

5th November 1941

**THE
LEGISLATIVE ASSEMBLY DEBATES**

Official Report

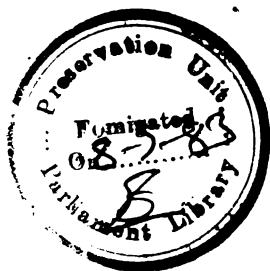
Volume IV, 1941

(27th October to 18th November, 1941)

FOURTEENTH SESSION

OF THE

**FIFTH LEGISLATIVE ASSEMBLY,
1941**



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LEGISLATIVE ASSEMBLY

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MR. L. C. BUSS, M.L.A.

SIR ABDUL HALIM GHUZNANI, M.L.A.

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

CONTENTS.

VOLUME IV—27th October to 18th November 1941.

	PAGES.		PAGES.
MONDAY, 27TH OCTOBER, 1941—		MONDAY, 27TH OCTOBER, 1941—contd.	
Members Sworn	1	The Mines Maternity Benefit Bill—Introduced	106
Starred Questions and Answers	2—17	The Weekly Holidays Bill—Introduced	106
Unstarred Questions and Answers	17—24	The Code of Criminal Procedure (Amendment) Bill—Introduced	106
Statements laid on the Table	24—68	The Code of Criminal Procedure (Second Amendment) Bill—Introduced	106
Statement made by the Honourable the President regarding the introduction of a second round for Starred Questions	69	The Indian Income-tax (Amendment) Bill—Referred to Select Committee	107—114 and 125
Motion for Adjournment re—Indo-Burma Immigration Agreement—Not moved	69	The Railways (Local Authorities' Taxation) Bill—Discussion on the motion to refer to Select Committee not concluded	125—127
Expansion of the Executive Council and the Establishment of the National Defence Council—Ruled out of order	70—71		
Release of Political Prisoners, and Detenus and an immediate Declaration for recognising India's Status as a Self-Governing Dominion—Ruled out of order	71	TUESDAY, 28TH OCTOBER, 1941—	
India's Dissociation in the Inter-allied Conferences and Allied Council to consider the Economic Post-War Problems—Leave refused	71—72	Member Sworn	129
Economic Condition of Cotton Growers—Withdrawn	72 and 114—124	Starred Questions and Answers	129—140
H. E. the Governor General's Assent to Bills	72	Unstarred Questions and Answers	140—142
Home Department Notification issued under the Registration of Foreigners Act, 1939	73	Motion for Adjournment re—Expanded Executive Council—Leave refused	142—143
Amendment to certain Rules and Forms of the Insurance Rules	73—78	Non-Release of Political Prisoners—Disallowed	143
Election of Six Non-Official Members to the Defence Consultative Committee	78—105	Occupation of Persia—Not allowed to be moved	143—144
The Indian Income-tax (Amendment) Bill—Introduced	105	Arrest and Detention of Mr. S. K. D. Paliwal—Disallowed	144
The Excess Profits Tax (Second Amendment) Bill—Introduced	105	Banning of Khaksar Volunteers—Negatived	144, 178—186
The Factories (Amendment) Bill—Introduced	105	The Delhi Masajid Bill—Substitution of the name of the Honourable Sir Sultan Ahmad in place of the Honourable Sir Muhammad Zafrullah Khan on the Joint Committee	145
		The Code of Criminal Procedure (Amendment) Bill—Not moved	145
		The Professions Tax Limitation Bill—Referred to Select Committee	146—169

	PAGES.
TUESDAY, 28TH OCTOBER, 1941—contd.	
The Hindu Marriage Disabilities Removal Bill—Motion to refer to Select Committee withdrawn	169—171
The Hindu Married Women's Right to Separate Residence and Maintenance Bill—Motion to refer to Select Committee withdrawn	171—177
The Kazis Bill—Introduced	177
The Special Marriage (Amendment) Bill—Introduced	177
The Reciprocity Bill—Introduced	177—178
The Muslim Personal Law (Shariat) Application (Amendment) Bill—Introduced	178
WEDNESDAY, 29TH OCTOBER, 1941—	
Members Sworn	187
Starred Questions and Answers	187—208
Unstarred Questions and Answers	208—09
Motion for Adjournment <i>re</i> Discontent among Detenus at the Deoli Detention Camp—Negatived	209, 243—61
Resolution <i>re</i> —Indo-Burma Immigration Agreement—Debate adjourned	210
The Atlantic Charter for a New World Order—Discussion not concluded	211—43
THURSDAY, 30TH OCTOBER, 1941	
Starred Questions and Answers	263—67
Statement by the Honourable the President <i>re</i> non-inclusion in the List of Business of matters received from the members of the Muslim League Party during the current Session	268
Nomination of the Panel of Chairmen	268
Notification under the Indian Emigration Act	268—69
Statement <i>re</i> Safety in the Building Industry	269
Election of a Member on the Standing Committee on Emigration	269—70
The Code of Civil Procedure (Amendment) Bill—Appointments to the Select Committee	270

	PAGES.
THURSDAY, 30TH OCTOBER, 1941—contd.	
The Railways (Local Authorities' Taxation) Bill—Referred to Select Committee	270—87
The Excess Profits Tax (Second Amendment) Bill—Referred to Select Committee	287—303
The Madras Port Trust (Amendment) Bill—Referred to Select Committee	304—10
The Code of Criminal Procedure (Amendment) Bill—Passed	310—11
The Code of Criminal Procedure (Second Amendment) Bill—Passed	311—12
The Factories (Amendment) Bill—Passed	312—17
Resolution <i>re</i> Amendment of the Auditor's Certificates Rules—Adopted	317—21
TUESDAY, 4TH NOVEMBER, 1941—	
Members Sworn	323
Starred Questions and Answers	323—33
Transferred Starred Questions and Answers	333—36
Statements laid on the Table	337—42
Motion for Adjournment <i>re</i> —Statement of Sir Shanmukham Chetty on Post-War Reconstruction—Ruled out of order	342—43
Failure of the Government of India to instruct Sir Shanmukham Chetty <i>re</i> the grant to India of the status of a Self-Governing Dominion—Ruled out of order	343
Assurance to grant India the status of a Self-Governing Dominion—Ruled out of order	343
Placing of the S. S. "Akbar" at the Calcutta Port to carry Haj Pilgrims—Withdrawn	343—44, 395—99
Notifications amending certain Motor Vehicles Rules	344—46
The Code of Civil Procedure (Amendment) Bill—Presentation of the Report of the Select Committee	346
The Professions Tax Limitation Bill—Presentation of the Report of the Select Committee	347

	PAGES		PAGES.
TUESDAY, 4TH NOVEMBER, 1941— <i>contd.</i>		FRIDAY, 7TH NOVEMBER, 1941— <i>contd.</i>	
The Indian Income-tax (Amendment) Bill—Presen- tation of the Report of the Select Committee	347	The Railways (Local Authori- ties' Taxation) Bill—Presen- tation of the Report of the Select Committee	476
Presentation of the Report of the Public Accounts Com- mittee	347	The Code of Civil Procedure (Amendment) Bill—Passed	476—78
The Indo-Burma Immigration Agreement and the Joint Report of the Indo-Ceylon Delegation	347—56	The Professions Tax Limita- tion Bill—Passed	478—81
Resolution <i>re</i> The Indo-Burma Immigration Agreement— Adopted as amended	356-95, 399—409	The Special Marriage (Amend- ment)—Bill—Circulated	481—87
WEDNESDAY, 5TH NOVEMBER, 1941—		The Kazie Bill—Circulated	487
Starred Questions and Ans- wers	411—17	The Reciprocity Bill—Cir- culated	487—89
Short Notice Question and Answer	417—19	The Muslim Personal Law (<i>Shariat</i>) Application (Am- endment) Bill—Circulated	489—98
Unstarred Questions and Ans- wers	419—23	The Buddha Gaya Temple Bill —Introduced	498
Motion for Adjournment <i>re</i> Statement made in the <i>Sunday News</i> of the United States of America regard- ing the Holy Prophet of Islam—Withdrawn	423—24, 455—62	The Federal Court (Supple- mental Powers) Bill—Intro- duced	498
Election of a Member to the Standing Committee on Emi- gration	424	The Code of Criminal Proce- dure (Amendment) Bill (Amendment of Sections 162, 488, and 496)—Intro- duced	498—99
Election of Members to the Defence Consultative Com- mittee	424	The Indian Penal Code (Amendment) Bill—Intro- duced	499
Committee on Petitions	424—25	MONDAY, 10TH NOVEMBER, 1941—	
The Madras Port Trust (Amendment) Bill—Presen- tation of the Report of the Select Committee	425	Starred Questions and Ans- wers	501—15
The Aligarh Muslim University (Amendment) Bill—Intro- duced	425	Unstarred Questions and Ans- wers	515—21
The Mines Maternity Benefit Bill—Passed as amended	425—55	Motion for Adjournment <i>re</i> Closing of Markets to pro- test against methods of assessing income-tax in Cal- cutta—Ruled out of order	521—22
The Excess Profits Tax (Sec- ond Amendment) Bill— Presentation of the Report of the Select Committee	462	Statement laid on the Table <i>re</i> cases in which the lowest tenders have not been accep- ted by the High Commis- sioner for India	522—25
FRIDAY, 7TH NOVEMBER, 1941—		Statements laid on the Table	526
Starred Questions and Ans- wers	463—72	The Trade Marks (Amendment) Bill—Introduced	526
Transferred Starred Questions and Answers	472—75	The Indian Companies (Amendment) Bill—Intro- duced	527
Unstarred Question and Ans- wer	475—76	The Motor Vehicles (Amend- ment) Bill—Introduced	527
		The Aligarh Muslim University (Amendment) Bill—Passed	527—28
		The Indian Income-tax (Amendment) Bill—Passed	528—63
		The Madras Port Trust (Amendment) Bill—Motion to consider adopted	564—77
		TUESDAY, 11TH NOVEMBER, 1941	
		Starred Questions and Ans- wers	579—600

	PAGES.		PAGES.
TUESDAY, 11TH NOVEMBER, 1941		FRIDAY, 14TH NOVEMBER, 1941—	
— <i>contd.</i>		Members Sworn . . .	807
Unstarred Questions and Answers	600—04	Starred Questions and Answers	807—19
The Madras Port Trust (Amendment) Bill—Passed.	605—26	Messages from the Council of State	819
The Excess Profits Tax (Second Amendment) Bill—Discussion on the consideration of clauses not concluded	626—56	The Railways (Local Authorities' Taxation) Bill—Passed as amended	820—24
Statement of Business . . .	656	The Indian Companies (Amendment) Bill—Passed.	824—26
WEDNESDAY, 12TH NOVEMBER, 1941—		The Trade Marks (Amendment) Bill—Passed as amended	826—30
Starred Questions and Answers.	657—81	The Motor Vehicles (Amendment) Bill—Referred to Select Committee	831—32
Unstarred Questions and Answers	681—83	Report of the Public Accounts Committee—Postponed	832—33
Statements laid on the Table.	683—92	Demands for Excess Grants for 1939—40	833—36
Resolution <i>re</i> —		Resolution <i>re</i> the Industrial Research Fund—Adopted .	836—73
The Atlantic Charter for a New World Order—Adopted . . .	692—708	Statement of Business . . .	873—74
Release of Political Prisoners—Postponed	708—09	MONDAY, 17TH NOVEMBER, 1941—	
Repatriation of India's Sterling Debt—Adopted as amended . . .	709—36	Starred Questions and Answers	875—82
THURSDAY, 13TH NOVEMBER, 1941—		The Mines Maternity Benefit Bill—Amendment made by the Council of State agreed to	882—84
Starred Questions and Answers	737—45	Joint Report by the Delegations from India and Ceylon—Motion adopted as amended . . .	884—933
Short Notice Questions and Answers	746—47	TUESDAY, 18TH NOVEMBER, 1941—	
Unstarred Questions and Answers	747—53	Starred Questions and Answers	935—45
Motion for Adjournment <i>re</i> Condition of Allamah Mashriqui, Khaksar Leader, at the Vellore Jail—Disallowed	753—54	Unstarred Questions and Answers	946
Excess Profits Tax (Second Amendment) Bill—Passed as amended . . .	754—75	Statements laid on the Table.	947—1013
The Railways (Local Authorities' Taxation) Bill—Discussion on the clauses not concluded . . .	776—805	Message from the Council of State	1013
		Report of the Public Accounts Committee—Postponed	1013
		Resolution <i>re</i> Release of Political Prisoners—Withdrawn	1013—57

CORRIGENDUM.

In the Legislative Assembly Debates, Budget Session, 1936, Volume I, dated the 10th February, 1936, page 471, for the subject heading "DEMAND OF SECURITY FROM THE ABHYUDAYA OF ALLAHABAD." substitute the following independent heading, namely:—

"MOTION TO DISCUSS A QUESTION OF PRIVILEGE, NAMELY, HOW FAR PRESS PUBLICATION OF A MEMBER'S SPEECH IN THE ASSEMBLY IS PRIVILEGED."

LEGISLATIVE ASSEMBLY.

Wednesday, 5th November, 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.

(Mr. President called upon Qazi Muhammad Ahmad Kazmi to put his question No. 74, which he did. The Honourable Sir Andrew Clow was not in his seat.)

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: Sir, the Honourable Member (Sir Andrew Clow) is in the Select Committee and will be coming soon.

(In the meantime, the Honourable Sir Andrew Clow occupied his seat.)

The Honourable Sir Andrew Clow: Sir, I must tender my apologies for not being in my place. I was detained in a Select Committee of this House.

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

TRANSFER OF POSTMEN AND PACKERS FROM THE LUCKNOW HEAD POST OFFICE TO OUTSTATIONS.

74. ***Qazi Muhammad Ahmad Kazmi:** (a) Has the attention of the Honourable the Communications Member been drawn to the news which appeared in the *National Herald*, dated the 16th July, 1941, morning edition, regarding the transfer of several postmen of the Lucknow Head Post Office, including that of the General Secretary of the Union, from Lucknow to outstations? If so, will Government please state the rule or rules of the *Posts and Telegraphs Manual* under which these transfers of postmen and packers have been ordered?

(b) How many postmen and packers have so far been transferred?

(c) Have they been transferred as a measure of punishment for certain acts of omission or commission on their part? If so, what are these? If not, why have they been transferred?

(d) What offices, if any, were held by each one of them in the Union of Lucknow Postmen?

(e) Is it or is it not a fact that as a rule, office-bearers of Unions should not be transferred, as otherwise the Unions cannot function?

(f) Is it or is it not a fact that all the postmen transferred are prominent members of the Lucknow Postmen's Union?

(g) Is it or is it not a fact that the character rolls and personal files of almost all these postmen and packers transferred are "good", while none of the postmen with "bad character rolls" are being removed?

(h) Have Government considered the advisability of ordering the transfers from Lucknow of postmen with "bad character rolls and personal files" and the cancellation of the transfers of those postmen and packers who have a good record?

The Honourable Sir Andrew Olow: (a) Yes. Under Rule 37 of the Post and Telegraph Manual, Volume IV, all officials of the Department are liable to be transferred in the interests of public service. That rule lays down, however, that postmen should not, except for very special reasons, be transferred from one district to another.

(b) One Sorting Postman, seven Postmen and one Packer.

(c) They were transferred in the interests of discipline of the service.

(d) and (f). One was General Secretary, two Joint Secretaries, one Assistant Secretary, one Treasurer and two were members of the Executive Committee.

(e) The Honourable Member is referred to a concession which used to be shown to Secretaries and Assistant Secretaries of Unions in the first year of their office. No such convention exists now.

