

1st April 1941

THE

LEGISLATIVE ASSEMBLY DEBATES

Official Report

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THIRTEENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,
1941



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Legislative Assembly

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CONTENTS.

VOLUME III.—18th March to 1st April, 1941.

	PAGES.		PAGES.
TUESDAY, 18TH MARCH, 1941—		FRIDAY, 21ST MARCH, 1941—<i>contd.</i>	
Starred Questions and Answers	1579—85	The Dissolution of Muslim Marriages (Amendment) Bill—Introduced	1753—54
The Protective Duties Continuation Bill—Introduced	1585	The Professions Tax Limitation Bill—Introduced	1754
The Indian Tariff (Amendment) Bill—Introduced	1585	The Indian Evidence (Amendment) Bill—Introduced	1754
The Indian Finance Bill—Discussion on the motion to consider not concluded	1586—1632 1633—34	The Code of Civil Procedure (Amendment) Bill—Introduced	1754
THURSDAY, 20TH MARCH, 1941—		SATURDAY, 22ND MARCH, 1941—	
Starred Questions and Answers	1635—49	Starred Questions and Answers	1755—58
Unstarred Questions and Answers	1649—52	Statements laid on the Table	1768—69
Motion for Adjournment <i>re</i> —Interference by the Delhi Police in Khaksar Activities—		Election of Members to the Standing Committee for Roads	1769
Allowed to stand over	1653	Election of Members to the Standing Committee on Emigration	1769—70
Forcible Collection of War Fund—Disallowed	1653—54	Statement <i>re</i> one Krishna Gopal Garg, a convicted Prisoner in Ajmer	1770—71
The Indian Finance Bill—Motion to consider adopted	1654—79, 1680—1716	Election of a Member for the Committee on Public Accounts	1771
Reflection on the conduct of the Chair and Order of Withdrawal against Maulvi Abdur Rasheed Chaudhury	1679—80	Election of Members for the Standing Committee of the Department of Commerce	1772
FRIDAY, 21ST MARCH, 1941—		Election of Members for the Central Advisory Board of Education	1772
Starred Questions and Answers	1717—30	The Indian Finance Bill—Passed	1773—1811
Unstarred Questions and Answers	1730—32	The Tyres (Excise Duty) Bill—Passed	1811—18
Motion for Adjournment <i>re</i> —Interference by the Delhi Police in Khaksar Activities—Disallowed	1732—33	The Excess Profits Tax (Amendment) Bill—Passed	1818—25
Treatment of Non-Violent Political Prisoners and Undertrials—Disallowed	1733—35	The Protective Duties Continuation Bill—Discussion on the motion to consider not concluded	1825—26
The Indian Merchant Shipping (Amendment) Bill—Passed as amended	1735—43	MONDAY, 24TH MARCH, 1941—	
The Code of Civil Procedure (Amendment) Bill—Circulated	1743—44	Members Sworn	1827
The Hindu Marriage Disabilities Removal Bill—Circulated ✓	1744—53	Starred Questions and Answers	1827—36
		Unstarred Questions and Answers	1836—50 1850
		Statement of Business	1850—98
		The Protective Duties Continuation Bill—Passed	1898—99
		The Indian Tariff (Amendment) Bill—Passed	1898—99

MONDAY, 24TH MARCH, 1941— <i>contd.</i>	PAGES.	FRIDAY, 28TH MARCH, 1941— <i>contd.</i>	PAGES.
Demands for Supplementary Grants for 1940-41 . . .	1899—1902	Statement of Business . . .	2037
TUESDAY, 25TH MARCH, 1941—		Election of a Member to the Committee on Public Accounts . . .	2037
Member Sworn . . .	1903	Election of Members to the Standing Committee for the Department of Commerce . . .	2037
Starred Questions and Answers . . .	1903—17	Demands for Supplementary Grants for 1940-41 . . .	2038—92
Unstarred Questions and Answers . . .	1917—24	SATURDAY, 29TH MARCH, 1941—	
Election of Members to the Standing Committee for the Department of Labour . . .	1924	Member Sworn . . .	2093
Message from the Council of State . . .	1924	Starred Questions and Answers . . .	2093—2108
Resolution re—		Message from the Council of State . . .	2108
Recognition of Unions of Government Employees—Negatived . . .	1925—67	Statement laid on the Table re Net Earnings of recently constructed Railway Lines . . .	2108
Low Prices of Indian Cotton—Withdrawn . . .	1968—80	Demands for Supplementary Grants for 1940-41 . . .	2109—29
THURSDAY, 27TH MARCH, 1941—		The Insurance (Amendment) Bill—Discussion on consideration of clauses not concluded . . .	2129—71
Starred Questions and Answers . . .	1981—90	MONDAY, 31st MARCH, 1941—	
Unstarred Questions and Answers . . .	1990—94	Starred Questions and Answers . . .	2173—83
Motion for Adjournment re discussion of the D'Souza Report—Disallowed . . .	1994—95	Statements laid on the Table Motion for Adjournment re Arrest and Detention of Mr. Triloki Nath Singh of Lucknow—Disallowed . . .	2184—85
Election of Members to the Central Advisory Board of Education in India . . .	1995	Message from the Council of State . . .	2185—86
Resolution re Reference of the Delhi Masjid Bill to a Joint Committee of the Council of State and the Legislative Assembly—Adopted as amended, and Nomination of Members on the Joint Committee . . .	1996—2004	The Insurance (Amendment) Bill—Passed as amended . . .	2186—2243
The Code of Criminal Procedure (Amendment) Bill—Circulated . . .	2004	The Delhi Restriction of uses of Land Bill—Discussion on the motion to consider not concluded . . .	2243—44
The Delhi Muslim Wakfs Bill—Circulated . . .	2004—07	TUESDAY, 1st APRIL, 1941—	
The Professions Tax Limitation Bill—Circulated . . .	2007—14	Starred Questions and Answers . . .	2245—51
The Code of Civil Procedure (Amendment) Bill—Referred to Select Committee . . .	2014—22	Unstarred Question and Answer . . .	2251—52
The Indian Evidence (Amendment) Bill—Circulated . . .	2022—23	Short Notice Question and Answer . . .	2252—53
The Indian Succession (Amendment) Bill—Introduced . . .	2024	Statements laid on the Table Motion for Adjournment re Alleged misuse of the Defence of India Act—Disallowed . . .	2253
FRIDAY, 28TH MARCH, 1941—		The Railways (Local Authorities' Taxation) Bill—Introduced . . .	2253—54
Starred Questions and Answers . . .	2025—34	The Delhi Restriction of Uses of Land Bill—Passed as amended . . .	2254
Unstarred Questions and Answers . . .	2034—38		2255—92

LEGISLATIVE ASSEMBLY

Tuesday, 1st April, 1941.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS

DIFFERENTIAL TREATMENT TO 1925 NORTH WESTERN RAILWAY STRIKERS.

†566. *Maulvi Syed Murtuza Sahib Bahadur: (a) Will the Honourable the Railway Member please state whether it is a fact that a strike occurred on the North Western Railway in May, 1925, that it was recognised as legal, and that the majority of the strikers who could not join their post up to the fixed date, *viz.*, 15th July, 1925, belonged to Rawalpindi Division and the Agent, North Western Railway, condoned the break in their previous service after taking away from them the provident fund money and gratuity by monthly instalments, but has not given them their previous "seniority"?

(b) Is it also a fact that a similar strike took place in February, 1930, on the Great Indian Peninsula Railway, and most of its strikers were sent to the North Western Railway in 1935 and given their previous privileges, *viz.*, re-instatement and seniority without refunding the money of the provident fund and gratuity?

(c) Will the Honourable Member state why the North Western Railway strikers have not been given their old seniority, and have been treated differently?

(d) Is it a fact that in certain other Divisions of the North Western Railway, the concession of condonation of break in service was given to the strikers of 1925 and that while they were refunding the amount of provident fund by instalments, they were required to repay in cash and lump sum the remaining amount?

(e) If so, are Government prepared to reconsider their decision and allow those men also to repay the provident fund by instalments? Is it a fact that their inability to repay the fund in lump sum has resulted in their condonation of break in service being cancelled?

The Honourable Sir Andrew Clow: (a), (c) and (d). I have called for information and a reply will be laid on the table of the House in due course.

(b) A strike took place on the Great Indian Peninsula Railway in February, 1930, and by 1936 about 370 of the strikers had been absorbed on the North Western Railway. I have called for information regarding the conditions under which these men have been re-employed on that Railway.

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

(e) I shall consider if any action is necessary after I am in possession of the full facts.

AMALGAMATION OF GRADES I AND II OF DIVISIONAL OFFICES CLERKS ON NORTH WESTERN RAILWAY.

567. *Maulana Zafar Ali Khan: Will the Honourable the Railway Member be pleased to state whether it is a fact:

- (a) that the grade I clerks employed in the Divisional Offices on the North Western Railway submitted their first representation for the removal of the block at Rs. 60 in 1928, a reply to which was given under the Agent, North Western Railway's letter No. 522-E./80, dated the 17th February, 1929;
- (b) that these clerks submitted their second representation in 1929, as a result of which the Agent recommended to the Railway Board that grades I and II should be amalgamated immediately;
- (c) that a third representation was submitted by them in March 1933, in reply to which they were informed by the Agent, *vide* his letter No. 522-E./186, dated the 14th October, 1933, that the revision of scales of pay was under consideration;
- (d) that they addressed their fourth memorial to the Railway Board in October, 1934, in reply to which the memorialists were informed by the Agent, *vide* his letter No. 522-E./186, dated the 8th April, 1935, that he had withheld their memorial as the question was within his competence to decide; and
- (e) that a similar amalgamation of grades was effected in the Accounts Department in 1935?

The Honourable Sir Andrew Clow: (a) to (d). I am not in possession of full details, but I am prepared to take the Honourable Member's word for them.

(e) There was an amalgamation of grade in the Accounts Department but, as I explained in the course of the debates on the demands for grants, the circumstances were by no means similar.

Mr. Lalchand Navalrai: May I know, from the Honourable Member whether the General Manager was considering a particular scheme to give some relief to them? Has it been published? Has it been given effect to?

The Honourable Sir Andrew Clow: There has been no decision since I spoke on the subject a few weeks ago.

Mr. Lalchand Navalrai: Will the Honourable Member see that the decision is arrived at soon, so that the anxiety of these people might come to an end?

The Honourable Sir Andrew Clow: I believe Mr. Griffin has the matter under consideration.

Mr. Lalchand Navalrai: It is one thing for a matter to be under consideration and another thing to issue orders. I am requesting the Honourable Member to see that the matter is decided soon.

The Honourable Sir Andrew Clow: I will do my best to expedite it. It is a very difficult question, and I cannot promise that it will be decided on any particular date.

MEMORIAL FROM TRAINS CLERKS OF NORTH WESTERN RAILWAY.

568. *Qazi Muhammad Ahmad Kazmi: Will the Honourable the Railway Member be pleased to state whether he is aware of Memorial No. 15 of the 8th February, 1941, from the trains clerks of North Western Railway, and if so, what action Government have taken or propose to take thereon?

The Honourable Sir Andrew Clow: I have seen the memorial referred to, which should not have been sent direct. The Railway Board do not propose to take any action against those responsible for this irregularity but have forwarded it to the General Manager of the North Western Railway.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform this House whether, in the event of the memorial being submitted by subordinates, it is in order or out of order to send an advance copy to the Railway Board or the Agent of the Railway?

The Honourable Sir Andrew Clow: There is no objection to an advance copy being sent, but it usually causes a little inconvenience.

Lieut.-Colonel Sir Henry Gidney: In view of the answer given by the Honourable Member, which I am very glad to have, will he inform this House whether, if a subordinate does that, he should be penalised or threatened with punishment?

The Honourable Sir Andrew Clow: It will depend upon circumstances.

Lieut.-Colonel Sir Henry Gidney: May I request the Honourable Member to let me have a definite reply. If a subordinate has a right of sending an advance copy of the appeal to the Agent or the Railway Board, is it right or is it wrong for the railway official to threaten him with punishment or penalise him?

The Honourable Sir Andrew Clow: The Honourable Member's premise is incorrect; there is no right. I was stating that ordinarily we do not take any objection to advance copies being sent, but it does cause a certain amount of inconvenience, and if certain individuals make a habit of it, I think it is right to ask them not to do it.

Lieut.-Colonel Sir Henry Gidney: I quite agree with the Honourable Member, but if the irregularity, as he calls it, is committed, should the subordinate be threatened with punishment and almost penalised or threatened with dismissal or some such punishment? That is what I want to know.

The Honourable Sir Andrew Clow: I certainly should not regard it as a circumstance warranting dismissal at all; but the case I was referring to was a case where a memorial was directly addressed to the Secretary, Railway Board, and not to the proper authority.

UNIFORMS OF TRAINS CLERKS ON NORTH WESTERN RAILWAY.

569. *Qazi Muhammad Ahmad Kazmi: Will the Honourable the Railway Member be pleased to state whether it is a fact that the issue of uniforms to trains clerks on the North Western Railway was stopped as a measure of economy in the time of depression in 1930, and if so, whether Government have considered the advisability of removing this grievance now? If not, why not?

The Honourable Sir Andrew Clow: The issue of uniforms to trains clerks on the North Western Railway was discontinued in 1932; they are, however, being supplied with overcoats, and waterproof coats if necessary. Government do not consider that any action is necessary, as uniforms are issued to staff who come into close contact with the public.

Qazi Muhammad Ahmad Kazmi: Trains clerks have also to look to the trains. Do they not also come into contact with the public in this sense?

The Honourable Sir Andrew Clow: I do not think they come into close contact with the public.

PROMOTION OF TRAINS CLERKS AS INTERCHANGE STOCK VERIFIERS ON NORTH WESTERN RAILWAY.

570. *Qazi Muhammad Ahmad Kazmi: Will the Honourable the Railway Member be pleased to refer to the answer to part (d) of starred question No. 466 of the 20th March, 1940, giving reasons of non-promotion of trains clerks, and state whether Government propose to prefer trains clerks for promotion to interchange stock verifiers' job having knowledge of the conference rules relating to interchange of stock between Railways?

The Honourable Sir Andrew Clow: Government do not make these promotions, but I assume that if any of the train clerks possessed the requisite qualification and applied for such a post, his application would be considered.

