

19th September 1938

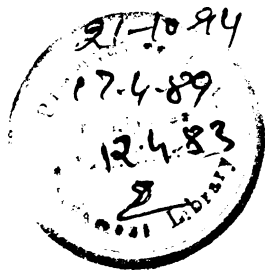
THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VI, 1938

(12th September to 26th September, 1938)

EIGHTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1938



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Legislative Assembly.

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LEGISLATIVE ASSEMBLY.

Monday, 19th September, 1938.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

RIOTS IN BURMA.

1120. ***Mr. Amarendra Nath Chattopadhyaya** : (a) Will the Secretary for Education, Health and Lands be pleased to state if he is in a position by this time to make a full statement about the riots in Burma, on account of which many Indians died and many had to come back to India ?

(b) If so, will the Honourable Member be pleased to make a full statement of the aforesaid affair and state in detail (i) the cause of riot, (ii) how many Indians, both Mussalmans and Hindus, died, (iii) how many were injured, (iv) who were the aggressors, (v) what steps the Burma Government have taken to restore peace amongst the two parties, (vi) how many people have been arrested and tried, and with what result ; (vii) how many Indians, both Muslims and non-Muslims, came back to India, leaving their business and property there, and (viii) what compensations have been given them by the Burma Government for their losses ?

Sir Girja Shankar Bajpai : (a) and (b), (i), (iv), (v) and (vii). The attention of the Honourable Member is invited to the reply given by me to Mr. Satyamurti's short notice question on the 12th August, 1938, to the speeches of the Honourable Sir Jagdish Prasad and myself in the course of the adjournment motion of Sir Ziauddin Ahmad on Monday, the 5th September, and to my reply to Mr. T. S. Avinashilingam Chettiar's question No. 896 on the 9th September, 1938. According to the latest information supplied by the Government of Burma the situation is as follows :

The Rangoon (Emergency) Security Act was published on September 9th and a state of emergency declared to exist that day. Since then there has been manifest improvement. No assaults have been reported since September 9th.

2. As regards districts that were disturbed there is still an undercurrent of unrest in Mandalay town caused apparently by a number of bad characters, though situation owing to vigorous patrolling of town is entirely in hand.

In districts elsewhere isolated cases of stone throwing, incendiarism and assault are still reported and normal conditions cannot be definitely said to have been restored but generally speaking the situation has substantially improved and confidence is returning.

(b), (ii) and (iii). The number of killed and injured in Rangoon according to latest information is as follows :

	Muslims. Hindus. (Casualties by rioters).	
Killed	66	8
Injured	220	98
	Muslims. Hindus. (Casualties by armed forces).	
Killed	3	..
Injured	7	..

Figures by races for the districts are not available.

(b), (vi). Up to the 7th September, 1938, approximately 4,132 persons were arrested, of whom 2,028 were sent up for trial. Government have no information as to the sentences passed as presumably many cases are still pending.

(b), (viii). Government have taken up the question of the payment of compensation to Indians for loss of life and property caused by the riots and the establishment of an independent agency for the purpose of assessing the claims.

Mr. Lalchand Navalrai : May I know whether any non-official committee has been set up in bringing about rapprochement between Burmans and Indians ?

Sir Girja Shankar Bajpai : I have with me a report about the meeting of Burman and Indian leaders said to have been held on the 9th to devise ways and means to restore friendly relations between the two communities and it has also been stated that they subsequently gave an assurance to the Home Minister in Burma that they would see that no disturbance took place in their respective quarters. That is the only non-official committee that I know of.

Mr. Lalchand Navalrai : Have Government taken care of the property that Indians have left there ?

Sir Girja Shankar Bajpai : As a matter of fact what I have heard is that most of the refugees have left precious little property behind them.

Mr. S. Satyamurti : With reference to part (b) (v) of the question, may I know what steps the Burma Government have taken to restore peace amongst the two parties, and may I know whether the attention of the Government has been drawn to a recent statement made by the Leader of the Opposition in the Burma Legislature, threatening retaliation because we took up the matter here in India ?

Sir Girja Shankar Bajpai : I have read the statement referred to by the Honourable Member, and our information is that, so far as the Government of Burma are concerned, they are determined to do their best to maintain order.

Mr. K. Ahmad : What are the reasons for the number of casualties amongst the Muslims being so high and among the other communities so much less? Do Government propose to look after these poor Muhammadans, not only in the way of giving compensation to them, but also giving them legal assistance by sending the Advocate General or any other Barrister to defend them in Courts in Burma?

Sir Girja Shankar Bajpai : I was simply going to say that it is very difficult for me to cope adequately with the somewhat prolonged *impromptu* incoherence of my Honourable friend.

Mr. S. Satyamurti : With regard to part (b) (vii), have Government satisfied themselves that, so far as Indians who want to come back to this country as a result of the present situation are concerned, they are adequately provided for both in respect of their comforts during their stay in Rangoon and their passage back to this country?

Sir Girja Shankar Bajpai : As my Honourable friend is aware, complete information on that point must await until our Agent has reached Burma. He was here to receive instructions and he will leave for Burma next Friday. But the Government of Burma have informed us that in addition to the people who have already left, they assume responsibility for defraying half the expenses up to 3,000 refugees, the question as to whether they should undertake further liability and responsibility in respect of this particular group of persons is under investigation.

Mr. S. Satyamurti : With regard to the composition of the Committee, that is, the personnel appointed by the Government of Burma to enquire into the causes of these riots, have Government satisfied themselves that as far as circumstances permit—I recognise the limitations of this Government as against the Burma Government—this is the best and the most satisfactory and independent committee?

Sir Girja Shankar Bajpai : I submit that that question would arise on the one of which my Honourable friend has given notice and which will come later on, but if you like, I can answer it now.

Mr. Badri Dutt Pande : When is the Agent expected to arrive in Burma?

Sir Girja Shankar Bajpai : He is *en route* to Burma.

Mr. Abdul Qaiyum : Have the Government taken steps to allay the panic and stop the exodus from Burma to India? What steps have the Government taken to prevent these people from returning to India?

Sir Girja Shankar Bajpai : Restoration of order in Burma is going to be the strongest inducement for these people to stay behind in Burma?

Dr. Sir Ziauddin Ahmad : Has the panic subsided?

Sir Girja Shankar Bajpai : The information is to the effect that confidence is gradually returning

**GOVERNMENT'S POLICY ON THE CONTROL OF COASTAL TRAFFIC OF INDIA
BILL.**

1121. ***Dr. Sir Ziauddin Ahmad :** (a) Will the Honourable Member for Commerce be pleased to state whether in Sir Abdul Halim Ghuznavi's motion, recommitting to Select Committee his Bill to Control the Coastal Traffic of India, the Honourable Sir Muhammad Zafrullah Khan, Commerce Member, said in this House on the 9th August, 1938, that "the Government are opposed to the principle of the Bill as well as the motion before the House" ?

(b) Will Government be pleased to state whether they did not accept a Resolution on this subject moved by the Honourable Rai Bahadur Lala Jagdish Prasad in the Council of State on 7th March, 1935 ?

(c) If so, will Government be pleased to state whether they have altered their policy in this respect and if so, for what reasons ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes.

(b) The Resolution in question urged that suitable steps should be taken to build up an Indian mercantile marine. Government accepted this Resolution with certain reservations.

(c) There has been no change of policy.

Mr. S. Satyamurti : With reference to parts (a) and (b) taken together, may I know, whether taking the recent statement of the Honourable the Commerce Member and the earlier statement made in the Council of State about reservation, what exactly is the policy of the Government today with regard to securing the coastal trade for Indian shipping ?

The Honourable Sir Muhammad Zafrullah Khan : The policy is the same as was set out in the speech of Sir Thomas Stewart on that occasion, which I have here with me and if the Honourable Member wants, I can read the relevant portion.

Mr. S. Satyamurti : Then why did the Honourable the Commerce Member state that he was opposed to the principle of the Bill ? I am not bothering about the actual clauses of the Bill. I know there are difficulties. May I know why the Honourable the Commerce Member stated this ? In view of the fact that the policy of the Government is to do everything in their power to get an increased share in the coastal trade for Indian shipping, why did he say that Government are opposed to the principle of the Bill ?

The Honourable Sir Muhammad Zafrullah Khan : Government are committed to the promotion of Indian mercantile marine subject to the reservations made in the speech to which I have referred and the principle of the Bill is not one of the particular methods which Government are willing to adopt for that purpose.

Mr. S. Satyamurti : May I take it then that the Government will not consider the question of fixing maximum and minimum freights and fares, in order to prevent rate wars as one means of promoting the interests of Indian shipping ?

The Honourable Sir Muhammad Zafrullah Khan : So far as that general question is concerned, apart from any specific instances which may be treated as exceptions, that is so.

SMUGGLING OF UNLICENSED TEA FROM INDIA.

1122. ***Mr. Brojendra Narayan Chaudhury :** Will the Honourable Member for Commerce please state :

- (a) if his attention has been drawn to the London news, dated the 3rd September, 1938, appearing in the *Hindustan Times* of the 5th September, 1938, regarding the smuggling of unlicensed tea from India ;
- (b) regarding third paragraph of the news, the preventive measures taken, and further measures intended to be taken ;
- (c) whether it is a fact that tea is smuggled to Aden in ships ;
- (d) whether the department has any conjectural idea of the quantity so smuggled during last year, the total, and to Aden ; and
- (e) the ports from which it is suspected that tea is so smuggled and the ships in which it is carried ; if any particular steamer or service of steamers is suspected ?

The Honourable Sir Muhammad Zafrullah Khan : The question should have been addressed to the Honourable the Finance Member.

NEGOTIATIONS FOR INDO-BRITISH TRADE AGREEMENT.

1123. ***Mr. S. Satyamurti :** Will the Honourable the Commerce Member be pleased to state :

- (a) the latest stage, i.e., on the 19th September, 1938, or as near to it as possible, at which the Indo-British Trade talks stand ;
- (b) whether any agreement has been arrived at, and, if so, the terms thereof ;
- (c) if no agreement has been arrived at, and, if so, the outstanding points of dispute ;
- (d) whether any agreement has been arrived at about the purchase of cotton by England and the purchase of English cotton piece-goods by India, if so, the terms thereof, and, if not, the points of difference which have not been settled ;
- (e) whether the Honourable Member proposes to proceed to England for further negotiations, or whether the negotiations have finally broken down ;
- (f) whether the non-official advisers have submitted their report to Government at the latest stage of the negotiations, and whether Government will place the report on the table of the House, and, if not, why not ;

(g) what further steps, if any, Government propose to take in this matter ;

(h) whether Government propose now to terminate the Ottawa Agreement, and, if not, why not ; and

(i) whether Government have now come to any conclusion as to consulting the House before they finally decide this matter and, if so, what that conclusion is ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (f), (g), (h) and (i). The Honourable Member's attention is invited to the answers given to Mr. K. Santhanam's question No. 1014 and its supplementaries during the current Session. I have nothing to add to them.

(b), (c) and (d). The negotiations with His Majesty's Government in the United Kingdom have not yet been concluded. Government are not prepared in the meantime, to make public details of the proposals put forward by either party.

(e) The Honourable Member's attention is invited to the answers given to part (b) of Mr. K. Santhanam's question No. 219 during the current Session.

Mr. S. Satyamurti : Since this is the last day of the Session, on which my Honourable friend is answering questions concerning the Commerce Department, may I know if this is the last word he can say to this House, or if he is in a position to answer specifically the outstanding points of dispute, mentioned in clause (c) of my question ?

The Honourable Sir Muhammad Zafrullah Khan : I believe on the last day on which I was answering questions I gave the Honourable Member up to date information with regard to what had happened. If there is any particular matter on which he is anxious to obtain information and on which I can give him information this morning, I shall do so.

Mr. S. Satyamurti : May I know if raw cotton and cotton goods are the only outstanding points of dispute between His Majesty's Government and the Government of India today ?

The Honourable Sir Muhammad Zafrullah Khan : The position is a little more complicated than that. It is not only a case of certain outstanding differences between the Government of India and the Board of Trade ; it is also a question for the Government of India to come to a decision after studying the report of the non-official advisers as to what further matters should be taken up with the Board of Trade.

Mr. S. Satyamurti : Does this latter advice of the non-official advisers cover any other matter besides cotton ?

The Honourable Sir Muhammad Zafrullah Khan : Yes ; it covers a number of other matters besides.

Mr. S. Satyamurti : With regard to the questions to which the Honourable Member gave a comprehensive answer, may I take it that the Government of India have not come to the stage of deciding even tentatively and therefore they cannot give the House any assurance that the matter will be brought before the House, before they make up their minds finally ?

The Honourable Sir Muhammad Zafrullah Khan : From one point of view the matter had proceeded much further than that. As I have told the House on previous occasions during the current Session, certain proposals which would form the basis of the new agreement and which dealt with everything except little points of detail were placed before the unofficial advisers and Government were then hoping that it may be possible to announce before the House rose that the principles of the agreement had been settled between the Board of Trade and the Government of India. The unofficial advisers have now taken exception to a good deal more than was expected they would raise criticism upon, and therefore the first matter to be decided is what points the Government of India should take up with the Board of Trade and try to persuade them to accept.

Mr. S. Satyamurti : May I take it, therefore, that the Government cannot enlighten the House on this the last but one day of the Session, either on the question whether they have themselves made up their minds in favour of or against the agreement, and secondly on the question whether they will consult the House, before they finally make up their minds on the matter one way or the other ?

The Honourable Sir Muhammad Zafrullah Khan : With regard to the first part of the question, Government are trying to do whatever they can to bring about an agreement acceptable to both parties, and with regard to the second part, as soon as Government know what sort of agreement there may be to place before the House they will decide the question in what manner to consult the House.

VISIT OF THE UNDER SECRETARY OF STATE FOR INDIA TO INDIA.

1124. ***Mr. S. Satyamurti :** Will the Honourable the Leader of the House be pleased to state :

- (a) whether the Government of India have any information about the visit of the Under Secretary of State for India to this country ;
- (b) whether he is coming on the invitation of the Government of India ;
- (c) whether they were consulted about it ; and
- (d) whether his tour has any political significance ?

The Honourable Sir Muhammad Zafrullah Khan : (a) to (d). The Government of India were apprised of the proposed visit and they welcomed the proposal. The visit has no special significance and is in no way concerned with the question of Federation.

Mr. S. Satyamurti : May I know why they welcome the visit ?

The Honourable Sir Muhammad Zafrullah Khan : If the Under Secretary of State for India wanted to make personal contacts with India, surely it was a proposal to be welcomed.

Mr. S. Satyamurti : May I take it therefore that the reason why they welcome the Under Secretary of State is because he is not coming out on a political mission but to make contacts and if that is so, may I know with whom he comes here to make first hand contacts ?

The Honourable Sir Muhammad Zafrullah Khan : That I am afraid I am unable to answer, with whom he will or will not make contacts. The proposal was that the Under Secretary of State intended to visit India and I am quite certain that everybody would agree that anybody who had to share the responsibility in the House of Commons with regard to India, if he intended to visit India, was to be made welcome under any circumstances.

Mr. S. Satyamurti : May I know why my Honourable friend says in answer to clause (d) that the tour has no political significance whatever ?

The Honourable Sir Muhammad Zafrullah Khan : So far as Government are aware he has no particular object beyond establishing contacts.

Mr. S. Satyamurti : Does he come in order to find out the political opinion of this country or merely on a formal official visit ?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India have not cross-examined the Under Secretary of State with regard to the details of his proposed visit.

Mr. S. Satyamurti : I know they have not cross-examined him to find that out : and they need not : but I am simply asking from the correspondence between them and the Secretary of State or the Under Secretary of State whether they are in a position to say that his visit has no political significance, and if so, on what grounds ?

The Honourable Sir Muhammad Zafrullah Khan : On the ground that no particular political object has been mentioned apart from what I have stated.

Dr. Sir Ziauddin Ahmad : Will the Government of India make a programme for his visit and chalk out the persons whom he ought to see or will he have his own choice ?

The Honourable Sir Muhammad Zafrullah Khan : The Government of India will not chalk out any programme.

Sardar Mangal Singh : May I know if he is on leave or he is still on duty ?

The Honourable Sir Muhammad Zafrullah Khan : That is a question to be addressed to the Secretary of State for India.

DRAFT INSTRUMENT OF ACCESSION TO THE FEDERATION.

1125. **Mr. S. Satyamurti :** Will the Honourable the Leader of the House please state the latest position according to the information of the Government of India about the instruments of accession to the federation, and the attitude of the Princes thereto ?

The Honourable Sir Muhammad Zafrullah Khan : The attention of the Honourable Member is invited to the reply which I gave on the 14th September, 1938, to Mr. Manu Subedar's starred question No. 1052A.

Mr. S. Satyamurti : I want to know whether it is a fact or not, that a copy of the general instrument of accession is now in the possession of the Government of India and is being shown to successive

Dewans—Sir Mirza Ismail, Sir V. T. Krishnamachari, Sir Akbar Hydari and others—who are in Simla now, or may I know if Government refuse to answer the question ?

The Honourable Sir Muhammad Zafrullah Khan : So far as the Government of India are concerned, I have no further information beyond that which has already been given to the House.

Mr. S. Satyamurti : Does he include the Reforms Department and also the Foreign Department, and may I know whether the Government have any information about the object of the visits of three or four or half a dozen Dewans of important Indian States to Simla successively and they have no political interest at all here and have come here on a holiday trip ?

The Honourable Sir Muhammad Zafrullah Khan : That is not covered by this question.

Mr. S. Satyamurti : I want to know the stage at which the instrument of accession stands. My question is about the latest position of the instruments of accession and their particulars. I am, therefore, asking whether these visits of these distinguished Dewans have anything to do with the original general instrument of accession which is common to all States, which is being shown to them, or whether Government have no information or refuse to give any information.

The Honourable Sir Muhammad Zafrullah Khan : I have no doubt that if these distinguished personages have been visiting Simla they may have been carrying on conversations with regard to all sorts of matters with all sorts of people in Simla, and possibly also on the aspect of the matter that the Honourable Member has in mind ; but I am not in a position to be able to give any specific information.

Mr. S. Satyamurti : But surely, Sir, my Honourable friend answers questions with regard to these matters : I can understand his saying—and as you have ruled repeatedly, Sir,—he can refuse to give information on the ground of public interest and then I am helpless. But I can only catch the Government of India through him, and he must say either that he has no information or he cannot give me any information.

Mr. K. Ahmad : Sir, is this sort of cross-examination allowed in the House of Commons in England ?

The Honourable Sir Muhammad Zafrullah Khan : I have answered the question already.

Mr. S. Satyamurti : I want an answer. He has not answered it.

The Honourable Sir Muhammad Zafrullah Khan : I said I have no doubt they discuss all sorts of matters, but I am unable to give any information with regard to the specific matter that the Honourable Member has mentioned.

LIFE OF THE LEGISLATIVE ASSEMBLY.

1126. ***Mr. S. Satyamurti :** Will the Honourable the Leader of the House please state whether Government have come to any decision about the life of the present Assembly ?

The Honourable Sir Muhammad Zafrullah Khan : The power of extending the life of the Assembly is vested in the Governor General (and not the Governor General in Council) under section 63D (1) (b) of the Government of India Act, as set out in the 9th Schedule to the Government of India Act, 1935. It is, therefore, not for Government to come to any decision in the matter.

Mr. S. Satyamurti : May I know, Sir, whether the Government have never been consulted or are not consulted in this matter at all, by the Governor General ?

The Honourable Sir Muhammad Zafrullah Khan : That does not arise out of this question.

Prof. N. G. Ranga : Have Government tried to ascertain public opinion in this country in regard to the continued extensions of the term of this Assembly ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Prof. N. G. Ranga : Why not ?

The Honourable Sir Muhammad Zafrullah Khan : Because, as I have said, it is not the function of Government to decide whether the life of the Assembly shall or shall not be extended.

†1127*-1128*.

NEW TARIFF POLICY OF BURMA.

1129. ***Mr. S. Satyamurti :** Will the Honourable the Commerce Member be pleased to state :

- (a) whether his attention has been drawn to the fact that the Commerce Minister of Burma has submitted a new tariff policy for Burma to the Fiscal Committee of the Government ;
- (b) whether Government have ascertained, or propose to ascertain, what this new policy is ;
- (c) whether Government are taking steps, or propose to take steps, for a fresh Indo-Burma trade agreement in 1940 ;
- (d) whether Government will consult this House, or a Committee thereof, with regard to this fresh treaty ;
- (e) whether Government propose, in concluding or negotiating any such treaty, to bear prominently in mind the supreme importance of securing adequate guarantees for the protection of Indian lives and property in Burma ; and
- (f) if not, why not ?

†These questions were withdrawn by the questioner.

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have seen a press report to that effect.

(b) and (c). No, Sir. Government do not consider any action necessary at this stage.

(d), (e) and (f). Do not arise.

Mr. S. Satyamurti : Whenever they begin to consider this question, may I have an assurance from my Honourable friend that Government, in considering a new tariff policy for Burma or in concluding or negotiating any new trade agreement, will bear prominently in mind the supreme importance of adequately protecting Indian lives and property in Burma, as the balance of trade is very much in favour of Burma ?

The Honourable Sir Muhammad Zafrullah Khan : Every relevant consideration will be kept in mind.

RATE WAR BETWEEN SHIPPING COMPANIES CARRYING HAJ PILGRIMS.

1130. ***Dr. Sir Ziauddin Ahmad :** (a) Has the attention of the Secretary for Education, Health and Lands been drawn to the leaflets published and distributed by Messrs. Turner Morrison and Company advising pilgrims in their own interests not to deposit money, or book their tickets, with agents upcountry, but to book tickets in the ports where the lowest possible rates can be obtained ?

(b) Will Government be pleased to state whether Messrs. Turner Morrison have officially announced a reduction in their rates of fares from Bombay and Karachi to Jeddah by Rs. 100 each in the case of first and second class return fares and Rs. 25 in the case of deck return fares ?

(c) Will Government be pleased to state whether they have considered that such a rate war would not be detrimental to the interests of Indian shipping as well as Indian pilgrims ?

