

6th February 1939

THE
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume I, 1939

(3rd February to 15th February, 1939)

NINTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1939



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Legislative Assembly.

President :

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

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

Secretary :

MIAN MULLA AHMAD RAFI, BAR.-AT-LAW.

Assistants of the Secretary :

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

RAI BAHADUR D. DUTT (*Upto 31st March, 1939*).

KHAN SAHIB S. G. HASNAIN, B.A. (*From 10th April, 1939*).

Marshal :

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

Committee on Petitions :

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

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

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

SYED GHULAM BHIK NAIRANG, M.L.A.

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

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LEGISLATIVE ASSEMBLY.

Monday, 6th February, 1939.

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

MEMBER SWORN.

Mr. John Herbert Thomas, M.L.A. (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

REPORT ON THE POSSIBILITIES OF THE LEVY OF DEATH DUTIES.

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

- (a) whether Mr. Lloyd (now Sir Alan Lloyd) has submitted his report on the possibility of the levy of death duties;
- (b) if so, whether Government have considered the report; and
- (c) to what conclusions they have come to?

The Honourable Sir James Grigg: With your permission, Sir, I will answer this question and Nos. 96 and 118 together.

Sir Alan Lloyd has not yet completed his report on the possibility of imposing death duties in India. When I have received the report I will consider the question of placing it before the House. Until I know the attitude of the Provincial Governments on this subject I am entirely unable to say whether any legislation will be brought forward, in this Session or later.

Mr. T. S. Avinashilingam Chettiar: May I know whether any Provincial Governments have communicated their opinions to him over this matter till now?

The Honourable Sir James Grigg: To me?

Mr. T. S. Avinashilingam Chettiar: Yes.

The Honourable Sir James Grigg: Not to me. I have some expectation that the attitude of the Provincial Governments will be made clear in the report.

Mr. K. Santhanam: May I know if Sir Alan Lloyd has completed his discussions with the Provincial Governments?

The Honourable Sir James Grigg: I think he has seen most of the Provincial Governments, not all of them.

Mr. K. Santhanam: May I know which are the Provincial Governments he has not discussed this matter with?

The Honourable Sir James Grigg: The Honourable Member had better give me notice of that. I think the Punjab, the North-West Frontier Province, Assam, and possibly there may be another, I do not know.

Mr. Manu Subedar: May I know whether the discussion is taking place on a draft Bill or whether the discussion is taking place in a general manner?

The Honourable Sir James Grigg: Certainly a memorandum was furnished as a basis of discussion. As far as my recollection goes, there was no question of a draft Bill, but there were heads of proposals, outlines of a scheme.

Mr. K. Santhanam: May I know if the trend of conversations so far has convinced my Honourable friend that further investigation in the matter is worth while?

The Honourable Sir James Grigg: The Honourable Member had better wait a little and see. I would not like to give him any misleading account of the views of the Provincial Governments.

Mr. T. S. Avinashilingam Chettiar: When do Government expect the report from Sir Alan Lloyd?

The Honourable Sir James Grigg: Before I leave India.

Mr. S. Satyamurti: May I know whether the terms of reference to Sir Alan Lloyd include prominently consideration of the opinions of Provincial Governments concerned who are the most interested parties and whether the report will be based on the reactions of the Provincial Governments to his proposals?

The Honourable Sir James Grigg: He has not had any formal terms of reference, but his work was undertaken at the request of some of the Provincial Governments at the time of the first Finance Ministers' Conference.

Mr. Manu Subedar: May I know whether the question of federal surcharges on these duties is also being discussed with Provincial Governments?

The Honourable Sir James Grigg: I do not think it is necessary. Once the legislation is there the possibility of federal surcharges falls under the ordinary provisions of the Government of India Act, and I believe under the Instrument of Instructions federal surcharges have to be discussed with the Provincial Governments before they are imposed. That is my recollection, but I speak from memory

REPORT OF THE CHATFIELD COMMITTEE.

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

- (a) whether the Chatfield Committee have submitted their report;
- (b) whether Government have considered the report;
- (c) what are their main recommendations; and
- (d) whether the report will be published?

Mr. C. M. G. Ogilvie: (a) Government are unable to say.
(b) and (c). Do not arise.
(d) No.

Mr. T. S. Avinashilingam Chettiar: Am I to understand that Government are unable to say whether the Chatfield Committee have submitted their report?

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

Mr. T. S. Avinashilingam Chettiar: May I know to whom they are to submit their report? To the Government of India or to the Government in England?

Mr. C. M. G. Ogilvie: To His Majesty's Government.

Mr. T. S. Avinashilingam Chettiar: May I know whether the Honourable Member has seen the press report that their report has been submitted?

Mr. C. M. G. Ogilvie: I have seen a press report to the effect that it will be submitted shortly. I do not know whether it has been submitted today or not.

Mr. T. S. Avinashilingam Chettiar: May I know whether the report is to be considered by the Government of India or by the Government of England?

Mr. C. M. G. Ogilvie: By His Majesty's Government.

Mr. Abdul Qaiyum: Will it be simultaneously presented in India?

Mr. C. M. G. Ogilvie: No. It will be presented only to His Majesty's Government.

Mr. S. Satyamurti: May I know whether the Government of India will have an opportunity of representing their point of view to His Majesty's Government, before that Government consider this report and pass their final orders thereon?

Mr. C. M. G. Ogilvie: I cannot see that that arises out of this question.

Mr. S. Satyamurti: It does arise. Clauses (b) and (c) of the question are to this effect, "Whether Government have considered the report", and "What are their main recommendations?". My Honourable friend said

that this Government will not get a copy of the report that will be submitted to His Majesty's Government. I am asking whether this Government, that is, the Government intended in this question, namely, the Government of India, will have an opportunity of making their representations to His Majesty's Government, before they consider and pass final orders on the Committee's report?

Mr. O. M. G. Ogilvie: I am afraid I still do not see that that arises from this question.

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not think it strictly arises.

Mr. S. Satyamurti: I am asking whether this Government will have any opportunity or chance of considering the recommendations of this Committee and making their representations to His Majesty's Government before the latter pass final orders thereon.

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not think that that arises strictly out of the question.

Mr. K. Santhanam: May I know whether the report will be published simultaneously both in India and in England?

Mr. O. M. G. Ogilvie: No.

Mr. T. S. Avinashlingam Chettiar: May I know whether he is in a position to state whether it will be published at all?

Mr. O. M. G. Ogilvie: I have answered that question categorically.

Mr. T. S. Avinashlingam Chettiar: May I know whether the final decisions in this matter, the question of considering and coming to a conclusion on the report, rest with the Government of India or His Majesty's Government?

Mr. O. M. G. Ogilvie: I did not quite follow the Honourable Member's question.

Mr. T. S. Avinashlingam Chettiar: May I know whether the final decisions that will be taken over the Committee's recommendations rest with the Government of India or His Majesty's Government?

Mr. O. M. G. Ogilvie: That I submit does not arise from this question.

Mr. S. Satyamurti: May I know whether the Government of India will address His Majesty's Government and request them to give them an opportunity of addressing them on the recommendations of the Committee, before His Majesty's Government pass their final orders thereon?

Mr. O. M. G. Ogilvie: That, again, I submit, does not arise out of this question.

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

TRANSFER OF UNITS OF BRITISH TROOPS FROM INDIAN TO BRITISH ESTABLISHMENT.

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

- (a) whether there is any proposal to transfer some more units of the British troops in India from the Indian to the British establishment;
- (b) if so, how many units and from when; and
- (c) to what extent this will relieve the Indian exchequer?

Mr. C. M. G. Ogilvie: (a), (b) and (c). The whole question is at present being examined. I am, therefore, unable to make any statement at present.

Mr. T. S. Avinashilingam Chettiar: May I know if by examination the Honourable Member means whether they are in direct communication with His Majesty's Government over the matter, or it has been referred to the Chatfield Committee?

Mr. C. M. G. Ogilvie: The only answer that I can give is that the question is being examined.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government have put forward any proposals on the subject referred to in clause (a) of the question?

Mr. C. M. G. Ogilvie: I cannot give the Honourable Member any information as to what proposals the Government of India have or have not put forward in this regard.

Mr. T. S. Avinashilingam Chettiar: May I know how long this matter has been under consideration?

Mr. C. M. G. Ogilvie: For some few months.

Mr. K. Santhanam: May I know by whom it is being examined?

Mr. C. M. G. Ogilvie: By the authorities competent to examine it in this country and in England.

Mr. K. Santhanam: May I know who are the authorities in this country who are competent to examine this.

Mr. C. M. G. Ogilvie: The Government of India, that is to say, the Governor General in Council.

Mr. K. Santhanam: May I know who are the authorities in England who are competent?

Mr. C. M. G. Ogilvie: His Majesty's Government.

Mr. K. Santhanam: May I know what His Majesty's Government have to do with this?

Mr. President (The Honourable Sir Abdur Rahim): That is an argument.

Mr. T. S. Avinashlingam Chettiar: May I know when the Honourable Member expects to come to a conclusion on this matter?

Mr. C. M. G. Ogilvie: I cannot possibly answer a hypothetical question like that.

Mr. S. Satyamurti: May I know the reasons why Government will not tell this House what proposals are being considered to transfer some more units of the British troops in India from the Indian to the British establishment?

Mr. C. M. G. Ogilvie: Government do not feel called upon to answer a question of that kind in the absence of any decision in the matter. It is not Government's custom to publish in advance proposals which are still under discussion.

Mr. T. S. Avinashlingam Chettiar: Are Government aware that the public opinion of this country will support the Government very strongly if they publish their proposals?

Mr. C. M. G. Ogilvie: That is a matter of opinion.

MILITARY PILOTS IN THE AIR FORCE.

91. ***Sardar Sant Singh:** Will the Defence Secretary be pleased to state :

- (a) the total number of military pilots in the Air Force in India;
- (b) the number of (i) Indians, (ii) statutory Indians, and (iii) British and other foreigners;
- (c) the various ranks held by them; and
- (d) the number under each category undergoing training in England and in India?

Mr. C. M. G. Ogilvie: (a), (b) and (d). There are 18 Indian officers in the Indian Air Force. Of these, twelve have joined the unit, three are under training in the United Kingdom and three under training at No. 4 Flying Training School, Abu Sueir, Egypt. One British officer of the Royal Air Force is attached to the squadron until such time as the Indian officers acquire sufficient seniority and experience.

(c) I refer the Honourable Member to Air Force Instruction (India) No. 69 of 1938 which contains a list of officers serving in the Indian Air Force, a copy of which is in the Library.

Sardar Sant Singh: May I know how many of them are statutory Indians?

Mr. O. M. G. Ogilvie: All of them are Indians.

Mr. M. Asaf Ali: With reference to (b), the Defence Secretary has not stated how many foreigners are being trained as pilots in the Indian Air Force?

Mr. O. M. G. Ogilvie: There are no foreigners trained as pilots in the Indian Air Force.

Sardar Sant Singh: May I know if any steps are being taken to train more pilots for the Air Force in India as the present number is very inadequate?

Mr. O. M. G. Ogilvie: The numbers trained are the numbers required to fill up the squadron.

Mr. Lalchand Navalrai: May I know if the ranks of Indians and Europeans are alike?

Mr. O. M. G. Ogilvie: They are precisely the same.

AIRCRAFT TRAINING TO AFGHANS IN INDIA.

92. *Sardar Sant Singh: (a) Will the Defence Secretary please state if it is a fact that subjects of the Government of Afghanistan are being trained in India? If so, since when such training was started and at which places?

(b) How many Afghans have been trained so far? How many of them are receiving such training at present?

(c) Who bears the expenses of such training? What has been the cost per student so far, and the total amount spent?

(d) Are any Indians being given training in the same centres along with Afghan students? If so, how many Indians have so far been trained along with Afghan students? If not, why not?

(e) Has the training of Afghans in India been due to some treaty with the Government of Afghanistan? If so, will the Defence Secretary lay the text of the treaty or agreement (whatever it may be) on the table of the House?

Mr. O. M. G. Ogilvie: (a) to (e). A number of Afghan pilots have been and are being trained. It is not in the public interest to give further information or to answer the remainder of these questions.

Sardar Sant Singh: May I know if the Afghans can be trained in India, how is it that Indians cannot be trained in India for this?

Mr. President (The Honourable Sir Abdur Rahim): That is a matter of argument.

Mr. S. Satyamurti: Surely we are entitled to know how the Indian taxpayer's money is being spent to train non-Indians here?

Mr. C. M. G. Ogilvie: I have stated that it is not in the public interest to answer the remainder of these questions.

Mr. S. Satyamurti: Are we not entitled to know how much money we are spending on these non-Indians?

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

Dr. Sir Ziauddin Ahmad: May I know who bears the cost of this?

Mr. C. M. G. Ogilvie: The answer I gave to the question must be taken to cover this also.

Mr. K. Santhanam. May I know if this expenditure is met from the secret service fund?

Mr. C. M. G. Ogilvie: I cannot give the Honourable Member any information as to the source.

Sardar Sant Singh: On a point of order. May I know whether the phrase "public interest" covers even the money which is spent from the exchequer of India. Are not Government called upon to answer even this simple question?

Mr. President (The Honourable Sir Abdur Rahim): That is for the Government to decide.

Mr. S. Satyamurti: Will the Honourable the Finance Member enlighten us as to under what head of the budget this expenditure is met?

The Honourable Sir James Grigg: I am not prepared to answer that question.

Mr. T. S. Avinashlingam Chettiar: May I know whether the Government of India are under any treaty obligations to give this training to the Afghans?

Mr. C. M. G. Ogilvie: I am not prepared to answer that question.

Mr. Badri Dutt Pande: Are there other nationals being trained at our cost?

Mr. C. M. G. Ogilvie: I believe not at present.

Pandit Krishna Kant Malaviya: Are 60 Afghans being trained at Delhi and 60 at Karachi?

Mr. C. M. G. Ogilvie: I cannot answer that question, though I will indicate that the insinuation contained in that question is wide of the mark.

Mr. S. Satyamurti: What is the "insinuation"?

Mr. C. M. G. Ogilvie: That there are certain numbers.

Sardar Sant Singh: May I know if there are any secret treaties with Afghanistan which it is not in the public interest to disclose?

Mr. C. M. G. Ogilvie: If they are secret, how can I tell you?

PURCHASE OF AEROPLANES FROM IRAQ AND EGYPT.

93. *Sardar Sant Singh: (a) Will the Defence Secretary be pleased to state if the Defence Department has purchased, or intends to purchase, aeroplanes and other aircraft from the Governments of Iraq and Egypt?

(b) In case the same have been purchased, what is the number, make and the year of manufacture and the type of the machines purchased so far and the price per machine paid?

(c) What are the grounds which led the Department to make such purchases from these Governments which do not manufacture such machines?

Mr. C. M. G. Ogilvie: (a) No.

(b) and (c). Do not arise.

AEROPLANES IN USE IN INDIA.

94. *Sardar Sant Singh: Will the Defence Secretary please state:

(a) the types of aeroplanes used by the Department in India;

(b) the type used by the Indian section of the Air Force in India and the type used by the British section;

(c) the year of manufacture and the name of manufacturer of each type;

(d) the number of machines of each type used by (i) Indians and (ii) Britishers; and

(e) whether the Department intend to replace these types by new improved types; if so, when?

Mr. C. M. G. Ogilvie: (a) to (e). It is not in the public interest to supply the information required by the Honourable Member.

Mr. S. Satyamurti: On a point of order. Are we not entitled to know whether there are any obsolete and obsolescent machines which have been purchased at the taxpayers' expense?

Mr. President (The Honourable Sir Abdur Rahim): When the Honourable Member for the Government says it is not in the public interest, it must be taken as such.

Mr. S. Satyamurti: Please give us some suggestion on this?

Mr. President (The Honourable Sir Abdur Rahim): Public interest is a phrase the meaning and scope of which differ according to circumstances.

Mr. Manu Subedar: May I know if obsolete machines condemned by the United Kingdom are not being dumped into India?

Mr. C. M. G. Ogilvie: The United Kingdom is not in the habit of dumping obsolete stores of any kind.

Mr. S. Satyamurti: Are not the Government of India, being a subordinate branch of the British Government, in the habit of being compelled to buy obsolete machines from the United Kingdom?

Mr. C. M. G. Ogilvie: I do not think that question arises from the question as put but the Honourable Member can be quite sure that the Government of India do not buy anything which they do not want.

Mr. M. Asaf Ali: Are the Indian Air Force and the Royal Air Force using the same kind of machines?

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

Mr. Manu Subedar: May I know whether the Government of India have any choice in this matter or whether the types are fixed by the War Office?

Mr. C. M. G. Ogilvie: That question does not definitely arise.

Mr. Lalchand Navarai: The Honourable Member has not answered clause (e)?

Mr. C. M. G. Ogilvie: I have already given the answer.

TIME TAKEN BY A PILOT OFFICER TO REACH CERTAIN RANKS.

95. *Sardar Sant Singh: (a) Will the Defence Secretary state the time taken by a pilot officer to reach, under normal conditions, the rank of (i) Flying Officer, (ii) Flight Lieutenant; and (iii) Squadron Leader in the case of (1) an Indian (2) Britisher?

(b) What is the salary of each rank and the normal annual increment?

Mr. C. M. G. Ogilvie: (a)

Rank.	Indian.	British.
Flying Officer . . .	2 years	1½ years.
Flight Lieutenant . . .	5 years	4 years.
Squadron Leader . . .	Under consideration . . .	No time scale is laid down but Flight Lieutenants on completion of three years service in that rank are eligible for consideration for promotion to the rank of squadron leader.

(b) The required information is contained in the Pay and Allowance Regulations for the Air Forces in India, a copy of which is in the Library.

REPORT ON THE POSSIBILITIES OF THE LEVY OF DEATH DUTIES.

†96. *Sardar Mangal Singh: Will the Honourable the Finance Member please state:

- (a) whether enquiries into the possibilities of imposing death duties in India have been completed; and
- (b) whether any legislation will be brought forward before this Session ends?

†For answer to this question, see answer to question No. 88.

PERSONS APPROACHED FOR MEMBERSHIP OF THE ARMY COMMITTEE.

†97. *Sardar Mangal Singh: (a) Will the Defence Secretary please state how many persons in all were approached, formally or informally, for the membership of the Army Committee (commonly known as the Sandhurst Committee)?

(b) What were the grounds on which the leaders of the Congress and the Muslim League Parties refused the co-operation of their Party members?

Mr. C. M. G. Ogilvie: (a) Sixteen non-officials and two officials.

(b) The Muslim League Party withheld its co-operation because they were not satisfied with the terms of reference or the personnel as originally proposed. It is believed that the Congress Party declined because the Committee did not include a majority of elected Members of the Central Assembly.

REPORT OF THE CHATFIELD COMMITTEE.

†98. *Sardar Mangal Singh: (a) Will the Defence Secretary please state whether the report of the Chatfield Committee would be submitted to His Majesty's Government, or to the Government of India?

(b) When is the report expected to be published?

(c) Will an opportunity be given to this House to discuss the report?

(d) Has any elected member of this House agreed to serve on this Committee?

(e) When is the report of the Committee likely to be published?

Mr. C. M. G. Ogilvie: (a) His Majesty's Government.

(b) and (e). I refer the Honourable Member to the reply I have just given to part (d) of Mr. Chettiar's question No. 89.

(c) No.

(d) No.

EUROPEANS AND INDIANS IN THE INDIAN POLICE.

99. *Mr. Abdul Qaiyum: Will the Honourable the Home Member please state :

(a) the number of Europeans and Indians in the Indian Police on the 1st February, 1939;

(b) the number of Europeans and Indians recruited to the Indian Police in 1938; and

(c) whether any share in the above service has been fixed for non-Indians; if so, what that share is and when was it last fixed?

The Honourable Mr. R. M. Maxwell: (a) The latest figures are not readily available. On the 1st January, 1938, however, the number of Europeans and Indians in the Indian Police was 416 and 177 respectively.

(b) Eighteen Europeans and eight Indians were directly recruited and six Indians were promoted to the Indian Police from the Provincial Police Service in 1938.

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

(c) I presume that by the term 'non-Indian' the Honourable Member means Europeans and that he wishes to know their rate of recruitment to the Indian Police. If so, it is 50 per cent. This was fixed in 1925.

Mr. Abdul Qaiyum: With reference to part (b) of the question, may I know why this 50 per cent. ratio was not adhered to in 1938?

The Honourable Mr. E. M. Maxwell: The departure from that ratio depends mainly on the provision made for listing posts for recruitment from the provincial service. The listing of posts depends on certain circumstances which are not constant from year to year, but the listing of the complete number of posts is aimed at by the year 1949.

Mr. Abdul Qaiyum: May I know whether those circumstances which were unfavourable to Indians were the result of mere accident last year?

The Honourable Mr. E. M. Maxwell: Certainly there was no design about it.

Mr. Abdul Qaiyum: May I know if the fifty per cent. has been adhered to ever since this number was laid down?

The Honourable Mr. E. M. Maxwell: Till 1936 the number of Europeans and Indians directly recruited was 140 to 85, which is the exact proportion laid down.

Mr. Abdul Qaiyum: May I know whether Government will review this ratio which they have laid down and decide for complete Indianisation?

The Honourable Mr. E. M. Maxwell: That does not arise out of this question.

Mr. K. Santhanam: Has any Provincial Government asked for the revision of this ratio?

The Honourable Mr. E. M. Maxwell: Not so far as I am aware.

TRAGEDY AT WALAT NEAR NOWSHERA.

100. ***Mr. Abdul Qaiyum:** Will the Defence Secretary please state:

- (a) the latest reliable information about the tragedy at Walat near Nowshera, North-West Frontier Province, on or about the 24th November, 1938, when so many officers lost their lives;
- (b) the reasons which led to this tragedy; and
- (c) whether any inquiry has been held; if so, what are its findings, and whether its report will be made public?

Mr. C. M. G. Ogilvie: (a), (b) and (c). I refer the Honourable Member to the press communiqué dated the 5th January, 1939, on the subject, a

copy of which is placed on the table of the House. The report of the court of enquiry is a confidential document and will not be made public.

GOVERNMENT OF INDIA.

DEFENCE DEPARTMENT.

New Delhi, the 5th January, 1939.

His Excellency the Commander-in-Chief has received the report of the Court of Enquiry into the recent shooting outrage at Nowshera, in the course of which four British and three Indian officers were killed and two British officers seriously wounded.

The result of the enquiry is to establish that the shootings were the work of a single sepoy—Dost Muhammad—who ran amok in the early hours of the 24th November. No motive for his action has been established. It is also proved that Sepoy Dost Muhammad was shot when endeavouring to escape from the camp.

The behaviour of the Quarter Guard, which took no steps to apprehend the murderer was highly discreditable, and the enquiry has established that the general discipline of the battalion left much to be desired.

The necessary disciplinary action is being taken.

Mr. Abdul Qaiyum: May I know how many officers were killed in this particular tragedy?

Mr. C. M. G. Ogilvie: I refer the Honourable Member to the press communiqué. The total number was seven.

Mr. Abdul Qaiyum: May I know, with reference to part (b) of the question, whether it is a fact that Dost Muhammad merely wanted leave to offer Id prayers, and, as this leave was refused, he resolved to this course. It is so well-known on the Frontier, in fact—it is generally believed that this refusal of the leave led to this tragedy and also due to the fact that the manœuvres were held in the month of Ramzan unnecessarily, and hence this unfortunate tragedy which resulted in such a terrible loss of life?

Mr. C. M. G. Ogilvie: The Honourable Member is entirely mistaken; as he will see from the communiqué, no motive for the action of the murderer has been established.

Mr. Abdul Qaiyum: Is it not a fact that Dost Muhammad asked his immediate officers that he should be granted leave to offer his Id prayers?

Mr. C. M. G. Ogilvie: He certainly made no such request.

Mr. Abdul Qaiyum: May I inform the Honourable Member

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member need not supply any information.

Mr. Abdul Qaiyum: Is there any provision whereby it will be possible not to hold manœuvres during the month of Ramzan or on the occasion of Id prayers, at least during normal times?

Mr. C. M. G. Ogilvie: I fail to see how that arises.

AFFAIRS IN WAZIRISTAN.

101. *Mr. Abdul Qatyum: Will the Defence Secretary please state:

- (a) the latest state of affairs in Waziristan;
- (b) the total amount spent on Waziristan operations from the 1st April, 1988, to the 1st February, 1989;
- (c) the number killed and wounded among the troops in the period mentioned in part (b);
- (d) whether any reduction has been made in the number of troops in that area; if so, to what extent;
- (e) the number of troops which constitute the normal garrison in that area; and
- (f) the number actually stationed there in December, 1988?

Mr. C. M. G. Ogilvie: (a) I refer the Honourable Member to the press communiqué issued on the 26th January, 1989.

(b) The extra expenditure incurred between the 1st April and 31st December, 1988, amounts to about Rs. 80 lakhs. Figures for January, 1989, will be available at the end of this month.

(c) Killed—55.

Wounded—200.

(d) None, as conditions have remained unsettled.

(e) 18,222.

(f) 23,678.

Mr. Abdul Qatyum: Is the Honourable Member aware that in spite of this large increase in troops in Waziristan it is not possible to travel in the afternoon even in three of the settled districts?

Mr. C. M. G. Ogilvie: I fail to see how that arises from this question.

INDIANISATION OF ARTILLERY.

102. *Mr. Abdul Qatyum: Will the Defence Secretary please state:

- (a) whether he has read the following statement by Mr. Graham Pole:

“British policy purposely excluded Indians from the scientific branches of the army in general and from the artillery in particular. The reason for this is to be found in meeting psychology. Lord Ellenborough, who had been Governor-General of India, told the Peel Commission, ‘It appears to be the concurrent opinion of all men that we should keep the artillery wholly in our own hands. The natives have a genius for casting and working guns, and we should not afford them means of indulging in it. The natives die at their guns. Their practice in this war (mutiny) is allowed to have been at least as good as our own’ ”;

- (b) what is the policy of Government in the matter of Indianisation of the artillery;

- (c) whether Government still adhere to the policy enunciated in part (a) and, if so, the reasons therefor;
- (d) what is the total artillery strength in India at present, and what percentage of it is Indian; and
- (e) whether Government are prepared to take speedy steps to completely Indianise the artillery?

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

(b) Government's present policy is to Indianise completely the equivalent of one division of all arms. In accordance with this policy, two regiments of field artillery, i.e., eight batteries will be completely Indianised. One field regiment was raised at Bangalore in January, 1935.

(c) Does not arise.

(d) There are 81 batteries of artillery in India at present. These include four field batteries of Indian artillery which are now in process of Indianisation, 25 batteries of mountain artillery of which the Viceroy's Commissioned Officers and all other ranks are Indian and 42 Royal Horse Artillery, Field, Medium and Heavy Batteries which contain a proportion of Indian Other Ranks. The figures of personnel are:

British Officers	:	:	:	440
Other Ranks British	:	:	:	7,251
			Total	7,691
<hr/>				
King's Commissioned Indian officers	.	.	.	4
Indian Commissioned officers	.	.	.	5
Viceroy's Commissioned officers	.	.	.	205
Indian other ranks	.	.	.	11,295
			Total	11,509

The percentage of Indians is therefore approximately 60.

(e) No.

Mr. Abdul Qaiyum: May I know, with regard to part (d) of the question, why the percentage of Indian commissioned officers is so low compared to the figure of 440 for British officers?

Mr. C. M. G. Ogilvie: One reason is that it is extremely difficult to obtain candidates for the artillery from among the ranks of Indian officers and the majority of commissions offered are not in practice taken up.

Mr. Abdul Qaiyum: May I know why it is not possible to send more Indians for training for artillery so that they can take up positions of command?

Mr. C. M. G. Ogilvie: I am not at all clear as to what the Honourable Member means by that question.

