet available.

(b) The following amenities are provided in the remodelled station:—

- |                       |           |   |
|-----------------------|-----------|---|
| (i) 1st and 2nd class | . . . . . | Ladies' and gentlemen's waiting rooms and five retiring rooms.  |
| (ii) Inter class      | . . . . . | Ladies' and gentlemen's waiting rooms.  |
| (iii) 3rd class.      | . . . . . | Waiting hall in two sections, 28' wide, with a total length of 227' with new floors and dado and improved booking windows. Pens have been divided and the open space between pens and waiting halls paved. In addition, a shed is provided in front of the pen on the platform, 150' × 14', and a 40-seated flush latrine has been added. |

(c) If found desirable, as the result of experience, further amenities for third class passengers will, no doubt, be considered.

**BATHROOMS IN RAILWAY STATION, DELHI.**

17. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal): (a) Is Government aware of the inconvenience experienced by Indians for want of Indian style bathrooms in the first and second class waiting rooms at Delhi Junction Station?

(b) Do Government propose to provide for baths convenient to those who do not like a tub bath in the first and second class waiting rooms at Delhi Junction?

(c) Do they propose to instal shower baths?

**THE HONOURABLE SIR GUTHRIE RUSSELL:** (a) Government is not aware of any complaints having been received.

(b) and (c). Tubs and water taps are provided, and there are no proposals to instal shower baths.

**RESERVING OF FIRST AND SECOND CLASS ACCOMMODATION FROM HARDWAR TO DELHI, E. I. R.**

18. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal): Do Government contemplate the reserving of first and second class accommodation from Hardwar for Delhi, Lucknow and other big stations?

**THE HONOURABLE SIR GUTHRIE RUSSELL:** I am obtaining information from the E. I. R. and a reply will be laid on the table of the House in due course.

**REFUSAL BY THE POST OFFICE, NEW DELHI, OF A MONEY ORDER FORM WRITTEN IN HINDI.**

19. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal): (a) Has Government's attention been drawn to a letter which appeared in the *Hindustan Times* of 30th September, 1938, complaining that a money order form filled in Hindi alphabets was not accepted by a clerk of the New Delhi Post Office?

(b) What steps do Government propose to ensure that money order forms written in Hindi or Urdu are not rejected?

**THE HONOURABLE MR. S. N. ROY:** (a) Government have seen the letter referred to.

(b) Under clause 263 of the *Indian Post and Telegraph Guide* all the entries made in the money order form may be written in English or in the vernacular of the district, Urdu being the recognised vernacular of Delhi district, money order forms filled in Urdu are accepted at all Post Offices in Delhi. Hindi is not recognised by the Local Administration as a vernacular of the district. While Government are not prepared to go beyond the provisions of clause 263, in actual practice forms written in Hindi are not rejected if there is anyone in the staff of the office who can read Hindi.

**PUBLICATIONS OF THE COMMERCIAL INTELLIGENCE AND STATISTICS DEPARTMENT PUBLISHED IN HINDI, ETC.**

20. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal): (a) Will Government state what publications are published by the Commercial Intelligence Department in Hindi and other vernaculars?

(b) Which of their other publications do Government propose to publish in Hindi and any other vernacular?

(c) Why the "Review of the Trade of India" and "Sea-borne Trade and Navigation of India" are not published in any vernacular also?

(d) Have Government considered the fact that larger public will take advantage if the "Monthly Survey of Business Conditions in India" is published in Hindi?

**THE HONOURABLE MR. N. R. PILLAI:** (a) None.

(b) On the assumption that the Honourable Member is referring only to publications by the Commerce Department, the reply is "none".

(c) and (d). Government do not believe that any advantage gained would be commensurate with the cost and delay that would be involved.

**SPECIFICATION OF IMPORTANT ITEMS OF "IMPORTS" INCLUDED UNDER UNSPECIFIED "OTHER ARTICLES".**

21. **THE HONOURABLE MR. RAMADAS PANTULU** (on behalf of the Honourable Mr. G. S. Motilal): Do Government propose to specify as far as possible important items of "Imports" included in unspecified "Other Articles" in the list of imports published in any publication considered suitable by Government?

**THE HONOURABLE MR. N. R. PILLAI:** Whenever it is considered necessary to do so, separate headings are opened for any unspecified articles included in a residuary item.

**TRANSFER OF THE CAPITAL OF THE UNITED PROVINCES FROM ALLAHABAD TO LUCKNOW.**

22. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state the present position in regard to the transfer of the capital of the United Provinces from Allahabad to Lucknow, so far as the matter has been referred to them? Have Government received any views of the United Provinces Government in this connection?

**THE HONOURABLE MR. F. H. PUCKLE:** The Government of India have no information in the matter, and have received no communication from the Provincial Government in recent years.

**DELHI FORT MUSEUM.**

23. **THE HONOURABLE MR. P. N. SAPRU** (on behalf of the Honourable Raja Yuveraj Datta Singh): Was a daring theft committed some time ago in the Delhi Fort Museum in course of which historic ornaments and cloth belonging to Zinat Nissa Begum, wife of Emperor Bahadur Shah, were removed? If so, will Government state the circumstances under which the theft was committed, and what steps have been taken in the matter?

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD :** On the night of the 27th-28th August burglars entered the Fort Museum through a skylight and removed cloth and ornaments of Zinat Nissa Begum having an intrinsic value of Rs. 200. The police were informed and the offence was investigated but the offenders have not yet been traced.

**THE HONOURABLE THE PRESIDENT :** Honourable Members, I have received notice of a short notice question just before I came in this morning. So far as I see there is no objection to the asking of this question. Will the Honourable Member in charge on behalf of Government say whether he has any objection to answering it ? The following is the question :

“ Will the Government be pleased to make a full statement on the communal riot that took place yesterday in Delhi and the steps taken by the police authorities to avoid that ? ”

**THE HONOURABLE MR. F. H. PUCKLE :** No, Sir. I am afraid Government are not prepared to answer this question at short notice.

**THE HONOURABLE THE PRESIDENT :** Then I am afraid I cannot allow it.

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#### MOTION FOR ADJOURNMENT *RE* RAILWAY DISASTER NEAR HAZARIBAGH, E. I. R.

**THE HONOURABLE THE PRESIDENT :** Honourable Members, I have received notice of two Adjournment Motions, one from the Honourable Mr. Sapru and the other from the Honourable Mr. Hossain Imam. They are on the same subject. I will read the notice to you :

“ Sir, we beg to give notice that we wish to move an Adjournment of the House today to consider a matter of definite urgent public importance, namely, the railway disaster near Hazaribagh.”

Personally I think the matter is of definite and urgent public importance and I think it is proper to allow a debate on it unless I hear to the contrary from the Government Member in charge.

**THE HONOURABLE SIR GUTHRIE RUSSELL** (Chief Commissioner for Railways) : Sir, my only difficulty is this. At the moment I have not got all the information I would like to place before the House. I could make a full statement tomorrow or, better still, on Thursday, because I have arranged for Mr. Bell, General Manager of the E. I. R., to come to Delhi on Wednesday. However, if Honourable Members wish to press the Motion I have no objection.

**THE HONOURABLE THE PRESIDENT :** I think it will be more satisfactory to get a proper reply on Thursday, and I shall waive the question of urgency if you do not press your Motion now.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD** (Leader of the House) : I thought the idea was that the Honourable Sir Guthrie Russell should make a statement and that the Honourable Mr. Sapru and the Honourable Mr. Hossain Imam would not press their Adjournment Motion ?

**THE HONOURABLE THE PRESIDENT :** I did not understand it in that way. If they are agreeable—

**THE HONOURABLE MR. HOSSAIN IMAM** (Bihar and Orissa : Muhammadan) : If we find that the statement is sufficient we might not move the Adjournment Motion.

**THE HONOURABLE THE PRESIDENT** : You cannot blow hot and cold ! If you wish to have an Adjournment I will allow it. If you do not wish to have it you should withdraw the Motion and ask Sir Guthrie Russell to make a statement on Thursday.

**THE HONOURABLE MR. P. N. SAPRU** (United Provinces Southern : Non-Muhammadan) : If the Motion is taken up today, Sir Guthrie Russell will know our point of view. Of course, so far as facts are concerned, they can be ascertained in a separate question later.

**THE HONOURABLE THE PRESIDENT** : I am afraid I cannot accede to your wish. You have been told that he will not be able to give you any information on the subject and it will be very unsatisfactory for the House.

**THE HONOURABLE MR. HOSSAIN IMAM** : The trouble is, Sir, that both Mr. Sapru and I will be absent on Thursday.

**THE HONOURABLE THE PRESIDENT** : Then have it on Friday. Will that suit you ?

**THE HONOURABLE MR. HOSSAIN IMAM** : Yes, Sir.

**THE HONOURABLE MR. P. N. SAPRU** : I can come on Friday but not on Thursday, Sir.

**THE HONOURABLE SIR GUTHRIE RUSSELL** : Friday will suit me, Sir.

**THE HONOURABLE THE PRESIDENT** : Then this Adjournment Motion will be taken up for discussion at 4 P.M. on Friday afternoon.

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#### AMENDMENTS TO OTTAWA TRADE AGREEMENT RULES, 1932, LAID ON THE TABLE.

**THE HONOURABLE MR. N. R. PILLAI** (Nominated Official) : Sir, I lay on the table a copy of further amendments made in the Ottawa Trade Agreement Rules, 1932, which were laid on the table on the 28th February, 1933.

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#### DEPARTMENT OF COMMERCE.

##### NOTIFICATION.

*New Delhi, the 2nd April, 1938.*

No. 20-T. (4)/38.—In exercise of the powers conferred by sub-section (2) of section 3 of the Indian Tariff Act, 1934 (XXXII of 1934), the Central Government is pleased to direct that the following further amendment shall be made with effect from 1st June, 1938, in the Ottawa Trade Agreement Rules, 1932, namely :—

After rule 5 of the said Rules, the following rule shall be inserted, namely :—

“ 5A. (1) No claim that goods are chargeable with a preferential rate of duty shall be considered by the Customs Collector in respect of goods imported by post unless—

(a) At the time of arrival in British India such goods bear on the covering a declaration as to the country of origin, or

(b) such claim is made by the owner at any time before delivery of the goods is taken.