TRAINS CLERKS ON NORTH WESTERN RAILWAY.

571. *Qazi Muhammad Ahmad Kazmi: Will the Honourable the Railway Member be pleased to state:

- (a) the number of trains clerks in grades I, II, III, IV, and V, in each division of the North Western Railway; and
- (b) the number of trains clerks of grade I in Delhi Division who have put in 10 to 15, 15 to 20 and above 20 years' service and are barred at Rs. 60?

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

(b) The numbers are 53, 19 and 26 respectively.

Statement showing the Number of Train Clerks in each Division of the North Western Railway.

Division.	Grade I.	Grade II.	Grade III.	Grade IV.
Lahore . . .	110	11	2	..
Quetta . . .	5+11 Temporary.	2
Karachi . . .	119	10	3	1
Ferozepore . . .	22	1
Delhi . . .	146	19	9	1
Multan . . .	43	1	2	..
Rawalpindi . . .	45	6

DISREGARD OF CLAIMS OF MUSLIMS IN THE OFFICE OF THE DIVISIONAL SUPERINTENDENT, NORTH WESTERN RAILWAY, FEROZEPORE.

572. *Maulvi Muhammad Abdul Ghani: (a) Has the attention of the Honourable Member for Railways been drawn to an article published in the daily *Shabaz*, dated the 16th January, 1941, regarding "Negation of legitimate Muslim rights in all grades of services in the office of the Divisional Superintendent, North Western Railway, Ferozepore"?

(b) Is it a fact that Babu Cowri Lal retired in November, 1940 from the post of Branch Head Clerk in the office of the Divisional Superintendent, Ferozepore?

(c) Had Babu Hans Raj, the next seniormost man been debarred from being promoted further?

(d) Is it a fact that the third seniormost man was a Muslim with 20 or more years' experience in Commercial Branch? If so, why was he not promoted?

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

(b), (c) and (d). Government do not get information relating to the promotion of individuals to clerical appointments. These appointments are not based on communal considerations but if any individual considers that, for communal or any other reasons, he has not received just treatment it is open to him to represent his case to the appropriate authority.

Maulvi Muhammad Abdul Ghani: In any case where a representation is made to the higher authorities, will the Honourable Member issue an order to the immediate superior officer not to withhold that representation?

The Honourable Sir Andrew Clow: I certainly could not give such instructions. The representation ought to be addressed to his own immediate superior.

Maulvi Muhammad Abdul Ghani: Sometimes it is withheld?

The Honourable Sir Andrew Clow: Quite rightly. If it is addressed to the Railway Board, they can quite correctly withhold it. If it is addressed to the proper authority, it should certainly not be withheld.

Mr. Lalchand Navalrai: The Honourable Member said that these appointments are not based on communal considerations. May I know why an application should be made on the question of communal representation? What will be the effect of it?

The Honourable Sir Andrew Clow: The allegation made in the newspaper account was that a man had been penalised because of communal considerations. He is obviously entitled to make a representation on that score if there is foundation for it.

DISREGARD OF CLAIMS OF MUSLIMS IN THE OFFICE OF THE DIVISIONAL SUPERINTENDENT, NORTH WESTERN RAILWAY, FEROEPORE.

573. *Maulvi Muhammad Abdul Ghani: (a) Will the Honourable the Railway Member please state whether there is any instance on record in the Ferozepore Division of the North Western Railway and in its commercial branch to hold examination of junior and senior clerks for promotion to the post of Head Clerk? If so, will the Honourable Member please give full information?

(b) Is it a fact that one, Babu Pirthwi Raj Singh, who was a temporary clerk not even on probation and also had not passed any departmental examination, was allowed to sit at the so called examination for efficiency and appointed as the Head Clerk?

(c) Is it a fact that a Muslim clerk of grade III of Personal Branch was made to retire two years earlier before his actual time of retirement? If so, what was his fault?

(d) Is it a fact that a junior Muslim clerk who is a B.A., LL.B., applied to the authorities concerned to hold examination of efficiency, like one already held in the Commercial Branch of the Ferozepore Division? Was any examination held? If not, why not?

(e) Is it a fact that a Hindu clerk was promoted without any examination? What is the reason for such differential treatment in promotion in the same division?

(f) Are the figures relating to Head clerks as stated below correct? If not, what are the correct figures of services in different branches of the said division?

Branch.	Hindus.	Sikhs.	Muslims.
Personnel	1		
Train	1		..
Copying	1	..	
Drawing		1	
Commercial	..	1	
Way and Works	1
	4	2	..

The Honourable Sir Andrew Clow: (a) to (e). Government do not receive particulars regarding the promotion of individuals to clerical

appointments and I regret that I cannot undertake to investigate allegations of individual grievances based on newspaper accounts. But I am asking for information regarding the circumstances in which this reported examination was held, and information relating to these circumstances will be laid on the table in due course.

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

CASE OF A MILITARY SEPOY FOUND TRAVELLING IN IRREGULAR MANNER AT KIUL RAILWAY STATION, EAST INDIAN RAILWAY.

†574. ***Dr. Habibur Rahman:** (a) Will the Honourable the Railway Member please state whether it is a fact that the ticket checking staff found a military sepoy travelling in irregular manner at Kiul station on the East Indian Railway?

(b) What was the irregularity? Was he travelling in a higher class than the class for which he had the warrant? Did he exchange the warrant into a ticket?

(c) What action was taken by the ticket checking staff?

(d) Is it not a fact that the Chief Inspector of the ticket checking staff was arrested by the Railway Police and subsequently released on bail?

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

SOLDIERS TRAVELLING IN IRREGULAR MANNER ON RAILWAYS.

†575. ***Dr. Habibur Rahman:** (a) Will the Honourable the Railway Member please state whether it is the policy of the Railway Department not to check the tickets of the military people and give them freedom to travel in any way they like?

(b) If the answer to part (a) be in the negative, are Government prepared to issue definite instructions as to the manner soldiers who are found to travel in an irregular manner, may be treated by the ticket checking staff?

The Honourable Sir Andrew Clow: (a) No.

(b) I understand that definite instructions for the guidance of the ticket checking staff already exist.

UNSTARRED QUESTION AND ANSWER.

DEPOSIT OF MONEY BY TRANSPORTATION APPRENTICES ON EAST INDIAN RAILWAY.

223. Maulvi Muhammad Abdul Ghani: Will the Honourable Member for Railways please refer to paragraph 61 of the East Indian Railway Gazette No. 3 of 1941, dated the 29th January, 1941, regarding transportation apprentices, viz., "that each apprentice will be called upon to deposit a sum of Rs. 500 which will be forfeited if he leaves the service during the period of his apprenticeship except for reasons which the administration accepts", and state the particulars of the rules for the

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

recruitment and training of subordinate staff under which the principles of deposits are laid down by the Railway Board under the powers delegated by the Governor General in accordance with the direction provided by the Secretary of State for India in the Railway Services (Classification, Control and Appeal, Rule or rules made under section 968 of the Government of India Act 1919)? If no principle is prescribed, what is the reason for the violation by the General Manager and what is the action taken? If no action has been taken, why not?

The Honourable Sir Andrew Clow: There is no specific rule concerning deposits in the rules governing the recruitment and training of non-gazetted staff on State-managed Railways, but under 79 of these rules the General Manager is empowered to make subsidiary rules. The action of the General Manager violates no principle; the other parts do not arise.

SHORT-NOTICE QUESTION AND ANSWER.

REQUISITIONING OF ENGINES FROM OTHER RAILWAYS BY THE GREAT INDIAN PENINSULA RAILWAY.

Lieut.-Colonel Sir Henry Gidney: (a) Will the Honourable the Railway Member be pleased to state whether it is a fact:

(i) that on the Great Indian Peninsula Railway engines from other Railways have been requisitioned in recent times for meeting the traffic needs of that line, and

(ii) that at no other time in the past has this practice been adopted?

(b) Will the Honourable Member be pleased to state the circumstances which led to the requisitioning of engines from other Railways for use by the Great Indian Peninsula Railway?

(c) Will the Honourable Member be pleased to state whether the requisitioning of engines from other Railways by the Great Indian Peninsula Railway is due to:

(i) shortage of engines,

(ii) the unsatisfactory condition of the engines now in service on the Great Indian Peninsula Railway?

The Honourable Sir Andrew Clow: (a) (i) The number of engines on the Great Indian Peninsula Railway has been temporarily supplemented by engines from two other Railways.

(ii) No. It is not an uncommon practice, and of the 17 locomotives transferred, 5 were Great Indian Peninsula Railway locomotives which were being used by the East Indian Railway and 5 were North Western Railway locomotives on loan to the East Indian Railway.

(b) and (c). (i) Increased traffic on the Great Indian Peninsula Railway induced by war conditions necessitated an expansion of the power available.

(c). (ii) No.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable the Communications Member be so good as to ascertain from various State and Company-managed Railways the total number of engines:

(a) unfit for use owing to their being irreparable, and

(b) unusable on account of being too heavy for some of the weaker lines and bridges?

The Honourable Sir Andrew Clow: No, Sir, I am afraid I should have to have notice of that question.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member kindly make that inquiry so as to satisfy himself?

The Honourable Sir Andrew Clow: I shall consider the matter, and I shall try, if possible, to find out, but it might mean quite an extensive inquiry, and I cannot make a definite promise.

STATEMENTS LAID ON THE TABLE.

Information promised in reply to parts (a) and (b) of unstarred question No. 133, parts (a) and (b) of unstarred question No. 134 and parts (b) and (d) of unstarred question No. 136 asked by Mr. Muhammad Ashar Ali on the 15th March, 1941.

RULES FOR RECRUITMENT AND CHANNELS OF PROMOTION OF CLAIMS CLERKS ON EAST INDIAN RAILWAY.

No. 133.—(a) Yes; the rules for the recruitment and channels of promotions of "Office Clerks, etc.", on the East Indian Railway cover the Claims Clerks.

(b) Does not arise.

RULES FOR RECRUITMENT AND CHANNELS OF PROMOTION OF NON-GAZETTED STAFF IN THE RESEARCH DEPARTMENT OF EAST INDIAN RAILWAY.

No. 134.—(a) I am informed that the rules regulating the recruitment and channels of promotion for the "office clerks" group in Appendix II of the State Railway Establishment Code, Vol. I, apply to the Research Department of the East Indian Railway.

(b) Does not arise.

RULES FOR RECRUITMENT AND CHANNELS OF PROMOTION OF TIME-KEEPER AND SHED SERGEANT AT THE HOWRAH GOODS SHEDS OF EAST INDIAN RAILWAY.

No. 136.—(b) No.

(d) Yes.

MOTION FOR ADJOURNMENT.

ALLEGED MISUSE OF THE GOVERNMENT OF INDIA ACT.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member, Qazi Muhammad Ahmad Kazmi, has given notice of a motion to adjourn the business of the Assembly to discuss a definite matter of urgent public importance, *viz.*,

"to censure the Government for giving an assurance to this House in such an ambiguous language that at the time it was given it was taken by the House to be an assurance to the effect that the provisions of the Defence of India Act shall not be

[Mr. President.]

misused throughout British India but which on a closer examination has now been found not to cover its enforcement by the Provincial Governments and the persistence of the Government of India in this interpretation irrespective of the spirit in which the assurance was given."

On the face of it, this is an absolutely untenable motion and I disallow it.

The Honourable Sir Muhammad Zafrullah Khan (Leader of the House): Sir, I take strong exception to a motion of this kind, as the terms of this motion mean that I succeeded in befooling the House, and that casts a reflection upon the intelligence of the House.

Sardar Sant Singh (West Punjab: Sikh): On a point of order, is the Honourable Member relevant in making a statement of that kind in this House?

Mr. President (The Honourable Sir Abdur Rahim): The motion has been disallowed. The motion indeed casts reflection, as much on the Honourable Member who has tabled this motion as on the other Members of the House.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official): On a point of personal explanation, Sir, I may say that this motion was tabled without the knowledge of my Party at all.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): May I make a submission, Sir?

Mr. President (The Honourable Sir Abdur Rahim): No; the Honourable Member may make no more submission.

THE RAILWAYS (LOCAL AUTHORITIES' TAXATION) BILL.

The Honourable Sir Andrew Clow (Member for Railways and Communications): Sir, I move for leave to introduce a Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That leave be granted to introduce a Bill to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province."

The motion was adopted.

The Honourable Sir Andrew Clow: Sir, I introduce the Bill.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): When will you take up the second reading?

The Honourable Sir Andrew Clow: Next Session.

THE DELHI RESTRICTION OF USES OF LAND BILL—*contd.*

Mr. President (The Honourable Sir Abdur Rahim): The House will now resume consideration of the following motion moved yesterday by Mr. J. D. Tyson:

“That the Bill to regulate in the Province of Delhi the use of land for purposes other than agricultural purposes, as reported by the Select Committee, be taken into consideration.”

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, when this Bill was introduced, we had the good luck of going through the Objects and Reasons of this Bill, but on further thought it appeared to be not only a complicated Bill but also, if I may be permitted to say so, an ill conceived Bill. The objects and reasons of the Bill appear to be very simple, but when we went through the clauses of the Bill we found that a cursory view of the Bill would not be enough. We have had to find out the reason why this Bill is brought before this House at the fag end of the Session. Sir, while examining the clauses, we found that the object as it appeared to be very simple was not, however, like that. It was to give more powers into the hands of Government than what they should exercise, notwithstanding the fact that there were three or four Acts under which the Government could exercise those powers. There is the Improvement Trust Act, there is the Delhi Laws Act of 1912, there is the Land Acquisition Act, and so forth. -But still the Government want more power under this legislation. However, as we are forced to discuss the provisions of this Bill at the fag end and amendments have been tabled, we hope that the Government of India would consider it twice and accept those amendments which are reasonable. We have faith to some extent in the reasonableness of the Department and the Member in charge.