(d) Will Government be pleased to state whether they have taken or propose to take any action in regard to the impending rate war in the Haj traffic between Messrs. Turner Morrison and Company and Messrs. Scindia Steam Navigation Company ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) Yes, for pilgrim ships sailing from Bombay and Karachi before *Ramzan*.

(c) Government are alive to this consideration.

(d) The question is under the consideration of Government.

Dr. Sir Ziauddin Ahmad : Have the Government taken any practical action in this matter ?

Sir Girja Shankar Bajpai : These parts really relate to the jurisdiction of the Honourable the Leader of the House, and I think only three days ago he informed the House that he is seized of the matter and is doing what he can to expedite a decision.

Mr. Lalchand Navalrai : May I know, Sir, if these steam navigation companies consult the Government whenever they make any changes in their fares and rates ?

Sir Girja Shankar Bajpai : No, Sir ; they are under no obligation to do so, and actually they do not.

Mr. Lalchand Navalrai : Do they consult the Committee which they have appointed ?

Sir Girja Shankar Bajpai : As far as I know, they do not.

PERSONNEL OF THE TARIFF BOARD ON TEXTILE INDUSTRY.

1131. ***Mr. K. Santhanam** : Will the Honourable Member for Commerce please state :

- (a) whether the attention of Government has been drawn to the report that the personnel of the Tariff Board to enquire into the question of protection for the textile industry has been settled ;
- (b) whether it is a fact that Sir A. Ramaswami Mudaliar, Dr. Sir Ziauddin Ahmad and Mr. Roughton have been appointed, or approached in this behalf ; and
- (c) if the answer to part (b) be in the negative, whether Government propose to consult the Party Leaders of this House before coming to a final conclusion in the matter ?

The Honourable Sir Muhammad Zafrullah Khan . (a) Yes, Sir.

(b) and (c). No, Sir.

Mr. S. Satyamurti : Sir, in constituting the Tariff Board, may I know whether the Government bear in mind the political and other antecedents of the possible Members, and do they select such Members as are likely to be in agreement with the preconceived views of Government or accept their principles, or do they select Members who are not committed to any particular views ?

The Honourable Sir Muhammad Zafrullah Khan : With regard to the first part, I am quite sure that the past conduct of the Tariff Boards will have reassured my friend that Government do not in any way try in advance to secure any particular opinion on any matter that is committed to the Board, and he may rest assured that the same will be the attitude of the Government with regard to any future Tariff Boards that may be appointed.

Prof. N. G. Ranga : What are the terms of reference to this Board, and whether the question of protection to handloom weavers will also be referred to them ?

The Honourable Sir Muhammad Zafrullah Khan : No terms of reference have been settled as the Board has not yet been set up.

Prof. N. G. Ranga : Will Government consider the advisability of charging the proposed Tariff Board with the task of inquiring into this question and suggest ways and means for protecting adequately the interests of handloom weavers.

The Honourable Sir Muhammad Zafrullah Khan : I take note of what the Honourable Member has said.

Mr. K. Santhanam : May I know when this Board is likely to be appointed ?

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

Maulana Shaukat Ali : I hope it will not become the monopoly of the Congress Party.

STAFF KEPT AT KAMARAN FOR QUARANTINE PURPOSES.

†1132. ***Khan Bahadur Nawab Siddique Ali Khan :** (a) Will the Secretary for Education, Health and Lands please state if it is a fact that the present staff kept at Kamaran for quarantine purposes is maintained out of the amount charged from the *Hajis* as quarantine fee ?

(b) Do Government know that the Muslims feel that the staff at Kamaran should purely be Muslim, as the staff has to come in contact with *Hajis* only ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) Government have received no representation to that effect.

STAFF KEPT AT KAMARAN FOR QUARANTINE PURPOSES.

†1133. ***Khan Bahadur Nawab Siddique Ali Khan :** Will the Secretary for Education, Health and Lands please state the strength of the staff at Kamaran Port, to which community they belong, and what are their emoluments ?

Sir Girja Shankar Bajpai : With your permission, Sir, I shall answer questions Nos. 1133 and 1134 together.

These questions should have been addressed to the Secretary for External Affairs.

ELECTRIC AND MECHANICAL ENGINEER AT KAMARAN.

†1134. ***Khan Bahadur Nawab Siddique Ali Khan :** (a) Will the Secretary for Education, Health and Lands please state if it is a fact that the Electric and Mechanical Engineer at Kamaran is a non-Muslim ?

(b) Is it a fact that a better qualified Mussalman was available, but he was not selected for the post ?

NON-INDIAN COMPANIES ESTABLISHED IN INDIA TO TAKE ADVANTAGE OF TARIFF WALLS.

1135. ***Mr. Abdul Qaiyum** (on behalf of Mr. T. S. Avinashilingam Chettiar) : Will the Honourable the Commerce Member state :

(a) whether Government have received representations that non-Indian companies have been established in India to take advantage of tariff walls ;

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

‡For answer to this question, see answer to question No. 1133.

(b) whether Government have collected information regarding the establishment of such companies ; and

(c) if so, how many of them have been established and where, with what capital, and in which industries ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, Sir.

(b) No, Sir.

(c) Does not arise.

Mr. Abdul Qaiyum : May I know, Sir, why information has not been collected or why it is not considered desirable to collect it ?

The Honourable Sir Muhammad Zafrullah Khan : An answer has been given to it several times in reply to supplementaries.

Mr. S. Satyamurti : May I know, Sir, if the attention of Government has been drawn to the issue of the *Harijan*,—I suppose they have heard of that paper,—dated the 3rd September, from Poona, in which the names of as many as 122 companies which are really non-Indian but which have been registered in this country have been given, and will Government look into the matter ? If they have not seen a copy of that paper, I am prepared to give them my copy.

The Honourable Sir Muhammad Zafrullah Khan : I have not seen a copy of that paper, but I shall be glad to have a look at it.

Mr. S. Satyamurti : May I know whether Government will pursue this matter, in order to take steps to prevent the invasion of India by foreign capitalists, in the guise of Indian companies ?

The Honourable Sir Muhammad Zafrullah Khan : I am very much afraid, as I said on the last occasion, this is, however regrettable it may be the result of the fiscal policy of the Government of India, and unless the much larger question of protection were also under investigation, this question could not be taken up.

Mr. N. V. Gadgil : What is the present policy of the Government of India, is it to allow unrestricted import of foreign capital or under certain restrictions ?

The Honourable Sir Muhammad Zafrullah Khan : I believe the Honourable Member was himself responsible for that question with regard to Sir William Crane's speech, and all that has been foreshadowed in that speech itself.

Mr. S. Satyamurti : May I know whether Government have examined the question or are taking other steps, in order to see that the results of our fiscal policy do not adversely affect the interests of India and that they are for the benefit of Indian concerns and not of non-Indian concern ?

The Honourable Sir Muhammad Zafrullah Khan : Government are not convinced that the import of foreign capital has been working to the detriment of this country.

Mr. S. Satyamurti : Have the Government realised that 122 companies have been registered in India ?

The Honourable Sir Muhammad Zafrullah Khan : That may be.

TERMS OF THE INDO-BRITISH TRADE AGREEMENT OFFERED BY THE UNITED KINGDOM.

1136. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. Manu Subedar) : Will the Honourable the Commerce Member state :

- (a) the original and final terms of the Indo-British Trade Agreement offered by the United Kingdom directly, or through Lancashire interests ;
- (b) briefly the principal problems he had to deal with during each of his three visits ;
- (c) when the various reports, including the final report, of the Advisers would be made available to the public ;
- (d) in view of differences among the advisers, whether Government propose to reject the proposal embodying terms which have been unacceptable ; and
- (e) whether Government have considered the desirability of bringing the whole issue of the Indo-British Trade Agreement before the Assembly ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). As negotiations are not yet concluded I regret I cannot give any information as to the proposals made by the United Kingdom or the specific questions discussed, during my visits to England.

(c) The Honourable Member's attention is invited to the answer given to part (b) of Mr. K. Santhanam's question No. 1014 and its supplementaries during current Session.

(d) The Honourable Member's attention is invited to the answer given to parts (b) and (c) of Mr. T. S. Avinashilingam Chettiar's question No. 895 during the current Session.

(e) I invite the Honourable Member's attention to the answers given to part (g) of Mr. K. Santhanam's question No. 1014 and its supplementaries on the 14th September, and to part (i) of Mr. S. Satyamurti's question No. 1123 this morning.

Mr. M. Ananthasayanam Ayyangar : May we know if Government have received the report of the non-official advisers ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, Sir.

APPOINTMENT OF ANOTHER INDIAN FISCAL COMMISSION.

†1137. ***Babu Baijnath Bajoria** : Will the Honourable the Commerce Member be pleased to state whether the Government of India considered the necessity of appointing another Indian Fiscal Commission to review the industrial and economical conditions in the country and to suggest ways and means for further development in these directions ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir. The Honourable Member's attention is invited to the answer given on the 3rd February, 1936, to Mr. Satyamurti's question No. 40.

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

CONTRIBUTION TO THE FLOOD RELIEF FUND OF ASSAM.

1138. ***Maulvi Abdur Rasheed Chaudhury** : Will the Secretary for Education, Health and Lands please state :

- (a) whether the Government of India are considering the question of contributing to the flood relief fund of Assam and, if so, to what extent ; and
- (b) whether Government are prepared to give an assurance that they will open up their purse to stop loss of life in Assam due to starvation caused by recent floods ?

Sir Girja Shankar Bajpai : (a) and (b). Flood relief is essentially a provincial concern and the Government of Assam have not asked for any help from the Central Government. A request for a donation from the Indian People's Famine Trust fund is now under consideration.

Maulvi Abdur Rasheed Chaudhury : May I know whether the Government of India received an appeal from the Government of Assam for giving them a contribution ?

Sir Girja Shankar Bajpai : No, Sir, that is a question which I have already answered, the Government of India have not been approached by the Government of Assam.

CONSTITUTION OF A TARIFF BOARD ON TEXTILE INDUSTRY.

1139. ***Mr. Abdul Qaiyum** (on behalf of **Mr. T. S. Avinashilingam Chettiar**) : Will the Honourable the Commerce Member state :

- (a) whether they have constituted a Tariff Board to enquire into the matter of protection to the textile industry ;
- (b) if so, who are the members of the Board ; and
- (c) what are the terms of reference ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No, Sir.

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

Mr. S. Satyamurti : When is this Tariff Board due, that is to say, in order to give Government sufficient time to get the report to make up their minds and to bring the new Act into force ?

The Honourable Sir Muhammad Zafrullah Khan : In the normal course, the Tariff Board would have been set up during the course of the summer, but the consideration of that matter was delayed, because if duties were to be regulated by agreement, there was no point in having a Tariff Board, but now Government find themselves in this situation that if an agreement cannot be concluded before the expiry of the present period of protection, as the Honourable Member has himself suggested, there may not be any material before Government on the basis of which they can come to a decision with regard to the future and therefore this is a matter which the Government are considering at present.

Mr. S. Satyamurti : Do the Government realise that the possibility of a Textile Tariff Board and the possibility of a reduction in duties as

a result thereof, is influencing the Board of Trade to be stiff, and will Government keep this in mind, in conducting further negotiations, and also with regard to the proposed Tariff Board ?

The Honourable Sir Muhammad Zafrullah Khan : I am completely satisfied that the attitude of the Board of Trade is not influenced by any such consideration.

Mr. K. Santhanam : May I know if the existing protection will be extended as soon as the present Act expires ?

The Honourable Sir Muhammad Zafrullah Khan : How can I say !

PRICE OF PIG IRON.

1140. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. Manu Subedar) : (a) With reference to the reply to starred question No. 758 on the 6th September, 1938, that Government have no information about any price agreement in the matter of pig iron between the firms producing the same in India, will the Honourable the Commerce Member state whether they have now made enquiries ?

(b) Have Government come across any other case of price fixing, or rigging up of prices against the public in any other article at any time ?

(c) If so, what steps do Government propose to take to protect the public from the direct effect and indirect effect of such and similar attempts to eliminate competition ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No, Sir, but I would invite a reference to paragraphs 232—244 of the Tariff Board's last report on the Iron and Steel Industry.

(b) No such cases have been reported to Government.

(c) Does not arise.

PROTECTION TO BRITISH COLONIES IN THE TARIFF SCHEDULE.

1141. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. Manu Subedar) : (a) Will the Honourable the Commerce Member state since when protection was given to British Colonies in the tariff schedule ?

(b) As a result of what negotiations was this protection given ?

(c) What is the *quid pro quo* which India receives from such British Colonies ?

(d) Is it true that many of these Colonies give greater preference to (i) the United Kingdom, and (ii) other Colonies, than they do to India ?

(e) Up to what time is it intended to keep up this preference ?

(f) Is there any agreement relating thereto ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (f). It is assumed that the Honourable Member refers to the preferential rates of duty accorded to British Colonies in the Indian Customs Tariff. In accordance with certain provisions of the Ottawa Trade Agreement tariff preferences have been granted by India to the British Colonies since January, 1933. Copies of the Trade Agreement are in the Library of the House.

(c) The Honourable Member's attention is invited to the latter part of the answer given to part (d) of his question No. 1052 and its supplementaries during the current Session.

(d) No, Sir. The Honourable Member's attention is invited in this connection to Article 9 of the Ottawa Trade Agreement.

(e) The Honourable Member is referred to the Commerce Department Press Communiqué, dated the 19th October, 1936, relating to the *ad interim* arrangements for regulating the trade relations between India and the United Kingdom and the Colonies. Copies of the Communiqué are in the Library of the House.

Mr. S. Satyamurti : With reference to the Honourable Member's answer, may I know whether the Indo-British trade negotiations cover the question of preferences being continued or given in an altered form to the British colonies ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

Mr. S. Satyamurti : May I know whether, in connection with that matter, Government are considering the advantage which is likely to be gained by us in giving them preference, or will they automatically be given ?

The Honourable Sir Muhammad Zafrullah Khan : They are not automatically given ; they are carefully scrutinised.

Mr. S. Satyamurti : May I know what is the machinery by which the British colonies negotiate with India ? Do the Government of India negotiate with the British colonies on these matters through the Board of Trade, or directly ?

The Honourable Sir Muhammad Zafrullah Khan : No. We negotiate with the Colonial Office with regard to the Colonial Empire barring Ceylon, and with regard to Ceylon, we shall have direct negotiations.

Mr. S. Satyamurti : May I know that no British colony will get any preference, except on its own merits ?

The Honourable Sir Muhammad Zafrullah Khan : Yes.

RATE WAR BETWEEN SHIPPING COMPANIES CARRYING HAJ PILGRIMS.

1142. ***Mr. M. Ananthasayanam Ayyangar** (on behalf of Mr. Manu Subedar) : Will the Honourable the Commerce Member state :

- (a) whether Indian public opinion, as expressed in this House and in representations from commercial bodies, pressed for the interference of Government in the rate-cutting war between shipping companies in relation to *Haj* traffic ;
- (b) whether Government had invited a conference of the parties concerned, and whether such a conference was held ;
- (c) what happened at this conference ;
- (d) whether it is true that the representatives of the English Company came without any proposal of any kind and were not inclined to offer, or to accept any kind of settlement at the hands of Government ; and
- (e) when Government propose to arm themselves with the necessary legal authority to exercise, in the interests of the public, restraint on transport organizations, preventing them

from going below the economic level, and, *vice versa*, preventing them from combining to charge the public heavily †

The Honourable Sir Muhammad Zafrullah Khan : (a) This opinion has been expressed.

(b), (c), (d) and (e). The attention of the Honourable Member is invited to the reply given by me to starred question No. 447 on 24th August, 1938.

REPATRIATION OF INDIANS FROM BRITISH GUIANA.

1143. ***Seth Govind Das :** Will the Secretary for Education, Health and Lands please state :

- (a) whether his attention has been drawn to the news appearing in the first column of the thirteenth page of the *Hindustan Times*, dated the 4th September, 1938, under the caption "work for the workless" ;
- (b) whether he has received any information from British Guiana about the ship-load of Indians being repatriated from that colony ;
- (c) whether he is aware that such repatriated Indians are put to a lot of hardship on landing in this country because most of them have no homes here ;
- (d) the reason why these repatriations are made ; and
- (e) whether Government took action for preventing or delaying the despatch of these emigrants on the 10th September ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) I would invite the attention of the Honourable Member to the reply I was to have given to part (b)† of Mr. S. Satyamurti's starred question No. 1128 which has just been withdrawn. I hope that the reply will be placed on the table of the House.

(c) and (d). I would refer the Honourable Member to my reply to part (b) of his starred question No. 221 on the 14th February, 1938.

(e) I would refer the Honourable Member to the answer I was to have given to part (c)‡ of Mr. Satyamurti's question No. 1128 today.

Seth Govind Das : Is it a fact that the British Guiana Government have appointed a committee known as the Hinter Land Development Committee with a view to formulate a scheme for the development of culturable waste land in British Guiana, and is this Committee going to look at the question from the point of Indian settlers there ?

†(b) According to information received from the Colonial Government, the s.s. "Ganges" sailed from British Guiana with repatriates on the 12th September.

‡(c) As I have informed the House on a previous occasion, these emigrants have earned the right of repatriation to this country and cannot be prevented from availing themselves of it as they are entitled to it under the law. The Government of India have represented to the Government of British Guiana that, as an inducement to those entitled to free repatriation to forego the right, Government should undertake some scheme of land settlement in the Colony. They have also proposed that emigrants intending to return to India should be warned not to do so unless they have adequate resources to maintain themselves in India or relations who would be willing and able to do so. The Protector of Emigrants, Calcutta, will receive the repatriates on arrival of the ship and arrange to have them sent to their respective homes.

Sir Girja Shankar Bajpai : I confess I have not heard about the appointment of the Committee. But if my Honourable friend's information is correct, I have no doubt that it is directly the result of the despatch that we addressed to the British Guiana Government last April on this very subject.

Seth Govind Das : Is it a fact that no Indian has been appointed on this Committee ?

Sir Girja Shankar Bajpai : As I have already told my Honourable friend, I have no information about the appointment or the personnel of the Committee.

Seth Govind Das : Will the Honourable Member take it from me that no Indian has been appointed on this Committee, and under those circumstances, will he address the British Guiana Government to appoint an Indian also on this Committee so that he may be able to look after the interests of Indians in that colony ?

Sir Girja Shankar Bajpai : I shall make enquiries into the nature as well as the composition of the Committee, but I think my Honourable friend ought to realise that the whole question of land settlement is much more likely to come comprehensively under the purview of the proposed Royal Commission than it could under that of any Committee which may have been set up locally.

Seth Govind Das : Are Government aware of the fact that before that Royal Commission this Committee is going to lead evidence, and therefore it would be in the interests of British Guiana Indians that an Indian should be appointed on that Committee ?

Sir Girja Shankar Bajpai : The answer to that part of the question is covered by the answer I gave to an earlier question by him.

Seth Govind Das : I am asking whether Government will recommend to the British Guiana Government the appointment of an Indian on this Committee. I am asking that definite question.

Sir Girja Shankar Bajpai : I submit that at this stage that is a hypothetical question. What sort of Committee has been put up, what the terms of reference of the Committee are, what its personnel is—we do not know, but I can assure my Honourable friend that I will make enquiries to see whether from the point of view of the protection of Indian interests any action on the part of the Government of India is called for.

Seth Govind Das : Are Government aware that in the case of Trinidad and Surinam, that is, in Dutch Guiana, they have deliberately put a stop to the grant of return passages to indentured Indian immigrants and their descendants and have substituted cash and land rent to induce them to stay in the colony ?

Sir Girja Shankar Bajpai : I submit that what has been done by the Government of Dutch Guiana does not arise out of the question on British Guiana.

Seth Govind Das : I am pointing this out so that the Government of India may request the British Guiana Government also to do the same as the Dutch Guiana Government has done in this respect, because in

Dutch Guiana also there are Indians and the Dutch Guiana Government has given them cash and land so that they may stay.

Mr. President (The Honourable Sir Abdur Ramim) : The Honourable Member is making a speech. Next question.

Seth Govind Das : I want to put one more supplementary question regarding Indian Emigration Fund.

Mr. President (The Honourable Sir Abdur Rahim) : I have already called on the next question.

INDIAN MEDICAL SERVICE OFFICERS HOLDING PERMANENT COMMISSION.

1144. ***Haji Chaudhury Muhammad Ismail Khan** : (a) Will the Secretary for Education, Health and Lands be pleased to state the number of Indian Medical Service Officers holding permanent commissions ?

(b) How many of them are Indians ?

(c) How many of them are Muslims ?

Sir Girja Shankar Bajpai : Sir, with your permission, I shall answer questions Nos. 1144, 1145 and 1146 together. These questions should have been addressed to the Defence Secretary.

Mr. Kuladhar Chaliha : May I know whether the term "Indian" includes Muslims ?

Sir Girja Shankar Bajpai : Well, I believe so.

PERSONS GRANTED PERMANENT COMMISSIONS IN THE INDIAN MEDICAL SERVICE.

†1145. ***Haji Chaudhury Muhammad Ismail Khan** : (a) Will the Secretary for Education, Health and Lands please state the number of people granted permanent commissions in the Indian Medical Service since 1928 ?

(b) Out of these how many are Indians ?

(c) How many of them are British, including South Africans, Canadians, Australians, etc. ?

PAUCITY OF MUSLIMS IN THE INDIAN MEDICAL SERVICE.

†1146. ***Haji Chaudhury Muhammad Ismail Khan** : (a) Will the Secretary for Education, Health and Lands be pleased to state the reasons for the paucity of Muslims in the Indian Medical Service ?

(b) What steps do Government propose to take to remove this paucity ?

†For answer to this question, see answer to question No. 1144.

USE OF THE KARACHI TOWN HALL FOR PUBLIC MEETINGS.

1147. ***Pandit Sri Krishna Dutta Paliwal :** (a) Will the Secretary for Education, Health and Lands please state whether the Municipal Committee, Kekri, agreed by a resolution to allow the public to use the Town Hall for public meetings ?

