

22nd September 1939

THE

LEGISLATIVE ASSEMBLY DEBATES

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(30th August to 22nd September, 1939)

TENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,
1939



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1940.

Legislative Assembly.

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

Deputy President:

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

Panel of Chairmen:

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MR. A. AIKMAN, C.I.E., M.L.A.

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Assistants of the Secretary:

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KHAN SAHIB S. G. HASNAIN.

Marshal:

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

Committee on Petitions:

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MR. A. AIKMAN, C.I.E., M.L.A.

SYED GHULAM BEIK NAIRANG, M.L.A.

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

RAJA SIR VASUDEVA RAJAH, C.I.E., M.L.A.

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LEGISLATIVE ASSEMBLY.

Friday, 22nd September, 1939.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

VACANCIES IN THE LOWER GAZETTED SERVICE ON THE EAST INDIAN AND EASTERN BENGAL RAILWAYS.

†262. *Maulvi Sikandar Ali Choudhury : Will the Honourable Member for Railways be pleased to state how many vacancies in the Lower Gazetted Officers ranks have occurred, and how many Muslims, Hindus, Anglo-Indians have been promoted from the Subordinate cadres, during the period from 1st July, 1934 to 1st April, 1939, on the Eastern Bengal Railway and East Indian Railway ?

The Honourable Sir Andrew Clow : On the Eastern Bengal Railway, there were 14 vacancies, nine of which were filled by Hindus and five by Anglo-Indians.

On the East Indian Railway, there were 48 vacancies, eight of which were filled by Hindus, 39 by Europeans and Anglo-Indians and one by a Sikh.

HOLIDAYS GRANTED TO EMPLOYEES ON THE EASTERN BENGAL RAILWAY.

†263. *Maulvi Sikandar Ali Choudhury : Will the Honourable Member for Railways be pleased to state :

- (a) if Provincial Gazetted holidays in addition to holidays granted according to Negotiable Instruments Act are granted to employees belonging to different communities on the Eastern Bengal Railway ; and
- (b) if the reply to part (a) above be in the affirmative, whether Muslims are also granted Provincial Gazetted holidays in the same way as Hindus are granted holidays during their festivals ?

The Honourable Sir Andrew Clow : (a) and (b). Some of the Provincial gazetted holidays are granted, but they apply generally, i.e., irrespective of the community to which an employee belongs.

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

LOW PERCENTAGE OF MUSLIMS ON THE EASTERN BENGAL RAILWAY.

264. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable Member for Railways be pleased to refer to the reply to part (b) of starred question No. 1578, asked by me on Tuesday, the 29th November, 1938, in this House and state :

- (a) whether the percentage of Muslims employed in the Eastern Bengal Railway during the period from 1934 to 1939 has been arrived at by taking into consideration the number of Muslim staff employed temporarily in casualties, leave vacancies, during seasonal heavy traffic, and temporary engineering works, and who were subsequently discharged ; and
- (b) if the reply to part (a) above be in the negative, whether Government have verified or propose to verify this percentage by a Special Officer of the Railway Board ?

The Honourable Sir Andrew Clow : (a) The percentages given showed the position as it was on the 31st March in each of the years 1934 to 1937. The figures on which these percentages were based included all employees in service, irrespective of whether they were permanent or temporary, except substitutes against leave vacancies.

- (b) Does not arise.

COMMUNAL COMPOSITION OF PERSONS RECRUITED IN THE GENERAL MANAGER'S OFFICE ON THE EASTERN BENGAL RAILWAY.

265. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable Member for Railways be pleased to refer to the reply to starred question No. 1364 asked by Mr. Muhammad Nauman, M.L.A., on the 21st November, 1938, in this House, about communal composition of persons recruited in the General Manager's Office on the Eastern Bengal Railway and place on the table a statement showing the community of the staff shown therein by departments and branches who are still in service ?

The Honourable Sir Andrew Clow : I have called for the information required by the Honourable Member, and it will be laid on the table in due course.

RECRUITMENT OF TRACERS AND DRAUGHTSMEN ON THE EASTERN BENGAL RAILWAY.

266. *Shaikh Rafiuddin Ahmad Siddiquee : With reference to the reply to starred question No. 773 asked by Mr. Muhammad Nauman, M.L.A., on Tuesday, the 28th February, 1939, in this House, about the recruitment of tracers and draughtsmen on the Eastern Bengal Railway, will the Honourable Member for Railways be pleased to place on the table a statement giving the following information :

- (i) places of posting of tracers and draughtsmen of each community separately who were recruited ;
- (ii) places of posting of tracers and draughtsmen of each community who were made permanent and those who are still temporary and those who were discharged ; and

- (iii) places of posting of tracers and draughtsmen of each community who have now been discharged, dismissed or punished ?

The Honourable Sir Andrew Clow : (i) and (ii). I have no record of the places of posting, but I lay on the table a statement showing the communal distribution and allocation to Departments, and a further statement giving for the Civil Engineering Department particulars of confirmation and the number still temporary.

(iii) I have no particulars of the men who have been discharged, dismissed or punished.

STATEMENT I.

Communal and Departmental distribution of men recruited from 1st April, 1936 to February, 1939.

Civil Engineering Department (including Signal and Bridge Engineering Departments).

		Draughtsmen.	Tracers.
Hindus	..	10	24
Muslims	..	10	28
Anglo-Indians	..	—	1
Sikhs	..	1	—
Scheduled caste		1	—

Mechanical Department.

			Draughtsmen.	Tracers.
Hindus	..	..	5	1
Muslims	..		—	1*
Anglo-Indians	..	..	4	—
Other communities	..	..	—	1

*Subsequently transferred to the Engineering Department on the expiry of the temporary post held by him.

STATEMENT II.

Particulars of confirmation in Civil Engineering Department (including Signal and Bridge Engineering Departments).

		Confirmed.		Temporary.	
		Draughtsmen.	Tracers.	Draughtsmen.	Tracers.
Muslims	..	1	8	5	18
Hindus	..	—	4	10	18

**POSITION OF MUSLIM CLERKS ON THE RE-ORGANISATION OF THE PERSONNEL
BRANCH OF GENERAL MANAGER'S OFFICE ON THE EASTERN BENGAL
RAILWAY.**

267. *Shaikh Rafiuddin Ahmad Siddiquee : Will the Honourable Member for Railways be pleased to state :

- (a) what positions trained and untrained Muslim clerks have been given in the new re-organisation of the Personnel Branch of the General Manager, Eastern Bengal Railway Office ;
- (b) whether it is a fact that Muslim clerks have been kept in branches other than those which deal with staff matters respecting recruitment, promotion, transfer, punishment and appeals ;
- (c) whether Government propose to lay on the table of the House statements of appeals from Muslim staff during the period January 1934 to June 1939, to the Traffic Manager, the Chief Engineer, the Chief Mechanical Engineer, Controller of Stores, and the General Manager with results and orders on them ;
- (d) whether it is a fact that appeals of non-Muslims were always considered ; and
- (e) whether Government are prepared to state the total number of appeals made for one reason or other by the employees of the Eastern Bengal Railway to the Traffic Manager, Chief Engineer, Chief Mechanical Engineer and the General Manager, during January 1936 to December 1938, and what is the number of those appeals which were successful and how many of those successful appeals referred to Muslims and how many of them referred to non-Muslim employees ?

The Honourable Sir Andrew Clow : (a) I am not clear as to the meaning of the question. The number of Muslim clerks has not altered as a result of the re-organisation but there has necessarily been some redistribution among the branches.

(b) No. I am informed that the sub-section of the Branch dealing with recruitment and questions of communal composition is under a Muslim clerk who has five Muslims among his assistants.

(c) and (e). No. I regret that I cannot ask the administration to undertake the labour involved in the research work that would be required.

(d) Appeals, in cases where an appeal lies, have to be considered irrespective of the community of the appellant.

**PAUCITY OF MUSLIMS IN THE ESTABLISHMENT SECTION ON THE NORTH WESTERN
RAILWAY.**

268. *Mr. H. M. Abdullah : Will the Honourable the Railway Member please state :

- (a) whether the attention of Government has been drawn to an article published in the *Daily Inqilab* of Lahore, dated the 18th April, 1939, regarding paucity of Muslims in the

Establishment Section on the North Western Railway ; if so, what action the Railway Board or the General Manager, North Western Railway, have taken to redress the grievances mentioned therein ;

- (b) whether it is a fact that no Muslim has ever been appointed to the posts of Superintendent and Assistant Superintendent of Establishment Branch of the Headquarters Office ;
- (c) whether it is a fact that on certain occasions these posts were filled by importing non-Muslims from other Offices ; and
- (d) if the replies to parts (b) and (c) above be in the affirmative, whether Government are prepared to state whether these posts are reserved for non-Muslims only, and if not, why a suitable Muslim cannot be imported against one of these posts by transferring the present incumbents elsewhere ?

The Honourable Sir Andrew Clow : (a) I have seen the article referred to by the Honourable Member. As regards the latter part, I would refer the Honourable Member to the reply printed in the debates of the 30th August, 1939, in connection with his starred question No. 1567, asked on the 5th April, 1939.

(b) and (c). I have no particulars of the postings that may have been made.

(d) This does not arise, but, in any case, there is no communal reservation in the filling of such posts.

ABSENCE OF MUSLIM OFFICE SUPERINTENDENTS ON THE NORTH WESTERN RAILWAY.

269. *Mr. H. M. Abdullah : Will the Honourable the Railway Member please state :

- (a) whether the attention of Government has been drawn to a communication appearing in the *Eastern Times*, dated the 19th May 1939 ;
- (b) whether it is a fact that of the 19 posts of Office Superintendent and Superintendents in the Headquarters Office and Divisional and extra-Divisional Offices of the North Western Railway, there is not a single permanent Muslim Office Superintendent ;
- (c) whether it is a fact that not many years ago there used to be two Muslim Office Superintendents ;
- (d) whether it is a fact that the representation of Muslims in the cadre of Assistant Staff Wardens has similarly deteriorated during recent years ; and
- (e) whether Government propose to take necessary action to ensure an improvement in the representation of Muslims ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter referred to by the Honourable Member.

(b) No. I understand that there is one Muslim who is an Office Superintendent and is now officiating in a Lower Gazetted Service post, and that the Superintendent, Lost Property Office, is also a Muslim.

(c) I am prepared to accept this from the Honourable Member.

(d) I understand that the number of Assistant Staff Warden posts held by Muslims now is less than it was some time ago. This is due to one having died, and two having been promoted to the higher post of Labour Warden. In the three vacancies thus created, one Muslim and two non-Muslims were appointed.

(e) Every endeavour is being made to keep the communal balance.

Mr. Muhammad Nauman : May I know, Sir, what endeavours are being made to keep the communal balance ?

The Honourable Sir Andrew Clow : Just by watching the distribution and ensuring that recruitment is not made exclusively from one community.

REPRESENTATION OF MUSLIMS IN THE TRAFFIC INSPECTORS' POSTS ON THE NORTH WESTERN RAILWAY.

270. *Mr. H. M. Abdullah : Will the Honourable the Railway Member please state :

- (a) whether the attention of Government has been invited to the articles appearing in the *Daily Ihsan*, dated the 2nd August, 1939, *The Daily Shahbaz*, dated the 30th July, 1939, the *Daily Inqilab*, dated the 29th July, 1939, and the *Eastern Times*, dated the 21st July, 1939 ;
- (b) whether it is a fact that the number of Muslim candidates called for selection for the posts of Traffic Inspectors was very meagre ; what was the total number of candidates called and how many of them were Muslims ;
- (c) whether it is a fact that the Muslim representation in this cadre of the North Western Railway services is very low ; what is the total number of such staff and how many of them are Muslims ;
- (d) whether Government are prepared to inform this House as to how many Muslims, if any, were selected for these posts : and
- (e) whether Government propose to issue necessary orders to ensure early improvement in the representation of Muslims in this service ?

The Honourable Sir Andrew Clow : (a) Yes.

(b) The total number of candidates called for an interview on the 3rd July, 1939, was 46, eight of whom were Muslims.

(c) There are eight Muslim Traffic Inspectors, including two who are officiating in the Lower Gazetted Service, in a cadre of 40.

(d) I assume that the Honourable Member wishes to know the number of Muslims appointed to the posts of Traffic Inspector since the candidates were interviewed; this information is being secured and will be supplied to the House in due course.

(e) Does not arise.

RECRUITMENT OF STOCK VERIFIERS ON THE NORTH WESTERN RAILWAY.

271. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been invited to the communication appearing in the *Eastern Times*, dated the 9th June, 1939, regarding " Stock Verifiers " ;
- (b) whether it is a fact that direct recruitment used at one time to be made to the cadre of Stock Verifiers ;
- (c) whether it is a fact that a large majority of the Stock Verifiers at present in service were so recruited ;
- (d) whether it is a fact that these persons who had been recruited direct had no actual experience of their work before appointment ;
- (e) whether it is a fact that direct recruitment is not now made to this cadre ;
- (f) whether it is a fact that these posts were thrown open at the last selection to the whole staff of the Accounts Department while previously it used to be restricted to the staff of the Stores Accounts Branch only ;
- (g) whether it is a fact that the qualifications required for appearing before a Selection Board for these posts were raised to a pass in the departmental Appendix ' D ' or part II examinations ;
- (h) whether it is a fact that not a single Muslim has been selected for these posts at the recent selection nor has any been placed on the waiting list ;
- (i) whether it is a fact that Muslim representation in this cadre is extremely low ; and
- (j) whether Government are prepared to consider the desirability of removing these restrictions and of devising other ways and means to ensure the improvement of the representation of the Muslim community in this cadre of the North Western Railway services ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter in question.

(b) As that letter relates to the selection of Stock Verifiers on the North Western Railway I presume that the information required in this and subsequent parts of the question is in respect of the North Western Railway only. On this assumption the reply to this part is in the affirmative, direct recruitment having been discontinued from 1932.

(c) No. Out of 22 Stock Verifiers eight are direct recruits.

(d) and (e). Yes.

(f) The selection has never been confined to the Stores Account Branch.

(g) Yes ; at the last Selection Board but an unqualified Muslim was also interviewed as a special case.

(h) Yes.

(i) Out of 22 Stock Verifiers five are Muslims.

(j) The suggestion will be considered.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE LOWER GAZETTED SERVICE ON THE NORTH WESTERN RAILWAY.

