

11th September 1936

THE

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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*(31st August to 14th September, 1936)*

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## FOURTH SESSION

OF THE

## FIFTH LEGISLATIVE ASSEMBLY, 1936



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1937

# Legislative Assembly.

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THE HONOURABLE SIR ABDUR RAHIM, K.C.S.I., KT.

*Deputy President :*

MR. AKHIL CHANDRA DUTTA, M.L.A.

*Panel of Chairmen :*

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MR. ABDUL MATIN CHAUDHURY, M.L.A.

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

*Secretary :*

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

*Assistant of the Secretary :*

RAI BAHADUR D. DUTT.

*Marshal :*

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

*Committee on Petitions :*

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MAULVI SYED MURTUZA SAHIB BAHADUR, M.L.A.

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

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# LEGISLATIVE ASSEMBLY.

Friday, 11th September, 1936.

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

## QUESTIONS AND ANSWERS.

### REQUIREMENTS OF CEMENT AND CONCRETE.

301. \*Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether for all their requirements, they cannot get cement and concrete from India itself ; and
- (b) if not, why not ?

**The Honourable Sir Frank Noyce :** (a) and (b). Government use cement and concrete of Indian manufacture for practically all their requirements, and use imported cement only very occasionally to meet special demands. The total purchases of the latter are very small.

**Mr. S. Satyamurti :** May I have some indication of the proportion of the imported cement to Indian cement ?

**The Honourable Sir Frank Noyce :** Certainly. Anticipating my Honourable friend's question, I have got the figures here. The purchases of the Indian Stores Department which buys cement and concrete also for the Defence services in 1935-36 were Rs. 14.85 lakhs of Indian cement and Rs. 8,000 worth of imported cement. For the railways, the latest figures I have are for 1934-35, and there the purchases of Indian cement amounted to Rs. 11.34 lakhs, whereas those for imported cement were Rs. 35,000, and I think some of that was for Burma.

### PAYMENT OF DOUBLE INCOME-TAX BY PEOPLE OWNING HOUSE PROPERTY IN SAIGON.

302. \*Mr. S. Satyamurti : Will Government be pleased to state :

- (a) whether it is a fact that people owning house property in Saigon have got to pay income-tax ;
- (b) whether they are aware that owing to the new move of the French Government and the Income-tax Act of India, merchants have to pay tax twice ;
- (c) if so, the reasons for the anomalies ; and
- (d) whether they propose to take steps to remove the anomalies ?

**The Honourable Sir James Grigg :** (a) No.

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(b) Income from house property in Saigon is not liable to Indian income-tax unless it is received in or brought into British India by a resident of British India.

(c) and (d). The Government do not propose to take any action.

I might elaborate the answer to part (a) to avoid any misunderstanding. There is no income-tax on house property in Saigon, but there is a land tax on the land on which property is built.

**Mr. S. Satyamurti** : May I know whether this question is one of those, which are being considered by the income-tax experts ?

**The Honourable Sir James Grigg** : Yes, Sir, it is. But I am afraid it is being considered or almost certainly will be considered in the sense opposite to the one suggested by the Honourable Member.

**Mr. S. Satyamurti** : When is this report of the experts expected to be received ?

**The Honourable Sir James Grigg** : I think in a month or six weeks, or possibly as long as two months. In any case within the next month or two.

**Mr. S. Satyamurti** : May I know whether Government propose to place that report on the table of the House ? Have the Government made up their mind to give an opportunity to this House to discuss that report, before they introduce any reforms on the lines that may be suggested by the experts ?

**The Honourable Sir James Grigg** : I think I have answered that question the other day. I have every intention of seeing public opinion invited on it, but as to the precise form in which public opinion is to be invited, I have not yet reached any final conclusion.

**Mr. S. Satyamurti** : Will the Honourable Member consider this House as one of the means of ascertaining that public opinion ?

**The Honourable Sir James Grigg** : I shall certainly remember that exhortation.

**Pandit Lakshmi Kanta Maitra** : Is there a general tax on land or a tax only on plots of land on which house property is situate ?

**The Honourable Sir James Grigg** : I imagine it is a general land tax, but I cannot say definitely.

#### EXAMINATION FOR RECRUITMENT OF CLERKS IN THE TELEPHONE REVENUE ACCOUNTING OFFICE, DELHI.

303. \***Mr. S. Satyamurti** : Will Government be pleased to state :

- (a) whether it is a fact that a recruitment examination for clerks was held by the Telephone Revenue Accounting Office, Delhi, in June, 1935 ;
- (b) whether the above examination was subsequently declared invalid by the Postmaster General, Punjab and North-West Frontier Circle on account of certain irregularities on the part of the office ;
- (c) whether a re-examination was held in September ;

(d) whether it is a fact that candidates, who became over-aged between June and September, were not allowed to sit for the September examination ;

(e) if so, the reasons ; and

(f) if the reply to part (b) be in the affirmative, whether they are prepared to remedy the grievances of those over-aged students ?

**The Honourable Sir Frank Noyce :** (a) to (e). The Honourable Member is referred to the reply given to Sardar Sant Singh's unstarred question No. 307 on the 9th March, 1936.

(f) Does not arise.

**Mr. K. Ahmed :** Is not the present question identical with the previous one (which was already answered); word for word, comma for comma, and full stop for full stop ?

**Mr. S. Satyamurti :** I think, Sir, you gave a ruling the other day on that matter.

**Mr. President (The Honourable Sir Abdur Rahim) :** Anyway, if it can be avoided, identical questions ought not to be asked.

**Mr. S. Satyamurti :** Unless my Honourable friend has convinced you or convinced the House that I had notice of another identical question, I can hardly help this. I can understand that I should not put a question again, once it has been answered on the floor of the House.

**Mr. K. Ahmed :** Is it a fact that interested persons circulate identical questions to all the Members, and in this way it happens that different Members put the same identical questions.

**Mr. S. Satyamurti :** What is wrong with that ? I am not an irresponsible Member like my Honourable friend ?

#### NON-APPOINTMENT OF AN INDIAN AS DEPUTY AGENT OF THE SOUTH INDIAN RAILWAY.

304. \***Mr. S. Satyamurti :** Will Government be pleased to state :

(a) whether it is a fact that the post of the Deputy Agent on the South Indian Railway was sanctioned on the distinct understanding that an Indian officer would be appointed to the same ;

(b) if so, why an Indian officer was not selected ;

(c) when the present European Deputy Agent is due to retire ;

(d) whether the South Indian Railway authorities are thinking of appointing another European officer in his place ;

(e) whether there are Indian officers senior to the said European officer ;

(f) if so, why a European officer is preferred to an Indian officer for the Deputy Agent's post ; and

(g) whether they propose to address the South Indian Railway authorities on this matter ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) Sanction to the creation of the post was given subject to the condition that an Indian officer should be appointed to the post if a qualified officer was available.

(b) No Indian officer with the necessary qualifications was available.

(c) The present Deputy Agent retires on 8th October, 1936.

(d) Yes.

(e) No.

(f) and (g). Do not arise.

**Mr. S. Satyamurti :** May I know what were the qualifications, which were prescribed when the sanction was given for the creation of the post of Deputy Agent ?

**The Honourable Sir Muhammad Zafrullah Khan :** No qualifications were prescribed. But you could only appoint an officer who was having regard to the duties of the post of Deputy Agent qualified to hold that post.

**Mr. S. Satyamurti :** Who was to judge the qualifications ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Agent, I should imagine.

**Mr. S. Satyamurti :** When the sanction was given, did the Government satisfy themselves that the selection to the office and the decision as to the fitness of the particular appointee will be brought to the notice of the Government ?

**The Honourable Sir Muhammad Zafrullah Khan :** I would require notice, but I do not imagine that that would have been laid down.

**Mr. S. Satyamurti :** May I know what is the meaning of the answer to part (a) of the question, that is to say, 'it was sanctioned on the distinct understanding that an Indian officer would be appointed to the same' ?

**The Honourable Sir Muhammad Zafrullah Khan :** No ; on the distinct understanding that if a suitable qualified Indian officer was available, he would be appointed.

**Mr. S. Satyamurti :** May I know on what ground the Government satisfied themselves that no suitable qualified Indian officer was available ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Agent would take into consideration the claims of any Indian officer who was senior enough and who might be qualified to hold the post.

**Mr. S. Satyamurti :** Did the Government accept the Agent's opinion ?

**The Honourable Sir Muhammad Zafrullah Khan :** Ordinarily I should imagine the Agent's opinion would be accepted on that point.

**Mr. S. Satyamurti :** With reference to part (d), may I know the reasons why another European officer is to be appointed to the same place ?

**The Honourable Sir Muhammad Zafrullah Khan :** The answer to this part is contained more or less in the answer to the next part (e).

**Mr. S. Satyamurti :** May I know if there are no Indian officers, who are senior to the European officer ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is what the Agent says. There are no senior officers to the one who has been appointed.

**Pandit Lakshmi Kanta Maitra :** Do the Government prescribe no qualifications which make any particular person eligible for the office of Agent or Deputy Agent ? Do the Government have no idea of the qualification which entitle a man to hold these posts ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Honourable Member in the first part of his question asks whether Government do not prescribe any qualifications and in the next part he asks whether they have no idea as to the precise qualifications necessary. As regards the first part, the answer is that the Government do not prescribe them, as regards the second part, the answer is that the Government have a pretty clear idea as to what they should do.

**Pandit Lakshmi Kanta Maitra :** Can the Honourable Member give some idea to the House as to the qualifications which should be fulfilled before a man is entitled to hold the post of Deputy Agent ? We want some idea of the qualifications to judge whether the post has been given to the proper man ?

**The Honourable Sir Muhammad Zafrullah Khan :** There are different kinds of Deputy Agents. There may be a Deputy Agent, Personnel, who deals with personnel matters. An officer who has had experience in that line will be qualified to hold such post of Deputy Agent.

**Pandit Lakshmi Kanta Maitra :** In the appointment of Agents and Deputy Agents, what are the qualifications which weigh with the Government on making the selection ?

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member has already answered that the qualifications depend upon the nature of the work which he is called upon to undertake.

**Mr. N. V. Gadgil :** Are the posts created for the man or the man is meant for the post ?

**Pandit Lakshmi Kanta Maitra :** The Honourable Member says, personal qualifications. I quite understand that. He seems to suggest particular Deputy Agents doing particular acts. I want a specific answer to the question what are the considerations which weigh with the Government in making appointments to the posts of Agents and Deputy Agents generally ?

**Mr. S. Satyamurti :** When the last European was appointed, was he the most senior ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have already said in answer to part (e) that the officer who has been selected for appointment to this post in succession to the present incumbent is senior to any other Indian officer.

**Mr. S. Satyamurti :** I am asking whether with regard to this last appointment, the European who was selected was the most senior ?

**The Honourable Sir Muhammad Zafrullah Khan :** Senior to everybody who was considered qualified for the post. I cannot say without notice whether he was the most senior.

**Mr. S. Satyamurti :** May I, therefore, take it that, if it is a case of an Indian being overlooked, it should be either on the ground of a European being senior or a junior European being better qualified for the post ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Honourable Member started with the preface, " may I therefore take it ", thus referring to my previous reply which I said I could not answer without notice. How can his question therefore arise ?

**Mr. S. Satyamurti :** It arises this way, that in both cases a European is to be appointed, because he is the most senior or he is better qualified than any other Indian.

**Pandit Lakshmi Kanta Maitra :** I wanted to know from the Honourable Member what are the qualifications which weigh with the Government in making the selection ?

**Mr. President (The Honourable Sir Abdur Rahim) :** I have already ruled that it has been answered. Next question.

#### DELIVERY OF PARCELS CONTAINING FRESH FRUITS.

305. **\*Mr. Sri Prakasa :** (a) Is it a fact that Railway Companies have arrangements at hill-stations to deliver parcels of fresh fruits to the addressees directly and to collect the railway receipts from them ?

(b) If so, are Government prepared to recommend to the Railway Companies to follow a similar practice in cases of at least such parties who express their desire in writing in this behalf to the station masters at stations in the plains also ?

(c) Are Government aware that parcels of fresh fruits have often been completely spoiled and that addressees have had to pay demurrage besides, owing to the late delivery of postal covers containing railway receipts on account of censorship or other reasons ?

**The Honourable Sir Muhammad Zafrullah Khan (a)** Government understand that the only hill stations at which there are arrangements for the delivery of parcels to consignees at their residences are Darjeeling, Ootacamund, Yercaud (Railway Station Salem) and Mussoorie (Railway Station Dehra Dun).

(b) Railways have established a similar street delivery system at certain stations on the plains, e.g., Madras, Coimbatore and Calcutta, where they are satisfied that such an arrangement is justified.

(c) Government have no information.

**Mr. Sri Prakasa :** Are not similar facilities provided at Simla, Naini Tal and Ranikhet ?

**The Honourable Sir Muhammad Zafrullah Khan :** So far as Simla is concerned, my personal experience is that they are not ; and I am afraid with regard to the other two stations I must require notice.

**Mr. Sri Prakasa :** Is it a fact that when letters containing railway receipts for fruit parcels are opened by the censor, the censor makes sure from the railway stations as to what the parcels actually contain, with the result that the letters are delivered after five or six days, and when the addressee goes to the railway station with the railway receipt, he finds that the contents have all got rotten ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is the question to which I have replied that I have no information.

**Mr. Sri Prakasa :** Perhaps the Home Member may reply to that ?

**The Honourable Sir Henry Craik :** It has nothing to do with my Department.

ISSUE OF POSTAGE STAMPS AND CURRENCY WITH THE NEW KING'S EFFIGY.

306. **\*Mr. Sri Prakasa :** (a) By what time do Government expect that postage stamps and currency with the new King's effigy will be available ?

(b) What scripts, besides the Latin, do Government intend to use on the new coins and currency notes ?

(c) Are Government prepared to consider the desirability of using the Nagri script also in view of its wide prevalence in the country ?

**The Honourable Sir James Grigg :** (a) I am not in a position to say. Some of them may be ready about the latter half of next year.

(b) and (c). The Government of India have no present intention of altering the existing position.

**Sir Muhammad Yakub :** Are Government aware that the Urdu script was used on the rupees of the late Queen Victoria, and do Government propose to renew the same and have Urdu script on the new coins of King Edward ?

**The Honourable Sir James Grigg :** I understand the position is that nickel coins already have Nagri and three other vernaculars, bronze coins have no vernacular inscription, and silver coins have only Urdu.

**Prof. N. G. Ranga :** Why is the Latin script used on our coins ?

**Mr. Sri Prakasa :** What is the position in the case of currency notes, as regards new designs ?

**The Honourable Sir James Grigg :** I cannot say without notice ; I will look into it and let the Honourable Member know.

IDEA TO RUN THE PUNJAB MAILS ON THE JAUNPUR-SULTANPUR-LUCKNOW SECTION OF THE EAST INDIAN RAILWAY.

307. **\*Mr. Sri Prakasa :** (a) Is it a fact that when the new railway line was laid between Jaunpur, Sultanpur and Lucknow on the East Indian Railway, there was an idea that the Punjab Mails will run over this ?

(b) Has the idea been now given up ?

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

(b) Does not arise.

**Mr. Sri Prakasa :** Am I to take it that there was never any idea of running the Punjab Mails along this new route ?

**The Honourable Sir Muhammad Zafrullah Khan :** I said, the answer to (a) is, no.

**Mr. Mohan Lal Saksena :** Is it a fact that this route is shorter than the route by which it is running just now ?

**The Honourable Sir Muhammad Zafrullah Khan :** Yes, Sir.

**Mr. Sri Prakasa :** Why do not Government propose to run the mail along that route which is both shorter and quicker ?

**The Honourable Sir Muhammad Zafrullah Khan :** I do not know whether it would be quicker ; that would depend upon the quality of the track. But I suppose the present route enables more connections to be made with important junctions.

#### ADVISABILITY OF INCREASING THE SIZE OF EMBOSSED POSTCARDS.

308. **\*Mr. Sri Prakasa :** (a) Are Government considering the advisability of increasing the size of the embossed postcards to that now permitted for privately manufactured postcards ?

(b) If so, by what date do Government expect such postcards to be available at the Post Offices ?

**The Honourable Sir Frank Noyce :** (a) and (b). Government have already carefully considered the question of increasing the size of the embossed postcard and have decided not to do so in view of the large increase in the cost of manufacture that would be involved.

#### ISSUE OF PLATFORM TICKETS TO THE MEMBERS OF THE CRIMINAL INVESTIGATION DEPARTMENT.

309. **\*Mr. Sri Prakasa :** (a) With reference to the reply given to starred question No. 1134 on March 11, 1936, will Government state whether there is any law that compels Railway authorities to give platform passes to members of the Criminal Investigation Department to enter railway platforms ?

(b) What, if any, are the conditions attached to these passes ?

(c) Is there any law by which railway officials are compelled to obey the orders of the members of the Criminal Investigation Department in the matter of waking up passengers, examining tickets, etc. ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) and (c). No.

(b) No condition is attached.

**Mr. Sri Prakasa :** Ordinary platform passes only give admission to persons to the platforms, but these gentlemen seem to have special rights of asking railway servants to worry passengers. Have they that right under the Railway Act ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is an argument.

**Pandit Lakshmi Kanta Maitra :** May I know if they get free platform passes ?

**The Honourable Sir Muhammad Zafrullah Khan :** Passes are ordinarily issued free.

**Mr. Sri Prakasa :** In view of the fact that these people worry innocent passengers, I should like the railway administration to look into the matter ; and that is why I have brought this matter to the notice of the Railway Member in the hope that he will inquire into it.

**The Honourable Sir Muhammad Zafrullah Khan :** That is an argument the implication of which I do not admit.

**Mr. S. Satyamurti :** To whom are these passes issued ?

**The Honourable Sir Muhammad Zafrullah Khan :** To a good many people.

**Mr. S. Satyamurti :** Are they given to public servants only, or to private individuals also ?

**The Honourable Sir Muhammad Zafrullah Khan :** It is possible that on some occasions they may be issued to private individuals also.

**Pandit Lakshmi Kanta Maitra :** Why are they given free passes ?

**The Honourable Sir Muhammad Zafrullah Khan :** They are supposed to be there on public duty, and, therefore, they are given free passes.

**RUNNING OF THE BOMBAY-CALCUTTA MAIL *via* ALLAHABAD AND BENARES AND THROUGH RAILWAY SERVICE BETWEEN DELHI AND CALCUTTA *via* MUTTRA, AGRA, ETC.**

310. **\*Mr. Sri Prakasa :** With reference to the reply given to starred questions Nos. 1238 and 1241 on the 16th March, 1936, will Government state what, if any, reply has been received from the railways concerned, regarding the suggestions made to run the Bombay-Calcutta (*via* Jubbulpore) Up and Down Mails, *via* Allahabad-Janghai-Benares, and the running of a through railway service between Delhi and Calcutta, *via* Muttra, Agra, Allahabad, Benares and Gaya ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Agent, East Indian Railway, states that the traffic offering at stations on the longer route suggested, *i.e.*, Allahabad-Janghai-Benares, does not justify the running of the Bombay-Calcutta Mails by that route : and that the figures relating to the number of passengers travelling to Muttra indicate that a through train between Delhi and Calcutta passing through Muttra is not financially justified.

**Mr. Sri Prakasa :** Is the reply based on the experience of the earlier trains that used to run along these lines ?

**The Honourable Sir Muhammad Zafrullah Khan :** I cannot say. I have read out the reply which is based on the information received from the Agent of the East Indian Railway.

EAST INDIAN RAILWAY ADVERTISEMENTS IN THE *Aj* AND *Pratap* NEWSPAPERS.

311. \***Mr. Sri Prakasa** : With reference to the reply given to starred question No. 1460 (d) and (e) on the 7th April, 1936, have Government received the information from the East Indian Railway as to why they stopped advertising in the *Aj* and *Pratap* newspapers and whether any communication from the United Provinces Government was received by them ?

**The Honourable Sir Muhammad Zafrullah Khan** : The Honourable Member is referred to the information laid on the table of the House on 31st August, 1936.

**Mr. Sri Prakasa** : Did the United Provinces Government write to the Railway informally, as they did in the case of the Etawah Dharamsala, or was it done formally in this particular case ?

**The Honourable Sir Muhammad Zafrullah Khan** : I am afraid I am unable to answer that.

**Mr. Sri Prakasa** : Will the Honourable Member inquire, because there seems to be a difference in the attitude of the Railway in regard to the two matters ?

**The Honourable Sir Muhammad Zafrullah Khan** : No, Sir, I shall not inquire, because the distinction is not of any great importance.

**Mr. Sri Prakasa** : Are the Railways bound to accede to the wishes and dictates of Local Governments ?

**The Honourable Sir Muhammad Zafrullah Khan** : It depends, but they are bound to consider them very carefully.

**Mr. Sri Prakasa** : In view of the fact that it is in the interest of the railways to get the widest possible publicity for their advertisements, will they consider the desirability of not attending to the political dictation of Local Governments but to their own commercial requirements and patronise papers that circulate widely in the areas concerned ?

**The Honourable Sir Muhammad Zafrullah Khan** : Sometimes adjustments have to be made. An exception was made very recently where Government were of the opinion that a certain kind of advertisement in a paper of that kind was desirable in the commercial interests of the railway.

**Mr. Sri Prakasa** : In view of the fact that these advertisements only appear in English papers in the United Provinces and not in the papers published in the languages of the province, will Government be pleased to reconsider this matter ?

**The Honourable Sir Muhammad Zafrullah Khan** : I am not sure that the Honourable Member is quite correct in stating that railway advertisements appear only in English papers and not in the vernacular papers in the United Provinces. I should be very much surprised if that is so.

**Mr. Sri Prakasa** : May I know what other papers in the United Provinces receive railway advertisements ?

**The Honourable Sir Muhammad Zafrullah Khan** : I shall require notice of that question.

**Pandit Lakshmi Kanta Maitra :** May I know if, in the matter of giving advertisements to these papers, Government are swayed mainly by considerations of publicity and business rather than political considerations ?

**The Honourable Sir Muhammad Zafrullah Khan :** That is what the question and its supplementaries are concerned with, and I have replied already to it.

**CLOSING OF THE LEVEL CROSSING NEAR THE BENARES CANTONMENT RAILWAY STATION.**

312. **\*Mr. Sri Prakasa :** With reference to the reply given to starred question No. 1618 on the 14th April, 1936, regarding the closing of the level crossing near the Benares Cantonment Railway Station, have Government received any reply to their enquiries from the Railway Administration, and if so, what is it ?

**The Honourable Sir Muhammad Zafrullah Khan :** The Honourable Member is referred to the information laid on the table of the House on 31st August, 1936.

**Mr. Sri Prakasa :** In view of the fact that the Honourable Member is very fond of averages, may I know if he has worked out the average time necessary for the closing of these gates and if he will not order that more than that average time is not taken on an average ?

**The Honourable Sir Muhammad Zafrullah Khan :** The question starts by saying "in view of the fact that the Honourable Member is very fond of averages". If the Honourable Member will first substantiate that portion of his question, I will then reply to the later parts of his question.

**Mr. Sri Prakasa :** Only yesterday the Honourable Member referred to the average number of servants. ....

**Mr. President (The Honourable Sir Abdur Rahim) :** I think such remarks should not be made.

**RULES ON THE EAST INDIAN RAILWAY *re* ALTERNATE ROUTES FOR THROUGH TRAVELLING AND BREAK OF JOURNEY.**

313. **\*Mr. Sri Prakasa :** (a) With reference to the reply given to starred question No. 1624, on the 14th April, 1936, and the indication therein that the rules on the East Indian Railway as published in the time table, regarding the alternate routes and break of journey, are quite clear, will Government state on the strength of the above rules whether the routes between Benares and Delhi *via* Janghai-Allahabad, Lucknow-Cawnpore, and Moradabad are alternate routes, and on which routes, if any, can a passenger break journey ?