(g) and (h). The transfers were made in the interests of discipline and not on the basis of personal records. The question of cancellation of the transfers does not arise.

Qazi Muhammad Ahmad Kasmi: May I ask if this question of discipline arose in connection with the activities of the Postal Union?

The Honourable Sir Andrew Olow: No, Sir, it did not arise in that connection. There was rather an unsatisfactory state of affairs in the office concerned.

Qazi Muhammad Ahmad Kasmi: Will the Honourable Member please inform us how it was that in the whole of the Executive Committee it was only the Secretary and the Assistant Secretary of the Union whose work was found to be unsatisfactory in office and of no others?

The Honourable Sir Andrew Olow: It is not a case of the work having been found unsatisfactory so much as the affairs of the office which were not running smoothly. There is no punishment involved.

Sardar Sant Singh: May I ask if the Honourable Member has considered whether in this particular case it is not a matter of coincidence that all the members of the Executive Committee of the Union should have been transferred on account of public interest?

The Honourable Sir Andrew Olow: I am willing to admit that there is a possibility that these members had been acting in conjunction.

Qazi Muhammad Ahmad Kazmi: Will the Honourable Member please explain what he means by the word 'discipline'? Does he mean by 'discipline' any wrong done by them or any other unsatisfactory work or any other thing done by them in connection with the Union?

The Honourable Sir Andrew Olow: There is a very large dictionary in the Library and I would refer the Honourable Member to it.

Sardar Sant Singh: Has the Honourable Member made any inquiries that they are not being victimised on account of their activities as members of the Union?

The Honourable Sir Andrew Olow: I do not regard a transfer as a form of victimisation.

Mr. N. M. Joshi: May I ask whether the Honourable Member will inquire whether these transfers of postmen are due to a lot of rivalry between the two Unions? One of the Unions is of the Postmasters, Inspectors and others and these men may be members of a Union of Postmen. I am asking whether a rivalry between the two Unions may not be responsible for the transfers of men who belonged to the Postmen's Union?

The Honourable Sir Andrew Olow: I have studied the papers and I do not think that is the case. I do not think there is a rivalry between two Unions of that character.

Qazi Muhammad Ahmad Kazmi: Will the Honourable Member be pleased to make further inquiries in the matter?

The Honourable Sir Andrew Olow: No; I have studied all the papers.

Sardar Sant Singh: Has the attention of the Honourable Member been drawn to the various Presidential addresses delivered in the Provincial Union Conference including my own in which a complaint has been made that the Union officials are transferred not in the public interest but because they are members of the Union?

The Honourable Sir Andrew Olow: I have seen a statement to that effect. I can only say that this is not one of those cases in which such things have occurred.

Mr. Lalchand Navalrai: Will the Honourable Member give instructions that these office bearers whose work has been interfered with should not ordinarily be transferred?

The Honourable Sir Andrew Olow: I do not think I can lay down any invariable rule.

POLICY CONCERNING GRANT OF DEARNESS AND WAR ALLOWANCE TO POSTAL EMPLOYEES.

75. *Qazi Muhammad Ahmad Kazmi: (a) Will the Honourable the Communications Member please state what the policy of the Government of India is with regard to the grant of dearness and war allowance to members of the postal department?

(b) Why has it been linked with Provincial Governments, particularly when the Provincial Governments are not following a uniform policy with regard to their employees?

(c) Is it or is it not a fact that the Government of India are not following a uniform policy in regard to the postal employees like the railway employees? If so, what is the reason for it?

(d) Have Government considered the advisability of formulating a uniform policy?

(e) Has any dearness allowance been granted to the postal employees of the United Provinces following the decision of the United Provinces Government to grant such an allowance to its employees? If not, why not?

The Honourable Sir Andrew Clow: (a) The Government of India decided after full consideration to apply to the low paid officials of the Posts and Telegraphs Department the schemes for dearness allowance on the terms and conditions sanctioned by Provincial Governments for their own staff. It is not intended to sanction any war allowance in addition.

(b) Because the conditions of employment and the economic considerations applying to employees of the Posts and Telegraphs Department are, generally speaking, similar to those applying to Provincial Government servants.

(c) The reply to the first part is in the affirmative. The pay and allowances of the Posts and Telegraphs staff have never been fixed with reference to those of Railway officials who stand in a class by themselves.

(d) The decision of Government was reached after a full consideration of the matter.

(e) Yes.

Mr. N. M. Joshi: May I ask whether the Government of India follow the practice of the Local Governments in other matters regarding the condition of their employees? If they do not follow the Local Governments in other matters, why should they insist upon following the Local Governments in this matter?

The Honourable Sir Andrew Clow: That is rather a general question. I do not know what matters the Honourable Member is referring to.

Mr. N. M. Joshi: May I ask whether the Honourable Member is aware that in Bombay the inferior servants get pensions at a much more generous rate than the pension paid by the Government of India to their inferior servants living in Bombay?

The Honourable Sir Andrew Clow: That question should be addressed to the Honourable the Finance Member.

OPENING OF THE RAILWAY MAIL SERVICE OFFICE AT KARACHI CITY.

76. *Mr. Lalchand Navalrai: Will the Honourable the Communications Member be pleased to state whether his attention has been drawn to the representation of the Karachi Indian Merchants' Association to the Director

General of Posts and Telegraphs which appeared in the *Sind Observer*, dated the 10th September, 1941, in regard to the opening of the Railway Mail Service Office at Karachi City, and state what action has been taken in the matter?

The Honourable Sir Andrew Olow: Yes. The matter is under correspondence with the Director of Posts and Telegraphs, Sind and Baluchistan Circle, Karachi and is receiving his attention.

BOOKLET "REJOINDER" ISSUED BY THE INDIAN POSTS AND TELEGRAPH UNION KARACHI.

77. *Mr. Lalchand Navalrai: (a) Is the Honourable Member for Communications aware that a printed booklet under the title "Rejoinder" was issued by the Indian Posts and Telegraphs Union, Karachi, on the 1st September, 1941?

(b) Is he aware that the booklet is full of vile allegations against the Government of India, the Director General of Posts and Telegraphs, and several other postal officials serving at Karachi?

(c) Is he aware that Mr. A. K. Brohi, Secretary of the Indian Posts and Telegraphs Union, Karachi, under whose signature the "Rejoinder" was issued, has stated that he has nothing to do with this publication and that it was issued by the members of the Managing Committee of the Indian Posts and Telegraphs Union, Karachi, without his knowledge?

(d) Is he aware that the members of the Managing Committee of the Indian Posts and Telegraphs Union, Karachi, are all Government servants serving in the office of the Director of Posts and Telegraphs, Karachi, and also in the Karachi General Post Office?

(e) Is he aware that some of these Government servants had formally issued some other printed leaflets against the Registrar of Co-operative Societies, Sind, an Indian Civil Service Officer of the Sind Government, and also against an outside public body?

(f) Is he prepared to consider the desirability of taking action against those who are found responsible for the issue of the highly objectionable publication such as the "Rejoinder" which has been issued under forged signature?

The Honourable Sir Andrew Olow: (a) to (e). No.

(f) The Director of Posts and Telegraphs will be asked for information; the nature of the action, if any, to be taken must depend on the character of the information received.

Mr. Lalchand Navalrai: Has the Honourable Member not known up till now as to who was the author of this "Rejoinder"?

The Honourable Sir Andrew Olow: I have no information here. As I stated in answer to part (f), the Director General, Posts and Telegraphs, is being asked for certain information.

Mr. Lalchand Navalrai: Did not the Director General, Posts and Telegraphs, receive any notice of this "Rejoinder" before and take any action?

The Honourable Sir Andrew Clow: That I cannot say. I do not know whether his attention was drawn to it before.

Mr. Lalchand Navalrai: Will the Honourable Member inquire about that also? When such a thing has happened within the jurisdiction of the Director General, Posts and Telegraphs, he should be asked whether he took any immediate action in order to see that such a thing does not happen again?

The Honourable Sir Andrew Clow: This was not a thing which was issued to the Director himself and it may not have come to his notice. When he supplies the information, he will tell us what action he took.

Mr. Lalchand Navalrai: The Honourable Member should understand that it is at Karachi and he is also living at Karachi and therefore it is very likely. Will the Honourable Member kindly enquire and find out whether he really had come to know and he took no action?

The Honourable Sir Andrew Clow: It certainly must have come to be known by now because as I said enquiries are being made from him.

NON-OBSERVANCE OF THE RULE AND INSTRUCTIONS *re* FORWARDING OF
APPEALS IN SIND AND BALUCHISTAN POSTAL CIRCLE.

78. *Mr. Lalchand Navalrai: (a) Will the Honourable the Communications Member be pleased to state whether it is a fact that under rule 112 of the Posts and Telegraphs Manual, Volume II and the Director General, Posts and Telegraphs Instructions, the forwarding authority (*i.e.*, the punishing authority) has only to forward the appeal and he is not allowed to express any opinion, nor make any recommendation for rejection of appeal and thereby prejudicing the case of the appellant?

(b) Will the Honourable Member be pleased to state whether these rules are observed in the Sind and Baluchistan Circle?

(c) Will the Honourable Member be pleased to state the number of appeals actually received by the Director of Posts and Telegraphs, Sind and Baluchistan Circle, Karachi, during the last two years and the number of appeals rejected?

(d) Will the Honourable Member be pleased to state the number of appeals which were received by the appellate authority from the punishing authorities, in which the provisions of rule 112 of the Posts and Telegraphs Manual, Volume II and the Director General's Instructions, were violated?

(e) Will the Honourable Member be pleased to state whether it is a fact that the Director of Posts and Telegraphs, Karachi, rejected appeals which were forwarded to him by the punishing authorities with the opinions and recommendations for rejection?

(f) Will the Honourable Member be pleased to state whether his attention has been drawn to an article under the heading "Situation remains unchanged" which appeared in the *Postal Sentinel of Karachi*, September 1941, issue, page 10?

(g) Does the Honourable Member propose to take suitable steps for violating the well-defined and mandatory provisions of the rules of the department?

The Honourable Sir Andrew Olow: (a) The rule requires that the forwarding officer should transmit the appeal with a report giving the appellant's name, designation, etc., a statement of the facts of the case and a copy of the charge sheet, the defence, the punishment order and the appellant's service record. It does not require that he should express any opinion or make any recommendation and does not prohibit him from doing so. But the Director General in a circular issued last year asked that forwarding authorities should confine themselves to the items laid down in the rule.

(b) I have no reason for believing that the rule is not observed.

(c) Information is being collected and will be laid on the table in due course.

(d) The Director of Posts and Telegraphs will be asked how many cases of this character have occurred since the issue of the Director General's circular.

(e) Information is being collected; but I would observe that the fact that such a recommendation was made would not in itself constitute any ground for allowing an appeal.

(f) Yes.

(g) I have no reason for thinking that the rule is not observed, and I am prepared to leave to the Director General the enforcement of his circular.

Mr. Lalchand Navarai: Has the Honourable Member any information whether the rule has been violated or not?

The Honourable Sir Andrew Olow: No case has come to my notice.

Mr. Lalchand Navarai: After notice of this question was given, did not the Honourable Member make enquiries whether injustice is being done?

The Honourable Sir Andrew Olow: I have said in reply to one part of the question that information is being collected.

SHORT NOTICE QUESTION AND ANSWER.

HUNGER-STRIKE IN THE DEOLI DETENTION CAMP.

Mr. N. M. Joshi: Will the Honourable the Home Member be pleased to make a statement about the hunger-strike in the Deoli Detention Camp, giving information regarding:

(a) the health of the detenus on hunger-strike;

(b) the efforts made by Government to bring about a settlement, and

(c) the steps taken by Government to keep the families of the detenus on hunger-strike informed regarding their condition?

The Honourable Sir Reginald Maxwell: (a) and (c). I have little to add to the communiqué on this subject which issued yesterday. The Superintendent reported on November the third that the health of the

hunger-strikers was satisfactory except for one man who was reported to be seriously ill. I have no further information regarding this prisoner or his identity. I have received numerous telegrams making enquiries regarding the health of individual prisoners at Deoli and take this opportunity to make it clear that little purpose is served by such telegrams, since the Government of India have no detailed information regarding the health of individuals. The Superintendent has, however, been instructed to report to the Government of India the names of any individuals who may become seriously ill and at the same time to inform their relatives by telegram. Under this arrangement those who have relations among the Security prisoners may assume, in the absence of a telegram from the Superintendent, that their health gives no cause for anxiety. I may add that arrangements have been made for eight additional doctors and a number of additional compounders to be sent to Deoli and they have probably all arrived there already. Certain Provincial Governments have also been asked to provide further medical assistance as required.

(b) Government took every possible step to persuade the Security prisoners not to embark on a hunger-strike and informed them that their demands were being carefully considered and that any attempt to force the issue on their part would serve no useful purpose and might prejudice the consideration of their demands. Their refusal to accept this advice has made it extremely difficult to make further efforts to induce them to abandon the strike; but I understand that the Honourable Member is himself prepared to visit Deoli and I can only express the hope that, if he does so, he will be successful in convincing the Security prisoners that a hunger-strike is not the best way of helping his efforts on their behalf.

Sardar Sant Singh: May I enquire from the Honourable Member whether he will instruct the Superintendent of the Deoli camp jail to send replies to any wire enquiring about the health of any particular prisoner by any relative? I understood the Honourable Member to say that in case of serious illness of some prisoner, his relatives will be informed. May I ask the Honourable Member to instruct the Superintendent to kindly send a reply to a wire enquiring about the health of any Security prisoner from any relative?

The Honourable Sir Reginald Maxwell: I am afraid I could not undertake to give such instructions. As I have already explained to the House the authorities there have their hands very full and they have to look after a large number of prisoners who are on hunger-strike and therefore this arrangement has been made by which the absence of any information may be taken by their relatives to mean that there is nothing seriously wrong with any prisoner. It should be sufficient to allay their anxiety to know that if any prisoner becomes seriously ill, they will be informed by telegram.

Mr. Lalchand Navalrai: May I know if the relatives of these detenus will be allowed to remain there and attend to the comforts of the prisoners and otherwise help them in the jail?

The Honourable Sir Reginald Maxwell: No, Sir. We could not allow the relatives to interfere with the treatment of these prisoners in jail.

Mr. Lalchand Navalrai: If the relatives are allowed, they will be able to nurse these prisoners and on account of the sympathy which will be evinced by their relatives, there will be comfort and it will add to the welfare of the prisoners? Will the Honourable Member give such orders?

The Honourable Sir Reginald Maxwell: No, Sir, I am afraid we could not undertake to help the relatives of 225 prisoners by permitting them to assist in looking after them in jail. It will be an impossible situation and it will only interfere with the arrangement made by us with regard to medical help for the prisoners.

Mr. Govind V. Deshmukh: In view of the fact that medical opinion is not always infallible, will the Honourable Member say whether if any reply telegram is sent by the relatives of the detenus, they will be informed about the health of these detenus?

The Honourable Sir Reginald Maxwell: I cannot undertake to send 225 telegrams a day.

Qazi Muhammad Ahmad Kazmi: Have the Government sent any nurses to the jail?

The Honourable Sir Reginald Maxwell: No, Sir, not so far as I am aware.

UNSTARRED QUESTIONS AND ANSWERS.

POSTAL EMPLOYEES JOINING SERVICE BEFORE THE 15TH JULY, 1931, DEPRIVED OF THE OLD SCALE OF PAY.

