

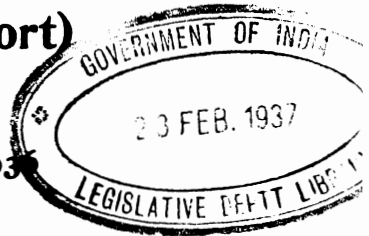
15th September 1936

THE LEGISLATIVE ASSEMBLY DEBATES

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(15th September to 28th September, 1936)



FOURTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY, 1936



NEW DELHI
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1937.

Legislative Assembly.

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Deputy President :

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

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

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LEGISLATIVE ASSEMBLY.

Tuesday, 15th September, 1936.

87-5

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.

REDRESS OF THE GRIEVANCES OF THE THIRD CLASS PASSENGERS.

373. ***Mr. Mohan Lal Saksena** : Will Government be pleased to lay on the table a statement giving a full account of steps taken by them to redress the grievances of the third class passengers, as were brought to their notice during the last two years' budget discussions ?

The Honourable Sir Muhammad Zafrullah Khan : I would refer the Honourable Member to the reply I gave to Mr. Satyamurti's starred question No. 36 on the 1st September, 1936.

Mr. S. Satyamurti : May I know if the reply was that nothing was done ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Mr. S. Satyamurti : May I know if there has been a single step taken, since the last two years' budget discussions, towards redressing the grievances of third class passengers ?

The Honourable Sir Muhammad Zafrullah Khan : I think on the previous occasion one of the questions was to this effect :

“ Can Government give one single step taken by them to improve the lot of third class passengers, since that cut motion was passed ? ”

I was about to reply to it when the Honourable the President intervened :

“ The Chair does not think that can be allowed. ”

Mr. S. Satyamurti : I am now asking whether any steps have been taken, since the last two years' budget discussions, for removing the grievances of third class passengers or such of them as were mentioned on the floor of the House ?

The Honourable Sir Muhammad Zafrullah Khan : As I said, I was about to proceed to answer that when the Chair ruled it out last time. If the Chair rules it in order now I can answer that.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can answer that.

The Honourable Sir Muhammad Zafrullah Khan : In several respects instructions have been issued to different railways with regard, for instance, to changes in third class carriages, latrines and other accommodation, which were mentioned on the floor of this House last time when the discussion was taken up.

Mr. S. Satyamurti : Apart from instructions, have any steps been actually taken to improve latrines and accommodation, etc., to the knowledge of my Honourable friend ?

The Honourable Sir Muhammad Zafrullah Khan : I believe those instructions are being acted upon.

Mr. S. Satyamurti : Has my friend any information that those instructions are being acted upon ?

The Honourable Sir Muhammad Zafrullah Khan : I have no doubt that some of them that can be immediately looked into are being looked into. Others depend upon coaches being received in the workshops for repairs and as the coaches come in for repairs improvements will take place.

Mr. S. Satyamurti : What are the instructions which, in the judgment of my Honourable friend can be immediately carried out, and have been so immediately carried out ?

The Honourable Sir Muhammad Zafrullah Khan : For instance, instructions with regard to cleaning out the latrines during the early hours of the morning in third class carriages when they pass through certain stations.

Mr. Mohan Lal Saksena : Will the Honourable Member be pleased to lay on the table of the House a copy of the instructions issued to the railways ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

Pandit Lakshmi Kanta Maitra : Is it not a fact that the Honourable Member said on the floor of this House that so far as the cut motion during the discussion of the railway budget for improvement of amenities of third class travel is concerned, the Honourable Member forwarded simply that part of the Resolution which only dealt with better and kinder treatment of these third class passengers ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member will draw my attention to other specific matters with regard to which I assured the House action could be taken, I can assure him that action will be taken.

Prof. N. G. Ranga : Will the Honourable Member consider the advisability of placing in a prominent place in every station certain guiding principles or rather giving some guidance as to how and where the passengers have to go to make complaints or what they can expect ordinarily from the railway officials ?

The Honourable Sir Muhammad Zafrullah Khan : All that I can say is that the Honourable Member's suggestion will be considered.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member considering the advisability of giving increased facilities for purchase of tickets by the third class passengers in all the railway stations ?

The Honourable Sir Muhammad Zafrullah Khan : The complaint that booking office windows were not opened in time at all stations to enable all passengers to book to their various destinations at ease before the train arrives has already been sent to all Agents and their attention has already been drawn to it.

Pandit Lakshmi Kanta Maitra : May I also impress on the Honourable Member the fact that apart from the question of booking clerks attending in time in most of the railway stations in the third class counter, there is not an adequate number of hands to cope with the rush of passengers ? Will the Honourable Member see that there are sufficient hands to cope with this traffic so that there may be no more ticketless travel ?

The Honourable Sir Muhammad Zafrullah Khan : I could not accept the allegation that at most stations this is so because most stations are small stations with very little traffic. It is possible that at some stations that might happen, and the suggestion of the Honourable Member will be sent down to the various Agents for their consideration.

Mr. S. Satyamurti : What are the reasons, for which Government decline to place on the table the instructions they issued to the railways, with regard to the removal or redress of certain grievances of third class passengers ?

The Honourable Sir Muhammad Zafrullah Khan : All sorts of departmental instructions have to be issued. I do not think it is in the public interest that all details with regard to which communications take place between the Railway Board and the Agents should be laid on the table of the House.

PROVISION OF FANS IN THE THIRD AND INTERMEDIATE CLASS COMPARTMENTS ON STATE RAILWAYS.

374. ***Mr. Mohan Lal Saksena :** Are Government prepared to consider the advisability of introducing fans in the third and intermediate class compartments of the State Railways ?

The Honourable Sir Muhammad Zafrullah Khan : As regards the provision of fans in third class compartments of State Railways the attention of the Honourable Member is drawn to the question and answer No. 648 in the Legislative Assembly on 24th September, 1935. With regard to intermediate class compartments it is estimated that the initial cost of providing fans in intermediate class compartments on the Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways will amount to about Rs. 21 lacs and the annual recurring expenditure to about Rupees 4½ lacs. In view of the present financial position Government regret they are unable to provide funds for this purpose.

Pandit Lakshmi Kanta Maitra : Is it in contemplation of Government to introduce these fans at all at any time in the future ?

The Honourable Sir Muhammad Zafrullah Khan : That surely is hypothetical.

Pandit Lakshmi Kanta Maitra : May I know if Government have got in view the idea of providing fans in these carriages apart from the fact that the finances do not permit them ?

The Honourable Sir Muhammad Zafrullah Khan : If the finances do not permit, is it any use going on with the idea ?

Pandit Lakshmi Kanta Maitra : May I know if Government have got any progressive scheme,—not introducing them at the same time

on all railways,—of gradually introducing these fans in the third and intermediate class compartments ?

The Honourable Sir Muhammad Zafrullah Khan : If the Honourable Member means whether all the details have been settled and whether if money becomes available the scheme will be proceeded with, there is no scheme which has arrived at that stage yet.

Sardar Mangal Singh : Will Government make a beginning in those parts of the country which are very hot,—in the North Western Railway for instance ?

The Honourable Sir Muhammad Zafrullah Khan : I am afraid that could not be done. If we make a beginning we must carry out that beginning with regard to every class of carriage all over the system, not only in one part of the country or for one class of passengers at the expense of the other.

RATES OF PASSENGER FARES AND GOODS FREIGHT ON INDIAN AND JAPANESE RAILWAYS.

375. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to lay on the table a comparative statement giving rates of passenger fares and goods freight on Indian and Japanese Railways during the last ten years ?

(b) Are Government aware that the passenger fares and rates of goods freight have been reduced on Japanese railways ? If so, by what percentage ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). I would refer the Honourable Member to the reply I gave to Mr. Mathuranga Mudaliar's question No. 352 on the 13th February, 1936.

PLACING OF RAILWAY FINANCE ON A PROPER FOOTING.

376. ***Mr. Mohan Lal Saksena :** (a) Is it a fact that Government have been considering ways and means for placing railway finance on a proper footing ? If so, will Government be pleased to state if they have come to any definite conclusions ?

(b) Will Government give an opportunity to the Assembly to discuss this question ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would refer the Honourable Member to the reply I gave to parts (b), (c) and (d) of Mr. S. Satyamurti's question No. 37 on the 1st September, 1936, and to the reply I gave to Mr. M. Ananthasayanam Ayyangar's question No. 83 on the 2nd September, 1936.

(b) I regret I am not in a position to answer this question at this stage.

Mr. T. S. Avinashilingam Chettiar : With regard to the second part of clause (a), may I know if they have come to any definite conclusions ?

The Honourable Sir Muhammad Zafrullah Khan : I have already replied that Government have several matters under consideration, and, as soon as any definite conclusions are arrived at, I am sure, the Honourable Member will know what they are.

Mr. T. S. Avinashilingam Chettiar : May I know why Government are unable to reply to part (b) just now ?

The Honourable Sir Muhammad Zafrullah Khan : It depends upon the kind of conclusions arrived at. I could not in advance commit Government to placing them before the Assembly.

MALE AND FEMALE PRISONERS IN THE CONVICT SETTLEMENT IN THE ANDAMANS.

377. ***Mr. Mohan Lal Saksena :** Will Government state the number of male and female prisoners in the convict settlement in the Andamans, respectively, on 1st April, 1920, 1st April, 1935, and 1st April, 1936 ?

The Honourable Sir Henry Craik : The figures are as follows :

1st April, 1920	..	11,149 males ;	406 females.
1st April, 1935	..	5,505 males ;	67 females.
30th April, 1936	..	5,905 males ;	26 females.

Mr. Mohan Lal Saksena : Will the Honourable Member state on what figures he has worked out the proportion when he issued the communique from the Home Department, regarding the sex ratio in the Andamans ?

The Honourable Sir Henry Craik : The sex ratio in the Andamans is quite independent of the fact whether there are female convicts there or not. Transportation of female convicts to the Andamans was stopped many years ago, and the few that remain are all married to convicts with the exception of a widow of a self-supporter. Female prisoners are not transported now to the Andamans except in very rare cases when they volunteer.

Mr. Mohan Lal Saksena : Is it not a fact that the ratio works out to 36 females to 100 males, because the number of females under 15 is much larger than the females between 15 and 50 ?

The Honourable Sir Henry Craik : That does not arise out of this question at all. There is a subsequent question on that subject. But, as a matter of fact, the Honourable Member's figures are not correct. Nearly all the females in the Andamans are not convicts at all : they are the wives or families of convicts.

Mr. Sri Prakasa : Will Government consider the desirability of sending a lady also to the Andamans along with Raizada Hans Raj and Sir Yamin Khan in order that she may be able to see the condition of these female prisoners specially in view of the fact that the Honourable Member desires them to get personal knowledge of the conditions of prisoners there ?

The Honourable Sir Henry Craik : I do not think there is any case for sending a lady there as there are only 26 female convicts in the Andamans.

CERTAIN FACILITIES PROVIDED TO THE CONVICTS SENT TO THE ANDAMANS.

378. ***Mr. Mohan Lal Saksena :** (a) Will Government state the total number of convicts sent to the Andamans during the last ten years ?

How many of them availed of the facilities provided by Government for the transport of their families ?

(b) Will Government be pleased to state how many places of religious worship have been built in the islands and how many preachers went from India during the last two years ?

(c) Will Government state how many high and primary schools are there in the Andamans, and what is the total number of boys and girls reading therein ?

(d) Will Government be pleased to state the total number of hospitals and dispensaries and their equipment and capacity for medical aid ?

(e) Will Government be pleased to state the total amount of money spent on reclamation of marshes since 1926 ?

(f) Will Government be pleased to state how does the expenditure on each convict in Andamans compare with that in Indian jails ?

The Honourable Sir Henry Craik : (a) 10,132 convicts were sent to the Andamans during the last ten years. The number of families of convicts provided with transport facilities by Government during the same period is 1,253.

(b) There are thirty places of religious worship of various denominations in the Settlement and 41 religious teachers visited the Islands during the last two years.

(c) There are one High School, and twelve Primary Schools in the Islands. The number of pupils on 31st March, 1935, was 597 boys and 107 girls.

(d) There are nine hospitals and nine dispensaries. It is not possible for me to detail their equipment and capacity : but they are well equipped and their capacity for medical aid is adequate for the requirements of the Islands.

(e) A sum of 23 lakhs of rupees has been spent on the reclamation scheme since 1926.

(f) The average cost per head in the biggest province of India in 1934 was about Rs. 106-8-0. The Andamans figure was Rs. 187, but this is a very rough estimate, 66 per cent. of the net cost of maintaining the settlement being taken as the amount chargeable to the cost of the convicts.

Sir Muhammad Yakub : Is it not a fact that Raizada Hans Raj has applied for permission to take his wife with him to the Andamans as he intends to settle down in that paradise of the sinners, and will Government allow him facilities to take his wife with him ?

The Honourable Sir Henry Craik : I am afraid the question does not arise : but Raizada Hans Raj mentioned to me that he would like to take his wife with him, and I said I should be delighted to provide facilities for her. He also mentioned to me that if he liked the place he would very likely settle down there.

Mr. Mohan Lal Saksena : With reference to part (a) of the question, is it not a fact that, out of 1,200 odd families transported, the majority of them consisted of Moplahs who are due to return back to India ?

The Honourable Sir Henry Craik : No : there are no Moplahs at all there now.

Mr. Sri Prakasa : With reference to the answer to clause (f), has the Honourable Member estimated the expenditure actually made on the prisoners themselves, or does his estimate include the expenditure on the administration ?

The Honourable Sir Henry Craik : I have explained that it is a very rough estimate : we took two-thirds of the total cost of the administration and debited that to the cost of keeping the convicts. I am afraid, I have no nearer estimate than that. But relative to an Indian jail, the cost per head is higher, because for one thing there is the cost of the journey, and for another, practically all the convicts except those in the jail are paid a monthly wage.

Pandit Lakshmi Kanta Maitra : Is it not a fact that this increased cost in the Andamans is due not so much to the better treatment or better facilities given to prisoners but to the fact that the cost of administration and the cost of reclaiming lands and maintaining hospitals is very expensive ?

The Honourable Sir Henry Craik : That raises a big question ; but I should say, broadly speaking, that the increased cost is mainly because, as I have said, all the convicts except those in the jail are in receipt of wages. Convicts in prisons in India are not in receipt of wages.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member in a position to give us some idea of the number of such convicts who are in receipt of wages and the number of those who do not receive any wages.

The Honourable Sir Henry Craik : The total number of convicts at present in the island is roughly 6,000 ; and all except a few hundreds who are in the Cellular jail are in receipt of wages : and there are a few convicts who are termed self-supporting, that is, they have been given land and they can earn sufficient to support themselves without wages.

Mr. G. Morgan : The answer given to part (c) was 26 lakhs : have Government any figures to show that the result of the incidence of malaria and the leasing of lands for agricultural purposes has been commensurate with the expenditure incurred ?

The Honourable Sir Henry Craik : As regards malaria, I can say quite definitely that there has been a most enormous improvement. Malaria is less prevalent in the Andamans than in the average Indian jail, and the figures of recent years have been better than most jails, certainly in the more malarial parts of India. There is very little malaria at all now there. As regards the cultivation of land, a good deal of land has been reclaimed from marshes and I myself saw some of it being cultivated : but whether it will ever pay is rather a doubtful question.

Pandit Lakshmi Kanta Maitra : I understood the Honourable Member to say that the incidence of malaria in the Andamans is now less than in other Indian jails. Is it not a fact, as I gathered from the statement laid on the table the other day by the Honourable Member, that malaria has been steadily on the increase since 1933 and it has reached

the maximum figure in 1935 ? I have put a short notice question on that : I do not know if the Honourable Member has accepted it.

The Honourable Sir Henry Craik : The Honourable Member sent me a short notice question on that subject which I have not yet time to study carefully ; but, so far as I can see, he has completely misread the figures I have given. Malaria so far from being on the increase is steadily on the decline, and the comparatively few cases that now occur are mostly imported cases, that is, the infection has been incurred before the prisoner goes there.

Pandit Lakshmi Kanta Maitra : I shall not pursue the matter if the Honourable Member accepts that short notice question.

The Honourable Sir Henry Craik : No ; I cannot accept short notice : but I shall be glad to see the Honourable Member and show him where he has misread the figures.

Pandit Lakshmi Kanta Maitra : I have gone through the actual figures in the table, and they show that from the second half of 1933 right up to the first half of 1936 there is an enormous increase in the number of patients and also in the duration of time that the patients actually suffer—the number of days are far in excess of previous years.

The Honourable Sir Henry Craik : I can assure the Honourable Member that his deductions are not correct : and if he will see me outside or see Mr. Thorne, he will be very pleased to explain to him the actual significance of the figures laid on the table.

Pandit Lakshmi Kanta Maitra : I have given notice of many other cases of diseases : will the Honourable Member kindly accept short notice at least in respect of those diseases, because it is a very important matter and we were not able to put any supplementaries on the statement laid on the table ?

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow any such questions now.

Mr. Sri Prakasa : Do the convicts who receive wages get their food over and above that, or, is the cost of food deducted from the wages ?

The Honourable Sir Henry Craik : They are given wages : and they buy their own food.

Pandit Lakshmi Kanta Maitra : What is the approximate amount which is paid on account of wages to these convicts ?

The Honourable Sir Henry Craik : The minimum wage for completely unskilled labour is Rs. 10 a month. They can earn considerably higher than that. If they are skilled in any form of artisan labour, skilled craftsmen of any kind, they can earn, and a great many of them do earn, very much in excess of that.

Pandit Lakshmi Kanta Maitra : What is the maximum ?

The Honourable Sir Henry Craik : I cannot say off hand, I think it is somewhere about Rs. 35 a month.

CONVICT SETTLEMENTS IN INDIA FOR THE RECLAMATION OF CRIMINAL TRIBES.

379. ***Mr. Mohan Lal Saksena :** (a) Are there any convict settlements in India for the reclamation of criminal tribes ? If so, how do they compare with the criminal settlement in the Andamans in the matter of cost of maintenance, moral conditions and results achieved ?

(b) Are Government prepared to consider the advisability of starting similar convict settlements for long term prisoners with such facilities as are given in the Andamans ?

The Honourable Sir Henry Craik : (a) Yes. There are Settlements in several provinces established under the Criminal Tribes Act, 1924, but there is very little in common between these Settlements, which are intended for tribes or gangs addicted to the systematic commission of non-bailable offences, and the Andamans Penal Settlement which is intended for the accommodation of prisoners convicted of crimes of a casual or accidental type. No comparison can therefore profitably be instituted between these Settlements.

(b) No.

CONVICT SETTLEMENTS IN EUROPE AND AMERICA.

380. ***Mr. Mohan Lal Saksena :** Will the Honourable the Home Member state the names of the convict settlements in Europe and America, if any, visited by him during the last ten years ?

The Honourable Sir Henry Craik : I have not visited any convict Settlement in Europe or America.

Mr. Mohan Lal Saksena : Is it not a fact that in his interview with certain journalists after his visit to the Andamans, the Honourable Member said that the conditions in the Andamans were better than in any convict settlement in the world ?

The Honourable Sir Henry Craik : No.

Mr. Mohan Lal Saksena : Am I to understand then that it was an interpolation by the press representatives who interviewed him ?

The Honourable Sir Henry Craik : I don't believe it was so reported, but if it was, it was unauthorised.

Pandit Lakshmi Kanta Maitra : Are we to understand that the Honourable Member has not got any personal experience of any convict settlement except the Andamans ?

The Honourable Sir Henry Craik : That is rather a personal question. I would not ask the Honourable Member to answer such a question himself.

Pandit Lakshmi Kanta Maitra : I did not mean the Honourable Member's experience as a convict, I meant as an officer of Government ?

The Honourable Sir Henry Craik : Yes, I have seen many.

REPRESENTATIONS MADE BY THE PRISONERS OF THE CELLULAR JAIL.

381. ***Mr. Mohan Lal Saksena :** (a) Did the prisoners in Cellular Jail make any representation in writing to the Honourable the Home

Member during his visit there ? If so, will he lay a copy of the same on the table of the House ?

(b) Will Government lay on the table copies of all representations made by prisoners of the Cellular Jail during the last two years ?

The Honourable Sir Henry Craik : (a) Yes, a representation was submitted to me by the prisoners confined in the Cellular Jail, Port Blair.

(b) No.

Mr. N. V. Gadgil : May I know if the Honourable Member received any representations from the two State Prisoners at present kept in the Yeravda Jail when he visited that jail last month, and whether their request to transfer them to Nasik Central Jail or to any other jail in Bengal will be conceded ?

The Honourable Sir Henry Craik : I don't see how that arises out of this.

Prof. N. G. Ranga : With regard to part (a) of the question, will the Honourable Member be pleased to state the main points made by the convicts in the Cellular Jail in their representation to him ?

The Honourable Sir Henry Craik : No, Sir.

Mr. S. Satyamurti : Why not, Sir ? May I know why the Government will not lay on the table the representations made to them by these prisoners, or state the main points therein ?

The Honourable Sir Henry Craik : Because Government does not consider it is in public interest to do so.

Pandit Lakshmi Kanta Maitra : May I know how many representations were received from prisoners in the Cellular Jail in the Andamans in the course of the last year ?

The Honourable Sir Henry Craik : Two.

Pandit Lakshmi Kanta Maitra : Did the Honourable Member take into consideration the points raised in those representations by the prisoners themselves and what relief has he given them ?

The Honourable Sir Henry Craik : Yes, I took into account the points raised and took such action as I considered desirable.

Pandit Lakshmi Kanta Maitra : Is it not a fact that in those representations two particular matters figured largely, one underfeeding of prisoners and secondly inadequate medical facilities ?

The Honourable Sir Henry Craik : No, neither of these points figured prominently in those representations.

OBJECT IN TRANSPORTING TERRORIST PRISONERS TO THE ANDAMANS.

382. ***Mr. Mohan Lal Saksena :** Will Government state what is the object in transporting terrorist prisoners to the Andamans ?

The Honourable Sir Henry Craik : The reasons for transporting prisoners convicted of crimes of violence or intended violence in connection with the terrorist movement are fully stated in the Home De-

partment Press Communiqué, dated the 13th June, 1933, a copy of which was placed on the table of the House on the 23rd August, 1933.

Prof. N. G. Ranga : In regard to the sending of these terrorist prisoners to the Andamans, in view of the fact that there is a great agitation going on all over India against this policy of the Government, may I know if they have reviewed the position since ?

The Honourable Sir Henry Craik : Government have reviewed the position, and they think it is still necessary to send prisoners of this particular type to the Andamans.

Pandit Lakshmi Kanta Maitra : In view of the fact that the Government from time to time issue communiqués which often escape our notice, may we request the Honourable Member to see to it that a copy of all these communiqués is forwarded to every Honourable Member of this House so that we may keep ourselves informed of what is going on ? As a matter of fact, we are working under a considerable handicap, because we are not able to keep ourselves in touch with the communiqués that are issued from time to time. Will the Honourable Member kindly apply his mind to this ?

The Honourable Sir Henry Craik : This particular communiqué was placed on the table of the House by my predecessor, Sir Harry Haig, in 1933. I take it, Sir, that when a communiqué is placed on the table of the House, it is included in the Official Report, a copy of which is sent to every Honourable Member.

Pandit Lakshmi Kanta Maitra : I am speaking of the communiqués which the Honourable Member's Department issues from time to time. Will he kindly see that the Members of this House get a copy of all such communiqués ?

Mr. President (The Honourable Sir Abdur Rahim) : They are all published in the Gazette. I think a copy of it is sent to every Honourable Member.

Pandit Lakshmi Kanta Maitra : All of them are not published in the Gazette.

The Honourable Sir Nripendra Sircar : Some are published in newspapers.

Pandit Lakshmi Kanta Maitra : They may be published in some of your friendly newspapers, and not in all newspapers.

The Honourable Sir Nripendra Sircar : They are published in friendly, unfriendly and neutral press.

Mr. S. Satyamurti : I think, Sir, when Government issue press communiqués, they intend them for the consumption of the public. We represent a very large section of the public. May I, therefore, ask whether Government cannot consider the question of supplying copies of such communiqués to Honourable Members of this House also, at the same time as they are issued to the press ?

The Honourable Sir Henry Craik : I will consider that point. I confess that I have not so far noticed that communiqués issued from my Department failed to secure adequate publicity. It has generally seemed to me that the publicity we have so far obtained was quite sufficient.

CONDITION OF PRISONERS IN THE CELLULAR JAIL.

383. ***Mr. Mohan Lal Saksena** : (a) Will the Honourable the Home Member state what are his reasons for saying that the prisoners in the Cellular Jail are better off than in Indian Jails ?

(b) Has he visited any jails in Bengal ? If so, which and when ?

The Honourable Sir Henry Craik : (a) As I stated in my informal talk with the journalists the amenities and the conditions of life and the health statistics of the terrorist prisoners confined in the Cellular Jail are generally superior to those obtaining in Indian Jails.

(b) Yes, I visited the Alipur Central Jail, in August last.

Mr. Sri Prakasa : Do these prisoners in the Cellular Jail receive wages ?

Mr. Mohan Lal Saksena : With reference to part (a) of the question, I have asked for the reasons on which the Honourable Member said that the treatment meted out to prisoners in the Cellular Jail in the Andamans is superior to that meted out in Indian jails. I want to know the reasons, and not the fact that it is superior ?

The Honourable Sir Henry Craik : My statement was based on my personal observation and my comparison of the jail at Port Blair with those in India which I have visited.

Pandit Lakshmi Kanta Maitra : May I know whether in the course of his tenure of service as Home Member he has ever visited the detention camps at Deoli, Buxar, Hijli and Burhampore to study the conditions of the prisoners there ?

The Honourable Sir Henry Craik : There is no comparison between the conditions obtaining in those camps which are intended for detenus and the conditions obtaining in jails for convicted prisoners. I have visited the Deoli camp.

Pandit Lakshmi Kanta Maitra : In view of the fact that several questions are often asked relating to maintenance of law and order in those jails, will he consider the question of paying a visit to those jails ?

Mr. President (The Honourable Sir Abdur Rahim) : That does not arise out of this.

Pandit Lakshmi Kanta Maitra : It arises out of part (b), Sir.

Mr. President (The Honourable Sir Abdur Rahim) : The question only asks if the Honourable Member has visited any jails in Bengal.

Pandit Lakshmi Kanta Maitra : May I ask if the Honourable Member considers it desirable to visit these jails and study for himself the conditions that actually prevail.

The Honourable Sir Henry Craik : What jails ?

Pandit Lakshmi Kanta Maitra : Buxar, Burhampore, Hijli and other jails where these prisoners are kept ?

The Honourable Sir Henry Craik : What jail ?

Pandit Lakshmi Kanta Maitra : Buxar, Hijli and Burhampur jails where all political prisoners are kept.

The Honourable Sir Henry Craik : There is no detention camp now at Buxar. I will try, if I can find time, to visit them.

Mr. Sri Prakasa : What is the expenditure per head per day on food of those prisoners who are in the Cellular Jail ?

The Honourable Sir Henry Craik : I must have notice.

Pandit Lakshmi Kanta Maitra : Is the Honourable Member in a position to give this House an idea of the relative expenses per capita of the prisoners in the Andamans and in the jails in India ?

The Honourable Sir Henry Craik : I have just done that in reply to a previous question.

INTERVIEWS WITH PRISONERS IN THE CELLULAR JAIL.

384. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to state how many interviews took place between the prisoners in the Cellular Jail and their relatives and friends during the last two years and also the total number of visits to which they had become entitled ?

(b) Is it a fact that the duration of the interview is 20 minutes in Indian jails in the centrally administered areas ? If so, are Government prepared to consider the advisability of modifying the rules in such a way that the duration of the interview is extended to one hour and a prisoner is able to have interview with his relations or friends as many times as he has been entitled to, but in no case more than four times during the course of their stay ?

The Honourable Sir Henry Craik : (a) During the two years commencing from 15th July, 1934, two prisoners in the Cellular Jail, Port Blair, had interviews with their relatives or friends. In each case a second interview was allowed. Under the Rules, each prisoner is, subject to good behaviour, allowed to see a visitor once in three months.

(b) No. The maximum time allowed in the Andamans is one hour while in other Centrally Administered Areas it varies from 15 to 30 minutes. I have found it difficult to understand precisely what modification is desired : but I do not think there is any good reason to modify the rules as the Superintendent of the Jail has the discretion to extend the time or to grant an interview in special circumstances.

Pandit Lakshmi Kanta Maitra : Is it not a fact that during these interviews with relations there is always a jail official or a police official present all along ?

The Honourable Sir Henry Craik : Not a police officer, but I think a jail officer has to be present at all interviews in all jails.

Mr. Mohan Lal Saksena : Is it a fact that only two prisoners had an interview during the last two years ?

The Honourable Sir Henry Craik : Yes, that is what I have said.

Mr. Mohan Lal Saksena : In view of the fact that only two persons out of 200 or 300 have availed themselves of the privilege of interview, will the Honourable Member kindly consider the advisability of allowing more than one interview to relations when they visit the Andamans, during the course of their stay, but in no case the interviews are to exceed four ?

The Honourable Sir Henry Craik : The Honourable Member has again exaggerated the figures, he said 300 or 400, actually these are less than 300. As regards interviews I have already explained that when the relation of a convict goes to the Andamans he is allowed two interviews and the Superintendent of the Jail has discretion to grant further interviews or to extend the time if he thinks fit.

Mr. Mohan Lal Saksena : Will the Honourable Member state the reasons as to why more interviews were not availed of by the prisoners or their relations ?

The Honourable Sir Henry Craik : Obviously the reason is that it is a long and expensive journey that the relatives have to undertake.

JAIL OFFENCES COMMITTED IN THE CELLULAR JAIL.

385. ***Mr. Mohan Lal Saksena :** Will Government be pleased to lay on the table a statement giving the number of jail offences committed in Cellular Jail, their nature and punishment awarded ?

The Honourable Sir Henry Craik : The Honourable Member has not stated the period for which he requires the information. I lay on the table a statement giving the information for the last five years.

Statement showing the Number of Prison offences committed in the Cellular Jail, Port Blair, during the period 1931—36 and their nature and Punishment awarded.

OFFENCES.

Nature of Offence.	1931-32.	1932-33.	1933-34.	1934-35.	1935-36.
1. Refusal to work ..		2	24	5	9
2. Idleness or negligence at work ..		5	..	..	..
3. Assault on officials or visitors..	..	3	1	4	..
4. Assault on other prisoners ..	2	..		22	10
5. Fighting and quarrelling with other prisoners .. ..	..	16	..	..	..
6. Hunger striking .. ..	..	..	55	..	..
7. Abusive and threatening language .. ..	..	..	..	..	2
8. Insubordination and disobedience of orders ..	..	..	1	1	2
9. Escapes .. ..	..	2	..	3	2
10. Prohibited articles	30	31	21	4	2
11. Other offences	26	21	3	24	10
Total ..	58	80	105	63	37

PUNISHMENTS.

Nature of punishments.	1931-32.	1932-33.	1933-34.	1934-35.	1935-36.
1. Whipping	2	2	1	1	..
2. Whipping with loss of privileges.	..	..	..	2	..
3. Standing hand cuffs ..	42	53	15	6	..
4. Cross bar fetters .. ..	..	..	4	34	20
5. Bar fetters	2	..	..	5	3
6. Cross bar fetters, forfeiture of all remissions earned in Port Blair and loss of privileges .. .. .	..	..	..	..	1
7. Cross bar fetters, cancellation of 28 days remission, debarring from earning further remission for 1 year .. .. .	..	..	..	1	..
8. Loss of privileges for 3 months .. .. .	..	..	77	..	3
9. Forfeiture of 12 days remission .. .. .	..	..	..	3	..
10. Forfeiture of 12 days remission and withdrawal of privileges for 3 months .. .. .	..	..	..	1	..
11. Separate confinement ..	..	..	..	2	1
12. Additional confinement (applies to convicts already sentenced to confinement in the Cellular Jail)	2	4	3	7	2
13. Gunny Clothing	10	9	..	..	..
14. Warnings .. .. .	..	12	5	1	7
Total ..	58	90	105	63	37

Mr. Mohan Lal Saksena : As I have no time to go through this statement I hope the Chair will allow me to put supplementaries, if I want to do so next day.

Mr. President (The Honourable Sir Abdur Rahim) : No. That I cannot allow.

Mr. Mohan Lal Saksena : I have not got the statement before me, Sir, and how can I put supplementaries now ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can give notice of substantive questions.

Prof. N. G. Ranga : In view of the fact that you were pleased to allow that kind of procedure to be followed.....

Mr. President (The Honourable Sir Abdur Rahim) : I know in one or two cases I did that, but I have reconsidered the matter. I have looked into the proceedings, and I have come to the conclusion that no supplementaries should be allowed.

Mr. S. Satyamurti : Will you consider the question of asking the Honourable Member placing the statements on the table, at 10-30 in the morning, so that we may look at them and put supplementary questions ?

Mr. President (The Honourable Sir Abdur Rahim) : The same day ?

Mr. S. Satyamurti : Yes, the same day, in the morning at 10-30, and those Members who are interested can come and look into the statement.

Mr. President (The Honourable Sir Abdur Rahim) : There will be only one copy, and how can all Honourable Members have a look at it ?

Mr. S. Satyamurti : Those Members who want to see it can come, and see it here at 10-30. I want you to consider the inconvenience that may otherwise be caused. If we have to give notice of fresh questions, it may be that those questions may not come on now but will have to go over to the Delhi Session.

Mr. President : (The Honourable Sir Abdur Rahim) : The Honourable Member must remember that these statements generally contain a lot of figures. Otherwise, the answers to questions are always read out in the House. No doubt, in one or two cases I allowed supplementary questions, but I have reconsidered the matter and I have come to the conclusion that it should not be allowed.

Mr. S. Satyamurti : I accept your conclusion, Sir, but will you kindly consider my suggestion made this morning. It will not cause any inconvenience to the Chair or to the Government, if a copy is laid on the table at 10-30 in the morning so that Members may look into it, and, if necessary, put supplementary questions.

Mr. President (The Honourable Sir Abdur Rahim) : There is one difficulty. All the other Members of the House have no access.

Mr. S. Satyamurti : They can come here at 10-30 in the morning.

Mr. President (The Honourable Sir Abdur Rahim) : But all cannot come to the table and read the statement. However, I will consider the matter. Next question.

PRISONERS CONFINED IN THE CELLULAR JAIL.

386. ***Mr. Mohan Lal Saksena** : Will Government be pleased to lay on the table a statement giving the names of the prisoners confined in Cellular Jail, their educational qualifications, their previous callings and vocations, their offences and sentences, the date of transfer to the Andamans, the number of interviews since transfer, their class, and jail punishments, if any, and their present weight as well as that at the time of transfer to the Andamans ?

The Honourable Sir Henry Craik : I am not prepared in the public interest to lay on the table the information asked for.

Mr. S. Satyamurti : What is the public interest, which will be affected by laying on the table a statement giving the names of prisoners confined in the Cellular Jail ?

