

9th February 1939

**THE
LEGISLATIVE ASSEMBLY DEBATES**

(Official Report)

Volume I, 1939

(3rd February to 15th February, 1939)

**NINTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY,
1939**



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Legislative Assembly.

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Assistants of the Secretary :

MR. M. N. KAUL, BAR.-AT-LAW.

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KHAN SAHIB S. G. HASNAIN, B.A. (*From 10th April, 1939*).

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

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

SYED GHULAM BHIK NAIRANG, M.L.A.

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

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LEGISLATIVE ASSEMBLY.

Thursday, 9th February, 1939.

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

MEMBER SWORN.

Mr. Parakat Madhava Menon, M.L.A. (Government of India: Nominated Official).

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

DISPUTE IN CONNECTION WITH THE SHIVA TEMPLE IN DELHI.

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

- (a) whether the Shiv mandir dispute in Delhi is still continuing;
- (b) what is the total number of men and women arrested and sent to jail in this connection; and
- (c) what is the present situation?

The Honourable Mr. E. M. Maxwell: (a) and (c). The civil suit brought by Government and the Delhi Municipal Committee for the possession of the site has been decreed in favour of Government with costs. A few persons are, however, still offering *satyagraha* at the site.

(b) The total number of persons arrested up to the 24th January, 1939, was 1,130. Of these persons 894 had been convicted by that date and ten were still under trial.

Mr. T. S. Avinashilingam Chettiar: What about the rest?

The Honourable Mr. E. M. Maxwell: I suppose they were not convicted.

Mr. Leichand Navalrai: May I know if any appeal has been filed against the decision of the Sub-Judge?

The Honourable Mr. E. M. Maxwell: I must ask for notice of that.

Mr. Badri Dutt Pande: How many persons have been externed from Delhi in this connection?

The Honourable Mr. E. M. Maxwell: I must ask for notice.

Mr. T. S. Avinashilingam Chettiar: May I know whether the question has been finally settled or whether the *satyagraha* is still going on?

The Honourable Mr. R. M. Maxwell: I said that the position was that the Civil Court had decided the matter in favour of the Government and there were a few persons who were still offering *satyagraha*. That is the only extent to which the dispute still continues, although the subject matter of the dispute has already been decided by the Court.

TRANSFER OF AGENCY FUNCTIONS TO THE HIGH COMMISSIONER FOR INDIA IN LONDON, ETC.

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

- (a) whether Government have considered the suggestion of the Public Accounts Committee that the Agency functions now performed by the India Office on behalf of the Government of India should be transferred to the High Commissioner and the remaining cost of the India Office should be borne by His Majesty's Government; and
- (b) whether this matter has been investigated and, if so, by whom, and with what results?

The Honourable Sir James Grigg: (a) Yes.

(b) The matter was examined in England last summer by Sir Ernest Burdon on behalf of the Government of India. After a thorough investigation he has come to the conclusion, which the Government of India accept, that it is not advisable to transfer any specific work to the High Commissioner and that the India Office have justified their assessment of the charge which should be levied on India for agency work.

Mr. S. Satyamurti: What are the reasons on which the Government of India have accepted the recommendation of Sir Ernest Burdon that no agency functions now discharged by the Secretary of State should be transferred to the High Commissioner?

The Honourable Sir James Grigg: I understand the reasons are economy, efficiency and administrative convenience.

Mr. S. Satyamurti: May I know whether my Honourable friend can give any indication to this House of the major agency functions which are now being discharged by the Secretary of State, which cannot be transferred to the High Commissioner on grounds of economy, for example?

The Honourable Sir James Grigg: I will consider that.

Mr. S. Satyamurti: Will my Honourable friend place on the table of the House the recommendations of Sir Ernest Burdon?

The Honourable Sir James Grigg: I do not think so.

Mr. S. Satyamurti: May I know with regard to efficiency, what are the major agency functions which are now being discharged by the Secretary of State, which cannot be equally efficiently discharged by the High Commissioner for India?

The Honourable Sir James Grigg: The question which the Honourable Member asked me, last but one, was whether I would give information. I have said I will consider that.

Mr. S. Satyamurti: I asked then about economy. Now I am asking about efficiency.

The Honourable Sir James Grigg: If he goes on to administrative convenience the answer will be the same to all the three.

Mr. N. M. Joshi: May I know whether the Government of India have taken into consideration the constitutional aspect of the question, namely, the High Commissioner is under their own control whereas the India Office is not?

The Honourable Sir James Grigg: That was the whole purpose of the enquiry I understand.

Mr. Manu Subedar: May I know whether it is suggested that the High Commissioner would not perform those functions equally economically?

The Honourable Sir James Grigg: That is the matter which was investigated and it is the opinion of Sir Ernest Burdon on investigation. That seems to be the only possible reason that I can give.

Mr. K. Santhanam: May I know if it is only to justify the charges which are now paid to the India Office, that this transfer is not to take place?

The Honourable Sir James Grigg: That is an insinuation.

Mr. S. Satyamurti: May I know the reasons why Sir Ernest Burdon's report may not be placed before this House? I presume the report is in writing.

The Honourable Sir James Grigg: Because Sir Ernest Burdon, when he made the report, did so on the basis that he was reporting confidentially for the information of the Government of India. I will consider whether it is possible to get a summary of the report which could be made public.

Mr. M. Ananthasayanam Ayyangar: Will Government consider the desirability of transferring progressively some subjects,—subject after subject?

PERSONS OF VARIOUS COMMUNITIES RECRUITED UNDER THE GOVERNMENT OF INDIA.

†233. *Sardar Sant Singh: Will the Honourable the Home Member please state:

- (a) the number of persons of various communities recruited since July 1934, when the Government of India issued their circular, up to date in (i) superior, (ii) subordinate, and (iii) ministerial services under the Government of India in all their Departments; and

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

- (b) the total amount of salary drawn by members of each community from the revenues of the Government of India during the year 1937-38 and ten months of 1938?

The Honourable Mr. E. M. Maxwell: (a) Information relating to the number of vacancies in the Central Services, filled by direct recruitment, is contained in the printed copies of the annual communal returns which are placed in the Library of the House.

(b) Government have no information and do not consider that the time and labour involved in collecting the information would be commensurate with the results.

MANUFACTURE OF LETHAL EQUIPMENT FOR THE ARMY IN INDIA.

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

- the total cost of the lethal equipment for the Army in India for each of the financial years 1936-37 and 1937-38;
- the value of the parts manufactured in India each year during 1936-37 and 1937-38;
- which particular articles of lethal equipment are not manufactured in India at present; the reasons why this cannot be done; and
- whether Government are prepared to make efforts to make India entirely self-sufficient in this respect?

Mr. C. M. G. Ogilvie: (a) The total annual cost of lethal equipment for the army in India for the years 1936-37 and 1937-38 was as follows:

	Rs.
1936-37	1,01,14,000
1937-38	1,08,59,000

(b) The value of the parts manufactured in India during the same years was:

	Rs.
1936-37	97,49,000
1937-38	1,05,15,000

(c) The deficiencies include certain types of ammunition and a number of minor items such as pistols and certain machine gun components.

The reasons why these articles are not manufactured in India are:

- that the Government ordnance factories and private firms are not equipped or sufficiently developed for their manufacture, and
- that the small numbers required of certain articles would make it uneconomical to develop their manufacture in India.

So far as is possible on practical and economic grounds lethal stores are manufactured in India and all that is possible is being done to increase India's capacity for manufacture of these stores.

(d) They are already doing so, as was explained by me in reply to starred question No. 809 asked by Mr. S. Satyamurti on the 7th September, 1938.

Mr. Abdul Qaiyum: May I know, in view of the international situation, if it is not possible to so equip Government factories in India as to turn out all the lethal articles required for this country?

Mr. O. M. G. Ogilvie: The equipment of factories is necessarily a very lengthy business. The manufacture, for example, of machine tools takes months, and for the reason that I have given there are very few articles which we do not produce here and they can be so much more cheaply obtained from abroad that it would be a waste of money to produce them here.

Mr. Manu Subedar: May I know whether the opinion that they cannot be manufactured equally cheaply in this country was formed after consulting private firms who are running workshops and who are supplying the other needs of the Government?

Mr. O. M. G. Ogilvie: It is, I imagine, a self-evident fact that to put up an expensive plant not an economical business, unless the orders which are likely to be given will make it worth while to incur very large capital and running expenses.

Mr. Manu Subedar: My question was with regard to consultation of local manufacturers, for this reason that in this country many intricate things like safe deposits are being made with great precision. I want to know whether Government will give an opportunity to the local manufacturers and consider the advisability of having consultations with likely manufacturers?

Mr. O. M. G. Ogilvie: As a matter of fact, Government are very closely in touch in one way or another with everybody who is likely to be able to make anything that they want.

Mr. K. Santhanam: May I know if the Railway workshops cannot be asked to prepare such tools and other materials as are bought outside?

Mr. O. M. G. Ogilvie: I can only assure the Honourable Member that everything which can be manufactured at a reasonable price in this country is being manufactured here.

OFFICERS AND MEN IN THE AUXILIARY FORCE.

235. *Mr. Abdul Qayum: Will the Defence Secretary please state:

- (a) the total number of officers and men in the Auxiliary Force in India;
- (b) how many of these are Anglo-Indians and how many Indians;
- (c) the total amount spent on the above Force in 1937-38; and
- (d) the reasons why admission into this Force is denied to Indians?