(2) If the owner of the goods is unable to satisfy the Customs Collector that the goods fulfil the conditions laid down in rule 4 or rule 4 read with rule 4A, the Customs Collector shall proceed in the manner laid down in rule 5."

M. SLADE,

*Joint Secretary to the Government of India.*

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## DEPARTMENT OF COMMERCE.

### NOTIFICATION.

#### TARIFFS.

*Simla, the 10th September, 1938.*

No. 20-T. (20)/38.—In exercise of the powers conferred by sub-section (2) of section 3 of the Indian Tariff Act, 1934 (XXXII of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the Ottawa Trade Agreement Rules, 1932, namely :—

For clause (a) of sub-rule (1) of rule 5A of the said Rules, the following clause shall be substituted, namely :—

"(a) At the time of arrival in British India such goods are covered by a declaration as to the country of origin entered in the customs declaration form or (in the absence of such a form) on the wrapper of the package".

N. R. PILLAI,

*Joint Secretary to the Government of India.*

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## MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

THE HONOURABLE THE PRESIDENT: Honourable Members, I have a Message to convey to you from His Excellency the Governor General. The Message runs thus :

### PANEL OF CHAIRMEN.

"In pursuance of the provisions of sub-section (2) of section 63A of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, I, Victor Alexander John, Marquess of Linlithgow, hereby nominate the following Members of the Council of State to be on the Panel of Chairmen of the said Council of State :

*In the first place, the Honourable Rai Bahadur Lala Ram Saran Das ; in the second place, the Honourable Sir David Devadoss ; in the third place, the Honourable Sir Ramunni Menon ; and lastly the Honourable Mr. Hossain Imam.*

LINLITHGOW,

*The 8th January, 1939.*

*Viceroy and Governor General."*

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## COMMITTEE ON PETITIONS.

THE HONOURABLE THE PRESIDENT: Under Standing Order 76 of the Council of State Standing Orders, I am required at the commencement of each session to constitute a Committee on Petitions consisting of a Chairman and four members. The following members have at my request kindly consented to preside over and serve on the Committee. I accordingly have much pleasure

[Mr. President.]

in nominating as Chairman of the Committee the Honourable Raja Charanjit Singh and as members, the Honourable Sir A. P. Patro, the Honourable Sir Ramunni Menon, the Honourable Mr. P. N. Sāpru and the Honourable Mr. R. H. Parker.

### CONGRATULATIONS TO RECIPIENTS OF HONOURS.

**THE HONOURABLE THE PRESIDENT :** Honourable Members, it is now my pleasant task to offer congratulations to those Honourable Members who have been the happy recipients of Honours last January. I have to convey the congratulations of the Council and myself to those Honourable gentlemen. The foremost place is given to the Honourable Sir Reginald Maitland Maxwell. That Honourable Member had been for many years in this House as Home Secretary and subsequently he used to visit in his capacity of the Honourable Home Member this House on important occasions. After a meritorious and distinguished service for many years in the Bombay Presidency he was appointed to the high post of Home Secretary to the Government of India and, as you all know, he has distinguished himself in that capacity in this House and since he has become Home Member he has rendered very valuable services to Government and the country. When he was Home Member it was always interesting to hear him speak here. He is a most unassuming man and he combined great humility with modesty of speech and action. During the years that he was here I never heard a harsh or a compromising word from him and to his opponents he was equally condescending and accessible and he allowed the fullest opportunity of debate on the points that he raised. He has been appointed for some time as Home Member and he holds his seat in the Legislative Assembly; we miss him from this House. At the same time I cannot help mentioning about his service to this House and to the country at large. We all wish that he will enjoy this Honour for many many years.

You must also be very pleased to hear of the Knighthood conferred on Mr. Alan Hubert Lloyd. He used to be a Member of this House and on one occasion he acted as Finance Secretary in this House. He is a most affable gentleman and we are very pleased that he has received the Knighthood for his long, faithful and meritorious services. I offer him congratulations on behalf of this House and my personal congratulations, though I am sorry he is not present here today.

Mr. James Reid Kay, a non-official Member and Chairman of the Bengal Chamber of Commerce has also received a Knighthood. He had been in this House for a little over a year and he was present almost at every meeting, though he rarely spoke. He has received this Knighthood for the great services which he has rendered to the Presidency of Bengal and I convey to him the congratulations of this House and also my personal congratulations.

There is another matter and I know all Honourable Members will be glad that I should make a brief reference to it, and that is in reference to our old friend and colleague in this House Mr. Abraham Jeremy Raisman, C.S.I., C.I.E., who has now been appointed as Finance Member to Government. He has been for many years a Member of this Council and has acted as Finance Secretary to the Government of India. After 15 years an Indian Civil Service man gets this privilege and honour again, because the last gentleman to be Finance Member of the Government of India was Sir Malcolm (now Lord) Hailey, and since that time the appointments were given to great financiers

who were brought out from England and the very fact that Mr. Raisman has been selected for this office proves abundantly his qualifications, his financial ability, etc. His store of financial knowledge is so great that we, both the Government and this Council, will find him a valuable acquisition. I offer on behalf of this Council and on my own personal behalf congratulations to Mr. Raisman on his exalted appointment.

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GOVERNOR GENERAL'S ASSENT TO BILLS.

SECRETARY OF THE COUNCIL: Sir, information has been received that His Excellency the Governor General has been pleased to grant his assent to the following Bills which were passed by the two Chambers of the Indian Legislature during the last session, namely:—

1. The Criminal Law Amendment Act, 1938.
2. The Indian Emigration (Amendment) Act, 1938.
3. The Indian Aircraft (Amendment) Act, 1938.
4. The Indian Tea Cess (Amendment) Act, 1938.
5. The Employers' Liability Act, 1938.
6. The Prevention of Cruelty to Animals (Amendment) Act, 1938.
7. The Employment of Children Act, 1938.

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BILLS 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 following Bills which were passed by the Legislative Assembly at its meetings held on the 15th November and 12th December, 1938, namely:

- A Bill further to amend the Ajmer-Merwara Municipalities Regulation 1925, for the purpose of lowering the educational qualification entitling a person to be enrolled as an elector.
- A Bill further to amend the Indian Cotton Cess Act, 1923.
- A Bill further to amend the Destructive Insects and Pests Act, 1914.
- A Bill further to amend the Indian Income-tax Act, 1922.
- A Bill further to amend the Indian Tariff Act, 1934.

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MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

SECRETARY OF THE COUNCIL: The following messages have been received from the Secretary of the Legislative Assembly:

"In accordance with rule 36(1) of the Indian Legislative Rules, I am directed to inform you that the amendment made by the Council of State in the Bill to amend the law relating to the prevention of cruelty to animals, was taken into consideration by the Legislative Assembly at its meeting held on Tuesday, the 15th November, 1938, and that the Assembly has agreed to the amendment."

[Secretary of the Council.]

"In accordance with rule 36(1) of the Indian Legislative Rules, I am directed to inform you that the amendment made by the Council of State in the Bill to regulate the admission of children to certain industrial employments, was taken into consideration by the Legislative Assembly at its meeting held on Tuesday, the 15th November, 1938, and that the Assembly has agreed to the amendment."

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**DEATH OF NAWAB SIR MUHAMMAD MUZAMMIL-ULLAH KHAN  
AND KHAN BAHADUR HAFIZ MUHAMMAD HALIM.**

**THE HONOURABLE THE PRESIDENT :** Honourable Members, it is now my sad task to refer to the death of two of our Honourable colleagues who have passed away since we met last in Simla. I refer to the untimely death of Nawab Bahadur Dr. Sir Muzammil-Ullah Khan who was a Member of this Council ever since the Council of State was brought into existence. He has been in the Council since 1920 as an elected Member, and he was re-elected for the third time. He afterwards became Home Member of the United Provinces and rendered good service there as Home Member for a long time. Though he has died in the ripeness of age still he was rendering many useful services in the United Provinces and was a regular Member of this Council. He occupied some very high positions. He was an ex-Vice-Chancellor, member of the Court and Rector of the Muslim University. He was for many years Chairman of the Aligarh District Board and twice officiated as Home Member of the United Provinces. We are all very grieved to hear of his sad death and I shall convey your condolence and sympathy to the members of his family.

Another gentleman was Khan Bahadur Hafiz Muhammad Halim. He was elected to the third Council of State and came from the West United Provinces Muhammadan constituency. He was also a very regular attendant though he very scarcely spoke in the House or took an active part in our deliberations. We are also very sorry to lose him—he was a most affable gentleman. I shall also convey to his family our deep sympathy and condolence.

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**THE HONOURABLE THE PRESIDENT :** Before I proceed with the legislative business I would like to tell Honourable gentlemen what is the programme for this week. Today and tomorrow we propose to discuss the Motor Vehicles Bill. Wednesday, the 25th, is a holiday and I cannot see my way to take up the Motor Vehicles Bill again when we meet on Thursday, the 26th, as the Finance Member is anxious that we should proceed with the Income-tax Bill then and finish discussing it day after day so that he may be in a position to place that Bill before the Legislative Assembly when it meets on the 3rd of next month. But further discussion if necessary will proceed, after the disposal of the Income-tax Bill, on the Motor Vehicles Bill, and this will also enable Honourable Members during this interval to bring in their amendments to the Bill if they have any, and which I shall be pleased to receive. I am afraid we shall be kept busy the whole of this week but I do not think you will mind this after a long holiday—

**THE HONOURABLE MR. P. N. SAPRU :** Shall we meet on Saturday also ?

**THE HONOURABLE THE PRESIDENT :** Very probably if the Income-tax Bill is not finished.

## MOTOR VEHICLES BILL.

THE HONOURABLE THE PRESIDENT (to the Honourable Mr. S. N. Roy) :  
As you are ill, I will allow you to address the House seated.

THE HONOURABLE MR. S. N. ROY (Communications Secretary) : Sir,  
I am very grateful to you for the indulgence you have shown me. I move :

“That the Bill to consolidate and amend the law relating to motor vehicles, as passed by the Legislative Assembly, be taken into consideration.”