The Honourable Sir Henry Craik : I do not think that the Honourable Member is entitled to ask me what is the public interest, but I am generally averse to publishing the names of convicts.

Fandit Lakshmi Kanta Maitra : May I know from the Honourable Member if he is in a position to state what is the number of prisoners in A division, the number in B and the number in C ? I was told the other day that there was also classification of prisoners in that jail.

The Honourable Sir Henry Craik : I cannot say, accurately, but my impression is that when I visited the jail there were about 206 prisoners there, and I should think that from about one-third to one-half are in B class.

Mr. S. Satyamurti : Are not all these prisoners those who have been convicted and sentenced in a court of law ?

The Honourable Sir Henry Craik : Yes.

Mr. S. Satyamurti : May I know, then, what is the public interest which will be affected by publishing the names of men who have been tried publicly in a court of law and whose names are in the proceedings of the law courts ?

The Honourable Sir Nripendra Sircar : I rise to a point of order, Sir. According to a parliamentary practice, no cross examination is allowed on a statement that a matter is against public interest. I can refer my Honourable friend to May's Parliamentary Practice.

Mr. President (The Honourable Sir Abdur Rahim) : When the Honourable Member says it is against public interest, I do not think generally he can be asked to define the public interest which will be affected. At any rate, I will look up the point.

Fandit Lakshmi Kanta Maitra : Are there any " A " class prisoners there ?

The Honourable Sir Henry Craik : No

OUT-DOOR GAMES ALLOWED TO PRISONERS IN THE CELLULAR JAIL.

387. ***Mr. Mohan Lal Saksena :** (a) Will Government be pleased to state what out-door games the prisoners in Cellular Jail are allowed to play ?

(b) Is it a fact that because of early lock-up prisoners get very little time for out-door games ?

The Honourable Sir Henry Craik : (a) The prisoners in the Cellular Jail, Port Blair, are allowed to play such out-door games as volley ball and football.

(b) No. I understand that the prisoners are locked up at sunset and that their hours of labour terminate at 3 P.M. which allows them ample time for out-door recreation.

BOOKS IN THE CELLULAR JAIL LIBRARY.

388. ***Mr. Mohan Lal Saksena** : (a) What is the total number of books in the Cellular Jail library ? How many of them have been purchased by Government, and what is their cost ?

(b) Did the prisoners make any complaint about the library ?

The Honourable Sir Henry Craik : (a) I do not know the precise number, but I believe the library contains some thousands of books. I cannot say how many of them were bought by Government or at what cost. An initial grant of Rs. 500 was made for the purchase of books and an annual grant of Rs. 100. The annual grant has now been increased to Rs. 200 by the Bengal Government.

(b) No complaint was made to me, but in some representations submitted by the prisoners a request was made for a greater variety of books and for an increase in the grant for the library.

Pandit Lakshmi Kanta Maitra : What is the amount annually spent on this library ?

The Honourable Sir Henry Craik : The annual grant was Rs. 100, but it has now been raised to Rs. 200.

Mr. S. Satyamurti : What is the language of these books ?

The Honourable Sir Henry Craik : So far as I saw, they were mostly English, but I expect there were a good many vernacular ones too.

Mr. S. Satyamurti : Are all these prisoners acquainted with English ?

The Honourable Sir Henry Craik : I believe most of them.

Mr. Mohan Lal Saksena : Will Government provide greater facilities to the friends of the prisoners for supplying them with books ?

The Honourable Sir Henry Craik : If any friends of the prisoners care to send books, they are passed, subject, of course, to censorship.

Mr. Mohan Lal Saksena : Will the Honourable Member enquire and find out whether a number of books deposited by the friends of prisoners were neither returned to them nor given to the prisoners ?

The Honourable Sir Henry Craik : I have no reason to believe that.

NEWSPAPERS SUPPLIED TO PRISONERS IN THE CELLULAR JAIL.

389. ***Mr. Mohan Lal Saksena** : (a) Will Government state the names of the papers and the number of their copies that are being supplied in the Cellular Jail ?

(b) Have Government decided to supply daily papers to prisoners ? If not ; are they prepared to do so at an early date ?

The Honourable Sir Henry Craik : (a) The following weekly newspapers are supplied to the prisoners in the Cellular Jail, Port Blair :

1. Illustrated Weekly Times of India	..	10 copies.
2. Statesman (Weekly)	..	8 copies.
3. Sanjibani	..	12 copies.
4. Bangabasi	..	6 copies.
5. Andamans Bulletin	..	20 copies.

(b) No.

Pandit Lakshmi Kanta Maitra : Why is it that papers, which have the widest circulation in the country, like the *Amrita Bazar Patrika*, the *Ananda Bazar Patrika* and *Forward*, are not allowed to be supplied to these prisoners. I am told that most of the prisoners are Bengalis, and these are famous papers of Bengal ?

The Honourable Sir Henry Craik : I think these are daily newspapers.

Pandit Lakshmi Kanta Maitra : They have got weekly editions also. Will the Honourable Member kindly consider my suggestion ?

Mr. Sri Prakasa : Was any representation made to the Honourable Member on this subject when he visited the jail ?

The Honourable Sir Henry Craik : I cannot remember.

Mr. T. S. Avinashilingam Chettiar : At whose cost are these papers supplied ? At the cost of the prisoners ?

The Honourable Sir Henry Craik : At the cost of Government.

Mr. Sri Prakasa : Was the Honourable Member making a surprise visit there or was he surrounded by jail officials at the time of his visit ?

The Honourable Sir Henry Craik : That does not arise out of the answer I have given.

Mr. Sri Prakasa : Prisoners are afraid of making representations in the presence of jail officials. That is why I want to know whether the prisoners were deterred by the presence of local jail officials, from making any representations which they would have made if the Honourable Member had been alone ?

The Honourable Sir Henry Craik : I have already stated that they did make representations.

Pandit Lakshmi Kanta Maitra : I have not got a reply to my question.

The Honourable Sir Henry Craik : I was accompanied by the Superintendent of the Jail, the Chief Commissioner and one or two jail officials. Certainly any prisoner if he wanted to make a representation could have done so. Many of them did.

Mr. Mohan Lal Saksena : Did the Government inform prisoners beforehand about the Honourable Member's visit ?

The Honourable Sir Henry Craik : I don't know.

Pandit Lakshmi Kanta Maitra : May I know if these prisoners were informed beforehand that they were at perfect liberty to make any representation to the Honourable Member about their grievances ?

The Honourable Sir Henry Craik : I do not know whether they were informed beforehand but a good many prisoners certainly did make representations.

APPOINTMENT OF NON-OFFICIAL VISITORS FOR THE CELLULAR JAIL AND CONVICT SETTLEMENT IN THE ANDAMANS.

390. ***Mr. Mohan Lal Saksena** : Have Government taken any decision regarding the appointment of non-official visitors to the Cellular

Jail and convict settlement in the Andamans ? If not, how long will they take to do so ?

The Honourable Sir Henry Craik : I would refer the Honourable Member to the reply which I gave to Mr. Satyamurti's question No. 291 on the 10th September, 1936. It has been found impracticable to constitute a Board of non-official visitors from among the residents of the Andamans.

BRINGING BACK OF PRISONERS UNWILLING TO STAY IN THE CELLULAR JAIL AND ALLOWING OTHERS TO WORK OUTSIDE THE JAIL.

391. ***Mr. Mohan Lal Saksena :** Are Government prepared to consider the advisability of bringing back such prisoners as are not willing to stay in Cellular Jail and of allowing others to work outside jail, like other convicts, as an experimental measure ?

The Honourable Sir Henry Craik : The Honourable Member is presumably referring to the terrorist prisoners who are confined in the Cellular Jail, Port Blair, for the entire period of their sentences. If so, Government are not prepared to accept the Honourable Member's suggestion.

HISTORIES OF PUBLIC WORKERS OF DELHI.

392. ***Mr. Mohan Lal Saksena :** (a) Are Government aware of the publication of a confidential book by the Delhi authorities, containing histories of various public workers of Delhi ? If so, will Government lay a copy of the same on the table ?

(b) Will Government state the steps taken to verify the information contained therein ?

(c) What is the cost of this publication ?

(d) Are similar reports compiled by other Local Governments ?

(e) Are any instructions issued by the Central Government regarding the compilation of such histories ? If so, will Government lay on the table a copy of the same ?

The Honourable Sir Henry Craik : The answer to the first part of (a) is in the negative. The other parts of the question do not therefore arise.

UNEMPLOYMENT PROBLEM.

393. ***Mr. Mohan Lal Saksena :** (a) Are Government aware of the growing menace of unemployment in the country and the distress caused thereby ?

(b) What steps, if any, have Government taken to fight unemployment in the centrally administered areas ?

(c) Are Government prepared to consider the advisability of appointing a central unemployment board which may suggest remedial measures for reducing unemployment in the centrally administered areas, and co-ordinate the activities of the various provincial boards, set up in this behalf, and also collect and periodically publish statistics regarding unemployment in the country, its nature and extent ?

(d) Are Government prepared to consider the feasibility of providing a sum of at least ten lakhs of rupees in the revised budget for tackling the problem of unemployment in the centrally administered areas and for assisting the provinces in their efforts in this direction ?

The Honourable Sir Frank Noyce : (a) I am aware that there is serious unemployment among the educated classes, but I am not prepared to subscribe to the Honourable Member's view that there is growing distress in the country generally.

(b) The general policy of Government, to which I have referred on more than one occasion in this House, is designed to benefit the Centrally Administered Areas equally with other parts of India. But I would add that in the only such area which can be regarded as industrialized to any large extent, namely, the province of Delhi, there has, in recent years, been very heavy expenditure on public works.

(c) and (d). As the Honourable Member is possibly aware, the question has been examined by a considerable number of committees in different provinces ; and I have no reason for thinking that conditions in the Centrally Administered Areas are peculiar or that a board for these areas, which are widely scattered and have little in common, would contribute much that the other committees have overlooked. But the Government of India are at present actively engaged in the consideration of the United Provinces Unemployment Committee's report and will take such action as appears to them to be desirable.

Mr. Sri Prakasa : May I know whether any actually unemployed persons were invited to serve on these committees or only over-employed people ?

Mr. Mohan Lal Saksena : With reference to part (a) of my question, I want to ask the Honourable Member whether unemployment in India is less acute than in England ?

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

The Honourable Sir Frank Noyce : That is an extremely difficult question to answer and my Honourable friend is in as good a position to answer it as I am but my view is that the industrial unemployment problem is much less acute in India than it is in England.

Prof. N. G. Ranga : Is the Honourable Member aware of the fact that certain hunger marchers marched all the way from Malabar to Madras in order to represent their grievances ?

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

Prof. N. G. Ranga : May I know if the Honourable Member is aware of the fact that widespread unemployment is today prevailing in large parts of the Bombay Presidency, U. P., Bihar and Bengal, owing to famine in Bombay and floods in other provinces ?

The Honourable Sir Frank Noyce : I have no doubt that Local Governments are taking adequate steps to deal with the situation.

Prof. N. G. Ranga : Is the Honourable Member aware of the fact that the Bombay Legislative Council has passed an adjournment motion

censuring the Local Government for its policy of doing nothing to relieve unemployment there ?

The Honourable Sir Frank Noyce : I have seen reports in the press on that subject.

Mr. N. V. Gadgil : Is it a fact that the Revenue Member of the Bombay Government pleaded lack of funds and wanted a contribution from the Central Government for famine relief ?

The Honourable Sir Frank Noyce : I submit that is not a question for me to answer.

Mr. President (The Honourable Sir Abdur Rahim) : This question refers to the Centrally Administered Areas.

Mr. Mohan Lal Saksena : With reference to part (c) of my question, I should like to know from the Honourable Member, in view of the fact that the problem of unemployment is similar in all provinces, whether it is not desirable that a central committee should be appointed to consider this question, with a view to co-ordinate the activities of all these committees, as has been done in other matters, such as Agriculture, Railways and so on.

The Honourable Sir Frank Noyce : The Government of India are now actively considering perhaps one of the most important of the reports of the provincial unemployment committees from a general point of view.

Mr. N. V. Gadgil : May I know if Government accept it, as their own sole responsibility, the removal of unemployment from the land ?

The Honourable Sir Frank Noyce : No, Sir. I have explained on more than one occasion that the unemployment problem is primarily a matter for Local Governments. The Government of India are at present considering what they can do to assist in dealing with it.

AGREEMENT BETWEEN HIS MAJESTY'S GOVERNMENT AND HIS EXALTED HIGHNESS THE NIZAM ABOUT BERAR REFERRED TO IN SECTION 47 OF THE GOVERNMENT OF INDIA ACT, 1935.

394. ***Mr. S. Satyamurti** (on behalf of Mr. M. S. Aney) : (a) Will Government be pleased to state whether the agreement between His Majesty's Government and His Exalted Highness the Nizam, referred to in section 47 of the Government of India Act of 1935 (20 Geo. 5), is concluded or whether it is still in contemplation ?

(b) Is the attention of Government drawn to the fact that in promulgating the electoral rules for the coming Central Provinces and Berar Legislative Assembly, the authority which made the rules is described as the Governor of the Central Provinces and Berar in Council ?

(c) Are Government aware of the fact that under section 47 (1), read with sub-clause (2), Berar and the Central Provinces shall be deemed to be one Governor's Province by the name of 'The Central Provinces and Berar' while the agreement, which is referred to in the foregoing part of the same section as being in contemplation between His Majesty and His Exalted Highness, is in force and not otherwise ?

(d) Are Government aware of the fact that the Honourable Sir Nripendra Sircar stated in reply to part (b) of starred question No. 679, put by Mr. Akhil Chandra Datta on behalf of myself on the 5th March, 1935, that Government were prepared to publish the text of the entire arrangement between His Exalted Highness the Nizam and the British Government on the passing of the Government of India Act ?

(e) If the aforesaid agreement be finally concluded, will Government be pleased to publish the text of the agreement and give the date of its conclusion without delay ?

(f) Will Government be pleased to state why the publication of the text of the above agreement is being delayed so long after the passing of the Government of India Act, in spite of the above statement made by the Honourable the Leader of the House ?

The Honourable Sir Nripendra Sircar : (a) The agreement in question has not yet been concluded.

(b) and (c). Yes.

(d) and (f). Yes, the text of the agreement, which is still under discussion, will be published after it has been concluded.

(e) Does not arise.

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, may I know if the Government have noticed that in the Government of India Act, section 47 as it now stands, the description, in the absence of an agreement, is inaccurate, viz. as "the Governor of the Central Provinces and Berar in Council" ?

The Honourable Sir Nripendra Sircar : No, Sir. But I undertake to look into it as my attention has been drawn to it.

Mr. S. Satyamurti : May I inform the Government that, as a matter of fact the authority which has now made the rules is described as "the Governor of the Central Provinces in Council and Berar" ?

The Honourable Sir Nripendra Sircar : I will take that from my Honourable friend.

Mr. S. Satyamurti : May I know how long this agreement has been under negotiation between His Exalted Highness and the Government of India ?

The Honourable Sir Nripendra Sircar : I have got no definite information, but at least seven or eight months.

Mr. S. Satyamurti : May I invite the Honourable Member's attention to question No. 679 which is referred to in this question, which was answered by him on the 5th March, 1935, in which he said, in reply to this question, viz., "are Government prepared to publish the text of the entire agreement ? ", "Yes, on the passing of the Government of India Act" ? May I know, how long before 1935, this matter was under negotiation and whether it has remained under negotiation from at least March, 1935, till September, 1936 ?

The Honourable Sir Nripendra Sircar : I am not in a position to give that information just now. The negotiations apparently started before March, 1935, but if my Honourable friend wants me to give the

exact time when they started, I am sorry I have not got the information just now.

Mr. S. Satyamurti : May I know what is the reason for the delay in the conclusion of this agreement ?

The Honourable Sir Nripendra Sircar : The reason for delay is this. There are two parties which have got to carry on negotiations, and delay is unavoidable in a matter of this importance.

Mr. N. V. Gadgil : Is any bargaining going on ?

The Honourable Sir Nripendra Sircar : Will you define bargaining ?

Mr. S. Satyamurti : Is this part of the negotiations going on, in order to persuade Hyderabad coming into the Federation ?

The Honourable Sir Nripendra Sircar : No, Sir.

Mr. S. Satyamurti : May I know if these negotiations are continued, wholly independently of the letters now passing between the Governor General and His Exalted Highness the Nizam, with regard to the Federation ?

The Honourable Sir Nripendra Sircar : Yes.

DEAD AND UNCLAIMED AMOUNT LYING IN THE POST OFFICE SAVINGS BANK.

395. ***Mr. Sri Prakasa :** (a) What is the amount lying with the Post Offices as dead and unclaimed in the savings bank, for which no demand has been made for the last ten years ?

(b) Are Government prepared to consider the desirability of writing to the addresses given in the pass-books of such persons, informing them of the money lying in their account, so that in cases of death of the original depositors, their heirs and successors may be able to claim the money ?

(c) Is it a fact that Post Offices offer no assistance in this matter at the present moment and in case of loss of pass-book, they do not assist an heir applying for information to trace his father's account ? If so, do Government propose to give instructions to Post Offices to help in this matter ?

The Honourable Sir Frank Noyce : (a) The amount lying with post offices as dead and unclaimed in the savings bank for which no demand has been made for the last ten years is approximately Rs. 14 lakhs.

(b) No. The pass books remain with the depositors and not with the post offices.

(c) The reply to the first part of the question is in the negative. If sufficient indications are given, the Postal Department assists the claimants as far as may be possible. The latter part of the question does not arise.

Mr. Sri Prakasa : With reference to the reply to clause (b), is it not a fact that the Post Office also keep exact copies of the entries on these pass books, and what harm will be done if they help the heirs of dead depositors to trace the amounts lying with them ? I speak with personal knowledge, Sir, of some hard cases.

The Honourable Sir Frank Noyce : If my Honourable friend has special personal knowledge of any cases of hardship, then it is quite easy for him to bring them to my notice. As I have said, "if sufficient indications are given, the Postal Department assists the claimants as far as may be possible". He apparently is in a position to produce claimants, and their claims could be and would be investigated, if he gave us information.

Mr. Sri Prakasa : What Department must these letters be addressed to, because a Post Office within my knowledge, refused to give any assistance in the matter ?

The Honourable Sir Frank Noyce : Will my Honourable friend bring the facts to my notice personally and I will inquire into them ?

Mr. Sri Prakasa : In these cases I may bring the matters directly to the notice of the Honourable Member as I happen to be a Member of this House ; but I am asking for some sort of general instruction to Post Offices on the subject so that humble people in town and country may be able to bring such complaints to the notice of the Department, in view of the fact that the large amount of Rs. 14 lakhs is now lying with the Post Office unclaimed ?

The Honourable Sir Frank Noyce : I do not think I am in a position, to add anything to what I have said, viz., that "if sufficient indications are given, the Postal Department assists the claimants as far as may be possible". But they must have some indications. It is for depositors to look after their own interests.

Pandit Lakshmi Kanta Maitra : Is the Postmaster General of the Province empowered to entertain these claims ?

The Honourable Sir Frank Noyce : Obviously.

Prof. N. G. Ranga : If no fresh deposits are received from any particular depositor continuously for one year and if, in spite of that, large deposits in his account are lying with the Postal Savings Bank, will the Government consider the advisability of adopting the suggestion made by my Honourable friend, Mr. Sri Prakasa, and inform the depositor, or people concerned to his address, that such and such funds are lying with them and asking whether the depositor wished to continue to keep the money with them or if he wished that that money should be sent back to him ?

The Honourable Sir Frank Noyce : Sir, it is not the business of the Post Office to inform depositors that a certain amount is lying at their credit in the Post Office. It is the duty of the depositors, if they want the money, to look after their own interests and claim their deposits.

Pandit Lakshmi Kanta Maitra : Is the Postal Superintendent of a District authorised to deal with a matter like that ?

The Honourable Sir Frank Noyce : I am not in a position to answer my Honourable friend's question off-hand, but I have very little doubt that Superintendents of Post Offices have powers in this connection.

Mr. Sri Prakasa : Will the Honourable Member issue instructions to all Postmasters to help in this matter in view of the fact that my question relates to the successors of depositors who have died.

The Honourable Sir Frank Noyce : I think postal officials are already fully aware that it is their business to assist claimants as far as may

be possible. I do not think any special instructions on that point are necessary. As I have already stated, if my Honourable friend will bring to my notice any instances in which they have failed to do so, then they will be investigated.

Pandit Lakshmi Kanta Maitra : May I inform the Honourable Member that in such cases the Post Offices demand succession certificates from the parties preferring claims ?

The Honourable Sir Frank Noyce : They have to demand proof of identity, obviously, and of the justice of the claim.

STATIONERY USED IN GOVERNMENT OF INDIA DEPARTMENTS.

396. ***Mr. Sri Prakasa :** (a) Has the attention of Government been drawn to the very heavy and expensive type of stationery used in various departments of Government and particularly by Members of the Executive Council ?

(b) Are Government aware that letters that could easily be sent for an anna, require an anna and a half or even two annas as postage when sent on such stationery ?

(c) Are Government prepared, in the interest of economy to order their departments to use cheaper quality of paper to save postage ?

The Honourable Sir Frank Noyce : (a) and (c). There is no extensive use of expensive stationery and economies were introduced in this matter in 1932 at the instance of the Sub-Committee of the Retrenchment Advisory Committee. There may, however, be room for further economy in the use of the more expensive types of paper or envelopes, and I am having this question examined.

(b) The postage depends on the weight and if an unnecessarily heavy paper is used, this will tend in some cases to increase the postal charges.

LETTERS SENT BY THE OFFICERS OF THE POSTAL DEPARTMENT ON HIS MAJESTY'S SERVICE WITHOUT ANY POSTAGE STAMPS BEING AFFIXED TO THEM.

397. ***Mr. Sri Prakasa :** (a) Is it a fact that no stamps are necessary on letters sent by the officers of the Postal Department on His Majesty's Service ?

(b) Is any record kept of such letters and any efforts made to make sure that the privilege is not abused by any officer of the Department ?

(c) Is there any adjustment of accounts in the matter of such letters ?

(d) Is it a fact that letters sent by the Honourable Member in charge of Labour and Industries, even if they pertain purely to the postal department, of which also he is the head, have to be stamped ?

(e) If so, to what department is the expenditure on such stamps debited, and why is that department made to pay for expenditure on the postal department ?

The Honourable Sir Frank Noyce : (a) No postage stamps are required to be affixed on letters sent on postal and telegraph service if they are superscribed "Posts and Telegraphs" and are duly franked by an officer of the Department.

(b) No daily record of such articles is kept but an enumeration of such articles is taken twice a year and the statistics are examined to see if there has been any undue increase in the number of service articles. There are standing instructions warning the staff not to abuse the privilege and to exercise every economy in its use. Any abuse if detected is punished.

(c) Yes, as between the different branches of the department.

(d) Yes, but I may add that the head of the Indian Posts and Telegraphs Department is the Director-General, not the Honourable Member in charge of the Department of Industries and Labour. The number of letters relating to postal matters sent by the latter is very small and, with very few exceptions, they are addressed to the Honourable Member who has asked this question.

(e) The charge is debited to the Industries and Labour Department as the total amount involved is trifling.

Mr. Sri Prakasa : To what Department is the charge debited ?

The Honourable Sir Frank Noyce : To the Department of Industries and Labour.

UNSTARRED QUESTIONS AND ANSWERS.

RE-ORGANISATION OF ESTABLISHMENT WORK ON THE EAST INDIAN RAILWAY.

20. **Mr. M. Ananthasayanam Ayyangar :** (a) With reference to the reply given in this House to unstarred question No. 4 on the 2nd September, 1935, that the Deputy Agent, General, East Indian Railway, has not passed any qualifying examination in Government rules and regulations governing the conduct, discipline, appeal and allied matters relating to Government servants, is it a fact that the Agent, East Indian Railway, in his Minute Sheet No. A. E. 2851, dated the 12th February, 1936, has ordered as follows :

“ With effect from 24th February, 1936, the Establishment work connected with all Transportation, including Power and Rolling Stock and Engineering work will be concentrated in the Head Office under the Deputy Agent, Personnel. All correspondence in connection with Establishment matters relating to the branches of the administration referred to should be addressed to the Deputy Agent, Personnel, and not to the Chief Operating Superintendent, the Chief Commercial Manager, or the Chief Engineer.

The above reorganisation will in no way affect the powers now exercised by the Divisional Superintendents in establishment matters ”.

(b) If the answer to part (a) be in the affirmative, will Government please state whether they propose to consider the advisability of posting gazetted officers from the Accounts Department, who have been trained in establishment work, to the Personnel section attached to the office of the Agent ?

(c) Is it a fact that in the non-gazetted staff, men from other sections are not promoted to the higher posts in the Establishment Section but advance in the avenues of promotions in their own branch ? If so, why are exceptions made in the case of the gazetted staff attached to the Establishment or Personnel Section ?

(d) What action do Government propose to take ? If none, why not ?

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

(b) No.

(c) Gazetted Officers of all departments are eligible for posting to the Personnel Section while this is not generally the case in respect of non-gazetted staff.

(d) No action is called for.

RESERVATION OF ONE BAY OF NO. 4 SHED WITHIN THE HOWRAH GOODS SHEDS.

21. Mr. M. Ananthasayanam Ayyangar : (a) With reference to the reply given in this House to unstarred question No. 524 on the 7th April, 1936, that one bay of No. 4 shed within the Howrah Goods Sheds is neither fenced nor reserved, is it a fact :

- (i) that on receipt of the notice of unstarred question No. 524, the Divisional Superintendent and his Superintendent Commercial called at the office of the Goods Supervisor and with the latter official inspected the bay in question ;
- (ii) that the bay was fenced with barbed wire and was used by the Assistant Commercial Manager, Howrah Goods, to garage his motor car ;
- (iii) that these Gazetted Officers ordered the immediate removal of the barbed wire which was done ; and
- (iv) that the said Assistant Commercial Manager called on the Superintendent Commercial to permit him to continue to use the place for garaging his motor car ?

(b) Is it also a fact that the said Assistant Commercial Manager still uses that Bay for the garaging of his motor car, although the barbed wire has been removed ?

(c) Do Government propose to take disciplinary action against the Gazetted Officers responsible for furnishing false information to this House ? If so, what action ? If not, why not ?

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

(ii) No. A small length of steel palisading has been put up in this bay to protect electrical machinery. This palisading gave no protection to the Assistant Commercial Manager's car when it was garaged in the bay.

(iii) Does not arise.

(iv) No, as there is no necessity for obtaining such special permission.

(b) Yes, whenever the space is available.

(c) Does not arise.

PAY OF THE EXECUTIVE OFFICER DEBITED TO THE CANTONMENT FUND OF MUTTRA.

22. Mr. Sham Lal : (a) Will Government be pleased to state what amount on account of the pay of the Executive Officer is debited to

the Cantonment Funds of Muttra, and also the total income of that Cantonment Authority ?

(b) Is it a fact that the Cantonment Authority of that place is not in a position to spend anything upon the education of the civilian inhabitants ? If so, why ?

(c) What step or steps do Government propose to take in the matter ?

Mr. G. R. F. Tottenham : (a) A sum of Rs. 3,600 is debited annually to the cantonment fund of Muttra on account of the pay of the Executive Officer. The actual income of the Cantonment Authority for the year 1934-35 was Rs. 19,597.

(b) The position is not such as stated by the Honourable Member. Owing to the existence of nine schools in close proximity to the cantonment there is no need for separate educational facilities in the cantonment.

(c) None.

INCREASE IN THE WATER RATES IN THE LAHORE CANTONMENT.

23. Mr. Sham Lal : (a) Will Government be pleased to state whether it is a fact that recently the Executive Officer of Lahore Cantonment informed the civilian residents that water rates in that Cantonment have been increased by the Military Engineering Services ?

(b) If the answer to part (a) be in the affirmative, what were the rates charged before the increase and after it, and how do they compare with the neighbouring municipality ?

(c) Is it a fact that since 1924 the Lahore Cantonment Board had to increase the water rates in that Cantonment about four times to meet the ever increasing demand of the Military Engineering Services from the civilian residents ?

(d) Are Government aware that the rates of water tax and water rates in Lahore Cantonment are at present much more than the neighbouring municipality of Lahore ?

(e) If the answer to the above be in the affirmative, what step or steps do Government propose to take to reduce the large demands of the Military Engineering Services in that Cantonment ?

Mr. G. R. F. Tottenham : (a) Yes.

(b) The rate has been increased from 8½ annas to 9½ annas per 1,000 gallons. The water rate charged for metered connections in the neighbouring municipality is 8 annas per 1,000 gallons.

(c) No. Since 1924, the water rate has been increased only twice.

(d) It is difficult to compare the rate of tax in the Cantonment which is based on a percentage of the annual value of the buildings with that in the municipality which is based on the size of the ferrule and number of taps.

(e) I would draw the attention of my Honourable friend to clause 58 of the Cantonments (Amendment) Bill which is now before this House.

EXTENSIONS SANCTIONED TO THE ENGINEER OF THE MEERUT CANTONMENT BOARD.

24. Mr. Sham Lal : (a) Will Government be pleased to state what amount the Meerut Cantonment Board has to spend annually on the pay of its Engineer ?

(b) Is it a fact that this engineer is above the age of fifty-five ?

(c) If the answer to part (b) be in the affirmative, how many extensions have already been sanctioned by the Officer Commanding-in-Chief, the Command, in his case ?

(d) What steps do Government propose to take in the matter ?

Mr. G. R. F. Tottenham : (a) Rs. 4,200.

(b) Yes.

(c) One extension for a period of five years ending 28th October, 1938, has been granted by the Cantonment Authority, Meerut, under rule 18 of the Cantonment Fund Servants Rules, 1925.

(d) Government do not propose to interfere in the matter.

DISABILITY PENSIONS OF MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

25. Seth Haji Abdoola Haroon : (a) Is it a fact that in spite of Government's reply to question No. 592 (a) and (b) of the 4th September, 1933, and its numerous confirmations ending with the latest Government reply to unstarred question No. 248, dated the 9th March, 1936, not a single case of disability military pension has yet been assessed according to items (d) to (i) of those replies ?

(b) Is it a fact that not a single case has yet been assessed according to Government reply to question No. 1182 (a), dated the 27th November, 1933, and its confirmation ending with the latest Government reply to unstarred question No. 248, dated the 9th March, 1936 in this House ?

(c) Is it quite correct that not a single case of disability military pension has yet been assessed according to Government's final reply to question No. 331 of the 2nd March, 1934 given on the 13th November, 1934 and again confirmed as per Government reply to unstarred question No. 248, dated the 9th March, 1936 in this House ?

(d) Is it correct that all applications and appeals made with reference to the preceding Government replies were all turned down and rejected without a single exception ?

(e) Is it correct that in the final reply to question No. 331 of the 2nd March, 1934, given on the 13th November, 1934, Government clearly admitted wrong assessment of disability cases for diseases, and ordered the reassessment and readjustment of such cases ?

(f) Is it quite correct that none of the cases ordered have been reassessed and readjusted up to date and all of them without a single exception have been finally dropped and rejected without giving any

reasons for the same in accordance with item No. 3 of India Army Order No. 560 of September, 1933 ?

Mr. G. R. F. Tottenham : The questions appear to relate to one individual case which has been under examination for some time and which has raised a number of difficult points. The Government of India have made certain recommendations to the Secretary of State on the subject and hope to receive his orders in the near future.

DISABILITY PENSIONS OF MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

†26. **Seth Haji Abdoolah Haroon :** (a) Is it correct that the principle involved and referred to in Defence Secretary's demi-official letter No. 283, dated the 1st November, 1934, to Mr. B. V. Jadhav, *ex-M.L.A.*, was decided and settled as per Government's final reply to question No. 331 of the 2nd March, 1934, given on the 13th November, 1934 ?

(b) Is it correct that the Defence Secretary in his demi-official letter referred to in part (a) hoped that the R. I. A. S. C. cases referred to therein, would be settled before long but they have not been settled and adjusted up to date agreeably to Government's final reply to question No. 331 of the 2nd March, 1934, given on the 13th November, 1934 ?

(c) Do Government realise the extent of the future losses of pay and increased pension of the men concerned ?

(d) Are Government aware that the college education of the individual boys were ruined and discontinued on account of the abrupt reduction of the income of those who were drawing Rs. 200 per mensem and over as salaries ?

(e) Are Government aware that a good deal out of the ordinary civil pension is spent on medicinal and attendance charges on account of chronic diseases contracted in the cause of Government on Field Service ?

(f) Is it a fact that disability pensions are intended to compensate for the loss of future prospects and careers and for the lessened expectation of life and activities of those who have been disabled in the cause of the Government ?

(g) Keeping in view recommendations Nos. 4 and 9 of the War Pension Committee, sanctioned by the Government and published with India Army Order No. 560 of September, 1933, will Government be pleased to state when the R. I. A. S. C. cases ordered for reassessment and readjustment as per Government final reply to question No. 331 of the 2nd March, 1934 are likely to be reassessed and readjusted and how long will it still take to do so ? Is it a fact that the cases are already pending for about 5½ years ?

(h) Is it a fact that disability pension claims of those retiring on a pay of Rs. 200 per mensem or more are payable in sterling and that they are to be converted at the rate of one shilling four pence to the rupee if the pensioner was in Government service on 1st February, 1921 in the spirit of paragraph 24, Pension Regulations, India ?

† For answer to this question, see answer to question No. 25.

DISABILITY PENSIONS OF MILITARY EMPLOYEES INVALIDED DURING THE GREAT WAR.

†27. **Seth Haji Abdoola Haroon :** (a) With reference to the reply given in this House to parts (a) and (b) of starred question No. 376 on the 16th September, 1935, will Government please state the total percentage of disability that will be taken in assessing the disability pension of a civil officer or subordinate who is assessed 60 per cent. disability on account of Field Service and 40 per cent. disability on account of Post-War Service ?

(b) Is it correct that the wife and minor children of a civil officer or subordinate retiring on a pay of Rs. 200 per month and over on account of diseases contracted on Field Service are eligible for family pensions agreeably to paragraphs 740 and 741-A., Civil Service Regulations ?

(c) Will Government please state the weekly rate of disability family pensions admissible to the wife and three minor sons of a civil officer retiring with the relative rank of a Sub-Conductor and assessed 60 per cent. disability on account of diseases contracted on Field Service ?

(d) Is it correct that disability pension claims of those retiring on a pay of Rs. 200 per month or more are payable in sterling and they are to be converted at the rate of one shilling four pence to the rupee if the pensioner was in Government service on 1st February, 1921 in the spirit of paragraph 24, Pension Regulations, India ?

(e) Is it a fact that following their final reply to question No. 331 of the 2nd March, 1934, given on the 13th November, 1934, Government called for marriage and birth certificates from the Collectors or Deputy Commissioners of Districts for the admission to disability pension the wives and children of the individuals involved in the Government's reply and that the necessary certificates were furnished to the pension authorities by the Civil Officers concerned ?

