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NINTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1939



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1939

9—10

Legislative Assembly.

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LEGISLATIVE ASSEMBLY.

Monday, 27th February, 1939.

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

MEMBER SWORN.

Mr. Krishna Rama Pai, M.L.A. (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

DIFFICULTIES OF PROVINCIAL GOVERNMENTS TO IMPOSE TWO TAXES ON INCOME OR PROFESSION.

720. *Mr. S. Satyamurti (on behalf of Seth Govind Das): Will the Honourable the Finance Member please state:

- (a) whether Government had correspondence from Provincial Governments regarding their difficulties to impose two taxes on income or profession, arising out of the non-repeal of the old Self-Government taxation laws; and
- (b) whether he is taking steps to clear the anomaly by issuing a definite explanation to the Provincial Governments on these matters?

The Honourable Sir James Grigg: (a) No.

(b) Does not arise.

PAY AND ALLOWANCES, ETC., OF INDIAN AND BRITISH SOLDIERS.

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

- (a) the pay of an Indian and British soldier per month in rupees, annas and pies;
- (b) the value of the daily rations supplied to a British and Indian soldier, respectively; and
- (c) the marriage and children's allowance of a British soldier and an Indian soldier?

Mr. C. M. G. Ogilvie: (a) As regards the Indian soldier, I refer the Honourable Member to Rule 386 of Pay and Allowance Regulations, Volume I.

As regards the British soldier, I refer the Honourable Member to Army Instruction (India), No. 112 of 1938. The rates given therein are convertible at 1s. 4d. to the rupee.

A copy of both these publications is in the Library of the House.

(b) 4·63 annas and 2·8 annas respectively.

(c) I refer the Honourable Member to Serial No. 1 of the statement laid on the table by His Excellency the Commander-in-Chief in reply to part (a) of question No. 339 asked by the Honourable Mr. B. N. Biyani in the Council of State on the 19th November, 1937.

Mr. Abdul Qaiyum: With regard to part (c) of the question, I should like the Honourable Member to tell us the details, because that answer was given in the other place

Mr. President (The Honourable Sir Abdur Rahim): Is it published in the proceedings?

Mr. C. M. G. Ogilvie: Yes, Sir, they are published in full.

Mr. Abdul Qaiyum: With reference to part (a) of the question, instead of referring us to all these mysterious documents, could not the Honourable Member shortly tell us how much it was, whether it was in pounds or rupees? I want to know the difference between the pay of an English soldier and an Indian soldier

Mr. President (The Honourable Sir Abdur Rahim): That information, as the Honourable the Government Member says, has already been published.

Mr. T. S. Avinashilingam Chettiar: I understood the Honourable Member to say that the exchange rate was 1s. 4d. May I know why this differentiation was made between the general rate of exchange and the exchange rate at which the soldiers are paid?

Mr. C. M. G. Ogilvie: That also has been explained several times fully in this House on the last occasion by my predecessor in, I think, 1936.

Prof. N. G. Ranga: With reference to part (b) of the question, is there any proposal before Government to reduce these daily rations supplied to both the Indian and British soldiers?

Mr. C. M. G. Ogilvie: Not that I know of.

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, what is the estimated loss to the Indian exchequer by giving the pay at 1s. 4d. to the British soldiers?

Mr. C. M. G. Ogilvie: No question of loss arises; it is the way they are paid.

Mr. K. Santhanam: May I know, Sir, if Government have considered since 1936 the desirability of bringing the ratio for this purpose into conformity with the statutory exchange value?

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

Mr. K. Santhanam: May I know, Sir, whether it does not amount to giving a hidden subsidy from the Central revenues?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can draw the inference himself.

Mr. S. Satyamurti: What are the reasons why Government keep up this differentiation in regard to the rate of exchange, whether it is for the benefit of the Indian tax-payer or of the British soldier?

Mr. C. M. G. Ogilvie: That matter has again been fully explained in great detail by my predecessor, I think, in 1936. I have not got the exact reference with me, but if the Honourable Member so desires, I will find it and give it to him.

Mr. S. Satyamurti: May I know, Sir, why Government are now keeping up this differentiation at the expense of the Indian tax-payer, for the benefit of the British soldier?

Mr. C. M. G. Ogilvie: It is the way in which the British soldier is paid and it corresponds roughly to the overseas allowance.

Mr. T. S. Avinashilingam Chettiar: What will be the net saving to the Indian exchequer by substituting the statutory basis of exchange for the one at which the British soldier is paid?

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

Mr. Abdul Qaiyum: May I know, Sir, if Government propose to increase the amount paid to Indians to bring it into conformity with the rate paid to British soldier so that they may get a more liberal supply of rations?

Mr. C. M. G. Ogilvie: No, Sir, Indian rations are not as expensive as English rations. Their quality is just as good, in my opinion, probably better, but they have the additional advantage of being cheaper, and if Indians were given more than they are now given, the food would have to be thrown away.

Mr. T. S. Avinashilingam Chettiar: May I know, Sir, whether there is any direct or indirect agreement existing by which the Government are forced to give pay to British soldiers at the special rate of exchange?

Mr. C. M. G. Ogilvie: I cannot possibly answer that.

OFFICERS IN THE HOME DEPARTMENT.

722. ***Mr. C. N. Muthuranga Mudaliar:** Will the Honourable the Home Member please state :

- (a) the total number of officers of and above the rank of Assistant Secretary in the Home Department on the 1st January, 1936, and the 1st January, 1939;
- (b) what is the percentage of increase in number and expenditure;

- (c) the reasons for the increase;
- (d) whether it is a fact that the introduction of provincial autonomy has involved the divesting of the Home Department of many functions which they were discharging before; and
- (e) if so, how the increase in the number of officers is justified?

The Honourable Sir Reginald Maxwell: (a) and (b). A statement giving the information desired is laid upon the table.

(c), (d) and (e). I would refer the Honourable Member to Chapter I of the Wheeler Report and to my reply to part (b) of Mr. Avinashilingam Chettiar's starred question No. 1160, answered on the 20th September, 1938.

Statement showing the number of officers of and above the rank of Assistant Secretary in the Home Department on 1st January, 1936, and 1st January, 1939, and the percentage of increase in number and expenditure.

Number of officers on 1st January, 1936.	Number of officers on 1st January, 1939.	Percentage increase in number on 1st January, 1939.	Percentage increase in expenditure on 1st January, 1939.
6	7	16·6%	12·49%

Prof. N. G. Ranga: With reference to part (e) of the question, how is this increase in the number of officers in the Home Department justified?

The Honourable Sir Reginald Maxwell: What is the increase the Honourable Member refers to? He has not yet seen the statement laid on the table?

Prof. N. G. Ranga: In view of the fact that the introduction of Provincial Autonomy has rendered it necessary to transfer some of the functions which the Home Department were discharging prior to the introduction of Provincial Autonomy to the provinces, why is it that so many more officers have been appointed, and how do Government justify the appointment of all these officers?

The Honourable Sir Reginald Maxwell: I explained the position in my reply to Mr. Chettiar's question to which I have referred the Honourable Member.

TRANSFER OF AGENCY FUNCTIONS TO THE HIGH COMMISSIONER FOR INDIA.

723. ***Mr. C. N. Muthuranga Mudaliar:** Will the Honourable the Finance Member please state :

- (a) the agency functions which the Secretary of State for India still performs on behalf of the Government of India;
- (b) why these have not yet been transferred to the High Commissioner for India;

- (c) whether these include secret service work and expenditure thereon; and
- (d) whether Sir Ernest Burdon has submitted a report to the Government of India on the question of the transfer of agency functions to the High Commissioner for India, and if so, what decision has been reached thereon?

The Honourable Sir James Grigg: (a) The main agency functions of the India Office are those performed by the Military Department and the Military Accounts Branch of the Accountant General's Department which deal with service, financial and constitutional questions as well as with leave, passages and pensions of military officers. Besides these two Departments which account for roughly 83 per cent. of the India Office agency cost, various other departments such as the Economic and Overseas, the Public and Judicial or the Legal Adviser also perform a small proportion of agency functions.

(b) and (d). I would refer the Honourable Member to my reply to question No. 232 on the 9th February, 1930.

(c) No.

Mr. S. Satyamurti: With reference to the answer to clause (a) of the question, I thought I heard my friend say constitutional and financial questions with regard to certain of the functions discharged by the Secretary of State; may I know how they come under agency functions?

The Honourable Sir James Grigg: It is not the Military Department, it is the Military Accounts Branch.

Mr. S. Satyamurti: With regard to the Military Department, does the discharge of constitutional or financial functions of the Secretary of State come under the agency functions?

The Honourable Sir James Grigg: Do you mean to say—are they original and not agency functions?

Mr. S. Satyamurti: Yes.

The Honourable Sir James Grigg: I do not imagine the constitutional functions are a very large part of the agency functions.

Mr. S. Satyamurti: What are the criteria by which the agency functions as such are distinguished from the constitutional functions?

The Honourable Sir James Grigg: I think the Honourable Member had better put down a question. Whenever I make a statement on constitutional questions I get into trouble, and if the Honourable Member will give me notice, I shall try to give him full information.

Mr. S. Satyamurti: The Honourable Member won't have that trouble for very long! But, may I know whether there is any rule or convention by which certain functions of the Secretary of State are treated as agency functions today?

The Honourable Sir James Grigg: I suggest that the Honourable Member had better put down a question, and I will try and give him an answer.

Mr. S. Satyamurti: With regard to part (c) of the question, is this secret service work treated as a constitutional function of the Secretary of State, because, my friend said these agency functions do not include secret service work.

The Honourable Sir James Grigg: I think the Honourable Member is trying to trap me into making mutually inconsistent answers. As we do not pay the India Office for secret service work as agency functions, I think the Honourable Member should put down a question relating to other aspects of secret service expenditure.

Mr. K. Santhanam: May I know, Sir, whether in respect of agency functions the Secretary of State carries out the orders or instructions of the Government of India?

The Honourable Sir James Grigg: I think I had better put it in the shape of 'complies with the requests'.

Mr. S. Satyamurti: With regard to part (d) of the question, I think my friend said some time ago he would consider the question of publishing a Report or certain extracts therefrom for the information of the House; may I know if the Government have decided to do it?

The Honourable Sir James Grigg: I would be very grateful if the Honourable Member would give me a little more time to consider that; I have been pre-occupied with other more important things, and I have not given much time to it.

Mr. C. N. Muthuranga Mudaliar: May I know, Sir, whether . . .

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

Mr. C. N. Muthuranga Mudaliar: May I know if the Secretary of State is being given any special remuneration from the Indian revenues?

Mr. President (The Honourable Sir Abdur Rahim): The Chair has called the next question. The Honourable Member ought to have risen at the proper time.

Mr. C. N. Muthuranga Mudaliar: I was rising every-time, Sir, but. . . .

Mr. President (The Honourable Sir Abdur Rahim): The Chair has called the next question. Next question.

Mr. C. N. Muthuranga Mudaliar: I have already asked a supplementary question, but I have not got an answer. I do not want to put the other questions.

Mr. President (The Honourable Sir Abdur Rahim): Mr. Chettiar, Question No. 727.

Mr. C. N. Muthuranga Mudaliar: Very well. I will put my questions. No. 724.

Mr. President (The Honourable Sir Abdur Rahim): No. 724.

SIMLA EXODUS.

724. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable the Home Member please state :

- (a) whether it is a fact that the question of the stoppage of the Simla exodus has been under the consideration of the Government of India for a number of years now;
- (b) whether it is now under active consideration;
- (c) what is the present stage of the consideration;
- (d) when Government expect to reach a decision; and
- (e) the cost of the exodus during 1936-37 and 1937-38?

The Honourable Sir Reginald Maxwell: (a), (b), (c) and (d). I would refer the Honourable Member to the replies which I gave to questions Nos. 264 and 268 on the 9th February, 1939.

(e) Information is being collected and will be laid on the table, when ready.

Mr. Lalchand Navalrai: May I know from the Honourable Member if there is going to be any reduction in the establishments going to Simla as compared with last year?

The Honourable Sir Reginald Maxwell: There is some reduction. That was mentioned in the reply to one of the previous questions which I have just mentioned.

Mr. President (The Honourable Sir Abdur Rahim): Order, order. Honourable Members must bear in mind that it is only proper to give the questioner first opportunity to put his supplementary question.

Mr. Brojendra Narayan Chaudhury: May I know whether, in preparing the information promised in the reply to part (e) of the question, special mention will be made of those items of expenditure which were recovered by the State as railway fares?

The Honourable Sir Reginald Maxwell: I do not think the Honourable Member's question refers to the question under reply.

Mr. Brojendra Narayan Chaudhury: The Honourable Member has just said in reply to part (e) of the question that the cost of the exodus during 1936-37 and 1937-38 is being prepared. I am asking whether, in preparing the cost, special mention will be made of those items where the State recovered the sums as railway fares?

The Honourable Sir Reginald Maxwell: I have no doubt that all those points will be considered.

Mr. S. Satyamurti: In view of the fact that almost the entire establishment of the Indian Stores Department is, I understand, going to Simla this year, may I know whether, taking the entire establishment this year as compared with last year, there is going to be greater saving of expenditure on the Simla exodus or lesser saving than last year, and, if so, by how much?

The Honourable Sir Reginald Maxwell: Greater saving. That I mentioned in my reply to the previous question No. 264. The net reduction of expenditure expected this year is about Rs. 92,000, as compared with a saving of Rs. 74,750 last year.

Mr. S. Satyamurti: This, taking into account the going to the hills this year of more establishment of the Indian Stores Department than last year?

The Honourable Sir Reginald Maxwell: Yes.

DECISIONS OF GOVERNMENT ON THE REPORTS OF THE WHEELER AND
MAXWELL COMMITTEES.

725. ***Mr. C. N. Muthuranga Mudaliar:** Will the Honourable the Home Member please state :

- (a) the decisions of Government in respect of the Wheeler and Maxwell Committees' reports which yet remain to be given effect to, together with the reasons for the delay;
- (b) whether there are still certain conclusions regarding procedure which have not been given effect to;
- (c) whether there is an absence of uniformity in respect of procedure in the various Departments of the Secretariat;
- (d) whether Under Secretaries are required to do certain work which was formerly done by the staff; and
- (e) if so, whether this still continues to be done by the staff?

The Honourable Sir Reginald Maxwell: (a) I would refer the Honourable Member to the press note issued on the 17th November, 1937, which contained the conclusions of the Government of India on the recommendations of the Wheeler Committee. All decisions then taken are in process of implementation and are now an integral part of Government's policy in these matters. The only matter in which no conclusions have been reached is the recommendation that the deputation reserve, in the cadres of Provincial Governments, should be increased so as to bring them into closer correspondence with the probable demands upon it. This difficult and complex matter is receiving consideration.

(b) Not as a general rule, though small matters of detail remain to be adjusted.

(c) There is no absolute uniformity in matters of procedure as each Department's requirements are different, but the general principles followed are the same.

(d) No.

(e) No.

DISTURBANCE OF PEACE IN DELHI.

726. *Mr. C. N. Muthuranga Mudaliar: Will the Honourable the Home Member please state :

- (a) whether there was a disturbance of peace in Delhi on the 21st and 22nd January, 1939, on the occasion of the celebration of the "Hyderabad Day";
- (b) whether there were casualties, and if so, their nature and extent;
- (c) the reasons for the disturbance;
- (d) whether the local administration had taken all necessary steps to prevent a fracas, and if so, what they were, and whether these included the rounding up of well-known disturbers and *goondas*;
- (e) the number of disturbances of a communal character since 1930; and
- (f) whether during all this time Delhi has been under the control of European Chief Commissioners and Deputy Commissioners?

The Honourable Sir Reginald Maxwell: (a)—(d). I would invite the Honourable Member's attention to the press note dated the 23rd January, 1939, issued by the Chief Commissioner, Delhi, which was duly published in the Press.

(e) There have been nine such disturbances in Delhi since 1930.

(f) Yes.

Dr. Sir Ziauddin Ahmad: May I ask what is this Hyderabad Day?

The Honourable Sir Reginald Maxwell: 22nd January last.

Dr. Sir Ziauddin Ahmad: Am I to understand that 22nd January will always be called a Hyderabad Day?

The Honourable Sir Reginald Maxwell: I understand that was to be for only this year.

Mr. Brojendra Narayan Chaudhury: Are Government intending to appoint any Indian Chief Commissioner for Delhi?

The Honourable Sir Reginald Maxwell: No vacancy has at present arisen.

CIRCULAR ISSUED BY THE RESERVE BANK ON THE EFFECTS OF THE LEGISLATIVE MEASURES ADOPTED TO RELIEVE AGRICULTURAL INDEBTEDNESS.

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

- (a) whether the Reserve Bank has issued a circular letter to all the Provinces drawing their attention to the effects of the Legislative measures adopted to relieve agricultural indebtedness;
- (b) if so, whether Government are prepared to place the circular on the table of the House; and

(c) whether any replies have been received from the Provincial Governments in this matter?

The Honourable Sir James Grigg: (a) I understand so.

(b) No. It seems to me inappropriate to place on the table correspondence passing between the Reserve Bank and Provincial Governments on provincial matters.

(c) I cannot say.

Mr. T. S. Avinashilingam Chettiar: May I know whether Government can specify any portions of the letter mentioned in part (a) for better elucidation of the matter?

The Honourable Sir James Grigg: My answer is both general and particular.

Mr. T. S. Avinashilingam Chettiar: May I know the names of the Provincial Governments to whom such a letter has been sent?

The Honourable Sir James Grigg: That is a matter for the Reserve Bank. I assume they have sent it to all of them.

Mr. S. Satyamurti: Have Government examined the contents of this letter and satisfied themselves that it is within the proper discharge of their functions that the Reserve Bank are addressing the Provincial Governments as regards the effect of legislative measures passed by their Legislatures?

The Honourable Sir James Grigg: No.

Mr. S. Satyamurti: Am I to take that Government are not concerned with the correspondence which goes on between the Reserve Bank and the Provincial Governments in relation to the effects of the legislation passed by Provincial Legislatures?

The Honourable Sir James Grigg: The Honourable Member can draw his own conclusions.

Mr. S. Satyamurti: I thought my Honourable friend said "No". Does it mean that Government have not examined the correspondence, or they refuse to answer the question?

The Honourable Sir James Grigg: The answer I gave to (b) is "No". Part (b) is, "Whether Government are prepared to place the circular on the table of the House?"

Mr. S. Satyamurti: My question is whether Government have examined the contents of this circular and have satisfied themselves that, in addressing the circular to Provincial Governments, with regard to the effects of legislation passed by the Provincial Legislatures, the Reserve Bank was acting within the proper discharge of its functions?

The Honourable Sir James Grigg: No.

Mr. K. Santhanam: May I know whether the circular was sent directly or through the Government of India?

The Honourable Sir James Grigg: Directly, I assume.

Prof. N. G. Ranga: What is the exact position in regard to the circular? Are the Government of India consulted by the Reserve Bank of India before any such circular is sent out to these Provincial Governments?

The Honourable Sir James Grigg: Certainly not if it is on a purely provincial subject.

Mr. T. S. Avinashlingam Chettiar: May I know if the Government of India agree with the statements in the circular sent out?

The Honourable Sir James Grigg: That seems to me to be a question which I do not feel called upon to answer. I do not see why I should express an opinion on a purely provincial matter.

Prof. N. G. Ranga: Are we to understand that these circulars are being treated by the Provincial Governments in the same way as any other circular or letter sent to them by any private individual or institution?

The Honourable Sir James Grigg: The Honourable Member can understand anything he likes. If he wants to find out information as to how the Provincial Governments are treating the circular, I suggest that he had better address an enquiry to the Provincial Governments themselves.

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

SUGAR EXCISE DUTY AND SUGAR FACTORIES, ETC.

†728. ***Seth Haji Sir Abdoola Haroon:** Will the Honourable the Finance Member please state the total proceeds from excise duty on sugar during the last two years, the number of factories which paid taxes, and the total amount of sugar manufactured in the country, the amount of revenue derived from the excise duty, and the import duty during the last three years?

The Honourable Sir James Grigg: A statement is laid on the table.

Statement.

	1935-36.	1936-37.	1937-38.
	Rs.	Rs.	Rs.
1. Gross Excise duty on sugar other than <i>khandsari</i> and palmyra	1,54,02,275	2,54,66,519	3,30,97,000
<i>Khandsari</i> sugar	74,403	47,659	51,000
Palmyra sugar	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
2. Gross import duty on sugar	2,95,30,213	43,87,359	25,33,000
3. Number of factories in British India which paid the excise duty—			
<i>Khandsari</i>	95	95	Not available.
Others	142	136	Not available.
4. Quantity produced—Sugar other than <i>khandsari</i> and palmyra	Tons 852,246	1,025,091	1,103,813
<i>Khandsari</i> sugar (excised issues only)	Tons 4,029	3,284	1,940
Palmyra sugar	Tons 10,968	11,673	5,366

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

ADVOCACY BY MR. M. P. GANDHI FOR COMPULSORY MIXING OF POWER ALCOHOL WITH PETROL.

†729. ***Seth Haji Sir Abdoola Haroon:** Will the Honourable the Finance Member please state whether his attention has been drawn to the Indian Sugar Industry 1938 Annual by Mr. M. P. Gandhi, wherein he has advocated compulsory mixing of power alcohol with petrol?

The Honourable Sir James Grigg: Yes.

RESOLUTION PASSED BY THE COORG LEGISLATIVE COUNCIL RE GRANT OF PROVINCIAL AUTONOMY TO COORG.

730. ***Mr. T. S. Avinashilingam Chettiar:** Will the Honourable the Home Member state :

- (a) whether the Coorg Legislative Council has passed a resolution asking that they should be given provincial autonomy on the lines of those obtaining in the Provinces;
- (b) whether Government have considered that representation; and
- (c) if so, with what effect?

The Honourable Sir Reginald Maxwell: (a) and (b). Yes.

(c) Government consider that the time has not yet come for any further constitutional advance in Coorg.

Mr. T. S. Avinashilingam Chettiar: When was it considered?

The Honourable Sir Reginald Maxwell: It has been considered several times in the past.

Prof. N. G. Ranga: What was the last time when Government considered the representation?

The Honourable Sir Reginald Maxwell: The matter was fully considered before the present reforms were introduced and several discussions have also taken place since then. I cannot give the exact dates.

COMPLAINTS OF THE PEOPLE OF VILLAGE RAJOKRI IN DELHI PROVINCE AGAINST THE MAHRAULI POLICE.

731. ***Mr. Sham Lal:** (a) Will the Honourable the Home Member be pleased to state if it is a fact that the people of village Rajokri (Delhi Province) complained of corruption against Mahrauli Police to the Superintendent of Police, Mr. Scott?

(b) Is it a fact that Mr. Scott went to the village and tore to pieces the complaint filed by the residents of Rajokri?

(c) If so, why did he do so?

The Honourable Sir Reginald Maxwell: (a) A complaint from one Rup Chand of Rajokri village reached the office of the Senior Superintendent of Police, Delhi, in November, 1937, fifteen months ago. There was no complaint from or on behalf of the people of that village.

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

(b) Mr. Scott visited the village and destroyed the complaint after making personal enquiries.

(c) I cannot say definitely why he destroyed the complaint but it is understood that it was made two months after the alleged occurrence and that the complainant failed to produce evidence to substantiate it

Mr. Sham Lal: May I know why Mr. Scott destroyed this complaint?

The Honourable Sir Reginald Maxwell: I have said that I cannot say definitely why he destroyed the complaint, but the presumption is that it was because the complaint was not substantiated and it was made two months after the alleged occurrence.

Mr. Sham Lal: Is an officer justified in tearing a complaint when it is made too late?

The Honourable Sir Reginald Maxwell: I said "after personal enquiries".

Mr. Lalchand Navalrai: May I know if the officer lost his temper and showed incivility in that way?

The Honourable Sir Reginald Maxwell: I have no information to that effect.

Sardar Sant Singh: May I know if any officer is justified in destroying the complaint in the presence of the complainant when he is investigating the matter?

The Honourable Sir Reginald Maxwell: I do not know whether the complainant was present or not when the complaint was destroyed.

Mr. M. S. Aney: May I know whether the rules relating to destruction of records do not apply to complaints which are made late?

The Honourable Sir Reginald Maxwell: They can be destroyed at any time after inquiries have been made.

Mr. M. Ananthasayanam Ayyangar: Is it not the practice that these records are kept for three years, and they are destroyed only at the end of three years?

The Honourable Sir Reginald Maxwell: Not so far as I am aware.

Mr. M. Ananthasayanam Ayyangar: What is the period for which these records are kept?

The Honourable Sir Reginald Maxwell: I do not know the exact period, but a document which has served its purpose can be destroyed at any time.

IMPORT DUTY ON RACE HORSES.

732. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member please state the amount of duty collected on the import of race horses in 1936-37, 1937-38 and 1938-39 (up to the latest date for which figures are available)?

(b) At what rate is the duty collected, and in what way is the value ascertained for the purposes of the duty, and is the rate of duty the same for ordinary animals imported for other purposes?

(c) Is there a special duty on old race horses imported into India for stud purposes?

(d) Have Government considered the proposal to increase the import duty on race horses and putting them in the class of luxury imports?