It is now nearly a year ago that the Bill was introduced in the Assembly and circulated for opinion. One would have thought that the measure had been before the country and that it had been discussed in the press and in another place sufficiently long to leave no doubt as to its objects and intentions. But criticisms which continue to appear in the press and elsewhere indicate that a wrong view of the origin and the intention and effect of this measure still persists in certain quarters. I shall therefore seek the indulgence of the House briefly to trace the evolution of the Bill in order to clear up misconceptions to which I have referred.

Six or seven years ago, the Central Government were impelled to examine the position in respect of the Road Fund in relation to road-rail competition. Honourable Members will remember that a situation of considerable gravity had arisen in several countries and not least in England, where a conference presided over by Sir Arthur Salter had met and made certain recommendations. The Government of India naturally felt that this was a problem of such magnitude that it was desirable to have it examined in this country before it assumed formidable proportions. Their first step, therefore, was to appoint two officers to examine the position, viz., Mr. Mitchell, who is sitting in this House today, and Mr. Kirkness. Upon receipt of their Report a Conference known as the Rail-Road Conference, was convened in April, 1933. That conference consisted of representatives not only of the Government of India and of the Provincial Governments but also of Class I Railways, light railways, the Indian Road and Transport Development Association, the Indian steamer companies, and others. The Conference might therefore legitimately be claimed to have been a really representative conference. After a discussion lasting for three days, the Conference came to certain conclusions which were embodied in a series of eight resolutions. I will not trouble the House with all those resolutions, but I would like to refer to three of them. Their Report has been published and is available in the Library, and the resolutions that I am referring to will be found in the Appendix to the Report. The first resolution ran as follows :

“This Conference is of opinion that in the general public interest the time has come for increased co-operation and more intelligent co-ordination of effort between the various authorities and interests concerned in the matter—

(a) of future railway development, and

(b) of the future development of road communications whether used for motor transport or other purposes,

so as to secure a more comprehensive and uniform plan of general development than at present exists”.

[Mr. S. N. Roy.]

This resolution went on to say that—

“ in areas where uneconomic competition had been proved to exist, increased co-operation and co-ordination might necessitate the adoption by mutual agreement of measures designed to reduce such competition within healthy limits ”.

The second resolution to which I want to refer stated that,—I am merely summarising it,—with these objects in view it would be justifiable to regulate the public service and goods motor transport in the interests of public safety and convenience, and that the number of vehicles licensed to ply for hire might be restricted. The last resolution advocated the setting up of a co-ordinating machinery at the centre and in the provinces. In pursuance of the last resolutions, there are now in the provinces Provincial Boards of Communications representative of the interests concerned in the provinces, and in the centre we have what is known as the Transport Advisory Council which consists of representatives of the Central Government sitting with Provincial Ministers or their nominees, and Honourable Members will naturally realise that in that body representatives of the centre are very greatly outnumbered by those of the provinces. I mention that because, as I shall presently show, the main lines of the Bill were laid down by the Transport Advisory Council itself. This Council has had more than three meetings so far. At its first meeting which was held in January, 1935, it adopted a concise statement of policy which included the following recommendation : That for the double purpose of—this was one of the recommendations—promoting the public safety and convenience and placing competition between road and rail on an equal footing, the following measures should be adopted in regard to motor buses ; a reasonable standard of maintenance of vehicles, medical inspection of drivers, insurance against passenger and third party risks, adequate inspection and enforcement of regulations. Another of their recommendations was that the number of buses should be restricted so as to avoid wasteful competition, buses being licensed for this purpose by specified routes and the grant of permits being determined upon certain considerations including the extent to which the needs of the routes are already served. The Council further recommended an examination of the Indian Motor Vehicles Act of 1914 with a view to determining the amendments necessary and that an outline of the necessary rules should be prepared. That was four years ago at its first meeting of 1935. At its second meeting in July, 1936, the Council recommended that immediate steps should be taken to amend the Indian Motor Vehicles Act of 1914 on the lines of the draft Bill which had been placed before it, that steps should be taken for a complete overhaul of the Indian Motor Vehicles Act of 1914, that a committee should be appointed to inquire into the question of compulsory insurance, and that a draft of the model rules under the Act should be prepared. Well, as a result of the recommendations made, the Government of India introduced in the 1936 September session of the Legislative Assembly a short Bill to control the commercial uses of motor transport. It was intended to be a temporary measure pending the general overhaul of the 1914 Act which it was thought would take a considerable time to effect. The criticisms which were received when the Bill was introduced and which were received after it was circulated at the instance of the Assembly indicated a considerable feeling against the skeleton form of the Bill which left a great deal to the rule-making powers of the provinces. It was apprehended that this might result in widely varying regulations in different parts of India, and it was thought that it would be better to drop that and to proceed with the more comprehensive measure which the Transport Advisory Council had recommended. Government, for their part, had in the meantime appointed a Committee to inquire into the question of

compulsory third party insurance. They had also appointed a Committee known as the Wedgwood Committee, one of whose terms of reference was this question of rail-road competition. On receipt of these criticisms, Government therefore came to the conclusion that it would be better not to attempt to proceed with the fragmentary measure which was introduced in the 1936 session, but to apply themselves to formulating a more comprehensive measure dealing not only with the control of vehicles used for commercial purposes, but amending and consolidating the whole law relating to motor vehicles in India. As a first step a skeleton of the proposals was circulated to the Provincial Governments in the summer of 1937. Two officers were then deputed from the centre to tour the provinces and to discuss the proposals with the Provincial Governments. These officers at the same time informally sounded non-official opinion regarding many of the technical problems. Upon their return they were able to report a considerable unanimity of opinion, and a departmental draft of the Bill, which was finally introduced, was accordingly prepared in the light of the discussions which they had carried on with the Provincial Governments. This departmental draft was placed before the third meeting of the Transport Advisory Council which met in December, 1937. Let me read to you the conclusions arrived at by the Transport Advisory Council at that meeting. This is what they recorded :

“ The urgent necessity for the control of motor vehicles on a uniform plan was generally recognised and the departmental draft of the proposed Bill was subjected to a detailed examination by a sub-committee of the Council. Except in regard to the mandatory provision for the introduction of compulsory insurance of motor vehicles after a discretionary period of five years which was objected to by the several provinces, there was a large measure of agreement on details. On some points a few of the provinces wished for further consideration before giving final opinion. These provinces were asked to give their final views to the Government of India by the 15th January, 1938 ”.

These opinions were duly received, and the Bill, as subsequently introduced in the Assembly, represented the largest measure of common agreement that it was possible to secure, and having regard to the size of India and to the difficulty and complexity of the issues, I think we are entitled to claim that that measure was a gratifyingly large one. The Bill as introduced was then circulated for opinion and the opinions received are now in the hands of Honourable Members of this House. It was then subjected to an exhaustive analysis and examination by a Select Committee of the Assembly, and there was a full discussion in the Assembly extending over three weeks.

That, Sir, is the history of the measure before the House. It will be seen that at every stage in the process of this evolution, Government were guided by the advice not of railway interests, but mainly of provinces through the Transport Advisory Council. I venture to think that any one who dispassionately considers the matter will admit that this is no attempt to rush through legislation to strangle motor transport, but that it is framed with a view to the ultimate good of the community as a whole.

Let me turn now for a moment to the provisions of the Bill itself. It is a Bill of 10 chapters, 134 clauses and 11 schedules,—on the face of it a Bill of very formidable proportions. But let me invite the attention of Members to the title of the Bill which is, “ A Bill to consolidate and amend the law relating to motor vehicles ”. On examination Members will find that a large part of this Bill is concerned with the consolidation of existing codes and with securing uniformity, and perhaps I can best bring this to the notice of the House by taking it briefly through the various chapters.

[Mr. S. N. Roy.]

Chapter I is a definition chapter.

Chapter II deals with the licensing of drivers, disqualification of certain persons by the licensing authority or the courts, the endorsement of licences and such matters. The law on this subject has been tightened up in some respects ; for example, in regard to the physical fitness of the applicant, the test of competence to drive, and so forth. As to the justification for this there can be no question because, again and again, in the provincial reports accidents are ascribed to the inexperience or the incompetence of drivers. But the Chapter also provides a uniform law for the whole of British India and for reciprocal arrangements in this respect with States. A licence under this Bill will not only be valid but will be renewable anywhere in British India, subject to one exception only, and that is provided in part (a) of sub-clause (3) of clause 9. The exception is to the following effect, that a provincial Government may require that the authorisation to drive a public service vehicle, that is to say, a motor bus or a motor cab, issued in another province shall not be valid within its area without the countersignature of a prescribed authority in the province. With that exception, as I say, a licence will not only be valid but will be renewable anywhere in British India in future.

Chapter III deals with the registration of vehicles, and here again a great measure of uniformity has been attained. A registration once effected will not require renewal during the lifetime of the vehicle and will be valid throughout British India. As in the case of licences, reciprocal arrangements have been provided for in sub-clauses (2) to (5) of clause 28. There is, again here as in the case of licences, one exception. After residence in a province for a period exceeding twelve months the owner of a motor vehicle must re-register in the new province. I must also make it clear that the Bill does not regulate the taxation of motor vehicles which is governed by provincial taxation Acts, and the necessity of submitting to the provisions of those Acts will still remain. This Chapter, in addition to provisions of this nature, contains certain supplemental provisions relating to certificates of fitness of transport vehicles and for the specification of certain particulars regarding the weight of such vehicles on the certificate of registration in accordance with the certificate of the maker or his authorised assembler. That will be found in clause 38.

