

7th February 1938

THE

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume I, 1938

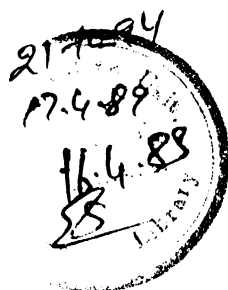
(31st January to 22nd February, 1938)

SEVENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,

1938



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1938

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A

Legislative Assembly.

President :

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

Deputy President :

MR. AKHIL CHANDRA DATTA, M.L.A.

Panel of Chairmen :

MR. S. SATYAMURTI, M.L.A.

SIR COWASJI JEHangIR, BART., K.C.I.E., O.B.E., M.L.A.

DR. SIR ZIAUDDIN AHMAD, C.I.E., M.L.A.

MR. L. C. BUSS, M.L.A.

Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistants of the Secretary :

MR. M. N. KAUL, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

Marshal :

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Petitions :

MR. AKHIL CHANDRA DATTA, M.L.A., *Chairman.*

MR. M. S. ANEY, M.L.A.

MR. M. GHIASUDDIN, M.L.A.

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

MR. L. C. BUSS, M.L.A.

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LEGISLATIVE ASSEMBLY.

Monday, 7th February, 1938.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

ACTIVITIES OF THE *FAUJI AKHBAR*.

146. ***Mr. T. S. Avinashilingam Chettiar**: Will the Defence Secretary state:

- (a) what is the amount of money that Government spend annually on the *Fauji Akhbar*;
- (b) what are the interests it serves; and
- (c) what is the actual rural reconstruction work that the army is doing?

Mr. C. M. G. Ogilvie: (a) The net annual cost to Government is about Rs. 30,000.

(b) I refer the Honourable Member to the answers given to Mr. Satyamurti's starred question No. 921 of the 30th September, 1937.

(c) I refer the Honourable Member to the answers given to parts (a), (b) and (c) of Mr. Asaf Ali's starred question No. 62, dated the 24th August, 1937.

Mr. T. S. Avinashilingam Chettiar: May I know what is the actual rural reconstruction work that they are doing, apart from merely saying that they are doing rural reconstruction work?

Mr. C. M. G. Ogilvie: I would refer the Honourable Member to the answer I gave to Mr. Satyamurti's question No. 921.

Mr. Abdul Qaiyum: May I know if this paper is not sent to most people and libraries without any payment?

Mr. C. M. G. Ogilvie: I require notice of that question.

Mr. Bhulabhai J. Desai: May I know if this paper pursues any definite policy or represents any special interest?

Mr. C. M. G. Ogilvie: I must refer the Honourable Leader of the Opposition to my answers to Mr. Satyamurti's starred question No. 921.

Mr. Bhulabhai J. Desai: It is perfectly easy to say that, but it does not convey much to me. Will you kindly read that out as part of the answer?

Mr. C. M. G. Ogilvie: I am not sure whether it is the custom to repeat the answers in such cases.

Mr. President (The Honourable Sir Abdur Rahim): When an answer has been recently given, it is not the practice to repeat it.

Mr. Bhulabhai J. Desai: The question I am asking is what particular policy this paper pursues. I am quite certain the answer is not there. It is no use saying that the answer is there. I repeat my question.

Mr. C. M. G. Ogilvie: The policy was stated thus: "To give accurate information on topics of the day. . . ."

Mr. President (The Honourable Sir Abdur Rahim): It states the policy?

Mr. C. M. G. Ogilvie: Yes. "and, as the leading journal of rural reconstruction, to support measures for the welfare of the agricultural classes. The Rule that the Defence Services are not permitted to concern themselves with party politics is fundamental and the paper in question conforms to this rule".

The supplementary questions also touch on the subject.

Mr. Lalchand Navalrai: May I know from the Honourable Member if this paper is supplied to the Central Library?

Mr. C. M. G. Ogilvie: I think so.

Mr. Lalchand Navalrai: May I also know from the Honourable Member what is the subscription to it.

Captain Sardar Sir Sher Muhammad Khan: You had better subscribe, and you will know.

Mr. Lalchand Navalrai: You subscribe for me. I would like to know also what is the number of subscribers?

Mr. C. M. G. Ogilvie: The average circulation is twelve thousand copies a week.

Mr. Abdul Qaiyum: How many of these are paid for?

Mr. C. M. G. Ogilvie: I cannot tell you that.

HOLDING OF POLITICAL MEETINGS AND FLYING OF NATIONAL FLAGS IN CANTONMENTS.

147. ***Mr. T. S. Avinashilingam Chettiar:** Will the Defence Secretary state:

- (a) in view of his answer to starred question No. 931, dated the 30th September, 1937, whether Government have finished consideration of the matter of issuing instructions to cantonments with regard to the holding of political meetings and the flying of national flags in cantonments; and
- (b) if so, to what conclusion they have come?

Mr. C. M. G. Ogilvie: (a) Yes. It is presumed that by national flags the Honourable Member means the emblems of political parties.

(b) The Government of India have not found it necessary to issue instructions. This, however, has been done by the military authorities. The position is as follows:

With regard to political meetings, there is no bar whatever against the holding of such meetings in Cantonment bazaar areas. If, however, it appears likely to the Officer Commanding the Station that speeches will be made which are intended to or are likely to sway the troops from their allegiance or to promote indiscipline among them, he may take action to exclude the speakers and organisers from the cantonment area in accordance with the provisions of section 239 of the Cantonments Act of 1924.

As regards the flying of flags of political parties, there is no objection whatever to this being done, provided that the flying or hoisting of the flags is not accompanied by ceremonies intended to imply that the flag concerned is not merely a party emblem, but has superseded the Union Jack as the national flag of India. Persons who organise or take part in such proceedings in cantonments render themselves liable to exclusion in accordance with the provisions of section 239 of the Cantonments Act.

Mr. Badri Dutt Pande: May I know if the hoisting of the national flag was banned at Lansdowne on the 26th January?

Mr. C. M. G. Ogilvie: I should require notice of that.

Mr. Abdul Qaiyum: May I know if there is any objection to troops taking part in purely election meetings?

Mr. C. M. G. Ogilvie: It depends upon the nature of the election meeting and on the circumstances of each particular case. No general answer can possibly be given to such a question.

Mr. Abdul Qaiyum: May I know if the officers and men who are voters are permitted to attend meetings organised in connection with elections to provincial assemblies and for local and municipal boards?

Mr. C. M. G. Ogilvie: That will depend upon the circumstances of each case.

Prof N. G. Ranga: Is the Honourable Member aware of the fact that the Union Jack has not been accepted by the people of India as the national flag of India?

Mr. C. M. G. Ogilvie: No, Sir.

PUBLICATION OF REPORTS BY THE RESERVE BANK OF INDIA.

148. ***Mr. T. S. Avinashilingam Chettiar:** (a) Will the Honourable the Finance Member state what reports the Reserve Bank is under a statutory obligation to publish every year?

(b) How are they brought to the knowledge of the public and made available to them?

(c) Are they sent to any persons or bodies of persons for information?

The Honourable Sir James Grigg: I would invite the Honourable Member's attention to the provisions of sub-section (2) of section 53 of the Reserve Bank of India Act.

Mr. T. S. Avinashilingam Chettiar: May I know if these reports are sent to any bodies or organisations?

The Honourable Sir James Grigg: I don't know what organisations the Honourable Member has in mind.

Mr. T. S. Avinashilingam Chettiar: To commercial or any other organisations?

The Honourable Sir James Grigg: It is published in the *Gazette of India*.

Mr. Lalchand Navalrai: May I know from the Honourable Member if any report of the Reserve Bank is published with regard to the finances spent on agriculture?

The Honourable Sir James Grigg: They publish a good many brochures on agricultural credit, I think.

Mr. Lalchand Navalrai: May I know particularly if there is any report on help to agriculture?

The Honourable Sir James Grigg: If the Honourable Member means agricultural credit, yes.

Mr. Lalchand Navalrai: Are there copies of that in the Library?

The Honourable Sir James Grigg: Copies were circulated to Honourable Members. The Honourable Member evidently does not read the literature sent to him.

Mr. Lalchand Navalrai: I certainly read, but the Honourable Member does not know himself what it was.

FUNDS IN THE HANDS OF THE CENTRAL GOVERNMENT SPENT THROUGH PROVINCIAL GOVERNMENTS.

149. ***Mr. T. S. Avinashilingam Chettiar:** (a) Will the Honourable the Finance Member state what funds are in the hands of the Central Government which have to be spent through Provincial Governments?

(b) What amount is available for being spent in each of these funds?

The Honourable Sir James Grigg: The funds to which the Honourable Member refers, and the approximate amounts available at the end of November, 1937, are as follows:

Central Road Fund 2,30 lakhs,

Rural Development Fund 1,20 lakhs,

Sugar Excise Fund 11½ lakhs.

To avoid any possibility of misunderstanding, I might say that a great part of these amounts are not free money, for they have been allocated, though not drawn.

Mr. T. S. Avinashilingam Chettiar: May I know if these funds are spent through the Provincial Governments at their discretion?

The Honourable Sir James Grigg: No, the Central Road Fund grants are made subject to conditions. The Rural Development Fund grants were made in accordance with certain prescribed conditions and subject to the general approval of the Government of India, and with regard to the sugar excise fund I think I am right in saying that the schemes were to be subject to the general approval of the Imperial Council of Agricultural Research.

Prof. N. G. Ranga: May I ask what steps the Government of India propose to take to make those Provincial Governments to whom portions of the rural development fund have been allotted spend these sums within the prescribed time?

The Honourable Sir James Grigg: I suggest, Sir, that now those circumstances have changed, the Honourable Member might himself bring pressure to bear upon the Provincial Governments.

LATEST FIGURES FOR CUSTOMS REVENUE AND INCOME-TAX.

150. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Finance Member state:

- (a) the latest figures with regard to customs revenue as compared with last year; and
- (b) the latest figures regarding the realisation of income-tax as compared with the previous years' and the last year's estimate?

The Honourable Sir James Grigg: I would refer the Honourable Member to the published statement.

Mr. T. S. Avinashilingam Chettiar: What is the latest available figure which is not published?

The Honourable Sir James Grigg: I certainly have not the slightest intention of telling the Honourable Member anything that is not published.

Prof. N. G. Ranga: May I ask if any improvement has taken place in the returns of income-tax after the appointment of the special officer for income-tax?

The Honourable Sir James Grigg: I think he might be allowed to have a little more time.

IMPORTS OF SILK GOODS AND COST OF ANTI-SMUGGLING MEASURES AT KARAIKAL AND PONDICHERRY.

151. ***Mr. K. Santhanam:** Will the Honourable the Finance Member be pleased to state:

(a) whether 180 tons of silk goods were imported into Karaikal by sea in 1937 as against 21 tons in 1936 and six tons in 1935; and

(b) the increase in cost of anti-smuggling measures in 1937 at Karaikal and Pondicherry?

Mr. A. H. Lloyd: (a) Government have no reason to believe this, but are not in possession of detailed information.

(b) Approximately Rs. 3.75 lakhs.

Mr. K. Santhanam: May I ask if the Government have called for information, or will they call for information?