(e) Have Government received any representation on this subject from turf clubs or any other source?

(f) Is any drawback given on horses sent back? If so, what was the amount of drawback in the periods referred to in part (a)?

(g) What are the reasons which have induced Government to give this drawback?

The Honourable Sir James Grigg: This question should be addressed to the Honourable the Commerce Member.

MANAGEMENT OF BURMESE CURRENCY BY THE RESERVE BANK OF INDIA ETC.

733. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member please state whether there is any time limit provided for the management of Burmese currency by the Reserve Bank of India? If so, what are the details of this contract?

(b) Is any part of the gold coin and bullion of the Reserve Bank of India held in Burma? If so, how much?

(c) Have Government any information as to the demand liabilities, the time liabilities and the cash in hand, of scheduled banks in Burma?

(d) What is the total amount of Treasury Bill borrowing of the Government of Burma? How much of this is held in India and how much is held in Burma?

(e) How does the rate at which the Government of Burma borrows compare with the borrowing rate of the Government of India on Treasury Bills?

The Honourable Sir James Grigg: (a) The attention of the Honourable Member is invited to the India and Burma (Burma Monetary Arrangements) Order, 1937, and to the agreement made between the Reserve Bank and the Governor of Burma to give effect to that Order.

(b) The disposition of its gold holdings, within the limitations imposed by section 33 (5) of the Reserve Bank of India Act, is a matter for the Bank itself.

(c) The attention of the Honourable Member is invited to the weekly statement of the Scheduled Banks' position published regularly by the Reserve Bank.

(d) There are no Burma Government treasury bills outstanding at present.

(e) The last borrowing by the Burma Government on treasury bills was in October, 1937, when Rs. 30 lakhs of four months bills were issued at Re. 0-15-11 per cent. per annum. The rate of interest at which Government of India three months bills were allotted in the same week was Re. 0-11-0 per cent. per annum. The rates quoted are not, of course, comparable because of the different maturity dates of the bills.

ALLEGATIONS AGAINST BRITISH SOLDIERS IN THE ALLAHABAD FORT.

734. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary please state if it is a fact that some British soldiers in the Allahabad Fort are alleged to have outraged the modesty of some women pilgrims, while going to perform *puja* in the Akshaibat Temple on the 20th January, 1939, during the Magh Mela?

(b) Have Government taken any disciplinary action against these offenders? If so, what?

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

(b) Does not arise.

Mr. Badri Dutt Pande: Is it not a fact that the soldiers beat some Seva Samiti volunteers when they protested against the molestation of women in the temple?

Mr. C. M. G. Ogilvie: That hardly arises, but I should like, with the permission of the Chair, to state what actually did happen in this case:

A pilgrim was accidentally hit on the shoulder by a stick which a sergeant was forced to use as a temporary barrier. This incident was seized upon by a scout of the Seva Samiti to try to cause trouble but the efforts of the military officer on the spot calmed the crowd and no further difficulties ensued.

The Officer in Charge received the following letter from the Organising Secretary of the Seva Samiti:

I was greatly touched by your courtesy in taking the trouble of coming over to our Central head office to speak to me about the work of the volunteers of the Samiti in the Fort. It is indeed very good of you to appreciate our humble efforts in serving the pilgrims with your co-operation but allow me to say that if they were able to do their part of the duty so well, it was not without the ready co-operation and valuable assistance which we received from you and your men. Yesterday's excitement among the pilgrims, soldiers and our workers over the unfortunate incident would have destroyed all harmony of the mela and caused all round panic, if you and Mr. Willmott had not very coolly and splendidly handled the situation and I greatly appreciate your solicitude for the pilgrims. Please convey my thanks to all your men for their co-operation and understanding. . . .

Mr. Badri Dutt Pande: In view of the fact that I have received damaging letters which I will place before the Defence Secretary that women were molested in the Fort, is it the intention of the Government to remove the soldiers and place the police there in charge of the temple?

Mr. C. M. G. Ogilvie: From all inquiries I have made, I should say that these allegations are absolutely and completely without any foundation.

Mr. M. Ananthassyanam Ayyangar: What was the sex of the pilgrim—a male or a female?

Mr. C. M. G. Ogilvie: A male, I believe.

TRANSFERS OF OFFICERS OF THE FINANCE DEPARTMENT.

†735. ***Shrimati K. Radha Bai Subbarayan:** Will the Honourable the Finance Member state :

- (a) the number of transfers of officers of his Department during the last six months ending 31st January, 1939;
- (b) the amount these transfers cost to the Government of India; and
- (c) if Government are considering the necessity of minimising the expenditure on this account?

The Honourable Sir James Grigg: (a) Five.

(b) The information is being collected and will be laid on the table of the House in due course.

(c) Government always keep in view the need for economy in transferring officers.

REPRESENTATIONS FOR ENQUIRY INTO THE POSITION OF WOMEN UNDER THE EXISTING LAWS WITH REGARD TO INHERITANCE, MARRIAGE, ETC.

†736. ***Shrimati K. Radha Bai Subbarayan:** Will the Honourable the Home Member state :

- (a) if the Government of India have received any representations from any women or their organisations regarding the urgent necessity of appointing an expert committee to examine the position of women under the existing laws with regard to inheritance, marriage, etc.; and
- (b) if Government propose to take any steps to meet this demand?

The Honourable Sir Reginald Maxwell: (a) No recent resolution has been received.

(b) No. I would refer the Honourable Member to the Honourable the Law Member's speech on the 15th February in the debate on Mr. Jinaraja Hegde's Resolution.

EMPLOYMENT OF WOMEN IN THE FEDERAL SERVICES.

†737. ***Shrimati K. Radha Bai Subbarayan:** Will the Honourable the Home Member state :

- (a) if any competitive examinations for recruitment into the Federal services are open to women;

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

- (b) the number of women who have appeared for such examinations and have been successful in them and the offices they hold;
- (c) if there is any ban against women being recruited in particular branches of Government service; and
- (d) if so, what those branches are and the reasons for the ban?

The Honourable Sir Reginald Maxwell: (a) The Ministerial Service (I and II Divisions or Assistants Grade) examination, the Ministerial Service (Typist and Routine Grade Clerks) examination and the Postal Superintendents (Class II) examination, which are conducted by the Federal Public Service Commission, are open to women.

(b) No women appeared at the Ministerial Service (I and II Divisions) examination held in July, 1937, or at the Postal Superintendent's examination during 1937-38. Fourteen women appeared at the Typist and Routine Grade examination held in December, 1937, and four at the examination held in September, 1938. Of these six were successful in obtaining appointments on the results of the 1937 examination. The results for the 1938 examination have not yet been published.

(c) and (d). The attention of the Honourable Member is invited to the statement that is being placed on the table of the House, as promised in reply to her previous question No. 474 on the 25th August, 1938.

LEVY OF DEATH DUTIES.

738. *Mr. S. Satyamurti: Will the Honourable the Finance Member please state :

- (a) whether any Provincial Government, or Governments, have reported to the Government of India, or to Sir Alan Lloyd, against the proposal to levy death duties;
- (b) if so, which Provincial Governments have so reported;
- (c) whether they have given any reasons in support of their opposition to the proposal; and
- (d) whether he proposes to place the opinions of the Provincial Governments on the table of the House; if not, why not?

The Honourable Sir James Grigg: (a) to (d). I am unable at present to add to what I said in reply to starred questions Nos. 88, 96 and 113 on the 6th February 1939. I may add that I hope to be able to add to these answers shortly, but not just yet.

Mr. S. Satyamurti: May I know whether it will be in the course of the budget speech tomorrow?

The Honourable Sir James Grigg: I do not mind anticipating to the extent of answering "No" in reply to that question.

Mr. S. Satyamurti: In view of the interruption made by my Honourable friend the other day suggesting that the Provincial Governments are against the inclusion of death duties, will my Honourable friend see the necessity of making a statement as early as possible in order to clear up the position.

The Honourable Sir James Grigg: I shall consider very seriously the question of laying the whole report of Sir Alan Lloyd before the Assembly when it is received. I have not received it yet.

Prof. N. G. Ranga: Is it necessary that all Provincial Governments should agree to this proposal before the Central Government can take up legislative proposals for imposing this death duty?

The Honourable Sir James Grigg: It seems to me as a matter of general principle that in cases where the Central Government is called upon to introduce taxation the whole benefit of which would go to the provinces, the Central Government can at least ask for a wide measure of agreement among the provinces before they introduce the legislation.

Prof. N. G. Ranga: Are Government aware of the seriousness of the situation that if any one of the Provincial Governments were to disagree with them and oppose the introduction of any particular duty like this, it would be impossible for the Central Government to enact a legislative measure and thus give benefit to all other provinces.

The Honourable Sir James Grigg: The Honourable Member has completely misunderstood what I said. I said "a wide measure of agreement".

THE INDIAN NAVAL RESERVE FORCES (DISCIPLINE) BILL.

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

- (a) whether Government have considered the result of the voting in the House rejecting his Naval Discipline Bill;
- (b) whether Government propose to accept the voting of the House and drop the Bill; or
- (c) whether Government propose to bring up the Bill before the Council of State and get it certified by the Governor General; if so, why?

I do not wish to put parts (a) and (b). I shall only put part (c).

Mr. C. M. G. Ogilvie: (c) Yes, because it is regarded as necessary for the reasons given in my speech on the 7th February, 1939.

Mr. S. Satyamurti: May I know whether Government have considered the possibility of giving the fullest possible information, and then seeking the co-operation of the leaders of parties for an agreed Bill, rather than rely upon the reserve powers of the Governor General?

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

Mr. S. Satyamurti: From the answer to clause (c).

Mr. C. M. G. Ogilvie: I have answered clause (c). I do not think there is anything to seek the co-operation of party leaders upon.

Mr. S. Satyamurti: I asked, whether Government intend to bring up the Bill before the Council of State and get it certified by the Governor General, and, if so, why? And my Honourable friend said, "yes". I am asking whether, instead of relying upon the reserve powers of the Governor General, they will give us the reasons why Government will not take the leaders of parties into confidence and bring in an agreed Bill after giving the fullest possible information.

Mr. C. M. G. Ogilvie: From what I could gather, and I think I listened very carefully, from the speeches, there was not only a blank refusal to co-operate with Government on this Bill but a refusal to co-operate with any measure of this kind from the Honourable Member's party and others.

REPORT OF THE CHATFIELD COMMITTEE.

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

- (a) whether Government have now received a copy of the Chatfield Committee's report;
- (b) whether they have examined it;
- (c) whether they have made any recommendations or representations thereon to His Majesty's Government; if so, what they are; and
- (d) whether Government can inform the House of the financial relief likely to result to the Indian exchequer on account of the acceptance of the Committee's recommendations by His Majesty's Government?

Mr. C. M. G. Ogilvie: (a) and (b). The Chatfield Committee has submitted its report to His Majesty's Government who are engaged in considering it. The report has not yet been referred officially to the Government of India.

(c) Does not arise.

(d) No.

Mr. S. Satyamurti: With reference to the answer to clause (c), may I know what exactly is the position of the Government of India? Do they propose, after having laid the evidence before the Chatfield Committee, to leave His Majesty's Government to decide this matter themselves, or do they intend at any stage to ask for and obtain an opportunity of making their own representations on the Chatfield Committee's Report before His Majesty's Government make up their minds finally on these recommendations?

Mr. C. M. G. Ogilvie: There will no doubt be full opportunities for representations before His Majesty's Government make up their minds in the matter, but, as I have said, that does not arise now. The report has not yet been officially referred to them.

Mr. S. Satyamurti: May I take it that the Government of India have been assured by His Majesty's Government that they will be given adequate opportunity to make their recommendations before His Majesty's Government pass final orders on the recommendations of the Chatfield Committee?

Mr. C. M. G. Ogilvie: No such assurance is necessary.

Mr. S. Satyamurti: I take it then that the Government of India assume that His Majesty's Government will give them that opportunity?

Mr. C. M. G. Ogilvie: Most certainly.

Mr. S. Satyamurti: What is the answer to clause (d) of the question?

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

Mr. S. Satyamurti: Is it lack of information or lack of willingness to give the information to the House?

Mr. C. M. G. Ogilvie: It is obvious. The report has not yet been received officially and His Majesty's Government have not yet finished considering it. The information, therefore, is definitely not available.

ANTI-INDIAN FILM "GUNGA DIN" PRODUCED IN AMERICA.

741. ***Mr. S. Satyamurti:** Will the Honourable the Home Member please state:

- (a) whether his attention has been drawn to the article in the columns of the *Film India* of February, 1938, on the anti-Indian film "Gunga Din" produced by the R. K. O. Radio Pictures of America;
- (b) whether Government have got any information that this film is distinctly anti-Indian; and
- (c) whether Government propose to take any action to draw the attention of the British Embassy in Washington to this film and stop the production or the release of this film?

The Honourable Sir Reginald Maxwell: (a) Yes.

(b) My information is that this is not the case.

(c) Does not arise.

Mr. S. Satyamurti: May I know whether my Honourable friend has pursued the article referred to in clause (a) of the question, and, secondly, what is the information on which he has come to the conclusion that this film is not definitely anti-Indian?

The Honourable Sir Reginald Maxwell: In answer to the first part of the Honourable Member's supplementary question, I have looked through the article in question and I think it takes an exaggerated view of the objectionable nature of the film. With regard to the second part of his supplementary question, we have made unofficial inquiries from the India

Office to find out whether they have examined it. The Honourable Member knows that they take great care to get into touch with any films likely to be offensive to Indian sentiment and in this particular case they say there is nothing objectionable in it, after a few excisions which were made at their instance.

Mr. S. Satyamurti: May I know whether the Government of India have seen or been informed of these excisions, and are they satisfied now that the film, as it is to be released, is not anti-Indian?

The Honourable Sir Reginald Maxwell: The Government of India cannot see these films at the time of production. I am speaking of their exhibition in England. When they come to India, they come before the Boards of Film Censors who examine them and cut out anything likely to be offensive.

Mr. S. Satyamurti: In view of the fact that anti-Indian films are even more poisonous outside India than inside India, will the Government of India take some steps to see that the India Office does examine these films with these excisions and satisfies itself and satisfies the Government of India that these films, with these excisions, are not anti-Indian?

The Honourable Sir Reginald Maxwell: As I have informed the Honourable Member, that has already been done and the film, as it stands after certain excisions, is regarded as inoffensive.

Mr. S. Satyamurti: By whom—the Secretary of State, the India Office, or somebody on behalf of the Government of India?

The Honourable Sir Reginald Maxwell: By officers of the India Office, who have examined it.

Mr. S. Satyamurti: Was there any Indian on that Committee or an Indian present at the examination of the film? It is a matter of Indian sentiment, and I put it to Government that they should take steps to secure Indian criticism of this film. Have they done so?

The Honourable Sir Reginald Maxwell: The India Office represent Indian interests in this matter; and as the Honourable Member knows, the Government of India are always very insistent on the point, and so is the Secretary of State. Not so long ago, I had occasion to mention it in reference to "The Relief of Lucknow", the production of which owing to the action of the India Office was stopped.

Mr. Lalchand Navarai: May I know if there is any organisation on behalf of the Government of India or the British Government in America to help the censors in respect of Indian pictures before they are sent to England or elsewhere?

The Honourable Sir Reginald Maxwell: I was going to explain that in answer to the next question on the paper.

BANNING OF THE FILM "DRUM".

742. *Mr. S. Satyamurti: Will the Honourable the Home Member please state:

- (a) whether Government are aware that the film "Drum" was banned by several Provincial Governments some months ago;
- (b) whether Government have taken any action against the producer of the above film, as the film is being exhibited in several other countries of the world; and
- (c) whether Government propose to take steps to draw the attention of the distributors and the exhibitors of anti-Indian films in other countries, who are operating in this country, and see that they stop this propaganda against India in other countries?

The Honourable Sir Reginald Maxwell: (a) Yes: but a revised version of the film was passed by the Bombay Board of Film Censors on 20th October, 1938, and, so far as is known, no authority has taken action against this version in any part of India.

(b) No.

(c) Action is regularly taken in England by the Secretary of State to secure the modification and, if necessary, rejection by the Board of Film Censors of films offensive to Indian sentiment. In America, we have an arrangement by which His Majesty's Consul at Los Angeles uses his good offices to obtain similar modification of objectionable films. The action is usually fruitful and does help to prevent the production of films repugnant to Indian sentiment. And I have no doubt that risk of the loss of the Indian market also is a considerable deterrent.

Mr. S. Satyamurti: With reference to the answer to part (b) of the question, may I know whether Government will consider taking some action against the producers of these films in order that they may not be exhibited outside India? I can see that, so far as exhibition in India is concerned, there is ample machinery by means of the Board of Film Censors to stop them, but as regards their exhibition outside this country, will Government undertake to take adequate steps against the misrepresentation of this country by means of films?

The Honourable Sir Reginald Maxwell: Pretty strong pressure can be placed on these people not to produce objectionable films because the Board of Film Censors as a general rule will help the India Office in securing their non-production or non-exhibition, and the lead of the Board of Film Censors is usually followed throughout the Dominions: and therefore a film to which serious objection was taken would probably not be a paying proposition. We can put pressure in that way.

Mr. S. Satyamurti: May I know whether any steps are taken by the Government of India, or will they consider the question of taking some steps to prevent the exhibition of anti-Indian films in countries outside the dominions and England—such as America, Germany, France, etc.?

The Honourable Sir Reginald Maxwell: It is extremely difficult to take any direct steps against the exhibition of these films in foreign countries outside the dominions. I think the best method to pursue is the indirect pressure, which we can at present exercise and which does very materially check the production of these films. Of course, if the matter became worse, we should have to consider other action, but the matter has been gone into pretty carefully.

Mr. Lalchand Navalrai: May I know if the film "The Drum" was shown in Delhi and after that there were objections shown against it and then the owners had to go away to Ceylon?

The Honourable Sir Reginald Maxwell: I am afraid I have no exact information.

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

TREATMENT OF DEFENCE EXPENDITURE AS VOTABLE.

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

- (a) whether any part of the Defence expenditure will be treated as votable in the annual budget of 1939-40;
- (b) whether Government are aware of the strong resentment of the elected Members of the Central Legislature; and
- (c) whether Government have reviewed the position since the silent rejection of the budget last year?

The Honourable Sir James Grigg: (a) No.

(b) and (c). I would refer the Honourable Member to my reply to question No. 223 on the 16th August, 1938.

Mr. S. Satyamurti: May I know if the Government of India have examined this matter again after the vote of the House last year with regard to the Budget Demands, and whether they have satisfied themselves that the position is exactly the same as last year, and it is not open to the Governor General to throw open any part of the defence expenditure to the vote of this House? -

The Honourable Sir James Grigg: The Honourable Member asked a precisely similar question on the occasion of the question to which I have referred and I would refer him to the answer I gave to him then.

Mr. S. Satyamurti: Did they examine it subsequently?

The Honourable Sir James Grigg: I refer the Honourable Member to the question and the answer which I gave to a precisely similar question.

Mr. S. Satyamurti: Will you help my weak memory? I want to know the exact answer to the question as to whether it was examined afterwards by the Government of India.

The Honourable Sir James Grigg: I will read out the answer which I gave. I see in point of fact that the immediate question was asked by the Honourable Member behind him. I answered that the Government took up the attitude that they had no option in the matter.

CENSORSHIP OF LETTERS AND PARCELS OF ACHARYA CHANDRA SHEKHAR SHASTRI.

744. *Babu Kailash Behari Lal: Will the Honourable the Home Member please state:

- (a) if it is a fact that a constant watch is kept by the Criminal Investigation Department over Acharya Chandra Shekhar Shastri on account of his publication of books of a political nature;
- (b) if it is a fact that all his mail (letters and parcels) is censored before delivery to him and since the publication of his book "Bhartya Atankwad Ka Itihas" (History of Terrorist movement in India), the censorship of his mail has been made stricter, so much so that even registered parcels are opened and then delivered to him; and
- (c) if it is a fact that a registered parcel came recently in his name from Calcutta, which was opened and he was intimated to take the delivery in that condition and he has lodged a protest in respect of that with the postal authorities?

The Honourable Sir Reginald Maxwell: (a) and (b). It is contrary to the public interest to give any information on a subject of this nature.

(c) A damaged parcel addressed to him was recently received. I understand that he satisfied himself that it was received in damaged condition, and, thereupon, took delivery.

Babu Kailash Behari Lal: Is it not a fact that he protested that the parcel was not broken by accident, but that it was deliberately opened by somebody?

The Honourable Sir Reginald Maxwell: No, Sir. My information is that he was perfectly satisfied that the parcel was accidentally damaged, and he thereupon took delivery under a clear receipt.

Babu Kailash Behari Lal: Has the Honourable Member got the information from the Department that such a protest was lodged by the person concerned?

The Honourable Sir Reginald Maxwell: Yes. I understand that he at first surmised that the article had been purposely opened by somebody.

Babu Kailash Behari Lal: Has he been satisfied as to that?

The Honourable Sir Reginald Maxwell: Yes, Sir.

Babu Kailash Behari Lal: May I know if the publication in question, "History of Terrorist Movement in India", is under censure of the Government?

The Honourable Sir Reginald Maxwell: No, Sir. I do not think there is anything against that book.

LOSS OF LIFE AND PROPERTY BY AIR RAIDS ON THE NORTH-WEST FRONTIER PROVINCE.

745. *Mr. K. S. Gupta: Will the Defence Secretary please state:

- (a) the total loss of life and property by the air raids on the North-West Frontier Province in the years 1936, 1937 and 1938; and
- (b) what is the total loss of life and property to the Hindus living in the North-West Frontier Province due to the successive raids by those living in the tribal belt; whether any compensation is paid to the sufferers by these frequent raids; if so, how much and to how many; if not, why not?

Mr. C. M. G. Ogilvie: (a) and (b). This question should have been addressed to the Foreign Secretary.

RESOLUTION PASSED BY THE EXCISE ADVISORY BOARD OF DELHI REQUESTING FOR A REVISION IN ITS CONSTITUTION, ETC.

746. *Mr. K. S. Gupta: Will the Honourable the Finance Member state whether he is aware that the Excise Advisory Board of Delhi has passed a resolution requesting for a revision of the constitution with a view to widening its scope and functions and investing it with additional powers? If so, what is the action taken or proposed to be taken in the matter?

The Honourable Sir James Grigg: The information is being obtained and will be laid on the table of the House in due course.

PROPOSAL TO CLOSE COUNTRY LIQUOR SHOPS IN CERTAIN LOCALITIES IN DELHI.

747. *Mr. K. S. Gupta: (a) Will the Honourable the Finance Member please state whether there is any move to close the country liquor shops at Subzimandi, Paharganj and Karol Bagh and suspend the licences existing in view of the growing demand by the people for total prohibition in India? If not, why not?

(b) Is the Honourable Member prepared to see that liquor shops should not be located on public thoroughfares and important bazaars? If not, why not?

The Honourable Sir James Grigg: (a) and (b). The matter is primarily one of local administration. Certain information has been called for, but I am not at present in a position to make any statement.

PENALTY FOR REFUSAL TO ACCEPT CURRENT COIN.

748. *Mr. Lalchand Navalrai: (a) Will the Honourable the Finance Member be pleased to state if there is any penalty under any Indian law or any legal order attachable to refusal by the public to take any current coin which is a good tender?

(b) If the reply to part (a) be in the negative, do Government propose to see that some legislation or legal orders or instructions are made on the point to avoid harassment that is being caused to the public? If not, what are the reasons?

The Honourable Sir James Grigg: (a) There is no punishment provided by law for a person refusing to accept legal tender coins, but under the general law of contract such refusal would involve the loss of certain rights, e.g., the right to interest on a debt from the time payment was offered.

(b) I presume the Honourable Member is referring to the difficulty about Victoria coins, but as I have already informed the House, they are gradually being withdrawn from circulation.

Mr. Lalchand Navalrai: I am not referring to the Victoria coins and I am also not referring to the spurious coins, but I am referring to the good coins that are being refused and that cause so much harassment to the public and, I daresay, to the Honourable Member himself and his colleagues. Will Government take some action to see that the harassment is removed?

The Honourable Sir James Grigg: I would be quite glad if members of the public or shopkeepers and various people of that sort stopped refusing perfectly good coins. If the Honourable Member can suggest any effective means of ensuring this, short of their execution, I will be glad to consider them.

Mr. Lalchand Navalrai: I think the Honourable Member is cleverer than I am, and he can issue some notification or circular saying that there should be no harassment on this account, and if the coins are not spurious, people may take them. Will the Honourable Member do some such thing?

The Honourable Sir James Grigg: It seems to me that the circulation of that Notification would have to be pretty widespread, and I cannot see that it is worth printing several tens of millions of copies for the result that we should get from it.

Mr. Lalchand Navalrai: May I know if the Honourable Member himself has ever had that kind of harassment from people when they refused to take his coins?

The Honourable Sir James Grigg: No, Sir. I always entrust my cash transactions to another agency.

PAUCITY OF MUSLIMS HOLDING SUPERIOR POSTS IN THE INCOME-TAX DEPARTMENT OF THE PUNJAB, NORTH-WEST FRONTIER PROVINCE AND DELHI.