(b) Will Government state what are the routes by which a passenger can travel between Patna and Unao and Benares and Unao, and on which routes, if any, he can break journey ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) No. The correct route between Benares and Delhi is through Janghai, Allahabad and Cawnpore. The adoption of any other route would normally

necessitate the payment of a higher fare calculated on the distance by that route. Since the issue of the April, 1936, time table, however, the East Indian Railway Administration have notified *via* Moghal Sarai as an alternative route, permitting the journey between Moghal Sarai and Naini to be broken only at Bindhachal for a period not exceeding 24 hours.

(b) The correct route between Patna and Unao is *via* Moghal Sarai, Benares, Jhanghai, Phaphamau and Dalmau by which route break of journey is permitted. The alternative routes, as recently notified, by which a break of journey is not permitted are :

- (i) *via* Benares, Janghai, Partabgarh, Rai Bareilly and Dalmau.
- (ii) *via* Allahabad and Cawnpore Central.

The correct route between Benares and Unao is *via* Janghai, Phaphamau, Unchahar and Dalmau by which route break of journey is permitted. The alternative routes by which a break of journey is not permitted are :

- (i) *via* Partabgarh, Rai Bareilly and Dalmau.
- (ii) *via* Partabgarh and Lucknow.

**Mr. Sri Prakasa :** May I take it that the journey between Benares and Delhi *via* Lucknow is not permissible as an alternative route ?

**The Honourable Sir Muhammad Zafrullah Khan :** It is permissible in the sense that, if anybody wants to travel by that route, he can do so on payment of a higher fare than would be payable by the shortest route.

#### CARRIAGE OF ICE BY FIRST AND SECOND CLASS PASSENGERS ON THE EAST INDIAN RAILWAY.

314. **\*Mr. Sri Prakasa :** (a) Are Government aware that the East Indian Railway have introduced a system by which any first or second class passenger can carry a maund of ice in a case for a consideration in his compartment, and that other passengers, travelling in the same compartment who may not like to have this ice travelling with them in the interest of their health, are put to great inconvenience ?

(b) If so, what relief do Government intend to offer in this behalf ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) The East Indian Railway, as also other Railways, have notified that ice containers are available at certain of the more important stations for supply to first and second class passengers who are prepared to pay the small charge made for the use of the container. The quantity of ice that may be taken is entirely at the discretion of the passenger. Government are not aware that this causes great inconvenience to other passengers. On the contrary, the majority would presumably appreciate the resultant lowering of the temperature in the compartment without having to pay for it.

(b) Government have no reason to believe that their interference in this matter is called for.

**Mr. Sri Prakasa :** In view of the fact that sometimes some people catch colds even in the hot weather, and they do not like this ice, what relief will the railway give in a particular case like that ?

**The Honourable Sir Muhammad Zafrullah Khan :** Considering that all sorts of people are affected by all sorts of conditions, I am afraid railways could not ensure that the atmosphere in a carriage would suit everybody.

**Mr. Sri Prakasa :** Just as every passenger has got a right to object to a fellow passenger smoking, can he also object to this extra maund of ice ?

**The Honourable Sir Muhammad Zafrullah Khan :** The objection to smoking, I imagine, is mainly based upon religious sentiment which does not apply to ice.

#### INCONVENIENCE FELT BY INTERMEDIATE AND THIRD CLASS THROUGH PASSENGERS ON THE EAST INDIAN RAILWAY.

315. **\*Mr. Sri Prakasa :** (a) Are Government aware that the East Indian Railway have arrangements for running up through compartments from one station to another which are detached and attached at intervening junction stations for the convenience of through passengers ?

(b) Are Government aware that, while such first and second class through carriages are put at convenient sidings for passengers to board before the arrival of the trains to which they are to be attached, intermediate and third class through carriages are not similarly available and are only brought to the platform after the train is in, resulting in a scramble for seats in the hurry of the moment, and thus detracting a great deal from the value of this arrangement ?

(c) Are Government prepared to instruct the Railway authorities to provide adequate facilities for intermediate and third class passengers to board these compartments before the trains to which they are to be attached, are due, and thus add to the convenience of the travelling public ?

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

(b) No. The Agent, East Indian Railway, states that no such distinction is made. At stations at which convenient siding or platform facilities do not exist, passengers are not allowed to entrain into through service carriages of all classes until these carriages are placed on the platform with the regular stock of the train. These stations are Howrah, Moghal Sarai, Benares Cantonment, Lucknow and Lhaksar. At other stations, viz., Gaya, Allahabad, Harwar, Patna Junction, Cawnpore Central and Dehra Dun, passengers of all classes are allowed to entrain into through service carriages.

(c) Does not arise.

**Mr. Sri Prakasa :** May I know if Moghal Sarai and Benares have no convenient sidings ? That is news to me.

**The Honourable Sir Muhammad Zafrullah Khan :** There are a good many things that are news to the Honourable Member : surely he cannot claim to know all the details in these matters.

#### HONORARY MAGISTRATES IN THE CENTRALLY ADMINISTERED AREAS.

316. **\*Mr. Sri Prakasa :** (a) How many honorary magistrates function in the centrally administered areas ?

(b) What, if any, are the qualifications required before such appointments are made ?

(c) Do Government invite gentlemen to take upon themselves the duties of honorary magistrates, or are persons desirous of the office appointed by the executive ?

(d) Do Government make sure that a person appointed to the office of an honorary magistrate has some acquaintance with the criminal codes of the land and the law of evidence ?

(e) Are Government aware that many honorary magistrates visit the evening *darbars* of *thanedars* and *kotwals* ?

(f) Are Government aware that many observers feel that such visits produce alliances between the police and the magistrates making justice impossible ?

(g) Do Government propose to make a rule that honorary magistrates are not to visit police stations except on duty ?

**The Honourable Sir Henry Craik :** (a) 143.

(b) Good repute, high standing, and adequate intellectual attainments.

(c) The administrations invite suitable gentlemen to take upon themselves the duties of honorary magistrates.

(d) Yes, as far as possible.

(e) and (f). The administrations are not aware of any such *darbars*.

(g) No.

**Mr. Sri Prakasa :** With reference to the answer to part (b) of the question, may I know whether a knowledge of the criminal codes of the land and the law of evidence is not absolutely necessary for persons so appointed ? The Honourable Member said " as far as possible ".

**The Honourable Sir Henry Craik :** When I said that, I meant it is not possible to compel these gentlemen to undergo an examination ; but they are encouraged to undergo departmental examination, and I believe in some cases they do so. Anyhow it is possible to ensure to some extent at any rate that a man is acquainted with criminal law without compelling him to undergo an examination.

**Dr. N. B. Khare :** Is there any test made before they are appointed ?

**The Honourable Sir Henry Craik :** In some cases, yes.

**Prof. N. G. Ranga :** Are they re-appointed even if they have not taken advantage of an examination ?

**The Honourable Sir Henry Craik :** I said it is not possible to insist on their undergoing an examination in all cases.

**Mr. T. S. Avinashilingam Chettiar :** May I know if, in some cases, they are appointed without passing these tests or undergoing these tests ?

**The Honourable Sir Henry Craik :** In some cases, yes.

OVERCROWDING IN RAILWAY COMPARTMENTS.

317. \*Mr. Sri Prakasa : (a) What relief, if any, have passengers already occupying a railway compartment when owing to further arrivals at a later station the number goes beyond what is marked as the carrying capacity of that compartment ?

(b) Are Government aware that railway officials do not listen to complaints made on the spot in this behalf and themselves help in overcrowding compartments ?

(c) Is it not the duty of railway officials to prohibit overcrowding ? If so, what, if any, instructions have Government issued or intend to issue in this behalf ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) The overcrowding can be brought to the notice of any railway servant who is empowered under section 109 of the Indian Railways Act to require passengers in excess of the marked carrying capacity to vacate the compartment.

(b) Allegations to this effect have sometimes been made but as the Honourable Member is aware, passengers insist on forcing themselves into compartments that are already full rather than stay back for a later train.

(c) Railway Administrations have been doing all they can within the means at their disposal to prevent overcrowding, and in this connection I would refer the Honourable Member to the reply given by Mr. P. R. Rau to Professor Ranga's question No. 55 on the 6th February, 1935.

**Mr. Sri Prakasa :** In view of the fact that there is a certain class of railway officials to whom complaints can be made, will the Honourable Member suggest to the railways to have some notices put in each compartment showing to what officials such complaints can be made, because every passenger does not know to whom to go ?

**The Honourable Sir Muhammad Zafrullah Khan :** I think that is not necessary ; complaints can be made to the conductor or the guard.

**Mr. Sri Prakasa :** I do not know what exactly the Honourable Member means by conductor : for no such official is found in most of the trains I know ?

**The Honourable Sir Muhammad Zafrullah Khan :** Conductors travel along with some of the mail trains to look after the comfort of the passengers : but the guard is always there.

**Prof. N. G. Ranga :** Is the Honourable Member aware of the fact that no officer goes about with any particular label saying that he is a conductor of passengers ?

**The Honourable Sir Muhammad Zafrullah Khan :** Yes : wherever there is a conductor, he has a label across his chest or arm.

**Mr. Sri Prakasa :** What about those trains which are not mail trains—for those are generally overcrowded and they have no conductors, as the Honourable Member himself says ?

**The Honourable Sir Muhammad Zafrullah Khan :** There are no trains without guards.

**Mr. Sri Prakasa :** The Honourable Member knows that it is not always possible for passengers travelling in a compartment near the engine to get to the guard at the rear, especially when the train stops only two or three minutes at wayside stations.

**The Honourable Sir Muhammad Zafrullah Khan :** I am afraid railways cannot provide an officer next to every carriage at each station at which the train stops.

**Mr. Sri Prakasa :** Is not action taken against bus companies if more than the stipulated number of passengers force their way into buses? Why should Government make a difference between the two and not penalise railways carrying more than the stipulated number in a compartment?

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

#### PASSAGES IN CERTAIN BOOKS DEROGATORY TO THE JEWS AND THEIR RELIGION.

318. **\*Mr. Sri Prakasa :** (a) Has the attention of Government been drawn to passages in Shakespeare's "The Merchant of Venice" and Scott's "Ivanhoe" derogatory to the Jews and their religion?

(b) Are Government aware that the Jewish subjects of His Majesty in India greatly resent these remarks?

(c) If so, do Government intend to prohibit the entry of these books in India?

**The Honourable Sir Henry Craik :** (a) No.

(b) No.

(c) Does not arise.

**Mr. Sri Prakasa :** Has not the Honourable Member read Shakespeare and Scott?

**The Honourable Sir Henry Craik :** I don't think the Government of India as a body have read them. I have read them.

**Mr. K. Ahmed :** Will the Honourable Member say why such questions are not asked even in the House of Commons in England, and why my Honourable friends are allowed to ask such questions here, when none of the Members of this House are Jews and are in any way interested?

**Mr. Sri Prakasa :** I ask those questions because such questions are commonly asked in this House, with a view to stopping the circulation of literature. I want to know if the Honourable Member opposite has ever heard of Shylock and had the innocent man been traduced on the score of his religion?

**Mr. President (The Honourable Sir Abdur Rahim) :** Order, order. The Chair cannot allow that.

#### GRANT OF PASSPORTS.

319. **\*Mr. Sri Prakasa :** (a) In view of the Honourable the Home Member's statement that the granting of passports is a privilege, or a

sort of favour afforded by the executive and that the citizen as such has no right to get a passport, have Government the right to refuse to grant passports to retiring Viceroys and Governors ?

(b) Is it not the purpose of a passport to afford protection to a national travelling abroad ?

(c) Under what section of the passport laws is the grant of a passport regarded as a privilege afforded by the executive to an individual citizen ?

**The Honourable Sir Henry Craik :** (a) and (c). The Honourable Member has an incorrect impression of what I said. I explained clearly, in reply to questions Nos. 822 and 824 on the 25th February, 1936, that the issue of a passport, which is generally left to the discretion of Passport Issuing authorities in India, is regulated by instructions which are not statutory, but executive. The position is that each case is considered on its merits.

(b) Yes ; this is one of the purposes of a passport.

**Mr. Sri Prakasa :** Did not the Honourable Member say that the grant of a passport was a privilege given by the executive ?

**The Honourable Sir Henry Craik :** I don't remember using that expression. What I think I said was that nobody could demand a passport as a right. I don't think I used the word privilege.

**Mr. Sri Prakasa :** Am I to take it then that even retiring Governors and Viceroys have no right to get this passport ?

**Mr. K. Ahmed :** They have a right to go Home.

**LAVATORIES IN THE NEW TYPE OF SECOND CLASS COMPARTMENTS OF THE CALCUTTA-KALKA MAILS OF THE EAST INDIAN RAILWAY.**

320. **\*Mr. Sri Prakasa :** (a) Has the attention of Government been drawn to the new type of second class compartment that is being run on the Calcutta-Kalka Mails of the East Indian Railway, in which two small lavatories are provided, one for Indians and one for Europeans ?

(b) Are Government aware that the space provided is very small, making washing at the wash-tub and changing of clothes exceedingly inconvenient, and are Government prepared to recommend to the Railway the desirability of reducing the length of the main compartment by about a foot and including this extra space in the lavatories ?

(c) Are Government also prepared to draw the attention of the Railway to the very unsatisfactory arrangement made in the Indian lavatory and recommend that a proper pan should be fitted up and adequate foot-space provided ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) Yes. The second class compartment referred to was introduced as an experimental measure in 1923.

(b) The size of the lavatories cannot be increased owing to the position of the carriage doors which prevents further extension into the compartment.

(c) The fitting of Indian pattern standard pans would occupy so much floor space that it would be impossible to use the wash basin without standing on the pans.

**Mr. Sri Prakasa :** In view of this answer, do Government propose to abolish this pattern of carriages ?

**The Honourable Sir Muhammad Zafrullah Khan :** I will send down the Honourable Member's suggestion to the Agent.

#### STOPPAGE OF CARNIVALS USED FOR GAMBLING.

321. **\*Mr. Amarendra Nath Chattopadhyaya :** (a) Are Government aware of the facts that the 'carnivals' held within the centrally administered areas are used mainly for gambling by which thousands of people are tempted to be cheated and ruined ?

(b) If so, are Government prepared to enact such laws as to stop all such carnivals at the earliest opportunity, so that millions of Indian families may be saved from the pernicious effects of these shows ?

**The Honourable Sir Henry Craik :** (a) Government are aware that gambling takes place to some extent at 'carnivals', but they have no reason to believe that it does so to the extent suggested by the Honourable Member. The carnivals undoubtedly afford perfectly innocent amusement to a great many people.

(b) No. Government are satisfied that the powers contained in the Gambling Acts and in the provisions of the Indian Penal Code are sufficient to deal with gambling in the Centrally Administered Areas provided the public co-operate with the Police. I have no doubt that if specific instances of gambling are brought to the notice of the proper authorities, they will be able to take effective action under the existing law.

**Pandit Lakshmi Kanta Maitra :** Are we then to understand that the Government of India view with approval the holding of carnivals in Centrally Administered Areas ?

**The Honourable Sir Henry Craik :** I imagine they have to be licensed by the local authorities, but as I say I have no doubt they afford perfectly innocent amusement to a great many people.

**Pandit Lakshmi Kanta Maitra :** Is it not a fact that a good deal of gambling is going on in these carnivals ?

**The Honourable Sir Henry Craik :** I have answered that.

**Mr. Mohan Lal Saksena :** Have Government made inquiries about the carnivals that are being held in Delhi ?

**The Honourable Sir Henry Craik :** As far as I remember, I did make inquiry.

**Pandit Lakshmi Kanta Maitra :** Is the Honourable Member aware that some of the Provincial Governments look on these carnivals with disapproval ?

**The Honourable Sir Henry Craik :** No, I am not aware of that.

PRIVATE BUSES AND LORRIES.

322. \*Mr. Amarendra Nath Chattopadhyaya : (a) Will Government be pleased to state how many private buses and lorries are being run, province by province, all over India by private parties—the mileage covered by them, and state the comparative difference in the rate of passengers per mile and also difference in freights and rates of luggage and goods transported by them and the railways in India ?

(b) Will Government lay on the table the result of enquiries held regarding railway and motor transport, if it is ready ?

The Honourable Sir Frank Noyce : (a) Government have no information except that about the number of buses running in each Province which is contained in the fourth chapters of the Provincial reports which were published in 1933 at the end of the Mitchell-Kirkness Report, of which a copy is already in the Library.

(b) I would refer the Honourable Member to the following documents :

The Mitchell-Kirkness Report.

The Concise Statements of Policy adopted at the first and second meeting of the Transport Advisory Council.

Copies of the last two documents have been placed in the Library.

POLITICAL PRISONERS CONFINED IN THE CELLULAR JAIL IN THE ANDAMANS.

323. \*Mr. Amarendra Nath Chattopadhyaya : (a) Will Government be pleased to state the number of Political Prisoners confined in the Cellular Jail in the Andamans ?

(b) Will Government be pleased to state the number of cells in the Andamans jail and the number of Political Prisoners confined in each cell ?

(c) Will Government be pleased to state the exact arrangement of light and air in the aforesaid cells and exact measurement of the length, breadth and height of the same ?

(d) Will Government be pleased to state if Political Prisoners only are confined in these cells ?

(e) Will Government be pleased to state if newspapers, weeklies, and monthlies, in English and vernacular, are supplied to the Political Prisoners in the Andamans, as are given to other classes of Political Prisoners in Indian jails ?

(f) Will Government be pleased to state if the Political Prisoners in the Andamans are allowed to have all sorts of indoor and outdoor games and apparatus of physical exercise ?

(g) Will Government be pleased to state the number of hours during which the Political Prisoners in the Andamans are kept confined in cells during day and night, and between what hours this is done ?

(h) Will Government be pleased to state the nature of food—its quality, quantity, and cost per head—supplied to the Political Prisoners in the Andamans ?

(i) Will Government be pleased to state the number of Political Prisoners who fell ill in the Andamans and the nature of illness and duration of their illness, and if any of them died there due to the effect of such illness, or had committed suicide on account of ill-treatment or severity of punishment or out of disgust ?

(j) Will Government be pleased to state if these prisoners are allowed to put on their ordinary dress or are obliged to put on convict dress ?

(k) Are they allowed to associate amongst themselves ?

**The Honourable Sir Henry Craik :** (a) The Honourable Member uses the term " political prisoners " throughout, but I presume him to mean the prisoners convicted of grave terrorist crimes who are now confined in the Cellular Jail. The number of these is at present about 300.

(b) The number of cells in the Cellular Jail is nearly 700. One cell is allotted to each prisoner.

(c) Each cell is  $7\frac{1}{2}$  feet wide and  $13\frac{1}{2}$  feet long : each has an iron-grated door in front and a window at the back. The ground-floor cells have also a ventilating shaft. Each cell has electric light.

(d) Volunteer convicts also are on arrival from India accommodated for a time in the Cellular Jail, but they are kept apart from the terrorist prisoners.

(e) The prisoners are supplied by Government with weekly papers in English and vernaculars.

(f) The prisoners are allowed to play indoor games and also outdoor games such as volley-ball and football. They have also apparatus for physical exercises.

(g) The prisoners are confined in the cells between sunset and dawn.

(h) The diet is given in the Rules which the Honourable Member will find in the Library. Recently we consulted the Nutrition Research Institute at Coonoor about the diet, and I understand that some changes have been made as a result. The Director of the Institute found that diet generally was satisfactory, but suggested an increase in its fat content. I have no precise information as to the cost of the diet.

(i) The Honourable Member has not stated the period for which he requires this information but I lay a statement on the table which gives in respect of illness the information required for the period July, 1933, to June, 1936. There were no deaths or suicides in that period.

(j) The prisoners wear the dress prescribed in the Rules.

(k) Yes, by day.

Statement showing the Number of Prisoners connected with Terrorist Crime who fell ill in the Cellular Jail together with the nature and duration of illness for the period from July, 1933, to June, 1936.

Number of prisoners connected with terrorist crime who fell ill and the nature and duration of illness.

July, 1933 to December, 1933.

Disease.	Number of patients.	Number of days.
Dysentery	2	48
Influenza	23	256
Malaria	23	175
Conjunctivitis	1	10
Coryza	2	10
Anæmia	2	36
Bronchitis	1	11
Asthma Bronchial	1	32
Pneumonia	1	25
Pulmonary Tuberculosis	3	45
Laryngitis	1	15
Dyspepsia	4	33
Diarrhœa	1	3
Colitis	4	80
Cholecystitis	2	45
Synovitis	1	10
Arthritis	2	33
Myositis Fibrosa	1	8
Inflamed Areolar Tissue	2	12
Eczema	2	27
Orchitis	1	5
Contusion	3	10
Multiple Injuries	1	11
Fracture	1	25

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Dysentery	1	20
Influenza	49	342
Malaria	55	334
Rheumatism	2	13
Ankylostoma	1	5
Neuralgia	1	5
Conjunctivitis	3	13
Coryza	1	4
Tachycardia Neurosis	1	7
Anæmia	2	31
Debility	1	12
Lymph Adenitis	1	5
Bronchitis	3	21
Asthma	4	33
Pulmonary Tuberculosis	1	32
Dyspepsia	5	21
Colitis	13	92

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Disease.			Number of patients.	Number of days.
Diarrhoea	..	..	6	23
Intestinal Colic	..	..	1	4
Tonsillitis	..	..	3	20
Pyorrhoea Alveolaris	..	..	2	14
Gingivitis	..	..	2	9
Stomatitis	..	..	5	36
Gum boil	..	..	1	7
Files	..	..	1	8
Pharyngitis	..	..	1	6
Synovitis	..	..	1	8
Myalgia	..	..	5	20
Lumbago	..	..	2	17
Cellulitis	..	..	2	22
I. A. Tissue	..	..	7	43
Herpes Zoster	..	..	1	3
Abscess	..	..	2	10
Eczema	..	..	1	8
Whitlow	..	..	1	5
Boil	..	..	2	6
Urticaria	..	..	1	5
Scabies	..	..	4	17
Stricture	..	..	1	6
Cystitis	..	..	1	15
Burns	..	..	1	7
Contusion	..	..	6	27
Abrasion	..	..	1	5
Fracture	..	..	2	21
Wounds	..	..	3	18
Injury multiple	..	..	1	7
No Appreciable disease	..	..	2	6
Neuritis Peripheral	..	..	2	15
Acute Mania	..	..	1	17
Sprain	..	..	4	18

## 1935.

Dysentery	..	..	2	34
Influenza	..	..	35	295
Malaria	..	..	67	454
Rheumatism	..	..	1	12
Syphilis	..	..	1	20
Ankylostoma	..	..	1	11
Gonorrhoea	..	..	1	5
Neuralgia	..	..	3	11
Sciatica	..	..	1	12
Hysteria	..	..	1	8
Whooping Cough	..	..	1	2
Conjunctivitis	..	..	2	22
Otitis Media	..	..	3	25
Cherry	..	..	41	201

QUESTIONS AND ANSWERS.

1935—contd.