Sir, it might be said that it is contemplated that some development is to be made in the very near future or at some small distant date in the history of Delhi, but, Sir, that object could be very easily gained by making some amendments in the other enactments; for instance, in the Improvement Trust Act. In the Schedule itself, some localities could be taken as under this Bill, or adjustments and references could be made, but unfortunately this has not been done. Sir, if I may be permitted to say so, this Bill has come before the House at the fag end of the Session, and if this Bill had come before the House when the House was full and when the Opposition was in full strength, I am afraid this Bill would have been thrown out from beginning to end. But, Sir, coming at this fag end, and as the Opposition is not strong, this Bill has to be passed somehow in this House. The public in Delhi perhaps did not realize fully the implications of this Bill. There is to be a declaration, and after that declaration, Sir, the Government have got every right to restrict the rights of the proprietors of properties and their use. Sir, the Governor General in Council has great powers in applying the Delhi Laws Act of 1912 and the Government of India also could take action under the Improvement Trust Act. His Excellency the Governor General can extend to the Province of Delhi powers by adding to the Schedule of the Improvement Trust Act as I said. However, as the Bill is now before the House, it seems that it can control the property up to a very long distance from the place where we are sitting.

[Mr. Muhammad Azhar Ali.]

We find that the facts have been taken in this Bill not only from the English Act but also from the different Provincial Acts and we also find that before any planning is taken up and before any conditions are expressed, this Bill is to operate to the detriment of the people who hold property in Delhi. I think it was rather a high-handed action on the part of Government. At the same time, the declaration would affect the people who hold property in Delhi. Sir, there are provisions in this Bill which say that, even without compensation, declaration could be made. That is a very great power. We know that under the Improvement Trust Act there is to be a planning; the maps will be drawn out; people are to be informed by notifications and they can bring forward their objections. At the same time, compensations can be granted to the persons concerned through the district authorities. There are the judicial courts to be approached and the general public has a faith in them, but so far as the administrative side in this Bill is concerned, it is not expected that the Chief Commissioner of Delhi or any other authority under whom these declarations will be made would be the proper persons to be approached by way of an appeal. Under the English law, undoubtedly there is a very great scope so far as the City of London is concerned to make developments, but they are consistent with the conditions prevailing there. Under the English Act, care is always taken to see that the people are not put to any very great trouble and inconvenience. But here we find that not only the land will not be acquired but a declaration will be made for the control of the property of the people up to the extent of 1,320 feet from the middle of any road on each side, whereas in England it is not like that. It is only up to 220 feet there. If the Government gets this power under this Bill, it is sure to affect the value of the property to a very great extent. Not only will it affect the value of the property but it will be a great impediment in the way of making any buildings or any kind of construction on the land by the proprietors themselves. I also find that even those amenities that are given in other civil stations, such as, Calcutta and Bombay, will not be given under this Bill if its provisions remain as they are. But I hope, as I said in the very beginning, the Honourable Member in charge of the Bill will look into these provisions and see that these difficulties are removed. As I said, not only the Improvement Trust Act but also the Delhi Expansion Scheme could be taken up to meet Government's needs. Now, Sir, when a declaration will be made, the proprietors of the land will approach the authorities under the provisions of this Bill but they will not have those facilities which they could have under the Improvement Trust Act or other enactments. It will spoil the chances of the people if they want to sell out their property or to do some sort of work on their own lands. I admit that in the suburbs of Delhi there are some excavations or brick kilns which might be spoiling the beauty of the city, but Government could easily stop those things either by some notification under some Act or by means of acquisition. But the great pity is that under this Bill Government are not prepared to acquire as under the Land Acquisition Act nor are they prepared to pay even the compensation. Therefore, I hope that the amendments of which notice has been given will be accepted by the Government to a great extent.

I do not want to enter into the discussion on the clauses at present as we have got amendments. Still, I must say this that so far as the

judicial courts are concerned, Government by its own action should not show that they are to be distrusted. In the judicial courts the public has a very great confidence and, therefore, I hope Government will try its best to create more confidence in them rather than leave the matter in the hands of the administration.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Mr. President, Sir, at the outset I want to thank the Government and the Honourable Member for having tried to meet us to a certain extent and to have accepted some of the amendments. Looking at the Opposition that we have in the House at present, this action of the Government really deserves our thanks. At the same time, I feel that it is my duty to place before the House full facts and my own impressions about this Bill as to why this Bill has been brought and why I feel that this Bill is not necessary at all. Before taking up the Bill itself, I want to make it clear that I am in full sympathy with the objects and reasons as disclosed in the Bill itself. I do not want that there should be any excavations round about the roads near Delhi which would prove an impediment for the future development of Delhi. I do not want that the constructions and buildings on the roads outside Delhi should be cramped and should disfigure the beauty of Delhi. At the same time, before trying to achieve these objects, we have to see whether there is any power which the Government can utilise for the purpose. In the Statement of Objects and Reasons it is stated:

"At present there is no legal power to control building development along main roads in the Delhi Province outside the Delhi and New Delhi municipal areas."

Now, Sir, I differ from that. I maintain that there is already a law by which the Government can regulate the development of Delhi. Delhi is a very strange place. Here the Governor General, according to an Act of 1912, has got extraordinary powers of applying any laws to this land, with any modification, with any changes he likes. In regulating the improvement of the City of Delhi, they have adopted the Town Improvement Trusts Act of the United Provinces with certain changes. They have also made applicable to Delhi some portions of the Town Improvement Trust Act of Rangoon, as well as of the Town Improvement Trust Act of Calcutta. This Town Improvement Trust Act does apply to areas beyond the limits of the Municipality or the Notified Area. I have got a copy of the Delhi Improvement Trust Act and I would point out to the House that on page 8 of that book they have got a schedule to which the Town Improvement Trust Act applies. In the Schedule they say "(I) (1) the Municipality of Delhi (2) the Municipality of New Delhi, (3) the Civil Lines Notified Area and (4) the Fort Notified Area Committee. (II). The following Revenue Estates or Mahals or such portions of them as are not included in the Municipalities and Notified Areas hereinbefore mentioned". In that area which is beyond the municipal limits of Delhi, they give, on the one side, as far as Wazirabad which is about six to seven miles from Delhi; on the North-East they give a place Bhalaswa Jahangirpur which is about seven miles and on the Southern side, they give Okhla which is about seven miles. That is up to about seven miles on the North and seven miles on the South, they have already got jurisdiction under the Town Improvements Act which they can control according to the provisions of this Act. So, really the necessity for this Act does

[Qazi Muhammad Ahmad Kazmi.

not arise. I may also mention for the information of the House as to what are the reasons which are lurking in my mind for opposing this new power that is proposed to be given to the Government. My own impression is that the Improvement Trust Act has not succeeded in really developing the City of Delhi and it is not working on proper principles, and because it is not working on proper principles, therefore it finds it necessary to control the area which is situated not only outside the limits in which it can exercise its control, but inside the limits which are under its jurisdiction.

Sir, in the Improvement Trust Act, there are two sections which I would like to refer now. They are sections 30 and 32. Section 30 (1) says:

"In regard to any area to which this Act is extended, the Trust may, from time to time, prepare a scheme of proposed public streets with plans showing the direction of such streets, the street alignment and building line on each side of them, their intended width and such other details as may appear desirable."

Section 32 says:

"(1) Whenever the Trust is of opinion that it is expedient and for the public advantage to control and provide for the future expansion of a municipality or Notified Area in any area to which this Act is extended, the Trust may frame a scheme (to be called a 'town-expansion scheme').

(2) Such scheme shall show the method in which it is proposed to lay out the area to be developed and the purposes for which particular areas are to be utilised."

I come to sub-section (4) of section 32:

"When any such scheme has been notified under section 42, if any person desires to erect, re-erect, add to or alter any building or wall within the area comprised in the said scheme, he shall apply to the Trust for permission to do so."

Sub-section (5) says:

"If the Trust refuses to grant permission to any person to erect, re-erect, add to or alter any building or wall on his land in the area aforesaid, and if it does not proceed to acquire such land within one year from the date of such refusal, it shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal."

I want to draw the attention of this House particularly to this sub-clause. Either they give permission for erecting the construction and if they do not give permission, then they have to refuse permission and they will have to acquire land within a year and if they do not acquire the land within a year, then they will have to pay compensation.

Now, Sir, the question is whether the Improvement Trust Act can impose conditions on buildings. Section 49 of this very Act provides:

"The provisions of sections 102, 114, 116, 118, 130 to 136, 140, 169, 170-A to 172, 176 and 182, sub-sections (1) and (2) of section 189, sections 191 to 196 and Chapter XI of, and of any bye-laws made by the Municipal Committee or Notified Area Committee under the Municipalities Act shall, so far as may be consistent with the tenor of this Act, apply to all areas in respect of which an improvement scheme is in force."

Mr. President (The Honourable Sir Abdur Rahim): Is it the Honourable Member's argument that this Bill is unnecessary, and that the provisions in this Bill are covered by the Improvement Trust Act, and, therefore, the present Bill is unnecessary?

Qazi Muhammad Ahmad Kazmi: Exactly.

Mr. President (The Honourable Sir Abdur Rahim): Then, the Chair does not understand if they have the power under the Improvement Trust Act, why they should bring this measure.

Qazi Muhammad Ahmad Kazmi: I shall briefly explain why the present Bill is not necessary and it is open to the House and to the Government to criticise my submission. I maintain that under the Improvement Trust Act, they have got every power now and that they have not only got this power, but they have got the further power of extending the Improvement Trust Act beyond the present limits to any areas they like. There is no question of Municipality, or Notified Area Committee or anything of the kind.

Mr. Lalchand Navalrai (Sind: Muhammadan Rural): In fact to the whole Province.

Qazi Muhammad Ahmad Kazmi: Yes, of course, because section 7 of the Act of 1912 is there. They can impose any Act on the province of Delhi with or without modifications. This is the power which the Governor General possesses.

Mr. President (The Honourable Sir Abdur Rahim): Does the Honourable Member suggest then that if the present Bill is passed into law the two Acts will conflict.

Qazi Muhammad Ahmad Kazmi: My argument is this, that they have already got powers under that Act and this Act gives them greater powers than that Act. That Act provides certain amenities of life to the inhabitants of the City and the powers of the Government under that Act are more restricted. Now, the Government are trying to pass an Act which gives them greater powers *minus* the liabilities to provide amenities of life to the inhabitants of that area. So the House has to consider whether this Act should be passed at all depriving the inhabitants of the amenities which they are entitled to expect.

I have said, Sir, that the Improvement Trust has got power to regulate constructions outside the city of Delhi. It can be extended to the whole province of Delhi and they can stop any constructions they like. But the stopping of constructions under the Improvement Trust Act is not arbitrary. I read out section 49 of the Improvement Trust Act. It empowers the municipality to impose the same restrictions on construction as can be imposed by the municipality or the town area committee. We know that the Town Area Committee and municipality are meant not for stopping constructions but for regulating them; and, therefore, the conditions that are provided in those Acts are quite reasonable though they may be hard in some cases. The present Bill, as it is introduced, does not give any indication as to what would be the restrictions and conditions under which the authority, *i.e.*, the Deputy Commissioner, would give permission for making construction. That is, he will have greater power under the present Act and can stop any constructions by imposing impossible conditions. Even if this Bill is passed Government may kindly consider the position of the inhabitants and the things they are afraid of so that they may not occur. I heard of a scheme recently that they would allow constructing one home only in an area of 12 acres of land. If such a condition is imposed . . .

An Honourable Member: Palaces will be built ?

Qazi Muhammad Ahmad Kazmi: I think the Viceroy's palace also does not command 12 acres of land. There may be certain other conditions, *e.g.*, that you will not be allowed to make this construction unless you contribute to the drainage scheme which will cost seven lakhs, because they are not in a position to undertake that drainage scheme yet; and therefore you will have to stop construction.

I will state the reasons why I have got these suspicions in my mind. It is on account of the behaviour of the Improvement Trust. The Improvement Trust, as I said, has got two ways of working out schemes. It can work out its own schemes by acquiring the land and by making roads, parks, and the places that are left after these roads and parks are made it can re-sell to the public. And Honourable Members may have read only recently that in one place which they called Husan Bazar or Husanganj which is being constructed, the bids for the premium for land which the Town Improvement Trust has received is Rs. 45-8-0 for a square yard. Probably they may give a rupee or two per square yard for compensation to the people from whom the land was acquired, and they are getting such a nice price. So the Improvement Trust can really make considerable profit only by acquiring land, marking spaces for roads and parks and reselling the next of the land at the highest bid to people who want them. The other scheme that they can adopt is to make plans and in those plans they can show the roads and parks that they want for the public and allow the owners and proprietors of other pieces of land to make their own constructions subject to the payment of a certain betterment fee. This provision is really a very useful one. And I, personally, would like that this provision should be extended to all the areas round Delhi. You make the plans and the scheme and you say you have to incur so much expenditure in carrying out the scheme and the adjoining property will be improved by this. Therefore, every person who wants to make any construction on his own land within the area which is specified for that purpose will have to pay so much betterment fee. But this scheme cannot bring to the Improvement Trust the large amount of money that they can get by acquiring the land, laying out things and reselling it to the public, and this is a consideration which is working in the mind of the Improvement Trust in Delhi. They cannot make up their minds as to whether they should acquire the land or whether they should make a plan and let the people develop the construction of the houses and develop the residential area themselves. On this point there have been specific complaints by the people who are inhabiting Delhi and with the permission of the House I want to read before the House the complaints about one or two schemes by which the House will understand

Mr. President (The Honourable Sir Abdur Rahim): Any complaint against the Improvement Trust is not relevant here at all. This is a new scheme. If the Honourable Member says this is unnecessary, that is a different matter.

Qazi Muhammad Ahmad Kazmi: My position is that under the Improvement Trust Act they have got certain powers. On account of the

restriction of powers under that Act they find that they cannot properly control development. Therefore, they do not want to extend the Improvement Trust Act but want to have uncontrolled power in their hands to stop any developments or any constructions. For that purpose I have got to show that under the Improvement Trust Act they are not carrying out their duties properly.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot go into that. He must confine himself to the provisions of this Bill.

Qazi Muhammad Ahmad Kazmi: I only want to say that the main complaint that they have got regarding the working of the Improvement Trust Act is this that

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must not go into that. The Improvement Trust is not on its defence here.

Qazi Muhammad Ahmad Kazmi: I will say that the Improvement Trust is at the basis of this Bill being introduced here.

Mr. President (The Honourable Sir Abdur Rahim): As the Chair understands it, the Honourable Member's complaint is that wider powers are being given under this Bill than under the Improvement Trust Act. The Honourable Member should confine himself to the provisions of this Bill.

