

2nd April 1940

**THE**  
**LEGISLATIVE ASSEMBLY DEBATES**

**Official Report**

**Volume III, 1940**

*(27th March to 6th April, 1940)*

**ELEVENTH SESSION**  
**OF THE**  
**FIFTH LEGISLATIVE ASSEMBLY,**  
**1940**

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# Legislative Assembly.

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SYED GHULAM BHIK NAIRANG, M.L.A.

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

SIR ABDUL HALIM GHUZNAVI, M.L.A.

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# LEGISLATIVE ASSEMBLY.

Tuesday, 2nd April, 1940.

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

## MEMBERS SWORN.

The Honourable Sir Girja Shankar Bajpai, K.B.E., C.I.E. (Member for Education, Health and Lands); and

Mr. Eric Conran-Smith, C.I.E., M.L.A. (Home Secretary).

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### ACQUISITION OF SOME LAND NEAR KHEWRA SALT MINES.

†607. \***Khan Bahadur Shaikh Fazl-i-Haq Piracha:** With reference to the answer given to my starred question No. 395 (e) on the 14th March, 1940, regarding some land acquired by the Northern India Salt Revenue Department near Khewra Salt Mines in 1926, will the Honourable the Finance Member please lay the lease deed on the table of the House for information?

**The Honourable Sir Jeremy Raisman:** I do not think that the contents of the lease are of sufficient general interest for it to be laid on the table of the House but I am having a copy placed in the Library of the House.

#### DIFFERENTIAL TREATMENT METED OUT TO THE INDIAN MEDICAL DEPARTMENT.

608. \***Mr. Umar Aly Shah:** Will the Defence Secretary be pleased to state:

- (a) whether it is a fact that regular commissions in the Indian Medical Department of the British Army have been reduced from 13·5 to ten per cent.;
- (b) whether it is a fact that special promotion, as apart from accelerated promotion, is barred to the Indian Medical Department during peace time, but is admissible to all other Units in the Service;
- (c) whether it is a fact that the bar to qualify for special promotion is not even abolished during war;

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

- (d) whether it is a fact that Routine Commissions normally due and largely overdue in many instances are further being suspended for another whole year;
- (e) whether it is a fact that the Indian Medical Department personnel is furthermore denied 'Separation Allowance' as an exclusive measure whilst on Field Service, when every rank in the British Army is automatically eligible to its grant, although serving conditions do not differ; and
- (f) if the answer to the preceding parts be in the affirmative, how Government justify their policy; whether they are prepared to eradicate the differential treatment meted out to the Indian Medical Department, and, if not, why not?

**Mr. C. M. G. Ogilvie:** With the permission of the Honourable the President I will answer questions Nos. 608 and 610 together.

All the information required is not yet ready, and the answers will be laid on the table as soon as possible.

#### GRANT OF COMMISSIONS IN THE INDIAN MEDICAL SERVICE.

**609. \*Shaikh Raffuddin Ahmad Siddiquee:** (a) Will the Defence Secretary be pleased to state whether Officers and Warrant Officers of the Indian Medical Department are eligible for Commissions in the Indian Medical Service in peace time and in war and, if so, how recruitment or absorption is regulated and, if not, why not?

(b) How many Commissions referred to in part (a) above have been granted in the last decade?

(c) Have Government surveyed the cadre of the Indian Medical Department since the outbreak of war with a view to ascertaining the possibility of granting regular Commissions in the Indian Medical Service to competent and desirable cases and, if so, with what result? If not, why not?

(d) How many Military Assistant Surgeons are there in the Indian Medical Department who, professionally, may be eligible for such Commissions in the Indian Medical Service? How many, so far, have either been granted or recommended for Commissions?

(e) Is it a fact that in the appointments made for regular Commissions in the Indian Medical Service last November, one was given to a temporary officer who is an M.B., B.S., of the Punjab Medical Faculty?

**Mr. C. M. G. Ogilvie:** (a) Yes. They are eligible if qualified, and their applications are considered along with those of others.

(b) One.

(c) No. As no permanent commissions are being offered in the Indian Medical Service, it would not be in the interests of a member of the Indian Medical Department to give up his appointment in that department.

(d) 17 are professionally eligible and within the prescribed age limits. A further 85 are professionally qualified but are over age. Since the outbreak of war, none has been granted commissions in the Indian Medical Service for the reason given in answer to part (c).

(e) Yes.

**NON-GRANT OF SEPARATION ALLOWANCE TO THE INDIAN MEDICAL DEPARTMENT.**

†610. \***Mr. Muhammad Azhar Ali:** (a) Will the Defence Secretary be pleased to state what is implied by 'Separation Allowance' as applied to the Army in India and, when and under what circumstances it is provided? Is it admissible to British and Indian troops alike, irrespective of rank, and, if not, why not?

(b) Are families and dependants of soldiers entitled to draw 'Separation Allowance' whilst their relatives serve on the field of operations, or when posted to non-family stations on the frontiers when necessarily separated from them? If not, when and how do they qualify for the grant of this provision?

(c) Are all ranks of the Royal Army Medical Corps and of the Indian Medical Service eligible for the grant of 'Separation Allowance' when out on field service?

(d) Is it a fact that Commissioned and Warrant Officers of the Indian Medical Department of the British Army, are still debarred from the grant of 'Separation Allowance'? If so, what is the justification?

(e) Do Government recognize the discrimination caused in this matter of non-grant of 'Separation Allowance' to the Indian Medical Department and do they propose to eradicate the distinction? If not, why not?

**RECRUITMENT AND TRAINING OF POOL OFFICERS UNDER THE CUSTOMS DEPARTMENT.**

‡611. \***Maulvi Muhammad Abdul Ghani:** (a) Will the Honourable the Finance Member please state the functions of the pool officers under Customs Department and their academic qualifications?

(b) How are pool officers trained; where and for what period?

(c) How are pool officers recruited? What is the minimum qualification for such posts?

(d) Is the recruitment of pool officers advertised in papers? If so, in which papers?

(e) Is the recruitment of pool officers made by the Public Service Commission? If not, by which agency is it made?

(f) What is the number of such pool officers recruited during the last five years by communities?

**The Honourable Sir Jeremy Raisman:** (a) and (d). Pool officers serving in the Customs Department, after a preliminary period of training, are employed as Assistant Collectors or Collectors of Customs. As Pool officers are selected from those already in Government service, the question of academic qualifications or of advertising the vacancies in the press does not arise.

(b), (c) and (e). I would invite the attention of the Honourable Member to paragraphs 4 and 5 of the Finance Department Resolution No. F.-28 (6)-Ex. II/38, dated the 2nd February, 1939.

† For answer to this question, see answer to question No. 608.

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

(f) The Pool only came into existence on the 2nd February, 1939. Since *that date 21 Hindus, 11 Europeans and seven Muslims have been appointed to it.*

**ELIGIBILITY OF EX-EXECUTIVE OFFICERS OF THE INDIAN TERRITORIAL FORCE FOR COMMISSIONS.**

**612. \*Mr. Umar Aly Shah:** Will the Defence Secretary be pleased to state if the Executive Officers of the Indian Territorial Force, who did not fulfil their engagement with that Force and resigned before their term, are still eligible for commissions, in the Army in India Reserve of Officers and are entitled to count their previous service towards seniority (*vide* statement of His Excellency the Commander-in-Chief made in the Council of State on the 12th March, 1930, also the statement of the Secretary to the Government of India, Army Department, made in this House on the 12th February, 1932, and in accordance with rule 5/6 (a) and 7/8 (b) of the Regulations for the Army in India Reserve of Officers, 1926-34)?

**Mr. C. M. G. Ogilvie:** Recruitment to the Army in India Reserve of Officers has been suspended since September, 1939. The question, therefore, does not arise.

**COUNTING OF PREVIOUS SERVICE OF EX-OFFICERS OF THE INDIAN TERRITORIAL FORCE.**

**613. \*Mr. Umar Aly Shah:** (a) Will the Defence Secretary please state whether Government are aware that according to the Army in India Reserve of Officers Regulations of 1926, *ex-Indian Territorial Force Officers* who held both Honorary King's and Viceroy's Commissions in that Force from 1922 to 1927, were entitled to count their previous service in full, while according to the Army in India Reserve of Officers Regulations of 1934, they will count as half?

(b) If the answer to part (a) be in the affirmative, have Government considered the advisability of restoring the old rule?

**Mr. C. M. G. Ogilvie:** (a) No, Sir. The correct position is that previous service as honorary King's Commissioned officer has never been permitted to count towards seniority and promotion in the Army in India Reserve of Officers; and that half of any previous service rendered as a Viceroy's Commissioned Officer has always been permitted so to count, except that such service rendered between 1914-18 counts in full.

(b) Does not arise.

**ELIGIBILITY OF EX-OFFICERS OF THE INDIAN TERRITORIAL FORCE FOR COMMISSIONS.**

**614. \*Mr. Umar Aly Shah:** Will the Defence Secretary be pleased to state whether at present the recruitment of *ex-Officers* of the Indian Territorial Force is open for Commissions in "B" class of the Army in India Reserve of Officers who are overage for both emergency commissions and "A" class of the Army in India Reserve of Officers? If not, what is the reason for not taking into consideration their previous Indian Territorial Force service during the present war?

**Mr. C. M. G. Ogilvie:** I refer the Honourable Member to the answer I have just given to his starred question No. 612.

**APPOINTMENT OF AN INDIAN SUPERVISOR TO DEAL WITH APPOINTMENTS OF INDIAN CANDIDATES OF THE ARMY IN INDIA RESERVE OF OFFICERS.**

**615. \*Mr. Umar Aly Shah:** Will the Defence Secretary be pleased to state whether Government are prepared to appoint early a separate Indian King's Commissioned Officer Supervisor (with an Indian Clerk) for the Indian Wing of the Army in India Reserve of Officers in the Military Secretary's Office, Army Headquarters, India, for dealing with the appointments of the Indian candidates of the Army in India Reserve of Officers? If not, why not?

**Mr. C. M. G. Ogilvie:** No, because it would be unnecessary and uneconomical.

**GRANT OF HOUSE RENT IN NEW DELHI TO THE GOVERNMENT OF INDIA STAFF FAILING TO GET QUARTERS.**

**616. \*Pandit Krishna Kant Malaviya:** (a) Will the Honourable the Home Member please state the conditions and circumstances governing the grant of house rent in New Delhi to such of the Government of India staff who do not get Government accommodation and whether it is proposed to continue to give this allowance in future also? If not, why not?

(b) What relief does he propose to grant in future to those who do not get Government quarters and are required to pay rents for private buildings in New Delhi and elsewhere? If none, why not?

**The Honourable Sir Jeremy Raisman:** Delhi house rent allowance is granted only to those members of the ministerial migratory staff who fail to get Government quarters. It is given because the fact of migration imposes on those members of the staff who are not provided with Government quarters an unusually high expenditure on house accommodation and thus places them at a financial disadvantage. The allowance is intended to cover the difference between the rent actually paid and ten per cent. of the Government servant's emoluments, and is subject to a certain maximum. In consequence of the exodus decision, the allowance was sanctioned only up to the 30th April, 1940. The question of continuing the allowance beyond that date has not yet been decided.

**UNEMPLOYMENT AMONG EDUCATED CLASSES.**

**617. \*Pandit Krishna Kant Malaviya:** (a) Will the Honourable the Home Member please state whether Government have changed their policy regarding the solving of the problem of unemployment amongst the Indian educated classes?

(b) If the reply to the above part be in the negative, why are they granting extension of service beyond the age of superannuation and re-employing persons after retirement from Government service in the Government of India and the Attached Offices, including the Central Public Works Department, Federal Court, etc., etc., and how long do Government propose to pursue this policy to the detriment of the unemployed in this country?

(c) How many men are either on extensions or have been re-employed in each of these offices?

(d) Does he propose to lay down some conditions governing the grant of extensions as also the re-employment of retired persons under very special circumstances with the concurrence of the Finance or Home Department? If not, why not?

**Mr. E. Conran-Smith:** (a) No.

(b) Extensions of service and re-employment after superannuation are given only on public grounds and in the interests of good administration, which must remain paramount considerations.

(c) A statement shortly to be laid on the table of the House in reply to starred question No. 451 asked on the 19th March, 1940, will give this information.

(d) The conditions are already laid down in Fundamental Rule 56 and Article 520, Civil Service Regulations, which provide that a person may not be retained in service beyond the age of superannuation or re-employed after retirement except for special reasons and on public grounds. Government do not consider that any further action is necessary in this respect.

**Sardar Sant Singh:** May I ask the Honourable Member if this rule has ever been reviewed in the light of the new circumstances which have arisen in the country on account of the unemployment amongst the educated classes?

**Mr. E. Conran-Smith:** In view of the reasons which, as I have remarked, must operate before any such extension is given, Government do not consider that it is necessary to review the existing rule.

**Sardar Sant Singh:** Does the Government consider it necessary now, as is proposed, to review the situation in the light of the new circumstances that have arisen in the country?

**Mr. E. Conran-Smith:** No, Sir.

#### GRANT OF ARMS LICENCES TO SPECIAL POLICE OFFICERS IN DELHI.

**618. \*Pandit Krishna Kant Malaviya:** (a) With reference to the reply given to starred question No. 881 on the 8th March, 1939, regarding grant of arms licences to special police officers in Delhi, will the Honourable the Home Member please state when the information asked for therein is expected to be placed on the table of the House?

(b) Will he please state if any more licences of arms have since been issued to any of the special police officers and on what grounds?

**Mr. E. Conran-Smith:** (a) The information was laid on the table of the House on the 23rd March, 1939, and printed on page 2632 of the Legislative Assembly Debates for that date.

(b) The information has been called for from the Chief Commissioner, Delhi, and will be laid on the table of the House in due course.

## CRIMES IN DELHI.

**619. \*Pandit Krishna Kant Malaviya:** (a) With reference to the reply given to starred question No. 882 on the 8th March, 1939, will the Honourable the Home Member please state the number of crimes of each description that took place in 1938 in Delhi and whether the addition of the appointment of the gazetted staff has in any way helped in the reduction of crime? If not, what is the justification for keeping on such a job, and, if it has helped, then in what way?

(b) Will he please state the steps and measures taken by the present Head of the Department to reduce the crimes in Delhi after the creation of the additional appointment? If not, why not, and if so, what?

**Mr. E. Conran-Smith:** The information has been called for from the Chief Commissioner, Delhi, and will be laid on the table of the House in due course.

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

[At this stage Pandit Krishna Kant Malaviya got up to put a supplementary question.]

**Mr. President** (The Honourable Sir Abdur Rahim): Before the Honourable Member got up, the next question had been called. It is too late now to ask a supplementary question.

## OBSERVANCE OF MORNING OFFICE HOURS DURING SUMMER MONTHS IN THE GOVERNMENT OF INDIA OFFICES.

**620. \*Mr. Lalchand Navalrai:** (a) Will the Honourable the Home Member please state if morning office hours (7 A.M. to 12 NOON) during summer months are being observed in any of the attached offices of the Government of India which have recently been located permanently in Delhi, and whether any of these offices have experienced any difficulty in its working?

(b) Is he aware that the staff of the Government of India Secretariat approached Government through their Association to adopt morning timings in their offices for summer months?

(c) Is he aware of the feelings of that portion of the staff of the Secretariat which has been located permanently at New Delhi that, they have been denied a small facility of protecting them from the scorching heat while a portion of them have been allowed to move up to Simla?

(d) What are the difficulties in giving it a trial for at least one season?

(e) Is he prepared to consider the desirability of changing the present timing to 7 A.M. to 12 NOON? If not, why not?

**Mr. E. Conran-Smith:** (a) The Federal Public Service Commission, the Civil Aviation Office, and the Office of the Controller of Broadcasting were observing morning hours during the summer. As far as is known no difficulty was experienced by these offices.

(b) and (c). Government received a representation from the Imperial Secretariat Association urging the observance of morning hours during the summer.

(d) and (e). The question of adopting morning hours was considered and rejected on the grounds that the Secretariat buildings are being air-conditioned, that the adoption of different hours for Simla and Delhi offices will cause delay in the disposal of work, and that the working hours will be curtailed by one hour.

**Mr. Muhammad Azhar Ali:** Is the Honourable Member aware that certain Secretariat Departments and attached offices which have now been permanently located in New Delhi will not be sending up any camp office to Simla? Do I understand that it will be open to such Departments to adopt morning hours during hot weather if they find it convenient to do so like the office of the Civil Aviation?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is making a speech.

**Mr. E. Conran-Smith:** No, Sir. Government consider that uniformity is desirable except in cases where the offices will not be located in air-conditioned rooms.

**Mr. Muhammad Azhar Ali:** Will it not be possible from eleven o'clock in the day till about twelve Noon, that the offices in Simla could communicate with the offices here and it should be open to the offices here either to have morning office or evening office, because it will be very hot during day time.

**Mr. E. Conran-Smith:** I have nothing to add to what I have already stated. All considerations have been taken into account.

#### MINERS AND GANGMEN WORKING IN KHEWRA SALT MINES.

621. **\*Mr. Lalchand Navalrai:** (a) Will the Honourable the Finance Member be pleased to state if it is a fact that the miners and gangmen working in Khewra Salt Mines, are employed on a basis similar to piece work system?

(b) Is it a fact that the gangmen are not allowed to join the miners' union recognised by Government, while the miners are permitted to become members of the same?

(c) Is it a fact that on a question raised by the Honourable Raja Ghazanfar Ali Khan, M.C.S., in the Council of State, in the year 1936, Government stated that they had no objection to gangmen joining the union?

(d) Is it a fact that the Chief Mining Engineer, Khewra Salt Mines, objects to gangmen joining the union? If so, why, and what steps do Government propose to take?

**The Honourable Sir Jeremy Raisman:** (a) No.

(b) Yes.

(c) No.

(d) The Central Board of Revenue has informed the Punjab Miners' Labour Union, Khewra, that gangmen will not be permitted to be office bearers or members of the Union. The Board has taken the view that gangmen who are appointed by the Department to act on its behalf as supervisors over the work of the miners cannot satisfactorily combine their duties of supervisors with membership of the Labour Union to which the miners belong. Government concur in this view and do not propose to take any action in the matter.

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### THE PARI MARRIAGE AND DIVORCE (AMENDMENT) BILL.

**Sir H. P. Mody** (Bombay Millowners' Association: Indian Commerce):  
Sir, I beg to move:

"That the Bill to amend the Parsi Marriage and Divorce Act, 1936, as passed by the Council of State, be taken into consideration".