†749. *Khan Bahadur Shaikh Fazl-i-Haq Piracha: Will the Honourable the Finance Member please state:

- (a) the number of superior posts, viz., Commissioners and Assistant Commissioners of Income-tax. in the Provinces of the Punjab, North-West Frontier and Delhi; how many of these posts are held by Hindus, Muslims, Sikhs and Christians, respectively;

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

- (b) if it is a fact that since the last few years the cadre of the Assistant Commissioners has been doubled in the said Provinces without giving any representation to the Muslims; and
- (c) whether it is a fact that Mir Afzal Ali was the only Income-tax officer appointed as Assistant Commissioner after the increase in the cadre and that after his death the vacancy was filled in by a non-Muslim?

The Honourable Sir James Grigg: (a) The number of posts is four permanent and two temporary. One of them is held by a Christian, one by a Sikh and four by Hindus.

(b) The cadre of Assistant Commissioners' has not been doubled but two temporary posts have been added to three permanent ones. In one of the temporary posts a Muslim was appointed in October, 1936, but he died in December, 1937.

(c) Yes.

PAUCITY OF MUSLIMS HOLDING SUPERIOR POSTS IN THE INCOME-TAX DEPARTMENT OF THE PUNJAB, NORTH-WEST FRONTIER PROVINCE AND DELHI.

†750. ***Khan Bahadur Shaikh Fazl-i-Haq Piracha:** Will the Honourable the Finance Member please state:

- (a) if there is a proposal to make additional appointments to the posts of Assistant Commissioners in execution of the scheme of the new Income-tax Act, which provides for separation of appellate and administrative functions; if so, whether Government propose to consider the desirability of filling any future appointments of Assistant Commissioner by Muslims in the Punjab, North-West Frontier and Delhi Provinces in order to reduce cent. per cent. preponderance of one community;
- (b) if it is a fact that during the financial year, until very recently, the post of the Commissioner of Income-tax in the Punjab, North-West Frontier and Delhi Provinces was held by a Sikh and the posts of Personal Assistant to the Commissioner, Office Superintendent to the Commissioner and Stenographer to the Commissioner were all held by Hindus; and
- (c) if it is a fact that in the years previous to the last the posts of Personal Assistant and Stenographers to the Commissioner of Income-tax in the Punjab, North-West Frontier and Delhi were both held by Muslims; and what were the reasons for the change of these officers?

The Honourable Sir James Grigg: (a) The answer to the first part of the question is in the affirmative. With regard to the second part appointments to the cadre of Assistant Commissioners are by promotion and qualified Muslim Income-tax Officers are considered on their merits.

(b) Yes.

(c) The reply to the first part is in the affirmative. Transfers of such officers as those mentioned by the Honourable Member are made by the

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

Commissioner of Income-tax. Transfers of public servants are made in the public interest.

PAUCITY OF MUSLIMS HOLDING SUPERIOR POSTS IN THE INCOME-TAX DEPARTMENT OF THE PUNJAB, NORTH-WEST FRONTIER PROVINCE AND DELHI.

†751. *Khan Bahadur Shaikh Fazl-i-Haq Piracha: Will the Honourable the Finance Member please state:

- (a) if Government are aware of the high feelings of resentment and discontent amongst the Muslims in the Punjab, North-West Frontier and Delhi Provinces, over the communal disparity and differential treatment as far as the Income-tax Department is concerned in matters of appointments, postings and general treatment with the Muslim community; and
- (b) if Government propose to consider the possibility of appointing a Muslim Officer as Personal Assistant to the Commissioner of Income-tax, in the Punjab, North-West Frontier and Delhi Provinces, in view of the cent. per cent. preponderance of non-Muslims in the personnel of the office of the Income-tax Commissioner?

The Honourable Sir James Grigg: (a) No.

(b) The choice of his Personal Assistant is made by the Commissioner of Income-tax. Government see no reason to issue a direction as suggested.

PAUCITY OF MUSLIMS HOLDING SUPERIOR POSTS IN THE INCOME-TAX DEPARTMENT OF THE PUNJAB, NORTH-WEST FRONTIER PROVINCE AND DELHI.

†752. *Khan Bahadur Shaikh Fazl-i-Haq Piracha: Will the Honourable the Finance Member please state:

- (a) if it is a fact that since the separation of the Income-tax Department, never a chance has been given to a Muslim Officer to be appointed Commissioner of Income-tax in the Provinces of the Punjab, North-West Frontier and Delhi in a permanent or an officiating vacancy; and
- (b) if it is a fact that the present Income-tax Commissioner of the Punjab, North-West Frontier and Delhi Provinces is shortly proceeding on long leave; if so, whether Government are prepared to consider the question of appointing some Muslim Indian Civil Service officer during this leave vacancy?

The Honourable Sir James Grigg: (a) Yes.

(b) The answer to the first part of the question is in the affirmative. With regard to the second part Government propose, as usual, to fill this vacancy from the Department.

UNDERTAKING OF BANKING LEGISLATION.

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

- (a) whether Government contemplate to undertake banking legislation in the near future; and

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

- (b) whether the banking interests will be consulted prior to the drafting of the Bill?

The Honourable Sir James Grigg: (a) No.

(b) Does not arise.

BIHARIS IN THE ACCOUNTANT GENERAL'S OFFICE AND LOCAL AUDIT DEPARTMENT IN BIHAR.

754. *Babu Kailash Behari Lal: Will the Honourable the Finance Member be pleased to state:

- (a) if it is a fact that in the Province of Bihar in the Accountant-General's office and Local Audit Department there are 264 posts, out of which, according to the statement furnished by the Deputy Accountant General to the Bihar Unemployment Committee, only 70 are held by men of the Province or men domiciled therein;
- (b) what the total number of posts under the Accountant General's office and Local Audit Department in Bihar is since the figure was supplied to the Bihar Unemployment Committee; and
- (c) if the Bihar Government have made any representation to the Government of India in respect of giving preference to local candidates in the matter of appointment in the Audit Department on the same principle as the Income-tax Department and Posts and Telegraphs Department have done?

The Honourable Sir James Grigg: The information is being obtained and will be laid on the table of the House in due course.

MAINTENANCE OF RECORD OF INCOME FROM FEES BY MEDICAL OFFICERS FOR INCOME-TAX PURPOSES.

755. *Mr. Sham Lal: Will the Honourable the Finance Member be pleased to state whether medical officers in charge of civil hospitals and dispensaries run by Government and Local Bodies in various parts of India are required to maintain for the inspection of income-tax authorities any prescribed form showing their fee-income from different sources, such as, fees charged by them for examining patients at their houses or at their (doctors') own residences, delicate hospital operations, examining persons seeking to be insured, and issuing certificates in medico-legal cases?

The Honourable Sir James Grigg: No.

Mr. Sham Lal: Why are they not required to keep accounts of the fees received by them?

The Honourable Sir James Grigg: The Honourable Member only asks whether they were required to keep accounts for the inspection of the income-tax authorities and that is the question I have answered.

Mr. Lalchand Navalrai: May I know if these fees are assessable to income-tax?

The Honourable Sir James Grigg: Certainly.

UNSTARRED QUESTIONS AND ANSWERS.

SUPERINTENDENTS IN THE COMPTROLLER'S OFFICE AT PESHAWAR.

24. Mr. Abdul Qaiyum: Will the Honourable the Finance Member please state:

- (a) the number of superintendents in the office of the Comptroller, North-West Frontier Province, at Peshawar;
- (b) how many of them are Frontier men; and
- (c) whether it is proposed to give adequate representation to Frontier men in the Subordinate Accounts Service? If so, how?

The Honourable Sir James Grigg: (a) Eight.

(b) Two.

(c) This is a matter for the clerks themselves as promotion to the grade of Superintendent depends on ability to pass the Subordinate Accounts Service Examination. So far only one Frontier man has been successful.

RETRENCHMENT OF FRONTIER MEN IN THE COMPTROLLER'S OFFICE AT PESHAWAR.

25. Mr. Abdul Qaiyum: Will the Honourable the Finance Member please state:

- (a) whether recent economy orders will throw out a number of Frontier men from the Comptroller's office at Peshawar;
- (b) if so, what is their number;
- (c) whether Frontier men are already under-represented;
- (d) whether outsiders are given special pay to serve in this department at Peshawar;
- (e) if so, what is the special pay of each grade, and what is the total annual bill;
- (f) since when this special pay has been paid to such outsiders, and the total amount paid so far; and
- (g) whether Government propose to economise now by employing more *bona fide* residents instead of retrenching those already in service?

The Honourable Sir James Grigg: (a) Yes.

(b) Four.

(c) This office, originally part of the office of the Accountant General, Punjab, had to be started as a separate unit with experienced men mainly from that office. No non-Frontier man has been recruited as a clerk for the last nine years, and it is not intended that any should be recruited in future.

(d) to (f). Special pay ranging from Rs. 30 to 50 per mensem has been granted to the staff transferred from other Accounts and Audit Offices since 1929. The annual cost is about Rs. 12,000 and about a lakh of rupees has so far been paid.

(g) The experienced staff from outside is still the backbone of the Comptroller's Office and cannot be dispensed with.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to starred question No. 474 asked by Mr. T. S. Avinashilingam Chettiar (on behalf of Shrimati K. Radha Bai Subbarayan) on the 25th August, 1938.

EMPLOYMENT OF WOMEN IN THE GOVERNMENT OF INDIA DEPARTMENTS.

Statement giving certain particulars regarding the employment of women in the various Departments of the Government of India.

Name of Departments and Offices open to women.	2 Nature of employment for which women are eligible.	3 Number of women already serving.	4 Indian. European.	5 Whether women are employed on the same terms as men.	6 Whether any discrimination is made between Indian and European women.	7 Departments or posts to which women are not admitted and the reasons for their non-admission.	8 Remarks.
1. Home Department Clerical .	(a) 2	(a) 2	3	5	6	7	(a) Anglo-Indians.
2. Office of the Director, Intelligence Bureau (Home Department).	Clerical .	(a) 4	4	No. On initial appointment women clerks get a higher rate of pay than men.	No	Ditto	(a) Anglo-Indians.
3. Office of the Principal Information Officer. (Home Department).	Clerical .	1	4	Yes	No	.....	(a) Anglo-Indians.

Statement giving certain particulars regarding the employment of women in the various Departments of the Government of India—contd.

Name of Departments and Offices open to women.	Nature of employment for which women are eligible.	Number of women already serving.	Whether women are employed on the same terms as men.	Whether any discrimination is made between Indian and European women.	Departments or posts to which women are not admitted and the reasons for their non-admission.	Remarks.
1	2	3	4	5	7	8
4. External Affairs Department.	Clerical .	9	No. Women receive a higher initial pay and are given Second Class T. A. (irrespective of pay) whereas men qualify for that class when their pay exceeds Rs. 200 a month.	No		
5. Finance Department.	Clerical .	(a) 1	1 Yes	No		(a) Anglo-Indian.
6. Central Board of Revenues (Finance Department).	Clerical (Teachers and some miscellaneous posts).	(b) 34	Yes	No		(b) Includes four Anglo-Indians.
7. Security Printing Department (Finance Department).	Clerical Posts other than those of Office Superintendent, Accountant, Deputy Accountant, and General Cashier.	(a) 1	Yes	No	.....

	8. Indian Audit Department (Finance Department).	Subordinate vices.	Ser.	(a) 5	2 Yes	No	
	9. Mints. (Finance Department).	Clerical, Accountant and Deputy Accountant.					....
	10. Defence Department.	Clerical . . .	(a) 4	1	The initial rate of pay for women clerks is higher and they are given second class T. A. (irrespective of pay) while men qualify for that class after their pay exceeding Rs. 200 a month.	No	....
	11. Army and Royal Air Force Headquarters. (Defence Department).	Clerical . . .	(a) 31	(c) 30	Ditto	No	.... (c) Includes 16 of Asiatic Domicile.
	12. Legislative Department.	De. Clerical . . .			....
	13. Commerce Department. (d)	De. Clerical . . .			....		Bengal Pilot Service. Women do not possess the necessary physique to stand the strenuous duties which the pilots are called upon to perform. (d) Women clerks are employed in the Office of the High Commissioner for India, London.
	14. Labour Department.	Clerical . . .			....		..

1	2	3	4	5	6	7	8
Name of Departments and Offices open to women.	Nature of employment for which women are eligible.	Number of women already serving.	Whether women are employed on the same terms as men.	Whether any discrimination is made between Indian and European women.	Departments or posts to which women are not admitted and the reasons for their non-admission.	Remarks.	
15. Geological Survey of India (Labour Department).	Clerical.	..	..	....	..	Women are disqualified for appointment to Central Service Class I and II posts as the duties are of a very strenuous nature. Ditto.	8
16. Department of Mines. (Labour Department).	Clerical.	.	..	....	..	For the reasons stated above, women are disqualified for appointment to General Central Service Class I and II posts. ....	....
17. Department of Explosives (Labour Department).	Clerical.	.	..	....	..	For the reasons stated above, women are disqualified for appointment to General Central Service Class I and II posts. ....	....
18. Indian School of Mines (Labour Department).	Clerical.	.	..	....	..	For the reasons stated above, women are disqualified for appointment to General Central Service Class I and II posts. ....	....
19. Controller of Emigrant Labour. (Labour Department).	Clerical.	.	..	....	..	For the reasons stated above, women are disqualified for appointment to General Central Service Class I and II posts. ....	....
20. Supervisor of Railway Labour. (Labour Department).	Clerical.	.	..	....	..	For the reasons stated above, women are disqualified for appointment to General Central Service Class I and II posts. ....	....

21. Conciliation Officer (Railways) (Labour Department).	Clerical . . . . .	..	....	..	....	..	....	..	....	..	....
22. Stationery and Printing Department. (Labour Department).	Clerical . . . . .	..	....	..	....	..	....	..	....	..	....
23. Central Public Works Department. (Labour Department).	Clerical . . . . .	..	....	3	Yes	..	....	No	..	....	..
24. Education, Health and Lands Department.	Clerical and certain miscellaneous posts e.g. of Lady doctor, nurse, Assistant Professor, etc.	(e)	7	(e)	2	Yes	..	No	..	....	(e) Employed in posts subordinate or attached to the Department of E., H. & L.
25. Legislative Assembly Department.	Clerical . . . . .	..	....	..	....	..	....	..	....	..	....
26. Imperial Council of Agricultural Research Department.	Clerical and research posts.	(f)	2	..	....	..	....	..	....	..	....
				Women clerks if any, would get a better initial rate of pay than the men,							(f) Employed on the Council research schemes.

Women are disqualified for non-clerical appointments in the Government of India. Presses in consideration of the nature of the duties and conditions under which they are performed.

Posts reserved for I. M. S., or I. M. D., Officers. Zoological Survey of India, Class I. Archaeological Department, Class I. Survey of India—Employment in these services involves obligations to serve in the field or calls for considerable powers of physical endurance.

Name of Departments and Offices open to women.	Nature of employment for which women are eligible.	Number of women already serving.	Whether women are employed on the same terms as men.	Whether any discrimination is made between Indian and European women.	Departments or posts to which women are not admitted and the reasons for their non-admission.	Remarks.
1	2	3	5	6	7	8
27. Office of the Agricultural Marketing Adviser. (I. C. A. R. Department).	Clerical	(a) 1	Women clerks get a better initial rate of pay in the II and III Divisions.	No	. . . .	(a) Anglo-Indians.
28. Office of the Director, Imperial Institute of Sugar Technology (I. C. A. R. Department).	Clerical . . . .	. . . .	. . . .	. . . .	. . . .	. . . .
29. Communications Department.	Clerical . . . .	. . . .	. . . .	. . . .	. . . .	. . . .
30. Civil Aviation Department. (Communications Department).	Clerical	(a) 2	Women clerks get a better initial rate of pay.	No	General Central Services, Class I and II and Subordinate Services requiring technical knowledge. Women have been excluded from these Services in consideration of the nature of duties and conditions under which they are performed.	. . . .

31. All-India Radio (Communications Department).	Clerical and Programme Assistant Announcer.	3	2	No	....
32. Posts and Telegraphs Department (Communications Department).	(g) 265 Telegraphists, Telephone Operators, Clerical and other miscellaneous posts, Assistant Presidency Postmaster (Gazetted).	No	Yes. Except in the Post and Telegraphs Directorate women clerks are given a higher rate of initial pay.	(1) Services in the Superior Telegraph Engineering and Wireless Branches. (2) Engineering Supervisors (General and Telephones) and Electrical Supervisors, and Cable Supervisors. (3) Postmen and Mail Guards. Women have been excluded from these posts in consideration of the nature of duties and conditions under which they are performed.	(g) Includes 179 Anglo Indians and Domiciled Europeans.
33. Railway Department (Railway Board).	Clerical and certain miscellaneous posts.	(a) 3	Women clerks are given a higher rate of initial pay in the II and III Divisions and are entitled to second class T. A. (irrespective of pay) while men only get that class when their pay exceeds Rs. 200.	No	....
34. Central Standard Office (Railway Department).	Clerical.	..	....	..	....

1	2	3	4	5	6	7	8
Name of Departments and Offices open to women.	Nature of employment for which women are eligible.	Number of women already serving.	Whether women are employed on the same terms as men.	Whether any discrimination is made between Indian and European women.	Departments or posts to which women are not admitted and the reasons for their non-admission.	Remarks.	
35. Controller of Railway Accounts (Railway Department).	Clerical.	..	..	....	..	....
36. Central Publicity Office. (Railway Department).	Clerical.	(a) 1	Yes		No		(a) Anglo-Indian.
37. Reforms Office.	Clerical.						
38. Federal Public Service Commission.	Clerical.	..	3 Yes		No		
39. Military Finance Department.	Clerical.	..			..
40. Military Accounts Department (Military Finance Department).	Clerical.	(b) 3	Yes		No		(b) 2 Anglo-Indians and 1 Indian Jewess-recruited prior to 1931. Recruitment of women to the Military Accounts Department has ceased since 1931 as conditions of service include liability for field service in or out of India, a condition which cannot be satisfactorily fulfilled in the case of women.

Information promised in reply to unstarred question No. 28 asked by Mr. Muhammad Azhar Ali on the 31st August, 1938,

OFFICIATING ALLOWANCE PAID TO NON-GAZETTED STAFF ON THE NORTH WESTERN RAILWAY.

(a) Officiating allowance is given in case (i), but not in cases (ii) to (iv). In case (iii), however, compensation is given for the loss of mileage or overtime allowance that would otherwise have been earned.

(b) Running staff taken off their regular duties are deprived of the opportunities they would otherwise have had of earning mileage or overtime allowances.

(c) Rule 138 of the State Railway Establishment Code, a copy of which is in the Library of the House.

Information promised in reply to a supplementary question asked by Mr. S. Satyamurti to Mr. Brojendra Narayan Chaudhury's starred question No. 1105 on the 16th September, 1938.

CLAIMS FOR COMPENSATION ON ACCOUNT OF THE BIHTA RAILWAY ACCIDENT.

The following are the particulars asked for in regard to claims for compensation on account of the Bihta accident :—

- | | |
|---|--|
| (b) (i) Number of persons who have claimed compensation and the total amounts thereof. | Claims have been received as under :—
In respect of 42 killed and 75 injured totalling . Rs. 16,10,327
In respect of 56 killed and 30 injured—
No specific amount stated.
Total 98 killed and 105 injured. |
| (ii) Number of persons who have received compensation amicably and the total amounts thereof. | 97 claims covering 58 killed and 72 injured have been settled amicably for a total amount of Rs. 1,39,82. |
| (iii) Number of persons who have applied to courts for compensation. | One. |
| (iv) Number of persons whose claims are still pending before courts. | One. |
| (v) Number of persons who have secured court decrees, and the total amounts. | Nil. |
| (vi) Number of persons whose decrees have been paid off within a year of the happening of the injury, and the amounts involved. | Nil. |
| (vii) Number of persons whose decrees have been paid off after a year of the happening of the injury. | Nil. |
| (c) (i) Number of persons whose claims are still pending. | Offers of compensation made and under negotiation—25 claims covering 14 killed and 17 injured.
Under investigation—3 claims covering 7 killed and 4 injured.
Repudiated—19 claims covering 19 killed and 12 injured. |
| (ii) Number of decrees outstanding, and the amounts involved. | Nil. |

Information promised in reply to starred question No. 1108 asked by Mr. Brojendra Narayan Chaudhury on the 16th September, 1938.

AFFAIRS OF THE ASSAM BENGAL RAILWAY.

(a) and (e). The Agent and General Manager, Assam Bengal Railway, states the facts are as follows :

In November, 1937, about 100 students of the Nilmani High School, Karimgunj, endeavoured to force their way on to the platform while two trains were standing at the station. They refused to purchase platform tickets and became abusive and later violent. Stone-throwing took place, people were hit, and damage to railway property was the result. A case was instituted. The Head Master of the School expressed the repentance of his students for what they had done and asked that they be dealt with under School discipline. The trying Magistrate favoured this suggestion and the Railway Police at his request withdraw the case.

(b) Yes.

(c) Yes.

(d) Those who have business with the booking office, parcels office and Station Master's office, are allowed to enter without platform tickets.

(f) As a result of the Head Master refusing to make good the financial loss to the Railway Administration the latter informed the Head Master that the students of his School would not be eligible for School concession tickets for a period of two years. This embargo has since been withdrawn.

(g) Does not arise.

Information promised in reply to starred questions No. 1273 asked by Mr. T. S. Avinashilingam Chettiar on the 15th November, 1938, and Nos. 1841 and 1842 asked by Pandit Sri Krishna Dutta Paliwal on the 6th December, 1938.

NOTIFICATION TO VILLAGERS FOR HOLDING MILITARY MANŒUVRES.

Starred question No. 1273.—(a) Yes.

(b) No. The facts are as follows :

Firing practice was carried out by the 17th (Agra) Field Battery, A. F. I. on the 6th and 7th May 1938 and again on the 25th to 27th October 1938. No hardship is reported to have been caused to the villagers.

(c) No damage was caused by the practice held in May 1938. Claims for compensation for damages alleged to have been caused in October 1938, have recently been filed and are being scrutinised by the local civil authorities.

(d) In accordance with sub-section (4) of section 9 of the Manœuvres, Field Firing and Artillery Practice Act, 1938.

EVACUATION OF CERTAIN VILLAGES IN AGRA DISTRICT FOR MILITARY MANŒUVRES.

Starred question No. 1841.—(a) The Honourable Member is referred to the reply to part (a) of starred question No. 1273.

(b) No. The reasons are not known to the Government of India.

(c) The United Provinces Government have reported that action was taken by them in accordance with the instructions contained in the Appendix to Chapter LXXV of the United Provinces Revenue Manual, Volume II.

EVACUATION OF CERTAIN VILLAGES IN AGRA DISTRICT FOR MILITARY MANŒUVRES.

Starred question No. 1842.—(a) to (c). The Honourable Member to the reply to part (c) of starred question No. 1273.

(d) Yes.

(e) The Honourable Member to the reply to part (b) of starred question No. 1841.

Information promised in reply to unstarred question No. 109 asked by Mr. Satya Narayan Sinha on the 29th November, 1938.

GRIEVANCES OF THE EAST INDIAN RAILWAY STAFF SERVING IN THE DELHI DIVISION.

- (a) Yes, except that the statement referred to was made in 1927 (not 1937).
 (b) No.
 (c) The information required is as follows :—

Category.	Number not yet promoted to higher grades.
Station Master	1
Cabin Assistant Station Master	1
Assistant Station Master.	2
Train clerks	7
Ticket collectors	2
Booking clerks	15
Parcel clerks	17
Goods clerks	6
Exchange operator	1
Correspondence clerks	3
Office clerks	5
Time-keeper	1

These employees have not been promoted to higher grades either for want of vacancies, or because they have been considered unfit for promotion.

Information promised in reply to starred question No. 9 asked by Mr. Brojendra Narayan Chaudhury on the 3rd February, 1939.

PURCHASE OF A HAWAI SLAVE BY THE NAGAS.

(a), (b) and (c). The Government of India have no information. Maimong village where a human sacrifice is alleged to have taken place is within the Tribal Area of Burma and the matter is therefore not the concern of the Governor General in Council.

Information promised in reply to part (c) of starred question No. 10 asked by Mr. Brojendra Narayan Chaudhury on the 3rd February, 1939.

PERSONS KILLED BY RUNNING TRAINS IN SYLHET DISTRICT.

(c) Twelve persons were killed by running trains in Sylhet district from the 1st April, 1938. to the 31st January, 1939.

Information promised in reply to starred question No. 176 asked by Mr. Badri Dutt Pande on the 7th February, 1939.

PROVISION OF INTERMEDIATE CLASS WAITING ROOMS AT THE DEHRA DUN AND SAHARANPUR RAILWAY STATIONS.

(a) to (c). Intermediate class waiting rooms exist at Saharanpur station and are being provided at Dehra Dun as part of the remodelling now in progress.

Mr. President (The Honourable Sir Abdur Rahim): I have received several notices of motions of adjournment of the business of the Assembly, but as one motion has already been fixed for today, they will be considered on the next sitting day.

ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE LABOUR DEPARTMENT.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I beg to move:

“That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, three non-official Members to serve on the Standing Committee to advise on subjects with which the Labour Department is concerned.”