Mr. Abdul Qaiyum: The Honourable Member was referring to the fact that it was not possible to obtain suitable Indians. I want to know why Government have not taken steps to give them suitable training so that they can take up positions of command in artillery batteries?

Mr. C. M. G. Ogilvie: Every step to give them suitable training is taken.

Mr. Abdul Qaiyum: And this is the result

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot have a discussion on that.

Mr. S. Satyamurti: May I know why Government said "no" in reply to part (a) of the question, *vis.*, "whether Government are prepared to take speedy steps to completely Indianise the artillery"?

Mr. C. M. G. Ogilvie: The policy of the Government of India at present is completely to Indianise one division including the necessary element of artillery. They have not changed that policy yet.

Mr. T. S. Avinashilingam Chettiar: What is the proportion of artillery which Government propose to Indianise?

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

Pandit Krishna Kant Malaviya: Am I to understand that the Indian officers do not themselves like to join the artillery?

Mr. C. M. G. Ogilvie: The artillery for some reason is not a popular branch of the service.

Mr. T. S. Avinashilingam Chettiar: Popular with whom?

Mr. C. M. G. Ogilvie: The candidates passing out of the Indian Military Academy.

Mr. T. S. Avinashilingam Chettiar: Do Government take into consideration the interests of India in the matter of Indianising these branches or the popularity of the service?

Mr. C. M. G. Ogilvie: I cannot see how that arises from this question.

Mr. President (The Honourable Sir Abdur Rahim): It is a matter for discussion.

Mr. T. S. Avinashilingam Chettiar: Sir, the Honourable Member said "this does not arise". He said that the artillery is not popular with Indian officers, and I asked the question whether the matter of popularity is to be taken into consideration in Indianising a military service or the public interest of India?

Mr. C. M. G. Ogilvie: I am not quite sure as to what the Honourable Member means by his question. I presume the question is whether Government are prepared, in spite of the fact that a certain branch is not popular, to compel Indian officers to enter that branch and the answer is "no".

CONNECTION OF INDIA WITH BURMA BY A LAND ROUTE.

103. *Mr. Brojendra Narayan Chaudhury: Will the Defence Secretary please state:

- (a) whether after the raids by the "Emden" in the Bay of Bengal during the German War in 1914 which cut off communications between Burma and India for a considerable time, the question of connecting Burma with India by a land route was considered by the Government of India and whether his department was consulted in this connection;
- (b) whether it was decided to connect Burma by rail from Chittagong through the Arakan hills, and whether the railway construction was started and whether the project was abandoned after proceeding with the construction to Dohazari owing to financial engineering difficulties;
- (c) with reference to his reply to starred question No. 1684, on the 1st December, 1938, saying that the matter of connecting Burma by a motorable road "would be far too expensive a project for our financial resources", what would be the cost of building the 150 mile road referred to in the question; and
- (d) whether Government have considered the possibility and advantages of connecting the road system of India with the road system of Upper Burma?

Mr. C. M. G. Ogilvie: (a) and (b). Before, during and since the Great War the possibility of connecting India with Burma by railway has been investigated but has not been proceeded with on financial grounds. The Chittagong-Dohazari branch railway which was opened for traffic in 1931 was constructed for the purpose of serving a highly populated area.

(c) As no survey has been made and no detailed estimates prepared, no definite information can be given. In view of the difficult nature of the country concerned, it is probable that the cost of constructing such a road would not be less than one crore of rupees.

(d) No.

Mr. Brojendra Narayan Chaudhury: Have Government inquired about the average cost of building similar roads in Assam?

Mr. C. M. G. Ogilvie: I am afraid I am entirely ignorant of what the average cost of building roads in Assam is.

AMENDMENT OF THE RESERVE BANK ACT IN REGARD TO THE RELATIONSHIP BETWEEN THE RESERVE BANK AND SCHEDULED BANKS.

104. *Mr. Akhil Chandra Datta: (a) Will the Honourable the Finance Member please state whether he has received any representation from the Reserve Bank of India, or Scheduled Banks, on the question of amendment of the Reserve Bank Act in regard to the relationship between the Reserve Bank and Scheduled Banks?

(b) If so, have Government examined the question?

(c) What is the scope and object of the amendment suggested?

(d) What action, if any, do Government propose to take thereon?

The Honourable Sir James Grigg: I would refer the Honourable Member to my reply to Mr. Satyamurti's question No. 1267 on the 15th November, 1938.

APPOINTMENT OF A RETRENCHMENT COMMITTEE.

105. *Mr. Akhil Chandra Datta: Will the Honourable the Finance Member please state:

- (a) whether Government propose to appoint a Retrenchment Committee in accordance with the Resolution adopted by this House in the Simla Session in 1937 "to consider all items of expenditure from Central Revenues and to suggest measures for curtailing the outlay with a view to reduce the total expenditure by ten per cent."; and
- (b) have Government applied their mind at all to this question since the verdict of the House on the said Resolution?

The Honourable Sir James Grigg: (a) No.

(b) Since the passing of the Resolution, Government have taken all possible measures to secure economy.

Mr. S. Satyamurti: What are those steps?

The Honourable Sir James Grigg: I think the Honourable Member had better wait for the Budget speech.

Mr. S. Satyamurti: May I ask why Government have turned down the recommendation of this House to appoint a Committee to suggest retrenchment?

The Honourable Sir James Grigg: Because the work was largely done before the Resolution was passed by the Assembly.

Mr. T. S. Avinashilingam Chettiar: May I know the extent of the money saved by the retrenchment measures that the Government have already taken?

The Honourable Sir James Grigg: I gave some figures in reply to the question put before. I will give the final figures in the course of my Budget speech.

CONSTITUTION OF THE STANDING FINANCE COMMITTEE.

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

- (a) whether Government have come to a conclusion over the matter of the constitution and scope of the Standing Finance Committee; and
- (b) whether they propose moving a motion for constituting it in the Legislature this Session?

The Honourable Sir James Grigg: I would refer the Honourable Member to the reply given by me to his starred question No. 224 on the 16th of August, 1938, in which I stated that I had circulated a memorandum on the subject to Leaders of Parties in this House. I am still awaiting their observations.

Mr. T. S. Avinashilingam Chettiar: When a question is replied like this, Sir, it is nothing short of a joke. This is a matter which he owes to the House. Every year a Resolution is usually moved by the Government for the election of the Standing Finance Committee. For the last two years this has not happened. And when I ask him a question about it, the Honourable Member says that he has circulated a Memorandum to the Leader of Parties to which he has not received any answer. This is not the proper answer.

The Honourable Sir James Grigg: The Honourable Member might make a start with his own Leaders.

Mr. T. S. Avinashilingam Chettiar: But what steps have Government taken to get the reply?

The Honourable Sir James Grigg: Will the Honourable Member address himself to his own Leaders and ask them to send me a reply?

Mr. President (The Honourable Sir Abdur Rahim): The Finance Member says that the information can be given by the Leaders of Parties to the Honourable Member.

Mr. T. S. Avinashilingam Chettiar: That is not the proper answer. May I submit to you, Sir, that when I ask a question, I am entitled to an answer from Government? He cannot refer me to my own Leader.

Mr. President (The Honourable Sir Abdur Rahim): The answer clearly says that he has referred the matter to the Leaders of Parties.

Mr. T. S. Avinashilingam Chettiar: About four months have elapsed when that letter was addressed to the Leaders of Parties, may I ask whether Government have taken any steps to get a reply from those Leaders?

The Honourable Sir James Grigg: I assume that if the Leaders of Parties feel strongly about this matter, they will send their replies.

Mr. T. S. Avinashilingam Chettiar: If the Leaders of Parties have forgotten to send their replies to Government, what steps have Government taken?

The Honourable Sir James Grigg: If they have forgotten the matter, the Honourable Member's demonstration this morning will serve to remind them.

Dr. Sir Ziauddin Ahmad: May I ask what further step have Government taken since the circulation of the Memorandum to the Leaders of Parties?

The Honourable Sir James Grigg: In this matter at least I should desire to be responsive.

Mr. S. Satyamurti: May I ask whether the Finance Member proposes to sit still for three years continuously over this matter, and not take any steps on his own responsibility?

The Honourable Sir James Grigg: Speaking for myself, I only propose to sit here for another two months. As the Honourable Member knows, I have on various occasions put down a Resolution carrying on the old Standing Finance Committee in its old form but it did not commend itself, I think, to the Honourable Member himself.

Mr. S. Satyamurti: Why not start a new form?

Mr. President (The Honourable Sir Abdur Rahim): The House cannot have any argument on this subject.

Mr. S. Satyamurti: Why not start a new form for the Standing Finance Committee which the House will accept?

The Honourable Sir James Grigg: I am trying to find out whether the House will accept it.

TRAINING OF INDIANS AS AIR OFFICERS.

107. ***Mr. M. Asaf Ali:** (a) Will the Defence Secretary please state how many foreign air officers have been trained as air pilots, ground engineers, or mechanics, during the past two years in the Indian Air Force in India?

(b) How many of them are under training now in Karachi, or elsewhere, in India?

(c) What fees, if any, do they pay for such training?

(d) What damage have they so far caused to Indian air-craft, and who is responsible for such damage?

(e) Do any facilities exist in India for Indians to be trained as air officers?

Mr. C. M. G. Ogilvie: (d) to (d). It is not in the public interest to answer these questions.

(e) Yes.

Mr. M. Asaf Ali: In your answer to the previous question, I do not think part (d) was included. May I know whether the Honourable Member is prepared to answer part (d) now?

Mr. C. M. G. Ogilvie: It was included.

Mr. K. Santhanam: With reference to part (e) of the question, may I ask how many Indians can be trained at a time with the existing facilities?

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

Mr. M. Asaf Ali: May I ask how many of them are being trained at present?

Mr. C. M. G. Ogilvie: I have answered that on a previous occasion.

Mr. M. Asaf Ali: Have you answered about Indians?

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

STRENGTH OF THE INDIAN AIR FORCE.

108. ***Mr. M. Asaf Ali:** (a) Will the Defence Secretary please state the present strength of the Indian Air Force, and what is the known strength of (i) the Afghan Air Force, and (ii) the Russian Air Force in Central Asia?

(b) How do the Indian, Afghan and Russian Air Forces compare in point of equipment?

(c) How do the Indian Air Force and the British Royal Air Force in India compare in point of (i) strength, (ii) equipment and (iii) salaries and allowances?

Mr. C. M. G. Ogilvie: (a) The present strength of the Indian Air Force is shown in the Actual Strength Return, a copy of which is in the Library of the House. It is not in the public interest to supply the information requested by the Honourable Member at (i) and (ii) of this part of the question.

(b) It is not in the public interest to supply the information.

(c) (i) I refer the Honourable Member to the Actual Strength Return.

(ii) The equipment of the two Forces is the same.

(iii) I refer the Honourable Member to Pay and Allowance Regulations for the Air Forces in India, a copy of which is in the Library of the House.

Mr. M. Asaf Ali: I am very glad to know that no question that we can put about the Indian forces can be answered in the public interest; so we know exactly where we stand. But may I ask whether Government themselves know anything about the relative strength of the land and air forces of the neighbouring countries about which I have asked the question?

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

Mr. M. Asaf Ali: May I know whether it is in the public interest for Government to reveal those figures to us?

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

Mr. M. Asaf Ali: May I know where we can get that information?

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

Pandit Krishna Kant Malaviya: Do the Government think that Indians are not interested and do not care to know the relative strength of Afghan and Russian forces?

Mr. C. M. G. Ogilvie: Not in the least; they may be very much interested.

INDIAN LAND, AIR AND SEA DEFENCE FORCES.

109. ***Mr. M. Asaf Ali:** (a) Will the Defence Secretary please state how the Indian land Defence Forces compare in point of strength and equipment with the known land Defence Forces of Afghanistan and Russia in Central Asia?

(b) How do the Indian land, air and sea Defence Forces of India compare in point of strength, equipment and total normal annual expenditure with the corresponding forces of (i) Canada, (ii) the Commonwealth of Australia and (iii) the Union of South Africa?

Mr. C. M. G. Ogilvie: This answer does contain a grain of comfort to the Honourable Member.

(a) and (b). Such information as is publicly available is contained in the League of Nations Armaments Year Book, a copy of which is in the Library of the House. It is not in the public interest to disclose any further details.

Mr. Sri Prakasa: Is our presence itself in the House not in the public interest?

Mr. Manu Subedar: May I inquire whether the prohibition on the ground of public interest attaches even to two or three Leaders of Parties in this House and whether Government cannot confidentially make this information available to Party Leaders?

Mr. C. M. G. Ogilvie: In a matter of this kind, Government can make no invidious distinction.

EXTENT OF RELIEF TO INDIA IN RESPECT OF BRITISH FORCES MAINTAINED FOR IMPERIAL PURPOSES.

110. ***Mr. M. Asaf Ali:** Will the Defence Secretary please state to what extent, with reference to the strength and expenditure, India is expected to be relieved of the British forces now maintained in India for Imperial Defence, as the result of reorganisation, or to what extent the Government of India urged before the Chatfield Committee that India should be so relieved?

Mr. C. M. G. Ogilvie: Government are unable to answer the first part of the question. In regard to the second part, I refer the Honourable Member to the reply I gave to parts (b), (c) and (e) of starred question No. 2032 asked by Mr. K. S. Gupta on the 9th December, 1938.

RECOMMENDATIONS OF THE CHATFIELD COMMITTEE AND THE ARMY COMMITTEE.

111. ***Mr. M. Asaf Ali:** Will the Defence Secretary please state when Government propose to bring the recommendations of (i) Chatfield Committee, and (ii) the recently appointed Sandhurst Committee, before the Assembly for consideration?

Mr. C. M. G. Ogilvie: (i) The report of the Chatfield Committee will not be published and its recommendations will not be referred to the Assembly for consideration.

(ii) Government cannot say as the Committee has not yet met.

Mr. S. Satyamurti: With regard to the answer to the first part, may I know whether the recommendations of the Chatfield Committee will be sent to the Government of India for their consideration. My Honourable friend said they will not be placed before the Assembly; I am asking whether the Government of India will be consulted in respect of these recommendations?

Mr. C. M. G. Ogilvie: I submit that that question does not arise.

Mr. S. Satyamurti: The question asks whether Government propose to bring those recommendations before the Assembly for consideration and my Honourable friend said: No. I am now asking whether the Government of India will consider those recommendations.

Mr. President (The Honourable Sir Abdur Rahim): That is a fair question which the Honourable Member may answer.

Mr. C. M. G. Ogilvie: The Government of India will, of course, consider them.

Mr. S. Satyamurti: In considering those recommendations, why do Government not propose to consult the House?

Mr. C. M. G. Ogilvie: I have explained this at great length a great many times and I wish to make it perfectly clear to Honourable Members that this committee is not reporting to the Government of India but to His Majesty's Government.

Mr. S. Satyamurti: Does the Honourable Member realise that we have to foot the Bill? May I know why this Assembly representing the taxpayers is not going to be consulted in this matter?

Mr. C. M. G. Ogilvie: We are asking His Majesty's Government for money. I can say no more than that. What the recommendations on the one side or the other will be is not a matter for discussion at this stage.

EXCHANGE RATIO.

112. *Mr. Akhil Chandra Datta: (a) Will the Honourable the Finance Member please state whether Government are aware that the recent reiteration of their determination to maintain the exchange ratio at the present level has caused a feeling of hopelessness and helplessness in the country?

(b) Have Government considered, or propose to consider, the desirability of having the question thoroughly investigated by a body of experts, including non-official Indians?

The Honourable Sir James Grigg: I have nothing to add to the announcements already made by Government.

Mr. S. Satyamurti: May I know why Government refuse even to have this question examined by a proper committee? Are they satisfied that the present ratio is the best? Are they so omniscient in the matter?

The Honourable Sir James Grigg: There is a question at a later stage which I shall answer somewhat less laconically than I have answered the present one.

REPORT ON THE POSSIBILITIES OF THE LEVY OF DEATH DUTIES.

†113. ***Mr. Akhil Chandra Datta:** (a) Will the Honourable the Finance Member please state whether Government have come to any decision on the question of levying death duty in India?

(b) Have the Lloyd delegation finished their investigation?

(c) Will their report and recommendation be placed before this House before any action is taken thereon?

(d) Is a Bill likely to be introduced in this Session regarding the levy of death duty?

The Honourable Sir James Grigg: This question has already been answered along with another question.

Mr. Akhil Chandra Datta: I want to put a supplementary question on this.

Mr. President (The Honourable Sir Abdur Rahim): When this question was answered with a previous question, that was the time to put supplementary questions.

Mr. Akhil Chandra Datta: Upon the answer that he then gave?

Mr. President (The Honourable Sir Abdur Rahim): Yes; that was the time.

Mr. Akhil Chandra Datta: Is there anything in our Rules or Standing Orders which prevents me from putting supplementary questions on this occasion when this question is reached now?

Mr. President (The Honourable Sir Abdur Rahim): Because supplementaries ought to be put when the answer is given.

EXTENSION OF BANKING IN INDIA.

114. ***Mr. Akhil Chandra Datta:** (a) Will the Honourable the Finance Member please state whether the Reserve Bank, or Government have taken any steps, or propose to take any step, for the extension of banking in India?

(b) Have any suggestions or proposals been submitted by the Reserve Bank to the Government for extension of banking in India? If so, have they been investigated by Government?

(c) Have the Reserve Bank, or the Government, formulated any cut and dry scheme for improving agricultural credit in India?

The Honourable Sir James Grigg: (a) If by the extension of banking in India is meant the opening of branches of banks in places where at

†For answer to this question, see answer to question No. 88.

present banking facilities are lacking this is a matter for the individual banks themselves who have not shown themselves to be slow in opening fresh branches wherever there are prospects of remunerative business. To ensure that branch banking should grow on healthy lines was one of the objects of the Reserve Bank of India Act, 1934, and of the Indian Companies (Amendment) Act, 1936, which included certain provisions for the regulation of banks.

(b) No such proposal has been made.

(c) The Honourable Member's attention is invited to the preliminary and the statutory reports furnished by the Reserve Bank in compliance with section 55 (1) of the Reserve Bank of India Act. Copies of the reports are in the Library of the House.

Mr. Akhil Chandra Datta: Has any recommendation been made up to now to the Government of India for enacting legislation for improving agricultural credit?

The Honourable Sir James Grigg: That is precisely the question which I have answered in part (c).

EXPULSION OF TWO INDIAN JOURNALISTS AND A STUDENT FROM FRANCE.

†115. ***Seth Govind Das:** Will the Honourable the Home Member please state:

- (a) whether his attention has been drawn to the resolution passed by the "Majlis" in London on the 18th December, 1938, protesting against the action of the French Government in arresting and expelling permanently without offering any explanation whatever one of its members, Mr. Feroze Gandhi and the special correspondent of the *National Herald*, and Mr. Sunder Kabadi, correspondent of the *Amrita Bazar Patrika* and the *Bombay Chronicle*;
- (b) whether he is aware that the French Government have expelled Mr. Imtiaz Ali Khan, a *bona fide* student of the Paris University;
- (c) whether the India Office was approached by the "Majlis" to make representations to the French Government for an explanation and for the rescinding of that order;
- (d) whether the India Office, London, took action in that direction; and
- (e) whether Government have done anything in the matter; if so, what the actions are and with what result; if not, his reasons therefor?

The Honourable Mr. E. M. Maxwell: The question should have been addressed to the Foreign Secretary.

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

FILM ENTITLED THE "RELIEF OF LUCKNOW."

116. *Mr. K. S. Gupta: (a) Will the Honourable the Home Member state whether he is aware that the Butcher Services Film of England is proposing to produce a film entitled the "Relief of Lucknow"?

(b) Is it a fact the War Office promised full support to the proposed production?

(c) Is it a fact that the India Office objected to the production of such a film, because it is undesirable to rake up old memories?

(d) Do Government propose to make a strong representation that the production of such a film is most detrimental to the harmony and tranquillity in India?

The Honourable Mr. E. M. Maxwell: (a) and (b). I have no information beyond what has been reported in the press.

(c) and (d). The matter is primarily the concern of His Majesty's Government. For the action taken by them, I would refer the Honourable Member to the Home Secretary's statement in the House of Commons on the 7th December, 1938.

Mr. T. S. Avinashilingam Chettiar: What is that statement in the House of Commons?

The Honourable Mr. E. M. Maxwell: A copy of the debate is in the Library of the House. But, I may say that the general effect of the statement was that the film would not be produced or exhibited.

FALL IN THE SALE PRICE OF SALT.

117. *Mr. K. S. Gupta: (a) Will the Honourable the Finance Member please state what is the amount of salt imported into India from outside since the discontinuance of the protection to the salt industry in the beginning of the current fiscal year?

(b) Is it a fact that the selling price of salt has declined by about Rs. 15 per 100 maunds during this period?

(c) Is the present selling price below the cost of production? If so, what is the action taken, or is proposed to be taken, to save the manufacture of salt in India from financial ruin?

(d) Is it a fact that the increase in the imports of salt is particularly from Port Said and other Red Sea Ports?

The Honourable Sir James Grigg: (a) 219,070 tons up to the end of December, 1938.

(b) No, except that of Hamburg salt which forms a very small part of the total imports of salt.

(c) Government are unable to say whether the selling price is below the cost of production. The answer to the second part of the question does not, therefore, arise.

(d) There has been no increase in the total imports.

Mr. Manu Subedar: May I know whether Government have received representations from the industry pointing out by means of figures that the recent fall of prices in the price of salt in Bengal market does not cover even for the cost of production?

The Honourable Sir James Grigg: This question refers only to the cost of production of the imported article. One cannot get any information about that.

Mr. Manu Subedar: May I draw the Honourable Member's attention to part (c) which refers to the selling price being below the cost of production. Several manufacturers have been financially ruined and my reference is precisely arising out of this. I repeat my question. May I know whether the Honourable Member has received any representations demonstrating by means of figures that the selling price of salt in Calcutta market does not cover even the cost of production?

The Honourable Sir James Grigg: I think in every single application for protection that I have received since I have been in India, the same story has been told.

Mr. Manu Subedar: May I know whether a request has been received from the Government of Bengal for the appointment of a Tariff Board in order to secure fair price for the manufacturers?

The Honourable Sir James Grigg: The Honourable Member had better give notice of a question. I can say that he will probably get the answer that communications between the Government of India and the Provincial Governments are confidential.

Mr. Lalchand Navalrai: Since the discontinuance of protection, has the Honourable Member made any enquiries to know how Indian salt is being affected by the imported salt?

The Honourable Sir James Grigg: I suggest that arises out of a later question which the Honourable Member has got on the agenda.

Mr. Manu Subedar: Has a reference been made to the Tariff Board?

The Honourable Sir James Grigg: There is a later question on the subject.

EXCLUSION OF ADEN FROM ANY SCHEME OF PROTECTION GIVEN TO SALT.

118. *Mr. K. S. Gupta: (a) Is the Honourable the Finance Member aware that Italy has decided to take advantage of the disorganised state of the unprotected salt industry of this country?

(b) Is it a fact that a representative of the Italian salt industry has already arrived in Bombay for the purpose of making preliminary arrangements in connection with the marketing of Italian salt?

(c) Is it a fact that the present disquieting situation of salt manufacture in India is due to the inroads made by the Aden Salt Works?

(d) If the answer to part (c) be in the affirmative, what is the action taken, or is proposed to be taken, to prevent such destructive inroads of the Aden's Salt Works into the domain of salt manufacture in India?

(e) Has there been any representation from the Indian salt industry to the Government of India, seeking their intervention to end the impasse created by the inroads of Aden's Salt Works? If so, what is the action taken, or proposed to be taken, to clarify the issue and help the Indian manufacturer of salt?

(f) Do Government propose to exclude Aden in any scheme of protection, as Aden is no longer a part of India?

The Honourable Sir James Grigg: (a) No.

(b) Government have no information.

(c) No. Imports of salt from Aden from April to December, 1938, as compared with the corresponding period of 1937 show a decrease of about 40 per cent.

(d) Does not arise.

(e) and (f). The Honourable Member's attention is invited to the reply given to Mr. Manu Subedar's question No. 2014 on the 9th December, 1938.

Mr. Manu Subedar: Is it true that both Aden and Western India have suffered, and that the benefit goes entirely to the Italian suppliers?

The Honourable Sir James Grigg: All I can say is that the facts are as follows from which the Honourable Member can draw his own conclusions: The total imports have decreased and the imports from Aden have decreased very largely.

Mr. Manu Subedar: May I know whether the very cheap price in the Calcutta market is not harming the salt from Sambhar which was coming down to the United Provinces?

The Honourable Sir James Grigg: My recollection is that Sambhar salt was not going into Calcutta, and in any case if salt is being sold cheaply in Calcutta somebody must be benefiting from it, presumably the consumer of salt in Bengal.

Mr. K. Santhanam: May I know whether the decrease is merely absolutely or in proportion to the salt produced in India?

The Honourable Sir James Grigg: There is another question later on and I will give the figures then.

Mr. Akhil Chandra Datta: May I know if Government have changed their policy with regard to the salt industry the result of which was the Additional Duty Act of 1931?

The Honourable Sir James Grigg: That Additional Duty Act completely failed to secure the object which it was intended to secure.

Mr. Akhil Chandra Datta: So has the whole policy been abandoned?

The Honourable Sir James Grigg: The policy sought to be laid down by that Act was a failure and so was given up.

Mr. Akhil Chandra Datta: Was it not the policy to make India self-contained in salt?

The Honourable Sir James Grigg: The policy was to enable land-borne supplies to be brought to Calcutta.

CENSUS OF RELIGIOUS MENDICANTS.

119. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Home Member please state whether the importance of taking census of religious mendicants separately is realised and whether it is intended to do so in the next census?

The Honourable Mr. R. M. Maxwell: The reply to both parts of the question is in the negative.

Mr. Brojendra Narayan Chaudhury: Do not Government realise the importance of knowing how many religious mendicants there are in this country?

The Honourable Mr. R. M. Maxwell: There are practical considerations which make it impossible to get the figures from the enumerators.

Mr. Lalchand Navalrai: Will the Honourable Member ask the Provincial Governments to take this census in their own provinces?

The Honourable Mr. R. M. Maxwell: The Provincial Governments will co-operate with the Central Government in carrying out a census and the scheme of operations will be the same over all the provinces; but so far as the Honourable Member refers to another operation independent of the census, the Central Government will not be able to give the provinces any instructions of that kind.

Mr. Sri Prakasa: Is the Honourable Member aware that most of these mendicants are really not religious but irreligious and that it will serve a useful public purpose to distinguish between the two?

The Honourable Mr. R. M. Maxwell: I suspect that what the Honourable Member says is true.

Mr. Lalchand Navalrai: Will the Honourable Member send a copy of this question and the answers to the Provincial Governments for any action that they may take?

The Honourable Mr. R. M. Maxwell: The answer is in the negative.

FUNCTIONS OF THE NEW OFFICER FOR THE CO-ORDINATION OF DEFENCE.

120. *Mr. K. Santhanam: Will the Defence Secretary please state:

- (a) the functions of the new officer for the co-ordination of Defence;
- (b) whether he will be responsible for the organisation of supply in war time; and
- (c) whether he is seeking the co-operation of Indian industrialists and merchants for the manufacture and supply of war materials?

The Honourable Sir Muhammad Zafrullah Khan: (a) Co-ordination of the activities of all departments of the Government of India, in peace time in relation to preparation for a future war and in war time in relation to the efficient conduct of the war.

(b) The duties of this officer include the co-ordination of work relating to supply in war time and preparations to this end in peace time.

(c) Yes.

Mr. K. Santhanam: May I know if the relations between this officer and the industrialists will be the same as the relations between the Co-ordination Officer in England and the industrialists in Great Britain?

The Honourable Sir Muhammad Zafrullah Khan: That I am unable to say.