Disease.	Number of patients.	Number of days.
Lymphadenitis .. .. .	2	80
Bronchitis .. .. .	2	19
Asthma Bronchial .. .. .	1	15
Pneumonia .. .. .	1	22
Pulmonary Tuberculosis .. .. .	2	188
Pyorrhœa Alveolaris .. .. .	1	11
Tonsillitis .. .. .	2	17
Dyspepsia .. .. .	13	101
Enteritis .. .. .	1	12
Fissure in Ano .. .. .	1	30
Gastritis .. .. .	2	14
Colitis .. .. .	16	117
Diarrhœa .. .. .	8	25
Constipation .. .. .	3	13
Stomatitis .. .. .	3	18
Piles .. .. .	3	70
Pharyngitis .. .. .	2	8
Hepatitis .. .. .	1	16
Intestinal Toxæmia .. .. .	2	31
Hernia Inguinal .. .. .	1	24
Orchitis .. .. .	1	9
Phymosis .. .. .	1	12
Synovitis .. .. .	1	12
Myalgia .. .. .	3	12
Inflamed Areolar Tissue .. .. .	9	62
Abscess .. .. .	1	10
Urticaria .. .. .	1	19
Boil .. .. .	7	30
Dermatitis .. .. .	1	7
Scabies .. .. .	2	9
Renal Calculus .. .. .	2	21
Contusion .. .. .	5	29
Abrasion .. .. .	1	4
Wounds .. .. .	3	19
Sprain .. .. .	10	53
Fracture .. .. .	1	23

January, 1936 to June, 1936.

Dysentery .. .. .	5	51
Influenza .. .. .	9	67
Malaria .. .. .	25	189
Sand Fly Fever .. .. .	2	17
Pyrexia Uncertain Origin .. .. .	2	42
Akylostoma .. .. .	1	9
Oxyuris Vermicularis .. .. .	1	5
Hysteria .. .. .	1	10
Mania .. .. .	1	36
Neuralgia .. .. .	2	11
Chills Malaria .. .. .	2	20
Ocycum .. .. .	21	145

January, 1936 to June, 1936—contd.

Disease.	Number of patients.	Number of days.
Bronchitis .. .. .	4	27
Asthma Bronchial .. .. .	1	13
Gingivitis .. .. .	1	6
Dyspepsia .. .. .	20	147
Fissure in Ano .. .. .	1	30
Gastritis .. .. .	1	7
Colitis .. .. .	8	80
Diarrhœa .. .. .	1	4
Constipation .. .. .	1	8
Piles .. .. .	2	60
Myalgia .. .. .	2	9
Lumbago .. .. .	2	14
Inflamed Areolar Tissue .. .. .	7	61
Eczema .. .. .	1	15
Urticaria .. .. .	3	60
Boil .. .. .	2	17
Nephritis .. .. .	1	14
Renal Calculus .. .. .	1	72
Contusion .. .. .	3	18
Wounds .. .. .	2	16
Sprain .. .. .	9	97
Strain .. .. .	1	9
Fracture .. .. .	4	70
No Appreciable Disease .. .. .	1	4

**Pandit Lakshmi Kanta Maitra :** Are these political prisoners compelled to wear jail uniform ?

**The Honourable Sir Henry Craik :** Yes, the dress is prescribed by the rules.

**Prof. N. G. Ranga :** Why are they not allowed to use their own dress ?

**The Honourable Sir Henry Craik :** Because they are convicts.

**Sardar Mangal Singh :** What is the scale of remission ?

**The Honourable Sir Henry Craik :** I must have notice of that question.

**Pandit Lakshmi Kanta Maitra :** Why are they permitted to read only the English weeklies and are not supplied with any vernacular dailies or weeklies ? May I know what papers are actually supplied to them ?

**The Honourable Sir Henry Craik :** I think there is a later question on that point in reply to which I shall supply the information.

**Mr. Mohan Lal Saksena :** Is the Honourable Member aware that in certain provinces daily papers are also supplied to A and B class prisoners ?

**The Honourable Sir Henry Craik :** In any event, daily papers are not supplied in the Andamans ; it takes at least a week for the papers after they are published to reach there, I am not aware whether daily papers are supplied to A and B class prisoners in the provinces.

**Seth Govind Das :** Is there any classification of prisoners in the Andamans ?

**The Honourable Sir Henry Craik :** Yes.

**Prof. N. G. Ranga :** Is there a separate switch for turning on or putting out the electric lights for each room ? We are told there are electric lights fitted in every room ?

**The Honourable Sir Henry Craik :** As far as I remember, there is a separate switch for every room, but it is outside the room, and not inside. Prisoners are naturally not allowed to keep the lights burning all night.

**Pandit Lakshmi Kanta Maitra :** Is the Honourable Member aware that there are frequent complaints that the health of the prisoners has broken down on account of the insalubrious climate of the place ?

**The Honourable Sir Henry Craik :** No, that is quite incorrect.

**Mr. Mohan Lal Saksena :** Is it not a fact that a daily bulletin is published in the Andamans ?

**The Honourable Sir Henry Craik :** A daily bulletin of Reuters and other telegrams received—that I believe is supplied.

**Pandit Lakshmi Kanta Maitra :** Is it not a fact that many of these prisoners are suffering from a malignant type of malaria ?

**The Honourable Sir Henry Craik :** That is quite untrue. As regards malaria the position is distinctly better than that in the average Indian jail.

**Pandit Lakshmi Kanta Maitra :** Is it not a fact that the facilities for medical relief of these prisoners are very meagre ?

**The Honourable Sir Henry Craik :** No. On the contrary, the Honourable Member's allegation is exactly contrary to facts.

**Dr. N. B. Khare :** Is it not a fact that the health of these prisoners has broken down owing to enforced celibacy ? (Laughter.)

**Mr. President (The Honourable Sir Abdur Rahim) :** Order, order. Next question.

AMNESTY TO STATE AND POLITICAL PRISONERS AT THE TIME OF THE INAUGURATION OF THE PROVINCIAL AUTONOMY.

324. **\*Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state if all Political Prisoners will be given general amnesty at the time of the inauguration of provincial autonomy ?

(b) Will Government be pleased to state if all the State Prisoners under Regulation III of 1818 will be given amnesty on the aforesaid occasion ?

**The Honourable Sir Henry Craik :** (a) and (b). No.

RELEASE OF CERTAIN CLASSES OF PRISONERS ON THE OCCASION OF THE CORONATION OF HIS MAJESTY THE KING EMPEROR.

325. **\*Mr. Amarendra Nath Chattopadhyaya :** Will Government be pleased to state if all ordinary convicted prisoners, sentenced to

transportation for life or long terms of imprisonment, will be released on the occasion of the Coronation of His Majesty The King Emperor of India ?

**The Honourable Sir Henry Craik :** The answer is in the negative.

FACTS ENTERED INTO BETWEEN THE GOVERNMENT OF GREAT BRITAIN AND THE COMMUNISTIC GOVERNMENT OF SOVIET RUSSIA.

326. **\*Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state if the present Government of Great Britain have entered into pacts with the Communistic Government of Soviet Russia ?

(b) Do Government propose to declare a general amnesty for all Political Prisoners convicted or detained on account of their alleged or suspected or proved connection with the communist or labour movement and withdraw all bans against labour, socialistic or communistic literature and cases pending against persons connected with such movement ?

(c) Do Government propose to advise the C. I. D. not to set informers to watch their movements, not to shadow them, not to raid their houses, knowing them to be avowedly communists and not terrorists ?

**The Honourable Sir Henry Craik :** (a) It is common knowledge that the Government of Great Britain has entered into a trade agreement with the Government of the U. S. S. R.

(b) and (c). These parts of the question do not seem to me to arise.

**Mr. K. Ahmed :** If the Congress takes up the subject of educating illiterate passengers about observance of cleanliness and discipline during railway journey, Government will have no objection ?

**Prof. N. G. Ranga :** You come and join us. ....

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order. Next question.

CERTAIN IMPROVEMENTS ON THE EAST INDIAN, EASTERN BENGAL AND NORTH WESTERN RAILWAYS.

327. **\*Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government be pleased to state what improvements have been made during 1935 and 1936, on the East Indian, Eastern Bengal and North Western Railways regarding :

- (i) overcrowding in the third and intermediate class compartments ;
- (ii) lavatories and bathrooms ;
- (iii) sleeping accommodation ;
- (iv) electric fans ; and
- (v) supply of pure and cheap food during journey ?

(b) What steps have been taken by the aforesaid Railway authorities to educate illiterate passengers about observance of cleanliness, and discipline during railway journey ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) I would invite the Honourable Member's attention to Chapter VII, pages 70 to 82 of the Railway Board's Report for 1934-35, Vol. I, which contains such information as is available on the points referred to. Similar information for 1935-36 has been called for from Railways and will be embodied in the report for that year now under compilation.

(b) This is not one of the functions of the Railways and Government do not understand in what manner they can undertake it.

**ARRANGEMENTS FOR THE SUPPLY OF FOOD IN THE HOWRAH AND DINAPORE DIVISIONS.**

328. **\*Mr. Amarendra Nath Chattopadhyaya :** Will Government be pleased to state if the arrangement for food supply in the Howrah and Dinapore Divisions is under consideration of the authorities ?

**The Honourable Sir Muhammad Zafrullah Khan :** The question of the arrangements to be made for vending contracts at stations on the East Indian Railway has been discussed by the Administration with their Local Advisory Committee, but no action is being taken on the conclusions arrived at, pending a discussion with the Central Advisory Council for Railways of the question of catering on railways generally.

**PROTECTION OF FEMALE PASSENGERS IN THE INTERMEDIATE AND THIRD CLASS COMPARTMENTS ON RAILWAYS.**

329. **\*Mr. Amarendra Nath Chattopadhyaya :** Will Government be pleased to state what arrangements have been made for the special protection of female passengers in the intermediate and third class compartments on railways against sudden attacks by *goondas* and thieves ?

**The Honourable Sir Muhammad Zafrullah Khan :** A communication chain, the pulling of which stops the train, is provided in each compartment for use in circumstances such as those referred to by the Honourable Member.

**Pandit Lakshmi Kanta Maitra :** Do Government propose to make arrangements for the provision of safety catches inside the compartment in the third and intermediate female compartments as they have in the first and second class compartments, so that at night they may travel in safety ?

**The Honourable Sir Muhammad Zafrullah Khan :** I will bring the suggestion to the notice of Railway administrations.

**Pandit Lakshmi Kanta Maitra :** Thank you.

**RECOMMENDATIONS OF THE ROYAL COMMISSION ON AGRICULTURE GIVEN EFFECT TO.**

330. **\*Mr. M. Asaf Ali :** (a) Will Government be pleased to state in detailed chronological order (i) which of the recommendations of the Royal Agricultural Commission have been given effect to by legislation or executive orders, and (ii) when and with what effect ?

(b) Do Government propose to undertake to publish a periodical survey of the progress of such legislation and executive action along the same lines as the survey of labour legislation ?

**Sir Girja Shankar Bajpai :** (a) Reports are issued by the Government of India biennially showing the progress made in giving effect to the recommendations of the Royal Commission on Agriculture in India, and the attention of the Honourable Member is invited to part I of the fifth report which gives complete information about the action taken up to the end of 1935 on the recommendations concerning the Government of India. As regards the action taken by Local Governments on recommendations which concern them his attention is invited to part II of the first four reports. All these reports are available in the Library of the House. The second part of the 5th report which will bring the provincial information upto date is in course of preparation and will be supplied to the Library as soon as it is ready.

(b) The suggestion is being considered.

**Prof. N. G. Banga :** Will Government consider the advisability of publishing an annual report on the action taken on the recommendations of the Royal Commission instead of a biennial report ?

**Sir Girja Shankar Bajpai :** The period was fixed after full consideration of the requirements of the case, and Government see no reason to revise their decision.

**Mr. M. S. Aney :** Cannot the Honourable Member say on what recommendations the Government are prepared to take no action at all ?

**Sir Girja Shankar Bajpai :** I think the Honourable Member had better read the biennial report. He knows what a voluminous document the report of the Royal Commission on Agriculture is and what the range of the recommendations is, and I could not say offhand which recommendations have been acted upon and which not.

**Mr. M. S. Aney :** Will Government please prepare a statement and lay it on the table of the House ?

**Sir Girja Shankar Bajpai :** That is a question of inference. You go through the biennial reports where you have a record of the progress as also of the lack of progress.

**Mr. M. S. Aney :** Will Government kindly save us this trouble by asking the Department to do this work ?

**Sir Girja Shankar Bajpai :** No. I think if Honourable Members are really interested in the report of the Royal Commission on Agriculture, which is a very bulky document and which my Department is constantly taking the trouble of studying, they may give themselves the very much lesser trouble of reading the tabulated information given in the summary.

**Mr. N. M. Joshi :** Will the Honourable Member consider the advisability and practicability of supplying copies of the latest report on the action taken on the report of the Royal Commission on Agriculture ?

**Mr. M. A. Jinnah :** Rs. 20 a day is not enough for that labour.

**Sir Girja Shankar Bajpai :** That raises a general question.

**Mr. M. A. Jinnah :** Also a particular question.

**Sir Girja Shankar Bajpai :** I was going to say that I shall answer the particular case by the general answer, which is that if Honourable Members who are interested in a particular activity of Government would like to have these publications I will be prepared to consider the question of complying with their request. And as to what fell from my Honourable friend, Mr. Jinnah, I may venture to submit that I hope that Honourable Members work not for Rs. 20 a day, but because they regard the work as a labour of love.

**Mr. N. V. Gadgil :** Will the Honourable Member speak a little slowly ?

**Mr. M. A. Jinnah :** May I tell my Honourable friends on the Treasury Bench that they ought not to put an undue burden on us, but facilitate our work, especially when they have got high salaried officials on the other side and a tremendous staff, and that we expect them to give us information in a readable form, and I think they ought to help us.

**Sir Girja Shankar Bajpai :** I think if my Honourable friend will take the trouble of going through the document to which I have referred he will find that it does give the information asked for in as compendious and convenient a form as is possible, considering the volume and range of the information covered by the report.

**Prof. N. G. Ranga :** In view of the fact that reports on the action taken on the recommendations of the Royal Commission on Labour are supplied to every Member of this House, will Government consider the advisability of following the same practice in regard to the supply of reports on action taken on the recommendations of the Royal Commission on Agriculture ?

**Sir Girja Shankar Bajpai :** I shall enquire into the question and if I find that that particular practice is followed in regard to the recommendations of the Royal Commission on Labour, I shall undertake to do likewise in regard to the recommendations of the Royal Commission on Agriculture.

**Prof. N. G. Ranga :** Thank you.

**Mr. M. Asaf Ali :** May I know what will be the extent of the Central Government's responsibility in this respect after the inauguration of provincial autonomy ?

**Sir Girja Shankar Bajpai :** I do not think after the inauguration of provincial autonomy the extent of the responsibility of the Central Government would be any more or any less than what it is at the present moment because agriculture is already a transferred provincial subject.

#### INSUFFICIENCY OF AGRICULTURAL PRODUCE.

331. **\*Mr. M. Asaf Ali :** (a) Is it a fact that the total agricultural produce of India is insufficient for the primary needs of the population ? If so, to what extent ?

(b) What steps, if any, have Government taken to make India self-sufficient as regards (i) adequate supply of foodstuffs, and (ii) other necessities of life ?

(c) Are Government prepared to undertake to publish a quarterly survey of such statistics for public information ?

**Sir Girja Shankar Bajpai :** (a) and (b). I would refer the Honourable Member to the reply given by me to Mr. Akhil Chandra Datta's question No. 158 on the 7th February, 1936.

(c) It is regretted that such statistical data as are available would not permit of compliance with the Honourable Member's request.

**Mr. M. Asaf Ali :** Is it not a fact that the Health Commissioner issued a report some time ago which contains some facts and figures to which I am making reference in my question, and can you draw an inference from them ?

**Sir Girja Shankar Bajpai :** My Honourable friend has referred to a statement of Colonel Russell which is dealt with in my reply to Mr. Akhil Chandra Datta's question.

#### INDIAN FEELINGS REGARDING ITALY'S CONQUEST OF ABYSSINIA.

332. **\*Mr. M. Asaf Ali :** Are Government aware of Indian feelings regarding Italy's conquest of Abyssinia ? And have they communicated them to the British Government ?

**Sir Aubrey Metcalfe :** The Government of India have received a few expressions of public indignation in the form of resolutions passed at public meetings. They have also observed some articles in the Press in the same sense. The resolutions have been brought to the notice of the Secretary of State.

**Mr. S. Satyamurti :** Are Government aware that, when they brought up their Italian Loans and Sanctions Bill, this House expressed itself very strongly on the attitude of Italy towards Abyssinia and on the impotence of the League of Nations ? Did they bring that to the notice of His Majesty's Government ?

**Sir Aubrey Metcalfe :** The debates on that Bill certainly went to the India Office.

#### TERMINATION OF THE SANCTIONS AGAINST ITALY.

333. **\*Mr. M. Asaf Ali :** (a) Are Government aware that India regards the attitude of the League of Nations in respect of the Italo-Abyssinian dispute as a complete betrayal of a weak member of the League ?

(b) Are they also aware that the proposal to terminate the sanctions against Italy is regarded by India as a humiliating confession of the defeat of the League of Nations, and a precursor of its dissolution as also an explosion of the policy of "Collective Security" ?

(c) Have they communicated these views to the League of Nations and the British Government ?

**Sir Aubrey Metcalfe :** (a) and (b). Government are aware that the policy of the League of Nations in regard to the Italo-Abyssinian dispute has met with vigorous criticism in India.

(c) No direct communication has been made by the Government of India to the League of Nations : but His Majesty's Government has been kept in touch with the criticisms expressed in India.

**Mr. M. Asaf Ali :** With respect to (b), may I know if the Government of India still believe in the principle of collective security, the policy of collective security and if so in what respect ?

**Sir Aubrey Metcalfe :** That is a matter on which I can hardly give an answer in reply to a supplementary question.

**Mr. M. Asaf Ali :** It is not a supplementary question. I have asked a definite question and the Honourable Member has not answered it.

**Mr. President (The Honourable Sir Abdur Rahim) :** What is the question ?

**Mr. M. Asaf Ali :** The question is :

“ Are Government aware that the proposal to terminate the sanctions against Italy is regarded by India as a humiliating confession of the defeat of the League of Nations and a precursor of its dissolution as also an explosion of the policy of ‘ Collective Security ’.”

**Sir Aubrey Metcalfe :** I have already answered that.

**Mr. President (The Honourable Sir Abdur Rahim) :** If the Honourable Member is not in a position to express an opinion, the Chair cannot force him to do so.

**Mr. M. Asaf Ali :** Inasmuch as the question was admitted, I am expecting an answer.

**Prof. N. G. Ranga :** It is not a question of opinion. It is a question of their knowledge as to the kind of opinion prevailing in this country.

**Mr. President (The Honourable Sir Abdur Rahim) :** That has been answered.

#### VIEWS REGARDING THE BRITISH GOVERNMENT'S POLICY IN PALESTINE.

334. **\*Mr. M. Asaf Ali :** Has Government's attention been drawn to the views of Pandit Jawaharlal Nehru, the President of the Indian National Congress, the Jamiatul Ulema-i-Hind and numerous other public bodies representing responsible opinion, regarding the British Government's policy in Palestine ? If so, have they communicated these views to the British Government ?

**The Honourable Sir Henry Craik :** Government are aware of the feeling expressed in India in this matter and have brought these expressions of opinion to the notice of His Majesty's Government.

**Mr. S. Satyamurti :** When did they send the last communication ?

**The Honourable Sir Henry Craik :** We have addressed three or four communications. We are in constant correspondence with His Majesty's Government about it.

**Mr. S. Satyamurti :** What was the date of the latest communication ?

**The Honourable Sir Henry Craik :** I cannot say without notice.

**Mr. S. Satyamurti :** May I know if the Government of India were consulted, before His Majesty's Government decided to send troops to Palestine to coerce the Arabs ?

**The Honourable Sir Henry Craik :** No.

**Mr. S. Satyamurti :** May I know if the Government of India have communicated to His Majesty's Government the strong feeling of India against the present policy of unrestricted immigration of Jews into Palestine, which is against His Majesty's Government's undertaking to the Moslems of India ?

**The Honourable Sir Henry Craik :** The despatch of troops took place only within the last day or two, but we will communicate the feeling in India to His Majesty's Government.

**Mr. S. Satyamurti :** Have they done anything so far in the matter ? Since the despatch of troops to Palestine to coerce the people there, have the Government of India done anything to bring to the notice of His Majesty's Government the strong feeling in India against this procedure ?

**The Honourable Sir Henry Craik :** The despatch of troops has taken place only yesterday or the day before.

**Mr. S. Satyamurti :** Are there no cables or other means available to the Government of India ?

**The Honourable Sir Henry Craik :** There has so far been no expression of opinion on that.

**Mr. S. Satyamurti :** There will be tomorrow morning.

**Mr. M. A. Jinnah :** May I ask the Honourable Member whether the Government of India are aware that during the last six months public meetings have been held by the Moslems of India ?

**Prof. N. G. Ranga :** By others also.

**Mr. M. A. Jinnah :** and by others also. Protest after protest has been sent to the Government. Have they taken any step and if so, what step ?

**The Honourable Sir Henry Craik :** The Government of India are quite aware of that fact and have reported to His Majesty's Government.

**Mr. M. A. Jinnah :** Have the Government of India got any reply from His Majesty's Government with regard to this matter ?

**The Honourable Sir Henry Craik :** I do not think they have.

**Mr. M. A. Jinnah :** Then His Majesty's Government have treated all the information that you have submitted with contempt ?

**The Honourable Sir Henry Craik :** I do not think that that inference can be drawn at all. I have no doubt that the state of affairs as reported to His Majesty's Government has received their careful attention.

**Mr. S. Satyamurti :** The result is the despatch of troops there.

**Mr. Ram Narayan Singh :** Have the Government of India sent any comment of their own and if so, what ?

**The Honourable Sir Henry Craik :** The Government of India have not been asked by His Majesty's Government to express their own views.

**Mr. S. Satyamurti :** Did the Government of India send this bald expression of public opinion, or did they add a note or comment or any expression of opinion of their own, as to the importance which His Majesty's Government ought to attach to this public opinion ?

**The Honourable Sir Henry Craik :** We have certainly sent them our own appreciation of the feeling in India.

**Mr. S. Satyamurti :** What is that appreciation ?

**The Honourable Sir Henry Craik :** I cannot repeat the exact words. It was in a confidential communication to His Majesty's Government. Naturally we have reported that there is a strong feeling in India on the subject.

**Mr. S. Satyamurti :** Have the Government of India advised His Majesty's Government to go slow, and to pursue a conciliatory policy and not to coerce the Arabs ?

**The Honourable Sir Henry Craik :** The Government of India do not proffer advice on a question of international policy unless they are asked for it.

**Dr. N. B. Khare :** Are they debarred from doing so ?

**Pandit Krishna Kant Malaviya :** Why do they call themselves the Government of India, would it not be better if they called themselves the subordinate branch of the British Government ?

**Mr. President (The Honourable Sir Abdur Rahim) :** That is not a proper question. Next question.

#### GRANT FOR BROADCASTING.

335. **\*Mr. M. Asaf Ali :** (a) Will Government be pleased to state in what manner they have used Rs. 40 lakhs budgeted for broadcasting in 1935-36, and 1936-37 ?

(b) Have Government erected any new stations since these grants were passed ?

(c) If not, how were they justified in asking for a fresh grant of Rs. 20 lakhs in 1936-37 ?

**The Honourable Sir Frank Noyce :** (a), (b) and (c). A sum of about Rs. 4 lakhs for establishing the Delhi Broadcasting Station has been spent from the Rs. 40 lakhs broadcasting fund. A comprehensive scheme for the development of broadcasting is being drawn up and will be placed before the Standing Finance Committee shortly. The scheme will involve the expenditure of the bulk of the amount available in the fund.