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

“That this Assembly do proceed to elect, in such manner as the Honourable the President may direct, three non-official Members to serve on the Standing Committee to advise on subjects with which the Labour Department is concerned.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): I may inform Honourable Members that for the purpose of election of Members for the Standing Committee for the Labour Department the Notice Office will be open to receive nominations upto 12 Noon on Tuesday, the 7th March, 1939, and that the election, if necessary, will take place on Thursday, the 9th March, 1939. The election which will be conducted in accordance with the principle of proportionate representation by means of the single transferable vote will, as usual, be held in the Assistant Secretary's room in the Council House, New Delhi, between the hours of 10-30 A.M. and 1 P.M.

THE WORKMEN'S COMPENSATION (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I move for leave to introduce a Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose.

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

“That leave be granted to introduce a Bill further to amend the Workmen's Compensation Act, 1923, for a certain purpose.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I introduce the Bill.

THE CHITTAGONG PORT (AMENDMENT) BILL.

The Honourable Sir Thomas Stewart (Member for Railways and Communications): Sir, I move for leave to introduce a Bill further to amend the Chittagong Port Act, 1914, for a certain purpose.

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

“That leave be granted to introduce a Bill further to amend the Chittagong Port Act, 1914, for a certain purpose.”

The motion was adopted.

The Honourable Sir Thomas Stewart: Sir, I introduce the Bill.

THE INDIAN RUBBER CONTROL (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I move for leave to introduce a Bill further to amend the Indian Rubber Control Act, 1934.

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

“That leave be granted to introduce a Bill further to amend the Indian Rubber Control Act, 1934.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I introduce the Bill.

THE COTTON GINNING AND PRESSING FACTORIES (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I move for leave to introduce a Bill to amend the Cotton Ginning and Pressing Factories Act, 1925, for certain purposes.

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

“That leave be granted to introduce a Bill to amend the Cotton Ginning and Pressing Factories Act, 1925, for certain purposes.”

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I introduce the Bill.

THE STANDARDS OF WEIGHT BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I beg to move:

“That the Bill to establish standards of weight throughout British India be taken into consideration.”

Sir, the effort to establish uniform standards of weight throughout India has had a long history and in 1871 the Indian Weights and Measures of Capacity Act was passed, but it has remained inoperative, no notification having been issued under it, as it was hoped that weights and

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measures based on the statutory units would be gradually and generally adopted without further intervention on the part of the Government. In 1913, the Government of India appointed the Weights and Measures Committee to investigate the feasibility of introducing uniform weights and measures throughout British India. The Committee reported in 1914, but owing to the war the consideration of its recommendations was deferred. After the war in consultation with Local Governments and administrations, the Government of India issued a Resolution in 1922, which embodied the decisions arrived at by them. These decisions were influenced by the consideration that under the Government of India Act, 1919, the constitutional position had altered as weights and measures became a transferred provincial subject, subject to legislation by the Indian Legislature as regards standards. The position with regard to this matter under the Government of India Act, 1935, is that under Item 51 in the Federal legislative list in the Seventh Schedule of the Act, the Central Government is responsible only for the establishment of standards of weights, while Provincial Governments are concerned with 'weights and measures', *vide* item 30 in the Provincial legislative list. So far as concerns weights, therefore, it is for the Central Government to prescribe the standards. The enforcement of the use of weights based on these standards is a matter for the Provincial Governments.

The handicaps to trade and the hardships to cultivators arising from the unsatisfactory character of weights in use, in various part of India, are well-known. It has been urged that the cultivator is frequently defrauded through the use by the buyers of (a) unauthorised weights bearing no known relation to the weights commonly used in railways and commerce, and (b) grossly inaccurate weights. It is further pointed out that in different markets, such a variety of weights and measures is used that a proper comparison of the prices is practically impossible. This question has also received the consideration of the Eighth Industries Conference which emphasised the need for all India standards of weight based on a forty seer maund and an eighty tola seer. It has further been represented to the Government of India that some provinces have their Weights and Measures Bills ready for introduction as soon as the Central Government's Act, establishing standards of weights, is passed. Taking all these factors into consideration, the Government of India have decided to undertake legislation. The Bill provides for certain standard weights, namely, the tola, the seer, the maund, the pound, the ounce, the hundredweight and the ton which are at present commonly in use in railways and in commerce. Opportunity is also taken to repeal the Indian Weights and Measures Capacity Act, 1871, in so far as it relates to the establishment of standards of weight. Sir, I move.

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

"That the Bill to establish standards of weight throughout British India be taken into consideration."

Prof. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadan Rural): Sir, I am glad that the Government have at last brought forward this legislative measure. As the Honourable Sir Muhammad Zafrullah Khan has made it clear, legislation on these lines is very badly needed and should have been brought forward and passed years ago. All these years the sufferings of the cultivators have not been unknown to the Govern-

ment of India, and yet, for their own purposes, they have neglected this obvious duty of prescribing standard weights and measures. Now, they come and say that as far as the measures are concerned, they have no responsibility, because it has been devolved upon the Provincial Governments. But even with regard to the weights, I wish to point out to them that this Bill does not go far enough, and for these reasons. It is not enough simply to prescribe the weights for a hundredweight or a ton. It is most essential that the weights for certain standard quantities of grain that are being sold in the various markets should also be prescribed. It is a fact that in the international market, there is a certain standard weight for cotton bale, and unless Indian exports of cotton also conform themselves to these weights, it would not be possible for proper quotations to be obtained for Indian cotton. That is why, from Bombay, especially, all the cotton bales that are exported are kept down to the weight of 400 lbs. (interruption) or to 480 lbs. as my Honourable friend informs me, per bale. There is still some uncertainty in regard to this kind of weight of the cotton bale that is being sold in Indian markets for internal consumption purposes, and, therefore, there is need for prescribing some specific weight for a cotton bale, that weight being the one which rules in the international market either at Lancashire or in America. There is one particular weight for paddy. In all these paddy markets, we find that it is the two maunds weight that is accepted as the standard weight. But unfortunately when the cultivators have to sell their grain or paddy they are obliged to agree to any local weight that can be insisted upon as a standard weight for a bag of paddy with the result that from place to place the weight for a bag of paddy varies from 166 lbs. to 186 lbs. The exact weight that is insisted upon in any particular market depends upon the bargaining capacity of the local *kisans* as well as the local merchants. This is causing considerable amount of loss as well as anxiety to our *kisans*. Various representations have been made to the Provincial Governments concerned by our *kisan sabhas* both in written representations and by way of marches but we were given the same answer that since this was a matter for the Central Government, it required Central legislation and that their hands were tied and that they were helpless. In this particular Bill, no mention is made at all of any such weights. It is not enough simply to tell the *kisans* that a standard weight for a hundredweight is definitely fixed as 112 standard pounds. These *kisans* simply go to the market and present the merchants with their bag of paddy containing two cwts. of paddy. The merchants say, "We are not concerned with one cwt. or two cwts. We are only concerned with a bag of paddy, and each bag, according to us, should weigh 182 lbs. instead of 166 lbs. or 176 lbs." or any particular figure that they may choose to fix. In such a case, the *kisans* are at the mercy of these merchants. One can understand that if the price of a bag of paddy is made dependent upon the exact weight of a bag of paddy, it is not very material for the *kisans* whether the particular bag contains 166 lbs. or 176 lbs. or even 186 lbs. Because, the price can be expected to vary in accordance with the exact number of pounds of paddy that is contained in it. But it usually happens, and it is a fact in most of our own paddy markets, that there is one specific and known value for a bag of paddy as such. The exact bag of paddy becomes very relevant indeed for our consideration and it is most essential that Government should take this particular opportunity of prescribing the standard weight for a bag of paddy and also for a bale of cotton.

Mr. M. S. Aney (Berar: Non-Muhammadan): Is not the bag weighed?

Prof. N. G. Ranga: The bag containing the quantity is weighed, but properly speaking the standard weight is supposed to be 166 pounds, but it varies from market to market running up to 186 pounds also.

Sardar Sant Singh (West Punjab: Sikh): Are not the prices fixed.

Prof. N. G. Ranga: Not in relation to the exact number of pounds of grain that is contained in the bag but simply in relation to the bag itself. So much is the paddy and so much is the price for each bag. Only the merchant gets the sum and he gets a price which ought to be paid for 166 pounds but which really comes to be a price for 186 pounds. Therefore, it is necessary that Government should bestow some thought and care to these various standard weights for various quantities of grain or agricultural produce that are generally sold in our various markets and see that *kisans* are helped as against these merchants and the exploitation of these people is prevented by taking suitable action at this stage. It is not relevant in this connection for anybody to maintain that it is only a matter of measurements and it should be left to the Provincial Governments. Sir, except in the case of payments made in terms of grain as between *kisans* and their agricultural hawkers or for some other local purposes, measures today are not of such paramount importance. But it is the weight really which is the most important thing in our agricultural economy and our agricultural produce is being sold in various markets not according to measures but according to their weight. Therefore, I suggest for the consideration of Government that they should fix some of the most important multiples of these weights also stating what is meant to be the weight of a standard bag of paddy and what is meant to be the weight of a standard bale of cotton and so on.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, this is a simple and welcome Bill and so I do not want to take much time of the House; but there are a few points which I should like to impress upon the House. After all, standards of weight are valuable only to the extent they are used and I suggest that the Central Government should take prompt and immediate steps to see that these standards of weight are used by all agencies under their control. For instance, they must insist that the railways should utilise and use only the standards of weight in their measurements. In the Advisory Committee of the Madras and Southern Mahratta Railway they sent a proposal using seers in two different senses. A railway seer consists of nearly 82 tolas but there is also a seer which consists of 24 tolas: and when we asked the Agent why they should be using a seer of 24 tolas, instead of the usual seer of 82 tolas, he said he would consider the matter and see that there are only uniform weights hereafter. Similarly, in the quotations which are supplied by the All-India Radio, every night, they should see that they should conform only to these standards of weight or to the integral multiples of these standards of weight. For instance, I heard the other day

of a bale of cotton consisting of 654 pounds which is not an integral multiple of a maund or a hundredweight or of anything else. And so they can issue immediate instructions to say that only those quotations will be given to the public which conform to these standards of weight or their integral multiples.

The second point I should like to urge is that one of the major difficulties of the prevalence of these standards of weight is the existence of other weights in the form of metal pieces. I think there should be an arrangement by which all the other standards of weight can be handed over to a public agency and the shopkeepers should get in return the existing standards of weight either free of cost or at a nominal cost. For instance, in my province every one has got weights of a 24 tola seer. He has invested some two or three rupees and that is the standard of weight. So long as he possesses these weights it will be very difficult to induce him to use the new standards of weight. Therefore, the Government of India must consult the Provincial Governments and bring about an agency by which all the other standards of weights, throughout the country and specially in the villages, are replaced by these standards of weight. Of course, it may be said that this is a matter for the Provincial Governments. Technically it is so but unless the Central Government also take steps to secure their co-operation in regard to this Bill it may happen to be a dead letter.

This leads me to the third point I want to urge, and that is that there should be a proper and well equipped factory to prepare these standards of weight and the integral multiples and sub-multiples and supply them at the cheapest possible price all over the country. I think a subsidised factory for the manufacture of these weights will go a long way to make these weights prevail. Again, Sir, these names are used for measures also. I think steps should be taken to see that these names which are used for standards of weights are not used for standards of measures. For instance, a seer and sometimes even a maund is used as a measure. In our parts oil is measured in seers and it is called seers; and there is a confusion when we come to Northern India where a seer of oil is weighed to us whereas in the South it is measured to us. Therefore, there should be some way of ensuring that the names of these standards of weight are not used for measures. I think the Central Government should impress upon the Provincial Governments to see that these names are not used for any purpose other than the standard of weight mentioned.

Sir, I have given one or two amendments which I intend to press when we come to the clauses in detail, but I should like to point out the importance of seeing that these standards prevail not only in British India but in all the Indian States and all the foreign settlements in this country so that there may be complete uniformity. In fact our country is honeycombed with these Indian States and unless they adopt these standards of weight our attempt, throughout British India, is not calculated to succeed. Therefore, I suggest that after passing this measure they should take immediate steps to make these standards of weight prevail uniformly throughout the country.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I have only a word or two to say with regard to the points raised by Prof. Ranga and Mr. Santhanam. Prof. Ranga has stressed the necessity of laying down

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a standard weight for a bale of cotton and for a bag of paddy. His argument if analysed comes to this that the provisions of this Act should be supplemented by something in the nature of a marketing measure which should regulate the weights of these and possibly other commodities. I am afraid that would not properly come within entry 51 of the Federal list. Standards of weight are being established by this Bill; the enforcement of these standards and their application to particular commodities would not be the function of the Central Government but would properly be the function of Provincial Governments, and as a matter of fact in some provinces action is already being taken in that direction by way of marketing legislation. With regard to Mr. Santhanam's points, it is to be hoped that after this Bill becomes law every effort will be made to see that uniformity prevails. Only, those measures will have to be taken by Provincial Governments, but from correspondence that has been going on on this subject, it appears Provincial Governments are only too anxious to enforce uniform standards of weight and I am sure that within a short time most of the provinces will have taken action to enforce uniformity of standards. With regard to measures, Mr. Santhanam is aware, as he has himself recognised, that the establishment even of standards of measures is not a central subject; but let us hope that once these standards of weight become established, any competing standards of measures that are likely to cause confusion will be so adjusted that the kind of difficulty to which he has pointed does not arise.

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

"That the Bill to establish standards of weight throughout British India 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: Sir, I move:

"That in sub-clause (2) of clause 3 of the Bill, for the words 'or be designated' the word 'used' be substituted."

The reason for the amendment is that the right of designation rests with the Central Legislature and we do not want that integral multiples and sub-multiples should be given a separate name or be designated as a standard weight as if there were other standard weights besides those mentioned in the Bill. Here, though it does not positively confer that right, yet if it is left as it is it will mean that integral multiples and sub-multiples may be designated as standard weights: that is to say, they may take five or seven pounds or tolas and call it by a new name and then that standard of weight may come to be used. We do not want that any such development should take place and, therefore, my amendment is in the nature of an abundant caution to prevent any such thing. Sir, I move:

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

"That in sub-clause (2) of clause 3 of the Bill, for the words 'or be designated' the word 'used' be substituted."

The Honourable Sir Muhammad Zafrullah Khan: Sir, I have no objection to the use of the word 'used'. My only apprehension is that it might be held that that was beyond the power of the Central Legislature under the entry to which I have already referred, that this is, an attempt to enforce these standards rather than to prescribe them. I merely want to utter that warning. Subject to that so far as I am concerned, I have no objection.

Mr. K. Santhanam: May I point out that the words "as a standard weight" qualify the word 'used'?

The Honourable Sir Muhammad Zafrullah Khan: I really cannot at the moment give a definite opinion whether this is or is not within the scope of the Bill. As I have said, if, after this warning, Mr. Santhanam insists and the House desires that this change shall be made, I have no objection.

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

"That in sub-clause (2) of clause 3 of the Bill, for the words 'or be designated' the word 'used' be substituted."

The motion was adopted.

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

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

"That clause 4 stand part of the Bill."

Mr. K. Santhanam: Sir, I move:

"That after sub-clause (2) of clause 4 of the Bill, the following new sub-clause be added:

(3) The Central Government shall cause similar sets of weight, similarly authenticated, to be prepared and shall supply one set to the government of any Indian State or foreign settlement situated in India which applies for it and pays the price fixed by the Central Government."

This is more or less a propagandist amendment. I have already indicated its need in my speech, and so I move.

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

"That after sub-clause (2) of clause 4 of the Bill, the following new sub-clause be added:

(3) The Central Government shall cause similar sets of weight, similarly authenticated, to be prepared and shall supply one set to the government of any Indian State or foreign settlement situated in India which applies for it and pays the price fixed by the Central Government."

The Honourable Sir Muhammad Zafrullah Khan: Sir, I have no objection to the amendment.

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

"That after sub-clause (2) of clause 4 of the Bill, the following new sub-clause be added:

(3) The Central Government shall cause similar sets of weight, similarly authenticated, to be prepared and shall supply one set to the government of any Indian State or foreign settlement situated in India which applies for it and pays the price fixed by the Central Government."

The motion was adopted.

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

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

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

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

"That clause 5 stand part of the Bill."

Mr. K. Santhanam: Sir, I move:

"That in part (c) of sub-clause (2) of clause 5 of the Bill, after the word 'Provincial' the words 'and other' be inserted."

This is a consequential amendment to the amendment which has just been accepted.

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

"That in part (c) of sub-clause (2) of clause 5 of the Bill, after the word 'Provincial' the words 'and other' be inserted."

The motion was adopted.

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

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

The motion was adopted.

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

Clause 6 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I move:

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

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

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

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I intervene to get some information from the Honourable the Commerce Member. I find that in some provinces there are at present standard weights and I would like to know if those weights are introduced under any particular Acts and whether those Acts do remain still in force there? As regards Sind, I may inform the Honourable Member that weights and measures have been fixed there by the Provincial Government and inspectors have been appointed on behalf of the Government and on behalf of the local bodies and they are carrying on their duties. Have they done that under any Act or is it done in anticipation of this central legislation? If there are

certain Acts already in force in the provinces, then will they simultaneously remain in force? I feel that the Government of Sind could not have introduced the standard weights and measures and actually appointed officers to go round in the districts without legal authority. These standard weights are being sold to the people who have to pay some duty for them. I should like to know how the matter stands.

Prof. N. G. Ranga: Sir, I find there are no penalties provided for any one who tries to employ any other weights than those mentioned here as standard weights. It is left evidently to the Provincial Governments to enforce the corresponding provisions of the Indian Penal Code and so on. Therefore, Sir, it is necessary that the Government of India should take care and review the position from time to time when they meet in the Industrial Conference and see how far this particular measure, when it becomes an Act, is really being enforced in the various Provinces and to what extent satisfaction is being obtained for the agriculturist in this country. Secondly, Sir, the Honourable Member suggested that it is for the Provincial Governments to pass the necessary Marketing Acts and incorporate provisions similar to the suggestions I have made on the floor of the House today. Sir, I want to know if the Government of India will take some initiative in this matter and see that all the Provincial Governments follow a uniform policy in regard to this and pass the necessary legislation, because there are several provinces which are interested in the production of paddy; for instance, if one province prescribes one weight for a bag of paddy and another province prescribes a different weight, and so on, there will be any amount of indefiniteness in regard to weight, and therefore, it is reasonable to expect the Government of India to sound the view of the various Provincial Governments when they meet either at the next session of the Industries Conference or at some other conference that may be specially convened by the Government of India and to suggest to these Local Governments, if possible, to follow the same uniform practice in regard to prescribing standard weights.

I would also like to suggest that the Government of India should take the initiative in this matter and try to pull up some of the provinces which may be lagging behind by not formulating even legislative proposals till now and help the Indian agriculturist by seeing that uniform legislation is passed either at the same time or during the same year throughout India, or the Government of India should themselves come forward on the agreement of all these various Provincial Governments with the necessary legislative proposals and thus help our cultivators. Therefore, I hope the Government of India will publish a periodical review of the manner in which this particular Act will be enforced in the various Provincial Governments.

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands): Sir, I shall not detain the House for more than one minute. My friend, Prof. Ranga, has raised certain points in regard to the marketing of agricultural commodities. To the extent that that marketing may be affected by this legislation, I can assure him that those points are already receiving the consideration of the Imperial Council of Agricultural Research.

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

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

The motion was adopted.

THE INDIAN MERCHANT SHIPPING (SECOND AMENDMENT)
BILL.

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands): Sir, I beg to move:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for a certain purpose (Second Amendment) be taken into consideration."

As Honourable Members will have seen from the Statement of Objects and Reasons, Sir, this is designed to bring our law into conformity with the International Sanitary Convention, and the amendment has the approval of the Standing Haj Committee which, as you are aware, Sir, looks after the interests of Muslim pilgrims. Sir, I move.

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

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for a certain purpose (Second Amendment) be taken into consideration."

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, one objection that was raised against this was that the shipping companies, who are engaged in the pilgrim traffic, are likely to increase their rates and fares, because by this amendment the provision made for including two children for calculation as one pilgrim has been taken away. Even a child below one year has to be allotted a certain amount of space, and therefore a lot of space will have to be allotted by the shipping companies to various passengers who travel with small children, though no fares could be charged for such children. It is feared that the rates now in vogue will be increased considerably. There are, however, some suggestions from certain quarters that if instead of 16 sq. ft. space which is allotted to a passenger, it is reduced to 14 sq. ft. the rates may not be increased. I am only asking the Honourable Member in charge of the Bill to see that by so decreasing the space the health of the passengers is not adversely affected, there may be no hardship by the rates being increased. The space allotted to each passenger may be reduced to a slight extent to admit of children being carried.

Prof. N. G. Ranga (Guntur cum Nellore: Non-Muhammadan Rural): Sir, if the area of 16 sq. ft. that is mentioned here is to be meticulously worked out for a human being to lie down on a deck, you will find that, if we take the standard height of a human being as 6 ft., he will hardly get just 2 ft. space in width in which he can move about when he lies down at night time. Sir, 16 ft. space that is provided is bad enough, and, according to me, it is already too small, and it is too narrow. After all, how would it be possible for a man to lie down on an upper deck, which is only 1½ ft. wide, and spend even a night, and when a man has to travel by these pilgrim ships for a number of days and he has to rest during day and sleep during night, one can realise how inadequate even 2 ft. space would be for a man. Therefore, I cannot agree with my friend's suggestion that the space area should be reduced to 14 ft. instead of the 16 ft. which is provided already.

Sir Girja Shankar Bajpai: Sir, I do not think it is necessary for me to detain the House with a long speech. I must leave Mr. Ananthasayanam Ayyangar and Professor Ranga to settle their differences, but we cannot make it 14 sq. ft. for the very simple reason that the International Convention prescribes the space as 16 sq. ft.

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

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, for a certain purpose (Second Amendment) be taken into consideration."

The motion was adopted.

Clauses 1, 2 and 3 were added to the Bill.

The Title and the Preamble were added to the Bill.

Sir Girja Shankar Bajpai: Sir, I beg to move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

THE INSURANCE (AMENDMENT) BILL.

The Honourable Sir Nripendra Sircar (Law Member): Sir, I beg to move:

"That the Bill to amend the Insurance Act, 1938, as reported by the Select Committee, be taken into consideration."

Honourable Members have presumably read the Report of the Select Committee. They will find from that not only the nature of the amendments, but also, what I am pleased to state, that it is an unanimous Report of the Select Committee, subject to a note of dissent by Mr. Sri Prakasa about a particular matter. Well, Sir, we had the opportunity of considering that matter after the Select Committee had concluded its deliberations, and I can state to the House that we shall be quite agreeable to accept the amendment suggested by Mr. Sri Prakasa to bring out what is stated in his minute of dissent. I do not think, Sir, I need detain the House any longer except to say that I acknowledge the help I received from the Members of the Select Committee and for the way in which we were able to thrash out the matter completely so as to produce a unanimous Report before the House. Sir, I move.

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

"That the Bill to amend the Insurance Act, 1938, as reported by the Select Committee, be taken into consideration."

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot; Non-Muhammadan Rural): I am glad that this Bill has come out in an improved form in that it has omitted certain objectionable features which were in the original Bill. I am glad that clauses 6 and 17 have been omitted as had been suggested; we are also glad that the material portion of clause 10 of the original Bill has been omitted. Clause 10 referred to the concessions that might be given to insurance companies which may be started in Indian States. That has been omitted, I understand, in view of section 116. Today the purpose of my intervention in this debate is to point out certain features of section 116 of the original Act which provides

[Mr. T. S. Avinashilingam Chettiar.]

Government with power to exempt from certain requirements companies registered under Indian States legislation. That section says:

"The Central Government may, by notification in the official Gazette, exempt any insurer constituted, incorporated or domiciled in an Indian State from the provisions of section 6 relating to deposits or from the provisions of sub-section (2) of section 27 relating to the keeping of assets in India either absolutely or subject to such conditions or modifications as may be specified in the notification."