272. *Mr. H. M. Abdullah : Will the Honourable Member for Railways please state :

(a) whether the attention of Government has been drawn to a communication appearing in the *Eastern Times*, dated the 26th May, 1939, regarding inadequate representation of Muslims in lower gazetted service on the North Western Railway ;

(b) whether it is a fact that the representation of Sikhs who are comparatively in a minority in the areas served by the North Western Railway is almost equal to the representation of Muslims in the lower gazetted services of the North Western Railway ;

(c) whether it is a fact that promotions to this service are not made through duly constituted selection boards but are based on the recommendations of non-Muslim officers ; and

(d) whether Government are prepared to consider the advisability of taking special measures to ensure an improvement of the inadequate representation of Muslims in this service ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous communication referred to by the Honourable Member.

(b) I would refer the Honourable Member to the statement I laid on the table in reply to part (a) of his question No. 1651 on the 12th April, 1939.

(c) Selection Boards are not constituted to consider promotions to the Lower Gazetted Service. As regards the latter part of the question, I would refer the Honourable Member to the reply I gave to part (d) of his question No. 1650 on the 12th April, 1939.

(d) No. The comparatively small number of Muslims in this service is due to the paucity of Muslims in the senior ranks of the subordinate grades. That will be remedied by time and cannot equitably be remedied by superseding officials because they are not Muslims.

Mr. J. D. Boyle : Is it not a fact, Sir, that all these letters which appeared in the *Eastern Times* are in the form of anonymous letters ?

The Honourable Sir Andrew Clow : Some of them certainly are.

Mr. J. D. Boyle : Is it not a fact that to consider anonymous letters is, generally speaking, a waste of time ?

The Honourable Sir Andrew Clow : I don't normally pay any attention to such letters, but if Honourable Members base their questions on them, what can I do ?

Mr. Lalchand Navalrai : On this point I would like to know whether or not these anonymous letters are generally thrown into the waste paper basket ?

The Honourable Sir Andrew Clow : If they are received by me direct, that is normally where they go to.

PROMOTION OF MUSLIMS TO THE LOWER GAZETTED SERVICE.

†273. ***Mr. H. M. Abdullah :** Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been drawn to the article appearing in the *Eastern Times*, dated the 2nd June, 1939, under the heading "Blind Man's Bluff" ;
- (b) whether it is a fact that most of the senior subordinates promoted to the lower gazetted service during this year have been Hindus ; what is the exact number of promotions made and how many of these were given to Muslims ; and
- (c) whether Government have considered the cut motion unanimously passed by the Legislative Assembly during the last budget session to protest against the inadequacy of Muslim representation in the Railway services ; if so, what conclusions they have arrived at and what action they have taken or propose to take in this matter ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter referred to by the Honourable Member.

(b) The answer to the first part is in the negative. 49 officiating promotions were made this year up to 15th September ; of these, 15 went to Hindus and five to Muslims. Five of the Hindus have since reverted. Four men who were all Europeans were confirmed during the year ; but one of the confirmations had effect from a date in the preceding year and the other three were previously provisionally permanent.

(c) I would refer the Honourable Member to the reply I gave to part (a) of Khan Bahadur Shaikh Fazl-i-Haq Piracha's starred question No. 190 on the 14th September, 1939.

RECRUITMENT OF INFERIOR STAFF ON THE NORTH WESTERN RAILWAY.

†274. ***Mr. H. M. Abdullah :** Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been drawn to a communication appearing in the *Eastern Times*, dated the 7th July, 1939, under the heading "Recruitment of inferior staff on the North Western Railway" ;

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

- (b) whether it is a fact that the General Manager, North Western Railway, Lahore, issued definite instructions in his letter No. 831-E.281|111, dated the 18th September, 1935, in which it was laid down that 37.9 per cent. of all future appointments on the Delhi Division to be filled by the direct recruitment in the inferior categories, whether permanent or temporary, must be given to Muslims ;
- (c) whether it is a fact that the Divisional Superintendent, Delhi, admitted in his Divisional Order No. 831-E.127, dated the 24th January, 1939, that Muslims and domiciled Europeans and Anglo-Indians had been less recruited by no less than 150 and 14, respectively ;
- (d) whether it is a fact that the Divisional Superintendent accordingly ordered that in future nobody except Muslims and domiciled Europeans and Indians should be recruited till further orders except against certain specified posts ;
- (e) whether it is a fact that in contravention of these orders certain menials were appointed at the Simla Railway Station, and only one Muslim was appointed out of the six or seven men recruited ;
- (f) whether it is a fact that these orders were again contravened in May, 1939, when out of the three vacancies of punkha coolies at Delhi-Shahdara Station only one was offered to a Muslim ; what action, if any, the Divisional Superintendent, Delhi, has taken against those who defied his orders to ensure that such incidents do not occur again ; and
- (g) if no action has been taken or is contemplated to be taken, whether Government will state reasons ?

The Honourable Sir Andrew Clow : (a) I have seen the communication referred to by the Honourable Member.

(b) Yes, so far as this was practicable.

(c) and (d). Yes.

(e) and (f). I have called for the information and it will be laid on the table in due course.

(g) Government have taken no action and have no steps in contemplation at present, because no occasion for action has arisen.

PROVISION OF CERTAIN NECESSITIES IN THE MOSQUE ATTACHED TO THE MOGHULPURA WORKSHOP.

275. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazli-Haq Piracha) : Will the Honourable Member for Railways please state :

- (a) whether it is a fact that a covered praying platform has been erected by the North Western Railway Administration for the use of the Muslim staff at Moghalpura, since 1924 ;

- (b) whether it is a fact that several complaints have been made by the Muslim employees through the Area Council and the North Western Railway Employees Association requesting the Administration to ensure :
- (i) that the roof may be made leakproof to afford adequate protection during rainy weather,
 - (ii) that the floor of the praying platform should be laid with bricks or cemented so that it does not become muddy and loose earth in view of the fact that large patches thereof are affected with saltpetre, and
 - (iii) that instead of the wire fencing, provided at present, wall fencing or closely spaced boiler tube fencing may be provided all round the praying platform to prevent the pollution of the mosque by the entry of cats and dogs in it ;
- (c) whether it is a fact that from 1924 to 1938 no attempts have been made to keep this platform in proper repairs and that only Rs. 3 have been spent on this during this period ;
- (d) whether it is a fact that it has been admitted several times by responsible officials of the North Western Railway that cats and dogs do enter the precincts of the praying shed and pollute it ;
- (e) whether it is a fact that the Anjuman-i-Islamia, Punjab, which is an institution in the province for the protection of mosques has approached the North Western Railway Administration several times but has not even been shown the courtesy of a reply ;
- (f) whether it is a fact that for the provision and maintenance of churches, the North Western Railway Administration have so far spent lakhs of rupees ;
- (g) whether it is a fact that recently the Railway Board have sanctioned a sum of over ten thousand rupees for the provision of gauze wire, doors and windows in one of the churches at Lahore ; and
- (h) if the reply to part (g) above be in the affirmative, whether Government are prepared to consider the provision in this mosque of the necessities mentioned in parts (b) (i) to (iii) above ?

The Honourable Sir Andrew Clow : (a)—(f). Information is being obtained from the Railway Administration concerned and a reply will be laid on the table of the House in due course.

(g) A sum of Rs. 915 was sanctioned for this purpose.

(h) Does not arise.

MUSLIMS IN THE ELECTRICAL DEPARTMENT OF THE RAWALPINDI DIVISION OF THE NORTH WESTERN RAILWAY.

276. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazl-i-Haq Piracha) : Will the Honourable Member for Railways please state :

- (a) whether the attention of Government has been drawn to the communication appearing in the *Eastern Times*, dated the

2nd June, 1939, regarding the Electrical Department, Rawalpindi Division ;

- (b) whether Government have investigated the concrete instances given in that article ; if so, with what result ; if not, why not ; and
- (c) whether it is a fact that on the Rawalpindi Division, the proportion of Muslims for initial appointment in inferior services has been fixed at 84 per cent. since 1935, but that this proportion has never in reality been observed, in the case of the Electrical Department in particular ; if so, why ?

The Honourable Sir Andrew Clow : (a) I have seen the anonymous letter referred to by the Honourable Member.

(b) No ; because there is no sufficient reason for so doing. If any official considers that he has been wrongfully superseded, it is open to him to represent his case to the proper authority.

(c) I would refer the Honourable Member to the reply I gave to Maulana Zafar Ali Khan's starred question No. 244 on the 19th September.

Mr. Muhammad Nauman : How are these letters to be considered anonymous if the Honourable Member finds that the names that appear are not fictitious ?

The Honourable Sir Andrew Clow : They are signed by names such as "Disgusted" or that sort of name, and most of these I think fairly obviously emanate from disgruntled employees who give a misleading information of the facts and are unwilling to put their case in the ordinary way.

Mr. Muhammad Nauman : In some cases the names are written, and they cannot be treated as anonymous.

The Honourable Sir Andrew Clow : In no case that I have referred to so far this morning as anonymous has there been any name.

Mr. President (The Honourable Sir Abdur Rahim) : As regards questions based on information given in anonymous letters, so far as the Chair is concerned, what it has got to see is whether the question relates to a matter of public concern or not, and it is not possible for the President to enquire and find out from what source any particular information on which the question is based is derived.

The Honourable Sir Andrew Clow : I fully recognise that, Sir.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair wanted to make that clear to the House.

PROMOTIONS TO THE LOWER GAZETTED SERVICE ON THE NORTH WESTERN RAILWAY.

277. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazl-i-Haq Piracha) : Will the Honourable Member for Railways please state :

- (a) how many promotions have been made this year to the lower gazetted service on the North Western Railway in each of the various categories by communities ;

(b) whether it is a fact that junior head clerks have been promoted as officers in the Commercial Branch ; and

(c) whether it is a fact that a Superintendent of the Works Branch was promoted direct as Assistant Personnel Officer ?

The Honourable Sir Andrew Clow : (a) 49 officiating promotions were made this year up to 15th September ; the communal distribution of these was as follows :

Europeans	16
Anglo-Indians	.. 10
Hindus	.. 15
Muslims	.. 5
Sikhs	.. 3

Three of the Europeans and five of the Hindus have since reverted. As regards confirmations I would refer the Honourable Member to the reply given today to part (b) of Mr. H. M. Abdullah's question No. 273.

(b) No. Two Head Clerks of the Commercial Branch officiated in the Lower Gazetted Service in leave vacancies for a period of three months. One had 27 years service and the other 30 years.

(c) Yes, in an officiating capacity.

Mr. Muhammad Nauman : With reference to part (c) of the question, is that gentleman still maintained in that officiating capacity ?

The Honourable Sir Andrew Clow : I do not know whether he has reverted or not since the information was supplied.

VACANCIES IN CERTAIN CATEGORIES ON THE NORTH WESTERN RAILWAY.

278. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazli-Haq Piracha) : Will the Honourable Member for Railways please state :

(a) what is the annual average number of vacancies occurring on the North Western Railway in the following categories of staff :

- (i) Superior Services,
- (ii) Lower Gazetted Services,
- (iii) Subordinate Services, and
- (iv) Inferior Services (including labourers, etc.),

(b) what is the proportion of vacancies filled by promotion to those filled by direct recruitment in each of these categories ; and

(c) what is the percentage of Muslims appointed in each of these categories :

- (i) by promotion, and
 - (ii) by direct recruitment,
- during the last year ?

The Honourable Sir Andrew Clow : (a) (i) In the superior services, there have been strictly speaking, no vacancies recently as the number of officers has been in excess of the actual number required, the surplus being counted against a shortage in the Lower Gazetted Service. Recruitment to the superior services for the State-managed Railways has, however, continued at about 50 per cent. of what would have been the normal rate of recruitment. The average number thus recruited and posted to the North Western Railway for the eight years from 1931 to 1938 was 4.5.

(ii) In the Lower Gazetted Service, during the same period, the number of permanent appointments made annually averaged 5.1.

(iii) For the subordinate services, figures are available only for the four years ending 31st March, 1938. During these years the number recruited fluctuated considerably but the average was 220.

(iv) I have no figures for the inferior services.

(b) About 80 per cent. of the vacancies in the superior services are filled by direct recruitment. Practically all vacancies in the Lower Gazetted Service are filled by promotion. The subordinate services are recruited directly in the lowest grades and occasionally by promotion from the inferior services. Vacancies in the latter are filled by direct recruitment.

(c) I have no particulars regarding the communal percentages of staff promoted. As regards the percentage of Muslims appointed to the superior and subordinate services by direct recruitment, I would refer the Honourable Member to the statements published in Volume I of the Report by the Railway Board on Indian Railways and those published by the Home Department, copies of which are in the Library of the House.

EMPLOYMENT OF MUSLIMS IN THE PERSONNEL BRANCHES OF THE NORTH WESTERN RAILWAY.

279. *Mr. H. M. Abdullah (on behalf of Khan Bahadur Shaikh Fazl-i-Haq Piracha) : With reference to his reply to starred question No. 1704, asked in this House on the 12th April, 1939, by Mr. H. M. Abdullah, M.L.A., will the Honourable Member for Railways please state :

- (a) how many of the 137 Muslim clerks working in the Personnel Branches of the entire North Western Railway system are in Grades I, II and III, respectively ;
- (b) how many of them are working in Bills Sections, Pass Sections, Sports and Welfare Sections, Medical Sections and other such sections ; and
- (c) whether Government are prepared to consider the desirability of issuing necessary instructions to ensure that the rate of progress, *viz.*, the increase of Muslim representation in Personnel Branches by 32 in 17 months, be maintained in future ?

The Honourable Sir Andrew Olow : (a) and (b). This information is not available with Government and I have ascertained that no record giving it is maintained by the administration at Lahore. It would involve an inquiry in all the offices concerned which I regret I cannot undertake.

(c) No. It is neither desirable nor practicable to fix an arbitrary rate of increase for any community in a particular office.

APPLICATION OF THE HOURS OF EMPLOYMENT REGULATIONS TO VAN SORTERS ON THE NORTH WESTERN RAILWAY.

280. *Mr. Lalchand Navalrai : Will the Honourable the Railway Member be pleased to state :

- (a) whether " Hours of Employment Regulations " have been made applicable to van sorters on the North Western Railway ; if not, why not ;
- (b) if the reply to part (a) above be in the affirmative, when Government propose to apply these regulations to guards ; if not, why not ;
- (c) whether it is a fact that the duty hours of waiting duty guards on Karachi Division have been increased from eight to twelve hours per day ; if so, why ; and
- (d) what is the maximum period for which an employee classified as :
 - (i) continuous ; and
 - (ii) essentially intermitted,

can be on duty continuously ; if no such restriction is laid down in the rules, whether Government propose to lay down such a restriction of maximum duty at a stretch by an employee, after which he must have rest ; if not, why not ?