25. Bhai Parma Nand: (a) Will the Honourable Member for Communications please state whether it is a fact that employees who joined the Postal Department before the 15th July, 1931 (*vide* No. 3, of Government of India, Finance Department, Notification No. 3235/5/33, dated the 6th December, 1934) are entitled to the old grade of pay, *viz.*, Rs. 35—5—135?

(b) Is it a fact that there are cases in which a person having joined the Department before the date of the Notification referred to above is deprived of this right?

The Honourable Sir Andrew Clow: (a) Yes, provided the rules contained in Notification No. S.-235/5/33, dated the 6th December, 1934, as subsequently amended by Finance Department Notification No. D./2057-P. T./39, dated 31st May, 1939, are satisfied.

(b) Government are not aware of any persons who satisfy the conditions being excluded.

APPRENTICE PERMANENT WAY INSPECTORS ON NORTH WESTERN RAILWAY DEPRIVED OF RENT-FREE QUARTERS.

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

(a) whether it is a fact that the Apprentice Permanent Way Inspectors on the North Western Railway appointed prior to 1st

August, 1928, were entitled to rent-free quarters, if available, as per terms of the service agreements executed by them at the time of their appointment;

- (b) whether it is a fact that, on their confirmation, no fresh agreements were executed by them;
- (c) whether it is a fact that these Inspectors continued to enjoy the privilege of rent-free quarters till 1937 or thereabouts, when it was withdrawn from such Inspectors, who, though appointed prior to 1st August, 1928, were confirmed after that date; if so, why;
- (d) whether it is a fact that the withdrawal of the privilege referred to in parts (a) and (c) above, is said to be due to the fact that these Inspectors were only entitled to rent-free quarters if available and, as such, they do not carry the concession on their confirmation in posts carrying the concession of rent-free quarters or rent in lieu thereof;
- (e) if the reply to part (d) above be in the affirmative, whether it is a fact that the members of inferior and labour service recruited prior to 1st August, 1928, though entitled to rent-free quarters (if available) and no rent allowance in lieu thereof, retain the concession of rent-free quarters on their promotion to subordinate service, *vide* General Manager, North Western Railway, Lahore, Circular Letter No. 540-E/O/VII, dated October 1940; if so, why the Inspectors are dealt with differently;
- (f) whether it is a fact that the apprentices appointed prior to the 15th July, 1931, were allowed to retain old scales of pay, in spite of the introduction of revised scales of pay with effect from the 15th July, 1931, though they were only apprentices; if so, why all privileges of Assistant Permanent Way Inspectors appointed before 1st August, 1928, are not being allowed to them; and
- (g) whether it is a fact that Assistant Permanent Way Inspectors subscribed to the Provident Fund from the very day of their appointment as such, while other apprentices are allowed to subscribe to P. I. Fund only when they are confirmed; if so, whether the Honourable Member proposes to allow these Inspectors to carry the concession of rent-free quarters; if not, why not?

The Honourable Sir Andrew Clow: I am obtaining information from the North Western Railway Administration and reply will be laid on the table in due course.

SUSPENSIONS OF RAILWAY EMPLOYEES AND THE WORKING OF THE PAYMENT OF WAGES ACT.

27. Mr. Lalchand Navalrai: (a) Will the Honourable Member for Railways be pleased to state whether suspension of employees drawing less than Rs. 200 per mensem continue to be made on the Railways, even after the coming into force of the Payment of Wages Act?

(b) If the reply to part (a) above be in the affirmative, does it also happen that such suspended persons are given less than their usual wages for the period of suspension? If so, under what clause of section 7 (2) of the Payment of Wages Act are such deductions made?

The Honourable Sir Andrew Glow: (a) The answer is in the affirmative.

(b) The answer to the first part is in the affirmative. As regards the second part, the payment made to a person during a period for which his employment is suspended is a subsistence allowance and not wages, and appears to be outside the scope of the Payment of Wages Act.

WITHDRAWAL OF COMPENSATORY ALLOWANCE FROM POSTAL STAFF AT KARACHI.

28. Mr. Lalchand Navalrai: (a) Will the Honourable the Communications Member be pleased to state if he has seen the editorial note on page 1 of the *Postal Sentinel* of Karachi, September 1941 issue, regarding withdrawal of compensatory allowance from the postal staff at Karachi?

(b) Is it a fact that the cost of living at Karachi is much higher as compared with other places?

(c) Is it a fact that the scale of pay in the selection grade is the same at Karachi as at other places in Sind?

(d) Is it a fact that before the withdrawal of the compensatory allowance, the selection grade officials serving at Karachi were allowed Rs. 15 as compensatory allowance?

(e) Are Government aware that due to the withdrawal of the compensatory allowance, the staff at Karachi find themselves in a pitiable condition?

(f) Is it a fact that the staff at Karachi represented to the authorities for the restoration of the compensatory allowance?

(g) Is the Honourable Member prepared to look into the condition of the staff at Karachi and consider the question of restoring the compensatory allowance to the staff?

The Honourable Sir Andrew Glow: (a) Yes.

(b) It is probably higher than at some other places.

(c) and (d). Yes.

(e) No.

(f) Yes.

(g) The matter has been considered as recently as February 1941, when Government decided that the grant of such allowances was not justified as the scales of pay compared favourably with the remuneration accorded to staff of similar status in other Departments in the locality.

EMPLOYMENT OF A NON-HINDU FOR CATERING BY BALLABHDAS ESHWARDAS, CATERING CONTRACTORS, ON EAST INDIAN AND NORTH WESTERN RAILWAYS.

29. Dr. P. N. Banerjee: (a) Will the Honourable Member for Railways please state whether it is a fact that Ballabhdas Eshwardas have been given the contracts by the East Indian and North Western Railways for catering for the Hindu travelling public? If not, what is the real fact?

(b) Is it a fact that the North Western Railway gave the contract on the understanding that they will keep in service one of the ex-employees of the Railway on its recommendation? If not, what is the real fact?

(c) Is it a fact that in fulfilment of the contract, they have kept in service an ex-employee of the Railway who is a non-Hindu, and who has now been succeeded by another ex-employee of the Railway who is also a non-Hindu? If not, what is the real fact and how are Hindu religious sentiments safe in the hands of non-Hindus?

(d) Is it a fact that a similar undertaking also exists with the East Indian Railway, in respect of the employment of a non-Hindu?

(e) Do Government now propose either to cancel the contracts and remove Ballabhdas Eshwardas from the list of approved contractors, or to see that they do not employ in their service any non-Hindu for catering for the Hindu travelling public? If not, why not?

The Honourable Sir Andrew Olow: (a) This firm holds a contract at one station on the North Western Railway and similar contracts at several stations on the East Indian Railway.

(b) and (c). I understand there was no such condition in the contract but that the firm appointed an ex-railway employee as their manager and subsequently succeeded him by another ex-employee, also a non-Hindu. The functions of the manager are supervisory and all work done in connection with the actual catering is in the hands of Hindus.

(d) No information of any undertaking of the nature mentioned on the East Indian Railway has come to the notice of Government.

(e) No; because Government see no need for this action.

DATES AND PROCEDURE FOR TERMINATION OF CATERING CONTRACTS HELD BY BALLABHDAS ESHWARDAS.

30. Dr. P. N. Banerjee: Will the Honourable Member for Railways please state:

(a) the dates on which the different agreements between Ballabhdas Eshwardas and the Governor General for India in Council are to be terminated;

(b) the procedure to be adopted by the East Indian, Great Indian Peninsula and North Western Railways, for terminating and for the renewal of those agreements; and

(c) whether Government propose to advertise in the newspapers the conditions on which those agreements shall be executed and also inviting applications for the execution of those agreements; if not, why not?

The Honourable Sir Andrew Olow: (a) I understand that no dates for automatic termination have been fixed.

(b) The procedure for termination and renewal of these agreements is governed by the conditions in the contracts. The Central Advisory Council for Railways has recommended that ordinarily contractors who have rendered and are rendering approved service should not be replaced, and normally no question of termination will arise unless the contractor's

work has been found unsatisfactory or he has failed to meet his financial obligations to the Administration.

(c) No. The contracts are placed not by Government but by the Railway Administration or its officers and as, in selecting new contractors, the choice is ordinarily limited to professional caterers resident in the area concerned, advertisement in the newspapers would in many cases be of little assistance.

CATERING CONTRACTS POLICY ON NORTH WESTERN AND EAST INDIAN RAILWAYS.

31. Dr. P. N. Banerjee: Will the Honourable Member for Railways please state the policy of the North Western Railway and of the East Indian Railway for giving the catering contracts at Stations to one individual person or firm?

The Honourable Sir Andrew Clow: There is no uniform rule applicable to all stations but both Railways are guided by the principles recommended by the Central Advisory Council for Railways which have been approved by Government. The attention of the Honourable Member is invited particularly to the proceedings of the meeting held on the 18th March 1940.

SOURCE FOR PREPARATION OF NORTH WESTERN RAILWAY BUDGETS CONSEQUENT ON STOPPAGE OF PUBLICATION OF ESTABLISHMENT ROLLS.

32. Dr. P. N. Banerjee: Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 108, asked on the 10th March, 1941, viz., "The North Western Railway have stopped publication of Establishment Rolls in 1931", and state the source from which the Railway prepares the budgets, year by year?

The Honourable Sir Andrew Clow: The preparation of the annual budget does not depend on the publication of Establishment Rolls: it is carried out in the light of the facts available regarding previous expenditure, works in progress, staff pay bills, traffic and other factors. The relevant facts form the basis of estimates by the Heads of Departments. The final budget is based on a review of these estimates.

MOTION FOR ADJOURNMENT.

STATEMENT MADE IN THE SUNDAY NEWS OF THE UNITED STATES OF AMERICA REGARDING THE HOLY PROPHET OF ISLAM.

Mr. President (The Honourable Sir Abdur Rahim): Notice of motion for adjournment has been received from Sir Abdul Halim Ghuznavi. He wishes to "make a motion for an adjournment of the business of the Assembly for the purposes of discussing a definite matter of urgent public importance, namely, the failure of the Government of India to lodge an effective protest against the statement made in the *Sunday News* of the United States of America to the effect that 'the character of the blood-thirsty monster Hitler is to be compared not to Napoleon but to Mohammed

as the latter wanted to subject mankind to the domination of a few individuals and Hitler desires to do the same', thereby offering a deliberate and gross insult to the memory of the Holy Prophet of Islam, the purest human being that ever lived, bringing the Holy Faith of Islam into contempt and wounding the dearest and most sacred sentiments of millions of Muslims".

This motion requires the consent of the Governor General which I am informed has been granted. Is there any objection?

Mr. O. K. Garoe (Secretary, External Affairs Department): No, Sir.

Mr. President (The Honourable Sir Abdur Rahim): The motion will be taken up for discussion at four of the clock today, but if the business set down for today is finished earlier, this motion for adjournment will be taken up then.

ELECTION OF A MEMBER TO THE STANDING COMMITTEE ON EMIGRATION.

Mr. President (The Honourable Sir Abdur Rahim): I have to inform the Assembly that up to 12 Noon on Tuesday, the 4th November, 1941, the time fixed for receiving nominations for the election of a Member to the Standing Committee on Emigration only one nomination was received. As there is only one vacancy I declare Mr. Ananga Mohan Dam to be duly elected.

ELECTION OF MEMBERS TO THE DEFENCE CONSULTATIVE COMMITTEE.

Mr. President (The Honourable Sir Abdur Rahim): I have also to inform the Assembly that the following Members have been elected to serve on the Defence Consultative Committee:

Lieut.-Colonel M. A. Rahman,

Mr. Jamnadas M. Mehta,

Mr. Govind V. Deshmukh,

Mr. L. C. Buss,

Mr. Husenbhai Abdullabhai Laljee, and

Lieut.-Colonel Sir Henry Gidney.

COMMITTEE ON PETITIONS.

Mr. President (The Honourable Sir Abdur Rahim): I have also to announce that under sub-order (1) of Standing Order 80 of the Legislative Assembly Standing Orders the following Honourable Members will form the Committee on Petitions, namely:

Sardar Sant Singh,

Mr. L. C. Buss,

Sir Abdul Halim Ghuznavi, and
Mr. N. M. Joshi.

According to the provision of the same Standing Order the Deputy President will be the Chairman of the Committee.

THE MADRAS PORT TRUST (AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Andrew Olow (Member for Railways and Communications): Sir, I present the Report of the Select Committee on the Bill to alter the constitution of the Board of Trustees of the Port of Madras.

THE ALIGARH MUSLIM UNIVERSITY (AMENDMENT) BILL.

The Honourable Mr. N. R. Sarker (Member for Education, Health and Lands): Sir, I beg to move for leave to introduce a Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose.

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

"That leave be granted to introduce, a Bill further to amend the Aligarh Muslim University Act, 1920, for a certain purpose."

The motion was adopted.

The Honourable Mr. N. R. Sarker: Sir, I introduce the Bill.

THE MINES MATERNITY BENEFIT BILL.

Mr. H. C. Prior (Labour Secretary): Sir, I move:

"That the Bill to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them be taken into consideration."

I do not think there is anybody in this House who will object to the principle behind this Bill, and I hope that the Labour Department will not be accused by my Honourable friend, Mr. Joshi, on this occasion, of only dealing with minor points with regard to labour legislation, because I think it is a matter of very great importance that the maternity legislation which has already been extended to factories by most provinces should be extended by the Central Government to mines. There may be a feeling that there is likely to be little use for this Bill and that with the exclusion of women from underground work in mines in 1937 there are now very few women still employed in mines. But that is not really the case. There are still some fifty thousand women employed in mines of whom twenty-three thousand are in coal mines and the rest, i.e., 27,000, are in other mines. The matter of extending maternity benefit to them was considered by the Whitley Commission and at that time there was a feeling that possibly the number of cases in which the maternity benefit would be required would be so small that it would be perfectly unnecessary to extend the legislation to mines. But since then I think the position has to some extent altered. At that time there was a habit, particularly in the coal fields, of women returning to the villages for the purposes of confinement; but now owing, I am glad to say, to the improvement of

[Mr. H. C. Prior.]

maternity welfare work in the coalfields, that habit has to some extent been reduced; and a number of women now remain in the coal fields and will undoubtedly benefit by any maternity benefits that are given to them. The International Labour Convention provides that the benefit must be sufficient for the full and healthy maintenance of the mother and the child; and that is the reason why Government in this Bill have included a statutory provision of eight annas a day for benefit because they feel it is necessary that even if women are paid a sum considerably less than that, the sum to be paid to them as maternity benefit must be sufficient for the full and healthy maintenance of the mother and the child. And I hope that every one in this House will agree with this principle.

Sir, I do not think I need say anything more on the principle underlying this Bill. Sir, I move.

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

"That the Bill to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them be taken into consideration."

Sardar Sant Singh (West Punjab : Sikh) : Sir, this is a welcome measure and fills up a gap which was necessary to be filled in in the interest of the health of the women labourers. If there is any criticism to offer, it is that it has been delayed more than it ought to have been. In this connection, one point which I want to be cleared further is whether this Bill includes cases of those women who are confined on account of premature miscarriage or abortion, because this Bill does not contain any reference to that state of physical health. As to the conditions relating to the notice of the delivery and the examination, if there is any dispute between the manager and the giver of the notice, that is provided for very well. But if a woman is suddenly taken ill and is confined, it is not provided whether any benefit will be conferred as contemplated in this legislation. I should like the Honourable Member to kindly let this House know whether such cases will be cared for or not.