Chapter IV deals with the regulation of the commercial use of the motor vehicle, and here I must draw the attention of the Council to a substantial departure made in the Assembly from the Bill as introduced. In that Bill, following generally upon the English Acts, it was provided that applications for permits for stage carriages and public goods carriers could be opposed before the transport authorities by parties claiming that they would be damaged by the grant of the permit or claiming to show that they already provided the service for which application was being made. Such parties would have included naturally railways, and, in certain cases, inland water transport. By an amendment effected in the Select Committee this power of objection was limited solely to the suppliers of road transport only and the power of objection by railways and inland water transport was taken away. At the same time, by a new clause which is clause 43 of this Bill, provision was made enabling the Provincial Governments, having regard to the considerations set out in that clause, to prohibit or restrict long distance goods traffic by road by public or private carrier and to fix, where necessary, maximum and minimum fares and freights. The clause further provides that in taking action under these

provisions the Provincial Governments shall have regard to certain considerations and shall permit the interests concerned to make representations at certain intervals. In order to discharge these functions Provincial Governments will have to set up Provincial and Regional Transport Authorities, the former having power to assume the functions of the latter in certain cases and generally to co-ordinate and regulate their activities. I do not think it is necessary for me to detail the functions and powers of these authorities in respect of the various classes of transport vehicles created under the Bill, namely, stage carriages, contract carriages, public and private carriers of goods. The considerations which will apply to them are all dealt with in separate clauses of this Chapter, and they are generally in consonance with the main object of the Bill, namely, to enable authorities to grant permits to the extent that may be necessary in the public interest and subject to such directions as may be given by the Provincial Governments under clause 43. It will be necessary to make rules with regard to matters of detail and powers have been given to Provincial Governments to make rules in certain matters. The principle of this Chapter is that the Regional Transport Authority, or the Provincial Authority in cases where it assumes the functions of the Regional Transport Authority, is the supreme authority for the determination of the traffic needs of its area and for granting permits accordingly. Consequently, permits issued in one region or by one Provincial Authority will not be valid in another province without the counter-signature of the authority of the latter. This, of course, will suffice for the ordinary case of regular bus service or established goods transport, but in order to provide sufficient elasticity to enable *bona fide* urgent needs to be met, there is provision in clause 62 for the grant of temporary permits. Finally, in this Chapter in clause 65 the question of hours of work has been dealt with, it is believed, in a manner which will suffice for the present stage of development in India. This provision is very necessary for the prevention of accidents which are likely to arise if a man continues to drive when he is so tired that he cannot rely upon his faculties. It may be mentioned here that one of the most potent causes of accidents is that drivers are over-worked. In a recent report of the Bombay Presidency, the Superintendent of Police, Nasik District, writing about the increase of accidents in that district, says :

"Increase is due largely to accidents to overloaded goods lorries labelled 'Private' and not liable to regulation as to the number of hours the driver can be on duty. Sometimes lorries are found standing still on the Bombay-Agra road with the driver asleep in his cab and the cleaner on top of the load".

Such observations find their counterpart in other provincial reports also. I venture to think that no one will be found to quarrel with the underlying intention of this Chapter, which is that the use of road transport for commercial purposes should be regulated in the public interest with due regard to the capacity of and the cost of maintaining roads, to public safety and convenience, and to a reduction of competition to within healthy limits in places where it tends to go to such extremes that the owner cannot obtain a reasonable return on his investment and cannot afford to maintain his vehicle in a roadworthy condition. Ultimately we hope that the provisions made in this part of the Bill will result in the foundation of a motor transport business based upon sound finance and that must assuredly result in a safer, more convenient and better service to the public and a service with which, moreover, the railways will be in a position to co-operate for the interchange of traffic which they are unable to do with the type of owner who is here today and gone tomorrow. It will also, we hope, promote the extension of motor transport to rural areas to serve outlying villages and the rural community generally in a more efficient manner than is found possible at present.

[Mr. S. N. Roy.]

Chapter V is practically a one clause chapter, empowering Provincial Governments to make rules regarding the construction, equipment and the maintenance of motor vehicles. Since the range of motor transport frequently goes beyond provincial boundaries it may be argued that here is a matter on which uniformity is essential and that a large number of the provisions which will be made by rules should have been included in the Bill itself ; but the difficulty is that the rules under this Chapter will be highly technical relating to such matters as over-all dimensions, over-hang, maximum height, internal dimensions of motor vehicles, brake equipment, lighting equipment, specifications regarding accessories such as direction indicators, use of safety glass, and so forth. The inclusion of these in the Bill would have overloaded it with details which would have had to be constantly amended to keep pace with technical improvements. It is clearly more convenient that these provisions should be made by rules which can be amended from time to time. In order, however, to provide as far as possible for uniformity, we are, in this as in other parts of the Bill, preparing a draft of model rules for the approval of the Transport Advisory Council which we trust the Provincial Governments, recognising the need for uniformity, will make use to the fullest possible extent.

Chapter VI deals with the limits of speed, prevention of overloading, the erection of traffic signs, the obligation to stop in the case of an accident and generally with the control of traffic. Read with Chapter IX and the Tenth and Eleventh Schedules this Chapter may be described as the Highway Code part of the Bill in so far as motor transport is concerned.

Chapter VII reproduces in a slightly modified form the provisions of section 14 of the Indian Motor Vehicles Act, 1914, and gives power to the Central Government to frame rules under the International Motor Vehicles Circulation Convention or any other convention or agreement into which India may enter.

Chapter VIII deals with compulsory insurance. In the Bill as it now stands, this will not come into force until four years after the remainder of the Bill, that is to say, until the 1st July, 1943. I shall presently explain why it is that this compromise has been arranged. Honourable Members will remember that, in an earlier part of my speech, I mentioned that the Transport Advisory Council at its second meeting in July, 1936, recommended that a committee should be appointed to inquire into the question of compulsory insurance. A Committee consisting of Mr. Roughton as Chairman, Mr. Nur Muhammad Chinoy and Mr. Chatterjee as members and Mr. Reynolds as Secretary was duly appointed. They toured the country and reported in favour of the introduction of compulsory insurance in the spring of 1937. They found that in relation to the number of motor vehicles the deaths resulting from accidents in which motor vehicles are involved were higher in India than in any other country, for which they were able to collect statistics. To give a few of their figures, the deaths per 10,000 motor vehicles in a year were, they said, as follows :

New Zealand . . . . .	7.4
Canada . . . . .	9.9
United States . . . . .	13.6
England and Wales . . . . .	30.6
Germany . . . . .	46.6
Italy . . . . .	59.4
India . . . . .	93.0

Whilst not claiming that this basis of comparison is absolutely representative, because the number of other persons or vehicles using the road must obviously come into the picture, the results are still sufficiently alarming to call for attention and remedial action. We believe that the provisions made in other parts of the Bill, if properly worked, will bring motor transport under reasonable control, prevent the use of overloaded or unsafe vehicles and inculcate better driving. But when all this has been done, the fact remains that the motor vehicle with its constantly increasing power and speed is a potential source of danger to the rest of the road-using public and it is the experience of other countries, not only India, that, owing to hire purchase facilities and otherwise persons may become the owners of motor vehicles who are financially quite unable to meet their legal claims for damages which unfortunately must continue to arise out of their use of the vehicles. No citizen has any prescriptive right to use a motor vehicle on the public road when it is only too clear that his use of such vehicle may involve him in a liability which he is unable to discharge. While monetary compensation may be inadequate to assuage human grief and suffering, it is at least something that provision can be made by law to secure that the descendants of an innocent party killed on the road are not left to starve.

Now, it is sometimes argued that compulsory insurance of motor vehicles is an imposition on the owners of those vehicles which has no parallel in any other country but these critics forget that compulsory insurance does not seek to cover what may be called *bona fide* accidents or accidents caused by the negligence of some other party. It seeks merely to provide that if damages are awarded against an individual arising out of his negligent use of a motor vehicle, those damages shall be forthcoming for payment to the injured party.

Now, as regards the burden of compulsory insurance, as far as we have been able to ascertain, the annual premiums likely to be necessary, for the limits of insurance now specified in the Bill, will amount to something of the following order :

	Rs.
Private motor car . . . . .	76·8
Taxi cab . . . . .	110
20-seater bus . . . . .	183·8
Goods lorry under two tons . . . . .	76·8
Goods lorry over two tons . . . . .	93·8

These figures have been obtained from reliable motor insurance companies as their estimate of what the figures are likely to be.

Having regard to the total annual costs of operating a motor vehicle, I do not think that the burden can be considered to be a heavy one when it is remembered that it is what is necessary to enable the owner to discharge his just liabilities. If a man genuinely cannot pay Rs. 180 a year for the satisfaction of all claims against him, ought he, in justice to other citizens, be allowed to use the road, since *ex hypothesi* he will not be able to pay even that small amount as compensation should he kill a wage earner? As regards the actual burden on the road user, the Motor Vehicles Insurance Committee calculated that in the case of a 20-seater bus a premium of Rs. 200 per annum would be equivalent to an increase in passenger fare of one anna for every hundred miles travelled. No one who impartially considers the facts collected by the Insurance Committee will doubt that there is ample justification for introducing compulsory insurance at once. It has, however, been urged that

[Mr. S. N. Roy.]

bus and lorry owners are at the moment in an impoverished condition, that in addition to the tightening up of the law in other particulars the cost of compulsory insurance would weigh unduly heavily upon them and that sufficient time should be allowed to enable them to adjust themselves to the new conditions. A compromise was therefore reached in the other place, by which Government stand, that this part of the Bill shall not come into force until the 1st July, 1943. I do not propose to take up the time of this Council with a discussion of the details of this highly technical Chapter but would merely say that it is based upon the Report of the Motor Vehicles Insurance Committee and has been very thoroughly examined both by the Select Committee and in the Assembly.

Chapter IX deals with offences, penalties and procedure and, as Honourable Members are doubtless aware, the maximum penalties proposed in the Bill, as introduced in the Assembly, have been considerably reduced. In some cases the maximum penalty may appear to be severe if the impoverished bus owner alone is considered, but I think the courts must be relied upon to use their discretion regarding the extent of the fine imposed and must be given power to inflict really deterrent fines upon the wealthy "road hog" who may be responsible for serious damage.

Chapter X contains miscellaneous provisions including the saving of existing rules and taxation Acts, for a reasonable period after the commencement of the Act.

The Schedules are all in relation to various sections of the Act and do not, I think, call for any detailed explanation.