I do not think that there is any fear that they will make such exemptions absolutely. The Government may prescribe some conditions over insurance companies that may be started in Indian States. The point which I would like to impress upon the Government in this matter is this. There are States and States. Some of the companies which may be started in Indian States may, according to their Law, have to give securities belonging to those States themselves. I know that recently legislation has been introduced in Mysore providing for provisions similar to those that are in our law which we passed last year. Without referring to any single State, I may mention that securities of the States may not be of the same value, and I do think that simply because a company incorporated in a State has deposited some securities with reference to that State it should not be reason enough for the Government to allow that company to operate in British India, for the very good reason that those securities do not always have their face value. As I mentioned sometime previously, all States securities do not have the same value as the securities of the Government of India or of the Provincial Government. For this reason I think that it is good that the Government of India should guide themselves by certain rules in this matter and prescribe the minimum amount of securities that a company should have in the Government of India securities or the Provincial Governments securities before it can get any exemption under section 116 of the Insurance Act. I hope that the Government of India will prescribe certain rules laying down the minimum qualification in this respect of having Government of India or Provincial Governments securities or securities under the relevant sections of the Insurance Act of 1938. With these words, I support the motion.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): It is no doubt true that various clauses have been introduced to cure omissions which are more or less of a verbal character, but I take serious objection to the introduction of the proposed section 2B. Proposed section 2A is enacted for the purpose of making all insurers liable so long as their liabilities in British India, in respect of business of the particular class, remain unsatisfied or not otherwise provided for. Until the last policyholder remains unsatisfied the provisions of this Act will apply under proposed section 2A. But exception is made under proposed section 2B regarding those companies which are incorporated outside British India but carry on that business in British India. So far as those companies or individuals are concerned, proposed section 2B makes an exception in their favour. If they cease to do business of that class before the coming into force of this Act—even though new business may not be transacted after the coming into force of this Act, the old policies will remain in force and a lot of obligations will remain outstanding which have to be discharged, and still the provisions of this Act are not made applicable. The previous Act has been repealed by virtue of this Act. Therefore, so far as those companies are concerned, who may

have got a lot of obligations towards the present policyholders and a lot of other things more to be done by insurance companies, they are not regulated either by this Act or by the old Act. I wonder why an exception has been made in favour of those persons by exempting from the obligations under the proposed section 2A which provides wholesome conditions for safeguarding the interests of the policyholders until the last policyholder remains unsatisfied. That is a point of substance, and I hope the Leader of the House would agree to the deletion of proposed section 2B, making proposed section 2A applicable to all companies whether they cease to do business before the coming into force of this Act or not, so long as the policies issued by those companies still remain operative and obligations under them still remain unfulfilled.

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

"That the Bill to amend the Insurance Act, 1938, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clauses 2, 2A, 3, 4, and 5 were added to the Bill.

Clauses *7, 8, 9, 10, 11, 12 and 13 were added to the Bill.

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

"That clause 14 stand part of the Bill."

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

"That after part (ii) of clause 14(a), the following be inserted:

(iv) at the end, the following proviso shall be added:

'Provided that where the insurer maintains one or more places of business in British India, such notice shall be delivered only at the place in British India mentioned in the policy for the purpose or at his principal place of business in British India.'

According to the Act as passed, a notice in writing of the transfer or assignment shall be delivered at the principal place of business. An insurer may have several places of business and some foreign companies may have no principal place of business. Therefore, in the amending Bill, the words 'at his principal place of business' have been deleted but this deletion introduces another complication. The policyholder may deliver his assignment at one office and take a loan at another office, causing confusion and fraud and therefore in order to avoid that I have moved this amendment, which makes the clause complete. Sir, I move.

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

"That after part (iii) of clause 14(a), the following be inserted:

(iv) at the end, the following proviso shall be added:

'Provided that where the insurer maintains one or more places of business in British India, such notice shall be delivered only at the place in British India mentioned in the policy for the purpose or at his principal place of business in British India.'

I understand this is agreed to.

The Honourable Sir Nripendra Sircar: Yes.

*Clause 6 was deleted by the Select Committee.—E. of D.

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

“That after part (iii) of clause 14(a), the following be inserted:

(iv) at the end, the following proviso shall be added.

‘Provided that where the insurer maintains one or more places of business in British India, such notice shall be delivered only at the place in British India mentioned in the policy for the purpose or at his principal place of business in British India.’”

The motion was adopted.

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

“That clause 14, as amended, stand part of the Bill.”

The motion was adopted.

Clause 14, as amended, was added to the Bill.

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

“That clause 15 stand part of the Bill.”

Mr. T. Chapman-Mortimer (Bengal: European): Sir, I move:

“That in sub-clause (a) of clause 15 of the Bill, after the words ‘the words’, occurring in the second line, the words ‘on his own life’ be inserted.”

This is a purely verbal and drafting amendment and gives effect to the point dealt with in sub-clauses (d) and (e) of this same section. The point at issue is simply this—that it should be made quite clear that the intention is only to give power of nomination to the assured and not to any other holder of the policy. That was accepted by the Select Committee and given effect to, as I say, in sub-clauses (d) and (e). This is the same point. Sir, I move.

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

“That in sub-clause (a) of clause 15 of the Bill, after the words ‘the words’, occurring in the second line, the words ‘on his own life’ be inserted.”

Mr. M. Ananthasayanam Ayyangar: I think neither this amendment nor the original amendment is necessary. In sub-section (1) the words, ‘, not being an absolute assignee of the benefits under the policy’ are sought to be introduced and the present amendment seeks to add the words ‘on his own life’. In my view the addition is unnecessary, because the concluding words of this sub-section say: the money secured by the policy shall be paid in the event of his death. That makes the position quite clear and therefore neither this amendment nor the original amendment is necessary.

The Honourable Sir Nripendra Sircar: I accept the amendment. I understand Mr. Ayyangar is not objecting to the amendment. He only thinks it is unnecessary. I believe this will be an improvement for removing any doubts which may exist. I accept the amendment.

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

“That in sub-clause (a) of clause 15 of the Bill, after the words ‘the words’, occurring in the second line, the words ‘on his own life’ be inserted.”

The motion was adopted.

Mr. T. Chapman-Mortimer: Sir, I beg to move:

“That in sub-clause (b) of clause 15 of the Bill, for the words ‘his records’ the words ‘records of the insurer’ be substituted.”

This is a drafting amendment to make it quite clear to whose records the reference is made. Sir, I move.

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

“That in sub-clause (b) of clause 15 of the Bill, for the words ‘his records’ the words ‘records of the insurer’ be substituted.”

The Honourable Sir Nripendra Sircar: I accept the amendment.

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

“That in sub-clause (b) of clause 15 of the Bill, for the words ‘his records’ the words ‘records of the insurer’ be substituted.”

The motion was adopted.

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

“That clause 15, as amended, stand part of the Bill.”

The motion was adopted.

Clause 15, as amended, was added to the Bill.

Clause 16 was added to the Bill.

Clauses 18* and 19 were added to the Bill.

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

“That clause 20 stand part of the Bill.”

Mr. T. Chapman-Mortimer: Sir, I beg to move:

“That for clause 20 of the Bill the following be substituted:

“For section 50 of the said Act the following shall be substituted, namely:

‘50. An insurer shall, before the expiry of three months from the date on which a premium or premiums in respect of a policy of life insurance fall due but remain unpaid, give notice to the policy-holder informing him of the options available to him.’”

Sir, I understand that the Government would suggest that the words “a premium or premiums” should be inserted, and that is also acceptable to others with whom I have discussed the matter. It simply makes it quite clear that in the case of more than one premium the section would apply. Sir, this again is a drafting amendment and I do not think it necessary for me to argue it on the floor of the Assembly. It simply gives effect to the intention of the Select Committee when they inserted the words “were payable but not paid”. Sir, I move.

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

“That for clause 20 of the Bill the following be substituted:

“For section 50 of the said Act the following shall be substituted, namely:

‘50. An insurer shall, before the expiry of three months from the date on which a premium or premiums in respect of a policy of life insurance fall due but remain unpaid, give notice to the policy-holder informing him of the options available to him.’”

Mr. K. Santhanam: Sir, I would have no objection, but I want to know whether the term “fall due” will cover the thirty days of grace because.

*Clause 17 was deleted by the Select Committee—*E. of D.*

[Mr. K. Santhanam.]

if the original amendment made by the Select Committee to insert the words "were payable but not paid" were taken out, then it would be payable within the thirty days of grace. But, probably, the term "fall due" will exclude that period. If so, I think this amendment should not be pressed; otherwise, if the term includes the thirty days of grace, I have no objection.

The Honourable Sir Nripendra Sircar: Sir, I have no objection to accepting the amendment, but in answer to the query which has been put by my Honourable friend, Mr. Santhanam, I think that the amendment, in my opinion, as drafted, will exclude the period of grace.

Mr. K. Santhanam: Then we must object to the amendment.

Mr. M. Ananthasayanam Ayyangar: Sir, I would like to know how this improves the clause. Is it the intention that even though a default of one premium is committed, the insurer is to go on giving notice three months after the committing of default in respect of later periods also? If a default is committed in respect of one premium, he must give notice within three months. If so, even though he commits a default and does not exercise the option, and the insurer gives notice three months from the committing of the default, is the insurer to go on giving him notice as and when further instalments of premium fall due? If so, to what extent, and for what period?

The Honourable Sir Nripendra Sircar: I understand this has been put in to cover a case like this. In addition to the usual and ordinary premium there may be an extra premium payable either on the ground of residence outside or on some other ground and it is to cover such cases that this has been put in.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): Sir, I owe a word of explanation to my Honourable friends of the European Group. We did not quite notice the fact that the change would involve shortening of the period excluding the days of grace by the use of the words "falls due", because it might be said that though the due date may be as in the contract, the time by way of grace may be allowed for payment during which the operation of the lapse of the policies would not occur, and the original words in the Bill were "were payable but not paid". At all events the words "were payable" in contrast to the words "fall due" would include the days of grace. That is the explanation I offer, so that my Honourable friends may not think that I am withdrawing any assent I gave.

Mr. T. Chapman-Mortimer: Sir, in view of the arguments advanced by my Honourable friend, the Leader of the Opposition, and in view of the expression of opinion which my Honourable friend, the Leader of the House, gave, I ask for leave to withdraw my amendment.

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

Clause 20 was added to the Bill.

Clauses 21 to 37 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Nripendra Sircar: Sir, I beg to move :

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

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

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

The motion was adopted.

THE INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I beg to move :

"That the Bill further to amend the law relating to the protection of Inventions and Designs, as reported by the Select Committee, be taken into consideration."

Sir, it would perhaps help Honourable Members in the consideration of the Bill if I were to give them the previous history of the law relating to the protection of inventions and designs. The Indian Patents and Designs Act, 1911, came into force from the 1st January, 1912, when it replaced the Inventions and Designs Act, 1888. The existing Act is largely based on the United Kingdom Patents and Designs Act, 1907, with certain additions and alterations suited to Indian conditions. Broadly speaking, the objects of the 1911 Act were two-fold—first, the reorganization of the procedure of the Patent Office in respect of the grant of patents and the registration of designs and their existence and operation, including the delegation of suitable powers to the Controller of Patents and Designs, and, secondly, the encouragement of inventions giving at the same time effective protection to the inventor and the public. The Act was amended in 1920 to bring India into the inter-Imperial arrangement for the protection of inventions and designs within the Empire. The Act was last amended in 1930 with a view to incorporating such provisions of the United Kingdom Patents and Designs (Amendment) Act of 1919 as were suited to Indian conditions and to make other amendments called for as a result of the experience of the working of the Act.

As was sought to be explained by me at the time of moving for reference
 1 P. M. to Select Committee, the principal object of the present Bill is to put a stop to the import of goods bearing designs which constitute infringements of designs registered under the Act. In this connection, attention is invited to clause 22 of the present Bill which proposes to insert an additional clause in section 18 of the Sea Customs Act, 1878, so as to secure the object in view. The question of preventing importation of goods bearing pirated designs, which has been the subject of numerous complaints from the commercial public, has been under the consideration of Government since 1933. The proposal was considered to be open to no objection in principle as it would merely extend to registered designs the same protection as already exists for copyright under the provisions of the Indian Copyright Act, 1914. This proposal was circulated to Provincial Governments and the opinions received from them, as well as the commercial bodies who were consulted, were generally in favour of the necessary legislation being undertaken. In course of examination it was found that clause 22 of the Bill, amending section 18 of the Sea Customs Act, will not in itself give the person injured any civil remedy, that the mere importation of goods with pirated designs was not sufficient to bring the act

[Sir Muhammad Zafrullah Khan.]

within the mischief of the existing section 53 of the Indian Patents and Designs Act, but it was further necessary to prove that the importer caused the pirated design to be applied to the goods. It was considered that it was extremely difficult for the owner of the design to get satisfactory evidence on the latter point, that is, to prove that the importer had prior knowledge of the design being pirated. It was, therefore, decided after very careful consideration to add a clause (aa) to section 53 (1) of the Patents and Designs Act as in clause 13 (a) of the Bill to provide specifically against importation for the purposes of sale without the consent of the registered proprietor of any article to which the design or any fraudulent or obvious imitation thereof has been applied. This provides the owner with a remedy against the importer of a pirated design without being required to prove that the importer was aware that the design was pirated. It will be observed that all that is provided is a civil remedy and it is no infringement of any principle of law to provide that where a person either with or without knowledge injures another person's civil rights, he should be liable in damages. Secondly, a limit has been imposed on the total sum recoverable in respect of each infringement under section 53 (2). Thirdly, it is possible for any person interested in any article, on payment of Rs. 2 only, in case he can furnish the registration number of the design, and Rs. 10 in other cases, to ascertain whether the registration of a design exists in respect of that article. It cannot, therefore, be said that a person who wants to deal in any article with a new design cannot be reasonably expected to be aware of the infringement of the right of the registered proprietor. While the Act was to be amended for this purpose, it was thought that advantage should be taken of the opportunity to include certain other amendments for improvement of the law. I have already referred to these amendments at the time of making my motion for Select Committee and I do not want to repeat now what I said on that occasion.

A comparison of the Bill, as it has emerged from the Select Committee, with the Bill as originally introduced in the House, will show that a number of changes have been made by the Select Committee, and although none of them radically alter the nature of the Bill, it will be agreed that the changes made by the Select Committee are designed to effect considerable improvement upon the Bill as it originally stood. I do not desire to make any detailed comments on the changes as the report of the Select Committee gives reasons for them.

Notice has now been given of further amendments to be moved in the House today and, while I would welcome any amendment which will improve the Bill, I should like to sound a note of caution. The subject which we are dealing with is highly technical. The expressions used in the Act have acquired a special meaning by usage and a considerable amount of Case Law has grown up concerning them. Honourable Members will, therefore, appreciate that mere verbal amendments which ostensibly make certain textual improvements may be found to cause embarrassment to those who have to administer the Act and to the commercial public who have to deal with it. Sir, I move.

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

"That the Bill further to amend the law relating to the protection of Inventions and Designs, as reported by the Select Committee, be taken into consideration."

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor. Non-Muhammadian Rural): Sir, the Bill as it has emerged from the Select Committee has made a number of improvements on the original Bill as it was drafted and I would like to say here that the Honourable Member in charge was only too willing to accept such amendments as were reasonable, and without much difficulty the amendments went through in the Select Committee. No doubt, notice of a number of amendments has been given now, many of which were considered in the Select Committee, but the House may take a different view so far as those matters are concerned.

The one improvement that has been made in the Bill, as it has emerged from the Select Committee, is that in the original Bill as it was introduced in the House it was intended to give enormous powers to the Controller or the Examiner to reject the application and to refuse the patent on grounds which normally are taken for the purpose of the revocation of a patent after it has been granted. The jurisdiction to revoke is conferred usually on the High Courts and not even on the District Courts before which the suit for the infringement of a patent or a design is filed for damages or compensation. But the District Courts have not been conferred with the jurisdiction of revoking a patent. That is exclusively conferred upon a High Court. Therefore, it is not proper to allow the Controller to have the powers of refusing a patent on the very grounds which have to be proved to exist for the revocation of the patent after it is granted. Those powers have been removed and to that extent there has been an improvement in the Select Committee. Sir, I do not know with all the best intentions of the Honourable the Mover, the Member in charge, whether this improvement of the Bill is going to be useful to our country. It may not be soon that we are going to have a number of patents or new inventions or discoveries in this country. The Bill, therefore, seeks to safeguard the inventions that may be brought into existence in England for which provision is already made in the original Bill and some more provision is made in the new Bill for safeguarding those interests. If Japan were to counterfeit some of those designs in our market which have got the patents registered in this country and which really belong to the United Kingdom, the United Kingdom may get the greater benefit. Although this Bill will not be of immediate use to us, we hope that in the long run it will prove useful.

Then, Sir, I wish to say a few words about the new officer who is sought to be created in this Bill. Up to this time, it was the Controller to whom an application had to be made for a patent. It was his duty to examine the application and consider all the relevant facts and it is open to him to accept or reject it in case it was not a new invention. That power to some extent has been transferred to a new officer who is called the Examiner. As soon as the application is presented to the Controller, it is obligatory on him to refer it to the Examiner who will examine it. But in the Bill it is not provided that the Examiner should address himself to all those facts which under the old Act the Controller had to examine.

The Honourable Sir Muhammad Zafrullah Khan: Which is the new office that the Honourable Member is referring to?

Mr. M. Ananthasayanam Ayyangar: Examiners.

The Honourable Sir Muhammad Zafrullah Khan: There are already examiners.

Mr. M. Ananthasayanam Ayyangar: I am told there are already examiners in the office. But these examiners under the Act will become statutory officers hereafter. The Examiner is clothed with the power of examining and reporting to the Controller and the Controller has to rely on this report. I hope that no new office will be created. If the existing officer is made a statutory officer and clothed with statutory powers, that is enough.

Then, Sir, we were not able to carry one thing through in the Select Committee and I hope that that would be remedied here. It was on financial considerations. The present Bill is a copy of the English Act, but under the English Act it is obligatory on the Controller or the Examiner to search the records of his own office for a period of fifty years and find out if there has already been registration of similar patent before the Controller comes to the conclusion whether the particular patent is a new one or not. He has *prima facie* to consider one thing, that is, whether similar invention or design has already been registered in his office or not. The Controller is expected to have the best kind of information in his own office. Instead of roaming about in the country or looking into the newspapers or consulting agencies for obtaining information about a particular patent as to whether it is a new one, this valuable information can be obtained from the records and registers in the Controller's office. But, under the present Bill, it is not obligatory upon him to search all these records as is provided for in the English Act. We, therefore, wanted that this provision should be made compulsory in the Act, that is for a period of fifty years the records in the office relating to patents and designs ought to be searched to find out if a certain patent is a new one or not. The objection that was raised to this provision was on the ground of financial considerations. It was said that it would cost additional establishment of six or seven new Examiners and experts which would mean an addition of nearly one lakh of rupees in expenditure. I suggest that that ought not to stand in the way of adopting a wholesome procedure of finding out whether an invention is a new one or an old one. I hope the House would set right this omission and it would not shirk the responsibility of sanctioning additional establishment costing nearly a lakh of rupees, when the Central Government are already spending nearly 93 crores a year on various departments of administration.

The next point I would submit is that it ought not to be understood that there is any difference of opinion on substantial matters so far as this Bill is concerned. We are all agreed that so far as most of the matters are concerned, there should be unanimity of opinion and most of the amendments that have been suggested were gladly accepted by the Honourable Member in charge of the Bill. But I submit there is always scope for improvement and in view of the several amendments that have been given notice of, I hope the Bill will be further improved in those directions. There is an appeal now provided to the Central Government from the refusal of the Controller to grant a patent. It will be better if the appeal lies direct to the High Court. It is no doubt true that objections could be raised to this suggestion, on the ground that the person who applies for patent may not afford to incur all the expenses that may be necessary for the litigation. That is no doubt true, but it may be that in important matters the man may prefer to appeal to the High Court rather than to the Central Government.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can resume his speech after Lunch.

Mr. M. A. Jinnah (Bombay City: Muhammadan Urban): Sir, before you adjourn the House for Lunch, I wish to draw the attention of the Leader of the House to one thing which I represented to him, namely, that tomorrow is a day of mourning, and it is not possible for Muslim Members to participate in the business set down for tomorrow. Therefore, I have requested him, if he could possibly oblige by not taking up any business tomorrow.

Mr. President (The Honourable Sir Abdur Rahim): Why was not this mentioned before?

Mr. M. A. Jinnah: My attention was drawn to it only yesterday.

Mr. President (The Honourable Sir Abdur Rahim): What the Chair means to say is that it ought to have been found out long before that today was the eighth day of Muharram. It is highly inconvenient to dislocate the whole business.

Mr. M. A. Jinnah: I understand that it is only two days ago that these public holidays were declared in Delhi.

Mr. President (The Honourable Sir Abdur Rahim): The Chair understands that in Delhi the eighth day of Muharram is always observed as a local holiday.

Mr. M. Asaf Ali (Delhi: General): The tenth day is supposed to be the last day.

Mr. President (The Honourable Sir Abdur Rahim): So far as the observance of holidays is concerned, the practice has always been that we proceed by the list of holidays in Delhi. So far as the Chair is concerned, it is not prepared to add to that list. The eighth day of Muharram has always been declared a holiday. If that is so, the Chair cannot understand why this was not discovered before and mentioned in the House when the business of the House was arranged.

The Honourable Sir Nripendra Sircar (Leader of the House): May I point out, Sir, that the Chair seems to be under some misapprehension. What has happened is this. It is only on the 22nd of this month that the list of gazetted holidays was changed and not before. Now, at the present moment, 28th has been declared a holiday.

The Honourable Sir Muhammad Zafrullah Khan: It was due to the earlier appearance of the moon.

Mr. President (The Honourable Sir Abdur Rahim): Why was it not mentioned before?

Mr. M. A. Jinnah: I do not wish to pretend that there is no delay on our part. There is a certain amount of delay, I admit. As you know, Sir,

[Mr. M. A. Jinnah.]

these matters filter down gradually and a few days were lost. I quite agree that we could have drawn the attention of the Chair as well as the Leaders of Parties and Government earlier. Frankly speaking, the delay is there. It is after all only a delay of a few days. If we had been more active we could have brought this thing to the notice of the House earlier.

Mr. President (The Honourable Sir Abdur Rahim): If the entire House agrees, what the Chair is prepared to do is to direct that there shall be no sitting of the Assembly tomorrow.

Mr. M. A. Jinnah: I consulted the Leader of the House and the Leader of the Congress Party. I had no time to consult the Leader of the Congress Nationalist Party and the Leader of the European Group. I had just time to mention it only to the Leader of the House and I consulted my Honourable friend, Mr. Bhulabhai Desai, just now.

Mr. President (The Honourable Sir Abdur Rahim): The Budget has to be presented tomorrow and this has been fixed by the Governor General, and the Chair cannot alter that.

Mr. M. A. Jinnah: That also, I understand, the Government are prepared to adjust.

The Honourable Sir James Grigg (Finance Member): Let me make the position clear so far as the Budget is concerned. The actual presentation of the Budget on the 28th February cannot be stopped. In view of the various concomitant arrangements which have had to be made all over India, the date of presentation of the Budget cannot be altered at such short notice. What I understand was the desire, or what was conveyed to me, as the desire of the Muslim League Party was that the ordinary day's business should be postponed for tomorrow, that the general discussion of the budget should start on 3rd March and be finished on 7th March and that the business which is to be postponed should be taken up on the 8th March.

Mr. President (The Honourable Sir Abdur Rahim): Is it desired to have a meeting on the 3rd?

The Honourable Sir James Grigg: That was the suggestion conveyed to me. If there is any suggestion of the actual postponement of the budget and the Finance Bill, that with the best desire in the world is absolutely impossible.

Mr. M. A. Jinnah: I certainly would not have mentioned this matter but the Leader of the House assured me that even the presentation of the budget can be adjusted.

The Honourable Sir Nripendra Sircar: I meant the general discussion and in fact I may tell my Honourable friend, Mr. Jinnah, that this matter was brought to my notice really by Dr. Ziauddin. He was pressing it day before yesterday and I got a telephone message from him in which he said that if necessary his Party would not mind sitting at 5 o'clock for a short time for the purpose of the budget. I think my friend will bear me out.

Mr. President (The Honourable Sir Abdur Rahim): If the House so desires, the Chair will direct that there will be no sitting of the House till 5 o'clock tomorrow and at 5 o'clock the House will meet for the presentation of the budget.

Mr. Bhulabhai J. Desai: Then is it to be a condition that we have to meet on the 3rd? In that case the residual business of the House is such

The Honourable Sir Muhammad Zafrullah Khan: The whole trouble is due to the fact that owing to the moon becoming visible a day earlier than compilers of diaries and calendars had fixed the *ashura*, i.e., the tenth day of Mohurram now falls on the second instead of on the third; and therefore if the 8th, 9th and 10th days of Mohurram are to be holidays they must be on the 28th February and 1st and 2nd March. Therefore, the 3rd becomes an ordinary working day. That is why the suggestion was made that if no official business is to be transacted tomorrow the general discussion might take place on the 3rd and 7th instead of on the 7th and 8th, and the 8th would then become residual for official business. Otherwise there is no excuse for not sitting on the 3rd which is an ordinary working day.

Mr. Bhulabhai J. Desai: The third has been already declared to be a *dies non* and we cannot agree to the change.

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not know if Government will agree that there should be no sitting on the 3rd.

The Honourable Sir Nripendra Sircar: We are already a little late and if you will please give us time till 2-45 p. m. we can have another talk and see if we can compose our differences.

Mr. M. A. Jinnah: I do not think any useful purpose will be served and I do ask Government not to press for a sitting on the third.

The Honourable Sir Nripendra Sircar: We will not press it if the House does not want it.

Mr. M. A. Jinnah: I take it that tomorrow no official business will be done except the presentation of the budget.

The Honourable Sir Nripendra Sircar: It is not necessary to mention the matter again. I have said that I am not pressing my point with regard to the third.

Mr. President (The Honourable Sir Abdur Rahim): Then, there will be no meeting on the 3rd. The House will meet tomorrow only at 5 o'clock for presentation of the budget; there will be no other official business on that day.

The Assembly then adjourned for Lunch till a Quarter to Three of the Clock.

The Assembly re-assembled after Lunch at a Quarter to Three of the Clock, Mr. S. Satyamurti (one of the Panel of Chairmen) in the Chair.