Mr. A. H. Lloyd: The information unfortunately is in the possession of the authorities of a foreign Government,—the French Government—in India.

Mr. K. Santhanam: May I inform the Honourable Member that the information that has been given has been ascertained to be correct?

Mr. A. H. Lloyd: I am quite unable to accept the information given by Mr. Santhanam as correct.

GOVERNMENT CONTROL OVER THE OPERATIONS OF THE RESERVE BANK OF INDIA.

152. ***Mr. Manu Subedar:** (a) Will the Honourable the Finance Member be pleased to state what control, if any, Government exercise over the operations of the Reserve Bank?

(b) What form of consultations takes place between the Managing Governor of the Reserve Bank and the Honourable the Finance Member, and on what subjects?

(c) Since the Reserve Bank was established, has the Honourable the Finance Member intervened or remonstrated with the Reserve Bank authorities for or against the reduction of bank rate?

The Honourable Sir James Grigg: I would refer the Honourable Member to the provisions of the Reserve Bank of India Act and to the reply which I gave to question No. 478 asked by Mr. Ganga Singh on the 4th of March, 1937.

Mr. Manu Subedar: May I ask if that was not one of the circumstances which led to the resignation of Sir Osborne Smith?

Mr. President (The Honourable Sir Abdur Rahim): That question cannot be put.

CONTRIBUTION OF THE BRITISH GOVERNMENT TOWARDS THE MECHANISATION OF THE INDIAN ARMY.

153. ***Mr. Manu Subedar:** (a) Will the Defence Secretary be pleased to lay on the table the correspondence resulting in the "gift" of monetary contribution towards the mechanisation of the Indian Army from the United Kingdom?

(b) Did the Government of India ask for this gift or was it offered to them?

(c) What is the total amount of equipment, orders for which are being placed in the United Kingdom in connection with the mechanisation of the Indian Army?

(d) What is the total amount of the gift?

(e) What is the total amount of the equipment?

Mr. C. M. G. Ogilvie: (a) No, because it would not be in the public interest to do so.

(b) and (c), (d) and (e). I refer the Honourable Member to my speech of the 31st January on Mr. Avinashilingam Chettiar's adjournment motion.

Mr. Manu Subedar: May I ask if there are no figures available for the orders placed in the United Kingdom? That is the question I put in part (c). May I have an answer?

Mr. C. M. G. Ogilvie: No orders have yet been placed in the United Kingdom, and I am unable to give you the exact figure.

Mr. Manu Subedar: What is the amount of orders that are going to be placed in the United Kingdom?

Mr. C. M. G. Ogilvie: Again I cannot be more specific than on the last occasion.

Mr. President (The Honourable Sir Abdur Rahim): This matter has already been thoroughly discussed.

Mr. Abdul Qaiyum: Will a part of this money be spent in India?

Mr. President (The Honourable Sir Abdur Rahim): This matter has already been thoroughly discussed. Next question.

MEASURES FOR DEFENCE AGAINST AIR-RAIDS AND GAS ATTACKS.

154. ***Mr. Manu Subedar:** Will the Defence Secretary be pleased to state:

- (a) what special steps Government are taking to increase the number of aviation pilots in India (i) on the military side, and (ii) on the civil side, with a view to preparing for defensive operations against the menace to Indian life and property arising out of unsettled world conditions today;

- (b) whether Government have evolved any scheme for disseminating information about poison gas and the measures which should be taken by the population against such danger when it arises; and
- (c) whether Government are aware that there is a great discontent in the country that in the matter of defence the co-operation of the public is neither asked nor encouraged?

Mr. C. M. G. Ogilvie: (a) Financial considerations entirely preclude the development of a large Indian Air Force.

A scheme is, however, under consideration for the formation of a reserve of Indian pilots for the Indian Air Force, certain members of which may be drawn from civil flying clubs.

(b) The matter is at present under the consideration of the Government of India

(c) No.

GRANT OF LOANS AT NOMINAL RATE OF INTEREST ON INDIAN COTTON.

155. ***Mr. Manu Subedar:** Does the Honourable the Finance Member propose to recommend to the Reserve Bank to give loans at a low or nominal rate of interest on Indian cotton with a relatively small margin, i.e., up to Rs. 150 per candy?

The Honourable Sir James Grigg: No, Sir.

MEASURES FOR DEFENCE AGAINST AIR-RAIDS.

156. ***Mr. Govind V. Deshmukh:** (a) Will the Defence Secretary please state the measures adopted by the Government of India by way of military defence against air-raids on India by hostile nations?

(b) Do they propose to give extensive and intensive training to Indian youths for air defence? If not, why not?

Mr. C. M. G. Ogilvie: (a) I can assure the Honourable Member that the Defence Department is fully alive to the necessity of safeguarding the ports and other vulnerable points against the menace of air attack. Certain measures in that respect have already been taken, and others are projected. It would obviously be contrary to the public interest to give specific information as to the degree and nature of the defences in question.

(b) I refer the Honourable Member to the reply I have just now given to part (a) of Mr. Manu Subedar's starred question No. 154.

Mr. Lalchand Navalrai: May I know which measures have actually been taken up to now?

Mr. C. M. G. Ogilvie: I have answered that question.

Mr. Govind V. Deshmukh: May I know if the commercial pilots will be of any use or some use for purposes of military defence?

Mr. C. M. G. Ogilvie: Well, Sir, I am not an expert in the matter but I think I may inform the Honourable Member that those that can at least fly an aeroplane will complete their training, other things being equal, as R. A. F. officers, quicker than those who have never flown an aeroplane before.

Mr. Govind V. Deshmukh: If so, would more facilities be given for training commercial pilots than are at present given by the Government of India?

Mr. C. M. G. Ogilvie: I am afraid I am not the person to be asked for detailed information about the training of commercial pilots. I have no more information than I have given.

Mr. Lalchand Navalrai: May I know with regard to the measures that have hitherto been taken in this direction, what are these measures?

Mr. C. M. G. Ogilvie: I have already replied to that question. I said that it would be against the public interest to give specific information.

Mr. Lalchand Navalrai: Even with regard to what has already been done?

Mr. C. M. G. Ogilvie: Yes.

BANNING OF THE BOOK "AFTER MOTHER INDIA".

157. ***Seth Govind Das:** Will the Honourable the Home Member be pleased to state:

- (a) whether Government have examined the book "After Mother India" with a view to trace the objectionable passages contained therein;
- (b) whether Government have arrived at the decision that the book should be banned in this country; and
- (c) whether Government have banned the book, and if not, why not?

The Honourable Sir Henry Craik: (a) to (c). Government have examined the book and decided that it is unobjectionable. The book was published in 1929 and appears to have caused no excitement. No action has, therefore, been taken against it.

MEASURES FOR DEFENCE AGAINST AIR-RAIDS.

158. ***Mr. Abdul Qaiyum:** (a) Will the Honourable the Home Member please state whether any steps have been taken or are about to be taken by Government to organise a passive air defence against air-raids in India?

(b) Has any committee of experts been set up to go through the whole question and to suggest ways and means for combating the air menace?

(c) Have Government consulted the Provincial Governments in connection with the passive air defence scheme?

(d) What part or parts of India are considered most vulnerable to such attacks?

(e) What is the estimated cost on the new scheme to combat the air danger?

(f) Is it proposed to confine activities to mere passive defence or is it intended to train a large body of young Indians in India to man the Indian air arm? If not, why not?

The Honourable Sir Henry Oraig: (a), (b), (d) and (e). The subject of passive air defence has recently been examined by a Committee of representatives of the Departments of the Government of India, including the Defence Services. The report of the Committee has just been submitted but has not yet been considered by Government, and no decisions have yet been reached.

(c) Not yet.

(f) The Indian Air Force is at present expanding, and there is no present intention of accelerating or increasing the existing scheme.

†159*.

MECHANISATION OF THE INDIAN ARMY.

160. ***Mr. Abdul Qaiyum:** (a) Will the Defence Secretary please state whether any inquiry was made in India before it was decided to mechanise these units?

(b) Were any experts consulted as to whether, in view of the special conditions obtaining in India, mechanisation was desirable for this country?

Mr. C. M. G. Ogilvie: (a) and (b). Yes.

Mr. Abdul Qaiyum: May I know if the report of this Committee was in favour of mechanisation in India, taking into consideration the conditions in India?

Mr. C. M. G. Ogilvie: There was not a Committee. The Governor General in Council was advised by His Excellency the Commander-in-Chief and his staff, who were of opinion that a certain degree of mechanisation was necessary.

MECHANISATION OF THE INDIAN ARMY.

161. ***Mr. Abdul Qaiyum:** Will the Defence Secretary please state whether it is proposed to carry out mechanisation of any Indian regiment or battalion? If not, why not?

Mr. C. M. G. Ogilvie: I refer the Honourable Member to my speech of the 31st January on Mr. Avinashilingam Chettiar's adjournment motion.

Mr. President (The Honourable Sir Abdur Rahim): There was an adjournment motion on this subject which lasted for two hours.

†162*.

†This question was not put by the questioner.

REFUSAL OF PAYMENT FOR CURRENCY NOTES ON FLIMSY GROUNDS BY TREASURY OFFICERS.

163. ***Mr. Badri Dutt Pande:** Will the Honourable the Finance Member state:

- (a) whether he is aware that the Treasury Officers are refusing payment for currency notes on very flimsy grounds saying that the notes are mutilated, *e.g.*, if the notes are torn in a corner or have ink, oil or ghee marks on them;
- (b) whether he is aware that people experience great difficulty in sending the notes to the currency office for repayment as it causes much expense and delay; and
- (c) whether it is the intention of Government to issue orders to the Treasury Officers to withdraw a note which they think is soiled or mutilated?

The Honourable Sir James Grigg: No, Sir.

Mr. Badri Dutt Pande: What is the objection to treasury officers being ordered to withdraw these soiled notes?

The Honourable Sir James Grigg: That is all covered by instructions. The existing instructions are given here. I do not think additional ones are necessary.

Mr. N. M. Joshi: May I know what the present instructions are?

The Honourable Sir James Grigg: The Honourable Member will find them in article 109 of the Resource Manual, a copy of which, I understand, is in the Library.

Mr. Lalchand Navalrai: Is it the Honourable Member's reply that the treasuries do not refuse such notes or the answer is that no such notes are tendered at the treasuries?

The Honourable Sir James Grigg: Perhaps I had better read the instruction. My reply was to the effect that "Treasury officers are not refusing the payment of current notes on very flimsy grounds. The instruction is contained in the following sentences:

'Half, mutilated, mismatched or altered notes and notes disfigured by oil or other substances in such manner as to render their identification doubtful should never be received in payment of Government dues or cashed. The holder should be advised to apply to the Currency Officer of the circle to which the notes belong for instructions regarding the procedure under which the value of such notes can in some cases be recovered; or in the case of notes which bear no indication of the circle of issue, to the Currency Officer, Calcutta.'

Mr. K. Santhanam: May I know if the Government cannot enter into an arrangement with the Imperial and other Scheduled Banks to withdraw all these notes?

The Honourable Sir James Grigg: Certainly not.

STANDING FINANCE COMMITTEE.