Mr. O. M. G. Ogilvie: (a) The strength of the Auxiliary Force (India) on the 31st December, 1938, was:

Officers	589
Other ranks	13,105
Reserves	8,900
	30,594

(b) No statistics are maintained to distinguish between those members of the Auxiliary Force (India) enrolled under category (a) and those who are enrolled in category (b) of section 4 of the Auxiliary Force Act, 1920. Indians are not enrolled in the Auxiliary Force.

(c) The pay and allowances and other cash expenditure incurred during the financial year 1987-88 on Auxiliary Force units was Rs. 86.78 lakhs. This amount does not include the expenditure on rations, clothing and ammunition, as those figures are not available.

(d) I refer the Honourable Member to the answer given by me to his supplementary question to starred question No. 1990 of the 9th December, 1988, on the same subject.

Mr. Abdul Qayyum: May I know if Government are satisfied whether it is fair to utterly exclude Indians in a force for which India pays every pie?

Mr. C. M. G. Ogilvie: There is no question of exclusion. One force is raised for the European and domiciled communities and the other force, the Indian Territorial Force, is raised solely for Indians.

Mr. Abdul Qayyum: Is the Honourable Member aware that it is believed that it is due to the mistrust of Indians that British troops, Gurkhas and Anglo-Indians are maintained in this country to cope with any emergency that may arise?

Mr. C. M. G. Ogilvie: Not in the least. There is no mistrust whatever. I can assure the Honourable gentleman that the presence of these troops has on frequent occasions been a source of great benefit to the people of India and that their services have been highly appreciated by them.

Mr. Abdul Qayyum: May I know if the British soldiers, the Anglo-Indians and the Gurkhas comprise more than half the strength of what is called the Indian Army?

Mr. C. M. G. Ogilvie: I should like to know how the Honourable Member can extract any of that from the question which I have just answered.

Mr. S. Satyamurti: Is there any military reason or any other reason in the interests of public safety, which my Honourable friend can state on the floor of the House as to why there ought to be two forces one Auxiliary confined to Europeans and Anglo-Indians and one Territorial confined to Indians?

Mr. C. M. G. Ogilvie: The only reason which I can give my Honourable friend is that the Auxiliary Force is raised to form a second line to British troops and the Territorial Force to form a second line to Indian troops.

Mr. S. Satyamurti: Does it follow that the functions or purposes for which British troops are to be used in this country or outside are statutorily distinct from the functions and purposes for which Indian troops may be and are likely to be used?

Mr. C. M. G. Ogilvie: Their functions are entirely similar but their composition is distinct.

Mr. S. Satyamurti: Is there any difference in equipment or in training or in any other matters relative to the purposes for which these forces are maintained?

Mr. C. M. G. Ogilvie: I have no objection to answering it but I cannot see how it arises.

Mr. S. Satyamurti: Why is the Auxiliary Force treated as second line to British troops and the Territorial Force as the second line to Indian troops? Why is this racial distinction maintained even in this force?

Mr. C. M. G. Ogilvie: Because there is a racial difference in the composition of the British forces and the Indian forces. There is no discrimination. There is no difference except that of race.

Mr. S. Satyamurti: Is there any difference except race from the point of view of the Defence Department?

Mr. C. M. G. Ogilvie: I fail to follow that question.

Mr. S. Satyamurti: Is there any difference from the point of view of the taxpayers of India or the Defence Department between the British troops and the Indian troops except race?

Mr. C. M. G. Ogilvie: Race is certainly one of the differences.

Mr. S. Satyamurti: Anything else?

Mr. C. M. G. Ogilvie: I don't see why I should be subjected to all these innumerable questions on the basis of the differences between the British troops and the Indian troops arising on the question of the Auxiliary Force.

Mr. S. Satyamurti: I submit to you, Mr. President, that my Honourable friend said that the Auxiliary Force formed the second line to the British troops and the Territorial Force to the Indian troops. I am asking for some elucidation of the distinction between the two. I want to know if there is anything except race.

Mr. President (The Honourable Sir Abdur Rahim): He has said that race does enter into the composition of the force.

Mr. S. Satyamurti: I am entitled to know whether there is any other element in it except race.

Mr. President (The Honourable Sir Abdur Rahim): He said that race is one of the considerations.

Mr. S. Satyamurti: I want to know what are the other considerations?

Mr. C. M. G. Ogilvie: The only answer which I can give the Honourable Member is the one which I have given already, which seems to me to be a quite clear and satisfactory one and that is, that one is to be the second line to British troops and the other to the Indian troops.

Mr. S. Satyamurti: Is that an answer?

Maulvi Abdur Rasheed Chaudhury: Are there any specific duties assigned to the Auxiliary Force?

Mr. C. M. G. Ogilvie: They are the same as are assigned to other forces.

FORMATION OF A POOL OF OFFICERS FOR THE FINANCE DEPARTMENT.

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

- (a) whether the arrangements for forming a pool of officers for the Finance Department have been concluded;
- (b) what proportion of them belong to Indian Civil Service and what proportion belong to the audit service; and
- (c) among those in the Indian Civil Service, how many of them are Indians?

The Honourable Sir James Grigg: (a) and (b). A Resolution on the subject was published in the Gazette of the 4th February.

(c) The initial constitution of the pool from officers at present serving in pool posts has not yet been determined.

Mr. T. S. Avinashilingam Chettiar: May I know how many have been enrolled to this pool till now?

The Honourable Sir James Grigg: That has been answered by implication for I said that the initial constitution of the pool from officers at present serving in pool posts has not yet been determined.

Mr. T. S. Avinashilingam Chettiar: How many have been enrolled as such in the pool?

The Honourable Sir James Grigg: The Honourable Member had better put down a question.

Mr. S. Satyamurti: May I know whether the object or result of this arrangement will be, or is intended to reduce the number of Indians in the Finance Department or in the Audit Service?

The Honourable Sir James Grigg: Certainly not.

Mr. S. Satyamurti: May I know whether the object of this pool is merely to increase the efficiency of these officers for the specialised service in the Finance and Audit Departments, and not to disturb the pace of Indianisation?

The Honourable Sir James Grigg: If the Honourable Member will stop his question at the point whether the object is efficiency, I would certainly answer it in the affirmative. I do not understand what the Honourable Member means by the pace of Indianisation.

Mr. S. Satyamurti: I want to know whether one of the incidental objects of this selection is to reduce the number of Indians now being recruited for service in these Departments.

The Honourable Sir James Grigg: The only object is to increase efficiency.

Mr. S. Satyamurti: Not to decrease the number of Indians?

The Honourable Sir James Grigg: That depends upon efficiency.

SIND'S DEBT REGARDING BARRAGE.

237. *Mr. Lalchand Navalrai: (a) Will the Honourable the Finance Member be pleased to state how much Sind's debt regarding Barrage is due to the Central Government at present?

(b) How much from the capital or interest has been paid by the Sind Government since the completion of the Barrage?

(c) Is there any correspondence between the Sind and the Central Government for writing off the debt or reducing the same? If so, what orders have Government made thereupon?

(d) In case Government intend not to relinquish the debt, what is the Government's estimate as to the ability of the Sind Government and the time within which the Barrage earnings can pay the debt?

The Honourable Sir James Grigg: (a) The amount of debt outstanding on the 1st April, 1938, was Rs. 24.88 lakhs.

(b) Since the constitution of Sind, the Provincial Government have paid Rs. 50.53 lakhs on account of principal and Rs. 235.25 lakhs on account of interest up to 1937-38.

(c) No.

(d) The Barrage debt is to be repaid in 40 years commencing from 1942-43. It is secured on the general revenues of Sind including Barrage earnings.

Mr. Lalchand Navalrai: With regard to clause (c) may I know whether the Government of India have asked the Government of Sind to raise the assessment on lands?

The Honourable Sir James Grigg: The Honourable Member cannot ask that question because the assessment of the lands in the Sind Barrage area are no concern of the Governor General in Council.

Mr. Lalchand Navalrai: What I want to know is whether the Government of India will reduce the debt if the income in that direction is increased?

The Honourable Sir James Grigg: The Honourable Member had better put down a question, but as far as I am concerned, the answer is that the Government of India will require a good deal of convincing before they reduce the debt.

Mr. K. Santhanam: Will Government consider the desirability of setting off the Government of India's subvention to Sind against the interest and capital payments due for the Barrage debt?

The Honourable Sir James Grigg: My recollection is that, calculating on the basis of present values, that would amount to a gift of ten crores to the Sind Government.

Mr. M. Anandhasayanam Ayyangar: May I ask if any instalment is overdue?

The Honourable Sir James Grigg: As far as I remember, the combined account for both interest and capital will not be closed till 1942-43 and that is the date as from which the debt will be funded.

Mr. S. Satyamurti: May I ask whether the Government of India have not interfered, and have no intention of interfering with the assessment proposals with regard to the land under the Barrage—which is entirely a matter for the Sind Government—and the Government of India are concerned only with the repayment of the debt due to them?

The Honourable Sir James Grigg: The assessment proposals are no concern of the Governor General in Council.

BARRACKS ALLOTTED TO BRITISH AND INDIAN TROOPS.

238. ***Mr. Akhil Chandra Datta:** Will the Defence Secretary please state:

- (a) whether the barracks allotted for British troops are more spacious than the barracks allotted for the Indian troops;
- (b) whether there is any difference in the matter of amenities between the barracks allotted to British and Indian troops; and
- (c) whether the Army Department has set up one particular standard of accommodation and other amenities for British soldiers and another standard for Indian sepoys?

Mr. C. M. G. Ogilvie: (a)—(c). Yes. I also refer the Honourable Member to my answer to part (a) of starred question No. 1663, asked by Mr. Muthuranga Mudaliar on the 1st December, 1938.

Mr. S. Satyamurti: Will Government take steps to abolish this racial discrimination altogether, as it is a perpetual source of irritation?