I will detain the House no longer, Sir. I have, I hope, said enough to justify the claim that the Bill has been framed to meet a real public need, that it will, supplemented as it will be by rules of as uniform a nature as possible, provide an up to date and comprehensive Motor Vehicle law for the whole of the sub-continent of India. Under this law everyone will know the conditions of licensing, registration, road regulations and so forth, which will be applicable to him in any part of India, and the owner of a vehicle who conforms to the law in one province will not find himself impeded in his progress by technical differences in the law in the neighbouring parts of India. I think that is an achievement which is worth the two years of labour which has been expended upon it. The Bill is not perfect, and it is indeed doubtful whether any comprehensive measure of this kind can be perfect, but it represents an uniform and intelligent Motor Vehicle code based upon a reasonable compromise between the different points of view. I have no hesitation in commending it to the House as a valuable contribution to the laws of the country.

Sir, I move. (Applause.)

THE HONOURABLE THE PRESIDENT: Motion made:

"That the Bill to consolidate and amend the law relating to motor vehicles, as passed by the Legislative Assembly, be taken into consideration."

Honourable Members, before we proceed with the detailed discussion of the Bill, I know you would like me to welcome our old and esteemed colleague, Sir Thomas Stewart, to this House again. We all remember the days when he occupied a very prominent place in the House and the manner in which his

discussions were carried on. I understand that he will address this House some time tomorrow and we look forward with pleasure to hearing his voice again in this House. (Applause.)

The debate will now proceed.

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official): Sir, the Honourable the Mover of the Bill referred to criticisms still existing after the Bill has been passed after considerable discussion has taken place. There is one well-informed criticism that I found in the special number of the *Times of India*, Bombay. A well-informed critic reviewing the various forms of transport prevailing in other countries expressed the opinion that this Bill takes a short cut in solving a problem which engaged the attention of other countries over a considerable period. I think the criticism is perfectly justified in view of the historical background that has been so eloquently put forward by the Honourable Mover, namely, the stages through which the provisions of this Bill have passed in the various committees before they were embodied in the Bill. And if we took a short cut in solving this problem to arrive at a point which other countries had taken a long time to reach, then it is great credit to the Government of India that they have taken advantage of the experience of other countries and have come to the conclusions that they have set forth in the Bill.

Sir, the Motor Vehicles Bill is the immediate result, as has been indicated, of the Reports of the Indian Railways Enquiry Committee, which specially considered the subject of road-rail competition and also the recommendations of the special committee which has been appointed to report on the desirability of compulsory third party insurance of commercial motor transport. Now, the present Bill aims at three objects. In the first place, it aims at regulating and controlling motor traffic. Secondly, it aims at a comprehensive co-ordination of road-rail transport. Thirdly, at the operation of compulsory insurance. These three objects are well set out in the various provisions of the Bill. The Bill also aims at the safety and convenience of the public and to benefit the motor transport industry. The motor transport industry undoubtedly has done great service in the mofussil and rural areas and every facility should be provided for the purpose of developing that industry in the country. Now, no doubt, some of the provisions of the Bill relating to co-ordination are likely to result in restricting the normal development of motor transport. It is apprehended that these restrictions are imposed more to safeguard the railway interests at the expense of fair and free trade competition. This apprehension is justified by entrusting the rule-making power to the Provincial Governments. No doubt, under the present Act of 1914 the Provincial Governments have power to make rules and they have made rules from time to time, but circumstances have changed since then and the unwarranted haste with which the Provincial Governments are proceeding is also to be kept in view in considering this condition. Therefore, the provisions relating to co-ordination require close examination even though the Bill emerges from the other House after considerable discussion. There is not much difference on many matters especially in relation to clauses dealing with the licensing and registration of motor vehicles and the qualifications of drivers. These are very important in the public interest. The control of traffic is a very necessary provision in the public interest and the interests of the country. The clauses relating to the control and co-ordination of transport and the desirability of compulsory insurance are no doubt matters open to controversy but they are necessary in

[Sir A. P. Patro.]

the interests of the public. One of the chief features of this Bill is the constitution of the Provincial and Regional Transport Authorities with very wide powers of control. In the Bill before us the powers of co-ordination between road and rail transport are practically transferred from Regional Transport Authorities to Provincial Governments. Whether it is a change for the better also requires thorough examination in the detailed discussion of the provisions of the Bill, because Provincial Governments have no control over both forms of transport, rail and road. The Provincial Governments are required to prohibit or restrict the conveying of long distance goods traffic, and of prescribed classes of goods, whether by public or by private agencies and insist on compulsory third party—

**THE HONOURABLE MR. R. H. PARKER :** Not "required," if I may say so. They only have the power.

**THE HONOURABLE SIR A. P. PATRO :** They have the power. That is what I say, the Provincial Governments are required by the provisions to prohibit or restrict, having the power to do so, the conveying of long distance goods traffic or of prescribed classes of goods whether by public or by private agencies and insist on compulsory third party insurance for any motor vehicle within four years from the date of the Bill coming into operation. These powers are very large. Sections 43 and 44 specify the powers which the Provincial Governments possess in order to make rules and these rules have as much statutory authority as the provisions of the Bill itself. Therefore, they have got the power. They are required to make these rules and they are as effective. So, it is no use saying that they are not to make these rules. They have got the power to do so.

Now, as has been indicated by the Honourable Mover, the cost of compulsory insurance may extend from Rs. 76 for a vehicle of two tons to Rs. 185 for a motor vehicle which could convey about 20 passengers.

Very much will depend upon the composition of the regional and provincial authorities appointed by the Provincial Governments. Clause 44 gives them the power. Provincial Governments are vested with powers to make rules on many matters, *inter alia*, in regard to licences, registration of motor vehicles. Provincial Governments are given power (clause 43) to control road transport, (clauses 67 and 68) to make rules in respect of stage carriages and contract carriages, and of transport generally, and in clause 72, Chapter VI, for control of traffic. Now, the rule-making power of the Central Government is generally limited by Chapter VIII, to insurance of motor vehicles against third party risks. The vast powers that are vested in the Provincial Governments should be considered very carefully. We should consider whether it is desirable that the Central Government should divest itself of all its power, or whether a central authority should be established in order to co-ordinate the functions of the various Provincial Governments. This is a matter which has not been, I am sorry to say, adequately dealt with in the Bill. There is no doubt that with the increasing development of mechanical transport a comprehensive measure is needed. But this depends upon whether motor transport can develop without proper roads. At present the main roads, the trunk roads, are under the control of the Government. The other roads are under the control of the local bodies. The finances of the local bodies are not sufficient and adequate to maintain the road properly and they look forward either to the Road Fund or to the Provincial Governments for contributions to maintain these roads. How is this to be effected? The object in view will fail if the roads are not

maintained in an efficient form. The object in view of the Bill cannot be realised effectively unless the provincial authorities are impartial and efficient. Great responsibility rests therefore on Provincial Governments in the case of prevention of uneconomic competition in motor transport or the prohibition of long distance traffic and the determination of rates. This is regarded with great apprehension by a section of the public. Generally speaking, a Bill to regulate and control motor transport may have a beneficial effect on the future development of that class of transport. Much can be said about the initial difficulties created under the Bill in regard to the small owners of buses, but the provisions regarding the necessity for licence and registration may ultimately improve the position and eliminate uneconomic competition by the restrictions which the rules will impose on the number of vehicles over any particular road. The safety of the public is ensured when the load on a vehicle is also fixed as well as the hours of work for the driver. These provisions are bound to induce a more reliable service. Though the cost of maintenance for the small owners may be increased, it would develop a very efficient road transport and the Bill establishes greater co-ordination between road and rail transport. On the whole, the Bill is very satisfactory. As has been pointed out, defects there may be at present, but experience will show that in the long run this will be a beneficent Bill. I have therefore great pleasure in supporting the Motion before the House.

\*THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muham-madan) : Mr. President, the Bill before the House has almost the unanimous support of this House in so much as there is a paucity of speakers to come up and give any criticism of the Bill. The one champion on our side, the Honourable Sir A. P. Patro, although he condemned some part of the Bill, yet ended by supporting the measure and that is probably the line which all of us will take, because there is no gainsaying the fact that the Bill meets the general wishes of all as drafted. It represents not merely the views of the sun-dried bureaucrats but Government have taken the precaution, as has been pointed out by our Honourable colleague, Mr. S. N. Roy, of consulting all Provincial Governments and interests concerned—

THE HONOURABLE THE PRESIDENT : And it has been thoroughly thrashed out in the Assembly.

THE HONOURABLE MR. HOSSAIN IMAM— and it has been thoroughly thrashed out in the other place. The Bill deals with an industry which is of growing importance and which will continue to grow in importance day by day. The suspicion, to which reference was made by the Honourable Sir A. P. Patro, that this Bill was in the interests of the railways, is not justified either by the provisions of the Bill or by other issues which are raised in this measure. There were people in the other House who had an animosity towards the railways and they failed to recognise it as a national asset. It was thought that in the matter of railways we were only acting as brokers for the people in England who had invested their funds. An estimate was made that the railways had to pay Rs. 40 crores as interest, which is a gross exaggeration by nearly three times. The only advantage which the railways will derive from this Bill is an indirect one and that too is dependent on the pleasure and opinion of a body responsible to the people of British India—I mean the Provincial Governments. It is only indirectly, through the efforts of the

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\*Not corrected by the Honourable Member.

[Mr. Hossain Imam.]

Provincial Governments that the railways can benefit and can eliminate competition from road motors. And that will only happen provided the Provincial Governments are agreed that the railways have a case. I am not prepared to grudge the grant of greater responsibility to Provincial Administrations and the divestation of the Central Government of its powers as has been done in this Bill. I may be in opposition to a Government in a particular province, but the fact that power is being decentralised from irresponsible persons to persons who represent the public will is all for the good of India ; although I have often made an objection in this House and I wish to voice it again, namely, that the rule-making powers should not vest in the executives alone. The provisions of the English law enjoin that rules should be laid on the table of the House of Commons. As that practice does not exist in any of the Indian Legislatures, it should be provided for in the Bill. That is my only objection, the rule-making power which has been granted to the Local Governments. I would have preferred a provision that those rules should always be laid on the table of the House for its sanction in the same way as is done in the House of Commons and as was partially done in the Insurance Bill before this House last year.