(f) Is it not clear from the letters written to Civil Officers regarding marriage and birth certificates that the documents were merely called for to make necessary assessments and adjustments of family pensions which were already accepted in principle ?

(g) Is it correct that the admissibility of disability pension to those who contracted diseases on Field Service during the Great War 1914-18 and eventually retired on Rs. 200 per mensem and over in 1928-1930 on account of the same diseases has been accepted by the Government in their replies to the questions noted below in the Assembly :

(i) Government reply to question No. 592 (a) and (b) of 4th September, 1933 ;

(ii) Government reply to question No. 1182 (a) of 27th November, 1933 ;

(iii) Government reply to question No. 331 of the 2nd March, 1934 ; and

(iv) Government reply to unstarred question No. 248, dated the 9th March, 1936 ?

† For answer to this question, see answer to question No. 25.

(h) Having gone so far and having made so many admissions, will Government be pleased to state why the claims involved in Government's final reply to question No. 331 of the 2nd March, 1934, given on the 13th November, 1934, have not been assessed and adjusted up to date and whether financial considerations and payments involved are the real factors standing in the way of right, legitimate and well-earned disability pension claims outstanding for five and six years ?

**SUBSIDIARY RULES REGARDING DISCIPLINARY ACTION FRAMED BY THE AGENT,
EASTERN BENGAL RAILWAY.**

28. Mr. Amarendra Nath Chattopadhyaya : (a) With reference to the statement laid on the table of the House on the 27th February, 1936, in reply to unstarred question No. 155, is it a fact that the Agent, Eastern Bengal Railway, has, with his letter No. 148-E./O. P.II, dated the 17th October, 1935, to all concerned, forwarded Subsidiary Rules for compliance ?

(b) If the answer to part (a) be in the affirmative, will Government please state :

- (i) whether it is obligatory on the authorities concerned to observe these Subsidiary Rules ;
- (ii) whether any cases have recently been reported of non-observance of these rules by the District Officers of the Locomotive Department ; if so, with what results ;
- (iii) whether train staff and running staff mentioned in the Subsidiary Rules are the same ; if not, what staff are classed as trains and as running ;
- (iv) whether a senior subordinate is required, under the General Rules regarding disciplinary action, to serve " Explanation Sheets " calling upon the employee to explain certain incidents ; or
- (v) whether a senior subordinate is competent, under Rule 12 of the General Rules, to serve a charge sheet against a non-gazetted employee informing him of the definite offences or failures on account of which it is proposed by him to impose the penalties prescribed in General Rule 2 ?

(c) Is disciplinary action taken against Gazetted Officers when they contravene the General and/or the Subsidiary Rules ? If not, why are they exempted from the actions ?

(d) Is it open to heads of departments to inform the appellant employees that the orders were issued by them when no mention of the same has been made in the punishment letters issued by the District Officers ? If so, why ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) Yes.

(b) (i) Yes.

(ii) The Eastern Bengal Railway Administration is not aware of any recent cases.

- (iii) The term 'Running Staff' includes all staff who perform duties directly connected with the charge of a moving train ; by "Train Staff" is meant running staff of the Traffic Department.
- (iv) and (v). There is nothing in the rules to debar senior subordinates from obtaining explanations from staff under General Rule 12. The orders of punishment are, however, passed by officers competent to pass such orders.
- (c) Each case is dealt with on its merits and action taken when necessary.
- (d) Yes, if such be the case.

**SUBSIDIARY RULES REGARDING DISCIPLINARY ACTION FRAMED BY THE AGENT,
EAST INDIAN RAILWAY.**

29. Mr. Amarendra Nath Chattopadhyaya : (a) With reference to the reply given in this House to unstarred question No. 156 (b), (i), on the 18th February, 1936, that it is not intended to publish the Subsidiary Rules framed by the Agent in the East Indian Railway Gazette, will Government please state :

- (i) the reasons why it proposes to suppress from the non-gazetted staff on this railway only the Subsidiary Rules which govern disciplinary actions against them ;
- (ii) whether the Subsidiary Rules regulating disciplinary action against gazetted officers are published and are available to them and the public as well ; and
- (iii) whether the Eastern Bengal Railway have made their Subsidiary Rules available to their non-gazetted staff ?

(b) Do Government propose to have a uniform system on all State-managed Railways regarding the publication and availability to the non-gazetted staff the General and Subsidiary Rules which regulate disciplinary action ? If not, what are the reasons for permitting each Railway Administration to act according to its whims and fancies on this important question of policy ?

The Honourable Sir Muhammad Zafrullah Khan : (a) (i) The rules referred to are available to the staff for official purposes.

(ii) As regards the first part, there are no subsidiary rules. The latter part of the question does not arise.

(iii) Yes.

(b) No. Government do not consider it necessary.

RAILWAY CARRIAGES FOR SHOOTING AND CAMPING PARTIES.

30. Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that the East Indian Railway Administration have issued a circular letter dated the 4th December, 1935, by the Chief Operating Superintendent and the Chief Commercial Manager under the caption—"Carriages for shooting and camping parties"—with the object of attracting railway passenger traffic ? If so, why is it that these carriages are not to be booked to McCluskiegunge station where an Anglo-Indian colony is being built ?

(b) Do Government propose to take action in the matter of including this station where these carriages can be booked so as to encourage this mode of rail travel ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The reply to the first part is in the affirmative, as regards the second part, these carriages are intended only for fishing and shooting parties travelling to such stations to which normally ordinary carriages would not be booked, thereby obtaining a class of traffic which would not otherwise be obtained. McCluskiegunge is one of many stations to which these carriages cannot be booked.

(b) Government do not consider that their intervention in this matter is called for.

AVENUES OF ECONOMY ON THE EAST INDIAN RAILWAY.

31. Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that it is the policy of the East Indian Railway Administration to explore all avenues for improvement in working and in securing economy in all departments except the Engineering which has supplied all the Job Analysis Officers and Agents ? If not, will Government please state :

- (i) whether Job Analysis of the Block Signal Workshop at Howrah has been undertaken ; if so, were any economies recommended and accepted ;
- (ii) whether the transfer of the lorry service from the workshop to the Divisional Superintendent was recommended by the Job Analysis Committee ; if not, on whose recommendation was this transfer made ;
- (iii) whether the garage and its staff have also been made over to the division ;
- (iv) whether running repairs are done in the garage ; and
- (v) whether the garage have been prohibited from executing heavy repairs which have been reserved for the workshop although the garage are able to do them ?

(b) Is it a fact that supervisory staff on pay of Rs. 550, Rs. 400, etc., plus a large staff are maintained in the Block Signal Workshop for the heavy repairs to the lorries ? If so, will Government please state :

- (i) whether a very heavy overhead charge is levied on each job executed ;
- (ii) whether they have considered that the overhead charges would be reduced if the work was done in the garage ; and
- (iii) whether any other motor undertakings maintain a workshop as well as a garage for the repairs to their cars and lorries ?

(c) Is it a fact that it took the workshop four months to overhaul a lorry and that the amount debited to the garage for the overhaul to this lorry was Rs. 2,930-6-0 ? If so, will Government be pleased to state :

- (i) what is the cost of the spare parts replaced, general repairs, and overhead charges ;

(ii) whether the major portion of the overhaul could have been done in the garage in the usual course of their work ; and

(iii) what is the value of the lorry after its overhaul ?

(d) Do Government propose to explore this avenue of economy by taking away from the workshop all repairs to the lorries and having the same done in their own garage where experienced staff are employed ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) No.

(i) As a result of job analysis into the work of the clerical staff of the Block Signal Shops, the staff had to be strengthened. The work of the labour staff has not been job analysed.

(ii) The transfer was made on the recommendation of a Committee appointed by the Agent to examine the question of the operation of railway lorries.

(iii) Yes.

(iv) and (v). The garage equipment consists of :

Two vices and an air compressor (motor driven) for maintenance of tyres.

The garage also supplies petrol, oil and consumable stores and has been provided primarily for the housing of the vehicles.

The repairs which the garage staff are capable of undertaking comprise the following :

Greasing and oiling engines.

Care of batteries.

Adjustment of tappets, cleaning and adjusting magnetos.

Examination of springs.

Maintenance of brakes and other small works of similar nature.

If repairs of a heavier nature than this have to be carried out staff are either requisitioned from the Block Signal Shops, or lorries are sent to the Block Signal Shops.

(b) No. All work in connection with Signalling and Interlocking equipment, telephones, Block Instruments and Electric Signalling Apparatus for the whole railway is concentrated in the Block Signal Workshops at Howrah. The supervising staff of the Block Signal Workshop also supervise heavy repairs to lorries which may be undertaken.

(i) Charges are levied strictly in accordance with the rules.

(ii) I would invite the Honourable Member's attention to my reply to parts (a) (iv) and (v) of the question.

(iii) Government have no information.

(c) Yes.

			Rs.	a.	p.
(i) Labour	..	..	1,372	4	0
Spare parts	..	..	677	7	0
General charges			808	11	0

(ii) No.

(iii) It is difficult to state the monetary value of the lorry, but repairs are estimated to have given it five years' further life.

(d) I would invite the Honourable Member's attention to my reply to parts (a), (iv) and (v), and (b) of the question.

PURCHASE OF NEW FITTINGS FOR THE MOTOR TROLRIES BY THE EAST INDIAN RAILWAY.

32. Mr. Amarendra Nath Chatteropadhyaya : (a) Will Government please state whether the East Indian Railway Administration have any policy in regard to the indenting, sanctioning and purchasing of new fittings for the motor trolries which are in use on that Railway ? If so, whether it has been applied in all cases of purchase of spare parts indented by the Block Signal Workshop at Howrah ?

(b) Is it a fact that twelve magnetos for single cylinder motor trolries have been purchased and are now lying on hand being unsuitable for the motor trolries ? If so, will Government please state :

- (i) how many motor trolries are in use and in stock ;
- (ii) how many motor trolries have single and how many have double or twin cylinders ;
- (iii) whether the changing of magnetos is a common repair ; if not, who is responsible for sanctioning the purchase of the twelve magnetos ;
- (iv) what is the cost of these twelve magnetos ; and
- (v) whether it has been proposed that these new magnetos should be disposed of as scrap ?

(c) Do Government propose to institute an enquiry by other than Engineering Officers into this matter and to explore all avenues in that workshop as regards the indenting, sanctioning, and purchasing of articles with a view to effecting economy in the working expenses ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes. The policy ordinarily followed in all cases in the Block Signal Workshop at Howrah is briefly as below :

On receipt of a motor trolley for overhaul and repair at the workshop, a list of parts requiring replacement is drawn up and such parts as can be economically manufactured in the Shops and those not procurable from the market are manufactured in the Shops. Stock items are requisitioned from the District Controller of Stores. For such of the

non-stock items as cannot be repaired or economically manufactured in the Shops, quotations are invited from various local motor firms, by the manager of the workshop, direct, in order to save time, but the purchase is made through the Controller of Stores, in accordance with the Stores Purchase Rules. Small spare parts are purchased direct under sanction of competent authority.

(b) No.

(i) to (v). Do not arise.

(c) Government do not see the need for such an enquiry.

GRANT OF ACTING ALLOWANCE TO THE EMPLOYEES OF THE EAST INDIAN RAILWAY COMPANY TAKEN OVER BY THE STATE.

33. Mr. Amarendra Nath Chattopadhyaya : (a) With reference to the reply given in this House to unstarred question No. 185 on the 26th February, 1936, regarding the grant of acting allowances to the employees of the East Indian Railway Company who were taken over by the State, will Government please state :

(i) the Company's rules in regard to pay or acting allowance when an employee has been put on to a vacant post in a temporary or acting capacity ; and

(ii) the decision referred to in parts (d) to (f) of the unstarred question, that has been taken ?

(b) Is it the policy of Government to whittle down the privileges enjoyed by the staff taken over from the Company and included in the terms of their employment under the State ? If not, why have the Company's rules regarding the grant of acting allowances been withheld or stopped ?

(c) Will Government please state whether the withholding of the acting allowances under the Company's rules have been enforced in the Accounts Department only or whether other departments have observed the same procedure ?

The Honourable Sir Muhammad Zafrullah Khan : (a) (i) The relevant orders are contained in rules 48—52, 74, 116 *et seq.*, of the East Indian Railway Leave Rules, a copy of which is in the Library of the House.

(ii) It has been decided to cancel the provisional instructions issued by the Chief Accounts Officer.

(b) and (c). The policy of Government, which applies to the Accounts Department as well as to other departments of the railway, is to allow to staff in the permanent service of the East Indian Railway Company at the time of their transfer to the State on 1st January, 1925, pay and allowances, provident fund and gratuity, and leave, under the then existing rules and conditions of the East Indian Railway Company as expressed in the agreement entered into by them with Government.

GRANTS FROM THE STAFF BENEFIT FUND ON THE EASTERN BENGAL RAILWAY.

34. **Mr. Amarendra Nath Chattopadhyaya :** With reference to the reply given in this House to unstarred question No. 187 (c) on the 26th February, 1936, regarding grants from the Staff Benefit Fund on the Eastern Bengal Railway, will Government please state what check is maintained over the misuse of this fund ? If none, why ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

- (a) The fund is controlled by a properly constituted committee presided over by the Deputy Agent Personnel. The accounts of the fund are duly audited by the Chief Accounts Officer.

EMPLOYMENT OF THE PRINTING SUPERINTENDENT AS THE CARETAKER OF THE HEAD OFFICE BUILDINGS OF THE EAST INDIAN RAILWAY.

35. **Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the reply given in this House to unstarred question No. 191 on the 26th February, 1936, regarding the employment of the Printing Superintendent, a gazetted officer, as the Caretaker of the head office buildings of the East Indian Railway in addition to his own duties which embrace the printing work of the East Indian and the Eastern Bengal Railways, is it a fact that non-gazetted staff are employed as Caretakers for the other Government buildings at Calcutta ?

(b) Is it the policy of Government in the Railway Department to employ as Caretakers gazetted officers who do this work in addition to their legitimate duties ? If so, do the Eastern Bengal, the North Western and the Great Indian Peninsula Railways observe this policy ?

(c) Is it a fact that the Watch and Ward Department are posted in the head office buildings of the East Indian Railway and that they are responsible for the fire appliances ? If so, do Government propose to explore this avenue of economy by making over the work now done by the Caretaker *cum* Printing Superintendent to the Watch and Ward Department ? If not, why not ?

(d) Was any recommendation made by the Job Analysis Committee which is located at the head office regarding this avenue of economy ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government have no information.

(b) Government have not laid down any policy in the matter, but have left it to the discretion of Railway Administrations.

(c) The office of the Superintendent, Watch and Ward Department, is located in the Head Office building, but that officer is not responsible for the fire appliances. The organisation for dealing with outbreaks of fire in the Head Office is under the control of the Printing Superintendent and the inferior personnel of the Watch and Ward Department who are on duty at the Head Office are included in this organisation. The Printing Superintendent draws no additional special pay on account of being in charge of the fire organisation.

(d) No.

SUBMISSION OF PETITIONS OF THE RAILWAY STAFF TO THE GOVERNOR GENERAL IN COUNCIL.

36. Mr. Amarendra Nath Chattopadhyaya : (a) With reference to the reply given in this House to unstarred question No. 194 (d) on the 26th February, 1936, regarding the submission of petitions to the Governor General in Council, will Government please state whether the rules prior to those issued in 1933 were published by the Agent, East Indian Railway, in that Railway's Gazette? If so, when? If not, how can the staff be expected to know the rules which govern the submission of petitions?

(b) Do Government propose to waive the time limit for the submission of petitions? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan : (a) Government are informed that the instructions regarding the submission of petitions to the Governor General in Council published in the Government of India, Home Department Notification, Public, No. F. 472-II-2|23, dated the 21st June, 1924, were not published by the East Indian Railway Administration as those instructions did not apply to non-pensionable subordinate, clerical and menial establishments employed in the construction and working of the State Railways.

(b) Does not arise.

RULES FOR THE RECRUITMENT AND TRAINING OF CLERICAL STAFF AND THE AVENUES FOR THEIR PROMOTION ON THE EAST INDIAN RAILWAY.

37. Mr. Amarendra Nath Chattopadhyaya : With reference to the reply given in this House to unstarred question No. 195 (b), (i) to (iv) on the 26th February, 1936, regarding rules for the recruitment and training of clerical staff and the avenues of their promotions, will Government please state :

(i) whether the rules have since been framed; if so, when;

(ii) whether these rules will be published and made available to the staff; if not, why not?

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

(ii) I would invite the Honourable Member's attention to my reply to part (b) (ii) of his question No. 195.

RACIAL DISCRIMINATION IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY IN THE MATTER OF PLACING CERTAIN STAFF UNDER SUSPENSION.

38. Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that it is the policy of Government in the Railway Department that when an employee, gazetted or otherwise, has been arrested by the Police under any of the sections of the Indian Penal Code involving moral turpitude and who has been released on bail, must be placed under suspension until such time as the case has been disposed of by the Court?

(b) Is it a fact that this policy is observed on the East Indian Railway but partially on the Howrah Division of that Railway?

(c) Are Government aware that racial prejudice operates on the Howrah Division in the matter of placing staff under suspension and that while Indian staff are suspended the non-Indian staff are permitted to continue their duties? If not, will Government please state:

- (i) whether a non-Indian employee in the Control Office attached to the Divisional Office has been arrested under sections 193 and 199, released on bail, and has been permitted to work;
- (ii) whether the incident was reported to the Superintendent, Traffic, a non-Indian, who declined to observe the rule and to suspend this employee; and
- (iii) whether the Superintendent Traffic has suppressed these facts from the Divisional Superintendent?

(d) Do Government propose to take disciplinary action against the gazetted officer responsible for this breach of the rule and the display of racial feelings? If so, what action? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). I would invite the Honourable Member's attention to revised rule 11 of the "Rules regulating discipline and rights of appeal of non-gazetted Railway servants", a copy of which is in the Library of the House. The policy laid down therein is followed over the whole of the East Indian Railway.

(c) The reply to the first part of the question is in the negative. As regards parts (i), (ii) and (iii) if the Honourable Member will name the person to whom he is referring I will endeavour to obtain information.

(d) In view of my reply to the latter part of (c), this does not arise.

PASSENGER EARNINGS FIXED FOR EACH STATION ON THE EASTERN BENGAL RAILWAY.

39. Mr. Amarendra Nath Chattopadhyaya: With reference to the reply given in this House to unstarred question No. 291 (a) on the 9th March, 1936, that the extract:

"The action taken against the defaulting station where there is a fall",

is not contained in the Eastern Bengal Railway Gazette Notification No. 744 of Gazette No. 22 of 1935, is it a fact that it is contained in the last line of paragraph 3 of the Notification printed on page 2114 of the Debate Book for the 9th March, 1936? If so; will Government please state:

- (i) who is responsible for furnishing the wrong information; and
- (ii) whether any action will be taken against those stations whose earnings fall below the minima fixed for them? If so, on what grounds?

The Honourable Sir Muhammad Zafrullah Khan: (a) Yes. The Honourable Member's question No. 291 contained three extracts: the first reproducing the first sentence of a paragraph, the second reproducing an entire paragraph, the third being the concluding line of a paragraph.

(i) No wrong information was furnished; it was a case of excusable oversight.

(ii) When a fall in earnings below the minima fixed is sufficiently exceptional, an explanation of the probable causes is required. If the fall is considered to be due to causes within the control of the staff (such as failure to open the booking office windows at the appointed time so that intending passengers are enabled to secure tickets, negligence in checking admission to platform of passengers without tickets, etc.), the question of taking disciplinary action is considered.

RULES ON THE EAST INDIAN RAILWAY PREVENTING THE EMPLOYMENT OF STAFF SUFFERING FROM DEFECTIVE VISION TO CERTAIN POSTS.

40. **Mr. Amarendra Nath Chattopadhyaya :** (a) Will Government please state whether there are any rules on the East Indian Railway which prevent the employment of staff who suffer from defective vision from posts such as Guards, Station Masters, Transportation Inspectors, Commercial and Movement, etc. ?

(b) If the answer to part (a) be in the affirmative, will Government please state :

(i) whether the rules in question are in operation on all the divisions ; if not, why there is a difference in policy on the same Railway ; and

(ii) whether it is obligatory on the Divisional Superintendent and his subordinate officers to observe these rules ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(a) Yes.

(b), (i) and (ii). Yes.

RULES FOR THE RECRUITMENT AND TRAINING OF NON-GAZETTED STAFF ON THE EASTERN BENGAL RAILWAY.

41. **Mr. Amarendra Nath Chattopadhyaya :** With reference to the reply given in this House to unstarred question No. 463 on the 7th April, 1936, regarding the rules for the recruitment and training of the non-gazetted staff on the Eastern Bengal Railway, will Government please state :

(i) whether these rules have been printed by the Eastern Bengal Railway and made available to the non-gazetted staff : if not, will this be done ; and

(ii) whether the channels of promotions as sanctioned by the Agent have been made available to the staff ; if not, whether this will also be done ; if not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(i) and (ii). The rules have been printed by the Eastern Bengal Railway and distributed to the Heads of Departments and District Officers. A booklet containing these rules, together with information regarding the normal channels of promotion in the various categories, is under con-

pilation and will be made available to the staff as soon as ready.

SHORT-COMINGS IN THE SCHEME OF CATTLE IMPROVEMENT AND A REDUCTION OF THE CANAL WATER RATE.

42. **Mr. M. Asaf Ali :** (a) Has the attention of Government been drawn to the press note published by the Director of the Delhi Cattle Breeding Farm, Limited, in the *Hindustan Times*, dated the 27th June, 1936, regarding the short-comings in the scheme of cattle improvement, prepared by Colonel Oliver, and have they made any attempt to meet the objections contained in that note ?

(b) Is it a fact, as alleged in that note, that the canal water rate for fodder crops in Delhi has been increased by more than 66 per cent. during the past two or three years ?

(c) Is it not a fact that the area, for which the canal water rates for fodder crops are increased, is the best cattle breeding area in India ?

(d) In view of the present policy of Government to improve the breed of Indian cattle, do they propose to reduce the canal water rate to its former level ? If not, why not ?

Sir Girja Shankar Bajpai : (a) Yes. The points mentioned were all duly considered when the scheme was drawn up.

(b) Yes, the canal water rate was increased from Rs. 1-8-0 to Rs. 2-8-0 per acre in 1934. The increase, however, is general and is applicable to all areas irrigated by the Western Jumna Canal and other canals in the Punjab. The rates for supply of canal water are fixed by the Punjab Government and are liable to fluctuation. Thus they are lower now than in 1924 when the rate was Rs. 3.

(c) It is certainly *one* of the best cattle breeding areas.

(d) The Western Jumna Canal, which is the chief source of irrigation in the Delhi Province, is controlled by the Punjab Government. The Delhi Administration is not responsible for fixing the rates.

RULES REGULATING DISCIPLINE AND RIGHTS OF APPEAL OF THE NON-GAZETTED RAILWAY SERVANTS.

43. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that in the rules regulating discipline and rights of appeal of the non-gazetted Railway servants, issued by the Railway Board with their letter No. E./34/K.G.-6, dated the 22nd June, 1935, provision has been made under Rule 2 regarding :

“ withholding of the whole or part of the Provident Fund Contribution or Gratuity in accordance with the provisions of the State Railway Provident Fund and Gratuity Rules ” ?

If so, will Government please state whether the rule means the withholding of the whole or part of the Gratuity as well ?

(b) If the answer to the second part of part (a) be in the affirmative, do Government propose to inform the State-managed Railways of their interpretation of this rule in order to avoid any misunderstandings and hardships that may be caused by a wrong interpretation of this rule ?

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

(b) Government do not consider that any further orders are necessary as the Rules on the subject are quite clear.

SPECIAL PAY OF EMPLOYEES ON STATE RAILWAYS.

44. Mr. Amarendra Nath Chattopadhyaya : (a) With reference to the reply in this House to unstarred question No. 351 on the 13th March, 1936, regarding special pay of employees on State Railways, will Government please state :

- (i) why, in the cases of gazetted officers, special pay should not be reduced unless the conditions which originally led to the grant of the special pay have disappeared or changed and in the cases of the non-gazetted staff special pay may be reduced on any grounds which Government consider reasonable ;
- (ii) what justification is there for this differential treatment in financial matters to the humble employees of the Crown in India ; and
- (iii) whether they now propose to remove the discretionary power in the case of the non-gazetted staff and make it mandatory as in the case of the gazetted officers ?

(b) Is it a fact that this discretionary power, where non-gazetted staff of the East Indian Railway are concerned, has been used to the disadvantage of the non-gazetted employees ?

(c) Is it a fact that the special pay of certain of the non-gazetted staff on the East Indian Railway, granted for the specific addition to their work or responsibility, has been withdrawn although the additional work and responsibility have not been withdrawn ? If so, has the same treatment been accorded to the gazetted staff ? If not, why not ?

(d) Do Government propose to treat alike the staff, both gazetted and non-gazetted, in the matter of the withdrawal of special pay ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (d). The position is that generally it is open to the authority sanctioning the special pay to withdraw it for any reason whatsoever, but it was found necessary to lay down a special condition to govern officers who are protected by section 96B (2) of the present Government of India Act.

(b) No. The railway administration was satisfied that there was no justification for continuing the special pay originally granted.

(c) If the Honourable Member will give me the instances he refers to, I shall have the question examined.

FAREWELL PARTY TO BE GIVEN TO THE ASSISTANT SUPERINTENDENT, HOWRAH GOODS.

45. Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that it is against the Government Servants' Conduct Rules for the staff in the

Railway Department to give farewell parties to gazetted officers when they proceed on leave, transfer, or on leave prior to retirement ? If not, under what conditions can such parties be given ?

(b) Do these rules apply to the East Indian Railway ? If so, are Government aware :

(i) that the Divisional Superintendent, Howrah, is arranging through his junior officers, for a grand and expensive farewell party to be given to the Assistant Superintendent, Howrah Goods ;

(ii) that subscriptions are not confined to railway staff only but that merchants, forwarding agents, jemadars, etc., are being pressed to contribute ; and

(iii) that such compulsory contributions from outsiders place the non-gazetted staff under obligations to them ?

(c) Is it a fact that the Superintendent, Commercial, who is the immediate superior of the Assistant Superintendent, Howrah Goods, has recently issued a circular letter to the staff warning them against the acceptance of "*dasturi*" ? If so, why is he encouraging his staff to collect contributions from merchants, jemadars, etc. ?

(d) Do Government propose to take disciplinary action against the gazetted officers responsible for this breach of the Government Servants' Conduct Rules ?

The Honourable Sir Muhammad Zafrullah Khan : (a) I would invite the Honourable Member's attention to sub-paragraphs (c) and (d) of paragraph 3 of the Government Servants' Conduct Rules, a copy of which is in the Library of the House.

(b) Yes. Government are informed as follows :

(i) No farewell entertainment has been or is being arranged with the knowledge of the Divisional Superintendent or through the Junior Officers to be given to the Assistant Superintendent, Howrah Goods, on retirement. In fact the Assistant Superintendent has already retired in July, 1936.

(ii) No request has been made for subscription either from non-gazetted staff or from outsiders.

(iii) Does not arise.

(c) In view of my reply to parts (b) (i) and (ii) this does not arise.

(d) No action is called for.

USE OF OFFICE PERQUISITES FOR THE BENEFIT OF THE GAZETTED OFFICERS ON THE EAST INDIAN RAILWAY.

46. Mr. Amarendra Nath Chattopadhyaya : (a) Is it the policy of Government in the Railway Department that perquisites of office must be provided at State expense for the benefit of the gazetted officers only ?

(b) If the answer to part (a) be in the negative, will Government please state why an exception has been made in the case of the Howrah Division of the East Indian Railway ?

(c) Is it a fact :

- (i) that a lorry is in daily use for the supply of coal from the Loco. Depot at Howrah to the residences of the gazetted officers ;
- (ii) that no charge is made for the use of the lorry for the carriage of coal ;
- (iii) that the expenses incurred on this lorry on its unofficial use are included in the working expenses of the garage ; and
- (iv) that this avenue of economy has not been explored by the Job Analysis staff ?

(d) Will Government please state whether the same facilities regarding the free carriage of coal at Howrah have been extended to the non-gazetted staff ; if not, why this differential treatment ?

(e) Are different rates for coal charged from the gazetted and the non-gazetted staff ? If so, what are the rates charged, and why has a lower rate been placed on coal supplied to the gazetted staff ?

(f) Has this avenue of economy been scrutinized by the Job Analysis staff ? If not, why not ?

(g) Will Government please state :

- (i) whether repairs are done to the private cars of the gazetted officers of the East Indian Railway, Howrah, free of cost, at the lorry garage ;
- (ii) whether " Opel " motor car No. 33778 has been frequently attended to at the garage without any payment to Government for the same ;
- (iii) whether this avenue of economy has been investigated by the Job Analysis staff ;
- (iv) whether the lorry garage is under the direct control of the Superintendent, Commercial ; and
- (v) whether " Opel " car No. 33778 belongs to the Superintendent, Commercial ?

(h) Do Government propose to have these matters investigated with a view to lowering the working expenses of the Howrah Division and thereby save some of the staff from being discharged on retrenchment as well as to take disciplinary action against the gazetted staff responsible for depriving Government of revenue ? If not, why not ?

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

(b) No exception has been made in the case of the Howrah Division.

(c) (i) A lorry runs four days a month for the supply of coal to the residences of a few gazetted officers on payment of charges due.

(ii) No. An extra charge is levied for the carriage of coal.

(iii) The lorry is not being put to any unofficial use.

(iv) In view of my reply to parts (c) (i) and (ii) this does not arise.

(d) The lorry supplies coal in the Calcutta area. Officers and non-gazetted staff stationed in Howrah do not find it an economical proposition to get their coal through this lorry.

(e) The reply to the first part of the question is in the negative. The latter part does not arise.

(f) I would refer the Honourable Member to my reply to part (c) (iv) of the question.

(g) (i) and (ii) No.

(iii) Does not arise.

(iv) and (v) Yes.

(h) Government do not consider any action is called for.

MIS-DECLARATION OF GOODS ON THE EAST INDIAN RAILWAY.

47. Mr. Amarendra Nath Chattopadhyaya : (a) With reference to the reply given in this House to unstarred question No. 101 on the 4th February, 1936, regarding mis-declaration of goods on the East Indian Railway, are Government aware that it can be definitely established from the records of the Howrah Goods Sheds and the Divisional Office, as well as from the official who reported all these cases, that all the persons were Indians ?

(b) Were the other persons who were prosecuted for mis-declaration of goods given the privilege of having a discussion with the Deputy and the Chief Commercial Manager before prosecution was ordered ? If not, what is the reason for this differential treatment to a European firm ?

(c) Was the opinion of the *Vakil* attached to the office of the Agent obtained as to whether there was sufficient evidence to secure a conviction ? If not, why was not this done by the Chief Commercial Manager ?

(d) Were any of the Forwarding Agents, attached to the Howrah Goods Sheds prosecuted and convicted for mis-declaration of goods ? If so, were they Europeans or Indians ?

(e) Is the matter of sanctioning the prosecution of people who mis-declare goods within the powers delegated to Divisional Superintendents ? If so, why did the Chief Commercial Manager intervene in this case instead of forwarding any letter he may have received to the Divisional Superintendent for action ?

(f) Is it a fact that the consignment was booked as furniture and a certificate given that it was *bonâ fide* personal property whereas it was actually motor parts ? If so, where was there any room for misunderstanding either by the French Motor Car Company or by the Chief Commercial Manager ?

(g) Do Government propose to recover the difference lost to Government, *viz.*, Rs. 5,588-2-0, from the Chief Commercial Manager ? If not, will Government please state why recoveries are made from the dues of the non-gazetted staff when through ignorance of the rules, racial prejudice or otherwise, losses are caused to Government ? Are no responsibilities attached to gazetted officers for their actions ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The Agent, East Indian Railway, has repeated his assurance that the connected files relating to cases of mis-declaration are not now available. A register maintained at the Howrah Goods Shed, however, shows that during 1932, 1933 and 1934, there were twelve cases in which European firms were challenged for mis-declaration, but it was found that there had not been any mis-declaration.

(b) No, there was no differential treatment as the circumstances in regard to the French Motor Car Company's case, to which it is presumed the Honourable Member's question refers, were different to those in other cases.

(c) The Agent states that there was no necessity for obtaining legal opinion either in the case of the French Motor Company or in any other case.

(d) Yes ; there were no European forwarding agents.

(e) The reply to the first part is in the affirmative. Delegation of powers does not, however, preclude intervention by the Chief Commercial Manager at his discretion.

(f) The reply to the first part is in the affirmative. The certificate was, however, given by a representative of the firm, but as the wagon was not opened in his presence, there was room for misunderstanding as was explained later by the firm.

(g) As previously stated, there was no loss to Government.

LOSSES SUSTAINED BY GOVERNMENT THROUGH FRAUD OR NEGLIGENCE ON THE EAST INDIAN RAILWAY.

48. Mr. Amarendra Nath Chattopadhyaya : (a) Is it a fact that in a memorandum of general principles to regulate the enforcement of responsibility for losses sustained by Government through fraud or negligence of individuals, issued with the Finance Department letter No. D. 243-A., of the 21st June, 1929, it is stated as follows ?

“ Means should be devised to ensure that every government servant realises fully and clearly that he will be held personally responsible for any loss sustained by government through fraud or negligence on his part, and that he will also be held personally responsible for any loss arising from fraud or negligence on the part of any other government servant to the extent to which it may be shown that he contributed to the loss by his own action or negligence. The cardinal principle governing the assessment of responsibility in such cases is that every public officer should exert the same vigilance in respect of public expenditure and public funds generally as a person of ordinary prudence would exercise in respect of the expenditure and the custody of his own money. While, therefore, government are prepared to condone an officer's honest errors of judgment involving financial loss, provided the officer can show that he has done his best up to the limits of his ability and experience, they are determined to penalise officers who are dishonest, careless or negligent in the duties entrusted to them ”.

(b) If the answer to part (a) be in the affirmative, will Government please state :

(c) whether these instructions have been published by the Agent, East Indian Railway, in a pamphlet detailing delegation of powers ;

- (ii) whether these instructions are binding on the Agent and his subordinate officers ;
- (iii) whether they propose to take disciplinary action as indicated in the above instructions against the Chief Commercial Manager for the loss of Rs. 5,588-2-0 in the case of mis-declaration of goods referred to in unstarred question No. 101 on the 4th February, 1936 ; and
- (iv) whether they propose to take similar action against the Divisional Superintendent, Howrah, for the loss occasioned to Government in the matter of ticket frauds and dealt with in his case No. Com.[T.C.]C.[630-34 ?

(c) Will Government please state whether a fraud case regarding the misuse of Concession Orders was given to the Divisional Superintendent, investigated by his Superintendent, Commercial, and the employee who practised the fraud was dismissed but no further action was taken to find out whether the fraud had ramifications among those who were highly placed ?

(d) Is it a fact that the dismissal of this employee was not published in that Railway's Gazette ? If so, why was this not done ?