164. ***Mr. Badri Dutt Pande:** Will the Honourable the Finance Member inform the House if Government have decided to abolish the Standing Finance Committee?

The Honourable Sir James Grigg: I would refer the Honourable Member to the reply given by me to Mr. T. S. Avinashilingam Chettiar's starred question No. 91 on the 2nd February, 1938.

Prof. N. G. Ranga: May I ask when this Committee is going to be constituted again?

The Honourable Sir James Grigg: I can only repeat what I said just now.

Mr. President (The Honourable Sir Abdur Rahim): I remember it very well: the answer was given only the other day.

RELEASE OF MAJOR CHANDAN SINGH, A PRISONER OF PESHAWAR MARTIAL LAW CASE.

165. ***Mr. Badri Dutt Pande:** With reference to the answers to starred question No. 48 of the 24th August, 1937, is it a fact that His Excellency the Commander-in-Chief was pleased to release Havildar Narayan Singh, and is the Defence Secretary in a position to state why his colleague Havildar Major Chandan Singh, the only remaining prisoner of the Peshawar Martial Law case, has not been released?

Mr. C. M. G. Ogilvie: The answer to the first part of the question is in the affirmative. With regard to the second part I refer the Honourable Member to the answer given to his starred question No. 48 on the 24th August, 1937, and to the supplementary questions and answers arising therefrom.

Mr. Badri Dutt Pande: May I ask when will this case be revised by the Commander-in-Chief again?

Mr. C. M. G. Ogilvie: I can only refer the Honourable Member to the answer which I gave to a similar supplementary question asked by himself on the last occasion when this question was raised.

Mr. Abdul Qaiyum: May I know how many Garhwali prisoners

Mr. President (The Honourable Sir Abdur Rahim): There is nothing about the Garhwal prisoners in the question.

Mr. Abdul Qaiyum: The prisoners belonged to the Garhwal Regiment

Mr. President (The Honourable Sir Abdur Rahim): The question has already been answered.

Mr. Abdul Qaiyum: How many of these prisoners are still in prison?

Mr. President (The Honourable Sir Abdur Rahim): The question relates only to two specific persons.

Mr. C. M. G. Ogilvie: One.

Mr. Mohan Lal Saksena: Have the Central Government received any representation from the Provincial Government about these prisoners?

Mr. C. M. G. Ogilvie: I have no information.

Mr. Badri Dutt Pande: Have the Provincial Government written anything to the Central Government about this prisoner?

Mr. C. M. G. Ogilvie: I have seen nothing.

Mr. Abdul Qaiyum: May I ask if the Frontier Government have very strongly written for the release of this prisoner?

Mr. C. M. G. Ogilvie: I have seen nothing.

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

BAN ON THE RETURN OF CERTAIN INDIANS TO INDIA.

166. ***Mr. Badri Dutt Pande:** Anent the interpellation in the Simla Session of the Assembly, will the Honourable the Home Member be pleased to state if Government have taken any practical steps with a view to facilitating the return of Indians now treated as exiles in foreign countries, *e.g.*, Professor Khan Khoja, Raja Mahendra Pratap, Mr. Har Dayal, Viren Chattopadhyaya and others?

The Honourable Sir Henry Craik: I would refer the Honourable Member to Mr. Maxwell's speech in the Council of State on the 15th September, 1937, and the replies given in this House on the 5th October last to starred questions Nos. 1001, 1004, 1010 and 1014 and the supplementary questions which arose therefrom. The case of Har Dayal is still under consideration, and I am not prepared at this stage to make any statement about him. None of the other persons concerned has since applied for facilities to return to India. Their cases do not, therefore, arise at present.

Mr. Abdul Qaiyum: May I ask whether Qazi Abdul Wali of Peshawar

Mr. President (The Honourable Sir Abdur Rahim): His name is not mentioned in the question.

Mr. Abdul Qaiyum: He is one of the exiles who has applied for permission to return to India.

The Honourable Sir Henry Craik: I cannot say off-hand. I must have notice.

**DECLARATION OF GURU GOBIND SINGH'S BIRTHDAY AS A CLOSED HOLIDAY
IN THE GOVERNMENT OF INDIA.**

167. ***Sardar Sant Singh:** (a) Is the Honourable the Home Member aware that year in and year out resolutions are passed by the Sikhs at Delhi, New Delhi and Simla for the grant of a closed holiday in the Government of India offices on the occasion of Guru Gobind Singh's birthday?

(b) Is he also aware that many a time this demand has been brought to the notice of Government through questions in this Assembly?

(c) Is he further aware that the demand for an increase of holidays in the Secretariat offices was recently put forward by the Imperial Secretariat Association and a holiday for Guru Gobind Singh's birthday was asked for?

(d) Is he aware that there is a feeling of resentment amongst the whole of the Government of India staff in regard to non-acceptance of the request for grant of more closed holidays?

(e) Is he aware that there are many important festivals in which members of communities other than those whose festival they are, also take part but for want of facilities they are compelled not to partake in such celebrations, and Guru Gobind Singh's birthday is one in which many Hindus also take part?

(f) Is he further aware that in view of the Railway concessions granted by the Railways during Christmas holidays, almost every member of the staff is obliged to save holidays by non-participation in certain important religious functions, etc.?

(g) Is he also aware that all the Local Governments grant holidays at the occasion of all important religious days, with a view to enabling their staff to partake freely in the celebrations of festivals?

(h) Is he prepared to sanction as many closed holidays to the Secretariat staff as are given by the Punjab or Delhi Governments?

(i) If not, does he propose to consider the desirability of observing Guru Gobind Singh's birthday as a closed holiday? If not, why not?

The Honourable Sir Henry Craik: (a) and (b). Some resolutions have been received on the subject and some questions have been asked.

(c) Yes.

(d), (e) and (f). No.

(g), (h) and (i). I would refer the Honourable Member to the replies which I gave to parts (c), (d), (f) and (g) of Seth Haji Abdoola Haroon's starred question No. 213 on the 10th February, 1936, and to the Honourable Member's own question No. 589 on the 19th February, 1936.

Sardar Sant Singh: Is the Honourable Member prepared to consider this request of the Sikh public to add this holiday to the list of holidays observed by the Government of India?

The Honourable Sir Henry Craik: I think I have already answered that.

RETIREMENT OF PERSONS FROM THE GOVERNMENT OF INDIA SECRETARIAT AND THEIR RE-EMPLOYMENT IN OTHER APPOINTMENTS.

168. ***Sardar Sant Singh:** (a) Will the Honourable the Home Member please state the names of persons who have retired from gazetted and non-gazetted ranks of the Government of India Secretariat since 1st January, 1937, their age of superannuation at the time of retirement and the extensions of service granted to each individual together with the reasons therefor?

(b) Will he also please state if any of these persons has been employed or allowed to continue in Government service after the age of superannuation, and what are the special qualifications which prompted Government in each case to resort to such action?

(c) How do Government justify the appointments of these retired persons in preference to qualified employed or unemployed men who are eligible for such appointments?

(d) Is he prepared to consider the desirability of replacing all such re-employed persons in order to afford relief to the deserving unemployed hands immediately? If not, why not?

The Honourable Sir Henry Craik: (a) and (b). I am making inquiries to ascertain what officers, gazetted and non-gazetted, have been permitted to continue in service after the age of superannuation during the calendar year 1937 in the Government of India Secretariat and the circumstances in which this has been permitted. The information will be laid on the table of the House in due course.

(c) and (d). These persons are not re-employed after retirement but are continued in service. Such continuation is permissible only on public grounds, and I would invite the Honourable Member's attention to the reply given on the 27th August, 1937, to Dr. Ziauddin Ahmad's unstarred question No. 28. It would be idle, until the number and circumstances of such extensions are known, to express any opinion as to their effect on the problem of unemployment.

EJECTION OF THE MEMBERS OF THE HOCKEY TEAM OF THE LAHORE MEDICAL COLLEGE FROM A COMPARTMENT BY BRITISH SOLDIERS AT CHARBAGH STATION ON THE EAST INDIAN RAILWAY.

169. ***Sardar Mangal Singh:** (a) Will the Defence Secretary please state whether Government are aware that members of the hockey team of the Lahore Medical College students were forcibly ejected from the railway compartment by British soldiers at Charbagh railway station, East Indian Railway, on the night of the 24th/25th December, 1937?

(b) Why were the British soldiers allowed to take the law into their own hands, and why did the railway authorities not interfere while the soldiers were throwing out the students?

(c) Has the Defence Secretary made any enquiries in this matter and with what results?

(d) What punishment has been awarded to the British soldiers, and what steps have been taken to prevent a repetition of a similar happening?

Mr. C. M. G. Ogilvie: (a) Government are aware of the incident that took place at Charbagh Railway Station on the evening of the 24th December, 1937, but it is entirely incorrect that any force was used or that any assault took place.

(b) and (c). From independent enquiries made by the railway authorities and the military authorities, it is clear that the facts are as follows:

A party of Indian regimental followers arrived by rail at the station in question and were to proceed onwards with an advance party of a British battalion that was in the process of moving from Waziristan. I might mention that the British troops had their own reserved accommodation in military coaching stock and that the whole incident centres on the accommodation of the Indian followers. On arrival of the Indian followers, they were allotted third class carriage No. 2214 by the Railway station staff. The carriage in question was standing on No. 2 platform. On its arrival on No. 7 platform it was found that it had been occupied by the Hockey team. A military officer found three students in the carriage. He explained the position to them. At first the three students who were in the carriage refused to leave but after further argument, they left the carriage of their own volition. At no stage was any force used. As the train was about to leave, the military personnel were called upon to assist in moving out the students' baggage.

(d) Does not arise.

Mr. Lalchand Navalrai: May I ask if this third class compartment was labelled as 'Reserved'?

Mr. C. M. G. Ogilvie: I cannot tell you that.

Mr. Abdul Qaiyum: May I know if this was due to the eloquence of the officer and the soldiers or to the use of force?

Mr. C. M. G. Ogilvie: I think it was due to a misunderstanding.

Mr. Badri Dutt Pande: Is it not a fact that the students were pushed out of the compartment?

Mr. C. M. G. Ogilvie: No.

Mr. Badri Dutt Pande: Were they not forcibly ejected out of the compartment?

Mr. C. M. G. Ogilvie: No.

Sardar Mangal Singh: Is it not a fact that the luggage was thrown out of the compartment by the soldiers?

Mr. C. M. G. Ogilvie: Their luggage was removed from the compartment. I do not see why the Honourable Member should presume that it was thrown out.

Sardar Mangal Singh: What is the report of the Station Police about this incident?

Mr. C. M. G. Ogilvie: The report which I have given at considerable length is drawn from the reports of the railway authorities and the military authorities.

Qasi Muhammad Ahmad Kazmi: Did the soldiers help the students only in removing the luggage or did they also help them in replacing it in another compartment?

Mr. C. M. G. Ogilvie: No. I do not think the soldiers acted as coolies, but they certainly helped them to remove it.

Mr. Badri Dutt Pande: Why could not the military have got into another compartment when the students were occupying this compartment?

Mr. C. M. G. Ogilvie: Presumably one was not available.