Mr. K. Santhanam: May I know whether this officer will compile a list of all factories in India for the supply of war materials?

The Honourable Sir Muhammad Zafrullah Khan: He will do whatever is necessary for the achievement of that end for which he has been appointed.

BAN ON THE RETURN OF RAJA MAHENDRA PRATAP TO INDIA.

121. **Mr. Badri Dutt Pande:** (a) Will the Honourable the Home Member be pleased to state if he has seen the letter of the Indian exile, Raja Mahendra Pratap, addressed to the President, District Congress Committee, published in the *Hindustan Times* of the 21st December, 1936, page 18, column 6, asking the exact situation as to his return to India?

(b) Will Government be pleased to state definitely the conditions that Raja Mahendra Pratap will have to fulfil before he is allowed to return to his home in Muttra district?

The Honourable Mr. E. M. Maxwell: (a) Yes: I have seen a press report of the letter.

(b) I would draw the attention of the Honourable Member to what I said in the Council of State on the 15th September, 1937. An application from him for facilities to return to India has been received and is under consideration on its merits.

Mr. Badri Dutt Pande: Is it a fact that the U. P. Government have addressed the Central Government saying that they are responsible for the peaceful custody of this distinguished exile if he is allowed to return?

The Honourable Mr. E. M. Maxwell: I cannot quote the contents of confidential communications between the Provincial Governments and the Central Government.

Mr. Badri Dutt Pande: When are Government likely to come to a conclusion as this matter has been pending for a long time?

The Honourable Mr. R. M. Maxwell: The matter is under consideration and a conclusion will no doubt be reached in the fairly near future.

Mr. Sri Prakasa: In view of the fact that the Premier of the United Provinces stated in the Legislative Assembly of the province that he had addressed the Government of India on the subject, will Government state whether they have received such a communication from that Government and what steps, if any, they are taking on it?

The Honourable Mr. R. M. Maxwell: I so informed the House at the last Session.

REFUSAL BY CERTAIN PEOPLE TO ACCEPT QUEEN VICTORIA'S RUPEES.

122. *Mr. Badri Dutt Pande: (a) Has the attention of the Honourable the Finance Member been drawn to the article of the "Sufferer" published in the *Leader* of the 25th November, 1938, under the caption 'Queen Victoria's rupees', stating "that Queen Victoria's coins are current coins of the realm, but, strangely enough, not only in villages but even in large towns, some people refuse to take them. This often causes embarrassment and annoyance"?

(b) Is it the intention of Government to remove this misapprehension on account of general complaint by a proclamation or by withdrawing this coin from the market?

The Honourable Sir James Grigg: (a) Yes.

(b) A Press communique has already been issued by the Reserve Bank on the 8th August, 1938, pointing out that the belief which appears to exist that Victoria rupees are no longer legal tender is entirely erroneous, and that while Victoria rupees are gradually being replaced by coins of more recent mintage they continue to be legal tender and are exchangeable in the same manner as King's head rupees.

Mr. Manu Subedar: Are the Government of India still living in the Victorian age?

The Honourable Sir James Grigg: No, Sir, Edwardian and Georgian.

Mr. Badri Dutt Pande: Do Government intend to withdraw these coins as a lot of trouble is created in the market by people refusing to take them?

The Honourable Sir James Grigg: If the Honourable Member had listened to what I said he would have heard me saying that "Victorian rupees are gradually being replaced", etc.

RESIGNATION OF CERTAIN ELECTED MEMBERS OF THE CANTONMENT BOARD, LANSDOWNE.

123. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary be pleased to state if it is a fact that four elected members of the Cantonment Board, Lansdowne, resigned *en bloc* from the Board some six months back? If so, why it is that no fresh elections have been held since then?

(b) When are the fresh elections likely to be held?

Mr. C. M. G. Ogilvie: (a) and (b). The attention of the Honourable Member is invited to the reply I gave to his starred question No. 260 on the 16th August, 1938. Fresh elections could not be held earlier as it was considered necessary to amend the Election Rules for Cantonments in the United Provinces in certain respects. The amendments to those rules were finally published on the 21st January, 1939, and the 11th and 18th March, 1939, have been fixed as the dates for holding casual elections in the Lansdowne Cantonment.

MONOPOLY FOR MILK SUPPLY IN LANSDOWNE CANTONMENT.

124. *Mr. Badri Dutt Pande: (a) Is the Defence Secretary aware that the system of giving a monopoly of the milk supply to a single contractor, is working very terribly in the Cantonment of Lansdowne?

(b) Is it the intention of the Government to do away with it, and revert to the old system? If not, why not?

Mr. C. M. G. Ogilvie: (a) and (b). The attention of the Honourable Member is invited to the information laid on the table on the 8th April, 1938, in reply to his starred question No. 363 asked on the 18th February, 1938.

Mr. Badri Dutt Pande: In view of the fact that this giving of the milk monopoly to one contractor is creating hardship is it the intention of Government to revise this policy?

Mr. C. M. G. Ogilvie: There are no hardships at all.

Mr. Lalchand Navalrai: With reference to clause (b) do I understand that the reply to this also was given previously?

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

Mr. Badri Dutt Pande: Is it a fact that the resignation of the Cantonment members *en bloc* was due to the question of milk monopoly and the increase in motor tax?

Mr. C. M. G. Ogilvie: I hope not.

INCREASE IN THE TOLL-TAX ON MOTOR PASSENGERS IN LANSDOWNE CANTONMENT.

125. *Mr. Badri Dutt Pande: Will the Defence Secretary state why and since when the toll-tax on motor passengers in the Cantonment of Lansdowne has been increased to one rupee?

Mr. C. M. G. Ogilvie: So far as Government are aware the toll-tax on passengers in the Lansdowne Cantonment has not been increased.

AUDIT INSPECTION OF AUDIT OFFICES UNDER THE PROVINCIAL GOVERNMENTS.

126. *Mr. S. Satyamurti: Will the Honourable the Finance Member be pleased to state :

- (a) whether it is a fact that a final decision has been taken by the Government of India regarding the audit inspection by the Auditor General's staff of offices under the Provincial Governments; if so, what that decision is;
- (b) in what respects it departs from the present practice;
- (c) the reasons for the departure;
- (d) how long these changes are intended to be in force;
- (e) what are the arrangements made for the inspection of the Provincial Government offices which are no longer to be inspected by the staff of the Auditor General;
- (f) whether in making these changes the Provincial Governments were consulted; if so what their opinions were; if not, why not; and
- (g) whether Government have satisfied themselves that there will be no loss to the State by the reduction of this audit; and the reasons on which they have come to that conclusion?

The Honourable Sir James Grigg: (a) and (b). I would refer the Honourable Member to the reply which I gave to parts (a) and (b) of starred question No. 1248 asked by Mr. Badri Dutt Pande in the House on the 15th November, 1938.

(c) The need for economy.

(d) As long as the need for economy remains urgent.

(e) This is a matter for the Provincial Government concerned to decide. Arrangements have however been made for a partial resumption of inspections by the Auditor-General's staff next year.

(f) Provincial Governments have been informed of the decision and a general statement of Government's position with regard to expenditure on audit has been circulated to them. There was no time to consult them beforehand as immediate action had to be taken in order to secure a saving in the current year.

(g) I would refer the Honourable Member to the reply which I gave to parts (c) and (d) of starred question No. 1421 asked by Mr. Brojendra Narayan Chaudhry in this House on the 28rd of November, 1938.

Mr. S. Satyamurti: Have any Provincial Governments protested against this arrangement since then?

The Honourable Sir James Grigg: I am not sure about the protest; but

12 NOON. I seem to recollect one Government making certain representations, and it is in response to those representations, I think, speaking without notice, that a partial resumption is going to be made next year.

(b) WRITTEN ANSWERS.

SYSTEM OF RECRUITMENT OF HIGHER STAFF IN THE GOVERNMENT OF INDIA SECRETARIAT.

127. *Mr. S. Satyamurti: (a) Will the Honourable the Home Member be pleased to state the present system in practice for the recruitment to the higher Secretariat staff, *e.g.*, Under Secretaries and others, of the Government of India?

(b) How many appointments have been made as a result of the new system?

(c) How long the new system has been at work, and what the results of the new system are?

(d) Have the Government of India considered or do they propose to consider the question of recruiting a separate cadre for the Government of India's higher Secretariat staff alone? If not, why not?

The Honourable Mr. B. M. Maxwell: (a) It is presumed that the reference is to Departments outside the Finance and Commerce Pool. I would refer the Honourable Member to the answer given to parts (b) and (c) of Mr. C. N. Muthuranga Mudaliar's starred question No. 2009 on the 9th December, 1938.

(b) Twelve.

(c) As the system has only been in force since June, 1938, it is too early yet to estimate its results.

(d) The question has been considered. It has been decided not to have a special cadre for the reasons given in paragraph 18 of the Wheeler Committee's Report.

UNIVERSITIES HAVING UNIVERSITY TRAINING CORPS.

128. *Mr. S. Satyamurti: Will the Defence Secretary be pleased to state:

(a) the number of Universities in India which have the University Training Corps now;

(b) the sanctioned strength in respect of each University, and the actual strength as compared with the sanctioned strength in each University;

(c) whether any applications are pending from the Universities with the Government of India for either opening new University Corps where they do not exist or for increasing the sanctioned strength; and

(d) whether the Government of India have any schemes for making the University Training Corps more popular by giving chances for the best men among them to serve in the army as officers; if not, why not?

Mr. C. M. G. Ogilvie: (a) Thirteen.

(b) The sanctioned and the actual strengths of the various University Training Corps units are shown on page 33 of the Return showing the Actual Strength of the Army and Royal Air Force in India, a copy of which is in the Library of the House.

(c) Yes.

(d) The Interview and Record Board for candidates for admission to the Indian Military Academy give full credit for approved service in a University Training Corps, members of which have, therefore, a distinct advantage.

RECRUITMENT TO THE INDIAN ARMY.

129. *Mr. S. Satyamurti: Will the Defence Secretary be pleased to state:

- (a) whether Government have since the last answer on this question reconsidered the question of recruiting to the Indian army from all provinces and from all classes and communities;
- (b) whether they have come to any conclusion;
- (c) whether Government will categorically state the reasons as to why other provinces and communities are not allowed to serve in the army; and
- (d) what are the tests by which they have come to the conclusion that other provinces and other communities than those from whom recruitment is made to the Indian army today cannot come up to the standard of efficiency required of the Indian army?

Mr. C. M. G. Ogilvie: (a) No.

(b) Does not arise.

(c) and (d). The reasons have been categorically stated in my replies to starred questions Nos. 1060 and 1086 of 15th September, 1938, No. 1162 of 20th September, 1938 and No. 1402 of the 23rd November, 1938, and also in the replies of His Excellency the Commander-in-Chief in the Council of State to the debates on the Honourable Mr. P. N. Saprú's Resolution regarding recruitment of all classes to the Indian Army and the Honourable Mr. Susil Kumar Roy Chowdhury's Resolution regarding military training for Indians, on the 13th March, 1935, and 21st February, 1938, respectively.

CRIMINAL LAW AMENDMENT BILL PENALISING ANTI-RECRUITMENT SPEECHES.

130. *Mr. S. Satyamurti: Will the Defence Secretary please state:

- (a) whether his attention has been drawn to the answer given by the Parliamentary Secretary to the Premier of the Punjab in the Punjab Legislative Assembly on the 10th November to the following effect:

“that at the suggestion of the Punjab Government the Central Government had introduced in the Central Assembly the Army Bill penalising anti-recruitment speeches”;

- (b) whether the Bill was introduced at the *suggestion* of the Punjab Government, *that is whether the initiative was taken by the Punjab Government or by the Central Government*;
- (c) whether the attention of Government has been drawn to the statement of the Parliamentary Secretary that:
 "he declined to disclose the contents of the communication which passed between the Punjab Government and the Central Government";
- (d) whether the Government of India will place on the table of the House correspondence which passed between them and the Punjab Government on this matter;
- (e) whether the attention of Government has been drawn to the statement of the Premier in the Punjab Assembly that the Government of India have now accepted the position that this was a matter on which the Punjab Legislature could legislate; and
- (f) if the answer to part (e) above be in the affirmative, the reasons why the Government of India came forward with this legislation before the Indian Legislative Assembly without examining the legal position more fully and thoroughly?

Mr. C. M. G. Ogilvie: (a) Government have seen a press report on the subject in the *Tribune* of 12th November, 1938.

(b) The Bill was introduced by the Central Government after consultation with the Punjab Government.

(c) and (e). Government have not yet seen the report of the Punjab Assembly Debates.

(d) No.

(f) The legal position was exhaustively examined prior to the introduction of the Bill.

CHATFIELD ENQUIRY COMMITTEE.

131. **Mr. Mann Subedar:** (a) Will the Defence Secretary please state whether the question of the inclusion of Indians as members of the Chatfield Committee was the subject matter of correspondence between the Government of India and His Majesty's Government?

(b) What is the estimate of the cost of the Chatfield Enquiry?

(c) Who is going to bear this cost?

(d) What incidental cost is falling on the Indian Exchequer in addition to the itinerary and allowances of these gentlemen?

Mr. C. M. G. Ogilvie: (a) No.

(b) The total cost is not available but the cost to Indian revenues is estimated to be in the neighbourhood of Rs. 72,000.

(c) His Majesty's Government and the Government of India.

(d) None, with the exception of certain expenditure on office staff and contingencies.

CONDITIONS OF SERVICE OF HIS MAJESTY'S FORCES IN INDIA.

132. *Mr. Manu Subedar: (a) Will the Defence Secretary please state whether all rules, regulations and orders affecting the conditions of service of His Majesty's Forces in India are made by or with the previous approval of the Secretary of State?

(b) Has any power in connection with these been delegated to the Government of India either in the Act, or by any executive order subsequent to the passing of the Act?

Mr. C. M. G. Ogilvie: (a) and (b). The general position is that the executive authority in respect of His Majesty's Naval, Military or Air Forces borne on the Indian establishment and any other armed forces raised in India by the Crown is during the transitional period vested in the Governor General in Council under section 313 (2) of the Government of India Act, 1935; the Governor General in Council is subject to the general control of the Secretary of State under section 314 (1) and to certain specific powers of control conferred on him by section 235 of the Act. It will be seen that powers in this respect are vested in the Governor General in Council by the Act itself and the question of delegation does not, therefore, arise.

APPOINTMENTS TO OFFICES CONNECTED WITH THE DEFENCE OF INDIA.

133. *Mr. Manu Subedar: (a) Will the Defence Secretary please state whether appointments to offices connected with the defence of India are made by His Majesty in Council?

(b) Has any method been specified, as required in section 233 (1) of the Government of India Act, in which such appointments shall be made?

(c) Have Government of India any power, whatsoever, direct or delegated, to make any appointments to offices connected with defence? If so, to which offices?

Mr. C. M. G. Ogilvie: (a) I refer the Honourable Member to the Government of India (Defence Appointments) Order, 1936, a copy of which is in the Library of the House.

(b) No method has been prescribed for submission of names to His Majesty, but in practice the Government of India is consulted in regard to such appointments.

(c) I have stated the constitutional position in my reply to the Honourable Member's previous question. I invite his attention to Appendix I of the Regulations for the Army in India, 1937, a copy of which is in the Library of the House.

CONFERENCE OF FINANCE MINISTERS.

134. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member please state whether the suggestion not to hold the Finance Ministers' Conference this year was made by any or all Provincial Governments, or whether it was a decision of the Government of India?

(b) Is the holding of the conference merely postponed, or is it definitely and finally dropped?

(c) Have any Provincial Governments addressed the Government of India on this subject?

(d) What is the present position of the negotiations between the Governments of the United Provinces and Bihar and the Government of India with regard to the proposed sales tax on sugar by these two Provinces?

(e) Has any settlement been reached or have the negotiations broken down?

The Honourable Sir James Grigg: (a) to (c). The Finance Ministers' Conference is of course an informal one. The reason for not having so far held one this year is simply that with the extra work thrown upon me personally in connection with the Income-tax Bill and the Chatfield Committee it has been physically impossible for me to find the time.

(d) and (e). There are no such negotiations.

HOLDING OF A DURBAR IN DELHI.

135. *Sardar Mangal Singh: Will the Honourable the Home Member please state :

(a) whether the proposal to hold a Royal Darbar in Delhi still holds good or the same has been postponed indefinitely; and

(b) whether Government intend to request His Majesty the King Emperor to visit India next cold weather?

The Honourable Mr. E. M. Maxwell: (a) Government have nothing to add to the terms of the announcement made on the 10th February, 1930.

(b) No such proposal is at present under consideration.

EVACUATION OF CERTAIN VILLAGES IN AGRA DISTRICT FOR MILITARY MANŒUVRES.

136. *Pandit Sri Krishna Dutta Paliwal: (a) Will the Defence Secretary be pleased to state if the information promised in reply to my questions Nos. 1841 and 1842 of the 6th December, 1928, regarding the evacuation of certain villages in Agra district in May and October 1928 for firing practice by the military has been collected?

(b) Will the Defence Secretary be pleased to state :

(i) the date on which Government received the notice of these questions;

(ii) the date on which Government received the answer thereto; and

(iii) the reason or reasons for this delay?

Mr. C. M. G. Ogilvie: (a) Not yet.

(b) (i) 30th November, 1928.

(ii) Does not arise.

(iii) The matter is being investigated by the Provincial Government concerned, whose report is awaited.

SIR THOMAS AINSCOUGH'S REMARKS REGARDING INDIA'S FINANCIAL AND ECONOMIC FABRIC.

137. *Mr. M. Thirumala Rao: (a) Has the attention of the Honourable the Finance Member been drawn to Reuter's summary of the Report of Sir Thomas Ainscough, Senior Trade Commissioner in India published in the *Hindu*, dated the 13th January, 1939?

(b) If so, has the Honourable Member given due consideration to the remarks that India's rapid industrial development leads to a 'collapse of the financial and economic fabric of the Government of India, which is dependent upon the excess balance of exports in order to meet India's financial commitments in London and maintain the Exchange'?

(c) What are the conclusions of the Honourable Member on such consideration of those remarks?

(d) Do Government accept the principles laid down in the report for maintenance of their economic fabric and the rate of exchange?

The Honourable Sir James Grigg: The question should have been addressed to the Honourable the Commerce Member.

LIFTING OF BAN ON CERTAIN PERSONS EXILED FOR POLITICAL REASONS.

138. *Mr. M. Thirumala Rao: (a) Will the Honourable the Home Member please state whether the Government of India have received any recommendation from the United Provinces Government with regard to the lifting of ban on certain persons exiled for political reasons?

(b) If so, what action have Government taken on them?

The Honourable Mr. E. M. Maxwell: (a) and (b). There are no persons who have been exiled or banished from India. If the Honourable Member refers to persons who left India of their own free will and are still residing abroad, the answer is that a reference from the United Provinces Government was received about Mr. Mahendra Pratap Singh. The position in respect of this person was explained in the replies given by me on the 15th November and 9th December, 1938, to starred questions Nos. 1246 and 2007, respectively. I would also refer the Honourable Member to the reply to Mr. Badri Dutt Pande's question which I have answered today.

PROPOSALS FOR EMIGRATION OF JEWS INTO INDIA.

139. *Mr. M. Thirumala Rao: (a) Will the Honourable the Home Member please state whether it is a fact that proposals are being considered by the British Government to facilitate emigration of Jews into India on a large scale?

(b) If so, have Government been consulted in the matter?

The Honourable Mr. E. M. Maxwell: (a) So far as I am aware there is no proposal under consideration to facilitate the immigration of Jews into India on a large scale. Recently arrangements have been made with the Secretary of State to admit, in small numbers, suitable Jewish refugees on whose behalf the Council of German Jewry in England, or the branch which it proposes to establish at Bombay, is prepared to give a guarantee

that for a period of five years they will not become a charge on public funds and will be sent back to England free of cost to the State, if at any time within that period it is impossible to place them in employment. Persons in employment at the end of that period will be regarded as standing on their own feet.

(b) Does not arise.

USE OF ALCOHOL AS A SUBSTITUTE FOR PETROL.

140. *Sardar Mangal Singh: Will the Honourable the Finance Member please state:

- (a) whether Government have examined, or propose to examine, the question of the use of alcohol as a substitute for petrol; and
- (b) what the cost of reduction in transport would be in case alcohol could be used as a substitute for petrol?

The Honourable Sir James Grigg: (a) and (b). The Government of India are awaiting the results of the examination of the Joint Power Alcohol Committee's report by the Governments of the United Provinces and Bihar.

AMOUNT OF TAX DUE FROM INCOME-TAX FREE SECURITIES, ETC.

141. *Mr. M. Ananthasayanam Ayyangar: (a) Will the Honourable the Finance Member be pleased to state what the amounts of tax will be due from income-tax free securities issued by the Government of India in case they were not issued free?

(b) As a portion of income-tax is due to the Provinces, is the amount that may be due from the income-tax free securities of India included? Is the amount of tax distributed to the Provinces under section 138 of the Government of India Act? If not, why not?

(c) Is super-tax on the income-tax levied from companies treated as a corporation tax in the matter of distribution of income-tax to the Provinces?

(d) Is not the super-tax different from corporation tax in many particulars?

The Honourable Sir James Grigg: (a) It is not possible to calculate the amount of tax.

(b) No; section 138 of the Government of India Act, 1935, provides for distribution among the Provinces of a prescribed percentage of the net proceeds of the tax, and section 144 of the Act does not allow of the inclusion in the net proceeds of any sums not actually collected.

(c) If the Honourable Member is referring to the existing surcharge on income-tax, the answer is in the negative; but if he is referring to super-tax assessed on the incomes of companies, the answer is in the affirmative.

(d) Super-tax assessed on the incomes of companies is actually Corporation tax, as defined in section 311 of the Government of India Act, 1935.

DISTRIBUTION OF A PORTION OF SALT DUTY AND EXCISE DUTY TO THE PROVINCES.

142. *Mr. M. Ananthasayanam Ayyangar: (a) Will the Honourable the Finance Member please state whether, as prohibition has been introduced in Madras and some other Provinces, Government have considered the desirability of distributing to the Provinces a portion of the salt duty and the excise duty?

(b) If so, what is the proposal? If not, why not?

The Honourable Sir James Grigg: (a) No.

(b) Until it has been possible to complete the programme of devolution of that portion of the income-tax revenue which has been allocated to the provinces on the basis of the Niemeyer award, it is premature to consider the further distribution of the proceeds of the Central taxes mentioned in section 140 of the Government of India Act.

SURMA VALLEY AND ASSAM VALLEY LIGHT HORSES.

143. *Manvi Abdur Rasheed Chaudhury: (a) Will the Defence Secretary please state when the Surma Valley and Assam Valley Light Horses were constituted and under what rules?

(b) What is the total strength of each of these?

(c) Under what rules are Indians not allowed to enlist themselves in any of these Light Horses?

(d) Are Government prepared to consider the advisability of changing those rules of these Light Horses which bars Indian from joining them?

(e) What is the total contribution of the Central Government and of the Provincial Assam Government, if any, towards the maintenance of these Light Horses?

Mr. C. M. G. Ogilvie: (a) The Surma Valley and the Assam Valley Light Horse, Auxiliary Force (India), were constituted and are maintained under the Auxiliary Force Act, 1920.

(b) The required information is contained in the Return showing the actual strength of the Army and Royal Air Force in India, a copy of which is in the Library.

(c) Section 4 of the Auxiliary Force Act, 1920.

(d) No. I refer the Honourable Member to the answer I gave to Mr. Abdul Qaiyum's supplementary question to starred question No. 1990 asked on the 9th December, 1938.

(e) The total cost of the maintenance of the Auxiliary Force (India) is met by the Central Government. Figures are not maintained to show the cost of individual units of that Force.

IMPORT OF FOREIGN SALT.

144. *Mr. Lalchand Navalrai: (a) Will the Honourable the Finance Member be pleased to state if it is a fact that upon the introduction of protection to Indian salt, and during the period of its existence, imports of foreign salts had ceased, and that they have reappeared in the Indian market since the abolition of the protection as from 30th April last?

(b) Is it a fact that since the discontinuance of the protection to Indian salt, the following shipments from non-Indian sources have already arrived, or have been chartered to arrive, since 30th April last?—

	Shipments.	Aggregating about.
Liverpool	4	4,550 tons.
Hamburg	12	20,635 „
Aden	18	1,24,185 „
Port Said	10	78,200 „
Djibouti	3	20,925 „
Ras Hafun	2	16,060 „
	49	2,04,495 „

(c) Is it a fact that as against the above imports from foreign sources, the imports from Indian sources during the same period have been about 163,153 tons only as under :

28 shipments aggregating about 1,63,153 tons?

(d) Are Government aware that the normal yearly output from two foreign sources alone, *vis.*, Djibouti and Ras Hafun, is calculated to exceed the entire normal requirements of the Indian market, *vis.*, about 500,000 tons per year?

The Honourable Sir James Grigg: (a) No.

(b) and (c). I have no information in regard to the number of consignments. Imports of foreign salt in Bengal from 1st May, 1938, to 20th January, 1939, including quantities being discharged at the ports, aggregated 2,19,690 tons against 1,79,563 tons of Indian salt.

(d) No.

SAFEGUARDING OF THE INDIAN SALT INDUSTRY.

145. ***Mr. Lalchand Navalrai:** (a) Will the Honourable the Finance Member be pleased to state if it is a fact that in the evidence recorded by the Tariff Board during their inquiry regarding the Salt Industry in February 1930, the representative of one of the principal foreign importers, *vis.*, Port Said, admitted :

- (i) that their then total producing capacity was 250,000 tons per year, and that their average imports into India amounted to about 100,000 tons per year;
- (ii) that the lowest price they would accept rather than lose the Indian market was 26-27 shillings per ton *c.i.f.* Calcutta, equivalent to about Rs. 66 per 100 maunds;
- (iii) that the lowest price they had up to then received was Rs. 52 per 100 maunds *c.i.f.* Calcutta, received in 1925; and
- (iv) that as regards the price of Port Said salt ruling in Calcutta at the time of Tariff Board Inquiry, *vis.*, Rs. 57 per 100 maunds, it was recorded in the evidence that while this price did not leave any profit, it did not involve any loss, the obvious implication being that a price below Rs. 57 would involve a loss?

(b) Are Government aware that the *ex-ship* prices of Port Said salt imported since 30th April last have not exceeded Rs. 41 and that this salt is now sold at as low a rate as Rs. 26 per 100 maunds *ex-ship*?

(c) Are Government aware that the sale of Port Said salt in large quantities as mentioned in part (b) of the preceding question at rates between Rs. 41 and Rs. 26, *vide* part (b) above, as against their economic rate of Rs. 57 as per part (a) (iv) above, constitutes a state of dumping of this foreign salt in the Indian market?

(d) Is it a fact that it has been recorded in the evidence tendered at the Tariff Board Inquiry of 1929-30 that the financial position of the principal foreign importers, such as Port Said and Aden, at the time of the Inquiry, was such that they had fully written off their capital costs?

(e) Are Government aware that the foreign importers, besides being subsidised by foreign Governments in some cases, have built up huge reserves from high prices obtained during the past 70 years, enabling them to maintain cut-throat competition at the present low prices? Are Government aware that the Indian works are all new, have no reserves, and require safeguarding by the Indian Government to be able to survive intensive competition from foreign importers?

The Honourable Sir James Grigg: (a) Yes.

(b) According to my information the *ex-ship* price of Port Said salt at Calcutta has so far ranged between Rs. 46 and 28 per 100 maunds.

(c) I am not aware of the cost of production of Port Said salt and am not therefore in a position to accept the conclusion suggested by the Honourable Member.

(d) Yes.

(e) As to the first part of the question Government have no information. As regards the latter part, the Honourable Member is making an assertion and not asking a question.

SAFEGUARDING OF THE INDIAN SALT INDUSTRY.