Mr. C. M. G. Ogilvie: No, Sir, the Government do not admit racial distinction to exist in the manner in which the Honourable Member's question implies. If Indian troops were to be stationed in the United Kingdom, as happened during the Great War, they, just as much as British troops here, would receive and did receive special concessions.

Mr. S. Satyamurti: May I know whether Government have any intention of abolishing this distinction which goes on year after year and continues as a permanent process?

Mr. C. M. G. Ogilvie: No, certainly not. British troops stationed in this country must obviously receive certain concessions.

Mr. S. Satyamurti: Why?

Mr. C. M. G. Ogilvie: For the same reason precisely as Indians would have to receive them if stationed in England.

CHATFIELD ENQUIRY COMMITTEE.

239. *Mr. Akhil Chandra Datta: Will the Defence Secretary please state:

- (a) whether Lord Chatfield's enquiry is a public enquiry, or a private and confidential enquiry;
- (b) whether Government propose to place before this House the case presented by Government before the Chatfield Committee and the evidence adduced in support of that case on the following question, *vis.*:
 - (i) the question of relative liabilities of Indian and Imperial revenue regarding the cost of defence services in India;
 - (ii) the question of relief to Indian revenue by a grant from the Imperial revenues;
 - (iii) the question of entire withdrawal of British regiments stationed in India;
 - (iv) the question of the United Kingdom taking over the cost of all British regiments in India and removing it from the head of Indian revenues; and
 - (v) the question of Indianisation of services;
- (c) whether the Committee's report will be placed before this House and whether this House will be consulted before any action is taken on their recommendation; and
- (d) whether at all events this House will be consulted regarding those recommendations of the Committee which will affect the Indian revenues before arriving at any decision thereon?

Mr. C. M. G. Ogilvie: (a) and (b). I refer the Honourable Member to the reply I gave to parts (b), (c) and (e) of starred question No. 2032 asked by Mr. K. S. Gupta on the 9th December, 1938.

(c) and (d). I refer the Honourable Member to the reply I gave to part (i) of starred question No. 111 asked by Mr. M. Asaf Ali on the 6th February, 1939.

Mr. S. Satyamurti: Sir, have Government got any information now whether this report has been submitted to His Majesty's Government, and may I know when the Government of India expect to receive a copy of this report?

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

Mr. S. Satyamurti: It arises out of clauses (c) and (d) of the question?

Mr. C. M. G. Ogilvie: I have already clearly answered that question.

Mr. S. Satyamurti: Mr. President, you will remember that the last time, on Monday I think, the Honourable the Defence Secretary stated that he expected the report to be presented to His Majesty's Government on that date,—I am asking whether, since that date, the Government have received any information to the effect that this report has been submitted to His Majesty's Government, and when this Government expect to get a copy of that report?

Mr. C. M. G. Ogilvie: Sir, as a matter of principle I cannot see that it arises from this question.

Mr. S. Satyamurti: I submit it does.

Mr. President (The Honourable Sir Abdur Rahim): The Chair thinks, in a matter like this, if the Honourable Member is in a position to give this information he ought to do so.

Mr. C. M. G. Ogilvie: I am in a position to do so, and I will, therefore, give it. The report was received by His Majesty's Government on the 6th of February.

Mr. S. Satyamurti: When do this Government expect to get a copy of that report?

Mr. C. M. G. Ogilvie: Am I to understand that that too arises from this question, Sir?

Mr. S. Satyamurti: Well, will this House be consulted regarding those recommendations of the Committee after this Government gets a copy of the report?

Mr. President (The Honourable Sir Abdur Rahim): He has not got the copy yet.

Mr. S. Satyamurti: He has not said that yet, Sir?

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

Mr. S. Satyamurti: He has not said so, Sir,—I cannot follow what he does not say?

Mr. C. M. G. Ogilvie: I am quite ready to answer that?

Mr. K. Santhanam: May I know if Indian revenues have paid any part of the cost of this inquiry?

Mr. C. M. G. Ogilvie: That does not arise.

Mr. K. Santhanam: The question is whether it was a private or confidential inquiry. If it were a confidential inquiry of the British Government, then this Government ought not to pay. I am asking whether Indian revenues have paid any part of the cost of this inquiry. That should be capable of being answered quite easily?

Mr. C. M. G. Ogilvie: That question was already answered, I think, during the last Session.

Mr. K. Santhanam: May I request the Honourable Member to read that answer?

Mr. C. M. G. Ogilvie: I have not got the answer with me.

Mr. Abdul Qayum: Have Government sent in their suggestions or recommendations on this report to His Majesty's Government?

Mr. C. M. G. Ogilvie: I am unable to answer any question of that sort, apart from the fact that it does not arise.

An Honourable Member: Why?

Mr. President (The Honourable Sir Abdur Rahim): The Chair cannot compel him to do so.

Maulvi Abdur Rasheed Ojhaudhury: May I know whether this particular question of the entire withdrawal of British regiments from India was before the Committee?

Mr. C. M. G. Ogilvie: I cannot answer that question any more definitely than I have already answered innumerable questions on the same subject.

JEWES ENTERING INDIA.

240. *Sardar Mangal Singh: Will the Honourable the Home Member please state:

- (a) how many Jews have entered India during the year 1938 and in January 1939;
- (b) the country or countries of their origin from which they come; and
- (c) whether Government have given any assistance to them in any shape?

The Honourable Mr. R. M. Maxwell: With your permission, Sir, I propose to answer questions Nos. 240 and 256 together.

(a) Government have no precise information regarding the number of Jewish refugees who have entered India or regarding the country or countries of their origin. To give precise information an elaborate enquiry would be necessary, because immigrants are admitted into India, if they are in possession of valid passports, without enquiry as to whether they are Jews or not. Further, Government have no information readily available as to how many immigrants from a specific country are refugees and

how many are casual visitors, and although the cases of apparently destitute persons are generally referred to the Government of India by Consular and passport issuing authorities, such references are not invariably made, nor do persons in respect of whom a reference is made invariably enter India.

(b) The broad position is that Government have given no relief in any form, but it permits refugees to enter India if they are not undesirable and are able to obtain such guarantees for maintenance from persons, preferably resident in India, as are reasonably sufficient to ensure that they will not become a charge upon Indian revenues.

(c) No scheme for assistance is in contemplation. But arrangements have recently been to admit Jewish refugees emanating from the dictatorship countries provided that they obtain a guarantee from the Council of German Jewry in England or from the branch at Bombay, which the Council of Jewry proposes to establish, to maintain them for five years, and, if unemployed at the end of that period to repatriate them to the United Kingdom. Persons in employment at the end of that period are to be regarded as standing on their own feet.

Mr. T. S. Avinashilingam Chettiar: May I ask how many have come under the last arrangement that the Honourable Member mentioned?

The Honourable Mr. E. M. Maxwell: I am not aware whether any have come yet. We have not been approached yet by the Bombay Council.

Mr. M. Ananthasayanam Ayyangar: May I know if a passport is not insisted upon from every immigrant who comes to India and whether from those passports a calculation could not be made regarding the number of Jews who have entered into India during 1938-39?

The Honourable Mr. E. M. Maxwell: These passports are based on nationality and not on racial distinctions.

Mr. Mann Subedar: Have any Jews been repatriated from this country?

The Honourable Mr. E. M. Maxwell: Not so far as I am aware.

CUT ON THE SALARIES OF GOVERNMENT SERVANTS.

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

- (a) whether Government contemplate imposing a sliding scale cut on salaries of Government officials from the next financial year; and
- (b) whether Government propose to see that the proposed cut will not be imposed on salaries below Rs. 300?

The Honourable Sir James Grigg: With your permission, Sir, I will answer questions Nos. 241 and 257 together.

I would refer the Honourable Member to the answers I gave to certain supplementary questions arising out of the answers to starred questions Nos. 1242 and 1268 asked by Mr. Satyamurti on the 15th November, 1938.

Mr. S. Satyamurti: Have Government any such intention at present? Apart from what the Honourable Member may say in his Budget speech, may I ask whether the Government have any intention of imposing a cut on salaries of Government servants?

The Honourable Sir James Grigg: If the Honourable Member does not like the answer that he must wait for my Budget speech, then I am sorry I cannot give him any answer.

SCHEME FOR AIR RAID PRECAUTIONS.

242. *Sardar Mangal Singh: (a) Will the Honourable the Home Member please state whether Government have prepared any All-India scheme about Air Raid Precautions?

(b) What would be the probable cost, and how will it be met?

(c) Will the Provincial Governments be required to share the burden of expenditure, or will the whole expenditure be met from the military budget?

The Honourable Mr. E. M. Maxwell: (a) Air raid precautions fall under two heads, active and passive. Active defence against air raids is a military measure and it would not be in the public interest to disclose the steps which are being taken. Passive air raid precautions, e.g., protection of the civil populace against the results of air raids, involve action which is primarily the responsibility of Provincial Governments. The conclusions of the Committee referred to in the answer given in the Council of State on September 5th, 1938, to the Honourable Rai Bahadur Lala Ram Saran Das' question No. 2 have been communicated to Provincial Governments concerned and they have been invited to make a survey of their own position. I understand that they are taking certain measures in this connexion.

(b) and (c). No estimate of the probable cost is possible at this stage, but the measures recommended by the Government of India are not such as need involve any authority in any appreciable expenditure at present. Such as is incurred will be borne, either separately or jointly as the case may be, by the Government or local body directly responsible for the measures taken.

Mr. M. Thirumala Rao: The Honourable Member said that the active precautions are in the hands of the military and the passive precautions are in the hands of the local Governments. May I ask if there is any machinery to co-ordinate these two activities?