Qazi Muhammad Ahmad Kazmi: Well, Sir, leaving the complaints against the Improvement Trust aside, let us see what the provisions of this Bill are. Any scheme that has to be proposed for controlling development contemplates actual planning of the place before controlling any development. To make my meaning clear I will say that before you can say that there would be orderly development outside the city of Delhi you will have first to make a plan as to how that orderly development will come into existence you must make plans for all the roads outside the city of Delhi and indicate in those plans the roads that you propose to make, and the parks that you want to leave for the public, and the land that is to be built upon by the public at large. You have got to prepare plans and without a plan there can be no control of constructions of buildings on any area. This Bill contemplates restriction of buildings but it does not contemplate planning. I say that without planning any attempt to control development would only be stopping development because if I apply to the authorities that I want to construct a house on such and such a land that belongs to me, the authorities do not know whether the house that I propose to construct will lie on a road or on a future park or in a future residential place, and it will think twice before giving me sanction. It would like to stop me and say: "Please do not put any construction there." Even if it gives me permission, it will try to impose certain conditions which would cause me such financial burden that I cannot meet it. So I say that any Act intended to control development must contemplate a planning authority and must contemplate planning. The planning must come first and the control can come only

[Qazi Muhammad Ahmad Kazmi.]

afterwards. In this Bill the main thing missing is the planning authority. This Bill is claimed to have been prepared on the basis of the English Act. The English Act came into force or rather it was passed on the 2nd August, 1935. I do not know what the conditions outside Britain and India are, but there appears to be no other Act like this in force anywhere else. It is only five years after this Act came into force in England that it is tried to be applied to India. The conditions in India are absolutely different, and I maintain that it is not yet time for the Government to apply that Act to India.

Again, Sir, if you apply that Act to India, you will have to follow the provisions of that Act, just as I have said that a planning authority and a planning scheme is necessary before any control over development can really be exercised. If you look at sections 6, 7 and 8 of the English Act—I shall not bother the House by reading the sections, but shall merely refer to them—you will find that some kind of planning is contemplated by that Act. There is a planning authority—it may be independent of highway authority which controls the roads and which would give you plans. I, therefore, say, that if you wish to pass this Act in its present form such provisions must be incorporated in this Bill. There is one great defect in this Bill. According to the English Act, if any area is declared to be a controlled area, any person living in that area has got a right to apply for compensation on account of such declaration, as his interests in the land within that area might have been 'injuriously affected'. These are the words of the Act itself. In the Bill now before us no such compensation is allowed. Not only that, but even if certain restrictions are laid on construction, which are so impossible as to render the construction of the house itself an impossibility, the person who has suffered will not be entitled to any compensation under this Bill. The laying down of any impossible conditions would not render the Government liable for any compensation. It is only in case of absolute refusal that a person is entitled to some compensation; and what I am afraid of is that any authority which exercises powers under this Bill, if it is not in sympathy with the public and has not got in mind the real interests of development but only looks to the interests of the Improvement Trust, can impose conditions by which the victim would not be entitled to any compensation; because it may say that it does not refuse the right of construction, but only lays down certain conditions to be followed. I say that in the present Bill the provisions of the English Act regarding compensation should be embodied.

Thirdly, I would indicate that certain provisions which are already in force under the English Act have been changed and modified here; the area which the Government wish to exercise control here is considerably wider than is contemplated by the English Act. Under section 1 of the English Act, the restriction can go only to the proposed width of the road itself: the proposed width of the roads, according to the schedule of the Act, can be 160 feet. So, the utmost that the authority can control is the construction of buildings 80 feet from the middle of the road on both sides. But in section 2, which is meant for the improvement of frontages, they have provided that the controlling authority can acquire and control construction up to 220 feet from the middle of the road. For the 220 feet in the English Act, the substitution that has been made in this Bill is not even of 220 yards but of 440 yards or 1320 feet. This is really going

too far; and I think that the Government, in the same way as they have reconsidered other aspects of this Bill, will reconsider their decision as to whether it is necessary for them to require such a large area for controlling frontage as 1320 feet—i.e., two furlongs—on one side and two furlongs on the other.

I do not wish to lay before the House many other matters which can more properly be discussed on the consideration of the clauses. But I once more want to bring to the attention of the House and of the Government this point—what are these roads and areas for which you want to extend this Act? I have already submitted that we have gone up to Wazirabad—7 miles on the north. Then the only road which is not covered by the Improvement trust is the Kutab Road. Even there, up to Safdar Jang we have got the Notified Area Committee of the municipality; and in Kutab we have got a Town Area Committee of Mahrouli. So the distance to be covered, which is not covered by the actual existing municipalities and notified areas, as Sir Yamin Khan points out, is three miles or at the most four miles. For these four miles do you want an Act like this? I do not think it is contemplated by the Government to enforce this Act beyond the boundaries of the Kutab on the other side also. I think it could not be done

Mr. J. D. Tyson (Secretary, Department of Education, Health and Land): So far as brickfields and excavations go, we intend to enforce it all over the province of Delhi.

Qazi Muhammad Ahmad Kazmi: I said in the very beginning of my speech that so far as excavations or brickfields are concerned
12 Noon. I am prepared to concede to the Government not only the roads that they are proposing, but even ten miles further from the place from which they are contemplating in this Act. I understand that any excavations that are to be made are bound to spoil the land, because those places are bound to develop into ponds and will be infested with mosquitoes and make the place almost uninhabitable. I have not the least hesitation in Government controlling all areas throughout the Delhi province if they will not themselves suffer from lack of bricks. Probably, the Government themselves, and specially in these days when they have got large building programmes in hand, will suffer for want of bricks. So I do not want them to stop excavations. What I press for is that there should be no stoppage of development.

I may now summarise my position. My position is this. I have a little sympathy for the Bill. I am prepared to give control to Government for stopping excavations round about Delhi to any extent which they consider reasonable,—the reasonableness of the thing will depend on them. But what I want is that in areas which they want to control in the name of regulation of development, there should be no possibility for abuse of power. They must be according to law be bound to give sanction for the construction of buildings according to regular plans. They should not be in a position to impose restrictions so as to make the construction of buildings financially an impossible task. They must reduce the area on which they want to have the control, and then they must work out this Act in the spirit in which they may keep the interests of the public at

[Qazi Muhanumad Ahmad Kazmi.]

heart and not take lessons from the conduct of the Improvement Trust which is doing havoc in the city. With these words, Sir, I support the motion.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, this is a new legislation . . .

Mr. President (The Honourable Sir Abdur Rahim): Will the Honourable Member please speak up?

Maulvi Muhammad Abdul Ghani: This is the first legislative measure in India to put restrictions on the development of land, and this measure is being hurried through. Sir, we have been given very little time to consider all aspects of the measure. However, at the very beginning when the Bill was being referred to Select Committee, I raised my voice and expressed my own suspicions about the treatment of religious places. When the Bill went to the Select Committee, certain things were amended, but some doubts remained to be cleared, and so I have tabled a few amendments which will in due course be moved. I simply want to point out the fears of Mussulmans having regard to the actions and behaviour of certain persons in power in Delhi and New Delhi, because they pay more attention to devastation than to improvement. There is a considerable scope for development and improvement in Delhi, but they are always anxious to acquire religious places and to demolish and level down graveyards and other things. Sir, this is a city which has been for many centuries under Muslim rule, and there are innumerable graveyards, *Imambaras*, mosques, temples and other religious buildings. The other day our Honourable Deputy Leader of the Muslim League Party pointed out when speaking on the Finance Bill that the Improvement Trust acquired 32 buildings of the mosque and graveyards variety, and the Chief Commissioner of Delhi became the owner of those properties and those buildings have been leased to the Secretary of the Jama Mosque. That, however, has been cancelled by the committee of the Jama Masjid, but they are still in the dark as to why permission to repair the religious places or to whitewash them has been refused. As for instance, I read a letter from the Lands and Development Officer in Delhi. A petition was sent to them for the ordinary repair . . .

Mr. J. D. Tyson: Is this in any way relevant, Sir?

Mr. President (The Honourable Sir Abdur Rahim): The Chair really cannot follow the Honourable Member. Will the Honourable Member speak up. The Chair cannot follow him.

Maulvi Muhammad Abdul Ghani: I was submitting to you, Sir, that persons in power here, instead of making improvements, are fond of ruining things, particularly religious buildings and graveyards, and I was submitting further that even permission for carrying out ordinary repairs or even for whitewashing such buildings has been refused, over and above the fact that religious buildings have been acquired and given on lease to a certain committee. I may here warn the Government that such kind of attitude on the part of their officials and subordinates is not at all tolerable . . .

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should confine himself to the Bill.

Maulvi Muhammad Abdul Ghani: Having regard to these fears I drew the attention of the authorities and brought some amendments. I hope the Government will sympathetically consider the amendments as they are not going to lose anything, but, on the other hand, Muslims and Hindus will be benefited as their religious feelings and susceptibilities won't be wounded further. With these few words I support the motion.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): When I was listening to the speech of my Honourable friend, Mr. Kazmi, I thought that he was opposing the Bill, but to my surprise and great pleasure he said that he supported the consideration of the Bill. I do not know what grounds he gave for supporting the Bill, but when he summarised his points, he said that he was in support of consideration of the Bill. That is very satisfactory.

What made me to speak is this the Government, in spite of their great majority here, have been very conciliatory in this Bill and none of the amendments would have been agreed to if the attitude of the Government had not been to accommodate the wishes of non-officials in this House. I must really congratulate Government on this attitude which they showed. It is an act of statesmanship to carry the House with them, even when there is a large majority behind them. That will give a lesson to the other side to be reasonable when that other side is in greater power and the Government is in the same position as we are today. This Bill had objectionable features which the Government realised should be eliminated. One clause provided for security and objection was taken in the Delhi province that it would act very harshly. The Deputy Commissioner might ask for a very big security, and again, the clause provided for a penalty. So, the Government agreed and the Select Committee has done away with the provision requiring deposit of security and they leave the clause dealing with penalty in a modified form, to the great relief of the persons concerned.

The second thing which has been done—my Honourable friend, Mr. Abdul Ghani, also has alluded to it—is this. There was a great danger of places of worship being affected if they were not excluded, because the Bill, as it originally stood, did not take that into consideration. Government very gladly agreed to put in a provision in clause 15, which gave protection to this kind of buildings altogether. If it is felt that the phrase “places of worship” is somewhat ambiguous and some places may not be covered at all, that is going to be clarified by certain amendments which have been proposed, and I understand that the Government are willing to meet the wishes of non-official Members in this respect also. That will greatly improve the Bill and there will be no danger of any kind for a misinterpretation of the intentions of the Legislature. One point was raised whether the man who is going to be affected can claim compensation or not. I do not know how Mr. Kazmi said that there is no provision in the Bill for a person to claim compensation. If he looks at clause 7, sub-clause (2), he will find that the man can claim compensation if the permission is not given to him. There is a certain impression outside this House that this measure will work very harshly. I was myself of that opinion and thought that this Bill was not a desirable one as it was going

[Sir Muhammad Yamin Khan.]

to give a lot of power to Government and there was a likelihood of its misuse. But when I went through the whole Bill carefully, I found that it could be improved and those apprehensions could be eliminated. And the Bill has been accordingly improved in the Select Committee.

Dr. P. N. Banerjea (Calcutta Suburbs: Non-Muhammadan Urban): You were a Member of the Select Committee?

Sir Muhammad Yamin Khan: Yes. I think, as the Bill stands, with the few amendments which the Government are going to accept, no apprehension will be left as regards its misuse, because the Deputy Commissioner's decision will be appealable to the Chief Commissioner. Formally, papers were to go to the Chief Commissioner and he would pass such orders as he thought fit, but the Select Committee has added the words "and shall hear any parties applying to be heard". That safeguards the interests of those whose case may have gone in default. The objection taken was, once the Deputy Commissioner passes an order the Chief Commissioner will probably go by the same order without paying much attention. But when he has to hear the parties I am sure he will give an independent judgment rather than be led by the Deputy Commissioner's decision. I think that this Bill, if it is taken into consideration, will do no harm and I support the motion.

Pandit Nilakantha Das (Orissa Division: Non-Muhammadan): Sir Muhammad Yamin Khan has given such a good certificate practically to his own work done in the Select Committee that it is inconvenient for me to say anything against it.

Sir Muhammad Yamin Khan: You know I do not give certificate easily.

Pandit Nilakantha Das: When I speak, I remember, if not the sporting offer, the sweet reasonableness which has been offered by my Honourable friend, Mr. Tyson, and I expect a good number of the reasonable amendments will be accepted in the course of discussion clause by clause.

Dr. P. N. Banerjea: That we do not know.

Pandit Nilakantha Das: But this Bill is, as my friend, Mr. Abdul Ghani, has said, a new Bill for controlling land in any part of India in this manner. The control is absolute and no proper reason has been given for so wide and absolute control. The title of the Bill says that it is for purposes other than agricultural. It may mean anything. The purpose has not been defined and this precludes any party who may appear either before the Deputy Commissioner or before the Chief Commissioner from setting forth any arguments in favour of their rights. Had the object been specifically mentioned there would be some standard by which one could know whether the grounds of refusal or the conditions imposed were reasonable; but when the object is so wide, one does not know what will happen either in filing the objection or in filing the appeal. Then again, this is a Bill which has been framed in imitation of an English Act, The Ribbon Development Act of 1935. There it is an Act of Parliament and I may call it a democratic Act. Here though it is going to be

an Act of this Legislature, powers given may be so interpreted that the Act may be construed to provide for some executive action only. Neither the Deputy Commissioner nor the Chief Commissioner is a judicial official. They have got their administrative duties and in controlling the lands in the Delhi Province, they may simply exercise their administrative functions and in this Bill there is no provision for any man going to any civil court or judicial authority for proving either the grounds of refusal for building, etc., or even the conditions imposed to be unreasonable. So, this Bill only provides for some executive action and I may say, in that sense, this Bill is autocratic.

Mr. J. D. Tyson: That is the English Bill. There is an appeal to the Minister.