(e) Is it a fact that further information was given of a more serious kind of ticket fraud by the same informant, but the Divisional Superintendent declined to have the information investigated ? If so, why ?

(f) What action do Government propose to take in this matter ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b), (i) and (ii). Yes.

(b), (iii). No : there was no loss as explained in the reply I gave previously to the question referred to.

(iv) No ; the Agent states that suitable action was taken by the Divisional Superintendent in the case referred to.

(c) The reply to the first part is in the affirmative. As regards the second part, I understand there was no specific information on which suitable action could have been taken.

(d) Yes ; the matter is entirely one for the Administration's discretion.

(e) I understand no specific information had been given to permit of enquiries being made.

(f) Government do not propose to take any action, as they are satisfied that the Administration will do what is practicable to stop any fraudulent practices.

LIABILITY OF RAILWAY SERVANTS TO BE DISMISSED FROM SERVICE FOR INSOLVENCY OR HABITUAL INDEBTEDNESS.

49. Mr. Amarendra Nath Chattopadhyaya : (a) Has the attention of Government been drawn to the Press report of the judgment of Mr. Justice Atkinson, sitting in the Insolvency Jurisdiction of the Rangoon

High Court and published in the *Statesman* (Calcutta edition) of the 24th July, 1936, in which it has been stated as follows ?

“ A man employed by Messrs. Steel Bros. as a clerk was adjudicated an insolvent in 1931 and now applied for discharge and exemption from further payment on the ground that his firm would otherwise dismiss him from service. The judge, while sympathising with the applicant, said he could not grant the request if the making of an appropriation order or indeed the making of an adjudication order was to be regarded, apart from the merits of a particular case, as the signal for an automatic dismissal from employment. The whole object of the Insolvency Law would be frustrated, said the judge, for where the insolvent's resources consisted only of his employment the power to marshall the means of an insolvent in or towards the repayment of his debts was at once removed. Such employers as adopted this practice were (possibly unconsciously) striking a blow at the whole policy of the Insolvency Act and at the community of creditors whose protection was one of its principal objects.”

(b) Is it a fact that the whole policy of the Insolvency Act is frustrated by Government in the Railway Department who have, in the rules regulating discipline and rights of appeal of non-gazetted railway servants issued by the Railway Board in their letter No. E.34/R.G.-6, dated the 22nd June, 1935, to the Agents of State-managed Railways, laid down in rule 6 that a railway servant shall be liable to be dismissed from service for insolvency or habitual indebtedness ?

(c) Is it a fact that there are cases on State-managed Railways in which employees have been dismissed or discharged for having taken the protection of the Insolvency Act ?

(d) Do Government propose to revise their policy in regard to their staff being permitted to enjoy the rights enacted for the benefit of all the citizens under the Crown in India ? If not, will Government please state the reasons why this right has been withheld from the staff employed in the Railway Department ?

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

(b) and (d). There is no difference in this respect between State Railway servants and other Government servants. The rule quoted by the Honourable Member merely enunciates the principle laid down in rule 16 of the Government Servants' Conduct Rules which apply to all Government servants, including State Railway servants.

(c) Government have no information.

CONTINUATION OF THE CUT ON ALLOWANCES OF THE RAILWAY STAFF AT HOWRAH AND CALCUTTA.

50. Mr. Amarendra Nath Chattopadhyaya : With reference to the promised reply to unstarred question No. 605 on the 17th April, 1936, regarding the continuance of the cut on allowances of the railway staff at Howrah and Calcutta, will Government please state whether the privilege of retaining the pay and allowances, enjoyed under the Company's rules, formed one of the conditions under which Government offered employment to the Company men ? If so, will these men be exempted from the operation of the cut on their local allowances enjoyed by them during the time they were under Company employ ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : I am obtaining necessary information from the Railway Administration and will lay it on the table of the House in due course.

PROMOTIONS ON THE EAST INDIAN RAILWAY.

51. Mr. Amarendra Nath Chattopadhyaya : With reference to the reply given in this House to unstarred question No. 189 on the 26th February, 1936, that "merit" as interpreted on the East Indian Railway means "the passing of departmental examinations and also record of service, personality, character and educational qualifications", will Government please state :

- (i) whether the Divisional Superintendent, Howrah, has, in his Circular No. E. G.-50, dated the 25th July, 1932, ruled :
 "that an A. S. M. or A. Y. M. on being promoted to Station Master will be given three months in which to pass the Goods Accounts Examination, if he has not already done so. If he does not pass the next man will be promoted. These orders will also apply to Commercial staff on being promoted to Goods Clerks' posts and to Assistant Station Masters of all grades";
- (ii) whether the instructions referred to in part (i) are still in existence; if not, when they were stopped;
- (iii) whether the Divisional Superintendent in his circular No. E. G.-203, dated the 11th August, 1932, has ordered :
 "referring to paragraph 3 of this office circular letter No. E. G.-50 of 25th July, 1932, it is further intimated that the liability of passing the Goods Accounts Examination for qualifying for promotion also applies to the posts of Assistant Goods Clerk, Inward, and Assistant Goods Clerk, Outward, of Howrah Goods";
- (iv) whether these instructions are in existence; if not, when they were superseded;
- (v) whether the Divisional Superintendent in his circular No. E. G.-50, dated the 11th November, 1931, has stated that it had been decided by the Agent that :
 "similarly promotions as Goods Clerks are also to be made from among those who have passed the Goods Accounts Examination";
- (vi) whether these instructions are still in force; if not, when they were superseded;
- (vii) whether the Divisional Superintendent in his circular No. E. G.-203/32, dated the 5th January, 1932, has ordered :
 "it has since been decided that all Commercial staff whose grade increases were stopped for their not passing in respective commercial examinations are to be granted their annual increase of pay with effect from the 26th November, 1931. They will not, however, be considered fit for promotion to the next higher grade unless they are qualified in their respective commercial examinations"; and
- (viii) whether these instructions are still in force; if not, when they were superseded?

The Honourable Sir Muhammad Zafrullah Khan : Government are informed as follows :

(i), (ii), (iii), (iv), (v), (vi) and (viii). Yes.

(vi) No. They were superseded by the instructions contained in the circular dated the 25th July, 1932.

CONFIDENTIAL REPORTS ON THE WORK OF THE STAFF MAINTAINED IN THE GOVERNMENT OF INDIA OFFICES.

52. Mr. C. N. Muthuranga Mudaliar : Will Government be pleased to state :

- (a) whether Departments of the Government of India and their attached offices maintain confidential reports on the work of the gazetted and non-gazetted staff employed under them, and if so, which are those Departments and offices ;
- (b) the period for which each report is written ;
- (c) in what form the reports are maintained ;
- (d) whether there is any difference between the entries in the reports maintained in the Army Headquarters and those maintained in the Civil Departments and offices, which are required to be filled, and if so, the reason for the difference ;
- (e) whether there is uniformity in the maintenance of the reports in the Departments of the Government of India ;
- (f) whether it is not a fact that in some Departments the reports are so maintained that officers writing their reports for any one year cannot help looking into the reports of previous years ;
- (g) whether it is not a fact that in certain other Departments the arrangement is such that an officer writing his report has no chance of seeing previous entries ;
- (h) why these different arrangements exist ;
- (i) whether it is not a fact that not infrequently it happens that reports are written on a particular year's work in the Departments referred to in part (f) above, not with reference to that year's work only but with reference to previous year's work also ; and
- (j) whether they are prepared to consider the desirability of introducing a uniform method on the lines of that in existence in some Departments referred to in part (g) above ?

The Honourable Sir Henry Craik : (a) As regards the superior staff, I would refer the Honourable Member to the reply I am giving to his next question. As to the rest of the staff, almost all Departments and their attached offices maintain confidential records for their permanent staff.

(b) The reports are usually written once a year.

(c), (d) and (e). The forms used vary in the different offices according to the needs of each Department.

(f) and (g). Yes.

(h) The Government of India have felt no need for strict uniformity in this respect.

(i) The reports are on the work of the particular year. It is scarcely possible for me to say whether any reporting officer takes into account the record of previous years.

(j) The Government do not consider it necessary to prescribe uniformity in this respect.

CONFIDENTIAL REPORTS ON THE WORK OF THE OFFICERS MAINTAINED IN THE GOVERNMENT OF INDIA OFFICES.

53. **Mr. C. N. Muthuranga Mudaliar :** Will Government be pleased to state :

- (a) whether confidential reports are maintained in the case of officers serving in the Secretariat of and above the rank of Assistant Secretary ;
- (b) whether these reports are annual ;
- (c) the designations of officers who report on the work of Assistant Secretaries, Deputy Secretaries, Joint Secretaries and Secretaries ; and
- (d) whether in the case of officers of the Indian Civil Service, reports on their work in the Secretariat are sent to the Local Governments from whom their services were originally obtained ?

The Honourable Sir Henry Craik : (a), (b), (c) and (d). Local Governments are supplied with reports on the work of officers lent to the Government of India and employed in posts below the rank of a Secretary or Additional Secretary on the reversion of these officers to their own provinces. Reports on the work of Assistant Secretaries are made annually. It is generally the Head of a Department who reports on the work of the officers concerned.

BALUCHIS FROM SIND AND BALUCHISTAN IN THE INDIAN ARMY RESERVE OF OFFICERS.

54. **Seth Haji Abdoola Haroon :** (a) Will Government be pleased to state the number and names of Baluchis from Sind and Baluchistan who are in the Indian Army Reserve of Officers at present ?

(b) Are Government aware that Baluchi youths from Sind and Baluchistan, desirous of enlistment as " Y " Cadets, are being discouraged and refused by the military authorities ?

(c) Is there any class or tribe restriction for those who seek a commission in the army ? If not, why are Baluchi youths in Sind and Baluchistan being discouraged in their respective places ?

(d) Are Government prepared to instruct the military authorities of Sind and Baluchistan to take up desirous Baluchi candidates in the various arms stationed there ?

(e) In the interest and convenience of the Baluchi inhabitants of Sind and Baluchistan, are Government prepared to instruct the Sind and Baluchistan Army Headquarters to enlist and encourage Baluchis in all branches of the Army stationed there ?

Mr. G. R. F. Tottenham : (a) From the details furnished by candidates for commissions in the Army in India Reserve of Officers, to which the Honourable Member is presumably referring, it is not possible to determine precisely their class or tribe. But so far as can be ascertained Lieutenants Aliani Jam Mir Khan and Sirdar Nur Ahmad Khan are Baluchis.

(b) to (e). Baluchis were formerly enlisted in the Indian Army, but they were found to be unsuitable : the desertion rate among them was abnormally high, and it was found very difficult to obtain suitable recruits. Their recruitment was, therefore, discontinued in 1925. They are, however, eligible to enter the Indian Military Academy under the same conditions as other classes in India. Government are not prepared to change the existing arrangements.

INELIGIBILITY OF CERTAIN STAFF TO OFFICIATE AS ACCOUNTANTS ON THE EAST INDIAN RAILWAY.

55. **Mr. Amarendra Nath Chattopadhyaya :** With reference to the replies given in this House to unstarred question No. 166 (b) and (c) on the 18th February, 1936, will Government please state :

- (i) from which date the Appendix D examination was brought into effect and through what medium it was brought to the notice of all the men concerned ;
- (ii) in what month and year the Training School for Accountants at Calcutta was started ;
- (iii) whether the 59 men appointed to the Training School were informed at the time of their appointment thereto that it would be necessary for them to pass :
 - (1) the Appendix E examination in order to be eligible to officiate only as Accountants without any prospect of confirmation ; and
 - (2) that they could not be confirmed as Accountants till they passed the Appendix D examination ;
- (iv) the number of vacancies as Accountant or Assistant Superintendents that was proposed to be filled by these men from the Training School ;
- (v) whether it was not the intention of the then Controller of Railway Accounts and the then Financial Commissioner of Railways to fill all Accountants' posts on State-managed Railways held by men who had not passed the Subordinate Railway Audit Service, Part II, examination by the men specially trained for this purpose in the Training School ; and
- (vi) the number of men who passed the Appendix E examinations held in 1929 and 1930 ?

The Honourable Sir Muhammad Zafrullah Khan : (i) The Appendix D examination was introduced in the Railway Accounts Department simultaneously with the permanent separation of Audit from Accounts and the rules, etc., regarding this examination were published in Railway Board's memorandum No. 5565-F., dated the 31st of July 1929.

(ii) In November, 1928.

(iii) I have nothing to add to the replies already given to parts (b) and (c) of question No. 166 referred to by the Honourable Member.

(iv) There was no fixed number of vacancies earmarked for these men. The passed men of the Training School were intended to form a sort of reserve to fill the vacancies as they occurred.

(v) No.

(vi) Nineteen men of the Training School passed the Appendix E examination in 1929 and four in 1930.

INELIGIBILITY OF CERTAIN STAFF TO OFFICIATE AS ACCOUNTANTS ON THE EAST INDIAN RAILWAY.

56. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact :

(i) that several months after the Training School for Accountants at Calcutta was started, 37 posts which were to have been filled by the men under training were surrendered to the Auditor General to be filled by his men and that he had not the requisite number of men with Railway Accounting experience ;

(ii) that it was then decided that only a limited number of men from the Training School were to be declared as qualified in the Appendix E examination ; and

(iii) that a further condition was imposed that the men who passed the Appendix E examination could only officiate as Accountants but could not be confirmed till they had passed the Appendix D examination ?

(b) Will Government please state :

(i) whether the holding of a post in an officiating capacity without any chance of confirmation exists in the cases of other posts in the Accounts Department ;

(ii) whether instructions to this effect were issued by the Financial Commissioner of Railways to the Controller of Railway Accounts and the other gazetted officers ; and

(iii) whether the instructions were conveyed to all the men who were affected by the altered conditions ?

The Honourable Sir Muhammad Zafrullah Khan : (a) (i) No. As I have already pointed out, no posts were reserved for these men.

(ii) No.

(iii) The reason for the imposition of this condition has been explained in the reply to question No. 166 asked by the Honourable Member on the 18th February, 1936.

(b) (i) The Honourable Member is referred to the note below paragraphs 9 and 14 of the Railway Board's Memorandum, No. 5565-F., dated the 31st July, 1929, (a copy of which is available in the Library of the House) according to which certain categories of men are eligible to hold certain posts in an officiating capacity only and their eligibility for

confirmation in these posts depends upon their passing the requisite departmental examinations.

(ii) and (iii). It is not clear to what instructions the Honourable Member refers.

DISCIPLINARY ACTION AGAINST NON-GAZETTED RAILWAY STAFF.

57. **Mr. Amarendra Nath Chattopadhyaya :** (a) Is it a fact that in the Regulations regarding disciplinary action against the non-gazetted staff, including discharge and dismissal, framed by the Railway Board and issued to the Agents of State-managed Railways in June, 1935, provision has been made under Rule 7 (d) that :

(i) " at such an enquiry a definite charge in writing shall be framed and explained to the railway servant in respect of each offence which has not been admitted by him, and the evidence in support of it, as well as his defence, along with any evidence which he may advance in defence, shall be recorded in his presence " ; and

(ii) that provision has also been made under the same rule that :

" provided that for special reasons to be recorded in writing, the officer or the committee of enquiry may refuse to call any witness suggested by the railway servant and may decide that the evidence of any witness should be taken and recorded otherwise than in the presence of the railway servant " ?

(b) If the answers to part (a) be in the affirmative, will Government please state :

(i) whether the ' accused ' railway servant is permitted to record the evidence that is tendered, or whether copies of the same will be supplied to him ;

(ii) whether the ' accused ' railway servant is permitted to cross-examine the witnesses ; if not, why not ;

(iii) whether the special reasons which are to be recorded in the cases of witnesses whose evidence has been recorded in the absence of the ' accused ' railway servant will also be supplied to him ;

(iv) whether there are similar rules in the cases of gazetted officers whose conduct is under investigation ; if not, the reason for this differential treatment ; and

(v) whether any action in the matter will be taken ; if so, what ; if not, why not ?

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

(b) (i) to (iii). I would invite the Honourable Member's attention to rule 7 (c) of the " Rules regulating discipline and rights of appeal of non-gazetted Railway servants " which provides for the grant of all reasonable facilities for the conduct of defence of a railway servant at a departmental enquiry.

(iv) I would invite the Honourable Member's attention to rule 34 of the Railway Services (Classification, Control and Appeal) Rules, a copy of which is in the Library of the House.

(v) Government consider that no action is called for.

EXEMPTION OF THE EAST INDIAN RAILWAY ACCOUNTS DEPARTMENT FROM THE OPERATION OF CERTAIN INSTRUCTIONS.

58. **Mr. Amarendra Nath Chattopadhyaya :** With reference to the reply given in this House to unstarred question No. 1016 on the 18th September, 1933, that there are instructions already in existence laying down that the pay of a Government servant must not be charged against any post other than in which he is working, will Government please state whether the Accounts Department of the East Indian Railway has been exempted from the operation of these orders ?

The Honourable Sir Muhammad Zafrullah Khan : No department is exempted from the operation of these orders.

PROMOTIONS OF THE RELATIVES OF GAZETTED OFFICERS ON THE EAST INDIAN RAILWAY.

59. **Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the reply given in this House to unstarred question No. 67 on the 4th February, 1936, will Government please state what their policy is on State-managed Railways in regard to gazetted officers who have their relatives in the non-gazetted staff serving under them ?

(b) Is it a fact :

(i) that cases have occurred on the East Indian Railway where the relatives of the gazetted officers have received accelerated promotion ; and

(ii) that such methods of promotion are now of common occurrence on the Howrah Division ?

(c) Is it a fact that selection committees are convened in this Division for nominating suitable candidates for non-selection posts ? If so, why was this procedure not observed in the case of nominating an employee to the post of Warehouse Keeper ?

(d) What action do Government propose to take ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No definite policy has been laid down in this matter but it is left to the discretion of the authorities responsible for postings to see that family cliques do not come into being as a result of groups of persons related to each other being posted together.

(b) and (d). Government have no information. The matters referred to are within the competence of the Agent to whom a copy of the question has been sent for information and such action as he may consider necessary.

(c) I would invite the Honourable Member's attention to my reply to part (b) of the Honourable Member's unstarred question No. 241 asked on the 26th February, 1936.

INELIGIBILITY OF CERTAIN STAFF TO OFFICIATE AS ACCOUNTANTS ON THE EAST INDIAN RAILWAY.

60. **Mr. Amarendra Nath Chattopadhyaya :** (a) With reference to the reply given in this House to unstarred question No. 166 on the 18th February, 1936, will Government please state :

- (i) whether the men of the Training School of Accountants at Calcutta who had passed the Appendix E examination and officiated as Accountants for several years had, in the course of their duties, to pass large amounts of money ;
- (ii) how many of the Appendix E passed men have by now passed the Appendix D examination ;
- (iii) how many have appeared for the Appendix D examination and have not qualified ;
- (iv) how many men have not appeared for the Appendix D examination ; and
- (v) whether all the batch of probationary Accountants appointed prior to the starting of the Training School were confirmed as Accountants, Grade II, without passing any qualifying examination and that they are not permitted to officiate as Accountants, Grade I, till they pass the Appendix D examination ?

(b) Do Government propose to treat these Appendix E passed men in the same manner as that in which these unqualified probationary Accountants have been treated ? If not, will Government please state the reasons why ?

The Honourable Sir Muhammad Zafrullah Khan : (a) (i) It is part of the duty of Accountants in the Railway Accounts Department to check bills before they are passed for payment by an officer ; and the Appendix E men who acted as Accountants no doubt checked such bills in the course of their duties.

(ii), (iii) and (iv). Out of the 23 Appendix E passed men of the Training School all have appeared for the Appendix D examination. Sixteen have passed and seven have not passed.

(v) Yes.

(b) No ; because the conditions of service of the two classes of men were different.

NON-CONFIRMATION OF PERSONS OFFICIATING IN HIGHER GRADES IN THE HOWRAH DIVISION OF THE EAST INDIAN RAILWAY.

61. Mr. Amarendra Nath Chattopadhyaya : (a) Is it the policy of Government in the Railway Department that staff employed in the non-gazetted service should be put on to officiate against permanent vacancies for some considerable time and that thereafter the appointment is filled by other than the officiating incumbent on the plea that he is not senior ? If not, what is their policy in this respect ?

(b) Is it a fact that on the East Indian Railway, and in the Howrah Division in particular, staff are put on to officiate, not as a sudden measure in the exigencies of the service, but in the change of arrangements caused by the promotion of the incumbent to a higher post, that is, against a permanent vacancy, but the post is filled by other than the man who had been officiating for some considerable time ?

(c) Is it a fact that the reasons given to the men who have been removed from the officiating jobs are that there are staff with senior claims

who have been promoted and that officiating in a post does not create any claim for consideration at the time for filling up the vacant post ?

(d) Do Government propose to take any action in the matter of those employees of the Howrah Division who have officiated against permanent vacancies in the higher posts and who have been deprived of confirmation in them ? If not, why not ?

(e) Is the same policy observed when filling vacancies in the gazetted service ?

The Honourable Sir Muhammad Zafrullah Khan : I presume the Honourable Member is referring to the East Indian Railway. If so Government are informed as follows :

- (a) to (c). It is sometimes necessary to appoint a person other than the one who would in the normal course be appointed to officiate in a higher post which is temporarily or permanently vacant. Such an arrangement is liable to be reversed at any time and particularly when the vacancy is being filled up permanently.

(d) No.

(e) Yes.

ARCHÆOLOGICAL EXCAVATION BY FOREIGNERS IN INDIA.

62. **Mr. C. N. Muthuranga Mudaliar :** (a) Will Government be pleased to state if they are aware of an article on Archæological excavation in India by foreigners, published in the *Modern Review* in 1934 ?

(b) Is it a fact that antiquities discovered in India by foreign experts are liberally allowed to be taken away from India ?

(c) If the answer to the above be in the affirmative, are Government going to continue this practice any longer ?

(d) Is it a fact, as alleged in the article referred to above, that Italy, Greece, and Turkey, do not allow foreign agencies to excavate in their country ?

(e) Are Government prepared to adopt such a policy in future ?

(f) Even if foreigners are allowed to excavate, do Government propose to see that the antiquities do not leave India as in the case of Greece and Turkey ?

(g) Do Government propose to find out the conditions under which foreign institutions are allowed to excavate in Greece, Egypt, etc. ?

Sir Girja Shankar Bajpai : (a) Yes.

(b) No. Under the rules framed under section 20-B of the Ancient Monuments Preservation Act, 1904, human relics of historical and religious importance and any objects which in the opinion of Government are of national importance remain the property of Government and are retained in India. Of the other antiquities, the licensee is given such portion as is considered to be sufficient in the opinion of Government to recompense him for the expenditure incurred in the course of operations under the licence.

(c) The question does not arise.

(d) and (g). No up-to-date information about these countries is available but enquiries will be made.

(e) and (f). In the opinion of Government the existing provisions adequately safeguard the interests of India.

TRAINING OF INDIANS IN FIELD-WORK IN THE ARCHÆOLOGICAL DEPARTMENT.

63. **Mr. C. N. Muthuranga Mudaliar** : (a) Is it a fact that for some time now no Indian scholar has been getting any training for field-work in the Archæological Department ?

(b) Will not this mean that in future there will be no Indian competent for excavation work ?

(c) Is it the intention of Government that no Indian should get training and do this excavation work in future ?

Sir Girja Shankar Bajpai : (a) I would invite the Honourable Member's attention to the reply given by me to parts (a) and (c) of his unstarred question No. 249 on the 9th March, 1936. Government have since decided to train in excavation work during the next cold weather a scholar to be deputed by an Indian University.

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

PUBLICATION OF THE REPORT OF MR. S. S. MARKHAM, EMPIRE SECRETARY, MUSEUM ASSOCIATION, ON THE MUSEUMS IN INDIA.

64. **Mr. C. N. Muthuranga Mudaliar** : (a) Will Government state whether the official report of Mr. S. S. Markham, Empire Secretary, Museum Association, on the Museums in India has been published ?

(b) Will Government place on the table a copy of the report ?

(c) Is it a fact that most of the museums in India have been condemned in the report ?

(d) Do Government propose to rectify the defects noted therein ?

Sir Girja Shankar Bajpai : (a) No.

(b) to (d). Do not arise.

ARCHÆOLOGICAL INVESTIGATION IN THE CHHOTA NAGPUR DIVISION.

65. **Mr. C. N. Muthuranga Mudaliar** : With reference to the answer to starred question No. 1358 (c), dated the 20th March, 1936, regarding archæological investigation in the Chhota Nagpur Division, did the Superintendent of Archæology examine the antiquities ? What is his report ?

Sir Girja Shankar Bajpai : The report of the Superintendent, Archæological Survey, Central Circle, is still awaited.

PRE-HISTORIC STONE IMPLEMENTS TAKEN TO CAMBRIDGE.

66. **Mr. C. N. Muthuranga Mudaliar** : With reference to the answer to unstarred question No. 251 (d), dated the 9th March, 1936, do

Government propose to insist on the pre-historic stone implements taken to Cambridge, being returned and kept in the Indian Museum ?

Sir Girja Shankar Bajpai : Steps have been taken by Government to secure 50 per cent. of the finds, including stone implements, as India's share of the collections made by the Cambridge-Yale Expedition.

EXCAVATION WORK AT PADAMPUR.

67. **Mr. C. N. Muthuranga Mudaliar :** (a) With reference to answer to part (b) of starred question No. 803, dated the 25th February, 1936, regarding excavation work at Padampur, will Government state whether the report of the officer concerned has been obtained ?

(b) Will Government lay on the table a copy of the report ?

(c) What action do Government propose to take ?

Sir Girja Shankar Bajpai : I regret that owing to his other pre-occupations the officer did not find it possible to visit Padampur last cold weather, but expects to do so shortly. The action to be taken will be considered when his report is received.

CENSORING OF LETTERS ADDRESSED TO MEMBERS OF THE LEGISLATIVE ASSEMBLY.

68. **Mr. C. N. Muthuranga Mudaliar :** (a) Is it a fact that letters addressed to the Honourable Members of this Legislature are being censored ?

(b) Is it a fact that even after censoring, letters are sometime not delivered to the addressees ?

(c) Is it a fact that letters addressed to me from Madras during the last Delhi Session were censored and not delivered to me ?

(d) Are Government prepared to make enquiries and order the delivery of the letter or letters ?

The Honourable Sir Henry Craik : (a), (b) and (d). I would refer the Honourable Member to the answer given by me on the 25th March, 1935, to Pandit Govind Ballabh's question No. 965.

(c) I am not aware of this.

COLLECTION AND PRESERVATION OF ANCIENT INDIAN MANUSCRIPTS.

69. **Mr. C. N. Muthuranga Mudaliar :** (a) Is it a fact that in the past the Archaeological Survey has been collecting and preserving ancient Indian manuscripts in the same way as the epigraphic material ?

(b) If so when, at what stage, and for what reasons, was this discontinued ?

(c) Is it not a fact that old manuscripts are as important, if not more so, for the proper elucidation of Indian history, culture, languages, thought, etc. ?

(d) Are Government prepared to start afresh a manuscript survey, on the model of the Archaeological Survey, with a centre in each of the

major Provinces and go on vigorously with their collections and preservation ?

Sir Girja Shankar Bajpai : (a) The Archæological Survey have collected a few manuscripts but have not undertaken this work as a part of their regular duties.

(b) The question does not arise.

(c) Some old manuscripts are no doubt important for the elucidation of history.

(d) As explained in (a) the Government of India have never collected manuscripts as a regular activity. Some of the Provincial Governments, Indian States and Research institutions, etc., maintain special Departments or establishments for the collection of old manuscripts and Government are content to leave this work to them.

ALLOTMENT FOR CIVIL AVIATION IN THE BUDGETS.

70. **Mr. C. N. Muthuranga Mudaliar :** (a) What is the allotment for civil aviation in the budgets for the past two years, and what is the estimate for 1936-37 ?

(b) What percentage of the total revenue does this form ?

(c) What proportion do the civil aviation budgets bear to the total revenue in Britain and America ?

The Honourable Sir Frank Noyce : (a) A statement showing the allotments for Civil Aviation in the budgets for the years 1934-35 and 1935-36 and the estimate for the year 1936-37 is laid on the table.

(b) From the figures given in the statement referred to above and in the budget papers, which were circulated to Members of the Legislature, the Honourable Member will find no difficulty in calculating the percentages he requires.

(c) Government have no information.

Statement showing the Allotment for Civil Aviation in the Budgets for the Years 1934-35 and 1935-36 and the Estimate for the Year 1936-37.

			Lakhs.
			Rs.
Allotment for the year 1934-35	..	..	14.4
Allotment for the year 1935-36	..	..	17.6
Estimate for the year 1936-37	..	..	23.8

*These figures do not include the allotments made from the special fund of Rs. 92.57 lakhs created out of the revenue surplus of the year 1934-35 for the development of civil aviation in India. The allotment made from that fund are as follows :

			Lakhs.
			Rs.
Allotment for the year 1934-35	..	..	0.7
Allotment for the year 1935-36	..	..	16.4
Estimate for the year 1936-37	..	..	48.3

INAUGURATION OF DIRECT WIRELESS BEAM SERVICE BETWEEN INDIA AND JAPAN.

71. Mr. C. N. Muthuranga Mudaliar : (a) When was the direct Wireless Beam Service between India and Japan inaugurated ? By whom is this service worked ?

(b) Are they working at a profit or loss ?

(c) Why did not Government take it up in view of the deficit of the Telegraphic Department (*vide* Administration Report of Posts and Telegraphs Department) ?

(d) Is it not a fact that no foreign traffic is handled by Indian Posts and Telegraphs Department ?

(e) Is it not a fact that foreign traffic is more paying than inland traffic ?

(f) What is the policy of Government in not taking up the responsibility of working a paying department like this ?

The Honourable Sir Frank Noyce : (a) 11th January, 1933. The Indian Radio and Cable Communications Company, Limited.

(b) The Company is working at a profit on its services taken as a whole.

(c) The Indo-Japanese Service by itself could not be worked at a profit.

(d) No.

(e) Not necessarily and not in every case.

(f) Does not arise in view of the reply to (c).

APPOINTMENT OF A FOREIGN EXPERT TO ADVISE GOVERNMENT ON BROADCASTING.

72. Mr. C. N. Muthuranga Mudaliar : (a) What are the scientific and technical qualifications of the officers in the Wireless Department and their salaries ?

(b) Is it a fact that a technical adviser from the British Broadcasting Corporation has been brought down to advise the Government of India on Indian broadcasting ? If so, why ?

(c) Did Government try to get schemes worked out by qualified radio engineers in India ?

(d) Is the appointment of a foreign expert a confession of the inefficiency of the Wireless Department ?

(e) In view of the rapid strides that wireless science is taking in modern times, what steps are being taken to keep the Department up to date with a view to working it at maximum efficiency ?

The Honourable Sir Frank Noyce : (a) A statement is attached.

(b), (c) and (d). An adviser from the British Broadcasting Corporation was sent to the Government of India to report on the development of Broadcasting. The provision of Broadcasting Stations is a specialist

subject outside the scope of the Wireless Branch of the Posts and Telegraphs Department which exists to provide wireless telegraph and telephone services required for its commercial activities. The Government of India considered it advisable to obtain the advice of an expert from a Corporation with extensive recent experience of broadcasting development and this action involved no reflection whatever on the efficiency of the Wireless Branch of the Indian Posts and Telegraphs Department.

(e) Study leave is granted periodically. Officers also keep themselves up-to-date by reading books and scientific journals.

Statement of Scientific and Technical Qualifications and Salaries of Officers of the Superior Wireless Branch.

- Deputy Director-General, Wireless. Salary Rs. 2,150 plus overseas pay £13-6-8 and special pay Rs. 175. M.A., B.Sc. (Oxford University).
- One Divisional Engineer, Wireless. Salary Rs. 1,275 plus overseas pay £30 per mensem. M.A. (Cambridge University).
- One Divisional Engineer, Wireless. Salary Rs. 1,175 plus overseas pay £30. Member of the Institute of Radio Engineers.
- One Divisional Engineer, Wireless. Salary Rs. 1,025 per mensem. B.A., B.Sc. (Calcutta), with honours in Physics. B.Sc. (Tech.), Victoria University, Manchester.
- One Assistant Director of Wireless. Salary Rs. 975 plus overseas pay £30. Employed in the British Post Office before the War. Served in Wireless Units of the Royal Engineers during the War.
- One Assistant Divisional Engineer, Wireless. Salary Rs. 725 per mensem. Bachelor of Engineering, Mysore University, followed by 4 years at the Indian Institute of Science, Bangalore.

WIRELESS VALVES AND OTHER COMPONENTS.

73. Mr. C. N. Muthuranga Mudaliar : (a) Is it not a fact that wireless valves and other components, which form the very soul of the wireless, used by the Wireless Department are entirely obsolete ?

(b) Is it a fact that all contracts from the Department are the monopoly of one or the other of two British firms ?

(c) Have Government ever called for tenders for these articles from America and other countries in Europe ?

(d) Is it not a fact that American products are very much cheaper and more efficient ?

(e) Will Government place on the table of the House a list of transmitters and the receivers with their components with type numbers, cost, makes and nature of the valves used by the Department ?

(f) Are they prepared to collect similar facts from important American and European stations, other than British ?

(g) What are the stations outside Britain which use British valves ?

(h) Are Government aware of the impression that Government are enthusiastic about wireless in India just to find a market for the obsolete goods manufactured in Britain for which there is no other market in the world ?

(i) Before they give large tenders to foreign companies, including even British, are Government prepared to insist upon their training suitable Indians, so that all the wireless goods may be manufactured in India ?

(j) Why did Government shelve the report submitted by technical expert appointed by the Madras Government at a cost of Rs. 50,000, in the matter of broadcasting in the Madras Presidency ?

(k) In view of the experiences of the Madras Government since the appointment of the previous expert by them, why did not Government consult them or call for schemes from local experts ?

The Honourable Sir Frank Noyce : (a) and (b). No.

(c) Tenders are called for from all competing organisations which are in a position to quote usefully.

(d) Not always.

(e) Government regret that they are unable to furnish the information as its collection would involve an undue expenditure of time and labour.

(f) No.

(g) Government have no information.

(h) Government have no reason to believe that such an impression exists or that there are any grounds for entertaining any such impression.

(i) No difficulty has been experienced in the past in obtaining facilities for training Indians when necessary.

(j) The report was neither called for, nor made to the Government of India, and therefore no question of their shelving it arises.

(k) The Government of Madras were obviously not in a position to advise on a scheme for the development of broadcasting throughout India, nor were local experts-available for the purpose.

GOVERNMENT PENSIONERS.

74. Mr. N. M. Joshi : Will Government be pleased to state :

(a) the total number of Government pensioners on 1st April, 1936, under the following categories :

(i) superior services of the Central Government ;

(ii) subordinate superior services of the Central Government ; and

(iii) inferior services of the Central Government ?