Sir, this Bill is intended merely to remove a defect which crept into the Parsi Marriage and Divorce Act, 1936. Section 40 of that Act deals with orders for alimony and maintenance. It provides for two sets of orders, those which are secured on the property of the husband and those which are in the nature of personal orders. It was the intention of the framers of the Act, as based upon the general opinion of the community, that these orders should cease to have effect if the wife re-married or ceased to be chaste. Unfortunately, when the Act was drafted, it was provided in the case of those orders which are secured on the husband's property that they should cease to have effect in the contingency mentioned, but it was not so provided in the case of personal orders. This Bill seeks merely to remedy that defect. And, there is a supplemental provision which empowers the High Courts to vary or rescind an order in the event of its being established to their satisfaction that the wife had re-married or had ceased to be chaste. Sir, I move.

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

"That the Bill to amend the Parsi Marriage and Divorce Act, 1936, as passed by the Council of State, be taken into consideration".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Sir H. P. Mody**: Sir, I move:

"That the Bill, as passed by the Council of State, be passed".

The motion was adopted.

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### THE INDIAN TEA CONTROL (AMENDMENT) BILL.

**Maulvi Abdur Rasheed Chaudhury** (Assam: Muhammadan): Sir, I move for leave to introduce a Bill to amend the Indian Tea Control Act, 1938.

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

“That leave be granted to introduce a Bill to amend the Indian Tea Control Act, 1938.”

The motion was adopted.

**Maulvi Abdur Rasheed Chaudhury**: Sir, I introduce the Bill.

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### THE INDIAN RAILWAYS (AMENDMENT) BILL.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, I move for leave to introduce a Bill further to amend the Indian Railways Act, 1890, for certain purposes.

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

“That leave be granted to introduce a Bill further to amend the Indian Railways Act, 1890, for certain purposes.”

The motion was adopted.

**Mr. Muhammad Azhar Ali**: Sir, I introduce the Bill.

---

### THE DEFENCE OF INDIA (AMENDMENT) BILL—*contd.*

**Mr. President** (The Honourable Sir Abdur Rahim): The House will now resume consideration of the motion moved by Mr. A. deC. Williams:

“That the Bill to amend the Defence of India Act, 1939, be taken into consideration.”

**Mr. A. deC. Williams** (Government of India: Nominated Official): Sir, my Honourable friend, Pandit Lakshmi Kanta Maitra, who is not in his place today, commented yesterday upon the homœopathic brevity of my address. Well, Sir, it appeared at any rate to have one homœopathic quality inasmuch as a short speech on this Bill has elicited a great deal of discussion. The Act which this Bill seeks to amend is admittedly a comprehensive and complicated measure. It naturally follows that as defects and deficiencies are found in it, from time to time, amendments have become necessary, and, Sir, it is a disconcerting reflection to Government and I think it must be even more disconcerting to yourself, Sir, to reflect, that whenever an amending Bill—whenever a Bill to amend the parent Act—comes before the Legislature, it is to be made the occasion for a full-dress debate of the principles underlying the parent Act. It is, Sir, as if a Bill seeking to amend a purely procedural section of the Criminal Procedure Code was made the occasion for a full-dress debate on the working of section 144 of that Code.

**Mr. President** (The Honourable Sir Abdur Rahim): Did the Honourable Member mean to suggest that the speeches that were made yesterday on this Bill were not relevant to the discussion?

**Mr. A. deC. Williams:** I would not venture to suggest that. What I do venture to suggest is this, that if this is to happen on every occasion when a minor amendment of a parent Act is made, it will be extremely difficult for Government . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Then the Honourable Members must see to it that some rule is framed changing the practice under which speeches such as those that have been delivered on this occasion are permissible.

**Mr. A. deC. Williams:** Now, Sir, I will address myself to the terms of the Bill. Honourable Members have complained that sufficient explanation has not been given either in the Statement of Objects and Reasons or by myself for the reasons underlying clause 2 (a) of the Bill. Really, Sir, I have very little to add to what I said before. My contention is this. The provisions of the parent Act which this Bill seeks to amend empowers Government to make rules preventing the prosecution of any purpose likely to prejudice His Majesty's relations with foreign powers. What this Bill seeks to do is to sanction the prevention of any purpose likely to prejudice His Majesty's relations with any State in India. I ask the House, could anything be more reasonable and do the House wish anything else?

I have been asked what reason we have to anticipate activities of this sort, and I have been asked the same question in relation to the tribal areas. The answer which I have to that is that it is not necessary for Government to wait until the trouble is at hand. Prevention is always better than cure.

If rules are to be made preventing activities likely to prejudice His Majesty's relations with foreign powers, surely there should be power to deal with action likely to prejudice His Majesty's relations with the States in India. The same applies to the provision relating to the tribal areas and it is not necessary for us to wait until there actually is trouble in the tribal areas. Again, prevention is better than cure.

As regards the remaining clauses of the Bill, clause 2 (b) supplies a plain omission. The Act contemplates certain delegations of power by Provincial Governments to their officers, but unfortunately the relevant provision of the Act provides that a Provincial Government cannot delegate its powers to an officer subordinate to the Central Government. As all subordinate officers in the Chief Commissioners' provinces are subordinate to the Central Government the effect is that a Chief Commissioner acting as a Provincial Government cannot make any delegations at all. This is a plain defect which the Bill seeks to remove.

Clause 3 has been found necessary because section 18 of the parent Act gives certain protection to Indian State Military or Police forces when serving with Indian forces. But it has been found that this protection does not cover the benefits given by the Indian Soldiers' Litigation Act, and the small amendment which the Bill proposes to make in the section is designed to give effect to this. I can only repeat that it is impossible for me in answering this debate to deal with the extensive criticisms made by Honourable Members to the principles underlying the parent Act.

[At this stage, Mr. Aney rose to speak.]

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair cannot allow any further speeches now after the Honourable Member has replied on behalf of Government.

**Mr. M. S. Aney** (Berar: Non-Muhammadan): The Honourable Member gave no reply to the debate; that is what I want to urge.

**Mr. President** (The Honourable Sir Abdur Rahim): That makes no difference.

The question is:

“That the Bill to amend the Defence of India Act, 1939, be taken into consideration.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**Mr. A. deC. Williams:** Sir, I move:

“That the Bill be passed.”

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

“That the Bill be passed.”

**Mr. M. S. Aney:** Sir, the Honourable Member in charge of the Bill in replying to the debate has done nothing more than read out to us once more the notes appended to the clauses of the Bill and he thought that was a sufficient reply to the debate which we had yesterday on this Bill. Not only that, but he has even doubted the propriety of the debate which we raised upon certain topics that are intimately connected with the operation of this Act. You have rightly brought to the notice of the Honourable Member, Sir, when he wanted to question the propriety of allowing the discussion at all in this House, and the Honourable Member had to give up that line of reasoning and content himself by reading out once more the notes on clauses. In the first place, I want to urge that whenever the Government come with a Bill which is intended to widen the powers that have been already conferred under a law to the passing of which there was strong objection at the time when the same was first considered by the House, Government ought to know that they would be called upon to justify the use of the power which had been conferred by the House, and, therefore, they must come prepared with a full statement of facts on which they are likely to be asked to give information. What did the two speeches indicate? The point they emphasised was this: that the working of this Act has not been satisfactory, the delegation of power that has been made has not been found to have been properly used, and if that is so, the House rightly contends that a further delegation of powers and a further widening of authority was dangerous. That is the implication of the debate we had yesterday, and the Honourable Member ought to have seen that it was necessary for him to allay the apprehensions which the points made by my friends, Sardar Sant Singh and Pandit Lakshmi Kanta Maitra, had raised. But he made no attempt whatsoever at all about this

matter: he made no statement even to the effect that it is not true that the powers delegated have been abused as alleged: he would not even go to the length of repudiating the charge that had been levelled . . .

**Sardar Sant Singh** (West Punjab: Sikh): He dare not.

**Mr. M. S. Aney:** That means in a way that he gives a silent consent to the allegations made against the use of these powers by those to whom they were delegated: if that is so, he had no moral justification to come forward before this House and ask us to sanction a further extension of powers, as the present Bill wants.

Coming to the next point, I thought he would be able to give some justification for the asking of this further extension of these powers. The first thing asked is in regard to the powers of dealing with foreign powers—that these powers should be had by them in regard to States in India. There is some difference between foreign powers and Native States. Foreign powers do not have people who are Indians. Whereas, in Native States, it is the Indians who live there; and the question is, is there no law at present which enables the Government of India to deal with any agitation carried on in British India which is likely to prejudice their relations with Native States? If there is a law, they must prove that the provisions of that law are inadequate and cannot effectively meet the situation likely to be created on account of agitation being carried on against Native States which is likely to prejudice the relations of the British Government with the Native States. I suppose there is such a law—the Princes' Protection Act; and there are other Acts also. How is it that the powers conferred by those Acts are deemed inadequate and insufficient by the Government of India to deal with situations of that kind? The Honourable Member seems to have ignored the existence of these Statutes altogether: he does not seem to know that there are Acts like that. He has not come with a clear justification that the powers conferred under the Princes' Protection Act and other Acts are not sufficient to deal with the situation, and that a new situation has developed. What are the circumstances under which a new situation can be said to have developed? They must be of such a nature that the Government of India are not able to deal with the situation with the powers they possess already under the Princes' Protection Act and the Indian Penal Code. The powers are there, and no explanation is forthcoming why additional powers are wanted. It is taken for granted that, since the war is there, the burden of proof has shifted from the Government: immediately they come here and say "here is an emergent situation", it is for the House to show that there is no need for a measure like that. The real reason is this: they know that they have an overwhelming majority behind them, and even if they do not give any explanation and say they want a Bill without giving one word of justification, they can carry the measure with the help of the tame majority that stands behind them, and they can ignore the voice of reason and the voice of protest that is made from this side. I will not accuse the Honourable Member of discourtesy, but as I said, this is not the way of showing due courtesy to the House when a discussion on a responsible and vital question is raised by the House. That is not the way to deal with a situation of this kind.

The position today is this: there are Native States in which the administration goes on in an extremely autocratic way. I do not want to criticise the administration of any particular Native State at all, but it is well

[Mr. M. S. Aney.]

known that the administration of Native States does not come up to the standard which exists in British India, although we are not satisfied with the administration here itself. But that fact is known. When such a situation almost results in a state of anarchy, it becomes necessary to bring it to notice of the ruling prince and the Paramount Power. But the voice of the people in Native States is smothered and suppressed: they are not allowed to raise their voice and protest. What is the remedy? If their fellow subjects in British India are not allowed to protest, there is no way of drawing attention to the evils like that in Native States. What is the object of this Bill? It is to suppress that voice of protest. It may not be the object, but it will be the result. It will result in suppressing our voice of protest on behalf of the suffering millions in Native States, in British India itself. What is the provision that the Government of India are now making? Are they going to insist upon Native States maintaining a certain standard of efficient administration and give a certain legitimate latitude for expression of views and opinions in Native States? Are they going to take any steps like that? If they are not going to take any such steps, but leave the people in the States in a state of utmost helplessness, I say, it is not doing the right thing at all. The Government of India do not know what the people think when they bring a Bill like this. A few days ago, the Chamber of Princes met here, and the people put this construction upon this Bill, that it is a kind of reward which the Government are going to give to conciliate the Princes and reward their loyalty. Of course, some princes might have complained that the agitation carried on in British India is inconvenient to them and the Government of India wish to oblige them without paying due regard to the interests and the rights of the people over whom the Princes rule and administer. What guarantees, what safeguards have the Government of India provided in the interests of the people living in those States? Do the Government of India want that the people living in British India should ignore the conditions of living of their fellow subjects in Native States? Even if they are treated like cattle, we should not raise our voice of protest? What is the guarantee that these powers conferred upon officers in British India will not be abused by them? We have already pointed out—and the two previous speeches were intended to emphasise the fact—that the powers conferred upon them so far have not been properly used, and the further delegation of power will carry along with it a greater danger of abuse, because there will be nobody to protest against the exercise of that power at all.

Therefore, I expected that when my friend, Mr. Williams, got up to reply, he would give some reasoned statement of the position existing in Native States and the steps which the Government of India contemplate to adopt in order to protect the rights of the people there, the outlets which he thinks exist there for expressing their grievances, and that there is absolutely no danger of these powers being abused by the officers at all if they are delegated to them now. On all these points, I thought he would be in a position to give some reasoned and convincing statement before he asked us to accept this situation.

As regards the tribal areas also, the difficulty is this: I do not want to enter upon any controversial matters or rouse any undesirable feelings. But there is one point. It is well known that there are frequent raids committed on the inhabitants of settled districts by the tribal people.

Those who suffer are bound to say something about those matters. We do not know whether our protests against the depredatory tendencies and the actual depredations committed by the people of the tribal areas on our brethren who have settled in the settled districts are likely to be considered by British officers residing in those areas as matters calculated to prejudice the maintenance of law and order in the tribal areas; we do not know how they will look upon our protests and speeches here. It is a dangerous thing, but there are admitted evils from which people in British India suffer on account of the depredations committed on them by people living in the tribal areas. Now, what degree of protest on our part will be considered as being within limits or what degree will be considered as going beyond those limits are matters left entirely to the discretion of those officers on whom these powers will be conferred. The difficulty is this. You are giving extraordinarily extensive powers without providing for any adequate check on those powers. Now, Sir, how the powers in British India are abused are matters of common knowledge, but as you have reminded us that it would not be proper for us to enter into a detailed discussion of these matters, I shall not deal with those matters here, but I shall make a brief reference to only one thing.

Only a few days ago, the Civil Liberties Union which exists in British India has issued a big statement, and that goes over three typed pages, and it gives numerous instances which have taken place in all the provinces of India including Madras, from the days it was administered by the Congress Ministry up to this day, and also instances which have occurred in the Punjab, Bengal and elsewhere, showing that, in the opinion of the members of that body, the powers exercised in those provinces, under the Defence of India Act, have been most arbitrarily used. Since you have not allowed us to go into details, I shall not read out that big statement, a copy of which has been sent to me. The Government of India have got an Information Bureau and so they also must have received a copy of this statement, and, in view of that fact, I thought that the Government of India would be in possession of the complaints of the people against the manner in which the Defence of India Act was being used or abused in the whole country, how the operation of that Act has been considered by the people as detrimental to the interests of this country, and how it is being worked in a manner which was never the intention of the House when it gave its sanction to that Bill. The passage of that Bill became smooth because of the assurances that were given to us that the powers would be used with caution and discretion, and we say now, as we feared then, that the powers have not been used either with caution or with discretion. I find that the Government have practically completely ignored our voice of protest and have made no attempt to give us a convincing answer to the various arguments advanced from this side. Under the circumstances, I feel that the Government have made out no case at all for this Bill, and I am, therefore, constrained to oppose the third reading of this Bill.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, whenever any measures are brought forward here in this Session, by the Government, the argument that is always urged is that the war is on. We do not deny that the war is on, but so far as this Bill is concerned and this House is concerned, I think some respect and regard should be shown to the Members of the Opposition. Here we find that when this Bill has been brought forward for the amendment of the Defence

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of India Act, our Honourable friend over there did not advance any reasons for amending the present Defence of India Act. The Statement of Objects and Reasons does not give sufficient reasons or arguments to convince the House of the necessity of the amendment of the two sections. We do not know what the actual facts are or why the Government have thought it necessary to bring forward this measure, nor have the Government adduced sufficient facts to justify the amendment of this Act by showing that in certain places certain things have happened which have forced the Government to introduce this measure here. My submission is that, as a matter of principle, whenever Government want to bring forward any measure, they should adduce sufficient reasons for their so doing, just as we are asked to give sufficient reasons when we bring forward any measure for introduction in the House, but, Sir, we are very sorry that this principle has not been observed in this case by the Government. Formerly, foreign powers was a subject which we could not touch, but now we find the Indian States have been introduced in this Bill and also the tribal areas. Now, Sir, it will be very easy for any resident of British India, if he happens to go to an Indian State or to any tribal area, to be implicated there. I don't say that the Government will implicate him, but even the ordinary local police officers will implicate him. Is it a fact, Sir, that the Government have received a representation from some of the Indian States or from the people of the tribal area that they should be protected from British Indian people coming over there and fomenting trouble during the time of war? Sir, unless sufficiently cogent reasons are advanced by the Government, we British Indians would not like to be put on the same level as people in Indian States or in the tribal area. We do not object to your bringing forward any measures whenever you think they are really necessary in the interests of the country, but so far as this Bill is concerned, we say that you are exposing British Indian subjects to great troubles if ever they happen to enter the Indian States or the tribal area. If the matter had remained confined only to foreign powers, we would not have very much bothered about it, because we have no access to them, but here conditions have been changed, and I think the House should not be treated in the shabby manner in which it has been treated over this Bill. Sir, I oppose the third reading of the Bill.

**Maulvi Abdur Rasheed Chaudhry** (Assam: Muhammadan): When we go through the Statement of Objects and Reasons attached to the Bill, we find that the changes contemplated by the Government are not so small or unimportant as the Honourable Member sought to make out. Some of the changes sought to be made refer to tribal areas and Indian States. It enables the authorities there to make rules in such a way that they can treat the people of the tribal area in any way they like. If this is called a minor change, then I do not know what, according to the Leader of the House, is a major change. Even under the existing rules, the poor people of the tribal area are being gradually smashed. They are unable to bear the burden of the present rules, and to burden them with further rules is, I am sure, not a minor change as stated by the Leader of the House. We find, so far as the defence of India is concerned, India has got nothing to fear because there is no prospect of even a remote aggression on India by any foreign power. The other day the Foreign Commissar of Soviet Russia stated that they have no ambition on India. So far as we are concerned, there is no chance of any remote attack on India, and so there is

no necessity for tightening up the Defence of India Act in the tribal area or in any other part of India. In yesterday's discussion, no facts and figures have been produced to show that this amendment is necessary for the safety of India. Two Honourable Members spoke on the Bill, and no reply has been given by Mr. Williams to what they said. He has given us no concrete example of any violation of the existing rule, which necessitates a further tightening up of the rules in the tribal areas. The only thing that he says is that prevention is better than cure. That is a good principle, but when it is applied to politics, we find that it fails of its purpose. To our sad experience we have found that when a Bill is passed in this House as a preventive measure, we at once see that the authorities find opportunity to use the Bill and bring it into action. That is our sad experience. Such being the case, we cannot give our consent to the Bill till we are satisfied that it is necessary for the safety and protection of India. As I have said, no case has been made out by the Government Member, and we, the elected Members of the House, find that no case has been made out for a measure of this kind. Sir, I oppose the Bill.

**Sardar Sant Singh:** Sir, you were perfectly justified when you pulled up the Honourable Member . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member need not pay such a compliment to the Chair.

**Sardar Sant Singh:** I am building up an argument on that score, Sir. The Honourable the Mover of the Bill stated that the debate on this Bill was quite irrelevant. That is the mentality . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member did not say that. At no stage did he say that the speeches were irrelevant.