Sardar Mangal Singh: Are the Government aware that the Principal of the King Edward's Medical College, Lahore, wrote to the Railway authorities about this incident, and that he has not so far received any reply from the Department?

Mr. C. M. G. Ogilvie: I am entirely unable to say.

Sardar Mangal Singh: I have got a copy of that letter.

Mr. President (The Honourable Sir Abdur Rahim): The next question No. 170 which stands in the name of Mr. Abdul Qaiyum is his sixth question. The Honourable Member has exhausted his quota of five questions and so he cannot put this question.

Mr. Abdul Qaiyum: But I did not ask two questions, Sir.

Mr. President (The Honourable Sir Abdur Rahim): That does not matter. This being the Member's sixth question the answer will be laid on the table.

Mr. M. Asaf Ali: May I know your definite ruling, Sir, on this point? Supposing there are six questions in the name of one Member of which he does not ask one or two questions. Is it your ruling, Sir, that even then he could not put his sixth question?

Mr. President (The Honourable Sir Abdur Rahim): That has always been the practice. That is my interpretation of the Rule.

PERSONS AND OFFICERS KILLED OR WOUNDED AND EXPENDITURE INCURRED IN THE WAZIRISTAN CAMPAIGN.

†170. ***Mr. Abdul Qaiyum:** (a) Will the Defence Secretary please state the total number of killed and wounded among the troops in the latest Waziristan campaign?

(b) How many British officers and other ranks were killed or wounded in the above campaign?

(c) When did the last Waziristan campaign begin and when did it officially end.

† Answer to this question laid on the table, the questioner having exhausted his quota.

(d) What is the total expenditure incurred by Government in connection with this campaign? Will the Defence Secretary please state the latest available figures?

Mr. C. M. G. Ogilvie: (a) and (b): From the 25th November, 1936, to the 15th Decemehr, 1937, Government forces suffered the following casualties in the Waziristan operation:

	Killed.	Wounded.
British officers	16	24
British other ranks	27	85
Viceroy's commissioned officers	9	16
Indian other ranks	193	559
Total	245	684

(c) The operations began on the 25th November, 1936, and have not yet officially ended.

(d) Up to the end of 1937, an additional expenditure of Rs. 194 lakhs has been incurred.

SHORT NOTICE QUESTIONS AND ANSWERS.

REVISED INSTRUMENT OF ACCESSION.

Mr. K. Santhanam: Will the Honourable the Leader of the House be pleased to state if the revised Instrument of Accession has been sent to the Indian States?

The Honourable Sir Nripendra Sircar: The final revision of the Instrument of Accession is still under consideration.

Mr. Badri Dutt Pande: Did the Honourable Member take steps to read the speech of Sir C. P. Ramaswami Aiyar published in today's newspapers?

The Honourable Sir Nripendra Sircar: I have read the whole of the *Hindustan Times* today. I had nothing much to do this morning.

Mr. Bhulabhai J. Desai: Do I understand the Honourable Member to say that he must again refer to the astrologer as to when it will be sent?

The Honourable Sir Nripendra Sircar: That will be duly answered when such a question is put.

Mr. Bhulabhai J. Desai: I am putting the question now. When is it expected to be sent?

The Honourable Sir Nripendra Sircar: I regret to say that we have not yet discovered a competent astrologer.

Mr. N. M. Joshi: May I ask whether the Government of India will publish the Instrument of Accession for the information of the public in British India?

The Honourable Sir Nripendra Sircar: I cannot make any statement on that.

WORKERS' STRIKE IN THE BIRLA MILLS, DELHI.

Prof. N. G. Ranga: Will the Honourable Member for Labour be pleased to state:

- (a) whether Government are aware of the fact that the workers of the Birla Mills, Delhi, are on strike from the 24th January, 1938;
- (b) whether the Textile Labour Union had given notice to the Birla Mills management on the 17th January, on behalf of the workers of the Birla Mills, of the intention of the workers to go on strike, if the management failed to accept the twelve demands of the workers;
- (c) whether it is a fact that six active workers of the Birla Mills, who took part in the Union activities, were arrested by the Police on the 31st December, 1937;
- (d) whether it is a fact that since the 24th January to 1st February, 1938, the strikers were taking out processions and holding meetings, which were thoroughly peaceful and disciplined in character;
- (e) whether it is a fact that on the 1st February, 1938, the Police began escorting the non-strikers into the Mill, and that they took into custody three strikers who tried to persuade some non-strikers who were being so escorted; and
- (f) whether permission was asked by the Textile Labour Union to take out a procession of the strikers within New Delhi municipal limits, and if so, whether it was given?

Mr. A. G. Olow: (a) Yes. The strike began on 24th January. It became complete and merged in a lock-out by the management on 25th January. I believe there has since been a partial resumption of work.

(b) Such a letter was sent on or about that date.

(c) Six dismissed workers of the Mills who were alleged to have entered the house of the head jobber on 30th December and assaulted him and two others were prosecuted under sections 452/147 of the Indian Penal Code. They were discharged by the trying Magistrate on 31st January.

(d) The processions and meetings were peaceful except for some abuse of the proprietor of the mills and of the workers who had failed to go on strike.

(e) No. On that day four persons who were going to the mills in a tonga are said to have been assaulted by strikers and a shopkeeper who intervened is alleged to have been beaten by three strikers. He complained to the Magistrate in charge of the Sabzimandi Police Station who went to the spot and directed the shopkeeper to file a complaint if so advised. The alleged assailants were not detained.

(f) I understand that no such application was received.

Prof. N. G. Ranga: Have Government received any application from the workers for the appointment of a Conciliation Board?

Mr. A. G. Clow: No formal application under the Trades Disputes Act. The matter would be one for the Chief Commissioner.

Prof. N. G. Ranga: Is it not a fact that they sent a wire to that effect and it has been redirected to the Chief Commissioner by the Government of India?

Mr. A. G. Clow: Three telegrams were received; I have got them here with me. I do not think any of them actually suggested the appointment of a Tribunal under the Trades Disputes Act.

Prof. N. G. Ranga: Have Government offered their good offices to bring about any settlement between these two contending parties?

Mr. A. G. Clow: I think there is a later question on that subject.

Mr. N. V. Gadgil: Will the Government appoint a Conciliation Board if a formal application is made by the workers?

Mr. A. G. Clow: That is a hypothetical question.

Mr. N. M. Joshi: May I ask whether the Government of India have power to appoint a Court of Enquiry or a Board of Conciliation when application is made?

Mr. A. G. Clow: I am not quite certain of the position, but I do not think that the Government of India have any power whether application is made or not. I think the matter is one for the Chief Commissioner who alone has power to take the move.

Prof. N. G. Ranga: Are the Government aware that the workers are under the impression when they sent the wire to the Government that they have asked for the appointment of a Conciliation Board?

Mr. A. G. Clow: There is a later question on the subject.

WORKERS' STRIKE IN THE BIRLA MILLS, DELHI.

Sir Abdul Halim Ghuznavi: (a) Will the Secretary for Labour please state whether it is a fact that hunger strike is going on in Birla Mills in Delhi?

(b) When did the strike commence?

(c) When did Government get the information of such strike?

- (d) Did Government get the information from a press report?
- (e) In what papers were the details of strike published?
- (f) Did Government receive any representation from the proprietors of the Mill or from the workmen?

(g) What are the causes of the strike?

(h) What steps have Government taken to meet the situation?

Mr. A. G. Olow: (a) As I stated in reply to the preceding question a strike which merged in a lock-out is in progress in the mills. I am not aware of any hunger-strike in this connection.

(b) On the 24th January.

(c) and (d). The Chief Commissioner mentioned the matter to me on the 25th January.

(e) The press accounts that I have seen do not give any details.

(f) Requests for Government intervention were received from (i) the Secretary, Zari Workers' Union, Delhi, (ii) the Secretary, All-India Trade Union Congress Delhi, and (iii) the Textile Union, Delhi.

(g) I am informed that the immediate cause of the strike was intensive agitation by persons belonging to an organisation known as the Delhi Workers' League.

(h) The Chief Commissioner has taken the necessary steps for the protection of the public. He is keeping in touch with both sides through the Superintendent of Industries and has considered the possibility of intervening in the dispute, but does not believe that any useful steps can be taken in this direction at present.

Prof. N. G. Ranga: How many workers are involved in this strike?

Mr. A. G. Olow: Somewhere between 2,000 and 3,000.

Sir Abdul Halim Ghuznavi: Will the Honourable Member say whether he has seen in any newspaper in Delhi any mention about this strike?

Mr. A. G. Olow: I saw in the *Hindustan Times* and in the *National Call* a statement of three or four lines that a strike had occurred.

Sir Abdul Halim Ghuznavi: What was the date of publication of this statement in the Press?

Mr. A. G. Olow: It was a day or two after the strike had taken place.

Sir Abdul Halim Ghuznavi: What did the newspaper report say?

Mr. President (The Honourable Sir Abdur Rahim): I do not think it arises out of this question.

Prof. N. G. Ranga: Have Government received any representation from the workers that deductions not countenanced by the Payment of Wages Act were being made in regard to the wages paid by these workers?

Mr. A. G. Olow: I have received no such representation.

Mr. N. M. Joshi: May I ask whether the Government of India know anything about the causes of this strike?

Mr. A. G. Clow: I think this question has just been asked and answered.

Mr. N. M. Joshi: May I know what the demands of the workers are?

Mr. A. G. Clow: There was a long list of about 12 demands presented. The first one was, for instance, the withdrawal of certain criminal cases instituted against members of the Delhi Textile Labour Union who assaulted workmen.

Mr. N. V. Gadgil: What is precisely the attitude of the Government of India in regard to this matter? Are they trying to help in the solution of this or are they trying merely to maintain law and order?

Mr. A. G. Clow: If the Honourable Member is referring to the demand that I have just mentioned, I understand the men have been discharged.

Sir H. P. Mody: May I know whether the demands were presented before or after the strike?

Mr. A. G. Clow: They were presented before the strike.

Prof. N. G. Ranga: Is it a fact that these workers were discharged by the Magistrate, because the allegations made against them were found to be untrue?

Mr. A. G. Clow: I presume the allegations were not found to be proved, otherwise they would not be discharged.

Prof. N. G. Ranga: Is the Honourable Member satisfied that the police did not arrest these people on false, flimsy and insupportable grounds?

Mr. A. G. Clow: I think that contains an insinuation, and I have no reason to suppose that to be the case.

Sir Abdul Halim Ghuznavi: Will the Honourable Member specify the name of the managing agents of the Birla mills?

Mr. A. G. Clow: I think the mills are under direct proprietary control; I am not sure.

PROPOSED ORDER-IN-COUNCIL CLOSING THE KENYA HIGHLANDS TO INDIANS.

Mr. Abdul Qayyum: Will the Secretary for Education, Health and Lands please state:

- (a) whether it is a fact that an Order-in-Council has been issued, or is about to be issued, which will close the Kenya Highlands to Indians for ever;
- (b) whether Government's attention has been drawn to a recent speech of Lord Francis Scott in which the following words occur: "We will not tolerate interference from local Indians, the Government of India or anybody else on this particular question";
- (c) whether it is a fact that even non-British Europeans can purchase lands and settle in these highlands;
- (d) whether Government made any representations to the authorities concerned not to proceed with this objectionable measure; if not, why not; and

- (e) whether Government contemplate taking any steps in the form of retaliation, to force the Colonial Office to throw those Highlands open to Indian settlers?