(b) Is it a fact that the Chairman agreed to let the Hall on the same conditions as in the case of Ajmer Town Hall ?

(c) Is it a fact that the Commissioner over-ruled the resolution of the Committee and the letter of the Chairman ?

(d) Whether Government intend to reconsider the matter and restore the right of the public to use the Town Hall ?

Sir Girja Shankar Bajpai : With your permission, Sir, I shall answer questions Nos. 1147, 1148 and 1149 together. Enquiries have been made and a reply will be furnished to the House on receipt.

NOTIFICATION DEPRIVING THE AJMER MUNICIPAL COMMITTEE FROM ELECTING A NON-OFFICIAL CHAIRMAN.

†1148. ***Pandit Sri Krishna Dutta Paliwal :** Will the Secretary for Education, Health and Lands please state :

- (a) whether Government are aware that the Chief Commissioner of Ajmer-Merwara issued a notification on the 17th October, 1930, depriving the Committee of its right to elect a non-official Chairman ;
- (b) if it is a fact that under the Chief Commissioner's notification on the 17th October, 1930, the Extra Assistant Commissioner was nominated as Chairman of the Committee for the " time being " ; and
- (c) if it is also a fact that the Beawar Municipal Committee passed a resolution at its meeting on the 28th October, 1937, wherein the Chief Commissioner was requested to cancel the notification referred to above ?

ELECTION OF A NON-OFFICIAL CHAIRMAN TO THE BEAWAR MUNICIPAL COMMITTEE.

†1149. ***Pandit Sri Krishna Dutta Paliwal :** Will the Secretary for Education, Health and Lands be pleased to state :

- (a) if it was promised on behalf of Government that the right of the election of a non-official Chairman will be restored to the Beawar Municipal Committee ; if so, when and on what conditions ;
- (b) the time when Government propose to allow the Committee to elect a non-official Chairman ;

†For answer to this question, see answer to question No. 1147.

- (c) if the Extra Assistant Commissioner is a particular person or an office in the Local Government ;
- (d) how many persons holding office of the Extra Assistant Commissioner have acted as Chairman of the Beawar Municipal Committee ; and
- (e) whether the Chief Commissioner issued a separate notification for the nomination of these persons ?

**RETIREMENT, ETC., OF OFFICERS IN THE DEPARTMENT OF EDUCATION,
HEALTH AND LANDS AND ITS ATTACHED OFFICES.**

†1150. ***Mr. Umar Aly Shah :** Will the Secretary for Education, Health and Lands please state how many officers, community-wise, were due to retire in the Department of Education, Health and Lands and its Attached Offices in 1936, 1937 and 1938, how many of them, community-wise, have retired, or are on leave preparatory to retirement, and how many of them, community-wise, have been granted extensions ?

Sir Girja Shankar Bajpai : A statement giving the information asked for by the Honourable Member is laid on the table.

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

Statement.

Year.	Officers due to retire.				Officers who have retired or have proceeded on leave preparatory to retirement.				Officers granted extensions.			
	Hindus.	Muslims.	Domiciled Euro-peans or Anglo-Indians.	Domiciled Euro-peans.	Hindus.	Muslims.	Domiciled Euro-peans or Anglo-Indians.	Euro-peans.	Hindus.	Muslims.	Domiciled Euro-peans or Anglo-Indians.	Euro-peans.
1936 ..	1	1	Nil	Nil	Nil	Nil	Nil	Nil	1	1	Nil	Nil
1937 ..	4	2	1	2	1	1	2	2	3	1	1	1
1938 ..	5	2	1	Nil	1	2	1	Nil	4	Nil	Nil	Nil

ENFORCEMENT OF RULES REGARDING THE AGE OF RETIREMENT OF GOVERNMENT SERVANTS.

†1151. *Mr. Umar Aly Shah : (a) Will the Secretary for Education, Health and Lands please state whether it is a fact that in his address to the Legislature on the 21st September, 1936, His Excellency the Viceroy stated that the recommendations of the Sapru Committee on Unemployment were being considered and action was being taken on them ? Is it a fact that in paragraph 205 (page 110) the Sapru Committee recommended :

“ We are strongly of opinion that the rules regarding the age of retirement should also be rigorously enforced and that, in the larger interest of the country, and in view of the necessity of giving a fair chance to young men, no extension should be granted to any public servant after he has completed the 55th year of his age ”.

(b) Will Government please state why the above recommendation has not been observed in the Department of Education, Health and Lands ?

Sir Girja Shankar Bajpai : (a) *First part*.—What His Excellency stated was that Government were actively investigating the avenues opened up by the Report of the Sapru Committee and would leave nothing undone to devise methods of dealing with middle class unemployment.

Second part.—Yes.

(b) A copy of the orders issued as a result of the recommendation is laid on the table. These orders apply to, and are being followed by, the Department of Education, Health and Lands.

No. F. 6-(24)-R. II/38.

GOVERNMENT OF INDIA.

FINANCE DEPARTMENT.

Simla, the 20th May, 1938.

FROM

R. L. GUPTA, Esq., I.C.S.,

Under Secretary to the Government of India,

TO

ALL CHIEF COMMISSIONERS.

SUBJECT :—*Age of compulsory retirement in the case of ministerial Government servants.*

SIR,

I am directed to say that the Central Government have decided that ministerial Government servants should, like non-ministerial servants, be compulsorily retired on attaining the age of 55. These orders will, however, apply only to those persons under the rule-making control of the Governor General in Council :

- (1) who enter Government service on or after the 1st April, 1938, or
- (2) who being in Government service on the 31st March, 1938, did not hold a lien or a suspended lien on a permanent post on that date.

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

2. The necessary amendments to the Fundamental Rules will issue in due course.

I have the honour to be,
SIR,

Your most obedient servant,

R. L. GUPTA,

Under Secretary to the Government of India.

**APPOINTMENTS IN SHORT VACANCIES IN THE DEPARTMENT OF EDUCATION,
HEALTH AND LANDS.**

†1152. ***Mr. Umar Aly Shah** : Will the Secretary for Education, Health and Lands please state how many clerks and stenographers have been appointed, during the tenure of the present Assistant Secretaryship of his Department in short vacancies for less than three months, giving the community, period for which they have been in the Department and date of their appointment ? How many of them are Hindus and Sikhs, and how many Muslims ?

Sir Girja Shankar Bajpai : A statement giving the information asked for by the Honourable Member is laid on the table.

Statement referred to in the reply to starred question No. 1152, by Mr. Umar Aly Shah, showing the community, etc., of the clerks and stenographers appointed to vacancies of less than 3 months in the Department of Education, Health and Lands during the period from 25th March, 1937 to 18th August, 1938.

Total number of clerks or stenographers appointed.	Number of each community appointed.	Duration of appointment.	Date of appoint- ment.
(a) Clerks .. 11 ..	5 Hindus ..	1. 2 months and 15 days ..	19-4-37
		2. 1 month and 1 day ..	24-11-37
		3. 2 months and 14 days ..	3-2-38
		4. 2 months and 9 days ..	4-2-38
		5. From 18th August 1938 (still in service).	18-8-38
	3 Muslims ..	1. 15 days ..	3-4-37
		2. 2 months and 28 days ..	20-1-38
		3. 25 days ..	6-7-38
	1 Sikh ..	1. 11 days ..	11-6-37
	2 Christians	1. 11 days ..	7-4-37
		2. 15 days (resigned) ..	19-1-38
(b) Stenographers ..	1 Sikh ..	1. 1 month and 12 days ..	1-3-38

Out of the 12 clerks and stenographers mentioned above, 5 were Hindus, 3 Muslims, 2 Sikhs and 2 Christians.

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

WARDHA SCHEME OF EDUCATION.

1153. ***Maulvi Muhammad Abdul Ghani** : (a) Will the Secretary for Education, Health and Lands be pleased to state the authority which appointed the special sub-committee to examine the Wardha scheme of education ?

(b) Was the said sub-committee asked to consider the existing arrangement for the teaching of Muslim children through separate schools and also the facilities for their education through the medium of Urdu ?

(c) Do Government propose to consult the All-India Muslim League and consider its recommendation concerning the education of Muslim boys and girls in future before considering the report of the said sub-committee ? If not, why not ?

(d) Are Government aware that Mussalmans all over India are seriously protesting against the Wardha scheme of education as being fatal to their culture, civilisation and religion ?

Sir Girja Shankar Bajpai : (a) The sub-committee was appointed by the Central Advisory Board of Education.

(b) The sub-committee was not specifically asked to consider the matters referred to by the Honourable Member.

(c) Government cannot take any action until the Report of the sub-committee and the recommendations of the Central Advisory Board have been received by them.

(d) Press reports indicate that a section of Muslim opinion does not favour certain features of the scheme.

ABSENCE OF MUSLIMS IN THE SECRETARIAT OF THE INTERNATIONAL LABOUR OFFICE.

1154. ***Maulvi Muhammad Abdul Ghani** : (a) With reference to the answer to starred question No. 544 (b), put on the 29th August, 1938, will the Honourable the Law Member please state the reasons for the absence of Muslims from services in the Secretariat of the International Labour Office ?

(b) Is he prepared to draw the attention of the proper authority to consider the claims of the Indian Muslims when an occasion does arise in future ?

The Honourable Sir Manmatha Nath Mukerji : (a) Appointments in the Secretariat of the International Labour Office are made directly by the competent authority in that office, and are apparently based on the requirements of the office and not on considerations of religion.

(b) There is no reason to suppose that the claims of suitable Muhammadan candidates will not be considered and Government do not consider it necessary to take any action of the kind suggested by the Honourable Member.

RE-IMPOSITION OF IMPORT DUTY ON WHEAT.

1155. ***Sardar Mangal Singh** : Will the Honourable the Commerce Member please state whether Government have come to a decision regarding the imposition of wheat import duty ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir. The matter is still under examination.

NEWS IN THE *Hindustan Times* ABOUT HOLDING THE FOURTH ROUND TABLE CONFERENCE IN INDIA.

1156. ***Mr. Badri Dutt Pande** : With reference to the statement published in the *Hindustan Times* of the 6th September, 1938, under the caption "Fourth R. T. C. in Offing", will the Honourable the Leader of the House be pleased to state :

- (a) if there is any truth in the news that a fourth Round Table Conference is going to be held in Delhi ; if so, when ; and
- (b) whether the visit of the Under Secretary of State for India is in that connection, or otherwise ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I am not aware of any such proposal.

(b) I would invite the attention of the Honourable Member to the reply I gave today to Mr. Satyamurti's question No. 1124.

MR. IRWIN'S REPORT REGARDING THE ISTAMURARDARI AREA.

1157. ***Pandit Sri Krishna Dutta Paliwal** : Will the Secretary for Education, Health and Lands please state :

- (a) the date on which Mr. Irwin submitted his report regarding the Istamurardari area ; and
- (b) whether Government intend to publish his recommendations ?

Sir Girja Shankar Bajpai : (a) The Report was received by the Government of India on the 6th August, 1937, and by the Chief Commissioner, Ajmer-Merwara, on the 1st May, 1937.

(b) The Report was merely a preliminary one, and as further action on it is to be taken in the cold weather Government do not for the present intend to publish it.

FLOODS IN THE UNITED PROVINCES.

1158. ***Mr. Badri Dutt Pande** : (a) Will the Secretary for Education, Health and Lands be pleased to state whether he is aware of the fact that there have been unprecedented flood havoc in the United Provinces this year, and that a population well over twenty-five lakhs in a total area of over 7,000 square miles is directly affected, and that His Excellency the Governor and the Honourable the Premier of United Provinces, both have issued a joint appeal for relief funds ?

(b) Have the United Provinces Government made a request for a grant from the Indian People's Famine Trust Fund ?

(c) If so, what are the intentions of the Government of India on this serious affair ?

Sir Girja Shankar Bajpai : (a) Government have seen press reports about severe floods in parts of the United Provinces but have no exact information about the extent of the damage. They have also seen a press report about a joint appeal for funds issued by the Governor and the Honourable the Premier of the United Provinces.

(b) No.

(c) Does not arise.

Mr. Badri Dutt Pande : Considering the nature of the catastrophe that has befallen the United Provinces, is it the intention of the Government to give a liberal grant to the United Provinces out of the Indian Peoples Famine Trust Fund ?

Sir Girja Shankar Bajpai : That Fund is not under the control of Government but I have no doubt that the managing committee will give due consideration to any representation which may be received from the Government of the United Provinces.

Mr. Badri Dutt Pande : Has any meeting of this committee been held recently or is there any meeting to be held to discuss this question of relief to the United Provinces and Assam ?

Sir Girja Shankar Bajpai : I limit myself to the United Provinces. As far as I know the Government of the United Provinces have not yet asked the Government of India for the preliminary notification without which the Indian Peoples Famine Trust Fund cannot consider any proposal from a Local Government.

Mr. M. S. Aney : Apart from the Indian Peoples Famine Trust Fund, do the Government of India propose to make any grant out of their own revenues to the people and the Government of the United Provinces to help them in overcoming the distress ?

Sir Girja Shankar Bajpai : Not so far as I am aware.

Mr. S. Satyamurti : Apart from temporary help in times of distress caused by floods like this, have Government considered or will they consider a proposal to treat this whole question of floods in the United Provinces, and with your permission, I would also add Bihar and Bengal, in a scientific way and on an all-India basis, and to the extent to which human ingenuity can secure it to prevent the recurrence of these floods, which bring so much damage to the poorest in the land ?

Sir Girja Shankar Bajpai : As my Honourable friend is probably aware questions on the general point of policy have been addressed to and answered by the Honourable Member for Labour who deals with this matter. I cannot answer that question.

Mr. S. Satyamurti : Will the Honourable Member infuse some spirit of co-ordination in the Government of India and see that his Department and the other Departments concerned put their brains together and evolve some kind of scheme to lessen this distress which happens year after year to millions of the poorest in this country.

Sir Girja Shankar Bajpai : I may inform my Honourable friend that the initiative in this matter rests with the Department of Labour. If our assistance is sought for, it will certainly be furnished.

THE PREVENTION OF CRUELTY TO ANIMALS (AMENDMENT) BILL.

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

“ That the Bill to amend the law relating to the prevention of cruelty to animals, as reported by the Select Committee, be taken into consideration.”

Sir, very few introductory remarks, I think, are necessary at this stage. The House has already discussed the general scope of the Bill on the motion for circulation at the last Session and the Report of the Select Committee introduces no notable changes of principle into the scope of the measure which was then before the House. As I remarked when I moved the motion for reference to a Select Committee, the House was mainly anxious that this measure should be passed into law as early as possible because there was a feeling in particular that the law relating to the offence of *phooka* was in need of early reinforcement. The programme which we then set before ourselves has been adhered to with the assistance of the Select Committee and the measure is now before the House in its final stage. But as the House is aware very little time remains during this Session for a long discussion of the measure and I think I can best help the passage of the Bill by making my remarks as brief as possible ; and I hope that other Honourable Members who have occasion to speak on the Bill will follow the same example in order that, if possible, the consideration of the measure in this House may be completed within a short time.

As I said, the Bill as reported by the Select Committee shows no great changes of principle but a considerable number of changes of detail. These changes of detail can more conveniently be discussed when the Bill is considered clause by clause. The House will observe from the minutes of dissent that opinion on some of these changes was by no means unanimous and I shall have to ask for the verdict of the whole House on some of the alterations in the original measure which have resulted from the consideration of the Select Committee. For the present I need only allude to one or two points which have attracted special attention. The main interest of this measure perhaps has been centred on the question of how best to deal with the practice of *phooka* and the Select Committee have, after consideration of the measure, introduced several new elements which will assist in dealing with this practice. I may briefly draw the attention of the House to those particular changes.

In the first place, clause 2 of the Bill has been altered to include a definition of the practice of *phooka* or *doom dev*, in response to some of the opinions which were received in the course of circulation. That certainly was a very necessary improvement in the Bill. Then, further, the main section 4 dealing with *phooka*, which appears in clause 5 of the Bill, has been strengthened in several ways. While the fine proposed in the original measure, that is Rs. 500, has been retained unchanged, the maximum period of imprisonment for the offence, has been enlarged to two years instead of six months as proposed in the original measure and an additional provision has been added that the animal on which the operation was performed shall be forfeited to Government. Further provision has been made for

a slight enhancement of punishment in the event of a second or subsequent conviction for this offence, that is to say, while the punishment for the first offence is fine or imprisonment in the alternative, by virtue of the proviso now added, on a second or subsequent conviction, there is no option to the court and the sentence must be fine *and* imprisonment : the word 'and' in the proviso is important. Further, provision has also been made that some portion of the fine shall, at the discretion of the court, be given to the person who has given information leading to the conviction of an offence of *phooka*. Then, again, in clause 7 of the Bill the provision which imposes responsibility on the owner or other person in possession or control of an animal has been somewhat strengthened in regard to an offence under section 4, that is the offence of *phooka*. It is now proposed in the draft Bill that the burden should lie on the owner to prove that he has exercised reasonable supervision over the animals under his control to prevent this practice from being employed.

Another new provision has been inserted by the Select Committee which now appears in clause 9 of the Bill. This is an entirely new subsection added to section 7A of the Act and it confers certain powers of entry and seizure for the purpose of veterinary examination in cases where the practice of *phooka* is suspected. Another new section has been added as section 13 of the Act by clause 13 of the Bill and this makes the offence under section 4 a cognizable offence. Further, in the new section 15 to be inserted by clause 13 of the Bill, the rule-making power given to the Provincial Government under section 15 (2) (g) has been enlarged in response to several suggestions received among the opinions obtained after circulation by which certain conditions as regards the boundary walls at places where milch animals are kept can be prescribed by Provincial Governments. This is in order to facilitate observation and prevent the practice of *phooka* from being concealed, and it is also provided that copies of section 4 of the Act relating to *phooka* shall be exposed in premises where these animals are kept in a local language. Finally, since it is desirable that wherever any portion of the Act was brought into force by the Provincial Government, the provisions relating to *phooka* should, in all cases, be universally applicable, clause 12 of the Bill, which deals with section 12 of the Act, has been enlarged so as to include the various provisions which penalize *phooka* or provide powers for its detection. Those particular sections of the Act will be in force wherever any portion of the Act is put into operation by the Provincial Government.

The second matter which has attracted some attention and was the subject of a question in this House recently is that of animal sacrifice. There was some question as to how this had best be dealt with. Under the existing Act, section 11 says :

“Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.”

This section is by section 12 of the original Act extended to every local area in which any section of this Act is in force for the time being. The change proposed by the Bill, which has been adhered to by the Select Committee, removes the mention of section 11 from section 12 of the Act, and the effect is that the provision—that is, section 11 of the Act, making animal sacrifices in certain conditions no offence—that section will not be

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in force unless the Provincial Government decide to apply it in any local area under the powers given by section 1 of the Act, which stands unchanged.

The third point which I might mention here is that clause 2 of the Bill as originally introduced—which amplified the definition of animal—has been omitted by the Select Committee. The comments received in the course of circulation have revealed that this attempt to amplify the definition is liable to certain pitfalls. One commentator wished that the word “bird” should be amplified by adding the words “including cock or hen whether captured or domesticated”. Another commentator remarked that the word “animal” which occurs in the old section may not zoologically include birds, as birds have no teeth and no horizontal vertebrae”. The commentator was evidently not familiar with the “duck billed platypus”. Another commentator suggested the addition of the words “or fish”. That immediately led somebody else to suggest that “reptiles” should also be added, and, therefore, it began to be evident that unless a complete catalogue of all animals was included in the Act, the specific inclusion of any particular kind of animal might possibly lead to the inference that all other animals were excluded from the Act; and on the whole it appeared better to the Select Committee to rely on the courts, in spite of certain adverse experience, to apply the dictionary meaning of animal, which properly includes all organized beings endowed with life, sensation and motion, and in fact all organized beings as distinguished from the vegetable and the mineral world.

Finally, I would only bring it to the notice of the House that the whole of the Act, as it would now stand amended after the passage of this Bill, would still be governed by section 1 of the original Act, which leaves it to the Provincial Government to extend the whole or any part of the rest of this Act to any such local area as it thinks fit. Hence, it will always be open to the Provincial Governments to extend all or any of the provisions of this Bill to the areas where they think that these measures can be successfully operated, or where any degree of special control is necessary. It is, therefore, no real argument against any of the clauses of this Bill to say that, in certain circumstances or areas, they may possibly be inapplicable, or there may be no means of enforcing them, or they may cause some degree of hardship or interfere with local customs; because we can rely on Provincial Governments to take those circumstances into account in using their powers under section 1, and I hope, therefore, that the House will accept this as one good reason for not unduly limiting the provisions of this Bill. Sir, I move.

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

“That the Bill to amend the law relating to the prevention of cruelty to animals, as reported by the Select Committee, be taken into consideration.”