**Sardar Sant Singh:** The position is this. Probably the Honourable Member in charge of the Bill is convinced that on an amending Bill the House is required only to say "Yes" or "No" to the amendment tabled and not to go into the policy of the questions which gave them the power first in the original Bill, and then when they want to extend it, they must tell the House that this extension is required for a purpose consistent with the Bill itself.

**The Honourable Sir Muhammad Zafrullah Khan** (Leader of the House): At this stage there need be no debate in regard to what can or cannot be said. You were pleased to give a ruling and everybody has accepted it as they were bound to accept.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member (Sardar Sant Singh) should better go on with the motion before the House.

**Sardar Sant Singh:** The difficulty with the present Members of Government is that they think that the mere moving of the Bill should get the consent of the House. That is the mentality which I am bound to discuss on the third reading of the Bill. What is this Bill? No greater

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disrespect could be shown to this House than not to reply to the arguments raised by Honourable Members in the debate and not to answer a single question put to the Government, in order to justify them in asking the House to extend the power given to them under the Defence of India Act. I put certain definite questions, I wanted definite answers, but not a single answer has been held out. My first question was . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member need not repeat all that. It was only yesterday that the Honourable Member stated them.

**Sardar Sant Singh** : That is all right, but . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member can say that these questions have not been answered.

**Sardar Sant Singh** : That is the grievance and the country must know, —how can the country know unless we repeat?

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member cannot repeat. That is against the rule of the House.

**Sardar Sant Singh** : What is the rule?

**Mr. President** (The Honourable Sir Abdur Rahim) : Not to repeat any argument that has already been advanced.

**Sardar Sant Singh** : I am not repeating the arguments. I am dealing with my own privileges in the House. My privilege is to be satisfied that a case has been made out . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : But the Honourable Member must not repeat any arguments that have already been adduced.

**Sardar Sant Singh** : I am not repeating any arguments.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member began by saying that "I asked so many questions". Then he wanted to specify the questions and said that there is no answer received.

**Sardar Sant Singh** : I have a right to make a reference to the questions that I put to the Government in order that they may justify their conduct in this House.

**Mr. President** (The Honourable Sir Abdur Rahim) : But the Honourable Member cannot repeat all those questions. The Honourable Member has made his point that he asked certain questions and that they were not answered. He cannot go on repeating all those questions.

**Mr. M. S. Aney:** The Honourable Government Member has still a right of reply, and I expect, in view of the expressions of opinion, he might reply to the points raised by this side of the House. Therefore, in order to help him in that direction, it would not be inappropriate for my Honourable friend, Sardar Sant Singh, to repeat the questions.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair is sure the Honourable Member for Government remembers the questions that Sardar Sant Singh put to him. It is not necessary to repeat them.

**An Honourable Member:** Is it so?

**Mr. M. S. Aney:** He says he remembers them.

**Sardar Sant Singh:** The point is very simple. They want an extension of the principle underlying the Defence of India Act, and we say  
 12 NOON. that before such an extension is granted by this House they must justify to us that they have kept up to the assurances given on the floor of the House, namely, that the Act will be administered with moderation and with full regard to the liberties of the subject. That is the position which I took up last time, and that is the position to which no answer has been forthcoming. In the third reading, my Honourable friend asks that the House should proceed to pass the Bill. I say, 'No,' for the simple reason that, "The first powers that we gave you under the Act have been abused, and as they have been abused and as you have not kept up to your assurances given on the floor of the House, you are not entitled to ask us to extend the power beyond what we have already given, because we have no power to repeal it, and as we have no power to repeal it, we have a right to deny a further extension of the powers under the Act." On that I raised a definite plea. I wanted the Government to tell me how many prosecutions have taken place. There is no answer given. As pointed out by our respected Leader, we should act upon the well known maxim that silence is half consent,—that the Government admit that they have abused the power. Since then I have come across a statement issued by the Indian Civil Liberties Union. That Union have published a three-paged statement of facts and figures to show how the Defence of India Act has been used and I have no mind to read these figures. They are too many but I would like to make a present of it to the Government Members and I will ask them: Is this the way in which assurances given in this House are kept in the country? We have seen those days when in this very House assurances given by Honourable Members were followed up by the issuing of circulars and instructions and by other methods which brought home to the persons who were in charge of carrying out certain provisions of a Statute that they were to use them in a particular manner but this is the first time that we find that assurances solemnly given and pledges solemnly made to the Members of this House have been kept only by their violation and when we come forward and ask that we should be supplied with information, that information is refused. May I ask them whether they want the successful prosecution of the war for the purpose of crushing Hitlerism in the world but could there be worse Hitlerism than what we have seen in India? Are they imbibing that same spirit of Hitlerism in India? Why are they keeping this House? Is it only for the purpose of registering their decrees? We want to be satisfied that

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this Act has been properly used. Our complaint is that it has not been properly used. I said yesterday and I repeat that the rule of law is the first fundamental security for the liberty and safety of the people. I can quite understand a state of emergency in which extraordinary powers may be required.

My friends of the Muslim League Party were quite right and we acted with them when during the last debate of this Defence of India Act we did not raise any question, because we recognised the emergency of war. Since then seven months have gone by. In seven months we wanted to see whether the Government of India have taken any steps to safeguard the legitimate interests which are not connected with the successful prosecution of the war. They have not kept any regard for the assurances they gave and they are now asking for a further extension of power. We are entitled to tell them that we shall not give them any further extension of power. I will request my friends of the Muslim League to take note of what is happening in the country in the matter of maintaining the rule of law. If the rule of law goes away, then security and safety also go out of the country. The difficulty is that the Members of the Government do not understand how other people are being affected. Their lack of imagination or vision will bring trouble. We are more interested in safety and security than those gentlemen. They live in the Civil Lines and do not know what danger is. The danger is to us the people who are living among the masses and if the masses are to be tyrannised in the manner in which they are being tyrannised today, the difficulty will be for us, not for them. Therefore, I will raise a voice of warning. The actions of those who are in power today are drifting the country to a state of chaos and disorder. They should not lightly set aside this warning as coming from people who are not in touch with the masses. We are in touch with the people and we can safely say that if things drift in the manner in which they have been drifting today, it does not require a prophet or astrologer to tell them that there will be a spirit of disorder in the country in the next few months of this very year. It is very easy to sit tight here and ask us to give more power. You can enforce the provisions with the help of bayonets, firing and similar things but you don't know with what bitterness you will finish. That you don't realise. One thing that happened under the Defence of India Act in the Punjab has resulted in the assassination of Sir Michæl O'Dwyer in London. The administration of this Act in the Punjab has resulted in the firing on the Khaksars. These things have an inter-connection with each other. Why don't you take lessons from these events and give the people good justification for the action that you are taking? This Act is for an extraordinary purpose and this extraordinary measure is not to be used in an ordinary manner but with great care and moderation. When I read the debate in the House of Commons on this Bill, I found that fears had been expressed that labour unions will be dealt with under that Act. Some of the Members of the House of Commons brought to the notice of the Secretary there who was moving the Bill and asked for an assurance that this measure will not be used for the suppression of the legitimate activities of the union movement in England and he did give an assurance. He told them that any specific instances in which this measure is used for this purpose will be dealt with severely by the Government of that place. Here labour leaders have been arrested under the Defence of India Act. Has any justification been

given that it was connected with the successful prosecution of the war or not? Here no attempt is made even to justify your conduct. That is the most grievous part of the whole thing. It is a tragic fact that no attempt whatever is made to justify the steps taken under this Act. I never took up the position that there may not be occasions when the use of this Act may be necessary for the successful prosecution of the war but it is not for us to say that because the possibility is there, therefore the power must be given. They have to tell us that this is not a mere possibility, that the ordinary law of the land will not help and that this extraordinary piece of legislation must be placed on the Statute-book and that otherwise law and order cannot be maintained. Here the gentleman gets up, makes a two-sentence speech and then he says "I move that the Bill be passed". Is this the way in which the House should be treated? You have got the power of issuing ordinances. - Why don't you use that power and carry on? Our grievance would then be that you are carrying on the Government of the country by means of ordinances and not by legislation but here you want to make us responsible for the legislation. I say that they are violating the privileges of this House and I strongly protest against that. Therefore, I strongly oppose the third reading and I will claim a division on this point alone.

**The Honourable Sir Muhammad Zafrullah Khan:** Sir, the reply with regard to the merits of the amending Bill will in due course be given by Mr. Williams, but Sardar Sant Singh and one or two other Honourable Members have made references to the assurances given when the Defence of India Act itself was under discussion in this House and they have said that those assurances are not being implemented and that the Central Government have failed in the duty which they undertook in that connection. To that limited extent, I will try to deal with the contention advanced: Any assurance given on behalf of Government is binding upon the whole Government and so are the assurances that I gave on that occasion. Yet, as I happen to be in the House it is up to me to deal with that part of the objections raised by Honourable Members.

To begin with, Sardar Sant Singh is a little confused as to what happened in the House of Commons. He has made various allegations that a responsible Minister of the Crown gave an assurance in the House of Commons, and that I repeated those very words in this Honourable House. He then said that the assurance was given by the Home Member, I believe he meant the Secretary of State for the Home Affairs. In both of these contentions he is wrong, though that is a small matter. What he referred to in the Simla Session was not an assurance on behalf of anybody but observations made by Mr. Winston Churchill who was at that time not a member of Government.

**Sardar Sant Singh:** It was then reported in the Press that the assurance was held out by Mr. Winston Churchill but now I find after reading the debates of the House of Commons that this assurance was given by Sir Samuel Hoare, who was Home Secretary.

**The Honourable Sir Muhammad Zafrullah Khan:** I do not know which assurance the Honourable Member is referring to now.

**Sardar Sant Singh:** The same. The wording is the same.

**The Honourable Sir Muhammad Zafrullah Khan:** On the basis of his putting it before the House on that occasion that Mr. Winston Churchill had made certain observations, I repeated those very observations with reference to this Bill and I stand by them. And those observations amounted to this, so far as I can recollect them at this stage, that it was a regrettable necessity which had compelled His Majesty's Government to approach the House for legislation of that kind, but that everybody was agreed that in the emergency that had arisen, a certain amount of sacrifice of the normal liberties of the subject must be submitted to, and the hope was expressed that those liberties would not be trenched upon further than was absolutely essential having regard to the object in view. I believe, Sir, that is a fair summary of what was said on that occasion . . . .

**Sardar Sant Singh:** No, no.

**The Honourable Sir Muhammad Zafrullah Khan . . . .** and it was added that after the emergency was over it was hoped that those liberties, to whatever extent they might have been trenched upon, would be fully restored.

**Sardar Sant Singh:** My Honourable friend probably forgets one important point. One important part of that assurance was that these powers will remain in safe hands and will be acted upon with moderation and fuller sense of responsibility.

**The Honourable Sir Muhammad Zafrullah Khan:** I do not think that is an addition, but I am quite prepared to accept that as a part of the interpretation of that assurance.

**Sardar Sant Singh:** It is assurance itself.

**The Honourable Sir Muhammad Zafrullah Khan:** There is no dispute over that. I am accepting it, and I include that in my own interpretation with regard to which I have said that I stand by it. Yesterday and today Sardar Sant Singh has waxed most eloquent and indignant over the trampling of the civil liberties of the citizens in certain provinces of India.

**Sardar Sant Singh:** In all provinces.

**The Honourable Sir Muhammad Zafrullah Khan:** I am aware that this morning, at a later stage in his speech, he has used the expression "all", and I happen to know why; and he too happens to know why.

**Sardar Sant Singh:** If the Honourable Member sees my yesterday's speech he will find that I referred to all provinces.

**The Honourable Sir Muhammad Zafrullah Khan:** Very good. He said that in certain provinces, out of which Punjab and Bengal were specifically cited and a reference has been made to Madras, that the liberties of the

subject have been trampled, that there have been a large number of prosecutions, I believe he mentioned 319 in the Punjab during the last seven months, every one of them, in the case of the Punjab according to him, having resulted in a conviction. Well, now, Sir, I really fail to understand what argument he wanted to build upon that. If every one of the prosecutions results in a conviction, that, according to him, is the clearest possible proof of oppression and of the fact that the Act is being ruthlessly administered by Provincial Governments. If, on the other hand, every one of these prosecutions had resulted in an acquittal, I suppose the argument would have been "see how mercilessly you are prosecuting people because the moment they get into the court the Magistrate acquits them". I should have said that that very assertion by Sardar Sant Singh that in every one of these cases there had been a conviction shows that the Act is being administered, in that particular province to which he was referring, with the greatest discrimination and fairness. After all the ultimate safeguard, the ultimate guardian, of the liberty of the subject are the judicial courts.

**Sardar Sant Singh:** Judicial courts in political cases. •

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is not justified in making such wholesale charges.

**The Honourable Sir Muhammad Zafrullah Khan:** If every one of the cases that have been brought before the courts have resulted in a conviction, that shows, at the very least, that there was full *prima facie* justification for taking the matter into court. Then he said that on appeal there have been a small number of acquittals but all that has happened is that in a good many cases sentences have been reduced. Now, Sir, the question of sentence is very much a question of discretion and it is extremely difficult for any particular Magistrate or a particular Judge to adjust the sentence in each case to the criminality of the act proved against the accused. But the admission again that the appellate courts had on the merits been compelled in a very large majority of cases to confirm the conviction is an additional proof that those prosecutions were not, as the Honourable Member expressed it, light-heartedly entered upon. But if the Honourable Member is not satisfied with defaming the Government and would proceed to defame the courts of law also, it is his own look out. If that is the Honourable Member's feeling I really do not see what the test can be of the proper administration of any particular measure.

**Sardar Sant Singh:** Make it a responsible Government. That is the test.

**The Honourable Sir Muhammad Zafrullah Khan:** If the whole of the criticism of the Honourable Member, particularly on the third reading of this amending Bill, is designed to secure, as the result of his speeches, a declaration that the Central Government should at once become a responsible Government, then I really think he was not justified in charging the Government with callousness in not attempting to reply to his charges. If he had declared that as the object of his speeches, I really

[Sir Muhammad Zafrullah Khan.]

need not have taken up the time of this Honourable House in trying to meet his charges. Well, Sir, he says you are using the provisions of this measure, which have reference to the successful prosecution of the war, and other Honourable Members have said, there is no imminent and immediate danger of India being invaded but you are using these provisions with reference to labour disputes and political disputes. Without attempting to enter into the merits of any particular case, as it would be most improper for me to do, I may draw the attention of the Honourable Members to the fact that disorder on a large scale or the immediate apprehension of disorder on a large scale directly affects conditions relating to the successful prosecution of the war. And, therefore, it really is not criticism of the use of this measure to say that it has been used in certain connections unless it can be shown that that use was with ulterior motives or for an ulterior purpose. As I have said, it is rather curious that with the solitary exception of the case mentioned by him of a Member of this Honourable House against whom a certain order has been passed in Madras, the whole of the grievance to which expression has been given by the Honourable Member and other Honourable Members relates to two provinces where the Legislature is functioning in the normal way and where the Government of the Province is in the normal way responsible to the Legislature and where all their actions can be sifted by the Legislature.

**Mr. M. S. Aney:** May I say, Sir, a word on a point of explanation? I referred the Honourable Member to the Manifesto of the Civil Liberties Union which deals with all the Provinces. The Honourable Member said, "All Members".

**The Honourable Sir Muhammad Zafrullah Khan:** I did not say "All Members".

**Mr. M. S. Aney:** You said that: you have forgotten it.

**The Honourable Sir Muhammad Zafrullah Khan:** I said that the references were made by Sardar Sant Singh and by some other Honourable Members. But if I did use the word 'all', I will correct it now. I will now correct my statement and say that the greater part of the criticism was directed against the Governments of these two Provinces, and, as I have said, these two Provinces have normal responsible Ministries, who are responsible to their Legislatures, and their Legislatures are sitting and functioning, and surely all these grievances can be brought up in those Legislatures, and if the Act is being administered in a manner which has not the approval of the Legislature, the Ministries can be turned out of office.

In conclusion, Sir, I wish to say that there is no conflict between the position taken up in this House with reference to a certain question put by Sardar Sant Singh one morning in this House and the reply given by the Under-Secretary of State for India in the House of Commons. All that the Under-Secretary of State stated in the House of Commons, and stated quite correctly, was that the Government of India were watching keenly the administration of this Act and so they are.

**Sardar Sant Singh:** Are they?

**The Honourable Sir Muhammad Zafrullah Khan:** I assure the Honourable Member and other Honourable Members that the Government of India have so far had not the slightest reason to think that the provisions of the Act or the rules made thereunder were being administered in any biased, unfair or oppressive manner.

**Pandit Krishna Kant Malaviya** (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, the Leader of the House is known to all of us as a very clever debater. He knows how to put his case and he also knows how to canvass votes in this House. The concluding portion of his speech, if I may be permitted to say so, was especially meant to drive a wedge between the Members here who are opposing this Bill. He very pointedly pointed out and tried to find fault with it that the references in yesterday's debate by two Honourable Members in this House confined themselves to two Provincial Governments alone. The Honourable Members have denied that charge, but, assuming for the sake of argument that my Honourable friend, Sardar Sant Singh, referred to the doings of the Government of the Punjab and my Honourable friend, Pandit Lakshmi Kanta Maitra, referred to the doings of the Government of Bengal, may I ask if they have committed a great crime being the representatives of the Punjab and Bengal if they have referred to what they themselves know as facts with which they are familiar. I never doubted when the Honourable the Leader of the House referred to the fact that his intention was to deprive us of the support of my friends of the Muslim League which we have at this time, friends who might be led to feel that it was all a tirade against the Government of the Punjab or the Government of Bengal. But, really speaking, he himself knows the facts well and he should not have been so uncomplimentary to my friends who are sitting on my right, and imagined that they could be misled by such specious arguments.

**The Honourable Sir Muhammad Zafrullah Khan:** I have not tried to mislead anybody, and it is not a compliment to their intelligences to say so.

**Pandit Krishna Kant Malaviya:** I am glad that he had no intention to mislead. I believe his statement and when he says it, he really means it. But the fact remains that the Members who spoke and referred to the Punjab and Bengal come, fortunately or unfortunately, from those very provinces and, so far as I remember, they were the Members who spoke last evening. As was pointed out by my friend, Sardar Sant Singh, they also referred to the case of Professor Ranga and they said that the way in which the Defence of India Act was being worked and followed in various Provinces does not justify this Legislature to give additional powers to the Government. The Government today want additional powers to enact this law in the Indian States as well as in the tribal areas.

The Member in charge of External Affairs is here and I know he is doing all that he can. But may I ask a question of him? When His Majesty's Forces which have been stationed in the tribal areas have so far failed to bring peace and tranquillity in that part of the country, is it his honest belief that this Defence of India Act is going to bring peace and tranquillity in that part of the Frontier? If he and the Honourable

[Pandit Krishna Kant Malaviya.]