The Honourable Sir Andrew Olow : (a) No. I would refer the Honourable Member to the reply given to Mr. Muhammad Azhar Ali's unstarred question No. 87 on the 18th March, 1938.

(b) Does not arise.

(c) I have called for the information and will furnish it to the House when it is received.

(d) No maximum period is prescribed. I would, however, refer the Honourable Member to sub-sections (1) and (2) of section 71C of the Indian Railways Act, and to instructions Nos. 12 and 13 notified in the Railway Department (Railway Board) Resolution No. 40-L, dated the 6th May, 1931, in which minimum periods of rest have been specified. These ensure that, so far as is practicable, employees are not kept on duty for longer periods than is desirable.

Mr. Lalchand Navalrai : May I know from the Honourable Member if there is any department in the railways where work is being taken from the subordinates at a stretch for 12 hours ?

The Honourable Sir Andrew Olow : I have not got the figures of hours of work here. I require notice.

Mr. Lalchand Navalrai : Can the Honourable Member tell me what are the maximum hours of work that can be taken from persons such as guards and van sorters ?

The Honourable Sir Andrew Olow : If the Honourable Member would refer to the various sub-sections and rules and instructions that I have cited, he will find the nature of the restrictions. My impression is that it will depend more on averages than on absolute maximum in the case of persons who do come under statutory protection.

REFUND OF OVERDRAWALS BY CERTAIN EMPLOYEES ON THE NORTH WESTERN RAILWAY.

281. ***Mr. Lalchand Navalrai :** With reference to the supplementaries on my starred question No. 1437, asked in this House on the 5th April, 1939, regarding deduction from employees' wages of overdrawals by the North Western Railway Administration, will the Honourable Member for Railways be pleased to state :

- (a) whether a decision has been arrived at in the matter ; if so, what is the nature of that decision ;
- (b) whether it is a fact that the matter was referred by the North Western Railway Administration to the Supervisor of Railway Labour, whether deduction of overdrawals by the staff would be in conformity with the provisions of the Payment of Wages Act ; and
- (c) whether it is a fact that the Supervisor of Railway Labour has advised the North Western Railway Administration that any deduction on account of payment for overdrawals would be illegal ; if not, whether Government are prepared to lay on the table of the House a copy of the correspondence on the subject between the North Western Railway Administration and Supervisor of Railway Labour ?

The Honourable Sir Andrew Olow : The Honourable Member is apparently referring to question No. 1537, not question 1437. The answers are :

(a) No.

(b) and (c). There has been some demi-official correspondence between an officer of North Western Railway and the Supervisor of Railway Labour, but I am not prepared to disclose the opinions expressed.

Mr. Lalchand Navalrai : May I know from the Honourable Member if any final decision has been arrived at on this demi-official correspondence which is not being shown to us ?

The Honourable Sir Andrew Olow : No decision has yet been reached, but I am very anxious to expedite one.

ADMISSIBILITY OF FOREIGN LINE PASSES TO RETIRED EMPLOYEES OF STATE RAILWAY.

282. *Mr. Lalchand Navalrai : Will the Honourable Member for Railways be pleased to state :

- (a) whether foreign line passes are admissible to retired railway employees of the State-managed Railways ; if not, why not ;
- (b) whether it is a fact that there was no restriction on such passes under the 1935 rules or the rules revised to take effect from 1st January, 1937, which were the final modified set of rules issued by the Railway Board ;
- (c) whether it is a fact that Company-managed Railways like Bombay, Baroda and Central India, issue foreign line passes to their retired employees ; and
- (d) whether it is a fact that there is an agreement between various railways in regard to exchange of passes ; if so, whether it forbids the issue of passes to retired employees ?

The Honourable Sir Andrew Clow : (a) and (b). Foreign line passes are admissible to gazetted officers who have retired with over 25 years' service, but not to retired subordinates. As regards retired subordinates, the pass rules in force in 1935 allowed two single journey passes over other State-managed lines. With effect from the 1st January, 1937, these orders were cancelled, as it was considered that the allowance was too liberal and that passes over the home line were a sufficient concession. No change has since been made in the rules bearing on this point. This statement of the position modifies the reply I gave on the 4th September, 1939, to part (a) of Mian Ghulam Kadir Muhammad Shahban's starred question No. 87, which, I regret to state, I now find was not quite correct.

(c) I believe this is so.

(d) Yes, subject to such restrictions as individual Company Railways may impose or as may be imposed on State-managed Railways by the Railway Board. The answer to the second part of the question is in the negative.

Mr. Lalchand Navalrai : These retired subordinates who have put in very efficient and good work are asking for a reconsideration of the orders with regard to the passes. Will the Honourable Member at least give consideration to that and see that they get some foreign passes ?

The Honourable Sir Andrew Clow : The question of bringing the Company-managed Railways rules in line with those of the State-managed Railways will be considered.

Maulvi Muhammad Abdul Ghani : Do Government propose to revise the rules so as to abolish the issuing of passes ?

The Honourable Sir Andrew Clow : No such proposal is under consideration at present.

PROMOTION OF SHUNTING STAFF ON THE NORTH WESTERN RAILWAY.

283. *Mr. Lalchand Navalrai : With reference to the Honourable Sir Thomas Stewart's reply to part (b) of my starred question No. 788, asked on the 28th February, 1939, in this House, will the Honourable the Railway Member be pleased to state :

- (a) whether orders have been issued by the General Manager, North Western Railway, depriving shunting staff of the chances of promotion as Yard Foremen ; if so, how Government propose to reconcile this policy with the policy intimated in reply to my question No. 788, referred to above ;
- (b) if the reply to the first part of part (a) above be in the negative, how is it that on the Karachi Division Shunting Jamadars have been refused to be promoted as Yard Foremen though their names are borne on the list of qualified Yard Foremen, on the ground that these posts have to go to Train Clerks ; and
- (c) whether Government are prepared to issue necessary instructions that the policy intimated to the House, *vide* reply to the question referred to above, must be strictly followed ; if not, why not ?

The Honourable Sir Andrew Clow : (a) No : the latter part does not arise.

(b) and (c). I have called for the information asked for, and it will be furnished to the House when it is received.

Mr. Lalchand Navalrai : When the Honourable Member says " No " in reply to part (a) of the question, it means that the shunting staff is not deprived of promotion as yard foremen—is that correct ?

The Honourable Sir Andrew Clow : The Honourable Member's question in part (a) is whether orders have been issued by the General Manager, and my answer was " No ".

Mr. Lalchand Navalrai : May I, therefore, know whether the shunting staff is eligible to be taken as yard foremen ?

The Honourable Sir Andrew Clow : That, I think, is a new question, and I shall have to ask for notice.

REMOVAL OF BAR FOR CLERICAL STAFF ON THE NORTH WESTERN RAILWAY.

284. *Mr. Lalchand Navalrai : Will the Honourable the Railway Member be pleased to state :

- (a) whether there is any intention to remove the bar at Rs. 60 for all classes of clerical staff employed on the North Western Railway ;
- (b) whether it is a fact that the General Manager, the Railway Board and even His Excellency the Viceroy have received memorials requesting removal of this bar ; if so, what action Government have taken in the matter ; and

- (c) whether it is a fact that the General Manager, North Western Railway, Lahore, proposes to increase the number of grade II appointments so as to ensure easy flow of promotions for grade I staff ; if so, whether orders have been issued, if not, when they are likely to be issued ?

The Honourable Sir Andrew Clow : (a) The matter is under consideration.

(b) Yes. Government have asked the General Manager, North Western Railway, to examine the justification for and the financial implication of certain alternative proposals.

(c) Government have not yet received the General Manager's proposals : the latter part of the question does not arise.

Mr. Lalchand Navalrai : I am thankful to the Honourable Member that this question is going to be revised. Will the Honourable Member instruct that this should be done soon, because these people in these war days cannot live on Rs. 60 ?

The Honourable Sir Andrew Clow : All reasonable expedition will be shown.

CHANGE IN THE TIMING OF THE SPECIAL TRAIN RUNNING FROM SUMMER HILL TO SIMLA.

285. *Bhai Parma Nand : Will the Honourable the Railway Member state :

- (a) whether it is a fact that the timing of the special train running from Summer Hill to Simla has now been changed from 9-30 to 8-30 ; if so, why ;
- (b) whether Government are aware that this change is causing very great inconvenience to the employees of the Civil Departments of the Government of India and to the boys and girls residing in Summer Hill, who have to come to schools in Simla ;
- (c) whether it is a fact that there is no other train from Summer Hill to Simla which can be utilised by the persons ; and
- (d) whether Government propose to take any steps to remove this inconvenience to a large number of its employees and their children ; if so, what and when ; if not, why not ?

The Honourable Sir Andrew Clow : (a) Yes. The change has been made, as the majority of the staff using this special are now required to start work earlier.

(b) I am not aware that any great inconvenience is caused as a result of the change in the timings and I understand that no complaints have been received by the local railway authorities.

(c) Yes.

(d) No.

Mr. Lalchand Navalrai : Does the Honourable Member know that this question has been pending for a very long time and considerable inconvenience has been felt ? Will the Honourable Member advise the Divisional Superintendent to adjust it in such a manner that they get convenience.

The Honourable Sir Andrew Clow : As far as I recollect, the change in the timings was made quite recently in view of an alteration in the hours of work in Army Headquarters.

UNSTARRED QUESTIONS AND ANSWERS.

POSTAL REGISTRATION ACKNOWLEDGMENT RECEIPTS RETURNABLE TO THE DIVISIONAL SUPERINTENDENT'S OFFICE, DELHI.

7. Bhai Parma Nand : Will the Honourable the Railway Member please refer to paragraph 236 of the North Western Railway Organization Manual, 1930, and state the authority under which Postal Registration Acknowledgment Receipts are made returnable by name to one Bahadur Singh, Delhi Division instead of to the Divisional Superintendent and the steps taken against such action ? If no action has been taken, why not ? Who is this Bahadur Singh ?

The Honourable Sir Andrew Clow : There is nothing in the paragraph to which the Honourable Member refers to preclude any employee from arranging for a postal acknowledgment from a member of the public for a letter to be addressed to himself. Mr. Bahadur Singh is the Divisional Inspector of Special Ticket Examiners, Delhi Division.

INTRODUCTION OF THE DESIGNATION OF RAILWAY TICKET COURT INSPECTORS ON STATE RAILWAYS.

8. Bhai Parma Nand : Will the Honourable the Railway Member please state :

- (a) the date on which the designation of Railway Ticket Court Inspectors was introduced on the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways ;
- (b) their numerical strength on 17th June, 1939, on each railway together with their distribution amongst Divisions and Districts stating the names of their Headquarters Stations ;
- (c) the qualifications, criterion, etc., required for their recruitment or appointment ; and
- (d) the scales of their pay and the method of their recruitment ?

The Honourable Sir Andrew Clow : I have called for the information and it will be laid on the table in due course.

DESIGNATION OF OFFICERS ON STATE RAILWAYS AUTHORIZED TO MAKE COMPLAINTS TO MAGISTRATES.

9. Bhai Parma Nand : Will the Honourable the Railway Member please refer to section 200 of the Code of Criminal Procedure and to Part II of General Statutory Rules and Orders, Supplementary, Volume I, page 607, and state the designation of the officers on the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways, who are authorised to make complaints to Magistrate under sections 112 and 113 of the Indian Railways Act, 1890 ?

The Honourable Sir Andrew Olow : The order reproduced on pages 607-614 of Part II of General Statutory Rules and Orders, Volume I, does not contain any reference to complaints made by Railways under sections 112 and 113 of the Indian Railways Act, 1890. The officials authorised to make complaints to Magistrates on the four State-managed Railways are those whose duties are connected with the collection and check of tickets. They normally comprise Station Masters, Assistant Station Masters, Travelling Ticket Examiners and Ticket Collectors.

WORKINGS OF SPECIAL TICKET EXAMINERS IN RECEIPT OF CONSOLIDATED ALLOWANCE IN CERTAIN DIVISIONS OF THE NORTH WESTERN RAILWAY.

10. Bhai Parma Nand : (a) Will the Honourable Member for Railways please lay a statement on the workings of the Special Ticket Examiners, in receipt of *ex-Gratia* Consolidated Allowance, attached to Delhi and Lahore Divisions on the North Western Railway, respectively, showing :

- (i) numerical strength of Head Special Ticket Examiners and Special Ticket Examiners with designation and the name of the Headquarters Station (Strength against Rs. 60, 50, and 35 *ex-Gratia* Consolidated Allowances may be shown separately) ;
- (ii) the minimum and the maximum number of carriages per train during run and during halt at stations respectively per day worked, checked or examined individually by those staff ;
- (iii) the minimum and the maximum number of hours employed for that duty by those staff individually ;
- (iv) the minimum and the maximum number of days in a month and hours in a day employed for that duty by those staff individually outside the Headquarters and within the Headquarters ; and
- (v) the minimum and the maximum number of days in a month and hours in a day employed for working, checking or examining passengers or carriages at stations by those staff individually ?

(b) Will the Honourable Member please state how are their performance of duty, hours of employment, proper use of duty, passes, etc., scrutinized and by whom and with what result ?

The Honourable Sir Andrew Clow : (a) I regret that it is not practicable to undertake the research that would be necessary to secure the particulars required by the Honourable Member.

(b) I have no particulars on these points, but understand that these are regulated by the Divisional Officers under whom they work.

OFFENCES RELATING TO TRAVELLING WITHOUT TICKETS BY RAILWAY SERVANTS.

11. Bhai Parma Nand : Will the Honourable Member for Railways please state whether it is a fact that the staff, taken over from the Accounts or the Audit Branch by the Operating or Commercial Branch on the North Western Railway used to carry friends, relatives of theirs or of other staff with them without ticket or proper pass ; what are the reasons for the increase in the number of offences relating to travelling without tickets by railway servants ?

The Honourable Sir Andrew Clow : I have no information which would support the allegation in the first part of the question, nor am I aware of any increase in the number of railway servants travelling without tickets.

DIVERSION OF THE DELHI-DEHRA DUN EXPRESS *via* MORADABAD.