Sir Girja Shankar Bajpai: (a) Not so far as the Government of India are aware.

(b) Government have seen a Press report that such a statement was made.

(c) Yes; but this is not a new development.

(d) and (e). In view of the answer to part (a) these do not arise.

Seth Govind Das: Is it not a fact that the commission, called the Carter Land Commission, was appointed in 1933 for the demarcation of these Highlands, and that Commission recommended that the demarcation should be made and there should be an order promulgated for reservation of these Highlands?

Sir Girja Shankar Bajpai: That may be, but the question is, whether it is a fact that an Order-in-Council has been issued or is about to be issued which will close the Kenya Highlands to Indians for ever; and my answer is, not so far as the Government of India are aware. If my Honourable friend has any information in his possession to the contrary, I am quite prepared to take up the matter.

Seth Govind Das: Will the Honourable Member take it from me, because I had just been to Kenya, that it is definitely known there that the Order-in-Council is ready to be promulgated and the executive committee of the Kenya Legislature has been appointed to go into the matter, and as soon as the report of that committee is ready and published that Order will be promulgated?

Sir Girja Shankar Bajpai: My Honourable friend is imparting information and not asking a question.

Seth Govind Das: I am asking whether Government know about it.

Sir Girja Shankar Bajpai: I have already said more than once that the Government of India are not aware that an Order-in-Council has been issued or is about to be issued which will close the Kenya Highlands to Indians for ever. My Honourable friend has given certain information. If he will kindly let me have particulars of it, I am quite prepared to look into the matter.

Seth Govind Das: And what will be the attitude of Government in that case?

Sir Girja Shankar Bajpai: That is a hypothetical question.

Seth Govind Das: Does the Honourable Member know that the present Governor of Kenya is unsympathetic towards the Indians, as has been said by Mr. Kaderbhai, the President of the East African Congress, and, therefore the Europeans in Kenya are going to take undue advantage of the Governor and this Order is going to be promulgated very soon?

Mr. President (The Honourable Sir Abdur Rahim): Order, order. That question cannot be put as it is really arguing.

MOTION FOR ADJOURNMENT.

BAN PUT BY THE GOVERNMENT OF THE PUNJAB ON PROF. N. G. RANGA, M.L.A.

Mr. President (The Honourable Sir Abdur Rahim): I have received notice of a motion of adjournment from Sardar Sant Singh who wants to discuss a definite matter of urgent public importance, namely:

"The ban put by the Government of the Punjab on Prof. N. G. Ranga, M.L.A., preventing him thereby from participating in and presiding over a public meeting in the Punjab and thus violating the privilege of an Honourable Member of this House to carry on constitutional agitation in any part of India to create and consolidate public opinion on questions of public importance".

Is that privilege confined to Members of this House or is it the privilege of every citizen to carry on political activities, subject to the laws?

Sardar Sant Singh (West Punjab: Sikh): It is no doubt the privilege of every public man in India to create and consolidate public opinion, but it is the special privilege of the chosen and elected representatives of the people to create public opinion.

Mr. President (The Honourable Sir Abdur Rahim): The next point is that the Honourable Member knows very well that no question of privilege can be discussed on an adjournment motion. I had occasion to give rulings previously on this point and in consequence of that, Government tried to bring forward a Resolution or an amendment to the Standing Orders, but nothing has been done so far. At any rate the matter stands as I pointed out in my ruling. This motion is disallowed.

Sardar Sant Singh: Sir, before you go on to the next item, I beg to submit that I gave notice of one other motion.

Mr. President (The Honourable Sir Abdur Rahim): That motion is not on the agenda paper and cannot be moved.

Mr. M. Asaf Ali (Delhi: General): Sir, may I submit . . .

Mr. President (The Honourable Sir Abdur Rahim): No, we will take up the next item now.

ELECTION OF MEMBERS TO THE PUBLIC ACCOUNTS COMMITTEE.

The Honourable Sir James Grigg (Finance Member): Sir, I beg to move:

"That the non-official members of the Assembly do proceed to elect, in the manner required by rule 51 of the Indian Legislative Rules, eight members to be members of the Committee on Public Accounts."

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

"That the non-official members of the Assembly do proceed to elect, in the manner required by rule 51 of the Indian Legislative Rules, eight members to be members of the Committee on Public Accounts."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): I may inform Honourable Members that for the purpose of election of Members to the Committee on Public Accounts the Notice Office will be open to receive nominations upto 12 noon on Thursday, the 10th February, 1938, and that the election, if necessary, will be held in the Assistant Secretary's Room in the Council House, New Delhi, between the hours of 10-30 A.M. and 1 P.M. on Thursday, the 17th February, 1938.

THE CONTROL OF COASTAL TRAFFIC OF INDIA BILL.

APPOINTMENT OF CERTAIN MEMBERS TO THE SELECT COMMITTEES.

Sir Abdul Halim Ghuznavi (Dacca cum Mymensingh: Muhammadan Rural): Sir, I beg to move:

"That Mr. C. C. Miller and Sir Muhammad Yamin Khan be appointed to the Select Committee on the Bill to control the Coastal Traffic of India in place of the Honourable Sir Muhammad Yakub and Sir Leslie Hudson."

With your permission, I want to add also the name of Mr. S. C. Sen who will certainly be very helpful on the Committee.

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

"That Mr. C. C. Miller and Sir Muhammad Yamin Khan be appointed to the Select Committee on the Bill to control the Coastal Traffic of India in place of the Honourable Sir Muhammad Yakub and Sir Leslie Hudson, and that Mr. S. C. Sen be added to the Committee."

Mr. F. E. James (Madras: European): Before you put that question, Sir, may I draw attention to one matter? I do not want to take objection to this motion, but it has been the custom of this House in the past to accept a motion of this kind, without any discussion by agreement only when it seeks to substitute names for those who might have resigned or might not have been able to be on the Committee for some reason or other. I see, however, that the Honourable Member has added a fresh name.

Mr. President (The Honourable Sir Abdur Rahim): That is so. The Honourable the Mover ought to have mentioned this specifically; and I would then have asked the permission of the House to add a new name. I have now put the names to the House. If there is any objection, it may be taken. The question is:

"That Mr. C. C. Miller and Sir Muhammad Yamin Khan be appointed to the Select Committee on the Bill to control the Coastal Traffic of India in place of the Honourable Sir Muhammad Yakub and Sir Leslie Hudson, and that Mr. S. C. Sen be added to the Committee."

The motion was adopted.

THE DESTRUCTIVE INSECTS AND PESTS (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim): Further consideration of the Bill further to amend the Destructive Insects and Pests Act, 1914, for certain purposes.

Mr. Sami Vencatachelum Chetty (Madras: Indian Commerce): **Mr. I**
move:

"That in clause 2 of the Bill, for the word 'extension' the word 'transport' be substituted."

It was with some hesitation that I tabled this amendment having regard to the vast knowledge of English of the Government of India, but still I think that the word "extension" is inexplicable, and I would suggest that the word "transport" be substituted for that word.

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands) I accept that.

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

"That in clause 2 of the Bill, for the word 'extension' the word 'transport' be substituted."

The motion was adopted.

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

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. Sami Vencatachelum Chetty: Sir, I move:

"That for sub-clause (a) of clause 4 of the Bill the following be substituted: '(a) in sub-section (1) after the word 'articles' the words 'or of insects generally or any class of insects' shall be inserted; and'"

I take it, Sir, that the intention of the Government is to prohibit such insects or class of insects likely to affect the crops. If that be so, these words must be transposed in the way I have suggested. Otherwise, perhaps, the amendment is out of order. I should like to know the view of the Government in this matter.

Sir Girja Shankar Bajpai: Sir, the position is that my Honourable friend's assumption is not correct. We do not want to limit our power of regulation only to insects and pests which cause infection.

Mr. Sami Vencatachelum Chetty: Then I beg leave to withdraw this amendment.

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member the leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

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

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Mr. Sami Vencatachalam Chetty: Sir, I move—

"That in clause 5 of the Bill, at the end of the proposed section 4A the following be added :

'and a Provincial Government may by like notification in its Official Gazette prohibit or regulate subject to such conditions as that Government may impose, the export or transport from any place to any other place within the province of any article or class of articles or of insects generally or any class of insects likely to cause infection to any crop.'"

The object of my moving this amendment is to give the Provincial Government authority to regulate the transport of such insects or such articles which are likely to cause infection to any crop from place to place within the province. This might perhaps be considered in any legislation which may have to be passed by the Provincial Governments.

Sir Girja Shankar Bajpai: I would like to raise a point of order with regard to that. We are legislating by virtue of an entry in list III, i.e., an entry with regard to Concurrent Subjects. What my Honourable friend is proposing is that we should legislate with regard to what is exclusively within the jurisdiction of a Provincial Government. I think that that is not in order.

Mr. President (The Honourable Sir Abdur Rahim): What is that point?

Sir Girja Shankar Bajpai: What we are trying to do by this legislation is to prevent the movement of an infected article or insect or pest from one province to another, or from one province to any part outside India. What my Honourable friend is suggesting is that we should now legislate to regulate the movement of this particular class of article or insect within the province itself.

Mr. Sami Vencatachalam Chetty: I do not want to say anything on the point of order: if you allow the motion to be made, I shall discuss the merits.

Mr. President (The Honourable Sir Abdur Rahim): This raises the old question as to whether it is a point of order and whether it is for the Chair to give a ruling

Sir Girja Shankar Bajpai: I do not wish to press my point of order. What I really wanted to convey was that this is a thing which ought to be left to Provincial Governments to regulate by their own legislation or order: it is not a thing which we can deal with: the scope of the Bill is limited to movement of these things from one province to another province, and not within the same province.

Mr. Sami Vencatachalam Chetty: If that is so, I beg leave to withdraw my amendment.

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member the leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Mr. Sami Vencatachelam Chetty: Sir, I move:

"That in clause 5 of the Bill, to the proposed section 4C. the following proviso be added:

'Provided that such Indian State prohibits the export to British India of any article or insect which has been declared to be a pest by the Central Government'."

Sir, according to the Bill, the onus of declaring an article or insect to be a pest rests more with the Central Government in return for a similar notification by the Indian States and not *vice versa*. Unless some reciprocity at least in this matter is established, I don't see why the Central Government alone should be charged with this responsibility. I would, therefore, request the Honourable Member in charge to consider the necessity of making the Indian States issue a similar notification when the Central Government notifies to that effect.

Sir Girja Shankar Bajpai: Sir, I beg to submit for the consideration of my Honourable friend that it is not really necessary to move this amendment, for the very simple reason that we already have power under the existing Act to prevent the entry into any part of British India of anything which we consider is likely to cause infection to any crop, and my friend may take it from me that if an Indian State has an insect or pest or any article which has been declared to be dangerous, and tries to export it to British India, the Government of India will not invoke the provisions of section 4C, unless the Indian State is prepared to give us its co-operation.

Mr. Sami Vencatachelam Chetty: It is not quite a satisfactory explanation.