Road transport is retarding the progress of the opening up of communication. It might seem strange my making this allegation, but the facts are that the increase in the metalled portion of the roads is very, very slow. We have something like 60,000 miles of first class roads in India and progress has been less than one per cent. during the last few years. The reason is that, due to the heavy wear and tear caused by motor vehicles, metalled roads are deteriorating more quickly than they used to do in former days. The cost of repairs and maintenance is more than what road users pay. The Provincial Governments and local authorities are not taxing them to capacity, even to pay for the maintenance of roads. Motor vehicles have increased greatly in numbers. There is now one motor vehicle to each mile of road, first, second and third class roads combined ; and there is one motor lorry for every three miles of road. This shows that we would be justified in taking them higher. But this measure does not deal with taxation and so we cannot make provision for that. What I am saying is, that there is a difference between the railways and motor transport in this respect. The railways maintain their own permanent way, whereas the road transport lives on the permanent way made by others and does not meet the cost of its maintenance. It should not therefore grudge the making of rules to control it in a more stringent manner than we control the railways. I hold no brief for the railways ; neither do I hold a brief for road transport. But I do say that we, the users of rail and motor transport, who are, one might say, consumers of the services they supply, have a right to demand that our lives should be safeguarded. As has been pointed out, the genesis of the provision for insurance is that the people who work this motor transport are not men of substance. One may have difficulty in moving the railways, but when one gets a civil court decree against the railways there is no delay in realising it. In the case of motor transport it would be difficult to realise it because the owners are so inadequately backed with finance.

The greatest criticism which can be levelled against this Bill is not that it is too stringent but that it does not go far enough. There are many things in which a greater amount of control could have been beneficially adopted. But due to the fact that a comprehensive measure of this nature has been

introduced for the first time and also to the fact that there is a suspicion still in our minds against the Central Government, we are not prepared to go as far as they would like us to go, and we like to make our presence felt by making amendments and making it milder in the interests of the people we represent. —It is for these reasons, Sir, that it is not strict enough.

There are certain provisions of this Bill which would be better discussed when we are discussing the clauses. As far as policy is concerned, the three cardinal facts of original and provincial authorities to control the provision of insurance as well as the provision for examination of drivers are such as to meet with the complete approval, as far as the principle is concerned, of all sections of this House. In the other place too, after a very prolonged debate, when the third reading came it was more like after dinner speeches than a debate in the other House. That also shows, Sir, that the people were satisfied with the measure as it was then prepared, and there is no reason why we in this House should depart from the policy laid down by the other House at the last stage of this Bill.

Sir, I support the measure.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce) : Sir, I am one of those who have been looking forward to this Bill for many years and I welcome it ; and I welcome it the more because I know how thoroughly the background has been gone into. It undoubtedly contains many admirable features and those are the result of very great investigation. There are one or two omissions that I am sorry to see. I am very anxious about safety glass and I can only hope that the Provincial Governments will insist on safety glass, because I think it is a very necessary provision. Then I do not like maximum and minimum fares. I do not like anybody fixing them. I think control of prices is a very dangerous doctrine and I am all in favour normally of prices being allowed to find their own level. Then there are a number of points about insurance. Some of them I can probably deal with better on the clauses. I am not quite satisfied that it is desirable to compel people to insure who can themselves provide the necessary security. The only object as far as I understand it of making insurance compulsory is to provide security for those who may be damaged, and if any individual can ordinarily provide that I think that insurance is unnecessary and for that matter uneconomic. That insurance, generally speaking, is necessary was made very clear by the admirable Report of the Roughton Committee. There are what appear to be one or two drafting defects in the insurance part of the Bill. It is suggested that clause 95 (2) (a) ought to read :

“ Where the vehicle is a vehicle constructed or adapted for use for the carriage of goods, a limit of twenty thousand rupees ”

instead of merely using the word “ used ”. It is not a question so much of what it is used for but what it is suitable for. Then, clause 95, sub-clause (3), permits Provincial Governments to require policies to cover liability under the Workmen's Compensation legislation in respect of drivers, attendants and passengers. It seems probable that there may have been some confusion of thought in this case. Provisions (i) and (ii) of clause 95, sub-clause (1), follow the wording of the corresponding provisions in the Road Traffic Act, 1930, and there is no doubt that these provisions operate independently. Proviso (i) permits the exclusion of liability for death or injury of a person in the employment of the insured arising out of and in the course of the employment whether or not such person is a passenger. Proviso (ii) deals with passenger risk and permits the exclusion of this risk except for passengers carried for hire or

[Mr. R. H. Parker.]

reward or by reason of or in pursuance of a contract of employment. It could not, I think, be argued that the effect of the second proviso is to require the policy to cover liability in respect of employees carried by reason of or in pursuance of a contract of employment if the injury arises out of and in the course of employment. The phrase "arising out of and in the course of his employment" does not bear the same meaning as the expression "by reason of or in pursuance of a contract of employment". These points, I hope, Government will be good enough to consider.

Then, I am sorry that Government have departed from their own original attitude about private carriers, but I suppose they think that they have done what is best. I would like to see no restriction on them myself and I thought that was their attitude for many years past.

Then, there is the question of the restriction of hours of working. I am told that in urban districts the basis of the Bill is not quite satisfactory and that in England there is a provision which allows of no minimum half hour period but provides for a layover of at least 45 minutes which might be made up of 10 minutes or 15 minutes at one time; they do not have to have one complete half hour. I am told that works satisfactorily and would work more satisfactorily in places like Bombay. That, Sir, is all I think I can say at this stage.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Sir, I desire to give full and complete support to the Motion which has been made by the Honourable Mr. Roy for consideration of the Motor Vehicles Bill. The Bill is, in my humble opinion, a thoroughly good Bill and I should like to express my appreciation of the care and thought which all those who have had a share in formulating it have bestowed on it. The Bill, as the Honourable Mr. Roy has pointed out, is a rather longish one and it has been divided into 10 chapters and I believe into 11 schedules. It is described—and I think rightly described—as a Bill to consolidate and amend the law relating to motor vehicles. The Bill has no doubt effected some changes, and important changes, in the Act of 1914, but many of the provisions which find a place in it are to be found in the law at present in force in the various parts of India. The law at present relating to motor vehicles is governed by the Act of 1914, provincial legislation and the rules made under those Provincial Acts. All these taken together form a body of law more complicated than the Bill before us.

I wish, with your permission, Sir, to make a few remarks on the various chapters of the Bill. I will first deal with Chapter II. I do not think I have anything to say about Chapter I. Chapter II deals with the licensing of drivers of vehicles and section 3 of Chapter II provides that no person shall drive a motor vehicle as a paid employee or shall so drive a public service vehicle as a paid employee unless he has a proper licence. The conditions at present required for securing a license are not, as far as I understand the position, uniform all over the country and the provisions of this Chapter are calculated to secure some uniformity in the conditions under which a licence for driving a motor vehicle may be obtained. As a perusal of section 9 will show, it is provided that when a licence has been obtained it shall be valid throughout British India and subject to reciprocal arrangements even beyond British India. I venture to say that even from the point of view of the motor

travelling public these provisions are useful and they should have full and entire support.

I shall now, Sir, deal with Chapter III. Chapter III deals with the registration of motor vehicles. Clause 28 endeavours to secure some uniformity in the conditions under which registration may be obtained, and it lays down that a registration certificate issued or enforced in respect of motor vehicles shall be effective throughout British India and, under certain reciprocal conditions, even beyond British India. It also provides for a more permanent form of registration, *viz.*, that the registration must not be done over again if the ownership of a motor vehicle is transferred. I think that no objection can be taken to these proposals. They will be found useful by the motor public also.

Chapter IV deals with the question of control over motor vehicles. Now, I may just very briefly indicate my own attitude on this question of control. I think regulation is necessary in the interests of the public generally; it is necessary in the interests of the motor industry, and it is also necessary in the interests of the railways of this country—railways which are a great national asset. I remember that in a speech which I made here in this House in 1935 on the Railway Budget I pleaded for such control. I have always been in favour of greater intervention on the part of the State in regard to industrial and economic matters, and, therefore, considering the question from that viewpoint, I cannot but be in entire favour of Chapter IV of the Bill. Sir, railway accidents shock us, and rightly so, but we do not hear of all the motor accidents that happen every day. We hear of the Bihta disaster and we are horrified at all that happened at Bihta; we hear of the Hazaribagh disaster and we feel horrified at all that has happened in Hazaribagh, but we do not hear of all the motor accidents that happen every day. I know of a man who lost his only son in a motor accident, and he was almost insane with grief when he, who was a client of mine, came to me and it was really a most tragic sight to see him talk. His nerves were completely shattered. Sir, these instances, however, escape our notice; we do not bother to read about these motor accidents in the newspapers as carefully as we read about railway accidents. We read of these motor accidents only when they concern us personally, but I think, Sir, that in the interests of those who use motor vehicles it is necessary that we should provide an effective control over those who use these motor vehicles. Sir, from the police reports of the various provinces it will be found that the number of motor accidents in recent years has been increasing, and I would say that we have a more definite responsibility towards the public which uses these motor vehicles. We cannot escape, we cannot shirk, that responsibility. Therefore, I welcome this Chapter. I think it is very, very carefully drafted, and I find myself entirely in favour of it. I would particularly like to refer to clause 43 of this Chapter. I welcome clause 43 and I think the principles which have been laid down in clause 43 are sound. Clause 43 says:

“(1) A Provincial Government, having regard to—

- (a) the advantages offered to the public trade and industry by the development of motor transport, and
- (b) the desirability of co-ordinating road and rail transport, and
- (c) the desirability of preventing the deterioration of the road system, and
- (d) the desirability of preventing uneconomic competition among motor vehicles,

[ Mr. P. N. Sapru. ]

and after having heard the representatives of the interests affected and having consulted the Provincial and Regional Transport Authorities concerned, may, by notification in the official Gazette,—

- (i) prohibit or restrict throughout the province or in any area or on any route within the province.....
- (ii) “ fix maximum or minimum fares or freights for stage carriages and public carriers to be applicable throughout the province or within any area or on any route within the province ”.