The Honourable Mr. E. M. Maxwell: The military authorities at the centres of various Provincial Governments co-operate with them in helping them to get their passive schemes into proper shape.

Mr. T. S. Avinashilingam Chettiar: May I ask whether the Government can give us the main steps that the Provincial Governments have taken in this respect?

The Honourable Mr. E. M. Maxwell: What the Provincial Governments have been advised to get on with is, firstly, the organisation of area and sub-area committees, including the representation of Central Departments

upon them; secondly, the preparation of local schemes for all places considered likely to be subject to air attack, and thirdly the selection and earmarking of personnel and buildings required in connection with air raid precautions. Further, they have to provide for the training of a nucleus of instructors for provinces in the areas which are considered vulnerable. Then, again, the organisation of the air raid warning system and lighting restrictions and, finally, the education of the public.

Mr. S. Satyamurti: Are there any proposals for constructing any shelters against possible air raids in sea ports, such as, Bombay, Calcutta and Madras, as they are doing in England?

The Honourable Mr. E. M. Maxwell: Such matters would hardly arise at this stage.

Sardar Mangal Singh: May I ask if any precautions are being taken to protect Delhi from air raid?

The Honourable Mr. E. M. Maxwell: No, Sir. Delhi is not considered a vulnerable area.

Mr. K. Santhanam: May I ask if the Government of India have in mind the preparation of a pamphlet giving instructions to the public in the event of air raids?

The Honourable Mr. E. M. Maxwell: I understand the Provincial Governments are attending to that.

RESTRICTION ON THE ENTRY INTO INDIA OF SARDAR AJIT SINGH.

243. *Sardar Mangal Singh: Will the Honourable the Home Member please state:

- (a) whether there is any restriction on the entry into India of Sardar Ajit Singh; and
- (b) whether he has sent any communication to the Government of India expressing his desire to come back to India?

The Honourable Mr. E. M. Maxwell: (a) and (b). He is a naturalised Brazilian subject and, as far as the Government of India are aware, has never applied for a *visa* for India. The matter will be considered if he does so.

Sardar Mangal Singh: May I ask if there is any restriction against his entry?

The Honourable Mr. E. M. Maxwell: Any foreigner can only enter into India if he has a proper *visa* on his passport, and he has got to apply for that.

RELEASE OF POLITICAL EXILES.

244. *Mr. Akhil Chandra Datta: (a) Will the Honourable the Home Member please state whether the United Provinces Government have recommended the release of the people who had been exiled for political reasons?

(b) If so, what action has been taken by the Government of India on those recommendations?

(c) If no action has yet been taken, what action, if any, do Government propose to take with regard to the release of those political exiles?

The Honourable Mr. E. M. Maxwell: (a), (b) and (c). I would invite the Honourable Member's attention to the reply given by me on the 8th February, 1939, to Mr. M. Thirumala Rao's starred question No. 138.

CIRCULAR AS INCREASE IN THE MANUFACTURE OF ARMS AND AMMUNITION IN INDIA.

245. *Mr. Akhil Chandra Datta: (a) Will the Defence Secretary please state whether private circulars have been issued for increasing the manufacture of arms and ammunition in India?

(b) If so, when were they issued and with what object?

(c) Will Government place on the table of this House the full text of the said circular?

(d) Is it now the policy of Government to manufacture all arms and ammunition internally, so that, in the event of any war, India can do without arms and ammunition imported from outside?

(e) If so, when was that policy first formulated?

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

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

(d) Yes, so far as it is practicable and economical to do so.

(e) This has always been Government's policy.

APPEAL FROM THE FEDERAL COURT DECISION IN THE CENTRAL PROVINCES PETROL TAX ACT CASE.

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

(a) whether Government intend to appeal to the Privy Council against the decision of the Federal Court in the case of the Central Provinces Government *versus* the Government of India (about the Central Provinces Petrol Tax Act); and

(b) what would be the estimate of expenses of this appeal?

The Honourable Sir James Grigg: (a) and (b). The implications of the opinion given by the Federal Court are still under examination, and I am not in a position to make a statement on the subject.

Mr. S. Satyamurti: In the meantime, what is the position with regard to those Provincial Governments which want to proceed on the basis of the advice given by the Federal Court in this case?

The Honourable Sir James Grigg: I think the Honourable Member, being a lawyer, can answer that as well as I can.

Mr. S. Satyamurti: The Federal Court has merely advised in this case. I want to know whether the Government of India propose to accept the advice of the Federal Court or propose to appeal to the Privy Council.

The Honourable Sir James Grigg: That is precisely the question I cannot answer.

Mr. Manu Subedar: Have the Government of India any information as to the intention of Provincial Governments to impose sale taxes in various provinces?

The Honourable Sir James Grigg: I hope the Provincial Governments are not in the habit of proclaiming their budgetary intentions in advance.

INCLUSION OF PUSHTU IN THE INDIAN LANGUAGES FOR THE INDIAN CIVIL SERVICE EXAMINATION.

247. *Mr. Abdul Qayyum: Will the Honourable the Home Member please state:

- (a) the Indian languages which a candidate can take up for the Indian Civil Service competitive examination;
- (b) whether such candidates are allowed to take up Pushtu for the said examination; and
- (c) if not, the reasons for this discrimination against Pushtu?

The Honourable Mr. R. M. Maxwell: (a) The information is contained in rules 14 to 16 of the Rules for the Indian Civil Service Examination held in India last month, a copy of which I lay on the table.

(b) No.

(c) Pushtu was included in the list of languages for the Indian Civil Service Examination in India in 1922 but as no candidate offered it for his examination, it was omitted in the following year. The question of including it again was considered in 1926 but was dropped on the advice of the Public Service Commission who pointed out that there was no demand for it on the part of candidates appearing at the examination, and that an addition to the already large number of vernacular languages included in the syllabus would not be justified on practical grounds.

HOME DEPARTMENT.

NOTIFICATION.

ESTABLISHMENTS.

Simla, the 19th May 1938.

No. 33/38.—The following rules and instructions for the examination for the Indian Civil Service to be held in India during 1939, are published for general information.

E. CONRAN-SMITH,

Joint Secy. to the Govt. of India.

NOTICE.

A competitive examination for admission to the Indian Civil Service will be held under the following rules at Delhi, beginning on the 4th January, 1939. Candidates accepted for admission to the examination will be informed at what place in Delhi and at what hour they should present themselves (a) for the written examination and (b) for the viva voce test.

The number of candidates to be selected at this examination will be announced later.

A candidate in British India or in Burma is required to submit his application through the Collector or Deputy Commissioner of his district* to the authority mentioned in Rule 3. No candidate will be admitted to the examination from whom the Collector or Deputy Commissioner* or the Political Officer or Agent has not received on or before the 15th July, 1938, an application on the prescribed form accompanied by the necessary documents. Copies of the application form may be obtained from the authority mentioned in Rule 3.

Any person who has appeared at an examination the passing of which will render him eligible to appear at the Indian Civil Service Examination, but has not been informed of the result, may apply for admission to the latter examination. A candidate who intends to appear at such a qualifying examination, may also apply, provided the qualifying examination is to be concluded before the commencement of the Indian Civil Service Examination. His application will be accepted provisionally if he is eligible in all other respects and he will be required to furnish before the 25th July, 1938, to the Chief Secretary to the Provincial Government, or thereafter to the Federal Public Service Commission, but not later than the date on which the results are ready for communication to the Government of India, proof of having passed such qualifying examination.

Candidates must have been born not earlier than the 2nd January, 1915, and not later than the 1st January, 1918. THESE AGE LIMITS CAN IN NO WAY BE RELAXED.

No allegation that an application form or letter respecting such form has been lost or delayed in the post will be considered unless the person making such allegation produces a Post Office Certificate of Posting. Candidates who delay their applications until a late date will do so at their own risk.

A candidate for whom a declaration under Section 262 (3) of the Government of India Act, 1935, is necessary [see Rule 4 (b)] should take immediate steps to obtain the requisite declaration. He will not be appointed unless he has obtained the declaration.

Candidates should state the name of the examination for which they have applied in all correspondence with the Federal Public Service Commission.

Rules for Competitive Examinations for the Indian Civil Service to be held in India.

The following Rules made by the Secretary of State for India, are liable to alteration from year to year :

(1) A competitive examination for admission to the Indian Civil Service shall be held in India at such time and place as the Governor General in Council may direct.

(2) The maximum number of candidates to be admitted to the examination may in the discretion of the Governor General in Council be limited to such number not being less than 200 as the Governor General in Council may decide. If a limit is imposed and the number of candidates exceeds that limit the Federal Public Service Commission shall select from among the applicants those who shall be admitted to the examination and shall have regard in so doing to the suitability of the applicants for the Indian Civil Service and to the adequate representation of the various provinces of India.

(3) (i) A candidate shall apply to be admitted to the examination before such date and in such manner and in such form as the Governor General in Council may prescribe. The application shall be made to the proper authority of the area in which his parents reside at the time of the application or of an area in which they have previously resided for a period of not less than three years or in which he has himself resided, otherwise than as a student at a university only, for a like period.

(ii) The proper authority shall be, for a Governor's province or for Burma, the Chief Secretary, for Coorg, Delhi, Ajmer-Merwara, Andaman and Nicobar Islands, British Baluchistan and Panth Piploda, the Chief Commissioner and for a State in India the Political Officer or Agent who shall be addressed through the Durbar.

*In the case of Calcutta, the Commissioner of Police.

(iii) No candidate shall make more than one application in respect of any one examination.