12. Bhai Parma Nand : Will the Honourable Member for Railways please refer to a Circular No. 3/13/33-T. of 1939, dated the 20th June, 1939, issued by the Divisional Superintendent, Moradabad Division, East Indian Railway, regarding the diversion of the Delhi-Dehra Dun Express *via* Moradabad and state :

- (a) whether it is a fact that the Assistant Superintendent Works, Roorkee, informed the Divisional Officers of the weakness in the track on the 15th June, 1939 ;
- (b) the reasons for not acting upon that circular with effect from the 23rd June, 1939—the date when it was made available to Gujraula and Muzampur Narain staff ;
- (c) whether the derailment of that train on the 27th June, 1939, was avoidable had that circular been brought into effect from that date ; and
- (d) who is responsible for the loss of life caused by that derailment ?

The Honourable Sir Andrew Clow : I have called for the information and a reply will be laid on the table of the House when received.

PROMOTION OF ASSISTANT STATION MASTERS AND GUARDS IN THE MORADABAD DIVISION OF THE EAST INDIAN RAILWAY.

13. Bhai Parma Nand : Will the Honourable the Railway Member please refer to a Circular No. E.A.S.M./39, dated the 31st July/1st August, 1939, issued by the Divisional Superintendent, Moradabad Division, East Indian Railway and state :

- (a) the percentage allotted to Assistant Station Masters (Lower Grade) and to Guards for promotions to Assistant Station Masters (Higher Grade) ;

- (b) whether Guards are eligible for promotion to Station Masters (Higher Grade) without passing through the Class of Assistant Station Masters (Higher Grade) ; and
- (c) the reasons for not permitting inter-change or *inter se* appointments in class or cadre or group ?

The Honourable Sir Andrew Clow : I have called for the information and it will be laid on the table in due course.

TRAFFIC OF PASSENGERS DEALT WITH AT CERTAIN STATIONS ON THE EAST INDIAN RAILWAY.

14. Bhai Parma Nand : Will the Honourable Member for Railways please lay a statement of the traffic of passengers dealt with at Burdwan, Asansol, Gaya, Patna, Dhanbad, Dinapur, Allahabad, Mughalsarai, Benares, Kashi, Cawnpore, Tundla, Aligarh, Fyzabad, Partabgarh, Lucknow, Shahjahanpur, Bareilly, Moradabad, Lhaksar, Hardwar and Dehra Dun, on the East Indian Railway, during 1928-29-30-31 and 1937-38-39 up to date showing :

- (i) number of tickets collected, and the number of returns submitted ;
- (ii) number of passengers booked from the above mentioned stations ;
- (iii) number of berths reserved ;
- (iv) number of ticket collectors ; and
- (v) scales of pay of the head ticket collector, assistant or in charge ticket collectors at each of those stations ?

The Honourable Sir Andrew Clow : I regret that I cannot embark on the immense inquiry which would be involved in an attempt to collect the particulars wanted by the Honourable Member, and I understand that even the material necessary to provide figures for the earlier years is no longer in existence.

TICKET CHECKING STAFF IN THE DELHI AND LAHORE DIVISIONS OF THE NORTH WESTERN RAILWAY.

15. Bhai Parma Nand : Will the Honourable Member for Railways please lay a comparative statement of the expenditure on the ticket checking staff attached to Headquarters, Delhi and Lahore Divisions, showing pay and allowances separately of :

- (i) head special ticket examiners ;
- (ii) special ticket examiners taken over from the accounts ; and
- (iii) special ticket examiners other than (ii) on the North Western Railway ?

The Honourable Sir Andrew Clow : I lay on the table a statement giving the information required.

Statement showing pay and allowances separately of (i) Head Special Ticket Examiners, (ii) Special Ticket Examiners taken over from the Accounts and (iii) Special Ticket Examiners other than (ii) employed in Headquarters, Delhi and Lahore Divisions of the North Western Railway.

	Headquarters.					Delhi Division.				Lahore Division.			
	No. em- ployed at present.	Pay.	Special Pay.	Travel- ling allow- ance.	Total.	No. em- ployed at present.	Pay.	Travel- ling allow- ance.	Total.	No. em- ployed at present.	Pay.	Travel- ling allow- ance.	Total.
(i) Head Special Ticket Examiners.	1	270	45	75	390	1	250	63	313	1	200	63	263
(ii) Special Ticket Examiners taken over from Accounts (Old Travelling Ticket Examiners).	6	655	120	315	1,090	15	1,760	585	2,345	10	1,135	396	1,530
(iii) Special Ticket Examiners other than (ii) above.	18	1,679	320	545	2,544	29	2,494	735	3,229	30	2,615	770	3,385

NOTE:—(1) Item (ii) above shows the number of old Travelling Ticket Examiners at present employed in Headquarters, Delhi and Lahore Divisions from amongst those who were transferred in 1928 from the Accounts Control to the Executive.

(2) The pay and allowances shown above are monthly figures.

CERTAIN APPOINTMENTS MADE AFTER THE ISSUE OF RULES FOR RECRUITMENT AND TRAINING OF SUBORDINATE STAFF ON STATE RAILWAYS.

16. Bhai Parma Nand : Will the Honourable Member for Railways please state :

- (a) whether the Railway Board in their letter No. 5153-E., dated the 20th May, 1931, forwarded to the General Managers, State-managed Railways, the rules for recruitment and training of subordinate staff ;
- (b) in respect of the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways, the number of technically qualified (i) Sub-Inspectors of Works and (ii) Assistant Inspector of Works recruited direct since the promulgation of those rules ;
- (c) the number of persons recruited from temporary technically qualified staff as (i) Sub-Inspector of Works and (ii) Assistant Inspector of Works since the issue of those rules ;
- (d) the number of persons recruited by promotion from mistry's appointment to (i) Sub-Inspector of Works and (ii) Assistant Inspector of Works after the enforcement of those rules ; and
- (e) the number of those recruits confirmed on those appointments subsequently and the reasons for those who are still in service in any capacity on the railways but are not confirmed ?

The Honourable Sir Andrew Clow : (a) Yes, but these were superseded by revised rules issued in 1938.

(b), (c), (d) and (e). These particulars are not on record with Government nor is any systematic record of them maintained by the railways. As their compilation would involve an inquiry into the antecedents of all employees in the grades mentioned, and possibly of some who are no longer employees who were appointed during the last eight years, I regret that I cannot undertake it.

CERTAIN APPOINTMENTS MADE AFTER THE ISSUE OF RULES FOR RECRUITMENT AND TRAINING OF SUBORDINATE STAFF ON STATE RAILWAYS.

17. Bhai Parma Nand : Will the Honourable Member for Railways please state :

- (a) the number of non-technically qualified Sub-Inspectors and Assistant Inspectors of Works, who have been confirmed on the Eastern Bengal, the East Indian, the Great Indian Peninsula and the North Western Railways ;
- (b) the reasons for recruiting and confirming them in those appointments after the introduction of the rules for recruitment and training of the subordinate staff ; and
- (c) whether Government propose to enquire into the matter ; if not, why not ?

The Honourable Sir Andrew Clow : (a) Government have no particulars of the qualifications of men in these grades and I understand that no systematic record is available at Railway headquarters. As accurate particulars could not be supplied without a large amount of research, I regret that I cannot supply them.

(b) The rules do not preclude the appointment of staff without academic qualifications ; and practical experience may be an adequate qualification.

(c) No ; because Government are not aware of any irregularities which would warrant their instituting an inquiry.

CONTRACTS GIVEN ON THE NORTH WESTERN RAILWAY.

18. Bhai Parma Nand : Will the Honourable Member for Railways please refer to the reply given to part (b) of question No. 1747 asked on the 2nd December, 1938, in the Legislative Assembly and state the nature of the contracts given for the year 1939-40 on the North Western Railway by the General Manager or on his behalf by the Heads of Departments, and by the Divisional Superintendent or on his behalf by Divisional Officers ?

The Honourable Sir Andrew Clow : I am calling for the information regarding aerated water contracts on the North Western Railway and it will be laid on the table of the House in due course.

RAILWAY ACCIDENTS IN THE GHAZIABAD YARD.

19. Bhai Parma Nand : Will the Honourable Member for Railways please lay on the table the records of the accident which took place within Ghaziabad Yard on or about the 27th November, 1938, specially notices to staff, punishments given to staff, notes on the accident, the note on the working of points and signals by the Signal Engineer ?

The Honourable Sir Andrew Clow : I have seen no report of this accident, but shall secure information regarding the circumstances in which it occurred and any action taken after it. This will be laid on the table in due course.

INSPECTION NOTES OF INSPECTORS UNDER THE PAYMENT OF WAGES ACT.

20. Bhai Parma Nand : Will the Honourable the Railway Member please lay on the table the Inspection notes of the Inspector under Payment of Wages Act together with the actions taken thereon ?

The Honourable Sir Andrew Clow : The question should have been addressed to my Honourable colleague in charge of the Department of Labour.

APPEAL OF NON-GAZETTED RAILWAY STAFF AGAINST THE ORDER OF DIVISIONAL SUPERINTENDENT.

21. Bhai Parma Nand : Will the Honourable the Railway Member please state if he has considered the desirability of an appeal to the General Manager by the non-gazetted staff irrespective of class and grade against an order in appeal passed by the Divisional Superintendent ; if he has not considered it, why not ?

The Honourable Sir Andrew Clow : The suggestion was considered in connection with a recommendation of the Royal Commission on Labour, and it was decided that non-gazetted railway servants should have the right of appeal to the authority next above that which imposes a penalty.

NON-RECOVERY OF RENTS OF ACCOMMODATION FROM GAZETTED RAILWAY OFFICERS WHILE ON TOUR.

22. Bhai Parma Nand : Will the Honourable the Railway Member please state the reasons for not recovering the rent of accommodation provided for the gazetted officers while on tour from their travelling allowances in the same way as is done in the case of other Government servants ?

The Honourable Sir Andrew Clow : The grant of rent-free accommodation, when available, is not confined to the gazetted officers on the railways. It is granted also to non-gazetted officers. I am not fully familiar with conditions in other Departments but understand that in many cases rent is not charged when inspection bungalows are occupied by officers on duty.

CARRYING OF THEIR FAMILIES BY GAZETTED RAILWAY OFFICERS ON DUTY PASSES WHILE ON TOUR.

23. Bhai Parma Nand : Will the Honourable the Railway Member please state the reasons for permitting the gazetted officers the privilege of carrying their family on duty passes while on tour which is not granted to the same class of officers in other Government Departments ?

The Honourable Sir Andrew Clow : The privilege is one of long-standing and its exercise involves Government in no expense.

Many Railway officers' duties necessitate frequent and prolonged absence from their homes, and they have frequently to live in isolated places which lack society and every day amenities. The nature of duties of Railway officers differs from that of other Government officials, and the extension of this privilege to the latter would involve Government in considerable extra expenditure.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to starred question No. 1650 asked by Seth Govind Das on the 30th November, 1938.

RACE PREJUDICE AGAINST INDIANS ON CERTAIN SHIPS.

(a), (b) and (c). The information obtained by Government shows that difficulty has been experienced by Indians in securing tourist and higher class accommodation on ships of certain foreign steamship companies operating in South and East African ports. The British India Steam Navigation Company, however, make no discrimination against Indians who are provided with higher class accommodation and other reasonable facilities on their vessels. It may be added that in South Africa the only companies which used to refuse higher class accommodation to Indians were the Deutsche Ost Afrika Line and the Italian Line. The former being a German concern must have ceased to operate consequent on the outbreak of the war, while the latter did so sometime ago.

(d) and (e). Assuming that the Honourable Member is referring to the matters raised in the earlier parts of his question, no action seems to be required in view of what I have stated above.

Information promised in reply to a supplementary question arising out of starred question No. 832 asked by Mr. Brojendra Narayan Chaudhury on the 7th March 1939.

PERSONS WOUNDED IN BURMA RIOTS SENT TO HOSPITAL.

The Government of Burma from whom enquiries were made have no information beyond what is given on page 281 of the Final Report of the Riot Inquiry Committee, copies of which are available in the Library of the House.

Information promised in reply to part (a) of starred question No. 939 asked by Mian Ghulam Kadir Muhammad Shahban on the 9th March, 1939.

PROMOTION OF MUSLIMS TO THE LOWER GAZETTED SERVICE ON THE EAST INDIAN RAILWAY.

The number of upper subordinates promoted permanently to the Lower Gazetted Service from 1931, when that service was constituted, to 1938, was 58. None was a Muslim. The number of upper subordinates appointed to officiate in the Lower Gazetted Service during the same period was 137, of whom one was a Muslim.

Information promised in reply to starred question No. 14 asked by Maulvi Abdur Rasheed Chaudhury on the 30th August, 1939.

INCONVENIENCE FOR WANT OF LIGHT ON A ROAD TO SYLHET BAZAR RAILWAY STATION.

(a) 800.

(b) Since the 8th February when supply of electricity commenced the units consumed each month were as follows :

February	..	..	..	..	444
March	..	..	..	..	647
April	..	..	..	..	578
May	..	..	..	..	597
June	..	..	..	..	710

Full connection was not made until the middle of May.

The total amount paid for the period was Rs. 707.

(c) No.

(d) and (e). The matter is receiving the attention of the Railway Administration.

(f) Yes.

THE INDIAN ARBITRATION BILL.

APPOINTMENT OF MR. F. E. JAMES TO THE SELECT COMMITTEE IN PLACE OF MR. A. AIKMAN.

The Honourable Sir Muhammad Zafrullah Khan (Law Member) :
Sir, I move :

“ That Mr. F. E. James be appointed to the Select Committee on the Bill to consolidate and amend the law relating to Arbitration in place of Mr. A. Aikman.”

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

“ That Mr. F. E. James be appointed to the Select Committee on the Bill to consolidate and amend the law relating to Arbitration in place of Mr. A. Aikman.”

The motion was adopted.

THE WORKMEN'S COMPENSATION (SECOND AMENDMENT) BILL.

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

“ That the Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose, be taken into consideration.”