Mr. C. C. Miller (Bengal: European): Sir, subject to the minute of dissent which I have signed the European Group accords its full support to the humane objects of this Bill. Cruelty to animals in India seems to fall into three main categories,—first, and fortunately entirely by itself, comes those abominable animal sacrifices which take place from

time to time in Southern India. I will not distress the House by any detailing of these practices except to say that they involve keeping the beasts in unspeakable torture before crowds of spectators, alive for days on end, and apart from the extreme brutality of these rites, there is to be considered the considerable brutalizing effect on the spectators. In the next category comes what I think might be called commercial cruelty, which is often to be seen, particularly in our great cities where birds and beasts—and I would emphasize that the term “animal” includes every sentient thing except the human being—are often exposed for sale or for exhibition in insanitary and over-crowded cages and are left for long periods on end without food or water. Under the head of commercial cruelty comes also the offence of *phooka* to which so much attention has been paid in this Bill. And last of all comes cruelty from neglect or ignorance. This, of course, is still the most common of all forms of cruelty though, I venture to think, it is not quite so common as it was in days gone by and that there is a certain increase of humane feelings towards animals among the people of India. One hopes that the lesson is being inculcated into the young in schools because it is not only a moral but also an economical lesson, since a beast if well-kept and well-fed will render better and more durable service than a beast which is ill-kept and half-starved. After all, the domestic animals, such as, the buffalo, the ox, and so forth, are the helpers of man and, and like man, are sentient to pain and privation. Only they cannot say so because they lack the gift which man possesses, but sometimes abuses, the gift of human speech. Sir, we support the Bill.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I must begin by congratulating the Government of India for, after all, grappling with this question of the extreme importance with respect to *phooka*. I had thought that this evil, which has been in existence for a long time, should have been taken notice of and remedied by the Provincial Governments. I know that this *phooka* practice is most prevalent in Bengal and in some other provinces it is not even known. In our Sind province, for instance, this practice does not exist at all. I am glad to see that this evil was not allowed to extend to some other provinces before the Government of India took the courage to have this Bill brought up. Sir, many words are not necessary to describe and define what *phooka* is. It is an extreme brutality against milch cows and buffaloes. When they are milched to an excessive limit by means of cruelty, that cruelty, I think, is such that it should be stopped at once. I am, therefore, very glad to see that a provision is made in the Bill which, I should think, is mainly intended to stop *phooka*. I know that in some provinces cruelty to animals has been provided for by statutory laws, but this *phooka* evil was not provided for at all. So many associations and societies of people have come into existence in India to provide protection against cruelty to animals, but those societies were unable to put down this cruelty unless and until the Legislature helped them in coming to their relief by enacting provisions of law to have those persons punished who were doing cruelty to animals. Sir, it is our prime duty to protect animals because, as my learned friend who spoke last said, rightly that they have got no power of speech. I submit, therefore, that this provision which is now contained in clause 5 of the Bill is very salutary. I fully agree with the whole clause. It

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might be said that this clause provides a stricter penalty for stopping this *phooka*. But I am in full agreement with the members of the Select Committee who have changed the punishment from six months to two years. They have, of course, provided fine also for punishment and there I agree with them. But to say that the punishment should be lenient will be more or less to abet or aid this mischief of *phooka*. I am, therefore, in full agreement with the wordings of clause 5 and also the punishment provided for therein.

Sir, my learned friend, the Home Member, wants that this Bill should be passed through this House speedily. I will not, therefore, waste the time of the House but would like to make a few more suggestions in order to make this Bill a complete one so that it may become workable. I have already said that there are several associations in all parts of India and in different provinces where they are called the associations for the prevention of cruelty to animals. I think much of the powers for bringing to book persons who perpetrate these cruelties on animals should be given to those societies. While going through the Bill, I found that powers are still left in the hands of the police in order to come to the rescue of the animals. I do not grudge these powers being given to the police, but from our experience we know that these policemen are harassing people. Supposing they find that there is a camel or a donkey carrying load. Now, at that moment it will be left to the discretion and the decision and the judgment of a mere constable to decide correctly or to harass that man by saying that his load was too much. It is not going to be put in a scale there and then. However, I find that that power is given to a police officer above the grade of a constable. But I would like to put a specific question to the Honourable the Home Member with regard to clause 11. Clause 11 says :

“ Any police officer above the rank of a constable who finds any animal diseased, or so severely injured, or in such a physical condition that it cannot, in his opinion, be removed without cruelty, may, if the owner is absent or refuses to consent to the destruction of the animal, forthwith summon the Veterinary Officer for inspection
.....”

This is a very good provision, but from the point of view of the fact that these police officers and constables are harassing the public, I would like to know whether the word ‘ constable ’ also includes the ‘ head constable ’ or not. That is what I want to know from the Honourable the Home Member because I find that these head constables also rise from the ranks of constables and their mentality is that of harassment, corruption and bribery. I would, therefore, submit that this point should be made clear at least in the speech of the Honourable the Home Member. I want to be clear on the point that the word ‘ constable ’ does really include a head constable. After all, a head constable or a senior constable is the same thing and is included in the word constable. Because I also find that a distinction has been made between a constable and an Inspector in clause 9. There we find that the power has been given to the sub-inspector. I, therefore, would like the Honourable the Home Member to make this clear. An amendment should also be introduced so as to make ‘ constable ’ include ‘ head constable ’.

I now come to the question of burden of proof. Under clause 7 the burden would be upon the owner to prove that he has exercised reason-

able care and supervision with a view to the prevention of the offence. I am always against any provision being enacted against the fundamental principles of law. The burden of proof should be placed on the man who wants to get an accused convicted. From that point of view also this provision requires modification.

I now come to clauses 13 and 14. An offence under clause 4 of this Bill has been made a cognizable offence. Clause 14 says :

“ Any person authorised by the Provincial Government in this behalf who has reason to believe that an offence against this Act has been or is being committed in respect of any animal, if in his opinion the circumstances so require, seize the animal and produce the same for examination by the nearest magistrate.....”

I say, Sir, very wide powers have been given to Provincial Governments and they will appoint people to help the prosecution and also to bring the offenders before the Magistrate. I do not see why simultaneously powers of the police should remain. I am against clause 13. I have received certain communications from Associations engaged in prevention of cruelty to animals and they are also of the opinion that by experience they can say that the police constables are harassing people on one pretext or other.

I now come to the clause which I consider very important for which I have sent some amendments. That is clause 3. This places unnecessary burden upon people who own animals. This clause says :

“ If any person overdrives, beats or otherwise treats any animal so as to subject it to unnecessary pain or suffering.”

Sir, every one knows that an animal requires a little beating in order to do work. My Honourable friend from this side who just now spoke said that he had seen animals being treated excessively brutally. That act must of course be punished. I cannot agree to the wording ‘ beats ’. I hope the House will bear with me when I dilate a little on this clause.

Mr. President (The Honourable Sir Abdur Rahim) : The detailed provisions of this clause are not now under discussion.

Mr. Lalchand Navalrai : I have an amendment to this clause.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member will have another opportunity to deal with the clause when he moves his amendment.

Mr. Lalchand Navalrai : I would simply say that unless an injury is caused to an animal how is it possible to find out whether there is unnecessary pain or suffering to it. I submit that it will be very difficult to determine under this clause whether an animal has been beaten so as to subject it to unnecessary pain or suffering. That will be known and felt only when it is injured. I am glad that this Bill has been brought before this House. I am sure it will be of great use but clause 3 (a) requires to be amended.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I rise to support this Bill as it has emerged from the Select Committee. I wish to say that there are a certain number of things over which large numbers of people in this country feel strongly. Cock-fight, ram fight and bull fight—all these are enacted simply for the vicarious pleasure of human beings. Apart from the enjoyment that these fights provide for

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some people who like to go and see these fights, it is a fact that once a week and sometimes oftener almost in every town in India these fights are organised with a view to inducing workers to rally to these places, gamble there and get drunk and thus waste their hard earned money. A large portion of their earnings is wasted in gambling that prevails on such a large scale under the very nose of the police at these places of gambling. It is a well known fact that these fights cause cruelty and injury to the animals that take part in these fights. It is no use saying that we can allow these fights to go on as they do not involve any bloodshed. Invariably these fights end in bloodshed and cruelty to the animals and in their train these fights also bring misery to thousands of homes of workers who unfortunately get into the habit of drinking and also gambling at these places. Therefore, the sooner we put an end to these fights, the better it will be, not only for the poor animals, but also for the workers. I am also anxious to prevent cruelty to the animals. At the same time, I do not want this effort to result in greater cruelty to human beings. It is a well known fact that in very many places, like Delhi and Lucknow, the police have taken advantage of this Act and they are harassing the workers, the *tongawallas*, etc., and take bribes from these people and thus cause any amount of inconvenience and annoyance to these workers and their families. It is a fact that, only last year, the *tongawallas* of Delhi had to go on strike because of this oppression perpetrated by the police and also by some officers of the organisations which are brought into existence for the prevention of cruelty to animals. Today a strike is going on in Lucknow in order to prevent this mischief of the police. It is for this reason that I am anxious that we should try and pass such a Bill that will not unnecessarily give too much room for the police to create trouble and cause annoyance to the *ekkawallas* and *jutkawallas* and all those who have to eke out their living by plying these vehicles, and, therefore, I hope the House will assist us in trying to make this Bill really prevent cruelty to animals, while, at the same time, protecting the keepers of these animals from being exploited by the police.

There is one other fact to which I would like to allude, and it is this : there are so few veterinary hospitals and so few veterinary assistants and officers in this country. In this report on the development of cattle and dairy industries of India, Mr. Normal Wright gives the number of cattle for every veterinary assistant. It is true, in the North-West Frontier, there is one officer for every 29,000 cattle ; but, in the Punjab, there is only one for 36,000 ; in Bombay, one assistant for every 65,000 cattle ; in Bengal, one for every 135,000 animals, and, in Bihar, one for every 142,000 animals. Therefore, it is not quite so easy to find a veterinary officer ready at hand to whom appeal can be made by the police or by the magistrate to find out whether a particular animal is in a fit condition to be destroyed or to be cured in an infirmary and sent away. Therefore, it is wrong on principle, under the present circumstances, to give so much power to the police even to seize any animal found in any particular place under any circumstances and then demand that that animal should be taken to the nearest veterinary hospital or officer in order to be examined to see whether it should be destroyed or allowed

to be cured in an infirmary ; because there are so few veterinary officers and hospitals that it is practically impossible for an ordinary *kisan* who finds himself in a town and gets himself unfortunately into the clutches of a policeman within that day to approach the nearest veterinary assistant and get his animal examined and thus get out of the clutches of the police. Therefore, I cannot really be so very hopeful about the effects of this proposed section 14 of this Bill : but since some safeguards are provided there that the animal should be taken to the nearest magistrate or to the nearest veterinary officer, I thought we might as well leave it where it was. Even then my apprehension stands that our *kisans* and *jutkawallas* run the risk—and it is a very great risk—of being harassed by the police ; and, Sir, we know the sort of police we have in this country. Even though responsible Ministers have come into power in the various provinces, still they run the risk of being harassed by the police, and I would ask the House to realise what risk our ordinary folk, who are in charge of animals, run when they go to the towns with their bullock carts or *ekkas* or *jutkas* and get themselves into the clutches of the police.

I am in favour of encouraging these *pinjrapoles* and the right sort of S. P. C. A.'s also, but I would be failing in my duty if I did not state on the floor of this House that there is a great discontent prevailing in various towns in this country among these poor *ekkawallas* and even *kisans* as to the arbitrary manner in which some officers of the S. P. C. A. go about their duty and cause so much of unnecessary harassment to these poor people. We must not forget the fact, in our anxiety, to prevent cruelty to animals, that these keepers of the animals are much less fortunate than these animals themselves. Most of these people are very poor and their only capital lies in the horse or bullock or buffalo that they possess ; and if the fines were to be so heavy as to make it impossible for these people to ply their trade after paying those fines, then we will be inflicting a greater cruelty on these poor people than the cruelty that we will be minimising by trying to impose these heavy fines. We should restrict these things as far as possible ; but I find from the amendment, that are given notice of here, that some of the Government Members and some Nominated Members are anxious again to pitchfork these fines and making them really beyond the reach of these workers and these poor people. We are also anxious that the punishment should not be too high ; and that is why we provide for the first offence that there should be only a fine and not imprisonment. But I find from one amendment given notice of by my Honourable friend, Dr. Dalal, that he wants both fine and imprisonment. I can only say that they want to inflict more cruelty upon human beings than upon animals. I can very well understand that, because they keep such huge well-fed dogs in their kennels and in their homes, on the maintenance of which they spend very much more than they would care to spend upon their servants, not to speak of giving any sort of subscriptions to any philanthropic associations, but this House does not consist of such people alone. Therefore, I appeal to the conscience of my Honourable friends that they should try their best not to inflict too heavy a penalty and not to make it impossible for these poor folk to ply their trade by making it necessary for them to pay fine as well as to go to jail even for the first offence. Sir, I support the Bill.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I rise to support this motion most whole-heartedly. I am glad that the Honourable the Home Member has kept his promise of bringing forward this Bill in this Session and having it passed also in this Session. I also take the opportunity of thanking the Select Committee, of which I was also a member, and especially my Honourable friend, Mr. Govind Deshmukh, as distinct from Dr. Deshmukh—because, I find that whenever Mr. Govind Deshmukh makes speeches, the papers give out that Dr. Deshmukh has made those speeches and print the latter's photographs.....

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : He suffers from the disadvantage of having a very distinguished brother !

Babu Baijnath Bajoria : Sir, I would like to mention at this stage only a few of the important provisions of which I think the House should be made known. The first thing I am against is the provision about the destruction of animals. I am one of those who follow the principle of *ahimsa—ahimsa paramo dharmah*—and I cannot be a party to the destruction of any animal ; a life which we cannot make, is a life which we cannot take.

Sir, this provision in the previous Act was only restricted to Magistrates, Commissioner of Police or the District Superintendent of Police, as provided in section 10. Even in the Bengal Act, in section 25, it gives power to these important officers and also in some cases to the Magistrates, but it expressly says that provided that no order directing destruction shall be made in respect of any bull, bullock or cow which is unfit for work by reason only of its old age. In my opinion, this power of destruction should be deleted from this Bill, and if the House is not agreeable to it and if it does not want to go so far, I would strongly press that no order of destruction should be made in regard to cows, bulls or bullocks or calves. Sir, there are more reasons than one for my asking for this restriction of the destruction order, because, in the case of a cow or bullock, apart from the question of strong resentment which it will cause among Hindus by passing any order for destroying these animals, it is also likely to cause a serious breach of the peace. I would not name the person, but I know that when a very high personage, the greatest leader of India, had a calf injected by which it died, there was a huge hue and cry throughout the country. I would, therefore, appeal to the House to consider this matter seriously.

I want to point out another thing, Sir. I had been to Ranchi a few years ago, and there I found to my astonishment that cows were used for tilling purposes. That, Sir, in my opinion, is a great cruelty to cows. I understand such a practice exists in some other parts of India also, though it is not very general, but it should be distinctly put a stop to. Cows are not meant for tilling purposes, and so there must be some provision for preventing cows and she-buffaloes being used for tilling the land.

Then, I come to the question of *phooka*. Sir, I have devoted a lot of attention to this question, and I am closely connected with the Anti-*Phooka* Association, and I take this opportunity of acknowledging the great service which this association has rendered in rousing the public

consciousness in this matter. They sent their preachers to all parts of the country, they had meetings held in several parts of India, and all this was done to rouse the Government also to bring forward a Bill without delay. While on this subject, I should like to tell the House what the practice in Calcutta is. Sir, I hang my head in shame when I have to relate the practice which obtains among the *gowallas* in Calcutta. They are both Hindu *gowallas* and Muslim *gowallas*, and what they do is this. When the cow gets a calf, they throw away the calf immediately. The calf is deprived of the pleasure of sucking its mother's milk even once, and the poor calf lies exposed to thirst and starvation and such calves are being sold at six annas each. I have myself bought hundreds of them and sent them to *Pinjrapol*. What do the *gowallas* do after disposing of the calves in this manner? They make a dummy calf, a skeleton calf and puff it up with straw and hay, and they use the dummy calf when milking the animal. At the same time they use this *phooka* process, and it is so ignoble that I hesitate to describe it to the House, because most of our friends know what it is, and the pain caused to the animal by that process is so excruciating that its eyes bulge out, the animal practically screams all the time with pain,—and all this is resorted to only for the sake of getting an extra pound or half a pound of milk which the animal withholds owing to her natural motherly instinct, to give it to the calf. It is also found, on examination, that in several cases this *phooka*-extracted milk has drops of blood in it, and such milk is sent out for human consumption. Sir, it is most disgraceful, and then after eight months milking, the *gowallas* sell the poor animal to a butcher. There is one reason for selling the animals to butchers, because of the high cost of sending the animals to places where they will become pregnant again. I am aware at the instance of His Excellency the Viceroy, recently, a reduction in railway freight has been made for dry cows, but, unfortunately, the reduction has been made in such a way that the *gowallas* cannot take advantage of the reduction in freights. The reduction of freight allowed works in this manner. A return ticket is given for 12 months' duration, and so the cows which are sent usually from the Punjab have to be sent back again a thousand miles back from Calcutta, which is not practicable. If there is a general reduction in freight for dry cows, then it may be possible to send these animals to places nearer to Calcutta like Muzaffarpore in Bihar or to places in the Central Provinces and then the *gowallas* and the public will be able to take advantage of the reduction in freight. I know, Sir, this is somewhat irrelevant to the question before the House, but I wish to draw the attention of the Honourable the Home Member because it is a very important question. Again, in certain cases it has come to my notice that cows and buffaloes are flayed alive for purposes of hides. Sir, it is a terrible thing. In my view I am afraid this is not sufficiently covered by section 5 of this Act. I am not a lawyer, but if it is not covered by this section, I would appeal to the House to make proper amendments for the prohibition of this form of cruelty also.

I am glad that so far as the *Phooka* evil is concerned, the penalty has been increased and it has been brought in line with the Bengal Cruelty to Animals Act as modified recently. I am glad that our Ministry in Bengal, though it is a Muslim Ministry predominantly, has been the first to come forward to amend the Act so as to do away with this evil. We have also made a similar provision as in the Bengal Act for making *phooka* an offence, and have given power to enter the premises where *phooka* is

[Babu Baijnath Bajoria.]

being practised and also to seize the animal when it is suspected that *phooka* is being practised on it. I am sorry my friend, Prof. Ranga, has taken objection to proposed section 14. Section 14 which gives power to seize an animal which has been subjected to cruelty is absolutely essential. I have not in mind the *tongawallas* and hackney carriagewallas, I have in mind the case of *phooka*. If this power of seizure is not given, it will not be possible to bring the culprit to book. *Phooka* detection is much more difficult than punishment, and unless and until the police officer supported by the public is not given facilities in this connection, the mere passing of this measure will not be of much use. We have left the question about the boundary walls of *khatahs* where these *gowallas* keep their cows and where they perform this *phooka*, to be regulated by the Provincial Government. We know that this *phooka* is performed more in cities than in rural areas. My Honourable friend, Prof. Ranga, has got it in his head that this Bill will become immediately applicable to areas, urban and rural. I think that the Provincial Government will think doubly before they apply any provisions of this Act in any rural area, because there are numerous difficulties in the way.

Prof. N. G. Ranga : But the rural folk go to towns and then they get themselves caught.

Babu Baijnath Bajoria : The point is this. In rural areas there are no infirmaries, no veterinary hospitals, no *pinjrapoles*, where an animal that is suffering from any disease or has been ill-treated can be sent. So, the fear that my Honourable friend, Prof. Ranga, has is absolutely unfounded. I am glad that the Select Committee has made clause 11 of the Bill optional, instead of compulsory as it was. This relates to religious sacrifices. I am also a religious man, but in our parts, even in Bengal, though sacrifices are made, especially, of goats,—I have got no intention of wounding the feelings of those who perform such sacrifices, but still in Madras, I believe that these sacrifices are made in a most cruel and most inhuman manner. I do not know of any religious enactment under which such practices are tolerated, and now it will be up to the Provincial Governments to see that this practice is checked. Lastly, I come now to clause 16 of the Bill as it was in the original Bill, I mean, the indemnity clause. That clause is absolutely essential. Without this clause the whole working of this Bill will be seriously hampered and I hope the House will agree with me that the clause should be restored. A similar clause is provided in our Bengal Act also. With these few words, I heartily support this motion.

Maulvi Muhammad Abdul Ghani (Tirhut Division : Muhammadan) : The Bill, instead of securing remedy for *phooka* has gone beyond its scope. There are provisions which are too vague and power is going to be given to persons to be authorised by the Provincial Governments. There is every danger of misuse of the power. Even under the present Act powers given to certain associations and to police officers have been very much misused. If you will refer to the opinions, you will find that the Ajmere Tongas Association says that the conferment of that power is seriously objected to. On account of the abuse of powers by the police and the S. P. C. A. officers, many of the communities known as *Khatiks* who used to take work from donkeys have left the town of Ajmer on account of the oppressions. Instead of

seeking a remedy for certain serious offences the Bill has made several omissions. For instance, there is a crime which is committed by thrusting a sharp rod into the private part of pigs and taking it out through the mouth. Such a crime should have been provided against here. Instead of doing so, power has been recklessly given to persons who do not know how to use it. You know that in these days *Begari* is condemned on all hands, but this Bill opens the door to *Begari*. If you refer to clause 14, you will find that power is going to be given to persons to be authorised by Provincial Governments, so that they can, when they have even reason to believe that a certain offence under this Act has been or is going to be committed, take action. If, for example, a Headman or a Chowdhry is an authorised person, he will ask the *kisans* to plough his field so much, and if the poor *kisan* does not obey him, he will take note of this and on some other occasion he will take revenge upon the *kisan*. I am thankful that Mrs. Subbarayan has written a note of dissent on this point. I hope that this clause will be omitted as being unnecessary when the time comes. In this clause there is one peculiar thing. It reads like this : 'and such police officers or authorised persons' but there is no mention whatsoever of any police officer in the former part of the clause, I cannot say whence this word 'such police officer' has come here. If you will refer to 3 (b), you will find there the words 'binds, keeps, carries'. The keepers of animals are the *charwahas* ; those poor fellows have nothing to do with the animal. They do not know whether the animal suffers from pain or is thirsty. He takes the animal for grazing purposes from owners and takes them to fields. Now the person authorised sends some one and he takes action. The poor *charwaha* is put into trouble for no just cause. One thing more. In this Bill, the words 'police officer above the rank of constable' have been used. This clearly means and includes the head constable about whom my friend, Mr. Navalrai, has spoken. The head constables are nothing but constables and these persons are fond of taking *Begaries* and it is very difficult for them to shake off the habit. If a head constable requires something and that something is refused, then he will take action in revenge and the innocent persons will be put to trouble for no just cause. We have tabled certain amendments and when the time comes we will discuss them seriatim and I hope the Honourable the Home Member will help us. His object is only to find a remedy for *phooka* and not to practise *phooka* on human beings. With these words, I resume my seat.

Several Honourable Members : I move that the question be now put.

Mr. President (The Honourable Sir Abdur Rahim) : The question is that the question be now put.

The motion was adopted.