(4) A candidate must be a male and either—

(a) a British subject of Indian domicile or of European or Indian descent domiciled in Burma whose father (if alive) is a British subject or a subject of a State in India, or (if dead) was at the time of his death either a British subject or a subject of a State in India or a person in the permanent service of the Crown or a person who had retired from that Service; or

(b) a Ruler or a subject of a State in India in respect of whom the Governor General in Council has made a declaration under Section 262 (3) of the Government of India Act, 1935 :

Provided that in the case of a male British subject the requirements of this rule may be waived by the Secretary of State in Council if he is satisfied that their observance would occasion exceptional hardship and the candidate is so closely connected by ancestry and upbringing with His Majesty's dominions as to justify special treatment.

(5) A candidate must have attained the age of 21 and must not have attained the age of 24 on the first day of January in the year in which the examination is held.

(6) A candidate must be in good mental and bodily health and free from any physical defect likely to interfere with the efficient performance of the duties of a member of the Indian Civil Service. A candidate who is found after examination by a Medical Board not to satisfy these requirements will not be selected for probation.

(7) A candidate must satisfy the Federal Public Service Commission that his character is such as to qualify him for employment in the Indian Civil Service :

Provided that, if a candidate's application to take a previous examination for admission to the service has been rejected by the Civil Service Commissioners on the ground that his employment in the service would be detrimental to the public interest, the Federal Public Service Commission shall not admit that candidate to a subsequent examination, unless since his rejection, new facts favourable to him have been brought to light and are, in the opinion of the Federal Public Service Commission, sufficient to justify his admission.

(8) The decision of the Federal Public Service Commission as to the eligibility or otherwise of a candidate shall be final.

(9) *A candidate must hold a degree of a university approved by the Governor General in Council, or the senior diploma of the Mayo College, Ajmer. The degree held by a candidate must be a degree in arts, science, or letters and a degree held in a professional or vocational subject shall not qualify him for admission to the examination. Any question whether a degree held by the candidate is of a nature qualifying him for admission to the examination shall be decided by the Federal Public Service Commission, whose decision shall be final.

In exceptional cases the Federal Public Service Commission may, on the recommendation of the Provincial Government, treat as a qualified candidate a candidate who though not possessing any of the foregoing qualifications, has passed examinations conducted by other institutions of a standard which, in the opinion of the Federal Public Service Commission, justifies his admission to the examination.

(10) No candidate shall be admitted to the examination unless he holds a certificate of admission from the Federal Public Service Commission.

(11) No recommendations except those invited in the form of application will be taken into consideration. Any attempt on the part of a candidate to obtain support for his application by other means may disqualify him for admission.

(12) Candidates must pay the following fees :

A.—To the Federal Public Service Commission :

(i) Rs. 20 with the application form.

(ii) if accepted for admission to the examination Rs. 80 immediately after the receipt of the certificate of admission.

[Only Treasury Receipts (Indian or Burman) for these amounts will be accepted by the Federal Public Service Commission.]

These fees will not be refunded in any circumstances whatever nor will they be held in reserve for subsequent examinations or selections.

*See note at end of rules.

B—To the Provincial Government—

(iii) Rs. 16 before examination by a Medical Board in the case of successful candidates.

(13) The examination will include the following subjects. Each subject will carry the number of marks shown against it.

SECTION A.—To be taken by all candidates.

	Marks.
1. Essay	150
2. English	150
3. General Knowledge	100
4. Vernacular Language	100

SECTION B. Candidates are allowed to take up subjects in this section up to a total of 800 marks.

Languages and Civilisations.

	Marks.
5. Arabic Language	200
6. Arabic Civilisation	200
7. Persian Language	200
8. Persian Civilisation	200
9. Sanskrit Language	200
10. Sanskrit Civilisation	200
11. Pali Language	200
12. Pali Civilisation	200
13. Vernacular Literature	200
14. English Literature (General)	200
15. English Literature (Period 1)	100
16. English Literature (Period 2)	100
17. English Literature (Period 3)	100
18. English Literature (Period 4)	100
19. Latin Language	100

History, Economics, Politics, Law and Philosophy.

	Marks.
20. Indian History (Period 1)	100
21. Indian History (Period 2)	100
22. Indian History (Period 3)	100
23. Modern European History (Period 1)	100
24. Modern European History (Period 2)	100
25. British History (Period 1)	100
26. British History (Period 2)	100
27. British History (Period 3)	100
28. General Economics	200
29. Economic History	100
30. Public Economics	100
31. Political Theory	100
32. Political Organisation	100
33. Law	200
34. Moral Philosophy	100
35. Metaphysics	100
36. Logic	100

* See rule (17) below.

Mathematics and Science.

	Marks.
37. Lower Mathematics, Pure and Applied	200
38. Higher Mathematics, Pure	200
39. Higher Mathematics, Applied	200
40. Lower Chemistry	200
41. Higher Chemistry	200
42. Lower Physics	200
43. Higher Physics	200
44. Lower Botany	200
45. Higher Botany	200
46. Lower Geology	200
47. Higher Geology	200
48. Lower Physiology	200
49. Higher Physiology	200
50. Lower Zoology	200
51. Higher Zoology	200
52. Advanced Geography	200
53. Astronomy	100
54. Statistics	100
55. Psychology (including Experimental Psychology)	100
56. Social Anthropology	100

SECTION C.

	Marks.
57. <i>Viva Voce</i> (vide Rule 24)	300

(14) In subject 4 (Vernacular Language) a candidate may offer any one of the following languages :—Assamese, Bengali, Burmese, Gujarati, Hindi, Kanarese, Malayalam, Marathi, Oriya, Punjabi (Gurmukhi), Sindhi, Tamil, Telugu, Urdu.

(15) The Civilisation (subjects 6, 8, 10 and 12) associated with a language can only be taken by candidates who also offer the language itself.

(16) In subject 13 (Vernacular Literature) a candidate may offer the literature of any one of the following languages :—Bengali, Burmese, Gujarati, Hindi, Marathi, Punjabi (Gurmukhi), Tamil, Telugu, Urdu.

(17) In English Literature (subjects 14 to 18 inclusive) a candidate may not offer subjects carrying a total of more than four hundred marks. Thus a candidate who offers English Literature (General) (subject 14) may not offer more than two periods of English Literature (subjects 15 to 18).

(18) Candidates who offer a natural science subject (subjects 40 to 51) must produce a certificate that subsequent to the passing of the Intermediate or an equivalent examination they have undergone laboratory training for a period of one year in an institution authorised to prepare candidates in the subject for a University degree or for some other qualification accepted by the Federal Public Service Commission as of adequate standard. *The certificate must be signed by the head of the institution.*

(19) Candidates who offer Advanced Geography (subject 52) must produce a certificate that subsequent to the passing of the Intermediate or an equivalent examination they have undergone practical training in that subject for a period of one year in an institution authorised to prepare candidates in the subject for a University degree or for some other qualification accepted by the Federal Public Service Commission as of adequate standard. *The certificate must be signed by the head of the institution.*

(20) Candidates who offer Astronomy (subject 53) must satisfy the Federal Public Service Commission that they have been trained in an Astronomical observatory for a period of at least three months or have had other experience of the use of the Astronomical instruments.

(21) From the marks assigned to candidates in each subject, such deduction will be made as the Federal Public Service Commission may consider necessary in order to secure that no credit is allowed for merely superficial knowledge.

(22) If a candidate's handwriting is not easily legible, a deduction, which may be of considerable amount, will be made on this account from the total marks otherwise accruing to him.

(23) Credit will be given for good English, including orderly, effective and exact expression combined with due economy of words, in all the subjects of the examination and not only in subjects 1 and 2 which are specially devoted to the English language.

(24) Candidates must obtain such a mark in the *viva voce* (subject 57) and such an aggregate of marks in the written tests as to satisfy the Federal Public Service Commission. If, owing to the large numbers of candidates appearing, the Commission consider it impracticable to examine all candidates in *viva voce*, the Commission may, in their discretion, after the written marks have been compiled, summon for examination in *viva voce* only those candidates who have obtained in the written test the qualifying marks prescribed above. The marks for the written test of such candidates shall not be disclosed to the interview board.

(25) A list of the competitors shall be made out in order of their proficiency as disclosed by the aggregate marks finally awarded to each competitor, and in that order, so many competitors, up to the determined number of appointments* as are found by the Federal Public Service Commission to be qualified by examination, shall be designated to be Probationers for the Indian Civil Service, provided that the Governor General of India in Council is satisfied that they are duly qualified in other respects. The Governor General in Council may, however, at any time prior to the commencement of the period of probation, institute, or cause to be instituted, such further enquiries as he may deem necessary as to the qualifications of any candidate in respect of nationality, age, health, character or conduct, and if the result of such enquiries is in the opinion of the Governor General in Council unsatisfactory in any of those respects, the candidate may be declared disqualified. Should any Probationer become disqualified, the Secretary of State for India will determine whether the vacancy thus created shall be filled or not.

(26) The period of probation will be for one year in the United Kingdom.

(27) Any rules for the regulation of admission to the Indian Civil Service through competitive examinations held in India which are in force at the time these rules come into operation are hereby repealed.

Note to Rule (9). The following universities have been approved by the Governor General in Council, viz.,

Indian Universities.

Any University incorporated by an Act of the Central or a Provincial Legislature in India.

The Mysore University.

The Osmania University.

The Rangoon University.

English and Welsh Universities.

The Universities of Birmingham, Bristol, Cambridge, Durham, Leeds, Liverpool, London, Manchester, Oxford, Sheffield and Wales.

Scotch Universities.

The Universities of Aberdeen, Edinburgh, Glasgow and St. Andrews.