(b) the total number of Government servants on 1st April, 1936, under the following categories :

- (i) superior services of the Central Government ;
 - (ii) subordinate superior services of the Central Government ; and
 - (iii) inferior services of the Central Government ;
- (c) the number of Government pensioners as per categories in part (a) above further sub-divided as follows :
- (i) in receipt of pension for less than one year ;
 - (ii) in receipt of pension for more than a year but less than two years ;
 - (iii) in receipt of pension for more than two years but less than three years ;
 - (iv) in receipt of pension for more than three years but less than four years ;
 - (v) in receipt of pension for more than four years but less than five years ;
 - (vi) in receipt of pension for more than five years but less than ten years ; and
 - (vii) in receipt of pension for more than ten years ;
- (d) (i) the number of Government servants as per categories in part (b) above who retired on pension during the last five years—year by year ; and
- (ii) the total number of Government servants as per categories in part (c) above who died while in service during the last five years—with the average length of their service ?

The Honourable Sir James Grigg : The information asked for by the Honourable Member is not readily available and cannot be compiled without an excessive expenditure of time and labour which would not be justified.

NON-INCLUSION OF PATNA AND NAGPUR IN THE LIST OF CENTRES FOR EXAMINATIONS FOR APPOINTMENT TO PUBLIC SERVICES.

75. **Babu Kailash Behari Lal :** Will Government be pleased to say :

- (a) if the centres of examination for appointment to public services as published in the official *Gazette of Bihar*, Part IX, page 557 of the 3rd June, 1936, under the authority of the Secretary to the Public Service Commission, has been fixed for the present year only ;
- (b) if so, why important Provincial capitals, like Patna and Nagpur, have not been included among the centres ; and

- (c) if they propose to include them as centres of examination in future ?

The Honourable Sir Henry Craik : (a), (b) and (c). The notice of the ensuing ministerial service examination, to which the Honourable Member presumably refers, relates to the present year. It is the function of the Public Service Commission to determine the centres at which the examination should be held and to make all other arrangements. If additional centres were fixed as suggested by the Honourable Member, the risk of a leakage of the examination papers and the expense of holding the examination would both be greatly increased.

ALLEGED NEGLECT OF ROAD DEVELOPMENT SCHEMES IN BIHAR.

76. Babu Kailash Behari Lal : Will Government be pleased to state :

- (a) what powers of interference they have got in case of laches in the performance of duties by a Provincial Government ;
- (b) if they have any power under the present constitution to supersede or take over the particular department of administration of a Provincial Government in case any Provincial Government fails to administer that particular department efficiently and satisfactorily ;
- (c) if it is not a fact that the particular department of works of Road Development forms a part of the transferred subject of the Minister of Local Self Government ;
- (d) if they are aware that the Government of Bihar in the Ministry of Local Self-Government has not been able to spend satisfactorily the Road Account Fund allotted to the share of Bihar ;
- (e) if it is not a fact that the Government of Bihar in the Ministry of Local Self-Government has failed to submit any report in time regarding its programme and progress of works in respect of road development schemes ; and
- (f) if the answers to parts (c), (d) and (e) be in the affirmative whether they propose to take any action, in the matter ?

The Honourable Sir Frank Noyce : (a) and (b). I would refer the Honourable Member to section 45 of the Government of India Act, 1919, and the rules framed under section 45A of that Act.

- (c) Not in every Province.

(d) and (e). There is an unspent balance of about Rs. 7 lakhs in the share of the Government of Bihar in the Road Fund allotted to date. This balance and the delay in the preparation of a programme of works to be financed from it have been mainly due to the Local Government's preoccupation with the heavy programme of reconstruction necessitated by the earthquake, and to the difficulty in finding suitable additional staff to cope with the increase in work. It is however understood that the Local

Government propose to place an officer on special duty to work out a programme and hope to have the details ready before the end of the financial year.

(f) The Government of India propose to bring before the House during the current Session a revised Resolution on Roads which when passed will ensure prompt expenditure of provincial shares in the Road Fund.

CERTAIN CLERKS OF THE ADJUTANT GENERAL'S BRANCH ON DEPUTATION.

77. **Pandit Sri Krishna Dutta Paliwal :** (a) Is it a fact that the maximum limit of deputation period for a Government servant is only three years. If so, will Government please state the rules under which several clerks of the Adjutant General's Branch are on deputation for the last seven years to the Central Revision Section, Defence Department, and whether the special sanction of the Finance and Home Departments was taken to this effect ? If so, when ?

(b) Can the deputation period be indefinite ? If not, why was no action taken to revert those men or to confirm them in the Defence Department ?

(c) Is it a fact that the post of the Director, Regulations and Forms, is permanent since 1930 ? If so, why is the staff of the Central Revision Section, Defence Department, on deputation, and the Section on trial for the last seven years ?

(d) When is the trial period likely to be over ?

(e) Why is not the Director, Regulations and Forms, like the staff, kept on deputation ?

Mr. G. R. F. Tottenham : (a) to (e). The clerks concerned are not on deputation. The rest of the question does not, therefore, arise.

DEPARTMENTAL EXAMINATION HELD IN 1922 FOR THE GOVERNMENT OF INDIA OFFICES.

78. **Pandit Sri Krishna Dutta Paliwal :** (a) Will Government please state the number of minimum qualifying marks which were required in the qualifying examination held in 1922, both in the case of outside and departmental candidates, for the First Division, attached offices, and Lower Division, Secretariat ?

(b) Will Government please place on the table of the House a copy of the result of the Departmental Examination for 1922 ? If not, how and from where can it be obtained ?

The Honourable Sir Henry Craik : (a) and (b). The results of the external candidates, who appeared at the ministerial service examination held by the late Staff Selection Board in 1922, were published in the Home Department Notification No. F. 1215-Public, dated the 23rd

December, 1922, and will be found in the Supplement to the Gazette of India, dated the 30th December, 1922. It is regretted that no further information can be supplied.

ILLICIT TRAVELLING ON STATE RAILWAYS.

79. **Qazi Muhammad Ahmad Kazmi :** (a) With reference to the illicit travelling on State Railways in India, will Government be pleased to state if various State Railways maintained a complete record on the subject ? If not, why not ?

(b) On what definite data has it been presumed that sections 112 and 113 of the Railways Act have not been sufficient to act as a deterrent on ticketless travellers ?

(c) Will Government be pleased to lay on the table of this House the following information for each of the State Railways in India, separately in respect of the Ticket Collectors and Travelling Ticket Checkers, annually, for the years 1924 to 1935 :

- (i) number of staff employed ;
- (ii) expenditure incurred on them ;
- (iii) annual recoveries, cash and credit in respect of those detected for (showing fare and penalty separately) :
 - (1) travelling without ticket ;
 - (2) travelling in higher class than the one for which ticket was held ;
 - (3) travelling beyond destination ;
 - (4) children over three years without ticket ;
 - (5) grown up men travelling on children's tickets ;
 - (6) travelling by prohibited trains ;
 - (7) travelling on expired date or wrong tickets ;
 - (8) travelling with luggage not booked at the starting station ;
 - (9) travelling with luggage more than the booked one ; and
 - (10) cases in which no penalty was recovered, i.e., changed to upper class, issued to those unable to buy a ticket from Booking Office, etc., etc. ?

(d) Will Government please state :

- (i) how many persons were prosecuted under section 112 of the Railways Act ;

- (ii) how many were let off and how many were convicted ;
 - (iii) the amount of the fare recovered ;
 - (iv) the amount of fine imposed ; and
 - (v) how many persons were sent to jail due to the non-payment of fine ?
- (e) Will Government please state :
- (i) how many persons were prosecuted under section 113 of the Railways Act ;
 - (ii) how many out of them were produced before Magistrates ;
 - (iii) how many were let off by the Railway staff after recording their names and addresses ;
 - (iv) how many were let off by the Railway Police on personal bonds ;
 - (v) the total amount involved in respect of those prosecuted under section 113 ;
 - (vi) how much amount was recovered ; and
 - (vii) how many persons could not be found due to wrong names and addresses having been given to the Railway Police ?

(f) Are Government aware that the Railway Police generally refuse to take over and produce before Magistrates such ticketless passengers, and they are let off by the Railway staff ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Each Railway Administration has been maintaining records in varying detail according to the nature of the information required by it from time to time.

(b) I would refer the Honourable Member to the Railway Board's memorandum No. 1979-T., dated the 4th February, 1936, published in the proceedings of the meeting of the Central Advisory Council for Railways held in February and March, 1936.

(c) (i) and (ii). The compilation of this information will involve a considerable amount of labour not commensurate with any use to which it could be put.

(c) (iii), (d) and (e). I am placing on the table statements giving such information for the years 1928 to 1934 as it has been practicable to compile from the records available. Similar figures for the years prior to 1928 are not available.

(f) Government have not received any complaints to this effect.

Statement relating to passengers found travelling without proper tickets on State Railways.
1928.

Railways.	Total number of passengers found travelling without tickets.	Number of passengers who paid excess fares and penalty on detection.	Details of action taken under Indian Railways Act.									
			Under Section 112.					Under Section 113.				
			Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.	Let off.	Fares and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.
A. B.	51,023	..	29	11	29	84	153	953	6,819	17	3,638	11,427
B. N.	77,445½	..	102	4	321	218	645	811½	151½	268	1,955½	3,186½
B. & N. W.	294,794½	..	583	228½	456	48	1,315½	6,788	1,542½	6	87	8,427½
B. B. & C. I.	255,903	..	4	..	135	15	153	2	..	25	..	27
Burma	237,041	..	270	442	639	640	1,991	189	504	245	215	1,153
E. B.	53,767	..	37	22	142	92	293	994	589	64	542	7,068
E. I.	86,702	..	122	897	3,264	468½	4,681½	1,446½	3,346½	..	4,379	9,172
G. I. P.	408,685	..	14	33	297	41	385	46	1,172½	141	41½	1,401
M. & S. M.	65,436	..	648	177	257	124	1,206	140	3,034	12	56	3,242
N. W.	593,584	..	2,987	..	3,467	..	6,454	3,524	..	2,042	..	5,566
R. & K.	34,921	..	..	..	..	..	..	115	38	..	252	405
S. I.	137,902	..	..	..	649	..	649	..	..	566	..	566

Statement relating to passengers found travelling without proper tickets on State Railways.
1935.

Details of action taken under Indian Railways Act.												
Railways	Total number of passengers found travelling without tickets.	Number of passengers who paid excess fares and penalty on detection.	Under Section 112.					Under Section 113.				
			Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending Courts.	Total.	Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending Courts.	
												Total.
A. B.	61,900	..	20	48	17	54	139	1,850	7,987	23	4,490	14,330
B. N.	73,911	..	206	1,606½	231	313	2,358½	842	2,300	528	2,911½	6,581½
B. & N. W.	377,014	..	1,789	294	379	2,035½	4,497½	1,123½	187½	15	1,449	2,775
B. B. & C. I.	284,334	..	1	..	97	42	140	6	..	28	..	34
Burma	219,631	..	410	436	508	257	1,611	239	769	325	171	1,500
E. B.	168,641	..	46	165	427	107	471	986	1,169	817	2,953	6,925
E. I.	67,838½	..	109	1,180	1,223	520	2,982	120½	4,338½	51	3,393	8,111
G. I. P.	348,400	..	20	261	207	42	369	107	983	13	60	1,168
M. & S. M.	46,402	..	106	320	106	154	686	96	2,549	106	74	2,825
N. W.	645,022	..	..	..	4,004½	..	8,332½	..	..	1,344½	..	5,376*
R. & K.	34,193	..	..	..	1	..	1	301	144	..	426	871
S. I.	221,580	..	39	4	64	..	107	601	377	..	533	1,411

* Full details to agree with the total not furnished.

Statement relating to passengers found travelling without proper tickets on State Railways.
1930.

Railways.	Total number of passengers found travelling without tickets.	Number of passengers who paid excess fares and penalty on detection.	Details of action taken under Indian Railways Act.									
			Under Section 112.					Under Section 113.				
			Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.	Let off.	Fares and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.
A. B.	61,445		39	42	16	217	314	2,091	4,991	27	5,206	12,315
B. N.	70,444†		82	980†	261	288	1,517†	1,372†	3,589	249†	3,924†	9,141
B. & N. W.	366,048†		1,546†	206	192†	3,025†	4,969†	1,983†	347†	20	4,110†	6,461†
B. B. and C. I.	587,423		1		68	..	69			68*	..	71
Burma	224,483		99	1,551	598	159	2,407	244	2,834	308	249	3,635
E. B.	186,688		67	70	367	158	662	1,646	1,333	416	5,846	9,145
E. I.	58,170†		16	527†	138	494†	1,176	28	3,609†	4	4,353	8,024†
G. I. P.	270,395†		48	260	79	34	421	103	1,341†	1	92	1,537†
M. & S. M.	57,432		179	212	236	332	959	137	276	62	125	600
N. W.	545,276†		†	†	3,068	†	7,866†	†	†	1,036†	†	6,126†
R. & K.	29,561				..			182	128		308	618
S. I.	217,809		166	46		160	226	787	561		868	2,216

* 3 absconded.

† Details not furnished.

Statement relating to passengers found travelling without proper tickets on State Railways.
1931.

Details of action taken under Indian Railways Act.												
Railways.	Total number of passengers found travelling without tickets.	Number of passengers who paid excess fares and penalty on detection.	Under Section 112.					Under Section 113.				
			Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.	Let off.	Fares and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.
A. B.	52,656	..	127	103	12	391	634	2,753	6,582	167	9,594	19,096
B. N.	78,364	..	67	1,457	741	332	2,697	7,268	4,713	365	8,003	20,349
B. & N. W.	344,106½	..	4,652	312½	29	5,379½	10,373	3,541	328	44	9,152½	13,065½
B. B. & C. I.	264,031	..	..	..	111	..	111	..	..	72	..	72
Burma	226,220	..	180	401	585	183	1,341	331	897	419	254	1,901
E. B.	195,387	..	99	101	380	356	945	2,528	492	1,160	11,042	15,212
E. I.	99,491½	..	299	1,195½	158½	1,109	2,762	3,721	16,869	315	23,651½	44,457
G. I. P.	271,403	..	340	1,026	257	70	1,688	256	2,365½	26	378	2,980½
M. & S. M.	63,528	..	434	430	330	187	1,381	429	816	54	209	1,498
N. W.	432,190	..	1,335	856	3,071½	273	5,535½	2,632½	888	1,569	816	5,895½
R. & K.	27,843	..	..	..	..	..	..	590	410	..	466	1,466
S. I.	181,084	..	73	63	2	21	159	2,115	1,343	..	2,530	5,988

Statement relating to passengers found travelling without proper tickets in State Railways.

1932.

Details of action taken under Indian Railways Act.												
Railways.	Total number of passengers found travelling without tickets.	Number of passengers who paid excess fares and penalty on detection.	Under Section 112.					Under Section 113.				
			Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.	Let off.	Fares and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.
A. B.	160,302		80	164	13	169	426	4,778	6,905	15	8,073	19,771
B. N.	66,840½		68	849	92	217	1,226	1,824	7,003½	106	6,435	15,368½
B. & N. W.	352,357		6,007½	609	75	3,005½	9,697	6,605	737½	12	8,404½	15,759
B. B. & C. I.	279,859		1	..	196	..	197	2	..	68	..	70
Burma	230,724		288	508	616	269	1,681	668	1,522	474	339	3,003
E. B.	251,900	..	499	384	1,540	552	2,975	3,244	1,142	261	11,316	15,963
E. I.	181,918½	149,514	927½	1,933	544	923	4,327½	2,891	11,936½	256	12,501½	27,585
G. I. P.	331,717½	..	174	938½	1,347	18	2,477½	85	1,802½	4	33½	1,924
M. & S. M.	48,390		265	326	157	150	898	487	483	57	190	1,217
N. W.	476,057		11,512½	1,298	7,301	934½	10,945	2,589½	1,724	3,667½	2,760½	10,731½
R. & K.	29,908	..	..	..	..	..	..	634	284	..	493	1,411
S. I.	173,904	..	13	38	1	14	66	2,109	1,377	..	1,707	5,253

Statement relating to passengers found travelling without proper tickets on State Railways.

1933.

Details of action taken under Indian Railways Act.												
Railways.	Total number of passengers found travelling without tickets.	Number of passengers who paid excess fares and penalty on detection.	Under Section 112.					Under Section 113.				
			Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.	Let off.	Fares and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.
A. B.	48,344	31,170	79	189	5	229	402	2,419	4,931	15	7,665	15,030
B. N.	71,058	..	104	873	32	260	1,329	3,971½	10,043½	111	7,994	21,120
B. & N. W.	320,653	296,894½	3,059	4,47½	235	5,383	9,125	2,413	467½	84	11,562½	14,527
B. B. & C. I.	808,200½	276,529½	4	98	31	..	133	..	69	..	..	69
Burma	235,980	238,878	247	411	650	495	1,803	483	895	285	600	2,263
E. B.	269,328	Not available.	847	123	2,667	728	3,765	2,944	2,164	333	19,870	16,311
E. I.	143,626½	160,462½	180	1,805½	325	612	3,733	3,094	19,419½	499	15,883	38,895½
G. I. P.	307,662	204,750	42	485	1,112	31	1,670	80	1,376	36	184	1,676
M. & S. M. ..	49,345	45,119	389	388	434	106	1,317	507	539	101	247	1,394
N. W.	337,981½	312,261½	965	1,047	4,630	1,620	8,312	2,770½	1,603	3,576½	1,677	9,227
R. & K.	30,050	23,004	..	..	..	..	..	683	438	..	599	1,720
S. I.	162,697	Not available.	2	21	11	14	48	1,203	982	..	385	2,570

Statement relating to passengers found travelling without proper tickets on State Railways.

1934.

Details of action taken under Indian Railways Act.												
Railways.	Total number of passengers found trespassing without tickets.	Number of passengers who paid excess fares and penalty on detection.	Under Section 112.						Under Section 113.			
			Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending in Courts.	Total.	Let off.	Fares and penalty recovered.	Punishment inflicted.	Pending Courts. in	Total.
A. B.	45,659	30,546	70	18	8	120	216	2,531	1,478	13	8,382	12,404
B. N.	84,920	21,610	85	125	757	192	1,159	1,537	760	32	6,051	8,380
B. & N. W.	318,118½	292,100½	4,150	573½	138	7,508½	12,370	5,330	1,059½	50	7,186½	13,926
B. B. & C. I.	749,308	262,187½	5	121	76	..	2(2	2	88	..	..	91
Burma	192,372	188,233	154	653	542	478	1,827	412	1,161	157	516	2,246
E. B.	226,427	73,345	63	63	1,636	220	1,982	3,234	2,226	629	14,835	20,024
E. I.	144,052	103,166	599	1,836	3,693	1,292	7,576	3,739	12,394	277	15,252	32,999
G. I. P.	257,839	189,265	108	407	1,532	46	2,093	407	777	28	86	988
M. & S. M. ...	41,264	36,366	444	281	531	124	1,380	738	638	53	405	1,534
N. W.	238,026	310,119	429	673	2,826	1,987	5,915	1,162	1,072	2,230	1,498	5,967
R. & K.	32,231	30,528	..	..	..	..	..	410	311	..	282	983
R. I.	162,649	107,991	18	182	129	6	335	1,220	1,032	..	368	2,020

INCOME AND EXPENDITURE OF EACH CANTONMENT.

80. **Seth Govind Das** : Will Government be pleased to lay on the table of this House a statement showing the annual income and expenditure in the case of each cantonment ?

Mr. G. R. F. Tottenham : I lay on the table a statement showing the required information in respect of the year 1934-35.

Statement.

Cantonments.	*Income Actual— 1934-35.	Expenditure Actual— 1934-35.	*Excluding the grants-in-aid received from the Government of India.
1	2	3	4
NORTHERN COMMAND.	Rs.	Rs.	
Abbottabad ..	53,968	40,582	Based on the actuals for the second half of the year.
Ambala ..	2,81,936	2,60,038	
Amritsar ..	15,327	36,727	
Bakloh ..	13,510	12,292	
Bannu ..	42,928	41,313	
Cherat ..	19,618	17,414	
Campbellpore ..	9,929	21,241	
Dagshai ..	23,833	21,709	
Dalhousie ..	23,938	20,343	
Dharamsala ..	4,945	5,751	
D. I. Khan ..	20,792	24,677	
Ferozepore ..	1,63,864	1,65,235	
Jhelum ..	54,927	56,804	
Jullundur ..	1,10,536	1,08,891	
Jutogh ..	9,749	9,560	
Kasauli ..	57,688	60,078	
Kohat ..	66,612	51,627	
Lahore ..	2,41,834	2,33,466	
Mardan ..	24,824	25,765	
Murree Galis ..	29,928	28,705	
Murree Hills ..	69,133	66,499	

Cantonments.	*Income Actual— 1934-35.	Expenditure Actual— 1934-35.	*Excluding the grants-in-aid received from the Government of India.
1	2	3	4
Multan	1,01,648	91,194	
Nowshera	2,06,965	1,88,636	
Peshawar	3,02,225	2,86,713	
Risalpur	62,120	73,819	
Rawalpindi	4,66,231	4,30,355	
Sialkot	1,12,877	1,23,257	
Subathu	13,956	18,134	
WESTERN COMMAND.			
Drigh Road	20,691	27,923	
Hyderabad (Sind)	85,623	94,398	
Karachi	71,404	54,109	
Loralai	17,267	17,037	
Manora	8,569	9,561	
Quetta	3,75,749	3,35,014	
EASTERN COMMAND.			
Agra	1,62,824	1,67,176	
Allahabad	1,19,815	1,24,112	
Almora	7,809	9,868	
Barrackpore	1,13,645	1,20,986	
Bareilly	1,01,349	95,089	
Benares	36,434	34,845	
Cawnpore	1,85,342	1,81,831	
Chakrata	73,688	71,855	
Dehra Dun	34,397	37,524	
Dinapore	60,541	67,293	
Fatehgarh	12,056	13,220	
Fyzabad	38,239	36,445	
Jalapaahar	10,560	16,190	

Cantonments.	*Income Actual— 1934-35.	Expenditure Actual— 1934-35.	*Excluding the grants-in-aid received from the Government of India.
1	2	3	4
EASTERN COMMAND— <i>contd.</i>			
	Rs.	Rs.	
Jhansi ..	75,533	69,901	
Landour ..	30,002	29,327	
Lansdowne ..	48,787	49,390	
Lebong ..	11,222	17,802	
Lucknow ..	1,89,818	1,67,934	
Meerut ..	3,08,365	2,99,765	
Muttra ..	19,597	23,427	
Naini Tal ..	20,381	32,002	
New Delhi ..	79,126	82,821	
Ranikhet ..	1,19,797	1,21,119	
Roorkee ..	21,268	18,702	
Shahjahanpur ..	20,056	19,836	
Shillong ..	37,631	30,147	
Sitapur	15,612	13,481	
BURMA (INDEPENDENT) DISTRICT.			
Mandalay ..	62,378	64,713	
Maymyo ..	33,853	36,225	
Mingaladon ..	42,616	69,635	
Rangoon	41,990	38,780	
SOUTHERN COMMAND.			
Ahmedabad ..	34,624	32,337	
Ahmednagar ..	1,06,659	1,15,863	
Aurangabad ..	1,05,289	1,23,668	
Baroda ..	20,573	24,965	
Belgaum ..	71,227	97,073	
Deolali ..	98,946	95,836	
Jubbulpore	1,43,285	1,57,565	
Kamptee ..	45,834*	45,644*	* Revised figures.

Cantonments.	*Income Actual— 1934-35.	Expenditure Actual— 1934-35.	*Excluding the grants-in-aid received from the Government of India.
1	2	3	4
	Rs.	Rs.	
Kirkee	92,206	92,160	* Revised Esti- mates.
Mhow	2,26,391	2,19,985	
Nasirabad	1,03,511	1,04,896	
Neemuch	54,524	47,215	
Pachmarhi	25,420*	27,723*	
Poona	4,22,767	3,84,173	
Saugor	52,096	54,635	
Secunderabad	8,33,036	9,70,680	
St. Thomas Mount and Pallavaram ..	48,761	50,930	
Wellington	70,142	70,673	

INCOME AND EXPENDITURE OF EACH CANTONMENT.

81. **Seth Govind Das :** Will Government be pleased to lay on the table a statement showing in the case of each cantonment :

- the annual income from taxation imposed upon and realised from civil population as also from troops stationed there ;
- the annual income from land, property, etc., now entrusted to the management of the Military Estates Officers in each cantonment ;
- the annual income from land, property, etc., now placed under the management of each Cantonment Authority ;
- the annual expenditure on civil population conservancy and on troops' conservancy in each cantonment ;
- the annual expenditure on roads and lighting in Sadar Bazars and military areas in each cantonment ;
- the annual expenditure on education and medical relief in each cantonment ; which of the cantonments have schools owned by the Cantonment Authority and the standard of education obtaining therein ;
- the annual receipts from patients in each cantonment hospital and the percentage of the same given away to the Medical Officers and the percentage retained by the Cantonment Authority ?

Mr. G. E. F. Tottenham : A full answer to this question would involve the preparation of 83 statements of seven parts each containing

the information required for all cantonments in India and Burma. The time and labour involved in compiling such statements would be incommensurate with the value of the result.

I can, however, give the Honourable Member the following information :

- (i) The income from land in all cantonments in India and Burma entrusted to the management of Military Estates Officers during the year 1935-36 was approximately Rs. 2,75,000.
- (ii) The income of cantonment authorities from land placed under their management by Government in all cantonments in India and Burma during the year 1935-36 was approximately Rs. 3,18,000.
- (iii) The actual amount paid from the Defence Services Estimates to cantonment authorities on account of conservancy services rendered to the troops during the year 1935-36 was Rs. 7,41,482-5-10.

SHORT NOTICE QUESTION AND ANSWER.

SPEECHES MADE BY MEMBERS OF GOVERNMENT AGAINST THE ACCEPTED POLICY OF GOVERNMENT.

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

- (a) whether Government have considered or propose to consider the question of Members of Government making public speeches against the accepted policy of Government ;
- (b) what their conclusion on the matter is.

The Honourable Sir Nripendra Sircar : (a) I must dissociate myself from any implication which the Honourable Member may seek to convey to the effect that any particular speeches made by Members of the Government are correctly describable as having been made against the accepted policy of Government. Government have, however, taken the opportunity afforded by the Honourable Member's previous question to review the general position in respect of the freedom of individual Members to express personal opinions out of accord with the accepted policy of Government.

(b) The view of Government is that complete identity of opinion is no more possible among the Members of a Government than among the members of any other associated body. The question of when an avowed divergence of opinion is incompatible with continuance in the Government of the individual Member concerned is a question of degree to be decided by the head of the Government.

Mr. S. Satyamurti : With reference to answer to clause (a) of the question, my Honourable friend said :

“ I do not accept the implication of my Honourable friend's question that any Members of Government had expressed in any speeches differences with the accepted policy of the Government.”

May I know what are the bases or what are the reasons on which my Honourable friend dissociates himself from that allegation in my question ?

The Honourable Sir Nripendra Sircar : As I said, I did not accept short notice of part (c) because that would have involved my reading carefully all the speeches which may be suspected of having gone against the Government policy. Therefore, it is really for my Honourable friend to say on what the allegations are based. That part of the question has not been answered.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow any details to be discussed.

Mr. S. Satyamurti : May I take it, therefore, that the Honourable the Leader of the House in the first part of his answer simply means to say that he has no information on the matter, that he has not examined the matter and therefore he can say neither yes nor no.

The Honourable Sir Nripendra Sircar : I have not carefully examined the matter, but my impression is contrary to the implication of the question.

Mr. S. Satyamurti : With reference to answer to clause (b) of my question, that is to say, that it is a question of degree whether the continuance in Government of an Honourable Member with his expression of opinions contrary to the accepted policy of Government, may I ask whether Government have laid down or propose to lay down any tests by which they, on the one hand, and this House on the other can judge of the propriety or impropriety of such a question on the part of any Member of Government ?

The Honourable Sir Nripendra Sircar : If I may read the last part of my answer :

“ The question of degree to be decided by the head of the Government.”

I do not suggest that the Governor General in Council should lay down any quantum of the degree, or the test to be applied.

Mr. S. Satyamurti : May I take it, therefore, that it is a matter on which the Governor General in Council is to be the sole judge and this House has nothing to do with it ?

The Honourable Sir Nripendra Sircar : This House has certainly nothing to do with it and the other part of the question does not arise.

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

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill further to amend the Indian
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[Mr. President.]

Companies Act, 1913, for certain purposes, as reported by the Select Committee. The motion before the House is :

“ That after the proviso to clause 7 of the Bill, the following further proviso be added :

‘ Provided, further, that Regulation 107 shall not be deemed to form part of the Articles of Association of any company if the company in general meeting shall so determine ’.”

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, when we adjourned yesterday, I was trying to point out to the House that there is nothing in regulation 107 of Table A, to which any reasonable objection can be taken. I am hoping that the night's rest has made tempers cooler and intellects quicker, and I am hoping that, in a few minutes, the Honourable the Leader of the House or somebody on his behalf will put forward an amendment which will carry out the object of this regulation before the House, namely, that the regulation, subject to the small exception mentioned yesterday, may be accepted as compulsory, in respect of the Articles of Association of all companies. I was also pointing out that the continuation of regulation 107, as part of the compulsory Articles of Association of all companies, is alone consistent with clauses 65, 67, and 68 of the Bill. I have already addressed the House on clause 65, and I now want to say, if I may, a few words on clause 67. You will notice that clause 67 reads thus :

“ To section 132 of the said Act the following sub-section shall be added, namely :

‘ (3) The profit and loss account shall include particulars showing the total of the amount paid whether as fees, percentages or otherwise to * * * the managing agent, if any, and the directors respectively as remuneration for their services ’.”

Therefore, it undoubtedly contemplates the profit and loss account, containing all the particulars mentioned in regulation 107, and this simply wants in addition to that, all amounts paid whether as fees, percentages, or otherwise to the managing agent and the directors respectively, as remuneration, should be stated in the profit and loss account. I may also mention that, in the Committee which sat before this Bill took shape in the hands of the Honourable the Leader of the House this matter was considered and the Committee was equally divided and the Chairman himself was in favour of the inclusion of regulation 107 compulsorily in the Articles of Association. I am anxious that this matter should be settled in a manner which will bring out the object, without affecting any relevant interests adversely. I hope the Government will see their way to accept the real purpose behind our move to get this article included without affecting any interest adversely. Sir, I beg to oppose the amendment and once more request the Government to reconsider their attitude and accept the inclusion of article 107 compulsorily.

The Honourable Sir Nripendra Sircar (Law Member) : Will you allow me, Sir, to make a statement which might shorten the matter ? I understand that the Leaders of some of the Parties would be quite willing to accept an amendment on these lines which, with your permission, I propose to read to the House. I am not sure of the facts, but if that is

a fact, I shall have no objection in moving the amendment myself. The language of the amendment is this :

“ Provided that the reasons why of the whole amount of any item of expenditure which may in fairness be distributed over several years, only a portion thereof is charged against the income of the year, shall be shown in the profit and loss account unless the company in general meeting shall determine otherwise.”

Mr. President (The Honourable Sir Abdur Rahim) : Has this amendment been circulated ?

The Honourable Sir Nripendra Sircar : No, Sir. This amendment was prepared only this morning, and I understand the Leaders of at least three of the Parties are willing to accept it.

Mr. President (The Honourable Sir Abdur Rahim) : Has the Mover of the original amendment No. 23 been consulted ?

The Honourable Sir Nripendra Sircar : Yes, Sir, he has been consulted.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : So far as I am concerned, that was exactly my point when I was speaking on the amendment. I am, therefore, quite satisfied with the amendment that the Law Member has produced.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : I take it that the effect of this will be that if this proviso is added, Regulation 107 will be established as an obligatory part of the Articles of Association.

The Honourable Sir Nripendra Sircar : Yes.

Mr. Bhulabhai J. Desai : Then, I am agreeable also.

Sir Leslie Hudson (Bombay : European) : Sir, whilst this amendment does not cover the point which we endeavoured to make yesterday, what I would again like to stress on the Honourable Members opposite is that although we are not in any way opposed to the disclosure of facts, and while we realise perfectly well that the profit and loss account has to be produced, we do emphasise that the disclosure in the profit and loss account of the items relating to the details of the trading account is going to be of very great detriment to many companies working in this country.

Their competitors in this country will be able to ascertain from these figures the actual working cost, the actual production costs of the manufactures which they produce. Not only that, but their competitors in countries abroad, in England, in Germany and in America and in Japan whose products compete with the products of the manufacturers in this country, will also be fully seized with the costs of production in this country and will be able to market their goods accordingly. I think I have made my point clear and I trust that, later on when it becomes necessary to make alterations to this Bill, what I have said now will be borne in mind. I fully expect that the happenings which I anticipate now will come to pass and I hope that Honourable Members who will then be in the House will remember that I have at this moment warned them most plainly as to what is likely to happen to the industries of this country. Having said that, I will fall in line with the Honourable the Law Member.

Mr. President (The Honourable Sir Abdur Rahim) : Does the Honourable Member, Mr. Buss, who moved the original amendment, wish to withdraw it, and let the other amendment just now proposed by the Leader of the House to take its place ?

Mr. L. C. Buss (Nominated Non-Official) : In the circumstances, I beg leave to withdraw my amendment.

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

The Honourable Sir Nripendra Sircar : With your permission, Sir, I beg to move the following amendment to clause 7 :

“ That after the proviso to clause 7 of the Bill, the following further proviso be added :

‘ Provided that the reasons why of the whole amount of any item of expenditure which may in fairness be distributed over several years only a portion thereof is charged against the income of the year shall be shown in the profit and loss accounts, unless the company in general meeting shall determine otherwise ’.”

Sir Cowasji Jehangir (Bombay City : Non-Muhammadian Urban) : May I point out, Sir, that this is not the time to move this amendment. The time will be when you are moving the clause which deals with Table A, and that will be some days hence. Just now we are only on the clause which includes or does not include certain of the Regulations in Table A.

The Honourable Sir Nripendra Sircar : I do not accept that view. What is happening is that Regulation 107 is being included. The proviso is that as regards the last three lines of that Regulation, that will be left to the decision of the shareholders. There is no insuperable bar to this proviso being added now. We need not wait till clause 114 is reached. I submit that there is really no technical objection. It is really a proviso that has got to be borne in mind in realising that Regulation 107 has been made compulsory.

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

“ That after the proviso to clause 7 of the Bill, the following further proviso be added :

‘ Provided that the reasons why of the whole amount of any item of expenditure which may in fairness be distributed over several years only a portion thereof is charged against the income of the year shall be shown in the profit and loss accounts, unless the company in general meeting shall determine otherwise ’.”

Mr. Bhulabhai J. Desai : That is a proviso to the inclusion of Regulation 107 ; otherwise it will read entirely out of joint because there are several other Regulations which are being added.

Mr. President (The Honourable Sir Abdur Rahim) : Then, it ought to be :

“ after the proviso to Regulation 107.”