Therefore, what we find is that clause 43 has given to the Provincial Government, after consultation with the Provincial Regional Transport Authorities, the power of restricting routes and of fixing maximum and minimum fares and freights. Now, I think, Sir, that there is a great deal of uneconomic competition today not only between the railways and the motor buses but also among motor owners themselves. I will tell you of a personal experience. I was once going from Dehra Dun to Mussoorie and I had to take a taxi from Dehra Dun to Rajpur. A man came to me and said, “ Four rupees ”. Then another fellow came and he said, “ Three rupees ”, then a third man said, “ Two rupees ”, then a fourth man came and said, “ One rupee ”, and finally a fifth man came to me and said, “ Eight annas ”. I got into the car and I only paid eight annas—

**THE HONOURABLE SIR DAVID DEVADOSS :** Did you reach your destination !

**THE HONOURABLE MR. P. N. SAPRU :** I reached my destination. There was just a little delay. I think there was a puncture, I might have had a puncture in the car for which I paid four rupees,—that was just an accident, but I reached my destination all right and I paid eight annas for going from Dehra Dun to Rajpur in a car, a distance of seven miles. Now, there is in some parts of the country uneconomic competition between bus owners and the railways, and we have to remember that the railways are a great national asset. Large sums of money have been invested in these railways. Of course, it is not a policy which the Government of India has always adhered to, but the policy of the Government of India is to nationalise the railways. We hope that one day all these railways will become State-owned.

**THE HONOURABLE MR. HOSSAIN IMAM :** Including the road motors ?

**THE HONOURABLE MR. P. N. SAPRU :** Personally, I shall be quite prepared to advocate the nationalisation of the motor industry also, but I know that it is not a practical proposition today and therefore I am not advocating it. I am never afraid of nationalisation. The railways are a great national asset. We may not be satisfied with the composition of the Railway Board and we may object to the Statutory Railway Authority but, after all, we are interested in railway finances. If the railway finances improve, our provincial revenues will also improve.

**THE HONOURABLE THE PRESIDENT :** We are now discussing the Motor Vehicles Bill !

**THE HONOURABLE MR. P. N. SAPRU :** I was only pointing out, Sir, that it is a consideration which we ought to bear in mind in considering this measure, the consideration that it will probably improve our railway finances

and that we are interested in the prosperity of our railways. Motor transport and the railways are both vital for a national system of transport. Therefore, I think that this sub-clause (b) is important and the Provincial Governments should have power of co-ordinating road and rail transport and fixing the maximum and minimum rates and prohibiting or restricting routes. All these provisions are right and wise. We are not prohibiting the motor traffic entirely. There are many parts of the country in which it is desirable that motor transport facilities should be developed. But what we are aiming at is co-ordination; what we are aiming at is regulation; what we are aiming at is not total prohibition but what we are aiming at is regulation, control and co-ordination.

Another consideration that weighs with me is that the motor industry is run for private gain and it is, after all, run for a particular class. So far as the railways are concerned, they represent a national property and they are intended for the whole nation. Who are interested in the development of motor cars in India? Looking at it from another point of view, we find that all our motor cars are foreign cars and we nearly spend about Rs. 9 crores over these cars every year. It has been said in some places that the railways are run in the British interest, but do we manufacture motor cars here? Who are interested in dumping motor cars in India? The British manufacturers, the American manufacturers, the Italian manufacturers and even the German manufacturers.

**THE HONOURABLE THE PRESIDENT:** I am afraid all this is beside the question before the House.

**THE HONOURABLE MR. P. N. SAPRU:** As you think, Sir, that all this is beside the point, I will submit respectfully to your ruling and I will not say anything more about this subject.

**THE HONOURABLE THE PRESIDENT:** When the Railway Budget comes up for discussion, you will have an opportunity of speaking on this subject.

**THE HONOURABLE MR. P. N. SAPRU:** I was just trying to explain in my own way what I considered were the vital principles of this measure, and I think one of the vital principles of this measure is the control of rail-road competition. I was trying to argue that this vital principle is a good and a sound principle and that is why I made these observations in regard to rail-road competition. There is no getting away from the fact that one of the objects of the Bill is to regulate this rail-road competition and therefore I was trying to argue in favour of co-ordinating this rail-road competition. It is for that reason that I ventured to make some observations which might have appeared to you to be discursive. I intended to say a great deal more about it, but I will skip over all that part and I will come to another point.

We have limited funds so far as road development is concerned and therefore I think sub-clause (c) of clause 43 is right and wise. It speaks of.

“The desirability of preventing the deterioration of the road system”.

Anybody who has any experience of the motor car knows that the motor car does deteriorate the road system. It deteriorates the roads not only in the rural areas but in the urban areas also and I think our roads would have been much better even in New Delhi if we did not have the motor car. That is a

[ Mr. P. N. Saprú. ]

consideration which we may well keep in view in prohibiting or restricting the use of these cars and in fixing the maximum or minimum rates. After all, we have limited funds so far as road development is concerned and the provinces also have limited resources for road development. The Centre also has only limited resources and the motor cars leave the roads in an impaired condition. Therefore, the requirement that the condition of the roads should be a factor which the Provincial Governments may take into consideration under clause 43 is not an unreasonable one.

Then, Sir, you will perhaps allow me to make a reference to the English Road Traffic Act and I think I am right in saying that the experience of the English Road Traffic Act is that a Bill of the nature such as we have before us enables even the motor industry to be run on a more profitable basis.

Now, I shall make a few observations, with your permission, on Chapter V of this Bill. Chapter V deals with the construction, equipment and maintenance of motor vehicles. It has got only two sections, 69 and 70, both of which, I venture to assert, are in the interests of the travelling public and they require no comment.

Chapter VI deals with the control of traffic. It has sections about limitation of speed, about limits of weight and limitations on use, and so on. This Chapter needs no comment and the need for it is in my opinion self-evident.

Then we come to Chapter VII which relates to motor vehicles temporarily leaving or visiting British India. There is only one section in this and the case for that section is quite clear.

Then we come to Chapter VIII which is a rather important chapter and is a novel feature of this Bill, and it deals with third party insurance. Now, Mr. Roy will correct me if I am wrong, but I think in Bombay and Karachi the system of compulsory insurance already prevails. Even at present under the hire purchase system manufacturers insist on third party insurance in their own interests, and two-thirds of the buses are purchased on the hire purchase system. I am rather sorry that this third party insurance will come into operation only after four years of the Bill coming into effect. I should have liked to give effect to the provisions of this Chapter immediately and I am somewhat sorry that four years' time has been given for third party insurance. I was just looking into the Report of the Motor Vehicles Insurance Committee and I find that they have stated the case for the enforcement of compulsory insurance in these words :

“ The simplest method of preventing the evasion of the obligation to insure is to require that no certificate of registration should be issued, unless evidence is produced that the necessary insurance cover has been obtained from an approved company for the whole period for which the registration certificate is valid. Insurance interests object that this will cause a rush of work at particular periods of the year, and prefer that evidence of cover should be given at the time of registration, and that the insurers should give notice to the registration authorities of the dates on which policies lapse. Under either system it is desirable that the insurers should inform the registering authorities when policies are cancelled. When a policy is cancelled the certificate of insurance should be surrendered, and the insurance companies should inform the registering authority that this has been done. Provision will also have to be made for the replacement, under adequate safeguards, of certificates of insurance which have been lost or destroyed. The evidence of insurance should consist of a certificate of insurance which should be carried on the vehicle. Sections 39 and 40(1) of the English Road Traffic Act, 1930, contain the English law on the subject. These provisions may with advantage be adopted in India

Now, Sir, in framing this section 93 and the other sections I think the other House as also the Select Committee have had the recommendations of the Motor Vehicles Insurance Committee before them and they have tried as far as possible to give effect to those recommendations. Sir, the provision of third party insurance is in the interests of passenger traffic and the general public. Many claims lapse at present owing to the ignorance of the injured parties. The introduction of compulsory insurance will make a great change in this respect in a short time. There is need for some liaison between the injured, the administration and the insuring companies. It has been said that this is putting another obstacle in the way of the motor companies. We cannot look at the question only from the point of view of the motor companies; we must look at it also from the point of view of those who use the motor vehicles. After all our primary concern must be the welfare and the protection of the lives of those who use motor vehicles. Therefore, I am very strongly in favour of third party insurance and I think that the provisions of the Bill in regard to third party insurance deserve support. There is just one slight criticism that I have to make against the Bill, though it is more a suggestion than a criticism. I shall make that suggestion at the proper time when the Bill is under consideration with regard to the hours of work; and that is in section 65. I do not like 54 hours a week and would myself have substituted 48 hours for it. There are certain other suggestions also which I shall have to make in regard to section 65. Subject to what I shall have to say about section 65 when it is under consideration, I desire to say that I am in entire and complete agreement with this Bill and I congratulate the Honourable Mr. Roy on the measure which he has introduced before us.

Sir, with these words, I give my support to the Bill.

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

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The Council re-assembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muham-  
 madan) : Sir, I rise to give my support to the Motion made by the Honourable Mr. Roy for the consideration of this Bill. Many points on which there was room for legitimate difference of opinion have been settled either by the Select Committee or by the Assembly in the process of considering the clauses. So we are generally in agreement with the main principles of the Bill and its important clauses. I wish to say one word with regard to the apprehension expressed by my Honourable friend Sir A. P. Patro in respect of the powers vested in the Provincial Governments. In fact, what makes the Bill acceptable to us is the elasticity of its clauses in regard to the powers of co-ordination by vesting those powers in the Provincial Governments. I am supporting those clauses not merely because in eight provinces in India Congress Governments are in power, but also because even in the other provinces there are executive Governments responsible to Legislatures in power and I look upon them also as provinces in which popular governments are in power and therefore any powers vested in the Provincial Governments are rightly vested and I for one do not fear that those powers will be misused. I am not in favour of either the Central Government taking more powers in regard to this co-ordination or a

[ Mr. Ramadas Pantulu. ]

central authority being set up to co-ordinate the activities and functions of the Provincial Governments provided for in the Bill. That is my remark on that observation.