Irish Universities.

The University of Dublin (Trinity College).

The Queen's University of Belfast.

*The number of appointments which will be announced for competition will not represent the total number of vacancies to be filled in India, as certain vacancies will be reserved in accordance with paragraph 7 of the Home Department Resolution No. F. 14/17B./33-Ests., dated the 4th July, 1934, and will be filled, if necessary, by nomination for the purpose of adjusting communal inequalities which may arise from the results of the competitive examinations in London and India.

Syllabus for the Indian Civil Service Competitive Examination to be held in India.

1. *Essay*.—An essay to be written in English on one of several specified subjects.

2. *English*.—Questions to test the understanding of and the power to write English.

3. *General Knowledge*—including knowledge of current events and of matters of everyday observation and experience in their scientific aspects as may be expected of an educated man who has not made a special study of any scientific subject.

4. *Vernacular language* [see Rule (14)].—The test will include translation from the language, set composition in which an English passage is given to be put into the language, and free composition in which the candidate writes in the language in his own words on a prescribed subject.

5—12. *Languages and Civilisation*.—Candidates will be expected to show a knowledge of the language and its literature. The papers on civilisation will test the knowledge of geography, history, and social, political and religious evolution and developments. Questions may be set which require an acquaintance with archaeological discoveries.

5. *Arabic Language*.—Translation from Arabic into English and from English into Arabic and composition in Arabic on one or more specified subjects. The classical language must be used.

6. *Arabic Civilisation*.—History and literature of the Arabs and Muslim Philosophy with special reference to the period from the middle of the 6th Century A.D. to the middle of the 13th Century A.D. Candidates offering this subject are expected to show a familiarity with the whole subject and not to restrict themselves to the special period.

7. *Persian Language*.—Translation from Persian into English and from English into Persian and composition in Persian on one or more specified subjects. The classical language must be used.

8. *Persian Civilisation*.—Persian history and literature with special reference to the period 1000 A.D. to 1500 A.D. Candidates offering this subject are expected to show a familiarity with the whole subject and not to restrict themselves to the special period.

9. *Sanskrit Language*.—Translation from Sanskrit into English and from English into Sanskrit and composition in Sanskrit on one or more specified subjects.

Questions may be set on Vedic Grammar relating to grammatical forms occurring in the passages set for translation or to general grammatical questions suggested by them. Both Vedic and Classical Sanskrit passages may be set for translation; composition will be required in classical Sanskrit alone. A knowledge of the Prakrit used in plays will be expected. The Devanagari script must be used.

10. *Sanskrit Civilisation*.—The history of the Civilisation, Philosophy and thought of India from the Vedic period to 1200 A.D.

11. *Pali Language*.—Translation from Pali into English and from English into Pali and composition in Pali on one or more specified subjects.

12. *Pali Civilisation*.—The history of Buddhistic Civilisation in India from the time of Buddha to 1000 A.D.

13. *Vernacular Literature*.—Candidates will be expected to know the best known works in the vernacular though questions on works of lesser importance may be set. They will also be expected to possess a knowledge of the history of the literature and such knowledge of general social history as will enable them to understand the literature. Unless the instructions on the question paper are to the contrary, answers should be written in English.

14. *English Literature—General*.—Candidates will be expected to show a general knowledge of the history of English Literature from the time of Chaucer to the end of the reign of Queen Victoria and to give evidence of wide reading in English Literature.

15—18. *English Literature—Periods 1 to 4*.—Special attention should be paid to the authors named and a candidate will be expected to be familiar with some of their works.

A candidate will also be expected to have studied the literary history of this period, and to have done some independent reading outside the authors named. In marking the paper importance will be attached to evidence of wide reading and independent judgment.

Period 1, 1680 to 1680.—Spenser, Shakespeare, Milton, Bacon, Bunyan.

Period 2, 1680 to 1780.—Dryden, Pope, Gray, Addison, Swift, Fielding, Johnson, Sheridan, Burke.

Period 3, 1780 to 1832.—Scott, Wordsworth, Lamb, Keats, Shelley, Byron, Jane Austen.

Period 4, 1832 to 1901.—Macaulay, Carlyle, Dickens, Thackeray, the Brontës, Tennyson, Robert Browning, Matthew Arnold, R. L. Stevenson, Thomas Hardy.

19. *Latin Language.*—Translation from English into the language and from the language into English. Questions may be asked on the Grammar of the language.

HISTORY.—*Subjects 20 to 27.*—Candidates in these subjects should be acquainted with geography in its relation to history and be prepared to draw sketch maps. When a fixed date is given for the beginning of a period candidates will be expected to know in general outline how the initial position was reached. Questions may be asked to test the candidates's knowledge of original sources.

20. *Indian History.*—*Period 1.*—India from the first Arayan immigration to the end of the 12th century. Questions may also be set on the history of Buddhism outside of India.

21. *Indian History.*—*Period 2.*—India from the beginning of the 11th century to 1748 (death of the Mogul Muhammad Shah). Questions may also be set on the contemporary history of the principal Moslem powers outside of India.

22. *Indian History.*—*Period 3.*—India during the British period from 1600 to 1919 together with the contemporary history of the British Empire.

23 and 24. *Modern European History.*—

Period 1, 1453—1740.

Period 2, 1740—1920.

Questions may be asked on the history of countries outside Europe so far as a knowledge of that history is necessary to the understanding of European History.

25. *British History.*—*Period 1, 1485—1714.*

26. *British History.*—*Period 2, 1714—1815.*

27. *British History.*—*Period 3, 1815—present day.*

28. *General Economics.*—Candidates will be expected to have a knowledge of economic theory and should be prepared both to illustrate the theory by the facts and to analyse the facts by the help of the theory. Questions may be set on the history of economic thought.

29. *Economic History.*—Candidates will be expected to have a knowledge of both British and Indian economic history with special reference to the economic development of India during the British period; such knowledge will be expected of conditions in other countries as is necessary for the understanding of the subject.

30. *Public Economics.*—A knowledge will be expected of the main forms of State action, central and local in the economic sphere, and of public finance.

31. *Political Theory.*—Candidates will be expected to show a knowledge of political theory and its history, political theory being understood to mean not only the theory of legislation but also the general history of the State and its connection with kindred studies such as Jurisprudence, Public International Law and Economics. A knowledge of original authorities is required.

32. *Political Organisation.*—Constitutional Forms (Representative Government, Federalism, etc.) and Public Administration, central and local. Candidates will be expected to understand the origin and development of existing institutions.

33. *Law.*—Constitutional Law of the British Empire, Jurisprudence, Torts, Indian Law of Contract, Indian Evidence Act, Indian Penal Code.

34. *Moral Philosophy.*—The subject covers the history and the theory of Ethics, Eastern and Western, and includes moral standards and their application, the problems of moral order and progress of Society and the State, and theories of punishment.

35. *Metaphysics*.—The subject covers the history of Western Philosophy and should be studied with special reference to the problems of space, time and causality, evolution and value, the nature of God.

36. *Logic*.—Formal logic, scientific method, epistemology in its bearing on logical problems and the history of logic. Questions may be set on the logic of mathematics, symbolic logic and the logic of probability.

37. *Lower Mathematics, Pure and Applied*.—Logarithms, numerical equations, graphs, approximation, infinite series, complex numbers, solution of triangles.

Geometry in two and three dimensions according to the method of Euclid. Analytical geometry in two dimensions (method of Descartes). The construction of plans, elevations and sections of solid bodies (method of Monge). The method of vectors, including scalar and vector products with applications to the other parts of Lower Mathematics.

Differential co-efficients, maxima and minima, integrals, the application of the infinitesimal calculus to curves.

Projectiles, harmonic motion, momentum, energy, power, Equilibrium of rigid bodies in two dimensions, link polygons, virtual work. Simple machines, e.g., tackle cranes, engine governors, brakes. Fluid pressure expansion of a perfect gas, air pump.

38. *Higher Mathematics, Pure :*

Lower Pure Mathematics together with—

The Geometry of Curves and Surfaces Elementary analysis, including simple functions of a complex variable and contour integration. Differential equation in one independent variable; elementary treatment of partial differential equations with special reference to the differential equations of mathematical physics. Existence theorems are excluded.

Calculus of Finite Differences including Numerical Integration and summation of Linear Differential Equations.

39. *Higher Mathematics, Applied :*

Lower Applied Mathematics together with Statics (Advanced) including graphical treatment. Dynamics to the Equations of Euler and Lagrange and including the theory of the vibration of strings and other simple systems.

Hydrodynamics including the elementary theory of the motion of solids through a liquid, and surface waves.

Electricity and Magnetism.

Thermodynamics Kinetic theory of gases radiation.

NATURAL SCIENCE.—Subjects 40 to 51.

40. *Lower Chemistry*.

41. *Higher Chemistry*.

42. *Lower Physics*.

43. *Higher Physics*.

44 and 45. *Lower and Higher Botany*.—Botany includes vegetable physiology.

46 and 47. *Lower and Higher Geology*.—Geology includes mineralogy.

48. *Lower Physiology*.

49. *Higher Physiology*.

50. *Lower Zoology*.

51. *Higher Zoology*.

52. *Advanced Geography*.—Geography of the world with special reference to India. Questions may be set on topics which concern geography jointly with other subjects such as economics, history physics, botany and geology. There will be a practical test, which will necessitate a knowledge of cartographical methods and notations, and for this test drawing instruments may be required.

53. *Astronomy*.—Celestial co-ordinates, spherical triangles. Astronomical instruments. Time, longitude, latitude, Orbital motion of the earth, aberration, Precession, nutation libration parallax. Celestial mechanics, solar system. Eclipses. Atmospheric refraction.