146. *Mr. Lalchand Navalrai: (a) Will the Honourable the Finance Member be pleased to state if Government are aware that 80 per cent. of the total yearly requirements of salt of the Indian market have already been filled in the eight months following the discontinuance of protection of the industry and there is every prospect of the remaining 20 per cent. of the requirements being imported within a month or so?

(b) Is it a fact:

- (i) that there are about 18 Salt Works on the Indian Coast engaged in supplying salt to the Indian market;
- (ii) that Indian capital amounting to over 75 lacs of rupees has been invested in these Indian Salt Works; and
- (iii) that these Indian Salt Works give employment to over 50,000 Indians?

(c) Is it a fact that owing to the aforesaid severe competition and dumping of these foreign salts, some of the Indian Salt Works have already closed down, entailing loss of employment to thousands of Indian labourers, besides loss of vast Indian capital?

(d) Will Government be pleased to state what action they propose to take to safeguard the Indian salt industry from extinction?

The Honourable Sir James Grigg: (a) No.

(b) I am taking steps to have the information collected. It will be laid on the table when available.

(c) Government have no information.

(d) I would refer the Honourable Member to the answer given to part (e) of Mr. Manu Subedar's question No. 2014 on 9th December last.

CONFERENCE TO SETTLE THE PALESTINE AFFAIRS.

147. *Mr. Abdul Qaiyum: Will the Honourable the Home Member state:

(a) whether a conference has been called by His Majesty's Government to settle the Palestine question;

(b) if so, when the proposed conference is going to be held;

(c) whether countries outside Palestine have been invited to send delegates to the said conference;

(d) the names of the countries so invited;

(e) whether India has been asked to send its delegates to the Conference; if not, the reasons therefor; and

(f) the steps taken by the Government of India to secure Indian representation?

The Honourable Mr. E. M. Maxwell: (a) to (d). I have no information beyond that given in paragraph 5 of the statement issued by His Majesty's Government on the 9th November, 1938, which has appeared in the Press.

(e) No communication has been made to the Government of India on the subject.

(f) No steps have been taken by the Government of India in the matter, which is entirely the concern of His Majesty's Government.

SUGAR EXCISE DUTY AND FACTORIES IN INDIAN STATES.

147A. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member please state whether it is a fact that the rates of sugar excise leviable in India are uniform both in British India and in the States?

(b) How many Indian States are collecting sugar excises, and what is the amount of such collection?

(c) How many new factories have been started in Indian States for the production of sugar during 1936-37, 1937-38 and up to the 31st December, 1938?

(d) In which of the Indian States is the production of sugar in excess of the estimated requirements of their own population?

(e) Have Government enunciated any policy with regard to the retention of sugar excise revenue by the States, or come to any agreements with any States?

The Honourable Sir James Grigg: (a) All the Indian States (except Jaora and Mewar) have agreed to levy an excise duty at the British Indian rate on all sugar produced in their territories. Jaora and Mewar have agreed to levy duty at this rate only on sugar exported to British India.

(b) A statement is laid on the table giving such information as is available.

(c) I would refer the Honourable Member to List "B" given in the Review of the Sugar Industry of India for 1935-36 and 1936-37 published as supplement to the *Indian Trade Journal*, dated the 6th May, 1937, and 31st July, 1938, respectively (copies of which are in the Library of the Assembly) which contain the required information in so far as it is available.

(d) Kolhapur, Thaltan, Mysore, Jaora, Kapurthala and Rampur.

(e) It is not in the public interest to answer this part of the question.

Statement showing the names of sugar producing Indian States and the approximate amount of Excise Duty collected by them calculated at the British Indian rate of Rs. 2 per cwt.

	Approximate duty in thousands of rupees, on produc- tion during 1937-38.
Kolhapur .	214.9
Phaltan	371.2
Mysore	874.3
Jaora	145.1
Kapurthala	269.0
Rampur	1086.6
Baroda	20.3
Bhopal	48.5
Udaipur (Mewar)	14.1

MOTIONS FOR ADJOURNMENT.

Mr. President (The Honourable Sir Abdur Rahim): As regards the rest of the motions for adjournment of which notice was given on or before the opening day: there is one by Mr. Mohan Lal Saksena regarding the continued detention of certain persons: that has been disallowed. The next is about the railway accident near Hazaribagh. That is barred. The third one relates to the treatment of Indians in Burma. That also is barred. The Chair has had just handed to it a notice of adjournment by Mr. Avinashilingam Chettiar. It ought to have been handed in proper time. It was handed to the Chair while it was going on with the agenda of business.

MESSAGE FROM H. E. THE GOVERNOR GENERAL.

Mr. President (The Honourable Sir Abdur Rahim): The Chair has to read a Message from His Excellency the Viceroy and Governor General:

"In exercise of the powers conferred by rule 2 of the Indian Legislative Rules, 1, Victor Alexander John, Marquess of Linlithgow, hereby appoint the Honourable Sir Thomas Stewart to perform the functions assigned to the Finance Member under rule 46 of the said Rules on the occasion of the general discussion appointed for Thursday, the 16th February, 1939, on the statement of the estimated annual expenditure and revenue of the Governor General in Council in respect of 'Railways'.

New DELHI,
The 28th January, 1939.

(Sd.) LINLITHGOW,
Viceroy and Governor-General."

THE COMMERCIAL DOCUMENTS EVIDENCE BILL.

APPOINTMENT OF MR. C. J. W. LILLIE TO THE SELECT COMMITTEE.

The Honourable Mr. E. M. Maxwell (Home Member): Sir, I move:

"That Mr. C. J. W. Lillie be appointed to the Select Committee on the Bill to amend the Law of Evidence with respect to certain commercial documents in place of Mr. J. N. Talukdar who has ceased to be a Member of the Assembly."

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

"That Mr. C. J. W. Lillie be appointed to the Select Committee on the Bill to amend the Law of Evidence with respect to certain commercial documents in place of Mr. J. N. Talukdar who has ceased to be a Member of the Assembly."

The motion was adopted.

THE INDIAN INCOME-TAX (AMENDMENT) BILL.

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

"That the amendments made by the Council of State in the Bill further to amend the Indian Income-tax Act, 1922, be taken into consideration."

I hope the House will not be unduly alarmed at the long list of amendments made by the Council of State. Immediately after the Bill left the Assembly we undertook a most exhaustive scrutiny of it with a view to making it as water-tight as possible, consistent with the declared intentions of the Assembly. In the end, a long list of necessary and desirable amendments were produced. Some few of these related to drafting mistakes or infelicities in the original Bill which had remained unnoticed in spite of the fierce searchlights brought to bear upon it. A somewhat larger number were required to ensure that the legislation correctly set out the intentions of this House. A very much larger number were purely consequential upon changes made by this House or were required to carry out undertakings made to this House during the course of the earlier debates. In addition to these, a certain very small number were suggested

from the point of view of improving the Bill in those parts of it which represented the compromise arrived at in regard to foreign income, etc. In the end, we decided that the only proper course was to retain the compromise in its integrity, leaving its wording essentially unaltered, but to put forward all the other amendments in the Council of State. I think I can safely assure the House that no new question of principle has been introduced by these amendments and that most of them are absolutely necessary and all of them are very desirable. I commend them with confidence to the House.

Perhaps the Assembly will bear with me for two minutes if I repair the omission caused by my absence during the final stages of the Bill in this House—at least the ante-penultimate stage, as I suppose we have got to call it now. I do not want to detain them long, but I must briefly thank all those who have co-operated in the long and difficult process of placing this Bill on the Statute-book. First and foremost, of course, there are my own advisers, but also there are members of all Parties in this House, particularly those who have by experience or training acquired an expertise in these difficult matters.

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

“That the amendments made by the Council of State in the Bill further to amend the Indian Income-tax Act, 1922, be taken into consideration.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The Chair will now take up the amendments. It is not necessary to read them out. The Chair will take them up in the order as they are printed in the agenda. The question is:

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

‘In clause 1:

(a) in sub-clause (1), for the figure “1938” the figure “1939” was substituted; and

(b) for sub-clause (2), the following was substituted, namely:

(2) This section and Part I shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint, and Part II shall come into force on such subsequent date, not later than two years from the date appointed for the coming into force of Part I, as the Central Government may, in like manner, appoint:

Provided that sub-clauses (iii) and (iv) of clause (b) of section 11 shall not take effect earlier than the 1st day of April, 1940.’”

The motion was adopted.

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

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

‘In clause 2:

(a) in sub-clause (b):

(i) in the proviso to proposed clause (6A) of section 2 of the Act, for the words, letters and brackets “paragraphs (c) and (d) of this sub-section” the words, letters and brackets “sub-clause (c) or (d)” were substituted; and

(ii) in the *Explanation* to proposed clause (6A) of section 2 of the Act, for the word “section” the word “clause” was substituted;

[Mr. President.]

(b) in sub-clause (d) :

(i) in proposed clause (6C) of section 2 of the Act, after the words "that sub-section" the following was inserted, namely :

"and any sum deemed to be profits under the second proviso to clause (vii) of sub-section (2) of section 10 and the profits of any business of insurance carried on by a mutual insurance company computed in accordance with Rule 9 in the Schedule."; and

(ii) proposed clause (6E) of section 2 of the Act was omitted;

(c) After sub-clause (d), the following sub-clause was added namely :

"(dd)* in clause (9), after the word 'family', the words 'and a local authority' shall be inserted.";

(d) in sub-clause (e)† (iii) in proposed sub-clause (c) of clause (11) of section 2 of the Act,—

(i) for the words "year of assessment", the words "year for which the assessment is to be made" were substituted;

(ii) after the words and figures "31st day of March," where they occur for the second time, the words, letter and brackets "and the case is not one for which a period has been determined by the Central Board of Revenue under sub-clause (b)" were inserted; and

(iii) in the proviso, the words, letter and brackets "or the last day of the period determined under sub-clause (b)" were omitted; and

(e) in sub-clause (f)‡ for the words "which would be included in total income if the assessee were a person ordinarily resident in British India", the words, figures and brackets "wherever accruing or arising except income to which, under the provisions of sub-section (3) of section 4, this Act does not apply" were substituted."

There is an amendment to this in the name of Mr. Santhanam.

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

"That in paragraph (iii) of sub-clause (f) of clause 2 of the Bill, in the proviso to proposed sub-clause (c) the word 'either' be omitted."

This is purely rectification of a slip made by the Government Benches. So I move.

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

"That in paragraph (iii) of sub-clause (f) of clause 2 of the Bill, in the proviso to proposed sub-clause (c) the word 'either' be omitted."

The Honourable Sir James Grigg: Sir, I accept the amendment. I am very much obliged to the Honourable Member for calling our attention to this slip.

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

"That in paragraph (iii) of sub-clause (f) of clause 2 of the Bill, in the proviso to proposed sub-clause (c) the word 'either' be omitted."

The motion was adopted.

*Now (e).

†Now (f).

‡Now (g).

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

"That the amendment* made by the Council of State as further amended† by this House be agreed to."

The motion was adopted.

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

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

'In clause 3 for the word "all" the words "all income, profits and gains" were substituted, and for the words "the total" the words "the total income" were substituted.'

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in :
'In sub-clause (a) of clause 4, in proposed sub-section (I) of section 4 of the Act, for the word "and" at the end of clause (a) and at the end of clause (b), the word "or" in both cases were substituted.'

The motion was adopted.

* "In clause 2 :

(a) in sub-clause (b) :

- (i) in the proviso to proposed clause (6A) of section 2 of the Act, for the words, letters and brackets "paragraphs (c) and (d) of this sub-section" the words, letters and brackets "sub-clause (c) or (d)" were substituted; and
- (ii) in the *Explanation* to proposed clause (6A) of section 2 of the Act, for the word "section" the word "clause" was substituted;

(b) in sub-clause (d) :

- (i) in proposed clause (6C) of section 2 of the Act, after the words "that sub-section" the following was inserted, namely :
"and any sum deemed to be profits under the second proviso to clause (vii) of sub-section (B) of section 10 and the profits of any business of insurance carried on by a mutual insurance company computed in accordance with Rule 9 in the Schedule."; and
- (ii) proposed clause (6E) of section 2 of the Act was omitted;

(c) After sub-clause (d), the following sub-clause was added namely :

"(dd) [now (e)] in clause (9), after the word 'family', the words 'and a local authority' shall be inserted.";

(d) in sub-clause (e) [now (f)] (iii) in proposed sub-clause (c) of clause (II) of section 2 of the Act,—

- (i) for the words "year of assessment", the words "year for which the assessment is to be made" were substituted;
- (ii) after the words and figure "31st day of March," where they occur for the second time, the words, letter and brackets "and the case is not one for which a period has been determined by the Central Board of Revenue under sub-clause (b)" were inserted; and
- (iii) in the proviso, the words, letter and brackets "or the last day of the period determined under sub-clause (b)" were omitted; and

(e) in sub-clause (f) [now (g)] for the words "which would be included in total income if the assessee were a person ordinarily resident in British India", the words, figures and brackets "wherever accruing or arising except income to which, under the provisions of sub-section (3) of section 4, this Act does not apply" were substituted'."

† "That in paragraph (iii) of sub-clause (f) of clause 2 of the Bill, in the proviso to proposed sub-clause (c) the word 'either' be omitted."

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

"That the following amendment, as made by the Council of State, be concurred in :
 'In clause 5, in the marginal heading to proposed section 4B of the Act, for the word "Domicile" the words "Ordinary Residence" were substituted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in :
 'In clause 6, in proposed section 5 of the Act,—

(i) in sub-section (1), the words, letter and brackets,

"and

(e) Income-tax Inspectors",

were omitted;

(ii) sub-section (4) was omitted;

(iii) in sub-section (7) before the word "authorities" the word "other" was inserted, and for the figure "6" the figure "3" was substituted;

(iv) in sub-section (8), for the words "Income-tax Officers and Income-tax Inspectors", the words "and Income-tax Officers" was substituted; and

(v) sub-sections (5), (6), (7), (8), and (9) were re-numbered (4), (5), (6), (7) and (8), respectively."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in :
 'In clause 8—

(a) after sub-clause (c) the following sub-clause was inserted, namely:—

"(cc)* in the existing proviso after the word 'Provided' the word 'further' be inserted"; and

(b) in sub-clause (d)† for the word "salary" where it first occurs, the word "tax" was substituted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in :
 'For clause 8-A‡ the following was substituted, namely:—

"8-A. In section 3 of the said Act to the first proviso the following shall be added, Amendment of section 3, Act namely:—
 XI of 1932.

'or in respect of any interest payable on money borrowed for the purpose of investment in the securities by the assessee except interest chargeable under this Act which is payable without British India, not being interest on a loan issued for public subscription before the 1st day of April, 1938, unless in respect of interest which is so chargeable tax has been paid or deducted under section 18, or unless there is a person in British India who may be appointed an agent under section 43, in respect of such interest.'

The motion was adopted.

*Now (d).

†Now (e).

‡Now 9.

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

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

'In clause 9 (now 10)—

In sub-clause (a)—

- (i) in the proviso to proposed clause (iv) of sub-section (1) of section 9 of the Act, after the words and figure "section 18 or" the words "in respect of which" were inserted; and
- (ii) in proposed clause (vii) of sub-section (1) of section 9 of the Act, for the words "to any such part" the words "to any vacant part" were substituted."

The motion was adopted.

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

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

'In clause 10 (now 11)—

- (a) in paragraph (vi) of sub-clause (b), after the words "his business", where they occur for the second time, the words "profession or vocation" were inserted; and
- (b) in sub-clause (c)—
 - (i) in proposed sub-section (4) of section 10 of the Act, the words "except income-tax or super-tax paid without British India in a State or country with which British India has not made arrangements for double income-tax relief" were omitted; and
 - (ii) in proposed sub-section (5) of section 10 of the Act, for the figure "1938", in both places where it occurs" the figure "1939" was substituted'."

The motion was adopted.

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

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

'In sub-clause (c) of clause 12 (now 13), after the figure and brackets "(vi)" the word "and" was inserted'."

The motion was adopted.

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

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

"In sub-clause (b) of clause 16 (now 17), after the word, figure and brackets "sub-section (3)", the following words were inserted namely:—

'for the word 'proviso' the words 'second proviso' shall be substituted; and.'"

The motion was adopted.

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

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

'In sub-clause (a) of clause 17 (now 18), in clause (a) of proposed sub-section (1) of section 16 of the Act, for the word "proviso" the words "second proviso" were substituted'."

The motion was adopted.

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

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

'In sub-clause (a) of clause 17 (now 18), in clause (c) of proposed sub-section (1) of section 16 of the Act, for the figure "1938" the figure "1939" was substituted'."

The motion was adopted.

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

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

'In clause 18 (now 19), in sub-section (1) of proposed section 17 of the Act, for the words "had it arisen in British India", in both places where they occur, the words "had it been his total income" were substituted.'

The motion was adopted.

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

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

'In clause 19 (now 20)—

(a) In sub-clause (i), the word "and", where it occurs for the third time, was omitted, and to the said sub-clause the following was added, namely:—

"and in the second proviso to the said sub-section,—

(i) for the words, figures and brackets 'sub-section (3) of section 16' the words, letters, figures and brackets 'clause (c) of sub-section (1) or sub-section (3) of section 16, section 44D or section 44E' shall be substituted; and

(ii) for the words 'that person' the words 'such other person' shall be substituted'; and

(b) in sub-clause (k), the word "shall", where it occurs for the second time, was omitted.'

The motion was adopted.

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

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

'Sub-clause (b) of clause 22 (now 23) of the Bill was re-numbered as sub-clause (d) and that after sub-clause (a) the following sub-clauses were inserted, namely:—

"(b) in clause (a), after the word 'received' the words 'or to whom was due' shall be inserted;

(c) in clause (b), after the word 'received' the words 'or so due' shall be inserted, and after the word 'paid' the words 'or due, as the case may be' shall be added;'

The motion was adopted.

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

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

'In clause 23 (now 24) :

(a) In sub-clause (a), for the words "whose income exceeds" the words "whose total income during the previous year exceeded" were substituted, and for the words "previous year" the words "that year" were substituted;

(b) In sub-clause (d), the words and figure "of section 22" were omitted; and

(c) In sub-clause (e), for proposed sub-section (5) of section 22 of the Act the following was substituted, namely:—

"(5) The prescribed form of the returns referred to in sub-sections (1) and (2) shall, in the case of an assessee engaged in any business, profession or vocation, require him to furnish particulars of the location and style of the principal place wherein he carries on the business, profession or vocation and of any branches thereof, the names and addresses of his partners, if any, in such business, profession or vocation and the extent of the share of the assessee and the shares of all such partners in the profits of the business, profession or vocation and any branches thereof."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is :
 "That the following amendment, as made by the Council of State, be concurred in :
 'In clause 24 (now 25)—

(a) Sub-clauses (a) and (b) were re-numbered (c) and (d), and that, before sub-clause (c) as so re-numbered, the following sub-clauses were inserted, namely :

"(a) in sub-section (1), after the word 'satisfied' the words "without requiring the presence of the assessee or the production by him of any evidence' shall be inserted ;

(b) in sub-section (2), for the words and figure 'has reason to believe that a return made under section 22 is incorrect or incomplete, he shall serve on the person who made the return' the words and figure 'is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 22 is correct and complete, he shall serve on such person' shall be substituted ; and

(b) in sub-clause (d) as re-numbered, in the first proviso to clause (a) of proposed sub-section (b) of section 23 of the Act, for the words and figure "under section 24" the words and figure "and set off in accordance with the provisions of section 24" were substituted."

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I should like to begin by thanking the Honourable the Finance Member and his colleagues for making this very necessary and important change in the existing law. As a matter of fact, I happened to be the sponsor of an amendment in this behalf, when the matter was last before the Assembly, because I felt that the language of the law as it exists was most unfortunate as it gave what I thought was an improper discretion to the income-tax officers in the matter of calling or not for the books of the assesseees on the ground that they were satisfied or otherwise with the returns as made, and led to the suspicion that those whose books were called for had been prejudged as dishonest. Sir, the House may recollect that I had a little unpleasantness also when I was speaking on that matter with the Honourable the Finance Member, but he generously made up with me the very next day. Though, personally, I should have preferred the language that I myself had proposed to the House, yet I yielded to my friend, Mr. Chambers, when he felt that the words were not suitable. He then promised that he would try and find out another formula and would introduce the matter in the Council of State and I am happy he has done so.

An Honourable Member: What were your words?

Mr. Sri Prakasa: My words at that time were that if the income-tax officer is satisfied with the returns he should give his reasons in writing as to why he was satisfied, because rightly or wrongly the impression was abroad that there was favouritism, and that the Income-tax officer, being only human, was likely not to ask for the account books of those who for some reason or other were his friends and ask these only of those whom either he did not know or did not like. I make no general allegation against the men in general, but I feel I should tell the House that that was the general impression, and so I was glad that Mr. Chambers agreed to bring about a change. The language as now introduced is certainly better than the language of the existing law. As the House will recollect, the Honourable the Finance Member and his colleagues gave the assurance again and again to the House that though there were many matters which

[Mr. Sri Prakasa.]

could not be put in a legal form, still they would be issuing circulars so that all avoidable hardships could be removed and that there should be no unnecessary harassment of the assesseees.

In this connection, Sir, I should like, if I may, to ask the Finance Member or Mr. Chambers to tell the House if they intend to issue any further instructions in this matter in the form of circulars. I think this is a very important matter, and I shall with their implied permission tell them the exact nature of the hardships that assesseees have to undergo. If the income-tax officer is not satisfied that the accounts, as returned, are correct and asks for the books, he sends to the assessee concerned a notice asking him to appear before him at a certain hour. He also sends a number of other men similar notices for the same hour, and busy businessmen are kept waiting for many hours at the income-tax office because, after all, the officer cannot take up all the cases at the same time, though he has given the same time to all the persons concerned. I think, Sir, this is a hardship which can be avoided. I know that the same thing happens in law courts. When witnesses are summoned they have to wait for many hours and sometimes days, and they get no relief because the court would not wait and another witness must be summoned as soon as one is finished. But surely, Sir, the income-tax officers can regulate matters in such a manner that different assesseees may be given different times so that they may not have to waste their time unnecessarily in office. Most of these men are busy businessmen, and they have to look after their shops, etc., and therefore, Sir, some relief could be given in this matter without the least difficulty.

Then, Sir, I should also wish that provision should be made at the various Income-tax offices so that the assesseees may be accommodated in reasonable comfort while they are waiting for their turn. In Benares, for instance, the arrangements were not at all satisfactory. I know for a fact that Mr. Chambers, when he visited Benares, had his attention drawn to this lack, and that he did arrange for certain amenities; still the provision that was made at his desire is not satisfactory enough, regard being had to the requirements of the persons who pay income-tax and who are, even in accordance with the ideas of the Government and present day capitalistic society, respectable people. They surely deserve to be provided with such conveniences that they may feel reasonably comfortable.

The Honourable Sir James Grigg: And refreshments too.

Mr. Sri Prakasa: The Honourable the Finance Member himself informed the House one day that he had to carry thirteen maunds of ice in his saloon when he travelled in the hot weather in order to keep him cool. The assesseees have to keep themselves cool without even a pound of ice and they have to seek shelter under trees and in the verandahs of the office in the afternoons of hot months like May and June. Therefore, as one who was himself once called to attend at one o'clock in the afternoon, I can speak from experience that it is necessary that provision should be made for this purpose. If the Honourable Member will issue some sort of general instructions it would be very useful.

I also think that the premises of income-tax offices should be more suitably situated. For instance, in Benares, the present income-tax office is three miles away from the main city from which place most of the

assessees come. Surely, in a large city like Benares a suitable house could be found in the city itself where the assessee could go easily and where these income-tax officers also could go for their day's work without any difficulty even though they themselves live in bungalows in the cantonments. There is one other aspect of the problem to which I come in fear and dread, because like other Members of the House I also am rather afraid of the Honourable the Finance Member. The matter is this and I speak from personal experience. After all the family books had been examined as presented by my accountants, I was asked to produce my personal pass books, and in the month of November, 1987, or somewhere then, I was asked to explain odd entries of Rs. 10 and 20 in my pass book of April, 1986, that is, a year and a half before. Though the income-tax officer had courteously exempted me from personal attendance if some one else could explain the pass books, I had to go myself as I alone could explain them, if anyone at all could do so. It was almost impossible for me to remember all those odd items and as I had never been subjected to such a close cross examination before, I had made no notes. I asked the income-tax officer, whom I knew whether he himself would be able to explain to me various entries of odd amounts in his own pass book after this lapse of time, if I asked him. He said he could not. Then I said to him that he might just as well excuse my forgetfulness also, because, after all, he had examined all the main business books of the family and this was only a personal pass book that I keep for odd sums that I get or pay and which contain such items as travelling and daily allowances that I receive as a Member of this Assembly. Surely I could be excused if I forgot the details about those items and there need be no suspicion on that account.

An Honourable Member: The allowances are not taxable.

Mr. Sri Prakasa: They are not taxable, but other items may be like Directors' fees as in my own case. He told me, "I am examining your pass book not because I have any suspicion about you, but because I want to catch hold of any sums that you have paid to your doctors, lawyers and others and then examine their books to find out whether they have actually entered those amounts." He said that cross references of pass books are rather useful. I do think that that is rather an inquisitorial proceeding and it makes me sad to feel that any of my personal books should get other people into trouble. But I realize the morals of an individual are different from the morals of a Government, and if that is the proper thing to do I cannot but submit to it. But still I feel that there may be some provision, if not in the law, in the circulars that Government may issue, so that a man may not have the uncanny feeling that he is letting down others, and, surely, Government can have other methods in order to find out the accounts of individuals.

Therefore, while welcoming the change as now introduced in the existing law, I do feel that not much practical good would be done unless there are explicit circulars issued telling the income-tax officers that there should be no undue favouritism—pass books of officials also, for instance, should be examined if at all—and no undue harassment of anyone, unless provision is also made so that the assessee may be accommodated in reasonable comfort while they are awaiting their turn at the office and unless all unnecessarily inquisitorial proceedings are avoided while these private accounts are examined. If steps are taken, I am sure that it would give much relief—necessary and desirable relief—to the taxpayer

[Mr. Sri Prakasa.]

and that this department, instead of being unpopular, would really become popular. I realise only too well that if the Government has to run we must pay taxes. I am not one of those who think that all taxpaying is necessarily irksome. We all give many voluntary taxes and even the income-tax may become a voluntary tax if only we could feel that it was properly collected and properly spent. I hope that the remarks that I have made on this occasion have not in any way hurt my Honourable friend, the Finance Member, and that he will see that suitable provisions are made with the help of circulars in order that the relations between the income-tax department and the assessee may be happy and cordial.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): The complaint, when this Income-tax Bill was being debated in the Assembly, was that invariably the books of the people are being sent for and they are unnecessarily called in person. I do find that now a little change has been made, and according to it, it is only when the income-tax officer is not satisfied without sending for the assessee or without sending for his books, that he can issue a notice. In other words, it is being impressed on him that it is only when he thinks that sending for the person or for the books is necessary that he can issue a notice. I hope that the object of this provision will be properly appreciated by the income-tax officers. But I have got my own doubts. Some of the income-tax officers may still continue the old practice of sending for the assessee and his books every time. I, therefore, submit that a circular on this point explaining fully the object should be issued to the income-tax officers.

Mr. Badri Dutt Pande (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): I want to make a few remarks. My constituency is a very big one extending from the Himalayan borders right up to the Ganges—Rohilkund and Kumaon. People from Badrinath are asked to come to Bareilly with books. They have got a very big complaint. I think their cases ought to be decided at the headquarters of the district, and people from Badrinath and right from Chamouli, Almora and other places should not be asked to go to Bareilly. The income-tax officer of Bareilly is also the income-tax officer of Kumaon. That is a real hardship, and it could be relieved if people are called to the headquarters of the district and not far off into another division where to take all the books with the discomforts of a hot climate is a real hardship. If circulars are issued that income-tax cases should be decided only in the headquarters of the district to which they relate, this legitimate grievance on the part of the assessee will be redressed.