Then there is one particular clause of this Bill on which I wish to offer a few remarks. It is clause 108 which deals with co-operative insurance. The Motor Vehicles Insurance Committee have devoted one chapter—Chapter 13—to this question and their recommendations are on the whole satisfactory. My first observation in regard to this clause is that there is really no need to restrict the operation of this clause to a co-operative society of public service vehicle owners registered with and subject to the control of the Registrar of Co-operative Credit Societies of the province. I think it ought to be open to even owners of private cars to form a co-operative society to act as insurers for themselves. The principle of co-operation is not confined only to public utility services, but also to private owners. So it will be very useful, in a large city like Madras for instance, if we have two or three or four hundred motor car owners who can form an association for themselves to serve their mutual needs as an insurer. I do not know on what principle it is that this restriction is based ; but I do not at present wish to move an amendment to this clause because I prefer to wait till we gain experience of the working of this clause as it stands. Compulsory insurance is new to us. So let us wait and see how it works. I would, however, request the Government to consider the desirability of extending this privilege to even private owners of motor cars. They can act just like public service vehicle owners on co-operative principles. As far as possible I wish to see that owners of motor cars, whether public service vehicles or private cars, do not part with any money to commercial insurance companies in regard to their insurance. I want co-operative organisations to conserve and reserve all their resources and act as insurers mutually for themselves. It is a privilege which motor car owners will appreciate. However, I do not know the position sufficiently to press an amendment to this clause at present ; but I hope Government will have the case examined to see whether they cannot subsequently extend the provisions of this section to cases of private owners of motor cars.

There is only one other observation which I wish to make and it is this : this clause 108 brings these co-operative insurance societies under the provisions of the other clauses of this Bill : for instance, sub-clause (b) of clause 108 (i) says :

“ the liability of the society shall be limited as specified in clause (b) of sub-section (2) of section 95 ”.

I would like the Government to consider whether they cannot make the clause more elastic by adding the words “ or as provided by rules to be made by a Provincial Government ” ? The provisions of clause 95 are very stringent and I can urge many reasons for showing that all co-operative insurance societies need not be subjected to the provisions of sub-clause (b) of clause 95 (2) which says :

“ (b) where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, in respect of persons other than passengers carried for hire or reward, a limit of twenty thousand rupees ; and in respect of passengers a limit of twenty thousand rupees in all, and four thousand rupees in respect of an individual passenger, if the vehicle is registered to carry not more than six passengers excluding the driver or two thousand rupees in respect of an individual passenger, if the vehicle is registered to carry more than six passengers excluding the driver ; ”

There is a motor insurance association in the Ratnagiri district which is working very well. It was started in 1930 and registered under the Co-operative Societies Act in 1932. I do not wish to refer to its working because in Chapter 13 of the Report to which I have referred—the Motor Vehicles Insurance Committee—we find some description of the working of that association. They have found in practice that in seven years' working they had to settle about 22 claims on which they paid about Rs. 2,500 and in no case was the claim exceeding Rs. 400. Therefore, in regard to them their liability may be fixed in a different manner, say, for instance, so much per seat, subject to a certain maximum which the Provincial Government may fix. In the case of a joint stock company its operations are not restricted to any particular number of vehicles. A joint stock insurance company can operate over very wide areas and its membership is not restricted. Any person can insure and there is no membership required. But under the co-operative insurance schemes the number of vehicles to be insured will be definitely known because every owner of a car must become a member before he gets the benefit of the association. I find from the report of this association in Ratnagiri that in the last seven years its membership ranged between 190 and 205—a very small margin. So they definitely know their membership: they definitely know their risks and also the extent of insurance they have to effect. And again they operate within very small areas,—a part of a district or a district, and the operations do not cover very wide areas. Therefore, I think the co-operative principle requires that they must be given some latitude in regard to the fixing of the liability, the premiums they have to collect, and so on. Therefore, Sir, I submit that, while clause 108 may be retained as it is, in the sub-clause (b) the words "or as determined by the rules made by the Provincial Governments" may be added to give elasticity to the clause and also scope for Local Governments to examine local conditions and requirements of these various co-operative institutions and societies in fixing the liability. If that is done, I think this clause 108 will prove very beneficial, to the co-operative insurance societies of motor vehicles.

These are the only observations I wish to make on clause 108. In regard to the rest of the Bill I am generally in agreement with it and on some of the clauses on which I find some changes are required, I will give notice of amendments in due course.

With these words, Sir, I give my support to the Bill.

**THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official):** Sir, I must congratulate the Honourable Mr. Roy upon the very lucid exposition of the principles of the Bill which he gave us. The Bill as a whole is a very satisfactory one and I have no quarrel with the general principles or the main provisions of the Bill. Sir, it has been said that the death rate on account of motor accidents is appalling. And if I understood the Honourable Member correctly, he said that in India it was something like 96 per 10,000, which is very high. Well, the remark I want to make is this. Sir, there is nothing in the Act which would prevent the happening of such accidents. No doubt it might be said the Penal Code has not made people moral. There are murders still being committed, and thefts being committed, and so on. But my point is this. In clause 115 the punishment provided is a very light one. A man exceeds the speed limit and if he is prepared to pay Rs. 100 he can defy the authorities. So what happens is this. Sometimes when motorists think there is no chance of their meeting anybody they go on at a very high speed or, as the Honourable Member said, they become road hogs, and so on. Not only

[Sir David Devadoss.]

are the motorists liable to suffer but also any stray stranger who happens to come along, seeing there is no chance of any motors passing, is also injured and the accidents are fatal. What I say is that the Government should consider the necessity for enhancing the punishment or making it deterrent so that people may not exceed the speed limit.

**THE HONOURABLE THE PRESIDENT :** Would you substitute " imprisonment " for " fine " ?

**THE HONOURABLE SIR DAVID DEVADOSS :** Well, Sir, depriving the licensee of his licence. If a man knows that he will be deprived of his driver's licence for a year, he will be very careful.

**THE HONOURABLE THE PRESIDENT :** Is there anything to prevent the Provincial Government from depriving him of his licence ?

**THE HONOURABLE SIR DAVID DEVADOSS :** Not under this clause. What I say is that the very fact that a man exceeds the speed limit is itself a danger because we do not know when the danger will come, when the accident will happen. Therefore, to make it an offence to exceed the speed limit no doubt is the proper thing. But to give a very light punishment is not a thing which will achieve its object because the object is to deter people from committing an offence. Therefore, in that clause intended to be deterrent I think the punishment is not deterrent. And I hope the Government will see its way to make the punishment as deterrent as possible to prevent people from exceeding the speed limit.

**THE HONOURABLE THE PRESIDENT :** It is also open to you to give notice of an amendment of that clause.

**THE HONOURABLE SIR DAVID DE ADOSS :** Well, I would leave it to the Government to do it. That is my observation, Sir, because we see everywhere that these accidents are happening daily and hourly and we know the bill under this head, Sir, is very, very heavy. No doubt it was said some time ago that the accidents in America in the last two or three years were more than the loss during the Great War. It may be so, but so far as India is concerned, the accidents are very, very numerous indeed. If you only look at the papers every day you will find so many accidents happening. Buses running against trees and all on account of the uncontrollable speed with which these things are driven. If the speed is properly regulated, if the drivers are prevented from exceeding the speed limit, I do not think there will be many chances of accidents happening. How do people run against trees ? Only the other day, some prominent man was injured. If the speed is not excessive, he could control the machine. But because it is uncontrollable, these accidents happen. Not only do motorists suffer but also other people suffer. Therefore, I would recommend to the Government the advisability of making the exceeding of the speed limit a serious offence.

**THE HONOURABLE LT.-COL. SIR HISSAMUDDIN BAHADUR (Nominated Non-Official) :** I quite agree.

**THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadan) :** Sir, I rise to support the Motion moved by

my Honourable friend Mr. S. N. Roy. In doing so, I wish to make only a few observations. There are three staffs to be maintained. One is the licensing staff, the other is the registration staff and the third is the road transport board. Might not these be combined together so as to make it less costly? Then, with regard to the licensing and registration staff, the Provincial Government are left entirely to determine their extent and jurisdiction whereas the transport board has its jurisdiction defined in section 44. What I submit is that such a restriction should also be placed upon the jurisdiction of the licensing officer and the registration officer, so that people having to take a licence might not have to go a long distance to have their car registered at considerable trouble and expense. These are my submissions.

**THE HONOURABLE THE PRESIDENT:** If no other Member desires to speak, I will call upon the Honourable Mr. Roy to reply.

**THE HONOURABLE MR. S. N. ROY:** Sir, a year ago, when this Bill was presented to the Lower House, we were pilloried in the press and on public platforms, and it met with a hostile reception from most of the important sections of the Lower House. It is very gratifying therefore to find that after a year's discussion, opinion has veered round to our point of view and that today we have such a gratifying measure of support in this House.

There is very little, Sir, that I want to say now because most of the speeches have been in support of the measure. And there are remarkably few points of criticism which require an answer. One or two points of detail have been raised with regard to clauses which I think could be best discussed in connection with the amendments.

With regard to what fell from the last speaker, it is very likely that the registration and licensing authorities will be the same in the provinces. They will perform two different functions but there is nothing to prevent the jurisdiction of the registration authorities being made co-terminous with that of the Regional Transport Authorities.

I think, Sir, that is all I have to say. I want to thank the House for the reception they have given to this measure and I hope that we shall be able to get through the amendments to clauses without any serious differences.

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

"That the Bill to consolidate and amend the law relating to motor vehicles, as passed by the Legislative Assembly, be taken into consideration."

The Motion was adopted.

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## STATEMENT OF BUSINESS.

**THE HONOURABLE KUNWAR SIR JAGDISH PRASAD** (Leader of the House): Sir, the first item of legislative business on Thursday will be the Indian Tariff (Amendment) Bill which imposes a duty on the import of wheat. The next item will be the Indian Income-tax (Amendment) Bill the debate on which is likely to occupy the rest of the day and the following days.

**THE HONOURABLE THE PRESIDENT :** In that case, of course, the second stage of the Motor Vehicles Bill will be taken up later on, of which notice will be given to Honourable Members. Meanwhile, they can prepare their amendments and send them to the Department. I understand Government have also certain amendments. (Addressing the Government Benches.) Will you please send in those amendments so that Honourable Members may have time to examine them ?

The Council will now adjourn.

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The Council then adjourned till Eleven of the Clock on Thursday the 26th January, 1939.

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