Mr. M. Ananthasayanam Ayyangar: Sir, I was referring to the provision already existing in the Act for appeals to the Central Government.

[Mr. M. Ananthasayanam Ayyangar.]

The question for consideration would be as to whether there should not be a provision for an appeal to be preferred to the High Court in cases where the party chooses it as an alternative. The third point to which some attention has to be devoted by the House is regarding the right of a defendant to counter claim by petition for revocation in cases of suits for infringement of patents. In the English Act it is the High Court that has got jurisdiction to consider the petition for revocation; and it is also in the High Court that a suit for infringement for damages can be filed. Therefore, in both kinds of suits the High Court alone has jurisdiction. But here under the Indian law the High Court has got exclusive jurisdiction to decide questions of revocation. The district court has got jurisdiction only to try suits for infringement for damage. Therefore, if he filed a counter claim that a patent ought to be revoked, any suit for damages or infringement of patent, that jurisdiction should be conferred on a district court whereas the present law is that the High Court has exclusive jurisdiction in matters of revocation.

Therefore, there will be a conflict of jurisdictions. To avoid that, if the privilege is to be conferred on the defendant it is necessary to allow him to plead it in the district court and to have the proceedings transferred to the High Court where the same matter might be pending. As regards the penal provision, for the purpose of fighting piracy regarding patents and designs, I would say, through oversight, due provision was not made in the Select Committee to avoid even innocent persons coming within the pale of the law. It is, therefore, necessary to add the words suggested in the amendment. There may be cases where a foreign patent may be registered in this country also; but an article might not be of universal use and the person who imports it from a different country may not have the knowledge that it has already been registered in India and quite unwittingly he might commit an offence under this Act. No person should be found guilty unless he has knowledge and wants deliberately to circumvent a local patent this by importing a similar article from a foreign country. It is, therefore, necessary that this amendment should be accepted.

A suggestion was made that persons carrying things of a description for which a patent has already been obtained in the country, even though they may not import those things, should be punished. There will be only a few cases coming under that description and, therefore, such persons ought not to be liable to punishment if they have such things with them in their possession. An exception ought, likewise, to be made in the case of persons who import them without the knowledge that a similar article has already been registered in this country.

So far as the grounds are concerned on which revocation can be obtained of a patent in the High Court, it has been considerably improved in the present Bill by the Select Committee. After the Patents Act of 1911 the Act in England has undergone considerable modification. Similar provision for revocation has been enlarged on various grounds which practice and experience have shown to be necessary. These grounds have been incorporated and almost word for word the several sub-clauses in clause 7 of the Bill have been taken from the English Act. There is thus a decided improvement in this direction. The other modifications are of a formal nature. I support the motion for consideration.

Prof. N. G. Ranga (Guntur *cum* Nellore: Non-Muhammadan Rural):

Sir, my objections to this Bill are a little more fundamental. I am not at all in favour of conferring this particular right upon any individual to gain a monopoly of all the profits that may be derived from any particular invention or design at the expense of the whole society. But, at the same time, now that this Bill has come to us from the Select Committee, I wish to state that it is the duty of the State, if this particular power is to be given to a particular person at all, to safeguard the interests of the public. The Honourable Member in charge of the Bill himself has stated that one of the two main objects with which the Act was passed and the Bill has been brought forward is the safeguarding of the interests of the public. But I find that not sufficient care has been taken either at the stage of preparing the Bill or in the Select Committee to see that the interests of the public are sufficiently safeguarded. If we only turn to clause 6 of the Bill, we find it says:

“(6) The Central Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of the case.

(6) If it appears to the Central Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Central Government or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term as may be specified in the order and subject to any restriction, conditions and provisions which the Central Government or the High Court, as the case may be, may think fit.”

Even if we concede the right to any particular individual to take out a patent for the first period of 16 years, as is provided in the Act itself, I do not see the reason why it should be extended; and even if it is extended it is to be extended for either five years or ten years and so on. Then there is the extreme case—“or may order the grant of a new patent for such term as may be specified in the order”. Supposing it is proved to the satisfaction of the High Court or the Central Government that a particular portion of a patent or design has produced sufficient profits for the patentee and therefore need not be renewed again, then a new patent may be granted for another portion of the outstanding portion of that particular description that might be placed before the High Court or the Central Government. Therefore, I find that this amendment ought to be made. If it is not made, I cannot consider it to be really in the interests of the public.

Then, I come to the question of fees. There is section 57 of the Act itself. There power is given to the Central Government to prescribe what fees it may think fit to collect from various applicants who ask for patents. I do not know on what basis these fees are being prescribed today or are to be prescribed in future. I wish to make one suggestion that if such a monopoly power is to be given to any of these patentees at all, then we must recognise the fact that the State also should come in as a profit sharer, in any profits or advantages that may be derived from that particular patent, and therefore the fees that may be prescribed ought to be ranged in accordance not only with the utility of the patent but also the profits that may be derived from that particular patent

An Honourable Member: A profit tax!

Prof. N. G. Ranga: That may be a more general thing; but in regard to this particular thing even at the stage when the application is made for a patent, the patentee or the applicant should be expected to state what profits he expects to make from it: he will not make it, I know. Then it will be the duty of the officer who is appointed by the Central Government to make an estimate of the profits that may be derived and then prescribe what particular proportion of the profits should be placed at the disposal of the Central Government. It may be that he has got to work out all these details, but I make this suggestion for what it is worth; and I want the Central Government to take the earliest possible steps to come forward with a definite scheme for giving the benefit of part of the profits to be derived from any of these patents to the State itself. Any how, Sir, when we come to the question of renewing any particular patent for any further period, the difficulty must be much less in regard to the making of an estimate of profits to be derived, because Government will have had in their possession all the figures and facts relating to that particular patent. Therefore, in these cases at least they must certainly insist upon the State coming in as a profit sharer.

Then, thirdly, Sir, I find in section 21 of the Act that the State is placed in the same position as an ordinary subject of the country *vis-a-vis* the patentee. This is a wrong position to take, in my view. I personally consider that the State should have the first claim in regard to the benefits to be derived from any particular patent. Therefore, Sir, power should be given to the Crown or to the State to insist upon making any particular design or invention a public property if necessary by paying adequate compensation or remuneration, not to the man who offers to manufacture the instruments that have been invented, but to the man who has invented the very idea itself, and who has placed it before the particular businessman who may appear as an applicant. I want that the State should insist upon this particular right and it should exercise it as freely as possible so that all those inventions, which can be considered to be of public advantage or of use to the public at large, should be taken up by the State itself, and the profits therefrom appropriated by the people themselves.

Then, Sir, applications are made for any and every kind of patent. There are some inventions which would be useful to the public and some which may be distinctly harmful also. We all know the scandal about patent medicines. All kinds of patent medicines are being flooded today in the market including huge advertisements in support of their efficacy, with the result that the public blindly go in for those medicines and injure their health and waste their money also. Therefore, I consider, Sir, that it is the duty of the State to see that the public utility of any particular application that may be made for any particular patent is examined very carefully and care also is taken to see that no patent is given for any particular design or invention which is calculated to do any harm to any particular section of the public. Sir, I find support for this particular principle in the Act itself. There is section 21A which gives power to the State to insist that all those inventions which have anything to do with defence problems should first of all be submitted to the State, and the State alone should have the right to take the profit or to use them,—of course, the State may pay some compensation to the inventor. Now, Sir, I want that principle to be applied to every invention that may be

made and for which a patent may be asked for, and only if the State is satisfied that no harm will result from the advantage of giving a patent for any particular invention, should a patent be given at all, and then when the patent is given, the State should make an attempt to estimate the public benefit that may be derived therefrom and the monopoly or the profit that may be made by the inventor himself. If in the opinion of the State the profit is so much that it ought not to be allowed to be made by any particular person concerned, then it must be the business of the State to insist that the State itself should exercise the first right of appropriating it as a State device, of course, after paying a suitable compensation or remuneration to the inventor concerned. Subject to these remarks and suggestions, I support the principle of the Bill generally.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That the Bill further to amend the law relating to the protection of Inventions and Designs, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That clause 3 stand part of the Bill."

The Chair finds there are amendments by Mr. K. Santhanam.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Sir, I want to move amendment No. 1 in the Supplementary List No. 1.

Mr. Chairman (Mr. S. Satyamurti): The Honourable Member is not moving Amendment No. 1 in the printed list?

Mr. K. Santhanam: No, Sir. Sir, I move:

"That in Part (iii) of sub-clause (a) of clause 3 of the Bill, in the proposed clause (g), the words 'in the country' be omitted."

It is stated that "in the case of an application claiming priority under section 78A, etc., the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made in the country outside British India by virtue of which priority is claimed." 78A includes States in India. I do not want that even by inadvertence a State in India should be called a country outside British India. Therefore, I am making this motion so as to make it clear that the States are also included.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That in Part (iii) of sub-clause (a) of clause 3 of the Bill, in the proposed clause (g), the words 'in the country' be omitted."

The Honourable Sir Muhammad Zafrullah Khan: I have no objection to accepting this amendment.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in Part (iii) of sub-clause (a) of clause 3 of the Bill, in the proposed clause (g), the words 'in the country' be omitted."

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti): There is another amendment in the name of Mr. Santhanam.

Mr. K. Santhanam: I am not moving amendment No. 2 in the printed list, but I want to move No. 2 in the Supplementary list.

Sir, I move:

"That in part (iii) of sub-clause (a) of clause 3 of the Bill, in the proposed clause (h), for the words 'original specification' the words 'specification of the original patent' be substituted."

Now, it is stated that "in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification." Sir, the original specification may be amended either under section 5 or under section 17. What is wanted is that it should be an improvement not of the original specification, but of the specification of the original patent, and therefore I have made this amendment. There has been a doubt whether the words 'original patent' will cover the case of those patents which are merely under application and for which patent has not been granted, but reading section 15A to which the clause makes a specific reference, the words 'original patent' are there, and therefore as this has reference to the same section, there can be no doubt about that, and so I move this amendment.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That in part (iii) of sub-clause (a) of clause 3 of the Bill, in the proposed clause (h), for the words 'original specification' the words 'specification of the original patent' be substituted."

The Honourable Sir Muhammad Zafrullah Khan: Sir, I understand that the amendment moved by the Honourable Member will really make the clause inept. Section 15A to which the clause refers deals with two kinds of patents; (1) a patent that has been applied for and may not be granted, and (2) a patent which has been applied for and granted. The amendment proposed by Mr. Santhanam will not cover the case of a patent which has been applied for and has not been granted.

Mr. K. Santhanam: You have not heard my speech.

The Honourable Sir Muhammad Zafrullah Khan: Therefore, I would suggest that the Honourable Member should withdraw his amendment.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in part (iii) of sub-clause (a) of clause 3 of the Bill, in the proposed clause (h), for the words 'original specification' the words 'specification of the original patent' be substituted."

The motion was negatived.

Mr. Chairman (Mr. S. Satyamurti): 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.

Clauses 4 and 5 were added to the Bill.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That clause 6 stand part of the Bill."

Mr. K. Santhanam: I move No. 3 in the Supplementary List No. 1. I move:

"That in clause 6 of the Bill, in the proposed sub-section (6), after the words 'such term', occurring in the ninth line, the words 'not exceeding ten years' be inserted."

The point has been already referred to. As the clause stands, the Central Government or the High Court can renew a patent for an indefinite term, perhaps, even for a term longer than the original term of sixteen years. I understand that this was not the intention of the Government. The latter part of the clause has been put in because sometimes Government take so much time in considering an application that the patent expires and they have to issue a fresh patent, and, I understand, that they do not want to extend it for more than ten years which has been fixed in the first part. Therefore, this amendment is intended to make it clear that neither the Central Government nor the High Court shall have power to renew a patent for more than ten years at the longest.

The Honourable Sir Muhammad Zafrullah Khan: I have no objection.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in clause 6 of the Bill, in the proposed sub-section (6), after the words 'such term', occurring in the ninth line, the words 'not exceeding ten years' be inserted."

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That clause 6, as amended, stand part of the Bill."

The motion was adopted.

Clause 6, as amended, was added to the Bill.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That clause 7 stand part of the Bill."

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North-Arcot: Non-Muhammadan Rural): With your permission, I would like to move the amendment standing in my name a little corrected and I believe you have got a copy of the corrected one. I move:

"That in clause 7 of the Bill, in the proposed sub-section (1), after the words 'petition to', occurring in the second line, the words 'or on a counter claim in a suit for infringement before' be inserted."

Mr. Chairman (Mr. S. Satyamurti): The Chair takes it that the Honourable Sir Muhammad Zafrullah Khan has got a copy of the amendment. This is only a verbal correction. The Chair allows it to be moved.

Mr. T. S. Avinashilingam Chettiar: This is to remove a serious anomaly that has crept into the Act as it is. According to the present Act, any suit for revocation of a patent should be brought in a High Court, but the suit for an infringement is brought in a District Court. In a suit for infringement it is not open under the Act to set up a claim that the patent is not valid, and because of that, certain confusion has arisen. When the matter went up to High Court, while dismissing a suit for infringement, it has been held that certain patents are not valid. But though the High Court held a patent as not valid, it is not open to the

[Mr. T. S. Avinashilingam Chettiar.]

High Court to give a direction that the patent should be revoked. Owing to this a lot of confusion has arisen. I shall quote to you the opinion of the Honourable the Chief Justice of the High Court of Patna:

"By some accident of drafting in the Act of 1911 there is no provision that a defendant in an action for infringement may petition for the revocation of a patent as he may in the United Kingdom. It is rarely than an original petition for revocation is lodged and such a petition has I think never been presented in India. A plaintiff seeking to enforce a patent may bring his suit in any one of the High Courts where he may find an infringer and there is nothing to prevent that High Court from arriving at its own individual conclusion. Thus in one High Court the patent may be held valid but not infringed. In another High Court it may be held that had the patent been valid it would have been infringed but that the patent is invalid. In a third it may be held that the patent is valid but has not been infringed."

To remove this anomaly an amendment is necessary. This amendment removes the anomaly in that in a suit for infringement a counter petition can be filed that the patent is invalid. Sir, I move.

The Honourable Sir Muhammad Zafrullah Khan: I have no objection.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in clause 7 of the Bill, in the proposed sub-section (1), after the words 'petition to', occurring in the second line, the words 'or on a counter claim in a suit for infringement before' be inserted."

The motion was adopted.

Mr. T. S. Avinashilingam Chettiar: I move:

"That in clause 7 of the Bill, after clause (k) of the proposed sub-section (1), the following be inserted:

(1) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the patent office."

Sir, in the present amending Bill they have taken the section wholesale from the English amending Act of Patents of 1932. They have taken almost all the provisions of that Act, but they have omitted this provision which has been held in the courts in that country to be one of the necessary grounds for revocation of a patent, and I do think that we should add that also to this section. Sir, I move.

The Honourable Sir Muhammad Zafrullah Khan: I have no objection.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in clause 7 of the Bill, after clause (k) of the proposed sub-section (1), the following be inserted:

(1) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the patent office."

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti): There is one consequential amendment, the Chair does not know if the Government propose to bring it up now or later. (1) will have to be re-lettered as (m). They may correct it in the other place. There being no other amendment on the Order Paper, 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. Chairman (Mr. S. Satyamurti): The question is:

“That clause 8 stand part of the Bill.”

Mr. T. S. Avinashilingam Chettiar: Sir, I should like to move my amendment to clause 8 in a slightly amended form, of which I have given notice. Sir, I move:

“That clause 8 of the Bill be re-numbered as sub-clause (b) of clause 8, and before the clause, as so re-numbered, the following new sub-clause be inserted:

“(a) To sub-section (1) of section 29 of the said Act, the following proviso shall be added, namely:

“Provided that where a counterclaim for revocation of the patent is made by the defendant, the suit, along with the counterclaim, shall be transferred to the High Court for decision’.”

Clause 8 refers to section 29 of the Act and if section 29 of the Act is referred to, it will be seen that it refers to suits for infringement of patents. Such suits should be brought in the district court but we have provided in clause 7 that whenever there is a suit for infringement and there is a counter petition for revocation, such counter petition should come before the High Court for the reason that every suit for revocation can be filed only in a High Court. Section 29 provides that where there is no counter petition for revocation, the suit will continue to be heard in the district court but where there is a counter petition for revocation the suit should be transferred to the High Court, so that the High Court could adjudicate upon both the infringement and the matter of revocation of the patent. This is merely a consequential amendment to what I have moved to clause 7. Sir, I move.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

“That clause 8 of the Bill be re-numbered as sub-clause (b) of clause 8, and before the clause, as so re-numbered, the following new sub-clause be inserted:

“(a) To sub-section (1) of section 29 of the said Act, the following proviso shall be added, namely:

“Provided that where a counter claim for revocation of the patent is made by the defendant, the suit, along with the counterclaim, shall be transferred to the High Court for decision’.”

The Honourable Sir Muhammad Zafrullah Khan: I agree.

Mr. Chairman (Mr. S. Satyamurti): The question is:

“That clause 8 of the Bill be re-numbered as sub-clause (b) of clause 8, and before the clause, as so re-numbered, the following new sub-clause be inserted:

“(a) To sub-section (1) of section 29 of the said Act, the following proviso shall be added, namely:

“Provided that where a counter claim for revocation of the patent is made by the defendant, the suit, along with the counterclaim, shall be transferred to the High Court for decision’.”

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti): 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. Chairman (Mr. S. Satyamurti): The question is:

“That clause 9 stand part of the Bill.”

Mr. K. Santhanam: Sir, I move:

"That in clause 9 of the Bill, in the proposed section 38, after the word 'inventor', wherever it occurs, the words 'or his legal representative or assign' be inserted."

This is a purely consequential amendment, more or less. Sir, I move.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That in clause 9 of the Bill, in the proposed section 38, after the word 'inventor', wherever it occurs, the words 'or his legal representative or assign' be inserted."

The Honourable Sir Muhammad Zafrullah Khan: No objection.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in clause 9 of the Bill, in the proposed section 38, after the word 'inventor', wherever it occurs, the words 'or his legal representative or assign' be inserted."

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti): 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.

Clauses 10, 11 and 12 were added to the Bill.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That clause 13 stand part of the Bill."

Mr. M. Ananthasayanam Ayyangar: Sir I move:

"That in sub-clause (a) of clause 13 of the Bill, in the proposed clause (aa), after the words 'imitation thereof' the following be added:

'with the knowledge that the article bears the registered design or a fraudulent or obvious imitation thereof'."

The object of the amendment is to make penal even the importation of an article to which the design is affixed fraudulently, which design has already been registered in this country. Under the existing section 53, it is only in two cases that an infringement of the copyright becomes unlawful, namely, when a person applies or causes to be applied to any article in any class of goods in which the design is registered the design of any fraudulent or obvious imitation thereof and secondly when a person, knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, publishes or exposes or causes to be published or exposed for sale that article. Under this Bill, we introduce a new category of offences by which a person is liable to punishment even if he imports an article for sale to which a design has been affixed fraudulently. The amendment I seek to introduce makes him liable in all cases where he imports with knowledge that a fraudulent design has been affixed. If he sells that without knowledge of that kind, then he should not be liable to punishment. Under clause (b) of section 53 it is obligatory on the prosecution to establish that he sells the article to which the design has been attached, knowing that it is a fraudulent design or an obvious imitation thereof. In order therefore to bring the new amendment into line with the older one, I think it is necessary to say that if a man imports an article, knowing that

a fraudulent design has been attached to it, then he should be liable to punishment and his action ought to be made unlawful. For these reasons, I have moved my amendment and I hope the House would accept it.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That in sub-clause (a) of clause 13 of the Bill, in the proposed clause (aa), after the words 'imitation thereof' the following be added:

'with the knowledge that the article bears the registered design or a fraudulent or obvious imitation thereof.'

The Honourable Sir Muhammad Zafrullah Khan: I regret that I have to oppose this amendment. As the House is aware there have been frequent complaints and I have had many questions to answer regarding piracy of designs and it has been repeatedly pressed upon the Government that effective and adequate measures should be taken to put an end to this kind of practice. Now, the clause seeks to provide that wherever anybody has imported for purpose of sale without the consent of the registered proprietor any article belonging to the class in which the design has been registered and having applied to it the design or any fraudulent or obvious imitation thereof shall be subject to an action for damages. I think the Honourable Member who has made himself responsible for this amendment said that we were creating a new offence. We are not creating a new offence. We are creating a new cause of action for a civil action, and the difference between him and the Government is this, that we propose that, wherever a person imports such articles, he shall be liable to an action at the instance of the person whose civil right has been infringed. And I submit, Sir, that in such a case, it really is immaterial whether he has imported these articles designedly or has done so without the knowledge that the rights in a registered design have been infringed. After all, the same provisions apply with regard to the infringement of a patent. Wherever a person infringes a patent, that is to say, either manufactures or sells articles which amount to a contravention of somebody else's patent right, he is liable to be sued for damages irrespective of the fact whether he had acted with knowledge or without knowledge of the existence of the patent. I would therefore submit that, in the first place, there is really no contravention of any legal principle in leaving this clause as it is without the amendment suggested by the Honourable Member. Secondly, if the amendment proposed by the Honourable Member were accepted, the remedy really would become nugatory. It would be absolutely impossible to prove that a person had imported certain articles with the knowledge that a registered design had been infringed—unless one proved conspiracy and Honourable Members with their experience of these matters know how difficult it is to prove conspiracy. My Honourable friend, Mr. Asaf Ali, will certainly bear me out in this. Thirdly, anybody who intends to import articles of a particular description can easily protect himself at very little cost by paying—as I explained in my speech on the motion for the consideration of the Bill—two rupees if he can supply the number of the registration, and by paying ten rupees if he cannot whether the article is subject to a registered design or not. I submit, Sir, that there is no hardship in the law being modified as suggested in this clause. If we do not do so, the commercial community will not obtain the protection that they desire. If it were a question of creating a new offence, as probably the Honourable

Member thought we were doing, I think his argument would be very relevant—that unless there is an intention or knowledge, there should be no offence but we are only creating a new civil remedy.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhamadan Rural): Sir, I wish to say a few words in support of this amendment which has been moved. I claim to have some little knowledge of matters of this kind, and hence I think it my duty to put before the House the considerations which show that the amendment is needed. The original section is this—irrespective of the question whether it is a new cause of action or a new offence: that is hardly the distinction that matters. Let us look at the original section: .

“53. (1) During the existence of copyright in any design it shall not be lawful for any person—

- (a) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied; or,
- (b) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.”

In other words, when it came to sale, I can understand, because a man who himself believes it, that is the first case where no question of knowledge arises, but where it comes to the person who sells it, the law considers, as the Act now stands, the necessity of his having knowledge, otherwise his selling it is no offence, no cause of action. That is how the original section has been drafted. It is not intended to omit allegation of knowledge and the proof, so far as (b) is concerned, namely to publish or expose or cause to be published or exposed for sale that article.

They want to create a third category of persons situated in even a less difficult position than the person who sells, namely, the person who imports; that is to say, to import for the purpose of sale without the consent of the registered proprietor any article belonging to the articles in respect of which the design has been registered.

In other words, they wish to place the importer in a more difficult position than the person who actually exhibits it for sale. And therefore it rather beats me how that distinction can stand with any common-sense person.—that whereas a person who sells the article, if he can show that he did not know that the design on it was an imitation of a registered design, it is not a cause of action and yet the man who imported it without such knowledge has created a cause of action against him. It absolutely beats me.

As regards the merits of the matter, I can say this. There are always two classes of cases. One class of case is where the importer generally places an order with a foreign manufacturer and he himself provides a design to be put upon it. In such a case, of course, the question is easy to prove and in fact has been proved. In most cases take the importation of watches in numerous cases, as my Honourable friend, Sir Zafullah Khan, himself knows, what they do is they first find either the registered patent or the popular trade mark as the case may be. Having done that, they themselves find out some colourable imitation of it, and the foreign manufacturer is more often than not thoroughly innocent because he under-

takes to manufacture the article according to the specifications which have been provided to him. Therefore, in the case in which the man himself sends out the marks to be put, in that case knowledge exists—it is what my friend calls “conspiracy”—because the foreign manufacturer might have no knowledge whatever of that either by way of the right acquired by means of a trade mark or by registration; there may be no conspiracy, but a man may import among many articles which a Japanese or some other merchant has manufactured something,—when he imports it, it is an offence without his knowing it, but when it gets to the seller, unless he has knowledge he can sell it,—well, I really think you cannot defend that position at all; and if my Honourable friend says this that it is a cause of action, let us see the section. Now for instance, a man says, “I am an agent in India of a manufacturer in another country—France, England or Italy”. He puts some mark on it. I merely take it here without the least knowledge of what the marks are, they are not always described, the goods are described but not the marks, except where the importer himself is the seller. The man who is always an intermediary has no knowledge of the general description of the goods and he does not know whether the importer is himself the seller. Then only he knows actually what are the marks put upon it and if any person acts in contravention of this section, he shall be liable to pay to the registered proprietor a certain sum. He need not get any injunction, if it is worth his while to get Rs. 500 for a perfectly innocent act,—and my Honourable friend says that he has a cause of action! All I can say is that if by the original Act the seller was not liable to a cause of action unless he had knowledge, because you must read the other one.