The second point which, in this general discussion, I want to bring to the notice of the Honourable Member is about the various notices of amendment that have been given by my Honourable friend, Mr. Joshi. I think the Honourable Member knows the custom of this country under which women are kept in bed for 40 days after confinement and they are not allowed to come out in the open within that period. My friend, Mr. Sivaram, shakes his head: I do not know about Madras, but I know this custom prevails in the Punjab and I believe also in the Central Provinces. My Honourable friend, Mr. Deshmukh, agrees with me and says that there is a ceremony performed after 40 days after which only women are allowed to come out. The amendments given notice of by my Honourable friend, Mr. Joshi, contemplate that a similar period should elapse before they return to their work. I hope the Honourable Member will consider the custom in the country when dealing with these amendments.

Mr. N. M. Joshi (Nominated Non-Official): Sir, the Honourable the Mover said in his speech that at least in this matter I shall not regard the Government of India as dealing with a minor subject. Sir, the subject-matter of this Bill is one of importance; I have no doubt that the payment of maternity benefit is a matter of very great importance. But

it is my unfortunate duty to say that the action taken by the Government of India is not adequate even as regards their treatment of the subject of payment of maternity benefit to industrial workers. This Bill deals with the payment of maternity benefit to women working in mines. But in India there are still women working in factories in some provinces who do not get maternity benefit, *e.g.*, the Punjab and Bihar,—I do not know about Orissa. If the Government of India have to deal with this subject they should have brought forward a Bill which would also apply to women working in factories.

Then, Sir, besides factories and mines there are other industries which may not be as well organized as these industries but still in which women are working in large numbers and the Government of India should have brought forward some measure by which women working in those industries would get the benefit of maternity benefit legislation. Take for instance women working on plantations in Madras. In Madras women working in factories get the advantage of maternity benefit but women working on plantations in Madras do not get the benefit of any such legislation. I would, therefore, suggest to the Government of India that instead of dealing with this matter in this half-hearted manner they should deal with it in a more thorough manner. However, Sir, as the Bill has come before the Legislature, I do not oppose it.

Then, Sir, my Honourable friend, Sardar Sant Singh, pointed out a custom in this country that a woman who is confined should not go out for 40 days. I entirely agree with him and I think the Legislature must deal with these difficulties and it is for that reason that I have suggested a number of amendments to modify the scheme of the Government of India so that women should get maternity benefit not for one month before child-birth and one month after but for six weeks before and six weeks after in which case 40 days difficulty will be removed. There are other reasons too why maternity benefit should be paid for six weeks and not only for one month but I shall deal with that subject later on. Sir, I support the motion that the Bill be taken into consideration.

Mr. Jamnadas M. Mehta (Bombay Central Division: Non-Muhammadan (Rural): Sir, I also wish to say a few words on this Bill before it is considered clause by clause. I think it is a move in the right direction and the amendments which have been suggested only go to improve it further. A reference was made by my Honourable friend, Sardar Sant Singh, to a custom in his part of India which, I am glad to say, prevails also in my part and I will explain the schedule of that custom. After a confinement, women cannot touch any water up to 21 days which is open to the rest of the family lest they might catch cold. Between 21 days and 40 days they cannot work for domestic purposes; they must completely rest, although they can touch water but otherwise they must rest completely. Between 40 days and 60 days they are still not allowed to do any serious hard work. Therefore, as a matter of fact the custom in my part of the country is that a woman who has been delivered of a child is for two months to be considered as a person whose health requires careful and delicate attention. This Bill, therefore, proceeds in the right direction and the amendments which we have tabled are also worthy of acceptance by Government.

There is one thing to which I would invite attention. When an illiterate woman goes on authorised leave for confinement, the assistance

[Mr. Jamnadas M. Mehta.]

which she gets is very primitive and might be harmful. We know it too well; The Bombay Municipality provides free maternity homes for the poor and I think this Bill would have done better if it had imposed on the employers themselves the obligation to provide maternity facilities instead of giving eight annas only, and I hope employers will become enlightened enough not merely to allow this Bill to pass as a move in the right direction but to provide their women employees with modern improved medical aid before and after confinement which will prevent them from falling into the hands of illiterate, and unqualified *Dais* who spoil their health more than they improve it. The death rate among the infants will then be reduced. The death rate among these women themselves will also be reduced if they are given more modern treatment during confinement and before confinement than merely a maternity benefit of eight annas. There is in Bombay a very well-known gentleman, Sir Mangaldas Mehta, who has devoted practically a lifetime and with high medical qualifications to the service of women and children and he tells us very often both in the Corporation and outside that antenatal treatment of women is more helpful than anything that you may do later on; I hope this relief by Government will pave the way to the employers giving these women the kind of assistance contemplated by Sir Mangaldas Mehta, *viz.*, antenatal and postnatal treatment.

Mr. C. C. Miller (Bengal: European): On behalf of the European Group in this House and all the Europeans of the business community I rise to support this Bill. The principles of the Bill are that a woman who is an established employee of a mines management should, at the time of giving birth, not be subject to worries and anxieties on the question of possible loss of employment and possible loss of salary. With these principles we entirely agree and we give our whole-hearted support.

Mr. H. C. Prior Sir, I thank all those Honourable Members who have spoken in support of the principles of the Bill and I will try to deal with some of the points which were raised by them. First of all, my Honourable friend, Sardar Sant Singh, raised the question of whether the benefit would be paid in the case of premature delivery. So far as I understand the scope of the Bill, it provides for a notice to be given either orally or in writing by the expectant mother to say that she expects to be confined within a period of one month. In that case she can absent herself from work. The Bill also provides under section 5 that where any woman is confined she can then draw benefit for the four weeks before and the four weeks after. This should meet the point raised by my Honourable friend.

The second point which he raised was in connection with the period for which benefit should be given after delivery and he referred to custom of the country, which was also referred to by Mr. Jamnadas Mehta, that a woman is not allowed to leave her bed for a period of 40 days after delivery. With that point, I think, it will be more convenient to deal when my Honourable friend, Mr. Joshi, moves his amendments, and I should prefer to leave it at that for the time being.

Mr. Joshi referred to the absence in certain provinces of legislation dealing with maternity benefits in factories. He was right, I think, in saying

that there is no such legislation in the Punjab, in Bihar or in Orissa; and I feel sure that the Governments of those provinces, when they see his remarks, will consider whether it is necessary for them to reconsider again the advisability of introducing maternity benefit legislation in regard to factories in those provinces

Mr. N. M. Joshi: What will the Government of India do?

Mr. H. C. Prior: The Government of India will also watch the matter and if they find it necessary to take action, will, in due course, take such action

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official) I do not quite follow the Honourable Member there.

Mr. H. C. Prior: I was asked what the Central Government will do; and I said that they will watch the matter and if they find it necessary to take action they will do so.

Lieut.-Colonel Sir Henry Gidney: Individual cases or collectively?

Mr. H. C. Prior: It will possibly be difficult to take action in individual cases; and the Central Government may, if they find it necessary, have to produce some form of a collective Act which may have effect in those provinces in which legislation has not been undertaken.

Then, there was the point raised by Mr. Jamnadas Mehta that we would have been better advised not to provide maternity benefit but to impose on employers the obligation to provide qualified assistance. Though we recognise the great need for qualified assistance in these matters, we feel that it is necessary to provide in the first instance for benefit and to do what we can and the provinces can to increase the qualified assistance; and I think the present position regarding qualified assistance does show that considerable progress has been made in the last few years; and an amendment which Mr. Joshi will move subsequently will, I think, also give me an opportunity of dealing a little bit more in detail with the point that has been raised. At the present moment, all I can is that we consider that maternity benefit is a better proposition than compulsory provision for qualified assistance.

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

"That the Bill to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

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

"That clause 3 stand part of the Bill."

Mr. N. M. Joshi: Sir, I move:

"That in clause 3 of the Bill, for the word 'four' the word 'six' be substituted."

[Mr. N. M. Joshi.]

This clause makes it illegal for an employer to employ a woman in a mine within four weeks from her delivery. My amendment is that this period of four weeks should be increased to six weeks. In the first place I feel that a woman will not be capable of doing her regular work long before the short period of a month. That period should be increased. My Honourable friend, Sardar Sant Singh, has already told us about the custom in his part of the country; I think the custom is a good custom. This custom may be confined to India. But the idea that the period of six weeks is necessary in order to enable the woman to recoup her health is not confined only to India. The period of six weeks is considered to be the right period by international opinion on this subject. This subject of the period was considered along with the question of maternity benefit in an international conference held at Washington more than twenty years ago, and even at that time it was considered that a woman should have complete rest for six weeks before and six weeks after confinement, and during that period the woman should receive maternity benefit also and her employment should be made illegal.

I do not know why the Government of India should have selected the period of one month, except for the reason that some of the Provincial Governments in India have fixed that period of one month. If you ask me why the Local Governments have fixed that period, I do not know, except perhaps that the Provincial Governments and sometimes the Government of India too make it their special business to show to the world that India is a backward country. Otherwise, I cannot see any other reason. If women are given maternity benefit for six weeks before and after, it is not going to put a very great burden upon the employer. The burden is extremely small and, therefore, ordinarily, you expect the Provincial Governments and the Government of India to follow the international convention. But they in their wisdom—I mean the Provincial Governments—thought it should be one month; and when the Government of India is going to take up that question, it seemed to me that they wanted to follow the Provincial Governments. I feel that they should have followed the international convention instead of the provincial convention

Lieut.-Colonel Sir Henry Gidney: Where was it passed?

Mr. N. M. Joshi: At Washington, twenty years ago; and many countries have ratified that convention, so that the practice prevails in many countries. I would like the Government of India in this matter to take courage in both hands. The burden on the industry is extremely small. I am quite sure the Honourable the Mover of the Bill will agree with me that the burden of increasing the period from one month to six weeks will be negligible, infinitesimally small; and, therefore, there is no reason why we should not follow the international practice. Sir, there is only one reason which seems to me to have induced the Government to put down one month. I have made some mention of it in my speech on another Bill during this Session. The Government of India and the Provincial Governments are a sort of trade union to prevent any progressive action being taken. If the Provincial Governments take a sort of less progressive attitude, the Government of India feel that it

will be wrong for them to take a progressive attitude and they go on being trade union reactionaries. I would like the Government of India to give up this attitude. Trade unionism is a good thing but not for doing wrong things. If you have a trade union for doing a good thing, then it is good. But if you form a trade union for doing unprogressive things, I think it is a wrong thing altogether. The Government of India should take steps to show that they are progressive and that they are going to be in line with the international world. If they do so, they will be inducing the Local Governments to come in line with the international world. Unfortunately, what is happening is that both the Provincial Governments and the Government of India vie with each other to pull down each other, instead of having a sort of rivalry to push each other forward. I would suggest to the Government of India to accept my amendment and come into line with the international world. I have no doubt in my mind that the Honourable Member will agree with me that the burden will be extremely small and will not be felt by anybody. It is also necessary to give some respect to the customs of the country which have been referred to by my friend, Sardar Sant Singh. I hope, Sir, the Government of India will accept my amendment.

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

"That in clause 3 of the Bill, for the word 'four' the word 'six' be substituted."

Lieut.-Colonel Sir Henry Sidney: Sir, speaking on behalf of my Party, I feel we should congratulate Mr. Joshi on this great victory of his,—at least I hope so, and for which he has fought so strenuously. Ever since I have known him in the House since its inception he has devoted his time to the improvement and amelioration of the recognised hardships of men and women labourers, and this Bill is a much needed reform. The clause Mr. Joshi is speaking on with his amendment to it is one that has my sympathy, and I give it my support. Sir, the question of increasing the period of rest after labour from four to six weeks has much to commend itself to our attention. It is for building up with adequate rest the constitution of a woman after she has delivered of a child, which, is one of the most dangerous times for a woman. But there is a part of this Bill which has not been touched on by Mr. Joshi, and which as a medical man, I feel I must bring to his notice and to the notice of the Honourable Member who, I was very pleased to see, is very sympathetic towards this Bill. It is this. Whilst we are legislating for the protection of women who are normally pregnant and give birth to a child, we do not seem to have given any attention to that unfortunate woman who may, for occupational or other reasons have a premature labour or abortion. That woman is entitled to more care and protection and rest than one who has delivered a fully developed child. After all, the development of a fully developed child is a natural thing, and nature asserts itself very rapidly. In my practice of many years, it is not often that one has to keep the woman in bed for six weeks. It is generally a case of 2½ to 3½ weeks, in fact sometimes earlier; but to shorten this rest is fraught with danger and may sow the seeds of lifelong trouble.

But, Sir, as we advance in civilization and education, so our reactions to these things increase, and with the educated and the more civilized

[Lieut.-Col. Sir Henry Gidney.]

and the more sensitised women, these reactions to child birth are greater and more rest seems necessary. Whereas with the labouring classes their domestic life does not allow rest for six weeks. We have only to remember the African women who at times go to the fields for work as usual, give birth to a child, swing the kiddie over on their back and attend to their usual occupation. But here we have a clause which seeks to increase the period of rest from four to six weeks. In most cases such an extension of rest from four to six weeks is necessary—it is exaggerating the situation and I do not recommend it professionally, but if religious or caste laws demand it—then give it. I am not here to oppose this amendment, but I am here to say to Government that if they agree with Mr. Joshi in that the liability of the employer will not be increased and the burden will not be made heavier, I will certainly support it and support it with this proviso, that Government should give attention to the condition of those unfortunate women who, in dangerous callings in life, mainly, have had abortion or premature labour, because I feel that it is that class of woman who should be given greater attention than the woman who has given birth to a normal developed child. Sir, I support this amendment with this reservation.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, after what my friend, Sir Henry Gidney, has said, I think he feels that women after child birth should be given rest for 3½ weeks. But then that may be with regard to Anglo-Indian women

Lieut.-Colonel Sir Henry Gidney : I think that remark is most objectionable. I take strong exception to it. Why should the Honourable Member bring the question of Anglo-Indian women into this discussion?

Mr. Lalchand Navalrai : I did not mean anything thereby.

Lieut.-Colonel Sir Henry Gidney : Don't say it then.

Mr. Lalchand Navalrai : What I say is that my friend means rest should be given for 3½ weeks after child birth, and, perhaps, he means it for Anglo-Indian women.

Lieut.-Colonel Sir Henry Gidney : I take objection to it.

Mr. President (The Honourable Sir Abdur Rahim) : What is the point that the Honourable Member is objecting to?

Mr. Lalchand Navalrai : I said he might be thinking of having treated certain Anglo-Indian women and from that he quotes his experience.

Lieut.-Colonel Sir Henry Gidney : No, Sir. May I rise to a point of explanation? What he said was,—the Reporter will support me or not,—“What Colonel Gidney talked about” 3½ weeks rest may be for Anglo-Indian women. My friend has no business to talk about them.

Mr. President (The Honourable Sir Abdur Rahim) : As objection has been taken to an expression like that, I think the Honourable Member should withdraw it.

Mr. Lalchand Navalrai: No insult was intended. I only wished to bring to the notice of the House

Lieut.-Colonel Sir Henry Gidney: Then withdraw it.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member should withdraw it.

Mr. Lalchand Navalrai: Yes, I withdraw it. I only said that it might be his experience.