Mr. President (The Honourable Sir Abdur Rahim): Do you mean the reply is not very happily worded.

Mr. Sami Vencatachelam Chetty: Yes.

Sir Girja Shankar Bajpai: Sir, if you will permit me, I wish to suggest a substituted amendment in this form:

"Provided that such Indian State prohibits the export to British India of any article or insect or class of insect, the import of which into British India has been prohibited by the Central Government."

Mr. President (The Honourable Sir Abdur Rahim): Won't it serve the Honourable Member's purpose? You want to prevent pest from being transported to another place. Perhaps the proviso suggested by the Honourable Member will meet his case.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, the only point for consideration is if somebody exports a pest from an Indian State to British India, unless the State prohibits it, the exporter will not be punished. Of course, it is open to the Government of India to prevent the export of pest from an Indian State to British India. It can only catch it on the border. What we want is that when the Government of India have power to punish every exporter who exports an insect or pest to the States, the Indian States should also have a similar power to punish those who will export pests from their States to British India. Whenever the Government of India issues a notification preventing

the entry into British India from an Indian State of any infectious insect, we want that the Indian State concerned should also issue a similar notification, and then only the object of this measure can be easily secured. I don't see why the Government should have any objection to this.

Sir Girja Shankar Bajpai: Sir, I can only repeat what I said before, namely, that it is not necessary in the opinion of the Government of India to have such a provision. At the same time, if my friends feel very strongly about this and the discussion is likely to be prolonged, I am quite prepared, in order to cut short the discussion, to accept the motion with certain verbal amendment. I shall again read out the words:

"Provided that such Indian State prohibits the export to British India of any article or insect or class of insect, the import of which into British India has been prohibited by the Central Government."

If my friend will adopt those words, I have no objection to the amendment.

Mr. Sami Vencatachelum Chetty: Most willingly.

Mr. President (The Honourable Sir Abdur Rahim): You had better then withdrawn the other.

Mr. Sami Vencatachelum Chetty: Yes, Sir, I withdraw my amendment.

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member the leave of the House to withdraw his amendment?

Several Honourable Members: Yes.

The amendment was, by leave of the Assembly withdrawn.

Mr. Sami Vencatachelum Chetty: I move:

"That in clause 5 of the Bill, to the proposed section 4C, the following proviso be added:

"Provided that such Indian State prohibits the export to British India of any article or insect or class of insect, the import of which into British India has been prohibited by the Central Government."

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

"That in clause 5 of the Bill, to the proposed section 4C, the following proviso be added:

"Provided that such Indian State prohibits the export to British India of any article or insect or class of insect, the import of which into British India has been prohibited by the Central Government."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): I think that finishes all the amendments to clause 5.

Prof. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadan Rural): Sir, I have got an amendment No. 9 printed on the list which was circularised on the 1st of February, and I don't know why it is not found in the list today.

Sir Girja Shankar Bajpai: My friend moved it, Sir, and it was adopted.

Prof. N. G. Ranga: There was so much confusion on that day that I don't remember it.

Mr. President (The Honourable Sir Abdur Rahim): You had enough time to find out what had happened. The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6 was added to the Bill.

Mr. N. V. Gadgil (Bombay Central Division: Non-Muhammadian Rural): Sir, I move:

"That in clause 7 of the Bill, in the proposed section 5A, after the words 'Any person who' the word 'knowingly' be inserted."

Sir Girja Shankar Bajpai: I accept it.

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

"That in clause 7 of the Bill, in the proposed section 5A, after the words 'Any person who' the word 'knowingly' be inserted."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): No. 12, I think it has been covered by No. 11.

Mr. Sami Vencatachalam Chetty: Sir, I move:

"That in clause 7 of the Bill, in the proposed section 5A the words 'or exports or attempts to export from British India to an Indian State any article or insect' be omitted."

The object is obvious.

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

"That in clause 7 of the Bill, in the proposed section 5A the words 'or exports or attempts to export from British India to an Indian State any article or insect' be omitted."

Sir Girja Shankar Bajpai: I do not see how it is obvious. It was to have been consequential on the omission of clause 4C, which has not happened.

Mr. Sami Vencatachalam Chetty: I beg leave to withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Prof. N. G. Ranga: Sir, I move:

"That in clause 7 of the Bill, in the proposed section 5A for the words 'five hundred' the words 'two hundred and fifty' be substituted."

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

"That in clause 7 of the Bill, in the proposed section 5A for the words 'five hundred' the words 'two hundred and fifty' be substituted."

Sir Girja Shankar Bajpai: I accept it.

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

"That in clause 7 of the Bill, in the proposed section 5A for the words 'five hundred' the words 'two hundred and fifty' be substituted."

The motion was adopted.

Mr. Sami Vencatachelam Chetty: Sir, I move:

"That in clause 7 of the Bill, in the proposed section 5A the words 'with imprisonment which may extend to three months, or' be omitted."

It seems to be unnecessary to restrict the liberty of a person for an offence of this sort. I, therefore, want to dispense with the punishment of imprisonment. Sir, I move.

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

"That in clause 7 of the Bill, in the proposed section 5A the words 'with imprisonment which may extend to three months, or' be omitted."

Sir Girja Shankar Bajpai: I accept that.

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

"That in clause 7 of the Bill, in the proposed section 5A the words 'with imprisonment which may extend to three months, or' be omitted."

The motion was adopted.

Prof. N. G. Ranga: Sir I move:

"That in clause 7 of the Bill, in the proposed section 5A for the words 'two thousand' the words 'one thousand' be substituted."

We have considered this very carefully and come to the conclusion that it is not fair to allow an ordinary peasant or small trader to be fined up to two thousand even for a second offence. It is really too much of a jump from 250 to 2,000, once a man progresses from the first offence to the second offence. Therefore, I suggest that the Honourable Member in charge of the Bill will be well advised to accept our suggestion. Sir, I move.

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

"That in clause 7 of the Bill, in the proposed section 5A for the words 'two thousand' the words 'one thousand' be substituted."

Sir Girja Shankar Bajpai: My Honourable friend seems to think that because I am prepared to go with him some way, I shall be prepared to accept anything. I would not accept this particular amendment of my Honourable friend. We have gone as far as we could. To cut out imprisonment altogether is as far as we can go.

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

"That in clause 7 of the Bill, in the proposed section 5A for the words 'two thousand' the words 'one thousand' be substituted."

The motion was negatived.

Mr. Sami Vencatchelam Chetty: Sir, I move:

"That in clause 7 of the Bill, in the proposed section 5A the words 'or with both' be omitted."

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

"That in clause 7 of the Bill, in the proposed section 5A the words 'or with both' be omitted."

The motion was adopted.

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

Mr. G. H. Spence (Secretary, Legislative Department): Sir I move:

"That in clause 1, of the Bill, for the figures '1937' the figures '1938' be substituted."

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

"That in clause 1, of the Bill, for the figures '1937' the figures '1938' be substituted."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

Sir Girja Shankar Bajpai: 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.

THE COMMERCIAL DOCUMENTS EVIDENCE BILL.

Mr. J. A. Thorne (Government of India, Nominated Official): Sir, I beg to move:

"That the Bill to amend the Law of Evidence with respect to certain commercial documents be referred to a Select Committee consisting of Mr. Govind V. Deshmukh, Mr. N. C. Chunder, Sardar Sant Singh, Khan Bahadur Muhammad Anwar-ul-Azim, Rai Bahadur Seth Bhagchand Soni, Mr. F. E. James, Mr. E. Conran-Smith, Mr. H. Dow, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

I fear this Bill is not a very exciting measure but it is one of real importance. Whatever the merits of our judicial system in India, it has been recognised that procedure is often subject to serious delays; and therefore any measure which is calculated to remove the causes of delay must be of real benefit to a considerable number of people. I will briefly remind the House of the genesis of this Bill. In 1926, a long time ago, the Bombay High Court pointed out that their efforts to improve the procedure

relating to commercial causes so as to ensure a better and speedier disposal had met with one obstacle which could be removed only by legislation. This related to the difficulties placed by the existing law in the way of using documents which by the practice of merchants are accepted as evidence and taken as *prima facie* correct but which in a Court of Law cannot (without the consent of the parties) be admitted in evidence without testimony both as to their genuineness and as to the correctness of the statements made therein. The High Court quoted specific instances arising in that Court of great expense and delay caused by parties, who, in order to give trouble, insisted on the other side getting commissions issued, sometimes to foreign countries, to take evidence as to facts which for all practical purposes are sufficiently established by the documents themselves. The High Court also referred to the remarks made in the report of the Indian Civil Judicial Committee, which spoke of the practice in India of a party insisting on the production of unnecessary evidence and putting the other side to the trouble of proving matters which in England would be admitted as a matter of course. The Bombay High Court said that this difficulty had in England been surmounted by legislation, and they suggested that similar legislation should be introduced in India. That suggestion was put, I think ten years ago, in 1927, to Local Governments and the other High Courts and Bar Associations and to the Mercantile Associations, and the suggestion in its general form was accepted. Then came the drafting of the Bill and that was a comparatively simple matter. But the preparation of the Schedule, which contained the documents to be specified, proved to be a long and laborious task. The Honourable the Home Member explained a year ago, when moving for circulation of the Bill, that we do not claim any finality for the Schedule in its present form, though a great deal of pains had been given to its preparation and to consultation in the course of its preparation with the various bodies and associations which would be primarily interested in it.

The motion for circulation was adopted last March, and Honourable Members now have before them the collected opinions. I have been through those opinions and I think I am right in saying that they are practically unanimous in accepting the need for legislation and approving the general lines of our Bill. That, I suggest, is enough for our present purpose. There are some criticisms in these opinions of the substantive clauses. For instance, some opinions consider the effect of clause 3 to be too sweeping. Clause 3 relates to the presumption as to genuineness of documents, and some people consider that the absolute presumption of genuineness goes too far and should be modified. Then there are opinions criticising clause 4, which gives the Governor General in Council power to add to or remove from the Schedule any document by notification in the Gazette of India. Some people think that that power should be qualified; for instance, it has been suggested that any intention to amend the Schedule should be notified first and objections called for and any amendments should be made only after those objections are received and considered. Well, Sir, those are points that can and will be considered in the Select Committee if my motion is passed. But naturally it is this long Schedule of forty three items which has come in for most criticism. Some people want to exclude some of the items, others have suggestions as to other items which ought to be included. These suggestions will be found of great value, and I have no doubt that the Committee will give careful attention to them when it comes to the detailed examination of the Schedule.

[Mr. J. A. Thorne.]

Sir, I think I am justified in speaking of this Bill as one which is recognized throughout India as a useful, and I might almost say a necessary, measure, and all that remains is to get it settled, subject to the verdict of this House, in Select Committee. Sir, I move.