Pandit Nilakantha Das: There the Minister is a responsible man. Then there are two things given in the Statement of Objects and Reasons. One is development of road and roadside areas. That is the first paragraph and then comes the control of brick kilns, etc., which may breed malaria mosquitoes and things like that. These are the two objects. The first object, I think, covers the second one. If you are to develop roads and roadside areas, you develop the town and in that development, forbidding these brick kilns and other ditches and things like that may well be covered. But when you speak of development of roads, I cannot understand why the Bill provides for a land quite half a mile broad. My friends say there is only four miles between Safdarjung and Kutub, which may come under this Act; and half a dozen roads will cover the whole area. Nowhere else, probably so far as I know, are frontages of roads and roadside areas so wide, as is contemplated here. As has been said in this House, under the English law, it is only 220 feet from the middle of the road and here it is full 1320 feet. It should be explained why such a wide area is contemplated. Neither the discussions in this House nor in the Select Committee have yet enlightened us as to why Government want so wide an area for the roads. Outside this area required for the roads, of course there is no objection if brick kilns and things like that are controlled. That is all very good; but explanation must be demanded why half a mile broad an area is required for a road as is required perhaps nowhere else in the world. I should like to have some illustration in some other town in the world where in the name of development so wide an area has been required.

Then again, without any plan for any road or development the lands are going to be controlled. Before giving the plan even for that half mile road, lands may be controlled in advance. Surely in this provision there is a great deal of arbitrariness. Plans must be published before any control should be exercised. I may remind the House that for the Delhi province it has been provided side by side with the formation of the province in 1912 that any Act of any Legislature can be extended *mutatis mutandis* to the Delhi province by an Executive Act. That Act will not be required to be discussed in this House. The object evidently was that in other parts of India there are representative bodies, the legislative bodies, and they discuss those measures before they are passed. In Delhi there is practically no representation and the little representation that there was is, unfortunately, not here today, and we are going to rush through this Bill. I appeal to my friends on the other side that they should be quite alive and alert to the responsibility now imposed on them on account of this fact.

[Pandit Nilakantha Das.]

One good thing will accrue from this Bill and that I must mention. This will discourage all speculation in land and this will probably help the agriculturist. That is the only aspect which is very good. If the Bill is modified and if Government accepts all the modifications that are suggested and if the sweet reasonableness which has been offered really prevails, we still expect to have a very good Act and, therefore, I support the motion that the Bill be taken into consideration.

Honourable Members: The question be now put.

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

“ That the question be now put.”

The motion was adopted.

Mr. J. D. Tyson: Sir, I have heard with amazement not untinged with incredulity the speculations of my friend, Mr. Muhammad Ahmad Kazmi, as to the source from which this Bill has sprung and as to the grandiose ideas which will underlie the schemes to be developed under the Bill. I have heard an old phrase “two acres and a cow” but I have never heard in this connection or in any other connection or even in connection with this Bill of “12 acres and a building”. There have been a considerable number of criticisms on points of detail of the Bill. I do not propose at this stage to refer to those because there are specific amendments with which we shall have to deal in due course and some of them, I have no doubt, will be accepted when they come up. I should rather confine myself at this stage to dealing with one or two broad issues that have been raised, particularly the suggestion that powers already existed which could have been utilised to give us the control that we want without recourse to fresh legislation. In that connection, reference has been made to the Delhi Laws Act. I am not quite sure whether Mr. Das, who has just spoken, considers that we should have used that Act or that we should not have done so. It seems to me that the more democratic course is to produce a Bill on the floor of this House and not to adopt without reference to this House provisions of law taken here, there and everywhere from all over India. Leaving that aside, however, I would remind the House that this is the first measure of its kind in India and even had we wished, we could not have adopted from any province the provisions that we are introducing in this Bill. The Delhi Laws Act only enables us to adopt sections from the existing laws.

We have powers under the Improvement Trust Act, that is the United Provinces Towns Improvement Act as applied to Delhi, and, with the Improvement Trust Schedules, we already apply that Act to certain areas outside Delhi. We did consider whether that Act gave us sufficient powers without coming to the Legislature with a Bill, and we came definitely to the conclusion that that Act was not sufficient. It is only where the Trust is in a position to frame a scheme for a compact area that the powers under that Act can be used. They cannot be used to control sporadic buildings here and there over a wide area and that is, of course, what we are afraid of outside Delhi. Trust schemes for areas outside municipal limits, again, of the description to which my friend, Mr. Kazmi, referred, must be designed with a view to the expansion of the municipality

or the notified areas, and no such schemes can be contemplated unless you are intending to extend your municipal or notified areas. It is out of the question, I think, for schemes to be drawn up under the Delhi Improvement Trust Act which would cover long strips of road and roadside lands, without any reference to the use of the land behind those narrow strips, with a view to their being brought within a municipal area or a notified area. We did not find, Sir, that the Improvement Trust Act gave us the powers that we require. Before I leave the Improvement Trust Act, I would say this, that it seemed to me that my Honourable friend, Mr. Kazmi, in one breath asked us to apply the powers under the Improvement Trust Act and in another breath, until he was cut short by your intervention, Sir, he was proceeding to criticise that Act and the use that has already been made of it.

Now, the third Act that it is suggested we could employ is the Land Acquisition Act. That we have definitely ruled out. A great deal of land was acquired at the time when New Delhi was in prospect and land has been acquired since and it is the considered opinion of Government that enough land has been acquired at present to cover the development of Delhi and New Delhi for many years to come. It is found that the unnecessary acquisition of land, besides being a very expensive thing, is very unsettling to the tenantry and we do not wish to deal with this problem, which is purely one of control, by the very expensive expedient of acquiring land that we do not want, at the expense, if I may so put it, of the peace of mind of people whom we would much rather see contentedly cultivating there. Those are reasons why we have not used those three Acts to which reference has been made. There is one other reason, that is, that, in addition to controlling building operations, we attach very great importance to taking power all over Delhi Province to control excavation and particularly brickfields. It is not sufficient, as my Honourable friend, Pandit Nilakantha Das, has suggested, to control these things in the immediate neighbourhood of roads. Mosquitoes breed anywhere where there is standing water, they have a fairly wide range of flight, and we want to take power to control them even away from the neighbourhood of roads.

Dr. P. N. Banerjee: What is the flight of a mosquito?

...

Mr. J. D. Tyson: Certainly over half a mile. And as reference has been made to the sources from which mosquitoes spring, I do not mind disclosing that the initial suggestions came, among others, from our Public Health Advisers, who were very anxious that we should control both brickfields and road frontages.

Syed Ghulam Bhik Nairang: (East Punjab: Muhammadan): So mosquitoes are at the bottom of the Bill.

Mr. J. D. Tyson: With regard to what has fallen from my friend, Mr. Abdul Ghani, I will not follow him in all his references to the fate of buildings of a religious character in the Delhi area; I would only assure him that it is no interest of ours to demolish or pull down such buildings; in fact a lot of our activities is directed towards maintaining these buildings, and if we do not maintain them as well as we should like to, it is principally because we have not the funds; but at any rate we do not destroy them. But I have every respect for the feelings which animate

[Mr. J. D. Tyson.]

Mr. Abdul Ghani and I would only say that we are trying to meet his feelings, as will be apparent when we come to individual amendments. I am grateful to Sir Yamin Khan for his appreciation of our attitude generally to this Bill and for his lucid explanation of the changes made in the Select Committee. He has said that at first he was a little afraid that this might be a harsh measure, but that he is satisfied, on examination of it, that its effects will not be harsh. That also is our view. We regard it as a beneficial measure, and if we have already agreed and are proposing to agree to certain amendments, it is because we wish to carry with us in support of this Bill the greatest possible measure of public opinion.

Sir, I will not detain the House for any further general points. I would only just make one very brief reference to a point which has troubled several speakers—there is a specific amendment on the subject—and that is the reason why we have sought power in this Bill to control a strip of land 440 yards from the centre line of the road when 220 ft. is regarded as sufficient in England. Very briefly, as Mr. Kazmi was good enough to say, “the conditions of India are absolutely different from those of England” and our Bill is also somewhat different from the English Bill.

Dr. P. N. Banerjee: More drastic.

Mr. J. D. Tyson: Honourable Members who have studied the United Kingdom Act will have observed that there the control is exercised almost entirely by controlling the means of access. There is power in the Act actually for the Highway Authority to fence off the side of the road so as completely to block access and in that way it is possible to control the use to which what I might call the hinterland is put. We have not taken such drastic powers; we do not propose to take such drastic powers in the Bill to control the means of access, and even the powers that we have taken may to some extent be weakened by certain amendments that we propose to accept in the interest of the agriculturist. The truth is that we do not want in any way to hamper the agriculturist in his access to his fields, and in order not to hamper him we propose to take a certain risk here as regards our control of the means of access; but on the other hand, if we do that we feel that we must control a bigger area behind the line of the road. Sir, I move that the Bill be taken into consideration.

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

“That the Bill to regulate in the Province of Delhi the use of land for purposes other than agricultural purposes, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The House will now consider the Bill clause by clause. The question is:

“That clause 3 stand part of the Bill.”

Qazi Muhammad Ahmad Kazmi: Sir, I move:

“That in sub-clause (1) of clause 3 of the Bill, for the words ‘four hundred and forty yards’ the words ‘two hundred and twenty feet’ be substituted.”

Sir, regarding the provisions of this particular amendment, I have already made my position clear in the motion for consideration. My Honourable friend, Mr. Tyson, has said that the conditions are different. I agree that the conditions are different, but even then I do not feel any justification for extending the control to six times what it is in England. The main object of the Bill is to improve the frontage, that there should be no bad looking building round about the road, and that there should be proper development, the idea being that it is only near the road that the people who take to construction should be controlled, but there seems to be no necessity for taking an area extending to 440 yards from the line of the road. I would again commend this amendment to the consideration of the Government, and they I hope will not consider the position in which the opposition is placed today but also will consider the reasonableness of the amendment itself.

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

"That in sub-clause (1) of clause 3 of the Bill, for the words 'four hundred and forty yards' the words 'two hundred and twenty feet' be substituted."

Pandit Nilakantha Das: Sir, at this stage I may move my amendment—Supplementary list No. 1, amendment No. 1. My amendment gives them five feet more.

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

Pandit Nilakantha Das: Sir, I move :

"That in sub-clause (1) of clause 3 of the Bill, for the words 'four hundred and forty', the words 'seventy-five' be substituted."

Sir, my wording is in harmonious symmetry with the word "yard". I have, therefore, made it "seventy-five". It is only five feet more than what my Honourable friend, Qazi Muhammad Ahmad Kazmi, has suggested. I would require some illustration somewhere of the authorities intending to control so wide an area, but we have been given no reply. We are simply told that conditions in India are different. That is a very wide thing and it explains nothing. If it is 440 yards, then it may be said that the road side area may be controlled for the purpose of health, such as malaria. Malaria breeding mosquitoes may be prevented even ten miles away under the provisions of this Bill. So, for the sake of health, you can control it at any distance. It is according to the first paragraph of the Statement of Objects and Reasons of the original Bill that the Government are trying to control lands in road frontages and road side areas and in roads. If that be the specific objective, then there is no reason why the Government should fix 440 yards, which means two furlongs. On both sides it is half a mile. In England it is only 220 feet, and I should like to know if there is any reason why this large width is required. If I am satisfied, I shall be agreeable to withdraw my amendment.

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

"That in sub-clause (1) of clause 3 of the Bill, for the words 'four hundred and forty', the words 'seventy-five' be substituted."

Mr. J. D. Tyson: Sir, I have said already the main reason why the Government have adopted this figure, which is different from that adopted

[Mr. J. D. Tyson.]

in the United Kingdom. I had better perhaps illustrate why the conditions here are different,—though I think my main argument is that we are not really controlling “means of access” here, and that is the principal method of control adopted in the United Kingdom Act. I think the two sets of conditions, also, are very different. We want here to give the maximum access to his fields for the agriculturist. There is actually an amendment to be moved later on to exclude from the purview of this Act unmetalled roads for agricultural purposes and it is quite possible that in this country, where comparatively light buildings are often set up, for an insanitary *basti* to grow up without the aid of a metalled road giving access to it. I think it would be very difficult in England to have that, for to build a slum in England you must have metalled roads as a firm means of access to take in the building material. I think the conditions there are, therefore, quite different from the conditions here. We, therefore, do not think that the two furlongs depth is a very great depth to which to exert control. If there is no danger of buildings developing within that area, then the fact that the land is within the controlled area will not prejudice any one, and if there is any danger of building within that area, then we want to control it. Sir, I am afraid this is one of the amendments on which I must remain firm.

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

“That in sub-clause (1) of clause 3 of the Bill, for the words ‘four hundred and forty yards’ the words ‘two hundred and twenty feet’ be substituted.”

The motion was negatived.

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

“That in sub-clause (1) of clause 3 of the Bill, for the words ‘four hundred and forty’, the words ‘seventy-five’ be substituted.”

The motion was negatived.

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

“That to sub-clause (6) of clause 3 of the Bill the following be added at the end :

‘or, where the land is land occupied by or for the purposes of a mosque, *imambara*, *dargah*, *karbala*, *takya* or Muslim graveyard, if he is a Muslim.’”

Sir, the necessity for this amendment arises in this way that in this clause under discussion a ‘person interested’ refers to person as defined in the Land Acquisition Act. Person interested means—a person who is entitled to claim compensation. But as regards mosques and other properties, a Muslim is not entitled to claim compensation. Therefore, here the words ‘Muslim’ has been added and I hope the Secretary to the Department of Education, Health and Lands will accept this amendment. Sir I move.

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

“That to sub-clause (6) of clause 3 of the Bill the following be added at the end :

‘or, where the land is land occupied by or for the purposes of a mosque, *imambara*, *dargah*, *karbala*, *takya* or Muslim graveyard, if he is a Muslim.’”

Mr. J. D. Tyson: Sir, though I think the Honourable Member's arguments were addressed to his next amendment, yet I do accept the amendment he has just moved, No. 7.

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

"That to sub-clause (6) of clause 3 of the Bill the following be added at the end :

'or, where the land is land occupied by or for the purposes of a mosque, *inambhora*, *dargah*, *karbala*, *takya* or Muslim graveyard, if he is a Muslim'."

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.

Qazi Muhammad Ahmad Kazmi: Sir, I move :

"That after clause 3 of the Bill, the following new clause be inserted, and the subsequent clauses be re-numbered and all references to section numbers be corrected accordingly :

'4. (1) The Deputy Commissioner shall deposit at his office and at the office of the Municipal Committee, New Delhi, and at such other places as he considers necessary, plans showing all lands declared to be controlled areas for the purposes of this Act, and setting forth the nature of the restrictions applicable to the land in any such controlled area.