The Honourable Mr. R. M. Maxwell : Sir, I think the House has on the whole given a favourable reception to this motion and I do not propose to deal with matters affecting individual clauses, particularly those in regard to which amendments will shortly come before the House. I shall deal with one particular question raised by my Honourable friend, Mr. Lalchand Navalrai, and that is whether in clause 11, the words 'above the rank of a constable' should be understood to include

[Mr. R. M. Maxwell.]

or exclude a head constable. The phrase 'above the rank of a constable' should be understood to mean every officer from the rank of a head constable upwards and on that point I would remind the House that in the corresponding provision of the Bengal Cruelty to Animals Act, 1920, any police officer is empowered to take the action proposed and in this case the phrase was adopted from that Act. For the last 18 years, any police officer in Bengal has been able to take this action and therefore no great apprehension need be entertained about this clause in the Bill. As regards certain observations which were made by my Honourable friend, Prof. Ranga, I would ask the House to consider the clauses of this Bill on their merits and without any particular prejudices as regards police officers or otherwise, because if this House is to consider every penal enactment on the three assumptions, firstly that no police officer is ever to be trusted, secondly, that no magistrate has any discretion and thirdly that nothing is an offence that is committed by a poor person, then the scope of our useful legislation is extremely limited. I need not make any other observations at this stage.

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

"That the Bill to amend the law relating to the prevention of cruelty to animals, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

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

"That clause 3 stand part of the Bill."

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

"That in clause 3 of the Bill, in part (a) of the proposed section 3, for the word 'unnecessary' the word 'excessive' be substituted."

So far as the animal is concerned no pain is necessary and so far as ethical ideals are concerned, no pain ought to be necessary and so far as the person who causes pain to the animal is concerned, he may think that the pain inflicted is necessary for his purpose. The word 'unnecessary' is also not accurately defined. So, I have substituted the word 'excessive'. I hope the House will accept the amendment.

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

"That in clause 3 of the Bill, in part (a) of the proposed section 3, for the word 'unnecessary' the word 'excessive' be substituted."

The Honourable Mr. R. M. Maxwell : I am afraid I must oppose this amendment. The phrase "unnecessary suffering" was adopted by the Select Committee from the English Protection of Animals Act, 1911, where the criterion of causing unnecessary suffering was adopted in order to define what offences came within the scope of the Act. The term "excessive" is a purely relative term and sets up no fixed standard or criterion by which the courts will be able to judge whether an

offence has taken place or not. It also implies that a certain amount of unnecessary cruelty is permissible unless it is excessive, a proposition which I feel it difficult to accept. On the other hand the word "unnecessary" which we have adopted implies a certain amount of callousness on the part of the person responsible and that kind of callousness is the thing which we wish to penalise. Moreover, the necessity of a certain amount of suffering is a thing which can be judged by the court with reference to facts capable of being proved, that is, facts outside the action itself. A person can prove the necessity with reference to the actual facts on which the court can judge and therefore I prefer the term "unnecessary" to the word "excessive".

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : I

1 P.M.

would like the Government and the House to consider this amendment in a sympathetic spirit. My Honourable friend, the Home Member, quoted his Bible, namely, the English Act. I do suggest that cannot be a very valid argument. He must support it on certain convincing arguments. He has tried to put forward some arguments, and I shall try to meet them. So far as 'unnecessary' is concerned, I should like the House to consider what is the criterion or what are the criteria by which the court, which will obviously have to judge this, will come to a conclusion as to whether a certain pain or suffering is necessary or otherwise. I would request the House to look at the words of the clause :

"If a person overdrives, beats or otherwise treats any animal so as to subject it to unnecessary pain or suffering."

Many people who drive carts drawn by bulls or horses or ponies always feel the exhilaration of driving as fast as they can. They use various kinds of whips in my part of the country, sometimes sharpened with a piece of iron at the end, so sharp that it sometimes causes bleeding ; and supposing a man says, "I was going to court or to the death-bed of a relation or friend and it was necessary for me to make the animals run at a particular pace", will it be 'necessary' or 'unnecessary' ? Secondly my point is that the Honourable the Home Member said that a certain amount of unnecessary suffering, if it is not excessive, may be permitted if this amendment were carried. I join issue with him on that. The whole point is that you must not cause excessive pain or suffering to the animal. Then alone the offence is committed. The pain or suffering which will be permitted under the clause as it stands as being necessary is likely to be much more than the pain or suffering which may be exempted by a court of law on the ground that it is not excessive. The House has to make up its mind between 'unnecessary' and 'excessive'. I appeal to my colleagues to consider—which is more likely to protect animals from excessive suffering ? In either case, the Home Member will concede and the House will concede that a certain amount of pain and suffering is exempted from the scope of this Bill. When you use the words 'unnecessary' or 'excessive', in one case 'unnecessary pain or suffering' is exempted, and in the other case any un-excessive pain or suffering is exempted the simple issue is—which is likely to protect the animal more effectively ? I submit 'excessive' is a better word and does not exempt and cannot possibly exempt more pain or suffering than the word 'unnecessary'. We feel

[Mr. S. Satyamurti.]

that the word 'excessive' will protect animals from more pain or suffering, than the word 'unnecessary' can do. Now, we have got to rely on the judgment of the courts in a matter of this kind. When the word 'unnecessary' is introduced, the element of judgment of the individual who is prosecuted will also come into the scope of the inquiry. I put it to the House that 'unnecessary' cannot be a matter to be decided entirely diverted from the needs of the man who acutally drove the animals; whereas 'excessive' will be a matter the sole standard of which will have to be judged by the judge or the magistrate who tries the case. It seems to me, therefore, that from the point of view of these animals, it is much better if the House accepts the word 'excessive', which protects animals much more adequately than the word 'unnecessary', which is vague, ambiguous, and liable to be abused. I, therefore, commend this amendment to the House.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Sir, I support the amendment of my Honourable friend, Mr. Santhanam. In the first place, before I speak to the amendment I myself want to express a doubt which I feel in understanding the clause as it is worded here. Clause 3 (a) runs thus :

" If any person :

(a) overdrives, beats, or otherwise treats any animal so as to subject it to unnecessary pain or suffering,".

I want to know whether these words " so as to subject it to unnecessary pain or suffering " qualify the words, " overdrives. . . . beats or otherwise treats ",—all these three words—or are these words intended only to qualify the word " treats " ? If it qualifies all these words, then the word " overdrive " has no meaning, because it means that you are driving to a distance or at a velocity which the animal cannot bear or sustain, and I am sure that this must be the meaning in the mind of the Members of the Select Committee. Secondly, in the case of " beating " also, is it mere beating ? When an animal is to be driven, I admit that some kind of injury has to be done to the animal ; in order to make it drive, you have got a little stick, it may or may not have an iron end, and you use it so as to encourage the animal to move on. So if we take the word " beating " by itself, probably the clause creates a situation which the Select Committee Members might not have under contemplation ; even for the purpose of making the beating a rational one, it has to be connected with the words " so as not to cause excessive pain ". Then it will come within the purview of this clause. I think that " overdrive " requires to be a little bit changed. If overdriving means driving beyond the distance which the animal can reasonably be expected to run, then we have to arrange the clause in such a way as to detach this word " overdrive " from the subsequent clause. Well, this is the difficulty I feel in the wording of the clause as it is. Now, as regards the particular amendment that has been suggested, I believe the point made by my Honourable friend, Mr. Satyamurti, deserves very careful consideration. Now, as regards the word " necessity ", that is a standard which cannot be definitely laid down : it is an indefinite standard. But the main point we have to consider in this matter is that in the matter of necessity attention is drawn more to the necessity of the person who is in charge of the animal than

to the animal itself, because the animal serves the interest of the man. "Necessity" can only have reference to some requirement of the person which the animal is expected to serve, and, therefore, if we use the word "unnecessary", it is likely to be interpreted from the point of view of the person in charge of the animal rather than from the point of view of the animal which is subjected to cruelty or injury; and if this distinction is to be properly borne in mind, it would be conceded that our language should be such that it can have reference only to the state of the animal; it should be of such a nature that it must have reference to the animal and not to the man in charge of the animal. From that point of view, the word "excessive" is certainly better. The word "excessive" can only have one meaning with reference to the suffering of the animal. Therefore, for the sake of precision, which is one of the essential characteristics of a legislation, I prefer the word "excessive" to the word "unnecessary"; otherwise, so far as the court is concerned, the court has to imagine some criterion. My Honourable friend, Mr. Satyamurti, has given a very good example of a man who might say, "I had to reach a particular place within a particular time, my animals can run at ten miles an hour, at that particular moment they did not do so, and so I had to give them a push" and that push was, therefore, necessary. We must avoid such a possibility. Therefore, if we accept the amendment of my friend, Mr. Santhanam, I think that we shall be going nearer the point that we want to achieve by having this clause. I, therefore, support this amendment.

Syed Ghulam Bhik Nairang (East Punjab : Muhammadan) : Sir, the discussion is centring on the question whether the word 'unnecessary' will serve the purpose. Apparently, whether we use the word 'unnecessary' or 'excessive', a certain vagueness is found in either and, strictly speaking, there is not much to choose between the two terms. But it appears that for practical purposes the word 'unnecessary' is preferable to the word 'excessive'. If we talk of excessive pain, surely there ought to be, as the Honourable the Home Member pointed out, some standard by which we can judge. We should have, so to say, some kind of painometer or cruelometer to show up to what degree of pain there will be no cruelty to the animal and beyond which there will be cruelty. It is impossible to find that out. Therefore, I submit that really there is an advantage in having the word 'unnecessary' which does not exist in having the word 'excessive'. The word 'excessive' will raise nice questions as to what amount of pain ought to have been inflicted on the animal, judging from its capacity to bear pain, and so on and so forth, questions which it will be very difficult to decide. As to the question of construction of this clause, raised by my Honourable friend, Mr. Aney, I think whatever difficulty there may be in construing each word individually, one thing is quite clear that the underlined clause 'so as to subject it to unnecessary pain or suffering' goes with the word 'treats', because after 'overdrives' there is a comma and after 'beats' there is also a comma and then we have one continuous sentence 'or otherwise treats any animal so as to subject it to unnecessary pain or suffering'. As far as the punctuation goes, there is a clear indication that the underlined portion of the clause goes with the word 'treats'. Then, the question remains—what is 'overdrives' and what is 'beats'? The word 'overdrives' has not, of course, given so much trouble to my Honourable friend, Mr. Aney. He is

[Syed Ghulam Bhik Nairang.]

able to construe it. And then comes the question of 'beats'. Striking with a stick, for instance, may be taken to be beating and it may come within the mischief of this clause. Still, as a matter of fact, in driving an animal, it is necessary very often to just give a blow to the animal with a stick, cane or whip, but, as far as I am able to understand, the word 'beats' conveys the idea of inflicting a succession of blows. One blow merely to make the animal move or go fast would not come within the definition of 'beats', as the word is understood in common parlance. But if a succession of blows are given with the intention of inflicting an injury or causing pain, then the word 'beats' can apply. So, I think there is no difficulty in construing the word 'beats' either. In the light of these remarks about 'overdrives' and 'beats' the rest of the thing becomes quite plain and there is no difficulty in understanding it. Therefore, my Party is inclined to oppose the amendment and to support the clause as it is.

Honourable Members : The question may now be put.

Mr. President (The Honourable Sir Abdur Rahim) : The question is that the question be now put.

The Assembly divided :

AYES—48.

Abdul Ghani, Maulvi Muhammad.
 Abdul Hamid, Khan Bahadur Sir.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ahmed, Mr. K.
 Aikman, Mr. A.
 Anderson, Mr. J. D.
 Ayyar, Mr. N. M.
 Azhar Ali, Mr. Muhammad.
 Bajoria, Babu Baijnath.
 Bajpai, Sir Girja Shankar.
 Bewoor, Mr. G. V.
 Bhagchand Soni, Rai Bahadur Seth.
 Chambers, Mr. S. P.
 Chanda, Mr. A. K.
 Chatterjee, Mr. R. M.
 Clow, Mr. A. G.
 Conran-Smith, Mr. E.
 Dalal, Dr. R. D.
 Dalpat Singh, Sardar Bahadur Captain.
 Essak Sait, Mr. H. A. Sathar H.
 Faruqui, Mr. N. A.
 Ghulam Bhik Nairang, Syed.
 Grigg, The Honourable Sir James.
 Highet, Mr. J. C.
 Kamaluddin Ahmed, Shams-ul-Ulema.
 Lloyd, Mr. A. H.

Mackeown, Mr. J. A.
 Maxwell, The Honourable Mr. R. M.
 Metcalfe, Sir Aubrey.
 Miller, Mr. C. C.
 Mitchell, Mr. K. G.
 Mukerji, Mr. Basanta Kumar.
 Mukerji, The Honourable Sir Manmatha Nath.
 Nauman, Mr. Muhammad.
 Nur Muhammad, Khan Bahadur Shaikh.
 Rafiuddin Ahmad Siddiquee, Shaikh.
 Scott, Mr. J. Ramsay.
 Shaukat Ali, Maulana.
 Sheehy, Mr. J. F.
 Sher Muhammad Khan, Captain Sardar Sir.
 Siddique Ali Khan, Khan Bahadur Nawab.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Town, Mr. H. S.
 Walker, Mr. G. D.
 Yamin Khan, Sir Muhammad.
 Zafrullah Khan, The Honourable Sir Muhammad.
 Ziauddin Ahmad, Dr. Sir.

NOES—40.

Abdul Qaiyum, Mr.
 Aney, Mr. M. S.
 Ayyangar, Mr. M. Ananthasayanam.

Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chaudhury, Mr. Brojendra Narayan.

Chunder, Mr. N. C.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Deshmukh, Dr. G. V.
 Deshmukh, Mr. Govind V.
 Govind Das, Seth.
 Gupta, Mr. K. S.
 Hegde, Sri K. B. Jinaraja.
 Hosmani, Mr. S. K.
 Kailash Behari Lal, Babu.
 Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Mangal Singh, Sardar.
 Misra, Pandit Shambhu Dayal.
 Muhammad Ahmad Kazmi, Qazi.

Paliwal, Pandit Sri Krishna Dutta.
 Pande, Mr. Badri Dutt.
 Parma Nand, Bhair.
 Raghubir Narayan Singh, Choudhri.
 Ramayan Prasad, Mr.
 Ranga, Prof. N. G.
 Rao, Mr. M. Thirumala.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sheodass Daga, Seth.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Satya Narayan.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Subbarayan, Shrimati K. Radha Bai.
 Varma, Mr. B. B.

The motion was adopted.

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

“ That in clause 3 of the Bill, in part (a) of the proposed section 3, for the word ‘ unnecessary ’ the word ‘ excessive ’ be substituted.”

The motion was negatived.

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. Lalchand Navalrai : Sir, I have got an amendment to part (a) of this clause....

Mr. Deputy President (Mr. Akhil Chandra Datta) : It has not been circulated.

Mr. Lalchand Navalrai : I think it has been ; a copy has been given to me.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Honourable Member can read it and if there is no objection taken, he can move it ; but not otherwise.

Mr. Lalchand Navalrai : Sir, I move :

“ That in clause 3 of the Bill, in part (a) of the proposed section 3, or the words ‘ subject it to unnecessary pain or ’ the words ‘ cause it injury or excessive suffering ’ be substituted.”

Mr. Deputy President (Mr. Akhil Chandra Datta) : In view of the decision on amendment No. 1, this is barred.

Mr. K. Santhanam : Sir, I move :

“ That in clause 3 of the Bill, in part (c) of the proposed section 3, the words ‘ offers for sale or without justifying cause ’ be omitted, and, before the word ‘ or ’, occurring in the last line, the words ‘ and neglects to take reasonable steps to relieve such pain ’ be inserted.”

[Mr. K. Santhanam.]

The clause as it stands creates two offences. One offence is "offering for sale any live animal which is suffering pain by reason of mutilation, etc." That is punishable. If some person's animal is mutilated by no fault of his own, why should he not offer it for sale? What is he to do with it? Is he to kill it or conduct a funeral for it? Without any qualification whatever, mere offering for sale in a mutilated condition is made an offence. I do not know if it was actually intended to make it such an unqualified offence. As the clause stands I think it is very objectionable.

The second offence which is being created is 'without justifying cause has in his possession any live animal which is suffering pain, etc., etc.'. By sub-clauses (a) and (b) the man who is responsible for causing pain is punished. Every owner has to have in his possession his own animal. Ownership is ordinarily only one cause for possession, and I do not see why it should be punished. What actually should be punished is a man having in his possession a mutilated or suffering animal and not taking any steps to relieve the pain. As it is, both the offences are not real offences and there is no meaning in them. But my amendment tries to provide for the real contingency of the man having an animal which is suffering pain and his neglect to relieve that pain. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 3 of the Bill, in part (c) of the proposed section 3, the words 'offers for sale or without justifying cause' be omitted, and, before the word 'or', occurring in the last line, the words 'and neglects to take reasonable steps to relieve such pain' be inserted."

The Honourable Mr. R. M. Maxwell : Sir, I do not think this amendment is necessary. It will be seen that the clause says "without justifying cause". This would surely cover the case in which the person *bona fide* had possession of an animal which is suffering from some disease....

Mr. K. Santhanam : This qualification does not apply to the first part—offering for sale.

The Honourable Mr. R. M. Maxwell : That phrase is merely taken from the original Act. Section 3 (c) of the original Act covered the offences : they are divided up and put in clauses (c) and (d) of clause 3 here. The original Act read "offers, exposes or has in his possession for sale any live animal which is suffering pain by mutilation, etc., etc." The words "without justifying cause" would surely remove all objections to the clause as now drafted, and the existing clause appears to be stronger than the one proposed by the Honourable Member. In that case there is no deterrent on the person who keeps in his possession and offers for sale an animal which is suffering in the manner described in the clause.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That in clause 3 of the Bill, in part (c) of the proposed section 3, the words 'offers for sale or without justifying cause' be omitted, and, before the word 'or', occurring in the last line, the words 'and neglects to take reasonable steps to relieve such pain' be inserted."

The motion was negatived.

Mr. Abdul Qaiyum (North-West Frontier Province : General) : Sir, I move :

“ That in clause 3 of the Bill, in part (c) of the proposed section 3, for the word ‘ justifying ’ the word ‘ reasonable ’ be substituted.”

I think the word “ reasonable ” is more appropriate and it is the word which has been used in most statutes and I hope that the House will accept it.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 3 of the Bill, in part (c) of the proposed section 3, for the word ‘ justifying ’ the word ‘ reasonable ’ be substituted.”

The Honourable Mr. R. M. Maxwell : Sir, there is very little real difference between the two expressions ; but on the whole I think “ justifying ” which is the word used by the Select Committee is stronger than the word “ reasonable ”. It means that the burden is on the person who has in his possession an animal in this condition to show that there was justification for it, while “ reasonable ” might be a matter of opinion for anybody. I think on the whole—though I do not stress the matter very much—that the House would be well advised to keep the words “ or without justifying cause ”.

Mr. K. Santhanam : Sir, I want to point out that the word “ reasonable ” has been used in another section and, therefore, for consistency this should be adopted, or the word “ reasonable ” in the other section should be changed to “ justifying ”.

The Honourable Mr. R. M. Maxwell : Which other section ?

Mr. K. Santhanam : Section 7 of the original Act contains the words “ If any person . . . without reasonable excuse permits any diseased or disabled animal of which he is the owner . . . ” It is a similar offence and there the word used is “ reasonable ”. I do not see why the same word should not be used here also.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 3 of the Bill, in part (c) of the proposed section 3, for the word ‘ justifying ’ the word ‘ reasonable ’ be substituted.”

The motion was adopted.

Maulvi Muhammad Abdul Ghani : Sir, I beg to move :

“ That in clause 3 of the Bill, in part (c) of the proposed section 3, the word ‘ thirst ’ be omitted.”

Sir, it does not need any explanation, because if this word is retained, it becomes too vague. There is no proper way to test accurately whether an animal is thirsty or not. If a person authorised by Local Government wants to put into trouble anybody, he can do so under this pretext of the animal being thirsty and that because it was not provided with water, he can take action against him. Now, if such a person is produced before a Magistrate he will say the animal was not thirsty, and the person taking action against the alleged offender will take some hours, because it will take some time from the moment the animal is seized and it is produced before a Magistrate, and by the time if the animal is made to drink some quantity of water the action of the seizure is justified to

[Maulvi Muhammad Abdul Ghani.]

some extent. I think the retention of this word is very vague, especially when you refer to clause 13 of the Bill you will see that a new clause is going to be added. If that section 14 is not deleted, then every person, who has plans, saying that he has reason to believe that an animal is thirsty, can easily take action. So instead of doing justice to the dumb and poor creatures, injustice will be done to human beings. I hope the Honourable the Home Member in charge of the Bill will consider my humble request, because he will not lose anything by the removal of this word. With these words, Sir, I move my amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 3 of the Bill, in part (c) of the proposed section 3, the word 'thirst' be omitted."

The Honourable Mr. B. M. Maxwell : Sir, I am afraid I cannot accept this amendment. Every one knows that the pain of thirst is even more terrible than the pain of starvation, and I have myself heard of cases where birds are brought from long distances to markets without taking any steps to provide them with water or any relief. It is mainly for cases of that kind that this clause is devised. I do not think that clause 14 will really prove a source of trouble in this matter, because that clause is to be operated only by persons authorised by Provincial Government for these purposes and particularly by officers specially recommended by the Society for the Prevention of Cruelty to Animals, and their object will be the same as that which we have before us, namely, to prevent any unnecessary suffering being caused to animals which have been handled in this manner.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That in clause 3 of the Bill, in part (c) of the proposed section 3, the word 'thirst' be omitted."

The motion was negatived.

Maulvi Muhammad Abdul Ghani : Sir, I beg to move :

"That in clause 3 of the Bill, in part (c) of the proposed section 3, the words 'or other ill-treatment' be omitted."

Sir, in this very clause towards its end the words "or other ill-treatment" have been used. Mutilation, starvation, thirst, overcrowding have not been regarded as sufficiently exhaustive to constitute an offence and, therefore, these words "or other ill-treatment" have been used there. If the Government or the Legislature want specific things, they should be made clear; they should put down their ideas in a clear and definite form, for in legislation such vagueness should not exist at all, because, after all, what is in the mind of the person or the authority taking action against a person is not known. So a person should not be held responsible for anything not known to him but known to some one else. I hope the Honourable the Home Member will accept this harmless amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 3 of the Bill, in part (c) of the proposed section 3, the words 'or other ill-treatment' be omitted."