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

"That the Bill to amend the Law of Evidence with respect to certain commercial documents be referred to a Select Committee consisting of Mr. Govind V. Deshmukh, Mr. N. C. Chunder, Sardar Sant Singh, Khan Bahadur Muhammad Anwar-ul-Azim, Rai Bahadur Seth Bhagchand Soni, Mr. F. E. James, Mr. E. Conran-Smith, Mr. H. Dow, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Urban): Sir, this measure has been generally welcomed by the commercial bodies as well as by the Courts, but in respect of the list that is to be attached to the Schedule there is bound to be some difference. It is good to bear one thing in mind, *viz.*, that this list should be confined to only such documents as are issued either by a public authority or such other concerns of a public nature as a Port Trust, a Chamber of Commerce, etc. Certain other things which have been included in this list have been objected to among the "opinions". As regards items 33 and 34—bills of exchange and bank drafts, etc., which are drawn by private bodies—to give them the respect and the consideration which documents kept by public bodies are entitled to is, in the opinion of some people, rather too much. I need not say much about these items, for I hope and am confident that they will be examined very carefully in Select Committee before being added on to the list; but one thing to which I would like to call attention is clause 4, which lays down that:

"The Governor General in Council may, by notification in the Gazette of India, direct that any document shall be added to or removed from the Schedule; and upon such direction being made the Schedule shall be deemed to be amended accordingly."

Over this matter there is a very considerable difference of opinion and very rightly to my mind. Sir, even the European Association in Calcutta, which usually has any amount of faith in the Government of India, says this on page 5 of the "Opinions":

"This Association is in favour of the Bill. It is suggested, however, that in connection with Clause 4, 'Power of the Governor General to alter schedule', it would appear from Sir Henry Craik's speech in introducing the Bill that the compilation of the schedule required extreme care and it would therefore appear advisable that powers of deletion and powers of addition (particularly the former) should be subject to some control, *e.g.*, prior consultation with the Chambers of Commerce just as a rule made under a particular Act is first circulated."

But more than this, the Bar Association of Akola, in my opinion raises a very important point which is supported, if I may say so, by the very authoritative opinion of the Advocate General of the Punjab. As regards clause 4 the Bar Association says:

"This Association is on principle against conferring legislative powers on the Governor General in Council. The common procedure of amending the Act by amending Acts should suffice. The latter method ensures that chances will be made after complete deliberation and after the public have had full opportunity to discuss the matter."

The Advocate-General, Punjab, goes a step further and says:

"The third point of criticism is that the fourth clause of the Bill conferring power on the Governor General to alter the schedule by notification appears to me to be *ultra vires*. The fourth clause delegates legislative functions to the executive and this procedure appears to me to be opposed to principle. Amendments to the schedule can only be made in the ordinary manner by legislation and not by notification."

I am not a lawyer enough to go into these matters and to say whether this section is really *ultra vires* or not, but I am confident when I say that the inclusion or the exclusion of a particular document from the Schedule is a very important matter and if it is to be done by means of a Notification, then it is not fair to the commercial community. I submit that the ordinary process by which amendments are made to Acts which is being done every day, should be followed here also. It will not take much time to formulate a matter like this and it can easily be done by legislation. So, I would suggest to the Select Committee to go into the matter and delete this clause. I support the motion.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I have only one point to add to the remarks of the Honourable the Mover and my friend who spoke just before me. It is that this Bill does not contain any clause for reciprocity. Many of the items in the Schedule provide for the recognition of the documents issued by foreign Chambers of Commerce, Port Trusts, etc. In such cases we should insist that similar certificates of Indian authorities be recognised in those countries. It may be that unilateral recognition will assist our merchants, still it is a matter of vital political importance that even in minor matters we should insist on complete reciprocity. Otherwise our merchants trading with those countries will be put to a lot of difficulty. So, I suggest that the Select Committee should go into each item of the Schedule with the view to find out whether similar documents of Indian authorities are recognised in the Courts of foreign countries as evidence, and if they are not, the Government of India should negotiate with those Governments for the recognition of those documents as evidence in their Courts in the same way as they are recognised by the Indian Courts.

With reference to clause 4, there is certainly a legitimate objection, but it might be that the procedure of legislation may prove dilatory and it may be necessary in order to avoid litigation to alter the Schedule by notification. In all such cases I suggest that a provision might be made to take the sanction of the Legislature by means of a Resolution or some such process. Subject to this condition, clause 4 might be of some advantage for getting the Schedule altered by a simple method. I commend these suggestions to the consideration of the Select Committee and I support the motion.

Mr. M. S. Aney (Berar: Non-Muhammadan): Sir, I rise to support the motion of my Honourable friend, the Member in charge of the Bill. The only two points on which I wanted to make some observations are already touched by my friends, Mr. Chettiar and Mr. Santhanam. As regards the point which Mr. Santhanam has made, I desire to observe that this Bill is being brought with a view to prevent delay required for the sake of proving certain kinds of documents. There is some force in the point urged by my Honourable friend that while giving recognition to certain documents of foreign nations, we must try to see that our documents are also recognised by them in the laws under which evidence is being recorded

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in their Courts. That is a good point for the Government of India to consider, but in the meantime I will say this that if we really find that a judicial inquiry in our own Courts is being hampered for want of a proof of certain documents which, on the face of it, can be accepted without detriment to the administration of justice, then I do not think we need allow this clause to remain pending till any such inquiry is made by the Government of India and any tangible results are arrived at. We can proceed with the passing of a clause like this and at the same time make a suggestion to the Government of India to see whether the documents of the same type made in India are recognised by the foreign Courts. It is in that light that I want the Government of India to consider the point raised by my friend, Mr. Santhanam.

As regards clause 4, it is true that Schedules are enacted as part of the Act itself, and if no clause of the Act can be amended by the Governor General in Council without consulting this House, the Schedule also cannot be touched by the Governor General in Council. I do not know how far it is wise to delegate a power like that to the executive authority. We are not legislating for today but also for tomorrow when probably the constitution of this House might be changed, and we do not know whether in that case it will be desirable for us to allow the Schedule of this Act to be a variable factor according to the discretion of the Governor General in Council. I am quite sure in a matter of this kind I cannot apprehend much danger because there is no point for the Governor General in Council to add any more documents or to take out any more documents even from a political point of view. Yet, so far as the rights of the House are concerned, it is a matter to which we ought not to be indifferent even for the sake of convenience. Therefore, if we cannot bring in for some reason a measure of amendment regularly before this House, there must be some method for getting the legislative sanction for that amendment. The Governor General in Council may deem it necessary to make an amendment in his own discretion and the proper method for doing it in my opinion would be to submit that amendment for the consideration of this House when it meets immediately after the amendment has been made. If some such change be made in the Select Committee or the section be re-drafted with a view to incorporate this suggestion into the Act, I believe the objection which my Honourable friend, Mr. Chettiar, has raised may be met. That is how I feel about the Bill. Otherwise, I think it to be a very useful measure and will help to expedite the administration of justice. I, therefore, support the motion.

Mr. Abdul Qaiyum (North-West Frontier Province: General): Sir, I rise to support the motion for the reference of this Bill to a Select Committee. This measure has been long overdue, and it is really surprising how long the Government of India takes to move in certain directions. I have one or two things to say in connection with the present measure. There is no doubt that the number of items included in the schedule constitute a formidable list, but I still think that the list is not as far-reaching as I would like it to be. There is no doubt that owing to the defects in the law of evidence it is very difficult for parties to prove very ordinary documents, and as a result of this defect, civil litigation has become very expensive. There is also one other fact to be considered. Unless radical amendments are made in the Schedule and many more items are included

in it, the parties bent on prolonging the case will have ample scope of giving vent to their talent. Sir, I would suggest once more to the Select Committee which is being set up to go into this question, to include many more items into this Schedule, with a view to make litigation cheaper and to make the duration of these civil cases as short as possible.

There is one thing, however, to which I should like to draw pointed attention of the Select Committee and that has been commented upon by one or two Honourable Members before me. It is this that clause 4 constitutes a novel departure in legislation. Hitherto we know that the Government have been very anxious about their rule-making power. But the fertile brains of its draftsmen have now invented a new thing namely to invite this House to delegate future legislation as far as the Evidence Act is concerned to the Government. This is an invitation to this House to abdicate its powers which I seriously think that this House is not in a mood to do. I would strongly suggest to the Select Committee to remove clause 4 from this Bill because it is a very dangerous precedent to set up. It would be quite easy for the Government to come to this House and to move that further items should be included in this Schedule, or to make any other suitable amendments in the law of evidence—which is very very old, because it was passed in 1872 and not many amendments have been effected in that Act. There is no doubt that the law of evidence in many respects has become obsolete, and it is not keeping pace with the changes which have taken place since it was enacted. The Government deserve to be congratulated on taking this step which has been long overdue. But I would strongly suggest that many more items should be included in this Schedule because unless this is done litigation would continue to be a very hazardous game. With these words, Sir, I support the motion.

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

"That the Bill to amend the Law of Evidence with respect to certain commercial documents be referred to a Select Committee consisting of Mr. Govind V. Deshmukh, Mr. N. C. Chunder, Sardar Sant Singh, Khan Bahadur Muhammad Anwar-ul-Azim, Rai Bahadur Seth Bhagchand Soni, Mr. F. E. James, Mr. E. Conran-Smith, Mr. H. Dow, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE DANGEROUS DRUGS (AMENDMENT) BILL.

Mr. A. H. Lloyd (Government of India: Nominated Official): Sir, I beg to move:

"That the Bill further to amend the Dangerous Drugs Act, 1930, for a certain purpose, be taken into consideration."

Sir, in order to explain this small measure, I have to take the House back to the Dangerous Drugs Convention, which is the name generally applied to the Convention that was signed in 1925 at the end of the International Conference which was held in Geneva in that year to consider further measures to carry out the objects aimed at by the International Opium Convention signed at the Hague in 1912 and to complete and strengthen the provisions of that Convention. The Dangerous Drugs Convention was ratified on behalf of India in the year

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after it was signed. One Chapter of that Convention deals with control of international trade and that contains an Article, Article 15, the first paragraph of which lays down that no consignment of any of the substances covered by the Convention which is exported from one country to another country shall be permitted to pass through a third country, whether or not removed from the ship or conveyance in which it is being conveyed, unless a copy of the export authorisation or other necessary documents which accompanied the consignment is produced before the competent authorities of the third country.

Now, looking at that from the point of view of India as the third country, we found on examining our law that we were fully armed to deal with any consignments of the nature described with one single exception. That was the case of goods carried by steamers which entered a port in British India, but did not propose to discharge the goods in the port but only to carry them forward, to the further destination. Even in such a case we found that we could deal with the matter if the consignment was not manifested because the ordinary Sea Customs law gives us the power to confiscate any unmanifested cargo. There did, however, remain one possibility, an unlikely one as we thought, of the ship openly carrying an unauthorised consignment of dangerous drugs and manifesting them as part of the cargo to be retained on board on arrival in British India port and in that case, we found, as the law stood hitherto, that we should have no power to confiscate the goods. This depends upon the interpretation of the expression used in the Dangerous Drugs Act 'bringing into British India' as not covering the case of goods only brought in to the limits of British Indian port but retained upon the ship in which they are carried. Legal opinion held the view that it was, to say the least, extremely doubtful whether such goods could be held to have been brought into British India for the purpose of the law. We thought that, for reasons which I have given, that point was not likely to be of practical importance. We had to reconsider the matter recently because we heard of a ship that was expected to call in a British Indian port which was carrying from one destination outside India to another destination outside India a cargo of opium which it was suspected had not been covered by the proper authorisation prescribed in the International Convention. As it turned out, that particular ship did not call at any British Indian port, but the case drew our attention once again to the subject of this small omission in our armoury for enforcing, our international obligations, and so we decided to remove all doubt in case another incident should occur and a ship should really arrive in a British Indian port, by asking this House to agree to the insertion in the Dangerous Drugs Act the addition which appears in clause 2 of the Bill. Sir, I move.