Member in charge of this Bill think that they can bring peace and tranquillity in the tribal areas with the help of this Defence of India Act, then all I can say is that I feel sorry for them and I am sure they will soon find that they are sadly mistaken. My fear is of a different kind and I hope I am not right. In fact, I pray that I should prove to be wrong in the end. But I would like to know if the extension of this measure to the Frontier and the tribal area has got any connection with the proposed visit of the Frontier Gandhi to the tribal areas? I also want to know whether this Defence of India Act is going to apply to curb the agitation that is going on in the Indian States for responsible government.

The question that naturally arises is, are there grounds to believe or are we to believe that those who are in charge of these States, namely, the Princes, who are governing these States, have asked the Government of India to enact this sort of law for their States? Honourable Members speaking on behalf of the Treasury Benches have not told us the reason that compels them to bring forward this Bill. What are the facts which lead them to believe that there is a necessity for an enactment like this one and its extension to the tribal areas and Indian States. What new circumstances have developed in the tribal areas and the Indian States which necessitate the passing of such a law? So far as this side of the House is concerned, we know of no such reason and naturally we do not want to give additional powers to the Government of India or to any Government knowing full well that the powers have been misused in the past and are going to be misused in the future.

The Honourable the Leader of the House told us, while referring to the Punjab and Bengal, that we have responsible Governments functioning there and if the Legislatures find that the authorities and the Government concerned abused their powers, the people have power to drive out those Ministries from power. That position is quite correct. But may I know from the Honourable the Leader of the House whether it is a fact or not that even where there are National Governments the legislatures generally, not only generally but always, are averse to giving such powers to the executive? Or is it the monopoly of this country only that they want to arm themselves with all the necessary powers and at the same time expect that this Legislature should not say a word against it. I think even in the case of Governments which are responsible to the legislature, the legislature is generally averse to giving more powers to the executive. If, therefore, this House is not prepared to give additional powers even to the Punjab Government and the Bengal Government, where they have responsible Ministries functioning, I think we are not committing a crime. We are not committing a sin. As a matter of fact we are only doing the right thing which we should do and which is being done by every right minded people in every part of the world. I think, Sir, so far the Government have made no case and they have proved no necessity why these additional powers should be granted to them and we are, therefore, perfectly justified in opposing this Bill.

**Maulana Zafar Ali Khan** (East Central Punjab: Muhammadan): Sir, it is again a storm in a tea cup. The matter is very simple, on the one side there is extremism of a peculiar type and on the other side, there is obstinacy of the bureaucratic type. Matters could have been very easily

arranged if an assurance on a liberal scale had been given by the Honourable the Leader of the House to us that in cases where the Defence of India Act is not used for the purposes for which it was intended but had been abused, the Government would keep its eye on such cases and interfere. If that assurance had been given, much of the opposition to this Bill would not have arisen.

**The Honourable Sir Muhammad Zafrullah Khan:** I have given an assurance much wider than that.

**Maulana Zafar Ali Khan:** Sir, yesterday when speaking on the first reading of this Bill, I said that we accepted the principle of this Bill and we accepted it when the Defence of India Act was passed and whatever certain people may have to say on the subject, the whole of India is committed to the successful prosecution of the war. We want England to win and for that purpose we are ready to place at the disposal of the Government such powers as may help them in winning the war. Now, Sir, the Government have already got very ample powers. The Government have got the power of clapping into jail a man who openly declares that India is not going to join the war and that India is not going to offer a single recruit. Any man who makes this declaration is liable to be prosecuted and we will not defend him. That is the position. But still you want more powers, more powers and more powers. The Government have not made out any case for the extension of the Defence of India Act to the tribal areas and the Indian States.

I quite appreciate the logic of the Honourable the Leader of the House when he says that in the Punjab and in Bengal where the Governments are functioning at the present moment, after the Congress Ministries have given up their duties in other provinces, and where the Governments are responsible to the Legislature, the Opposition is there and a very strong opposition in the Punjab and Bengal, and so if there are cases of misuse or abuse of powers under the Defence of India Act, it is open to the opposition to give hell to those Governments, as the man in the street would say. But, Sir, we are not now talking of the Punjab and Bengal alone. I referred yesterday to Baluchistan. I particularly referred to a case in which a man was making an ordinary speech and he was prosecuted not because he had spoken against the war, not because he called upon the Baluchis not to join the army as recruits, but simply because he had advanced political views which he, unfortunately, gave expression to. This was the case in Baluchistan.

Then, there is the case of Prof. Ranga, a Member of this House. As such he ought to have some privileges. He is the president of the Kisan organisation and he is suddenly called upon by the Madras Government to leave Madras within twenty-four hours. He thinks that this is an encroachment upon the liberty of the subject and he refuses to comply with that order and he is immediately clapped into jail. He is still there rotting in jail and he will be prosecuted under the Defence of India Act. Now, Sir, what has the Defence of India Act got to do with the case of Prof. Ranga?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member ought not to discuss individual cases because the House is not in a position to discuss them on their merits.

**Maulana Zafar Ali Khan:** All right, Sir, I will not refer to individual cases. I would point out that unlike the Punjab and Bengal where responsible Governments are functioning which can be taken to task whenever there is any abuse of power, the tribal area is a land where there is no law and where, if the rules made under the proposed Bill are extended, there is greater likelihood of the powers being misused than elsewhere. Similarly, you want this law to be extended to the Indian States. You have got certain agreements with the States and you can call upon them, according to the conditions obtaining there, to pass their own laws. But you extend this law and there is likely to be trouble over there. So there is no case made out for this Bill. You have got ample powers already and you can use them to your hearts content; but to ask for more and more powers which will result in trouble is hardly justified. My objection to this Bill is that it is going to create trouble in the tribal areas, and the Honourable the Leader of the House knows that the tribal area is a hornet's nest. We have got trouble there already and at a time when you are engaged in a life and death struggle do you want to create more trouble there? The idea of extending these rules to the tribal areas should be given up and the policy of extending the scope of this Bill to the Indian States should be reconsidered. Bengal and the Punjab can take care of themselves. So long as my friend, Sardar Sant Singh, is in the Punjab, and my friend, Pandit Lakshmi Kanta Maitra, is in Bengal, the Honourable Sir Sikandar Hyat Khan and the Honourable Mr. Fazlul Huq will think twice before misusing this power. So these places do not cause any anxiety. Our anxiety is with regard to Madras and Baluchistan and the Centre which is a body of sun-dried bureaucrats and they will not learn a lesson. Now that the Muslim League and the Congress Nationalist Parties are in the House in very small numbers and the Congress Benches are empty, you may carry this Bill by a comfortable majority, but you must remember that Bills passed under such conditions are not worth the paper on which they are written.

**Mr. A. deC. Williams:** Sir, the Honourable the Leader of the House has placed me in a somewhat uncomfortable position by stating that I would answer the detailed arguments adduced against this Bill because, as I have already pointed out, the arguments against this Bill have almost entirely taken the form of a severe indictment of certain Provincial Governments which the Honourable Leader of the House relieved me of the task of answering. But there is one point mentioned by the last speaker to which I should like to advert. It is not a point of detail. He says that the passage of this Bill could have been readily ensured if a certain assurance had been given. But that assurance has been given by the Honourable the Leader of the House, and I will repeat it. The Government of India are vigilantly watching the operation of these rules and the way they are worked throughout India. It is only because they are watching it that the Honourable the Leader of the House was in a position to state that the Government of India are satisfied that on the whole they are being satisfactorily worked. Further, the Government of India fully accept the fact that they are largely responsible for the working of these rules; it is for that reason that they are watching their operation. I can go no further than that.

**Sardar Sant Singh:** If they are keeping a watch, may I ask how many prosecutions have taken place during the last several months? Can he give us the facts and figures?

**Mr. A. deC. Williams:** I do not know what precisely my Honourable friend means by facts and figures, but I will deal now with the exceedingly few detailed comments made on the provisions of this Bill. They were limited to the references to the States and the tribal areas.

There seems to be some misapprehension in the minds of certain Honourable Members to the effect that the provisions in question have some sort of territorial application to the Indian States or to the tribal areas. So far as the Indian States are concerned, they have no territorial application whatsoever. They apply merely to activities in British India which might have a certain deleterious effect, not necessarily upon the States, but upon the relations between His Majesty's Government and the States. So far as the tribal areas are concerned, no doubt there may be some territorial application but that was not the main effect contemplated. The Bill relates to activities in the areas to which the Statute has territorial application, namely, British India, where these activities tend to prejudice the tranquillity of the tribal areas. It is not a question of interfering with the tribal areas or making an unsettled condition more unsettled.

Those, so far as I have been able to ascertain, are the only detailed criticisms of this Bill. I have twice enumerated the detailed reasons for the actual provisions contained in the amending Bill and I have nothing more to add.

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

"That the Bill be passed."

The Assembly divided:

AYES—43

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

Bajpai, The Honourable Sir Girja Shankar.

Bewoor, Sir Gurunath.

Boyle, Mr. J. D.

Boas, Mr. L. C.

Campbell, Mr. D. C.

Caroe, Mr. O. K.

Chettiar, Raja Sir S. R. M. Annamalai.

Clow, The Honourable Sir Andrew.

Conran-Smith, Mr. E.

Daga, Seth Sunderlal.

Dalal, Dr. R. D.

Dalpat Singh, Sardar Bahadur Captain.

Dumasia, Mr. N. M.

Gidney, Lieut.-Colonel Sir Henry.

Griffiths, Mr. P. J.

Gwilt, Mr. E. L. C.

Imam, Mr. Saiyid Haider.

Ismail Ali Khan, Kunwar Hajee.

James, Mr. F. E.

Jawahar Singh, Sardar Bahadur Sardar Sir.

Kamaluddin Ahmed, Shams-ul-Ulema. Khan, Mr. N. M.

Kushalpal Singh, Raja Bahadur.

Mackeown, Mr. J. A.

Miller, Mr. C. C.

Muazzam Sahib Bahadur, Mr. Muhammad.

Ogilvie, Mr. C. M. G.

Oulnam, Mr. S. H. Y.

Pillay, Mr. T. S. S.

Rahman, Lieut.-Col. M. A.

Raisman, The Honourable Sir Jeremy.

Row, Mr. K. Sanjiva.

Sen, Rai Bahadur G. C.

Shahban, Mian Ghulam Kadir Muhammad.

Sher Muhammad Khan, Captain Sardar Sir.

Sivaraaj, Rao Sahib N.

Spence, Sir George.

Talukdar, Mr. J. N.

Williams, Mr. A. deC.

Zafrullah Khan, The Honourable Sir Muhammad.

## NOES—8

Abdur Rasheed Chaudhury, Maulvi.  
Aney, Mr. M. S.  
Banerjee, Dr. P. N.  
Datta, Mr. Akhil Chandra.

Maitra, Pandit Lakshmi Kanta.  
Malaviya, Pandit Krishna Kant.  
Parma Nand, Bhai.  
Sant Singh, Sardar.

The motion was adopted.

### THE AGRICULTURAL PRODUCE CESS BILL.

**The Honourable Sir Girja Shankar Bajpai** (Member for Education, Health and Lands): Sir, I beg to move:

“That the Bill to make better financial provision for the Imperial Council of Agricultural Research, as reported by the Select Committee, be taken into consideration.”

Sir, in the fairly exhaustive and possibly exhausting speech which I made at the stage when this Bill was referred to the Select Committee, I explained the functions of the Imperial Council of Agricultural Research, as also the purposes and the reasons for which additional sums were needed to enable the Council to continue its work. It does not seem necessary, therefore, now to repeat what I had to say on that occasion. But you will find that to the Report of the Select Committee some Honourable Members have appended a fairly long Minute of Dissent, raising important points; and I think it fair to the House that I should avail myself of this opportunity in order to deal with those points.

They fall into two broad categories, first, the economic category, and second, the constitutional category. The economic contention, again, speaking in broad terms, is that the cess which we propose to levy— $\frac{1}{2}$  per cent. *ad valorem*—would be a burden on the agriculturist at a time when agriculture is in a depressed state. Now, it is impossible to dogmatise about economic possibilities. But there are certain fairly definite tests which you can apply, and I shall mention to the House the three tests which we have applied or tried to apply to our Bill and according to which we think we are justified in coming to the conclusion that this will not be any hardship, genuine or substantial, to the agriculturist. First of all, we have tried to evaluate in terms of rupees, annas and pies—and mostly it is pies—the actual value of the cess. Now, I have a statement here which shows that with regard, for instance, to bones,—and I am taking an illustrative item,—the incidence will be three pies per maund. Take fruits and vegetables which are supposed to yield a fairly substantial portion of the income; the incidence will be one-tenth of a pie per pound; take oil cakes, the incidence will be  $2\frac{1}{2}$  pies per maund, pulses  $4\frac{1}{2}$  pies per maund, skins one pie for one piece or half a pie, in other words, for 20 lbs. In short, with regard to the main items of income,—and these are the ones I have mentioned,—in no one single case does the incidence rise to the figure of even one pice per unit involved.

Then, Sir, applying the second test, namely, what has been the effect on current prices of these different commodities since the introduction of the Bill? Now, with regard to that, I have certain index figures, and I find that whereas there have been fluctuations, not because of our Bill, but because of the speculative rise that took place in the price of the agricultural commodities at the beginning of the war with regard to all the

commodities that are included in our Bill, actually the index of prices today stands well above the July index of prices, that is to say, the pre-war index.

Then, Sir, a third test,—how does the cess which we propose to impose compare with the existing cesses on other commodities? Half per cent, as I said, is the rate at which we propose to levy our cess. Now, if you take the existing cesses, raw jute cuttings pay 1·8 per cent.; raw jute pays 6·1 per cent., rice pays 3·1 per cent., coffee pays 2·2 per cent., lac pay 1·7 per cent. I say, Sir, that applying these three tests, which seem to me fairly valid and legitimate tests, it is not reasonable at this stage, at any rate, to argue that this very modest and moderate cess that we propose to levy for the benefit of the agriculturist, is really going to operate as a handicap to the agriculturist.

Then, Sir, I pass on to the constitutional objections that have been raised. The first is that by making the Council independent of the control of the House with regard to its finances the House would lose the right of asking questions and of moving Resolutions. Now, Sir, the position with regard to that is that, whatever we do with regard to this Bill, the administrative charges of the Council will continue to be met out of grants made by the Central Government, grants which will come up before the House in the ordinary way. In any case, if there should be any doubt on that particular point, I can give the Honourable Members the assurance that the right which the House exercises today to ask questions and to move Resolutions with regard to all matters pertaining to the activities of the Imperial Council of Agricultural Research will not be abated by one jot or tittle.

**Mr. M. S. Aney** (Berar: Non-Muhammadan): Is it a matter for the assurance of the Honourable Member or it is a matter of constitution?

**The Honourable Sir Girja Shankar Bajpai**: It follows from the constitution that, when we are liable to bring before the House certain grants without which the Imperial Council of Agricultural Research cannot function—I think it will be clear to the meanest intelligence that if the administration does not take a grant from the Central Government the Council will be unable to function, and the administration is controlled by the Governor General in Council as the administrative officers are appointed by the Governor General in Council,—if that be so, then the right of the House to ask questions and to move Resolutions remains entirely unaffected. It was merely to supplement what is a constitutional right that I said that I, as Chairman of the Imperial Council of Agricultural Research *ex officio*, charge myself with the duty of accepting notice of any question or Resolution, within the Standing Orders and Rules, that may be admissible here for the purposes of discussion, in relation to the activities of the Imperial Council of Agricultural Research.

Now, Sir, we pass on to the question of finances. Honourable Members will observe that in the Minute of Dissent suggestions have been made that a Standing Finance Committee for this Council should be elected by this House direct. Now, Sir, with regard to that I want to make two points. The first is that Agriculture, for stimulating and promoting which these grants are made, is a transferred provincial subject. It is in recognition of that fact that the Council is composed predominantly of representatives of Provincial Ministers. And, further, the grants that we make are not merely grants from the Central exchequer. The Council before making

[Sir Girja Shankar Bajpai.]

those grants also satisfies itself, in the majority of cases where provincial projects are involved, that a province is contributing something towards the scheme. That being the position, Sir, I think it would be constitutionally somewhat anomalous that we should assume to ourselves the responsibility of choosing for the Council its Finance Committee. But independently of that, Sir, the point that we have to remember is that when such other bodies as the Central Cotton Committee, the Jute Committee, the Rice Committee, the Coffee Cess Committee, have no Standing Finance Committee elected by this House, although Provincial Ministers do not sit on them, it is showing undue distrust of Provincial Ministers to suggest that on them we shall impose the control of a Standing Finance Committee elected by this House. Now, Sir, in the Select Committee discussion was raised as to the composition of the Committee which the Imperial Council of Agricultural Research itself may set up . . . .

**Mr. M. S. Aney:** The Honourable Member cannot refer to the proceedings in the Select Committee.

**The Honourable Sir Girja Shankar Bajpai:** I am sorry, Sir; I will refer to the Minute of Dissent. In the Minute of Dissent it has been urged the Standing Finance Committee which the governing body may set up will not have enough watch-dogs, as it were, of this House. It was in order to meet the criticism that the Select Committee has made a provision to the effect that the Standing Finance Committee elected by the Imperial Council of Agricultural Research shall elect, from amongst its members, at least one of the three representatives of the Central Legislature on that governing body. So, Sir, you have financial control on the governing body in two ways, firstly, the House has on the governing body two representatives, the other place having one; and, in addition, the proposed Standing Finance Committee is to have one representative from these three representatives chosen for the Standing Finance Committee. So, I do not think, Sir, that; in so far as the question of financial control is concerned, the position that we have adopted weakens in any way the hold of this House over the activities of the Imperial Council of Agricultural Research.

Finally, Sir, I pass on to the particular case of hides and skins, which has received a great deal of stress in the Minute of Dissent. I should like, to begin with, to draw a distinction between an export duty and a cess. This really is not an export duty. An export duty may be raised for the purposes of the revenue, or taken to the exchequer, there is no corresponding obligation for the Government to spend the income derived from an export duty for a specific purpose. This cess is being raised for the specific purpose of helping agricultural research; in other words, it really is of the nature of an insurance for agriculture. That particular distinction, if I may say so, was actually emphasised in the report of the Hide Cess Enquiry Committee which sat some years ago. Moreover, Sir, if you look at the rates of export duty which was imposed on this commodity and the rate of cess that we are proposing, you will find that ours is almost a feather-weight. The export duty on hides which started in 1919 stood at 15 per cent. until 1928. In 1928 it was reduced to five per cent. and continued at that figure until 1934-35. Then for reasons which were brought forward

before the House or rather before the Government, it was agreed that that particular duty should be removed. Half per cent. is one-thirtieth of 15 per cent. and one-tenth of five per cent. Furthermore, whereas objections were taken by different commercial and other bodies to the export duties, I have here a summary which shows that, when, in 1930, the question of levying a cess for the specific purpose of improving hides and skins was referred to Provincial Governments and other bodies, Bombay actually wanted a cess higher than one per cent. which the Hide Cess Committee had recommended and the Punjab wanted two per cent. to be levied. The Bombay Tanners' Association, the Indian Merchants' Chambers Association, the Bombay and Karachi Indian Merchants' Chamber Associations were in favour of two per cent. I quite recognise that the passage of time since may have brought about a change in the views of these different bodies, but, nevertheless, it is a fact that, on the last occasion when this matter was considered, the general weight of opinion was not against a cess although it was against an export duty. Sir, I will say this for the satisfaction of those Honourable Members of this House who may still be unsatisfied, as to what the effect of this half per cent. duty is going to be. I propose, with the concurrence of the authorities concerned, to issue instructions to the customs authorities to watch the working of the operation of this half per cent. cess on the export trade in this commodity. At the end of the year, that report will be available, and we shall review it. Under the Bill, as it stands, we have the power to remove from the list of articles dutiable to cess anything which we think ought not to pay a cess. In the light of the report that we shall have at the end of the year, the question of effect of the incidence can be considered. That, Sir, I think disposes of all the main points arising out of the Minute of Dissent.