The Honourable Mr. R. M. Maxwell : Sir, I am afraid I cannot accept this amendment either. The words " or other ill-treatment " are not new in this Bill. They have been used in the original Act of 1890, and therefore they have been in force now for a great many years, and I am not aware of any cases where they have led to any injustice. ' Ill treatment ', although a general expression, is by no means a vague one. It is a thing which is capable of being proved and must be proved in order to establish an offence under the section. But the governing words of the section are ' suffering pain ', that is to say, ill-treatment, unless it is such as to cause pain, is not penalised by the section. The governing words presuppose pain from any avoidable cause, such as mutilation, starvation or any other ill-treatment of a positive kind, and therefore I think there can be no fear in retaining these words.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

" That in clause 3 of the Bill, in part (c) of the proposed section 3, the words ' or other ill-treatment ' be omitted."

The motion was negatived.

Maulvi Muhammad Abdul Ghani : Sir, I beg to move :

" That in clause 3 of the Bill, part (d) of the proposed section 3 be omitted."

Sir, this portion is too vague, and in my opinion, it does not carry any sense. Every animal after it is killed or slaughtered is dead, and if its flesh is offered for sale the person offering the flesh of a killed or slaughtered animal for sale is liable for prosecution under this sub-clause. I think part (d) should be omitted, and I hope the House will support this amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

" That in clause 3 of the Bill, part (d) of the proposed section 3 be omitted."

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, in a certain Assembly a five hours' debate was raised on the question whether for *Ber-Sella*, *Serbella* is the proper and more appropriate word. There are two words, *Sarbilla* and *Barsilla*, and I think, so far as this Bill is concerned we are no better than that. This offence of *phooka* is not performed in my part of the country and I never understood what it meant. Great agitation was made about this offence. Petitions went to the Viceroy, resolutions were passed and press articles were written and I thought we were going to have a Bill for the creation of new offence of *phooka*. But when I went into the language of the old Act which is being amended by this Bill, I find that punishment is already provided for *phooka*. That section reads :

" If any person performs upon any cow the operation called *phuka*, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both."

Seth Govind Das (Central Provinces Hindi Divisions : Non-Muhammadan) : On a point of order, Sir. Are we really discussing this Bill generally, or are we discussing the amendment ?

Mr. Govind V. Deshmukh (Nagpur Division : Non-Muhammadan) : Are we not to limit our discussion to the amendment before the House, or can we have a general discussion ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : We must give the Honourable Member some time to make out the relevancy.

Dr. Sir Ziauddin Ahmad : I am just reading this section.

In the original Act the punishment provided for *phooka* is a fine of Rs. 100 or an imprisonment for three months or both. Therefore, the very object of this Bill, for which my Honourable friend has so much agitated and demanded punishment for *phooka*, is lost on account of the fact that *phooka* is already a punishable offence in the original Act.

Instead of having this agitation for a new Bill, they ought to have asked the Government to enforce this section rigorously in such provinces in which the offence may be prevalent and thus achieve their object. As my Honourable friend, Mr. Sri Prakasa, has pointed out this morning, the object of this Bill is not to prevent cruelty to animals but to provide some punishment for the people who own these animals. This is what he admitted in interruption. This particular clause which we want to delete may be said to be already in the Act. The original sub-clause (c) has already been split up into two clauses, (c) and (d). Really speaking, we are all discussing the word whether Sarbilla or Barasilla is the proper word. The whole clause is there, you have only split it up. You have split it up in order to make a new Bill. We are legislating for an old thing, we are not legislating for any new offence. We are only putting old wine into new bottles. Otherwise, the entire section is there, the entire punishment is there for *phooka*....

Seth Govind Das : I again rise to a point of order, Sir. Is all this relevant ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : The general discussion is over and I must ask the Honourable Member to confine himself to the amendment before the House.

Dr. Sir Ziauddin Ahmad : My Honourable friend who has raised this point of order used half an hour on one word, 'excessive' or 'unreasonable'. The thing is this particular provision is already there. By splitting like this, the chances are that it is likely to be misused. I submit that it is an absolute waste of time to spend over this particular Bill which is already provided in the original Act.

Mr. M. S. Aney : I wish to oppose this amendment. I think it does not require a long argument at all to convince the House that the amendment cannot be supported.

Dr. Sir Ziauddin Ahmad : You are in favour of Prashilla and I am in favour of Sharbilla.

Mr. M. S. Aney : You are using words the meaning of which I do not understand. My point is this. If this amendment is allowed, the very object which the Select Committee had in its mind will be defeated. It will be, in my opinion, a kind of encouragement to those who want to engage in the sale of dead animals and other things to cruelly kill them and offer them for sale. Those who offer for sale dead animals which were not cruelly killed or killed in a manner which could not be termed

cruel,—they have nothing to fear whatsoever. I do not see any reason why this sub-clause (d) should be eliminated altogether. It is intended in the first place to put a stop to cruelty to animals and then in the second place after killing them cruelly, to offering them for sale.

Babu Baijnath Bajoria : I rise to oppose this amendment. My Honourable friend, the Mover, thinks that we are creating a new offence by making this provision (d). I would like to draw his attention to the latter part of sub-clause (c) of section 3, namely, "which he has reason to believe has been killed in an unnecessarily cruel manner". Only for the sake of clarification the Select Committee made a separate section of this portion. It only makes the Bill much more easy to understand and I do not think that there is any substance whatever in the speech of the Honourable the Mover of this amendment. I oppose.

The Honourable Mr. R. M. Maxwell : My Honourable friend, Mr. Bajoria, has left me nothing to say. It is true, as also pointed out by my Honourable friend, Dr. Sir Ziauddin Ahmad, that this clause imports nothing new into the original Act, except the words "or part of a dead animal"; which have been included to make it complete. This clause is definitely related to section 5A of the original Act which is not amended by this Bill. There is no possible wish to weaken the Act in that respect. The object of the clause is to prevent persons from conniving at the slaughtering of animals in an unnecessarily cruel manner and making a profit afterwards.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That in clause 3 of the Bill, part (d) of the proposed section 3 be omitted."

The motion was negatived.

Mr. K. Santhanam : I move :

"That in clause 3 of the Bill, in sub-section (e) of the proposed section 3, for the word 'justifying' the word 'reasonable' be substituted."

I need not say anything about this.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

"That in clause 3 of the Bill, in sub-section (e) of the proposed section 3, for the word 'justifying' the word 'reasonable' be substituted."

The Honourable Mr. R. M. Maxwell : As the House has already accepted the change in the earlier clause, I have nothing to say about this.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

"That in clause 3 of the Bill, in sub-section (e) of the proposed section 3, for the word 'justifying' the word 'reasonable' be substituted."

The motion was adopted.

Babu Baijnath Bajoria : I move :

“ That in clause 3 of the Bill, after part (e) of the proposed section 3, the following new part be inserted :

‘ (f) uses a cow or a she-buffalo for ploughing or tilling the land or for draught purposes ’.”

An Honourable Member : Sex equality !

Babu Baijnath Bajoria : I know that my Honourable friends opposite are for sex equality, but, unfortunately, God has made that difference and my Honourable friends cannot make the two sexes equal.

As I said in my previous speech, it is really a great hardship and cruelty to use cows and she-buffaloes for ploughing lands or for draught purposes. I have seen with my own eyes cows being used for tilling purposes in Ranchi. It makes no difference whether the cow is a dry one or a milch cow. In my opinion cow is not created for that purpose. She is created to give milk. I understand that by using a milch cow for this purpose the quantity of milk which she is able to give decreases. Further the life of the cow also decreases and she cannot bear such hard work. I request the House to accept my amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 3 of the Bill, after part (e) of the proposed section 3, the following new part be inserted :

‘ (f) uses a cow or a she-buffalo for ploughing or tilling the land or for draught purposes ’.”

Maulvi Muhammad Abdul Ghani : Sir, my Honourable friend, Babu Baijnath Bajoria, has perhaps forgotten that among cows and she-buffaloes there are a number of sterile animals and I fail to understand the purpose of keeping such animals idle. They are better utilised for tilling lands. It will be for the good of the *kisans* if these sterile animals are used for such purposes. If my Honourable friend wants to purchase these sterile animals, he is quite welcome to do so. If such animals are to be utilised at all by the owner, in what other way can he utilise them except by putting them for tilling lands. If the animals are kept idle, they will be a great burden on the poor *kisans*. They cannot be destroyed ; otherwise, my Honourable friend, Babu Baijnath Bajoria, will bring forward a legislation that destroying animals should be punished. I submit these animals should be used for tilling lands, if they are not fit for any other purpose. Sir, I oppose the amendment.

Mr. K. Santhanam : Sir, I oppose the amendment. I have lived in Salem district of the Madras Presidency for a number of years where almost every peasant without exception uses cow for ploughing and for draught purposes. In fact the animals do not suffer from it at all. If you want an analogy, why don't you prevent women from working in factories ? According to my Honourable friend, women are created only to work at homes and they ought not to do any labour in factories. I do not know the mind of the Creator, but I do not want to oppress the people by such legislation.

Seth Govind Das : Sir, my Honourable friend, Babu Baijnath Bajoria, did not say that in every place cows and she-buffaloes are used for ploughing. Let me tell him that so far as the Central Provinces are

concerned, the Hindus are not using cows and she-buffaloes for ploughing purposes. Those communities who have no religious scruples in this respect such as the Gonds and the Bhils generally use cows and she-buffaloes for cultivation. They will have only two courses left if cows and she-buffaloes are prohibited from being used for ploughing and draught purposes. Either they will have to sell their lands to capitalists like my friend, Babu Baijnath Bajoria, or they will have to sell these cows and she-buffaloes for slaughter. My Honourable friend has now to choose between these two courses. Will he buy up all the lands or will he allow these animals to be slaughtered? If he is averse to both the courses, then the only course left for my Honourable friend, Babu Baijnath Bajoria, is to drop his amendment. As far as religion is concerned, I have told him that Hindus are not using the cows and she-buffaloes for ploughing or draughting purposes. I oppose the amendment.

Mr. M. S. Aney : Sir, I am not sure whether my Honourable friend, Seth Govind Das, is quite correct in saying that Hindus are not using cows and she-buffaloes at all for the purposes of ploughing and draught. On the other hand there is the statement made by my Honourable friend, Mr. Santhanam, that in Salem district of the Madras Presidency these animals are being used for tilling lands. We are legislating for the whole of India and so, we cannot give up this legislation because these conditions are not in existence in Central Provinces. We must take into consideration the circumstances prevailing everywhere. If my Honourable friend, Seth Govind Das, thinks that on religious grounds the cows ought not to be used for ploughing lands and for draught purposes, then what is the provision of law which can prevent people from using them for such purposes as they are doing in Salem district.

Seth Govind Das : Sir, I rise on a point of personal explanation. I am saying that it is better to use them for ploughing than to sell them for slaughter from the Hindu point of view, also, if these animals are not used for ploughing I am sure they will be slaughtered.

Mr. M. S. Aney : This is not a point of personal explanation. It is additional argument. I thought my respectable Sister in the House would get up and support this amendment because an additional burden was being thrown upon her sex in the animal kingdom by using them for ploughing lands and for draught purposes. On the other hand my Honourable friend, Mr. Santhanam, was trying to justify the use of women in the factories, but he forgets that for underground work we have got special laws prohibiting the employment of women and children. We make a distinction in the case of manual labour also in the case of women. Women are not allowed to be used for doing any underground work. I know the extreme circumstances to which reference has been made, namely, that dry animals are a great burden to the owner. If these animals cannot be used for ploughing and for draught purposes, then they are really a burden. In order to meet those exceptional cases if we make a general rule that cows and she-buffaloes can be used for tilling lands and for draught purposes, then I submit we would be laying down a too sweeping proposition, and at least if the law as it stands enables a man to use a milch cow or she-buffaloe to be used for purposes of tilling lands also, then there must be some law to prevent the milch cows from being so used. At present

[Mr. M. S. Aney.]

the law does not make any distinction between milch cow and dry cow. Although I cannot go the whole hog with my Honourable friend, Babu Baijnath Bajoria, yet I cannot share the other extreme views that any such animal like the cow or she-buffalo should be used for ploughing.

Some Honourable Members : Sir, I move that the question be now put.

The Honourable Mr. R. M. Maxwell : Sir, I must oppose this amendment. My main ground for doing so, apart from those already sufficiently urged on the other side of the House, is that this amendment goes entirely beyond the scope of the Bill. The Bill is a Bill to prevent cruelty to animals, and not a Bill to enforce a certain kind of treatment which may be in harmony with sentiments of a particular description. Therefore, I think it would not be at all appropriate to include a clause of this kind in a Bill of this character.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 3 of the Bill, after part (e) of the proposed section 3, the following new part be inserted :

‘ (f) uses a cow or a she-buffalo for ploughing or tilling the land or for draught purposes ’.”

The motion was negatived.

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

“ That in clause 3 of the Bill, in the proposed section 3, for all the words beginning with the words ‘ he shall be ’ and ending with the words ‘ or with both ’ the following be substituted :

‘ he shall be punished for every such offence with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both ’.”

I need hardly remind the House that the penalties which I propose are not new. They exist in the present Act for similar offences, and they were included in this Bill when it was first introduced in this House. The Select Committee's recommendation to reduce them was probably based on the apprehension that magistrates who have no sense of proportion, or who have insufficient regard for the poverty of the masses, may inflict unnecessarily heavy fines. Sir, I wish to point out that for such magistrates, if they exist at all, even the penalties recommended by the Select Committee leave sufficient scope for harshness. Sir, I have had occasion for several years to examine the magisterial diaries of the magistrates under me and my recollection is that in such cases the fines vary ordinarily from eight annas to five rupees or in some rare cases to ten rupees. The penalties which I seek to restore have been on the Statute-book since 1890 and we have never heard complaints of their being harsh. The reason probably is that the magistrates have used their discretion well. On the other hand, there are some well-to-do offenders who, through their callousness and negligence, cause the grossest cruelty to animals. I have one case in mind where a very rich person in Delhi neglected his horse, which was lame, and was tied up in the stable, until maggots had eaten up a large part of the hind legs of the horse and it was on the point of death from blood-poisoning. For such rich offenders the penalties suggested by the Select Committee are not adequate. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 3 of the Bill, in the proposed section 3, for all the words beginning with the words ‘ he shall be ’ and ending with the words ‘ or with both ’ the following be substituted :

‘ he shall be punished for every such offence with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both ’.”

Mr. Amarendra Nath Chattopadhyaya (Burdwan Division : Non-Muhammadan Rural) : Sir, I oppose the amendment. The Select Committee thoroughly discussed this clause and they provided that in the case of a first offence, the offender shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month, and, in the case of a second or subsequent offence, with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both. Sir, it has been a principle accepted by this House that in the case of a first offence, the punishment should be less. Therefore, Sir, I think that this amendment is not at all necessary. I oppose this amendment.

Mr. Abdul Qaiyum : Sir, I think we should make some distinction between the case of first offenders and that of offenders who commit offences frequently. It was remarked by the Honourable the Mover that the punishments which he proposed have been on the Statute-book since 1890. Now we are not in 1890 ; we are in 1938 and the ideas of punishment have changed considerably during the interval. He undoubtedly referred to the case of a rich man who had behaved very badly towards his horse, but I think that was a very extreme case, perhaps it was the only case in India. He has told us that he had examined the diaries of magistrates who have never awarded a punishment beyond five rupees. I do not see why the Honourable the Mover should insist on such a high penalty : fifty rupees I think should cover all cases which are likely to arise. Sir, I oppose the motion.

The Honourable Mr. R. M. Maxwell : Sir, I support the amendment. I should like to suggest to this House that they should not proceed on the assumption that the only persons who perpetrate cruelty to animals are the poor people. That is really the basic assumption underlying the change made by the Select Committee. We have to deal with every class of persons who exploit animals in a thoroughly reprehensible manner, and although my Honourable friend who has just spoken said that a case like that quoted was perhaps a unique one, we have all heard of the extensive export trade in monkeys in which persons undoubtedly make very large profits out of exporting these animals. Now, in the event of ill-treatment during the process of exportation, these persons could well afford to pay a fairly substantial fine whereas the small fine provided by this clause is not going to be a deterrent to persons who are going to make thousands of rupees out of exporting these helpless beasts. That is one reason why I would ask the House seriously to consider this amendment by which we propose to re-instate the penalty provided in the original Act. I would also ask the House to preserve a certain sense of proportion in dealing with this matter. Now in the case of the offence of *phooka*, the penalty provided by clause 5 of the Bill

[Mr. R. M. Maxwell.]

is a fine which may extend to Rs. 500 or imprisonment for a term which may extend to two years, or both, and in the case of a second offence, a fine which may extend to Rs. 500 and with imprisonment for a term which may extend to two years. Surely if a fine of Rs. 50 and one month's imprisonment is considered sufficient for the grossest cruelties which may be practised in other ways, a fine of Rs. 500 is altogether excessive for the offence of committing *phooka*. Similarly in section 5A of the original Act, which remains unchanged by the present Bill, the penalty provided for having in possession the skin of a goat which has been killed in an unnecessarily cruel manner is one hundred rupees or imprisonment which may extend to three months. That penalty remains unaltered. That section is not included in this Bill for amendment. Therefore, if we substitute an extremely low penalty for the offences provided for in clause 3 of the Bill, we are introducing disproportionate penalties in different sections of the Act and we should thereby justify Dr. Sir Ziauddin Ahmad's remark that the House is interested only in penalizing *phooka* and takes no account of other kinds of offences against animals. Sir, I support the amendment.

Mr. S. Satyamurti : Sir, I rise to oppose the amendment. The Honourable the Home Member is less than fair to himself and to the House when he quotes section 5A of the Act. If the whole Act had been subjected to an amending and consolidating Bill, I have no doubt that the Select Committee and the House would have amended all its sections in consonance with modern ideas of punishment, but after having introduced a restricted Bill, it does not lie in the mouth of the Honourable the Home Member to quote those sections as arguments against rejecting this amendment. I want to plead with this House that when my Honourable friend talked of the export of monkeys, in this very House, from this side, several questions have been put that this export of monkeys ought to be stopped altogether by executive order, but what have the Government done ?

The Honourable Mr. R. M. Maxwell : They have restricted the period and made other regulations to prevent ill-treatment.

Mr. S. Satyamurti : But they have done much less than what we wanted—much less. We really feel that this cruelty to monkeys ought to stop and suggestions have been made that the export of monkeys ought to be stopped altogether. They have not done that yet, and, therefore, to quote that as an example again will not convince the House. Then, Sir, so far as the idea of punishing these people is concerned, both the Honourable the Home Member and his friend who sits behind him spoke, giving us examples of certain rich men. This country consists of 99 per cent. poor men. My friends forget in their luxury and in their comfort that we represent the poorest in the land and this Bill is going to affect all the people of India. Therefore, the test for our accepting or rejecting the amendment is not those cases which my friends mentioned, but how this law will work in the case of the ordinary persons who are likely to come within the mischief of this clause, if it becomes law. My friend said that the magistrates usually fine Rs. 5 and, therefore, it does not matter what the maximum is. But surely the rich people are only one per cent. of the population. (*A voice :* "Not even one

per cent.'') I agree that they are not even one per cent. I, therefore, appeal to the House to look at this amendment from the point of view of the average man who is likely to come within the mischief of this clause. From his point of view, it is provided that in the case of the first offence he may be punished with a fine which may extend to Rs. 50 or imprisonment for a term which may extend to one month. Therefore, it will be deterrent. But, if in spite of it, he continues to commit the offence, then he will be punished with a fine extending to Rs. 100, or imprisonment which may extend to three months, or with both. So far as the effect of the punishment is concerned, if a fine of Rs. 50 or an imprisonment for a term of one month will stop the offence, we ought to be satisfied. If this punishment does not stop it, then you have got the maximum punishment. I, therefore, appeal to the House to reject the amendment and leave the clause as it stands.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) : Sir, being a member of the Select Committee myself, I know that we discussed this clause at great length. We not only discussed this clause but every other clause where the punishment was to be provided. I found that the Government were always very strict to enforce very serious punishment and to impose greater fines. What could be the object of it ? Who are the people to be punished ? It is the very poor people who have to be punished. It is not even the owner of the cattle who is to be punished, but it is the poorest people of the country who are to be punished with fines of Rs. 50 and Rs. 100. What will be the effect of this punishment on these poor people ? We will be making them poorer and poorer. If the Government wanted to punish the owners of these cattle, I would have thought that they were justified in doing something. The illustration that we got from the Government Member was that there was a horse which was being treated very cruelly. These are not proper illustrations.

Mr. Abdul Qaiyum : What about the overloading of the coolies in Simla ? Nobody has thought of them.

Mr. Muhammad Azhar Ali : After all, what is the price of these small cows ? Their price may be high in the Punjab or in some other provinces where the cows are very costly, but in provinces like the United Provinces and the Central Provinces and more towards the east, the price of these cows is not more than Rs. 10 or Rs. 12. Sir, you will notice that in clause 3 birds are also mentioned. If people treat these small birds cruelly, you punish them with fines of Rs. 50 to Rs. 100. What sense can there be in this punishment ? This amendment disregards the first offence, the second offence and the third offence. It is a very sweeping amendment, and I cannot possibly support it nor will my Party. Sir, I oppose this amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 3 of the Bill, in the proposed section 3, for all the words beginning with the words ‘ he shall be ’ and ending with the words ‘ or with both ’ the following be substituted :

‘ he shall be punished for every such offence with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both ’.”

The motion was negatived.

Mr. K. Santhanam : Sir, I beg to move :

“ That in clause 3 of the Bill, in the proposed section 3, after the words ‘ subsequent offence ’, occurring in the fourth line from the bottom, the words ‘ committed within three years of the previous offence ’ be inserted.”