The Honourable Sir James Grigg: I do not share my Honourable friend Mr. Sri Prakasa's hope, that the Income-tax Department or income-tax paying will ever become really popular. He may look forward to the time when income-tax will be no more than a voluntary contribution, but I do not think that his aspirations and hopes are very generally shared and so I would repeat my adjuration made to him at an earlier stage of this Bill. If the innocent man occasionally gets a little more harassed than is desirable, he should bear in mind the figures I gave at an earlier stage in our debates, which showed that if the returns of taxpayers in the direct assessment sphere had been accepted without any further enquiry or examination—it does not matter whether the assessee was honest or dishonest,

forgetful or careless—we should have got 80 per cent. less than we actually did get. The Honourable Member, when he says that income-tax officers are tiresome, should bear in mind that taxpayers are sometimes rather tiresome too, rather more than tiresome. However, with that warning, I must say that this amendment was put in precisely to give a lead to the income-tax officer in the direction which he wants. In so far as circulars are necessary, they will be sent out. I do not bind myself to send them in any particular form. They may be circulars, or instructions incorporated in the Income-tax Manual, or they may be communicated to them by their superior officers as a result of inspection. In a good many cases circulars have already been sent out, and my Honourable colleague assures me that from his own personal observation there has been a great improvement from the time when the Income-tax report was written. On the other hand if the Honourable Member wants to have cocktail bars, lounges, waiting rooms, and restaurants attached to the income-tax office, I cannot promise them within any measurable distance of time. The question of accommodation is a matter which can only be dealt with gradually. In the first place, increased accommodation costs money and money is not plentiful at the moment, but if the new Bill produces a lot more money during the year, then we may be more lenient in the way of sanctioning improved accommodation.

Mr. Sri Prakasa: You can get cheaper houses in the city if you would only try. You take up accommodation in the Cantonment, which is distant from the city and also unsuitable.

The Honourable Sir James Grigg: On the other hand, one has got to make sure that one can get rid of the old accommodation before getting into the new. I understand that from the point of view of access accommodation outside the proper limits of Benares city is more convenient. All these qualifications on my part are merely designed to appeal to the Honourable Member that we should not shoot the pianist. The pianist is doing his best. Subject to that, I am grateful to him for his remarks and I can assure him that within the limits possible we will attempt to improve conditions and the demeanour of the staff and I shall certainly exhort the staff, wherever it is necessary but to be kind to the innocents and to be extremely fierce to those who are not so innocent.

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

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

‘In clause 24 (now 25)—

(a) Sub-clauses (a) and (b) were re-numbered (c) and (d), and that, before sub-clause (c) as so re-numbered, the following sub-clauses were inserted, namely :

“(a) in sub-section (1), after the word ‘satisfied’ the words ‘without requiring the presence of the assessee or the production by him of any evidence’ shall be inserted ;

(b) in sub-section (2), for the words and figure ‘has reason to believe that a return made under section 22 is incorrect or incomplete, he shall serve on the person who made the return’ the words and figure ‘is not satisfied without requiring the presence of the person who made the return or the production of evidence that a return made under section 22 is correct and complete, he shall serve on such person’ shall be substituted ; and

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- (b) in sub-clause (d) as re-numbered, in the first proviso to clause (a) of proposed sub-section (5) of section 23 of the Act, for the words and figure "under section 24" the words and figure "and set off in accordance with the provisions of section 24" were substituted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in :
"In clause 25 (now 26)—

- (a) in sub-clause (b) in proposed sub-section (1) of section 25-A of the Act,—
- (i) for the words "for any year or period" the words "in respect of any previous year" were substituted;
 - (ii) for the words "that year or period", where they first occur, the words "that previous year" were substituted;
 - (iii) for the words "for that year or period", where they occur for the second and third times, the words "of that previous year" were substituted;
 - (iv) for the words "in previous years" the words "in earlier years" were substituted; and
 - (v) for the words "for the year or period concerned" the words "of the previous year concerned" were substituted;
- (b) in sub-clause (c), after the word "inserted" the words "and the words 'firm, association or' shall be omitted" were inserted; and
- (c) in sub-clause (e), for the figures "3" and "4" the figures "4" and "5" were respectively substituted."

The motion was adopted.

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

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

"In sub-clause (b) of clause 26 (now 27), in proposed sub-section (2) of section 24 of the Act,—

- (i) for the words and figures "the year 1939-40" the words and figures "the year ending on the 31st day of March, 1940" were substituted;
- (ii) for the words and figures "the years 1939-40, 1940-41, 1941-42, 1942-43, 1943-44" the words and figures "the years ending on the 31st day of March, 1940, the 31st day of March, 1941, the 31st day of March, 1942, the 31st day of March, 1943, and the 31st day of March, 1944," were substituted; and
- (iii) in the second proviso, for the words, letter, figure and brackets "section 23, sub-section (5), clause (b)" the words, letter, figures and brackets "clause (b) of sub-section (5) of section 23" were substituted."

The motion was adopted.

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

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

"To sub-clause (a) of clause 27 (now 28) the following was added, namely :—

"and in the proviso, for the words 'or have been assessed at too low a rate' the words 'or have been under-assessed, or have been assessed at too low a rate, or have been the subject of excessive relief under this Act but' shall be substituted". "

The motion was adopted.

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

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

'In sub-clause (b) of clause 29 (now 3C) for the figure "1936" the figure "1939" was substituted'."

The motion was adopted.

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

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

'In clause 30 (now 31)—

(a) in sub-clause (b) for the words "which has been partitioned" the words "whose joint family property has been partitioned" were substituted; and

(b) to the said sub-clause, the following was added, namely :—

"the words 'separation or' shall be omitted, and, in the proviso, for the words 'separated members and groups of members' the words 'members and groups of members whose joint family property has been partitioned' shall be substituted'."

The motion was adopted.

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

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

'In clause 31 (now 32)—

(a) in sub-clause (a) in the proposed second proviso to sub-section (1) of section 26 of the Act, for the words "thus directly assessed cannot be recovered from a partner" the words "assessed upon a partner cannot be recovered from him" were substituted; and

(b) in sub-clause (b), in the proviso to proposed sub-section (2) of section 26 of the Act—

(i) for the words "the assessment for the previous year only shall be made on the person succeeding him", the words "the assessment of the profits of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in like manner and to the same amount as it would have been made on the person succeeded" were substituted;

(ii) after the words "or when the tax" the words "in respect of the assessment made for either of such years" were inserted; and

(iii) the words "in respect of the previous year only" were omitted'."

The motion was adopted.

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

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

'After clause 31 (now 32) the following clause was inserted, namely :

'31A.* In section 27 of the said Act, the words 'or, in the case of a company, Amendment of section the principal officer thereof' shall be omitted'."

27, Act XI of 1922.

The motion was adopted.

*Now 33.

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

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

"In clause 32 (now 34)—

(a) in sub-clause (a), in proviso (c) to proposed sub-section (1) of section 28 of the Act, after the words "of that section" the words and figure "or under section 34" were inserted;

(b) in sub-clause (b) for the word "twice", the words "one and a half times" were substituted; and

(c) in sub-clause (d) for the letter "b" the figure "6" was substituted."

The motion was adopted.

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

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

For clause 33 (now 35) of the Bill the following was substituted, namely :

"33". For section 29 of the said Act the following section shall be substituted, substitution of new section for namely :--
section 29, Act XI of 1922.

"29. When any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Income-tax Officer shall serve upon the assessee or other person liable to pay such tax or penalty a notice of demand in the prescribed form specifying the sum so payable."

The motion was adopted.

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

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

"In clause 34 (now 36)—

(a) in sub-clause (a)—

(i) in paragraph (ia)† for the words and figure "words 'under section 27 or', where they occur for the second time" the words and figure "words and figure 'assessment under section 27, or'" were substituted;

(ii) for paragraph (ib)‡ the following was substituted, namely :

"(ib)‡ after the word, letter and figure "section 25A" the words, figures and brackets "or sub-section (2) of section 26" shall be inserted, and after the words "made by an Income-tax Officer" the words, letters, figures and brackets "or objecting to any penalty imposed by an Income-tax Officer under sub-section (6) of section 44E or sub-section (5) of section 44F or sub-section (1) of section 46" shall be inserted ;"

(iii) in paragraph (ii)§ for the figure and letter "49E" the figure and letter "49F" were substituted; and

(iv) paragraph (iia) was omitted and that in paragraph (iv)¶ of the said sub-clause after the words "Provided that" the following was inserted, namely :—

"no appeal shall lie against an order under sub-section (1) of section 46 unless the tax has been paid :—

*Now 35.

†Now (i).

‡Now (ii).

§Now (iv).

¶Now (vi).

Provided further that"; and

(b) for sub-clause (b) of clause 34 (now 36) the following was substituted, namely :—

'(b) in sub-section (2), after the word and figure "section 27" the words, letters and figures "or of the intimation of an order under sub-section (1) of section 23A or under section 48, 49 or 49F" shall be inserted, and for the words "Assistant Commissioner" the words "Appellate Assistant Commissioner" shall be substituted.'

The motion was adopted.

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

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

'In clause 36 now (37) in sub-clause (c)—

(i) in paragraph (iii), for the words, letters, figures and brackets "section 48, 49 or 49E or sub-section (1) of section 23A" the words, letters, figures and brackets "sub-section (1) of section 23A or sub-section (2) of section 26 or section 48, 49 or 49F" were substituted; and

(ii) in paragraph (iv), after the words and figure "an order under section 28" the words, letters, figures and brackets "or sub-section (6) of section 44E or sub-section (5) of section 44F" were inserted, and for the words "against computation" the words "against a computation" were substituted.'

The motion was adopted.

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

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

'In clause 36 (now 38), after the word and figure "section 28" and within the inverted commas, the words, letters, figures and brackets "or sub-section (6) of section 44E or sub-section (5) of section 44F" were inserted.'

The motion was adopted.

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

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

'In clause 37 (now 39), for the figure "6" the figure "5" was substituted.'

The motion was adopted.

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

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

'In clause 39 (now 41) in sub-clause (1)—

(a) in paragraph (c), for the words, letter, figures and brackets "to which clause (c) of sub-section (1) of section 28 applies" the words "in which the information received is to the effect that the assessee has concealed the particulars of his income or deliberately furnished inaccurate particulars thereof" were substituted; and

(b) In paragraph (d) for the figure "1938" the figure "1939" was substituted.'

Mr. K. Santhanam: Sir, I move:

"That in paragraph (c) of sub-clause (1) of clause 41 of the Bill, for the words 'the information received is to the effect' the words 'he has reason to believe' be substituted."

This is an amendment of some substance and though I understand that Government are agreeable to this amendment, I should like the House to know what exactly it means. The amendment relates to clause 34 which is about the reopening of assessments. In the Assembly we agreed that where there was concealment the reopening may be made within eight years and that for other reopening of accounts it should be four years. It appears that on a strict legal interpretation of the clause as passed by the Assembly this eight year rule will be incapable of application.

In clause 34 (1) we laid down that a notice of a demand can be issued only in a case to which clause (c) of sub-section (1) of section 28 applies. This required that the income-tax officer should come to an *ex parte* conclusion that there has been a concealment of particulars before he issued a notice. In order to remedy this defect the Government carried an amendment in the Council of State saying that if the information which was laid before the income-tax officer suggested that there was a concealment, then he might issue a notice of demand within eight years. That meant practically that the four-year rule went out because a formula would have been evolved by which every information about under-assessment would make a suggestion of concealment. Therefore, the amendment carried in the Council of State went too far in the other direction. We have tried to redress the balance by this amendment by which, after receiving the information, the income-tax officer will himself have to put it on record that he has reason to believe that there was some concealment. Then he would issue the notice of demand. The assessee would then appear, and so far as the assessment is concerned he can re-open the assessment within eight years only when he has made a separate definite finding that there has been a concealment of particulars, and, of course, if he did not exercise his proper judgment, then the appellate authority or the High Court would be able to say that the income-tax officer had no reason to believe that there was concealment and so he ought not to have issued the notice of demand. Therefore, I suggest that the amendment carries out the intention of the Assembly much more precisely and accurately than the amendment carried in the Council of State. Sir, I move.

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

"That in paragraph (c) of sub-clause (1) of clause 41 of the Bill, for the words 'the information received is to the effect' the words 'he has reason to believe' be substituted."

The Honourable Sir James Grigg: Sir, I accept the amendment.

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

"That in paragraph (c) of sub-clause (1) of clause 41 of the Bill, for the words 'the information received is to the effect' the words 'he has reason to believe' be substituted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, and as further amended in this House" be concurred in:

'In clause 39 (now 41) in sub-clause (1)—

- (a) in paragraph (c), for the words, letter, figures and brackets "to which clause (c) of sub-section (1) of section 28 applies" the words "in which the information received is to the effect that the assessee has concealed the particulars of his income or deliberately furnished inaccurate particulars thereof" were substituted; and
- (b) In paragraph (d) for the figure "1938" the figure "1939" was substituted."

The motion was adopted.

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

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

'In sub-clause (e) of clause 40 (now 42), for the figure "1938" the figure "1939" was substituted.'

The motion was adopted.

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

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

'In clause 42 (now 44), for the words, figures and brackets commencing '(1) Section 38' and ending 'for clause (3)', the words, figures and brackets 'For clause (3) of section 38 of the said Act' were substituted.'

The motion was adopted.

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

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

'In clause 45 (now 47)—

(a) in sub-clause (a)—

(i) for paragraph (i) the following paragraph was substituted, namely:—

"(i) for the words 'In the case of any person residing out of British India, all profits or gains accruing or arising to such person.' the words 'All income, profits or gains accruing or arising,' shall be substituted;";

(ii) for paragraph (iii) the following paragraph was substituted, namely:—

"(iii) for the words 'shall be chargeable to income-tax in the name of the agent of any such person, and' the words 'where the person entitled to the income, profits or gains is not resident in British India, shall be chargeable to income-tax either in his name or in the name of his agent, and in the latter case' shall be substituted;"; and

(iii) in paragraph (iv), after the words "Provided that", where they occur for the second time, the words "where the person entitled to the income, profits or gains is not resident in British India, the" were inserted.

*"That in paragraph (c) of sub-clause (1) of clause 41 of the Bill, for the words 'the information received is to the effect' the words 'he has reason to believe' be substituted."

[Mr. President.]

(b) For sub-clause (b) the following sub-clause was substituted, namely:—

“(b) in sub-section (2), after the words ‘Where a person not resident’ the words ‘or not ordinarily resident’ shall be inserted; the words ‘, and not being a British subject or a firm or company constituted within His Majesty’s Dominions or a branch thereof’ shall be omitted; the words ‘or the Assistant Commissioners, as the case may be,’ shall be omitted; and for the words commencing ‘between the resident and the non-resident’ and ending ‘connection with the non-resident’ the words ‘between such persons, the course of business is so arranged that the business done by the resident person with the person not resident or not ordinarily resident’ shall be substituted;” and

(c) In sub-clause (c), for the words “assessable under this section” the words “deemed under this section to accrue or arise in British India” were substituted’.

The motion was adopted.

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

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

“To clause 45A (now 48) the following marginal heading was attached, namely:—

‘Amendment of section 43, Act XI of 1922.’”

The motion was adopted.

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

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

“In clause 48 (now 51), in proposed section 44D of the Act,—

(i) in sub-sections (1), (2), (5) and (7) and in the marginal heading, for the word “domiciled” the words “ordinarily resident” were substituted;

(ii) in sub-section (5), for the words “income of another person” the words “income of a person” were substituted; and

(iii) in sub-section (8)—

(a) for the words and figures “the financial year 1939-40” the words and figures “the year ending on the 31st day of March, 1940” were substituted; and

(b) for the figure “1938” the figure “1939” was substituted’.”

The motion was adopted.

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

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

“In clause 49 (now 52), for the figure “2” the figure “3” was substituted’.”

The motion was adopted.

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

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

“In clause 50 (now 53), after the words “of the said Act”, the following was inserted, namely:

“after the word and figure ‘section 42’ the words and figure ‘or of the proviso to section 45’ shall be inserted, and’.”

The motion was adopted.

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

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

'After clause 50 (now 53) the following clause was inserted, namely:

'50A.* In section 47 of the said Act, after the word and figure 'section 28', the words, letters, figures and brackets 'sub-section (b) of section 44E, sub-section (5) of section 44F' shall be inserted.'

Amendment of section 47,
Act XI of 1932.

The motion was adopted.

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

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

'In clause 51 (now 55), in sub-section (4) of proposed section 48 of the Act, for the words and figure "Act of 1939" the word and figure "Act, 1939" were substituted.'

The motion was adopted.

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

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

'In clause 54 (now 56)—

(a) for the proposed section 49A the following was substituted, namely:

"49A. (1) The Central Government may, by notification in the Official Gazette, make provision for the granting of relief in respect of income on which has been paid both income-tax (including super-tax) under this Act and Dominion income-tax;

(2) for the purposes of this section 'Dominion income-tax' means any income-tax or super-tax charged under any law in force in any Indian State or in any part of His Majesty's Dominions (other than the United Kingdom) where the laws of that State or part provide for relief in respect of tax charged on income both in that State or part and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section." and

(b) for proposed section 49D of the Act the following section was substituted, namely:

"49D. If any person who has paid by deduction or otherwise Indian income-tax for any year in respect of any income arising without British India in a country the laws of which do not provide for any relief in respect of income-tax charged in British India proves that he has paid income-tax by deduction or otherwise under the laws of the said country in respect of the same income, he shall be entitled to the deduction from the Indian income-tax payable of a sum equal to one-half of such Indian income-tax or to one-half of such tax payable in the said country, whichever is the less"

Relief in respect of tax charged in country not providing for relief in respect of British Indian income-tax.

Mr. F. E. James (Madras: European): Sir, I tried to get an opportunity to raise a question before the House earlier but was not able to do so. The point is briefly this,—that there is considerable difficulty in securing relief from double income-tax where tax is paid in Indian States on the part of assesseees in British India, whether individuals or companies. In many cases the relief is not adequate, and in cases which I know of personally (I need not weary the House by detailing these cases) the relief is obtained after a great deal of trouble and often after deductions that in our view are not really legal deductions on the part of the Indian States. I realize it is a difficult problem, but one suggestion I can offer is that when Mr. Chambers has been able to clear up the Bill, if it would be possible for him to pay a visit more especially to South India in which

[Mr. F. E. James.]

these matters are extremely complicated, his advice would be of the greatest possible assistance not only to assesseees in British India but also to the Departments of the Indian States concerned; and if the Honourable the Finance Member would be good enough to bear that point in mind so that when an occasion arose such action could be taken, then we in South India would be particularly grateful.

The Honourable Sir James Grigg: Sir, I shall be very glad to consider the suggestion of Mr. James, and in so far as it is possible to oil the wheels in this matter, we should be quite ready to help.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In clause 54 (now 58)—"

(a) for the proposed section 49A the following was substituted, namely:—

"49A. (1) The Central Government may, by notification in the Official Gazette, make provision for the granting of relief in respect of income on which has been paid both income-tax (including super-tax) under this Act and Dominion income-tax:

(2) for the purposes of this section 'Dominion income-tax' means any income-tax or super-tax charged under any law in force in any Indian State or in any part of His Majesty's Dominions (other than the United Kingdom) where the laws of that State or part provide for relief in respect of tax charged on income both in that State or part and in British India which appears to the Central Board of Revenue to correspond to the relief which may be granted by this section." and

(b) for proposed section 49D of the Act the following section was substituted, namely:—

"49D. If any person who has paid by deduction or otherwise Indian income-tax for any year in respect of any income arising without British India in a country the laws of which do not provide for any relief in respect of income-tax charged in British India proves that he has paid income-tax by deduction or otherwise under the laws of the said country in respect of the same income, he shall be entitled to the deduction from the Indian income-tax payable of a sum equal to one-half of such Indian income-tax or to one-half of such tax payable in the said country, whichever is the less."

Relief in respect of tax charged in country not providing for relief in respect of British Indian Income-tax.

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In clause 55 (now 59), for the figure and letter "49D" the figure and letter "49E" were substituted.'"

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In clause 56 (now 60), for the figure and letter "49E", the figure and letter "49F" were substituted.'"

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:
 "In clause 57 (now 61), for the figure "1938", in both places where it occurs, the figure "1939" was substituted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:
 "In clause 59 (now 63), for the words, letters, figure and brackets—

"In section 51 of the said Act—

(a) in clause (c)"

the words, letters, figure and brackets "In clause (c) of section 51 of the said Act" were substituted and sub-clause (b) of the said clause was omitted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:
 "In clause 60 (now 64), the letter and brackets "(a)" were omitted from the beginning and inserted after the words "said Act," and that in sub-clause (b) for the word "punished" the words "punishable, on conviction before a Magistrate" were substituted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:
 "To paragraph (ii) of sub-clause (b) of clause 62 (now 66), the following was added, namely:—

"or

(ii) so much of such particulars, to the appropriate authority, as may be necessary to establish whether a person has or has not been assessed to income-tax in any particular year or years, where under the provisions of any law for the time being in force such fact is required to be established."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:
 "To clause 62 (now 66) the following sub-clause was added, namely:—

"(d) in sub-section (4) so renumbered, after the words 'proceeding under' the words, letter and figure 'section 25A or' shall be inserted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:
 "To sub-clause (a) of clause 63 (now 67), the following was added, namely:—

'and after the words 'not being a registered firm', the words 'or the partners of the firm or members of the association individually,' shall be inserted;'"

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in:
 "In clause 64 (now 68), after the words "said Act" the following was inserted, namely:—

"after the word 'company', the words 'local authority' shall be inserted, and."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In sub-clause (a) of clause 66 (now 70), after the words figure and brackets "in sub-section (I)" the words "for the words 'the proviso' the words 'the second proviso' shall be substituted, and" were inserted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'To sub-clause (a) of clause 66 (now 70) the following was added, namely:—

"and for the figure '20', the words, figures and brackets 'and 20 and the first proviso to sub-section (I) of section 41 and section' shall be substituted;'"

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In clause 71A (now 76), to proposed section 58-O of the Act, the following sub-section was added, namely:—

'(4) The Central Board of Revenue shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless it has given the trustees of that fund a reasonable opportunity of being heard in the matter.'

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In sub-clause (b) of clause 73 (now 78), for the figure "1938" the figure "1939" was substituted'."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In sub-clause (b) of clause 76 (now 81), for the words "his principal place of business" the words "the principal place wherein he carries on his business, profession or vocation" were substituted'."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In clause 77 (now 82) of the Bill,—

(i) in sub-clause (d), before the word "North-West" and within the inverted commas, the word "the" was inserted; and

(ii) sub-clause (e) was omitted'."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'After clause 77 (now 82), the following clause was inserted, namely:

"77A.* To sub-section (I) of section 66A of the said Act the following proviso Amendment of section 66A, shall be added, namely: Act XI of 1922.

'Provided that where in any reference heard by the Bench of the Court of the Judicial Commissioner of the North-West Frontier Province, a difference of opinion arises between the Judicial Commissioner and the Judge of the said Court, the opinion of the Judicial Commissioner shall prevail'."

The motion was adopted.

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

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

"In clause 78 (now 84),—

(a) for the proviso to Rule 2 in the proposed Schedule to the Act, the following proviso was substituted, namely:

"Provided that the amount to be allowed as management expenses shall not exceed—

(a) $7\frac{1}{2}$ per cent. of the premiums received during the preceding year in respect of single premium life insurance policies, plus

(b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums received is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year $7\frac{1}{2}$ per cent. of such first year's premiums received during the preceding year, plus

(c) 85 per cent. of the first year's premiums received during the preceding year in respect of other life insurance policies and $8\frac{1}{2}$ per cent. of other premiums received during that year in respect of such policies." and

(b) In Rule 5 in the proposed Schedule to the Act—

(i) in clause (ii), for the words "except premiums received from policy-holders, and interest and dividends in any annuity fund," the words and brackets "(except premiums received from policy-holders and interest and dividends on any annuity fund)" were substituted;

(ii) in the proviso to clause (ii), for the words "the latter section" the words "the last-named section" were substituted;

(iii) in clause (iii), after the word "policy-holders" the words "depreciation of, and losses on the realisation of, securities" were inserted; and

(iv) after clause (iv), the following clause was inserted, namely:

"(v) 'securities' includes stocks and shares."

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

"That in clause 84 of the Bill, in paragraph (c) of the proviso to rule 2, in the proposed Schedule to the Act, for the words 'such policies' the words 'all life insurance policies other than single premium life insurance policies' be substituted."

Sir, the object of this amendment is this. In the Bill before it was passed by this Assembly there was a difference made between single premium policies and policies where a number of premiums had to be made in the matter of allowing expenditure. In the case of single premium policies $7\frac{1}{2}$ per cent. of the premium is allowed as expenditure. An amendment was moved by us in this Assembly that the amount of expenditure ought to be spread over in cases where it is not a single premium alone which is paid but a number of premiums not less than twelve in number are paid in the case of any particular policy. As regards the others 85 per cent. of first year's premiums and $8\frac{1}{2}$ per cent. of the renewal premiums may apply to other policies where the number of premiums is more than 12. That amendment was made in this Assembly but, unfortunately, it has not been fully carried out in the Council of State. There is no reference made in clause 6 to the amount of expenditure allowed in the case of renewal premiums, and it is to make up this deficiency that this amendment is introduced in clause (c).

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

"That in clause 84 of the Bill, in paragraph (c) of the proviso to rule 2, in the proposed Schedule to the Act, for the words 'such policies' the words 'all life insurance policies other than single premium life insurance policies' be substituted."

The Honourable Sir James Grigg: Sir, I accept the amendment.

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

"That in clause 84 of the Bill, in paragraph (c) of the proviso to rule 2, in the proposed Schedule to the Act, for the words 'such policies' the words 'all life insurance policies other than single premium life insurance policies' be substituted."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, and further amended in this House, be concurred in:

'In clause 78 (now 84).—

(a) for the proviso to Rule 2 in the proposed Schedule to the Act, the following proviso was substituted, namely:

"Provided that the amount to be allowed as management expense, shall not exceed—

- (a) $7\frac{1}{2}$ per cent. of the premiums received during the preceding year in respect of single premium life insurance policies, *plus*
- (b) in respect of the first year's premiums received in respect of other life insurance policies for which the number of annual premiums received is less than twelve, or for which the number of years during which premiums are payable is less than twelve, for each such premium or each such year $7\frac{1}{2}$ per cent. of such first year's premiums received during the preceding year, *plus*
- (c) 85 per cent. of the first year's premiums received during the preceding year in respect of other life insurance policies and $8\frac{1}{2}$ per cent. of other premiums received during that year in respect of *all life insurance policies other than single premium life insurance policies.*" and

(b) In Rule 5 in the proposed Schedule to the Act—

- (i) in clause (ii), for the words "except premiums received from policy-holders, and interest and dividends in any annuity fund." the words and brackets "(except premiums received from policy-holders and interest and dividends on any annuity fund)" were substituted;
- (ii) in the proviso to clause (ii), for the words "the latter section" the words "the last-named section" were substituted;
- (iii) in clause (iii), after the word "policy-holders" the words "depreciation of, and losses on the realisation of, securities" were inserted; and
- (iv) after clause (iv), the following clause was inserted, namely:
 - "(v) 'securities' includes stocks and shares'."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'Clause 79 was omitted'."

The motion was adopted.

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

"That the following amendment, as made by the Council of State, be concurred in: 'In clause 80 (now 85), in sub-section (3) to proposed section 5-A of the Act, for the words "accountant member" the words "an accountant member" were substituted.'"

The motion was adopted.