**Prof. N. G. Ranga :** Are Government keeping in view the rural parts in connection with their broadcasting scheme ?

**The Honourable Sir Frank Noyce :** Government are keeping rural broadcasting in view.

**Prof. N. G. Ranga :** May I know how many stations have been so far established to cater to the needs of the rural classes ?

**The Honourable Sir Frank Noyce :** I should in any case have asked for notice of that question. There is a question on the subject further

down on the Order Paper and I hope to be able to give the Honourable Member the information he wants when I answer that.

**Mr. M. Asaf Ali :** I am afraid the answer to my question is not quite to the point. I should like to know why another 20 lakhs was asked for in 1936-37, when the twenty lakhs which was sanctioned in 1935-36 had not been exhausted ?

**The Honourable Sir James Grigg :** 20 lakhs was not asked for in 1936. They were allocated from the budget surplus because it was known that the original 20 lakhs would not supply the whole needs of India for broadcasting stations and because they were available.

**Mr. M. Asaf Ali :** It is very satisfactory that they were available but the point still remains unanswered. 20 lakhs were allocated to broadcasting in 1935-36. They were not utilised and another 20 lakhs were set apart. Why ?

**The Honourable Sir James Grigg :** The Honourable Member thinks that I have not answered his question. I think, I have and between these two opinions there is no possibility of reconciliation.

**Mr. Ram Narayan Singh :** I want to ask the Chair a question on this point. Sometimes the Government Members say they want further notice. Then a question has already arisen in the House, will it not be better, if they take three or four days' time and give the necessary information without any further notice ? They will thus save your time as well as the time of the Honourable Member from whom they want such notice.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Chair has no reason to think that the Honourable Members of Government do not give full answers to questions when they are in a position to do so.

#### CHANGE OF THE NAME " ALL INDIA BROADCASTING SERVICE " TO " ALL INDIA RADIO SERVICE ".

336. **\*Mr. M. Asaf Ali :** Will Government state why they have changed the name " All India Broadcasting Service " to " All India Radio Service " ? Does it signify any change of policy ? If so, in what way ?

**The Honourable Sir Frank Noyce :** The name " Indian State Broadcasting Service " has been changed to " All India Radio " not I should mention to " All India Radio Service ", as the old name was cumbersome and misled some people into believing that the Service was run by an Indian State. The change of name signifies no change of policy.

#### REGULATION OR CONTROL OF BROADCASTING BY INDIAN STATES AND PROVINCIAL GOVERNMENTS.

337. **\*Mr. M. Asaf Ali :** (a) In what constitutional way do Government propose to regulate or control broadcasting (i) by Indian States, and (ii) by Provincial Governments ?

**The Honourable Sir Frank Noyce :** Broadcasting is at present a central subject and expenditure on Broadcasting by Provincial Governments would need the approval of the Government of India. There is no power to control or regulate broadcasting in Indian States, but the Government of India hope to secure by agreement that development in States will conform to a suitable All-India plan. As regards the position which will subsist under the new constitution the attention of the Honourable Member is drawn to entry 7 of the Federal Legislative list and to the provisions of section 129 of the Government of India Act, 1935.

**Mr. M. Asaf Ali :** With reference to section 129 of the Government of India Act, 1935, may I take it that the Provincial Governments are perfectly free now to allow political broadcasts from their transmitting stations ?

**The Honourable Sir Frank Noyce :** No, Sir. Certainly not.

**Mr. M. Asaf Ali :** Why not, Sir ? Section 129 is perfectly clear on the point.

**The Honourable Sir Frank Noyce :** Section 129 is not now in operation.

**Mr. M. Asaf Ali :** May I take it then that as soon as section 129 comes into operation, the Provinces will be perfectly free to allow any broadcast, political or otherwise, from their transmitting stations ?

**The Honourable Sir Frank Noyce :** I would suggest to my Honourable friend that he should read section 129.

**Mr. M. Asaf Ali :** I have read it very carefully.

**The Honourable Sir Frank Noyce :** My Honourable friend is a lawyer and he is more capable of appreciating it than I a layman.

**Mr. M. Asaf Ali :** I have read it most carefully and that is why I want to know what the position of the Provinces will be as soon as section 129 comes into operation. I find, Sir, that today the Government refuses to allow any political broadcasts even by leaders of political parties, which is done in England at all elections. The Government here have refused to allow these political broadcasts, but I thought section 129 is perfectly clear on the point ?

**An Honourable Member :** Then, why ask ?

**Mr. President (The Honourable Sir Abdur Rahim) :** Order, order. There is a short notice question by Professor Ranga, and one by Mr. Avinashilingam Chettiar.

#### SHORT NOTICE QUESTIONS AND ANSWERS.

##### STRIKE IN THE BEAWAR MILLS.

**Prof. N. G. Ranga :** Will Government be pleased to state :

- (a) if they are aware of the occurrence of a strike dispute in the Beawar Mills ;
- (b) if so, on what grounds the workers have gone on strike ;
- (c) if not, whether they are prepared to enquire into the matter ;

- (d) whether they are aware of the fact that the Chief Commissioner of Ajmer-Merwara has served an externment order upon Swami Kumaranand, the leader of the workers of the Beawar Mills, while he was engaged on negotiation with the employers with a view to bringing the strike to a speedy and honourable end ;
- (e) whether they are aware that this action of the Chief Commissioner has resulted in disabling the workers in their fight for the betterment of their conditions ;
- (f) whether it is their policy to take the side of the employers in this dispute between employers and employees ; and
- (g) if not, what action they propose to take to indemnify the workers for the losses incurred by them by the arbitrary action taken by the Chief Commissioner ?

**The Honourable Sir Frank Noyce :** (a) Yes.

(b) I understand that the dispute relates to a reduction in the rate of grain compensation allowance and, in two mills, to a reduction in the piece-rates for weavers on certain classes of looms.

(c) Does not arise.

(d), (e) and (f). No.

(g) This does not arise ; but I might add that the Chief Commissioner has decided to appoint a Board of Conciliation under the Trade Disputes Act.

**Mr. N. M. Joshi :** May I ask why so much delay was made in appointing this Conciliation Board ?

**The Honourable Sir Frank Noyce :** The matter is one within the discretion of the Chief Commissioner and I presume he exercised that discretion at the time that appeared to him the most suitable.

**Mr. N. M. Joshi :** May I ask whether the Chief Commissioner is not acting under the orders of the Government of India in this matter ?

**The Honourable Sir Frank Noyce :** The Chief Commissioner has appointed a Conciliation Board on his own initiative. He had no orders from the Government of India to that effect, though I may add, for the Honourable Member's personal information, that I am glad that he has done so.

#### REPORTED MASSING OF THE MOHMAND TRIBES ON THE FRONTIER.

**Mr. T. S. Avinashilingam Chettiar :** Will Government state :

- (a) whether they are aware of the news in the *Hindustan Times*, dated the 9th September, 1936, with the heading 'Mohmand Tribes massing' ;
- (b) whether there is trouble brewing again on the Frontier ;
- (c) whether Mohmands are again gathering with hostile intent and whether Government are also gathering troops on the Frontier ;
- (d) if so, what are the reasons for this new trouble ; and
- (e) what is the latest situation ?

**Mr. K. Ahmed :** How are you interested in the Mohmands ?  
(Cries of " Order, order ")

**Sir Aubrey Metcalfe :** (a) Government have seen the report referred to which according to their information is entirely without foundation.

(b) and (c). No.

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

**Mr. T. S. Avinashilingam Chettiar :** May I ask whether it is true that a number of Royal Air Force squadrons and bombing machines have been despatched to the frontier from Karachi ?

**Sir Aubrey Metcalfe :** That is entirely untrue. The report published in the *Hindustan Times* was, as far as I remember, to the effect that heavy bombers had been sent from Karachi to Peshawar. There are no heavy bombers in Karachi which could have been sent to Peshawar.

**Mr. S. Satyamurti :** Were any light bombers despatched ?

**Sir Aubrey Metcalfe :** No bombers of any kind were despatched.

#### STATEMENTS LAID ON THE TABLE.

*Information promised in reply to part (a) of starred question No. 1036 asked by Mr. S. Satyamurti on the 9th March, 1936.*

#### NUMBER AND TONNAGE OF INDIAN SHIPS IN THE OCEAN-GOING TRAFFIC.

	Number.	Tonnage.
Indian-owned Steamships	52	96,776
Steamships chartered by Indian Shipping Companies.	16	55,769

In addition, there are a number of Indian-owned sailing ships in the ocean-going traffic, but detailed information regarding these ships is not readily available.

*Information promised in reply to starred question No. 1312 asked by Dr. P. N. Banerjee on the 17th March, 1936.*

#### LEAVE, HOLIDAYS AND PAY, ETC., OF INDUSTRIAL WORKERS OF RAILWAYS.

(a) (i) The grant of leave to industrial workers employed on State-managed Railways is governed generally by the leave Rules issued as annexures to the Railway Department (Railway Board) Resolution No. 8373-E., dated the 20th February, 1930, with the exception of workers recruited prior to the promulgation of these leave rules and who have not elected to come under these leave rules. A copy of the Rules referred to is in the Library of the House.

The holidays granted to industrial workers on State-managed Railways are governed by the instructions in force on the different railway administrations. As regards the holidays granted to staff, in Mechanical Workshops, the Honourable Member is referred to the information laid on the table of the House on the 19th July, 1934, in reply to unstarred question No. 59 asked by Mr. N. M. Joshi, on the 16th February, 1934.

(a) (ii) The Honourable Member is referred to the scales of pay for non-gazetted staff which includes scales of pay applicable to the industrial workers on State-managed Railways, copies of which will be found in the Library of the House.

(b) The scales of pay and the number of paid holidays for industrial workers are not uniform on the State-managed Railways. Government consider that uniformity in these matters is neither practicable nor necessary.

*Information promised in reply to parts (a), (b) and (c) of starred question No. 1361 asked by Pandit Sri Krishna Dutta Palwal on the 20th March, 1936.*

**CLERKS IN THE GOVERNMENT OF INDIA SECRETARIAT QUALIFIED FOR FIRST AND SECOND DIVISIONS NOT YET PROVIDED IN THOSE DIVISIONS.**

(a) (i) Sixteen.

(ii) Twenty-nine.

(b) They qualified in different years from 1920 to 1929.

(c) 1st part.—Yes.

*N. B.*—The foregoing states the position on the 15th March, 1936.

*Information promised in reply to starred questions Nos. 1756 and 1757, parts (a) and (b), asked by Mr. Kuladhar Chaliha on the 18th April, 1936.*

**TEA ESTATES WHICH APPLIED FOR SPECIAL TREATMENT UNDER THE TEA CONTROL ACT.**

1756. (a) 87 in 1934-35 and 166 in 1935-36.

(b) In 1934-35, 44 from Indians and 43 from Europeans, and in 1935-36, 110 from Indians and 56 from Europeans.

(c) In 1934-35, 9 from Indians and 15 from Europeans and in 1935-36, 79 from Indians and 33 from Europeans.

**INDIAN TEA ESTATES.**

1757. (a) Government understand that there are 23 Indian-owned gardens on the membership of the Indian Tea Association.

(b) The number of Indian-owned tea estates which has been ascertained is as follows :

(i) Bengal	..	..	..	..	..	109
(ii) Assam	..	..	..	..	..	361
(iii) Elsewhere	..	..	..	..	..	693

In addition to (iii) there are 1,829 Indian small growers in the Nilgiris and 531 in Travancore. There are also a number of estates in the Kangra Valley and Mandi, a majority of which are probably Indian-owned.

**THE INDIAN COMPANIES (AMENDMENT) BILL—contd.**

**Mr. President** (The Honourable Sir Abdur Rahim) : The House will now resume discussion on the Bill further to amend the Indian Companies Act, 1913.

**The Honourable Sir Nripendra Sircar** (Law Member) : Sir, before I resume my submissions on the provisions in this Bill—and I do not propose to be too long—I would like to dispose of a side issue. Yesterday I was congratulated by one of the Members who had listened to my speech upon my “going for the Bombay shareholders” and for

referring to their report as the drain inspector's report. I would like to say, Sir ..... (Voices : " Kindly speak up." " We can't hear ".) Sir, I think, I am speaking up, but I am sorry an " upper " pitch is not possible ; however, I can make myself heard, if I am allowed to move down a little as I did yesterday.

**Mr. President** (The Honourable Sir Abdur Rahim) : That side of the House cannot hear the Honourable Member.

**The Honourable Sir Nripendra Sircar** : Sir, I think I made it perfectly clear yesterday that I acknowledged the great services which had been done by the Association. I acknowledge that the Association, and particularly two of their representatives, Mr. Kapadia and Mr. Davar, had on all occasions taken the trouble to come up and give me all the points of information which I wanted. There is no justification whatsoever for any inference like the one which was drawn by some from my speech. I acknowledge, Sir, that I did say it was the drain inspector's report, but immediately after that—I find that I am correct because I consulted the official copy—I said so because it was a one-sided report ; well, that it undoubtedly is, just as the reports or rather the representations of the Millowners' Association were entirely one-sided in minimising the abuses. I will leave it at that and will proceed to the provisions of the Bill.

**Mr. Husenbhai Abdullabhai Laljee** (Bombay Central Division : Muhammadan Rural) : Who are the millowners and the shareholders ?

**The Honourable Sir Nripendra Sircar** : The Ahmedabad millowners. I am referring to the opinions received from the Ahmedabad Millowners' Association.

**Mr. N. M. Joshi** (Nominated Non-Official) : They are not owners—they are agents.

**The Honourable Sir Nripendra Sircar** : That is their name ; I cannot call them by any other name. I am referring to the particular opinions received and which I have read in cold print.

**An Honourable Member** : That is a misnomer.

**The Honourable Sir Nripendra Sircar** : I hope my Honourable friend, Mr. Joshi, will compel them to correct it.

Sir, in connection with many of the provisions, criticisms have been made that the provisions do not go far enough. It is not possible to deal with all these provisions, especially as many of them are of comparatively minor importance, but one general observation I would like to make as explaining why we have not proceeded further in the sense in which that expression has been used by my critics. Sir, I will remind this House of what we all know to be a fact and which was re-affirmed by the Green Committee which sat in England for making recommendations for amending the company law. They said :

" Many suggestions show that the idea that fraud and malpractices can be removed by the simple expedient of prohibition by an Act of Parliament dies hard. Other suggestions for making malpractices impossible, advocate regulations and prohibitions, which are calculated not merely to put a stop to the activities of the wrongdoer, but to place intolerable fetters on honest business."

That is a principle which has always got to be borne in mind. We may differ in the opinions or the inferences which we draw from.

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certain facts, but I can assure the House that every provision in this Bill represents the resultant of two opposing considerations. On the one hand, abuses having been proved, the nature of the abuse, its extent, its proportion to the total, and so on have got to be considered. On the other hand, we have got to see whether, if a provision is introduced which may stop some abuse somewhere in some cases, it will not place an intolerable burden on the innocent majority who will be affected by the measure. As I said, the resultant of these two opposing forces, in my estimation, may be one and in the estimation of other Honourable Members it may be somewhat different. But I think none of us will disagree from the general proposition which I have indicated and I assure this House that these are the points of view from which the provisions have been drafted. I now leave the managing agency system alone and proceed to the question of directors. I am purposely not discussing the question relating to the election of two-thirds by shareholders. My reason is that, although that point has been mentioned by some of the speakers, the point has not been developed. Possibly there are arguments which we have not heard and I do not think it is at all fair to proceed to demolish a single argument which may have been advanced in the course of a speech which did not purport to deal with this matter fully. I reserve, therefore, my comments if and when the relevant amendment is discussed in this House. I propose to follow the same course with what has been called the representation of minority. My Honourable friend, Mr. S. C. Sen, spoke on that subject, but it was obvious from the questions which were put to him that we have not exactly appreciated the points which have been made and it is also clear that there may be various other arguments in support of that contention or amendment which are not in our mind. I propose, therefore, to postpone that until the clauses are taken up. As to various other criticisms about the directors, leaving aside the question of election of two-thirds, I cannot possibly conveniently go into them now, but I would like Honourable Members to remember some of the general principles which are applicable to directors and which have influenced the framers of this Bill in drafting the provisions which are to be found in it. I do not desire to tire the House by referring to law cases or by making extensive quotations but I think it is necessary to clarify our ideas, and to place before this House some of the accepted propositions as regards the position of a director. The first matter to which I draw the attention of the House is to be found at page 723 of Buckley's Companies, Eleventh Edition. This is a quotation from a judgment :

“ Even a resolution of a numerical majority at a general meeting of the company cannot impose its will upon the directors when the articles have confided to them the control of the company's affairs. The directors are not servants to obey directions given by the shareholders as individuals ; they are not agents appointed by and bound to serve the shareholders as principals. They are persons who may by the regulations be entrusted with the control of the business and, if so entrusted, they can be dispossessed from that control only by the statutory majority which can alter the articles. Directors are not, I think, bound to comply with the directions even of all the incorporators acting as individuals.”

The next matter in connection with their position to which I may draw the attention of the House is to be found on the next page :

“ Directors are agents of the company ; but not mere agents. The director, if he be a shareholder, is himself a member of the body of which he is agent. He manages

for himself and for others. He is a managing partner. The company cannot act in its own person, for it has no person; it can act only through directors. Directors are described sometimes as agents, sometimes as trustees, sometimes as managing partners. But each of these expressions is used, not as exhaustive of their powers of responsibilities, but as indicating useful points of view from which they may for the moment and for the particular purpose be considered. It is not meant that they belong to the class, but that it is useful for the purpose of the moment to observe that they fall *pro tanto* within the principles which govern that class."

Sir, it has also got to be remembered that the director is not bound to give his continuous attention to the business nor is he bound to be acquainted with the details of the business. I may again refer to the same book at page 731 as to the nature of his duties and functions. I will read only four lines :

"Directors are not bound to give continuous attention to the company's affairs. Their duties are of an intermittent nature to be performed at board meetings or committee meetings; and directors are not even bound to attend all such meetings, though they ought to do so whenever reasonably practicable."

Then, Sir, there is another point which has got to be remembered. If the director serves his own cause, it is not necessarily a wrong. It does not amount necessarily to a breach of trust if, as a matter of fact, he has served also his company and has not acted prejudicially to it. For that I will refer the House to page 729 :

"If an act is done in the true and reasonable belief that it is for the company's interest, the fact that in promoting the company's interests the directors also promote their own, does not of itself make them chargeable with breach of trust."

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhammadan Rural) : What is the date of the publication of the book ?

**The Honourable Sir Nripendra Sircar** : 1931. But so far as I know, there has been no change in the law in this respect. At least, I do not know of any. Some criticisms have been made about allowing directors to enter into contracts and so on. Now, that, again is a general subject with which I do not intend to deal just at this moment because I do not know what amendments will be moved and in what form. But I may again remind the House of the passage at page 743 for making the submission that what is stated there applies with greater force in India for reasons which I shall state in a minute :

"But a company may stipulate that the right to the exclusive services of their directors is a benefit of which they do not desire to avail themselves. It may be more advantageous to have directors who can advance the interests of the company by their connection, and, by allowing them a commission, to make it worth their while to introduce business to the company, than to have the benefit of their advice in every proposed transaction."

In India, as I have said competent men with experience in industry, men of ability are unfortunately limited and while it is necessary that the directors should be placed under some restrictions, we cannot if we really want to develop industry put such fetters on directors that the result will be that all good businessmen will keep out of the directorate and allow it to be run by incompetent men.

**Mr. S. Satyamurti** (Madras City : Non-Muhammadan Urban) : Like the Honourable the Law Member, Dr. Ziauddin Ahmad and Prof. Ranga !

**The Honourable Sir Nripendra Sircar** : We are not incompetent men. I think, Sir, it may be to the interest of the shareholders to

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encourage directors of substance, of ability and experience. If the director is allowed to contract with the company, the company has got to judge whether after all it is to the interest of the company to have the services of these men on these terms or to put in absolute prohibition which will prevent them from functioning on the board altogether. These are some of the general considerations which will have to be judged carefully by the House when they consider the merits of the individual provisions which will come up for discussion. Beyond that, I do not want to go into any of the proposed amendment not knowing exactly what will be pressed and what will not be pressed before the House.

I shall now conclude by referring to some of the remarks of some of the Honourable Members opposite and taking them in the order, I find the next in my list the name of Mr. Sri Prakasa. He was so entertaining that before he resumed his seat amidst well-merited applause, I did not realise that he had not spoken on the Bill at all. For quite a long time, most of us, many of us at any rate have been so obsessed with company law and its details that probably that digression for half an hour into fresh fields which have nothing to do with company law, and was very remote from it, was welcome in one sense. Next, I come to Prof. Ranga. I do not propose to meet all his arguments, but if I do not notice any of his remarks, I am sure my Honourable friend will feel rather slighted. The idea which was suggested about travelling allowance appealed to me most. I think if I buy a share in the Tinnevely electric works, another in Sind and a third in Darjeeling, I shall be allowed to move about the whole of India, of course in third class, without spending any money out of my pocket.

**An Honourable Member :** Have a first class ?

**The Honourable Sir Nripendra Sircar :** You move an amendment, we shall support it. Then, I come to my Honourable friend Seth Govind Das who complained that the Bill was silent as to key industries. He said that perhaps in France or Germany this has been done and we find the Government of India had not done anything in that direction in India. I asked my friend where he found out that information because I am not very familiar with French or with German language and all I can read is some of the lines which I find in menu cards in French, but that is the utmost limit of my knowledge of French. I have not read French law, I do not know what the French company law is.

**Mr. S. Satyamurti :** You understand what is the French menu itself ?

**The Honourable Sir Nripendra Sircar :** I can understand it in French. I must do so, because I cannot take something without knowing what it is. Now, Sir, I ask him whether in French law or in German law or in the law prevailing in Honolulu, that you find provisions in the company law making distinctions between one industry and another, a key industry and a minor industry, a national industry and an anti-national industry and so on. I did not get a very clear answer, but surely he may have a legitimate grievance that something has not been done about key industries. That is a matter which is beyond my jurisdiction when discussing company law. I am sure that it is completely outside the scope of the company law to introduce those provisions

which my Honourable friend has in mind. A question was put to Mr. Sen by my Honourable friend Mr. Satyamurti which he said I shall answer later on. That question was—if I have taken it down correctly and I hope my Honourable friend will correct me if I am wrong—whether Government have considered the question of prohibiting managing agents from canvassing.

**Mr. S. Satyamurti :** For auditors. What I meant was, managing agents canvassing proxies and votes for the appointment of “ A ” as an auditor, and not “ B ”.

**The Honourable Sir Nripendra Sircar :** I have considered it and I regret to say that that is thoroughly impracticable. It is not possible to prevent canvassing either in business or in politics. That cannot be done.

**Mr. S. Satyamurti :** Quite so, having got six Whips yourself in this House, you cannot prohibit managing agents, canvassing.

**The Honourable Sir Nripendra Sircar :** I now come to my Honourable friend, Mr. Suryya Kumar Som. He is apparently under some misapprehension. He said why not allow District Judges to try company law cases. But I think if my Honourable friend will turn to the existing section, he will see it can be done by the Local Government and, as a matter of fact, in four of the districts in Bengal, District Judges have been given authority by the Local Government in pursuance of section 3 of the Indian Companies Act to try company law cases and I think that is the proper course. There may be many difficulties in acquiring a knowledge of company law cases because company law cases are so few and far between that neither the practitioners nor some of the Judges there get a thorough grasp of the law which certainly is a specialised and technical law. I think the present provisions are quite sufficient for the purpose which my Honourable friend, Mr. Som, has in mind. The second point which he made was that a Board of Auditors or some other Board which he had in mind should be empowered to select auditors. It is strange that the shareholders will have no voice in the selection of the auditor at all. That is an idea which frankly speaking does not appeal to me at all. The position envisaged by my Honourable friend, Mr. Som, is that although the shareholders may ask that “ A ” should be appointed as an auditor, yet this Board, whether Government Board or a non-official Board, will say, “ Oh ! no, you do not know what is good for you, we will not send down ‘ A ’, but we will give you ‘ B ’ as auditor ”. I do not see why the rights of the shareholders should be encroached upon in this way by an extraneous body.

**Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) :** Shareholders take very little interest in the selection of auditors. The whole thing is managed by the managing directors or Agents.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member cannot argue the matter now.

**The Honourable Sir Nripendra Sircar :** As regards the shareholder, I have had two inconsistent arguments, the one is that he cannot look after himself, he is something like an illiterate *purdanashin* woman who is off her head. On the other hand we are told that when it comes to restricting the powers of the managing agents, “ Oh ! the

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shareholders know what is good for them, put it up before the shareholders and everything will be all right". But I think the real position is midway ; it is neither the one extreme nor the other. We have recognised in this Bill that the shareholders are disorganised ; they live apart and it is rather difficult for them to consult together and to combine. That disadvantage we have taken into consideration but that cannot be pushed too far for all purposes.

Then, my Honourable friend, Mr. Joshi, complained,—in fact I would have been extremely disappointed if my Honourable friend had not started by complaining against the Government of India and concluding by saying that he has the greatest faith in that Government which ought to be substituted for all other organisations,—my friend, Mr. Joshi's first complaint was that somebody had not prepared an index and a summary of the opinions which had been received. The answer is that there was hardly any time. Members of the Select Committee will remember that many of the opinions were coming as the proceedings were continuing before them ; and surely it comes with ill grace from the representative of labour to suggest that he is the one person who cannot labour in this connection. Then, Sir, he made certain other suggestions. They are so utopian that it will be wasting the time of the House, in my humble submission, to discuss them and take them seriously. When he moves his amendments I shall deal with them, if that occasion arises. Then, Sir, as I said, my friend starts by complaining against Government and ends by making suggestions which involves giving all power to Government. He said Government should have inspectors to report about the companies, how they are behaving and what they are doing and how much they are cheating, etc. Sir, if Honourable Members of this House will compare Mr. Sen's report with the Bill which was introduced,—I claim responsibility and if there is a mistake it is my mistake,—they will find that I have not agreed with most of the suggestions of Mr. Sen about giving powers to these officials for interfering unduly with business of companies. They are more liable to abuse than any other function. I cannot imagine what the position of the companies will be if, as was practically suggested, the Registrar or Inspector or any other person without any information being laid, and on hearing any rumour proceeds to the office of the company, asks for their books, calls upon them to produce their accounts and so on. The damage which will be done to the company as soon as this news gets abroad will be irreparable ; and even if after three months a report is made that there was nothing wrong with the company that damage would be incapable of being repaired. That is the reason, Sir, that wherever the suggestions in Mr. Sen's report have been accepted, I have tried always to put the Court in between ; that is to say, they should come up before the Court and before a judicial tribunal so that no mischief can be done. The least that could be given has been given to the Registrar, and I am on principle opposed to unnecessary interference with business by extraneous bodies, and I will not agree to anything beyond what is absolutely necessary for discharging the duty which undoubtedly lies on the State, to prevent fraud on shareholders. Those cases must be very limited in number.

Then, Sir, I think I have only one more point and I have done. As regards these amendments, of course we shall have to deal with them as they come up, but I think I ought to tell the House that as regards many of them which necessarily I cannot specify just now knowing that they are more than 500 in number by this time.... (An Honourable Member : "Some of them are overlapping.") Even then there must be about 300 effective amendments. I wanted to inform the House so that there may be no question of surprise that about some of them which I am unable to specify just now I shall have to take the objection that they are extending the scope of the Bill and therefore out of order. That will not apply to very many but I think Honourable Members ought to know, to avoid any complaint of surprise being made.

Sir, I am very grateful to some of my friends here who spoke appreciably of the trouble, if any, which I have taken over this Bill. I am neither too optimistic nor too pessimistic about this Bill ; but I do think that the time for congratulation has not yet come. There are three hundred amendments and the shape in which the Bill will emerge from this House will decide whether it will be an occasion for congratulation or condolence for lost labour. Sir, that is all I have to say. (Loud Applause.)

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

"That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim) : As regards the amendments, as has been mentioned by the Leader of the House, the office has been able to prepare a consolidated list up till yesterday, but they have not been received back from the press, and I believe they are expected at about 2 o'clock. As soon as they are received, they will be distributed to Honourable Members. Today being Friday, we will adjourn now and meet again at 2-15 P.M.

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

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

**Mr. President** (The Honourable Sir Abdur Rahim) : Clause 2 of the Bill is the definition clause, and there are some amendments to a new clause after clause 2. I think, in a matter like this, it will be a more convenient procedure if I take up the new clauses that are to be inserted after the amendments to the clauses that are in the Bill are disposed of, unless any new clause is so connected with the clauses already in the Bill that it ought to be discussed with the rest.....

**Mr. S. Satyamurti** : Or, if I may say so, unless the disposal of that clause is necessary for the disposal of the later clauses.

**Mr. President** (The Honourable Sir Abdur Rahim) : Yes ; quite. I thought that procedure would be more convenient to the House. Then, I will take up clause 3 now.

**Mr. Bhulabhai J. Desai** (Bombay Northern Division : Non-Muhamadan Rural) : May I ask you to reconsider the matter, Sir, in the light of this, that perhaps it will be much easier to follow the whole thing formally clause by clause instead of referring back to the clauses. As you put it on the ground of convenience, I respectfully suggest that perhaps it would be better both from the point of view of study and preserving the order.

**Mr. President** (The Honourable Sir Abdur Rahim) : Of course, if a new clause is not so connected with the previous clause after which it is sought to be inserted, then I think the better procedure will be to take it after the other clauses : but if any new clause sought to be inserted is so connected, it ought to be taken up after the clause with which it is connected has been disposed of.

**The Honourable Sir Nripendra Sircar** : On further consideration, Sir, I feel that it would be quite feasible and probably on the whole far more convenient if we proceed clause by clause. In clause 2, I have received amendments : it will create no difficulty to dispose of them all before we go on to clause 3. Because the definition of managing agent refers to so many sections that people cannot make up their minds as to what the definition will be.

**Mr. President** (The Honourable Sir Abdur Rahim) : If that would be more convenient, very well. The question is :

“ That clause 2 stand part of the Bill.”

**Mr. Mathuradas Vissanji** (Indian Merchants' Chamber and Bureau : Indian Commerce) : Sir, I move :

“ That in sub-clause (a) of clause 2 of the Bill, in the proposed clause (9A) of section 2, after the word ‘ Company ’, occurring in the fourth line, the following be inserted :

‘ by whatsoever name or style described, whether as Managing Director, Secretaries, or Secretaries and Treasurers, or any similar designation ’.”

I wish to say that this term has been either omitted by mistake or inadvertently because as this term is prevalent, mostly in Ahmedabad and Bombay, managing agents are sometimes called Secretaries, Treasurers and Agents. That is the reason why I want to include it in the definition of managing agent.

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

“ That in sub-clause (a) of clause 2 of the Bill, in the proposed clause (9A) of section 2, after the word ‘ Company ’, occurring in the fourth line, the following be inserted :

‘ by whatsoever name or style described, whether as Managing Director, Secretaries, or Secretaries and Treasurers, or any similar designation ’.”

**The Honourable Sir Nripendra Sircar** : Sir, I cannot accept the amendment, because I think it is wholly unnecessary. My Honourable friend wants to add these words “ by whatever name or style

described". But if you will kindly turn to the clause as drafted, it says there :

" ' Managing agent ' means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, and includes any person, firm or company occupying such position by whatever name called."

I invite attention to the last two lines. So, I submit that the amendment proposed is unnecessary.

**Mr. Mathuradas Vissanji :** If the Honourable the Leader of the House, as a most eminent lawyer, thinks that it includes it, I do not press it.

**Mr. President** (The Honourable Sir Abdur Rahim) : Has the Honourable Member the leave of the House to withdraw it ?

**Honourable Members :** Yes.

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

**Pandit Govind Ballabh Pant** (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, I move :

" That in sub-clause (1) of clause 2 of the Bill, to the proposed section (9A), the following *Explanation* be added :

' *Explanation.*—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act '."

Sir, this amendment is a purely formal one and does not involve any question of substance. I have put it in merely to avoid any possible misunderstanding. Some of our friends have advised us to make this Bill as fool proof as possible, and this is an endeavour in that direction. It is no more than an explanation, and as such.....

**Mr. President** (The Honourable Sir Abdur Rahim) : You mean lawyer proof ?

**Pandit Govind Ballabh Pant :** Layman's stupidity is as unbounded as lawyer's ingenuity.

Sir, I appreciate that every effort has been made to make the definition of managing agent as comprehensive as it can be, but the fact remains that we have got two expressions here,—' manager ' and ' managing agent '. The distinction between the two is somewhat subtle, and they may be very close to each other on the border line. It is just likely that a person who calls himself a manager and yet discharges the functions of the managing agent may sometimes succeed in persuading a Court into believing that he is only a manager, and not a managing agent. The two definitions should be exclusive. I know that we have a clause in 9-A at the end which says—' and includes any person firm or company occupying such position by whatever name called '. So even if a person calls himself manager, he comes within the scope of this definition ; but the fact remains that the expression ' manager ' finds distinct place in this Bill and has also been defined. I know we are not concerned here with the natural meaning of any expression. We may call a tool an elephant and perhaps water as solid. You may define an expression in any form

[Pāndit Govind Ballabh Pant.]

you like in an Act. Such definition, however, has to be restricted to the particular Act and is intended for that purpose only. Sir, it is only with a view to avoiding the likelihood of this misapprehension I propose this *Explanation*. It is just possible that a person, though really he is a managing agent, may take the guise of a manager and by masquerading himself as such may argue before a Court that the provisions relating to a managing agent which are more stringent than those pertaining to a manager did not apply to him. It is with this view that I am proposing this amendment.

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

“ That in sub-clause (1) of clause 2 of the Bill, to the proposed section (9A), the following *Explanation* be added :

‘ *Explanation*.—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act ’.”

**The Honourable Sir Nripendra Sircar** : Sir, if I were convinced that by adding this *Explanation* it would really clear up the matter, I would not raise the slightest objection, but it strikes me in this way. As it has been drafted, as my friend himself has pointed out, the language, by whatever name you call him, is sufficient to rope in a person who, though he is in fact a managing agent, calls himself a manager. Now, my friend says that the position will be made clearer if we say that although he calls himself a manager, he is none the less a managing agent if he comes within the definition. Now, Sir, apart from this explanation being unnecessary, the other matter to be considered is this. Let us take a different case. I am not taking an imaginary case, because I find in one of the documents relating to managing agents that in a certain mill the persons who are really managing agents, and who have all the powers, describe themselves as Treasurers and Secretaries,—of course, they will be roped in,—let us take the case of such a person who is really the managing agent and who has all the powers and who describes himself as Secretary and Treasurer. Now, the question may be raised, I presume by a fool that the definition specifically says that if a man calls himself a manager he is nevertheless a managing agent,—what happens to the Treasurer ? Would it be argued that your explanation extends only to the manager and not to the person calling himself treasurer. I know the answer is, you have not defined a treasurer, but you have defined a manager ; but I cannot see how a person who is really doing the duties of a managing agent can escape by calling himself a manager when the words are ‘ by whatever name called ’. Under the present Act, ‘ manager ’ is defined in this way—‘ manager ’ means ‘ a person, who subject to the control and direction of the directors. . . of a company, and includes a director or any other person occupying the position of a manager by whatever name called and whether under a contract of service or not ’. We all know that under this definition managing agents have been brought in within the word ‘ manager ’, because they are actually occupying the position of a manager. So let us see how he can escape. If he is really a manager within the meaning of the definition as given in (9), he must be a person subject to the control and direction of the directors, he has the management of the whole affairs of the company ;

then he is not a managing agent ; but the managing agent is entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement. So, Sir, I do not yet realise what is the necessity for this amendment though I have no strong objection.

**Mr. President** (The Honourable Sir Abdur Rahim) : You mean a managing agent is entitled to management by agreement with the company ; a manager is not ? Is that so ?

**The Honourable Sir Nripendra Sircar** : I think the essential difference is this. In one case the manager is under the control of the Directors in all matters ; in the other case, that is to say in the case of the managing agents, they are under control in various matters which are not provided for in the agreement. The difference between the two as regards the freedom of the managing agent or the manager as the case may be, from the control of the Directors, is this. If he is under the control of the Directors, then he comes under para. 1—"subject to the control and direction of the directors and has the management of the whole affairs" ; but the managing agent has his agreement, and under that he says—"these are the things I am going to do and I am not under control". Therefore, I would ask my friend to really consider whether this explanation is at all necessary, whether it will really clear up matters as he thinks because I fear it may throw a doubt as to what is meant by whatever name called if we add an explanation like this. Therefore, Sir, I do not agree to accept this amendment.

**Mr. Bhulabhai J. Desai** : Sir, I do ask the leave of the House to reconsider the suggestion of my Honourable friend, Pandit Govind Ballabh Pant, and for a good reason. The new distinction between "manager" and "managing agent" is that the manager is entirely under the control of the directors. A managing agent is under a contract with the company to the extent to which his agreement so provides. The real distinction, therefore, is in one case he has complete control, in the other case the man has limited control. The word "agreement" is really immaterial for this purpose, and for this good reason, that the employment of a manager also must involve an agreement. There is nothing to prevent a company from employing a manager by a resolution in an ordinary meeting. Ordinarily, I quite agree that under the powers of the directors a man may be so employed. Therefore, so far as the agreement is concerned, whether it is verbal or whether it is written, that is not the essence of the matter. The essence of the matter is that in one case there is complete control and in the other case there is limited control where some of the powers of the directors are, in fact, transferred to the managing agents. That is the real difference. But turning to the clause as proposed, "by whatever name called" in the definition of a managing agent would really refer to alternative names for a managing agent, and I think it is not right to say that it is a mere fool's idea, or that a point of this kind is not one of substance. I say that the expression inasmuch as "manager" is separately defined in the earlier part, "by whatever name called" would not include a person who calls himself a manager though he is really a managing agent. I therefore do press upon the Leader of the House to reconsider the position, and I think that an explanation of this kind would serve a very useful purpose.

**The Honourable Sir Nripendra Sircar** : I do not have any objection to this amendment.

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

“ That in sub-clause (1) of clause 2 of the Bill, to the proposed section (9A), the following *Explanation* be added :

*Explanation.*—If a person occupying the position of a managing agent calls himself a manager he shall nevertheless be regarded as managing agent and not as manager for the purposes of this Act.”

The motion was adopted.

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : Sir, I move :

“ That in sub-clause (1) (c) of clause 2 of the Bill, in part (b) of the proposed clause (13), after the word ‘ company ’ the words ‘ except in the case of Hindu joint families that convert themselves into private companies when the number of shareholders shall not be limited ’ be inserted.”

My purpose in moving this amendment is just this. So far as I know, there have been conflicting decisions of High Courts as to whether Hindu joint families can or cannot convert themselves into limited companies. I think it would be in the interest of most Hindu families to convert themselves into private companies for the safety of their property and the welfare of their members. I, therefore, think that some provision should be made to enable Hindu joint families to convert themselves into private companies ; and that some definite section should be added to this effect in this Bill at a suitable place. It may perhaps be said that this will interfere with the personal law of the Hindus. So far as I am aware, in this Bill itself there are sections which interfere with such personal law. For instance, the Honourable the Law Member the other day explained how not to enable a certain class of people to die at convenient times, he has inserted some provisions so that coparceners of Hindu joint families, who take by survivorship, may be made liable as heirs and successors in certain cases for the purposes of this Bill. I do hope that the Honourable the Law Member will either accept this amendment or make some sort of statement so that there may be an assurance that he will look into this point and insert at a convenient place some clause in the Bill so that Hindu joint families can be converted into private companies. I am moving this amendment so that in that particular case the number of members of a private company may not be limited to fifty, because it is quite possible that there may be a hundred coparceners of a Hindu joint family who at any particular moment desire to convert themselves into a private company. In this particular case only, an exception should be made as to numbers in a private company. I do hope that the Honourable the Law Member will be able to accept this amendment in this form or in some other form.

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

“ That in sub-clause (1) (c) of clause 2 of the Bill, in part (b) of the proposed clause (13), after the word ‘ company ’ the words ‘ except in the case of Hindu joint families that convert themselves into private companies when the number of shareholders shall not be limited ’ be inserted.”

**The Honourable Sir Nripendra Sircar :** Sir, I very strongly object to this amendment for this reason. The words are, "except in the case of Hindu joint families that convert themselves into private companies". What is the process by which that has been done? Here is a Hindu joint family, and of course, all the trouble arises in the Mitakshara family. How can a Mitakshara family convert itself into a private company? The cases which my Honourable friend is thinking of laid down this, that it involves transfer of property to the private company. That is the first thing. The property goes to the company and there the trouble comes in because under the Mitakshara law there cannot be any alienation except for legal necessity. The question may be asked, "Where is the legal necessity? Why do you want to turn yourself into a private company?" As I have said, my Honourable friend does not suggest how they convert themselves. My second point, this is a far more important point, is this. Let us assume that five families come in and say, "We have converted ourselves". I do not know what the process is by which it is done, whether there is baptism with water or the registrar is called to bless the family, "Now, you are a private company", but supposing there are 6 or 7 families. I do not think that my Honourable friend, Mr. Bajoria, will feel that I am casting any aspersion on the family—certain families may easily exceed 50, it may be 100, it may be 200, as they may have remained united for several generations. The whole spirit of a private company is violated if you allow any number of people simply because they belong to different Hindu joint families to convert themselves in this way. Sir, I object to this amendment.

**Mr. Sri Prakasa :** In that case, I ask for leave to withdraw my amendment.

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

**Mr. Sri Prakasa :** Amendment No. 4 hangs on to the previous amendment. So I do not move it.

**Mr. T. S. Avinashilingam Chettiar** (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : I do not move No. 5.

**Pandit Govind Ballabh Pant :** Sir, I move :

"That in sub-clause (1) of clause 2 of the Bill, to clause (e) the following be added at the end :

'and which does not amount to an invitation offering to the public for subscription or purchase any shares or debentures of the company'."

Sir, this is an amendment to the last clause of sub-clause (1) of clause 2 of the Bill. The clause runs as follows :

"to clause (14) the following words shall be added, namely :

'but shall not include any trade advertisement which shows on the face of it that a formal prospectus has been prepared and filed'."

The definition of the prospectus applies only to documents which invite the public to make offers for shares and that is the essential part of a prospectus. The reason why this clause has been introduced seems to me to be this, that there has been a case or there have been more than one case in which a pure trade advertisement has been treated as a prospectus. That is said to be the reason why this clause is necessary.

Now, Sir, the word prospectus is defined in clause 14 of the present Act and sections 92 to 100 of the existing Act relate to the prospectus.

[Pandit Govind Ballabh Pant.]

The present Bill has clauses 48 to 51 relating to prospectuses. Now, Sir, I submit that a prospectus is the foundation of the company's edifice. It is on the basis of the statements made in the prospectus that the public makes applications and offers for the shares of the company. Therefore the law is very stringent on the subject. Mr. Sen, I believe, has dealt with the question in Chapter II of his report and has given reasons therein as to why the provisions relating to the prospectus should be amplified, why information should be given in greater detail. He considers, and quite rightly, too, that one of the things necessary in order to protect the shareholder is to provide him with all relevant information that can bear on his mind in arriving at a decision as to whether he should or should not apply for shares in a company. Now, if this clause remains as it is, it is likely to cause misapprehension and to lead to an amount of litigation. Does it refer to cases where the trade advertisement actually invites the public to make offers for shares or are such cases to be excluded? For if it does refer to such cases, that is those cases where an invitation is issued to the public to make offers, then I submit it is a dangerous thing to have such a surreptitious method for overriding and getting over the provisions that have been now specified and prescribed for the prospectus. There is a great danger that companies may smuggle in something in the form of trade advertisements with a view to induce the credulous purchasers of shares to apply for these shares without furnishing full information on even the most vital points. Then, Sir, if you will be pleased to refer to clause 51 of this Bill, you will find there that in sub-section (1) it has been laid down that :

“Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company and all enactments, and rules of law as to the contents of prospectuses,” and so on

will apply to such a document.

Now, I do not say that there is an inevitable or essential conflict between the two but there is some likelihood of confusion. Section 51 relates to documents issued by underwriters when they offer the shares obtained by them for purchase to the public, and even for these cases the law has laid down that the rules pertaining to prospectuses which must in normal course have been filed primarily by the company itself will apply to any document that may be issued by the underwriter. Much more is it necessary to guard the public against any sort of undue latitude, I would not use the word fraud, that companies might take when they really use a trade advertisement as a prospectus. I may also state here that a prospectus has to be filed only when shares are offered to the public and this amendment that I am proposing will only apply to the cases where invitation is issued to the public for offers for the shares of the company. I hold that this is absolutely necessary. In fact, in the case of the shares relating to companies incorporated abroad it is laid down in this Bill, I think it is clause 98A, that the application for shares should also include the terms of the prospectus. I know the Company Acts in some countries make it a condition precedent to the allotment of a share to any applicant that he should have seen and also signed and filed the prospectus with the company before getting any shares. The reason is this, that the information given in the prospectus is the

real basis on which a person applies for shares. In fact, it alone contains the material particulars on the basis of which this contract is entered into. I will not read or cite at length from Mr. Sen's report but he has enunciated with his usual lucidity the necessity of placing at the disposal of the applicants for shares all possible and relevant information so that they may guard against any possible subterfuge or fraud, but the very purpose will be defeated if a trade advertisement is allowed to be used for the purpose of asking the public to apply for shares. The mere fact that somewhere in a corner it is mentioned that "a prospectus has been filed" is not enough. If you will be pleased to look at the Act, you will find that even when an advertisement is put in in a newspaper after a prospectus has been filed with the registrar all the information that has to be given by means of a prospectus, except that contained in sub-section (1) of the clause relating to the prospectus, has to be mentioned fully. If Honourable Members will refer to clause 48 of this Bill, they will find that the particulars that have to be mentioned in a prospectus in addition to those mentioned in the original Act itself cover about 2 or 2½ pages of this printed Bill. I have no objection to a prospectus, to a trade advertisement, containing all particulars about the company, about its directorate, about its shares, about its income or anything that one may like to issue thereby or to publish in that form but I consider it dangerous to use a trade advertisement for the purpose of inviting the public to apply for shares. In fact that is the only operative part of a prospectus; the rest of it is a descriptive or narrative part, and any document which includes an invitation to the public for shares should be treated as a prospectus. Barring this particular clause or this particular safeguard that it does not amount to an invitation to the public, I have no objection to anything appertaining to the company being included in a trade advertisement. A trade advertisement, so far as its legitimate scope goes, should only relate to matters of trade or business conducted by the company, and its primary purpose should be limited to an appeal to the public for the patronage of the goods manufactured by the company or for its services. When it goes beyond that, when it asks the public to apply for the shares, then I submit it is not its proper function.