Sir, I do not want that when a *Jhathkawala* is prosecuted, a policeman or an officer of the S. P. C. A. should get up and say he was punished once 20 years ago and should be severely punished for his second crime. If a man has a clean record for three years after committing the first offence, he should not be treated as a second offender. This principle was consistently adopted in the Motor Vehicles Bill and there is no reason why it should not be adopted here. Sir, I move.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 3 of the Bill, in the proposed section 3, after the words ‘ subsequent offence ’, occurring in the fourth line from the bottom, the words ‘ committed within three years of the previous offence ’ be inserted.”

The Honourable Mr. R. M. Maxwell : Sir, I accept the amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 3 of the Bill, in the proposed section 3, after the words ‘ subsequent offence ’, occurring in the fourth line from the bottom, the words ‘ committed within three years of the previous offence ’ be inserted.”

The motion was adopted.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is

“ That clause 5 stand part of the Bill.”

Babu Baijnath Bajoria : Sir, I beg to move :

“ That in clause 5 of the Bill, in sub-section (2) of the proposed section 4, for the words ‘ one-tenth ’ the words ‘ one-fourth ’ be substituted.”

Sir, my intention in moving this amendment is that the reward which is to be given to any person, whose information leads to the conviction of the culprit in matter of offences of *phooka*, should be increased from ‘ not exceeding one-tenth ’ as provided in the Bill to ‘ one-fourth ’ of the fine as proposed by me. One-tenth of the fine is too small a figure and it will not be an attractive one so that persons generally will not take interest to detect the culprit. As I mentioned before, in the matter of *phooka*, detection is much more important than the punishment and we should do everything in our power to make the people realise that this is a serious offence and they should try and do their bit to eradicate this evil from this country. Supposing a person is fined Rs. 25 or Rs. 50, then one-tenth of it will be Rs. 2-8-0 or Rs. 5 and, for this paltry sum, nobody would take the trouble of going to the court and to the *thana*

and to several other places which will lead to conviction. So, in my opinion, one-fourth of the fine is a reasonable amount. In the Bengal Act no proportion is provided at all. I would have liked that that here also. In that case, discretion would have been given to the magistrate to give any portion of the fine to the informer. But as a percentage is going to be fixed in the Bill, I would like it to be fixed at one-fourth of the fine. After all, it is a case where the Government is getting money. If an informer detects a person committing the crime and gives all the information which leads to his conviction, then the Government stands to gain the money realised by the fine and they should not grudge a portion of it to the informer. I hope the House will accept my amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 5 of the Bill, in sub-section (2) of the proposed section 4, for the words ‘ one-tenth ’ the words ‘ one-fourth ’ be substituted.”

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhamadan Rural) : Sir, I regret I must oppose this amendment. The reason is this. In supporting this Bill, we want to prevent cruelty to animals and not to destroy the morals of the human race. We have already a very big class of spies and informers in our country ; and we do not want to add to that. I should expect that this work would be taken up by honorary agencies and public bodies and not for the purpose of gain. I should expect a man who finds another person committing cruelty on an animal to take the law in his own hands and give him a licking then and there, instead of going to the police station and allow the crime to be committed before aid arrives. You cannot improve your morals, neither can you educate public opinion, by offering inducements of this sort. Sir, I should have liked to have this clause omitted altogether ; but as it stands, the amount of compensation to the informers under this Bill is more than enough.

Syed Ghulam Bhik Nairang : Sir, I also feel constrained to oppose the amendment of Mr. Bajoria. We took it all along that the present Bill as well as its predecessors, the several Prevention of Cruelty to Animals Acts were all based on benevolent motives of compassion and pity for the lower animals but, as Mr. Sri Prakasa has pointed out, it so happens that in the clause which has been inserted in the Select Committee, there is a reward to the informers who bring to notice the crime of *phooka*. My friend, Mr. Bajoria, wants to enhance the earnings of the spies and to put a premium on the profession of espionage. That may be all very well in other matters but certainly there ought to be no mercenary or sordid motive in the minds of those who may give information to the authorities and bring to book offenders who maltreat and inflict pain on dumb driven cattle. What has been proposed by the clause as it stands is quite enough. This work ought really to be left to benevolent societies and pious volunteers who will go about and see things and give information to the authorities. We should not put a pecuniary inducement before the public, which may lead to the giving of false information. This may destroy the real virtue of the underlying principle of prevention of cruelty.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 5 of the Bill, in sub-section (2) of the proposed section 4, for the words ‘ one-tenth ’ the words ‘ one-fourth ’ be substituted.”

The motion was negatived.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That clause 7 stand part of the Bill.”

Mr. Badri Dutt Pande (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 7 of the Bill, in sub-section (1) of the proposed section 6B, the following be added at the end :

‘ or order the owner or person in possession or control of the animal to execute a bond for the treatment of the animal and its production before the magistrate ’.”

The object of my amendment is this. A man may not wish to part with his animal, in order to send it to an infirmary or *pinjrapole*. He may say : ‘ I will treat the animal at home and bring it to the Court when ordered to do so ’ just as a man gives security to be present in Court. He will write a bond to that effect. Now, Sir, *pinjrapoles* and infirmaries are sometimes very crowded. I have got statistics here to show that in the S. P. C. A. Hospital in Delhi, which has accommodation for 23 animals only, on the 6th March, 1937, there were 36 animals, on the 10th March, 73 animals, on 23rd March, 61 animals, on 5th May, 67 animals and so on. So there is overcrowding there and cruelty is practised there in this way. In fact, there is so much overcrowding that the S. P. C. A. ought to be prosecuted for this very offence for which we are providing punishment in this Bill. I think my amendment is a reasonable one and it ought to be supported by the House.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 7 of the Bill, in sub-section (1) of the proposed section 6B, the following be added at the end :

‘ or order the owner or person in possession or control of the animal to execute a bond for the treatment of the animal and its production before the magistrate ’.”

The Honourable Mr. R. M. Maxwell : I must oppose this amendment which is entirely foreign to the purposes of the section. The section is simply to empower the Provincial Government to appoint places where animals may be treated and cared for. That is the sole object of this section and it is never contemplated that the Provincial Government will hear cases themselves and in the words of the amendment ‘ order the owner or person in possession or control of the animal to execute a bond for the treatment of the animal and its production before the magistrate ’. When the Provincial Government has obtained the power under section 6B to appoint infirmaries, then it will be for the courts dealing with the offences to decide what they are going to do with the animals. There is no obligation on the court to send an animal to an

infirmery or *pinjrapole*. Sub-section (2) is permissive and not mandatory and therefore there is no reason whatever to alter the section in the manner proposed.

Prof. N. G. Ranga : Sir, I support this amendment. In fact, we wanted to make some such alteration in the Select Committee stage itself, but unfortunately we could not succeed. The idea underlying this is only this. We know, as things are, that many of the so-called infirmaries maintained by the S. P. C. A. are not big enough to accommodate all the animals taken there. My Honourable friend, Mr. Pande, has made out a very clear case in support of that particular point. Again, in various places, it is not possible for ordinary folk to take their animals to these prescribed infirmaries and pay the prescribed fees there. These fees are prescribed not even by the infirmaries themselves, but by the magistrate. Of course, it may be that the magistrates will have to take into consideration the usual cost of maintenance of these animals in those infirmaries, and so on. But the Delhi *Tongawallas* Association has made out a very clear case in favour of a much lower fee than is charged today by the magistrates in Delhi. That shows clearly that magistrates cannot very well be trusted to prescribe just the minimum possible or the necessary fee to be charged for these animals for their upkeep in the infirmaries. Therefore, as long as it is stated clearly in what manner the animal is to be treated by the owner himself in his own care, there is no harm in leaving the animal with the owner himself provided that, on the prescribed day, the animal is produced in good condition before the magistrate and the magistrate is satisfied. Therefore, I hope the House will support this amendment.

Mr. Amarendra Nath Chattopadhyaya : Sir, I beg to support this amendment. I cannot understand why Government should oppose this very reasonable amendment at all. The amendment says that in case the owner executes a bond for treating the animal and producing it before a magistrate—I do not know how it clashes with the clause as passed by the Select Committee. Mr. Badri Dutt Pande only wants to add another clause which will give the owner the privilege of giving treatment to the animal in his own home and on the date of hearing, he produces it before the magistrate. I do not think there is any reasonable ground for opposing this amendment. Sir, I support the amendment.

Babu Baijnath Bajoria : Sir, I rise to support this amendment. This is a very reasonable amendment and it seeks to empower the magistrate...

An Honourable Member : No, the Provincial Government.

Babu Baijnath Bajoria : Very well ; it empowers the Provincial Government that it may authorise the owner of the animal to take the animal home for treatment and produce it before the magistrate. After all what we want is that the animal should be properly treated. This is our main object ; and if the poor man can do it cheaper and better in his own home why should he be charged to take the animal to an infirmery and pay the cost of its treatment and upkeep there ? He will be fined if he does anything in contravention of this Act. But as regards the payment of the charges of treatment and maintenance he can easily do it much cheaper if not better at his house. Sir, I support the amendment.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question is :

“ That in clause 7 of the Bill, in sub-section (1) of the proposed section 6E, the following be added at the end :

‘ or order the owner or person in possession or control of the animal to execute a bond for the treatment of the animal and its production before the magistrate ’.”

The motion was negatived.

Babu Baijnath Bajoria : Sir, I move :

“ That in clause 7 of the Bill, in sub-section (2) of the proposed section 6E, all the words occurring after the word ‘ pinjrapole ’ be omitted.”

These words are :

“ or, if the Veterinary Officer in charge of the area in which the animal is found certifies that it is incurable or cannot be removed without cruelty, that it shall be destroyed.”

It gives the magistrate the power to order destruction of an animal if the veterinary officer is of that opinion. As I have already said, I am against all orders for destruction of animals. I would draw the attention of the House that in the present Act in section 6 (3), which is the corresponding section to this clause, power is given to the magistrate but this is a new addition, and also in the Bengal Act I have mentioned that this power is restricted only to cases other than bullocks and cows. I move this amendment without any further speech.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Amendment moved :

“ That in clause 7 of the Bill, in sub-section (2) of the proposed section 6E, all the words occurring after the word ‘ pinjrapole ’ be omitted.”

Mr. M. S. Aney : Sir, I strongly support this amendment. The point which we have to consider is this. The Act is intended to minimise the agonies or sufferings of and to prevent cruelty to animals. There are persons who think that if an animal is suffering from an incurable disease the best way to put an end to its agonies is to kill the animal, and, therefore, they think they are doing something which is an act for the prevention of cruelty to that animal. So far as suffering is concerned, I do not want to make any distinction between an animal and a man. Would it be tolerated for one minute if when a man is suffering from some incurable disease, the best way would be to put an end to the life of that man and kill him ?

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

No moral code of humanity so far has provided a section of that kind : it has yet to be enacted.....

An Honourable Member : A man can commit suicide !

Mr. M. S. Aney : If he is detected in the commission of suicide, the law has provided that he shall be punished. You do not tolerate that. What the man in his own way will do to put an end to his life is a different thing. But no man can claim any right to put an end to the life of

another man because he is not in a position to cure him, or because he is not in a position to minimise his agonies. We think we have a right to determine the fate of the animal, we claim we have a right to minimise its agonies. That is true humanitarian work, but it is not proper to be led away by the idea that the best way of minimising the agonies of an animal is by killing it or shooting it down. This thought may strike as revolutionary or irreligious or heterodox to those who are given to kill animals even for food. There are men who live on animals, and for them killing animals means nothing, but for those who out of regard for animal life have abjured that kind of food, it is really sacrilegious to kill an animal. And remember, you are enacting a law in a country where the people, on account of a peculiar sense of compassion for the animal life, have given up the luxury of animal food. You are living in a country where millions and millions of Hindus, Buddhists and Jains regard even the slightest injury done to the lowest and the meanest specie of the zoological creation as a serious sin, and, therefore, I submit, you are not really doing any good by putting an end to the life of the animal. It may be you cannot stand the sight of an animal suffering any agony, but that is not the way to put a stop to the agony. Well, if tomorrow you are suffering from an incurable disease, and if I suggest : ' Well, I want to put an end to your life in order to relieve you of your agonies ', what answer will you give ? Simply because an animal is dumb, it cannot speak, it is denied the power of articulation or the power of expressing its own sentiment, we think we have a right to determine what is best for it. Sir, a calf was allowed to be killed by no less a personage than Mahatma Gandhi, some years ago. The feeling of revulsion and opposition that was roused by his action would not be easily forgotten by those who have followed the newspaper articles that followed his action and also the strong condemnation and the bitter expression of opinion against him throughout the country. My Honourable friend, Mr. Satyamurti, who, I know, is as great a humanitarian as anybody else in this House, can easily imagine the feelings of the Hindus, Jains, etc.. Sir, I do not think, in attempting to minimise the cruelty to animals, we should make any distinction between a man's suffering and an animal's suffering. I can quite see that the animal is not a man, and if that is the criterion by which you proceed to enact a law in this matter, then I say you are doing a wrong thing. It may be that you do not see the cruelty yourself, you don't feel the agony in that one moment when you put an end to an animal's life, but in that one moment it suffers most of the agonies which it may have to go through over a long period if the animal is allowed to live. I, therefore, think that from a humanitarian point of view, we who are legislating here in a country where the people regard *Ahimsa* as the noblest tenet of their religious belief, and where millions of people have abjured animal diet, where millions of people look with abhorrence on an act of this kind, should provide for all kinds of remedies to minimise the suffering short of actually killing the animal. Therefore, it seems to me that our friends have taken no account of the sentiments of millions and millions of people. They are acting upon borrowed ideas and on western ideals. I, therefore, appeal to the House, when they are enacting a law in an oriental country which is full of oriental ideas and sentiments, to kindly consider and respect the sentiments and feelings of millions and millions of Hindus, Jains and Buddhists and several others before giving their votes. Sir, I support the amendment.

Sri K. B. Jinaraja Hegde (West Coast and Nilgiris : Non-Muhammadan Rural) : Sir, I have pleasure in supporting the amendment moved by my friend, Mr. Bajoria. I myself have given notice of a similar amendment. The whole idea of the Bill seems to be very revolutionary so far as Indians are concerned. The principal idea underlying the Bill is inculcation of western ideas into our society. I entirely agree with my friend, Mr. Aney, when he says that it is not the Indian philosophy or the Indian view of humanity to kill an animal, however much it might be feeling the agony from an incurable disease. May I put one question, Sir, to my friend ? Will he ever think of murdering his own son, father or mother if they were to suffer from a serious disease or if they happen to meet with a serious motor car accident ? Why should we entertain this idea of killing animals to save them from agonies, an idea which carries a different moral code so far as the treatment of animals is concerned ? You have got an entirely different code so far as human life is concerned. Is there any religion in the world which preached the killing of animals ? Is there any penal code which gives the right to a person to commit at least suicide because he suffers from a serious incurable disease or because he is maimed by having met with a serious motor accident ? Does the Indian Penal Code make provision for a man to commit murder by killing his own son, father or mother if they happen to be maimed or if they happen to be suffering from some incurable disease ? Imagine the tears of those animals whom you kill. It amounts to murder. Do not kill these animals. I want to put another question to my friend over there. Can any one relate to us the intense pain and suffering at the time of his death ? Can he tell us what death means, what killing means to a person who is killed ? Is there any man, who returned after his death and who can tell us how much pain he suffered at the time of his death ? Perhaps some people think that they are doing a great service, they are conferring a great boon on the animal by putting an end to its life, but they are mistaken. Where did they borrow these ideas from ? Did Lord Christ preach that an animal should be killed ? He said, ' If you give mercy, you shall have mercy '. Sir, by this legislation you are creating new cruelties to be perpetrated in Hindu society instead of preventing cruelties. I strongly object and support the amendment moved by my friend, Mr. Bajoria, and I hope this House will have the courage to support the principle of Indian philosophy of life, the principle of those Indian religions born in this sacred land and carry this amendment.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Sir, may I take part in this debate ? I had no desire to make a speech, but seeing that some of our friends, mostly vegetarian friends, who have been occupying the seats in the Assembly one of which is now occupied by my friend, Mr. Aney. I know it is the case since 1921,—I have seen two of his predecessors of the present Assembly, and they have got the greatest regard for animal life. But I will say this that my friend from Madras has taken the cue from his vegetarian Jain Member, the representative of the Marwari community of Calcutta. Now, Sir, I know the previous speaker from Madras, is a young man, and he made a very passionate speech and quoted religious authorities. I may not know so much about the Hindu Shastras as my friend may know, but I have seen my neighbours and friends who are good Hindus,

Mr. Sri Prakasa : Rickshaw men know your weight all right !

Mr. K. Ahmed : Do not think that my friend really intended to make
4 P.M.

a speech, or if he thinks that he will be regarded as a great patriot after his departure from Simla, I think he is greatly mistaken. But there are other ways of making speeches. My Honourable friend must know that there is a municipal law by which snakes, dogs and other classes of lower animals are destroyed by the police, under measures passed unanimously both by the Hindus and the Muslims. The Honourable Members sitting in the Treasury Benches or those sitting there are not dead horses and you have come here to flog them. That is not the way to get on with this piece of legislation. This piece of legislation was brought forward at the request more of the Hindus than the other sections of the people living in India. At their request meetings have been held in different towns, sub-divisions, districts and so on, and at the desire of the people, Government have undertaken this legislation. To bring in an amendment like this is not advisable. My Honourable friend, the Deputy Leader of the Opposition coming from Madras, every now and then makes speeches against the destruction of monkeys. But he knows that the monkeys do a lot of mischief. If young boys and girls carry any sweets they are immediately snatched away. I must ask my friend, Mr. Sri Prakasa, if it is not a fact. If you like, you may here make an experiment. You need not go to the Jakko. Here take some sweets, and before you pass the Gorton Castle, they will be snatched away and your fingers will be injured and we shall cry that you should be taken to the hospital for treatment. God forbid that we may not have to make mention before this House, the Honourable the President sitting there in that elevated place—"Sir, we have brought a motion to move before this House to express sympathy towards a certain gentleman coming from such and such a constituency, a Congress Member, who had done yeoman's service to the country....". If you like to prolong the debate for another week and trouble the President to sit from 11 A.M. to 5 P.M. then you can go on like this. My Honourable friend from Calcutta, my Honourable friend from Yeotmal in Berar, and my third friend, Congressman, who is in English costume, young man as he is—I hope that they will withdraw their opposition. If a snake bites you, will you keep quiet ? If a tiger comes and swallows you, will you keep quiet ? In the old law, moral law, the mythological law of the ancient Hindus, there may have been some interpreter preaching respect for these animals. But would you like a snake crawling by your side and you still keeping mum ? Would you not like to kill it ? Do you honestly say that ? (Interruption.) You have talked and I am answering questions. If a horse gets very badly injured in an accident and a doctor certifies that there is no use prolonging its life, would you not wish to end the agony—the horse on whose beautiful body you, your wife and children had ridden ? You may not have gone to the western countries, but I have gone there. The people there are not uneducated at all, they are not unsympathetic at all. They are not bad people and they do not want to kill all the horses and dogs. I submit that it is not proper to attack this. If you want that they should not be destroyed, put in some word. There is the *pinjrapole* recognised by the law. When you shoot down some birds, what do you do ?

An Honourable Member : Eat them.

Mr. K. Ahmed : Yes, eat them. Will you prolong the agony of the birds ? (Interruption.) What is the use of talking rubbish ? You go every day to shoot birds. What do you do with them ? Do you preserve them ? If you like, you can have an amendment like what my friend, Dr. Banerjea, suggests. Sir, that is my position.

The Honourable Mr. R. M. Maxwell : I rise now in the hope that the House may be beginning to feel that it has sufficient material before it to arrive at a conclusion on this clause. I am aware, Sir, that there are a certain number of Honourable Members in this House with whom it is a matter of principle that no sanction should be given in any circumstances to the destruction of any animal. I know that it is useless to try and reason with those who hold that view but I believe that there are other Members of this House who entertain an open mind in this matter and there are others like myself who believe that it is an act of mercy to put an animal out of its pain in certain circumstances rather than to prolong unnecessary suffering. Now, Sir, I would ask the House to look once more at this clause. The possibility of ordering destruction under this clause depends on two pre-suppositions, firstly that an offence under this Act has been committed, which the Bill makes criminal and secondly that the Veterinary Officer has certified that the animal is incurable or cannot be removed without cruelty. Now, that, I submit to the House, is a very sufficient safeguard for using this clause only in order to enable what I believe to be an act of mercy to be performed in circumstances fully safeguarded by this certificate of the Veterinary Officer. In fact, in Bengal a similar provision has been in force since 1920, without the requisite of any such certificate from a veterinary officer at all. The precautions against unnecessary destruction have been safeguarded as a result of the words inserted by the Select Committee and I hope that the House, if they are at all able to share my views, will feel that there are circumstances in which we ought to put the animal out of misery and suffering. I hope that the House will accept the clause and reject this amendment.

Some Honourable Members : I move that the question be now put.

Mr. President (The Honourable Sir Abdur Rahim) : The question is that the question be now put.

The motion was adopted.

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

“ That in clause 7 of the Bill, in sub-section (2) of the proposed section 6B, all the words occurring after the word ‘ pinjrapole ’ be omitted.”

The Assembly divided :

AYES—20.

Aney, Mr. M. S.
Bajoria, Babu Baijaath.
Banerjea, Dr. P. N.
Bhagchand Soni, Bai Bahadur Seth.
Chaliha, Mr. Kuladhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chaudhury, Mr. Brojendra Narayan.

Datta, Mr. Akhil Chandra.
Govind Das, Seth.
Hegde, Sri K. B. Jinaraja.
Kailash Behari Lal, Babu.
Lalchand Navalrai, Mr.
Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.

Misra, Pandit Shambhu Dayal.
Parma Nand, Bhai.
Raghubir Narayan Singh, Choudhri.

Sant Singh, Sardar.
Sheodass Daga, Seth.
Som, Mr. Suryya Kumar.

NOES—68.