Mr. Bhulabhai J. Desai : It should be :

“ After the words, ‘ Regulation 107 ’, the following further proviso be added.”

Mr. President (The Honourable Sir Abdur Rahim) : Then it ought to be moved after Regulation 107.

The Honourable Sir Nripendra Sircar : Regulation 107 is in clause 7. We are only adding a proviso to make a part of it being dealt with in a different way.

Mr. C. F. Grant (Burma : Nominated Official) : May I point out, Sir, that after the word and figures " Regulation 107 ", there appears only a comma. It is very unusual to put a proviso in that manner. I submit that this proviso should come after the other proviso to Regulation 78.

Mr. President (The Honourable Sir Abdur Rahim) : Then it ought to be :

" The following further proviso be added."

Mr. C. F. Grant : I submit, Sir, that in clause 7, at present, the word and figures " Regulation 107 " are only followed by a comma, and, therefore, if you insert a proviso immediately after that comma, it will make the section read rather peculiarly.

The Honourable Sir Nripendra Sircar : If the words are put within brackets immediately after the word and figures " Regulation 107 ", there will not be the least inconvenience in understanding what it means.

Mr. Bhulabhai J. Desai : When the Act is printed, it will be better to take it in its proper place under Regulation 107. That would be the best way.

Mr. C. F. Grant : What is the harm in putting the proviso after the proviso to Regulation 78, saying " Provided as far it relates to Regulation 107, etc., etc.".

Mr. President (The Honourable Sir Abdur Rahim) : I think the Honourable Member had better draft the amendment properly. In the meantime, we will proceed with other amendments.

There are no amendments to clause 8. The question is :

" That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

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

" That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : Next we come to clause 3 which was held back yesterday. There are three amendments in the names of Mr. Bhulabhai J. Desai, Babu Baijnath Bajoria and Mr. Husenbhai Abdullabhai Laljee.....

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : If the Honourable the Leader of the Opposition moves his amendment, I think it will satisfy all sections of the House. Then, I won't move mine.

Mr. Bhulabhai J. Desai : Sir, I am informed that if the word " Hindu " in my amendment is omitted, it will be acceptable to all sections of the House, because the law of joint family may be applicable

[Mr. Bhulabhai J. Desai.]

to other parties than Hindus. I am agreeable to that. I, therefore, move :

“ That in clause 3 of the Bill, before the proposed sub-section (3) of section 4, the following new sub-section be inserted and the subsequent sub-sections be re-numbered accordingly :

‘ (3) This section shall not apply to a Joint Family carrying on joint family trade or business and where two or more such joint families form a partnership, in computing the number of persons for the purposes of this section, minor members of such families shall be excluded ’.”

I also omit the word “ male ”. Sir, I move.

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

“ That in clause 3 of the Bill, before the proposed sub-section (3) of section 4, the following new sub-section be inserted and the subsequent sub-sections be re-numbered accordingly :

‘ (3) This section shall not apply to a Joint Family carrying on joint family trade or business and where two or more such joint families form a partnership, in computing the number of persons for the purposes of this section, minor members of such families shall be excluded ’.”

Before I put this motion to the vote, I understand Mr. Husenbhai Laljee wants to withdraw his amendment ?

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division : Muhammadan Rural) : Yes, Sir.

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

(No objection was taken.)

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

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Sir, I have a little difficulty in understanding this amendment moved by my Honourable friend, the Leader of the Opposition. Would the effect of it be that outsiders trading with a joint family will not be able to look to the minors in the event of losses being incurred ?

Mr. Bhulabhai J. Desai : No, certainly not. It only relates to the computation for the purpose of this section. The section says that not more than 10 in the case of a bank and not more than 20 in the case of a company shall carry on business for the purpose of gain without being registered as a company. This is only for the purpose of computation and the language is therefore selected carefully on that basis. In computing the number of persons the joint family will none the less be a partner, and the property of the joint family will be liable for all the debts of such a trading concern. The words are,—“ and where two or more of such joint families form a partnership ”. Therefore the hypothesis is that the partnership consists of the families, but in computing the number namely, whether there are 20 or less or whether there are 10 or less as the case may be, the limited operation of the section applies, namely, that the minors shall be excluded.

Sir Cowasji Jehangir : Does the Law Member accept that as correct ?

The Honourable Sir Nripendra Sircar : What I understand is this. Whether they are liable or not is a question which depends on general

law. If they are liable they are liable, and if they are not liable they are not. But in so far as section 3 makes it compulsory for 20 persons to be registered before they can do any business, that ban is being removed, but their general liability or otherwise under the law is not being touched. If this is accepted by the House the result will be that a joint Hindu family consisting of 21 or 22 persons will not be required to register themselves as a company under the law. If some of them are infants, questions as regards the liability of infants, namely, whether their share will be available or not, those are questions of general law which we are not disturbing in any way.

Babu Baijnath Bajoria : Sir, I am much obliged to the Leader of the Opposition for drafting an amendment on this point which is acceptable to all sections of the House, and I am also obliged to the Leader of the House for kindly accepting this amendment. This will go a long way in minimising the difficulties and inconveniences which members of Hindu joint families would otherwise have felt under the provisions of section 4 of the Act. Sir, I have great pleasure in supporting the amendment.

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

“ That in clause 3 of the Bill, before the proposed sub-section (3) of section 4, the following new sub-section be inserted and the subsequent sub-sections be re-numbered accordingly :

‘ (3) This section shall not apply to a Joint Family carrying on joint family trade or business and where two or more such joint families form a partnership, in computing the number of persons for the purposes of this section, minor members of such families shall be excluded ’.”

The motion was adopted.

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

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

The motion was adopted.

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

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

“ That after the proviso to clause 7 of the Bill, the following further proviso be added, namely :

‘ Provided, further, that Regulation 107 shall be deemed to require a statement of the reasons why of the whole amount of any item of expenditure which may in fairness be distributed over several years, only a portion thereof is charged against the income of the year, shall be shown in the profit and loss account unless the company in general meeting shall determine otherwise ’.”

The motion was adopted.

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

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

The motion was adopted.

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

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

“ That clause 10 stand part of the Bill.”

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muham-
madan Rural) : Sir I beg to move :

“ That for clause 10 of the Bill, the following be substituted :

‘ 10. For sub-section (1) of section 25 of the said Act, the following shall be substituted, namely :

‘ (1) Every company shall send to every member and when the company is an insurance company to every member or policy holder, and on payment of one rupee or such less sum as the company may prescribe, and to any other person on payment of such sum not exceeding two rupees as the company may prescribe, at his request and within fourteen days thereof, a copy of the memorandum and of the articles (if any).’ ”

So far as I can find out, the purpose of the Bill as well as of the original Act, is to make the public take some interest in companies. At various places in the Bill and in the Act, provisions are made by which members of the public can inspect various registers and see various other papers of the company on payment of a small and reasonable fee. I do not see any reason why the memorandum and articles of association alone should be regarded so sacrosanct as not to be available to members of the public if they so desire. It happened with me that I wanted the articles and memorandum of association of an insurance company, and I had no evil intentions at all : in fact I was a policy holder in that insurance company. But the manager said in reply that I was a stranger and so I could not get those papers. When I informed him that I was a policy holder and as such entitled to elect a director and that I should in all reason be made familiar with the rules of the company, he still persisted in regarding me as a stranger. So I said that as the Companies Bill was on the legislative anvil and as I was a Member of this House, I would move an amendment on this subject and take my vengeance straight off. So, for the sake of satisfying me, if for nothing else, I hope the Honourable the Law Member will accept the amendment.

If you see section 36, section 124 and section 248 of the Act, you will find that provisions are made there for members of the public to see the papers of various companies. In this connection I may say that I am informed that there is a proposal of bringing an insurance Bill before the House and therefore it may be thought proper that the words dealing with the insurance companies may be omitted from my amendment. Though my grievance was against an insurance company, still I am quite prepared to take those words off, if the Honourable the Law Member would accept the other parts of my amendment. The only difference will be that even policy holders will have to pay a double fee : that is all. I shall wait to hear the Honourable the Law Member before I put forward my other suggestions, because I have got on the order paper another amendment in which these words are taken off ; so that if the Honourable the Law Member will agree to accept that amendment which is No. 5 on the supplementary list No. 3, I shall be quite prepared to abide by his decision.

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

“ That for clause 10 of the Bill, the following be substituted :

‘ 10. For sub-section (1) of section 25 of the said Act, the following shall be substituted, namely :

‘ (1) Every company shall send to every member and when the company is an insurance company to every member or policy holder, and on payment of one rupee or such less sum as the company may prescribe, and to any other person on payment of such sum not exceeding two rupees as the company may prescribe, at his request and within fourteen days thereof, a copy of the memorandum and of the articles (if any) ’.”

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : Sir, on a point of order : in this amendment the period is mentioned as fourteen days : and there are other amendments mentioning a week and one month....

Mr. President (The Honourable Sir Abdur Rahim) : This is to substitute an entire clause : If this is carried, the whole thing is substituted for clause 10. Then the other amendments could be moved.

The Honourable Sir Nripendra Sircar : Sir, I am glad to find that my Honourable friend, Mr. Sri Prakasa, has at last been compelled to say something on the Bill....

Mr. President (The Honourable Sir Abdur Rahim) : I do not think anybody has compelled him.

The Honourable Sir Nripendra Sircar : He has been compelled by his desire for vengeance against a particular manager. Now, he has withdrawn part of his amendment, relating to insurance. If he had withdrawn only the other part, I would have been saved a speech. There are two sections in the existing Act to which my Honourable friend's attention may be drawn. What he is after is really provided for in the existing Act : the first section is section 25 of the existing Act, which says :

“ Every company shall send to every member, at his request, and on payment of one rupee or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any).”

Now let us look at his amendment : he says :

“ Every company shall send to every member on payment of one rupee or such less sum as the company may prescribe.....a copy of the memorandum.....”

So that is all right there. Then the other section is 248 (5) : there you have got to pay a little more than what you are now prescribing....

Mr. Sri Prakasa : You have to go to a Registrar.

The Honourable Sir Nripendra Sircar : Yes. It says :

“ Any person may inspect the documents kept by the registrar on payment of such fees as may be appointed by the Local Government.....”

So that, my friend is allowed to see the memorandum : but after all he is an outsider : for what I know, he may be a busybody : and if he wants to get at the contents of the document, why should he not go to the Registrar ? We are not compelling a shareholder to go to the Registrar. That is provided for by section 25 ; and I think outsiders who are promoted by a keen desire to look into the affairs of other people should take the trouble of going to the Registrar. I oppose this amendment.

Mr. Sri Prakasa : Why do you give facilities to outsiders in other matters ?

Sir H. P. Mody : A company is not a bookstall ?

The Honourable Sir Nripendra Sircar : In what other matters ?

Mr. Sri Prakasa : Section 36 (1) of the original Act provides for inspection of registers by any members or others on payment of rupee one : if provisions are made for the inspection of even confidential papers by strangers, why should not strangers be allowed to get copies of the printed memorandum of association for a small payment ?

The Honourable Sir Nripendra Sircar : I never said that they should not be allowed : they are allowed under the present Act ; but I do not think that the company should have any great tender concern for outsiders ; and the fees which are prescribed are not prohibitive : I do not see any reason for changing the existing law. That is all I wanted to say.

Mr. Sri Prakasa : Sir, I will withdraw this amendment.

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

Honourable Members : Yes.

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

Mr. Sri Prakasa : I do not move the two other amendments, No. 25 on the final list and No. 5 on supplementary list No. 3.

Mr. President (The Honourable Sir Abdur Rahim) : You don't want to move No. 25 on the final list ?

Mr. Sri Prakasa : No, Sir.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : I don't move No. 26 on the final list, Sir.

Mr. Akhil Chandra Datta : Sir, I want to move amendment No. 6 in Supplementary List No. 3. It reads thus :

“ That in clause 10 of the Bill, for the words ‘ within fourteen days ’ the words ‘ within one month thereof ’ be substituted.”

My reason for moving this amendment is this, Sir. There is no question of principle or policy involved in this ; it is only a question of feasibility. It will be very difficult, if not impossible, to furnish a copy within fourteen days. Under clause 11 of the Bill, a new section is proposed to be added, namely, section 25A. Sub-section (1) of section 25A provides : “ Where an alteration is made in the memorandum or articles of a company, every copy of the article or memorandum issued after the date of the alteration shall be in accordance with the alteration.” Let us take a concrete case. Suppose an alteration is made on the 1st day of January, and suppose a request is made by a member for a copy of the articles on the day following, namely, the 2nd of January. What will happen ? Copies have to be furnished in accordance with the alteration. But the articles as altered have got to be printed, which will necessarily take some time, and specially in places where there is no printing press, it may be almost impossible to furnish the copy within 14 days....

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : All the Indian Companies are not in Comilla district alone.

Mr. Akhil Chandra Datta : Comilla is not a district.

Mr. K. Ahmed : Well, Headquarters at Comilla in Tipperah.

Mr. Akhil Chandra Datta : This extension of time is all the more necessary in view of the penal clause proposed in clause 11, I mean subsection (2) of the proposed new section 25A where it is said that if any alteration is made, the company at anytime after the date of the alteration issues any copies of the memorandum or articles which are not in accordance with the alteration, it shall be liable to a fine, and so on. Therefore, the extension of time is certainly required to enable the company to furnish the members with a copy of the memorandum or articles as altered. Sir, I move.

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

“ That in clause 10 of the Bill, for the words ‘ within fourteen days ’ the words ‘ within one month thereof ’ be substituted.”

Mr. M. Ananthasayanam Ayyangar : Sir, I oppose this amendment. Sir, I have given notice of an amendment, it is No. 26 on the final list, that in clause 10 of the Bill, for the word ‘ fourteen ’ the word ‘ seven ’ be substituted, because I consider that 14 days is too long, and the period should be reduced to 7 days. Sir, if you will kindly refer to amendment No. 26.....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member withdrew it ?

Mr. M. Ananthasayanam Ayyangar : Yes, I withdrew it but it does not preclude me from opposing this amendment which is now before the House.

The Honourable the Mover wants the period to be extended from 14 days to 30 days. Under section 25 every company shall send to every member, at his request, and on payment of one rupee or such less sum as the company may prescribe, a copy of the memorandum and of the articles (if any). For this a penal clause is provided if any company makes a default in complying with the requirements of this section. The penal clause will come into operation only if the company makes a default. Now, Sir, I gave my amendment to point out that 14 days was too long and that it should be curtailed to 7 days, for this reason. If Honourable Members will kindly refer to clause 32 of the Bill they will see that it is provided there that a meeting of a company other than a meeting for the passing of a special Resolution be called by not less than fourteen days’ notice ; or at least 14 days’ notice must be given. Let us assume that 14 days’ notice is given and it is sufficient under the Act. Suppose one of the members wants to study the memorandum as altered so that he is better able to study the subject. Now, if 14 days are allowed, he may not be able to get a copy of the memorandum before the meeting takes place. That will be frustrating the very object of his attending the meeting and objecting to any of the items that might be coming up before the meeting. Therefore I thought that instead of 14 days, 7 days ought to be substituted. My friend says the period must be extended to 30 days. It is for this

[Mr. M. Ananthasayanam Ayyangar.]

simple reason that in case the articles or memorandum are altered immediately thereafter within 7 days, it might be impossible for the company to furnish members with copies. Those cases where by a special resolution they want to alter the articles will be rare cases.

Mr. Akhil Chandra Datta : Sir, I don't press my amendment, and I want the leave of the House to withdraw it.

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

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

“ That clause 10 stand part of the Bill.”

The motion was adopted.

Clause 10 was added to the Bill.

Clauses 11 and 12 were added to the Bill.

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

“ That clause 13 stand part of the Bill.”

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhamadan Rural) : Sir, I move :

“ That in clause 13 of the Bill, in sub-section (3) of the proposed section 31A, after the words ‘ not exceeding fifty rupees ’ the words ‘ for each day during which the default continues ’ be inserted.”

Clause 13 lays down :

“ Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall within fourteen days after the date on which any alteration is made in the register of members make any necessary alteration in the index.”

The object of my amendment is to provide an effective punishment for default in complying with the provisions of this clause. The punishment at present provided is too inadequate ; it only amounts to a fine not exceeding Rs. 50. Now, Sir, suppose a company does not comply with the provisions of this clause, what happens ? The company and every officer of the company is fined, but the fine may be anything below Rs. 50. No minimum is fixed, the fine may go down even to a pie. Now, supposing that the company and every officer of the company has been fined Rs. 5 each, they can very well pay this petty sum and ignore this clause altogether. There is nothing in the clause to prevent the company from doing that. Sir, if we require a company to do a thing, we should see to it that it does it and it is not able to defy the Act with impunity. And there is no harm in providing the punishment I have suggested. It will only make the companies more careful in complying with the provisions of the clause. If the non-compliance is due to any extenuating circumstances that can be taken into consideration in imposing the fine. So there is really no great hardship to the companies if this punishment is provided, and I hope that the Government and the commercial interests will accept this amendment. Yesterday the Honourable the Baronet from Bombay tom-tomed his impartiality and reasonableness, I hope Sir, he will today see the reasonableness of my amendment and support it.

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

“ That in clause 13 of the Bill, in sub-section (3) of the proposed section 31A, after the words ‘ not exceeding fifty rupees ’ the words ‘ for each day during which the default continues ’ be inserted.”

The Honourable Sir Nripendra Sircar : I am afraid I cannot accept this amendment. The offence for which Rs. 50 fine is provided is not a very heinous offence. He has got to keep an index, and if he does not keep an index then he is fined Rs. 50. My Honourable friend suggests that that should be Rs. 50 per day from the time when the default had taken place. That is to say, for failure to keep an index he may be in for thousands of rupees. I think it is out of all proportion to the heinousness of the crime. I oppose it.

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

“ That in clause 13 of the Bill, in sub-section (3) of the proposed section 31A, after the words ‘ not exceeding fifty rupees ’ the words ‘ for each day during which the default continues ’ be inserted.”

The motion was negatived.

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

“ That clause 13 stand part of the Bill.”

The motion was adopted.

Clause 13 was added to the Bill.

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

“ That clause 14 stand part of the Bill.”

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

“ That in sub-clause (b) of clause 14 of the Bill, the proposed items (i) and (ii) be renumbered as items (ii) and (iii) respectively and before the items as so renumbered the following be reinserted :

‘ (i) After the words ‘ registration of the transfers ’ the words ‘ and, if the names therein are not arranged in alphabetical order, must have annexed to it an index sufficient to enable the name of any person in the list to be readily found ’ shall be inserted ’.”

The object of my amendment is this. In making these amendments to the Indian Companies Act we are closely following the English Act. An index is provided under clause 13 wherever a register of members is directed to be prepared by the amending Bill, and in the later clauses it is required that an index of the members in alphabetical order should be maintained. Penal provisions are also enacted to see that this provision is strictly complied with. But in the case of a list of members that has to be prepared at the time of every annual meeting a similar index has not been provided for. But there is a similar provision in the English Act. Section 108 (2) lays down :

“ The list must state the names, addresses, and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return, or in the case of the first return, of the incorporation of the company by persons who are still members and have ceased to be members respectively and the dates of registration of the transfers.....”

[Mr. M. Ananthasayanam Ayyangar.]

But the following words were left out in the present Bill :

“and, if the names therein are not arranged in alphabetical order, must have annexed to it an index sufficient to enable the name of any person in the list to be readily found.”

That I am afraid has been left out in the Bill by an oversight. There does not seem to be any principle behind it. In clause 13 which has just been made part of the Bill provision is made for the preparation of an index by providing :

“ Every company having more than fifty members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company.”

That is provided in section 13 with regard to the register of members, but with respect to the list there is no such index provided. This is not a matter of any great principle, but only for the purpose of enabling members to find out who are all members before each annual meeting there must be a provision to keep an alphabetical list. There must be a lot of canvassing with respect to particular resolutions and one must be able to find out who is or is not a member. One should not be put to the trouble of roaming about from place to place or rummaging pages and pages of records. If an index is thought necessary with respect to registers and with respect to registers maintained by private companies, this index which I am pleading for is absolutely necessary. This is only an enabling provision and follows the English Act. I hope that the Leader of the House will have no objection to accepting this amendment.

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

“ That in sub-clause (b) of clause 14 of the Bill, the proposed items (i) and (ii) be renumbered as items (ii) and (iii) respectively and before the items as so renumbered the following be reinserted :

‘ (i) After the words ‘ registration of the transfers ’ the words ‘ and, if the names therein are not arranged in alphabetical order, must have annexed to it an index sufficient to enable the name of any person in the list to be readily found ’ shall be inserted ’.”

The Honourable Sir Nripendra Sircar : This was not omitted by any inadvertence as my Honourable friend seems to think. It may be a question of difference of opinion, but what the framers of the Bill thought was that this is really casting an unnecessary burden on the company. When the annual return is made to the Registrar, the company has got to send a list of shareholders. My Honourable friend is providing that an index should be attached when the list is sent to the Registrar, and if there is failure there is penalty attached. I do still think that it is unnecessary and I am not willing to accept the amendment.

Mr. M. Ananthasayanam Ayyangar : Sir, I beg leave of the House to withdraw my amendment.

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

Pandit Sri Krishna Dutta Paliwal : Sir, I beg to move :

“ That in sub-clause (c) of clause 14 of the Bill, after the words ‘ twenty-one days ’ the words ‘ and for the word ‘ forthwith ’ the words ‘ within seven days thereafter ’ be inserted.”

I think, Sir, that this amendment is non-controversial. Forthwith— is a vague word. There is no harm in making it clear and if we allow

21 days for completing the list there is no harm in letting them have seven days more for filing it. Sir, I move.

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

" That in sub-clause (c) of clause 14 of the Bill, after the words ' twenty-one days ' the words ' and for the word ' forthwith ' the words ' within seven days thereafter ' be inserted."

Mr. Susil Chandra Sen (Government of India : Nominated Official) : Sir, in connection with this matter, we considered that the original period of seven days which was the time provided in the Act was insufficient. It was pointed out by various bodies that Resolutions have sometimes got to be drafted and that it may take some time and that seven days will not be sufficient within which to comply with the list. That was the reason why it was extended to 21 days. It does not make much of a difference. The list has got to be filed and I hope my Honourable friend, Mr. Paliwal, will not press his amendment. It is after all a provision intended to give time to the company after the meeting. The shareholders present at the meeting know all about it and I do not think that there is any real ground for complaining against this extension of time in the Bill.

Pandit Sri Krishna Dutta Paliwal : I do not want to press my amendment.

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

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

" That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

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

" That clause 15 stand part of the Bill."

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to move :

" That in clause 15 of the Bill, in sub-section (1) of the proposed section 34, the words ' by the transferor ' occurring after the words ' where such application is made ' be omitted."

In this clause, it has been provided that when a transferor of a share makes an application that he is transferring his share to such and such a person, in that case notice is to be given to the transferee, that is, the beneficiary, but in the case where a transferee makes an application that he has got a transfer from such and such a person of such and such a share, no provision has been made that a notice should be given to the transferor who is going to be affected by the transfer. As I have observed in my preliminary observations on the Bill, I think there can be no objection on the part of the Leader of the House to accept this amendment, because, in the case of application by the transferee, he has benefited by the transfer as against the person who has transferred. It is, therefore, natural and common sense that he should get a notice where he has transferred his share to such and such a person. My other two amendments, Nos. 32 and 33, are of the same nature. I appeal to the Leader of the House to accept my amendment.

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

“ That in clause 15 of the Bill, in sub-section (1) of the proposed section 34, the words ‘ by the transferor ’ occurring after the words ‘ where such application is made ’ be omitted.”

Mr. Susil Chandra Sen : I am sorry to oppose this amendment moved by my friend, Mr. Suryya Kumar Som. What he wants is that irrespective of whether an application for registration of a transfer is made by the transferor or the transferee, notice must be given to the other party in all cases. There is one aspect of the thing which I am sure my Honourable friend has not looked into. In the case where an application to register a transfer is sent in by a transferee it is usual under the articles and under the provisions of this section that he should send in not only the transfer form but also the share scrip. Therefore, there is *prima facie* proof before a company that he is the holder of this scrip in question and there is *prima facie* evidence of transfer in the shape of a transfer deed signed by both the parties. In such a case there is absolutely no sense in sending a notice to the transferor on the assumption that the signature in the transfer deed is likely to be a forgery. That is a thing which is very far fetched. If it is forged, the transferor has his remedy in Court. He can at once come up and have the share register rectified and have a declaration that the alleged transfer is invalid but in the case where the application is made by the transferor he is naturally not in a position either to send the scrip or to send the transfer deed and therefore there is no *prima facie* documentary proof of the fact that there has been a transfer. That is the reason which prompted the framers of the Bill to provide in the latter case for a notice to be given to the transferee to whom the transferor alleges he has made the transfer. That is the whole point of difference and I submit that absolutely no case has been made out for sending a notice to a transferor where the transferee puts in not only the scrip but the signed transfer deed also to which the transferor has been a party. This will be on the basis of an unjustified assumption which is not warranted and I oppose the amendment.

Mr. Suryya Kumar Som : Sir, I do not press my amendment.

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

Mr. F. E. James (Madras : European) : Sir, I move :

“ That in clause 15 of the Bill, in sub-section (4) of the proposed section 34, after the words ‘ within two months from the date on which the instrument of transfer was lodged with the company ’ the words ‘ or within such further time as the Court may allow ’ be inserted.”

This section deals with the question of the transfer of shares. Sub-section (4) at present provides that :

“ If a company refuses to register the transfer of any shares or debentures, the company shall, within two months from the date on which the instrument of transfer was lodged with the company, send to the transferee and the transferor notice of the refusal.”

And, in sub-section (5), there is a penalty :

“ If default is made in complying with sub-section (4) of this section, the company and every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding fifty rupees for every day during which the default continues.”

I understand that this provision is copied from English Act of 1929. Prior to that Act, it was held that directors were entitled to a reasonable time and then the 1929 Act fixed the period at two months. Well now my submission is that while that may be a reasonable time for conditions obtaining in England, it is not as reasonable in view of the somewhat different conditions that obtain in this country. What is to be the position? Supposing, on presentation of the title, there is a dispute as to whether a particular transferor is entitled to sign, for example, on behalf of a deceased member. A dispute of this nature would naturally involve correspondence through lawyers, with parties very often on the other side of India, and an attempt to obtain an order of the Court in regard to the dispute. If a company is not in a position to register the transfer owing to the dispute, as the clause is at present worded, that company will suffer the penalties laid down in sub-section (5), and it seems to us that there is a case for a safeguard. We therefore suggest that although normally two months should be provided, there should be a provision whereby, in cases such as the one I have mentioned, the company might go to the Court and get an order to extend the time beyond the ordinary period of two months. That is the difficulty and that is our suggestion as to how to meet that difficulty. I very much hope the Honourable the Law Member will be able to meet us on this point or, if he cannot, explain what remedy the company has, placed in the difficulty which I have just mentioned. Sir, I move.

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

“ That in clause 15 of the Bill, in sub-section (4) of the proposed section 34, after the words ‘ within two months from the date on which the instrument of transfer was lodged with the company ’ the words ‘ or within such further time as the Court may allow ’ be inserted.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. I do not know how in the normal case the Court comes in at all. An application is lodged, with the transfer deed, and the directors have got to make up their minds within two months whether they will accept the transfer or refuse to do so. There is no question then of the company going to Court. If there is such a dispute,—that one party has gone to Court either for rectification or on some other ground,—the Court will have ample seisin of the matter to do the needful. I may remind my friend, Mr. James, that this is the counterpart of the English section 66 where there is no such provision. There is no provision for going to Court because, in the ordinary course, why should a company go to Court? I submit there is absolutely no reason for making a change simply because we are in India. (Laughter.)

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

“ That in clause 15 of the Bill, in sub-section (4) of the proposed section 34, after the words ‘ within two months from the date on which the instrument of transfer was lodged with the company ’ the words ‘ or within such further time as the Court may allow ’ be inserted.”

The motion was negatived.

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

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

Mr. S. Satyamurti : Sir, I beg to move :

“ That in clause 15 of the Bill, to sub-section (7) of the proposed section 34, the following be added at the end :

‘ or confer any power on the company to refuse to register a transfer of any fully-paid-up share or shares ’.”

Honourable Members will notice that sub-section (7) of the proposed section 34, in clause 15 of the Bill, reads thus :

“ Nothing in this section shall prejudice any power of the company under its articles to refuse to register the transfer of any shares.”

My amendment seeks to add, at the end of this sub-section, the following words :

“ or confer any power on the company to refuse to register a transfer of any fully-paid-up share or shares.”

On this matter, my Bible is, as usual, Mr. Sen's report.

The Honourable Sir Nripendra Sircar : That is the Old Testament : we are following the New Testament.

Mr. S. Satyamurti : I am deeply obliged to my friend, the Law Member, but I hope there is only one version of the “ New Testament ”. This is what the “ Old Testament ” says :

“ The Act does not lay down the procedure for the transfer of shares. It is generally left to be provided for in the Articles of Association of companies. In view, however, of the way in which the powers of transfer have been abused, by some companies, it is desirable that provisions governing the transfer of shares and the registration thereof should be included in the statute. Bitter complaints have been made from different sources as to the arbitrary way in which registration of transfers of shares is delayed and sometimes refused.”

I shall be highly obliged to the Honourable the Law Member if, from the evidence in his possession, he can assure the House that the “ Old Testament ” was wholly wrong in suggesting that ‘ bitter complaints have been made from different sources as to the arbitrary way in which registration of transfers of shares is delayed and sometimes refused ’. The “ Old Testament ” goes on to say :

“ The question of the refusal to register transfer is one which requires serious consideration. It is now well settled that under the existing law, although a shareholder has *prima facie* an absolute right to transfer his share or debenture, it can be restricted by the articles of association of the company. With properly framed Articles of Association it is possible for directors to refuse registration without assigning any reasons whatsoever, and the courts are powerless to afford any relief in such cases. It is only when the court can scrutinise the reasons so given and if they appear to be wrong, can direct registration.”

Then, he quotes the arguments in favour of the position, that these are matters of internal management and the law should not interfere with it. But he also states the other side :

“ On the other hand, it is pointed out that unless there is some provision to prevent the abuse of the powers, the directors may at their sweet will render the shares valueless and unsaleable by refusing to register the transfers on arbitrary grounds.”

: That is my main point, which I should like the Honourable the Law Member to consider and to meet. He further goes on to say :

“ It is also pointed out that so far as fully paid up shares are concerned there can be no valid objection to transfers thereof being registered as, of course, there is no question of any further payment.”

Mr. Sen, I must add, of course, suggests that, in the case of fully paid up shares, when directors refuse to transfer them, they ought to state reasons. You will notice the Bill does not provide for it. Speaking for myself, I feel that the only way to prevent directors refusing to register fully paid up shares is to take away the power from them and not to compel them to give reasons. So far as the fully paid up shares are concerned, it seems to me that any statutory obligation to give reasons for refusing the transfer thereunder will not lead us anywhere. After all, it will lead to endless litigation, and ultimately it may well be argued successfully that directors, being the most responsible people, must be the final judges of the soundness or otherwise of the reasons. In any case, it seems to me, unless there is something pointed out, which has not been pointed out in the Select Committee, that there is no reason as to why this power ought to be vested in the directors. My amendment will make the shares absolutely valuable, and will cause no serious hindrance to the working of companies. I know the argument that there are some professional company-wreckers whose only objective is to go on buying shares after shares, and then wreck the company. As against that, I want to suggest that we must have full faith in the majority of shareholders, not to give any countenance to these professional company-wreckers. Moreover, when the companies offer shares to the public, they have not much choice as to who buy the shares. At the same time, to vest any company with the right to refuse to register any transfer of fully paid shares, arbitrarily and without giving any reasons, as provided in the Bill, is unnecessary and is too great a power in the hands of directors. Hence, I hope the House will accept my amendment. Sir, I move.

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

“ That in clause 15 of the Bill, to sub-section (7) of the proposed section 34, the following be added at the end :

“ or confer any power on the company to refuse to register a transfer of any fully-paid-up share or shares ”.

Pandit Govind Ballabh Pant (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, there is an amendment in my name just after this amendment. I should like to know as to how and in what order you would wish me to proceed. Can I move an amendment to Mr. Satyamurti's amendment to the effect that the words “ on which the company has no lien or charge ” be added at the end of the amendment moved by Mr. Satyamurti, or would you like me to move my amendment separately or should I wait till Mr. Satyamurti's amendment has been disposed of ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : I think it will be better if you move your amendment as an amendment to Mr. Satyamurti's amendment just now.

Pandit Govind Ballabh Pant : With your permission, Sir, I move :

“ That the following words be added to Mr. Satyamurti's amendment :

‘ on which the company has no lien or charge ’.”

The amendment will then run thus :

“ or confer any power on the company to refuse to register a transfer of any fully-paid-up share or shares on which the company has no lien or charge.”

Sir, the amendment which I have moved further restricts the scope of Mr. Satyamurti's amendment and to that extent it gives a discretion to the company to refuse transfers in the case even of fully paid up shares where the share or shares are subject to no lien or charge. Now, I would like Honourable Members to remember one or two elementary matters.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muham-madan Rural) : On a point of order, Sir. I want to know exactly what particular amendment we are now dealing with. I find that my Honourable friend, Mr. Satyamurti, has moved an amendment and Pandit Govind Ballabh Pant has also moved an amendment. Supposing there is a division on them, how are we to know what we are voting for ?

Pandit Govind Ballabh Pant : In substance, it is my amendment ; but, in name, it is Mr. Satyamurti's. So you can give both of us the benefit of your support and assistance.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Two amend-ments have been moved, and there will be one comprehensive debate.