(2) The plans so deposited shall be available for inspection by the public free of charge at all reasonable times'."

Sir, I submitted in my speech on the consideration motion that a planning authority is necessary. There can be no proper control of development without plans being ready with the authority who wants to control the development. There is no provision in the Bill for a planning authority, but whoever be the authority it must be ready with the plans before it can exercise any control. It is with this view that I want this clause to be inserted which will make it necessary for the Deputy Commissioner to have plans of the things he wants to control and to keep those plans ready for inspection. Sir, I move.

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

"That after clause 3 of the Bill, the following new clause be inserted, and the subsequent clauses be re-numbered and all references to section numbers be corrected accordingly :

'4. (1) The Deputy Commissioner shall deposit at his office and at the office of the Municipal Committee, New Delhi, and at such other places as he considers necessary, plans showing all lands declared to be controlled areas for the purposes of this Act, and setting forth the nature of the restrictions applicable to the land in any such controlled area.

(2) The plans so deposited shall be available for inspection by the public free of charge at all reasonable times'."

Mr. J. D. Tyson: Sir, I am willing to accept this amendment.

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

“That after clause 3 of the Bill, the following new clause be inserted, and the subsequent clauses be re-numbered and all references to section numbers be corrected accordingly :

- ‘4. (1) The Deputy Commissioner shall deposit at his office and at the office of the Municipal Committee, New Delhi, and at such other places as he considers necessary, plans showing all lands declared to be controlled areas for the purposes of this Act, and setting forth the nature of the restrictions applicable to the land in any such controlled area.
- (2) The plans so deposited shall be available for inspection by the public free of charge at all reasonable times’.”

The motion was adopted.

New clause 4 was added to the Bill.

Original clause 4 was added to the Bill.

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

“That clause 5 stand part of the Bill.”

Qazi Muhammad Ahmad Kazmi : Sir, I beg to move :

“That to sub-clause (2) of clause 5 of the Bill the following proviso be added :

‘Provided that

- (a) permission for the erection or re-erection of a building shall neither be unreasonably withheld nor made subject to unreasonable conditions, and the conditions imposed shall in no case exceed the restrictions provided by the Bye-laws of the Notified Area Committee Civil Station, Delhi, for the time being in force.
- (b) Permission for laying out means of access reasonably required for any purpose shall neither be unreasonably withheld, nor made subject to unreasonable conditions; and in the case of means of access required for agricultural purposes, shall neither be withheld nor be made subject to any conditions save such as may be necessary for securing that the means of access shall be used for agricultural purposes only’.”

I have submitted already that the chief thing that we are keen upon in this Bill is that the power of the authority should not be uncontrolled in preventing constructions and developments of the city in the controlled area. The present Bill does not lay down the restrictions and also does not say how the local authority will act before permission is granted to the construction. I have, therefore, proposed this new clause. The first part relates to restrictions. I have submitted that municipalities, notified areas and other bodies, whenever they control development or control the construction of buildings provide certain amenities of life. In this case no amenities of life are being provided for the public and only control is being obtained. So the nature of restrictions must naturally be much less than is to be imposed either by the Town Area Committee or by the Municipal Committee. But in the proposed clause I have given the Government or the Deputy Commissioner such power as they have got under the Town Area Committee Act. I have said that the nature of restrictions that can be imposed on the construction of any building shall in no case exceed the restrictions that can be imposed by the Town Area Committee in New Delhi. Now, Sir, New Delhi is an urban area developed on lines which are considered to be ideal by Government, and we do not think that any restrictions that would be valid restrictions under the Town Area Act of New Delhi will not be sufficient for the purpose of developing an area outside

Delhi. As a matter of fact the restrictions outside must be much less than the restrictions that can be imposed inside the town area. But I have gone far and given Government power to regulate according to the rules of the Town Area Committee Act.

As regards the second part of the clause, I submit that it has been provided in the English Act also that permission to construct means of access to the main road will be granted without unreasonable control and without unreasonable conditions. And if we want any place for agricultural purposes it would be allowed without any conditions and without any restrictions and with as little delay as possible. So both these provisions have been incorporated in the proviso that I have proposed.

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

"That to sub-clause (2) of clause 5 of the Bill the following proviso be added :

'Provided that

- (a) permission for the erection or re-erection of a building shall neither be unreasonably withheld nor made subject to unreasonable conditions, and the conditions imposed shall in no case exceed the restrictions provided by the Bye-laws of the Notified Area Committee Civil Station, Delhi, for the time being in force.
- (b) Permission for laying out means of access reasonably required for any purpose shall neither be unreasonably withheld, nor made subject to unreasonable conditions; and in the case of means of access required for agricultural purposes, shall neither be withheld nor be made subject to any conditions save such as may be necessary for securing that the means of access shall be used for agricultural purposes only."

Mr. M. S. Aney (Berar : Non-Muhammadian) : Sir, my Honourable friend has moved this amendment with a view to add a proviso to sub-clause (2) of clause 5. So far as part (b) of the proviso is concerned, I have nothing to say and I agree that there should be a proviso like that. But part (a) of the proviso is of a somewhat ambiguous nature. I really do not understand what the Honourable Member exactly means when he lays down simply that the officer should not unreasonably withhold the permission. I do not understand what directions we are giving to the officer. It is sweetly vague and in my opinion even meaningless to some extent.

Qazi Muhammad Ahmad Kazmi : It is taken from the English law.

Mr. M. S. Aney : It may be that the people there are more reasonable and we are here dealing with unreasonable officers. If we really want to say that they should not do something in certain conditions, it is better to specify the conditions; but to leave it in this vague way is, in my view, not giving any tangible basis either for the officer to act upon or for the party to complain. That is one objection, in my opinion.

The second point on which I find it somewhat difficult to agree with my Honourable friend is this : instead of saying what should be the conditions that should be imposed, we are leaving it to be dependent upon some other body doing it for their own purpose. The Notified Area Committee may look to their own conditions and may change those conditions in accordance with their own requirements, and we are saying here that

[Mr. M. S. Aney.]

we feel confident that the byelaws that a certain Notified Area Committee may frame for their own purposes of development of Delhi would suit us and we only want to say that whatever the conditions may be that they fix for their purpose should hold good for the purpose of granting permission and controlling buildings in this controlled area

Qazi Muhammad Ahmad Kazmi: "shall not exceed".

Mr. M. S. Aney: That is the limit which is laid down. For a responsible House like this, it is not fair to leave matters dependent entirely upon the decision of a committee whose personnel we do not know, whose requirements may be quite different from the requirements of this particular purpose. If we think that certain conditions are necessary and we cannot frame them today, we may make a condition here that certain powers should be given to the executive authority to frame rules laying down the conditions and those rules should not come into force unless and until they are placed before this House. I could have understood a suggestion like that, that the control which this House exercises over this Act should not be relaxed; and if they suspect that its administration will depend upon the framing of certain proper conditions, then we may even go to the length of saying that such conditions as the local authority may deem necessary for the purpose of enforcing this particular clause should not be given effect to unless they are placed on the table of this House. If my Honourable friend had made some such suggestion, I think it would have been in conformity with the principle which we have adopted in some other Acts before. But this amendment as it stands is a new departure in legislation: that is all I have to say. I recognise the desirability of having some conditions imposed, but to leave it in this vague way will not serve the purpose that my friend has in view.

Mr. Muhammad Azhar Ali: I think, Sir, after hearing the Government we may be able and amenable to withdraw this amendment or discuss it further. I would like the Government to give out its own mind about these amendments.

Mr. J. D. Tyson: Sir, this amendment seeks to add two provisos to sub-clause (2) and coupled with it there is a later amendment to delete sub-clause (5). Quite frankly, we very much prefer our own draft of the Bill and we cannot accept these two provisos (a) and (b) to sub-clause (2). So far as existing buildings are concerned, we have dealt with them in our sub-clause (5). There is a saving there to protect rights as regards existing buildings. As regards new buildings, we are proposing to apply this Act,—except as regards brickfields which will be dealt with all over Delhi province,—outside municipal limits. I entirely agree, if I may say so, with what has fallen from my friend, Mr. Aney, that it would be misconceived to make the condition applicable to the area we have in view dependent upon the conditions from time to time in force in a municipal or notified area. Generally speaking, we think that the restrictions that will be necessary under this Act and the conditions to be imposed under this Act will be less stringent than those which are regarded as necessary inside a municipal area; but we could not bind the Chief Commissioner at this stage to any such rigid frame work.

The conditions to be laid down when permission is granted to erect a building subject to conditions will generally be of a similar nature to the conditions imposed in the municipalities but we cannot go further than that.

As regards the proposed proviso (b), there again we think that that proviso, which is taken from the English Act, would be unworkable and impracticable in the conditions obtaining in the area round Delhi. We are agreeing to an amendment later which will weaken to some extent our control of means of access, and we cannot accept a proviso which would give us practically no control at all over means of access, ostensibly for agricultural purposes, but possibly for other purposes. I am afraid we cannot accept this amendment.

Qazi Muhammad Ahmad Kazmi: In view of the assurance that has been given by my Honourable friend, Mr. Tyson, I would not press this amendment and ask for leave of the House to withdraw it.

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

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Pandit Nilakantha Das: Sir, I move :

“That in sub-clause (3) of clause 5 of the Bill, after the brackets and the figure ‘(2)’ the words ‘or refuses to grant permission under clause (b) of sub-section (2)’, and after the word ‘imposed’, the words ‘or the grounds of refusal’ be respectively inserted.”

This is really meant to supply an omission. I want that the conditions to be imposed or the grounds of refusal should be such as are reasonable having regard to the circumstances of the case. Even when the permission is refused the man may apply to the Deputy Commissioner or even to the Chief Commissioner. So even in the case of refusal there must be grounds which must be reasonable. This is a formal amendment merely to supply an omission. Sir, I move.

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

“That in sub-clause (3) of clause 5 of the Bill, after the brackets and the figure ‘(2)’ the words ‘or refuses to grant permission under clause (b) of sub-section (2)’, and after the word ‘imposed’, the words ‘or the grounds of refusal’ be respectively inserted.”

Mr. J. D. Tyson: Sir, yes, the omission was an intentional one, but we will accept the amendment.

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

“That in sub-clause (3) of clause 5 of the Bill, after the brackets and the figure ‘(2)’ the words ‘or refuses to grant permission under clause (b) of sub-section (2)’, and after the word ‘imposed’, the words ‘or the grounds of refusal’ be respectively inserted.”

The motion was adopted.

Qazi Muhammad Ahmad Kazmi: Sir, I move :

"That to clause 5 of the Bill the following new sub-clauses be added :

- '(6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner no order in writing has been passed by the Deputy Commissioner permission shall be deemed to have been given without the imposition of any conditions.
- (7) The Deputy Commissioner shall maintain a register with sufficient particulars of all permissions given by him under this section and the register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom'."

These clauses are very necessary to be incorporated in the Bill, and so I move.

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

"That to clause 5 of the Bill the following new sub-clauses be added :

- '(6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner no order in writing has been passed by the Deputy Commissioner permission shall be deemed to have been given without the imposition of any conditions.
- (7) The Deputy Commissioner shall maintain a register with sufficient particulars of all permissions given by him under this section and the register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom'."

Mr. J. D. Tyson: I accept that amendment, Sir.

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

"That to clause 5 of the Bill the following new sub-clauses be added :

- '(6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner no order in writing has been passed by the Deputy Commissioner permission shall be deemed to have been given without the imposition of any conditions.
- (7) The Deputy Commissioner shall maintain a register with sufficient particulars of all permissions given by him under this section and the register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom'."

The motion was adopted.

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

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

The motion was adopted.

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

Clause 6 was added to the Bill.

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

"That clause 7 stand part of the Bill."

Qazi Muhammad Ahmad Kazmi: Sir, I move : .

"That in sub-clause (1) of clause 7 of the Bill, the words 'or any other' be omitted."

Sir, my idea is that wherever this Act is to be applied, it should not be applied to places where a similar Act is already in force. I take it that it is not the intention of the Government to apply this Act also to such

areas where there is already some other Act similar to this in force, like the Improvement Trust Act or the Municipalities Act. If that assurance is given, I shall be satisfied and I shall not press my amendment.

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

"That in sub-clause (1) of clause 7 of the Bill, the words 'or any other' be omitted."

Mr. J. D. Tyson: Sir, I am afraid I must oppose this amendment. This is a special Bill to do a special thing, something new, and we have provided remedies and safeguards in the Bill. If it is agreed that for the purpose we have in view in the Bill that no compensation should in specified circumstances be claimable, there can be no reason for allowing compensation to be claimed under any other Act. I think what the Honourable Member fears is that we may be intending to apply the "control of buildings" part of this Bill inside municipal areas and notified areas. We have no such intention. We are intending to apply the "excavations" part of the Bill to brickfields all over the province, but the power to declare an area to be a controlled area will not be used in municipal areas or in any area for which the Delhi Improvement Trust has framed a development scheme. I think that perhaps meets my Honourable friend's apprehension.

Qazi Muhammad Ahmad Kazmi: Also not to places for which schemes of town improvement are ordinarily in force?

Mr. J. D. Tyson: Yes, to any area for which the Delhi Improvement Trust has a development scheme.

Qazi Muhammad Ahmad Kazmi: Sir, in view of the assurance, I beg leave of the House to withdraw the amendment.

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

Qazi Muhammad Ahmad Kazmi: Sir, I beg to move :

"That the proviso to sub-clause (2) of clause 7 of the Bill be omitted."

In moving this amendment I want to bring to the notice of the Government how this clause will operate prejudicially. I am very sorry to find that Government have not seen their way to accept this amendment. The proviso to sub-clause (2) says :

"Provided that no claim for compensation may be made under this sub-section in respect of any land situated in a controlled area adjoining a road which has been constructed after the commencement of this Act or which was not at the commencement of this Act a road within the meaning of clause (4) of section 2."