Now, Sir, it has been brought to the notice of the House the custom which exists in the Central Provinces, the Punjab and the United Provinces, and even in Sind rest for 40 days has to be observed before a woman is allowed to work. It is called *Chali ho*, which means that the woman must remain indoors and not work for 40 days. Therefore, I feel that when we are enacting this measure, salutary as it is, we should not do things partially, but we should follow the practice that has existed in India for a long time. Now, clause 3 says that the period of rest should be four weeks following the day from which a woman has given birth to a child. Now, this kind of rest is specially necessary for women who are working in mines because it will enable them time to recoup their health and strength. In mines the work is very hard, and in order that a woman after child birth and sufficient rest may be able to work better, it is necessary that she should be given more time to recoup herself. Sir, I support the suggestion to extend the period from four to six weeks.

Maulvi Abdur Rasheed Chaudhury (Assam : Muhammadan): Sir, in supporting this amendment I should say that the period of rest required after child birth in many of our factories in Assam is 45 days. Our managers don't give any work to women under these circumstances for at least a week before delivery and also for another 30 or 40 days after delivery. I would have liked it if the amendment were such as to cover about a week before delivery and about five weeks after delivery, because that would have been in accordance with the practice in factories in our province. However, as the amendment is not of that nature, I support it as it is, because in practice no work is given to women after child birth for five or six weeks in Assam. Sir, I support this amendment.

Mr. H. C. Prior: While I quite agree with Mr. Joshi that at Washington in 1919 the International Labour Office passed a convention dealing with this subject and in that convention they suggested that the period after child-birth during which women should not be employed should be six weeks, I think that he is perhaps over-optimistic as to how many nations have actually ratified that convention as the passing of a convention does not necessarily mean its general ratification. I have here certain statements, and actually some sixteen nations in all have ratified that convention. They include Argentina, Brazil, Bulgaria, Chile, Columbia, Cuba, Germany, Greece, Hungary, Luxemburg, Nicaragua, Rumania, Spain, Uruguay and Yugo-Slavia. They have fully ratified the convention. I have here—I can read if Honourable Members would like to listen, but I feel they would not,—statements from all the nations showing to what extent this six weeks period has been followed in other countries. There are, I may say, a very considerable number of countries

[Mr. H. C. Prior.]

that have introduced maternity legislation, who have not in this matter gone so far as the Government of India propose to do but have reduced the period even below the four weeks which we propose. I do not want to rely on the trade unionism between the Government of India and the Provincial Governments to which Mr Joshi has rather picturesquely referred. I deny that such trade unionism exists. We are not here to play one off against the other, but I do think that the Government of India would take on themselves a very serious responsibility if in introducing this Bill and taking a first step in regard to mines they went further than the provinces have already gone in regard to factories.

Mr. N. M. Joshi: What else than trade unionism?

Mr. H. C. Prior: I do not think that is trade unionism. We have to feel our way somewhat carefully. We know, I think, that if we in following the provinces are accused of trade unionism, the trade unionists themselves would at once come back on us, and if we increase the period to six weeks they would go in for an increase in the Factories Act, and we have to consider whether such increase in the Factories Act is justifiable or not.

At this point I think I ought to go into the history of how this Bill has been arrived at. I did not mention it in my opening speech because I think it is fairly well-known to most Members of this House. We have had this Bill under consideration for a very long time. We have consulted employers' representatives, and employees' representatives. We have consulted Provincial Governments and we have considered the matter at a Conference of Labour Ministers of the various provinces, and we are satisfied that the Bill as it has been introduced is materially the best Bill that we can produce at the present time. A good deal of mention has been made of various customs relating to the periods during which women remain in bed after confinement. I am afraid I am no expert on that. But I think it is necessary for the House to remember what type of women are ordinarily employed in mines. You have to remember that, if this amendment is accepted, you entirely forbid the employment of a woman for a period of six weeks after confinement. She is not allowed to, she is not given any option,—you take that option entirely away from her. Are you certain with regard to the various classes of women who are employed in mines throughout India it is justifiable to deprive them of the right to work and ask them to be content with eight annas a day? I do not know whether this House would be justified in taking a decision of that nature without further enquiry than we have had time to make since the amendment was introduced.

Mr. President (The Honourable Sir Abdur Rahim): The Question is : "That in clause 3 of the Bill, for the word 'four' the word 'six' be substituted." The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim): The Question is : "That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim): The Question is :
"That clause 4 stand part of the Bill."

Mr. N. M. Joshi: I beg to move :

"That in sub-clause (2) of clause 4 of the Bill, for the word 'four' the word 'six' be substituted."

Mr. President (The Honourable Sir Abdur Rahim): It is quite the same thing.

Mr. N. M. Joshi: This Bill proposes that before confinement a woman can take rest for four weeks. I propose that she should have rest and authorised leave of absence for six weeks. (After a pause) I have moved a wrong amendment. I should have moved No. 3. I beg to move :

"That in sub-clause (1) of clause 4 of the Bill, for the words 'one month', wherever they occur, the words 'six weeks' be substituted."

Mr. President (The Honourable Sir Abdur Rahim): Even then is it not the same question?

Mr. N. M. Joshi: That clause dealt with making the employment of women after confinement illegal. This clause deals with permission to remain absent six weeks before confinement.

Mr. President (The Honourable Sir Abdur Rahim): If you wish to press the matter, you can. Perhaps there is some difference between the two amendments.

Mr. N. M. Joshi: I am not going to make a long speech. I shall simply touch on one or two points raised in the discussion. My Honourable friend, Sir Henry Gidney, referred to the fact that we are not dealing with absence caused after abortion. I think that the Government of India should consider this question seriously and bring forward an amendment in the other House when the Bill goes there for consideration.

Mr. President (The Honourable Sir Abdur Rahim): That is another matter.

Mr. N. M. Joshi: Yes, that is a different matter altogether.

As regards this amendment I cannot say I have got much hope that the Government of India would do the right thing. They somehow feel that they would be taking a very great responsibility if they fixed a different period from the period fixed by Local Governments. I would like the Honourable Member to tell me one thing. How is this vicious circle to be broken. The Government of India tell us that certain reactionary or less progressive practices are being followed by the Provincial Government and, therefore, they cannot go further. The Provincial Government may say that the Central Government have legislated and fixed one month and, therefore, they cannot take any step forward. Ministers from the different provinces do come to Delhi to hold conferences on labour matters. They came here twice up to this time and I find that no concerted action has taken place up to this time. I quite realise that in India we have different provinces and we have a Central Government. But, unfortunately, that:

[Mr. N. M. Joshi.]

Central Government is not a Government which has confidence in itself. It always feels that the Central Government can only go as far as the provinces can push them.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member is repeating his arguments.

Mr. N. M. Joshi: My point is that we do not make any progress on account of this difficulty. Each Provincial Government and the Central Government are pulling each other backwards and the only thing now to do is to take concerted action forward. Unfortunately they refuse to co-operate with each other and take concerted action. It is quite possible that they can move forward if they will take concerted action together but they refuse to do it. They met for two years successively. The provincial representatives came here and met each other and had some entertainment but no action has yet resulted. I would, therefore, suggest to the Government of India and to the Local Governments

The Honourable Mr. M. S. Aney (Leader of the House): You complain that there was no concerted action. But was there concerted opinion?

Mr. N. M. Joshi: That is my complaint and the Leader of the House has given expression to that complaint. There is a regular conspiracy between the Provincial Governments and the Central Government not to take any action. I, therefore, suggest to the Legislative Assembly which is my court of appeal, that they should take courage in their hands and support my amendment. Let us go to the lobby and show to the Government that at least a good number of members of the Assembly consider that this conspiracy is a very wrong conspiracy and must be ended.

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

"That in sub-clause (1) of clause 4 of the Bill, for the words 'one month', wherever they occur, the words 'six weeks' be substituted."

Lieut.-Colonel Sir Henry Gidney: As a medical man I am very tolerant and very sympathetic towards these necessary ameliorations to the labourers, man or woman, that Mr. Joshi desires and I am mindful of the statement made by the Honourable Member regarding the various countries that follow the International Law; but he might have cut short that list of countries and said 'progressive or the new Germany' with its new Kulture. Sir it is strange but true that the German culture is spelt with a K—Kulture—and not with a C—Culture—and why? Because England possesses control of all the C's (seas). Let me be more serious—here we have an amendment moved by my friend, Mr. Joshi, which has my sympathy, but I wonder if the practical and materialistic aspects of this question have ever struck him. By this amendment he seeks to give these women six weeks absence from work and relief from work before and after the birth of a child—six weeks non-co-operation if I may say so. That means to say that that woman, who may be half the bread winner of the house, is deprived of three months of pay.

Mr. N. M. Joshi: No, Sir, she should be paid.

Lieut.-Colonel Sir Henry Gidney: You cannot get Factories, Firms, Mills, etc. to give an employee twelve months pay for nine months work, except as is given to school teachers. Remember these super and other taxes firms have to pay their shareholders, they have to maintain their companies at a high cost today. Let us be tolerant and sympathetic but do not let us overstep the line, and, in our magnanimity, indulge in extravagances. Six weeks before is rather a tall order. As a medical man I have had to deal with hundreds of factories in Eastern Bengal and I can assure this Honourable House that I have not known of an Indian woman wanting leave of absence for as many as six weeks before and after labour. Further: In the second proviso of this clause it is stated:

"Provided that the manager may, on undertaking to defray the cost of such examination, require the woman to be examined by a qualified medical practitioner or midwife, and, if the woman refuses to submit to such examination, etc., etc."

There is just one little point on which I should like to remark and I think it is germane to the issue before the House. The position is this. If a factory or a mill or a business concern employs a doctor, a midwife or a lady doctor, I think their employees should make use of such free skilled medical advice and relief and not encourage resort to unskilled quacks, especially the unqualified septic *dhai*. If this is not insisted on the firm would have to pay for the medical attendance of an outside doctor as is so frequently resorted to by railways and other big employers of labour and which is never done.

Mr. H. C. Prior: I am glad that I have got Mr. Joshi away from trade unionism into conspiracy but I deny even conspiracy. There is no conspiracy between the Central Government and the Provincial Government in this matter and I think that if Mr. Joshi studies the various Acts that have been passed dealing with labour matters in the Central Legislature in recent years he will find reason to feel that his accusation against us is really incorrect. We all of us progress. Mr. Joshi himself as a member of the Whitley Commission was quite satisfied with four weeks before and four weeks after. That is ten years ago.

Mr. N. M. Joshi: I have progressed. You have not. That is the trouble.

Mr. H. C. Prior: He was himself a party to a report in which there is a recommendation that the legislation was not yet necessary in the case of mines. Well, Sir, we have progressed in that we are now extending this legislation to mines and who knows we may at a later stage progress to the extent of accepting six weeks instead of four weeks. For the present, after the careful consideration which we have given to this Bill, we think that we must stick to the period of four weeks.

The Honourable Mr. M. S. Aney: While reading this proviso, it strikes me that a manager is given the right of asking a woman to submit herself to an examination by a medical practitioner or midwife and if she refuses, the manager may refuse permission. Now, I want to know whether a woman would not be justified in refusing to submit herself to an examination if the medical practitioner be not a woman but a man. Instructions will have to be issued under this Act to see that the Manager insists upon

[Mr. M. S. Aney.]

a medical examination only by a midwife or woman doctor. Otherwise there will be difficulty.

Mr. H. O. Prior: I noticed myself the point which has been raised by the Honourable the Leader of the House and we will consider the matter with a view to producing an amendment in the Council of State.

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

"That in sub-clause (1) of clause 4 of the Bill, for the words 'one month', wherever they occur, the words 'six weeks' be substituted."

The motion was negatived.

Mr. N. M. Joshi: Sir, I do not want to move No. 4.

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

"That clause 4 stand part of the Bill."

The motion was adopted.

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".

Mr. N. M. Joshi: Sir, I move:

"That in clause 5 of the Bill, for the word 'nine' the word 'six' be substituted."

This clause among other things provides that a woman in order to be eligible for maternity benefit must work in a mine for nine months. I am proposing that a woman should become eligible for maternity benefit even if she works for six months. I think six months period is quite sufficient and we need not insist upon a woman working in that mine for nine months. The amendment is a very simple one and I hope the Government will accept it.

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

"That in clause 5 of the Bill, for the word 'nine' the word 'six' be substituted."

Mr. N. M. Joshi: Sir, I should have said one word more. This period of six months has been fixed in the Maternity Benefit legislation of the United Provinces. That was done during the Congress Government and I would suggest that the Government of India should not lag behind the Congress Government.

Mr. C. C. Miller: Sir, I am sorry to oppose the amendment moved by my Honourable friend, Mr. Joshi. I find that his arguments for the six months period are unimpressive whereas there is the excellent argument for the nine months period, which, incidentally, is also the period of employment in the recently passed Bengal Maternity Act.

Mr. N. M. Joshi: Follow the United Provinces Act.

Mr. C. C. Miller: I will follow the Bengal Act. The reason simply is that nine months is a period of employment and it is hardly fair to expect an employer to employ a woman who may shortly be going to have a child and who is employed simply for the purpose of obtaining the maternity benefit. I think that is the whole reason of the nine months period and for that reason I must oppose the amendment.

Lieut.-Colonel Sir Henry Gidney: Sir, again the spirit of tolerance pervades me. We have been asked that we should choose between the Acts of the United Provinces and Bengal. It is an old saying: "What Bengal thinks today, India does tomorrow." May I say: "What Fazlul Haq says today, the Muslim League does not do tomorrow....."

Mr. President (The Honourable Sir Abdur Rahim): I think the Honourable Member had better leave out the names.

Lieut.-Colonel Sir Henry Gidney: But let us take the practical and material view of this Bill. Mr. Joshi's amendment indicates that a woman who is *enceinte* must be allowed absence from work for six weeks before her child is born with an allowance of eight annas a day. Now, Sir, I do think that is carrying it a little too far. I did not know that Mr. Joshi had such sympathy for these people, but I can quite realise how saturated he must be with a spirit of charity. Whilst I agree that anything we can do for these women labourers we should do for the benefit, but let this be done within reasonable and practical limits.

Mr. H. C. Prior: Sir, though I recognise the force of the arguments produced by Mr. Miller, I still think that it is rather unlikely that a woman in order to get four weeks benefit before and after confinement, would deliberately come and work for a period of six months in a mine. I think we are all rather concerned with the difficulty that a woman may have to prove her continuous employment for a period of nine months. In good concerns undoubtedly she may be able to do so. In less good concerns, she may find more difficulty. In concerns which do not keep up their books properly, she may find it very difficult to dispute an entry in those books which shows that seven months ago she was absent for some four or five days. The period of nine months was the one which, after consideration, we thought was a satisfactory period, but on consideration of the amendment now brought forward by Mr. Joshi we are inclined to agree that six months may prove to be the better. We are, therefore, prepared to accept his amendment.

Mr. J. D. Boyle (Bombay: European): May I ask a question, Sir? Is it the opinion of the Government that it will be easier for a woman to prove her case after six months than after nine months? That three months will make all the difference.

Mr. H. C. Prior: I do not say that it will make all the difference but it will make some difference and we hope will make a very considerable amount.

Lieut.-Colonel Sir Henry Gidney: May I ask a question? Has the Honourable Member considered the cases in which there has been a miscalculation of the date of labour? That often happens. You cannot tell with any degree of certainty when labour is to take place. What is going to happen then? Are you going to continue your benefit *ad infinitum* hoping for the day?

Mr. H. C. Prior: We cannot in every case be certain of the period of employment. We have to do the best we can with the evidence that is before us.

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

"That in clause 5 of the Bill, for the word 'nine' the word 'six' be substituted."

The motion was adopted.

Mr. N. M. Joshi: Sir, I move:

"That in clause 5 of the Bill, after the words 'eight annas a day' the words 'or at the rate of average daily wage on total wages earned during a period of three months immediately preceding the date on which she gives notice under section 4(1), whichever is greater' be inserted."