I owe it to the House to explain the urgent circumstances under which I am asking them to take this Bill into consideration. On the 3rd September, the day the war broke out, His Majesty's Government introduced a Bill in the House of Commons and had it passed the same night, entitled the Personal Injuries (Emergency Provisions) Act, 1939. Honourable Members are aware that under the Workmen's Compensation Act in this country a workman who is injured fatally or otherwise is entitled to certain compensation. The Act that has been enacted by the British Parliament provides that where war injuries are sustained the liability of the employer is removed and the State comes in with a scheme under which compensation is given to the injured person or to the family of the deceased workman. This Bill, in particular, applies to Indian seamen—the Bill that I am asking the House to take into consideration today. The Indian seamen who are on ships which are engaged in foreign travel—ships of the United Kingdom register—have to be compensated for injuries due to war risks. The Workmen's Compensation Act which we passed in this House applies only to British India, that is to say, the territorial waters surrounding British India. Under a clause in the agreement which is entered into by the seamen when they are taken on service, the right to such compensation is extended when the ships leave the territorial waters and are on the wide sea. Now, it is obvious that the compensation which could be demanded by a workman under the Workmen's Compensation Act must relate to something that arose out of his employment as such and out of the risk that he ran with reference to the normal employment. War risks are abnormal and I may illustrate my point by a case which occurred during the last war. An engine driver was shunting his engine in the yards of the town of Hartlepool in England. An enemy submarine happened to come there and it bombarded the town, as a result of which the engine driver was injured. He claimed compensation from his employer—the North East Railway—and the courts held that the risk which he ran was not a risk relating to his employment as such that it was a risk which every citizen in that town was subjected to and that many in fact did have similar injuries.

Sir Syed Raza Ali (Cities of the United Provinces : Muhammadan Urban) : The Official Benches are already converted. I would ask the Honourable Member to address this side of the House.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I thought my voice was carried to all parts of the House.

The courts held that under those circumstances the employer was not liable. These war risks are now proposed to be taken over by the Government and a scheme is being considered whereby any person, who is injured and about whom it could be proved that he was disabled in consequence of a war injury, would be compensated by the Government. The present Bill seeks to provide, therefore, that to that extent the employer would be relieved from liability under the Workmen's Compensation Act. The Bill therefore lays down that no compensation shall be payable under the Workmen's Compensation Act in respect of any personal injury for which compensation could be obtained under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939. The scheme will be prepared by His Majesty's Government and I may say, though I have no final authority for that statement, as far as I can see, the scheme prepared by His Majesty's Government would be more liberal than the scheme outlined in the Workmen's Compensation Act for such injuries.

Sir Syed Raza Ali : Do we know anything about the scheme ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I said that the scheme has not been finally approved and it is a scheme which is going to be prepared by His Majesty's Government but, so far as I can see at present, the scheme is likely to be much more favourable than the scheme under the Workmen's Compensation Act.

Mr. M. S. Aney (Berar : Non-Muhammadan) : May I know from the Honourable Member if he has had the benefit of having an outline of the scheme.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : An outline of the scheme has been presented to the Government of India and we are in correspondence with His Majesty's Government and the final shape will be known after this Bill is passed by this House, because that scheme must relate itself to the Workmen's Compensation Act. If this Bill is not passed, that scheme is either held up or left in an inchoate state, because the right of the labourer or the seaman under the Workmen's Compensation Act would still continue. That is the urgency why I am now asking the House to pass this measure, so that the scheme will immediately come into operation. Honourable Members are aware that already owing to the risks of war some of our Indian seamen have either been seriously injured or have lost their lives.

Sir Syed Raza Ali : May we have a copy of the Personal Injuries (Emergency Provisions) Act, 1939, which was passed on the 3rd September ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I have just received a copy by Air Mail and it is with me now but I have not been able to supply copies of this Act to Honourable Members.

Mr. President (The Honourable Sir Abdur Rahim) : If the Honourable Member has any question to put to the Honourable Member who is speaking, he ought to wait till he has finished his speech.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I said that the House will be aware that already some of our Indian seamen have been either injured or have lost their lives and I am sure it will be the desire of the House that we should convey both on behalf of the Government and of the House our profound sympathies for the injured and for the families of the deceased persons. Now, Sir, it is under such circumstances, to avoid a feeling of apprehension which naturally prevails among Indian seamen, particularly in Bombay and elsewhere, as to their position in view of the war risks that they are running and to assure them that adequate compensation will be paid to them that this Bill is being promoted.

As I said, the Houses of Parliament have passed such a measure on the very day the war broke out, and in order to give effect to that scheme and to provide appropriate provisions in that scheme on the part of His Majesty's Government, it is absolutely necessary that this complementary legislation, excluding employers from liability under the Workmen's Compensation Act, should be passed by this House. Sir, you will find that there is a proviso. That proviso shortly says this. Supposing an application is made in the belief that the workman could get compensation for a war injury and it is found that he is not entitled to that compensation because it was not a war injury that he had sustained, then in that case he has a right to proceed against his employer. In order that his right to do so may be revived, a special procedure is provided by which he can still proceed against the employer. That, in short, is the object of the Bill, and if I have explained it clearly to the House, I trust the House will enable me to put this Bill as urgently as possible on the Statute-book. Sir, I move.

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

“ That the Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose, be taken into consideration.”

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Will the Honourable Member tell me if under the outlines of that scheme that the Honourable Member has seen, the compensation to seamen will be more advantageous than what they would get under the Workmen's Compensation Act ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : While the matter is still under correspondence, it is very difficult for me to make a definite statement but I can give this assurance, from such knowledge as I possess from the preliminary correspondence, that it will certainly not be less generous than under the Workmen's Compensation Act, and I have every assurance that it will be more generous than the figures given in the Schedule to the Workmen's Compensation Act.

Sir Muhammad Yamin Khan (Agra Division : Muhammadan Rural) : May I ask the Honourable Member to place before the House an outline of the scheme ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Obviously not, because it is still under correspondence.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadian Rural) : May I ask if the initiative for this piece of legislation came from the Home Government or from the Government of India ?

Mr. President (The Honourable Sir Abdur Rahim) : That is not a proper question at this stage.

Among the number of amendments of which notice has been given since yesterday (the Bill was introduced only yesterday), there is one motion for a Select Committee in the name of Sir Syed Raza Ali. The Chair believes copies of the amendments have been circulated to the Honourable Members ?

Some Honourable Members : Yes, just now.

Mr. President (The Honourable Sir Abdur Rahim) : In the circumstances, the Chair will dispense with the Standing Order and allow these amendments to be moved.

Sir Syed Raza Ali : Sir, I move :

“ That the Bill be referred to a Select Committee consisting of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, the Honourable Sir Andrew Clow, Mr. M. S. Aney, Sardar Sant Singh, Mr. F. E. James, Dr. R. D. Dalal, Mr. H. A. Sathar H. Essak Sait, Sir Muhammad Yamin Khan, and the Mover, with instructions to report by the 25th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Mr. President (The Honourable Sir Abdur Rahim) : The Chair will now put the amendment and then both this amendment and the motion of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar that the Bill be taken into consideration will be for consideration before the House. Amendment moved :

“ That the Bill be referred to a Select Committee consisting of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, the Honourable Sir Andrew Clow, Mr. M. S. Aney, Sardar Sant Singh, Mr. F. E. James, Dr. R. D. Dalal, Mr. H. A. Sathar H. Essak Sait, Sir Muhammad Yamin Khan, and the Mover, with instructions to report by the 25th September, 1939, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five.”

Sir Syed Raza Ali : Sir, I am sure we welcome the step taken by the Government of India in introducing this Bill, though I regret to say that the Government did not find it convenient to introduce this measure at an early stage. While welcoming the Bill itself, Sir, let me make it quite clear that the Bill, as introduced, deals with a very complicated Act that was passed by this House in 1923. I know the trouble that was taken by the Government of India to collect the necessary material before it was decided to draft the Bill. A Committee was appointed in 1922. That Committee consulted a large number of people. I happened to be a member of that Committee. The Committee sat from day to day and took a long time to consider the whole subject carefully. As a result, the Bill of 1923 was drafted and, subsequently, passed. It will interest Honourable Members to know that the parent Bill, viz., Act VIII of 1923, consists of thirty-five sections and four Schedules. Now, let me make it quite clear that there is no desire on the part of any section of this House to hold up this Bill. The Honourable Member in charge has explained the circumstances under which the Bill has been introduced. All we know,

in addition to the rather meagre information supplied by the Honourable Member, is that this Bill was introduced yesterday, that we were supplied with copies of it last evening at about 8 o'clock, and that this Bill is down for consideration today. Sir, my submission is that, having regard to the nature of the Bill and the character of the various parts of clause 2, it would be impossible for this House to go through these parts of the clause here and now today. It is certainly open to me to object to the consideration stage under Order 38 of the Standing Orders, and as none of us were supplied with a copy of the Bill three clear days before consideration, such an objection, if made, I am sure, will prevail; but having regard to the emergency with which we are all faced, I have no desire to raise that technical though extremely valid objection. All I want is that a Bill of this character which raises certain matters of great importance, which, I am sure, can be improved by the Select Committee should not be dealt with by the whole House, especially when the House has not had time to consider the merits of the Bill before it. It strikes me, while I am too ready to give credit to Government, that we are asked to pass this Bill even though we do not know the provisions of the British Statute that was passed, as we were told by the Honourable Member in charge, on the 3rd of September, by the British Parliament. I believe it was elicited in answer to a question addressed to the Honourable Member in charge that he has got a copy of the Statute. The least that we could have expected from the Government was that the Honourable Member should have got the Statute printed, and supplied it to the Honourable Members of this House. Now, we do not know what the scope of the British Statute is. It was mentioned by the Honourable Member in charge that the scheme that would be finally sanctioned by His Majesty's Government would, at least that was the hope expressed by the Honourable Member, be a generous one and yet the Honourable Member himself does not know what the essential features of the scheme are. When the Honourable Member himself does not know that, I am afraid he is a little optimistic in trying to persuade the House to believe that this scheme would be as generous as he hopes it will be. On that ground alone I feel that I am on very strong ground in moving that the Bill be referred to a Select Committee.

This is not the stage really for me to analyse the provisions of the Bill in detail. All I can say is that I have given some thought and care to the subject. In fact, I worded my amendments till two o'clock this morning. Unless due care and attention is given to various parts of clause 2, it will not be possible for the Honourable Members to appreciate the effect of these parts. As I said, I do not want to discuss the provisions of the Bill in detail, but I would invite the attention of Honourable Members to sub-clause (5) that is proposed to be inserted in clause 15 of the original Act. It reads thus:

“(5) No compensation shall be payable under this Act in respect of any personal injury for which a payment could be obtained under any scheme made under the Personal Injuries (Emergency Provisions) Act, 1939.”

If an application could be made by an injured person under the Emergency Provisions Act, 1939, he will not be able to take advantage of the provisions of the Workmen's Compensation Act of 1923, unless

[Sir Syed Raza Ali.]

his case fell under one of the sub-clauses to the proviso. Now, one fails to see why this sub-clause does not say that unless an application has been made by the injured person in England, it will be open to him to make an application under Act VIII of 1923, namely, the Indian Act. Of course, the injured person has an opportunity of making an application. But supposing he has not made an application, then he will not be able to take advantage of the provisions of the parent Act. This, I certainly think, is much too hard and severe. The scope of this sub-clause should be extended if the Bill is referred to the Select Committee. Similarly, if an injured person wants to take advantage of the provisions of Act VIII of 1923, he has to obtain the opinion of the Commissioner. This Commissioner, of course, is an official of His Majesty's Government in England. He must also obtain a certificate from the Provincial Government, and the beauty of all that is that all these four conditions mentioned in the Bill, namely, (a), (b), (c) and (d) must co-exist. It is not a case of his taking advantage of these conditions in the alternative, namely, that if the man's case fell under any of those four conditions, it should be open to him to apply under the Workmen's Compensation Act of 1923. But the Bill says that all these four conditions must co-exist. They must exist at the same time if the injured person is to apply under the provisions of the original Act of 1923.

For these reasons, I submit that the Government should welcome this suggestion. I know our weakness and I know the weakness of the House. I know that the Congress Benches are empty. I know that if the Government insist on their having their pound of flesh, it is open to them to do so. But let me point out very clearly that it will be a very wrong attitude on the part of the Government to adopt. The class of persons that we are considering now is a class that is unfortunately ignorant and illiterate. In South Africa, I knew the conditions under which these unfortunate seamen, who are called lascars, were working. I have come in personal contact with some of them and I can assure the House that this class of people is very ignorant and very illiterate. They do not know the law. In fact, they are afraid of going to lawyers and law officers or even to a court of law. Therefore, the provisions of this Bill have got to be considerably liberalised if the Government are seriously desirous that this class of people should take advantage of the provisions of this Bill. I can cite cases where enormous injury can be done to a man who applied for relief in England under the provisions of the Personal Injuries (Emergency Provisions) Act, 1939, if he did not know what his legal position was and, therefore, failed to make an application.

I do not want to discuss my amendment at this stage. This motion confines itself to committing the Bill to the Select Committee. Let me point out this much that if an Indian seaman fails to apply for compensation through his ignorance, illiteracy or want of knowledge.....

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : All these observations would be more relevant when the amendments are actually moved but not on the motion to refer the Bill to the Select Committee.

Sir Syed Raza Ali : I am not able to hear one word of what the Honourable Member says.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member says that the observations which the Honourable Speaker is now making will be more relevant to the amendments and not on the motion for referring the Bill to the Select Committee.

Sir Muhammad Yamin Khan : You said, Sir, that both the main motion and the motion for referring the Bill to the Select Committee were before the House for discussion.

Mr. President (The Honourable Sir Abdur Rahim) : I understood the Honourable Member, Sir Syed Raza Ali, to say, that there are certain features of the Bill which do require consideration in the Select Committee. The Bill seeks to amend an old Act and the Honourable Member wants that the House should have time to consider how the amendments to the Act that will affect the seamen to whom this Act will apply. I think the Honourable Member is relevant but he must address himself more to the general features of the Bill, at this stage.

Sir Syed Raza Ali : The motion for consideration of the Bill as well as my motion for referring the Bill to a Select Committee, both these motions, are before the House. It is my right to speak on both these motions. I have not exceeded the limits of these two motions, namely, the original Bill and my motion.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is not expected to deal with clauses in detail at present. There is only one clause and the Honourable Member should deal with the general features.

Sir Syed Raza Ali : I hope you will notice, Sir, that except a casual reference to the clause, I have not said more.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member is entitled to refer to the clause and not discuss the wording, for instance, or details of that character. There is only one clause in the Bill.

Sir Syed Raza Ali : I was referring to one part of the clause. There are four parts to the clause, namely, (a), (b), (c) and (d). My motion is for referring the Bill to the Select Committee and in the Select Committee after careful considerations, the provisions may be liberalised in such a manner as to enable these unfortunate injured seamen to get full benefits of the British Act, about the details of which we know nothing or next to nothing, except the promise held out by my Honourable friend. As I submitted, all the relevant considerations I have endeavoured to put before the House.