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

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

‘In clause 87 (now 92) sub-clause (b) was renumbered (c) and that after sub-clause (a) the following sub-clause was inserted, namely:

“(b) in sub-section (6) the words ‘on the application of an assessee’ shall be omitted;”

The motion was adopted.

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

“Necessary corrections of the numbering and lettering of the clauses of the Bill were carried out with consequential corrections of cross references.”

Mr. S. Satyamurti: Sir, this is a statement of fact, and we cannot vote on it.

Mr. President (The Honourable Sir Abdur Rahim): Yes, this has already been done and the vote of this House is not necessary.

This finishes the Income-tax Bill.

THE INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the following motion moved by the Honourable Sir Muhammad Zafrullah Khan on the 15th November, 1938:

“That the Bill further to amend the Indian Merchant Shipping Act, 1923, be taken into consideration.”

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I support the motion, but, while doing so, I would like to have some information. I am glad that the Scindia Steam Navigation Company have instituted a provident fund scheme and this Bill is to enable them to deduct payments from sailors on the seas towards that fund. But I should like to know what the Government of India is doing to promote in India, as in England, a National Maritime Board of which all Indian officers and sailors will become members. So far as the Scindia Steam Navigation Company is concerned, it is all right, but what about the Indian officers in other companies? I take it that the Honourable the Commerce Member will see that the English companies who are plying on the coastal trade of India will take their quota of Dufferin cadets. I should like to know what will be their position? Will they have to look to the provident fund or pension from the Board in England, or will these companies institute a separate provident fund for these Indian officers in India? What is the position of the Indian sailors in these companies? Are there any provident funds for them or are they to look to the British National Maritime Board for their pensions? Though the particular provision of the Bill itself is very simple and is quite acceptable, now that the subject has come up it is necessary that the Government of India should give us some idea as to what steps they are taking to protect the interests of our seamen in general, not only of those who are serving in the Scindia Steam Navigation Company but even of those who are serving in the other lines which are plying both in the coastal trade as well as the foreign trade of India.

Mr. N. M. Joshi (Nominated Non-Official): Sir, I agree with the principle of the Bill that if there is any proper scheme for the maintenance of seamen and also of officers employed on merchant shipping there must be power to make assignments or deductions from the salaries or wages for contributions. But before I agree to the provision of this Bill enabling monies to be assigned for paying contributions for any scheme intended to provide maintenance for seamen and their officers, after retirement, I must make sure that the schemes are proper schemes. To have schemes for provident fund, or for pensions by individual companies, is not the proper way of providing for the maintenance of seamen and their officers after retirement. There is clearly a disadvantage to the seamen and to the officers in a scheme which is restricted to the employees of one company and which is controlled by that company. A proper provision is to have some scheme under the authority of either Government or some organisation under the control of Government or jointly under the control of the people who pay contributions to these schemes. I would, therefore, have liked that a scheme for providing pensions in old age and after retirement for seamen and their officers should have been made by the Government themselves or if not by Government through some organisation which is controlled by Government or by seamen and their employers. I said that there is a disadvantage in a scheme which is restricted to the employees of one company and which is controlled by the company.

In the first place, if a scheme is restricted to employees of one company and controlled by that company, and if the seamen or the officers on the merchant shipping leave that company, they would lose in the first place the benefit of this scheme itself if the rules of this scheme provide that the seaman or the officer will not get the benefit of the scheme unless he puts in a certain number of years which qualifies him to get the benefit of the contributions of the employers. Secondly, he may transfer his services from one company which has a provident fund to another company which has not got a provident fund with the result that he does not get the benefit of any scheme for pensions or provident fund after leaving the service of that company. He may serve in one company say for five or ten years. It is true that the contributions paid by him and by his employer for those five years will be returned to him after he leaves that service, but it does not provide for his retirement wholly. It has given him some saving, but if he goes to a company where there is no such fund the provision for future has stopped. Therefore, if a scheme is to be made for the protection of the seamen and their officers after retirement and in old age that scheme should provide for the whole term of their service and not limited to a period of service which they render with a company which has got a provident fund. Therefore, any scheme which is intended to provide a provident fund or pension to a seaman or an officer, that scheme should be such that he will receive the benefit through the whole period of his service and not through a limited period.

Then, there is a disadvantage in a scheme provided by one company for its employees. That disadvantage is that if one of the rules of the provident fund is that the man will not get the benefit of the contributions of the employer unless he serves with that company, say, for ten years,

then even though he may be dissatisfied with the conditions of service given by that company to him, he may be tempted to remain with that company instead of going to another company to better his prospects on account of the fact that he may lose the benefit of the contributions of the employer. Sir, this difficulty in the way of transferring his services from one employer to another is decidedly against the interest of the employee. An employee must always be free to go from one employment to another, if he finds that the employment in which he is working is not satisfactory and the terms given to him are not fair. I, therefore, feel that from the point of view of the employees, there is clear disadvantage if a scheme for provident fund or pension is restricted to the employees of one company and is controlled by that company. In any case, if this disadvantage is to be avoided the Government has to see before approving of the scheme that no qualifying period will be laid down in the scheme in order that the seamen or the officers should become eligible for receiving benefit of contributions of the employer. Whenever an employee of a company leaves the service of that company, he should get the benefit of his own contributions as well as of the contributions of the employer. This can be done if the Government of India, before approving of the scheme, insists that this provision is put into the rules regarding that scheme.

Then, Sir, if the scheme is a contributory one, namely, if the employers and the employees contribute towards the scheme, it is but fair that the management of the scheme should be in the joint hands of the employers and the employees. If the scheme is a non-contributory one, or it is a scheme to which only the employer contributes, then there may be some justification for the employer controlling the scheme, but if the scheme is one to which both the employees and the employers contribute, then the management of that scheme must be joint and not by the employers alone. I would, therefore, like the Government of India before they give any approval to such a scheme to see that the rules provide for the joint management of that fund.

Moreover, I would also like the Government of India to see that if there are any Trustees employees who contribute to the fund, they will also be represented on the Board of the Trustees. Lastly, I would like that if a scheme is to be a proper one and to be approved by Government, then the Government must make sure that the administration of that scheme will not be a costly one, and that the expenses of the administration will be limited to a very small percentage of the premium or contribution collected every year. I would suggest that the administrative expenses of such a scheme should not exceed more than two per cent. or 2½ per cent. I have made these suggestions in order that the Government of India should give the House an assurance that the suggestions which I have made will be accepted by them and that they will not approve of a scheme which is not a proper scheme as I have described, namely, that the scheme shall be such that a man will not lose the benefit of it after a short period, but that the man will get that benefit by contributing himself as well as the employer contributing to the scheme during the whole period of his service. Secondly, that the scheme will make such a provision that the man will not lose the benefit not only of his own contributions but even the contributions of the employer whenever he leaves the employment of that particular employer. Thirdly, the management should be joint if it is not Government management. If there is a board

[Mr. N. M. Joshi.]

of trustees the employees should be represented on it. Lastly, the administrative expenses should be restricted to 2 per cent. or 2½ per cent. of the contributions paid. Sir in Great Britain recently they have established a scheme for the officers of the merchantile navy. That scheme is not restricted to the employees of one company but is a sort of joint scheme for all the shipping companies of Great Britain managed by a National Joint Maritime Board on which the employers and employees are equally represented. Now, Sir, that scheme avoids almost all the disadvantages which I have pointed out and the scheme which the Government of India would approve should also avoid all these disadvantages. And I should like the Government of India to give me an assurance that the suggestions which I have made regarding the proper framing of the scheme will be insisted upon by them when they approve of a scheme for a provident fund or a pensions fund. If the suggestions which I have made are not insisted upon I am afraid the scheme for a provident fund may not do much good to the employees. In any case sometimes a scheme of this kind will come in the way of the man leaving an employment in order to better his prospects. It is difficult to say that there should be no scheme for a provident fund even though the scheme may be made by one company; but, Sir, if you think deeply about this matter, you will agree that if I have to wait for a year or two in order to get a proper scheme for a provident fund, I would rather wait instead of approving of a scheme which is not a proper one. I would therefore like the Honourable Member in charge of the department to give me an assurance that he will not approve of a scheme unless the suggestions which I have made are insisted upon. If he cannot give me that assurance I am afraid I cannot support this Bill. In any case I cannot support this Bill as a Bill which will undoubtedly do good to the employees of the Indian mercantile marine. I hope the Honourable Member will give me that assurance.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Mr. Muhammad Ashar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, there cannot be two opinions on this Bill. Every one on this side of the House is agreed that this a very good Bill and ought to have been taken up by the Government. But I want to suggest a few points to the Honourable Member in charge. When he is going to have a proper scheme, I would suggest that when a certain percentage is going to be taken away from the pay of these poor people, considering the risk which these sea-faring people undergo, there should be an increase in pay to a certain extent by the companies employing them. I would also submit that though it is right that a certain sum should be deducted, the proposed percentage is too high. It is 7 to 8 per cent and more. I, therefore, suggest that the Government should take note of the fact that these people who are employed in such risky business should get sufficient pay, especially in this age of unemployment. Many people

are sure to try to get into this sea-faring business. There will be agreements between the shipping companies and the employees, and these agreements require to be seen very carefully. The companies will have these agreements drafted by their lawyers, while these employees will not have any expert advice and the agreements may not be very much in their interest. The Government should, therefore, take care to see these agreements so that they may not be to the detriment of these employees. It is not only the Scindia Steam Navigation Company, but it is also the British India Steam Navigation Company that have Provident Fund schemes already and may be other companies which will take this business in hand. The boys who pass from the Dufferin Ship—it should be the duty of these companies to employ them before taking other people. India wants that people of her own country should get employment in these steam navigation companies. Therefore, I have made these suggestions that not only the pay of these people should be looked into and not only should the agreements be scrutinised, but all their interests should be looked after properly. With these remarks, I support the motion.

Mr. J. D. Boyle (Bombay: European): Sir, the Group to which I have the honour to belong feel that sufficient safeguard is probably in the Bill because any contributions to a scheme which will be inaugurated under the Bill have to be approved by the Central Government; and my Group feel that this probably is sufficient safeguard. Mr. Joshi this morning saw fit to draw attention to certain points that were of importance and which the Central Government might bear in mind before they in fact approved of such schemes. I have very little to add to the points that he made, all of which I think were of considerable substance. but there is one point which I should like to amplify, and that is in connection with provident funds and what I might call continuity of service. Those of you who are acquainted with merchant shipping will know that a young man who gets his first job as third mate, as soon as he has got that job, will, if he has any ambitions, start to work for his second mate's ticket. That might take three or four years to get, and he will, in due course, become second mate.

Under the provisions of, at any rate, one of the schemes that have been put forward already, it will be necessary for him to do ten years in the company's employ before he is entitled to draw the whole of his provident fund. That means that though he is entitled to a second mate's job, after four years, he will have to do six more years as third mate with that company before he is able to take a job as second mate, unless, of course, there is promotion in the particular service in which he is employed. It may quite well be and it often has happened that another shipping line will be prepared to offer him a job as second mate during of course of those six years; but, under the provisions of the provident fund as it is laid down at the moment, he would not, unless he is prepared to sacrifice the savings that he has made, be able take that job for six years. When similar provision was introduced in England all the merchant shipping companies came to an agreement, agreed to the principle of a pool and arranged a provident fund which was interchangeable between all the companies: that is to say, a man might do three years with one company and if he then got a better job with another company he might go and take his provident fund with him and the companies did not mind because what they lost on the round abouts they made up on

[Mr. J. D. Boyle.]

the swings; they got a good officer. I do not know how far it is possible here to get all the shipping companies to agree, but it is certainly very desirable and I think the Central Government would do well to bear this in mind. It means that an officer under the present scheme, unless Government arranged accordingly, might well be kept back for a very long time without any real reason to stop his advance; and I do think the Central Government should bear in mind the advisability of trying to arrange a provident fund scheme which would be applicable to all merchant shipping companies in the country so that a young officer could carry his pension or provident fund with him however much he changed his employment. It is not only a matter of advancement. If a young officer is keen he may very well get more experience; if he is in coastal shipping, he might like to change into a company with overseas shipping; he will get more experience. But if the provident fund schemes are to be based on the same sort of basis as is employed by ordinary merchant firms, he would be quite unable to do that. I think it is both in the interests of the officer concerned and of the merchant service as a whole that if possible a uniform scheme of provident or pension fund should be introduced, or, at any rate, some provision by which a young officer does not lose the money that he has himself saved, if for any reason for his own advancement or for the increase of his own experience he wishes to change the service in which he is employed in less than the scheduled number of years laid down in the provident fund rules.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): Sir, I strongly support the suggestions put forward by Mr. Boyle, but I should also like to offer another suggestion. I see that the Provident Fund Act applies only to Government and Railway servants. Section 3 of the Provident Fund Act guarantees certain protection to the deposits made by those who have subscribed to the Provident Fund under that Act, and I suggest that the same protection should be given to those who join the Provident Fund now contemplated. Section 3 says:

"A compulsory deposit in any Government or Railway Provident Fund shall not, in any way, be capable of being assigned or charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the subscriber or depositor."

Mr. N. M. Joshi: Which section is it?

Mr. T. S. Avinashilingam Chettiar: Section 3. As I said, the protection which is now given to those who subscribe to the Provident Fund under that Act should be given to the subscribers of the Provident Fund which is now contemplated, so that the benefit conferred by this Bill may be effective and real. I do hope that the Government will bear this in mind when making rules and if necessary bring forward legislation to this effect.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, so far as the principle and the provisions of this Bill are concerned, there appears to be no dispute. It is recognised that it is a necessary step in order that some of these schemes may be put into operation. Certain suggestions have been made with regard to some aspects of these schemes, and they will be borne in mind by the

Government of India when considering these schemes. Mr. Joshi has indeed gone so far as to say that unless the Government of India give an assurance that full effect would be given to the points he made or insisted upon, he would not be prepared to support this Bill. This Bill, as Honourable Members are aware, is of an enabling character, and there can be no possible objection to power being taken to the effect that if there are approved schemes with certain objects in view, the Government of India shall have power to authorise the necessary changes in the Seamen's agreements so that on their side the necessary contributions for these funds may be made. I am unable to give a positive assurance to Mr. Joshi that the points he has mentioned will necessarily be insisted upon in the very first schemes that may be put forward. It seems to me that it may be desirable that certain schemes may be started in order that a beginning may be made in a very desirable direction but I can assure him that the points he has mentioned, one of which was further stressed by Mr. Boyle, and to which Mr. Chettiar has also drawn attention, will be kept in mind, so that such features as are regarded as essential or desirable may be eventually introduced. And I say the same thing with regard to the suggestion made by Mr. Santhanam. When things begin to move in that direction, no doubt the objects that Honourable Members have in mind will be gradually achieved.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, be taken into consideration."

The motion was adopted.

Clauses 1 and 2 were added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I beg to move:

"That the Bill be passed."

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

"That the Bill be passed."

The motion was adopted.

THE INSURANCE (AMENDMENT) BILL.

The Honourable Sir Nripendra Sircar (Law Member): Sir, I beg to move:

"That the Bill to amend the Insurance Act, 1938, be referred to a Select Committee consisting of Mr. Bhulabhai J. Desai, Mr. S. Satyamurti, Mr. Sri Prakasa, Mr. K. Santhanam, Mr. Akhil Chandra Datta, Mr. H. A. Sathar Haji Essak Sait, Dr. Sir Ziauddin Ahmad, Mr. T. Chapman-Mortimer, Mr. J. H. Thomas and the Mover with instructions to report on or before the 20th February, 1939, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, as I am asking for a Select Committee, it is hardly necessary for me to make a speech. The reasons for introducing this amending Bill are set forth in the Statement of Objects and Reasons, and I can assure the House that the Bill is not of a complicated nature as may appear at first sight from the number of clauses. The objects of the Bill

[Sir Nripendra Sircar.]

have been stated very clearly. Possibly it will save time if I merely read the Statement of Objects and Reasons instead of making another speech:

"Detailed scrutiny of the Insurance Act, 1938, has revealed a considerable number of defects of a technical kind which should be removed before the Act is brought into force. It is also desirable to make it clear that insurers who set up organizations outside British India and operate through agents in British India are within the scope of the Act. Further, in view of projected legislation in certain Indian States on lines similar to the Insurance Act, 1938, certain disabilities would be imposed on insurers registered under the Act which would seriously impede the development of their business outside British India. The amending Bill is designed to give relief in such cases without impairing the security for policy-holders in British India."

I do not think that although the matters are not very complicated yet discussion in the Select Committee where the matter can be thoroughly thrashed out, will bring out some points which may have escaped our attention and which can be set right later on. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta): Motion moved:

"That the Bill to amend the Insurance Act, 1938, be referred to a Select Committee consisting of Mr. Bhulabhai J. Desai, Mr. S. Satyamurti, Mr. Sri Prakasa, Mr. K. Santhanam, Mr. Akhil Chandra Datta, Mr. H. A. Sathar Haji Essak Sait, Dr. Sir Ziauddin Ahmad, Mr. T. Chapman-Mortimer, Mr. J. H. Thomas and the Mover with instructions to report on or before the 20th February, 1939, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. T. S. Avinashlingam Obettiar (Salem and Coimbatore cum North Arcot: Non-Muhammadan Rural): Sir, many of the amendments that have been suggested in this Bill are formal. There are, however, some which are matters of substance, and I would like to point out one of these which, I think, is really very important. I refer to clauses 6 and 17. Clause 6 is an amendment of section 14, and section 14 of the Insurance Act refers to certain registers that have to be maintained by every insurer. This is incumbent upon every insurer under the Act as it is. If the amendment which is in clause 6 of the Bill be accepted, then the section will not apply to marine policies. Let me point out to the House the registers which are asked to be maintained under the section. Those registers are, (a) a register or record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policy holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice, and (b) a register or record of claims, in which shall be entered every claim etc., etc. I do not see any reason why policies in respect of marine insurance should be exempted from the operation of this section. I do think that these registers ought to be kept for every kind of insurance policy. In the Statement of Objects and Reasons we find under clause - 6:

"Marine insurance is a specialised form of insurance business and there have been found to exist difficulties, both legal and practical, in applying section 46 to such class of insurance business."

In this connection I would like to refer to section 46. It refers to the application of British Indian law to policies issued in British India. It says:

"The holder of a policy of insurance issued by an insurer in respect of insurance business transacted in British India after the commencement of this Act shall have the right, notwithstanding anything to the contrary contained in the policy or in any agreement relating thereto, to receive payment in British India of any sum secured

thereby and to sue for any relief in respect of the policy in any Court of competent jurisdiction in British India; and if the suit is brought in British India any question of law arising in connection with any such policy shall be determined according to the law in force in British India."

By clause 17 of the Bill they want to exclude from this section also policies of marine insurance. I have serious doubts whether this amendment is good or whether it is advantageous to those who take out policies of marine insurance in this country. Within the short time before us I have not been able to look up the law in other countries on this matter, but I do think that exemption should not be given in the case of marine policies, that even in cases where a different term is contained in the agreement they should be governed by British Indian law and that even in cases of policies of marine insurance the account books which it is incumbent upon the insurers to keep in respect of all other policies of insurance under section 14, should be maintained. I do think that these amendments are not in the interests of British Indian policyholders. As such I would request the Select Committee to go into this matter carefully. I support the motion.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): It is only matters which are of a consequential nature or which are merely formal that are sought to be the subject of this amending Bill, but I find that two or three matters of substance also have been included. They are, firstly, regarding the assets that have to be maintained by insurance companies in States so far as insurance premia or policies are taken up by States subjects. If a corresponding legislation is introduced in the States it is sought to avoid a double set of assets to avoid the inconvenience that might arise to the extent of the assets that are kept in the State. The other one is, it is sought to bring in within the scope of the Act insurance companies which are not resident in British India but which carry on business through agents or representatives. I would suggest that some other modifications of substance may also be made in the amending Bill.

I find that with respect to the election of policyholder directors, the principle of proxy voting is not allowed. A fixed percentage of directors in an insurance company is allowed to the policyholders, but in practice policyholders who are living throughout the country are not allowed to represent themselves at these meetings by proxies. If this is not allowed this wholesome provision will become absolutely useless. Either postal voting or voting by proxy should be allowed. I would like that a provision may be made in the Act itself to that effect. I have received, and I believe other Honourable Members also have received, representations from insurance agents and insurance brokers associations, that with respect to the premium though the percentage of the commission that is payable to an insurance agent is limited, that provision is sought to be evaded by giving salaries to persons who are appointed agents or by making them clerks or subordinates in the office itself. That kind of evasion ought not to be allowed and a provision may be made in the amending Bill itself to prevent such evasion. I agree with my Honourable friend, Mr. Avinashilingam Chettiar, when he says that section 46 ought to be made to apply not only to policies of general insurance but also to policies of marine insurance. The holders of policies of marine insurance must not be put to a disability. To that extent the provision in the amending Bill which is sought to be enacted

[Mr. M. Ananthasayanam Ayyangar.]

is injurious. The person who holds a policy of marine insurance must not be driven to a foreign court and he ought not to be placed at a disadvantageous position. I do not know from what quarter that objection has been taken and what the material is which has induced the Government to delete that provision from section 46 and make an exception in respect of marine insurance policies. I would ask the Honourable the Mover of this amending Bill to give us some figures as to why a provision that was already there in the Act is sought to be restricted and is found to be injurious to the best interests of marine policyholders, and how he thinks that a change is necessary. Otherwise I support the motion before the House.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I just want to add one more point to the points mentioned by my two friends. The first rules which I understand have already been published in the Gazette should also be placed before this Committee for scrutiny. There may be some points in these rules which may be better dealt with in the form of an amendment to the Act. For instance I think in the rules it is sought to provide that those companies which have stopped taking new policies but are collecting only renewal premiums will not come within the scope of this Act. It should really be a matter of statute and not of rules. It may be better dealt with in the form of an amendment to the Act than in the form of executive interpretation by rules. So, in order to bring into operation the Insurance Act with the common consent of all people the first set of rules may also be placed before this Committee, so that, although it may not be strictly relevant, the committee might be able to report to this House and this House may be satisfied that the whole Act is being brought into operation in a satisfactory fashion with practical unanimity. I hope that this point will be considered by the Honourable the Law Member who has been so anxious to shape this legislation and to bring it into operation before he lays down his office.

The Honourable Sir Nripendra Sircar: I need hardly say that all relevant criticisms or suggested improvements will be considered by the Select Committee. But judging from the speeches of my Honourable friends, Mr. Santhanam and Mr. Ayyangar, they have made some observations which are not really relevant and possibly the Select Committee will find that that would be outside their scope; that is to say, the whole of the Insurance Act is not now before it, but this is an amending Bill for certain purposes. But I can assure the speakers that whatever is possible will be done, in the matter of having a full discussion in the Select Committee.

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

"That the Bill to amend the Insurance Act, 1928, be referred to a Select Committee consisting of Mr. Shulabhai J. Desai, Mr. S. Satyamurti, Mr. Sri Prakasa, Mr. K. Santhanam, Mr. Akhil Chandra Datta, Mr. H. A. Sathar, Haji Essak Saif, Dr. Sir Ziauddin Ahmad, Mr. T. Chapman Mortimer, Mr. J. H. Thomas and the Mover with instructions to report on or before the 20th February, 1939, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE REPEALING AND AMENDING BILL.

Mr. Deputy President (Mr. Akhil Chandra Datta): The House will now resume consideration of the following motion moved by the Honourable Sir Nripendra Sircar, on the 15th November, 1938.

"That the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration."

The Honourable Sir Nripendra Sircar (Law Member): While moving this motion, I said that I shall be agreeable to a Select Committee. I notice that a motion is down on the order paper. If the Honourable Member will move that, I shall be glad to accept it.

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

"That the Bill to amend certain enactments and to repeal certain other enactments be referred to a Select Committee consisting of Sir Nripendra Sircar, Mr. G. H. Spence, Sir Syed Raza Ali, Sardar Sant Singh, Mr. Abdur Rasheed Chaudhury, Mr. Manu Subedar, Mr. P. J. Griffiths and the Mover with instructions to report on or before the 1st April, 1939, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Deputy President (Mr. Akhil Chandra Datta): The question is:

"That the Bill to amend certain enactments and to repeal certain other enactments be referred to a Select Committee consisting of Sir Nripendra Sircar, Mr. G. H. Spence, Sir Syed Raza Ali, Sardar Sant Singh, Mr. Abdur Rasheed Chaudhury, Mr. Manu Subedar, Mr. P. J. Griffiths and the Mover with instructions to report on or before the 1st April, 1939, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

THE CRIMINAL LAW AMENDMENT BILL.

The Honourable Mr. R. M. Maxwell (Home Member): Sir, it has been arranged with the Party Leaders that my Bill should be taken up next. If you will agree, I shall move it.

Sir, I move:

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose be referred to a Select Committee consisting of Mr. Sham Lal, Mr. Sri K. B. Jinaraja Hegde, Sardar Sant Singh, Sir Muhammad Yamin Khan, Mr. P. J. Griffiths, Mr. C. J. W. Lillie and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

As it is a year since this measure was before the House I may perhaps very briefly explain to the House its general scope. As the House is aware, section 565 of the Criminal Procedure Code provides that in the case of certain previously convicted offenders the court may, when passing sentence, order that the residence or any change of or absence from such residence should be reported to the police as provided by rules framed under sub-section (3) of that section. Sub-section (5) of section 565 provides that any failure to comply with an order made under that section shall be punishable as an offence under section 176 of the Indian Penal Code. The punishment

[Mr. R. M. Maxwell.]

provided in section 176 is simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Now, it is not proposed to alter that substantive provision as it stands in section 176 of the Indian Penal Code but it is proposed to extract a certain class of offences, namely, those arising as a consequence of the operation of section 565, from the sub-clause of section 176 and to make a separate sub-clause for them in which the punishment provided for the offence will be not only simple imprisonment but imprisonment of either description. It is not proposed to create any fresh offence or to extend the maximum term of imprisonment or the maximum fine. The only difference which will be made in respect of this particular class of offences will be that it is within the option of the court to award either simple or rigorous' imprisonment. The reason why this measure has been found to be necessary is that we are in this case dealing with persons who are habitual offenders and not only habitual offenders but persons who have been convicted more than once of certain serious classes of offences mentioned in section 565 of the Criminal Procedure Code. Among those are the more serious offences against property and the offences of counterfeiting coin and currency notes. These persons whom we have to consider must be regarded as habitual offenders and they are the class of persons to whom the prospect of free food and lodging without work offers no deterrent and, therefore, the tendency has been for persons of this class to disregard repeatedly the orders of the court about notifying their residence. It has, therefore, been brought to notice that it is necessary to provide for rigorous imprisonment in suitable cases. An additional reason is that if the court has no option but to award simple imprisonment for offences of this class it means that habitual offenders have to be associated with the usual type of casual offenders who commit offences punishable with simple imprisonment; and, therefore, there is an additional reason for not allowing these habitual convicts—persons convicted of serious crime—to be associated with persons of a different class altogether. When this measure was last before the House a year ago, it was the will of the House that it should be circulated for opinion. That has now been done. The vast bulk of the opinions received are in favour of the measure as drafted by Government but a very small number of opinions, not including any Provincial Government, is in favour of some reduction of the period of imprisonment or some reduction of the fine. Only one Provincial Government is not in favour of the principle of the Bill, that is, giving the option of rigorous imprisonment, and on the other hand one Provincial Government and a number of other officers and bodies consulted are in favour of even enhancing the period of imprisonment to one year. Those are the only suggestions which affect the principle of the Bill but a certain number of other useful suggestions have been made by the officers and bodies consulted. These are mainly of a drafting character and could be considered more conveniently in Select Committee, if the House accepts the principle of the Bill as I hope it will. Sir, I move :

Mr. Deputy President (Mr. Akhil Chandra Datta): Motion moved :

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose be referred to a Select Committee consisting of Mr. Sham Lal, Mr. Sri K. B. Jinaraja Hegde, Sardar Sant Singh, Sir Muhammad Yamin Khan, Mr. P. J. Griffiths, Mr. C. J. W. Lillie and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Abdul Qaiyum (North-West Frontier Province: General): Sir, it is not my desire to obstruct the motion which has been moved by the Honourable the Home Member for reference of the Bill to a Select Committee. But I would like to make just one observation so that it may be taken into consideration by the Select Committee when it deals with the Bill. The Statement of Objects and Reasons states that certain type of offenders, *vis.*, those who have been found repeatedly guilty of offences involving theft, robbery, dacoity, etc., etc., are liable under the law as it stands at present, as laid down in section 176 of the Indian Penal Code, to simple imprisonment for a period extending to six months. It is now proposed by means of this Bill to change the nature of the imprisonment into imprisonment of either description. The Honourable the Mover in the course of his arguments stated that the large majority of the opinions were in favour of this Bill and he also reinforced his argument by adding that most of the Provincial Governments with perhaps one exception were in favour of the provisions of the Bill. Now Provincial Governments are Provincial Governments, and whatever political views they may hold, they are always for deterrent sentences. But the point I want to make is this. We are dealing with habitual offenders who have perhaps been repeatedly convicted not only under the substantive section but also under the appropriate section read with section 75 of the Indian Penal Code. Now, all these offences are punishable with rigorous imprisonment. These people have already served a series of sentences which are generally, in most of the cases, imprisonment which is not of the simple variety but of the other kind. I fail to understand how the conversion of the simple imprisonment into imprisonment of either description will act as a deterrent to people who have already been in jail three or four times. How this can act as a deterrent? I think the time has come when the entire theory on which our criminal law is based should be reviewed. Sir, there are many countries in which a lot of research work is carried on and people have come to the conclusion that you cannot reform criminals by simply making sentences more deterrent. Now, supposing a man fails to give his address, would it be proper to alter the imprisonment into imprisonment involving labour, and the question is, would that act as a deterrent in the case of a man who has already served long terms of rigorous imprisonment? Therefore, this is the suggestion I am making and I hope the Honourable the Home Member and the Select Committee which will address itself to this task will bear this aspect of the case in mind when deciding whether the imprisonment should be made more deterrent or not. Sir, I support the motion.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadian Rural): Sir, I do not want to interfere with the passage of this Bill, but as it seems to me that the main contention of Government in this connection is that if a sentence is rigorous and not simple, it acts as a deterrent, I should like to undeceive them. My friend, Mr. Abdul Qaiyum, has referred to this matter in his speech just now, and I should like to say something more on the same subject. My difficulty is that I am dealing with men who have no personal knowledge of jails. Though my Honourable friends opposite have sentenced people to jail, they have probably never been inside a jail themselves except as esteemed visitors. Well, I am a habitual offender in a way; and having been a 'C' class prisoner also I have had opportunities of rather intimate conversations with habitual criminals described as such in the Statement of Objects and Reasons.