Sir, the Bill provides that the amount of maternity benefit should be eight annas a day. Sir, I am proposing that in the case of a mining woman whose average earnings for the month is more than eight annas a day, she should get her average wage of maternity benefit and it should not be reduced to eight annas in such a case. Sir, the number of women employed in mines and whose average wages will go beyond eight annas a day will be extremely small. Therefore from that point of view there need be no objection. The Honourable Member who moved this Bill agreed that the allowances paid to women for helping them during the period of confinement should be adequate and I am only suggesting therefore that those women who are getting more than eight annas a day should get their full wage and not eight annas which in their case will mean reduced allowance. I have already said that my amendment will apply to a very small number of women and, therefore, there should be no opposition to it. There is good reason why it should be approved because we are all agreed that the allowances paid to women should be adequate for their maintenance. Sir, I move.

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

"That in clause 5 of the Bill, after the words 'eight annas a day' the words 'or at the rate of average daily wage on total wages earned during a period of three months immediately preceding the date on which she gives notice under section 4(1), whichever is greater' be inserted."

Lieut.-Colonel Sir Henry Gidney: Sir, I have only one observation to make, it might be constructive or it might be destructive as far as this amendment is concerned. It is this. My Honourable friend, Mr. Joshi, wants this House to decide on his amendment that a woman should be given eight annas a day or the average of her wages whichever is greater. Suppose a woman is earning wages which works out to ten annas or twelve annas or more a day, or say her daily wage is less than eight annas per diem.

Mr. N. M. Joshi: She should be given the higher average, because my amendment is 'whichever is greater'.

Lieut.-Colonel Sir Henry Gidney: You want to have the greater one, Government of India always give the "Lesser". Who is going to suffer thereby. The employer. Have we any reason or justice to ask him to pay this woman more than what she earns?

Mr. N. M. Joshi: No, not more than what she earns.

Lieut.-Colonel Sir Henry Gidney: You read your amendment. You urge whichever is greater. Supposing a woman earns Rs. 20 a month and her daily average will be more than eight annas. You also expect the employer to give her eight annas a day even if her daily wage is less than eight annas per day.

Mr. N. M. Joshi: Yes, Sir.

Lieut.-Colonel Sir Henry Gidney: Sir, I cannot support this amendment.

Mr. H. C. Prior: Sir, I thoroughly agree with my Honourable friend, Mr. Joshi, that what we have got to do is to give maternity benefit sufficient for the full and healthy maintenance of the mother and the child, but I cannot agree with him that it makes any difference or that we should have to give a larger sum in order to satisfy that criterion if the particular wage-earner was drawing a larger sum in wages before that. The amount that is sufficient for the full and healthy maintenance of the mother and child remains the same whatever the wages drawn by the woman before confinement. Sir, we have fixed the rate at eight annas because we thought that this is the sum that satisfies the obligation of the International Labour Convention. The sum is, we believe, larger than that drawn by a large number of women working in mines, but it is a sum which satisfies our obligation and that is why we have proposed it. To ask an employer to pay anything more would be going beyond the convention and doing something which in our opinion would be unnecessary.

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

"That in clause 5 of the Bill, after the words 'eight annas a day' the words 'or at the rate of average daily wage on total wages earned during a period of three months immediately preceding the date on which she gives notice under section 4(1), whichever is greater' be inserted."

The motion was negatived.

Mr. N. M. Joshi: Sir, I move:

"That in the *Explanation* to clause 5 of the Bill, after the words 'periods of' the words 'casual absence or' be inserted."

Sir, in this clause there is the word 'continuously' which is a very mischievous word. Sir, in order that a woman should become eligible for maternity benefit, she has to show that she has been continuously employed in a mine for six months. Sir, ordinarily, the number of women employed in mines who generally come from village round about the mines

[Mr. N. M. Joshi.]

have to remain absent on many occasions, and this 'continuous' employment will be a great obstacle in the way of a woman getting maternity benefit. Sir, if this word 'continuously' is very strictly interpreted, then, in my humble judgment no woman will become eligible for the benefit. But the Government of India have introduced an Explanation to this Clause, interpreting the word 'continuously'. The purpose of that explanation is to lay down that "Periods of authorised absence on account of illness or leave shall count as employment in determining whether employment has been continuous". If a woman is absent on authorised leave or on account of illness, then only her absence will not be regarded as break in her employment. There are cases in which a woman may have to remain absent and may not be able to take leave or the employer may not agree to make her absence an authorised absence. Sir, under the Government of India rules, employees of the Government of India get leave called 'casual leave'. I am not suggesting that they always take that casual leave without anybody's permission, but sometimes they take casual leave. I am suggesting that these women employed on mines should have some casual leave. That is if they take leave for a short period, a few times during the period, that absence should be excused and it should not be regarded as a break in the continuous service. I hope the Government of India would accept my suggestion.

Mr. H. O. Prior: Sir, I should like to speak just at once after that motion, because we would be prepared to accept this amendment if, with your permission, Sir, Mr. Joshi was allowed to alter the wording of this amendment to read: "For the words 'casual absence or', the words 'casual absence as defined by rules made under section 15 or'."

Mr. N. M. Joshi: I have no objection to move the amendment in the form in which the Government would accept.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has already made his speech. He can accept the words.

Mr. N. M. Joshi: I am quite prepared to accept the amendment in the form suggested by the Government.

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

"That in the *Explanation* to clause 5 of the Bill, after the words 'periods of' the words 'casual absence as defined by the rules made under section 15 or' be inserted."

Mr. J. D. Boyle: Sir, Mr. Joshi's amendment as it was originally moved was totally unacceptable. I take it that the object of the amendment now moved by Mr. Joshi is to give Government time to consider this matter more carefully before a proper rule is framed. My object in speaking now is to remind Government of one matter. They apparently are taking Mr. Joshi's word as the gospel on the subject of labour legislation. He feels difficulty as regards the case of the woman who may be employed by what may be described as the dishonest employer; that is to say, the employer will penalise her and exclude her from the benefit of this maternity benefit because she has been absent either for a few days or even for

one day and, therefore, interrupted her continuous employment. I can quite see that there is a case to be made out for that and to be safeguarded against. But I hope Government in framing their rule will also take into consideration the exact reverse of that. In determining "casual absence" they have to remember that it may very well be that a woman who is only employed for a few days will claim the benefits under this Bill and that has to be safeguarded against just as much as against the dishonest employer.

Mr. H. O. Prior: Sir, I agree with all that Mr. Boyle has said and we will take steps to consider not only the case of what he called the dishonest employer but also the case of the dishonest employee. And before we frame these rules,—which, I frankly admit, may create a certain amount of difficulty in framing,—we will consult persons interested so as to arrive at satisfactory rules to deal with the matter. I think the difficulty which has been brought out by Mr. Joshi is a real difficulty. Attention has been called to it not only by Mr. Joshi but by the Bombay Textile Inquiry Committee. And had we had our attention called to that important item in the report, we would have included provisions of that kind in our Bill as originally framed.

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

"That in the *Explanation* to clause 5 of the Bill, after the words 'periods of' the words 'casual absence as defined by the rules made under section 15 or' be inserted."

The motion was adopted.

Mr. N. M. Joshi: Sir, I move:

"That in the *Explanation* to clause 5 of the Bill, after the word 'leave' the words 'or absence due to playing off or lockout or strike' be inserted."

Sir, I am being encouraged by the assistance given by the Government of India in passing the last amendment and in moving this amendment I rely upon getting the same assistance from them. My amendment suggests that if a woman working in a mine is absent on account of a lockout declared by the employer, that at least should not be regarded as absence or break in the continuous service. What can the poor woman do when the employer locks her out? Then, Sir, these industrial workers in most industries have sometimes to go on strikes; otherwise the employers make no improvement and there is no progress. This absence on account of a strike should also not be considered as a break.

Thirdly, I am referring to the practice of what is called "playing off" in some industries. I am not really aware of the word which is used in mines, but in the Bombay textile industry the word used is "playing off", which means that when the employer finds that he has not got sufficient orders for goods he keeps the factory closed and does not pay the employees any compensation for their being unemployed. I have already said that I am not really aware of the practice in mines but if there is any practice on the part of the employer to keep the mine closed on account of there not being sufficient orders for coal, the absence of the woman in that event should not be regarded as a break in service.

The Honourable Mr. M. S. Aney: Where shall we find the meaning of the phrase "playing off"?

Mr. N. M. Joshi: It will be found in some reports of inquiry committees. I have taken this phrase from some of the reports. For instance, there is the report of the inquiry committee in Bombay over which Justice Fawcett presided and there has recently been the report of the committee over which Justice Divetia presided. Both these reports contain this phrase "playing off" and I have explained the meaning of it.

Sir, the Honourable the Mover has said that as regards casual absence his attention was not drawn to the report of the Textile Inquiry Committee. I am again drawing his attention to that report in order to induce him to give support to my amendment. The amendment which I suggest has the support of the report of that inquiry committee. Sir, I move.

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

"That in the *Explanation* to clause 5 of the Bill, after the word 'leave' the words 'or absence due to playing off or lockout or strike' be inserted."

Lieut.-Colonel Sir Henry Gidney: Sir, I am one who believes that a strike strikes the strikers the hardest, and in this amendment Mr. Joshi attempts to persuade this House to so alter the wording of this Explanation as to incorporate in it benefits to be given to those who are indulging in "playing off",—people whom he asks Government to play with,—lockouts or strikes. Sir, I am not one who favours a strike. I admit that Government are often stampeded into compromises with strikers. But strikes are today encapsulated with legislation which prevent them from receiving any benefits during the strike periods except of course legal strikes. And I see no reason why these employees should be safeguarded to this extent that they should be given a payment or wage whilst they are "playing off" or on strikes. The employee is a free agent. He is not bound down to any employer's terms and the employee can work or not work. In these circumstances I do think Mr. Joshi is stretching his demands a bit too far when he asks us to accept this amendment. I ask him not to introduce these protective clauses which are nothing else but an encouragement to lockouts and strikes.

Mr. J. D. Boyle: Sir, I presume the amendment refers to legal strikes and illegal lockouts, because I would strongly deprecate payments being continued during illegal strikes and legal lockouts.

Mr. N. M. Joshi: I am prepared to accept an amendment that the word "legal" should be inserted before the word "strike" if the Honourable Member will support me.

Sir Vithal Narayan Chandavarkar (Bombay Millowners' Association: Indian Commerce): Sir, I think this question should be considered carefully by Government and this House before accepting Mr. Joshi's amendment. I am speaking from my experience of Bombay. As a result of the recent enactment of the Trade Disputes Act, we have got precise definitions of legal lockouts and legal strikes. If the principle underlying Mr. Joshi's

amendment is accepted, period of absence as a result of an illegal strike or a legal lockout will not be considered as authorised period of absence and, I hope, the Government will consider this point. As regards "playing off", we should be very careful because there should be a definition of "playing off". I am very glad my Honourable friend, Mr. Joshi, is trying to give recognition to the practice of "playing off" because his followers and friends in Bombay refused to agree to incorporate in the Standing Orders an order recognising the practice of "playing off" and it was only recently as a result of a decision of the Industrial Court that the practice of "playing off" has been recognised. I, therefore, suggest that before any legislation is undertaken the definition of "playing off" should be incorporated in the Bill or should be provided for in the rules. Employers have to "play off" workmen when as a result of shortage of orders or back processes machines have to be kept idle for short periods. The practice in Bombay is that when women are kept out as a result of "playing off" they are considered to be within the employment of the employer and the period is taken into account as a legitimate period of absence for the purposes of the benefits under the Maternity Act.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadian Urban): Does Mr. Joshi now admit "playing off"?

Mr. N. M. Joshi: What has that to do with me? I have moved my amendment.

Mr. H. C. Prior: I am afraid that in this case we cannot meet Mr. Joshi's wishes and we are not prepared to accept that amendment. We have already a provision in the Act, under Section 10, that if a woman claims that her maternity benefit is improperly withheld she can apply to the Chief Inspector or the Inspector of Mines. He will no doubt take into consideration a matter such as "playing off". As regards strikes, various points have been raised by Honourable Members in this House regarding the differentiation between legal and illegal strikes and I think that the question of whether maternity benefit in such cases should be withheld or not is one which must be left for consideration in the individual circumstances arising from each individual strike.

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

"That in the *Explanation* to clause 5 of the Bill, after the word 'leave' the words 'or absence due to "playing off" or lockout or legal strike' be inserted."

The motion was negatived.

Sardar Sant Singh: Sir, I want to say a word about clause 5 as amended. I understood the Honourable Member to mean that the case of premature delivery is covered by this clause. I think I heard you right, Sir. I have studied this clause once more as I wanted to be sure, Sir, whether it is included or not. The clause reads:

"Every woman employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than nine months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act, be entitled to"

Now, this condition—if she complies with the condition imposed by this Act—to my mind covers the case mentioned in clause 4 above, and

[Sardar Sant Singh.]

as such it deals only with those cases where delivery is not premature. I would like the Honourable Member in charge of the Bill to let us know if really the wordings of the clause as they are will cover such cases or not, and if they do not cover—as in my opinion they do not—then he will give an assurance that the clause will be suitably amended in the open House to cover such cases.

Mr. H. C. Prior: If the woman expects to be delivered within one month then there is a provision under clause 4 to give a notice. If, however, she has a premature delivery at a time in which she did not anticipate that this premature delivery would occur within a month then there can be no obligation on her to give notice. That appears to be the intention which is conveyed by the provisions in the Act. If she is prematurely delivered then section 5 comes in and she is entitled to benefit provided she did not anticipate that she would be delivered within one month, but if she did anticipate she has to give a notice.

Sardar Sant Singh: Then will she be entitled to the benefit of four weeks after the delivery? That is a doubtful point.

Mr. H. C. Prior: I can give an assurance that I will have the point examined to see whether the existing provision does or does not cover such cases.

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

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

The motion was adopted.

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

Mr. N. M. Joshi: Sir, I move:

"That after clause 5 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly:

- '6. A woman worker who avails herself of the services of a qualified midwife or a trained woman health-visitor at the time of her confinement, shall be entitled to the bonus of rupees five in addition to such other maternity benefit to which she may be entitled'."

Sir, this amendment speaks for itself. It is intended that if a woman avails herself of the services of a qualified midwife or a trained woman health visitor, she should get a bonus of Rs. 5. Sir, this provision has been taken by me from the United Provinces Maternity Act and I have no doubt that it will meet with the approval of the House and even of my Honourable friend, Sir Henry Gidney.

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

"That after clause 5 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly:

- '6. A woman worker who avails herself of the services of a qualified midwife or a trained woman health-visitor at the time of her confinement, shall be entitled to the bonus of rupees five in addition to such other maternity benefit to which she may be entitled'."

Lieut.-Colonel Sir Henry Gidney: There is only one question which I should like to ask Mr. Joshi before I decide whether to support this amendment or not, and it is this. In the event of a woman employee belonging to a firm or factory who have a qualified medical-man and a qualified *Dai*, would he insist on her getting Rs. 5 as an additional amount, besides the expenditure of the firm in maintaining a doctor whose services she can obtain free of charge?

Mr. N. M. Joshi: Sir, the woman will have certain legal rights to get Rs. 5 in case she avails herself of the services of a qualified midwife or a qualified health visitor. If in addition to this legal right she gets from the employers services of a qualified midwife or a qualified health visitor, she will certainly welcome that assistance from the employers, but, Sir, I cannot approve of the idea of her losing the benefit

Mr. J. D. Boyle: Why does she want two midwives and two doctors?