Pandit Govind Ballabh Pant : I was just stating that the amend-ment which I have moved affects the shares only of a public company. It has nothing to do with the shares of a private company, for from the very nature of the definition of a private company, such company has a right and is in fact under an obligation by which the transfer of its shares is restricted. We are concerned here only with the transfer of such shares as the company promoters have invited the public to purchase and to make offers for ; it is on the basis of a public invitation that a person is induced to invest his money in purchasing a share of a public company and it is only with reference to the shares of a public company that this amendment will be valid. The other point I would like to state at the outset is equally an elementary one. According to the general policy, freedom of contract should be encouraged. It is against public policy to restrict transfers or the inherent right of transfer that a person possesses in respect of property belonging to him. Sir, we have to see whether the companies would be in any way prejudiced if there is a rule making it incumbent upon them to recognise transfers of fully paid up shares. As my amendment runs or as the amended amendment of Mr. Satyamurti runs, in case the company has any lien or charge, no transfer will be made against the wishes of the company. So far as a fully paid up share is concerned, the company cannot make any further calls in respect of that share. All the money due to the company has already been paid up and that is the only way how a share acquires the status of a fully paid up share. Thus the company's pecuniary interests are not directly affected by a transfer of this type. It has been suggested that a mischievous person who wants to give trouble to a

company may sometimes manage to acquire such a share. My submission is that it is a very thin excuse. Companies consist of stalwarts like my Honourable friend, Sir H. P. Mody, and they can easily face the imbecile critics possessing one or two shares. I do not see any reason why they should feel nervous. One would suspect from this that the state of the company should be like the rotten State of Denmark and they do not want any man who has eyes and ears to get into the concern lest he should get a real inkling into the state of affairs which they want to conceal from the public. In fact, I believe such is the view of many of those who have made a study of this subject. As the Honourable the Leader of the House presumably knows Mr. Lokanathan in his book observes that the companies are under the absolute control and sway of the managing agents and the directors are no more than a pack, whether of fools or otherwise, nominated by them directly or indirectly. So a little light would not occasionally be altogether useless and it should in no case be unwelcome to the gentlemen associated with the administration of companies. After all criticism, even if it comes from a hostile quarter, has a salutary result : and what can a solitary shareholder do even if he is bent on causing mischief ? And can a mischief-monger not create trouble without acquiring a share ? I believe, Sir, that if men would shed their suspicions and meet each other in a straightforward manner, perhaps much of the misgiving which stands in the way of good and clear understanding would disappear. So, it would be of advantage to an honest company occasionally, even if such be the case, to get one who enters the company in the determined mood of a critic. I would rather welcome it. I believe that there is no better method of winning over a person than by giving him an opportunity of looking into what he suspects to be a dark corner, although it has enough light, because of his ignorances. I believe that criticism is not unhelpful and to a certain extent it is a desirable thing and if occasionally a person joins a company with a view to look into its affairs in an intelligent manner, that is perfectly legitimate and desirable. Regarding our companies the general complaint is that our shareholders are apathetic, and unintelligent and do not take any interest in the company's affairs. And yet you want to block the door against all those who wish to take an intelligent interest ! In Mr. Lokanathan's book there is a quotation from what Mr. Wadia, one of the great commercialists of Bombay, once said :

"Once a director begins to look closely into the affairs of the company, out he must go. He cannot be tolerated any longer by the managing agents or by his colleagues on the Board of Directors."

In these circumstances, what can a single shareholder do ? After all his voice will be confined to a general meeting of the company, and the utmost he can do is to shout out if he is allowed to, but ultimately, Sir H. P. Mody will have his own way as here, in spite of our making every effort to persuade him, to woo him and to earn his good will. That will be the case with these people too. But is it really such a serious affair ? After all, if it is such a dangerous thing, why has the Reserve Bank made such a rule ? Under the Reserve Bank Act, Regulations have been framed which give no discretion to the Directors to refuse the transfer of any fully paid share. The Directors in the case of the Reserve Bank are people above suspicion and no company can have directors more compe-

[Pandit Govind Ballabh Pant.]

tent or impartial than the directors of the Reserve Bank and still it has been considered necessary to prescribe a rule that fully paid shares of the Reserve Bank shall be transferable irrespective of the wishes of the Board of Directors. Then, Sir, I may remind the House of what the signatories of the Imperial Bank Select Committee report unanimously said on the subject. They said :

“ We do not agree that the Bank should have the power to decline to register the transfer of fully paid shares.”

So far it refers to the particular bank. But I would invite the attention of the Leader of the House to the sentence that follows :

“ This is not a right which we consider it desirable that they or any limited liability company should possess.”

If I am not mistaken Sir Cowasji Jehangir was one of the members of that Select Committee and he too was of that opinion namely that this is a right which no limited liability company should possess. These eighteen gentlemen, all eminent men who were then included in this House some of them being also the foremost commercial and industrial magnates of this country, were definitely and unanimously of the opinion, including our respected and good friend Sir Cowasji Jehangir, that a limited liability company should not have the discretion of refusing any transfer relating to fully paid shares. So, Sir, with this authoritative opinion of the most responsible body that this House or the country could possibly devise to go into a matter of this type, I do not see what is left for this House to consider or to examine. It is final and conclusive on the subject. Then, Sir, there are many companies which even today have a rule to the effect that fully paid shares will always be registered and there will be no objection to such registration. And so far as I am aware, those companies are thriving and prospering. There are big banks which have regulations to this effect. There is, I think, the Bombay Tramway Company about the affairs of which my Honourable friend, Sir Homi Mody, cannot possibly be ignorant, which has a regulation to the same effect. There are many others but it is no use going into the details thereof. Then you have also to look at it from the other point of view. How will it affect the shareholders if the companies refuse to register shares in spite of their being fully paid up. Sir, if a shareholder, standing in need of money, transfers his share and then you refuse to register the share, it is very hard on the purchaser as well as the seller. It is just possible that legally the transfer as between the seller and the purchaser may not be upset on that ground, but all the same the difficulty is there, and no person would like to purchase a share when he is not allowed to exercise the rights and privileges of a shareholder. For one case of an undesirable person there may be one hundred undesirable cases where objections are raised by the directors to such transfers even in favour of desirable persons. And it may sometimes affect the value of the shares. If it goes out that the shares are not transferable, that the directors may not register a transfer though the whole of the amount due on the share has been paid up, then it may react even on the quotations in the market. So I submit that even in the interest of the companies themselves it is better that these transfers should be treated as securities of a gilt-edged type which carry with them their full face value and which can be converted at any time by any person into cash, the transferee acquiring thereby

full rights and privileges of a shareholder. If this is done I hope it will prove beneficial to all concerned, and in our country in particular, I submit our industrialists do need some little light even from unfriendly quarters now and then.

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

“ That in clause 15 of the Bill, to sub-section (7) of the proposed section 34, the following be added at the end :

‘ or confer any power on the company to refuse to register a transfer of any fully-paid-up share or shares on which the company has no lien or charge ’.”

The Honourable Sir Nripendra Sircar : Sir, it strikes me that the way in which the amendments have been worded makes them fairly innocuous. I proceed to state my reasons. Unless authorised by the Articles the directors have no power to refuse a transfer. I think that is quite elementary. But as it is always desirable to have something to support you, I am reading two lines from page 612 of Palmer's Legal Precedents, Vol. I :

“ It is well settled that save and so far as restricted by the Articles, the right of transfer is absolute.”

Therefore, unless there is something in the Articles which allow the directors to refuse a transfer, whether of fully paid up or of partly paid up shares, they have no right whatsoever. Now let us see how this clause will stand if the amendment is accepted :

“ Nothing in this section shall prejudice any power of the company under its articles to refuse to register the transfer of any shares.”

Then, if these words are added, “ or confer any power ”, it means that nothing in this section shall confer any power on the company :

“ to refuse to register a transfer of any fully-paid-up share or shares on which the company has no lien or charge.”

Pausing there one moment, if the directors have the power to refuse registration, it is not by reason of this section ; it is by reason of the Articles. Therefore if this amendment is carried the directors will be left where they are. And from that point of view I said that it is perfectly harmless. But I am opposed to this principle altogether and I have got to meet some of the arguments of my Honourable friends here, although I shall be as concise as possible. We have been reminded that Mr. Sen came to a different conclusion, not to this whole extent, but to the extent that was read over just now by my Honourable friend, Mr. Satyamurti. Sir, when I was here yesterday Mr. Satyamurti was making a very pungent attack on Mr. Sen claiming that among his other numerous qualities he, Mr. Satyamurti, can read the faces of men and he can dive into the hearts of men.

Mr. S. Satyamurti : No, I did not say, I can dive into the hearts of men.

The Honourable Sir Nripendra Sircar : Look into the official transcript.

Mr. S. Satyamurti : You may manage even that, I do not know. (Laughter.)

The Honourable Sir Nripendra Sircar : I am glad that he does not claim the power of getting into the hearts of men.

3 P.M.

I think in my younger days I read a statement of Chief Justice Brian that the thought of man is not triable because the devil knoweth not what is the thought of man. I thought my Honourable friend was claiming higher powers. However, I need not refer to Mr. Sen any further. That is the case of a lamb being devoured by a lion. But I need not say much, because, first of all, Mr. Sen is more than a mouthful for any lion, and, secondly, the lion is a vegetarian in this particular case. (Laughter.) But coming, Sir, to the merits of the thing, I do not know what experience Mr. Sen had at that time, but I hope no one will be able to contradict me when I say that, as a matter of fact, this right of refusal in case of fully paid up shares is not used once in fifty thousand cases. It is very very rare indeed and no director would ordinarily do it. There may have been a couple of cases or there may have been half a dozen cases ; but in thousands of cases which are happening daily on the stock exchange, do you hear of refusals ? It is possible Bombay shareholders have got hold of certain cases and have placed them before us and Mr. Sen : but what is the experience of anybody who has anything to do either with Courts of law or with the stock exchange ? How often has it happened ? On the other hand it has happened twice within my knowledge that a flourishing company—I do not mind giving the name of the first,—the Bengal Chemical Works—and I had to appear in that case for the company—a dead set was made by a few speculators in the bazaar who wanted to corner the shares—what for ?—to get rid of the directors—there are no managing agents—Sir P. C. Ray and others. These gentlemen in the bazaar thought they knew more of chemistry than Sir P. C. Ray, and, therefore, they began cornering and buying a number of fully paid up shares. The directors were satisfied that this was done with a *mala fide* purpose, and they refused transfer, and the matter came up to Court before Mr. Justice Fletcher somewhere about 1910 or 1911 ; and he upheld the objection of the directors : he said the discretion was theirs and they need not give any reasons. It is not possible to state reasons in commercial matters. We know that merchants and bankers have got to act on information which they must at their peril decide whether they should be acted upon or not. But if they have to prove in Court that Mr. A. B. C. was not in fairly good financial circumstances or that Mr. X. Y. Z. was buying shares for ulterior purposes, it is incapable of proof and the only result will be that the director will be landed in a defamation suit if nothing else. In another insurance company—I will not mention the name, it is known to most of us who come from Bengal—because in that case the directors did not exercise this power—the speculators got the fully paid up shares and the directors did not refuse transfer, either because they had not sufficient information or because they thought they would not like to exercise this power of refusal of transfer of fully paid up shares—what happened ? Within six months, a very competent set of directors were turned out and they were successfully replaced by these people who had been buying up fully paid up shares. Sir, this power of refusal of transfer is exercised very rarely and the occasions also arise very very rarely. But I submit this power ought not to be taken away, because the powers after all are conferred by the articles. The articles represent the agreement between the shareholders and the company, and a person

who buys shares knowing that it is within the power of the directors to refuse to recognise transfer has nothing to complain if that power is exercised. I submit no abuse of sufficient proportions has been proved which would justify our taking away the right of shareholders to agree with the company that certain powers should be given to the directors. My Honourable friend, Pandit Govind Ballabh Pant, made a passing reference to public policy and freedom of contract. There is another aspect of the case. If my Honourable friend believes in freedom of contract, why should he not allow shareholders freedom of contract to enter into contract with the company and to be bound by the articles which give power to refuse the transfer of fully paid up shares? That is freedom of contract. But here, what is happening is that although my friend talks of freedom of contract, although the shareholders have freely entered into a contract with the company that the directors should be given power of refusal, yet in the name of freedom of contract that power is going to be taken away. I submit no sufficient reasons have been shown for disturbing the present state of the law.

Mr. M. Ananthasayanam Ayyangar : Sir, I support both the amendments. I find there is no such unhappiness in the wording as the Honourable the Law Member finds in the amendments....

Pandit Govind Ballabh Pant : But why quarrel with that? I would request the Honourable the Law Member to accept it because it is innocuous.

The Honourable Sir Nripendra Sircar : It is a vicious principle, however it may be worded.

Mr. M. Ananthasayanam Ayyangar : Under section 28 of the Act shares are movable property; and unless restrictive powers are imposed on the right to transfer, they are transferable. Shares and other interest in a company shall be moveable property transferable in the manner provided in the articles of the company. My reading of it is that normally no restriction should be placed in the articles upon transfer except where there is some danger to the company; otherwise what is really moveable property will become immoveable: even immoveable property is transferable: but this will be a special kind of moveable property which will not be transferable at all. If transfers are made by operation of law, the amendment says....

Pandit Lakshmi Kanta Maitra : Is there really any ban on transfer?

The Honourable Sir Nripendra Sircar : It is a ban on transfer if he does not recognise the transfer; if he does not register it, then it means that the transferee gets no rights.

Mr. M. Ananthasayanam Ayyangar : If by operation of law, inasmuch as it is moveable property, if the shares are attached and sold in Court, it is open at the sweet will and pleasure of the directors, supported by the articles, which give ample power of discretion to directors, to refuse in individual cases to recognise transfer: it would not be possible for the man who purchases the shares to know what will happen to the shares in which he has invested his money. It is only after he comes and applies that it is left open to the directors to accept or refuse transfer. The articles might provide that in such cases transfer should not be,

[Mr. M. Ananthasayanam Ayyangar.]

refused. It is open to the directors to say that power of transfer is left to their discretion : it is not any general principle : in the case of partly paid up shares, this can be understood as there may be a liability still outstanding, and the transferee may not be in a position to discharge the liability that is outstanding. But there is no reason in the case of fully paid up shares. If such shares are purchased in Court auction, there is no knowing whether the directors would accept the transfer or not. If transfer is not accepted, there will be no relief for the debts advanced to the persons who held the shares originally and for that reason it might work hardship. There may be exceptional cases—one in ten thousand, where a person of the eminence of Sir P. C. Ray may be sought to be removed from the management by cornering of shares. I would ask the Honourable the Law Member to cite any other instances where such persons have been sought to be thrown out. On the other hand, my information is that important persons who take a lively interest in the affairs of a company have refused to recognise certain transfers. I have information that in particular cases whose conduct is above reproach the Directors of certain companies have refused to recognise the transfer of shares, in Bombay and other places. It is not necessary for me to give their names, because it might compromise their position.

As regards fully paid up shares, I am not able to understand on what principle such transfers can be refused, nor can I see what would happen to a company if such shares are permitted to be transferred. If people are prepared to transfer a major portion of their shares, then they will do so to their own prejudice, it is against their interest to see that the company collapses. They replace the other majority who possess those shares. Therefore, it would be unreasonable to expect that to spite the company they would cut their nose. By purchasing a large number of shares, they acquire a stake in the company, and how is it possible to expect such persons to take any action which will spell ruin to the company ? Therefore, such a possibility is very remote. Now, let us take the instance of one or two persons who might try to create mischief by purchasing a large number of shares of a certain company.

If a majority of the shareholders are against a certain company, they can easily make the voice of the company not prevail. Therefore, there is absolutely nothing in principle to restrict the scope of the immoveable property which has been made moveable under the Act. I would further say that I find in the Bill some powers are given to Directors to transfer the management of a company for short intervals. Even Directors who are chosen on account of their personal qualifications can transfer away their rights for short intervals to put in some other persons. That is not the case with respect to shareholders. What are the peculiar qualifications of the shareholders which are necessary and which would not be available in case a free transfer is allowed ? I would refer the House, Sir, to a section in the Canadian Act passed in 1934 allowing transfers freely, for this reason. The earlier Act of 1929 is the model on which this Bill has been framed. Since 1929, seven years have elapsed, and there have been many changes in the working of the Companies Act, and the Canadians are as much alive to the inconveniences of such provisions as the provisions

in the English Act. Therefore, it is not right to say that the English Act with all the inconveniences which might not have been anticipated when the Act was passed should continue to be the model, and we should close our eyes to any further changes that might have been made in the Act. Therefore, Sir, we should accept the Canadian Act in preference to the English Act. Now, Sir, section 38 of the Canadian Act says this :

“ Subject to sub-section 2 of this section and to the power of the company by by-law to prescribe the form of transfer and to regulate the mode of transferring and registering transfers of its shares, the right of a holder of fully-paid shares of a public company to transfer the same may not be restricted.

(2) Where the letters patent, supplementary letters patent or by-laws of a company confer that power on the directors, they may decline to permit the registration of a transfer of fully-paid shares belonging to a shareholder who is indebted to the company except in the case of shares listed on a recognised stock exchange.”

I would say that the power of refusal is restricted to very narrow limits, that is, in case where a person is indebted to the company in which case it is open to the Directors to exercise their discretion. I have still my doubts as to whether section 28 will permit any articles to be framed in a manner so as to give permission to Directors to refuse a transfer. I have still my doubts. Anyhow, that is not a principle on which we should act. I would therefore say that the amendment should be adopted ; and we should see that that fully paid up shares should be freely transferable.

Mr. N. M. Joshi (Nominated Non-Official) : I move, Sir, that the question be now put.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I rise to support this amendment. This Bill and the Government already propose to make the position of managing agents and the directors as strong and as invulnerable, as possible. Although it is said that this Bill is primarily brought here in the interests of the shareholders, every portion of it seems to contain almost the stamp of authority and approval of the powers that be in the commercial world. The Honourable the Law Member has made a surprising speech in opposition to this amendment. He seems to be of the opinion that there should not be any transfers of shares unless the directors themselves agree to it lest undesirable people should get into companies and break them up. I wonder why he and his Government have not tried to apply the same logic in regard to our peasants. In various provinces, peasants as a class have been complaining that their lands are being purchased by absentee landlords or by absentee moneylenders, *soucars* and others, and thereby their whole class is being exterminated ; yet no action has been sought to be taken, except in the Punjab, either by the Provincial Governments or by the Central Government, to restrict the rights of peasants to alienate their lands or restrict the rights of others to purchase lands from the peasants. If that is the attitude of the Government of India as well as of the Provincial Governments, I don't see why they should adopt a different attitude in regard to the transfer of shares of companies, unless it be that they are extremely anxious to leave complete control of our commercial life in the few people who have been able to acquire control over all these companies, and they are extremely unwilling to jeopardise their position. Therefore, it is necessary that this amendment should be accepted

[Prof. N. G. Ranga.]

if we are really to safeguard the interests of the shareholders. Sir, can anyone, who has got even a small amount of money to invest, be expected to be enthusiastic about investing his money in these joint stock companies unless he is assured of his power to transfer his shares whenever he likes provided, of course, his shares are fully paid up, and realise his money whenever he wants it. Of course, we are told by the Honourable the Law Member that he is at liberty to invest it or not. There are the articles of association which make it perfectly clear to him and to everyone else that the shares of that company cannot be transferred unless it is approved of by the directors, and, therefore, he need not invest his money if he does not care to. But, Sir, if we go through the pages of the reports of the Industrial Commission, or the Fiscal Commission, or even the External Capital Committee, we find mention being made again and again of the unwillingness of the Indian investing public to put their money in joint stock companies and the necessity for Government as well as the commercial magnates to provide as many facilities as possible for the investing public to have more confidence in these companies and to invest their money. It is rather a curious thing indeed to try to oppose this amendment and thus help to meet these recommendations. If we are going to say to the investing public in this country that they are only free to invest their monies in the joint stock companies, but they cannot be free to transfer their shares to somebody else and realise the money whenever they want and meet their needs, then very few people would be willing to place their money in the joint stock companies.

Babu Baijnath Bajoria : There is the system of bank transfers.

Prof. N. G. Ranga : I would be answered, how is it, then, even in spite of these articles of associations which prohibit free transfer of shares, there is so much of money flowing into the joint stock companies ?

Mr. N. M. Joshi : Not much nowadays.

Prof. N. G. Ranga : That supports my argument. It is a very curious argument for this reason. In a desert, where there is a very great dearth of drinking water, men will be obliged to pay a scarcity price for a few drops of water. But that does not mean that people ordinarily and normally should go on paying such scarcity prices for a few drops of water. Similarly, merely because we would not provide that shareholders should freely transfer their shares, and because we do not provide any other opportunities for them to invest their monies profitably,—it does not mean that we should continue to do so and then force them to place their funds at the disposal of the joint stock companies. It is because failure of the Government to provide alternative and profitable avenues of employment for money and for people that people are obliged to place crores and crores of rupees in the savings bank although it pays the lowest rate of interest. It is also because there are not enough of opportunities for people to invest their money that even those few who can somehow or other muster their courage and think of investing their monies in the joint stock companies—that we find these small sums of money being invested in the joint stock companies. Therefore it is wrong to try to discourage the investing public from investing their

funds in the joint stock companies if Government, as well as the commercial magnates, are anxious for the progress of joint stock enterprise in this country, by opposing this amendment.

There is the other thing. They do not want anybody to get into these companies who can be suspected of being mischievous. I would like to know, how are they going to suspect these people? Just like this Government they will also become inquisitive and pry into everybody's affairs, and more than that, everybody's intentions, and try to keep to themselves the power to allow any transfer of shares to any particular individual or not. I refuse to be a party to give this particular power or to continue to give this particular power to these boards of directors and directors in joint stock companies. Many of them are becoming monopolists. We know it only too well. The Honourable the Law Member has mentioned only one case, but I could mention any number of cases from the Andhra. I would not mention the names of the companies, but I know that the founders themselves of those companies were driven away, not by new shareholders, not by the transferees, not by any mischief-mongers from outside, but by those who were inside and who cornered the whole position and who wanted to get rid of the founders themselves and wanted to monopolise all the advantages for themselves, and sent away the founders who are just as eminent and just as respectable as Sir P. C. Ray himself and who really were the cause of the progress of these companies. Some people wanted to get in,—eminent people, respectable people, nationalists, people who have sacrificed everything for the sake of their country, they wanted to get in. They were not allowed to get in. They were simply refused permission to get in. There could be no transfer of shares with the result that these two companies—one of them has gone to ruin and the other is still in the hands of those two or three mischief-mongers who have got in merely because there was a chance and because of this particular law and the articles of the association. Such instances I could multiply. It is no good giving any more instances and take the time of the House, but that is enough to prove that the Honourable the Law Member, after all, is not quite correct in saying that there are not very many cases where these directors have abused their powers, and also to prove that this particular right of shareholders to transfer their shares to others and realise their monies is absolutely necessary and valuable and must be maintained and kept in tact. Therefore, I hope that the House will accept this amendment.

Several Honourable Members (on the Official Benches) : Let the question be now put.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The question under discussion is rather important and I do not think it will be fair to close the debate now. **Mr. Sami Vencatachelam Chetty**.

Mr. Sami Vencatachelam Chetty (Madras : Indian Commerce) : Though I will ultimately vote with my Party, I feel bound to place before the House the rather serious fears which I entertain with regard to this amendment. It is no doubt a very plausible case that in order that the evils of management of any company may be exposed and ventilated, the public must have a right to become shareholders and thereby help in eliminating the evils to which the company was subject. I do not propose to discuss the

[Mr. Sami Vencatachelam Chetty.]

legal aspect of this rule, because it is far beyond my power to do so ; but so far as the practical mischief that was feared is concerned, I believe that an emphatic answer was given by the Honourable the Law Member who stated that, within the last so many years of the working of the Indian Companies Act, excepting half a dozen cases, no case has occurred in which the directors have refused to transfer shares. Well, Sir, generally speaking, it is undoubtedly detrimental to the interests of a company to refuse to transfer shares, thereby depreciating the value of the shares. But, as against that, the dangers that are lurking in the amendment must be made known to the House in order to persuade them to exercise their proper judgment in regard to this matter. Sir, I have known of certain companies the shares of which would be bought by their enemies at double and treble the value, in order to kill that company.

Mr. N. M. Joshi : How can they kill ?

Mr. Sami Vencatachelam Chetty : I will tell you. Supposing, for the sake of example, the Congress Party floats a company for the purpose of publishing a paper. The shares will be open for sale. Of course, in the beginning they might all be bought by those who believe in the Congress policy. Afterwards, my Honourable friend, Sir James Grigg, might buy a large number of shares, or the Members opposite might buy a large number of shares if you make the transfer compulsory. What will happen ? The second day, after the purchase of these shares, the paper will either become an *ultra*-loyalist paper or it may be abolished.

Mr. N. M. Joshi : Shareholders have a right.

Mr. Sami Vencatachelam Chetty : Right of killing the company ? In India, particularly the danger is all the greater, because, in respect of the textile companies at the earlier stages, it is in the interests of the well established companies that no more companies shall come in. Now, my Honourable friend, Mr. Ranga, was against the monopolists ; but, in spite of him, some monopolists do exist. Suppose those monopolists are earning huge dividends. It would induce or encourage other people to form companies in order to share the profits that are going to the other company. Now, a company is started by a few people and shares are open to the public. A well established company with huge reserves will be in a position to purchase the shares of this new company and wind it up at the earliest opportunity in order to eliminate competition. So far as these company matters go, I would rather think it to be a safe principle to follow the English law in all its details and provisions than to go beyond the English law, because, whether it is slave mentality or otherwise, we are following in this law many of the provisions of the English law. In fact, we consider that this managing agency system is an importation from England. I think there are more successful and prosperous managing agents among Englishmen than among Indians. (*An Honourable Member :* " Why not follow the Canadian precedent ? ") We cannot follow the Canadian precedent until we establish here full democracy as Canada did. The English law only gives the power to refuse to transfer shares, but what is made obligatory upon the directorate is that they must give notice to the transferor and transferee that they are not willing to register the transfer. Thereby it gives an opportunity either to the transferor or transferee to question the justification of the directors to refuse the transfer. If, in a Court of law, it appeared that this exercise of the right was exercised in a capricious manner or in a manner not justifiable by any consideration of the

company itself, certainly a Court of law can order its transfer to be registered. With that safeguard always existing and with that possibility, and in this country the likeliness of new companies being smothered by companies which enjoy a monopoly in well established lines, it seems to me very undesirable that this amendment should be carried. All the same, if my Party insist upon having a division, I shall walk in with them.

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

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

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

The motion was adopted.

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

“ That in clause 15 of the Bill, to sub-section (7) of the proposed section 34, the following be added at the end :

‘ or confer any power on the company to refuse to register a transfer of any fully-paid-up share or shares on which the company has no lien or charge ’.”

The motion was negatived.

Mr. Akhil Chandra Datta : Sir, I move :

“ That in clause 15 of the Bill, after sub-section (7) of the proposed section 34, the following be added :

‘ (8) Transfer of a part or a fraction of a share shall not be permitted ’.”

The amendment speaks for itself and I need not make any more remarks. To be on the safe side, I want to make the meaning clear. Suppose a shareholder dies leaving four heirs and one of them wants to transfer his share to an outsider or some shareholder. I want to prevent a thing like that.

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

“ That in clause 15 of the Bill, after sub-section (7) of the proposed section 34, the following be added :

‘ (8) Transfer of a part or a fraction of a share shall not be permitted ’.”

The Honourable Sir Nripendra Sircar : Sir, I would not be a party to a clause which is unintelligible. My friend knows that such a thing has not happened since the Companies Act was enacted in 1913. What happens is when the transferor makes his application, the name of the transferor goes out. You cannot have one fourth of a share admitted on the register as a shareholder. I oppose this amendment as wholly unnecessary and meaningless.

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

“ That in clause 15 of the Bill, after sub-section (7) of the proposed section 34, the following be added :

‘ (8) Transfer of a part or a fraction of a share shall not be permitted ’.”

The motion was negatived.

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

“ That clause 15 stand part of the Bill.”

The motion was adopted.

Clause 15 was added to the Bill.

Babu Baijnath Bajoria : Sir, I move :

“ That after clause 15 of the Bill, the following new clause be inserted :

‘ 16. To section 35 of the said Act the following *Explanation* shall be added, namely :

‘ *Explanation*.—The term ‘ legal representative ’ in this section includes heirs also in the case of Hindus ’.”

Sir, the object of my moving this amendment is to remove a practical difficulty which has been experienced by the heirs on the death of a person governed by the Mitakshara school of law. Sir, the whole thing is—what is a legal representative ? A legal representative has been interpreted in regulation 21 of Table A as “ executors or administrators of a deceased ”. Sir, we, who are governed by the Mitakshara school of law, have not to take out letters of administration and so executors or administrators do not come in. Sir, this section has been copied from the English law, and so this is also a case of blindly following the English law without considering the conditions obtaining in this country. Sir, it is very expensive to take out letters of administration only for the purpose of transfer of shares. Sir, even the Savings Bank, Insurance Companies and others accept succession certificates. Still, in the case of a transfer of shares a company insists on having letters of administration, which is not easy for us to secure. Sir, I will give a concrete instance of the difficulty we are experiencing. Sir, in the case of our big Marwari school, with which I am closely connected, we have got 80 shares in one jute company. The shares stand in the name of our late trustee, Sir Hari Ram Goenka. We want that these shares should be transferred into the name of the present trustee or into the name of the present Secretary. I personally went to the office of the company but they said—“ you must have the letters of administration of the deceased ”. Well, the estate of Sir Hari Ram Goenka is valued at several crores of rupees and the value of these shares is only Rs. 5,000. If they have to take out letters of administration, it will cost much more than the value of these shares. Sir, the position is this, that we can neither transfer these shares nor can draw dividends, and our school is suffering. This is the position and this is the difficulty which many other persons also have been experiencing. I hope the Honourable the Leader of the House will give due consideration to this amendment, which is a very minor one, and it will remove a difficulty which we are experiencing at the present moment. Sir, I move.

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

“ That after clause 15 of the Bill, the following new clause be inserted :

‘ 16. To section 35 of the said Act the following *Explanation* shall be added, namely :

‘ *Explanation*.—The term ‘ legal representative ’ in this section includes heirs also in the case of Hindus ’.”

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend, Babu Baijnath Bajoria's appetite seems to be increasing. He now wants an *Explanation* to be added that the term "legal representative" in this section includes heirs in the case of Hindus. Sir, I would like to know what the feelings of Sikhs, Bengal Muslims and others will be and what they have done that this should be differentiated in the case of the Mitakshara Hindus.

Babu Baijnath Bajoria : If there is any difficulty in their case, you should try and remove that also ?

The Honourable Sir Nripendra Sircar : I would rather like to put more difficulties in the way of Mitakshara families avoiding paying anything towards the revenues. What happens is this. My friend gave the case of some big man who was a trustee, but, obviously, under the company law a company would take no notice of a trust, for very good reasons, and if in this particular case there is any difficulty, there is no reason why the law should be changed. Sir, in most of the articles it is provided that they will not recognize an heir or legal representative unless and until letters of administration have been produced. In so far as shareholders agree to abide by that condition, why should that restriction be removed and he or she should be allowed to come in without taking out letters of administration ? As to whether there are other ways of avoiding payment or not, no longer being in the bar I do not want to put any ideas into the head of my Honourable friend, Mr. Bajoria, about that and I would not suggest any, but if he will think over it, probably there may be some loopholes.

Mr. Bhulabhai J. Desai : There are ways.

The Honourable Sir Nripendra Sircar : So far as this is concerned, I strongly oppose the amendment. I do not see why in the case of Hindus the heirs should be allowed to come in. Look at the position of this unfortunate company. A man died. "A" comes up and says—"I am his brother's sister's grandson and heir". What is the company going to do ? And another man comes up and says, "I am the heir". Surely, if you produce letters of administration, the company is saved from the difficulty and the company does not go into the question of title at all. Sir, this will lead to endless confusion, involving companies investigating into titles of persons, questions of heirship, whether a person was duly adopted, and what not. I oppose this amendment.

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

"That after clause 15 of the Bill, the following new clause be inserted :

'16. To section 35 of the said Act the following *Explanation* shall be added, namely :

'*Explanation*.—The term 'legal representative' in this section includes heirs also in the case of Hindus'."

The motion was negatived.

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

"That clause 16 stand part of the Bill."

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

“ That in clause 16 of the Bill, the proposed sub-clause (a) be re-lettered as (a) (i), and, after the clause as so re-lettered, the following be inserted :

‘ (ii) to sub-section (i) the words ‘ any such member or other person may make extracts therefrom ’ shall be added at the end ’.”

Sir, I am told that the Honourable the Leader of the House is likely to accept it. In section 36 of the Act it is stated that the books, etc., of a company may be inspected by the members. The difficulty now is that if one of the members wants to purchase some shares or wants to see who are the persons who are likely to sell their shares, he is not allowed to take extracts from the register. He is entitled to make an extract from the register otherwise what is the use of looking at it. It may not be necessary to take an exact copy which may take some time. The purpose of my amendment is to enable a member to whom an inspection is allowed to take an extract. Such extracts are allowed by the Canadian code, section 105.

The Honourable Sir Nripendra Sircar : Sir, I am quite willing to accept the amendment, but Canada makes me suspicious.

Mr. M. Ananthasayanam Ayyangar : I will drop the reference to Canada if my Honourable friend will accept the amendment.

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

“ That in clause 16 of the Bill, the proposed sub-clause (a) be re-lettered as (a) (i), and, after the clause as so re-lettered, the following be inserted :

‘ (ii) to sub-section (i) the words ‘ any such member or other person may make extracts therefrom ’ shall be added at the end ’.”

The Honourable Sir Nripendra Sircar : Sir, I accept this amendment, because I know that, although it is extremely reasonable that the person inspecting should be allowed to take extracts, it has happened that sometimes arbitrarily such right has been refused. In any case, I think it is quite reasonable that persons who have power of inspection should be allowed to take extracts. I accept the amendment.

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

“ That in clause 16 of the Bill, the proposed sub-clause (a) be re-lettered as (a) (i), and, after the clause as so re-lettered, the following be inserted :

‘ (ii) to sub-section (i) the words ‘ any such member or other person may make extracts therefrom ’ shall be added at the end ’.”

The motion was adopted.

Pandit Sri Krishna Dutta Paliwal : Sir, I move :

“ That in sub-clause (b) of clause 16 of the Bill, for the words ‘ thirty days ’ the words ‘ ten days ’ be substituted.”

Sir, the Bill provides :

“ and the company shall cause any copy (*copy here refers to the copy of the names and addresses, etc., of the shareholders*), so required by any person to be sent to that person within a period of thirty days commencing on the day next after the day on which the requirement is received by the company.”

Now, Sir, the period of the 30 days provided here is too much. Ordinarily, the period of ten days, provided in the original Bill, was, I think, more than sufficient. If more than 10 days’ time is allowed,

the result will be that we will defeat the very object for which the shareholders require these copies. The shareholders require these copies at the time of the general meeting and for the purposes of the general meeting in order to canvass business, etc. If they will not get a reasonable margin of time between the receipt of the copy and the holding of the meeting they will not be able to make use of the copy. Clause 32 of this Bill requires only 14 days' notice to be given of the meeting to the shareholders. Therefore, if more than 14 days are given, the result will be that the shareholders, after the receipt of the notice, cannot get the copies of the names and addresses within time. It may be urged that there is nothing to prevent the shareholders from acquiring the copies months before. But, Sir, it is too much to expect that the shareholders are so alert. They are not even organised except in big places like Calcutta and Bombay.

Sir H. P. Mody : They can always inspect.

Pandit Sri Krishna Dutta Paliwal : That is another matter. The shareholders do not even know when the meetings are going to be held. I have made it clear that the difficulty in the case of the shareholders is real but I would like to know what the difficulty is in the case of companies. No company worth the name can experience any difficulty in getting the copies of these names and addresses ready easily within 10 days. In the case of those companies which have got an extraordinarily large number of shareholders extra labour can be employed. Surely what one man can do in 30 days three can do in 10. There is no difficulty at all in the case of a company to get these copies ready in 10 days. Therefore, I hope my proposal will be accepted. Sir, the period of 10 days was already there in the original Bill but the Select Committee amended it. Therefore, I ask for nothing more than what was provided in the original Bill. I think the wisdom that dawned on Government in the first instance ought to be maintained.