Abdul Ghani, Maulvi Muhammad.
Abdul Hamid, Khan Bahadur Sir.
Abdul Qaiyum, Mr.
Abdullah, Mr. H. M.
Ahmad Nawaz Khan, Major Nawab Sir.
Ahmed, Mr. K.
Aikman, Mr. A.
Anderson, Mr. J. D.
Ayyar, Mr. N. M.
Azhar Ali, Mr. Muhammad.
Bajpai, Sir Girja Shankar.
Bewoor, Mr. G. V.
Bhutto, Mr. Nabi Baksh Ilahi Baksh.
Chambers, Mr. S. P.
Chanda, Mr. A. K.
Chatterjee, Mr. R. M.
Clow, Mr. A. G.
Conran-Smith, Mr. E.
Dalal, Dr. R. D.
Dalpat Singh, Sardar Bahadur Captain.
Damzen, Mr. P. R.
Deshmukh, Dr. G. V.
Deshmukh, Mr. Govind V.
Essak Sait, Mr. H. A. Sathar H.
Faruqui, Mr. N. A.
Gadgil, Mr. N. V.
Ghulam Bhik Nairang, Syed.
Grigg, The Honourable Sir James.
Gupta, Mr. K. S.
Highet, Mr. J. C.
Jawahar Singh, Sardar Bahadur Sardar Sir.
Jedhe, Mr. K. M.
Jogendra Singh, Sirdar.
Kamaluddin Ahmed, Shams-ul-Ulema.
Lloyd, Mr. A. H.

Mackeown, Mr. J. A.
Mangal Singh, Sardar.
Maxwell, The Honourable Mr. R. M.
Metcalfe, Sir Aubrey.
Miller, Mr. C. C.
Mitchell, Mr. K. G.
Mukerji, Mr. Basanta Kumar.
Mukerji, The Honourable Sir Manmatha Nath.
Nauman, Mr. Muhammad.
Nur Muhammad, Khan Bahadur Shaikh.
Paliwal, Pandit Sri Krishna Dutta.
Rafuddin Ahmad Siddiquee, Shaikh.
Ramayan Prasad, Mr.
Ranga, Prof. N. G.
Rao, Mr. M. Thirumala.
Santhanam, Mr. K.
Satyamurti, Mr. S.
Scott, Mr. J. Ramsay.
Shahban, Mian Ghulam Kadir Muhammad.
Shaukat Ali, Maulana.
Sheehy, Mr. J. F.
Sher Muhammad Khan, Captain Sardar Sir.
Sinha, Mr. Satya Narayan.
Sri Prakasa, Mr.
Subbarayan, Shrimati K. Radha Bai.
Sukthankar, Mr. Y. N.
Sundaram, Mr. V. S.
Town, Mr. H. S.
Varma, Mr. B. B.
Walker, Mr. G. D.
Yamin Khan, Sir Muhammad.
Zafrullah Khan, The Honourable Sir Muhammad.
Ziauddin Ahmad, Dr. Sir.

The motion was negatived.

Mr. C. C. Miller : Sir, I move :

“ That in clause 7 of the Bill, in sub-section (2) of the proposed section 6B, after the word ‘ found ’ the following be inserted :

‘ or such other Veterinary Officer as may be authorised in this behalf by rules made under section 15 ’ ”

Sir, the object of this amendment is very simple. The clause deals with the power of the magistrate to order the destruction of an animal provided it is certified that it is incurable by the veterinary officer in charge of the area in which the animal is found. That is all very well

[Mr. C. C. Miller.]

up to a certain point, but there is always the contingency that the animal might have been moved to an infirmary or hospital out of the area of that veterinary officer and it would cause a considerable inconvenience if it could only be destroyed on his certificate and not on the certificate of the veterinary officer into whose area it had been moved. I do not think that there could be any objection to this amendment. Sir, I move.

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

“ That in clause 7 of the Bill, in sub-section (2) of the proposed section 6B, after the word ‘ found ’ the following be inserted :

‘ or such other Veterinary Officer as may be authorised in this behalf by rules made under section 15 ’.”

The Honourable Mr. R. M. Maxwell : Sir, I would accept the amendment.

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

“ That in clause 7 of the Bill, in sub-section (2) of the proposed section 6B, after the word ‘ found ’ the following be inserted :

‘ or such other Veterinary Officer as may be authorised in this behalf by rules made under section 15 ’.”

The motion was adopted.

Babu Baijnath Bajoria : Sir, I move :

“ That in clause 7 of the Bill, to sub-section (2) of the proposed section 6B, the following proviso be added :

‘ Provided, however, that no order directing destruction shall be made in respect of any cow or calf ’.”

I am omitting the word “ bull ” from the printed amendment. (Cries of “ Why ? ”) The change is made in order to make it more acceptable to the House,—it is not that I do not want it as printed.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot move this in view of what has been already decided by the House. The Honourable Member is now trying to restrict its application. That cannot be done.

Babu Baijnath Bajoria : That amendment related that there should be no order of destruction of any animal but now I want to change that.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot do that. It is barred. Dr. Dalal—amendment No. 26.

Sardar Sant Singh (West Punjab : Sikh) : On a point of order, Sir, we have not yet heard your ruling about that amendment No. 24.

Mr. President (The Honourable Sir Abdur Rahim) : I have given my ruling. The ruling is that it is barred by the vote of the House on a previous amendment. Dr. Dalal.

Dr. R. D. Dalal (Nominated Non-Official) : Sir, I move :

“ That in clause 7 of the Bill, after sub-section (6) of the proposed section 6B, the following new sub-section be inserted :

‘ (7) If the cost incurred under sub-section (4) exceeds the proceeds of such sale, the excess shall on the order of a Magistrate be recoverable, to such extent as seems reasonable to the Magistrate, from the owner as a fine :

Provided that no such order shall be made unless the owner has been afforded an opportunity of showing cause before the Magistrate against such order ’.”

Sir, this amendment restores the original sub-clause of the Bill. I strongly deprecate the omission of sub-section (7) of the new section 6B which was adopted from legislation already in force in Bombay. I submit that this sub-section is necessary to complete the other provisions of the new section, because it has been found that if the cost for which the owner is liable in respect of an animal which has been the subject of an offence exceeds the value of the animal, the owner neglects to remove it when called upon to do so, and the balance of the cost, after sale of the animal, then falls on the Provincial Government, or on the infirmary or the *pinjrapole* concerned. I may add that the interests of poor owners are sufficiently protected by the discretion allowed to the magistrate under the proviso to this sub-section. Sir, I move.

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

“ That in clause 7 of the Bill, after sub-section (6) of the proposed section 6B, the following new sub-section be inserted :

‘ (7) If the cost incurred under sub-section (4) exceeds the proceeds of such sale, the excess shall on the order of a Magistrate be recoverable, to such extent as seems reasonable to the Magistrate, from the owner as a fine :

Provided that no such order shall be made unless the owner has been afforded an opportunity of showing cause before the Magistrate against such order ’.”

Mr. Abdul Qaiyum : Sir, I oppose this amendment. I think we should not carry our business considerations so far as this. If something can be recovered, part of the amount he (the owner) will certainly pay, but if he is unable to pay and the cost cannot be recovered from the sale of the animal, then I think the State should defray the expense. After all, the poor animal should not be bandied about in the manner suggested in this amendment.

Some Honourable Members : I move that the question be now put.

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

“ That in clause 7 of the Bill, after sub-section (6) of the proposed section 6B, the following new sub-section be inserted :

‘ (7) If the cost incurred under sub-section (4) exceeds the proceeds of such sale, the excess shall on the order of a Magistrate be recoverable, to such extent as seems reasonable to the Magistrate, from the owner as a fine :

Provided that no such order shall be made unless the owner has been afforded an opportunity of showing cause before the Magistrate against such order ’.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : I understand that there is an amendment which has been circulated today by the Honourable Member, Mr. Faruqui, on behalf of the Government. The amendment is to the same effect substantially as amendments Nos. 27 to 29. Mr. Faruqui.

Mr. N. A. Faruqui : Sir, I beg to move :

“ That in clause 7 of the Bill, the following *Exception* shall be inserted at the end of the proposed section 6C :

‘ *Exception*.—It shall not be an offence under this section to incite animals to fight if such fighting is not likely to cause injury or suffering to such animals and all reasonable precautions are taken to prevent injury or suffering from being so caused ’.”

Sir, the object of this Bill is to prevent cruelty to animals. If as it appears from the amendments which follow that there are certain animal sports which are not cruel, then I see no reason why they should not be excluded from this clause. Sir, I move.

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

“ That in clause 7 of the Bill, the following *Exception* shall be inserted at the end of the proposed section 6C :

‘ *Exception*.—It shall not be an offence under this section to incite animals to fight if such fighting is not likely to cause injury or suffering to such animals and all reasonable precautions are taken to prevent injury or suffering from being so caused ’.”

Mr. Muhammad Azhar Ali : Sir, I support this amendment. The amendment says that “ it shall not be an offence to incite animals to fight if such fighting is not likely to cause injury or suffering ”. The object of the whole Bill is that there should be no injury or cause for suffering to any animal in our country. But if some people for pleasure's sake bring some birds like fowls to fight amongst themselves, I do not see any reason why we should not allow an innocent game to be played like this. Do we not justify the boxing that the boys practise in schools or the competition in wrestling ? If men can fight and box, where is the harm in small birds to fight against each other. Sir, it may be said that this is cruelty to animals, but that is not so. Look at the way in which these small birds are nourished and taken care of. They love them more than their life and they do their best to keep them in good condition. They feed these birds just as big wrestlers are fed by these big Rajas or as the Chaubas are fed in Mathura. In such cases, there is no suffering, and there is no injury and “ all reasonable precautions are taken to prevent injury or suffering from being so caused ”. Under these conditions, I think it is much better that we should support this innocent amendment.

Mr. Govind V. Deshmukh : Sir, I had given notice of an amendment to this very clause which runs as follows :

“ That in clause 7 of the Bill, in part (a) of the proposed section 6C, for the words ‘ to fight ’ the words ‘ to a fight which causes it mortal injury or profuse bleeding ’ be substituted.”

Compared with this amendment, this *Exception* moved is a very milk and water amendment. Part (a) of the proposed section 6C runs thus :

“ If any person incites any animal to fight.”

In other words, it prohibits every kind of fight whatever its nature may be. It may be an innocent diversion. It may be, as somebody says, a fight to a finish. It has been suggested that we are here to prevent every sort of cruelty. As a matter of fact, we do not contemplate that by enacting this Act. For instance, clause 3 which we have passed exempts certain kind of cruelty. That clause runs thus :

“ If any person overdrives, beats, or otherwise treats any animal so as to subject it to unnecessary pain or suffering.”

It is the giving of unnecessary pain or suffering that is made punishable. In other words, the House has committed itself to tolerate a certain degree of pain or beating or whatever you might call it. I submit, therefore, that it is neither possible nor desirable to prevent every kind of cruelty. I also support this amendment on another ground. My Honourable friend, Mr. Aney, said that we must give the same treatment to animals which we give to human beings. Now, in the case of human beings, boxing is not objected to nor is wrestling objected to. On the same ground, I cannot see why this amendment should not be supported. I may also mention here that the bull fights and ram fights serve as a stimulant to persons to breed better cattle. I can tell the House, this that I have seen many buffalo, bull and ram fights and I have never seen any animal being injured. When the owners of these animals incite them to fight, the animals fight for a certain length of time and the moment they get tired and receive a sort of a shock or a blow they start running. After all, the animal is after saving its life and it is not necessary that you should be there to save its life. Once the defeated animal takes to running, it cannot be induced to fight again. I have seen hundreds of these fights and I have not seen one single instance where there was either profuse bleeding or mortal injury. It was on account of this that I had given notice of my amendment. Though I am not allowed to move it, my heart is in that amendment. Even men indulge in fights and the animals can certainly stand the bruises and the abrasions much better because their skins are thicker and bones are stronger. Of course, there are certain oversensitive persons who think that a little abrasion or a little knock is bad. Their case stands on a different footing. But let me tell you this that I judge the case of a bull from the same standpoint as I judge the case of a man. A man who goes in for wrestling exercises attunes his muscles to keep them at certain tension. He, therefore, loves to fight. Hence it is absolutely necessary to indulge in a little fighting. We encourage wrestling so that there should be a better race in the country. It serves as a stimulus to bring up good and robust race in the country. Similarly, these animal fights act as an incentive for people to breed better cattle. From my experience of ram fights and bull fights, I can certainly say that no appreciable harm or injury is done to them. There is only a little bit of exercise of their muscles. These little fights they will certainly be able to stand. I desire to support the amendment. My heart is with it. I cannot understand how any fight can be contemplated by anybody without the slightest injury or a slight suffering or a slight abrasion. I want that this amendment, the exception to the section should be modified thus :

“ It shall not be an offence under this section to incite animals to fight if such fighting is not likely to cause more than simple injury or a slight suffering.....”

[Mr. Govind V. Deshmukh.]

I cannot imagine a provision like this exception. If a case is put up for trial against an accused for his animal having received slight abrasions, how can the accused defend himself? Let us not have a legislation which will put us to ridicule in the eyes of the public. I suggest we must have some such modification in this or do not have this exception at all. I cannot dream of any fight where not even the slightest injury is contemplated. You must expect some bruises or knocks. I am of the opinion that with some modification or qualifying adjective to the word 'injury' the amendment may be adopted. Otherwise, we will make fools of ourselves. When a prosecution is launched how can an accused defend himself. I wholeheartedly support the amendment with these modifications.

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

" That in clause 7 of the Bill, the following *Exception* shall be inserted at the end of the proposed section 6C :

'Exception.—It shall not be an offence under this section to incite animals to fight if such fighting is not likely to cause injury or suffering to such animals and all reasonable precautions are taken to prevent injury or suffering from being so caused.'

The motion was adopted.

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

" That clause 7, as amended, stand part of the Bill."

The motion was adopted.

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

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

" That clause 8 stand part of the Bill."

Mr. K. Santhanam : Sir, I beg to move :

" That part (b) of clause 8 of the Bill be omitted."

Sir, my only reason for moving this amendment is that in clause 3 (3) (e) the Select Committee has put in a special clause to prevent this abandonment and so the provision in clause 8 (b) is redundant and it is a mere repetition of the same offence. It was put in this place in the original Bill, but when the Select Committee put in the provision (e) under clause 3 (3), they forgot to remove part (b) of clause 8. Hence the necessity for my amendment.

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

" That part (b) of clause 8 of the Bill be omitted."

Mr. M. S. Aney : Sir, I support this amendment. I find that if this provision is retained, it is likely to include even the case of those bulls which are released deliberately as a practice of religion in the performance of *shradh* which is known as *Vrishotsarga* ceremony. This is one of the ceremonies which a pious son is expected to perform out of regard for the memory of his deceased father. It is one of the things pres-

cribed by the *shastras*. If an animal is abandoned in the street like that and the only provision made for its maintenance is for a day, it is expected that somebody, generally a washerman, takes charge of it or sometimes that animal will move like stray cattle for some days. If this clause is retained as it is, then it would not be possible to release an ox or a bull like that because, under the provisions of the Bill as it is, it will be considered that abandonment in the street of an animal for the maintenance of which no provision has been made and the man who thus releases the bull will be, therefore, committing an offence under the law. Something should have been done to exclude that kind of abandonment which is done as a religious ceremony. I, therefore, submit that release of animals connected with *shradh* ceremonies must be exempted from this clause. I wanted to bring out this point in the general debate on this Bill, but I did not get any chance. I wanted to show that there is some lacuna in this Bill which is likely to come in the way of our practice of religion in certain cases. The best course of avoiding that difficulty is to omit this clause by supporting the amendment of my Honourable friend, Mr. Santhanam.

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

“ That part (b) of clause 8 of the Bill be omitted.”

The motion was adopted.

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

“ That clause 8, as amended, stand part of the Bill.”

The motion was adopted.

Clause 8, as amended, was added to the Bill.

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

“ That clause 9 stand part of the Bill.”

Babu Baijnath Bajoria : Sir, I move :

“ That in clause 9 of the Bill, in the proposed sub-section (2) of section 7A, the words ‘ not below the rank of sub-inspector ’ be omitted.”

This is a very important amendment. The section as it stands says “ if a police officer not below the rank of a sub-inspector or any person specially authorised, etc., etc., ” has reason to believe that *phooka* is being performed, then he will enter that place and take the animal to a veterinary officer for examination. I would say that the inclusion of these words “ not below the rank of sub-inspector ” will defeat the very purpose for which this section has been inserted here. How many sub-inspectors have we got ? In each and every case where shall we get a sub-inspector ? I would like my Honourable friend, Mr. Ranga, and others on those Benches to remember that this section only relates to *phooka* and not to any other offence. “ Any person specially authorised ” may refer to S. P. C. A. or other persons who may be authorised. But persons below the rank of sub-inspector will be expressly excluded from taking any action under this clause. Since we have given this power to persons who are not even police officers I do not see why we should not have confidence in a police officer to take action under this

[Babu Baijnath Bajoria.]

section. After all, what is he going to do ? He has only to go into the premises and if he finds that an animal has been subjected to *phooka* he will seize the animal and take it to the veterinary officer for examination.....

Pandit Nilakantha Das : Any village chowkidar can do it in your opinion ?

Babu Baijnath Bajoria : If he is a police officer then he will be able to do it. If not, he will have to be specially authorised.

An Honourable Member : Is a constable an officer or not ?

Babu Baijnath Bajoria : A constable is an officer in my opinion. I may say that village chowkidars will have nothing to do with this as this practice of *phooka* is not in vogue in villages : it is mostly in urban areas. I hope the Government and the House will see their way to accept this amendment, which is very necessary for the prevention of this pernicious evil.

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

“ That in clause 9 of the Bill, in the proposed sub-section (2) of section 7A, the words ‘ not below the rank of sub-inspector ’ be omitted.”

The Honourable Mr. R. M. Maxwell : Sir, I have no particular objection to this amendment, but I should like to know how the Honourable Member, Mr. Bajoria, proposes to deal with the next amendment in his name. Here he says that the words “ not below the rank of sub-inspector ” should be omitted. In his next amendment he says that for the word “ sub-inspector ” which would have been removed if this amendment is carried, the words ‘ head constable ’ should be substituted. If it is his intention that the clause should really read “ if a police officer above the rank of a constable or any person specially authorised, etc., etc. ”, then that is the amendment which I should prefer ; but I do not know how he is going to move it.

Babu Baijnath Bajoria : If this amendment is accepted by the House I shall not move the next one : if this is not accepted, then, I shall move it.

Mr. S. Satyamurti : Sir, the Honourable the Home Member cannot make an amendment for the Honourable Mr. Bajoria. This House can only deal with the amendment as it is moved. I oppose this amendment. We feel that *phooka* is a heinous offence ; but what is a more heinous crime is interfering with the liberty of the citizen unnecessarily, or on insufficient grounds, or on account of inexperience. I have no desire to say anything bad about the police, especially as they are under our charge in eight provinces now. But, at the same time, I want this House to realise that there are policemen and policemen, and they have got the traditions of a century and a half of alien rule. It will take some time to reform them. Therefore, I suggest that this is an extraordinary power in this clause : I want the House to remember the power given to the officer : he may enter any place in which he has reason to believe such animal to be and may seize the animal ; these are serious powers. It is not as if he can do something small. I believe the class

of people contemplated in the clause as passed in the Select Committee are ample and I want the Honourable the Home Member and the House to recognise the other class—"or any person specially authorised by the Provincial Government in this behalf". If there are philanthropic societies who have funds and personnel and voluntary honorary workers like Mr. Bajoria, I have no doubt the Provincial Governments will authorise them to do this work. I, therefore, think, in the sacred name of the liberty of the citizen, the clause ought to remain as it is, and this amendment ought not to be accepted.

Mr. Muhammad Nauman (Patna and Chota Nagpur *cum* Orissa Muhammadan) : Sir, I rise to oppose the amendment on the ground that we have sufficient experience of the police in this country and especially police below the rank of a sub-inspector. There have been unfortunately so many complaints coming to us from different quarters, from time to time. Taxi-drivers and tonga-drivers have normally been victims of such fictitious things as the constables may choose to create about them for their own fancies or gains, whatever it may be. Mr. Satyamurti has very rightly remarked that it interferes too much with the liberty of the people in general and on any pretext anybody's house may be searched and a constable may enter to say : "I have some sort of information that *phooka* is going on here". With the powers at ready given to the police in this Bill, I and my Party feel that it is rather too much, and, under the circumstances, the least we can think of is that the officer who can be allowed to take cognisance of such facts should be a subinspector at least. My preference would have been for an officer above the rank of sub-inspector ; but since this is there in the Bill, we are prepared to take it as it is and we oppose this amendment.

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

"That in clause 9 of the Bill, in the proposed sub-section (2) of section 7A, the words 'not below the rank of sub-inspector' be omitted."

The motion was negatived.

Babu Baijnath Bajoria : Sir, I move :

"That in clause 9 of the Bill, in the proposed sub-section (2) of section 7A, for the word 'sub-inspector' the words 'head constable' be substituted."

I would only like to remind my friends that in the Bengal Prevention of Cruelty to Animals Act it is mentioned that the power has been given to any police officer, and it is only on the basis of that section I move this amendment, but as the House does not like to give that power to all those officers, I think we should agree to giving power to head constables. Sir, I move.

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

"That in clause 9 of the Bill, in the proposed sub-section (2) of section 7A, for the word 'sub-inspector' the words 'head constable' be substituted."

The motion was negatived.

Mr. K. Santhanam : Sir, I move :

"That in clause 9 of the Bill, in the proposed sub-section (2) of section 7A, after the words '*doom dev*' the words 'has just been or' be inserted."

[Mr. K. Santhanam.]

Sir, I do not think a long speech is required in support of this amendment. Sir, I move.

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

“ That in clause 9 of the Bill, in the proposed sub-section (2) of section 7A, after the words ‘ *doom dev* ’ the words ‘ has just been or ’ be inserted.”

Babu Baijnath Bajoria : Sir, I support this amendment.

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

“ That in clause 9 of the Bill, in the proposed sub-section (2) of section 7A, after the words ‘ *doom dev* ’ the words ‘ has just been or ’ be inserted.”

The motion was adopted.

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

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

The motion was adopted.

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

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 20th September, 1938.