Mr. N. M. Joshi: of Rs. 5.

Mr. President (The Honourable Sir Abdur Rahim): Will the Honourable Member just answer the question? The Honourable Member cannot make a second speech.

Mr. N. M. Joshi: Sir, I am not making a speech, and I do not accept his suggestion.*

Mr. H. O. Prior: Sir, while I recognise the force of Mr. Joshi's argument, as I think it is intended to encourage a woman worker to make more use of qualified midwives and trained health visitors, I am afraid I cannot accept the amendment as it stands for two reasons: first, that there is no definition of qualified midwife or trained woman health visitor; and second, that in any case the payment of five rupees may be very much too much. The services of a qualified midwife or trained health visitor may be given free of cost or may amount to a very small sum indeed, and there is no reason to put on the employer an obligation to pay a sum more than the woman herself has to pay.

I see, however, that my Honourable friend, Sir George Spence, has tabled a further amendment dealing with this point and I would suggest that my Honourable friend, Mr. Joshi, may consider withdrawing his amendment with a view to the consideration of the amendment to be moved by Sir George Spence.

Mr. N. M. Joshi: In view of the fact that an amendment, which is likely to pass, is going to be moved, I am prepared to ask the leave of the House to withdraw my amendment.

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member the leave of the Assembly to withdraw his amendment?

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

Mr. N. M. Joshi: We had no time to consider this. We must have time to consider it.

Mr. C. C. Miller: I should like to point out that Sir George Spence's amendment appeared only this morning; we had no time to consider that. The amendment I move is:

"That the following proviso be added at the end of sub-clause (1) of the proposed new Clause 6:

'Provided that the obligation to pay this benefit shall not arise in the case of an employer who provides free services of a qualified midwife or other trained person in accordance with the arrangements approved by the Central Government'."

This point is one which was just now raised by Sir Henry Gidney. It is obviously inequitable that the woman should be paid for advice and medical assistance which may be provided free of all charge by the management, and we can not quite accept Mr. Joshi's view that the lady should both have her cake and eat it—should both have her midwife and get paid. If she receives free treatment, obviously she should not be paid for receiving that treatment. If on the other hand the treatment is not free, then there is a case for her receiving a certain amount, a small bonus as recommended in the amendment proposed by Sir George Spence. Sir, I move.

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

"That the following proviso be added at the end of sub-clause (1) of the proposed new Clause 6:•

'Provided that the obligation to pay this benefit shall not arise in the case of an employer who provides free services of a qualified midwife or other trained person in accordance with the arrangements approved by the Central Government'."

Mr. N. M. Joshi: Sir, I rise to oppose this amendment. This provides that if an employer employs a trained nurse or a health visitor, she need not be paid three rupees, which the amendment of Sir George Spence provides. Generally speaking, the employees have got a prejudice against the doctors employed by the employers or the nurses employed by the employers; whether such prejudice is justified or not, the prejudice exists; so that, if we approve of this amendment, the benefit which is sought to be given by the amendment of Sir George Spence will not be given to the women who deserve it. I have got some experience of the services generally made available by the employers. I, particularly, remember the case of a mill in Bombay where a doctor is employed by the mill. The same doctor has his dispensary outside the mill. If an employee of that mill goes to his dispensary in the mill he can get free medicine; if he goes to the dispensary outside, the doctor charges him eight annas a day. The doctor is a good man—I know him very well—and he complains to me that although the employees waste their money when they go to the outside dispensary while they can get the same medicine free inside the mill, the workers insist upon paying him eight annas by going to the outside dispensary. The reason is that they have got a prejudice: they feel that if an employer is keeping a dispensary they will not get the right kind of medicine. Similarly, if an employer employs a midwife or a visitor, the employees will generally avoid that

[Mr. N. M. Joshi.]

midwife or visitor and they will lose the benefit. Moreover, I am not one of those who believe in what I may call, paternal government of the employer. The employer should take work from his employees and pay them; but I do not believe in the employer providing houses, in providing nurses and trained doctors and also providing vegetable markets and everything. I would like the employers not to take upon themselves these paternal duties; they should content themselves by paying the wages and by making payments in accordance with the laws of the country. That should be the relationship between an employer and the employed. I am, therefore, against the principle of this amendment; I feel that this amendment will prevent women from getting the benefit of the amendment proposed by Sir George Spence.

Mr. J. D. Boyle: Mr. President, I think we have heard a most astounding statement from my friend, Mr. Joshi, a statement which could hardly have been made by him outside the Assembly Chamber. What, in fact, he says is, if an employer employs a labourer, he should pay him as little as possible under the letter of the law, and then have no further interest in him,—he need make no attempt whatsoever to improve his condition

Mr. N. M. Joshi: Let Government do it.

Mr. J. D. Boyle: I am not giving way.

Now, Sir, Mr. Joshi referred to the prejudice that would exist against women going to a qualified midwife provided by the employer. Now, Sir, there are two points about it. First of all, there is the prejudice against going to a doctor and against using modern forms of medicine; it is not against actually going to a particular doctor or another, in particular the prejudice is not against any particular midwife. The only prejudice which exists against a particular doctor is, quite naturally, in a large factory, against the firm's doctor, because in that case the firm is asking the doctor to see whether that man is fit for returning for employment within a certain time or not, and, therefore, the man does not naturally want to go to that doctor but would prefer to go to his own doctor because the doctor he is paying for is likely to grant him a few more extra holidays. It is an entirely different thing from the question of prejudice that is mentioned here.

As to the question of prejudice generally, I think my friend, Mr. Joshi, will agree that you cannot legislate for prejudices, and I think he will also agree that the particular prejudice against western medicines or modern forms of hygiene is rapidly disappearing, and, therefore, we should not legislate on those lines; we should try and break down those prejudices.

Lieut.-Colonel Sir Henry Gidney: Sir, I was rather astounded to hear the statement just made by my friend, Mr. Joshi. Again, talking as a medical man I am surprised to think that a man like Mr. Joshi should make such a request to this House. I should have thought that he would be one with us with India's maternity and infantile mortality at such

high levels in advocating the services of skilled midwives. Trained midwives, may I tell him from my professional experience, are quite different from the dirty *Dais* who use their dirty fingers when labour cases are conducted, and from which women in many cases have died of infection. Five rupees is a small amount and rupees three is ridiculous for the conduction of a labour. Firms provide qualified midwives and I ask why should her services be rejected to satisfy a prejudice as Mr. Joshi wants this House to believe? Why do you suggest that a woman will refuse to be attended by a doctor simply because he is employed by the firm? I think we should encourage labourers, men and women, employed in factories, to avail themselves of skilled and qualified medical aid, and not encourage in anyway the services of untrained *Dais*,—that death bed of India.

Mr. H. C. Prior: Sir, I am quite prepared to accept the general lines of the amendment moved by Mr. Miller. The object for which we have moved our amendment is to encourage among women employed in mines the use of qualified midwives and trained health visitors and it would seem that Mr. Miller's amendment will have that result and will do nothing to prevent that result being achieved. Where the Mines Manager has provided a qualified midwife,—that is what the Government wants,—Mr. Miller by his amendment wants that full use should be made of that midwife by the women employed in mines. I cannot understand, I am afraid, the prejudice referred to by Mr. Joshi and I do not think that Government legislation should be framed with the intention of encouraging that prejudice. We have a certain object, and that is, of encouraging women workers to use qualified midwives. The proviso moved will assist rather than hinder that object, and, therefore, we have no objection to the form of the proviso. It may perhaps be found necessary on a technical examination of the proviso to make certain verbal alterations before it is finally adopted, but we will do that before the matter is considered in another place and for the purposes of this House, we are prepared to accept it.

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. President (The Honourable Sir Abdur Rahim) in the Chair.

Sir Vithal Narayan Chandavarkar: Sir, the only object of my intervention in this debate is to deal with the reference made by Mr. Joshi to a doctor employed by a Mill in Bombay. I do not know to which mill my Honourable friend referred, but I take it that he meant that when the doctor to whom Mr. Joshi referred went inside the mill—very few workmen went to him for free advice, and that a large number of workmen from the same mill went to his private dispensary outside and took medicine from him and paid for it. Perhaps the explanation is that the doctor who must be in receipt of a fixed allowance from the mill wanted to make more money and therefore, he discouraged the workmen from going to him while he was on mill business during the mill hours, and made them go to his private dispensary and got more money out of them. I do not want to

make that charge at all, but if Mr. Joshi is going to make a charge against the employers that, when they spend money on medical relief, they do so merely with the object of observing the requirements of the Factories Act or any other enactment of Government and not with a desire to give real medical relief, then I submit that I am entitled to retaliate and make a charge against the doctor Mr. Joshi had in mind that he wanted to get money out of the workmen.

Sir Vithal Narayan Chandavarkar: But I would like to make it clear to this House, speaking from very intimate knowledge in my capacity as the Chairman of the Association which I have the honour to represent, that the medical relief which is given by the mills is being given sincerely with a desire to give relief to the employees and I may mention that we have gone out of our way to issue instructions to the mills that in arranging for the visits of doctors the convenience of the employees should also be taken into account and they should not be guided merely by the convenience of the doctors. I would like to make this clear as those Members of the House who do not know what is happening in Bombay may go away with the impression that the mills who give medical relief simply indulge in a make-belief and are not giving any real relief to the employees who are in their employment.

'Provided that the obligation to pay this benefit shall not arise in the case of an employer who provides free services of a qualified midwife or other trained person in accordance with the arrangements approved by the Central Government'."

Mr. President (The Honourable Sir Abdur Rahim): Then I shall put the amendment of Sir George Spence with this proviso added. The question is:

6. (1) The Central Government may by rules made under section 15 provide
 Payment of bonus. that a woman, entitled to maternity benefit
 under this Act shall, if at the time of her
 delivery she utilized the services of a qualified midwife or other trained
 person, receive in addition to the maternity benefit due to her a bonus not
 exceeding in amount three rupees.

Provided that the obligation to pay this benefit shall not arise in the case of an employer who provides free services of a qualified midwife or other trained person in accordance with the arrangements approved by the Central Government.

(2) Such rules may further provide for the determination by the Provincial Government of the amount of the bonus, and of the qualifications which shall be possessed by qualified midwives and other trained persons for the purposes of this section."

New clause 6 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That original clause 6 stand part of the Bill."

Mr. C. O. Miller: I move.

"That to clause 6 of the Bill, the following proviso be added:

'Provided that a woman giving notice under section 4 or section 6 may therein nominate a person for the purposes of sub-section (2) of section 8.'

I do not think that any one will quarrel with this amendment which is moved merely to simplify the process of paying out such money as may be due to a woman who has died. Under the Bill there are contingencies in which a woman may die with money due to her, and as it stands, that money would be paid to her legal representative. This might involve considerable delay in determining who was the legal representative, and the object of this amendment and amendment No. 14 is to give to a woman the right to nominate the person to whom such balance, if any, shall be paid. This provision is included in the Bengal Maternity Benefits Bill, and I think that it is a very good thing to have such a provision in this Bill. Sir, I move.

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

"That to clause 6 of the Bill, the following proviso be added:

'Provided that a woman giving notice under section 4 or section 6 may therein nominate a person for the purposes of sub-section (2) of section 8.'

Mr. H. O. Prior: I support the amendment.

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

"That to clause 6 of the Bill, the following proviso be added:

'Provided that a woman giving notice under section 4 or section 6 may therein nominate a person for the purposes of sub-section (2) of section 8.'

The motion was adopted.

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

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

The motion was adopted.

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

Clause 7 was added to the Bill.

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

"That clause 8 stand part of the Bill."

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

"That in sub-clause (2) of clause 8 of the Bill, after the word 'living', occurring in the twelfth line, the following words be added:

'to the person nominated by her under the Proviso to section 6 or if she has made no such nomination'."

That is merely the second part of the amendment which I have just moved.

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

"That in sub-clause (2) of clause 8 of the Bill, after the word 'living', occurring in the twelfth line, the following words be added:

"to the person nominated by her under the Proviso to section 6 or if she has made no such nomination'."

Mr. H. C. Prior: I support the amendment.

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

"That in sub-clause (2) of clause 8 of the Bill, after the word 'living', occurring in the twelfth line, the following words be added:

"to the person nominated by her under the Proviso to section 6 or if she has made no such nomination'."

The motion was adopted.

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

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

The motion was adopted.

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

Clauses 9 and 10 were added to the Bill.

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

"That clause 11, stand part of the Bill."

Mr. N. M. Joshi: Sir, I move:

"That in clause 11 of the Bill, the words 'who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work or' be omitted."

Section 11 makes it illegal or an offence for a woman to work and receive payment either in the mine or outside the mine if she takes advantage of the benefits of this maternity benefit Bill. So far as the latter part of clause 11 is concerned, I am not opposing it—that a woman who receives maternity benefit or remains absent as provided for in this Bill should not work in any mine but this clause 11 goes much further. It prohibits her working outside the mine in her village and receive any small payments. Sir, we must remember that to create a new offence is a very serious thing and we cannot expect women, especially women working in mines to possess such a thorough knowledge of the law that if the poor woman in her village receives a pice or two from somebody for helping that person she commits an offence and is liable to a fine besides being liable to be deprived of the maternity benefit. I feel that this is going too far. So far as I know, I do not find any precedents for the provision which the Government of India have made and even if there are any precedents I feel that it is a wrong precedent. We are trying to pass this Bill in order that it should benefit the mining community and by creating this offence we shall merely be creating a weapon by which the poor woman will be unnecessarily harassed. I do not think it will benefit anybody but it may create only a fear in the minds of the mining women regarding this legislation. I hope the Government of India will accept my amendment.

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

"That in clause 11 of the Bill, the words 'who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work or' be omitted."

Mr. H. C. Prior: Sir, one of the objects of this Bill is to ensure that if a woman desires not to work for a period of four weeks, before confinement, she may give notice and obtain a maternity benefit. In return for that, we do not think it is unreasonable that the woman should be required not to work elsewhere and receive payment. She will receive full maternity benefit under the terms of the Bill and that benefit is sufficient for the maintenance of the woman and the child. If she chooses to take advantage of that, she should not have the option of working elsewhere. As regards the illustration which Mr. Joshi has given of a poor woman in her village who gets a pice or two for doing a small piece of work, that is very unlikely to come to our notice and if it does come to our notice, it is most unlikely that the Chief Inspector, whose sanction has to be obtained before any prosecution under this Act is allowed, would take cognisance of that fact and order a prosecution. It would be very difficult in legislation of this sort to lay down that a woman might do work in her house or cottage industry or anything of that nature. The principle behind the Act is that if the woman chooses to receive benefit under the terms of the Act, that imposes an obligation on her not to work for payment elsewhere.

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

"That in clause 11 of the Bill, the words 'who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work or' be omitted."

The motion was negatived.

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

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clauses 12, 13, 14, 15, 16 and 17 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. H. C. Prior: I move:

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

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

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

The motion was adopted.

MOTION FOR ADJOURNMENT.

STATEMENT MADE IN THE *Sunday News* OF THE UNITED STATES OF AMERICA
REGARDING THE HOLY PROPHET OF ISLAM.

Mr. President (The Honourable Sir Abdur Rahim): Adjournment motion. Sir Abdul Halim Ghuznavi.