The stars and constellations. Nautical Almanac. Descriptive discussion of sun, moon, planets. Descriptive discussion of double stars, nebulae, clusters, variable stars, comets. Star magnitudes and distances. Stellar movements.

Application of spectroscopy to astronomy. Solar spectrum. Star spectra and classification.

The temperature's absolute magnitudes and diameters of stars.

54. *Statistics*.—(1) Frequency distributions averages, percentiles, and simple methods of measuring dispersion, graphic methods, treatment of qualitative data, e.g., investigation of association by comparison of ratios, the practice of graphic and algebraic methods of interpolation.

(2) Practical methods used in the analysis and interpretation of statistics of prices, wages and incomes, trade, transport, production and consumption, education, etc., methods of dealing with population and vital statistics, miscellaneous methods used in handling statistics of experiments or observations.

(3) Elements of modern mathematical theory of statistics, frequency curves and the mathematical representation of groups generally, accuracy of sampling as affecting averages, percentages, the standard deviation, significance of observed differences between averages of groups, etc., the theory of correlation for two variables.

55. *Psychology (including Experimental Psychology)*.—Questions on Experimental Psychology and on the History of Psychology may be set.

56. *Social Anthropology*.—The subject should be studied with special, but not exclusive, reference to peoples of rude culture and to prehistoric civilisation.

57. *Viva Voce*.—The candidate will be interviewed by a Board who will have before them a record of his career. He will be asked questions on matters of general interest. The object of the interview is to assess his suitability for the Service for which he is entered, and in framing their assessment the Board will attach particular importance to his intelligence and alertness, his vigour and strength of character, and his potential qualities of leadership.

Mr. Abdul Qayum: Is the Honourable Member aware that among the languages which are already included, and in which candidates can appear, there are several in which candidates have never offered themselves for examination?

The Honourable Mr. E. M. Maxwell: I am not aware of that, but that is an additional reason for not adding to their number.

Mr. Abdul Qayum: Is the Honourable Member aware that Pushtu has become now the language of instruction in the North-West Frontier Province as well as throughout Afghanistan and there is a demand for the inclusion of Pushtu?

The Honourable Mr. E. M. Maxwell: I hear the Honourable Member say so.

Mr. Abdul Qayum: May I know the methods and the means whereby we can satisfy the Honourable Member that there is a demand for such a thing? How are we to satisfy the Honourable Member that there is a demand if he would not take my word for it?

The Honourable Mr. E. M. Maxwell: If the Provincial Government wish to make any representation on the subject, no doubt it will again be considered. But I must point out that there are good many practical reasons against multiplying the number of subjects which are taken in the examination.

Mr. Abdul Qayum: I only want one language to be included, so that our boys are not handicapped.

The Honourable Mr. E. M. Maxwell: That would give rise to questions affecting good many languages, such as, Assamese and Kanarese, and various other languages.

Mr. M. Ananthasayanam Ayyangar: May I request you, Sir, that the Honourable Member ought not to use the word "vernacular" and that it ought to be deleted? The Government of India have said in the *Gazette of India* that the word "vernacular" ought not to be used.

The Honourable Mr. E. M. Maxwell: I was merely quoting a communication which the Public Service Commission addressed to us before this new rule came into force.

Mr. M. Ananthasayanam Ayyangar: May I ask why the Public Service Commission

Mr. President (The Honourable Sir Abdur Rahim): We cannot have a discussion on this. The Home Member has said that he was only repeating what the Public Service Commission had used before the Circular was issued.

INCLUSION OF PUSHTU IN THE INDIAN LANGUAGES FOR THE INDIAN CIVIL SERVICE EXAMINATION.

248. *Mr. Abdal Qayyum: Will the Honourable the Home Member please state:

- (a) the last occasion on which the claims of various languages were considered for Indian Civil Service competitive examination;
- (b) whether claims of the Pushtu language were considered at the time;
- (c) the next date on which rules regarding Indian Civil Service competition are likely to be considered and revised;
- (d) whether he proposes to take steps to include Pushtu among such Indian languages; and
- (e) whether he is aware of the fact that the Pathans in the Province and Tribal Areas resent the fact of non-inclusion of Pushtu?

The Honourable Mr. E. M. Maxwell: (a) to (c). Rules for the Indian Civil Service Examination in India are amended from time to time when necessary, and fresh rules are issued for the examination every year. There is no particular occasion when the claims of languages for inclusion in the list of subjects are considered. If any claims or representations are made, they are considered by the Government of India in consultation with the Federal Public Service Commission after the views of the Provincial Government concerned have been obtained and submitted for the orders of the Secretary of State when necessary.

(d) No. I would refer the Honourable Member to my reply to his starred question No. 247 asked today.

(e) No.

NEW APPOINTMENTS CREATED IN THE GOVERNMENT OF INDIA.

249. *Mr. K. Santhanam: Will the Honourable the Finance Member please state:

- (a) the number of new appointments created in the Government of India within the last six months carrying a salary of more than Rs. 2,000 per month;
- (b) the present incumbents of these posts and their respective salaries; and
- (c) the justification for the creation of each such post?

The Honourable Sir James Grigg: I lay on the table of the House a statement giving the required information.

Statement showing the new appointments created in the Government of India carrying a salary of more than Rs. 2,000 per mensem.

Department.	Appointments created.	Incumbents.	Salary per mensem.	Why created.
Finance Department.	Establishment Officer (for one year in the first instance, but likely to be extended).	Mr. N. J. Houghton, C.S.I., C.I.E., I.C.S.	Rs. 3,000 plus overseas pay £13-6-8.	To perform the duties assigned to the establishment officer in connection with the recruitment of superior officers to the Secretariat, and with the formation and administration of the Finance and Commerce Departments Pool of Officers.
	Joint Secretary (temporary).	Sir Alan Lloyd, C.S.I., C.I.E., I.C.S.	Rs. 3,750	The officer is to report on the feasibility of the imposition of death duties.
Department of Communications.	Officer on Special Duty (temporary from 17th to 19th September, 1938).	The Hon'ble Mr. A. G. Clow, C.S.I., C.I.E., I.C.S.	Rs. 4,000	The post was created on the revision of the Hon'ble Mr. Clow from the office of the Hon'ble Member of the Viceroy's Executive Council to enable him to remain a Member of the Legislative Assembly until the end of the debate on the Motor Vehicles Bill.
Home Department	Deputy Secretary	Mr. C. J. W. Lille, I.C.S.	Pay Rs. 2,000 Special pay Rs. 400. Overseas pay £30.	To replace the post of Joint Secretary which was abolished on the creation of the Governor General's Secretariat (Public).
Department of Commerce.	Additional Joint Secretary (temporary for six days only).	Mr. S. N. Gupta, C.I.E., I.C.S.	Rs. 3,000 plus overseas pay £13-6-8.	For work in connection with the Indo-British Trade Negotiations.
	Additional Deputy Secretary (temporary for 2½ months with effect from the 6th January, 1939).	Mr. R. K. Nehru, I.C.S.	Rs. 2,900 per mensem. (Pay Rs. 1,600, Overseas pay Rs. 300, Special pay Rs. 400).	For work in connection with the Indo-British Trade Agreement and the heavy legislative programme in hand.
Defence Department.	Two Additional Secretaries.	*Mr. A. de C. Williams, C.I.E., I.C.S.	Rs. 4,000	Co-ordination of the activities of the various Departments in relation to Defence.
		†Mr. J. D. Anderson, C.I.E., I.C.S.	Rs. 4,000	
Department of Education, Health and Lands.	Officer on Special Duty (temporary from 4th November, 1938 to 7th January, 1939).	Mr. John Sargent, M.A.	Rs. 3,000 plus £13-6-8.	To enable Mr. Sargent to familiarise himself with Indian conditions before taking charge of the duties of the Educational Commissioner with the Government of India.

* Transferred to the Secretariat of the Governor General (Defence Co-ordination), with effect from the 16th December, 1938.

† Appointment terminated on 31st December, 1938.

Mr. T. S. Avinashilingam Chettiar: May I know the number of appointments?

The Honourable Sir James Grigg: Honourable Member will find that from the statement which I have laid on the table.

Mr. T. S. Avinashilingam Chettiar: I am only asking the number, and I submit to you, Sir, that the Honourable the Finance Member must be able to tell me the number of such appointments.

Mr. President (The Honourable Sir Abdur Rahim): There must be different kinds of appointments and unless the Honourable the Finance Member reads out the whole statement, he cannot give the number.

Mr. T. S. Avinashilingam Chettiar: I do not want details. I only want the number.

The Honourable Sir James Grigg: That would give extremely misleading information. One or two appointments were made for a few days only and I want the Honourable Member to take the trouble of reading the whole statement.

GRIEVANCES OF SUCCESSFUL CANDIDATES OF THE MINISTERIAL SERVICE EXAMINATION.

250. *Mr. Badri Dutt Pande: (a) Has the attention of the Honourable the Home Member been drawn to an article "Recruitment of Clerks" published in the *Hindustan Times* of the 22nd December, 1958, pointing out the injustice done to some of the successful candidates of the ministerial examination held by the Federal Public Service Commission?

(b) Is it a fact that these candidates were given to understand "that appointments would be offered in the strict order of merit, subject to communal reservations, that the first 30 candidates would get permanent appointments and from 31 to 50 quasi-permanent appointments, and temporary vacancies would be offered to the candidates lower down in the list"?

(c) How is it that after eight months only the first four or five candidates have been offered permanent appointments, or the next 24 or 25 candidates have been passed over and candidates following have been offered appointments?