I have already submitted that under the present Bill compensation is contemplated only in cases where there has been a refusal by the authorities, but none in cases where sanction is given subject to conditions—however hard the conditions may be. In case of refusal some sort of compensation is provided, but in case of future roads even that compensation will not be given. The justification that is advanced for this proviso is that, because the Government will construct a new road, therefore, *ipso facto* they will get control over the lands which are situated near about that road, and will get the power of controlling constructions on it,—not only controlling but even stopping constructions on it,—without any

[Qazi Muhammad Ahmad Kazmi.]

liability to pay compensation. I fail to see the justification of such a claim. Because you have constructed a road near my field, therefore you have got the right to stop any constructions on that plot of mine, and you are not prepared to pay any compensation—I say the law should not be more hard in case of future roads than it is in the case of the present road. When you have accepted the principle that in case of a controlled area, over the existing road, you will have a right to stop constructions provided you are prepared to pay compensation, I see no justification for saying that in case of future roads you will have the right of refusing sanction to make any constructions and still pay no compensation.

The plea advanced by Government is that by constructing the road they have incurred a certain amount of expense, they have increased the value of the adjoining land and so they are not prepared to pay any compensation. My contention is, if I am not allowed to construct on my land after the new road has been constructed, what increase in the value of my land would take place? It will continue to be an agricultural land just as it was before. So, there would be no question of any increment in the value of the land, for constructing on which you have got the absolute right of refusing permission to me. Supposing Government have incurred a certain amount of expense on the construction of the road, then they may calculate the amount that has been spent on the construction of that road, divide that amount on the total controlled area and make it a condition precedent for any person who wants to make a construction on that site, to pay the proportionate amount that comes to his area to the Government before he is allowed to make any construction. Any such scheme would help the persons who are living on both sides of the roads. But the present idea of the Government is that they would be making any number of roads and would get absolute control over the fields of any persons and those persons would never be entitled to any damages or any compensation in spite of the fact that constructions are refused. This means a compulsory acquisition of land without payment of any price or compensation. I see absolutely no reason or justification for such a hard rule—that merely because you have been kind enough to provide a road near my plot, you have got the right of absolute control over my plot of land and would not let me construct any buildings and would not be prepared to pay compensation and I would not be in a position ever to claim any compensation from you. By merely making a road you get such a right which will deprive the proprietors of land of their proprietary right to deal with it as they like. I see no justification whatever for this provision and I would press for its deletion.

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

“That the proviso to sub-clause (2) of clause 7 of the Bill be omitted.”

Mr. J. D. Tyson: I appreciate the point that my Honourable friend has made, that when a road is made through one of these country areas we shall have control; but I cannot agree with him that what we are proposing to do amounts to compulsory acquisition. The party will still be able to use the land for the purpose that he at present uses it for. Our objection to the amendment and our argument in favour of the clause, as it stands, is that ordinarily the use of the land for building purposes will

be rendered practicable only by the making of a road. It is unreasonable to require public funds to bear not only the cost of constructing the road but also the cost of compensating the person for not allowing him to build a house. This clause really is the principal line of defence against speculative acquisition of land outside the perimeter of the Delhi municipal area, and it is for that reason that I am afraid I must oppose the amendment.

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

"That the proviso to sub-clause (2) of clause 7 of the Bill be omitted."

The motion was negatived.

Mr. Muhammad Azhar Ali : Sir, I move :

"That to sub-clause (3) of clause 7 of the Bill the following proviso be added :

—(I should like, with your permission, to add the figures 1894, after the words 'Land Acquisition Act', and I hope the House will have no objection to this)—

'Provided that in case the Chief Commissioner decides to acquire the land, the claimant shall be entitled to be repaid by the acquiring authority the amount of expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and in default of agreement such amount shall be determined by the authority deciding the value of the land in the proceedings under the Land Acquisition Act, 1894.'

I do not want to make a speech. I hope the Government will accept the amendment.

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

"That to sub-clause (3) of clause 7 of the Bill the following proviso be added :

'Provided that in case the Chief Commissioner decides to acquire the land, the claimant shall be entitled to be repaid by the acquiring authority the amount of expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and in default of agreement such amount shall be determined by the authority deciding the value of the land in the proceedings under the Land Acquisition Act, 1894.'

Mr. J. D. Tyson : I have no objection to that.

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

"That to sub-clause (3) of clause 7 of the Bill the following proviso be added :

'Provided that in case the Chief Commissioner decides to acquire the land, the claimant shall be entitled to be repaid by the acquiring authority the amount of expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and in default of agreement such amount shall be determined by the authority deciding the value of the land in the proceedings under the Land Acquisition Act, 1894.'

The motion was adopted.

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

"That clause 8 stand part of the Bill."

Mr. Muhammad Azhar Ali: Sir, I move :

"That in part (iii) of clause 8 of the Bill, after the words 'as though' the words 'no declaration under section 3 (1) had been made in respect of the area in which it is situated and' be inserted."

I must say here that during the course of our discussions with Government, we found that Government will perhaps be agreeable to it and if there is an assurance on the part of Government, I need not say anything more.

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

"That in part (iii) of clause 8 of the Bill, after the words 'as though' the words 'no declaration under section 3 (1) had been made in respect of the area in which it is situated and' be inserted."

Mr. J. D. Tyson: Sir, I have no objection.

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

"That in part (iii) of clause 8 of the Bill, after the words 'as though' the words 'no declaration under section 3 (1) had been made in respect of the area in which it is situated and' be inserted."

The motion was adopted.

Qazi Muhammad Ahmad Kazmi: Sir, I move :

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

This clause (iv) will come into operation on the acquisition of land. It is against the provisions of the Land Acquisition Act; I propose its deletion and move this amendment.

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

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

Mr. J. D. Tyson: We agree to that. I may say, it is a considerable concession.

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

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

The motion was adopted.

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

Clauses 9, 10, 11, 12, 13 and 14 were added to the Bill.

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

"That clause 15 stand part of the Bill."

Syed Ghulam Bhik Nairang: Sir, Mr. Ghani has become suddenly ill. He was to move Amendments Nos. 22 and 23. I am moving No. 23. I have submitted an amendment in my own name, identical in terms, and I trust my amendment has been circulated.

Mr. Deputy President (Mr. Akhil Chandra Datta): The Honourable Member can move it.

Syed Ghulam Bhik Nairang: Sir, I move:

"That in sub-clause (b) of clause 15 of the Bill, after the word 'cenotaph' the words 'or of a wall enclosing a graveyard' be inserted, and for the words 'such building' the words 'such place of worship, tomb, cenotaph or graveyard' be substituted."

Mr. Lalchand Navalrai: Sir, I have an amendment to clause 15. If I move it, both amendments may be taken together.

Mr. Deputy President (Mr. Akhil Chandra Datta): Let this be moved first.

Syed Ghulam Bhik Nairang: The amendment is self-explanatory, and I do not think any explanation is needed. I also expect Government to show a favourable attitude towards this amendment.

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

"That in sub-clause (b) of clause 15 of the Bill, after the word 'cenotaph' the words 'or of a wall enclosing a graveyard' be inserted, and for the words 'such building' the words 'such place of worship, tomb, cenotaph or graveyard' be substituted."

Mr. M. S. Aney: The amendment which my learned friend has moved is intended to add something more to the places of worship. Tomb or cenotaph—I think these words are inserted there. I want to make only one point clear. In the places mentioned here, I do not find mention of the term "samadhi" which is a Hindu tomb, which holds the remains of some saint or saintly person respected in the vicinity, and there are places like that.

Syed Ghulam Bhik Nairang: It was thought that cenotaph would cover that.

Mr. M. S. Aney: I do not know. I thought the words mentioned here are mainly identified with the tombs of Muhammadan saints
 3 P.M. and so the tombs of the Hindus may not be included in the sense of the word 'tomb'. My friend here has brought the dictionary. The dictionary meaning indicates that "cenotaph" refers to some kind of construction in memory of some man, which may not hold a dead body. If that is so, the case of the Hindu *samadhi* goes by default. Neither the word "tomb" may be understood to mean that nor the word "cenotaph" can be taken to represent it, but that was not the idea of the Select Committee; their idea was to include that, and no specific mention was done under the impression that it is already included in one of the terms. I think it is probable that the Honourable Member would have no objection to the specific mention of the word "*samadhi*" itself there after the word "tomb" to remove any misunderstanding in this matter. I would, therefore, if you permit, and if my Honourable friend the Education Secretary has no objection, like to add the word "*samadhi*" immediately after the word "tomb". That was the understanding on which the Select Committee framed the clause, but if we find that the terminology is defective, I hope he would have no objection to that addition.

Mr. J. D. Tyson: Sir, we did insert the word "cenotaph" with that idea, and I shall take no technical objection to the proposed addition.

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

"That in sub-clause (b) of clause 15 of the Bill, after the word 'cenotaph' the words 'or of a wall enclosing a graveyard' be inserted, and for the words 'such building' the words 'such place of worship, tomb, *samadhi*, cenotaph or graveyard' be substituted."

Mr. Lalchand Navalrai: Sir, I have got an amendment with regard to the wall enclosing the *samadhi* or the cenotaph; and as my Honourable friend, Mr. Abdul Ghani, put in also an amendment in which he said that the graveyard and the wall enclosing it should also be exempted, and now when the word "cenotaph" is there and it is being added to, therefore, I say my amendment wants that any wall enclosing the cenotaph or *samadhi* should also be exempted.

Mr. Deputy President (Mr. Akhil Chandra Datta): We are now on this amendment. The question is:

"That in sub-clause (b) of clause 15 of the Bill, after the word 'cenotaph' the words 'or of a wall enclosing a graveyard' be inserted, and for the words 'such building' the words 'such place of worship, tomb, *samadhi*, cenotaph or graveyard' be substituted."

The motion was adopted.

Mr. Lalchand Navalrai: I should like, Sir, now to move my amendment No. 3 in Supplementary List No. 2.

An Honourable Member: Barred.

Mr. Lalchand Navalrai: I do not know how it can be barred, when it is only with regard to the graveyard enclosure

Sir George Spence (Secretary, Legislative Department): May I submit how the Honourable Member should move this? The House has already adopted Mr. Abdul Ghani's amendment putting in after the word "cenotaph" the words "or of a wall enclosing a graveyard". We cannot put in Mr. Lalchand Navalrai's words again after the word "cenotaph". The only possibility, if you permit him to do it, is—he could move to insert after the word "graveyard", "place of worship, cenotaph or *samadhi*". If you are prepared to allow him to move an amendment which might more properly have been moved as an amendment to the former amendment

Mr. Lalchand Navalrai: I agree to that, Sir. I move:

"That in sub-clause (b) of clause 15 of the Bill, as amended by amendment No. 23, after the word 'graveyard' where it occurs for the first time, the words 'place of worship, cenotaph or *samadhi*' be added."

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

"That in sub-clause (b) of clause 15 of the Bill, as amended by amendment No. 23, after the word 'graveyard' where it occurs for the first time, the words 'place of worship, cenotaph or *samadhi*' be added."

Mr. J. D. Tyson: I have no objection, Sir.

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

"That in sub-clause (b) of clause 15 of the Bill, as amended by amendment No. 23, after the word 'graveyard' where it occurs for the first time, the words 'place of worship, cenotaph or *samadhi*' be added."

The motion was adopted.

Qazi Muhammad Ahmad Kazmi: Sir, I move:

"That to clause 15 of the Bill the following new sub-clause be added:

'(d) the construction of an unmetalled road intended to give access to land solely for agricultural purposes'."

This is only to provide access to agricultural land.

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

"That to clause 15 of the Bill the following new sub-clause be added:

'(d) the construction of an unmetalled road intended to give access to land solely for agricultural purposes'."

Mr. J. D. Tyson: Sir, we accept that amendment.

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

"That to clause 15 of the Bill the following new sub-clause be added:

'(d) the construction of an unmetalled road intended to give access to land solely for agricultural purposes'."

The motion was adopted.

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

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

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

Qazi Muhammad Ahmad Kazmi: Sir, I move:

"That after sub-clause (2) of clause 16 of the Bill the following sub-clause be added:

'(3) All rules made under this section shall be subject to the condition of previous publication, which publication shall be made in the official Gazette and in at least two newspapers printed in a language other than English; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than two months from date on which the draft of the proposed rules was published'."

This amendment provides only for the publication of the rules that will come into force and I hope the Government will accept it.

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

"That after sub-clause (2) of clause 16 of the Bill the following sub-clause be added:

'(3) All rules made under this section shall be subject to the condition of previous publication, which publication shall be made in the official Gazette and in at least two newspapers printed in a language other than English; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than two months from date on which the draft of the proposed rules was published'."

Mr. J. D. Tyson: I have no objection to that amendment.

Syed Ghulam Bhik Nairang: Sir, may I point out, before the amendment is put, that the expression "in a language other than English" is vague. It may be Latin or Greek. It should be made clear, if possible. A word may be inserted there so that it may become quite clear.

Mr. J. D. Tyson: We cannot very well say an "Indian language other than English" although English is perhaps now one of the languages of India. I am prepared to accept the amendment as it stands. I think we shall get into difficulties if we speak about an Indian language other than English. There is a reference to two newspapers and we do not really have newspapers here in Latin or Greek or Arabic perhaps. I think the meaning is clear.

Maulana Zafar Ali Khan (East Central Punjab: Muhammadan): There are newspapers in Arabic and Persian. So, Arabic and Persian won't be understood.

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

"That after sub-clause (2) of clause 16 of the Bill the following sub-clause be added:

'(3) All rules made under this section shall be subject to the condition of previous publication, which publication shall be made in the official Gazette and in at least two newspapers printed in a language other than English; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than two months from date on which the draft of the proposed rules was published.'"

The motion was adopted.

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

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

"That clause 2 stand part of the Bill."

Syed Ghulam Bhik Nairang: Sir, I move amendment No. 4 on the Consolidated List. I have also given notice of a similar amendment in my own name. It runs thus:

"That after sub-clause (4) of clause 2 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-numbered accordingly:

'(5) 'place of worship' includes an *imambara*, *dargah*, *karbala* or *takya*.'"

This is intended only to clarify the idea of protecting the places of worship. A place of worship is already defined and we further clarify it by saying that a place of worship also includes *imambara*, etc.

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

"That after sub-clause (4) of clause 2 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-numbered accordingly:

'(5) 'place of worship' includes an *imambara*, *dargah*, *karbala* or *takya*.'"

Mr. J. D. Tyson: Sir, I have no objection to that amendment.

Pandit Nilakantha Das: May I ask if it also includes the Hindu places of worship?

Mr. Deputy President (Mr. Akhil Chandra Datta): Yes, it includes all places of worship.