In conclusion, what I wish to say to my Honourable friends is this. Whenever a demand for money is made, it is natural that there should be dissatisfaction. But this particular demand is made for the benefit of the agriculturists, and although Government have a majority, as has been repeated more than once in the course of the discussion, I can assure Honourable Members that we are not relying so much upon the weight of the majority as upon the intrinsic merits of the proposals that we have put forward for the support of the House. Sir, I move.

**Dr. P. N. Banerjea** (Calcutta Suburbs: Non-Muhammadan Urban): What is the amount of income which you are likely to get?

**The Honourable Sir Girja Shankar Bajpai**: I explained on the last occasion when the Bill was discussed, that it might vary from 15 to 16 lakhs a year.

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

"That the Bill to make better financial provision for the Imperial Council of Agricultural Research, as reported by the Select Committee, be taken into consideration."

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. M. S. Aney, one of the Panel of Chairmen, in the Chair.

**Mr. Chairman** (Mr. M. S. Aney): The House will now proceed with the discussion of the Agricultural Produce Cess Bill.

**Maulana Zafar Ali Khan** (East Central Punjab: Muhammadan): At the earlier stages of this Bill, when ultimately it was decided that it should be sent to a Select Committee to report upon it, I observed that the Imperial Council of Agricultural Research for a country like ours was a luxury. I am still of that opinion, although I may modify it to this extent that there is a vast capacity for it to be of some use to the country. It is ornamental, but it can become utilitarian. Up to this time the Imperial Council has done very little. Our country is mainly an agricultural country. Government ought to have developed the agricultural resources of this country and done everything to see to it that the peasants of this country who mainly constitute the nation should get as much out of their land as is possible. We have something like 500,000 villages in India and the nation lives there. The peasant proprietors in rural Punjab tell us that there are two Gods, God No. 1 who created this universe and God No. 2, the manure. If the Imperial Research Council had only discharged its function in the matter of supplying manure to the peasants, it would have done a great thing. The commodities would have doubled. Wheat, barley, sugarcane, cotton, in fact all the crops would have not only doubled, but trebled and quadrupled. In this country, very little is done even by the peasants themselves owing to their ignorance to husband their manure resources. Mostly they cannot get manure of the mineral variety. They cannot get fish manure as they do in Madras. They only get dung manure, the dung of cows and buffaloes. 25 per cent. of this manure goes to serve the purpose of fuel. Dried cattle dung is used as fuel, and, of the 75 per cent. left, 25 per cent. is lost in evaporation, and barely 50 per cent. goes to fertilise the fields, which was the original purpose for which this manure was meant. Our Government are very careless in the matter of impressing upon the peasants that the land which loses year by year in fertility should be artificially fertilised by means of manures. I have spoken of cow dung and buffalo dung. I ought to have spoken of bone manure, bone meal. Go to the Punjab and the other provinces. You will find heaps of bones, hundreds of thousands of tons, being exported to other countries by such companies as Messrs. Ralli Brothers, and Government do not do anything to stop it. It has done something in the way of irrigation, but so far as manure is concerned, it has done nothing. If the Agricultural Department could manage to supply peasants officially with manure and tax the crops ultimately to double its present extent, it would reap a great harvest, but unfortunately nothing has been done.

When speaking on this Bill, I would first place before the House my earnest conviction that it is wrong to impose export duties on commodities exported from India. I do not believe in that. An agricultural country which rests for its sustenance mainly on its agricultural produce should be given every facility to export its raw materials to other countries. So, if export duties, however small as in the present instance are levied on such articles as wheat, cereals, fibre, fish, fruits, ghee, etc., it would mean that an obstacle is placed in the way of the country becoming rich. Duties of this character if levied at all should be levied on imports and

not on exports. This is the first principle. But coming closer to the main object of the Bill, namely, the financing of the Imperial Institute of Agricultural Research . . . . .

**The Honourable Sir Girja Shankar Bajpai:** Not the Imperial Institute of Agricultural Research, because that is financed directly from Government grants, but the Imperial Council of Agricultural Research.

**Maulana Zafar Ali Khan:** Yes, Imperial Council of Agricultural Research. It is a pity that the Finance Member could not see his way to contribute even such a small sum as six or seven lakhs for financing the concern. He did not help the Imperial Council of Agricultural Research even to that small extent. He turns round and says: "Go and impose a cess on agricultural commodities. That will serve your purpose." This shows that in the opinion of the Finance Member the Imperial Council of Agricultural Research is not a very useful body. Had it been useful, he could have made a provision for it. He has infinite powers of taxation and he has shown his power, so he could have very easily done something for this Council also. The Council now wants the money, so I put one proposal before the Honourable Sir Girja Shankar Bajpai. There are 23 items in the Schedule, take only two of them: No. (1) Bones; No. (12) Manures, the rest of the articles—21 in number—should go duty-free, no cess on them. But impose instead 10 per cent. *ad valorem* duty on bones and manures which are exported from India to other countries. India wants every ounce of bones, every tola of manure for herself. If I had the power, I would make it a criminal offence to export manures of any variety out of India. Now you can get the money as I have proposed. It would be a prohibitory duty 10 per cent. *ad valorem* on manures and on bones. If this is done, you would be able to save something and the Imperial Council of Agricultural Research would become a very rich Council. The purpose would be served and the peasant and agriculturist would also appreciate it. They would think that the articles which they produced had not been taxed, but the only two articles that had been taxed were bones and manures of which they are in great need and which ought not to be sent out of the Country. Sir, this is the main constructive proposal to which I am anxious to invite the attention of my Honourable friend, Sir Girja Shankar Bajpai, and I do hope that he will seriously consider this proposal and give me and the House an assurance that something in the way of conserving the sources of the country in bones and manures would be done. Well, Sir, the Bill I know will be passed in any case, but all that I can say is to draw your attention to this very important point, and I do hope that you will give me an assurance that something will be done.

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I rise to oppose the Bill as introduced by the Honourable Member. The Honourable Sir Girja Shankar Bajpai has very ably given a lucid explanation of the objects and reasons for which the Bill, as recommended by the Select Committee, has been introduced. I need not repeat the detailed discussion which we had in the Select Committee, but it will appear from the Minutes of Dissent, we the representatives of the Muslim League Party had a strong feeling of resentment and protest against the very principle of the Bill. As my friend, Maulana Zafar Ali Khan, has said, "you will get your pound of flesh" in spite of

[Mr. Muhammad Nauman].

every thing, Government can at the moment coerce this House to any judgment that Government want to have for their use, but, at the same time, we must say that please do not make us a party to it. We have every reason to say with all the force that we command that we do not at all approve this Bill and anything of this sort. The only thing left to us is to express our indignation in the strongest terms, and that we do. Now, I will explain to the House whether it is at all in the interest of the country to have a cess on agricultural products as proposed in the Bill. First of all, on principle I feel, and I hope the House will agree, that all the expenses of the Imperial Council of Agricultural Research should be met by the Central Exchequer. I was a member on the Select Committee and we, the members of the Muslim League Party, have our definite feelings that all the expenses of the Imperial Council of Agricultural Research should be financed by the Central Exchequer and for that purpose no plea should be found by Government to maintain it on commercial lines. I am afraid if this theory is introduced in this Department, later on it might be introduced in other Departments as well, and I hope the Government of India will think twice before they convert their Departments to commercial concerns and public utility companies. Sir, I am opposed on principle to any amount of cess or duty on the commodities that are exported from this country. Any hindrance in the export of this country would eventually change our position in the general trade and will probably make the trade balance against us in many countries. For a country like India which depends entirely on her agricultural resources, because it has not advanced her industrial output to an extent that would help this country to compete with the industrial products of the other parts of the world, those particular commodities of export—which are only products of the natural resources of the country—should not be strangled in any way and should not be hindered by any legislation whatsoever. We all know too well that in every country the export trade is given all possible facilities and support, and all theories of retaliation and all theories of barter system have been enforced and introduced in this world only to improve the export of those countries which propounded those theories. Unfortunately, India is one of those countries, of course as a result of manipulations of the European industrialists, that she has been used as a dumping ground for all the industries of the world, and at this stage when we are not at all able to compete with other parts of the world in our industrial outputs and have to depend on the natural resources of our country for our existence it would be, to say the least, very unfair to strangle that particular production. I quite realise the fact which my Honourable friend, Sir Girja Shankar Bajpai, has stated that the tax is not very big, but we oppose it on the very principle.

Sometime ago, Mr. Lloyd George, speaking in the House of Commons, said: "It is not the act that we are after, but the capacity to do it". This I repeat, Sir, in this connection and say, we strongly oppose the very principle of levying a cess and putting any kind of hindrance on certain commodities of export. That is the theory which I am propounding to the House, and I hope the House will appreciate the fact that what I am actually driving at is not the question of the incidence of the taxation or the amount that is to be realised, but the principle which has been adopted to realise this amount. The world knows it too well.

and so does this House that we are paying towards the taxes of this country hundreds and thousands of crores of rupees and we will not mind another 14 lakhs of rupees towards the maintenance of this particular Department. What I want to suggest is that the method which is adopted by the Government is wrong in principle.

Now, Sir, plea is made of the fact that the agriculturists get benefit out of this Imperial Council of Agricultural Research. In that case, those provinces which have given their assent to this legislation being brought before this House should have been a party to it and they should have been asked to contribute to this particular Department instead of asking this House to pass this legislation which would affect all the other provinces. That would have been more sensible. As I said, Government claim that this Imperial Council of Agricultural Research is for the benefit of the agriculturists. That being the case, may I ask—and this fact was also pointed out by my friend, Maulana Zafar Ali Khan,—why Government have not been able to fix prohibitive duties on the manures which are being exported from this country and thereby preventing the agriculturists of this country from improving their land to the extent they should have done by reason of cheap manures.

Sir, another point which I would like to make is this. What particular benefit do the hides and skins derive out of this Council? The Honourable Sir Girja Shankar Bajpai said that the Cess Committee of 1931 made a recommendation that a cess of one to two per cent should be levied on hides and skins. Later on, he himself admitted in his speech that ten years have elapsed since, and much water has flown over the Ganges in the meantime and things are not as they were. But does Sir Girja Shankar realise that that particular recommendation of the Cess Committee was for a particular purpose and that was for curing the skins and also developing the cattle? This Council probably does not spend any money on the appointment of an officer who will look after the curing of hides and skins or who will look after the cattle and improve their hides and suggest some particular methods or medicines to enable the cattle to get rid of insects which result in such diseases which spoil their hair and skin. At least the Government have not made any mention of that part of the work. I admit that the Government could have made out a case on the ground that because this Council gives particular help in the shape of demonstrations and suggestions for the growth of seeds and fruits in this country, those particular commodities may be taxed for the payment of the expenses of this Council, as I have already stated before, that I oppose the principle. I should not be misunderstood by this statement now as I still refuse to accept the theory of making it a self-contained affair on the commercial basis. If that was in the mind of the Honourable Member, he could have taxed only those commodities on the basis of utility which were receiving direct support from this particular Department. If Government can make out a case that in the growth of the fruits in this country this Council has done a great deal, then they might have claimed to have a share of the profit that the agriculturists have made out of the extra production of fruits in this country. In that way, they could have based their claim for cess on fruits, pulses, seeds and probably tobacco and vegetables. I do not think they have done anything at all for the development of the wool industry in this country or for rearing better kind of sheep from which we obtain our wool.

[Mr. Muhammad Nauman].

Now, Sir, I come to the constitution of this Council to which the Honourable Member referred in the latter part of his speech. He said that this Council should not be compelled to have representatives from this House, because our Members were not serving on the "Jute Committee or the Rice Committee". I was rather surprised to hear this argument. If this House did not choose to send its representatives directly to a certain Committee, there is no reason why they should not exercise their right in future to have their representatives on this Council.

Then, Sir, in moving the consideration of the Bill, the Honourable Member, Sir Girja Shankar Bajpai, also referred to the fact that the incidence of taxation will not mean any hardship to the agriculturist. As I said in the beginning, it is not so much the incidence of taxation that I am opposing, but it is the principle of the taxation that I am opposing. The only commodities to which my Party would agree to be taxed, even to the extent of 10 or 20 per cent. duty, are those which are used for the purpose of manure and which directly or indirectly help the agriculturist to produce better results out of his agriculture.

Now, Sir, the Honourable Member said that it will not mean any hardship to the agriculturists. Particularly speaking about  
 3 P.M. skins and hides, half per cent. will mean about one pie per piece of skin and one pie per twenty pounds on hides. I hope I am correct; if not, I hope the Honourable Member will correct me. Does the Honourable Member realise that in fixing the *ad valorem* duty, you do really cause actual hardship of which you have no idea or at least you commit yourself to such things of which you have no knowledge. A variety of the different qualities that this particular commodity of skins and hides possess makes it extremely difficult for anybody to judge the real price of a skin. At the particular moment, the *ad valorem* value of skins may be about Rs. 50 to Rs. 100 on the average, varying according to the different qualities—Patna, Mufaffarpur, Jaunpur, and so on. The value of the skin, which is called prime, may first be about Rs. 2-8-0, whereas the value of double Rejection may be hardly about one anna per piece. When you fix the duty *ad valorem* actually, you give a fictitious value to that skin worth about one anna and then that incidence of duty on that particular skin of one anna is not at all small. That point is to be considered by the Honourable Member sponsoring this Bill on behalf of the Government. I think the Honourable Member is alive to these facts to some extent at least, and I suppose he knows the different varieties in this particular commodity of skins and hides which differ in value so much. Speaking on hides, I say, one particular piece from Agra which may be valued at Rs. 4 or Rs. 4-8-0 may weigh 20 lbs. and the Rejection of it also will be 20 lbs., but its value will hardly be eleven or twelve annas and the incidence of three pies on twelve annas will not be so small as Sir Girja Shankar thinks it is. Of course, it may be very small on the hides valued at Rs. 4-8-0. I hope you do realise that while fixing *ad valorem* value of skins and hides, Government experts give fictitious value to the inferior class of skins and hides and in that case the hardship will be still greater. That was also the argument advanced when the duty on skins was abolished in 1936.

The Honourable Member also remarked that it is only one-tenth of five per cent. and so it cannot be said to be at all very high. I do not say that it is very high. But as I said on principle, we do not like that

the particular commodity which derives no benefit whatsoever from the Imperial Council of Agricultural Research should be taxed for the benefit of that particular Department, if at all that theory is being propounded here. That is the argument which I want to place for the consideration of the House and as such we have tabled amendments to the effect that at least those commodities should be left out of the purview of the taxation. As I have said in the earlier stages, the Government of India may or may not accept it. It is absolutely left to their sweet will and pleasure. They can coerce this House to come to any decision they like. But, all the same, as I remarked some time ago, a policy of that kind will hardly help the Government for any long period.

**Mr. J. D. Boyle** (Bombay : European) : Mr. Chairman, I rise to raise just two points only and the first of these deals with the question of exports that were bought before April and have not yet even now been actually exported. Honourable Members are probably aware that several of the Ministries of Supply, particularly, the Ministry of Food have placed considerable orders with India and the condition of the orders, anyhow, in the case of the Ministry of Food was that the shipments should not be made until April. It seems to me very hard to expect that people who bought the goods for the purpose of fulfilling these contracts, say from the Ministry of Food, should now be expected to pay this extra cess which must have completely caught them by surprise. This does not in any way affect the general principle to which the Honourable the Finance Member referred the other day. This is not a measure of taxation for the purpose of filling up the budget. It falls entirely into a different category. I think the Honourable Member in charge of this Bill will give special consideration, under these circumstances, to consignments bought but not exported before this Bill is passed.

I think one other point to mention is that which refers to the Schedule of the Bill, where the list of articles that will bear this cess is mentioned. We had hoped that in the Select Committee this list might be altered and amended, but I realise that it is perhaps not the best place now on the floor of the House to go into all the details that will have to be raised to show the reasons why one particular article should or should not be included in this list. I will only put up one or two reasons why I think it is clear that certain of the items, that are shown here, should at any rate be reviewed by the Honourable Member in charge of the Bill preferably before any cess is levied and certainly at the earliest possible moment. I take first the case of pepper and Honourable Members who have got before them the Review of the Trade of India for 1938-39 will notice the figures for the trade. The pre-war average of 117 thousand has become for postwar an average of 96 thousand. The averages for 1937-38 and 1938-39 are 17 thousand. From those figures it is clear, that pepper trade has already considerably decreased and it would appear to me that the case of pepper might well deserve special consideration and examination as to whether it is in a position to bear this extra tax. I take also the case of ground nuts and here many Honourable friends will probably be aware that a considerable proportion of the trade, so far as export trade is concerned, has been to France and that the French Government has recently imposed a quota system in order to assist the production of nuts in their own French African Colonies and further that a smaller proportion of India's export went to Germany where now our supplies are completely

[Mr. J. D. Boyle.]

stopped. Here again, this has been a very considerable blow to trade in ground nuts and it is open to considerable doubt whether it is in a position now to stand a further difficulty. These are both minor items which do not appear by name in the Schedule, but come as sub-headings under the Schedule mentioned above. The same applies also to another smaller head, the cashew nuts which again is having a very bad time due to considerable competition from South America. These are the items that perhaps form a good example to start with. As I said in the beginning I do not wish to go into details of each individual item which might possibly take the whole afternoon.

I am sure that the Honourable Member in raising this taxation wishes, just as I do, to see that no particular industry or trade is unduly affected by its provisions. There is another point and that concerns in particular the question of pepper and cashew nuts to which I have already referred, and that is concerning the already existing export trade from ports situated in Indian States, in particular, Alleppey. I understand that already there is a certain amount of export trade from these ports, and certainly with an imposition of taxation amounting to a  $\frac{1}{2}$  per cent., which is about the margin which is at present used as profit, the trade will go undoubtedly directly to the Indian State ports; and, therefore, it is not likely that even the revenue, which was expected by the Honourable Member, would be realised. I am asking him to remember that in the case of these particular commodities the total amount involved by way of loss of revenue to him, if he indeed did remit them, would be very small indeed.