Then, sub-clause (b) says that if the proprietor elects to bring a suit for the recovery of damages for any such contravention or injunction, he may be awarded. In other words, he has no cause of action against the seller until it can be proved that the seller knew that the infringed mark was put upon it, and yet the importer who merely passed on the goods to the seller without any knowledge is to have attached to him a penalty. This is certainly far from being satisfactory. I, therefore, support the amendment.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Sir, I have listened to the argument of the Honourable the Leader of the Opposition. He has pointed out that there is some contradiction in the original section 53 (b) of the Act and the proposed amendment in this particular clause. That is, there is a difference between the importer and the person who sells the articles. I think there ought to be some difference between the two. A seller in a countryside really does not know how things are purchased and how they are manufactured. He only knows the importer at the seaport and purchases his articles from him. The importers of the articles alone can know whether a particular design has been patented or not or whether an article is only an imitation. Very often it happens that an article is patented in one particular place and another man imitates it and sells it at a cheaper rate.

Mr. Bhulabhai J. Desai: It has nothing to do with the patent nor has it anything to do with the trade mark.

Dr. Sir Ziauddin Ahmad: If anything of the same design is imitated by somebody else and is sold at a cheaper rate, then the importer will

[Dr. Sir Ziauddin Ahmad.]

probably find out what is the cause of the sale at a cheaper rate and he will also be able to find out whether the article itself is a real one or it is only an imitation. I think, therefore, that the importers are supposed to know these things much better than the sellers in a countryside who know nothing about the method of importing of these articles and also how they are patented. If you go to an ordinary shopkeeper in the Chandni Chouk, he will not be able to say that there is such a thing as the Indian Patents and Designs Act, and, therefore, you cannot expect him to be a person of as much intelligence as the importers are.

Mr. M. S. Aney: Chandni Chouk is not a countryside.

Dr. Sir Ziauddin Ahmad: As compared to Calcutta and Bombay, it is. Then, there is another thing which I would like to say. Suppose I have a counterfeit note. It is not necessary for me that I should know that it is counterfeit. The mere fact that I possess it is sufficient for my prosecution. Therefore, I submit that the clause as it has been drafted by the Select Committee is a proper one and this addition, to my mind, is unnecessary.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in sub-clause (a) of clause 13 of the Bill, in the proposed clause (aa), after the words 'imitation thereof' the following be added:

'with the knowledge that the article bears the registered design or a fraudulent or obvious imitation thereof.'

The motion was negatived.

Clause 13 was added to the Bill.

Clause 14 was added to the Bill.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That clause 16* stand part of the Bill."

Mr. M. Ananthasayanam Ayyangar: Sir, I move:

"That in clause 16 of the Bill, for the words 'and realizing costs' the following be substituted:

'costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court.'

Power has been given to the Controller to act as if he were a court and also to award costs. The provision regarding realisation of costs is unworkable. The cost might not be realised inasmuch as the Controller is no court and has no establishment and therefore it is not possible for him to realise the costs, which can be realised only if they form part of the decree of a court. In the latter case, the movable and the immovable property can be attached in execution of the decree. Therefore, this amendment is necessary in order to make the order awarding the costs by the Controller executable in any court as if it were a decree of that court, so that as soon as a copy of this award is filed in the court, it will automatically become a decree of that court and then it will be executable under the Code of Civil Procedure. The addition of these words makes the amendment complete.

*Clause 15 was deleted by the Select Committee—E. of D.

Mr. Chairman (Mr. S. Satyamurti): Amendment moved:

"That in clause 16 of the Bill, for the words 'and realizing costs' the following be substituted:

'costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court.'

The Honourable Sir Muhammad Zafrullah Khan: There is no objection to the amendment.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That in clause 16 of the Bill, for the words 'and realizing costs' the following be substituted:

'costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court.'

The motion was adopted.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That clause 16, as amended, stand part of the Bill."

The motion was adopted.

Clause 16, as amended, was added to the Bill.

Clauses 17 to 22 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. G. H. Spence (Secretary, Legislative Department): Sir, have I your permission to move the consequential amendment which you yourself referred to as necessary?

(At this point, Mr. Chairman nodded his assent.)

Sir, I move:

"That the necessary re-numbering and re-lettering of the clauses be made consequent to the amendments passed by the Assembly."

I move in this form, because you will notice, Sir, that the House has deleted certain clauses and, therefore, the subsequent clauses have got to be re-numbered. Sir, I move.

Mr. Chairman (Mr. S. Satyamurti): The question is:

"That the necessary re-numbering and re-lettering of the clauses be made consequent to the amendments passed by the Assembly."

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I move:

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

Mr. Chairman (Mr. S. Satyamurti): The question is:

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

The motion was adopted.

THE COAL MINES (STOWING) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, I beg to move:

“That the Bill to make further provision for safety in coal mines, as reported by the Select Committee, be taken into consideration.”

Sir, when speaking on the occasion of reference to Select Committee, I pointed out that there are two main provisions in this Bill—one seeks to confer on the Mining Inspectorate power to enforce stowing or the execution of the protective works where such measures are necessary in the interests of the safety of the workers.

The other is that relating to the creation of a fund by the levy of an excise duty for assistance towards stowing. I do not think that it is necessary for me to dwell at length on the need for this measure. The Report of the Coal Mining Committee contains full justification for it. The two main coalfields, Jharia and Raniganj, from which more than 70 per cent. of the total output of coal in India is obtained have now reached the stage of working at which a large proportion of the coal is obtained from pillars left in the first working of the coal seams. In both of these coalfields the seams are of considerable thickness and in many mines the percentage of coal left in the pillars in the first working is too small to ensure stability during pillar extraction. Further the extraction of pillars from a thick seam of good quality coal is generally followed by spontaneous heating and fires whether the pillars are substantial or not. The extraction of pillars in both these coalfields has thus resulted in numerous collapses and fires and in many accidents involving loss of life. It was estimated in 1936 that there were 47 fires in 29 different collieries. It is now estimated that the total number of fires in these coalfields has risen to 74 fires in 56 mines, two of which are situated in the Central Provinces. These fires constitute a source of grave danger not only to the mine in which they are raging but also to adjoining mines, as owing to the thinness of the barrier between adjoining properties fires spread from one mine to another. I will give you an example. A fire broke out at Khas Jharia colliery in 1931 after a collapse of the old workings had occurred. Shortly afterwards this property was relinquished. This fire traversed the adjoining mines of Khas Jharia, Sonalibad and New Khas Jharia and is at present burning vigorously near the Dhanbad-Jharia and Suratand branch lines. The Railway authorities have already spent over Rs. 50,000 in an endeavour to safeguard the railway and railway stations, but further protective measures are necessary to prevent the fire spreading to the railway, into adjoining properties and extending further towards Jharia town. It is feared that unless protective measures are adopted, the fire will spread to other properties involving considerable loss of valuable coal and property and danger to life. The position in the coalfields is thus one of serious danger to the workers employed in the mines and involves also substantial loss of coal.

Stowing is the only satisfactory remedy for this state of affairs. As observed by the Committee in their report, stowing does away with most of the dangers from premature collapses, subsidences, fires, inundations and explosions; it ensures the maximum percentage of recovery without waste or loss of other unworked coal and makes working conditions generally

much safer for the miner. Some of the mines have voluntarily taken to stowing but owing to the heavy cost of the operation and the competitive disadvantage imposed thereby, the voluntary adoption of the operation has not made much progress. It is therefore proposed in the Bill to confer powers on the Mining Inspectorate to enforce stowing and other protective measures where the interests of safety render such a course necessary, and to raise a fund for assisting such stowing by the levy of an excise duty on coal and coke. A suggestion was made by a few witnesses who appeared before the Coal Mining committee that individual collieries which needed stowing should bear the charges connected with it themselves and that if such collieries were unable to continue working under this added burden, they should close down. The Coal Mining committee have observed in this connection in their report as follows :

“We are definitely of opinion that this is not practical politics more especially as it would prejudice safety because the mines that were shut down would not be inspected and no one would know what was going on inside them.”

Stowing is required in a number of the coal mines and if all such mines were to be required to adopt stowing compulsorily and have to cease operations owing to their inability to meet the cost, it will not only involve hardship on the workers who will be thrown out of employment, but might also affect the output of coal with the result that the consumers might eventually have to pay much more for their requirements of coal than the additional liability imposed on them by the excise duty which is proposed to be levied under this Bill. It is necessary that the excise duty should be imposed not only in Jharia and Raniganj coalfields but also on coal produced in the other coalfields, as otherwise the Jharia and Raniganj coal would be placed at a great competitive disadvantage *vis-a-vis* the coal produced in other areas.

The only areas which it is proposed to exclude at present are Assam and the Punjab. In both these areas stowing is unnecessary in view of the special method of working in force in Assam in the case of the thicker seams and the thinness of the seams elsewhere in that province and in the Punjab. Further, the coal produced in these provinces is consumed locally and does not compete effectively with the coal produced elsewhere in the market.

The Coal Mining committee was appointed to report on the measures which should be taken not only to secure the safety of those employed on the work but also to prevent avoidable waste of coal. The Committee have recommended the general adoption of compulsory stowing both in the interests of safety of workers as well as for securing conservation of coal. The primary object of the Bill which I have put forward is the safety of the persons employed in mines. But the proposals in the Bill will, I think, go a long way towards securing conservation. As remarked by the committee conservation and safety are connected together as closely as two sides of a coin. I may add that legislation for stowing is an entirely new experiment and it is desirable that we should have experience of the working of the new measure before we consider the question of extending its scope in other directions.

[Sir Muhammad Zafrullah Khan.]

Sir, the Select Committee have made certain improvements in the Bill. As a matter of fact the agreement over this measure in the Select Committee was remarkable. We were able to get through our work in a surprisingly short time. Now that the Bill has come back to the House, after it has emerged from the Select Committee, a large number of amendments have been given notice of, but I am hoping that it might be possible to reduce the effective amendments, that is to say, those which are really going to be pressed, to a much smaller number than appears on the order paper. I do hope that the same unanimity with regard to the main provisions of the Bill will continue to prevail in the House as prevailed in the Select Committee. Sir, I move:

Mr. Chairman (Mr. S. Satyamurti): Motion moved:

"That the Bill to make further provision for safety in coal mines, as reported by the Select Committee, be taken into consideration."

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, while supporting the motion for the consideration of the Select Committee report I hope the Government will accept the amendments that have been tabled from this side of the House. . . .

Mr. N. M. Joshi (Nominated Non-Official): What about amendments tabled from this side?

Mr. B. Das: I will come to them later on.

My only regret is that that excellent report known as the Coal Mining committee's report never had any chance with the Government. The Commerce Members of the Government went on changing from year to year. Last year my Honourable friend, Sir Thomas Stewart, was piloting or rather step-fathering the report, and this year it is my Honourable friend, Sir Muhammad Zafrullah Khan, and probably next year there will be another gentleman in charge of this subject. I am afraid that none of them has become wiser. The recommendations of the Coal Mining committee remain as they are. Sir Frank Noyce when he piloted the amendments to the Mining Bill assured us that there would soon be a comprehensive Bill before the House. My Honourable friend, Sir Thomas Stewart, also assured the House to the same effect. But the present Bill does not cover the major recommendations of the Indian Mining committee. What is the use of thinking only of conservation.

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

This question has not been handled properly. The Honourable Member said that the present stowing Bill will indirectly do conservation. One passage in the recommendations of that report says that while the coal in India will last about 60 years, the iron ores and the big steel industries will last 80 to 90 years, and the coal mining committee has pointed out the extravagance in mining by some of the mine owners who are not responsible to the country, but who want to make the most of the present collieries and then to leave the collieries to their fate. The concomitant result has been that most of the collieries are catching fire. I wish the Commerce Department has paid sufficient attention to this and studied the report and brought forward a comprehensive measure. We are placed in the

situation where we find ourselves at the mercy of the Government; they are only half heartedly looking after the safety of the miners that are employed in the mines and also the safety of the coal mines which are so very essential to the development of industries in India.

Sir, the amendments which have been tabled will be discussed shortly and I hope that the Government will agree to most of the amendments which have resulted from the note of dissent of the Congress Party. If the Honourable Member in charge of the measure agrees to accept them, there will be no long discussion on the floor of the House.

Somehow the Government of India do not seem to recognise the responsibilities of the Provincial Governments about the safety in mines. I have pointed this out in the Minute of Dissent that it is as much the responsibility of the Provincial Governments to look after the safety of miners as it is of the Government of India. Above all the Government of India may find that stowing boards or similar bodies cannot take executive action when there is subsidence over a large area and it is only the Bengal Government or the Bihar Government that will supply the men and funds for rescue. Therefore, we have suggested that the Bihar Government representative and the Bengal Government representative should find a place on these boards.

My Honourable friend, Mr. Joshi, interrupted me and asked me whether we will accept his amendments. I will request him to place a little more trust in the Provincial Governments who are more concerned with the safety of mines and miners than perhaps big labour leaders some of whom may never have visited these coal mines.

Mr. N. M. Joshi: No, no; don't say that.

Mr. B. Das: My Honourable friend may have visited them because he is a big labour leader. At the same time I think the Governments of Bengal and Bihar are more interested in their safety. Sir, I particularly commend to the House one amendment which my Honourable friend, Mr. Chettiar, has brought, that a coal research bureau be established. That was one of the important recommendations of the Coal Mining Committee, but as I pointed out earlier, the Coal Mining Committee's recommendations never got a chance of being considered by Government properly or even being considered by the House in a comprehensive measure. I do also hope my Honourable friend the Commerce Member will follow the salutary practice which the Honourable the Law Member introduced,—and he is going to be the Law Member shortly, after a few months. When the rules under the Insurance Act were prepared they were placed on the table of the House; and as these rules will affect the safety of mines and miners and the conservation of coal which is so very necessary for the industrial development of India they should be placed on the table of both Houses so that they may be amended in any way that may be deemed necessary. Sir, I support the motion for consideration of this Bill.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural): Sir, as I find that to give effect to this Bill some of the sections of Indian Mines Act have been referred to here, I think it would be better if this were brought in as an amending Bill to the Indian Mines Act itself. That would have avoided multiplicity of

[Mr. T. S. Avinashilingam Chettiar.]

legislation. Even here I find that Government are anxious that this Bill should be confined to a particular type of safety legislation and that is stowing. To avoid multiplicity of Acts we would think that a Bill like this should apply to all safety purposes and among the many measures of safety in coal mines stowing will, of course, have a predominant place. And so I do think that this Bill could have been an amending Bill to the Indian Mines Act. But in the present circumstances it should at least be enlarged to include further safety measures which might in future be brought forward as amending Bills to this legislation. Clause 3 of the Bill refers to the constitution of the Board. In the report of the Coal Mining Committee they have advised a different sort of Board to be formed. They were not in favour of giving representation to the mining interests but of forming an expert and a technical body of men who know their business. I do not want to enter into the reasons which might have led Government not to accept that view and to take the view which they have taken in this Bill. Then I would like to refer to clause 8 of the Bill which refers to the application of the money that this Board may acquire by the imposition of the excise duty in clause 5. In that they have given the provisions for which the money that comes out of the imposition of the excise duty can be spent. Apart from the administrative expenses they specify only one preventive measure and that is stowing

(It being now Four of the Clock.)

Mr. President (The Honourable Sir Abdur Rahim): Order, order. The House will now take up the motion for adjournment.

MOTION FOR ADJOURNMENT.

REJECTION OF THE DELHI MUNICIPAL COMMITTEE'S APPLICATION FOR A DISTRIBUTING LICENCE UNDER THE INDIAN ELECTRICITY ACT.

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

"That the House do now adjourn."

The occasion for this adjournment would never have arisen but for the fact that Government have gone and passed an order which is wholly unjust not merely to Old Delhi, but I think in the long run to New Delhi also. The question of the rates of energy has been a standing scandal for a number of years, and it was in 1936 that my Honourable friend, Sir Girja Shankar Bajpai, was persuaded, after a great deal of agitation by the Old Delhi Municipality, to agree to the appointment of a committee to go into facts and figures and to reach certain conclusions. Eventually the Pitkeathly Committee was appointed and I regret to say that that committee totally ignored the representations of the Old Delhi Municipal Committee. However, they reached certain conclusions and it was the disappointment caused by the conclusions reached by the Pitkeathly Committee which persuaded the Old Delhi Municipal Committee to apply for a distributing license to the Local Government. They knew full well that according to the recommendations of the Pitkeathly Committee Government were going to bring into being a central generating authority because the whole of the urban area of Delhi,—i.e., New Delhi, Old Delhi, Notified Area Committee and perhaps also Shahdara, the New

Cantonment, the Fort Area,—all these really constituted one big urban area, for which the generation of electricity must be centralised if the cost was to be brought down. So far the conclusions of the Pitkeathly Committee were perfectly correct, with the result that they came to the conclusion that if generation were centralised the cost of generating electricity would be reduced to 402 annas per unit, *i.e.*, much less than two pice. To make it simpler I shall refer to it as 4 annas. The Old Delhi Municipal Committee happens to be the largest consumer of electricity in the whole of this area, because the total number of units which Old Delhi consumes amount, I think, today to about 23 million. If I am not mistaken, these are the figures given by the Pitkeathly Committee. In 1940 Old Delhi would be consuming something like 23 million units while New Delhi would be consuming 21 million units; and in 1945 Old Delhi would be consuming something like 49 million units, while New Delhi would be consuming only 25 million units. Naturally, Old Delhi represented to the Pitkeathly Committee that in so far as the question of distribution was concerned, because New Delhi had the authority to distribute its own electricity, from the Central authority, Old Delhi also should be allowed to distribute its own electricity and they wanted a distributing license. This was a perfectly legitimate demand. They made this demand in view of the fact that the company which has been operating in Old Delhi has been charging us 7·2 annas in 1923 and six annas in 1925 and they have gone on reducing the charge till now it is just more than 3½ annas per unit. The net figure should be 3·15 annas—it makes very little difference. They are now buying from the central authority in New Delhi at 4 per unit.....

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): The central authority has not yet started operations.

Mr. M. Asaf Ali: I am sorry that my Honourable friend has not been able to establish the central generating authority up to this date, although the Pitkeathly Committee imagined that the authority would be established in 1937. That means they have been sleeping over it for two years. Does this or does this not deserve condemnation for that reason alone? For two years the central generating authority has not come into existence. Even if they are buying from the New Delhi Municipal Committee it is still somewhere in the neighbourhood of 46 annas per unit which is less than two pice, and according to our experts—we have consulted our experts—the total cost of distribution cannot possibly go beyond, say, another two pice per unit, which means at the outset it should be available, if no profits are made, at one anna per unit. Instead of that we, private consumers, are paying over three annas per unit and the Delhi Municipal Committee are paying for their street lighting more than two annas per unit; and the Old Delhi Municipal Committee consume something not less than 75 million units a year. I ask, is it conscionable or is it unconscionable? I say that in not allowing the Old Delhi Municipal Committee to have its own license the Local Government or whoever it may be has really gone and sold us to this company, because, in 1947, their license will expire—at any rate in 1947 the Delhi Municipal Committee will have the option of purchasing the entire concern. It is only a question of another eight years, and during these eight years we intended not merely to take over the street lighting but also to distribute electric energy to our newly developed areas which may easily amount to a population of 50,000 or 60,000 beings,

[Mr. M. Asaf Ali.]

which means that in 1947, when the time comes for us to exercise the option under section 7 of the Indian Electricity Act, we shall be just ready to take over the whole organisation and supply to Delhi electricity at perhaps less than one anna per unit: and even if we were making a profit it would go back to the improvement of the city. But where is all this profit going now? According to the Pitkeathly Report, even after having agreed to the maximum rates to which they have been beaten down by the Local Government, according to the Local Government's communication, this company will be making no less than Rs. 5,10,000 a year net profit. On what investment? The original investment was £1,00,000. This original investment has been doubled by now because they have distributed another £1,00,000 worth of bonus shares which means that they are really making today, even after the reduced rates, something like 38 per cent. net profit on their original investment. You can refer to the balance sheet if you like: it is to be found in the Pitkeathly Report. In any case the point remains that if we had been allowed to have a distributing license we would not have to generate our electricity: we would simply buy it from the central generating authority which is bound to come into existence before long, because it means a great deal of saving to the Government of India—to all of us and to all Government employees—and everybody will benefit by it. If we had been allowed to have a license we would have been able to effect very large savings as far as street lighting was concerned and we would have been in a position to take over the organisation of this company when the time came. By refusing to grant us this license the Local Government, as I have said, practically sold us bound hand and foot to this company. Now, what is our lever? Where is our lever? How can we bring these rates further down? According to the Pitkeathly Report, even after having reached this maximum, this company should be able to scale down the rates further by 25 per cent. within a year or so, which means that there is still room for this company to make profits after having reduced these rates further by another 25 per cent. Under these circumstances, I put to the Government a very simple proposition. If they give me an assurance even now that they will reconsider the whole thing in consultation with the Old Delhi Municipal Committee and reconsider the question of granting a license to us for the newly developed areas and for street lighting, I may or may not press this to a division. I will tell you the reason. My reason is to be found in the Report.....

Mr. F. E. James (Madras: European): Make just a token record.

Mr. M. Asaf Ali: But if they are not prepared to grant us a license, I should certainly press the motion to a division. With these few words, Sir, I move that the House do now adjourn.

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

"That the House do now adjourn."

The Honourable Sir Muhammad Zafrullah Khan: Sir, may I be permitted to state that it is unfortunate that the Honourable the Mover of the motion should be suffering from a somewhat painful disability this afternoon, but if it is any comfort to him, may I tell him that I am also suffering from a disability, though not so painful as his,—I have had a hoarse throat for three days, but I shall nevertheless try to carry on, and if occasionally

my voice breaks or does not reach the farthest part of the House, I hope I shall be excused.

Sir, the Honourable the Mover of the motion has, naturally, been disappointed over the postponement of the scheme which, obviously, he and his fellow municipal councillors had persuaded themselves to believe was a good scheme on the advice of some expert whose identity has not been disclosed, but that surely is no reason for censuring the Government for the decision arrived at by them in this matter. Let me supplement some of the facts which Mr. Asaf Ali has given to the House. When the Municipal Committee made this application for a license, an inquiry was ordered to be made by Mr. Redcliff, who is the Chief Electrical Engineer, Bengal, and is also Electrical Adviser to the Bengal Government. This gentleman had had nothing whatever to do with the Pitkeathly Committee, and, therefore, was an entirely independent authority. He went into the whole matter and found that the proposition that the Delhi Municipality wanted to put into practice was wholly impracticable for the following reasons: No. 1. The Delhi Electric Company's license is to run up to 1947 in any case.

Mr. M. Asaf Ali: That does not preclude our getting a license.

The Honourable Sir Muhammad Zafrullah Khan: Have I said so?

And then, there may or may not be an option available to the Delhi Municipal Committee to buy out this company. I have said there may or may not be an option, because under section 7 of the Electricity Act, to which Mr. Asaf Ali has referred, the option arises if the whole area, being served by the company, is within the jurisdiction of the single local authority which seeks to buy out the company. As it happens, the area being served by this company is within the jurisdiction of two local authorities, at the moment at any rate,—the Notified Area Committee of the Civil Station and the Delhi Municipal Committee. It is a legal question, and I will not enter further into it, but I will say this, that it is by no means certain that the Delhi Municipal Committee will have the legal power to acquire the license of the Delhi Electric company in 1947, and, in any case, there is no question that they cannot acquire it before 1947. Now, the Delhi Municipal Committee's position is that that should not preclude Government from granting them a license. Technically and legally it is correct that a distributing license can, nevertheless, be granted to the Committee, but the effect of it would be this. If they wanted to distribute electricity within the area served by this company, which would include the whole of the town of Delhi, they would have throughout to duplicate the transmission system.....

Mr. M. Asaf Ali: No, Sir.

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir, the company say all the poles belong to them.

Mr. M. Asaf Ali: They do not.

The Honourable Sir Muhammad Zafrullah Khan: As a matter of fact, in the representation made by the Municipal Committee themselves to Mr. Redcliff, they have said that there are some poles owned by the Municipality

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and, some combined poles, whatever that may mean, and some owned by the company. And even with regard to those that are alleged by the Municipality to be owned by them, the company's allegation is that that is not correct, that they are owned by the company. In any case, there would have to be double wiring, and in the narrow streets of Delhi, double lines of electrically charged wires would be a most impracticable proposition from the point of view of safety as well as from a good many other technical points. There are streets so narrow in the area to be served that it would be impossible to carry a double set of wires through them unless the Municipality propose to carry their system underground which would add enormously to the cost. That was the first objection.

The second objection was that the Delhi Municipality had no detailed technical or financial plan for putting the license into operation and supplying electricity. The third was that under the circumstances, that is to say that up till 1947, in any case, they would have to carry on in keen competition with the Delhi Electric Company, the scheme was not financially and economically advisable.....

Mr. M. Asaf Ali: For the company, and not for us.

The Honourable Sir Muhammad Zafrullah Khan: For the Municipality too; eventually the ratepayers would have to bear the loss.

Mr. M. Asaf Ali: There is no question of any loss.

The Honourable Sir Muhammad Zafrullah Khan: If the Honourable Member keeps up a running commentary, I shall not be able to proceed.