Lastly, I would again request the Government not to oppose this motion for reference to a Select Committee. The House will see that nothing is further from my mind than that this Bill should be held up for any length of time. My motion says that the Select Committee should be instructed to report by the 25th September, 1939. If that is done the Bill will be carefully considered in the Select Committee clause by clause and it can come up to the House for discussion on the next day.

[Sir Syed Raza Ali,]

In conclusion, I must point out that if Government oppose a motion of this character, the impression produced in the country will be that the Government took advantage of the unfortunate absence—I should call it misguided absence—of Congress Members. Sir, I move.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Mr. President, I consider it rather hard that when a Member of the Government is trying to take the House into his confidence and to do what he can to get the Legislative Assembly to co-operate in putting forward a Bill of this character, charges should be levelled against the Government that they are taking advantage of the state of the House or that they are pushing through this measure because of the solid strength behind them. Sir, I have explained the nature of this measure and the urgency of this measure. I have explained that it concerns those Indian seamen and lascars for whom my Honourable friend, Sir Syed Raza Ali, in his capacity as Agent General in South Africa had shown so much warm sympathy. Now, Sir, the alternative that I had before me when I considered and decided to bring this Bill before this House was this. In view of the urgency of this measure, in view of the fact that the scheme was under consideration of His Majesty's Government and would be held up with reference to Indian seamen unless this Bill was passed into law, the alternatives were to advise His Excellency the Governor General to issue an Ordinance immediately with reference to this matter for the interest of the Indian seamen or to put it before this House, frankly explaining the nature of the urgency and seeking, in my own humble way, its co-operation to place this Bill on the Statute-book. My Honourable friend says that owing to the absence of my Honourable friends opposite, the Government and the Member in charge are seeking to take unfair advantage. Now, Sir, I venture to state that it is taking unfair advantage of your own weakness that you should continue to charge the Government with riding rough shod over you, when, if I may say so, the minority in this House is getting far better hearing and far more earnest hearing from the Government than may otherwise have possibly been the case.

Sir Syed Raza Ali : I do not want to interrupt the Honourable Member. The Bill as drafted, in any case, has retrospective effect, it is to come into force on the 3rd September, 1939. Is there any reply to that ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Absolutely, the reply being that that fact is irrelevant so far as the actual handing over of the money or compensation to the injured are concerned and so far as assuring these Indian seamen that they will get this compensation, when they take the risk of sailing in these ships and going into war risk areas. Does my Honourable friend think that the fact that when my Honourable friend has finished consideration in the Select Committee stage and has finished its consideration in this House and the Bill goes to the other House probably in the January Session, the idea that it will be given retrospective effect will be sufficient compensation or sufficient inducement to those very illiterate seamen for whom my Honourable friend has shown so much concern and who do not know what retrospective legislation means ? Does my Honourable friend think that that will be sufficient inducement for them to take the

risks involved in sailing on these ships at such a time? Surely, we both have the same purpose in view to see to it that these Indian seamen get the compensation in as attractive a form as possible.

My Honourable friend has made several statements, some of which are obviously incorrect. For instance, this Bill was certainly placed on the table of the House and was in the hands of Honourable Members yesterday morning and not last night at eight o'clock. But these are trivialities on which I do not want to labour. My Honourable friend wants a great deal of information on this subject. He wants a copy of the British Act to be placed before him and he wants the scheme which His Majesty's Government have in view to be circulated. As I said, the alternative that I was faced with was to advise His Excellency the Governor General to issue an Ordinance immediately to satisfy the feelings and apprehensions of Indian seamen or to get this Legislature to co-operate with Government in passing this Bill as an emergency measure. If my Honourable friend wants all this information and if my Honourable friend or any large section of the House wants the Bill to be considered in the Select Committee there is only one course open to me. Having regard to the state of business, having regard to the delays that will inevitably be involved in the reference to the Select Committee and later on in the consideration of the Bill in the House and also by another House, I shall have no alternative,—and I say it most respectfully,—but to agree to the Select Committee motion so that the Bill may be reported upon in January, and in the meanwhile to advise the issue of an Ordinance, because the emergency is great and we must have this provision in some form or other. Does the House agree to that course?

An Honourable Member : Why not have the report on the 25th?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I cannot place all the information that my Honourable friend wants by that time, because I cannot have the scheme which His Majesty's Government is contemplating.

Sir Syed Raza Ali : We will be able to go through the Act in the Select Committee. I never referred to the scheme which is going to be finally formulated by His Majesty's Government. But we can consider the Bill in the light of the British Statute.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : This Bill is a single-clause Bill which has been drafted on the lines of the British Act. There is no complication in this measure at all; it is merely to enable His Majesty's Government to go ahead with their scheme having regard to the fact that in the same way as the employer has been relieved of the liability so far as the English seaman in England is concerned, the same relief will be given to the employer by this Act—that is all the scheme of the Bill. These are all the provisions contained in this single-clause Bill. If my Honourable friend and others want to have this reference to Select Committee I can only suggest that the words "with instructions to report by the 25th September, 1939", be deleted; and I want to say perfectly frankly that my course would then be to advise the issue of an Ordinance and take up this measure for consideration by the Select Committee at the next Session of the Assembly.

Sir Muhammad Yamin Khan : Sir, we are asked to consider this Bill which was introduced only yesterday. My Honourable friend said that it was in our possession yesterday morning at 11 A.M. but he forgets that the Assembly sat till 5 P.M. and as we were dealing with other Bills before us we could not give any attention to this one.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I was only referring to the physical fact of possession which my Honourable friend, Sir Raza Ali, stated somewhat incorrectly.

Sir Muhammad Yamin Khan : That is one thing. In the second place copy of the Bill passed in the English Parliament was received by the Honourable Member only just now by Air Mail and he had no time either to read it himself or to circulate it to us.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The Honourable Member is entirely mis-stating what I said. I never said that I had no time to study it nor that I received the Act this morning.

Sir Muhammad Yamin Khan : I am sorry if I misunderstood the Honourable Member but in any case it was received so late that the Honourable Member had no time to inform the House of the contents of that Bill which had been passed there. Another thing is that the Honourable Member has been receiving some kind of communication giving an indication of what would be the provisions of the scheme and how far Indian seamen will be protected, and, he believes, that it will not be in any way less favourable than what the Workmen's Compensation Bill provides. In that case it is only proper that this House, as representing the poor people who will be injured, should examine the provisions of the different Statutes and rules which are to be framed and then give their assent, if for nothing else at least to satisfy their conscience that their action is right. I know the Honourable Member was on this side of the House a few years ago and feels for Indian seamen as much as any one else ; but we must satisfy our conscience that what we have done is for the best of the people.

Then, Sir, the Statement of Objects and Reasons says that an injured seaman should not get double compensation and as he gets compensation from the State he should not get it from his employers. In that case it must be seen that he is not exposed to double the risk. He is exposed to risk by the State in bringing about the war and sending him to sea.

Mr. Lalchand Navalrai : He may be drowned twice.

Sir Muhammad Yamin Khan : If he is drowned compensation will be claimed by his successors but in the case of injury it will be claimed by himself.

Therefore, it is a liability of the State as well as of the people who sent him to a place where he may be injured. Therefore, there are two liabilities and one cannot absolve the other. If the mast of a ship falls upon him and he is injured, it is a liability of the company. But in this case you expose him to the risk of war. We have to face the country and we have to take the responsibility on ourselves in the unfortunate and misguided absence of our friends of the Congress Party. If nobody else, we have to satisfy ourselves. If my Honourable friend is fully

satisfied there will be no harm in issuing an Ordinance on his own responsibility and on the responsibility of the Governor General and he can then take us into his confidence in January and pass this Bill properly his object will be gained. His object is to see that Indian seamen who may be injured should not incur any loss. I think my Honourable friend, Sir Raza Ali, will agree to delete the words "by the 25th of this month" in his motion and the Committee may meet at leisure. My Honourable friend took it in the sense that Sir Raza Ali said that the country might think that the Government have taken advantage of the minority here and his resentment was quite correct because he thought it meant that the Government has not shown any consideration. I fully assure the Government that we are very grateful for and appreciate the consideration shown during the passage of one most important Bill and we never minimised that spirit of accommodation. I am sure Sir Raza Ali never meant any sort of reflection. What he said was that especially when the Labour Leader, Mr. Joshi, was absent we must not rush this through. (Interruption from the European Group.) Of course, I can understand my friends' attitude : they want to prosper and they do not want to pay : it is the State that will pay and they want to save their own pockets and throw the burden on me because I as a taxpayer will have to pay.....

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : No : the Honourable Member is not correct : he will not have to pay. It is the United Kingdom taxpayer that will pay.

Sir Muhammad Yamin Khan : Whoever it may be, I sympathise with English taxpayer, they will save and I can, therefore, realise their anxiety and I hope that the Government will not be guided by their views. Therefore, I hope that this Bill will be postponed. Government will gain and we can give our full co-operation, if they show they are reasonable and want to do justice to the poor man and save him from being exploited by anybody, however highly placed they may be. I support the motion for Select Committee and if the Government accept it, I am sure my friend will agree to the deletion of the date mentioned in the motion.

Sir Syed Raza Ali : May I ask the Honourable Member for one small piece of information ? What happens if for instance a P. & O. boat or any British boat is torpedoed within territorial limits, say, within two or 2½ miles of Bombay and a number of seamen are injured ? Do His Majesty's Government in that case compensate the injured men ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Yes.

Mr. J. D. Boyle (Bombay : European) : Mr. President, may I start by saying that the only self-interest that was felt by the Group when Sir Yamin Khan was speaking was one of hope that he would sit down because we were infinitely fatigued. I should like, if I may, to say that unlike so many of the Honourable Members on my right, the Party which I am now speaking for definitely prefer legislation by the Assembly to Ordinance rule. That is apparently a point of view which friends on my right do not share. But if it comes to a question of whether the Assembly shall be consulted or whether the Governor General shall pass an Ordinance I definitely prefer that the Assembly should be consulted.....

An Honourable Member : After the Ordinance has been passed.

Mr. J. D. Boyle : May I point out that the only possible advantage of a delay, whether the delay is of a few days or of a few months, is that the scheme should be seen. It is not the question of the Act—what we want to see is the scheme if we are going to follow the advice of my Honourable friend, Sir Raza Ali. As has been made clear by the Honourable the Commerce Member we cannot see the scheme even if the Act is not passed today : we shall not be able to see it any way. In fact, the scheme could not properly be completed unless this present Bill is passed now : if it was to be completed now, it would be in a very chaotic condition—that was definitely stated by the Honourable the Commerce Member. Am I correct ? He agrees.....

Sir Syed Raza Ali : Am I to understand that the scheme to be formulated by His Majesty's Government is to be held up if the Government of India passed an Ordinance and we did not pass the Bill today ?

Mr. J. D. Boyle : I did not say that. You should have listened to me more carefully. May I point out that the dangers to seaman, which we are supposed to protect him from, are very present. As has already been said there were several Indian seamen on board the "City of Paris"—several of them were injured and some died. We cannot afford to postpone the passing of this legislation in the interests of the seamen themselves even for a few days. That should be the primary consideration and if I may say so it was very ungenerous of my Honourable friend, Sir Raza Ali, to throw doubts upon the generosity of the scheme. We already have a guarantee from the Honourable the Commerce Member that the scheme will certainly not be less generous than that in force at the moment under the Workmen's Compensation Act and that he has in fact every reason to suppose that it will be a great deal more generous. He will certainly not be worse off, but probably better off and that is something which should appeal to us, though it may not appeal to the somewhat academic economic theories of my friend, the Assistant Leader of the Congress Party.

It is not my intention on a reference to Select Committee to deal with the detailed provisions of the Bill, nor in fact do I think any good can possibly come of it. I do wish to urge my friends to consider the position rather more carefully even than has been done by the Honourable Member over there who sat up till two o'clock to do so.

Sir Syed Raza Ali : Did you want me to stay up till 6 A.M. ?

Mr. J. D. Boyle : Certainly, Sir, if that had brought you more light.

May I say, Sir, that I and, my Party for whom I am speaking, most strongly oppose the reference to the Select Committee, and I hope that the Bill will be passed in its present form today.

Mr. M. S. Aney : Sir, I neither support nor oppose this motion. There was one statement made by my friend sitting on my left that friends sitting on his right were eager to have legislation by Ordinance, but I may tell him that we ourselves were entirely against all legislation by means of Ordinances. The House will remember that a Member of my Party, Sardar Sant Singh, complained to this House that Government was not taking this House into confidence and were doing everything they wanted by means of Ordinances. He was the first man from

my Party to make a complaint about this, and, I believe, in response to that complaint the Honourable the Leader of the House assured the House that they would not be issuing Ordinances and so they brought forward the Defence of India legislation before the House. So I repudiate the charge made by my friend, on my left.

Now, Sir, my main object in getting up is this. The Honourable the Commerce Member told us that if this measure is not considered by the House now, he will advise the Governor General to issue an Ordinance on the subject. I really want to know from him whether it is possible for the Governor General to issue an Ordinance on a matter which is the subject-matter of legislation before this House. When this matter is seized of the House, can an Ordinance be issued by the Governor General, or whether it will be necessary for the Honourable Member to withdraw this motion before he can advise the Governor General to issue an Ordinance. I want to know whether the two things can be done simultaneously. I personally feel some doubt about it. I am not clear whether there will be any difficulty in the way of the Governor General to issue an Ordinance. If there is no Ordinance there will be no remedy, and the difficulty will be greater. I shall be glad if Sir George Spence will consider this point carefully and give us the benefit of his advice on this matter.

Mr. F. E. James (Madras : European) : May I ask one other question ? What will be the position of an Indian seaman who is serving on a neutral ship sunk either by an enemy mine or a submarine ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : May I answer, Sir ? As regards the point raised by the Leader of the Nationalist Congress Party, I am advised that there will be no difficulty in the issue of such Ordinances, notwithstanding the fact that a Bill is before the House.

As regards the question raised by Mr. James, this Bill does not seek to deal with neutral ships at all. The position will be regulated, I hope, by similar legislation promoted by neutral Governments, and the employers will then have to deal with them in the same way. I may say that the Workmen's Compensation Act does not apply to neutral ships when they are outside the territorial limits.