That, Sir, is all I have to say. I hope that those two points will be borne in mind, namely, the exemption of products bought but not shipped by the time of the passage of this Bill,—a different principle entirely to the exemption of a similar nature in a taxation Bill introduced at the time of the budget; and secondly, in connection with these three particular items I would ask the Honourable Member to make a very careful study of these cases in particular to see whether it is not necessary that the Schedule might subsequently be amended.

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): Sir, this Bill reminds me of a story. In the house of a person a fowl died, and he began to weep and cry. The neighbours came and asked him why he was crying over a fowl costing only two annas, and he replied that he was not crying for the death of the fowl, but what worried him was that the angel Israel has seen the house and that it is a fowl today, but it may be something else tomorrow. The novel form of taxation in this Bill is just like Israel visiting the house. Today the Imperial Council of Agricultural Research is refused grant by the Finance Department and is asked to impose its own taxation, tomorrow it may be some other Department. So this is not a cess duty in the sense in which we understand it, and if it is extended in the way it has been done here and probably will be done in the future, we should consider the whole question of cess duty altogether. We have levied a few cess duties in the past on tea, coffee, lac, etc., mainly for the benefit of those industries, i.e., to develop those industries and carry on propaganda to find good markets for them. But if it is to be extended in this way, I think we shall have to reconsider the whole question of cess duty very carefully as a matter of fiscal policy and consider whether it should be levied at all. Here we are

providing a cess duty for keeping one particular department going, and the object is different from those of other cess duties where they were imposed for development of industry and propaganda. It may be said that Israel visited the house when the first cess duty was imposed, and now angel Israel is repeating his visits, and, in place of the fowl, the question of goat and cow has come in, and I do not know what will happen in future. So we should see if this kind of cess duty is permissible, and, if so, on what conditions. This opens out a wider issue and it is of the same type as that of the protection duty. I have said repeatedly in the case of all protection and cess duties that their working should be carefully watched by some Department of the Government of India and a report submitted to this House, so that we may discuss how it is working, whether the quantum of cess should be increased or diminished, or whether it should be abolished altogether. We should have a report and see whether a particular cess is working for the benefit of that industry or whether it is only providing a living for certain individuals in order to solve the problem of unemployment. In this case it is very difficult. In the case of a particular article like tea, coffee, lac or rubber, we can locate exactly the manner in which it is spent. But here it cannot be done. You may levy a duty on hides, but nothing may be spent on hides at all. It may be spent on some other article, so the word "cess" connotes a different meaning here from what it used to bear on previous occasions.

Before dealing with general questions, I will take up one or two particular items. My friend has levied a duty on fruits, and he said it was a small duty of 1/10th of a pie per pound. To give us figures in terms of pounds is not at all fair, and it is really jugglery of figures. It comes to five annas per ton and it is a big amount. In connection with fruits, I am reminded of a story which I hope my friend, whom I congratulate on his first speech here today as Member of the Executive Council, knows. King Mahmud of Ghazni was once out on a *shikar*, and he was very tired and weary and he went to a garden and asked the *mali* to give him a glass of pomegranate juice. The *mali* brought him a glass of very sweet pomegranate juice. Mahmud asked him to bring another glass, but instead of bringing it immediately, he took half an hour to bring it and when asked the reason, said "The first time I was able to get a whole glass from one pomegranate, but now I had to squeeze ten pomegranates to get one glass, and the reason is that there is something wrong with the intention of the king. The King probably had an idea of levying some duty on the fruits, and, therefore, the juice is being dried up." Mahmud knew that it was a fact as he had some such idea in his mind when the first glass was brought to him. He realised his mistake and told the *mali* to go once again and bring yet another glass of fruit juice; and, as Mahmud had changed his mind the *mali* was able to bring the juice almost at once and told the king: "The king has changed his mind again and he got the juice as before".

This principle has been recognised everywhere and even the Provincial Governments, though they are taxing the agriculturist to the last drop, have left gardens and fruits alone, and no duty is levied on fruits: but here my friend is doing it in spite of past experience and precepts of the good old sages.

The other thing is about the duty on hides. It will be remembered that a cess was proposed in 1930 and probably my friend thinks that since a cess was proposed then, it must be levied now. But the circumstances

[Dr. Sir Ziauddin Ahmad.]

then were entirely different. At that time the hides trade was in a very flourishing condition, and it was, therefore, possible to have this duty at that time. My friend will remember that when the Government of India came forward before us then, when these benches were not empty, the Government were defeated, and the Opposition made such a strong protest against the levy of the cess on hides that the Government could not carry it through and they were defeated.

Another reason is this. The proposal then was that the cess duty was to be managed in the same way as the tea cess and coffee cess, exclusively for the improvement of the trade in that article, and the management was to be in the hands of the merchants and shippers engaged in that particular trade. These were the three conditions at that time—firstly, the hides industry was in a flourishing condition at that time; secondly, the duty was to be imposed almost entirely for the benefit of that particular commodity and not for an omnibus purpose—the removal of unemployment or the provision of employment for certain individuals for whom money could not be found by the Government of India was not under discussion; and, thirdly, a definite course of action was laid down. But, in spite of all these, the House rejected the proposal then.

It is said the amount is very little—half per cent. But it is forgotten that merchants carry on business even if they can get a profit of a quarter per cent. Taking away half per cent. is a very big item. We talk lightly of imposing a mere half per cent, but if you refer to merchants, they will say it is a good lot: a difference of quarter or half per cent. decides the movements of trade. If there is the slightest margin of profit, an industry will prosper; but if there is no margin, it will not prosper. It was proved on the floor of the House in the time of Sir Joseph Bhore and Sir James Grigg that if any duty is levied on hides, the result would be that the trade would be diverted from India to other countries like South Africa, Brazil and the South American countries, and that on account of this duty Indian traders were suffering enormously. The Government of India removed this export duty, not by the vote of the House, but by the special power of His Excellency the Viceroy. The trade was in such a bad condition that the export duty had to be removed by the special power of the Governor General in Council. How can we now impose this duty of half per cent. on hides and skins?

There is one very important thing about skins particularly which the Government of India have not heeded at all in spite of our drawing attention to it repeatedly here; and still they say they are imposing this duty for the benefit of the trade. I mentioned on the floor of the House that there is a cruel practice prevailing that lambs are forced out of the goats before their due time—the lambs are still-born—because the skin of that kid is sold at five times the normal price: it is cruelty to the animal—they make it run and get the kid out before its due time by all kinds of cruel processes—even more tyrannical than the *phooka* process for which Government legislated, but not for this, though they say they are levying a cess for the benefit of the trade. They must remove this inhuman practice to which we have drawn attention repeatedly. Government are really giving the public a wrong impression by saying that they impose this duty simply for the benefit of the industry, when they are practically doing nothing for its protection.

Take another example, manures. My friend, Maulana Zafar Ali Khan, has drawn attention to it. If this Department of Agricultural Research or the Agricultural Departments of the provinces really want to do any service to the agriculture of this country, let them do this one thing: let them conserve the manure: if they do only that and nothing else, they will justify their existence; but this is just the thing they will not do. Let them levy on manure export any duty—10 per cent. or more, and then they will get all the money they want and we will be satisfied. I think it is a very good thing that Maulana Zafar Ali Khan has suggested for the careful consideration of the Government of India if they study and understand Maulana Zafar Ali Khan's argument. . . .

**Captain Sardar Sir Sher Muhammad Khan** (Nominated Non-Official): But Maulana Zafar Ali Khan is not a mathematician!

**Dr. Sir Ziauddin Ahmad:** But he has got common-sense all right.

Sir, before I leave the subject of Cess Committee, I should like to narrate a short story in connection with the proposed levy of a cess on hides and skins. There was a Resident, I think, of Bhopal. When he paid his first visit to Bhopal, it was raining, and those who had come to receive him, held a *chattar* or umbrella over his head to protect him from the rain. Then he entered the fact that a *chattar* was held over his head by the people who had come to receive him in his diary. Then, some years later, another Resident went to Bhopal. He looked into the old diary and saw there that a *chattar* was held over the head of his predecessor by the people who had come to receive him, and there was no *chattar* in his case. When he arrived at the station, he asked the people "where is the *chattar*?" because, last time, when the Resident came to this place a *chattar* was held, and so he said that he would not go to the town unless he was received with the same splendour as his predecessor was received. Similarly, here, a Committee recommended that there ought to be a cess on hide under entirely different conditions, but as the successor of that Resident, my Honourable friend is demanding the same *chattar* which was promised to his predecessor. He forgot that the *chattar* was refused by the House. The imposition of cess duty was rejected by the Assembly.

Now, coming to the constitutional questions raised by my Honourable friend, the Member in charge, he mentioned about the Finance Committee. He said that in the case of the other Cess Committees we never insisted on having Finance Committees for them. I think it is a good suggestion,—I have taken note of this fact and we will insist on it in future that there ought to be a kind of Finance Committee for every Cess Committee appointed under this head. So I am thankful to my friend for the suggestion, and I think we should insist on it in every case. But the particular Committee, which he has suggested, if you will analyse it, becomes illusory. The Finance Committee has one member out of the three elected by the Legislature, two from the Lower House and one from the Upper House. In the Lower House, evidently if two persons are to be elected, one will be by the Government votes and the other will be by non-official votes. So there will be one person who will be the nominee of the Government, and the other by the elected Members. When these two persons go to the Council of Agricultural Research, and one of these two is to be elected to the Standing Finance Committee, then naturally the person, who has been elected by the vote of the Government, will be elected, and not the person who has been elected by the Opposition. Therefore, nominating him first

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to this Committee by Government votes, and then putting him on the Finance Committee is really illusory. Why not give the Government the power to appoint whomever they like? Therefore, the present arrangement is not at all satisfactory. I would very much like that some member should be elected directly by the elected Members of the House, but I don't want to make a distinction between elected and nominated Members, because, after all, there should be some kind of solidarity and some corporate existence in the House. But the Government should not try to mislead the House by saying that one of our representatives will be there.

**The Honourable Sir Girja Shankar Bajpai:** May I just, on a point of information, tell my friend that actually Government have not taken part in the elections from this House to the governing body of the I. C. A. R., because they wished to leave the choice to the elected Members, so that the particular suspicion of my friend really has no foundation.

**Mr. Muhammad Nauman:** Was it only this year or all the years?

**The Honourable Sir Girja Shankar Bajpai:** Generally, members are changed after three years, and that has been our attitude more or less all along. If my Honourable friend thinks that Mr. Azhar Ali, or Mr. Paliwal who is not here at the present moment, or Mr. Husain Imam are there as a particular favour of the Government, then I leave him to draw his own inference.

**Dr. Sir Ziauddin Ahmad:** May I point out that in the last election the Government may not have taken part. I think they have set a very good example, and I wish this tradition or convention would be followed in future in all elections, not merely to the I. C. A. R., but with regard to other elections as well. If this is not governed by the constitution, there is one danger, because my Honourable friend may change his opinion tomorrow by force of circumstances, and if he does so, what is the remedy left to us? If tomorrow he decides to take part in the voting, what is there to stop him from doing so? But I would welcome this particular convention, and I hope it will be followed in all elections. I do not want to exclude nominated Members, but I want to exclude the officials from voting and also from taking part in the discussions.

Then, it was said that the powers of the Legislature will remain intact as at present. Now, we have got a power of the Finance Committee, and if the Estimates Committee comes into existence, then there will be a power of the Estimates Committee also. Then, my question is whether the powers which the Estimates Committee and the Standing Finance Committee exercised by them over other Departments of the Government of India could be exercised in this particular case also? If they say "yes", then I shall be satisfied; if they say "No", then certainly it would mean a reduction or curtailment of our powers. I will give an instance. By the Government of India Resolution, at present 33 per cent. of the posts are reserved for the minority community. Will it apply in this case also? My friend may say "No." Probably the Governing Body is autonomous. In that case, the question will at once arise whether the rules framed by the Home Department for the protection of the minorities or for the efficient working of the institution will or will not apply to the I. C. A. R.

At present those rules do apply, but in future I should like to know whether they will hold good or not. If they will not hold good, then it will mean a curtailment of the powers of the Legislature.

Then, coming to the work of the I. C. A. R., I am not in a position to criticise it at present, but I am not very much enamoured of the work done by the Provincial Councils. Of course, it is not for me to discuss here the work of the Provincial Councils which are not before us, but I may in passing mention that these Agricultural Departments will do greater service to the people if they will confine themselves to only one work, and that is, if they will only supply seeds to the agriculturists and do away with the elaborate experiments by means of implements which are not within easy reach of the ordinary tenants and agriculturists. So, really speaking, the research which they carry out should be in a manner that the results may be taken advantage of by the villagers under circumstances in which they live, and not under circumstances in which, in the opinion of the Agricultural Department, they ought to live, which is really beyond the means of the ordinary villagers on account of their poverty. This aspect of the question is very often ignored by the Agricultural Department, because they carry on all experiments under very ideal conditions. Those ideal conditions do not exist unfortunately in the villages of India. A number of people tried to have some kind of farms in the manner suggested by the Agricultural Department, but many of them failed absolutely, because the finances which were necessary to keep those farms in good condition were not available, and even when they were available, they found that they could not compete with the work done by the ordinary labourers by means of the hand, because their work is very cheap. The man works, his wife works, his children work, they work at all times of the day and throughout the year. In family labour, your labour laws do not apply, Mr. Joshi's Wages Act, the Children's Protection Act, the Women's Protection Act do not apply to such cases, because the whole family works together. In these cases the labour is exceedingly cheap, and very often those persons who spend a good deal of money and employ very costly instruments cannot compete with the labour of the ordinary family of a villager. I go further and say that, because India has got such a large population, if you mechanise the whole of your agricultural process, what would happen to these villagers? Most of them will die because there will be no work left for them and all the work will be done by machines. This state of things is neither desirable nor economical in India—to change manual labour in the family into mechanised work.

**Pandit Krishna Kant Malaviya** (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): What has that got to do with the Bill?

**Dr. Sir Ziauddin Ahmad:** Agricultural Research is a very important thing. I submit that whenever they make any agricultural research, they should make it a point to see that by this research they do not squeeze out of existence the village labourers. If everything is mechanised, I am afraid that India, with a very large population, with no visible means of livelihood, will starve much more than it is starving at present.

Another point to which I want to draw attention, and to which we have been repeatedly drawing attention is this rule making power. The rule making power is a very unpleasant thing. I think it would be better

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if we passed a one clause Act, saying, "this is the Cess Provision Act, and the whole thing will be governed by rules framed by the Government of India". The clauses of the Defence of India Act are very modest and very innocent, but the rules framed thereunder are very wide. The rule making power is an instrument which is not at all very pleasant. In every enactment we should leave as little room as possible for making rules, but in this Bill we find rule making power practically in every section. So, practically they have changed the enactment into an executive order of the Government. In this Bill there is, I think, greater room for making rules, but we ought to insist that the rules framed under the Act should be as few as possible and deal only with routine work and should not introduce new principles which are not contemplated by the Act itself. The rule making power ought to be simplified, and even if they make rules, the rules ought to be laid before the House. Time ought to be provided for this House to discuss the rules. My Honourable friend may say, you have the power to discuss the rules, but what is the use when no time is provided for the same purpose? When we discuss the rules on the Finance Bill, we are called to order that we are wasting the time of the House unnecessarily. Unless time is given to us to discuss the rules, what is the use of saying, you have got the powers, when those powers cannot be exercised? If we have powers to discuss the rules, give us time in this House, so that we can discuss them. It is like saying, I shall give you a crore of rupees provided you do not touch it. Or I can write out a cheque to my friend provided he won't cash it.

**Mr. P. J. Griffiths** (Assam: European): Try the experiment.

**Dr. Sir Ziauddin Ahmad:** But not on you. I know you will get over it. They have given us the power to discuss these rules, these rules will be laid before the House, it will be open to the House to discuss them. But the time is not there, and we cannot discuss them at all. If my Honourable friend assures us on the floor of this House that each year, at least if demanded by the Leaders of Parties, he will provide some time for us to discuss those rules, then we shall be satisfied. If that assurance is not given to us, then in that case this power is illusory, and, on principle, I do not like that the enactment should be made illusory by taking large powers under the heading of rule making powers.

**Pandit Krishna Kant Malaviya:** How it was then that you remained neutral when the Defence of India Act was passed?

**Dr. Sir Ziauddin Ahmad:** I did object in every case. I am glad that one particular clause of the Bill has been removed, namely, the power to add any particular commodity to the list. If that had been here, it would have become a Tariff Act under which the Government may have power to put in any article they like, to leave out any article they like and to fill in any figure they like. The whole thing will then become illusory. But I am glad that this particular sub-clause has been removed by the Select Committee. To sum up, the first thing that I want is this. Give us time to discuss the rules on the floor of the House; otherwise, the whole thing becomes

unreal. Secondly, I should like to be assured that the powers the Legislature has at present are not diminished or curtailed. Thirdly, we want an assurance that the power of the Standing Finance Committee and the future Estimates Committee over this Department will remain the same as in the case of other Departments. Fourthly, we should have a periodical report of the working of this Council before the House, and this should be discussed by this House, and at the same time we can discuss the rules that they have framed. These are four points on which we require enlightenment. I think there are certain articles which really ought not to have been there, and it is unfair to include them. With these words, I resume my seat.

**Pandit Krishna Kant Malaviya:** I have very attentively listened to the speeches made by my Honourable friends on my right, but, unfortunately, I have failed to understand wherein lies their objection to this Bill. My Honourable friend, Dr. Sir Ziauddin Ahmad, began by saying that he was opposed to the very principle of a cess duty on any agricultural produce. As he proceeded further, he said that if the amount realised out of the cess were to be spent on improving the growth and production of the particular commodity, he would think that the money was well spent.

**Dr. Sir Ziauddin Ahmad:** Not well spent. I said there might be some justification. I did not say, well spent.

**Pandit Krishna Kant Malaviya:** Very well.

Then he went on and said that it appeared to him that this cess duty was levied in order to provide employment for some unemployeds in the Government of India. I could very well understand his opposing this Bill and saying that this Research Council should be abolished but so long as the institute is there and it is doing some work . . . .