Sir, the amendment I am proposing is of some importance and I hope the House will deal with it, realizing and appreciating its importance. I am aware of the case reported in 52, Calcutta, and there too, the Judges have stressed the point that a prospectus is a very important document and it should not be smuggled into a trade advertisement lest the public should be defrauded by such dubious documents. So I suggest that this safeguard be introduced. I know the Honourable the Leader of the House thinks that there are very small companies which cannot publish these prospectuses in their full details and particulars. As I said, I have no objection to all particulars being given so long as there is no invitation to the public and there is no indication that the public are required or requested to apply for shares. If it is supposed or if there is an apprehension that the particulars that we have prescribed for a prospectus are too detailed for small companies, I would have no objection if in the form of the prospectus itself some sort of simplification is attempted and a provision is introduced to the effect that companies having say a share capital of Rs. 10,000 or an authorised capital of Rs. 20,000 need not mention in their prospectuses such particulars as

[Pandit Govind Ballabh Pant.]

may not be considered to be absolutely necessary ; but a clause like this, if it is to be used by way of a substitution for every prospectus, would work havoc. That is my apprehension and that is the reason, Sir, why I move this amendment. I hope the Honourable the Leader of the House will be able to accept this motion.

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

“ That in sub-clause (1) of clause 2 of the Bill, to clause (e) the following be added at the end :

‘ and which does not amount to an invitation offering to the public for subscription or purchase any shares or debentures of the company ’.”

**Mr. Susil Chandra Sen** (Government of India : Nominated Official) : Sir, this amendment has been based upon a decision, as my Honourable friend, Pandit Govind Ballabh Pant, has rightly pointed out, of the Calcutta High Court, reported in 50, Calcutta. Sir, I do not know if my friend did observe all the facts of that case.

**Pandit Govind Ballabh Pant** : I did.

**Mr. Susil Chandra Sen** : If he had, he would have found that in  
3 P.M. that particular case the words which were held by the Court as amounting to an invitation for subscription were—something like “ shares are still available ”. The advertisement gave the capital, it gave the names of the directors, it gave the scope of the business of the company and there was a statement that a formal prospectus had been filed, and all that it stated was that “ shares were still available ”. Now, Sir, that was held to be an invitation to the public to subscribe for the shares and it was held that as that advertisement itself had not been filed with the Registrar, it offended against the existing section, and the publishers of the advertisement were penalized and fined. Sir, the point of view which led me to recommend this amendment was that once you have filed the formal prospectus, and once it is made patent in any trade circular or advertisement that there is a formal prospectus which has been filed which is available to the prospective subscribers, you ought not to apply to such a trade circular or advertisement the rigours of a prospectus. Now, Sir, my friend rightly said that in the case of small companies it may be difficult to publish prospectuses in their entire detail every time. It is undoubtedly difficult. They have got to be published in the newspapers and as my Honourable friend may know, if it is published *in extenso* each such advertisement would cost about Rs. 500,—a sum which a small company, or for the matter of that a big company which has not yet got a sufficient amount of capital, will find it difficult to find. That is why this amendment was made. But let us see what would be the effect if my Honourable friend's suggestions are accepted. Sir, what is the amendment suggested in the Bill ? It is to the effect that a trade advertisement which mentions that a prospectus has been filed is not to be treated as a prospectus. Let us see what the addition of the words suggested by my friend would mean. Those words would entirely negative the amendment sought to be made, because it says, “ and which does not amount to an invitation offering to the public for subscription or purchase any shares or debentures of the company ”. As my Honourable friend rightly pointed out, the essential

part in the definition of a prospectus is that it must amount to an invitation : and the addition of the words, " provided there is no invitation ", etc., can only mean that, the whole effect is gone. As I said, once it is made clear in the advertisement that a formal prospectus complying with all the rigours which the law provides has been filed, there is no point, in even small circulars and trade circulars and newspaper advertisements, being made subject to the provisions of a prospectus. That is the principle which underlies this amendment, it is intended by the amendment to take it out of the category of a prospectus, and as I have pointed out, the addition of the words which my Honourable friend wants will entirely nullify the amendment itself. Any other kind of advertisement is not required either by the law to be filed or to comply with any other provisions of the law. The words which my Honourable friend wants us to add, if added, will entirely render nugatory the amendment itself. For these reasons, Sir, I oppose the amendment.

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

" That in sub-clause (1) of clause 2 of the Bill, to clause (e) the following be added at the end :

' and which does not amount to an invitation offering to the public for subscription or purchase any shares or debentures of the company ' "

The motion was negatived.

**Prof. N. G. Ranga** (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I beg to move the following amendment :

" That after sub-clause (1) of clause 2 of the Bill, the following sub-clause be inserted and the subsequent sub-clause (2) be renumbered as sub-clause (3) :

' (2) In section 2 as so renumbered, after clause (16) the following new clauses shall be inserted, namely :

' (17) ' Key Industry Companies ' mean companies carrying on industries dealing with the production, extraction, manufacture into finished goods of raw materials and food stuffs, or the distribution and sale of such raw materials and food stuffs, and the owning, holding, controlling or exploitation of agricultural lands or mines out of which such raw materials and food stuffs are produced, and which are more fully described in the Schedule annexed to this clause ; likewise all industries or enterprises connected with or dealing in means of Transport and Communications including the materials and accessories required to equip and operate the same ; and all industries connected with the manufacture, supply or sale of Armaments and Munitions of War together with their accessories ' ; "

I will now read the Schedule relating to this :

#### " THE FIFTH SCHEDULE.

(See section 2.)

(i) Companies engaged in the owning, cultivation, or development of agricultural land, including tea gardens, coffee plantations, or special plantations for the cultivation of any drug, or medicine, or any forest produce ; or those providing water supply to such lands, whether by tanks, wells or canals ; or those engaged in the working up into finished goods ready for consumption of any raw material or food stuff produced from the cultivation of such lands.

(ii) Companies engaged in the owning or exploiting of any mine or mineral, e.g., iron, coal, gold, tin, aluminium, salt, copper, petroleum, or cognate material obtained from mines.

[Prof. N. G. Ranga.]

- (iii) Companies engaged in the development and supply of motive power, whether derived from coal, gas, electricity, or any other agent supplying energy, together with the manufacture and supply of all accessories and plant needed for the same.
- (iv) Companies engaged in the supply or working of means of transport and communications, whether by road, river, sea, air, together with the manufacture and supply of all the plant, equipment or accessories needed for the proper operation of these services, including telegraph material, postal requirements, road building and road material, accessories of television, broadcasting and radio, railways, railway workshops and materials, plant or equipment needed for railways, manufacture of ships, automobiles, aeroplanes and airships, as also their engines and parts.
- (v) Companies engaged in the production and supply of armaments and munitions of all kinds, including guns of all calibres, shots, shell or bullet needed for the same, chemicals required for the manufacture of high explosives; tanks and armoured cars, gun carriages, their parts and accessories, and the like, which may be declared as such Key Industries by an order of the Governor General in Council."

and

"(18) 'Public Utility Companies' mean all companies engaged in the production, supply, sale or distribution of such services or commodities as are essential for the continued existence of modern civilised life, and which are more fully described in the Schedule appended to this clause."

And then there is the Schedule relating to this :

" THE SIXTH SCHEDULE.

(See section 2.)

'Public Utility Companies' mean and include all companies engaged in the production and supply of essential services and commodities, together with the plant, material, equipment and accessories needed for the working of such services, more particularly—

- (i) transport and communications, local as well as provincial or national ;
- (ii) supply of lighting and other amenities of civic life ;
- (iii) supply of drugs and medicines, hospitals and sanatoria, sera or prophylactics, necessary for the proper care and maintenance of public health, including the care of the mother and the child ;
- (iv) banking and insurance of all kinds ;
- (v) education service, including the printing and supply of books, maps, graphs, etc., operation of printing presses ; provision of laboratory equipment and apparatus, including the manufacture of the same ; and
- (vi) any other service or commodity, the production, supply or distribution of which is declared by an order of the Governor General in Council to be a Public Utility Service."

And then the following amendment (No. 9) standing in my name should be considered to have been read, to facilitate the discussion :

"After clause 2 of the Bill, the following new clauses be inserted :

- '2B. (a) No Key Industry Company, nor any Public Utility Company, shall be registered under this Act, or under any Act amended or repealed by the present Act.
- (b) Every Company being a Key Industry Company, or being a Public Utility Company, shall be incorporated by special Charter, and the Companies Act shall not apply to them, except in so far as the provisions of the

Charter in each case, and the Rules and Regulations, bye-laws or Articles of Association made under the Charter, omit to provide for any matter affecting a Company, in which case the provisions of this Act shall govern each such Corporation, and to the extent of the omission to provide for such matters in the Charter, Rules and Regulations, Bye-Laws, or Articles of Association made under the Charter.

- (c) Companies already in existence, and engaged in Key Industries or Public Utility Services, shall, subject to the Government of India Act, 1935, be required, within not more than five years after the coming into operation of this Act, to reconstruct themselves as Chartered Corporations, as required by this section; and shall thenceforward be governed, and regulated, by such Charter, Rules and Regulations, Bye-laws or Articles of Association made under the Charter.
- (d) Every Charter granted to a Public Utility Company or a Key Industry Company shall provide for—
- (i) the right of the Government or the Public Authority granting the Charter to superintend and regulate the working and management of each such chartered Corporation; and shall, to that end, reserve the right of the Government or the authority granting the Charter of Incorporation, to appoint a stated proportion of Directors to the Board of Directors or Management of each such Chartered Corporation;
  - (ii) the holding, at the option of the authority granting the Charter, of shares in the Corporation;
  - (iii) prescribing of the maximum and minimum rates, prices or charges to be levied by such Corporation;
  - (iv) laying down conditions for the employment and dealing with the Labour engaged in such Corporations, including the minimum wage payable to such workers, then right to official recognition of their trade union or association, as also the right of the latter to make a collective bargain for the Labour engaged in the Corporation. Insurance against Accidents, old age, and disability; and
  - (v) the right of the authority granting the Charter to acquire the entire enterprise built up and operated by the Chartered Corporation, subject to such compensation as may be found due.

20. (a) Subject to the Government of India Act, 1935, no public or private company, engaged in any Key Industry or a Public Utility Service, shall be allowed to be registered under this Act unless—

- (i) it is registered in India under a Charter by the Government of India, or a Provincial Government, or a Municipal Corporation or a District Board having the authority to grant such a Charter of incorporation;
- (ii) it has its head office and principal place of business in India;
- (iii) its capital is in rupees;
- (iv) it has not less than 75 per cent. of the total number of its directors or managers Indians;
- (v) not less than three-fourths of the total subscribed capital is owned and held by Indians; and
- (vi) it agrees to train a number of Indian apprentices, as prescribed in the Charter, in its factories, workshops, plantations, mines or other places of business.

(b) Notwithstanding anything contained in this Act, no share in a Key Industry or Public Utility Corporation shall be transferred to a non-Indian, unless the Board of Directors of such a Corporation is, at the time when such a transfer is demanded to a non-Indian, satisfied that a minimum proportion of shares required to be held by Indians under this section or under the Charter will not be reduced by such transfer being permitted and registered.

[Prof. N. G. Ranga.]

- (c) In every Chartered Corporation engaged in a Key Industry or a Public Utility Service, the authority granting the Charter shall have the right, notwithstanding anything to the contrary stipulated in the Charter or permitted under this Act (1) to be given the first option to take up any additional capital issued by the Corporation : or (2) to acquire any shares which are required to be transferred to a non-Indian, provided that the authority granting the Charter shall not be called upon to pay for any such additional capital taken up by such authority, or any such shares acquired by that authority under the operation of this section, a price in excess of the nominal value of such capital or share taken up or acquired by the Corporation.
- (d) At the expiration of the first term of a Charter, the authority granting such a Charter to any Corporation engaged in a Key Industry or a Public Utility Service shall be at liberty to acquire the whole of that enterprise together, with all its subsidiary or ancillary enterprises or corporations, subject to such price of acquisition as may be found justly due and payable at the time of such acquisition, having due regard to the profits earned during the period the Charter was in operation.
- (e) The authority granting the Charter shall acquire any Corporation engaged in a Key Industry or in a Public Utility Service at any time, if, in the opinion of a competent Court, the activities of the Corporation are becoming monopolist in effect, and are such as to prejudice unduly the small producer or penalise the consumer, or exploit the Labour engaged in such a Corporation ; and on such acquisition the proprietors of the Corporation shall be entitled to such indemnity, or compensation, or purchase price for their undertaking, as may be awarded by a competent Court, provided that, in calculating such indemnity, compensation or purchase price of the undertaking, no allowance shall be made for profits that might have been earned by the Corporation during the remaining period of their Charter."

**The Honourable Sir Nripendra Sircar :** Sir, for the convenience of the House, I have got to take an objection, and it is this. My Honourable friend has moved amendment No. 7 which is an attempted definition of key industry companies and of public utility companies. Then, there is amendment No. 9 which relates to what should happen to these companies. Is there any good of a definition unless we know whether this House is allowing anything to happen to these industries as proposed in amendment No. 9? Personally, I should take objection to it also on the ground that it is outside the scope of the Bill. I suggest, therefore, that either amendment No. 9 should be taken first or both amendments should be moved and taken together. Of course, the difficulty is that amendment No. 7 has taken 10 minutes to read and Amendment No. 9 will take 15 minutes to read.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair does not propose to insist on reading. It will allow Amendment No. 7 to be discussed first. If the House wants to refer to Amendment No. 9, it can do so. Honourable Members will then know what is intended.

**Prof. N. G. Ranga :** Sir, in support of my Amendment No. 7, I wish to state that, when extending the scope of this Bill to all companies in this country in all their activities and in trying to control and regulate their activities, it is the duty of the State to try to distinguish between companies and companies.

**The Honourable Sir Nripendra Sircar :** I take objection to that. I have a preliminary objection to that point because I said, this is extending the scope of the present Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : I shall consider that objection, namely, the objection to the other amendment. I take it, the Honourable Member wishes to move that amendment. But the Honourable the Law Member can take the objection now.

**The Honourable Sir Nripendra Sircar** : My objection is this. I will first read the preamble of the Bill. It says :

“ A Bill further to amend the Indian Companies Act, 1913, for certain purposes. Whereas it is expedient further to amend the Indian Companies Act, 1913, for the purposes hereinafter appearing.”

Sir, in the existing Companies Act or in the amending Bill there is no distinction between a key industry and other industries. These two industries are not mentioned at all. All companies are treated in the same way. In this connection, may I draw your attention to ruling No. 137, which is to be found on page 103 of the First Volume of Decisions from the Chair ? What happened in this case was that by inadvertence of Government it was not said that the Bill was to amend for the purposes hereinafter appearing. It was a Bill simply for amending the Land Acquisition Act. That is how the discussion arose :

“ On the Land Acquisition (Amendment) Bill, Rao Bahadur T. Rangachariar raised the point whether he would be in order in moving amendments to sections of the Act other than those dealt with in the Amending Bill. It was pointed out by the Government that that kind of procedure would be extremely inconvenient to the House as it would be entirely outside the scope of the Bill as drafted.

The President ruled :

“ A somewhat curious situation has arisen. The amendment moved by the Honourable Member on my left is undoubtedly within the title of the Bill as drawn (*as I said, in that case the precaution was not taken*), and yet it is equally undoubtedly outside the scope of the substance of the Bill, which provides for an appeal to the Privy Council. Therefore, on the ground of practice, I think I am bound to rule it out of order. At the same time, I suggest to the Government that it will be wise to protect themselves by seeing that the title of a Bill is not wider than its substance.”

Now, Sir, we have profited by that warning and in this case as you see, the wording is :

“ Further amend the Indian Companies Act, 1913, for the purposes hereinafter appearing.”

I, therefore, submit that the amendment of Prof. Ranga is clearly outside the scope of the amending Bill.

**Mr. S. Satyamurti** : On that point, I should like to submit first of all that the title of the Bill is “ A Bill further to amend the Indian Companies Act, 1913, for certain purposes”. I speak subject to correction. There is no purpose of the Companies Act, which is not within the scope of the present amending Bill, starting from the definition section leading to the winding up of companies, including banking companies, foreign companies, private companies, and various other items, balance sheets, and what not, are all dealt with in this amending Bill. In fact, every Chapter of the old Act is touched upon in this amending Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : In the original Act, is there any provision relating to key industries and public utility companies, and all that.

**Mr. S. Satyamurti** : I submit that is not the point at issue.

**Mr. President** (The Honourable Sir Abdur Rahim) : This is an amending Bill to the original Act.

**Mr. S. Satyamurti** : The original Act itself does not deal with these classes of companies ; it deals with certain classes of companies, as also this amending Bill, *viz.*, private companies, banking companies, foreign companies. It is not, as if either the original Act itself or the amending Bill deals only with one class of companies. Both the original Act and the amending Bill, to my knowledge, just now deal with three classes of companies, besides ordinary joint stock companies, namely foreign companies, banking companies and private companies. I submit, therefore, that my Honourable friend's amendment which seeks to bring within the scope of the Companies Act a new class of companies is undoubtedly within the scope of the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : How undoubtedly ?

**Mr. S. Satyamurti** : Because it is open to the Companies Act normally speaking to define and lay down provisions with regard to different classes of companies. The Companies Act, original as well as this Bill, both deal with different classes of companies.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair has got to decide what is the scope of the Bill. That is the narrow issue before the House.

**Mr. S. Satyamurti** : The scope of the Bill is to amend the Indian Companies Act for certain purposes.

**The Honourable Sir Nripendra Sircar** : " Hereinafter appearing ".

**Mr. S. Satyamurti** : All the purposes of the Companies Act appear here, from birth to death and funeral ceremonies, and the Bill deals with winding up, prospectus, directors, managing agents, and in fact everything is there, in this amending Bill.

**The Honourable Sir Nripendra Sircar** : What about part VIII ? You say every Chapter is included.

**Mr. S. Satyamurti** : I want to draw your attention to some relevant passages in May's Parliamentary Practice. The practice in the House of Commons is summarised at page 404 :

" Amendments are out of order, if they are irrelevant to the Bill or beyond the scope of the Bill or of the clause under consideration."

I submit that the scope of this Bill undoubtedly is to deal with companies of various kinds.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair wants to draw attention to the Ruling appearing in Volume V of Legislative Assembly Debates, Part III.

" The scope of a Bill is defined in the preamble read with the clauses and the schedules."

I mean that is where you generally find the scope of the Bill.

**Mr. S. Satyamurti** : I submit, Sir, that the scope of the Bill, taking it in the light of the ruling which you have just now read out, is reading the title, the preamble, the clauses and the schedules together and undoubtedly this amending Bill deals with different classes of companies.

**Mr. President** (The Honourable Sir Abdur Rahim) : Can the Honourable Member put in another class of companies ?

**Mr. S. Satyamurti** : Why not, Sir ?

**Mr. President** (The Honourable Sir Abdur Rahim) : Only because they are joint stock companies ?

**Mr. S. Satyamurti** : The company proposed in the amendment of Prof. Ranga is going to deal with a particular class of joint stock companies. The Act deals with joint stock companies, and my Honourable friend wants to persuade the House to agree to putting certain provisions with regard to a particular class of joint stock companies. You will notice, Sir, from the same set of Rulings which my Honourable friend read out, there is another ruling.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member's contention is that he has given notice of an amendment containing suggestions or proposals as to how to deal with these companies.

**Mr. S. Satyamurti** : That is the next point. I submit the amendment really attempts to deal with one class of joint stock companies in a particular manner, whatever the House may think of it. I submit such an amendment is within the scope of the Bill. I want you to refer to Ruling No. 138 on page 104 where the Deputy President ruled :

“ With regard to this question as to whether the whole Code of Criminal Amendment is open to amendment during the consideration of this Bill, my ruling is that it is not. No amendment is permissible in the course of the consideration of the present Bill which is irrelevant or foreign to or outside the scope of the subject-matter of this Bill. In the case of the present amendment, although it proposes to amend a section of the Code which is not touched by the Bill, I think it might be held not to be inadmissible under the ruling which I have just given, as it is intimately connected with other sections which are being amended. In this particular case, therefore, I allow the amendment to be moved.”

I am relying in this ruling on the words :

“ as it is intimately connected with other sections which are being amended.”

My submission to you, Sir, is that, after all, this Bill and the original Act deal with various classes of joint stock companies. The amendment of Prof. Ranga deals with one class of joint stock companies. Lastly, I will draw your attention to the House of Commons Standing Orders which are printed as an Appendix to May's Parliamentary Practice. Standing Order 34 says :

“ It shall be an instruction to all committees of the whole House to which Bills may be committed that they have power to make such amendments therein as they shall think fit provided they be relevant to the subject-matter of the Bill ; but that if any such amendments shall not be within the title of the Bill, they do amend the title accordingly, and do report the same specially to the House.”

That is to say no amendments may be proposed which could not have been proposed in committee without any instruction from the House.

**Mr. President** (The Honourable Sir Abdur Rahim) : It really means within the scope of the Bill.

**Mr. S. Satyamurti** : The word “ scope ” is a very big word. What is the scope of the present Bill : to amend the law with regard to joint stock companies, and to lay down different provisions.

**Mr. President** (The Honourable Sir Abdur Rahim) : For the purposes hereinafter appearing.

**Mr. S. Satyamurti :** You will notice, Sir, that the proposed amendment of Prof. Ranga merely suggests the various restrictions that are to be placed before these companies are registered. He merely wants to restrict the application of this Act, to these companies in a particular manner. I am not speaking on the merits of this amendment at all. I am only submitting for your consideration that this amendment of Prof. Ranga merely wants a certain classes of companies to be treated in a particular manner, that is to say certain sections of the Act will apply in certain eventualities, otherwise not. Therefore, Sir, I submit that they are within the scope of the Bill, because the Bill undoubtedly deals with several classes of joint stock companies, prescribes conditions for registration, and so on, and so forth. I, therefore, submit that it will be intolerable, if, in a Bill of this comprehensive kind, amendments are to be ruled out of order, on the technical plea that they are outside the scope of the Bill. As a matter of fact, this Bill is so comprehensive that it should have been a consolidating Act, but that is another matter. But, taking the whole Bill together, one finds that it is really very comprehensive in its scope, and the clauses undoubtedly deal with different classes of joint stock companies, and the manner and conditions of their registration, etc. I, therefore, submit that the amendment is in order.

**Mr. President (The Honourable Sir Abdur Rahim) :** The point of order raised is whether the amendments No. 7 and No. 9, and other amendments of that kind which deal with what are called key industry companies and public utility companies are in order. The objection is that the amending Bill is limited to certain purposes, and the purposes of the amending Bill are to be gathered, as has been pointed out before, from the Preamble read with the clauses and the Schedules. My attention has not been drawn to any clause of the amending Bill or even in the main Act, VII of 1913, which deals specifically with key industries or public utility companies. Now, I am asked to decide whether the clauses dealing with these companies mentioned in amendment No. 7 and also amendment No. 9 and other similar amendments, if any, are within the scope of the Bill or not. I have no doubt whatever that having regard to the scope of the Companies Act as well as the amending Bill now before the House, these amendments are beyond the scope of this Bill.

The question is :

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

The motion was adopted.

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

**Mr. Suryya Kumar Som :** Sir, I beg to move :

“ That after clause 2 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 3. In sub-section (1) of section 3 of the said Act, after the words ‘ High Court ’ the words ‘ and the District Judge ’ shall be inserted and the proviso to the sub-section shall be omitted.’ ”

Sir, the definition of “ Court ” in section 3 of the present Act says :

“ The Court having jurisdiction under this Act shall be the High Court having jurisdiction in the place at which the registered office of the company is situated.”