Now, so far as the question of the scheme is concerned, I have to make it perfectly clear that that scheme will not be the subject of any amendment by this House even if I place it before this House, or by Honourable Members in the Select Committee. That will be only for information. The scheme will lay down the rates of compensation which His Majesty's Government will pay to Indian seamen and European seamen. The Government of India can only use their best endeavours to see that the scheme of compensation is not less generous than that provided under the Workmen's Compensation Act, and I have given the assurance that that scheme will not be less generous than the scheme under the Workmen's Compensation Act. I hope it will be fairly more generous under that scheme, and that is the only aspect which the Select Committee can try to safeguard. I can understand any demand for the scheme being placed before the Select Committee if there was any apprehension that under that scheme the compensation payable would be less generous than the scheme of compensation contemplated under Schedule IV of the Workmen's Compensation Act. I

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can here deliberately give the assurance that it will not be so. So in those circumstances, I don't see, except for the purpose of information, and all of us are inquisitive for information,—how a consideration of the scheme will be of any assistance at all in promoting this Bill so far as the Select Committee or this House is concerned. I can only repeat that if Honourable Members still feel that this Bill should go before a Select Committee, then I am prepared to accept the suggestion to refer it to a Select Committee, deleting the provision about the date of the Report of the Select Committee. At the same time, I must quite frankly tell the House that my responsibility with reference to this matter will oblige me to recommend to and advise the Governor General to issue an Ordinance on the subject.

Sir Syed Raza Ali : May I ask the leave of the House, Sir, to delete the words “ with instructions to report by the 25th September ” ? Will it meet with the approval of the Honourable Member in charge ?

Mr. President (The Honourable Sir Abdur Rahim) : What is the suggestion of the Honourable Member ?

Sir Syed Raza Ali : I ask leave of the House to delete the words occurring in the fifth line “ with instructions to report by the 25th September, 1939 ”.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understands the Honourable Member wishes to delete the words “ with instructions to report by the 25th September, 1939.”

Sir Syed Raza Ali : Yes, Sir.

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

“ That the Bill be referred to a Select Committee consisting of the Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar, the Honourable Sir Andrew GLOW, Mr. M. S. Aney, Sardar Sant Singh, Mr. F. E. James, Dr. R. D. Dalal, Mr. H. A. Sathar H. Essak Sait, Sir Muhammad Yamin Khan 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 Assembly divided :

AYES—13.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Azhar Ali, Mr. Muhammad.
Essak Sait, Mr. H. A. Sathar H.
Ghiasuddin, Mr. M.
Ghulam Bhik Nairang, Syed.

Ismail Khan, Haji Chaudhury Muhammad.
Nauman, Mr. Muhammad.
Raza Ali, Sir Syed.
Siddique Ali Khan, Khan Bahadur Nawab.
Umar Aly Shah, Mr.
Yamin Khan, Sir Muhammad.
Zafar Ali Khan, Maulana.

NOES—15.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.
Aikman, Mr. A.
Boyle, Mr. J. D.
Bues, Mr. L. G.
Dalpat Singh, Sardar Bahadur Captain.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.

Kamaluddin Ahmed, Shams-ul-Ulema.
Kushalpal Singh, Raja Bahadur.
Miller, Mr. C. C.
Rahman, Lieut.-Colonel M. A.
Scott, Mr. J. Ramsay.
Shahban, Miya Ghulam Kadir Muhammad.
Sher Muhammad Khan, Captain Sardar Sir.

The motion was negatived.

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

“ That the Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose, be taken into consideration.”

The motion was adopted.

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

“ That clause 2 stand part of the Bill.”

Sir Syed Raza Ali : Sir, I beg to move :

“ That in clause 2 of the Bill, in the proposed clause (5), for the words ‘ could be ’, occurring in the third line, the words ‘ has been ’ be substituted.”

I do not think the position of this House was ever so anomalous as it is today. It seems that the arbiters of our fate are the Nominated Members of this House. If our Constitution grows along these lines, what will happen in the long run is more than I can care to predict. Coming to my amendment, I realise that it is very difficult for a full House to go through questions which rest on the substitution of some important words for others the harm of which is not open to the high and cannot be realised till the whole thing is gone through carefully, which I do not think my Honourable friends of the European Group have had the time to do. The effect of the proposed clause 5 is that, if a person has received an injury for which a payment could be obtained in England, it will not be open to him to make an application in India under Act VIII of 1923 unless he satisfies all the four conditions mentioned in the proviso. My submission is what, after all, is the use of taking away with one hand what you give with the other. My Honourable friend, Sir Ramaswami Mudaliar, held out the rosy prospect of the injured Indian seaman being dealt with more generously under the scheme which is to be formulated by His Majesty's Government than he can get under Act VIII of 1923. That statement is welcome so far as it goes. But I am not one of those who are prepared to take things on trust. Where laws are concerned, where schemes are concerned, I should like to judge everything for myself by knowing what those laws are or what those schemes are. We know that when a law is under consideration, hopes are expressed that it will be interpreted in a particular manner which will conduce to increasing the good of the people. These hopes have, more often than not, been belied.

Pandit Lakshmi Kanta Maitra : Where were you during the discussion on the Defence of India Bill ?

Sir Syed Raza Ali : I was in Delhi attending a very important meeting which, from my point of view, was more important than the meeting of this House.

Now, reverting to the point, I take it even on trust that this scheme is going to be somewhat more generous than the provisions of Act VIII of 1923, but why do you insist on saying that if a seaman is injured and it was open to him to make an application for the extension of the benefits provided by the Personal Injuries (Emergency Provisions) Act, 1939, to him and he failed to make an application, then it should not be open to him to apply under the Indian Act unless he complied with all the parts of this proviso. This is what I call giving with one hand and taking away with the other. It seems to me really that there is no point in making this provision so

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vigorously strict and stringent. If my amendment is carried—and I have very little hope of my amendment being carried, having regard to the line that has been chalked for those Nominated Members who do not represent the public.....

Sir Muhammad Yamin Khan : They have got a vote in the House.

Pandit Lakshmi Kanta Maitra : As you sow, so shall you reap.

Sir Syed Raza Ali : Unfortunately this maxim does not apply to Nominated Members.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Nor to seamen.

Sir Syed Raza Ali : About seamen, I will wait till I make up my mind. I know my friend, Sir Ramaswami Mudaliar, is quite prepared to make up his mind, but I am not in a position to do so. We were told : "as you sow, so shall you reap". That applies to all of us except the Nominated Members who sow evil and reap good.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not make such remarks.

Sir Syed Raza Ali : Having regard to the position which I have explained, I trust that my amendment will commend itself to the Honourable Member in charge. I need not appeal to any other section of the House.

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

"That in clause 2 of the Bill, in the proposed clause (5), for the words 'could be', occurring in the third line, the words 'has been' be substituted."

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : I am afraid there has been some misconception on the part of my Honourable friend with reference to the amendment that he has just moved. The scheme of this simple Bill is this—to take away the right with reference to suing employers and to suggest that the Indian seamen should only come under the scheme and get the compensation which is payable to them by the Government. Now, the provisos relate to a different set of circumstances altogether. As I said, the scheme is likely to be more attractive than the compensation provided for under the Workmen's Compensation Act. It is, therefore, possible that the seaman, who is injured, even though it may not be a war injury, may still apply to the Government, so that he may come under the scheme. If it is not a war injury, then he is not entitled to get any compensation from His Majesty's Government. The proviso provides that in case he has made a wrong application to the Government to come under that war emergency scheme, then his rights will be preserved and he can go and still sue the employer for an injury which was not an injury contemplated by this Bill or the corresponding English Act. That is the extent of the privilege of the seaman that has been kept alive by the proviso. It is not as if, as my Honourable friend, Sir Raza Ali, suggested, this proviso takes away something which is given by the previous clause of the Bill. I hope I have made the position clear. The substitution of these words would clearly give an alternative remedy to the seaman which is the first principle of this Bill to avoid.

Sir Syed Raza Ali : The alternative remedy will not be open to the injured seaman unless he complies with all the four conditions enumerated in the proviso.

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

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

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

“ That in clause 2 of the Bill, in the proposed clause (5), for the words ‘ could be ’, occurring in the third line, the words ‘ has been ’ be substituted.”

The motion was negatived.

Sir Syed Raza Ali : Sir, I move :

“ That in clause 2 of the Bill, part (a) of the proviso to the proposed clause (5) be omitted, and the subsequent parts be re-lettered accordingly.”

As the House will see, the proviso to the proposed clause 5 has four parts,—(a), (b), (c) and (d). Part (a) of the proposed sub-clause runs thus :

“ an application for a payment under any such scheme has been duly made in respect of the injury ; ”

The effect of this part is that before an injured seaman is granted permission to take advantage of these benefits of the Workmen's Compensation Act, 1923, he must show that he made an application for payment under any scheme formulated by His Majesty's Government. We need not concern ourselves with the details of the scheme, about which we know very little except what we were told by the Honourable Sir Ramaswami Mudaliar, viz., that it is going to be a more generous scheme than that contained in the existing Workmen's Compensation Act. Now, my objection is this that the scheme of the Bill, as one can see for one-self by going through the Bill carefully, is that if a seaman is injured as the result of action in war, it should be open to him to apply and take advantage of the scheme prepared by His Majesty's Government under the British Statute. So far, so good. But assuming the injured seaman, for a number of causes, anyone of which would be good, is unable to make such application, what would be the result of his failure to make such application in England ? The effect of it under the scheme of the Bill would be that he would not be able to apply for the benefits of the Workmen's Compensation Act, 1923, being extended to him. That is a positive disability. I believe the Government's intention is that the seaman should, in the generality of cases, have two remedies. The first remedy is in England, namely, he can make an application to participate in the benefit of the scheme. But assuming that he is unable to make such application, surely the real scheme of the Bill, if I understood it correctly, is that it should be open to him to make an application in India for taking advantage of the provisions of the Workmen's Compensation Act. But this second remedy, which is an alternative remedy, will not be open to him unless he first makes his application in England. My simple point is this. Why subject him to this

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disadvantage? Suppose through ignorance or a want of knowledge or through any other sufficient cause he is unable to make an application in England, you should not, therefore, penalize him by withholding from him the benefits of the Workmen's Compensation Act. That is the short point. In other words, I believe it was claimed by my Honourable friend, Sir Ramaswami Mudaliar, that in a number of cases it would be open to him to take advantage, in the alternative, of two benefits,—either, of the scheme formulated in England or of the Workmen's Compensation Act in India. But my real objection is that the advantage is not open to the man *in the alternative*. You may demand that his position as an applicant for participation in the benefits under the Workmen's Compensation Act must be dependent on his first making an application in England to participate in the benefits of the scheme. If he fails to do this, he suffers from a disadvantage, *viz.*, he cannot participate in those benefits. Further, you penalize him by not placing it within his power to make an application in India. So the benefit in the alternative is gone. That is my real objection. I hope my Honourable friend, the Member in charge of the Bill, has followed my argument, and unless the Government's position is that this Bill was drawn up by an infallible human being and no comma, semi-colon or full-stop can be altered, unless that is the position of the Government, I hope he will accept the amendment which I have moved.

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

“ That in clause 2 of the Bill, part (a) of the proviso to the proposed clause (5) be omitted, and the subsequent parts be re-lettered accordingly.”

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I must again reiterate that it is my misfortune that the Honourable Member has not properly appreciated either the principles of this Bill or the scheme underlying it. I said once before and I repeat that this Bill does not seek to give two alternative remedies, one under the scheme of His Majesty's Government and the other under the Workmen's Compensation Act. On the other hand, the remedy for such disablement or death due to a war injury is taken complete hold of by the scheme of His Majesty's Government and the employer is exonerated altogether. That scheme provides for, as I said before, a larger compensation than would accrue under the Workmen's Compensation Act. The war injury is an injury directly attributable to enemy action in one form or another. Under the Workmen's Compensation Act, the compensation is claimable if personal injury is caused to a workman by accident arising out of and in the course of his employment, so that the war injury embraces a much wider category of cases than the workman could obtain a remedy for under the Workmen's Compensation Act. It is just possible that in some cases there may be overlapping. Then, when you come to the question of provisos, it is not as if in the proviso an alternative is still open to the workman. That is not the meaning of the proviso. What the proviso provides for is this. Supposing the seaman applies under the scheme for compensation and it is found that the injury that he has sustained is not a war injury at all for which such compensation should be given, such a period of time might have elapsed that he might have lost his remedy under the Workmen's Compensation Act to proceed against the employer.

In that case, the period of limitation is saved for him and he is entitled to proceed against the employer. It is not an alternative remedy. It is only one remedy, but the seaman might have misconceived the forum to which he should go and the person from whom he should get compensation. And because he has misconceived that and put his application under that misconception, he should not be penalised and we propose to save him to that extent, so that he may proceed against the employer whose real liability lies for that particular accident.

Sir Syed Raza Ali : May I ask whether it would be open to an injured workman to make an application in India ?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : The idea is that so far as the Indian seamen are concerned, this particular scheme should be worked by the Government of India and I believe that the rules will be so framed that the application will be made in this country and it will be transferred to His Majesty's Government for the payment of compensation. That is the scheme of the Act.

I do not profess that there are infallible draftsmen in the Government of India, much less that any Member in charge of a Bill is infallible, but I must say, at the same time, that sometimes we feel that there are very fallible gentlemen who propose amendments and for that reason we are unable to accept these amendments.

Sir Syed Raza Ali : Again you claim infallibility.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I oppose the amendment.

Mr. M. S. Aney : Sir, before the Honourable Member gave this explanation, I was almost inclined to support the amendment of my Honourable friend, Sir Syed Raza Ali. I had thought that in case the injured man was unable to make an application in England, that was the only forum open to him for application and for that mistake he would be almost left without any compensation. That was my impression also, but in view of the explanation that is given that under some rules that will be framed under it a provision will be made that the Government of India will practically work up the scheme and therefore it would be open to any man to apply to the Government of India here for getting the compensation under this Act. Thus, the difficulty to which my Honourable friend referred in moving his amendment is obviated. I will, therefore, ask him to withdraw his amendment.

Sir Syed Raza Ali : I am not prepared to withdraw the amendment.

Mr. M. S. Aney : In that case, I oppose the amendment.

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

“ That in clause 2 of the Bill, part (a) of the proviso to the proposed clause (5) be omitted, and the subsequent parts be re-lettered accordingly.”

The motion was negatived.

Sir Syed Raza Ali : Sir, my amendment No. 4 was a consequential amendment which would have been necessary if the previous amendment had been carried. I do not, therefore, propose to proceed with it. I move the next amendment which runs as follows :

“ That in clause 2 of the Bill, in part (b) of the proviso to the proposed clause (d), for the word ‘ and ’, occurring at the end, the word ‘ or ’ be substituted.”