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

"That after sub-clause (4) of clause 2 of the Bill, the following new sub-clause be inserted and the subsequent sub-clauses be re-numbered accordingly:

'(5) 'place of worship' includes an *imambara*, *dargah*, *karbala* or *takya*.'"

The motion was adopted.

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

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

The motion was adopted.

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

Clause 1 was added to the Bill.

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

"That the Title and the Preamble stand part of the Bill."

Pandit Nilakantha Das: Sir, I move:

"That in the long Title of the Bill, for the words 'for purposes other than agricultural purposes' the following be substituted:

'outside the Municipal limits of Delhi and New Delhi for the purpose of development along frontages of roads and of roadside areas and purposes connected therewith'."

"That in the Preamble to the Bill, for the words 'for purposes other than agricultural purposes' the following be substituted:

'outside the Municipal limits of Delhi and New Delhi for the purpose of development along frontages of roads and of roadside areas and purposes connected therewith'."

Sir, my object in moving these two amendments is to make the Title and the Preamble specific. 'For purposes other than agricultural purposes' this is quite independent, but according to the Statement of Objects and Reasons of the original Bill, there are two things for which this Bill is meant. The first is to develop roads and roadside areas, the other is to prevent brick fields and other things coming in so that malaria breeding mosquitoes and other disease carrying insects may not breed. Here "for the purpose of developing frontages of roads and roadside areas" covers what is intended in the first paragraph of Statement of Objects and Reasons. As to the second paragraph "purpose connected therewith", that will do for the specific section is there. If you develop the City, you concentrate upon developing the roads and roadside areas, and here our roadside area is so wide that it practically covers the entire town

[Pandit Nilakantha Das.]

or City, and if at a distance from where the mosquitoes and other insects come to the City the areas are not properly developed, then the development of frontages of roads and roadside areas will be practically useless. The City will not be developed, nor will there be any meaning in developing roads and roadside areas. So there is "for the purposes connected therewith". In the English Act only the frontages of roads and roadside areas have been mentioned, but in the clause agricultural lands have been exempted just as in this Bill. So, there will be no difficulty if you simply say 'purpose connected therewith'. There is no difficulty in including the clause which prevents the brick kilns and other such excavations. By making the Title and the Preamble specific like this, you know that the Deputy Commissioner or the Chief Commissioner, whoever may give permission or withhold permission may know how to assign reasons and if it goes to any Court for compensation the whole thing may be considered again and therefore this Title and the Preamble will help the Court in judging the matter, in considering whether the grounds are reasonable and whether the damage is properly assessed or the land value is properly fixed and so on, Sir, I move.

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

"That in the long Title of the Bill, for the words 'for purposes other than agricultural purposes' the following be substituted:

'outside the Municipal limits of Delhi and New Delhi for the purpose of development along frontages of roads and of roadside areas and purposes connected therewith'."

"That in the Preamble to the Bill, for the words 'for purposes other than agricultural purposes' the following be substituted:

'outside the Municipal limits of Delhi and New Delhi for the purpose of development along frontages of roads and of roadside areas and purposes connected therewith'."

Mr. J. D. Tyson: Sir, I should like to have met my Honourable friend's wishes over this, but I feel it rather dangerous. We cannot limit the scope of the Bill to the area outside the municipal limits of Delhi or New Delhi or to the roadside areas, for the reason that he has mentioned,—that a very important object of this Bill is to control all excavations, more particularly, brick fields. We may have to use these powers within the municipal area so far as brickfields go. I do not think the words 'purposes connected therewith' as applied to development along frontages of roads and roadside areas will give us those powers. I am afraid I must oppose these amendments.

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

"That in the long Title of the Bill, for the words 'for purposes other than agricultural purposes' the following be substituted:

'outside the Municipal limits of Delhi and New Delhi for the purpose of development along frontages of roads and of roadside areas and purposes connected therewith'."

"That in the Preamble to the Bill, for the words 'for purposes other than agricultural purposes' the following be substituted:

'outside the Municipal limits of Delhi and New Delhi for the purpose of development along frontages of roads and of roadside areas and purposes connected therewith'."

The motion was negatived.

The Title and the Preamble were added to the Bill.

Mr. J. D. Tyson: Sir, in moving:

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

I have really nothing to say now on the merits of the Bill, but I should like to thank the House for the very businesslike and helpful way in which they have assisted me in piloting this measure. Sir, I move.

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

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

Mr. M. S. Aney: Sir, this Bill has now gone through without much difficulty and I am glad to find that my Honourable friend, the Education Secretary, was able to meet the wishes of the non-official Members of this House on many points. The Bill threatened at the beginning to be a controversial one but it was turned into a non-controversial measure and, therefore, there was not much difficulty in getting it passed here. I have only one observation to make and that is that we have laid down one principle here which I think is somewhat more comprehensive than one would like it to be. With regard to the phrase "person interested" the House has carried an amendment that a person will be deemed to be interested in a mosque, *imambara*, *dargah*, etc., "if he is a Muslim". What I want to bring out is this. I know that a place of worship is not the property of any particular individual, nor can it be allowed to be treated as the property of any particular family, so to speak. It is the community really that is interested in it and in its proper maintenance; but in my opinion the words "if he is a Muslim" carry matters rather too far. There should have been some territorial limit laid down, that the Muslim must belong to a place within the limits of the Delhi province or something of that kind. A person coming from Bokhara tomorrow cannot in any sense be interested in that place of worship; at least our legislation should have taken care to see that when we are dealing with certain kinds of property situated within the limits of Delhi province, the communal interest should be confined to residents within the limits of that territory who profess a particular religion. To allow any person living beyond the limits of that to come within the definition of "person interested" is to make that phrase too comprehensive. I have to say nothing particularly now so far as the amendment is concerned. I do not think that this is the proper way to allow an important point like that to be placed in any Act. It is giving a kind of legislative sanction to the widening, beyond reasonable limits, of the meaning of the term "person interested", which ought not to be done. That is all that I have to say about this point.

As regards the other points I am glad to find that most of the objections that were taken on this Bill and which were thought to be rather serious have been met and the Bill will, I believe, be found in actual administration to be useful for the purpose which the authors had in view.

Syed Ghulam Bhik Nairang: Sir, I find that in piloting this Bill through this House my Honourable friend, the Education Secretary, was as good as his word. He told us yesterday that as far as the amendments were concerned he would have to stand firm and that he would make no sporting offers, but that he would show us what we talked of yesterday at great

[Syed Ghulam Bhik Nairang.]

length, viz., sweet reasonableness. Viewed as a whole I think the result of the whole thing has been very satisfactory and very successful. Mr. Tyson was able to meet us half way on the more important points connected with the Bill, and in the few instances in which he thought it necessary or advisable to stand firm we met him half way. Anyhow we thought from the very beginning that as we had to deal with a gentleman of Mr. Tyson's qualities we need not fear anything unfair to happen and the whole thing has been a matter of straight dealing and very frank exchange of views. I must, therefore, offer my very warm congratulations to Mr. Tyson on the way he has successfully carried through the measure with which he was entrusted.

After having done so I must as in duty bound call attention to the very peculiar circumstances and the very peculiar way in which this measure was introduced and carried through. It will be recalled that in the beginning when there was a motion for circulation tabled by one of my Honourable colleagues, it was urged that a measure of this kind which appeared most likely to affect the interests of the general public of Delhi province ought to be circulated at least in that province in order to elicit public opinion. But it was pointed out by the Honourable Member for Education, Health and Lands that that would not serve any useful purpose and eventually the motion for circulation was negatived.

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

Anyhow, that stage has passed and the Bill is now, so far as this House is concerned, a measure which has been adopted by the House. But as this measure really amounts to setting up practically an extra-mural municipality administered not by a body of elected members' corporation but by a single officer, the Deputy Commissioner of Delhi who will be, so to say, the corporation sole, I hope the rules which Government or rather the Chief Commissioner of Delhi is going to frame under section 16 of this Act will be such as to give general satisfaction to the public, that the way in which the powers vested in the Deputy Commissioner and the Chief Commissioner under this Act will be exercised shall be such as not in any way to prejudice any of the interests concerned, and, in practice, to be quite as thoroughly calculated to consider all valid rights and objections and interests as the proceedings under at least the Municipal Act. This should be ensured so that it may not be said later on: "Here is the result of a measure which was carried by a Government without allowing the public to know anything about it at the fag end of a Session of the Assembly. It was rushed through in spite of the protests of the elected Members that it should be circulated and we were not allowed to have an opportunity of expressing our opinion." The way in which this law is going to be administered should be such as to leave no room for complaint.

I do not know if my Honourable friend, Mr. Aney, was very opportune in touching upon a point in the course of his speech in this third reading of the Bill about the definition of the word "interested", where the amendment passed in this House in speaking of persons interested about Muslims *wakfs* and places of worship lays down that in the case of such places of worship any Muslim will be an interested person. The point

really is so difficult and so abstruse as to be incapable of satisfactory discussion in a short speech in the course of the third reading of the Bill. Otherwise, I would have ventured to put before the House some of the authentic views of the Islamic jurists on that point; but I assure the House and I assure my friend, Mr. Aney, that the amendment as passed represents correctly what is viewed in Islamic law as a person interested in a place of worship. There may be radical differences between the conception of a person interested in a place of worship under a system of religion which confines itself within the four corners of a particular country like the religion of our friends, the Hindus, and under the religion of a people who do not believe in any geographical limits or any racial distinctions and who say:

Chin-o-Arab hamará ; Hindústán hamará ;
Muslim hain ham ; Watan hai sárá jahán hamará.

China and Arabia are ours; India is ours; We are Muslims; the whole world is our motherland. The other day in the course of my speech on the Finance Bill when speaking of the mosques in Delhi which had been at one time confiscated by Government and later on restored to the Muslims, I explained how that act of so-called confiscation was absolutely illegal and unjustifiable and how there was utter absence of any ground for confiscation because the mosques neither belonged to the Emperor Bahadur Shah nor to the Muslim community of Delhi, nor to any community or person who had been guilty of any treasonable or rebellious conduct; and I said that any Muslim hailing from any part of the world had a right to use those mosques as much as any resident of Delhi. I explained that at length. Any how, this is a point which as far as I am able to think Mr. Aney need not have touched in the course of his speech

Mr. M. S. Aney: I was right in touching upon it: you may not like it, that is another matter.

Syed Ghulam Bhik Nairang: You were not. If you like to have a discussion on that point, you can have it with me on a more suitable occasion, but you were absolutely wrong

Mr. M. S. Aney: You may call it wrong, but there is nothing wrong in my raising that point.

Syed Ghulam Bhik Nairang: Anyhow it was only incidentally raised by Mr. Aney during the course of his speech and, therefore, I replied to it in passing only: it is not of course relevant to the stage of third reading. With these few words I support the motion that the Bill be passed.

Some Honourable Members: The question may now be put.

Qazi Muhammad Ahmad Kazmi: Sir, it is only a few words that I want to say. I know that the Bill was brought at the fag end of the Session and I am speaking at the fag end of the day; and now that Honourable Members are preparing to depart from the scene of their labours and the work is almost over, I do not want to detain them any more. I would only thank the Honourable Member for having met us so far even.

[Qazi Muhammad Ahmad Kazmi.]

I do not wish to strike a note of discord at this time when we should be thanking each other and the authors of the Bill, Messrs. Tyson and Oulsnam, still I feel I must say before departing that the Honourable Member in charge of the Bill might reconsider his decision so far as the retention of proviso of sub-section 2 of section 7 is concerned and hope he will move an amendment soon in order to remove the great injustice caused by that proviso and be prepared to provide compensation in suitable cases and generally explore the position to remove the grievances. With these words I support the motion.

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

“That the Bill, as amended, be passed.”

The motion was adopted.

The Assembly then adjourned *sine die*.

CORRIGENDA.

In the Legislative Assembly Debates, Budget Session, 1941,—

- (1) Volume I, No. 3, dated the 13th February, 1941, page 165, line 8, *delete* the bracketted portion and *put* a fullstop instead of a comma after "1929";
- (2) Volume I, No. 4, dated the 14th February, 1941, page 205, in the subject heading to starred question No. 69, for "Collison" *read* "Collision";
- (3) Volume I, No. 5, dated the 17th February, 1941,—
 - (i) Page 308, in the subject heading to unstarred question No. 11, for "Western W. I. Company" *read* "Western India Match Company";
 - (ii) Page 309, line 23 from the bottom, for the word "Handicapped" *read* "handicapped";
 - (iii) page 310, last line, for "nemy" *read* "enemy"; and
 - (iv) page 313, line 19, for "roale" *read* "scale";
- (4) Volume I, No. 11, dated the 26th February, 1941, page 713, line 5 from the bottom for "purshasing" *read* "purchasing";
- (5) Volume I, No. 12, dated the 27th February, 1941, page 755, line 14, for "parmanent" *read* "permanent";
- (6) Volume II, No. 1, dated the 28th February, 1941,—
 - (i) page 829, line 3, for "Western W. I. Company" *read* "Western India Match Company"; and
 - (ii) page 846, line 3 from the bottom, for the word "Accident" *read* "accident";
- (7) Volume II, No. 4, dated the 5th March, 1941, page 1058, line 13, *insert* "on" *before* "a railway";
- (8) Volume II, No. 7, dated the 10th March, 1941,—
 - (i) page 1191, reply to part (b) of starred question No. 292, for existing figures "68" *read* "63";
 - (ii) page 1214, line 26, *delete* the word "that" after the word "with"; and
 - (iii) page 1227, line 22, for the word "likely" *read* "liking";
- (9) Volume II, No. 9, dated the 14th March, 1941, page 1357, line 15, for the word "would" *read* "must";
- (10) Volume II, No. 11, dated the 17th March, 1941,—
 - (i) page 1529, line 20, for "the transfer of the purchase of stationery stores to the Indian Stores" *substitute* "and Stationery are usually filled by promotion of Assistants. In view"; and
 - (ii) page 1546, line 19 from the bottom, *insert* the word "when" *after* "me";
- (11) Volume III, No. 1, dated the 18th March, 1941,—
 - (i) page 1622, line 7 from the bottom, for the word "Indian" *read* "Indians"; and
 - (ii) page 1624, line 11, *delete* the colon *after* the word "Member";
- (12) Volume III, No. 2, dated the 20th March, 1941,—
 - (i) page 1651, first line of subject heading to unstarred question No. 156, for "Ruards" *read* "Guards"; and