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

“ That in sub-clause (b) of clause 16 of the Bill, for the words ‘ thirty days ’ the words ‘ ten days ’ be substituted.”

The motion was adopted.

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

“ That for sub-clause (c) of clause 16 of the Bill, the following be substituted :

‘ (c) For sub-section (3) the following sub-section shall be substituted, namely :

‘ (3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding twenty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal or default continues and the Court may by an order compel an immediate inspection of the register and index or direct that copies required shall be sent to the persons requiring them ’ ”

Sir, I have not made any serious inroads into the section as it is except to make two alterations. If a copy is refused, then the ordinary provision is already there. I want that it be substituted by the words “ If a copy is not sent ”. There is nothing to be done if the refusal is made, in which case he may not have any occasion to come and complain.

[Mr. M. Ananthasayanam Ayyangar.]

The other thing is that index is asked to be furnished. Consequential changes are made in the latter portion and I have included the word "index" immediately after the word "inspection". I am glad to submit that the Honourable the Leader of the House seems to have no objection to accept this amendment.

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

" That for sub-clause (c) of clause 16 of the Bill, the following be substituted :

' (c) For sub-section (3) the following sub-section shall be substituted, namely :

' (3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding twenty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal or default continues and the Court may by an order compel an immediate inspection of the register and index or direct that copies required shall be sent to the persons requiring them ' ' ' ' "

The Honourable Sir Nripendra Sircar : Sir, I accept the amendment, but I think for keeping the records absolutely correct, the two small changes which he indicated have not gone down anywhere and there may be confusion as to what the exact change is that he has made. I would suggest my friend putting the words at the proper place and handing them over to the President before the amendment is put to the vote. Otherwise we do not exactly know what the words are that are being changed, although I have followed the substance.

Mr. M. Ananthasayanam Ayyangar : I want that my amendment should be substituted. I only referred to the changes that I have made by my amendment. My amendment incorporates the changes that I have referred to. I only amplified the changes in my speech, the amendment stands as it is.

4 P.M.

The Honourable Sir Nripendra Sircar : If there is no change in the language, I accept the amendment.

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

" That for sub-clause (c) of clause 16 of the Bill, the following be substituted :

' (c) For sub-section (3) the following sub-section shall be substituted, namely :

' (3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period the company and every officer of the company who is in default shall be liable in respect of each offence to a fine not exceeding twenty rupees and to a further fine not exceeding twenty rupees for every day during which the refusal or default continues and the Court may by an order compel an immediate inspection of the register and index or direct that copies required shall be sent to the persons requiring them ' ' ' ' "

The motion was adopted.

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

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

The motion was adopted.

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

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

“ That clause 17 stand part of the Bill.”

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

“ That for clause 17 of the Bill, the following be substituted :

‘ 17. In section 37 of the said Act :

(a) after the word ‘ giving ’ the words ‘ seven days previous ’ shall be added ;

(b) for the word ‘ thirty ’ the word ‘ forty-five ’ shall be substituted ;

(c) the words ‘ but not exceeding thirty days at a time ’ shall be added at the end ’.”

Sir, with respect to clause (a) of my amendment, I find that my Honourable friend, Mr. Sen, has given notice of an amendment which is No. 46 in the list, and which runs as follows :

“ That for clause 17 of the Bill, the following clause be substituted :

‘ 17. In section 37 of the said Act after the word ‘ giving ’ the words ‘ seven days previous ’ shall be inserted ’.”

This is identical with clause (a) of my amendment which I have just moved. I, therefore, conclude that the Government have no objection to that part of my amendment. This amendment refers to giving notice of closing the register for a period of thirty days which was originally there and it has been amended that for a period of 45 days the register can be closed after previous notice. Neither in the original section nor in the Bill is there any period of notice prescribed. Therefore, I gave notice of an amendment that seven days previous notice ought to be given. That amendment has been accepted. My next amendment is that for the word “ thirty ” the word “ forty-five ” shall be substituted. I only took it from the Bill itself. I have made no change. So that is also accepted by the Government. My clause (c) of my amendment says “ that the words ‘ but not exceeding thirty days ’ shall be added at the end ”. Now with the previous amendment the register can be closed for a period of 45 days. What I want by my amendment is that this period of 45 days shall not be at a stretch, at one time for not more than 30 days the register may be closed. The original section reads thus—that will make it clear as to why this period of 45 days may be distributed over two periods and it need not be consecutive. Section 37 reads :

“ A company may, on giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year.”

Therefore, the very scheme of the section is 30 days and that need not be consecutive. The section says “ at such time or times, not exceeding in the whole thirty days ” the registers are ordinarily closed, I understand that dividends have to be calculated and for that purpose the registers are closed. If there is an interim dividend, the period has been extended from 30 days to 45 days so as to enable the companies to

[Mr. M. Ananthasayanam Ayyangar.]

declare interim dividends. I, therefore, think there would be no objection on the part of the Government to my amendment, which is that 45 days need not run at a stretch because it will be very inconvenient to shareholders because if transfers take place and if information is wanted, the registers will be closed. I want to avoid this inconvenience to the shareholders and thus enable the framers of this section to take the fullest advantage of the amendment as set out in the Bill. Sir, I move.

The Honourable Sir Nripendra Sircar : I have no objection to this amendment.

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

“ That for clause 17 of the Bill, the following be substituted :

‘ 17. In section 37 of the said Act :

- (a) after the word ‘ giving ’ the words ‘ seven days previous ’ shall be added ;
- (b) for the word ‘ thirty ’ the word ‘ forty-five ’ shall be substituted ;
- (c) the words ‘ but not exceeding thirty days at a time ’ shall be added at the end ’.”

The motion was adopted.

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

“ That clause 17, as amended, stand part of the Bill.”

The motion was adopted.

Clause 17, as amended, was added to the Bill.

Clause 18 was added to the Bill.

Clause 19 was added to the Bill.

Clause 20 was added to the Bill.

Mr. Susil Chandra Sen : Sir, I beg to move :

“ That after clause 20 of the Bill, the following clause be inserted :

‘ 20A. In section 53 of the said Act :

- (a) in sub-section (1) the words ‘ or in the case of a special resolution the confirmation ’ shall be omitted ;
- (b) sub-section (2) shall be renumbered as sub-section (3) and the following sub-section shall be inserted as sub-section (2), namely :
 - ‘ (2) the notice to be given as aforesaid shall include particulars of the classes of shares affected and the conditions (if any) subject to which the new shares are to be issued ’.”

Sir, if I may draw your attention to section 53 of the Act, the first clause of my amendment is really to give effect to an alteration in the Act which has been made in this Bill, namely, of doing away with the confirmatory resolutions in the case of a special resolution. That has not been passed. The present amendment is really consequential on that alteration. It depends upon as to whether you, Sir, will keep this part of the clause aside until that matter is disposed of, because I find that my Honourable friend, Mr. Satyamurti, has given notice of an amendment to restore the original clause as it stood in the Act. Clause (b) of my amendment can be disposed of now. That is for the purpose

of enabling certain particulars to be given in the notice provided in the section itself. My point in moving this amendment is that notice which is to be given under the section should include the particulars of the classes of shares affected and the conditions, if any, subject to which new shares are to be issued. Sir, the advantages of this will be that the persons to whom such notice may go will at once find the class of shares sought to be affected and the conditions, if any, subject to which it is issued. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member said that clause (a) of his amendment may stand over and that clause (b) might be disposed of now.

The Honourable Sir Nripendra Sircar : If I may make a suggestion, I really think the whole thing should stand over.

Mr. President (The Honourable Sir Abdur Rahim) : Yes, the whole amendment will stand over. The question is :

“ That clause 21 stand part of the Bill.”

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

“ That for clause 21 of the Bill, the following be substituted :

‘ 21. Section 54 of the said Act shall be omitted.’ ”

This is only consequential if we have regard to the amendments already effected to section 54 which refers to reorganisation of share capital :

“ A company limited by shares may, by special resolution confirmed by an order of the Court, modify the conditions contained in its memorandum so as to reorganise its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes ;

Provided ”, etc.

Clause 21 of the Bill says :

“ In the proviso to sub-section (1) of section 54 of the said Act, the words ‘ and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed ’ shall be omitted.”

In the Bill itself, provision is made in clause 21 that that portion may be omitted. I say that the whole section should be omitted so that that portion which is not omitted by the Bill may be introduced into the other portion later on where special provision is made for arrangements to be recognised by Courts. That is section 153. In the English Act this portion of consolidation of shares also is included in the section which refers to compromise. I have given a consequential amendment to section 153, clause 78. Unless you read both the amendments and the clauses together, the amendment that I have given might not be easily comprehended. I therefore request that this may be allowed to stand over until we come to the other amendment with respect to clause 78. Meanwhile I will have a talk with my Honourable friend.

The Honourable Sir Nripendra Sircar : I do not think this is a matter on which any talk will do any good to my friend or to me, because I am strongly opposed to it and this may be disposed of now.

Mr. M. Ananthasayanam Ayyangar : Then, I do not press it.

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

Mr. S. Satyamurti : Sir, may I ask one question with regard to clause 21 ? I want to know whether Government are putting it in, independent of the vote of the House on special resolutions, and they do not want confirmation, whatever may happen to special resolutions. I want to know, in other words, if this is put in, as a mere consequential amendment on the expectation of Government that confirmation will not be required in the case of special resolutions. If that is so, it ought to stand over. If not, if on the merits themselves they do not want confirmation, that is another matter.

The Honourable Sir Nripendra Sircar : I think that is right. It is consequential, and I think I may explain to the House what is happening. It may be a bit confusing but the matter is really fairly simple. In the existing law, following the English law, two meetings are required. A special resolution means a resolution which has been carried by three-fourth majority in a particular manner after giving certain notices. Then after that a bare majority is required at a second meeting which is called a confirmatory meeting. We have throughout in the Bill followed the English Act of 1929 ; that is to say, we have done away with the confirmatory meeting and that has involved various consequential changes in various sections which are scattered all over the Bill. I quite agree that as my Honourable friend, Mr. Satyamurti, wants to attack that proposition, namely, that this confirmatory meeting should not be given up, it is but fair that this clause 21 should stand over until we know what the decision of the House is as to whether our idea is to be accepted or the confirmatory meeting will be restored. I agree to clause 21 standing over.

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

“ That clause 22 stand part of the Bill.”

Mr. Susil Chandra Sen : Sir, I move :

“ That in clause 22 of the Bill, in sub-section (1) of the proposed section 54A, after the words ‘ its own shares ’ the words ‘ or the shares of a public company of which it is a subsidiary company ’ be inserted.”

If you will refer to section 54A, the new proposed section, it is intended to be a section by which restrictions are put upon a company to purchase its own shares or to finance the purchase of its own shares. Now, we have in this Act defined a subsidiary company and a holding company ; and what I intend to do by this amendment is to prevent the purchase of the shares of a holding company by the subsidiary company. I find it is practically the same as the next amendment of which notice has been given by my Honourable friend, Pandit Govind Ballabh Pant. The objects are obvious. It is intended not to allow the diversion of the funds of a company in the purchase of the shares of a holding company. Sir, I move.

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

“ That in clause 22 of the Bill, in sub-section (1) of the proposed section 54A, after the words ‘ its own shares ’ the words ‘ or the shares of a public company of which it is a subsidiary company ’ be inserted.”

The motion was adopted.

Babu Baijnath Bajoria : Sir, I move :

" That in clause 22 of the Bill, after sub-section (1) of the proposed section 54A, the following be inserted, and the subsequent sub-sections be re-numbered accordingly :

- (2) If the issued capital of a company is not fully subscribed within one year from the date of commencement of its business, the company shall reduce its authorised capital to not more than double the amount of subscribed capital."

My intention in moving this is that sometimes it happens that a company has got authorised capital of 10 lakhs, issued capital 1 lakh, subscribed capital of 50,000 rupees and paid up capital, Rs. 25,000. When this capital is advertised in the newspapers the authorised capital tops the list and it is always in bold letters. The unwary public presume that this company is one with a capital of 5 or 10 lakhs. The authorised capital has got practically no value. It is the subscribed capital and the paid up capital that counts. I want that there should be some ratio between the authorised capital and the subscribed capital ; and I think the ratio should be two to one : that is, the authorised capital should be, at most, double the amount of the subscribed capital : and I am giving one year's time to the company that if the capital they issue is not subscribed and the ratio falls below half of the authorised capital, I want them to reduce their authorised capital to not more than double the amount of the subscribed capital. I do not think any harm will be done to any company if they accept this condition. If their business expands, there is a margin of a hundred per cent. and there is nothing to prevent them increasing their capital. It could be done easily. I move this amendment because I think it will be beneficial to the public and to the shareholders.

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

" That in clause 22 of the Bill, after sub-section (1) of the proposed section 54A, the following be inserted, and the subsequent sub-sections be re-numbered accordingly :

- (2) If the issued capital of a company is not fully subscribed within one year from the date of commencement of its business, the company shall reduce its authorised capital to not more than double the amount of subscribed capital."

Sir H. P. Mody : Mr. President, I oppose this amendment. My Honourable friend, Mr. Bajoria, does not seem to have realised at all what he is about. The authorised capital of a company may be placed at a very substantial figure to start with. The company may have ideas of expansion which it cannot possibly, in the first few years of its existence, be able to carry out. Therefore, the issued capital may be a very much reduced figure. Now, if my Honourable friend's amendment were to be carried, then the authorised capital within one year of the flotation of the company would have to be brought down to twice the figure of the subscribed capital. What for ? I do not see the least occasion. If my Honourable friend has in mind gullible shareholders who only read the top figure of one crore or five crores and rush to subscribe without reading anything more, they have only to thank themselves. But in my part of the country, we are very much alive and we are never deceived by the authorised capital of a company

Pandit Govind Ballabh Pant : You deceive others !

Sir H. P. Mody : That is much better than being deceived ourselves ; I am sure my Honourable friend will concede that. I do not think my Honourable friend has realised the implications of this amendment, and I hope he will be opposed from every quarter of the House.

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

“ That in clause 22 of the Bill, after sub-section (1) of the proposed section 54A, the following be inserted, and the subsequent sub-sections be re-numbered accordingly :

‘ (2) If the issued capital of a company is not fully subscribed within one year from the date of commencement of its business, the company shall reduce its authorised capital to not more than double the amount of subscribed capital ’.”

The motion was negatived.

Mr. G. E. J. Robertson (Burma : European) : Sir, I move :

“ That in clause 22 of the Bill, in sub-section (2) of the proposed section 54A, after the words ‘ No company limited by shares ’ the words ‘ other than a private company, not being a subsidiary company of a public company ’ be inserted.”

It is not one of the purposes of this Bill to interfere with the internal affairs of private companies. We are concerned in looking after the interests of shareholders in public companies. Now, it is not uncommon in the case of private companies to formulate schemes whereby loans are advanced to junior employees to enable them to purchase shares from a retiring member. If that liberty is denied to private companies, the process whereby members retire and junior members take over their shareholding will be seriously hampered. A shareholder in a public company, if he wants to sell out, will, if he is lucky, find a buyer. In a private company there are necessarily a very limited number of persons who are in a potential position to buy his shares ; but usually those persons will not have the necessary capital nor the means of raising the necessary capital to take over those shares ; and I do want the House most seriously to consider this amendment. I do not think it is offensive in any way. It concerns only private companies and as I have already said, the Bill is not concerned with the internal affairs of private companies. The Bill concerns public companies. I should also like to draw the attention of the House, firstly, to page 15 of the Bill—proposed section 86D : there we have a provision which forbids a company from making a loan or loans to directors : and you will notice that in that section private companies, provided they are not subsidiary companies of public companies, are expressly excluded. Again at page 20, in the provision dealing with loans from companies to managing agents—clause (4) of proposed section 87D—we find that private companies are excluded. I think it is only consistent that also in clause (2) of proposed section 54A, private companies, other than those subsidiary to public companies, should be excluded. I cannot see any reason why they should be denied the liberty in this section when they are expressly exempted in other cases where the Bill deals with loans from companies to directors or managing agents. I hope that the House will accept this amendment. Sir, I move.

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

“ That in clause 22 of the Bill, in sub-section (2) of the proposed section 54A, after the words ‘ No company limited by shares ’ the words ‘ other than a private company, not being a subsidiary company of a public company ’ be inserted.”

The Honourable Sir Nripendra Sircar : Sir, I have no objection to accept the amendment.

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

“ That in clause 22 of the Bill, in sub-section (2) of the proposed section 54A, after the words ‘ No company limited by shares ’ the words ‘ other than a private company, not being a subsidiary company of a public company ’ be inserted.”

The motion was adopted.

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

“ That clause 22, as amended, stand part of the Bill.”

The motion was adopted.

Clause 22, as amended, was added to the Bill.

Clause 23 was added to the Bill.

Clauses 24, 25 and 26 were added to the Bill.

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

“ That clause 27 stand part of the Bill.”

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

“ That clause 27 of the Bill be omitted and consequential amendments be made.”

By clause 27, it is sought to amend section 71. Section 71 imposes unlimited liability, to a case where at a meeting of the shareholders of a company by a special resolution, upon Directors so that the provisions of the memorandum may be modified. Section 71 (1) reads thus :

“ (1) A limited company if so authorised by its articles, may, by special resolution, alter its memorandum so as to render unlimited liability of its directors or of any director.”

By the Bill the subsequent clause is altered, and then it must be confirmed by sub-section (2) which says :

“ Upon the confirmation of any such special resolution, the provisions thereof shall be as valid as if they had been originally contained in the memorandum, and a copy thereof shall be embodied in or annexed to every copy of the memorandum issued after the confirmation of the resolution.”

Then, sub-section (3) says this :

“ If a company makes default in complying with the requirements of this section, it shall be liable to a fine not exceeding ten rupees for each copy.....”.

Now, Sir, the Bill in clause 27 seeks to do away with the confirmatory meeting. It says that the special resolution passed to modify the condition in the memorandum or the terms in the memorandum making the unlimited liability of the directors or converting the limited liability into an unlimited liability, though it may be by a special resolution, need not be confirmed at a later meeting. That is the object of the amendment in clause 27. If it need not be confirmed, the further penal clause has no value. That is why the penal clause is sought to be removed. My object in moving this amendment is that a confirmatory meeting is necessary, and section 71 must stand as it is. The framers of the Bill have an idea that the original object of having a special

[Mr. M. Ananthasayanam Ayyangar.]

resolution followed by a confirmatory resolution should be done away with. They have modified the procedure to be adopted by a special resolution by increasing the number of days notice. By that modification it is sought to do away with a confirmatory meeting. Now, Sir, let us see what the consequences of such an amendment will be. A hasty conclusion or a hasty resolution that might be given effect to regarding the unlimited liability of a director or similar matters provided for in the memorandum will not be allowed to stand; it should be brought up at a subsequent meeting for confirmation or for throwing it away. That is the scheme of the Act. If certain provisions in the Act are made inviolable and they could not be touched except by special resolution followed by an order of the Court under section 12, you will see what these provisions are, at least in their skeleton. I am referring to this for the purpose of showing that whenever power is given under the articles to modify certain conditions in the memorandum, the scheme of the original Act was that that power ought not to be exercised except with very great caution. If hastily power is taken to modify the conditions of the memorandum, it would not come into operation unless and until it was confirmed at a later meeting. This has ample support in the provisions of section 12 as it stands. This section says :

“ Subject to the provisions of this Act, a company may, by special resolution, alter the provisions of its memorandum so as to change the place of the registered office from one province to another, or with respect to the objects of the company, so far as may be required to enable it—to carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company or (1) to restrict or abandon any of the objects specified in the memorandum, and (2) the alteration shall not take effect until and except in so far as it is confirmed by a Court on petition.”

Thus, with reference to the objects of the company as laid down in the memorandum, if it is sought to touch the objects or vary them, it should be done not only by a special resolution, but it should also be confirmed by the Court. With respect to the other conditions in the memorandum, the Court's permission is necessary. The other condition in the memorandum might be more easily touched than these conditions in the objects of the memorandum, but there is this safeguard in the existing Act, and that safeguard is that, though with respect to certain other matters as the change of unlimited liability it does not require the confirmation of a Court, it says that confirmation by another meeting of the shareholders is necessary. Thus, Sir, the memorandum is the charter of a company and so its articles or conditions ought not to be lightly touched, and therefore every safeguard has been provided in the Act to avoid unnecessary or hasty conclusions being reached. That is the object with which the original section was framed. That is sought to be done away with, and I therefore say that it ought not to be allowed. I move that the whole clause be deleted.

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

“ That clause 27 of the Bill be omitted and consequential amendments be made.”

Mr. Susil Chandra Sen : Sir, I really cannot understand the reasons which have prompted by Honourable friend, Mr. Ayyangar, to move this amendment. Sir, if you will look at clause 27, all that has been done is, following the alteration in the Bill to the definition of a special resolution, to which alteration my friend, Mr. Satyamurti, has moved certain

amendments, we have made consequential amendments at all places where special resolutions are mentioned, namely, in place of confirmation by a special resolution, we have altered the wording slightly so as to mean the passing of such a resolution. But if my friend, Mr. Ayyangar's point is whether that alteration in the Bill remains or not, he wants a special provision to confirm a special resolution, that is another thing, but in his present amendment all that he does is, he leaves the section in its original state. This will be absolutely inconsistent with the alterations in the Bill, if my Honourable friend Mr. Satyamurti's amendments are not carried. I, therefore, suggest, that he should ask your permission to have this matter left over until clause 33 which deals with the alterations regarding special resolutions is dealt with, otherwise, the position is absolutely inconsistent, and the amendment should be rejected.

Mr. S. Satyamurti : I suggest, Sir, this should stand over, because, if special resolutions are to be confirmed by a confirmatory meeting, the section should stand as it is, at least sub-section (2), and, therefore, I suggest that, following the precedent in two other cases where we have adjourned the clauses, sub-clause (a) to clause 27 may stand over, and perhaps sub-clause (b) also, because it depends upon the wording of sub-section (2). I, therefore, suggest, according to the precedents we have adopted in this matter, clause 27 may stand over, till the House has had an opportunity of pronouncing its opinion on the question whether a special resolution should be confirmed by a special meeting or not.

Mr. President (The Honourable Sir Abdur Rahim) : Which is that ?

Mr. S. Satyamurti : My amendments on the Order Paper are Nos. 77, 79 and 80, which deal with clause 33 of the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : I think that would be the most convenient course.

The Honourable Sir Nripendra Sircar : I think so, Sir. Unless we know whether the House accepts our suggestion about confirmatory resolution or not, all these difficulties would continually arise.

Mr. President (The Honourable Sir Abdur Rahim) : Clause 27 and the amendments thereon will stand over.

The question is :

“ That clause 28 stand part of the Bill.”

The motion was adopted.

Clause 28 was added to the Bill.

Clause 29 was added to the Bill.

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

“ That clause 30 stand part of the Bill.”

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

“ That in clause 30 of the Bill, to sub-section (2) of the proposed section 77, the words ‘ together with a copy of the auditors’ report ’ be added at the end.”

[Mr. M. Ananthasayanam Ayyangar.]

This refers to the procedure that is to be adopted in connection with a statutory meeting to be held under section 77 of the Act. In the proposed section 77, sub-section (2), it is laid down :

“ The directors shall, at least twenty-one days before the day on which the meeting is held, forward a report (in this Act referred to as the statutory report) certified as required by this section to every member of the company.”

I want that not only that report but also a copy of the auditors' report should be sent to enable the members who attend the statutory meeting to discharge their duties and responsibilities more properly. By that time the auditor's report would have come in and there cannot be any valid objection to circulating a copy of the auditor's report also. Sir, I move.

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

“ That in clause 30 of the Bill, to sub-section (2) of the proposed section 77, the words ‘ together with a copy of the auditors' report ’ be added at the end.”

The Honourable Sir Nripendra Sircar : My Honourable friend before resuming his seat said, “ I hope there will be no objection to accepting my amendment ”. The only objection is this that we cannot direct an auditor's report to be circulated which is not in existence.

An Honourable Member : But sometimes there may be.

The Honourable Sir Nripendra Sircar : But very often the auditor will be appointed at this meeting and there is no report at that stage. I oppose this amendment.

Mr. M. Ananthasayanam Ayyangar : May I know if in all cases there is no auditor's report ?

The Honourable Sir Nripendra Sircar : There may be some cases.

Mr. M. Ananthasayanam Ayyangar : I would ask this amendment to be applied in such cases.

Sir H. P. Mody : There is a provision for the certificate of the directors to the statutory report in sub-section (3). So this is directly contradictory.

Mr. Susil Chandra Sen : I think there is some misapprehension in the mind of my Honourable friend, Mr. Ayyangar. If he will analyse the clause he will find that the auditor only comes in in sub-section (4), which says :

“ The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares and to the receipts and payments of the company, be certified as correct by the auditors of the company.”

That is the only function of the auditors, namely, to give a certificate. No report is provided for, no report can be had. So, my Honourable friend has overlooked the provisions and in asking for the auditor's report has asked for something which will not be in existence. The certificate which is provided there has got to be sent round and that will be there but there cannot be any auditor's report at this stage.

Mr. M. Ananthasayanam Ayyangar : Far from being against me, it is in my favour.

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

“ That in clause 30 of the Bill, to sub-section (j) of the proposed section 77, the words ‘ together with a copy of the auditors’ report ’ be added at the end.”

The motion was negatived.

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

“ That in clause 30 of the Bill, to clause (h) of sub-section (j) of the proposed section 77, the words ‘ or a partner of the managing agent if the managing agent is a firm, or director of the managing agent if the managing agent is a private company ’ be added at the end.”

Clause (h) says :

“ the particulars of any commission or brokerage paid or to be paid in connection with the issue or sale of shares to any director, managing agent or manager.”

The object of directing particulars to be given will be frustrated if the additional safeguards as mentioned in my amendment are not introduced by way of amendment to clause (h). Not only particulars regarding the issue or sale of shares to any director, managing agent or manager, but also particulars regarding issue or sale as detailed in my amendment, are needed for the shareholders to understand as to how the shares have been allotted or how the other work of the company is going on. I, therefore, move.

Sir Cowasji Jehangir : What is the meaning of “ director of a managing agent ” ? It is not properly worded.

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

“ That in clause 30 of the Bill, to clause (h) of sub-section (j) of the proposed section 77, the words ‘ or a partner of the managing agent if the managing agent is a firm, or director of the managing agent if the managing agent is a private company ’ be added at the end.”

Mr. T. Chapman-Mortimer (Bengal : European) : Is this amendment really necessary for the clarification of the clause in question ? It seems to me that the point that my Honourable friend wants to make is amply covered already. The prospectus has got to disclose particulars in regard to commissions, and sub-clause (h) of clause 30 is only a special clause inserted by the Select Committee to make it quite sure that disclosure of commissions would cover these particular persons, director, managing agent or manager. In the case of the managing agent and manager we have got very clear and full definitions in clause 2 (2) of the Bill, and it does not seem to me that this proposed amendment would do any good at all. Moreover, as my Honourable friend, Sir Cowasji Jehangir, has pointed out, it is not even very well worded. (Interruption.) I do not think the question of principle really arises here, because in actual fact, as I have endeavoured to point out, the prospectus already covers and provides for the information required, and I do not see how this amendment will do us the slightest good.

Mr. Susil Chandra Sen : I am sorry that my Honourable friend, Mr. Chapman-Mortimer, has not quite realised the idea which underlies this amendment. Mr. Ananthasayanam Ayyangar really wants that no managing agent or manager can evade the provisions of sub-section (7) by setting up a partner or a director of his company to earn the

Mr. Susil Chandra Sen :

commission. As it is, it is innocuous and I do not think there can be any objection to it on principle.

Sir Cowasji Jehangir : I agree with my Honourable friend, but you cannot say "director of the managing agent". What Mr. Ayyangar wants to say is, "or a partner of the managing agents if the managing agents are a firm, or a director if the managing agents are a private company".

The Honourable Sir Nripendra Sircar : But what is wrong with this? It says, "or a partner of the managing agent if the managing agent is a firm or a director of the managing agent". If you stop there it makes no sense, but if you read it along with "director of the managing agent if the managing agent is a private company", I do not see any objection to the language. I see, my Honourable friend wants to add the word "a" before "director", and it will then read as follows: "or a director of the managing agent if the managing agent is a private company". Has my Honourable friend any objection?

Mr. M. Ananthasayanam Ayyangar : I have no objection.

Pandit Govind Ballabh Pant : May I suggest to Mr. Ayyangar and to the Leader of the House that instead of the words "or director of the managing agent if the managing agent is a private company" we might have the words "or if the managing agent is a private company, a director thereof".

The Honourable Sir Nripendra Sircar : That will be better.

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

"That in clause 30 of the Bill, to clause (h) of sub-section (3) of the proposed section 77, the words 'or a partner of the managing agent if the managing agent is a firm or if the managing agent is a private company, a director thereof' be added at the end."

The motion was adopted.

Mr. Susil Chandra Sen : Sir, first of all, I should like to correct a printing mistake. It is printed in the Order Paper that my amendment is to clause (h). It is really to clause (d). I move :

"That in clause 30 of the Bill, in clause (d) of sub-section (3) of the proposed section 77, the words 'and the changes if any which have happened since the date of the incorporation' be added at the end."

If you look at clause (d), Sir, you will find that the statutory report must disclose the names, addresses and descriptions of the directors, auditors, managing agents and managers, if any, and of the secretary of the company. All that I want is that if any changes have happened since the incorporation, they should also be disclosed. The object is perfectly obvious and I think it is a reasonable thing which the House should accept. Sir, I move.

Sir Leslie Hudson : I suggest that we might substitute the word "occurred" instead of "happened".

Mr. Susil Chandra Sen : That will be better, and I agree.

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

“ That in clause 30 of the Bill, in clause (d) of sub-section (3) of the proposed section 77, the words ‘ and the changes if any which have occurred since the date of the incorporation ’ be added at the end.”

The motion was adopted.

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

“ That in clause 30 of the Bill, after clause (h) of sub-section (3) of the proposed section 77, the following clause be inserted :

‘ (i) the names of directors or auditors who have resigned before the date of the statutory report together with the reasons, if any, for such resignation ’.”

This is merely a consequential amendment, to the one moved by Mr. Sen.

The Honourable Sir Nripendra Sircar : Nothing of the kind. It will be most violently resisted.

Mr. M. Ananthasayanam Ayyangar : This amendment practically follows as a consequence of amendment No. 56 moved by Mr. Sen and which has been adopted by the House. I want Honourable Members to go a step further. By my amendment I have only amplified the previous amendment. What I suggest is that along with the report the names of directors or auditors who have resigned before the date of the statutory report together with the reasons for such resignation should be given. If before a child is born, it should die, certainly one would like to ask what are the reasons for such a state of affairs. My amendment will give the shareholders an insight into the affairs of the company. If any directors have resigned, it is absolutely necessary that the shareholders should know the reasons, because that will give them an idea of the real affairs of the company and of the working of the company. In spite of what the Honourable the Law Member said, I still maintain that this is merely a consequential amendment. Otherwise the amendment which was just carried will be a purely dummy amendment which has no meaning. Sir, I move.

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

“ That in clause 30 of the Bill, after clause (h) of sub-section (3) of the proposed section 77, the following clause be inserted :

‘ (i) the names of directors or auditors who have resigned before the date of the statutory report together with the reasons, if any, for such resignation ’.”

Sir H. P. Mody : Sir, this is a very ill-conceived amendment. It means that my Honourable friend's curiosity would be aroused whenever he saw a change in the names of directors or auditors, and he would want to know the special reasons which have compelled their resignation or retirement. Well, Sir, a director or an auditor may have committed an offence under the Penal Code which may not bear to be advertised. He may have eloped with somebody's wife, for instance. Is that reason to be disclosed ? There may be other offences of even a worse character. After all, directors and auditors are human, and it does not necessarily follow that they will never commit any offence

[Sir H. P. Mody.]

under the Penal Code, and as my Honourable Leader points out, if a statement were to be made and the real reasons disclosed, the company might be hauled up for damages.

Mr. M. Ananthasayanam Ayyangar : I can give you an assurance on that point. A privilege could be claimed for the statements.

Sir H. P. Mody : Your assurance is not worth anything at all—not even worth the House in which it is uttered.

Mr. S. Satyamurti : On a point of order. Is the Honourable Member entitled to cast this reflection on the House ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member must withdraw those words.

Sir H. P. Mody : No reflection was intended.

Mr. S. Satyamurti : I submit, Sir, that the Honourable Member has not withdrawn those words.

Sir H. P. Mody : I do not know why my friend who makes so many questionable jokes in this House objects to a little joke. The words have been already withdrawn.

Mr. President (The Honourable Sir Abdur Rahim) : It is disrespectful to the House.

Sir H. P. Mody : I have already said that I withdraw those words, and nobody who knows me will believe that I intended to convey a reflection on the House. I am surprised that a point like that has been made by my friend.

Mr. S. Satyamurti : Sir, my friend has not withdrawn those words.

5 P.M. The House is not concerned with his intention : he must formally and openly say—"I withdraw those words".

Sir H. P. Mody : Let us get on to the business.

Mr. S. Satyamurti : Sir, I am in your hands, and I have raised this point of order.

Mr. President (The Honourable Sir Abdur Rahim) : The Chair understood that the Honourable Member did withdraw those words ?

Sir H. P. Mody : Of course, Sir. Now, what I was going to submit was that apart from any of these considerations, there may be some very substantial reasons which it would not be in the interest of the company to disclose. Thus, there may be acute differences of opinion amongst the directors which may have caused the retirement of a particular director. Those reasons may relate to the internal administration of the affairs of the company. Are such matters to be publicly proclaimed ?

Mr. N. M. Joshi : Why not ?

Sir H. P. Mody : It would certainly be most prejudicial to the interests of the company that any difference of opinion which has caused such retirement or resignation should be made known to anybody outside the directorate, and for all these reasons, Sir, I join my Honour-

able friend, the Leader of the House, in saying that this is not a consequential amendment, but that it is one of substance, and ought to be stoutly resisted.

The Honourable Sir Nripendra Sircar : Sir, as I said, I shall be very brief now, having regard to the time. I am opposing this because I do think that disclosing the reasons why particular directors have resigned is not always possible, nor is it likely to do any good to the company. The reasons which I am thinking of are not on the lines which weighed with my Honourable friend, Sir H. P. Mody, but what I do think of is this. Supposing in the board of directors there are four directors unable to get on with one another and one of them resigns and says, "I shall have nothing to do with it", but as regards the publication of that news what good will it do to the shareholders? The company will be damaged. I can conceive of various examples where it will not be to the interest of the company to disclose why a director has resigned. Sir, I oppose this amendment.

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

"That in clause 30 of the Bill, after clause (h) of sub-section (3) of the proposed section 77, the following clause be inserted :

'(i) the names of directors or auditors who have resigned before the date of the statutory report together with the reasons, if any, for such resignation'."

The motion was **negatived**.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 16th September, 1936.