The reason which has led me to give notice of this amendment is that, according to the four parts of the proviso, it is necessary in the case of an injured seaman, before he can make his application in India, that he must comply with all these four conditions which are enumerated as parts of the proviso. My submission is that it should in all justice and fairness be open to the injured seaman to make an application in India if he satisfies two of the conditions mentioned in the various parts of the proviso. The defect of the proposed amendment is that if an injured seaman satisfies the Commissioner as to his application being made in the reasonable belief that the injury was such that a payment would be made under the said scheme, that is not sufficient by itself. In addition to that he must also obtain a certificate from the Provincial Government to a certain effect, so that he must comply with two conditions. First, he must satisfy the Commissioner, and, in addition to that, he must also obtain a certificate from the Government of India. It seems to me that if the desire is to extend the scope of the basis by which an injured seaman can legitimately draw his compensation, then the word “ and ” should be substituted by the word “ or ”, so that it should be open to the injured man either by obtaining from the Commissioner a writing to the effect that he is satisfied that his application was made in the reasonable belief that the injury was such that the payment could be made, or it should be open to him to apply for the Workmen's Compensation Act being applied to him on production of a certification from the Provincial Government to the effect mentioned in part (c) of the proviso. The difference between my amendment and the original Bill is this, that the original Bill insists on the injured seaman complying with both conditions. Let him satisfy the Commissioner, and, in addition to that, let him obtain a certificate from the Government. The effect of my amendment is this that he can set the legal machinery in motion either on satisfying the Commissioner or by obtaining a certificate from the Provincial Government. Sir, I move.

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

“ That in clause 2 of the Bill, in part (b) of the proviso to the proposed clause (d), for the word ‘ and ’, occurring at the end, the word ‘ or ’ be substituted.”

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, it will be a misnomer to say that I am opposing this amendment. What I am trying to do is to explain the amendment and I trust that will constitute sufficient opposition to the amendment, which I feel is inevitable. These are not conditions on the persons, much less humiliating conditions. Let me explain, again, what happens in this case. An application is made for an injury which the applicant believes to be a war injury. The compensation is not given by His Majesty's Government on the ground that it is not a war injury. He, then, proceeds to the Commissioner and puts in a petition that he applied under the scheme for compensation and that it was turned down on the ground

that it was not a war injury. The Commissioner examines the nature of the claim and feels satisfied that the applicant had made a *bona-fide* mistake in going to the wrong parties and that his real remedy is against the employer. There is a second condition which is to be satisfied by the applicant, that he did not, as a matter of fact, receive any compensation under the scheme for that particular injury. It is that fact that has to be proved by him. How is he to prove the fact? According to this proviso he need not prove that His Majesty's Government or the Government of India did not give the compensation; he may merely get a certificate from the Provincial Government that he was not given that compensation. Under the scheme, the Provincial Governments will be informed of the persons to whom compensation has been given, and the amount of compensation and whether, as I shall show later on, the compensation which was paid for a time has been stopped after further investigation. It will be very difficult for the applicant to prove each of these facts. It is to help him and not to impose a further condition or liability on him that this second proviso is inserted whereby, he has merely to get a certificate from the Provincial Government and produce it before the Commissioner. Then the rest of the process regarding his claim against the employer will be taken up. As you will see, Sir, the proviso says that the Provincial Government certifies that the application was rejected. That is a piece of evidence which the applicant must produce before the Commissioner and we have made it easy for him to produce that evidence by a certificate from the Provincial Government. Secondly, the Provincial Government certifies that payments made in pursuance of the said application were discontinued. It is possible that in these very hectic days, an application may have been entertained and payment made; after further investigation it may have been found that it was not a war injury for which such payment should have been made and, consequently, the payment would have been stopped, in which case his right to proceed against the employer is revived. The fact that that payment has been stopped must again be proved before the Commissioner and a certificate from the Provincial Government is the easiest method by which I venture to think this illiterate and unfortunate Indian seaman or his widow or children may satisfy the Commissioner that compensation under the scheme was not obtained.

Sir Syed Raza Ali : Who is likely to know, or who would have the best means of information whether an application was made or not? Is it to be the Provincial Government or the Commissioner? I think the Commissioner, but according to my Honourable friend it would be the Local Government.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : It would be the Provincial Government that would be informed of this case. The Commissioner is there merely to satisfy himself that this was not a war injury, but that it was an injury which could form the subject of adjudication before him as against the employer. Sir, I oppose the amendment.

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

“That in clause 2 of the Bill, in part (b) of the proviso to the proposed clause (d), for the word ‘and’, occurring at the end, the word ‘or’ be substituted.”

The motion was negatived.

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Sir Syed Raza Ali : Sir, my next amendment No. 6 was consequential on No. 5 being accepted by the House. Since No. 5 was not accepted by the House, I do not propose to move amendment No. 6.

Sir, I beg to move the next amendment :

“ That in clause 2 of the Bill, in part (c) of the proviso to the proposed clause (5), after the word ‘ was ’, occurring in the second line, the words ‘ not made for a sufficient cause or that it was ’ be inserted.”

Sir, let me inform Honourable Members that this amendment No. 7 is the most important of all amendments that I have moved hitherto. Sub-clause (c), as it stands, reads thus :

“ The Provincial Government certifies that the application was rejected or that payments made in pursuance of the said application were discontinued, on the ground that the injury was not such an injury.”

This part (c) confines itself to the case where an application was made and was rejected for the reason mentioned in this part. But what would happen to a disabled seaman who is unable to make his application. Take a case like this and that was why I put this question to my Honourable friend. Take a case like this. A ship belonging to a shipping company is on its way, say, from Southampton or Plymouth to India. We will say that within territorial waters or just beyond territorial waters when the ship is about four miles from Bombay, the ship is attacked and a number of seamen are injured. We will assume that these seamen belong to Surat or Chittagong as is usually the case at present. Now, they ultimately swim back to the port of Bombay and land there, or they are rescued. We will assume that a number of them are seriously injured. Some of them go home to Surat, which is not far from Bombay and others go to Chittagong.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I rise to a point of order. The House has just rejected amendment No. 3 of my Honourable friend, Sir Syed Raza Ali, which says :

“ That part (a) of the proviso to the proposed clause (5) be omitted.”

Part (a) says :

“ An application for a payment under any such scheme has been duly made in respect of the injury.”

The House has accepted that it should stand part of the Bill.

Now, in the present amendment which Sir Syed Raza Ali moves, he wants “ the Provincial Government to certify that the application was not made for a sufficient cause or that it was rejected ”, and it seems to me that it will be quite inconsistent, apart from making the Bill absolutely meaningless.

Sir Syed Raza Ali : Sir, my amendment is not at all inconsistent with part (a) of the proviso which this House has already agreed to retain. If the Honourable Member will read the amendment carefully, he will find that it is not inconsistent. Part (a) says :

“ An application for a payment under any such scheme has been duly made in respect of the injury.”

I contemplate a clause where an application was not made. It is not inconsistent.

The Honourable Sir Andrew Clow (Member for Railways and Communications): You have got an "and". The application has been made under (a) and the Provincial Government certifies that it has not been made under (c). This will make the clause meaningless. The two parts must go together.

Mr. President (The Honourable Sir Abdur Rahim): Yes, it would be inconsistent.

Sir Syed Raza Ali: The effect, as far as I can see, is this. We have agreed to parts (a) and (b), and the word "and" occurs at the end of both. Part (b) only refers to the Commissioner being satisfied as to the application being made. This is in addition to that, and I submit it is not inconsistent with that.

Mr. President (The Honourable Sir Abdur Rahim): The Chair holds that the amendment is inconsistent with clauses (a) and (b) which have been agreed to by the House.

The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

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

"That the Bill be passed."

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

"That the Bill be passed."

Sir Syed Raza Ali: Sir, at this late hour, I do not propose to make any long speech, nor am I in a mood to make a long speech. At this stage of third reading, I think we are justified in asking Government to let us know why this measure was withheld till yesterday and not introduced five or six days ago or even three days ago when it would have been possible to send it to Select Committee for careful consideration of its various apparently bewildering clauses. I think Government owe an explanation to this House, and not a word was said by the Honourable Member in charge of the Bill about it. I guess he will plead pressure of work and war work, and that plea is always available to Government Members.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: Sir, I do not put forward any such plea.

Sir Syed Raza Ali: I am glad and that saves me from a rather inconvenient anticipation. But there is curiosity in the House and we should know the reason. Again, I cannot congratulate Government on the heroic attitude that they have adopted in regard to this Bill. In the matter of sending the Bill to Select Committee, they abstained from

[Sir Syed Raza Ali.]

voting, but what about the solid block of Nominated Members who, as a rule, are at the beck and call of Government, but who entered into an unholy alliance with the European Party and helped to defeat the motion ?

The Honourable Sir Muhammad Zafrullah Khan : What about the Nationalists ? You lost only by two votes and the Nationalists could have turned the scale.

Sir Syed Raza Ali : Yes, we lost by two votes. Sir, three days ago, the *New York Times* regretfully commented on Russia playing the noble role of hyena to the German lion. In this case, the critics will think of the Nominated Members playing the noble role of hyena to the European tiger.

Captain Sardar Sir Sher Muhammad Khan (Nominated Non-Official) : Sir, on a point of personal explanation. We, Nominated Members, enjoy our nomination from the same Government whose servant he was in South Africa.

Sir Syed Raza Ali : I welcome that explanation. I was proud to serve the Government of India and my country in South Africa for three years. If my friend thinks our constituencies are the same, he is quite wrong and the public will judge.

Sir, on this third reading, we will not be justified in dividing the House, because the Nominated Members' hyena will again play the same noble role of coming to the rescue of the European Party tiger. In this case, we have also to reckon with the British lion, and, therefore, I do not think we should insist on it at this stage. Anyway, the Government were conscious of their strength. They had the strength of a wolf and they have used their strength like a wolf. That is all. It would have been much more graceful if they had allowed the Bill to go to Select Committee and get the matter threshed out there. After all, though this is a small matter, it is of very great importance to the unfortunate, illiterate, ignorant class who do not know how to invoke the aid of law and is of major importance. But the Government have shown their claws : they are not prepared to make any concession to public opinion. In this state of affairs, I do not think I would be justified in casting my vote on this the third reading of the Bill.

Mr. M. S. Aney : Sir, I rise to support the motion. But I would not have risen but for the observation made by the Leader of the House....

The Honourable Sir Muhammad Zafrullah Khan : I withdraw.

Mr. M. S. Aney : As he withdraws, I will also not pursue the matter further. I would simply say that I support the Bill.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I confess I am somewhat mystified by the heat and energy that, throughout this day, my Honourable friend, Sir Raza Ali, has shown in connection with a measure on which I had hoped that there would be unanimity and not the slightest occasion for controversy....

Sir Syed Raza Ali : You are responsible for the controversy

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : If personally I am responsible, it is a responsibility which I cannot disclaim but I do not think the Bill was in any way responsible for this

controversy. My Honourable friend suggested that owing to pressure of war work I was not able to introduce this Bill earlier. I said that I was not going to put forward any such plea. The fact was—I have a sheaf of cablegrams that have passed between His Majesty's Government and the Government of India before me—we were in continuous correspondence over this matter, and the Act that was passed on the 3rd September by the House of Commons reached me only two days ago and I could not take definite steps with reference to this measure before I was perfectly satisfied myself that I understood the provisions of this measure which I was going to introduce. The Honourable Member again complained of the attitude of the Government and said that it was unfair and ungracious. From another side of the House—and as I now feel a more convenient side of the House—I had myself made such charges against the Government of the day, but I confess that on no occasion on which I was associated with the proceedings of this Assembly as a non-official Member have I heard charges made with so little justification and obviously, if I may say so, with so little belief. What was the attitude of the Government? The Honourable Member suggested that the Bill may be referred to a Select Committee. I pointed out that while I did not oppose the reference to a Select Committee there was only one other course that I could pursue, that I should have to invoke the responsibility of the Governor General for the issue of an Ordinance, and I placed the alternative clearly before the House. I said that if Honourable Members want an Ordinance to be issued and legislation to be postponed, let theirs be the responsibility for the issue of such Ordinance. Consistently with that attitude the Government Benches had to remain neutral. I could not go into the lobby and vote for the amendment and thereby suggest that I preferred Ordinance to ordinary legislation. Surely, my Honourable friend does not expect me to do so. So far as the Nominated Bloc was concerned, along with the other elected Members they were free to do what they liked. Sir, so far as I am concerned, at no time—and the speeches I have made as a non-official Member of the Assembly are on record—at no time have I suggested such remarks about Nominated Members even in the days when I felt the heavy weight of non-official Nominated Members against me. It is grossly unfair and it is a cheap way of trying to make an elected Member feel that he has got more patriotism, more responsibility and more sense of duty than a Nominated Member. On this particular occasion what has happened? So far from being dumb driven cattle, flocking into the 'Noes' Lobby at the instance of the Government, Honourable Members, Nominated Members—my friend, Dr. Dalal, in particular, if he had received a whip from me, let me down by sitting in his seat and not going into the lobby....

Sir Syed Raza Ali : I do not want to interrupt, but may I point out that Dr. Dalal claimed the capacity of an official Member? That is the reason why he abstained from going into the Lobby. That is my information. Can the Honourable Member deny that?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar : Sir, I cannot claim to have all the secret information that my Honourable friend possesses about Nominated Members, and their claims. But can my Honourable friend say that my friend, Mr. Sivaraj, who comes from my own province and who was my political colleague until the

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other day, remained neutral and did not go into the Lobby, because he also thought he was an Official Member ? Surely, my Honourable friend knows all that. I do not know why—we are all accustomed to lose our motions or amendments—but my Honourable friend seems to have taken it as a personal insult that this House, the non-official side of it, should have voted against him. His quarrel then is with the Nominated and Elected Members, including my friends of the Nationalist Party who remained neutral and certainly not with me.

I have only one more word to say. I do not want the impression to go out from the proceedings of this day that there has been any lack of consideration on the part of the Government or of any Member of this House for the fate or the welfare of Indian seamen. I am most anxious that it should be clearly understood that this Bill has been promoted, not to exonerate any particular employer, but really to give relief to Indian seamen, to put on record as early as possible that he will be entitled to have such relief. I want that impression to go out and it is for that reason that I have ventured to make this statement in reply to the Honourable Member.

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

“ That the Bill be passed.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): There being no other business before the Assembly, the Assembly is adjourned *sine die*.

The Assembly then adjourned *sine die*.

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