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

"That the Bill further to amend the Dangerous Drugs Act, 1930, for a certain purpose, be taken into consideration."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): Clause 2.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadian Rural): Sir, I move:

"That in clause 2 of the Bill, for all the words beginning with the words 'and includes' and ending with the words 'is being carried' the following be substituted :

'and includes bringing on board a ship or in a conveyance into any port or place in British India'."

Sir, I suggest that my amendment carries out the intention of the Bill much more simply and much more correctly than the clause as given in the Bill. The clause as drafted in the Bill is an addition to the definition of 'Import into British India' as it is given in the Dangerous Drugs Act. Sir, 'imported into British India' as now defined, means subject to the provisions of clause (j) to bring into British India by land or sea or air. Now the words "dangerous drug" mentioned in clause 2 would have no meaning in a mere definition of "importing into British India", and also the expression "intended to be taken out of British India" is bound to create further complications. Suppose a dangerous drug is on board a ship and is not intended to be taken out but is intended to be used in the ship itself. Then it cannot be said that it is intended to be taken out of British India. This will create further complications. My amendment covers all cases in which such drug is brought anywhere near British India. Sir, I move.

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

"That in clause 2 of the Bill, for all the words beginning with the words 'and includes' and ending with the words 'is being carried' the following be substituted :

'and includes bringing on board a ship or in a conveyance into any port or place in British India'."

Mr. A. H. Lloyd: Sir, the Honourable Member who moved this amendment is quite right in making it clear that our idea is absolutely identical, but, I am afraid, I cannot accept the amendment for reasons that I will try to explain. I have already said in my earlier speech that we can conceive of no circumstances in which goods could be brought into a port in British India without falling within the scope of our existing law, unless they were being retained on board the ship with a view to being carried again out of British India. The same certainly applies to goods brought by conveyance by land. It seems to me to be quite unthinkable that it could be held, if a motor car arriving (say) at the Afghan frontier had a consignment of dangerous drugs intended for French India, that the process of transport did not include bringing into British India which would fall within the purview of the Dangerous Drugs Act as it already exists. For this reason I consider that the drafting of the amendment which is designed to cover all classes of cases and not simply the specific class of goods referred to in my Bill is unfortunate because it involves bringing in matter which is unnecessary. I think it is recognised that to include in a statutory provision unnecessary matter is not only in itself unnecessary but also carries with it the seeds of danger, in that the provision is in danger of being interpreted as conveying implications which when applied elsewhere might have unfortunate results. For instance, if we were to say, as is now suggested, that bringing into British India includes bringing in a conveyance into a place in British India, that would give the implication that wherever the expression "bringing into British India" occurs in any other law,—as for instance, in the

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Destructive Insects and Pests Act which we have just dealt with,—the same in the absence of any other provision was not fully effective.

That is the general criticism of what I may call an unnecessary provision and that is the main reason why I have to oppose the amendment.

The Honourable Member who moved the amendment referred to the words "dangerous drug" as being out of place in the definition of "import". But I do respectfully submit that it is not out of place since the Act does not cover any other import except dangerous drugs.

I think I have explained why we confined our proposal to the case of goods intended to be taken out of British India without being removed from the conveyance in which they are being carried. The reason is that it is the only circumstance in which we can imagine that they would not come within the scope of our existing law as it stands. The Honourable Member referred to the possibility of a consignment being on board ship without its being intended to be carried to another destination out of British India; and that is a case not covered by Article 15 of the Convention at all. It is a case in which certainly our own domestic law will apply, as soon as it is contemplated that the drug will be put to any use in the ship. If, for instance, the Captain and the crew were to sit down to smoke opium, nobody would suggest that our ordinary law would not apply to that operation. For that reason I hope that the amendment will not be pressed.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): Sir, I wish the Honourable the Mover of the Bill will kindly reconsider his decision. The amendment seeks to avoid a dangerous drug being brought on board a ship for the purpose of being carried out of India to some other country, and even in that contingency this Act is sought to be made applicable to that, by extending the definition of "import" even to cases where the drug instead of being transhipped or being brought to shore

Mr. A. H. Lloyd: Transshipment we have full control of already. The single case that we have not control of under our existing law is where the drug remains on board ship without being moved at all.

Mr. M. Ananthasayanam Ayyangar: What I say is this. By this amendment it is intended that even if goods are on board ship without being brought on shore, those persons who are in charge of the ship must come within the purview of this Act. Now, some words are added to this definition enlarging its scope, and it is therefore difficult to work it out. The words "intended to be taken out of British India" are absolutely unnecessary and I say they are harmful. The reason is this. A man may seek to bring on board ship into British India some dangerous drug. He brings it into port. His original intention is that it should be imported. After he comes to the port it is open to him to change his mind when he finds that there is a law here which would make it penal, and he might think of going back. Under this definition you cannot extend the operation of this Act and you cannot penalise his having a drug on board ship for a day or a couple of days. He may change his mind. This amendment seeks only to penalise those persons who intended

to take away the ship to some port in some other country. They only keep it there for some time. This seeks to penalise only such persons.

There is another class who might come for the purpose of bringing in into British India and, after coming into port, may not land it; but may change their mind and may take it away. To apply to these cases the amendment of my Honourable friend, Mr. Santhanam, has been given in those terms. There is, therefore, that lacuna. So far as the use of the words "dangerous drug" is concerned, I will take the very rules of interpretation that the Honourable the Mover wanted to tell us on the other side of the House. "Dangerous drug" is already defined as a separate item in the definition section and so far as the words "import into British India" are concerned, there is a separate clause for defining what it is to import into British India. That is clause (i). Clause (h) defines "dangerous drug" separately. In the original definition in clause (i) relating to importation into British India the words "dangerous drug" are not used, and advisedly. Because, it will be unnecessary to include the words "dangerous drug" in every definition and in every separate item, as the Act itself intends to deal only with the prevention of dangerous drugs being imported. It is, therefore, unnecessary. I would, therefore, say that this elaborate definition making intention penal and also introducing the words "dangerous drug" once again into the definition clause are absolutely unnecessary and are likely to mislead in particular cases. In these circumstances the amendment that is sought to be made by my Honourable friend, Mr. Santhanam, is less cryptic and is much clearer than the present section. I, therefore, support this amendment.

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

"That in clause 2 of the Bill, for all the words beginning with the words 'and includes' and ending with the words 'is being carried' the following be substituted:

'and includes bringing on board a ship or in a conveyance into any port or place in British India'."

The motion was negatived.

Clause 2 was added to the Bill.

Mr. A. H. Lloyd: With your permission, Sir, I move:

"That in clause 1 of the Bill, for the figures '1937' the figures '1938' be substituted."

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

"That in clause 1 of the Bill, for the figures '1937' the figures '1938' be substituted."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. A. H. Lloyd: 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.

THE CRIMINAL LAW AMENDMENT BILL.

The Honourable Sir Henry Craik (Home Member): Sir, I move:

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, be taken into consideration."

I notice that there is an amendment that the Bill be circulated for opinion, and if the House would prefer that the Bill should be so circulated, I am quite willing to accept that. Perhaps, in that case, it would suit the convenience of the House generally if I did not make any detailed speech on this motion.

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

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, be taken into consideration."

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon before the 1st September, 1938."

As there is no speech on that side, I do not propose to make any speech myself.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon before the 1st September, 1938."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I have put in an amendment and, therefore, I think it necessary to inform the public when this Bill goes into circulation that I want the proposal in the Bill to be made less rigorous: the Bill says that an *ex-convict* who does not give information of residence or change of residence should be punished with a term of six months, instead of the one month at present provided. I say we should not take a jump at once from one to six months. He should not be so strictly treated when he comes out of jail: on the contrary an attempt should be made to see that he improves and, therefore I have proposed three months.

The Honourable Sir Henry Craik: I would merely point out that the punishment at present is six months.

Mr. Lalchand Navalrai: It is six months only when an offence has been committed: otherwise it is only one month.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon before the 1st September, 1938."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): Before the House adjourns, I should like to mention in connection with the meeting to take place on the evening of Saturday, the 26th February, 1938, when the General Budget will be presented, that it has always been the practice to dispense with questions on such occasions, although our Standing Order 10 lays down that the first hour of every meeting shall be available for asking and answering questions.

Honourable Members are now aware, however, that under the revised procedure for dealing with questions and answers, the Chair is required long before the commencement of each Session to allot the time available for answering questions to different Departments of the Government. In accordance, therefore, with our usual practice and in anticipation of the general concurrence of the House, no allotment as regards questions was made in respect of the evening meeting fixed for the 26th February, and the first statement attached to the Secretary's Circular letter No. LXXVI of the 8th December accordingly made no mention of questions for that meeting. There will, therefore, be no questions on that day.

The Honourable Sir Nripendra Sircar (Leader of the House): May I ask your permission, Sir, to mention one or two matters connected with the sittings of the House? I understand that the *Id* has been shifted from Saturday, the 12th to Friday, the 11th. In the circumstances, the Assembly will not sit on Friday and we propose to ask the Governor General for fixing non-official Resolutions now fixed for Friday, the 11th to allot Saturday, the 12th, if that is the desire of the House.

There is another matter. I was approached this morning by some Honourable Members, and I was told that they would like to interchange non-official Bills and non-official Resolutions which are fixed for the 15th and 16th respectively. So far as we are concerned, we have no objection to that of any kind.

Mr. President (The Honourable Sir Abdur Rahim): I may mention that I have received a representation from several Muslim Members of this House that the day before the *Id* day should be a non-working day, that is, that the Assembly should not sit on that day. I have in this matter to follow the practice which has hitherto been followed, and that is, the House does not sit only on the *Id* day, and this is in accordance with the interpretation of the rules given in this House by my predecessors. Therefore, the House will sit on the 10th February.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): Sir, the Honourable the Leader of the House mentioned that inasmuch as *Id* falls on Friday, he proposes to ask the Governor General to fix the Resolutions on the immediately following Saturday or some other day.

The Honourable Sir Nripendra Sircar: That is what I suggested.

Mr. President (The Honourable Sir Abdur Rahim): That is of course for the Governor General to decide. In that case, the questions which are now set down for Friday will be. . . .

The Honourable Sir Nripendra Sircar: May I just mention that if next Saturday does not suit Honourable Members of this House, we certainly don't want to force it on them, and the result will be that the other date will not be available till April. I am entirely in the hands of the House. Will that suit?

Several Honourable Members: Any day in April will suit.

Mr. President (The Honourable Sir Abdur Rahim): I take it that the Honourable the Leader of the House will consult the Leaders of Parties and decide what day will be most convenient.

The Honourable Sir Nripendra Sircar: Then the last thing I want to mention, Sir, is that the Tea Control Select Committee which was postponed will sit today at 2-45 P.M.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 8th February, 1938.