[Mr. Sri Prakasa.]

Now, Sir, if you ask a person who has been to jail whether he would prefer simple or rigorous imprisonment, ten to one, myself included, would say: "I would prefer rigorous imprisonment." Twice I went to jail. On the first occasion the kindly magistrate sentenced me to simple imprisonment. I myself then thought that that was a nice thing and I might have a merry time. But the result was that the very next morning I found there was no breakfast! While the rigorous imprisonment people got their handful of gram, I got nothing, and having myself been used practically all my life to a morning cup of tea, I must confess I was very unhappy. The first meal arrived about midday, which had better not be described, and the second and last arrived at 5 o'clock in the afternoon, and there was nothing more.

Mr. Mann Subedar: Describe the meals.

Mr. Sri Prakasa: At mid-day there were seven *chapatties* with some concoction of pulses seasoned with oil and salt. In the evening there were again seven *chapatties* and some baked vegetables. The rule was that you must eat all the seven. You cannot pass any of the food to any other person who might be able to finish them more easily than yourself. You must not pass your food to anyone else and you must eat the whole of your food. It was hard job. Well I could not get to the end of the *chapatties* either in the morning or in the afternoon! Next time I got rigorous imprisonment and though I was sentenced to twelve months I came away after ten months. There are no remissions for simple imprisonment. As soon as you go to jail whether as a political offender or not, you start counting the day on which you will be let off. So, when you get rigorous imprisonment you are going to have a lot of remissions, and if your conduct is good you get an extra one month for every year. Therefore, with three days per month as ordinary remission and one month per year as extraordinary remission, the total comes to a satisfactory amount. If my Honourable friend opposite is going to threaten habitual criminals who have done rigorous imprisonment for years before with another six months rigorous imprisonment instead of six months' simple imprisonment for violation of the new law, he is saying something to them which will please them and not deter them at all. So I personally think that this is not going to lead the Government anywhere.

Now I come to this class of prisoners itself. I got into trouble with Government, on a previous occasion, by making a sweeping remark against public officials in general but I hope I shall not be mishandled again if I make another similar remark. The pity is that these interesting characters, the habitual criminals, write no autobiographies and others are not interested in writing their biographies either, so you know very little about them. But if you are interested enough, you might get into intimate contact with them and you will soon begin to like them. They are arresting and even lovable characters. They have their own codes of honour and of morals as well. In my province a habitual offender is called a P. R., that is, a person who is on the Police Register. In the jail, the same man is called the Police *piar*, that is, a man who is loved by the police. *Piar* means love. So this gentleman who is a habitual offender becomes a police *piar*, and he is really loved by the police and his biography is something like this. He makes a contract with the policeman who is deputed to see

that the man keeps indoors at a particular hour at night. He says to the policeman on the beat: half and half. He further says: "I go out between 12 and 1 tonight and you visit my house between 12 and 1 and enter in your diary that I was present in the house and the booty that I bring home will be divided 50: 50." Now, Sir, how are you going to get out of that? I am not drawing on my own imagination. I have had intimate conversations with these gentlemen in the jail itself. I am only telling the House their stories.

Then, do you think that a man who is sentenced to rigorous imprisonment, if he really does not want to undergo all the hardship you want him to, is not able to save himself? Well, I hope I shall not be accused of exaggeration when I tell the story of the jail quite frankly before the whole world. It is this. A man is brought into the jail having been sentenced to rigorous imprisonment. The jail officials have found out that the man has made a big haul as the result of a dacoity or a theft. What the man himself has done is this. He had hidden the treasure in the earth somewhere before he was caught and brought to jail. About midnight a jail warder comes up to the iron bars of his barrack. This jail warder has a piece of paper and a small pencil secreted on his person and this man is called up to the grating. Of course, the night watchman goes up and down counting the numbers 1, 2, 3 and 4. Most of us on this side may have had some experience of it, but the description may perhaps interest the Members on the other side including my friend over there who has been a Superintendent of Jails but who perhaps does not know himself what happens there.

A voice: Who is that gentleman?

Mr. Sri Prakasa: He is my Honourable friend, Colonel Rahman. Be it said to the credit of Colonel Rahman that he was one of the best Superintendents of Jails so far as we politicals were concerned, and we have a pleasant memory of him though not of many of his contemporaries. Well, Sir, this prisoner comes to the grating regardless of the convict night watchman who goes up and down counting 1, 2, 3, 4 making it impossible for any one to sleep. In my barrack there were 64 prisoners. He counts upto 68 and then says: 68 and 1, 64 prisoners and *tala, jangla, lalten, sab thik "Huzur."*

Mr. Manu Subedar: What is *lalten*?

Mr. Sri Prakasa: There are two tiny lanterns hanging on the two sides of the long barrack which only help to make the darkness more visible. The convict night watchman goes on repeating constantly: 64 prisoners, locks, lanterns and the grating all complete, *Hazur*. By '*Hazur*' he means the Sovereign 6,000 miles away. He informs the Sovereign every five minutes that all his prisoners are in. Of course, if one of them dies it does not matter because he is only counting the bodies and not the souls. Sir, it is said in the jail that if a prisoner dies, only a flea dies, but if a prisoner escapes, a lion escapes. Therefore, as long as the bodies are safe, everything is safe. To come back to my story. When this warder appears at the grating with a piece of paper and a tiny pencil which he brings out from some part of his body which need not be mentioned, he gives them to the prisoner concerned and says: "Now, you write on this as to what you would like to give to the jail officials if they do not make you work as you have been sentenced to work." The prisoner thereupon writes on that slip to his people as

[Mr. Sri Prakasa.]

to where the treasure is to be found and how much is to be given to the jail to secure relief and comfort. The man with whom I had a conversation was a Mirzapur convict and he told me all the details. "I make a big haul every six or seven years, leave it under a tree. Later I smuggle a letter out and my family goes there and takes out that treasure and lives comfortably on it for seven years. When I go out, I commit another dacoity and in the same way provide enough for my family for another seven years."

In this way, this tiny letter is smuggled out and his people come to visit him. If they live in some other town, then the warder takes leave for three or four days and makes a journey to that place and brings the family. There is an interview and then a certain sum of money is allotted for the jail officials, warders and others. The result is that if the man is required, as he is in my province, to grind 30 seers of corn per day, as a rigorous prisoner, he is let off with only half a seer or so. He is not put to any hardship. The 'simple' prisoners, moreover, are shut up in their barracks all day as they are not supposed to do any work and, therefore, they are not allowed to go out. These rigorous imprisonment people have at least the advantage of being taken out and thus they see the other parts of the jail and the world outside also, working in the gardens and the superintendents' bungalows which the simple imprisonment people are not allowed to see.

So the class which is envisaged by my Honourable friend opposite and which he wants to deter from mischief is a class which cannot be roped in in the manner he is proposing. I, therefore, think that this law is going to be a dead letter.

Let my Honourable friend opposite try some other methods.

Sardar Sant Singh (West Punjab: Sikh): What do you propose?

Mr. Sri Prakasa: It will take too long a time for me to say all I should like to say because I have many proposals about jail reform. I do not think this is the proper occasion to mention them but I can give my Honourable friend a lecture for about three hours if he would have the patience to listen to it. He is perhaps more fond of making other people listen to his own orations rather than listening to others himself. But if he has the patience some afternoon, I can regale him with many other good stories of jail life and also make my proposals as to how to reform prisoners, jailors, and men generally including himself. I repeat my fear that this law is not going to serve the purpose that my Honourable friend has in view. The matter is really a serious one. It is a matter of human psychology and human need, and unless the Government are willing to meet human nature in its psychological aspect as well as the aspect of creature necessity, the Government cannot do much. I think there are ways in which reforms can be introduced. But merely heaping punishment upon punishment is no remedy. A man who has been once to jail for what is called an offence involving moral turpitude has really lost caste

and it does not matter to him if he goes into jail again and again. As the old Sanskrit *sloka* says:

*“Yathā-vai malinair-vastroih,
Yatra-tatru upavishyate;
Evam chalita-vritten,
Vritta-shesham na rakshyate.”*

“Just as with dirty clothes on one’s body one sits anywhere without making sure that the seat is clean as one does when one dons new clothes, so when once one loses one’s character, one does not care to preserve even the little that may be left.” So that when once a man has been to prison for offences mentioned in the Bill, he has lost caste with society, he has lost all possibilities of honourable employment, he is looked down upon by everybody, and he seeks relief in going back to jail. When I was last in prison, there was one man there who was doing his 24th conviction. That unfortunate man belonged to the depressed *Dom* community of Benares. When I asked him why he came again and again into the jail, he said that he had no other place to go to. My Honourable friend opposite was talking of free food. Yes, free food is an inducement to that type of man to go to jail once he has been to it before. This man had done two life sentences, had been to the Andamans, and every time within a few days of his release, he had come back to jail. Why? Because society had no need of him. Because he cannot get any suitable employment outside. He prefers to work in jails as a sweeper cleaning the night soil of his brother prisoners to remaining outside without friends, relatives or employment.

This is the condition in which Government, by its laws, is reducing a large number of my people, and if my Honourable friend thinks that he has only to add one more conviction to the credit of such a man, he has only to add another six months of rigorous imprisonment to the years that he has already undergone before this, in order to deter him for the future, then with all respect I say he is mistaken. If my Honourable friend and his Government are really anxious that these pests of society should no more remain pests, that they should turn into useful citizens, the one thing that I can propose is that Government may set up a committee of some of us who have inside knowledge of these things so that we may be able to make some recommendations in order that matters might improve. I was really surprised when I learnt from my Honourable friend opposite that almost all Provincial Governments have supported this measure. It is possible that many Members of many Governments have forgotten in the preoccupations of their present office their own past experiences of jail life. Today a large number of men, who are in positions of power, responsibility and authority in the Provinces, have been in jail before, and if they happen to have forgotten what they ought to have remembered, if they have also made light of the experiences through which they themselves have gone, I can only say that I wonder and I sorrow. I believe that if these matters are tackled from the standpoint of sympathy and understanding, much good can be done. Punishment is no cure for anything—that is firm conviction—unless punishment is given not in anger but in sorrow, unless punishment is given by those who love and not those who hate. The manner in which punishment is given now is one which can bring confidence to no one. The magistrate convicts in anger; the Superintendent of Jail treats his prisoner in anger; the least trouble or difficulty which an accused or a prisoner may raise is punished with severity regardless of the fact that the poor man has

[Mr. Sri Prakasa.]

had a bad night and no breakfast while the Magistrate and the Superintendent of Jail himself had had a good dinner, a good sleep and a good breakfast as well in this interval. So long as society is divided between the rulers and the ruled, so long the society is divided between the hunter and the hunted, so long as society is divided between the punisher and the punished, so long there can be no peace in the world.

The Honourable Mr. B. M. Maxwell: Sir, as the House has not expressed itself against the principle of this Bill, I need not say much. But I may say with reference to my Honourable friend, Mr. Sri Prakasa's remarks, that it does him great credit that he at least has a preference to work for his living on the frequent occasions when he is the guest of His Majesty's Government. On the other hand, we must acknowledge that not all those who similarly become the guests of the Government have these praiseworthy sentiments. We are now talking of the class of offender who, rather than do an honest day's work, has spent his time in robbery or dacoity or counterfeiting coins or currency notes in order to deceive and cause loss to those who are less clever than himself: and to people of that kind possibly the prospect of having to do a little work for their living in jail may offer some kind of deterrent. But if we followed up the principle advocated by my Honourable friend, we should go even beyond the principle of the Bill and instead of restricting it to one class of the offences covered by section 176, in order to give the option of imposing rigorous imprisonment in those cases, we should expand it to all the offences punishable with simple imprisonment under section 176 and indeed to all the offences punishable with simple imprisonment throughout the Indian Penal Code by way of making punishment for those offences somewhat less onerous to the sufferers. As we stand, we can only work on the principles which have hitherto been adopted in the scheme of the Indian Penal Code and we cannot allow ourselves to be diverted by the, at first sight, attractive idea that the graver the offence that a person commits, the easier the treatment he is entitled to when in jail.

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

It is quite possible that new theories of penology may in future hold the field and I fully agree with my Honourable friend that much remains to be done by human society in these matters. For the present, however, we can only work on our accepted theories and try to make our penal enactments as logical and complete and thorough as possible. I think I need say no more as I hope the House will accept the motion.

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

"That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose be referred to a Select Committee consisting of Mr. Sham Lal, Sri K. B. Jinareja Hegde, Sardar Sant Singh, Sir Muhammad Yamin Khan, Mr. P. J. Griffiths, Mr. C. J. W. Lillie and the Mover and that the number of Members whose presence shall be necessary to constitute a meeting of the committee shall be five."

The motion was adopted.

THE INDIAN NAVAL RESERVE FORCES (DISCIPLINE) BILL.

Mr. G. M. G. Ogilvie (Defence Secretary): Sir, I move:

"That the Bill to provide for the discipline of members of the Indian Naval Reserve Forces raised in British India on behalf of His Majesty be taken into consideration."

The Bill is a very short and simple one, but I think that a brief explanation of the background of it is perhaps necessary and will be of interest to the House. The Royal Indian Navy became finally and fully a combatant service with the passing of the Indian Naval Discipline Act in 1934. All combatant forces must necessarily make provision for reserves who will bring war organisation up to strength in the event of mobilisation. Much initial work had to be done in enabling the Royal Indian Navy, as it has now become, to receive a graft of reserves upon its active cadre. That re-organisation has now been more or less completed at least as far as the formation of reserve forces is concerned. The increase in personnel which is required in the event of mobilisation is largely due to the requirements of local naval defence which may be briefly defined as keeping ports and harbours and the approaches thereto clear of enemy mines and submarines. The reservists will be mainly required for purposes of local naval defence, but they will, of course, also be liable to service in any branch of the Royal Indian Navy either in the sea-going vessels or in the shore establishments. Now there are four reserves either in process of formation or which it is proposed to form and I think the House might like to know a little about each of them and what exactly they are.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): Is it in the "public interest" to give the information?

Mr. G. M. G. Ogilvie: I should not be giving it if it was not.

The first is the Royal Fleet Reserve which consists of ratings who have served their time in the Royal Indian Navy and have retired on discharge or pension. It corresponds exactly with the regular reserve of the army. The second is the Royal Indian Naval Reserve. That is designed to correspond with the Royal Naval Reserve in the United Kingdom. It is to consist of both officers and men and will be drawn from those who follow the sea as a profession, that is to say, from the mercantile marine; and it seems that the vast majority must be drawn,—presuming of course that they are forthcoming,—from ships on the Indian register. The third reserve is the Royal Indian Naval Volunteer Reserve. That corresponds to the Royal Naval Volunteer Reserve in the United Kingdom, and its counterpart in the army is the Army in India Reserve of Officers. It consists of officers only and will be drawn not from professional seamen but from amateur enthusiasts or professional men who feel that they would like naval volunteer service. It will be drawn, in other words, from precisely the same types of persons as the Army in India Reserve of Officers now is. The fourth and last is the Royal Indian Naval Communications Reserve. That will be drawn—both officers and men,—partly from the ranks of professional wireless operators and wireless technicians and partly from those who are not professional but who are interested in the subject and would choose that branch of the service to volunteer for.

[Mr. C. M. G. Ogilvie.]

Sir, I will now proceed to the purposes of the Bill. The Bill is designed to bring these four reserve forces, which I have briefly described to the House under the Indian Naval Discipline Act. One of them, it is true, is already subject to that Act, that is, the Royal Indian Naval Volunteer Reserve composed of officers which found a mention in the Indian Naval Discipline Act; but the other three have no mention in that Act, and, therefore, were they to obey the summonses in the event of mobilisation and appear, they would not be under naval discipline. The second purpose is to provide a sanction to compel reservists to obey the summonses. As matters stand now there is no such sanction and any reservists, if called up either for the purposes of training or for actual service, could decline to do so. The Bill corresponds very closely with the Indian Reserve Forces Act which deals with the army. There are certain main differences which I will briefly state. Clause 4 of this Bill, which corresponds to clause 5 of the Indian Reserve Forces Act, subjects reservists to the provisions of the Indian Naval Discipline Act, only when they are actually called up for training or called up for actual service. When they are not so called up but are carrying on their ordinary avocations they are not subject to the provisions of that Act. That is different from the army regulation. The army reservist is at all times subject to military law in the same way as a serving soldier. Clause 5 corresponds to clause 6 of the Indian Reserve Forces Act and prescribes penalties. It is different from the Army Act in that it makes a differentiation between the cases of persons who have without sufficient excuse failed to obey a summons for training and those who have failed to obey a summons to appear for actual service. Under the Indian Reserve Forces Act, both these failures are liable to be punished with imprisonment. But in this Act we have followed the corresponding Act in the United Kingdom and propose to punish failure to attend for training only with fine, reserving the punishment of imprisonment for those who have failed to appear for actual service.

Clause 6 which corresponds to clause 6 (2) of the Indian Reserve Forces Act is a measure of expediency and such departures as it envisages from the ordinary rules of evidence are of course a commonplace in cases of this kind. It exactly corresponds with that in the Indian Reserve Forces Act measure and similar clauses will be found in the Army Act—section 168—and in the Indian Army Act—section 91 (a); and it is designed to avoid the necessity for an officer who has certified that a reservist has not appeared, having to appear himself in person at a court, perhaps a long way off, to give evidence to the same effect. If he had to do that the results would, of course, be extreme inconvenience and expense to the State and in time of war would be obviously wholly impracticable. The remaining clauses, apart from the first three, are largely consequential amendments and require no explanation from me at this stage. Sir, I move.

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

"That the Bill to provide for the discipline of members of the Indian Naval Reserve Forces raised in British India on behalf of His Majesty be taken into consideration."

There is notice of an amendment for circulation. Does the Honourable Member want to move it?

Mr. Abdul Qayum (North-West Frontier Province: General): No, Sir.

Mr. President (The Honourable Sir Abdur Rahim): There is also one for reference to Select Committee.

Mr. Abdul Qaiyum: That also I am not moving.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I rise to oppose consideration of the motion moved by my Honourable friend, Mr. Ogilvie. Mr. Ogilvie happens to be the fourth Army Secretary who has tried to tinker with this Indian Naval Discipline Bill. The first motion was stoutly opposed and rejected by this House in 1928. The second one was introduced by Sir Rotherford Tottenham and was not pressed, and he went home on a holiday. The third one was moved by his successor, Colonel Lumby, and carried by the House as it was then constituted, though it was stoutly opposed by those who could speak on behalf of the nation: the Bill was carried in the teeth of the opposition of this side of the House. The main ground of opposition in 1928 still stands. At that time, the House of Commons took it into their heads to amend the Government of India Act, and thereafter, although that amending Bill was stoutly opposed by some prominent members of the Labour party, it was passed by the then conservative government. In line with that they wanted to introduce the Indian Naval Discipline Bill which was passed in 1934 as I pointed out. I will just quote a passage from the speech of Mr. Wheatley who summed up the view of the sober section of the members of Parliament at the time. During the third reading, Mr. Wheatley, who I think was the Speaker afterwards, said:

"I want to take this opportunity to enter my most emphatic protest against the provisions of this measure. I do not know what case was or can be made out for the Indian Navy. But I know no case can be made out for an Indian Navy which is not under the control of the Indian people. What we are asked to do here is simply farcical. We are asked to subscribe to a situation in which there will be an Indian navy which may be taken away by the very people who in certain conceivable circumstances may be India's chief enemy,"—(*I hope my Honourable friend, Mr. Ogilvie, understands that that chief enemy is Britain.*)—"and used by these people while they retain the power and the right to say who is to pay for the navy during the time it has been used without the consent of the Indian people."

At that time, my esteemed friend, Mr. Jinnah, participated in that debate and he emphatically pointed out that as long as India had no control over the navy the Indian people would not be a party to any Indian Naval Discipline Bill. As I pointed out, thereafter, when the House did not represent the real spirit of the nation, by a majority of one or two votes, and supported by the myriads of loyalist Members who were then in the House, the Government passed the Indian Naval Discipline Bill. I was going over the debates just now, and I found one of those henchmen or chief supporters of the Government hailing from the same province as my Honourable friend, Mr. Ogilvie, does, challenging the Congress and speaking things against the Congress when the Congress was not properly represented on the floor of the House. I had the temerity then to protest on behalf of the Congress, and I said:

"On behalf of the Congress, I may tell my Honourable friend that they will oppose tooth and nail such Bills."

I find that subsequently he challenged the Congress taking huge salaries, and I interjected and said:

"Five hundred rupees will be the maximum salary."

[Mr. B. Das.]

Sir, that has materialised. Both these assurances have materialised.

4 P.M.

As I said, Mr. Ogilvie is the fourth Defence Secretary to bring up this matter. But he is not satisfied with creating a naval reserve force only for the Royal Indian Navy. He wants to create three other Indian naval reserves. He wants to create these reserves to get hold of Indians working as lascars or as light-house controllers and as dock-labourers and take them completely under the Indian Navy Discipline Act, not of the Government of India—the Government of India have no control, not even Mr. Ogilvie has any control—but place it under the British Army and the British Navy. We are not going to subscribe to this. He is not going to get from the present House this kind of blank cheque which he wants. We are very much accustomed to Mr. Ogilvie's mannerisms. Whenever this side of the House has sought any information, any knowledge out of him in the public interest, he has tried not to impart any information in "public interest". His public interest means British conquest and British naval supremacy and British army supremacy; and although he earns his salary from the Indian taxpayers, he still feels that he must be true and loyal to the dictates of the British War Office and the British Admiralty and he must not impart any news to us. Sir, a few minutes ago, while he was talking, he somehow mentioned about Mercantile Marine. Does he understand anything about the Indian Mercantile Marine? If he had any interest in the Indian Mercantile Marine, he would have been present in the House when the Honourable the Commerce Member discussed the Bill here only a few minutes ago relating to the Indian Merchant Shipping, and that measure, curiously enough, deals with the welfare of the employees of the Indian Mercantile Marine. Sir, this House has all along demanded the establishment of an Indian Mercantile Marine. Unfortunately the Government on whom we make this demand is not the same Government which Mr. Ogilvie represents. He is nothing but a slave or rather the mouth piece of the British War Office. So the Government of India has created no Indian Mercantile Marine although there was an Indian Mercantile Marine Committee appointed in 1924, which unanimously recommended and pointed out in detail how great was the need for the creation of an Indian Mercantile Marine. Has the Army Secretary or the Department which he represents here assisted the Commerce Department or the Commerce Member or have they advised the Government of India that a proper Indian Mercantile Marine should be created? Where will he get his reserves from? Is he going to commandeer them in war time or is he going to depend on the loyalty of the B. I. S. N. Co. and a few other British shipping companies which ply their ships on the Indian coast? I believe my friend and the British Navy have some such thing in their mind.

Sir, the main ground why we oppose this Bill is the higher moral ground that the Government of India have no right to come to this House and ask for our permission for expenditure, for acquisition of new power, when the Government of India have not conceded to us the right to control our army and navy. Sir, that well known discussion in the House of Commons in 1927 revealed the mind of the then Under Secretary of State who almost began to shed crocodile tears how could he allow Indians to control the Indian navy when the Indian Army was not controlled by Indians? That is the whole secret. Why is this Bill then? My friend, Mr. Ogilvie knows that he has ample powers. He knows that he can ask

the Finance Member and grab any money. He has already purchased six sloops here, he can purchase another 10 sloops. The Finance Member, if the finances permit or if the world conditions require it, can take a loan and present my friend with a battle ship costing crores. That is possible. The vote of this House does not matter in the least. Even if we vote against any proposal to expand the Royal Indian Navy, Mr. Ogilvie and his friends including the Finance Member will see that money is found to create the various naval bases on the coast of India with the assistance of British naval experts who are now surveying the coasts of India, and, Sir, their efforts are going to fructify shortly. I ask Mr. Ogilvie, has he taken us into confidence? Has he taken at least the leaders of parties into his confidence; though he may not take us, back benchers into his confidence, has he taken into his confidence my Leader, Mr. Bhulabhai Desai, the Leader of the Opposition, or the Leader of the Muslim League, Mr. Jinnah, and other Party Leaders, and consulted them whether the naval bases ought to be a feature on the Indian coast, whether India is going to provide these naval bases which alone can save the British Empire? We all know that the British Empire is tottering. The British Empire is threatened in the Mediterranean, no British war ships will be able to come to the Indian ocean through the Suez Canal, and to save the eastern extreme of the British Empire, Australia and New Zealand, they must have war bases in India, and already experts are carrying out the survey. Not only have these experts surveyed the naval bases, but they have also surveyed the whole Indian coast to find out suitable sites for air bases, for the location of air ports, so that air ships can be stationed at suitable places and they can fight for the safety of the British Empire making India as the principal base. Why should India be a party to this? If Britain had sought our friendship,—this is not the first time I am saying it, Sir, we have repeated it a hundred times on the floor of this House and a thousand times outside the House.—if Britain had sought our friendship, if Britain had given to India what is her due, India would have been friendly to Britain and she would have helped Britain, as she unwillingly did during the last Great War. Sir, we know that the British Empire is threatened. My friend opposite may get up and say 'No' he may say that Britain is very happy, and yet Premier Chamberlain is running about in Europe to Mussolini and to Hitler begging for peace of the British Empire. Sir, Britain has become swelled headed with wealth and its people have also become very ease loving. They are no longer a martial race and they do not want to fight. Statesmen in England think it is safer not to fight with Mussolini and Hitler, but my friend the Army Secretary and his predecessors each of whom must have spent 25 to 30 years in India do not understand the spirit of India. If they had understood the spirit, they would not have taken each time, by force as it were, our consent by trying to divide us here, by dividing one section against another. They are trying to create different interests, States versus Indian people, Congress versus Indian States, and thereby they think they will be able to maintain that tottering British Empire for a couple of years more. That cannot happen always. Sir, my Honourable friend has been very very unwise to bring forward such a measure as this at this time, in the year of Grace 1939 to get the sanction and approval of the Indian people. If my friend gets the sanction of a few friends or even of my friend, Mr. James, who poopooed me three years ago when I was talking about the marine life and the naval successes achieved by the people of Orissa who conquered Java and Sumatra and even Burma

An Honourable Member: Australia too.