So that the word “ Court ” has been restricted only to the High Court and that word is mentioned in many clauses in the Act. In the amending Bill this section of the Act has not been touched, which means that this Bill also intends to give jurisdiction only to the High Court. Now, most of the mills are at present situated, not within the jurisdiction of the High

Courts, but in the mofussil as in the case of Ahmedabad and Dacca and other places, and there are many smaller mills which are generally situated outside the jurisdiction of the High Court. If an application under this Act has got to be made the company's man will have to go to the High Court of the district and as these applications will be on the Original side naturally he will have to go through an attorney. So that even for a petty application which may not be contested at all one has to run to the capital and to the High Court at a tremendous expense. I am sure many of my friends know how expensive is a litigation on the Original side of the High Court when one has to go through attorneys' offices. The attorney system is a crying evil in this country and in Bengal some attempt was made to do away with it but after all it has managed to survive. However, we shall try our best to avoid the jurisdiction of the attorneys as far as possible; and in this view I ask the House to decide whether in the case of a small company with a capital of Rs. 2,000 or Rs. 5,000, for a petty application the company's man should go to the capital and to an attorney's office and then move the application through some Counsel which I think will mean spending a certain percentage of the whole capital of the company. I do not see why there should be objection on the part of Government to give power to the District Courts in whose jurisdiction the company may be situated. That is one aspect of the matter. Another aspect is, that the District Judges have to administer the most difficult Acts and there can be no objection to giving them jurisdiction under this Act. They are competent men and now they are selected from experienced Subordinate Judges. Moreover the present Civilian Judges are more well versed in civil law than the previous Judges were. Under the circumstances I do not understand why the jurisdiction should be restricted to the High Court alone.

There is another ground. We find in the proviso of that very section it says:

"Provided that the Local Government by notification in the local gazette and subject to such restrictions and conditions as it thinks fit empower any District Court to exercise all or any of the jurisdiction by this Act conferred upon the Court....."

Now, it is very strange why the Local Government should be entrusted to empower a District Judge. Cannot this House decide it? It is a point which can be decided by this House much better than the Local Government. The Local Government has been given the authority on the presumption that the District Judges are not incompetent. So I do not see any reason why District Judges should not be entrusted with this jurisdiction by this Act.

Therefore, Sir, firstly judged by the question of inconvenience and travel, secondly and most important the question of expenditure on litigation in the original side of the High Court; and thirdly that District Judges nowadays are very competent persons, they can very well be entrusted with cases of this kind. For all these reasons I appeal to the Honourable the Leader of the House to accept my amendment. Sir, I move.

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

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

'8. In sub-section (1) of section 3 of the said Act, after the words 'High Court' the words 'and the District Judge' shall be inserted and the proviso to the sub-section shall be omitted.'

**Mr. M. Ananthasayanam Ayyangar** (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I have only to make a few observations with reference to this : the Honourable the Leader of the House said this morning that the special jurisdiction of the High Court is reserved with respect to matters arising under company law because local vakils and local judges are not very well acquainted with it.....

**The Honourable Sir Nripendra Sircar** : I said nothing of the kind.

**Mr. M. Ananthasayanam Ayyangar** : That is what I understood him to say—that because there are not a large number of companies in the districts and in those districts where there are a number of companies special power is given to the Local Government to empower the District Judges to do so. As far as I am aware, the Indian company law is the only law with respect to which the High Court is exercising a peculiar Jurisdiction. With respect to all other laws, whether enacted before this date or which may come into existence newly, I am not aware of a single instance where the Subordinate Judges Courts and District Courts do not deal with these matters arising under those laws before they go to the High Court for final decision by way of appeal or revision. I do not think therefore any exception should be made in the case of the administration of company law alone. As the Honourable the Mover of this amendment has justly pointed out, it is very inconvenient for small companies and it is highly expensive besides whenever such applications have to be made, before the High Court.

A new impetus is sought to be given to the formation of joint stock companies by this Act. It is sought to encourage the formation of companies on a broad scale, and therefore with a view to accelerate the growth of those companies every possible attempt should be made to make it easy for those who form a company in the mufassal to work them.

I shall make another observation. The seniormost district judges in the various districts of the presidency are drafted constantly for judgeships in the High Court. I do not see how it makes any difference. If they have not already had occasion to do anything with company law, how would they be better able to do it in the High Court. If that is the complaint, I am in a position to say that mufassal judges and mufassal vakils are as competent to do this as any others. I would therefore say there ought to be no impediment for the companies in the mufassal to make applications to the district judges : they deal with all other departments of law—divorce, matrimonial, probate succession, etc., etc. I would therefore ask the Honourable the Leader of the House to accept this amendment.

**Mr. Husenbhai Abdullabhai Laljee** : Sir, I rise to support the amendment moved by my friend. It is a fact that we have now mills and other factories in the districts, and it is the experience of those who have worked those mills and joint stock companies that it is much better to have justice there than to have to go to the High Court : as my friend said one thing is certain and it is very regrettable too that before we get justice in the High Court we run the risk of total ruination of the concern by the attorneys bills of costs, etc. So far as the Bombay High Court is concerned, I can cite many instances of litigation that have gone on for ten or twenty years by the help of attorneys and Court routines and that on small matters big concerns have been ruined. If it is said that in the

districts the judges are not competent, I say we cannot believe that. One-third of the judges of the High Court are taken from the senior civilians and they are mostly District Judges and they come to the High Court : and can it be said that the very next day they are brought from the District Courts to the High Court, they are competent to decide all these points ? Anyhow, I do believe in the interests of convenience and getting justice at a fair and reasonable cost, this amendment should be accepted.

**The Honourable Sir Nripendra Sircar :** Sir, I oppose this amendment. I have it from my friend, Mr. Som, that one of his complaints is that for any petty matter the point has got to go up to the High Court. But what are the petty matters in which Courts have jurisdiction in connection with company law ? Speaking from recollection, there are four matters : (1) changing the memorandum : is that a small matter, a petty matter ? No. (2) is when the share register has got to be rectified, the point has got to go to Court. Does my friend think that it is a petty matter ? What is the kind of evidence that is led, and what are the kind of matters argued in matters connected with rectification ? The third is winding up of the company and the fourth is arrangements under section 153. None of these matters are petty matters as my friend seems to think. They are really important, vital matters, affecting the whole state of the company. In support of my objection, may I just read the opinion of Mr. Justice Coutts Trotter when this matter was referred to the Madras High Court ? I think my friend, Mr. Ananthasayanam Ayyangar, will show some provincial loyalty by respecting the opinion of Mr. Justice Coutts Trotter.....

**Mr. M. Ananthasayanam Ayyangar :** He is not allowed to change his mind !

**The Honourable Sir Nripendra Sircar :**

“ I am entirely opposed to the proposal not so much because of the present position as of the future. If company activity develops in this country on any large scale, it will be essential to have, as in England, a judge in charge of company matters, who is or who is prepared to make himself a specialist in company law. Obviously, this can only be done by a judge on the Original Side of the High Court. Company law is a highly specialised and complicated subject. In England.....”

I know that the word “ solicitor ” is rather a thorny subject, but may I inform my friend, Mr. Som, that however much he may deprecate Mr. Susil Sen, the Attorney, he is also a Vakil : you can admire him as a Vakil, if you do not admire him as a Solicitor !

“ In England, every provincial manufacturing town has in its midst Solicitors who know a great deal at any rate on the practical side of the company law. Nevertheless in the County Courts, though there are trained lawyers, they are not given jurisdiction in company matters which are reserved.....”

I do not know what happens in the Bombay High Court, but so far as the Calcutta High Court is concerned, a particular Judge, one of Senior Judges if not the senior most Judge, is always allocated for company law matters. The practice may differ in Bombay. I know nothing about it.....

**Pandit Lakshmi Kanta Maatra :** The Registrar of Joint Stock Companies in Bengal has also recommended that concurrent jurisdiction should be given.

**The Honourable Sir Nripendra Sircar :** The Registrar of Joint Stock Companies in Bengal has also recommended that he should have the power to walk into the office of any company at any time, and that the Local Government should have power to direct that additional books beyond those mentioned in the company law should be maintained by companies. Now, if we follow the advice of the Registrar of Joint Stock Companies of Bengal, I think every company, every business will be in danger.

**Mr. S. Satyamurti :** So much for Bengal !

**The Honourable Sir Nripendra Sircar :** As I said in the morning, Sir, under section 3, power is given to Local Governments. This power has been exercised. I do not know of other presidencies. I am told it has been exercised in Madras, but I am not sure, but it has been exercised in Bengal.....

**Mr. Suryya Kumar Som :** Not in Dacca ; not in bigger districts.

**The Honourable Sir Nripendra Sircar :** Well, Sir, that probably explains my Honourable friend's resentment.

**Mr. Suryya Kumar Som :** I am too old.

**The Honourable Sir Nripendra Sircar :** Four other districts have been chosen, but not Dacca as my friend says. For instance, Sylhet has been selected,—I don't remember the other districts. But if Dacca has such a strong case that surely the local authorities ought to recognise that at least there is one lawyer in Mr. Som who understands the company law, and I am sure there are others....

**Mr. Ashil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadian Rural) :** But he does not practise in Dacca.

**The Honourable Sir Nripendra Sircar :** Then, I am very sorry. Now, if any further extension is wanted, it can be done under the Act. Sir, I object to this amendment.

**Mr. Suryya Kumar Som :** Sir, I want to make a few observations by way of an explanation.

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member cannot make a second speech.

The question is :

“ That after clause 2 of the Bill, the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

‘ 3. In sub-section (1) of section 3 of the said Act, after the words ‘ High Court ’ the words ‘ and the District Judge ’ shall be inserted and the proviso to the sub-section shall be omitted.’ ”

The Assembly divided :

AYES—45.

Anoy, Mr. M. S.  
Asaf Ali, Mr. M.  
Ayyangar, Mr. M. Ananthasayanam.  
Azhar Ali, Mr. Muhammad.  
Chaliha, Mr. Kuladhar.  
Chattopadhyaya, Mr. Amarendra Nath.  
Chettiar, Mr. T. S. Avinashilingam.

Chetty, Mr. Sami Venkatachalam.  
Das, Mr. B.  
Das, Pandit Nilakantha.  
Desai, Mr. Bhulabhai J.  
Gadgil, Mr. N. V.  
Giri, Mr. V. V.  
Govind Das, Seth.

AYES—contd.

Hans Raj, Raizada.  
 Hosmani, Mr. S. K.  
 Jodhe, Mr. K. M.  
 Jogendra Singh, Sardar.  
 Kailash Behari Lal, Babu.  
 Khan Sahib, Dr.  
 Khare, Dr. N. B.  
 Laljee, Mr. Husenbhai Abdulbhai.  
 Maitra, Pandit Lakshmi Kanta.  
 Mangal Singh, Sardar.  
 Mudaliar, Mr. C. N. Muthuranga.  
 Muhammad Ahmad Kazmi, Qazi.  
 Nageswara Rao, Mr. K.  
 Paliwal, Pandit Sri Krishna Dutta.  
 Pant, Pandit Govind Ballabh.  
 Parma Nand, Bhai.

Raghubir Narayan Singh, Choudhri.  
 Raju, Mr. P. S. Kumaraswami.  
 Ranga, Prof. N. G.  
 Saksena, Mr. Mohan Lal.  
 Satyamurti, Mr. S.  
 Sham Lal, Mr.  
 Sheodass Daga, Seth.  
 Singh, Mr. Ram Narayan.  
 Sinha, Mr. Anugrah Narayan.  
 Sinha, Mr. Satya Narayan.  
 Sinha, Mr. Shri Krishna.  
 Som, Mr. Suryya Kumar.  
 Sri Prakasa, Mr.  
 Varma, Mr. B. B.  
 Vissanji, Mr. Mathuradas.

NOES—56.

Abdul Hamid, Khan Bahadur Sir.  
 Abdul Matin Chaudhury, Mr.  
 Acott, Mr. A. S. V.  
 Ahmad Nawaz Khan, Major Nawab Sir.  
 Ahmed, Mr. K.  
 Ayyar, Diwan Bahadur R. V. Krishna.  
 Bajoria, Babu Baijnath.  
 Bajpai, Sir Girja Shankar.  
 Bhagchand Soni, Rai Bahadur, Seth.  
 Bhat, Mr. M. D.  
 Buss, Mr. L. C.  
 Chapman-Mortimer, Mr. T.  
 Craik, The Honourable Sir Henry.  
 Dalal, Dr. R. D.  
 Das-Gupta, Mr. S. K.  
 DeSouza, Dr. F. X.  
 Dey, Mr. R. N.  
 Ghiasuddin, Mr. M.  
 Grant, Mr. C. F.  
 Griffiths, Mr. P. J.  
 Grigg, The Honourable Sir James.  
 Hidayatallah, Sir Ghulam Hussain.  
 Hossack, Mr. W. B.  
 Hudson, Sir Leslie.  
 James, Mr. F. E.  
 Jawahar Singh, Sardar Bahadur Sardar Sir.  
 Jehangir, Sir Cowasji.  
 Jinnah, Mr. M. A.  
 Khurshaid Muhammad, Khan Bahadur Shaikh.

Lloyd, Mr. A. H.  
 Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad.  
 Metcalfe, Sir Aubrey.  
 Mody, Sir H. P.  
 Morgan, Mr. G.  
 Mudie, Mr. R. F.  
 Mukherjee, Rai Bahadur Sir Satya Charan.  
 Naydu, Diwan Bahadur B. V. Sri Hari Rao.  
 Noyce, The Honourable Sir Frank.  
 Rajsh, Rao Bahadur M. C.  
 Rau, Mr. P. S.  
 Roy, Mr. S. N.  
 Sarma, Sir Srinivasa.  
 Scott, Mr. J. Ramsay.  
 Seth, Mr. Susil Chandra.  
 Sharma, Mr. D.  
 Sher Muhammad Khan, Captain Sardar.  
 Singh, Rai Bahadur Shyam Narayan.  
 Sircar, The Honourable Sir Nripendra.  
 Spence, Mr. G. H.  
 Thorne, Mr. J. A.  
 Tottenham, Mr. G. R. F.  
 Witherington, Mr. C. H.  
 Yakub, Sir Muhammad.  
 Yamin Khan, Sir Muhammad.  
 Zaffullah Khan, The Honourable Sir Muhammad.  
 Ziauddin Ahmad, Dr.

The motion was negatived.

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

“ That clause 3 stand part of the Bill ”

(Mr. Muhammad Azhar Ali rose in his seat.)

**The Honourable Sir Nripendra Sircar** : On a point of order, Sir. I object to this amendment being moved, Sir.

**Pandit Govind Ballabh Pant :** The amendment has not yet been moved, and how can a point of order be raised ?

**The Honourable Sir Nripendra Sircar :** I am objecting to its being moved at all. I submit that this is covered by your previous ruling if you substitute "manufacturing" for "key" industries, and secondly, a manufacturing company is nowhere mentioned in the Companies Act or in the amending Bill, nor is it defined anywhere. We do not know what is a manufacturing company. The section which relates to the registration of companies is not one of the sections which we are going to amend, that is not within the scope of this Bill. He really wants to say that a company under this Act shall not be registered unless certain things are done. The section about registration of companies is not in the scope of my Bill at all.

**Mr. President (The Honourable Sir Abdur Rahim) :** What are the sections of the Act relating to registration ?

**The Honourable Sir Nripendra Sircar :** Sections 22 and 23. They have not been amended by this Bill. Sir, this is not in any way intimately or even remotely connected with any section within the scope of the Bill.

**Mr. President (The Honourable Sir Abdur Rahim) :** You mean there is nothing in this amending Bill which affects registration ?

**The Honourable Sir Nripendra Sircar :** Yes. There is nothing in this amending Bill relating to registration. Sections 22 and 23 are the sections and we do not touch them.

**Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions : Muhammadan Rural) :** I have not been able to hear a word of what my Honourable friend, the Law Member, has said.

**Mr. President (The Honourable Sir Abdur Rahim) :** What he says is this that sections 22 and 23 of the Act which deal with registration of companies are not amended in any way by this Bill, and therefore your amendment is outside the scope of the present Bill.

**Mr. Muhammad Azhar Ali :** In reply, I would say that the object of the Bill is to make the administration of companies efficient, and also to make them more useful to the public. My contention is that if that is the object of the Bill my amendment is in order. The Honourable the Law Member agrees that the managing agency system should continue. If the managing agency system is to continue, then where can we get men trained as managers unless we have trained people in the company itself. It is impossible to manage any company. My next point is we cannot get trained directors unless we train them, in companies as apprentices. My fourth point is that the word "auditor" is defined in the Act, where can we get trained auditors unless we have them as apprentices in the company trained as auditors ? My submission is that the substance of the Bill wants that there should be efficient, useful and competent men to work in the company.

**Mr. President (The Honourable Sir Abdur Rahim) :** I find there are other sections of the Act relating to registration, such as, for instance, section 17.

**The Honourable Sir Nripendra Sircar :** But none of them are within the scope of this amending Bill. May I also draw your attention to Ruling No. 135 at page 102 of A Selection from the Decisions of the Chair :

4 P.M. " I have no doubt that Mr. Patel's amendment is out of order because it deals with a different and foreign subject altogether. The subject which he wants to introduce is protection of labour and this Bill is not for that purpose at all. It is for the protection of a particular industry and not for the protection of labour."

I say that the employment of labour, the employment of apprentices is completely outside the scope of this Bill.

**Pandit Govind Ballabh Pant :** I should like to say this. If you look at sub-clause (d) of clause 2 of the Bill you will find that a public company is defined as meaning a company incorporated under this Act or under the Indian Companies Act so this Bill relates to all those matters which govern the incorporation of a public company.

**Mr. President :** (The Honourable Sir Abdur Rahim) : Has it anything to do with registration—under what conditions registration can take place ? This amendment deals with that.

**Pandit Govind Ballabh Pant :** It deals with many points bearing on that. There is this memorandum. A company can be registered only if it complies with this clause which deals with the printing and signature of a memorandum as described in clause 4 of the amending Bill. Then there is clause 5 laying down that companies will not be registered if they include certain names or titles, so the whole subject of the conditions governing the registration or incorporation is covered by this Bill and it is only one of the conditions that is being annexed to this matter by this clause that Mr. Azhar Ali has proposed. I submit that it is perfectly in order, but apart from this there is a larger question which arises out of this amendment and that is the reason why I have got up. I submit that the whole of this Bill is under amendment and only such parts of it have been included in this amending Bill as the Select Committee or the Government considered to be deserving of being placed before this House at this stage.

**Mr. President** (The Honourable Sir Abdur Rahim) : You cannot go on amending sections of the Act which are not dealt with by this Bill.

**Pandit Govind Ballabh Pant :** There is no specific subject dealt with by this amending Bill. Will the Honourable the Law Member tell us what it is that he wants to deal with under this Bill ? Is it not all the abuses relating to the administration of this Act which have been discovered or experienced so far in the administration of the Indian Companies Act of 1913 ?

**Mr. President** (The Honourable Sir Abdur Rahim) : All I want to know is whether this Bill seeks to amend the section which relates to registration. I am told that this has nothing to do with the registration of companies.

**Pandit Govind Ballabh Pant :** My submission is that this Bill amends the entire Act. Even if we amend a section in the Act, sometimes we retain three-fourths of the language of the original section.

[Pandit Govind Ballabh Pant].

The mere fact that sections are numbered serially should not be the test for holding whether an amendment is in or out of order.

**Mr. President** (The Honourable Sir Abdur Rahim) : This amendment makes registration conditional upon certain things which have got to be complied with. What I want to know is if any of the registration sections in the Companies Act which lay down the circumstances and conditions under which the companies can be registered are sought to be amended by this Bill.

**Pandit Govind Ballabh Pant** : Now, Sir, the memorandum should comply with the form prescribed in clause 4. If it does not conform to this form, then the company will not be registered. Then under clause 5, if the company bears certain names without the permission or consent in writing of the Governor General in Council, then the company will not be registered. Then in sub-clause (d) of clause 2, we have the definition of public company itself and it is open to us to prescribe the conditions which will entitle one to have a company incorporated or which will disqualify one from having such incorporation. Therefore I submit that the entire subject is covered by the previous clauses.

**Mr. President** (The Honourable Sir Abdur Rahim) : This amendment requires that a manufacturing company shall not be registered unless it complies with certain conditions. I have been asked to rule that it is outside the scope of this amending Bill. It was suggested by the Leader of the House that the amending Bill does not seek to amend any of the provisions of the Companies Act with respect to registration, but I do not think that contention is borne out by clauses 4 and 5, especially clause 5, which lays down that a company which is to be registered shall not bear certain names. On the whole, I am not prepared to say that the amendment is outside the scope of this Bill.

**Mr. Muhammad Azhar Ali** : Sir, I move :

“ That in clause 3 of the Bill before the proposed sub-section (3) the following be added and the subsequent sub-section be re-numbered accordingly :

‘ (3) No company which is referred to in sub-clause (2) above and which is a manufacturing company shall be formed unless it is registered as a company under this Act and unless it guarantees to take in such number of apprentices from the district in which it is located as may be determined by the Local Government from time to time ’.”

I am obliged to you for your ruling in favour of the unemployed youth of India. I think I will be failing in my duty if I do not rise and appeal before this House that the youth of India is dying for employment—the youth whose birthright it is to be provided with employment by the State and their own countrymen. If today we do not enact this amendment, it will create great dissatisfaction in the whole country. I appeal to the elderly Members of this House who have got their own children and relations who have got to be found employment. I appeal to those on the Government Benches to beware of the unemployed youth of India. It is no use to increase the number of unemployed youth and I must say that the number has grown to a great extent and if these manufacturing companies will not take our young men as apprentices, where are these

men of the younger generation to go. The manufacturing companies derive a great benefit from these young men. They manufacture cloth and articles for the use mainly of the younger generation.

Sir, when they manufacture nice things, it is the youth of India that patronises them. Manufacturing companies generally get a great deal of profit from the younger generation and we shall fail in our duty today, Sir, if we do not support this amendment. Sir, my amendment is only this (which I was not allowed to read at the beginning) ; I say that "in clause 3" of the Bill before the proposed sub-section (3) the following be added and the subsequent sub-section be re-numbered accordingly :

"(3) No company which is referred to in sub-clause (2) above and which is a manufacturing company shall be formed unless it is registered as a company under this Act and unless it guarantees to take in such number of apprentices from the district in which it is located as may be determined by the Local Government from time to time."

Sir, there will be no hardship on the manufacturing company ; it will be very easy for them to provide for the younger people of their own district. I do not say, nor do I appeal, that Bombay should provide for Bengal or that Bengal should provide for Madras. My simple object before the House is that people in their own districts should be provided with employment,—and in what way ? They are to be taken as apprentices by the manufacturing companies of their own place. Has not the youth of India any claim on their own people, on their own Local Government, on their own manufacturing companies ? I submit, that is the first claim of the youth of India on its local manufacturing places. Sir, I need not dilate upon this particular point very much. I would simply say that the younger generation is simply groaning under the burden of unemployment, and if I rise today to ask this House to support this amendment, I am not I think doing any injustice to any part of this House, and I hope every Party will support this amendment. Sir, it may be said that our European friends are not interested in the youth of India or that the Anglo-Indians are not interested, but I would appeal to them that here is a chance under which their boys may also be provided as apprentices in manufacturing companies. Sir, I move my amendment.

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

"That in clause 3 of the Bill before the proposed sub-section (3) the following be added and the subsequent sub-section be re-numbered accordingly :

"(3) No company which is referred to in sub-clause (2) above and which is a manufacturing company shall be formed unless it is registered as a company under this Act and unless it guarantees to take in such number of apprentices from the district in which it is located as may be determined by the Local Government from time to time."