**Mr. Muhammad Nauman:** It should not be based on commercial lines, that is the point.

**Pandit Krishna Kant Malaviya:** Once we concede that the institution should be there, then we will have to find the money for it. My Honourable friend, Mr. Nauman, says that it should not be run on a commercial basis. I thought and even now think that everything in this world should be run on a commercial basis because it is only then that we can produce better results and good results. I fail to understand how our agriculturists are going to be injured by any cess duty levied on articles which are mentioned in the schedule. The agriculturist will not be required to pay this amount. At the most, either the exporter or the man who purchases it will have to pay this cess duty. The agriculturist does not stand to suffer. There would have been some excuse for opposing the cess duty if it had been urged by my friends that the trade was in a very bad way, that our exports were falling down and that it would not be wise to levy a cess duty, because it might reduce the quantum of our exports but I know, Sir, that so far as these commodities are concerned, they are not only wanted by Great Britain but Great Britain is not only purchasing them for Allies, namely, France but for Turkey, Rumania and other countries also. I might say for every country they can think of in

[Pandit Krishna Kant Malaviya.]

Europe. So far as I know they are purchasing 75 per cent. of their purchases from this country. The question now arises as to who is going to lose and who is going to pay for this cess duty which we levy on the commodities. It is not the agriculturist or the exporter.

My friend, Mr. Boyle, asked a question whether this cess duty will be levied on orders which had been booked sometime ago, which have not been shipped and which might be shipped today or a month after. As a businessman I think he knows that there is a clause in the contracts which any exporter or shipper signs. It is to the effect that if there is any duty levied by the Government of which they were not aware, the man who purchases the article will have to bear the duty. Naturally, therefore, neither the agriculturist nor the exporter has to suffer or pay from his own pocket.

So far as the duty on hides and skins is concerned, I might inform my Honourable friend. Mr. Nauman, and those who are interested in hides and skins that the Government of India—I hope I am not giving away any secrets—is purchasing leather goods not only for France but for Turkey and Rumania and very huge orders have been placed with the Government of India for the supply of leather goods. More than 70 per cent. or 80 per cent. of the order is to be supplied from this country. I can assure my Honourable friend that if he looks to his business and his commercial interest he is bound to gain so far as the export of hides and skins and leather goods are concerned.

Coming to other commodities, as was pointed out by my friend, Mr. Boyle, this is not the place and time to take out some of the commodities mentioned in the schedule or to add to them. Otherwise I would have suggested to my Honourable friend who is in charge of the Bill to ban the export of waste cotton. No country in the world today allows waste cotton to be exported out of the country. It is only in this unfortunate country that we have not got the powers and this country alone in the world today is exporting waste cotton.

**The Honourable Sir Girja Shankar Bajpai:** Waste cotton does not figure in the schedule.

**Pandit Krishna Kant Malaviya:** I am saying that if there were to be an amendment to the schedule I would have said that waste cotton should be there and some heavy duty should be laid on it so that it should not be allowed to be exported. This is the time when our commodities are wanted not by one country only. We have lost Germany but we have gained many others and Government is anxious to purchase all it can. My complaint so far as these purchases are concerned is this, that they are trying to lower the prices as much as they can, because they put a ban on exports, the prices go down and then they purchase for themselves and their friends. It might be that after supplying these commodities to their friends they may not be able to get their money back after the war and so they are naturally anxious to purchase at the lowest price they can but if anything has to be said and done, we ought to raise a cry and agitate that restrictions on exports should be removed. This is the real thing to do, the cess duty, I assure my friends, is not going to hurt our trade, injure our industry or injure the agriculturist or our

commercial interests. I also feel with my Honourable friend, Mr. Boyle, that pepper should have some sort of special concession but I do not know exactly what the figures of last year's exports were and what is the figure today.

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

But so far as the other commodities are concerned, I think it is in the interest of this country to levy a cess duty like that. Of course, we can lay down some rules and see that the amount realised is spent for good purposes and on researches that we want, but so far as the principle is concerned, it is perfectly right that we should levy this cess duty and get something out of the export duty when we easily can and thus help in the development of agriculture and other industries.

**Some Honourable Members:** The question may now be put.

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

"That the question may now be put."

The Assembly divided.

AYES—37

Abdul Hamid, Khan Bahadur Sir.  
Abdul Hamid, Khan Sahib Shaikh.  
Ahmad Nawaz Khan, Major Nawab Sir.  
Bajpai, The Honourable Sir Girja Shankar.  
Bewoor, Sir Gurunath.  
Campbell, Mr. D. C.  
Caroe, Mr. O. K.  
Chettiar, Raja Sir S. R. M. Annamalai.  
Clow, The Honourable Sir Andrew.  
Conran-Smith, Mr. E.  
Daga, Seth Sunderlal.  
Dalal, Dr. R. D.  
Dalpat Singh, Sardar Bahadur Captain.  
Dumasia, Mr. N. M.  
Griffiths, Mr. P. J.  
Iman, Mr. Saiyid Haider.  
Ismail Ali Khan, Kumwar Hajee.  
Jawahar Singh, Sardar Bahadur Sardar Sir.  
Kamaluddin Ahmed, Shams-ul-Ulema.

Khan, Mr. N. M.  
Kushalpal Singh, Raja Bahadur.  
Mackeown, Mr. J. A.  
Muazzam Sahib Bahadur, Mr. Muhammad.  
Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.  
Oulsnam, Mr. S. H. Y.  
Pillay, Mr. T. S. S.  
Rahman, Lieut.-Col. M. A.  
Row, Mr. K. Sanjiva.  
Scott, Mr. J. Ramsay.  
Sen, Rai Bahadur G. C.  
Shahban, Mian Ghulam Kadir Muhammad.  
Sher Muhammad Khan, Captain Sardar Sir.  
Sivaraj, Rao Sahib N.  
Spence, Sir George.  
Talukdar, Mr. J. N.  
Williams, Mr. A. d&C.  
Zafrullah Khan, The Honourable Sir Muhammad.

NOES—19

Abdullah, Mr. H. M.  
Abdur Rasheed Chaudhury, Maulvi.  
Aney, Mr. M. S.  
Azhar Ali, Mr. Muhammad.  
Banerjee, Dr. P. N.  
Essak Sait, Mr. H. A. Sathar H.  
Ghiasuddin, Mr. M.  
Ghulam Bhik Nairang, Syed.  
Maitra, Pandit Lakshmi Kanta.  
Malaviya, Pandit Krishna Kanta.

Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad.  
Murtuza Sahib Bahadur, Maulvi Syed.  
Nauman, Mr. Muhammad.  
Parma Nand, Bhai.  
Raza Ali, Sir Syed.  
Sait Singh, Sardar.  
Umar Aly Shah, Mr.  
Zafar Ali Khan, Maulana.  
Ziauddin Ahmad, Dr. Sir.

The motion was adopted.

**The Honourable Sir Girja Shankar Bajpai:** Sir, considering the advanced stage of the day it is not desirable to make a very long speech, especially as a good many of the points which were raised by speakers in the course of the afternoon had been dealt with by me earlier at some stage or the other. Nevertheless, those which though lacking in novelty are not lacking in importance, will receive such attention as I can give them in the time limit that I propose to set for myself.

Sir, my Honourable friend, Dr. Sir Ziauddin Ahmad, was in a very jovial mood this afternoon—I hope this has not been in any way affected by the division over the question of closure—and he cited to us the story of the poor man who had lost his fowl. The explanation that this man gave of his sorrow was that Israel has visited his House and it meant that he would visit it again. If the belief of the owner in the immortality of his fowl was so simple as all that, then he must have had the wisdom of the ostrich, namely, burying his head in the sand and not realising the existence of mortality all around him. He next mentioned the story of Sultan Mahmud Ghuznavi and his good intentions which were able to convert a dry fruit into a rich fruit. If that be the test of the desirability or otherwise of a measure, my intentions are extremely good, and I have no doubt that there will be a good harvest of plenty to the peasant and, to the extent that that prosperity is reflected in our exports, a good return to the Imperial Council of Agricultural Research.

**Dr. Sir Ziauddin Ahmad:** That was the intention of Sultan Mahmud Ghuznavi.

**The Honourable Sir Girja Shankar Bajpai:** Now, Sir, I go on to meet the first point that was made by Maulana Zafar Ali Khan and was subsequently repeated by Mr. Nauman and I think also by Dr. Sir Ziauddin Ahmad, namely, that if we really wish to help the agriculturist in this country, what we have got to do is to levy a prohibitive export duty on manures and then all will be well. Now, Sir, if it is to be a prohibitive export duty on manures, then it follows that the purpose of recovering a sum of money for the Imperial Council of Agricultural Research will not be realised. That is quite clear. You cannot serve the double purpose of securing a prohibition of export, and securing to Government some income . . . .

**Dr. Sir Ziauddin Ahmad:** We do not suggest an embargo.

**The Honourable Sir Girja Shankar Bajpai:** Even assuming for the sake of argument that this ten per cent. did not operate as a complete embargo but had the effect of substantially diminishing the exports, seeing that the total yield from these two duties is expected by us to be in the neighbourhood of Rs. 60,000, I do not see how the balance of 14 lakhs and 40 thousand is going to be made up.

**Maulana Zafar Ali Khan:** You mean to say that a duty of ten per cent. will bring in only Rs. 60,000?

**The Honourable Sir Girja Shankar Bajpai:** That is all it is expected to bring at the rate of  $\frac{1}{4}$  per cent. *ad valorem*.

**Maulana Zafar Ali Khan:** But we say ten per cent. *ad valorem*.

**The Honourable Sir Girja Shankar Bajpai:** But my Honourable friend is trying to work out an equation in a variable which, in my opinion, is not determinable at all. If the exports fall substantially then, in that case, you cannot multiply 60,000 by ten and get a result of six lakhs.

Then, I go on to the point made by these three valiant speakers that the expenditure of the Council ought to have been met out of general revenues. Sir, they have listened to the debate on the Finance Bill: they have also followed the financial statement of the Honourable the Finance Member. They know how much revenue is to be derived and to what that revenue is to be allocated for the purpose of expenditure. If there had been any possibility for the Finance Member to give me Rs. 15 lakhs odd that I require, in that case there would have been no need to resort to this form of taxation. It is only because he could not afford to give me money out of the revenues, that we had to resort to this form of taxation. The only way in which he could have given me this money would have been by raising extra revenue by additional taxation and then I am sure, my Honourable friends would have been just as indignant and resentful as they are with regard to my very modest proposals.

Now, Sir, I go on to another point, the one on which Dr. Sir Ziauddin Ahmad laid great stress. He said that the Imperial Council of Agricultural Research was really a Pinjrapole for the unemployed, it did no research work of any value and it merely went about providing jobs for people who would not be employed otherwise.

**Dr. Sir Ziauddin Ahmad:** I rise, Sir, on a point of personal explanation. I asked the question whether the Council was intended to do some substantial work or whether its mission is only to meet unemployment.

**The Honourable Sir Girja Shankar Bajpai:** Seeing that ever since the Council was founded, it has been issuing an annual report which is religiously circulated every year to Honourable Members of Council, the only answer that I can give to my Honourable friend is that as regards the working of the Council he had better refer himself to that volume for the last year which was circulated only a few days ago.

Then, Sir, I come to the other point, the point of Mr. Nauman and also of Dr. Sir Ziauddin Ahmad: On what are you going to spend this money? They conveyed the idea that we would levy so much money from hides and skins but will spend absolutely nothing on them and will probably spend it on something else. Now, if I may just again draw the attention of the Honourable Members to what the Hides Cess Inquiry Committee had to say. They said that out of the proceeds of the one per cent. cess which they proposed, half of that cess should be devoted to such tasks as the improvement of the livestock and their better breeding. In other words, it should be spent on the work of animal husbandry of the very kind which the Imperial Council of Agricultural Research is doing at present and on which the average expenditure during the last three years has been Rs. 2,17,700. It will be clear from these figures that we have

[Sir Girja Shankar Bajpai.]

been spending on this particular kind of improvement more than we expect to derive from the revenue under the heads which are included in the Schedule. I do not think that in the circumstances it is fair for Mr. Nauman to suggest that we shall be taking money from hides and skins and spending it on purposes which have nothing whatever to do with improving the quality of hides and skins.

Then, Sir, my Honourable friend, Mr. Boyle, raised certain points. He asked what was going to be done with regard to the export of commodities included in the Schedule, that had been bought before the 1st of April? That point we have not yet examined, but I am quite prepared to have it sympathetically examined, and I should think myself that it should be possible, under the different provisions of the Sea and the Land Customs Act, to give relief, if we should decide to give relief on the merits of the case. As regards pepper, I do not know really that the facts and figures quoted make it a very definite case one way or the other at all but, inasmuch as I do not wish to draw on the third reading a peppery speech from my Honourable friend, Mr. Griffiths, I shall extend to pepper the same undertaking as I have extended to groundnuts and to contracts that might have been entered into with regard to these commodities before the 1st of April.

Now, Sir, the constitutional questions on which my Honourable friend, Dr. Sir Ziauddin Ahmad, laid great stress were directed particularly towards the control of this House. I tried to explain this morning that, so far as we are concerned, by moving the Resolutions and by the asking of questions, the control which the House exercises now, it will continue to exercise in the future. I also pointed out that, inasmuch as the administrative grant to this Council will continue to be submitted to the House every year, the House will have that form of control. Finally, I went on to point out that we had at the suggestion of the Select Committee agreed to include in the Bill provision for one of the three elected Members of the Central Legislature on the Governing Body forming part of the Finance Committee of the Imperial Council of Agricultural Research. I do submit that considering that this is an autonomous body, that it has eleven Ministers as its members from the Provinces, a body which, considering its composition, is certainly as solicitous of and as careful to look after the interests of the agriculturist as anybody here,—considering all that, I do not see any reason why this House should feel that the Finance Committee which will be constituted according to our proposals now will not be adequate for the purpose of such control as this House can legitimately claim.

Then, Sir, my Honourable friend, Dr. Sir Ziauddin Ahmad, talked about the activities of the Imperial Council of Agricultural Research being in the direction of mechanisation which would have the effect of displacing manual labour. I think I can give him a fairly satisfactory assurance on that point. The Imperial Council of Agricultural Research is fully conversant with the form of agricultural economy in this country. Not only that; it has had its own experienced judgment in these matters reinforced by the recommendation of Sir John Russell, who pointed out that we have to adapt science to the exigencies of this country and not the economic organisation of this country to some theories of economic

science. That is the spirit in which the Imperial Council of Agricultural Research is working now and that is the spirit in which it will continue to work hereafter also so that my Honourable friend need not have any fear on that account. I think, Sir, with that, all the main points which have been made in the course of the discussion this afternoon have been met. My Honourable friend, Mr. Nauman, said that he was speaking with great feeling. Yes, I appreciate that and I also esteem him for his feeling, but equally I think he must extend to us the consideration that what we are doing is what we consider sincerely and honestly to be in the best interests of the agriculturists. In other words there must be reciprocity in trust and appealing to that reciprocity in trust, I do hope that the Bill now will have a smooth passage in this House.

**Maulana Zafar Ali Khan:** Apart from the question of finance the money will be raised by you somehow or other. What I want to know is what is the policy of the Government with regard to the proposal I put forward in connection with manures?

**The Honourable Sir Girja Shankar Bajpai:** With regard to that part of my Honourable friend's suggestion which was that the supplies of manures in this country should be conserved, I cannot at the moment say what special steps in this direction have been taken by the Imperial Council of Agricultural Research, but I can assure him that that particular question will receive prompt and careful examination.

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

"That the Bill to make better financial provision for the Imperial Council of Agricultural Research, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

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

"That clause 3 stand part of the Bill."

**Mr. Muhammad Nauman:** Sir, I beg to move amendment No. 1 . . . .

**The Honourable Sir Girja Shankar Bajpai:** I should like to draw your attention just to one point. These amendments were sent to the Government only yesterday so that there is lack of two days' clear notice.

**Mr. President** (The Honourable Sir Abdur Rahim): As objection has been raised, the Chair has to enforce the Standing Orders which require two days' notice. The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4, 5, 6, 7 and 8 were added to the Bill.

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

"That clause 9 stand part of the Bill."

**Mr. Muhammad Nauman:** Sir, I beg to move:

"That in sub-clause (3) of clause 9 of the Bill, for the word 'section' the word 'Act' be substituted."

I do not suppose there is any necessity for me to make any speech.

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

"That in sub-clause (3) of clause 9 of the Bill, for the word 'section' the word 'Act' be substituted."

**The Honourable Sir Girja Shankar Bajpai:** I have no objection to the amendment.

**Dr. Sir Ziauddin Ahmad:** I just want to say one word. The Honourable Member did not give a reply to the point I raised. Will the Honourable Member give an opportunity to discuss these rules on the floor of the House. These Rules are only laid in the Library of the Legislature and we are given no opportunity to discuss them. If no opportunity is given to the House to discuss these rules, it would be as well that they are not placed in the Library of the House. There is no use if they are placed in the Library. The Honourable Member did not reply to this point and I hope he will deal with it now.

**The Honourable Sir Girja Shankar Bajpai:** If I may just speak for one minute on that point. The provision that we are making here is not a new one to the Statute-book of this country. My Honourable friend is perfectly well aware of the practice. If he wishes to discuss any Rules that are made under this Act, he has to give notice of a Resolution in the ordinary way. It is not possible for me to initiate a departure from the established practice of the Government in this matter.

**Dr. Sir Ziauddin Ahmad:** May I ask how a Resolution can be discussed? The Government alone can do that.

**Mr. President** (The Honourable Sir Abdur Rahim): In the ordinary way. The question is:

"That in sub-clause (3) of clause 9 of the Bill, for the word 'section' the word 'Act' be substituted."

The motion was adopted.

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

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is:  
"That the Schedule stand part of the Bill."

**Mr. Muhammad Nauman:** Sir, I beg to move:  
"That in the Schedule to the Bill, item 11 be omitted."

Sir, I need not explain at length what it amounts to. It means that hides, cuttings, raw be exempted.

**Mr. President** (The Honourable Sir Abdur Rahim): Amendment moved:  
"That in the Schedule to the Bill, item 11 be omitted."

**The Honourable Sir Girja Shankar Bajpai:** I have no objection.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is:  
"That in the Schedule to the Bill, item 11 be omitted."

The motion was adopted.

**Mr. Muhammad Nauman:** Sir, I beg to move.  
"That in the Schedule to the Bill, item 17 be omitted."

This refers to skins, cuttings raw.

**Mr. President** (The Honourable Sir Abdur Rahim): Amendment moved:  
"That in the Schedule to the Bill, item 17 be omitted."

**The Honourable Sir Girja Shankar Bajpai:** I have no objection.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is:  
"That in the Schedule to the Bill, item 17 be omitted."

The motion was adopted.

**Sir George Spence** (Secretary, Legislative Department): Sir, I move:  
"That the items in the Schedule be re-numbered consequentially on the omission of items 11 and 17."

**Mr. President** (The Honourable Sir Abdur Rahim): The question is:  
"That the items in the Schedule be re-numbered consequentially on the omission of items 11 and 17."

The motion was adopted.