Mr. F. E. James (Madras: European): On the contrary, I did not poopoo the Honourable Member. I remember conferring upon him the temporary title of Admiral.

Mr. B. Das: I am glad he recognised his error, and he admits we have been a great sea-faring nation.

Mr. F. E. James: On dry land.

Mr. B. Das: My Honourable friend, Mr. Ogilvie, comes from the land of five rivers. He is accustomed to straight talking, he does not think that there is a background necessary for the difficult Bill which he has introduced. He talks plainly, he says, "I want these reserve naval officers, I want these men. The necessary concomitant is that the money that will be required will be footed by you. I want it in the name of the British navy. In the name of the British Government I demand this." But he does not mention the necessary concomitant. The necessary concomitant is that India will have to buy more warships. Only two days ago I was reading an article in the *Statesman*. There was a challenge why India should not build aeroplanes. That question has been asked very often on the floor of the House and what has been the cynical reply of my Honourable friend, Mr. Ogilvie.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member had better confine himself to the Bill.

The Honourable Sir Nripendra Sircar (Law Member): He is now in the air!

Mr. S. Satyamurti: Mr. Ogilvie won't tell us anything. Why should we co-operate with him?

Mr. B. Das: To the question in the *Statesman* Mr. Ogilvie will, I hope, reply why they are not able to build aircraft in India.

Mr. President (The Honourable Sir Abdur Rahim): The House is not concerned with aircraft now.

Mr. B. Das: With naval craft we are concerned, and in that speech which I made in 1928

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member may have other occasions to deal generally with the defence of India, but with regard to this particular Bill he must confine himself to the provisions of this Bill.

Mr. N. V. Gadgil (Bombay Central Division: Non-Muhammadan Rural): Anti-aircraft guns are there on the ship.

Mr. B. Das: In my speech of 1928, I pointed out, by quoting different texts, that when Britishers came to India they purchased all their ships from Calcutta and Bombay. But today they do not allow the development of shipbuilding trade in India, and yet they want us to give them

an unlimited, blank cheque for maintaining an Indian navy, and they want naval armament and ships and we have to foot the bill. If it was really an Indian navy—I am not concerned with the prefix "Royal",—if it was really an Indian navy, the first thing is that the navy should be built in India, the naval armament should be manufactured in India, and the Indian shipbuilding trade, if properly encouraged, will remove the unemployment problem of India. The second point on which I laid special emphasis was that if the Indian Government was a national Government it would have developed an Indian mercantile marine and not run behind its masters the British ships and discouraged Indian mercantile marine.

Mr. President (The Honourable Sir Abdur Rahim): All that has nothing to do with this Bill.

Mr. B. Das: The third point is that, although Mr. Tottenham was eloquent over the Indian Naval Discipline Bill while we were discussing it that the "Dufferin" would make the necessary training ground for Indian naval officers and although since then one in three has been fixed for recruitment every year, very little has been done to increase the number of naval officers in the Indian navy. Although six sloops have been purchased with a number of imported officers, probably most of them, nay, all of them are Britishers. My Honourable friend wants to create a Royal Indian Fleet Reserve and a Royal Indian Naval Reserve. What will happen? Some of the British naval officers who are unemployed will be imported into India and that will be treated as Indian Naval Fleet Reserve and Indian Naval Reserve. India is not going to employ the unemployed naval officers in Britain as naval reserve officers in India. My Honourable friend does not care to explain. In public interest he need not give out secrets, but whether the proportion of Indians will be one in 100 or one in three or will be none, he does not reveal anything at all. On these grounds I am opposed to this motion. If we look into the Statement of Objects and Reasons we find that the punishment that is provided is out of all proportion. We can picture what will happen. Owing to Mr. Neville Chamberlain's begging war has receded a little, but it is going to come next year.

Mr. M. Asaf Ali (Delhi: General): It is coming this year.

Mr. B. Das: I will be glad if it comes this year as my Honourable friend says. Then, my Honourable friend, Mr. Ogilvie, will come down on bended knees and make a different speech.

Mr. S. Satyamurti: Even then no? God help you! We won't.

Mr. B. Das: I see great harm to the Indian shipbuilding industry. We were talking about the Scindia Steam Navigation Co. a few minutes ago. The British navy will commandeer all the Indian steamers, but I wonder whether it will allow an Indian captain to have guns placed at the back of the ship. I do not think that Mr. Ogilvie can dare write a letter to the British Admiralty that Indian officers commanding ordinary Indian mercantile ships can place guns on deck of their ship. But very likely I can picture this also. They will commandeer all the Indian owned and Indian manned steamers, but they will allow the P. & O. and the B. I. S. N.

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to continue plying their trade for the sake of British trade and British commerce. British trade must not suffer. Britain may be engaged in war in any part of the world, but Indian trade will be killed. While Mr. Ogilvie and his friends seek our co-operation and assistance they will try to stifle Indian industry. As I am opposing the Bill I need not go into the merits of the clauses, but I do think that this fine of Rs. 200 in clause 5(1) has become imprisonment for two years in sub-clause (2). But that is a matter which I will leave to my friends, the lawyer members, to discuss. I appeal to Mr. Ogilvie, if he has any good sense he may withdraw the Bill and not allow any further discussion. If he has not got that good sense or courage, or if he has got peremptory orders from the Admiralty, let him know that the heavy hand of Nemesis will fall on the Bill and that the Bill will be rejected.

Sardar Sant Singh (West Punjab: Sikh): Sir, I oppose the Bill from a different point of view. I oppose the Bill on the ground not only because of the principle underlying the Bill—that has been done by my Honourable friend, Mr. B. Das,—but from this point of view that it is a serious encroachment on the rights and privileges of the Legislature. Look at clause 3 which is the substantive clause in the Bill. It runs as follows:

“The Central Government may make rules for the government, discipline and regulation of the Indian Naval Reserve Forces.”

Here no indication is given as to what will be the government, what will be the discipline, what will be the nature of the regulations and on what principle these regulations will be framed. No such indication is given in the Bill. We find also that, in clauses 4, 5 and 6, the liabilities, penalties and the rule of evidence—all depend upon the regulations made, not by the Legislature, but by the Department. In clause 4, power is being asked that, in pursuance of rules made under section 3, every member of the Indian Naval Reserve Force, while undergoing training on board any vessel or otherwise, may be called upon for service in the Royal Indian Navy. He shall be continued to be so subject until duly released from such training or service as the case may be. Under clause 5, punishment is to be inflicted for an offence not created by the Legislature, but by the departmental head. Similarly, the rule of evidence to be provided for proving that offence is not the rule of evidence that already exists in the laws of the country or that is being asked to be made by the Legislature, but by the Department concerned. As a matter of fact, analysing the various provisions of the Bill, one comes to the conclusion that we are merely being asked to arm the executive with legislative power which rightly belongs to this House for the purpose of governing the discipline of a naval force for creating new offences and for punishing those new offences by rules of evidence which this Legislature had no hand in framing. This is a most serious encroachment upon the rights and privileges of this House. The tendency has been visible not only in this country, but even in England on this encroachment on the powers of the Legislature, and the protest comes from no less a person than the Lord Chief Justice of England. In a book called the “New Despotism”, the evil of such a system has been fully described by Lord Chief Justice Lord Hewart. On page 96 of the book, he quotes the views of Mr. C. K. Allen,

Professor of Jurisprudence in the University of Oxford, expressed in his book called "Law in the Making". This is what Mr. Allen says:

"This form of delegation is more than delegation—it makes the executive not merely a deputy but a plenipotentiary. And it becomes increasingly common. The result can only be confusion in the working of the constitution and obcurity in the legal conception of the Sovereignty of the State. While we have never accepted in full the French doctrine of the separation of powers, it is clear that unless there is some intangible and consistent demarcation between the different spheres of public law, antagonisms and inconsequences must ensue. It is incompatible with the whole theory of our constitution that the executive and judicial functions should seriously overlap, but there can be little doubt that the present tendency is not only to invest the executive with judicial powers, but to oust the control of the regular courts and make the executive judge in its own cause."

So, the danger has been pointed out in very strong language by writers on Jurisprudence on this subject. Here, if there is a typical instance of any such legislation where the dangers are more apparent in arming the executive with such powers, it is in this present legislation, and particularly so in India, where the rule of law finds very scant respect at the hands of the executive. The other day, the Chief Justice of the Federal Court gave his Convocation Address to the Punjab University graduates. He stressed the difference between the totalitarian States and the democratic States, and the chief point which he made out was that in totalitarian States the chief executive, judicial and legislative power rests in one man; while in democratic States, the predominance of the rule of law made all men equal in the eye of the law. Here, in India, the rule of law finds very scant respect, not only at the hands of the executive authorities, but from those who are given this duty of administering law between man and man and the Crown and man. Therefore, Sir, where the rule of law has not yet attained that force which obtains in democratic countries, my fear is that to arm the executive with such wide powers will be most dangerous in the interest of the safety of the subject. Here the departmental people are trying to argue like this. I am sure, the Defence Secretary will come forward with a plea that here is a matter which relates to the expert knowledge of defence. This is a matter where the layman cannot properly help the Defence Department in making the regulation. Here is a matter which rightly belongs to the expert in defence matters, technique and theories. This is not a novel argument that has not been advanced before. This argument has been torn to pieces by the Lord Chief Justice of England in his book on page 20, and I think it will interest Honourable Members if I read the nine points which have been made out in that book:

1. The business of the Executive is to govern.
2. The only persons fit to govern are experts.
3. The experts in the art of Government are the permanent officials, who exhibiting an ancient and too much neglected virtue, 'think themselves worthy of great things, being worthy.'
4. But the expert must deal with things as they are. The 'four-square man' makes the best of the circumstances in which he finds himself.
5. Two main obstacles hamper the beneficent work of the expert. One is the Sovereignty of Parliament, and the other is the Rule of Law.
6. A kind of fetish-worship, prevalent among an ignorant public, prevents the destruction of these obstacles. The expert, therefore, must make use of the first in order to frustrate the second.
7. To this end, let him, under Parliamentary forms, clothe himself with despotic power, and then, because the forms are Parliamentary, defy the law courts.
8. This course will prove tolerably simple if he can: (a) get legislation passed in skeleton form; (b) fill up the gaps with his own rules, orders, and regulations; (c)

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make it difficult or impossible for Parliament to check the said rules, orders and regulations; (d) secure for them the force of statute; (e) makes his own decision final; (f) arrange that the fact of his decision shall be conclusive proof of its legality; (g) take power to modify the provisions of statutes; and (A) prevent and avoid any sort of appeal to a Court of Law.

9. If the expert can get rid of the Lord Chancellor, reduce the judges to a branch of the Civil Service, compel them to give opinions beforehand on hypothetical cases and appoint them himself through a business man to be called 'Minister of Justice', the coping stone will be laid and the music will be fuller."

Now, that is the line of thought which has been beautifully presented by the Lord Chief Justice in which the bureaucraft argues with himself that he is the reservoir of the wisdom, and nobody can come and interfere. Sir, my submission is

Mr. Akhli Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): What is the date of that book?

Sardar Sant Singh: It was published in April, 1929. The name of the book is "The New Despotism".

Now, if there could be an apt illustration of this piece of skeleton legislation which the Government want from this House, it is this piece of legislation. In its nakedness, it does not say what the Government want from the Legislature. They only want power to make rules and regulations to govern, to regulate and to keep under discipline the future naval forces of India. My submission is that this naked legislation is not a piece of legislation to which this House should give its sanction. It does not even hint that these regulations, when made, will be submitted to both the Houses of the Legislature for their sanction before they become effective. My submission is that this power which is wanted by the executive from the Legislature should be refused in the interests of the Legislature itself; it is a serious encroachment upon the privileges of the Legislature, and I strongly oppose this measure in its present form.

Mr. Sham Lal (Ambala Division: Non-Muhammadan): Sir, when I found that an Indian Naval Reserve Forces Bill was being introduced I thought that there must be some Indian Navy. This was my wonder because up to this time I did not know that there was an Indian Navy. Now my friend, Sardar Sant Singh, has stated and has raised the objection that it is a blank cheque, that it is a naked Bill, that the details are not there, and I say that it is not only naked in this sense that powers are being given but it is naked also in the sense that there is no Indian Navy, and without there being any Indian Navy and without there being any Air Force they want a law. Sir, armaments are being built in other countries but here in India you have got only the armament of law-making. Sir, I remember an incident in 1915 when I read an announcement in the papers by a ruler that he was placing all his naval, air and land forces at the disposal of the British Government! Well, I happened to meet the Diwan. I said, "you have got no army, you have got no navy, you have got no air force", and he told me, "we have got all these forces". I said, "where are they?" Sir, I learnt that the ruler was in the habit of flying kites and those were his aeroplanes; the ruler had got fishing boats in the pond, so they were his navy which he placed at the disposal of the British Government; and so far as the land forces were concerned, well,

when the Commissioner goes round, all the menials put on military uniform, and these are his land forces. Sir, here in India you have got all sorts of law, you have got a naval reserve law, you have an air force law, and all sorts of law, but you won't have any navy. Sir, is there any real Indian Navy or army? That is the point. We are here only for law-making and what are these navies and armies for? Simply because rich people may trade in them and some British materials may be imported. Otherwise when it comes really to fighting, Chamberlain would fly to Germany and in the name of peace he would surrender other peoples' countries, or he would fly to Italy. Sir, there is not going to be any war, and we are afraid we might have these laws and might think that we might perhaps have a navy and an army,—only to be told in the course of time that India is also another such country. Therefore, I think before introducing such a Bill, first it must be shown that really there is a necessity or there is going to be a war. But leaving aside this question, the question is—can we agree to a Bill regulating the navy when we know that there is no Indian navy and there is not going to be an Indian navy? We have not got these land forces even under our control; and since we have got no control over our land forces, where is the necessity for this law. Yet an amending Bill was introduced because they wanted that people should not be dissuaded from enlisting themselves. What is the good of these series of laws unless the Government is prepared to give the control of all these forces to India, unless the Government counts upon the strength of India really in the true sense, how can it introduce these laws and how can we agree to these laws? Sir, our Defence Secretary always introduces a Bill not to be circulated for opinion or to be referred to a Select Committee but it has been his lot to introduce Bills and to move that they be passed

Sardar Sant Singh: What is there to circulate?

Mr. Sham Lal: Except that there is no navy and, therefore, there should be no law. Therefore, have an Indian navy and then you can have that law.

Mr. M. Asaf Ali: Sir, I did not expect to have an opportunity of intervening in this debate at an early stage but it appears that the subject is so cold that people are not anxious to come near it. Well, Sir, my Party is opposing this Bill on a very simple and narrow issue. Let me make it perfectly clear that I am next to none in having a passionate desire to create the very best defence force that I can for India, but it must be Indian and under India's control, and if such a defence force does exist in India, let me make it also perfectly clear that I should be the very first to subscribe to any legislation that may be devised for maintaining its discipline. Therefore, let there be no mistake about it. We are not opposing this Bill because we do not want any discipline in any existing forces: we are opposing this Bill, in the words of the Defence Secretary—"in the public interest". We are opposing it in the public interest in this sense, that the Government is non-co-operating with us as far as matters relating to the Indian defence forces are concerned and, therefore, in the public interest it is our duty to non-co-operate with the Government. Sir, during the last four years that we have been here, we have tried our level best to get some little information out of the Government as far as the defence

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forces are concerned. We have tried to urge upon them, not on one but on different and frequent occasions and not only have we done so, but long before us Mr. Jinnah, who was in this House, and other patriots have been urging upon the Government that not only should Indian forces be Indianised but that the control of Indian forces should pass into Indian hands,—and what reply have we received all this time? We have also urged from time to time, ever since we have been here, that there should be retrenchment in the expenditure which is incurred on India's defence, and it should begin with relieving us of the burden of expenditure incurred on British forces. As you know, Sir, out of the forty-five or forty-six crores of rupees that India has normally had to spend on India's defence nearly one-half is spent on British forces alone, which are not maintained in the interests of India but only in the interests of Imperial defence. We have been urging upon the Government to relieve us of this Octopus.

If we could save 25 crores of rupees out of the military expenditure from year to year, say, during the last 20 years, we could create not only a full-fledged navy but also a full-fledged air force. After having urged many more points, we finally came to a very simple demand. That was in 1936 and the demand was practically unanimously adopted by the House. The demand was that the Government should appoint a Standing Committee to be associated with questions relating to India's defence. It was practically a unanimous demand. Since 1936 right down to this day, the Government have not breathed a word about it. We have heard nothing about it. Again, last year only, we passed another Resolution, moved by the late Maulana Shaukat Ali, which asked for the appointment of a Committee to review the progress of Indianisation as recommended by the Skeen Committee, and the House demanded that a majority of the Members of this Committee should be from among the elected Members of this House. The Government had not the rashness to challenge a division. In fact, if I remember aright, Mr. Ogilvie got up and said that the presence of the elected Members on this Committee would be welcome. When the time came for the appointment of this Committee, only three elected Members of this House were approached and the reply that we at that time vouchsafed to the Government was that if the composition of the Committee was not in accordance with the terms of the Resolution, that is to say, if a majority of the Members of this Committee were not from among the elected Members of the Assembly none of us would find it possible to serve on it. We did not say that we were not going to serve on this Committee. We simply said that if the terms of our Resolution were carried out, we would be there, but if this Committee was not appointed in accordance with the terms of our Resolution, we would not serve on it. In spite of it, the Government went and appointed a Committee on which not a single elected Member of this Assembly was prepared to serve. Sir, only the other day I and some of my colleagues gave notice of an adjournment motion to discuss a simple little affair to draw the attention of the Government to their misdeeds. We were quietly told, and you know, Sir, where the order came from, that the adjournment motion would not be allowed. We were told that the discussion could not be allowed, without detriment to public interest. That being the attitude of Government, any support that we may give to this particular measure will be detrimental to public

interest. Not content with that, only this morning there were a number of questions which were put to the Defence Secretary and we only wanted to elicit simple, common, information which might enable us to appreciate our position and the position of the Government with regard to defence affairs. And what was the Defence Secretary's reply? In the public interest, he was not prepared to give any answer to any of those questions. Now, Sir, under these circumstances, can the Government have the audacity to come to us and say: "Will you kindly pass this legislation because it refers to the defence forces of India?" They do not take us into their confidence; we have no voice in voting a single penny in respect of India's defence, and all the money required for the defence forces of India is appropriated by them in spite of our protest. Then, why not go on making laws also over our heads for maintaining discipline or creating any new forces? We have nothing whatsoever to do with it.

• If these defence forces are our forces and if we have control over them, you can come and ask us to pass measures for their organisation, maintenance, composition, salary, promotion, and all the matters that relate to them. But if they wish to rob India of 46 crores of rupees every year and spend it on forces which are organised by them, and which are only under their control, and into the closely guarded secrets of which we are not allowed to look, why come to us and say: "Will you please help us to pass this measure?" That is the simple issue on which we are really opposing this Bill. I am absolutely certain that if these forces were under our control, we ourselves would have thought of a measure like this, although in a different form. Here the question is one of non-co-operation by Government. If they want to non-co-operate with us, they must be prepared for non-co-operation by us. That is the simple and straightforward issue.

In so far as subject-matter of the Bill itself is concerned, I can assure you that there is nothing more in it than an attempt at making an impression on the world that India possesses vast reserves. These are critical times and directly or indirectly Great Britain wants to impress the world that India possesses enormous resources and the Indian Legislature is prepared to support Great Britain in all its undertakings. In so far as that point is concerned, Government should not expect the slightest possible support from us, not until India is herself free. We would not lend any support to the impression which the Government may try to create in the world that India possesses very large and vast resources on which they can draw in times of emergency.

As regards the merits of the Bill, I have practically nothing to say. I will not say anything about it for the simple reason that the grounds on which we are opposing it are quite other. They have nothing whatsoever to do with the merits of the Bill. We are opposing this measure as a mark of emphatic protest against the attitude of the Government towards the elected element of the House. That is the essence of our opposition and with these few words, I oppose the motion.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): Sir, this Bill is merely an extension of what was passed into law as Act XXXIV of 1934. I would remind the House of the preamble to the present Bill which, in practical purposes, is merely an

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extension of the old preamble in the 1934 Act. The preamble to Act XXXIV of 1934 says:

"Whereas by section 66 of the Government of India Act it is among other things enacted that provision may be made by the Indian Legislature for the application to the naval forces raised by the Governor General in Council of the Naval Discipline Act subject to such modifications and adaptations as may be made by the said legislature to adapt to the circumstances of India."

If you look at the old Act, you will find that it contains only three sections with a copy of the British Act as the First Schedule. The main objection to that Act consists in the fact that it consists only of three sections merely saying that the reproduced Schedule of the British Act shall be the law in India. In the first instance, I am not at all ashamed to say that so far as this particular point of view is concerned, I take my argument largely from my Honourable friend, Mr. Jinnah, who, at that time, in opposing that Bill, put forward before the House. The first and foremost point he attempted to make was that we are merely being made the instrument of passing into law an Act of Parliament giving us an opportunity merely in name. The second grave objection which was made and which was also supported by him and elaborated by Mr. Shanmukham Chetty, as he then was, that this was an indirect method of creating an independent navy without our having anything to say either in its composition or in its expenditure or in its ultimate views and obligations whenever these forces may be needed. By merely passing the Act, called the Navy Discipline Act, the object was indirectly to create a Navy neither the funds of which we would have the right of voting about, for or against, nor regulate its use as and when there was any danger irrespective of any danger immediately to India. These were the grounds on which that Act was passed at that time by those who represented what you may call the taxpayers' popular point of view. Nonetheless, the Act was passed.

Now, we have come on to the second stage of a more insidious character. In one case, we knew at all events to what extent and with what reserves they were likely to saddle us. Now, under the guise of what is called the discipline of the members of the Indian Naval force raised in British India on behalf of His Majesty, the explanation that is given by the Honourable the Defence Secretary, shortly stated, is as to the classes of persons from whom they would be drawn and the purposes to which they would be drawn; but there is this difference seen in the Bill that it is even more dangerous than the original Bill. He himself explained, and it may have escaped the attention of the House, and that is why I wish to repeat it. Hitherto a person who put himself even though voluntarily on what is called a reserve list was liable to no punishment if at the time he was called he felt that it is quite unnecessary or even dangerous or against the interest of his country to obey the call. He would be one of the persons selected for the purpose of being invited to serve as an auxiliary or as a reservist. The object of this Bill, and that is a more dangerous extension of the earlier Bill, is that once a person is put as a reservist, to use that short expression, then he becomes practically a conscript. For that purpose you have got to see how innocent this Bill looks and how dangerous the extension of the earlier Bill is. I can understand a regular member of the Naval forces, such as it was called, being subject to discipline. But, now, what is intended is that every person who is put on the reserve, I do not know by what rules and by what methods he would be, whether

there would be selection—a person may have no qualifications and he may even say, I have qualifications and you may put my name on the reserve list, and after having done that, he is no less than a conscript if he is alive and of an age where it is possible for him that the Government can use him for the purpose of the particular reserve to which he is enlisted. That is the Bill before the House. It consists of two parts, exactly what it was in the earlier Bill. Clause 4 of the present Bill says:

"4. Every member of the Indian Naval Reserve Forces, while undergoing training on board any vessel or otherwise, in pursuance of rules made under section 3, or when called into actual service in the Royal Indian Navy, on board any vessel or otherwise in pursuance of the said rules, shall be subject to the Naval Discipline Act as set out in the First Schedule to the Indian Navy (Discipline) Act, 1934, in the same manner as a person in or belonging to the Indian Navy and shall continue to be so subject until duly released from such training or service, as the case may be."

Speaking of that I can well appreciate that if the Indian navy such as it was under the control of the Indian taxpayers or their representatives either in its composition or in its expenditure, that by itself would be a sufficient ground, but inasmuch as it is not so, if they are going to raise an army or a navy in the making in the expenditure of which we have no voice, it must be entirely their own business to make laws or rules for that purpose. In other words, we cannot be made the cat's paw of regulating what they have created, in whose creation and maintenance we have not the smallest voice. That was the ground which was also urged before the House at the time when the Bill of 1934 was under consideration.

Now, as I see, we have gone a step further which is somewhat more dangerous. Apart from the representation to the world of the un-named mine of reserves—many millions of reservists who can be called from India for the purpose of strengthening either on land or in what are called inland water services or even extraneous services for the purpose of the navy—they have done what my Honourable friend himself admitted, the carrying out and imposing a measure of conscription. This is another ground on which I submit that the House ought not to lend its support to a Bill of this kind. The other day, I was listening to a speech from Sir John Anderson who has now been put in charge of an important department—the Defence of England. What he says is, and it is an irony indeed to have heard it, and so far as patriotic Englishmen are concerned, I congratulate them on having accepted him. What he says is this: the best way to prevent conscription is for every able bodied man and woman to offer himself or herself. I would like you to consider the terms of this very far reaching and insidious speech. He says, if you all come, you have served the purpose of conscription, but remember that if you do not come, conscription is there ready for you. So, to avoid conscription, he says, let every one of you do what you would do under conscription. Now, that is insidious enough, but it is at least an appeal to patriotism of the people to defend themselves and the country. But here is something when you come to clause 5:

"5. (1) If any member of the Indian Naval Reserve Forces, when required, in pursuance of rules made under section 3, to attend on board any vessel or at any place for the purpose of undergoing training, fails without reasonable excuse to attend in accordance with such requirement, he shall be punishable with fine which may extend to two hundred rupees."

[Mr. Bhulabhai J. Desai.]

So that, you may be, as my Honourable friend said, an utter amateur, might have even a certain amount of knowledge, but, then, even for the purpose of training, you are a

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conscript:

"(2) If any member of the Indian Naval Reserve Forces, when called into actual service in the Royal Indian Navy and required by such call to join any vessel or attend at any place, fails without reasonable excuse to comply with such requirement at or within such time as the Central Government may, by order, direct, he shall be liable to be apprehended and punished in the same manner as a person in or belonging to the Indian Navy deserting or improperly absenting himself from duty except that the punishment shall not exceed imprisonment which may extend to two years."

So that the method by which they propose to create a naval reserve is one which destroys what has always been, and at all events what the Britisher pretends to be, a voluntary service for the purposes of the country. Where or what the rules in England may be is more than I can tell. But I can certainly tell this that taking it from my Honourable friend that so far as India is concerned, hitherto it was competent to a man who has put his name on the list of reserves to obey the summons or not to obey, now to enforce it by means of punishment is conscription of a character to which we cannot lend our assistance.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can continue his speech tomorrow.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 7th February, 1930.