**The Honourable Sir Nripandra Sincar** : Sir, I hope to point out to this House that if this amendment is carried, no apprentice is benefited in any way, because the language is, "unless it guarantees to take in such number of apprentices from the district in which it is located...." Assume that this is law now, and it is decided by Local Governments that ten apprentices have got to be taken, what then ? Is the company going to say, "yes, I am going to take you, but you must pay us Rs. 500

[Sir Nripendra Sircar.]

premium". Sir, the terms are not mentioned, neither anything to show at what premium, what should be the qualifications, what should be the personnel, nothing is mentioned as regards the age or any other such matter; nothing is stated here about any of these things. I submit, Sir, this is an absolutely futile amendment. If it is carried, it will not help the apprentices in any way.

**Mr. Muhammad Azhar Ali :** I suppose, Sir, the patriotic companies of India will not mind these small matters.

**The Honourable Sir Nripendra Sircar :** I am not now dealing with patriotic Indian companies; I believe there are patriots all over India. I am not for one moment suggesting that Mr. Azhar Ali's idea is not a good idea or that it is not a laudable thing. My Honourable friend will not take it in that spirit, but what I mean is this that, as the amendment has been drafted, it is really so vague, so pointless that no good will come to the apprentices. That is my point. I do not want to say anything more.

**Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) :** Sir, I rise to oppose this amendment. Mr. President, we are discussing the Companies Act and not the subject of unemployment in India. May I point out to my Honourable friend, the Mover of this amendment, that there is no Indian who does not sympathise with all he said about the unemployment in India and the desirability of giving opportunities to young men to serve as apprentices in factories in India and outside India. But I contend, Sir, that this Bill is not the place for making provisions of this character. In the first place this House has many opportunities of providing for apprentices in factories. You give certain industries protection, and you can provide that such industries that get protection from Government should also guarantee to take free of charge, under certain conditions that you may lay down, such apprentices. You give something by way of consideration. Now, Government may be giving out contracts in India and outside India to factories. They may then provide in the contracts that a certain number of apprentices shall be taken. But it is rather difficult for me to see how in an Act of this sort you can make it compulsory upon every factory to take in any number of apprentices, that the Government may dictate. That may prove, on certain occasions, an absolute nuisance.

**An Honourable Member : Why ?**

**Sir Cowasji Jehangir :** There may be young men among them who may bring in indiscipline. As a matter of fact, what has happened today? In Bombay, the Local Government has approached all factories with a request that a certain number of apprentices should be taken in, and so far as I know, very few factories have refused the request. Let this be, by all means, a voluntary system, but not compulsory, where no consideration is offered in return, and this House has so many opportunities of insisting and rightly insisting upon the Government to compel factories to take in apprentices that I do not think that this opportunity should be taken, when amending the Companies Act, of forcing upon companies, without consideration, apprentices whom they may not desire to take (*Prof. N. G. Ranga : "Why not ?"*) and who may be forced upon them

by the Local Government. As the Honourable the Law Member pointed out, there is no provision in this amendment which can compel the factories to take in apprentices without a premium. The companies can very well say to the Local Government, "we shall take a prohibitive premium" and that will nullify the intentions of my Honourable friend. I do not believe as a matter of fact that the companies will do such a thing, but the amendment, as worded, makes it perfectly possible for them to take up such an attitude, and therefore I would appeal to the House not to bring in provisions of this sort in the amendment of the Companies Act, but to take every opportunity that arises and will arise from time to time to compel the Government to make factories, with which they have dealings, to take in apprentices for the good of the youth of this country.

**Mr. Sham Lal** (Ambala Division : Non-Muhammadan) : Sir, I support the amendment, and I think there can be no better amendment than this. It is claimed for this Companies Bill that it is not only for the benefit of shareholders, directors and other persons concerned, but it is for the benefit of the public. That has been claimed in every speech. Now, when we come to put it to actual test whether it is for the benefit of the public, an amendment is moved in the interests of the public and that amendment is not accepted. The Honourable the Leader of the House has stated that it would be futile, because the age is not fixed and the conditions are not fixed as to what sort of apprentices the company is to take. All these things are in favour of the company. Let the company make any rules with regard to the age and the class of people it is going to take and also what educational qualifications they should possess. We leave it to the company, and we do not force anything upon it in that behalf. What we require is that there should be a certain number of apprentices and the number is only to be fixed by the Local Government. It is said that it is a very good idea, but there should be proper time for it. I do not know when that proper time will come. The Honourable Member, Sir Cowasji Jehangir, has said in his speech that it should not be forced, but it should be voluntary. It should not be without any consideration ; we should have contracts and there should be protection before the apprentices can be taken. Sir, these manufacturing companies, these mills and factories cannot but have these apprentices in a bargaining spirit. What they want is that we should come to the Assembly and ask the Government to give protection to these manufacturing companies and to give contracts to these industries, and it is only then that they will take apprentices. That is not the thing. If these industries and if these companies exist for the benefit of the public, then I think they should accept this amendment. In India, if there is any problem which is waiting for solution, it is the problem of unemployment. Our youths are being forced out from all foreign countries ; they are not taken in any industry ; they are not taken in any manufacturing company. While legislating for the companies and laying down so many rules in the interests of the public, we should also lay down this condition that a manufacturing company, before it is registered, should give a guarantee that it will take a certain number of apprentices, so that they may be able to do some useful work and the problem of unemployment may be solved. I, therefore, heartily support this amendment.

**Qazi Muhammad Ahmad Kasmi** (Meerut Division : Muhammadan Rural) : Sir, I beg to support this amendment. The arguments that have

[Qazi Muhammad Ahmad Kasmi.]

been advanced by Sir Cowasji Jehangir that most of the companies in Bombay have voluntarily acceded to the request of the Local Government and the refusal has been very rare go to support that this matter can, with safety to the companies themselves, be brought on the Statute-book. Sir, no argument has been advanced from the other side, so far, to the effect, that the companies would like to keep their secrets because they are started for particular purpose and certain secret processes have to be carried on, and therefore outsiders should not be allowed to go into the company. There is no such argument. But if an argument of that kind had been advanced, I could have replied to it also. As a matter of fact, in these days of manufacture there is no such thing as secret processes, especially in the kind of companies that are being generally run in India. At the same time, the spirit of modern times is absolutely different from the spirit of old days. Whatever is being done now by the science is for the benefit of the whole world. Sir, we are already giving encouragement to many companies especially those which are doing textile work and certain other works and there is no reason why those companies should not allow persons to come in as candidates and be trained by them. If the companies are prepared to take apprentices voluntarily, then what harm will be done if that is made compulsory and the right of fixing the number of candidates is given to the Local Governments. I think that the amendment that has been moved by my friend is a very modest one. He has given the power of selection to the company and he has given the Local Government the power to prescribe the number. So, it cannot be said that such candidates as will be going to the company will be going against the wishes of the managers of the company. Sir, I support this amendment.

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

“ That in clause 3 of the Bill before the proposed sub-section (3) the following be added and the subsequent sub-section be re-numbered accordingly :

‘ (3) No company which is referred to in sub-clause (2) above and which is a manufacturing company shall be formed unless it is registered as a company under this Act and unless it guarantees to take in such number of apprentices from the district in which it is located as may be determined by the Local Government from time to time ’.”

The motion was negatived.

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

“ That in clause 3 of the Bill, the proposed sub-section (4) of section 4 be omitted.”

Sir, it is the provision in section 4 that lays down that no company which is started for banking purposes with more than ten persons shall be allowed to carry on its business unless it is registered. There is no penal clause as to what should happen in case it is not registered. No penal clause is provided in the existing Act itself. The law has laid down that if any company is started with more than 20 persons or any bank is started with more than 10 persons and the same is not registered under section 4 of this Act or any relevant section of the Act, it is illegal and with respect to the contracts entered into by that company with strangers, so far as bona fide strangers are concerned, who have lent money to that

company, they can enforce the recovery of that money in a Court of law against this company notwithstanding the fact that it is an illegal company. Those are the penalties that are provided at present. But if an unregistered company which is illegal under the Act lends to any stranger, it cannot enforce or obtain the recovery of the moneys that it has lent to other persons through a Court of law. These are the penalties which the common law imposes on companies which trade or carry on business, but which are not formally registered under this Act. But under this Bill some other penalties are sought to be imposed. Before I come to them, I might mention that there is one other enabling provision which is enacted in this Bill so far as the *bona fide* third parties are concerned. Hitherto, without a provision to that effect, third persons who lend such companies would not be entitled to recover moneys lent to the company because they are moneys lent for illegal purposes. But the provision of clause 3 of this Bill makes ample provision to enable third persons who have lent money to obtain redress against these companies even though they may be declared illegal. I request the Honourable Members of this House to refer to clause 3 (3) which says :

“ Every member of a company, association or partnership carrying on business in contravention \* \* \* of this section shall be personally liable for all liabilities incurred in such business.”

Whatever doubts there might have been with respect to the transactions entered into by third persons with these companies under the present law, they can enforce their rights against these companies under this Bill. That is an additional disability that is imposed against such companies and an additional provision has been added in favour of third persons who enter into transactions with these companies. In fact, there are ample disabilities for such companies who carry on business. Ordinarily those provisions would be enough. A new provision is added in section 4 of the Act which makes it an offence for such companies that carry on business if they are not registered, under the Companies Act. It is to this provision that I take exception. The provision reads :

“ Any person who is a member of a company, association or partnership formed in contravention of this section shall be punishable with fine not exceeding one thousand rupees.”

Well, Sir, I read this Companies Act (Amending) Bill from beginning to end only recently and it reminded me of another Penal Act, namely, the Indian Penal Code. There is not one single clause in this amending Bill which does not impose some penalty or other. I can understand provision being made for punishing persons who knowingly transgress the law. But supposing some persons unwarily enter into this transaction without knowing that they come within the clutches of this law, this law will apply even to these persons. Recently a case was reported in 50 Madras, Indian Law Reports, page 175, where four independent partnerships, each having about four or five members—four independent firms—joined together into a company for the purpose of carrying on business. Later on they disagreed among themselves and three of them sought the help of the Court for winding up or enforcing certain rights of theirs against the fourth party. The Court declared that the company was illegal because the number of members in the several partnership taken together came to 22. They were under the impression that as persons and as firms, they were four individuals. Their misappre-

[Mr. M. Ananthasayanam Ayyangar.]

ension was made possible by the definition in the General Clauses Act that a person includes a firm or a company and not only an individual. They thought it was not necessary for them to have registration under this. If this Bill had been enacted before, they would not only lose their legal rights, but each member of the company, merely because it is not registered owing to a misapprehension of the provisions of the law, would be liable to a penalty of Rs. 1,000. I say, Sir, it is not necessary to impose such a heavy penalty. The ordinary disabilities they suffer under the law are sufficient. I would therefore suggest that as this smacks at every turn of some penal provision like the Indian Penal Code—even the Draconian Code would not be harsher than the Bill which we are now enacting—I suggest that this penal provision in sub-section (4) of the Act should go. I would appeal to the House to have this provision deleted.

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

“ That in clause 3 of the Bill, the proposed sub-section (4) of section 4 be omitted.”

**Mr. Susil Chandra Sen** : Sir, I oppose this motion for these reasons. My Honourable friend, Mr. Ayyangar, has said that the provisions in sub-section 3 of the proposed Bill are adequate and therefore no penal provisions are necessary. Sir, I would point out to you one concrete case which is possible from which you will at once find that the provisions of the sub-clause are not adequate. Of course this provision, as Honourable Members will observe, is intended to check the loss which third parties or outsiders may be put to by reason of having had to deal with an association formed in contravention of this section. Supposing 21 impecunious persons put their heads together and form an association and commence transactions with third parties and incur liabilities. Now, Sir, let us say that it is discovered that they had formed themselves into an illegal association. What is their liability supposing this sub-clause 4 was not there. They are personally liable to make good the losses which the third parties might have incurred. Now, Sir, they may be persons of absolutely no means from whom nothing could be recovered. Therefore sub-clause 3 may afford no relief and be a dead letter in a case like that. It is only to prevent this class of cases and to prevent losses occasioned to third parties by reason of their dealing with such associations that such a deterrent provision is necessary. I agree with my Honourable friend that in the draft Bill there have been many penalties provided, but I think a majority of my Honourable friends will agree that drastic maladies require drastic remedies and this is one of the things which require such a penalty. I say that sub-clause 3 is not sufficient. It imposes undoubtedly a civil liability which is a matter of no importance except to a man of substance. Therefore, I oppose this amendment.

**Mr. Akhil Chandra Datta** : Sir, in the proposed sub-clause, the punishment is only a fine. If he is a man of straw, how can you realise the fine ? Therefore, the same argument may be advanced for the deletion of this provision.

**Mr. S. Satyamurti** : In that case, the man will be sent to jail.

**Mr. Susil Chandra Sen** : My Honourable friend, Mr. Satyamurti, has already answered the point.

**Babu Baijnath Bajoria** (Marwari Association : Indian Commerce) : Sir, I support this amendment. The existing section 4 of the Indian Companies Act, 1913, was copied from the English Act of 1908 and the exact figure has also been taken from that Act without making any allowance for the conditions prevailing in India. It is common knowledge that partnerships between several firms are formed here and I think it is not necessary that they should be formed into a registered company. There are hundreds and thousands of firms here who are doing business and doing good business without forming themselves into a registered company, and as has been pointed out by my Honourable friend, Mr. Ayyangar, and as the Honourable the Leader of the House knows, partnerships have been declared illegal. This Act has already been working as a great hardship on Indian firms specially. Of course I have got separate amendment dealing with Hindu joint family and when I move that amendment, I shall speak on this point in detail. I submit this provision is very harsh and should be deleted.

**Mr. Sami Vencatachelam Chetty** (Madras : Indian Commerce) : Sir, in similar instances where innocent people might be punished for an offence that might be committed by designing people, the words 'knowingly' or 'wilfully' have been introduced. Supposing there are 15 persons who knew that they were acting illegally in contravention of the rules and yet roped in five innocent persons who do not know the penalties which they would suffer under this law, it would be really very hard with these five persons who are not guilty of any offence but who are merely roped in by the other 15 persons that they should also suffer this punishment, apart from the civil liability which they incur under the previous amendment. I hope that even as regards such instances that may come in hereafter in the Bill, the words 'knowingly' or 'wilfully' might be introduced, so that the really guilty people might be made punishable, while the innocent persons might be allowed to escape. I hope the Honourable the Leader of the House will see the justice of excluding the really innocent people from being punished.

**The Honourable Sir Nripendra Sircar** : I want to say a few words in reply to my Honourable friend, Mr. Chetty. I cannot imagine how 21 persons can go on with business in partnership without knowing who the partners are, at all. The example which Mr. Chetty gave was this. Suppose there are 15 persons who know who the partners are and the other five do not know.....

**Mr. Sami Vencatachelam Chetty** : I am afraid my Honourable friend has misunderstood me. Supposing there are 15 persons who know that they would be acting in contravention of this rule in case a company has been formed and not registered, whereas five persons do not know that it requires registration.

**The Honourable Sir Nripendra Sircar** : In that case, my answer is much shorter, that is to say, they must know the law.

**Mr. Husenbhai Abdullabhai Laljee** : Sir, I rise to support the amendment. I do not find that in many instances people are willing to join in a partnership unless and until they find that good business could be done. We have not had any instance in a city like Bombay where we have found an association of more than 20 people have robbed the people. Not only that ; it has often been found that great commercial firms join together for certain transactions and I do not know why they should be stopped.

[Mr. Husenbhai Abdullabhai Laljee.]

Is it necessary that everybody must become a limited concern because 20 persons are joined together? The only provision which is fair and equitable is that they must be made responsible for the losses or for the liabilities that they incur. But I do not see what harm there can be if four or five firms with four or five partners in each wish to join together for a certain business. We find that even in European countries mergers are formed, merchants meet together to bring up the market, and so on. It is not a gambling den that is always going to happen with the 20 persons. I do not know why Government have taken upon itself to force people not to join together.

**The Honourable Sir Nripendra Sircar :** Sir, I may point out that my friend is under a misapprehension. As regards different firms joining and so on, that is prohibited not by the amending Bill but by the previous Act. What my friend is complaining of is the penalty, but my friend is talking on a clause about which there has been no amendment.

**Mr. Husenbhai Abdullabhai Laljee :** I have got the original Act here and it is there but there is no penalty attached whatsoever and I do not know what has made my Honourable friend to take it up so seriously; really speaking, it has been brought up from the English Act and it has never been in use. In fact our people have never found out that 20 people join together and the liability is not paid, however if there is any fear then I welcome that provision. But the real fact is that this was put in as I have said in that old Act in such a manner as to be useless, and my Honourable friend, the Leader of the House, wants that useless thing should be of some importance. So far as the public liability is concerned I concede it, but furthermore to attack numbers of business men and other people is hardly fair at all.

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

“ That in clause 3 of the Bill, the proposed sub-section (4) of section 4 be omitted.”

The motion was negatived.

**Babu Baijnath Bajoria :** Sir, I beg to move :

“ That in clause 3 of the Bill, after the proposed sub-section (4) of section 4, the following new sub-section be added :

‘ (5) Nothing in this section shall apply to Hindu joint family partnerships and firms.’ ”

Sir, as I explained in my speech yesterday, this section 4 entails great hardship on Indian firms and specially Hindu joint family partnership firms and joint family firms. It is a common practice amongst Hindus that three or four firms each having 5 or 6 or 10 members join together and start business in partnership. A partnership deed is formed in which the share of each partner is mentioned, and so on. Now it is said that we cannot do business unless and until we form into a public or a private company. The formation of a public or private company means a lot of expenditure and inconvenience to an ordinary merchant. We Indians mostly keep our accounts in our own vernacular. It is generally the practice for one of the partners or one of the members of the family to act as cashier and accountant and thus business is done. Now under this

Act we will have to provide for a qualified accountant, which will mean a lot of expense. Then again it will mean that we will have to comply with certain requisitions which are provided in this Act. The ordinary merchant who is a layman is not expected to know all the complications of this law. I think this is violating our personal liberty of doing business. I do not understand what benefit will be gained by forcing us, when two or three families join in a partnership firm, to form limited companies. As was stated by the Honourable the Leader of the House a few minutes ago, when a few families join, there may be 50 or 100 people, and it will be a great hardship. Even the existing Act was very bad and now these penal sections will make it worse. I would appeal to the Leader of the House to exclude Hindu joint family partnerships and firms from the operation of this section.

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

“ That in clause 3 of the Bill, after the proposed sub-section (4) of section 4, the following new sub-section be added :

‘ (5) Nothing in this section shall apply to Hindu joint family partnerships and firms ’.”

**Mr. Bhulabhai J. Desai** : Sir, while not entirely supporting the amendment in the language in which it is couched, I think it right to call the attention of the House to a real hardship in the application of section 4 with reference to joint Hindu families. There is a definition of “ person ” in the General Clauses Act, which runs as follows :

“ a person includes, an individual or a group of individuals, incorporated or not.”

And, on one occasion, at all events, the Bombay High Court, in applying section 4, counted a joint family as one by applying the definition of “ person ” as a group of individuals non-incorporated. But that decision has not been followed in all cases, and difficulties did arise where three or four joint Hindu families carried on business as a firm and the actual heads of males who may be counted may easily exceed twenty. I therefore suggest to the Leader of the House that he will be good enough to accept a *via media* and that is that in computing the number under section 4 of the Act a joint Hindu family shall be counted as one.

**The Honourable Sir Nripendra Sircar** : Sir, any suggestion coming from the Leader of the Opposition is entitled to great respect, but I may point out the difficulties. If we count the members of a joint Hindu family as one, then apparently 20 families can carry on business together. Each family may consist of 10 or 20 or 30 or I do not know how many members. Therefore, it may be possible for 200 or 500 or 600 persons to carry on business although it is not a registered company. But the practical difficulty which I have felt and which I should place before the House in acceding to this request is this. The parties find it extremely difficult to sue such firms,—I am using the word “ firm ” in a loose sense. Assuming two Mitakshara families or four Mitakshara families carry on business together and assuming their number is 30 or 40 what happens is this. They cannot be sued in the firm name because it has been held that it is not really a contractual partnership but family trade, and so on. You do not sue them as a firm : you do not sue them as a company : you put in 300 or 400 persons—I take an extreme case—as defendants ; and from my own experience—I can inform my Honourable friend that in one

[Sir Nripendra Sircar.]

of the cases which was actually tried in the Calcutta High Court, it took three years to put the record in order, because in a Mitakshara family children were being born and they had to be joined as defendants as soon as information reached the Court : which meant appointing a guardian, serving the guardian, report within three months, etc., and I am not exaggerating or merely telling a rich story but in that case the moment we had used up our four months in getting one *koka* on the record of the suit, another boy was born : and I assure my Honourable friends we went on putting them in as *koka* No. 1, *koka* No. 2 and so on : you will find that reported in the case and it went to the Privy Council, and so on.....

**Mr. Bhulabhai J. Desai** : May I just say one word ? I do not want to make a speech : but in order to meet what you have said, a recent decision of the Privy Council has made it quite clear that so long as you sue the managing members of a family, there is no question of births or deaths in the family at all. That difficulty is avoided. I may also respectfully point out to the Leader of the House that though it is true that a Hindu Joint family firm cannot be sued in the firm's name, there is not the smallest objection to a firm consisting of four joint Hindu families being sued as a firm with the four managers as defendants.

**The Honourable Sir Nripendra Sircar** : May I point out another difficulty. As regards the family trade carried on by the Mitakshara families the position seems to be this : I do not want to go into authorities—I am reading from a collection of them in Sundaram's Income-tax Law :

“ The law regarding these families is slightly different from that regarding non-trading families. If the family carried on an ancestral trade or with the consent of all its members a new trade, it is governed not by the ordinary Hindu Law, but by such law as modified by the exigencies and usages of the trade. The partnership is not dissolved by the death of any of the members. No partner can, even when severing his connection with the family, demand accounts of profits and losses. Any member, not necessarily the senior male member, can be the manager of the business and as such can pledge the credit and assets of the family without being accountable for losses or gains. But a partnership based on only some of the members of the family whether with outsiders or among themselves, is not a business of the family.”

Then, the author proceeds to point that where the family business is carried on, and no one has got any definite share and so on. But in other cases where it is agreed that some member of the family will take three annas, or other members will take two annas and so on, then it is regarded as an unregistered partnership. Therefore, in each case we have to inquire as to what is happening in the family and how they are enjoying their income from the trade. I submit that apart from any other arguments which I may have advanced, if we count those persons as one, then to allow 20 families to carry on business without being registered will be against the spirit of this whole Bill.

**Babu Baijnath Bajoria** : May I ask one question of the Honourable the Leader of the House ?

**The Honourable Sir Nripendra Sircar** : Ask me an easy question.

**Babu Baijnath Bajoria** : It is very easy. I would like to know whether in your opinion business carried on by the Mitakshara families in partnership will be hit by this section.

**The Honourable Sir Nripendra Sircar :** I wonder if my Honourable  
5 P.M. friend is asking me this question, because, in the second year  
of my practice, I got this case : seven Marwari families  
combining and carrying on business, and the question was illegal partner-  
ship and I think if my friend will turn up his old papers of 1908—it was  
my friend's family—and I think his solicitors were Messrs. Morgan and  
Company and the whole question in that suit was whether the seven  
families—the number having increased to 25, they were becoming an  
illegal partnership. I have nothing further to add. The answer to his  
question is they may be hit if two families join.

**Pandit Govind Ballabh Pant :** If there are 19 adults and one  
*koka* ?

**The Honourable Sir Nripendra Sircar :** As I read out just now, it is  
not regarded as an ordinary partnership, but as ownership.

The Assembly then adjourned till Eleven of the Clock on Monday, the  
14th September, 1936.