**Mr. E. L. C. Gwilt** (Bombay: European): Sir, I would ask the Honourable Member if he will define "drugs" so far as this Bill is concerned. The Bill levies a cess upon agricultural and unmanufactured produce, and I presume that "drugs" applies to raw and unmanufactured products. I should welcome Government's confirmation on that point.

**The Honourable Sir Girja Shankar Bajpai:** That certainly is the intention. It will apply to natural products and not to manufactured products.

**Mr. E. L. C. Gwilt:** Thank you, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is: "That the Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir Girja Shankar Bajpai:** Sir, I beg to move:

"That the Bill, as amended, be passed."

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

"That the Bill, as amended, be passed."

The motion was adopted.

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### THE INSURANCE (AMENDMENT) BILL.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Member for Commerce and Labour): Sir, I move.

"That the Bill further to amend the Insurance Act, 1938, be taken into consideration."

I may explain that only a few formal amendments which will assist in the administration of the Insurance Act are mainly covered by this Bill. There are two amendments of a substantial nature which I shall refer to a little later. In the working of the Act during the past few months the Superintendent of Insurance has come across administrative difficulties which are intended to be remedied by the amendments in this Bill. The two main amendments that I shall refer to are the amendments in clause 17 which relates to reciprocal rights. There has been a difficulty felt by insurance companies and representations have been made to me that with reference to branches in Indian States the Indian States require by way of deposit and other matters separate deposits, separate provisions to be satisfied which hamper the working of insurance companies established in British India. On the other hand the insurance companies in Indian States, particularly one or two Indian States in which there are very well run insurance companies, complain that there are no reciprocal rights in British India; and, therefore, from both points of view it has been considered necessary that there should be an exchange of these reciprocal rights so that insurance companies in British India may not be handicapped in the pursuit of their business in Indian States. The clause as drafted refers to reciprocal rights either in India or outside British India, and the Central Government will be the authority which will decide whether an insurance company in British India has got real reciprocal rights outside British India, in which case companies of that particular country will also be given reciprocal rights. Sir, I myself consider that that is a fair provision.

But I have been receiving communications from insurance companies which have not clearly understood the implications of that particular provision and which apprehend that under this clause a wider right may be given to some of the insurance companies outside British India. To allay that apprehension at the present stage, and as I want this Bill to contain as much of non-controversial matter as possible, a Government amendment will be moved at a later stage which will confine for the present this clause only to insurance companies in Indian States and the right of reciprocity for such companies in Indian States only, so that companies outside India will not be covered.

There is another amendment which is of an important character. At the present time some of the insurance companies which are small in nature and which have not been doing well may try to amalgamate themselves with other insurance companies. That amalgamation is permitted under the Act, but before that is done Government have to satisfy themselves by actuarial valuations, by balance sheets and by annual reports that the position of both these companies is perfectly sound. Now, it has been represented to me that if a big insurance company were to try to amalgamate itself with a small insurance company, and that is what generally happens,—to require a big insurance company to have some sort of actuarial valuation made for the purpose at the time of amalgamation will be to put a strain on its resources and involve it in a great deal of work and expense, and that it is really not necessary to require a big insurance company whose standing is fairly sound and known to the Superintendent of Insurance and the Central Government to be sound to do so. Therefore, that clause may militate against all amalgamation whatsoever which in many cases may be found desirable. With reference to that also I am willing to assist the insurance companies concerned and an amendment will be moved whereby in the case of certain companies whose standing is well known to Government, the last actuarial report, provided it is not more than five years old, will be accepted for the purpose of amalgamation.

There are provisions also with reference to provident societies which are made purely for administrative reasons and which are contained in this Bill. Sir, I move.

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

“That the Bill further to amend the Insurance Act, 1938, be taken into consideration.”

**Mr. L. C. Buss** (Nominated Non-Official): Mr. President, the Bill now before us, covering as it does eight pages and comprising 19 clauses, presented a somewhat formidable appearance at first sight. I must confess that I was seized with misgivings when I reflected on the arduous days and nights which many of us spent during the Simla Session of 1937 while the Bill now to be amended dragged its weary way through the Select Committee and through this House. By a rough mathematical computation if Dr. Sir Ziauddin Ahmad will forgive my encroachment on his preserves—the present Bill of 19 clauses might be expected to cause us only a little less than one sixth of the toil and trouble we had over the 1938 Bill which, ultimately, emerged with 123 clauses. And, Sir, my heart quailed

[Mr. L. C. Buss.]

at the thought to such an extent that I decided to leave it unostentatiously to other Members of my Party to study the Bill, and be responsible for speaking on it when it came before the House.

But the fates ruled otherwise and I later found myself driven into a corner and forced to apply my mind to the Bill. When I did so I was very pleasantly surprised to find—if I may be permitted to draw a simile from the proceedings of this august House—that its bark is much worse than its bite.

Many of the amendments amount to no more than the remedying of technical administrative difficulties, which, as I think we all realised 2½ years ago, were bound to be experienced when the Act came to be put into operation. There are other amendments, clause 2 for example, which I am glad to see have as their object the lightening of the burden on insurers, where restrictions can reasonably be modified. As Honourable Members are no doubt aware, certain Indian States have already introduced Insurance legislation of their own or are about to do so. It is of the greatest importance to Indian insurers that their operations should not be unduly hampered by restrictions resulting from a mass of legislation in the Indian States and I have no doubt that the Government of India are doing their best to ensure that such legislation follows broadly the same lines as that of British India. But it is obvious that, if we expect the States to extend to insurers in British India concessions in such matters as deposits, there must be a *quid pro quo* from our side. Such a provision as is contained in clause 2 evidently has this aspect of the matter in view.

This is not the time to comment in detail on the provisions of the individual clauses but I should like before I resume my seat to refer particularly to the amendment of section 42 of the Act embodied in clause 9 of the Bill. I do not suppose any of us realised when we accepted section 42 in its present form what a heavy strain we were imposing on the Department responsible for the working of the Act by laying it down that all the licences of insurance agents should expire simultaneously on the 31st of March each year. It is this kind of administrative difficulty which renders amendment of the Act not only imperative but urgent and on behalf of the European Group I commend the Bill to the favourable consideration of this House.

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, we have heard the speech of the Honourable the Commerce Member giving us the details of this small amendment Bill, and as he has said that it is with the intention of affording facilities to insurance companies in British India who work in the different Native States and who are finding difficulties in practice, we welcome the measure and we appreciate the particular modification which is proposed in section 42, referred to by my Honourable friend, Mr. Buss, although at the time when the former Bill was before this House, it was not considered necessary or probably the difficulty was not realised, when it was laid down in the Act that the licenses would have to be reviewed at one and the same time. We find that the amendments will be quite helpful, and, as such, I support the Bill.

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

"That the Bill further to amend the Insurance Act, 1938, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

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

"That clause 4 stand part of the Bill."

**Mr. J. D. Boyle** (Bombay: Europeans): Sir, I beg to move:

"That in part (ii) of sub-clause (a) of clause 4 of the Bill, for all the words occurring after the word 'namely', the following be substituted:

'is miscellaneous insurance only, that is to say, insurance which is not in the opinion of the Central Government principally or wholly of any kind or kinds included in clauses (a), (b), or (c).'

In the past, the Superintendent of Insurance has had some difficulty in interpreting the section relating to deposits because of the overlapping of departments concerned in respect of certain classes of insurance, particularly 'All risks insurance'. This particular type of insurance is principally accident insurance business, but it includes fire risk which is merely incidental to the cover granted by the policy. If the revision of section 7 is carried through on the lines set forth in this Bill, the Superintendent of Insurance will be in a similar difficulty in regard to motor car insurance; although motor car insurance is clearly accident insurance business, such policies would also include fire risk cover and, therefore, I am moving this amendment to clarify the position. Sir, I move.

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

"That in part (ii) of sub-clause (a) of clause 4 of the Bill, for all the words occurring after the word 'namely', the following be substituted:

'is miscellaneous insurance only, that is to say, insurance which is not in the opinion of the Central Government principally or wholly of any kind or kinds included in clauses (a), (b), or (c).'

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar**: I accept the amendment. Sir.

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

"That in part (ii) of sub-clause (a) of clause 4 of the Bill, for all the words occurring after the word 'namely', the following be substituted:

'is miscellaneous insurance only, that is to say, insurance which is not in the opinion of the Central Government principally or wholly of any kind or kinds included in clauses (a), (b), or (c).'

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is :  
 "That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is :  
 "That clause 7 stand part of the Bill."

**Mr. T. S. S. Pillai** (Government of India: Nominated Official): Sir, I move :

"That in clause 7 of the Bill, to the proposed amendment to sub-section (3) of section 35 of the Act, the following be added :

'Provided that if the Central Government so directs in the case of any particular insurer there may be substituted respectively for the balance-sheet, report and abstract referred to in clauses (b) and (c) prepared in accordance with this sub-section certified copies of the last balance-sheet and last report and abstract prepared in accordance with sections 11 and 13, if that balance-sheet is prepared as at a date not more than twelve months, and that report and abstract as at a date not more than five years, before the date on which the application to the Court is made under this section.'

The scope of this amendment has already been explained in detail by the Honourable Member in charge of this Bill. It is simply to remove some difficulties in the way of amalgamation of the stronger and weaker insurance companies. I do not think that any more explanation is needed from me. Sir, I move.

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

"That in clause 7 of the Bill, to the proposed amendment to sub-section (3) of section 35 of the Act, the following be added :

'Provided that if the Central Government so directs in the case of any particular insurer there may be substituted respectively for the balance-sheet, report and abstract referred to in clauses (b) and (c) prepared in accordance with this sub-section certified copies of the last balance-sheet and last report and abstract prepared in accordance with sections 11 and 13, if that balance-sheet is prepared as at a date not more than twelve months, and that report and abstract as at a date not more than five years, before the date on which the application to the Court is made under this section.'

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is :  
 "That clause 7, as amended, stand part of the Bill."

The motion was adopted.

Clause 7, as amended, was added to the Bill.

Clauses 8 to 16 were added to the Bill.

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

“That clause 17 stand part of the Bill.”

**Sir George Spence** (Secretary, Legislative Department): Sir, I move :

“That in clause 17 of the Bill, sub-clause (a) be omitted, and in sub-clause (c), the words ‘or territory’ be omitted, and sub-clauses (b) and (c) be re-lettered (a) and (b), respectively.”

Sir, the Honourable the Commerce Member has already explained the purpose of this amendment, and I have nothing to add. Sir, I move.

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

“That in clause 17 of the Bill, sub-clause (a) be omitted, and in sub-clause (c), the words ‘or territory’ be omitted, and sub-clauses (b) and (c) be re-lettered (a) and (b), respectively.”

**Pandit Lakshmi Kanta Maitra** (Presidency Division: Non-Muhammaddan Rural): Sir, we have not understood the object of this amendment. Will the Honourable Member kindly explain it?

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar**: Sir, I thought my friend, the Secretary of the Legislative Department, said that I had explained it in my opening speech. Section 17 as proposed says that there should be reciprocity with reference to Insurance companies getting certain privileges under the Act as between Insurance Companies in British India and those outside British India, whether they are in Indian States in India or whether they are in any foreign countries. Representations were made to me that the Insurance companies were rather apprehensive about the reciprocity, and they wanted time to further consider the matter. I myself considered that the only basis on which reciprocity could be had with reference to those companies which are operating outside India was to give the same rights to those insurance companies where they want reciprocity treatment. But as I want this Bill to be as non-contentious as possible at this stage, I feel there are certain misapprehensions among the insurance companies with reference to what may happen if the reciprocity rights extended to companies outside India. For the present purpose, I propose to confine myself to giving this reciprocity to Insurance companies as between British India and Indian India and to exclude the question of foreign countries, whether it is Burma or Ceylon or any other country for the time being.

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

“That in clause 17 of the Bill, sub-clause (a) be omitted, and in sub-clause (c), the words ‘or territory’ be omitted, and sub-clauses (b) and (c) be re-lettered (a) and (b), respectively.”

The motion was adopted.

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

“That clause 17, as amended, stand part of the Bill.”

The motion was adopted.

Clause 17, as amended, was added to the Bill.

Clauses 18 and 19 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** Sir, I move.

“That the Bill, as amended, be passed.”

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

“That the Bill, as amended, be passed.”

The motion was adopted.

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### THE EXCESS PROFITS TAX BILL.

**The Honourable Sir Jeremy Raisman** (Finance Member): Sir, I move.

“That the amendments made by the Council of State in the Bill to impose a tax on excess profits arising out of certain businesses, be taken into consideration.”

The House has had some time in which to study these amendments. They are of a very simple character. Apart from the drafting amendments, there are only two points. One is in regard to an undertaking which I gave my friend, Mr. Aney, regarding the non-prosecution of individuals both under the Indian Penal Code and under this Act for offences in respect of the same facts. That covers amendments Nos. 4 and 5.

Then, the other point relates to amendment No. 2, which concerns the change of date in sub-clause (2) of clause 8 of the Bill. The House will remember that there was some discussion on this date, and I had already accepted the change in sub-clause (2) of this clause, when it was realised that this was a mistake and was not even in accordance with the desires of those who had represented that the change should be made. If the date had been changed in the subsequent sub-clauses, it would have become quite clear that the changed date was entirely inappropriate to the purposes of the clause. We, therefore, ceased to consider the amendments to change the date in the later sub-clauses, and we now have gone back and have put the date in sub-clause (2) which must coincide with that in the other sub-clauses—we have put it back to the 1st day of September, 1939, as it originally was in the Bill.

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

“That the amendments made by the Council of State in the Bill to impose a tax on excess profits arising out of certain businesses, be taken into consideration.”

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim): The House will now proceed to consider the amendments one by one.

Amendment No. 1 made by the Council of State. The question is:

“That the following amendment, as made by the Council of State, be concurred in:

‘In the second proviso to sub-clause (1) of clause 6, for the words “which was not in existence before” the words “which was commenced on or after” were substituted.’”

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:

'In sub-clause (2) of clause 8, for words and figures "the 1st day of January, 1940" the words and figures "the 1st day of September, 1939" were substituted.'

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:

'In the proviso to sub-clause (2) of clause 13, for the words and figures "the year 1935-36" the words and the figures "the 'previous year' as determined under section 2 of the Indian Income-tax Act, 1922, for the purpose of the income-tax assessment for the year ending on the 31st day of March, 1937" were substituted.'

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:

'In clause 16, the brackets and number "(1)" and the whole of sub-clause (2) were omitted.'

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:

'Sub-clause (2) of clause 25 was renumbered sub-clause (3) and the following was inserted as sub-clause (2), namely:

(2) No prosecution for an offence punishable under section 23 or section 24 or under the Indian Penal Code shall be instituted in respect of the same facts as those in respect of which a penalty has been imposed under this Act.'

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:

'Rules 3A, 4 and 5 of Schedule II were renumbered 4, 5 and 6 respectively.'

The motion was adopted.

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**Syed Ghulam Bhik Nairang** (East Punjab: Muhammadan): Before the House adjourns, I wish to point out that tomorrow happens to be the last Wednesday of the lunar month Safar, and this day is observed by Mussalmans as a day of great sanctity. I request that you may, with the concurrence of the House, observe tomorrow as a holiday. In case there is any objection on the score of the business for tomorrow suffering, I make the suggestion, subject to acceptance by the House and by yourself, that Saturday the 6th may be utilised in place of tomorrow.

**The Honourable Sir Muhammad Zafrullah Khan** (Leader of the House): Sir, so far as we on this side of the House are concerned, in case Saturday the 6th instant is fixed as a working day for official business, we would have no objection to tomorrow's sitting being cancelled, but, of course, we are in the hands of the House. I have no doubt you will ascertain the wishes of the House in the matter.

**Mr. M. S. Aney** (Berar: Non-Muhammadan): So far as my Party is concerned, I can say that we accept the suggestion, and, if necessary, Saturday may be fixed as a working day.

**Mr. L. C. Buss** (Nominated Non-Official): I feel I must protest against this suggestion. The programme for these last days of the Session has been in Members' hands for a very considerable time, and I do not think that it is fair to us that a suggestion like this should be put at the last moment. It is the practice for Members of my Party to make their arrangements according to the days on which business is to take place, and we find it extremely inconvenient to have the dates re-arranged in this way at the last moment. I would ask my Muslim friends if they are not at this stage prepared to reconsider the proposal which has just been made.

**Mr. President** (The Honourable Sir Abdur Rahim): So far as the Chair is concerned, the position is this. We do not hold meetings of the Assembly on days which are notified by the Chief Commissioner of Delhi as holidays applicable to the province of Delhi. So far as the Chahar Shamba is concerned, this is not one of the notified holidays, and, therefore, the Assembly Department was perfectly right in fixing a meeting of the Assembly for tomorrow. The Chair must make it clear that it has no desire to depart from the rule and practice that has hitherto obtained as regards holidays, that is to say, days on which there shall be no meetings of the Assembly. We follow the holidays which are notified as such by the Chief Commissioner of Delhi, and for very good reason, because most Members come from different parts of India and there must be some criterion by which the Assembly Department is to go. The Chair is, therefore, not inclined to extend the number of the days on which the Assembly is to sit on account of any particular festival. If there had been a general agreement in this case, the Chair should have been perfectly prepared not to have a meeting of the Assembly tomorrow, as an exceptional measure without making it a precedent for any other occasion. But there is no such agreement, and the Chair is bound to act according to the practice and rules of this House. Therefore, there must be a meeting of the Assembly tomorrow as originally arranged.

**Syed Ghulam Bhik Nairang**: In that case it is my duty on behalf of my Party to announce that we shall be unable to attend the meeting tomorrow.

**Mr. L. C. Buss**: May I just say that I asked my friends of the Muslim League Party whether they were prepared to reconsider the matter. I have not heard that they are not prepared to reconsider the matter. But if that is their position, I shall not press my suggestion.

**Mr. President** (The Honourable Sir Abdur Rahim): Well, as now there is a general agreement that the suggestion made by Syed Ghulam Bhik Nairang should be accepted, there will be no meeting of the Assembly tomorrow.

**The Honourable Sir Muhammad Zafrullah Khan:** The House will meet on Saturday the 6th, Sir.

**Some Honourable Members:** No.

**Mr. President** (The Honourable Sir Abdur Rahim): If that is generally agreed to, the House will sit on Saturday, but not if there is no general agreement . . . . .

**The Honourable Sir Muhammad Zafrullah Khan:** I submitted that we on this side would have no objection to the substitution. We would not be able to agree to tomorrow's sitting being cancelled if the 6th is not to be fixed as a working day.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair puts it again to the House, whether the Honourable Members are prepared to sit next Saturday.

**Syed Ghulam Bhik Nairang:** Yes.

**Other Honourable Members:** Yes.

**Mr. President** (The Honourable Sir Abdur Rahim): Very well. As there is general agreement on that point also, there will be a meeting of the Assembly next Saturday.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 4th April, 1940.