Mr. M. Asaf Ali: I am sorry, Sir.

The Honourable Sir Muhammad Zafrullah Khan: The Honourable Member has said that .4 annas or so would be the cost of obtaining electricity from the new generating authority. That may or may not be so; I am informed it would be .5 annas and I shall assume it would be half an anna. He, then says the cost of distribution, according to the advice of their expert, would be only half an anna and they would be able to supply electricity at one anna per unit. There, I am afraid, I must differ from my friend. In an Annexure to this Report by Mr. Redelift, some very interesting figures are given. We have been informed by Mr. Asaf Ali that within the area served by the Delhi Electric Company, the total demand is nearly 30 million units.....

Mr. M. Asaf Ali: It is 22 million units.

The Honourable Sir Muhammad Zafrullah Khan: Here are figures relating to three very large areas in the United Kingdom; Manchester which purchases 581 million units, Birmingham which purchases 689 million units and Glasgow which purchases 394 units, bulk supply, from central generating agencies, and they pay only .28 pence, .31 pence and .37 pence per unit, and in each case the rates are from three to five times the cost of the electricity to the company and that with such enormous loads fifteen

to twenty five times the loads that have been mentioned by the Honourable Member. I think he is under a serious misapprehension with regard to the cost of distribution, and, in addition, to the cost of distribution, even if no profits are made by the Municipality,—they certainly would have to pay some interest on the investment made by them. An alternative suggestion was made that the Municipality would not attempt to supply the Old Town at all, but would supply electricity only to themselves for purposes of street lighting and also to the new areas where it has not been supplied by the Electric Company. Sir, if they set up a whole distributing system for that purpose only, the proposition would be still less financially justifiable. Mr. Redclift in his Report made an alternative suggestion that the application of the Municipality should be turned down out of hand or may be kept pending, and may be used as Mr. Asaf Ali has described, as a lever to force the company to reduce their rates. Mr. Redclift was of the opinion, and the Chief Commissioner agreed with him, that there was a good deal in the allegation that there was room for further reduction of rates by the Delhi Electric Company in respect of the current supplied by them. As Mr. Asaf Ali has himself pointed out, this company began supplying current at 7.2 annas in 1923.

Mr. M. Asaf Ali: They started operations in 1908.

The Honourable Sir Muhammad Zafrullah Khan: I beg the Honourable Member's pardon. We have got the figures only from 1923. In 1923-24 they supplied current at 7.2 annas net that is to say, after allowing for the discount given for prompt payment; from 1925 to 1928 they supplied current at five annas; in 1929 at 4½ annas net; 1930-33 at 3.6 annas net; 1934-38, 3.15 annas net. Surely, this state of affairs cannot be described as scandalous. The charge today, that is, 3.15 annas is considerably less than half of the charge in 1923.

An Honourable Member: What do they pay for it themselves?

The Honourable Sir Muhammad Zafrullah Khan: I do not know. But even if you assume that they are paying half an anna or so for the current, there is no ground for the assumption that only an additional half an anna is required for its distribution.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): Then how much?

The Honourable Sir Muhammad Zafrullah Khan: I have given the figures with regard to certain big towns in the United Kingdom and they show that from three to five times the cost of the current is required for the cost of distribution. We must also remember that this is the highest rate at which current is being supplied by this company, that is to say, to the domestic consumer. It is being supplied at a lesser rate to the Municipality, and at a still lesser rate, for power to the factory owners and for cooking and heating. For cooking and heating the charge is 1½ annas net per unit. To the power users the highest charge is 1½ annas, and then it goes on tapering down for large loads, so that you have got to take the average of the whole. The Chief Commissioner, finding himself in that position, sent for the General Manager of the Company and put the position before him. It was made quite clear to him that, if

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the company was not willing to make substantial reductions in its rates, in accordance with the report of the Pitkeathly Committee, the Chief Commissioner, in spite of the inconveniences that might be involved, would report to the Government of India that he could not recommend that the application of the Committee should be turned down out of hand and that he could not say what the result might be. In other words, it was conveyed very clearly to the General Manager that it was quite on the cards that the Municipality might get a distribution license, whatever the inconveniences resulting therefrom might be. The General Manager said that he had no authority in this matter but that he would communicate with the Home Directors. He did so communicate and two of them came out. They had several meetings with the Chief Commissioner and tried to persuade him that no action in the direction of reducing the rates was necessary or was called for till the Central Generating Authority had started operations and the Electric Company's contract with that authority was settled so that they would know where they stood, how much they would have to pay for the supply, what reduction they could make. But they were told that unless they were prepared to make reductions now, the application of the Municipal Committee would have to be further considered. Eventually, they agreed to make reductions from May next. At present, current is being supplied to the Municipal Committee for street lighting at the rate of three annas per unit up to 500,000 units and at the rate of two annas per unit above 500,000 units. They have now agreed to supply the Municipal Committee at the rate of two annas per unit, a reduction of fifty per cent., up to 500,000 units, and one and a half annas per unit, a reduction of twenty five per cent., beyond 500,000 units; and this includes maintenance and replacement of lamps and breakages, etc. With regard to domestic consumption, the present rate is $3\frac{1}{2}$ annas per unit subject to a ten per cent. discount, that is to say, 3.15 annas net. The Company have now agreed to supply as from May next to domestic consumers current at 2.75 annas net.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhamadan Rura): High voltage or low voltage?

The Honourable Sir Muhammad Zafrullah Khan: I could not tell you. I am not a technician. These rates I would submit to the House—and I am sure Honourable Members can refer to their own experiences, they come from all parts of the country, and are aware of rates in all big towns,—I venture to submit that those rates compare very favourably indeed with rates prevailing in other areas, similarly situated, or even more favourably situated than Delhi. Indeed, many of us would consider ourselves lucky if we could obtain current at those rates.

An Honourable Member: What is the dividend that the company is making?

The Honourable Sir Muhammad Zafrullah Khan: The dividend is certainly not what Mr. Asaf Ali has suggested to the House.

An Honourable Member: Then what is it?

The Honourable Sir Muhammad Zafrullah Khan: I have not looked into the dividends of the company, but I will say this.....

Mr. M. Asaf Ali: The dividend is 12 per cent. which they are actually paying now.

The Honourable Sir Muhammad Zafrullah Khan: That may be the Honourable Member's information. I said I have not looked into it. My Honourable friend was not able to give it at the time he was making his speech. I do not dispute the fact that they must be making profits; they must be, otherwise they would not be in a position to reduce the rates. To sum up, the position is this. When this license was applied for, it could only have been used, if it had been granted, at least for the next eight years, within a very restricted area, at a very high initial cost of laying down a system for distribution. It would have brought about a very undesirable state of affairs, and even a dangerous state of affairs in narrow and congested streets as the results of duplication. There was no developed scheme which the Municipality could put forward, and from all the consideration that Mr. Redclift was able to give it, it was not an economic proposition. Therefore, it was bound to be rejected in any case. But the Chief Commissioner took advantage of the fact that the Municipality were keen upon taking the distribution upon themselves, to use that position for the benefit of the ratepayers and to persuade the company to reduce the rates as I have described. I submit that the consumers in Delhi have made a very good business out of it. Sir, I oppose the motion.

Dr. Sir Ziauddin Ahmad: When I heard the speech of my Honourable friend, Mr. Asaf Ali, it reminded me of my own experience of an examination at a town which I would not like to mention. I asked the students to measure the height of the tower of Juma mosque there. One student calculated the height up to 13 places of decimals but the whole number was 12 feet. He wanted to be very accurate, but he could not see that 12 feet could not be the height of the minaret of the Juma mosque which my Honourable friend, the Education Member, must have seen many times. The same thing with my friend, Mr. Asaf Ali. He has given the cost of generating per unit as 42.

Mr. M. Asaf Ali: 402.

Dr. Sir Ziauddin Ahmad: Very well 402 There are probably two or three important points which my Honourable friend never took into consideration, which is like the full number in the height of the tower. The figure probably has been arrived at, as I myself have seen calculations while estimating the cost of a generating plant for the Aligarh University—that they only calculate the prices of coal and also the price of a unit generated at a very high voltage at the Power House. Whenever electricity is generated at a high voltage of 5,000 volts it is more easy to transmit, but whenever it is transformed to a smaller voltage like 220 volts, the amount of waste is enormous. If electricity is sold at the place where it is generated at a high voltage, I dare say they can sell it at an anna per unit. But we have to consider the amount of wastage in taking electricity from the place of generation to various houses. I may give an example from my own experience.

Mr. M. Asaf Ali: These are not my calculations. These are the calculations of the Pitkeathly Committee.

Dr. Sir Ziauddin Ahmad: I am not talking of the figures. They may be anybody's. The amount of wastage is enormous. If you have your meter outside at the pole and have another inside the house and you take the difference of the units consumed, you will find that the difference is sometimes as 2 to 1. I can speak from personal experience on this point. This factor of wastage has, therefore, to be taken into consideration and it is an important factor. In calculating the cost of generation and sale price, we should consider two points, (1) wastage in transmission, (2) transformation of high voltage to low one. Now, I come to the principal point in this motion. If my Honourable friend says goodbye to the company and takes up the generation also, I can understand his point of view, but the municipality simply wants to be the distributors and God save us from these distributors. We have got in Aligarh a company which has only distributing function. It takes electricity from the Government hydro-electric scheme and distributes it to consumers, and they are selling it at enormously high prices. The price is horrible. It is six annas per unit. If we give the municipality only a licence for distribution, then they are bound to charge a very high price and they will come forward and demand a monopoly. Then the same rate war will begin as we have had enough experience of rate wars. The Company may reduce the price but the municipality will not be able to reduce its price and it will try to make it up by charging high prices from the consumers. Therefore, in the interests of the consumers, it is highly undesirable that any municipality should be given a licence for distribution. It may have license for generation coupled with distribution. If they want licence for generating electricity, I don't mind but I think it is very undesirable that any municipality should enter into a trade or business of this kind.

An Honourable Member: It is the company which is doing it.

Dr. Sir Ziauddin Ahmad: The municipality may do it or they may have an agent in the shape of companies or individuals to do the work. I make no difference between the two. Deputy Commissioner has already succeeded in getting the rates lowered and I think their rates compare very favourably with those prevailing in other places and I do not think there is any place where you can get electricity in 220 voltage for $1\frac{1}{2}$ annas a unit.

An Honourable Member: Who is selling at $1\frac{1}{2}$ annas?

Dr. Sir Ziauddin Ahmad: This is what I was told, that in future the arrangement is that for units up to 500 thousand, the municipality will pay two annas per unit and if it is above 500,000 it will pay at the rate of $1\frac{1}{2}$ annas per unit.

Mr. M. Asaf Ali: What about the private consumer?

Dr. Sir Ziauddin Ahmad: For private consumers, I understand they are reducing from 3.15 to 2.73 annas and I challenge any other company in the whole of India to charge private consumers less than 2.73. If the Mover had said that the municipality wanted to take over the whole work of

generation and distribution, then there is something in it but if the municipality takes up only the distribution, then the middlemen's profit comes in and the cost will fall on the consumers. I think the real thing which my friend should have attacked and which he failed to attack is the Electricity Act. We have fixed a general maximum of six annas and I should very much like the Electricity Act to be changed, saying that, in future, the maximum charge will be three annas or $3\frac{1}{2}$ annas. Make this change not only as regards Delhi but all other places like Aligarh where we are paying six annas. My friend has got hold of the wrong end of the stick. He should change the Electricity Act and not only take up the work of distribution but also that of generation.

The Honourable Sir Nripendra Sircar (Law Member): I desire to point out only one matter which has not been brought out in the debate so far. That relates to how far the Delhi Municipal Committee believes that they will be able to supply energy at the rate of one anna per unit. We get light on that from their own application. In their application they annex a draft licence and I am reading clause 5:

"The rates to be charged by the licensee for energy supplied by him shall not exceed the following maxima:

1. Lighting and fans at annas six a unit and for domestic use six annas'."

Already I hear my friend, Mr. Asaf Ali, murmuring the word maximum. Only six annas was the maximum. If they had any real conviction that they will supply at one anna per unit, the maximum would have had some relation to that conviction and the fact that they ask for six annas shows that they really do not expect to supply energy at the rate of one anna. The poor residents of Delhi have been saved from that disaster, namely, supply at six annas.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, I do feel that my Honourable friend, Sir Ziauddin Ahmad, and also my esteemed friend, the Law Member, tried to side-track the issue which my Honourable friend, Mr. Asaf Ali, has brought on the floor of the House. It is the inherent right of every municipality and municipal corporation to own all public utility concerns and the obligation laid down in the Indian Electricity Act is not solely on the municipality but it also devolves on the Government. In this case, the Delhi Province is the Local Government and whenever a licensee charges high rates for electricity and earns heavy dividends, the Local Government has the right to intervene and reduce the rates for electricity.

Sir, we are living in times when we know from newspapers that every province is agitating to reduce the electricity rates. We found the Government of Bihar appointing a Committee to examine the electricity rates at Patna. We found it at Calcutta, and my Honourable friend, the Law Member, on his return after retirement, will find that his electricity bill there has gone down much lower than he was accustomed to pay before he came to Delhi and Simla. Sir, the same thing has happened in Bombay and the Bombay Government has been trying to reduce the rates and the consumers of Bombay city are paying a low rate now. So I was rather surprised when my Honourable friend, the Commerce Member, replied in that heartless way without realizing the responsibility that devolves by the Electricity Act on the Government. He was speaking on behalf of the Chief Commissioner of Delhi, probably my Honourable friend, Sir Reginald

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Maxwell, should have spoken on behalf of the Chief Commissioner, but he ought to realize that Government have a sense of responsibility towards the people. No company which enjoys a license has a right of exploitation, and if my Honourable friend, Mr. Asaf Ali, is right when he says that this company is enjoying 38 per cent, as dividend, that is too big a sum. (*Cries of "No, no."*) On the top of it, the company has doubled its capital by presenting one share per share held without any cash payment. Sir, the thing should not be lightly turned down. There is a clamour everywhere in every town which has an electric supply, that the consumers should get electricity at a low rate, and what my Honourable friend, Mr. Asaf Ali, wants is that either the Municipality should own the electric supply company, or the Government should exercise their inherent power that they enjoy and compel the electric company not to enjoy a dividend more than seven per cent. If it has been done in Bombay, if it has been done in Calcutta and if it has been done in Patna, I do not understand why the Government of India should not compel this electric supply company to limit to a dividend of not more than seven per cent, and return the excess earning to the consumers by reduction of electricity rates, and thereby my Honourable friend, Sir Muhammad Zafrullah Khan, will find that the consumer will get his electricity at two annas and not at two annas and nine pies which the directors of the Delhi Electric Supply Company have agreed with the Chief Commissioner. Therefore, I think that the Government of India should revise their views about their own responsibilities and they should see the viewpoint of the Delhi Municipality as advocated by my Honourable friend, Mr. Asaf Ali.

Several Honourable Members: The question may now be put.

Mr. M. Asaf Ali: Mr. President, I have never been more disappointed in my life than in the course that the debate has followed today. In so far as the question of ignorance is concerned, it will have to be beaten, after the exhibition that has been made by some of the most learned persons in this House. Particularly in a certain quarter a reference was made to a certain examination. I do not know what that particular examination was, but the evidence that was supplied of the skill of the examiner, I am afraid, will go down in history as the highest tribute that can be paid to the greatest fool living. Mr. President, something was said about high voltage and low voltage,—and I am absolutely positive that Dr. Sir Ziauddin Ahmad did not know the alphabets of what he was talking about. He was referring to certain calculations of which he had not the ghost of an idea. Nothing will please me more than if Dr. Sir Ziauddin is going into the other Lobby, because then I shall be able to turn to Delhi and say, "these are the representatives who have turned you down". There is no man in Delhi today who does not feel keenly on this point. I can assure you of that,—and you can realize the feeling of the people of Delhi from the fact that in the municipality, for the first time in the history of that municipality, there was a unanimous vote of censure passed by the municipality in which participated—who?—all the nominated members including all the Khan Bahadurs and Rai Bahadurs. The motion itself was tabled by a leading light of the Muslim League—Khan Bahadur Rasheed Ahmed and it was carried unanimously. Now, it is open to my friend, Dr. Sir Ziauddin, to turn him down and to turn the whole of Delhi down if he wants to.

Now, I shall turn to two other points that were raised in the debate. I should first invite the attention of the House to a certain remark made by the Honourable the Law Member. I am afraid the Honourable the Law Member, like the clever lawyer that he is, naturally rivetted his eye to something which caught his eye and forgot to mention something very much more important which appears in the Pitkeathly Committee's Report—in which report you will find a body of evidence given by the representatives of the Delhi Municipal Committee. You will find that on page 3 of Volume II of the Pitkeathly Report and this is what the Delhi Municipal Committee said on that occasion. This is what exactly the Delhi Municipal Committee meant and this is what they now stand by. They said:

"If for some reasons the proposal to form a Joint Board falls through, we request that a supply from the Power House at Delhi Gate be secured to us at cost price for our street lighting and Municipal Buildings at least. We have a far better claim to it than the Electric Supply Company has. The savings effected will go towards the betterment of the city. The generating cost of the New Delhi Municipal Committee is .46 annas per unit and since we will take connection at their High Tension Bus Bars the New Delhi Municipal Committee should supply us current at their cost since it slightly improves their Load Factor. Assuming that we will get supply from New Delhi Municipal Committee at this rate our total cost per unit will be 1.03 annas."

The Honourable Sir Nripendra Sircar: That is cost price.

Mr. M. Asaf Ali: And again, supposing this is cost price, even if we were to sell energy at the same rate as the company is selling, all the profit that we shall be making will go back to the improvement of your own town. We shall not be pocketing it, whereas all the profit that is being made now by the company is going elsewhere,—as you know very well. My Honourable friend, Sir Zafrullah Khan, was not quite certain that the figure which I quoted was a correct one, namely, that this company was making a profit of 38 per cent. on their investment. Well, Sir, you can calculate it for yourself. The original investment was £100,000. I am very glad the Honourable the Finance Member is here; if I am wrong he can correct me straightaway. Their original investment was £100,000. After about fifteen years, they distributed £50,000. In the meanwhile they were distributing dividends which ranged between 9 per cent. and 12 per cent.

Sir Abdul Halim Ghuznavi: That is not 37 per cent.?

Mr. M. Asaf Ali: If you do not know mathematics, please do not interrupt. Sir, today they have doubled their capital to £200,000—and on that, according to the Pitkeathly Committee's report, on that they will be making, after having made all possible allowances for reserve fund, depreciation and for all sorts of things and visible and invisible elements, they will still be making a profit of Rs. 5,10,000 a year. I ask you to calculate it yourself and it will straightaway come to 38 per cent. profit. If this is not profiteering, I should like to know what it is. If, in spite of this profiteering, you still want the Government not to grant us the licence, you are welcome to it, and Delhi will know where you stand.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I shall not detain the House very long. I shall only stress two points. In the first place, though Mr. Asaf Ali did say that the Honourable the Law Member had not cast his eye on the Pitkeathly report, he had not one word to say why the Delhi Municipal Committee wanted to secure the power to charge as high a rate as 6 annas per unit if they were so sure that they could supply electricity at as low a rate as one anna per unit. After all, as the Honourable the Law Member pointed out, there must be some relation between their expectations and the power that they wanted under their licence. In the

[Sir Muhammad Zafrullah Khan.]

second place, the Honourable Mover of the motion said that supply is available from the New Delhi Electric Power House, which is very cheap and therefore it should be given at a much cheaper rate to Delhi. Now, Sir, in New Delhi itself, the New Delhi Municipality are the distributors. So, the condition is parallel with that which the Delhi Municipality wanted to bring about in Delhi. That is to say, there are no middlemen and no profits are being made.

Mr. M. Asaf Ali: There are profits being made. They are making a profit of more than 3 lakhs a year.

The Honourable Sir Muhammad Zafrullah Khan: For whom?

Mr. M. Asaf Ali: The New Delhi Municipality is making a net profit of more than 3 lakhs a year and they are paying something to the Sinking Fund and they are also paying the interest charges.

The Honourable Sir Muhammad Zafrullah Khan: Am I, therefore, to understand that the Delhi Municipality propose to pay no interest charges upon the capital which they must invest in the shape of their distributing system and that it is only by paying no interest charges on the huge outlay that might be necessary that they will be able to supply electricity at cheap rates?

Mr. M. Asaf Ali: On a point of personal explanation

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is not giving way.

The Honourable Sir Muhammad Zafrullah Khan: Sir, I have nothing more to say.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the House do now adjourn."

The Assembly divided:

AYES—44.

Abdul Qaiyum, Mr.
Aney, Mr. M. S.
Asaf Ali, Mr. M.
Ayyangar, Mr. M. Ananthasayanam.
Bajoria, Babu Baijnath.
Banerjea, Dr. P. N.
Basu, Mr. R. N.
Chattopadhyaya, Mr. Amarendra
Nath.
Chaudhury, Mr. Brojendra Narayan.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachelam.
Das, Mr. B.
Das, Pandit Nilakantha.
Desai, Mr. Bhulabhai J.
Deshmukh, Mr. Govind V.
Gadgil, Mr. N. V.
Gupta, Mr. K. S.
Hans Raj, Raizada.
Hosmani, Mr. S. K.
Jedhe, Mr. K. M.
Jogendra Singh, Sirdar.
Kailash Behari Lal, Babu.

Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.
Mangal Singh, Sardar.
Misra, Pandit Shambhu Dayal.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Pande, Mr. Badri Dutt.
Raghubir Narayan Singh, Choudhri.
Ramayan Prasad, Mr.
Ranga, Prof. N. G.
Rao, Mr. M. Thirumala.
Sant Singh, Sardar.
Santhanam, Mr. K.
Satyamurti, Mr. S.
Sham Lal, Mr.
Sheodass Daga, Seth.
Singh, Mr. Gauri Shankar.
Sinha, Mr. Satya Narayan.
Som, Mr. Suryya Kumar.
Subbarayan, Shrimati K. Radha Bai.

NOES—56.

Abdul Ghani, Maulvi Muhammad.
 Abdul Hamid, Khan Bahadur Sir.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Aikman, Mr. A.
 Ayyar, Mr. N. M.
 Bajpai, Sir Girja Shankar.
 Bewoor, Mr. G. V.
 Bhutto, Mr. Nabi Baksh Illahi Baksh.
 Boyle, Mr. J. D.
 Buss, Mr. L. C.
 Chapman-Mortimer, Mr. T.
 Dalal, Dr. R. D.
 Dalpat Singh, Sardar Bahadur Captain.
 D'Souza, Mr. Frank.
 Essak Sait, Mr. H. A. Sathar H.
 Ghiasuddin, Mr. M.
 Ghulam Bhik Nairang, Syed.
 Ghuznavi, Sir Abdul Halim.
 Gorwala, Mr. A. D.
 Greer, Mr. B. R. T.
 Grigg, The Honourable Sir James.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Jehangir, Sir Cowasji.
 Kamaluddin Ahmed, Shams-ul-Ulema.
 Kushalpal Singh, Raja Bahadur.
 Lillie, Mr. C. J. W.
 Mackeown, Mr. J. A.
 Maxwell, The Honourable Sir Reginald.

The motion was negatived.

Menon, Mr. P. A.
 Menon, Mr. P. M.
 Metcalfe, Sir Aubrey.
 Miller, Mr. C. C.
 Mukerji, Mr. Basanta Kumar.
 Nur Muhammad, Khan Bahadur Shaikh.
 Rafuddin Ahmad Siddiquee, Shaikh.
 Rahman, Lieut.-Col. M. A.
 Rama Pai, Mr. K.
 Raza Ali, Sir Syed.
 Row, Mr. K. Sanjiva.
 Scott, Mr. J. Ramsay.
 Shahban, Mian Ghulam Kadir Muhammad.
 Sher Muhammad Khan, Captain Sardar Sir.
 Siddique Ali Khan, Khan Bahadur Nawab.
 Sircar, The Honourable Sir Nripendra.
 Sivaraj, Rao Sahib N.
 Spence, Mr. G. H.
 Staig, Mr. B. M.
 Stewart, The Honourable Sir Thomas.
 Sukthankar, Mr. Y. N.
 Sundaram, Mr. V. S.
 Thomas, Mr. J. H.
 Yamin Khan, Sir Muhammad.
 Zafar Ali Khan, Maulana.
 Zafrullah Khan, The Honourable Sir Muhammad.
 Ziauddin Ahmad, Dr. Sir.

ELECTION OF MEMBERS TO THE STANDING COMMITTEE FOR THE LABOUR DEPARTMENT.

Mr. President (The Honourable Sir Abdur Rahim): After the announcement regarding the arrangements made for the election of members to the Standing Committee for the Labour Department was made in the House today, it has been represented that the date of election for the Committee will not suit a large number of Members of the Assembly. In order to remove this difficulty I have to announce, in supersession of the previous announcement, that the nominations for the Committee will be received upto 12 Noon on Tuesday, the 7th March, and that the election, if necessary, will be held in the Assistant Secretary's Room on Wednesday, the 15th March, 1939, between the hours of 10-30 A.M. and 1 P.M.

The Assembly then adjourned till Five of the Clock of Tuesday, the 28th February, 1939.