Sir Abdul Halim Ghuznavi (Dacca *cum* Mymensingh: Muhammadan Rural): Mr. President: I beg leave to make a motion for the adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, namely, the failure of the Government of India to lodge an effective protest against the statement made in the *Sunday News* of the United States of America to the effect that the character of the blood-thirsty monster Hitler is to be compared not to Napoleon but to Mohammad, as the latter wanted to subject mankind to the domination of a few individuals and Hitler desires to do the same, thereby offering a deliberate and gross insult to the memory of the Holy Prophet of Islam, the purest human being that ever lived, bringing the Holy Faith of Islam into contempt and wounding the dearest and most sacred sentiments of millions of Muslims.

Sir, the issue of *Din Dunya*, a Muslim Newspaper in Urdu of Delhi, dated the 2nd November, 1941, in column 3 on page 4, says that the *Sunday News* of the United States of America has published an article under the heading "Hitler and Muhammad".

In the course of this article it is stated that the character of the blood-thirsty monster, Hitler, is to be compared not to Napoleon but to Muhammad, who also wanted to subject mankind to the rule and domination of a few individuals. Hitler wants to do the same. This, Sir, is most heart-rending and the tragedy is enhanced by the fact that this kind of attack against the Holy Prophet of Islam should have found expression in an organ of the press of a country the Government of which has declared its firm intention and policy to give every possible support to those who are engaged in the struggle to destroy Hitler and the Nazis. It has been often repeated that in fighting Hitler we are fighting against every kind of unspeakable evil. If that is so, then the *Sunday News* of America has attributed every kind of unspeakable evil to the Holy Prophet of Islam. If Hitler had intended to do the most devastating damage to the cause of the Allies, he could not have done better than by getting something of this kind published in an American journal. It is a thousand pities that at a moment when the sympathies of the Islamic world are wholly on the side of the democracies the feelings and sentiments of the Muslim world should have been so cruelly wounded by this organ of American opinion. It may be said that such a folly on the part of an American journal should not be taken notice of and should be ignored. But may I point out that the mischief has already been done. Wide publicity has already been given to these statements made in the *Sunday News*; not only the *Din Dunya* of Delhi but also the *Inquilab* of Lahore and other Northern India Muslim papers have expressed strong indignation and resentment against these statements, and this has caused an upheaval of feelings amongst the Muslims of this country. The Government of India do not appear to have done anything to allay this indignation and resentment. Let me warn the Government of India that in the eyes of a Muslim nothing whatever, not even the defeat of Hitler and the Nazis, can have any weight as compared with the honour of the Holy Prophet of Islam and the respect due to his high character. Not all the efforts of the enemies of Great Britain can have so detrimental an effect upon the attitude of Muslims towards the war as this specimen from a journal which is published in a country which is a professed friend of Great Britain. The least that was to be expected from the Government of India, in their own interest,

even if they have no regard for the feelings and sentiments of millions of Muslims in this country was that they should have lodged an effective protest with the Government of the United States against this destardly attack upon the character and honour of the Holy Prophet of Islam and to have insisted that the *Sunday News* should publish the fullest apology and should make the most unqualified amends for its misbehaviour. I, on behalf of the Muslims of this country, lodge the most indignant and the strongest protest not only against the conduct of the *Sunday News* but also against the indifference of the Government of India towards the cruel injury done to the dearest and the most sacred sentiments of hundreds of millions of Muslims throughout the world.

Sir, at this time when the war is going on it was the duty, if I may say so, of the Government of India to at once take notice of this foolish article which appeared in the *Sunday News* in the United States of America to annoy the Muslims. The Muslim world is with the Allies and I give this warning that the Muslims throughout the world will not stand for a minute any insult to their Holy Prophet. They would give their life, if it comes to that, in order to preserve the honour and dignity of their Holy Prophet. If the Government of India have not taken any step so far, I ask them here and now to at once take that step and to lodge a protest to the Government of the United States of America that they may call upon that newspaper to offer an unqualified apology for its misbehaviour and withdraw the article which it has published. When that unqualified apology is tendered by that paper, it should be broadcast throughout the Muslim world so that they may know that the Government of India and His Majesty's Government have taken steps towards that action.

Sir, I am sorry that the members of my community are absent today. The Benches before me are all empty—I refer to the Muslim League. It was their duty, at all events when they read the notice that appeared in the newspapers yesterday that the motion was to be made to this effect, to have been present in the House when this motion was being made and they should have taken part. Sir, I move the adjournment of the House.

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

"That the Assembly do adjourn."

Maulvi Abdur Rasheed Chaudhury (Assam : Muhanmadan) : Sir, this is a statement of the late Lord Lothian which has been published in the *Sunday News* of the United States of America. It is a very delicate matter to criticise a person in his absence and it is still more delicate to criticise a person who is dead. We always naturally feel a sort of sympathy for those who have left this world. Whatever may be their condition in the next world and, however happily they may be living there, no traveller from that world comes back to tell us what they are doing. That is the reason why we, the living people, always have a sympathy with the people who are deceased. We naturally show our sympathy towards the deceased, but when they leave behind a legacy of bad name, we cannot forgive them altogether.

Lord Lothian is a known personality in this part of the world. He was the Chairman of the Lothian Committee and as such he travelled immensely in this country and mixed with all classes of people. He was the British Ambassador in America and, as everybody

3 P.M.

[Maulvi Abdur Rasheed Chaudhury.]

knows, he was the Viceroy-designate of this country. So, Sir, he must have very high qualification for which he was fitted to occupy such high offices. Sir, Shakespeare said, "the evil that men do liveth after them, but the good is oft interred with their bones". Whatever good qualifications they have, according to Shakespeare, are interred with their bones and only evil remains. I did not believe myself first when I came here that a statesman like Lord Lothian could have mentioned this while he was alive. But when I found that the *Sunday News* published this statement in America and the Government of the United States did not take any steps to withdraw that statement, when I found that even the Viceroy allowed this motion to be discussed in this House, I reluctantly came to the conclusion that perhaps such a statement was made by Lord Lothian. Sir, in a matter like this United States of America being a highly civilised nation ought to have taken steps to have that statement withdrawn at once without being reminded of that by other governments and especially by the Muslims. But they did not do it. There must be a great many readers of the *Sunday News* in England and other places. No steps were taken by the Government of Great Britain nor by the Government of this country to have that statement withdrawn. This is, Sir, why we have come here to criticise that statement of Lord Lothian.

Mr. O. K. Caroe (Secretary External Affairs Department): May I ask the Honourable Member if he is suggesting that the late Lord Lothian made this statement. I could not hear what the Honourable Member was saying. Does he suggest that Lord Lothian made this statement?

Mr. President (The Honourable Sir Abdur Rahim): In the notice of adjournment motion given by Sir Abdul Halim Ghuznavi, there is no mention of Lord Lothian at all. Did this appear in the *Sunday News*?

Maulvi Abdur Rasheed Chaudhury: I do not know, Sir, but it is said so in the newspaper.

Mr. O. K. Caroe: The Honourable Member referred to the name of Lord Lothian half a dozen times.

Mr. President (The Honourable Sir Abdur Rahim): In what paper did this appear? Did it appear in the *Sunday News*?

Maulvi Abdur Rasheed Chaudhury: The vernacular paper in Delhi, *Din Dunya* has published that the *Sunday News* says so.

Mr. President (The Honourable Sir Abdur Rahim): Has the Honourable Member himself seen it?

Maulvi Abdur Rasheed Chaudhury: Yes, I have seen it and that is why I am stating it.

Mr. O. K. Caroe: Lord Lothian died about a year ago and I cannot understand what the Honourable Member is talking about or mentioning.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member Sir Abdul Halim Ghuznavi has not referred to this in his motion for adjournment.

Sir Abdul Halim Ghuznavi: I have read the paper myself. The paper alleges that the statement they are printing came from Lord Lothian which I never believed. So, I never mentioned this. Perhaps it is their own imagination to create bad feeling that they have put in the name of Lord Lothian. But so far as I am concerned, I do not believe he could have made this statement.

Mr. President (The Honourable Sir Abdur Rahim): Did the *Sunday News* mention the name of Lord Lothian?

Sir Abdul Halim Ghuznavi: This paper *Din Dunya* of Delhi says that *Sunday News* alleged that Lord Lothian made this statement.

Mr. President (The Honourable Sir Abdur Rahim): Lord Lothian's name is highly respected by many people in this country including Muslims and it is impossible to believe that he could have made such a statement.

Sir Cawasji Jehangir (Bombay City: Non-Muhammadian): Do not mention the name of Lord Lothian.

Maulvi Abdur Rasheed Chaudhury: The *Sunday News* evidently has done the mischief by publishing a statement of this nature, and compared the Holy Prophet to that blood-thirsty monster, Hitler. Now, Sir, it is a well known fact that the founder of Islam was an ideal man. He propagated ideal rules and regulations and lofty ideals for the benefit of all mankind. He had supernatural powers, I should say. He was an ideal human being, purest, simplest and noblest. He cannot be compared to any mortal in this age. Look at the Prophet who in the course of one year stopped drinking in the Muslim world which the Americans and the Britishers failed to achieve in several years even after spending millions of money. Can the Prophet be compared to any mortal in this age? I do not believe so. His character and his teachings are not only ideal to his followers but also they are ideals for all mankind in general. He was never blood-thirsty. He never liked to shed blood of others. He was not a monster as the paper wants to characterise the Prophet. It is a sin to utter these words against a man who is held so high in the estimation of a large portion of mankind. To compare him with any human being in this age is, I believe, not only disgraceful but I should say mean. If such a statement was made in the presence of people of any other country, how would that statement have been received?

We read in today's paper that even the British Ambassador in the United States was pelted with rotten eggs and other things at Detroit by women while they called him a war-monger. By no stretch of imagination can such epithets be applied to the Prophet of Islam. It only reminds people of the proverb that "fools rush in where angels fear to tread". No sane people, no sane paper, no paper with any ideals would have dared to publish a statement like this except in America. We have got admiration for the American people because they have done wonders in the last 150

[Maulvi Abdur Rasheed Chaudhury.]

years of their independence. But when we find that the American Government tolerated a statement like this we cannot but despise that Government. Had this country been free, had there been power in Islam, at once there would have been retaliation. But we have lost that power and so we have come here to ask the Government of India to come to our rescue and to ask the Government of the United States to withdraw this statement in the *Sunday News*, Sir, I support the motion.

Mr. O. K. Caroe: Sir, I feel that this adjournment motion should really have been addressed to the management of this paper of which we do not know very much and not to Government or this House. We are told that there has been publication in a Delhi journal called *Din Dunya* reproducing something in a paper known as the *Sunday News* of the United States of America. I am credibly informed that there are scores of papers called the *Sunday News* published in the United States of America, in almost every town, on Sunday there is a paper called the *Sunday News*. I do not know which paper has published or is alleged to have published this article in such extremely bad taste, if indeed it was published. We have not seen the paper itself and we do not know which of the many papers called the *Sunday News* it was. I am informed,—I am not an expert on the American press,—that the best known *Sunday News* is the *Sunday News* of New York which is one of the leading papers of what is known as the tabloid press. The tabloid press of America is admittedly devoted entirely to sensation and to publishing in either gilded or rather highly coloured form in small doses various items of news or sensation. It is difficult for Government to undertake to convey any protests when there can be no certainty, as far as I can see, whether the article was in fact ever published. If we were to submit even a record of this debate through official channels to the Government of the United States they would at least wish to know the exact paper in which this article appeared. We have not even been informed of the date of the publication.

Sir Abdul Halim Ghuznavi: It was published on the 27th April, 1941.

Mr. O. K. Caroe: That was some time ago. It apparently has been culled from this article in a paper last April by the *Din Dunya* and such publicity. . . .

Sir Abdul Halim Ghuznavi: Will the Honourable Member take action if I give him a copy of the *Sunday News*?

Mr. O. K. Caroe: Such publicity as has been given has been given by this adjournment motion. Government have been blamed by the Honourable the Mover for taking no action; but the first that Government got to know of the alleged article was the adjournment motion itself and the notice in the papers that it had been tabled.

Apart from that, let me state at once my own conviction that any right thinking person would condemn sayings or writings of this kind directed to the central figure of any faith. There can be no doubt about that. But I feel that to give publicity to defamatory or even blasphemous articles of that kind is not to do anybody any great service. It partakes of a kind of

advertisement; and is it desirable to affect to treat a publication in a paper which is not seriously devoted to high thought of any kind as serious thinking? Would it not be more dignified to treat such articles with silence, the silence that they deserve? The central figures of all world faiths are better served in such a case by some form of silence; they stand, secure and serene, above the arena. But, of course, if it is the sense of the House that the record of this debate, short as it has been, should go forth, subject always to what I have said as to uncertainty about the publication itself, I suggest that the proper course would be to send the record to Sir Girja Shankar Bajpai who now represents the interests of India in the United States. And if that is the sense of the House I will have no objection to taking that course and I hope the Honourable the Mover of the motion will withdraw it on that understanding.

Sir Abdul Halim Ghuznavi: Sir, my Honourable friend said that by bringing in this adjournment motion I have given more publicity to this matter, as if there was otherwise no publicity at all.

Mr. Jamnadas M. Mehta (Bombay Central Division: Non-Muhammadan Rural): Sir, if the Honourable Member is not withdrawing I wish to speak. So he should not be allowed to give his reply at this stage.

Mr. President (The Honourable Sir Abdur Rahim): He has got the right of reply.

Mr. Jamnadas M. Mehta: But if he is not withdrawing, I have a right to speak. •

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member may leave that to the Chair.

Sir Abdul Halim Ghuznavi: The Government of India say that but for my motion there was no publicity. The difficulty is that the Government of India are both deaf and blind. They do not hear and they do not see. Hundreds of papers have already published this. I only took the *Din-Dunya* because otherwise, Mr. President, you would not have admitted my motion. My knowledge came from the *Din-Dunya* of the 2nd November, but I can produce at least fifty newspapers in India which have published this. Is not that sufficient publicity? Imagine what the Muslim feeling is; still the Honourable Member says that I have done the mischief.

Sir, the Honourable Member has given an undertaking that he will forward the proceedings of this Debate to Sir Girja Shankar Bajpai. I ask one thing more. If I produce a copy of the *Sunday News* will he take action?

Qazi Mohammad Ahmad Kasmi (Meerut Division: Muhammadan Rural): Yes, yes, he will forward it.

An Honourable Member: What kind of action?

Mr. O. K. Garoe: If the Honourable the Mover of this Adjournment Motion would provide the material on which his motion is based, the

[Mr. O. K. Caroe.]

material of course could go forward and it would then show that there was some substance for the Adjournment Motion.

Sir Abdul Halim Ghaznavi: In view of the statement made by my Honourable friend, I beg leave of this House to withdraw the motion.

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

THE EXCESS PROFITS TAX (SECOND AMENDMENT) BILL.

PRESENTATION OF THE REPORT OF THE SELECT COMMITTEE.

The Honourable Sir Jeremy Raisman (Finance Member): Sir, I present the report of the Select Committee on the Bill further to amend the Excess-Profits Tax Act, 1940.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): When is it coming before the House.

(No reply.)

The Honourable Mr. M. S. Aney (Leader of the House): As there is no work for us to transact in the House tomorrow, I request the President to cancel the meeting for tomorrow.

Sardar Sant Singh (West Punjab: Sikh): May I suggest, Sir, that we expect a statement on the war condition? Will the Honourable the Leader of the House suggest it to the Defence Secretary to give a statement in a secret Session of the House tomorrow.

Honourable Members: No, no.

Mr. President (The Honourable Sir Abdur Rahim): The House will not sit tomorrow but will sit day after tomorrow.

The Assembly then adjourned till Eleven of the Clock on Friday, the 7th November, 1941.