The Honourable Mr. B. M. Maxwell: (a) I have seen the article.

(b) It was announced that candidates would be placed in the order of their merit in the examination and would be offered posts as vacancies occurred, subject to communal considerations. The actual number of vacancies was not specified.

(c) In accordance with the existing system of posting, a certain number of candidates above a certain position in the list are earmarked for permanent vacancies and those below that position are offered quasi-permanent vacancies. As a result of past experience, the first 27 candidates in the general list for the 1957 examination were placed in the former category and nomination to quasi-permanent vacancies was started from below that number. Recent orders for the strictest economy in all Departments of

the Government of India have resulted in a reduction in the number of permanent vacancies. So far only 16 of the first 27 candidates have been provided for. The remaining eleven will be offered vacancies up to the end of March and if any of them are not so provided for they will be carried over into next year.

COMMUNICATIONS FROM THE PROVINCIAL GOVERNMENTS FOR REVISION OR REPEAL OF SECTION 49 OF THE INDIAN INCOME-TAX (AMENDMENT) BILL.

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

- (a) the number and names of Provincial Governments which have communicated with him by telegram or by letter, with reference to section 49 of the Indian Income-tax Act and the need for radically revising or repealing the same in the present Income-tax Amendment Bill;
- (b) the nature of these communications; and
- (c) whether the Honourable Member has taken any action thereon; if so, what that action is?

The Honourable Sir James Grigg: (a) and (b). I think this information has already appeared in the Press.

(c) I would refer the Honourable Member to my speeches in the Legislative Assembly on the 16th and 26th November, 1938.

Mr. S. Satyamurti: Has any information with regard to the number and names of Provincial Governments which communicated with him been sent to the Press by or on behalf of the Government of India?

The Honourable Sir James Grigg: No, Sir.

Mr. S. Satyamurti: May I know whether the information that appeared in the Press is accepted as correct by the Government?

The Honourable Sir James Grigg: I should have to refresh my memory.

Mr. S. Satyamurti: Have practically all the Provincial Governments addressed the Government of India for repealing or radically altering the whole of this section 49?

The Honourable Sir James Grigg: I think all the Governments or most of the Governments under the influence of the Congress High Command sent a communication.

Mr. S. Satyamurti: Have Government paid any attention to that recommendation or turned it down, because it was made under the influence of the Congress High Command and not under the influence of the Government of India?

The Honourable Sir James Grigg: The Honourable Member will learn the answer if he refers to the speeches which I referred to just now.

Mr. T. S. Avinashilingam Chettiar: May we take it that the Governments which are not under the influence of the Congress High Command did not send any such communication?

The Honourable Sir James Grigg: The Honourable Member can take anything he likes.

Mr. T. S. Avinashilingam Chettiar: The Honourable Member said just now that most of the Governments under the influence of the Congress High Command have sent the communication. I want to know whether Governments which are not under the influence of the Congress High Command also sent such communications?

The Honourable Sir James Grigg: The Honourable Member can surely draw his own conclusion from a plain statement.

Mr. S. Satyamurti: May I take it that neither the Punjab Government nor the Bengal Government addressed the Government of India on this subject?

The Honourable Sir James Grigg: That is the same question.

Mr. S. Satyamurti: I want to know whether these two Governments addressed the Government of India on this matter at all.

The Honourable Sir James Grigg: That is answered by implication from my previous answer.

Mr. S. Satyamurti: Why not give a straight answer?

The Honourable Sir James Grigg: I prefer to put it in my own way.

INTERNAL SECURITY PURPOSES FOR MAINTENANCE OF TROOPS.

252. **Mr. S. Satyamurti:** Will the Defence Secretary be pleased to state:

- (a) the internal security purposes for which troops are maintained in this country at the cost of the Government of India?
- (b) whether such internal security includes the security of Indian States as well;
- (c) if the answer to part (b) be in the affirmative, the reasons or the grounds for the maintenance of troops at the cost of the Government of India for this purpose; and
- (d) whether during the last three years such troops have been used for the purpose of India's internal security in Indian States?

Mr. C. M. G. Ogilvie: (a) The maintenance of law and order.

(b) Yes.

(c) Disorder in an Indian State may extend into neighbouring provincial areas. Further the Crown is under an obligation, derived from treaties and *sanads*, from usage and from the promise of the King Emperor to maintain unimpaired the privileges, rights and dignities of the Princes, to

protect the States against foes, foreign and domestic. The Government of India Act, 1935, expressly recognises the obligation. It must also be remembered that the States make a substantial contribution to the defence of India by the maintenance of State Forces.

(d) Yes.

Mr. S. Satyamurti: With reference to parts (b) and (c) of the question, may I ask for some elucidation? May I know whether the obligation to protect the Princes against internal disorder extends to an attempt on the part of the Princes to suppress non-violent movements for responsible government in the Indian States?

Mr. C. M. G. Ogilvie: I am unable to add to the statement that I have made and I do not propose in answer to supplementary questions to enter into a dispute with the Honourable Member about the rights and wrongs of non-violent movements.

Mr. S. Satyamurti: On a point of order, Sir. It is not open to any Honourable Member to say, "I do not propose to answer supplementary questions". It is for you to rule if those supplementary questions are in order, and, if they are, he can refuse to answer afterwards in public interest. He cannot threaten me by saying "I will not answer supplementary questions". That is surely want of courtesy to the House.

Mr. President (The Honourable Sir Abdur Rahim): He does not say that he will not answer. He only says that on certain subjects he does not propose to enter into a dispute.

Mr. S. Satyamurti: But that is the only subject I am asking.

Mr. President (The Honourable Sir Abdur Rahim): He is unable to answer that. The Honourable Member can ask him for the reasons.

Mr. S. Satyamurti: Will he say the reasons?

Mr. President (The Honourable Sir Abdur Rahim): He says on certain subjects he will not answer supplementary questions. It is for the Honourable Member to find out the reasons by putting questions.

Mr. S. Satyamurti: Can he say so in anticipation? I only want that no Member of the Government should get up and say, I am not going to answer supplementary questions.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member may consider the answer unsatisfactory.

Mr. S. Satyamurti: I will leave it at that. May I ask my Honourable friend what are the purposes for which during the last three years troops have been sent to Indian States? If so, to which States?

Mr. C. M. G. Ogilvie: They have been sent for the maintenance of law and order and the States are, Nangaum, Dhenkanal and Ranpur.

Mr. S. Satyamurti: May I know in these cases what were the specific reasons for which these troops were sent? Were they sent at the request of the Indian Princes? What were the reasons for which they were sent, and who is bearing the cost of these troops?

Mr. C. M. G. Ogilvie: They were sent to maintain law and order. As to the question of cost, I require notice.

Mr. M. Asaf Ali: With reference to part (d) I understood the Honourable Member to say that the States are making a substantial contribution to the expenditure incurred on the defence of India. Is it not a fact that only about 48,000 troops are maintained by the Indian States for their own internal security and that they have nothing whatsoever to do with India's internal security.

Mr. C. M. G. Ogilvie: That may or may not be the case. I am not prepared to answer questions about the numbers of troops that the States maintain for their own internal security purposes, but they do also maintain troops which are at the disposal of the Government of India and which are generally known as Imperial service troops.

Mr. M. Asaf Ali: On which particular occasion have these Imperial service troops been asked to help the Government of India in internal security.

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

Mr. M. Asaf Ali: Have the Government of India ever called upon any of these States to send any of the so-called Imperial service troops for maintaining internal security in India?

Mr. C. M. G. Ogilvie: I should think not.

Mr. S. Satyamurti: What are the considerations on which the Government of India make up their minds to send or not to send these troops to Indian States? Have the Government of India seen the statement of Earl Winterton in the House of Commons to the effect that the Paramount Power will not stand in the way of granting of responsible government by the Rulers of the Indian States to their people? If so, why do Government send troops to those Indian States where people agitate for responsible government?

Mr. C. M. G. Ogilvie: I am unable to enter into an argument of policy about responsible government in answer to this question. The only way I can answer the Honourable Member is to say that troops were sent to the States to maintain law and order, to restore tranquility which had been very rudely disturbed and which in one case had resulted in the brutal murder of a political officer.

Mr. K. Santhanam: May I know what has been the practice of the Government of India about recovering the cost of sending troops to protect the Indian States?

Mr. C. M. G. Ogilvie: I have already answered that question; I shall require notice.

Mr. M. Asaf Ali: Once again may I revert to the Honourable Member's answer to clause (d)? Are these States contributing a single penny to the expenditure which we incur on the defence forces in India, apart from maintaining the so-called Imperial service troops in their own States?

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

Mr. President (The Honourable Sir Abdur Rahim): How does that arise?

Mr. M. Asaf Ali: The answer was that they were contributing a substantial amount, and I want to know how much they are contributing.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member apparently cannot answer that without notice.

COMPULSORY RETIREMENT OF GOVERNMENT SERVANTS AT THE AGE OF FIFTY-FIVE.

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

- (a) whether in the Government of India there is a rule that all Government servants should retire compulsorily at the age of 55; if not, whether the attention of the Government of India has been drawn to the action of several Provincial Governments prescribing such a rule;
- (b) whether Government propose to consider the question of prescribing such a rule in the interests of public economy and relieving partially at least the unemployment among the educated men in the country; and
- (c) if not, why not?

The Honourable Sir James Grigg: (a) No. The retirement of different classes of Government servants is governed by the provisions of Fundamental Rule 56. So far as the Government of India are aware only the United Provinces Government have prescribed 55, as the age of compulsory retirement for all classes of Government servants.

(b) The Government of India recently examined the question in all its bearings and decided that future entrants to ministerial posts should be compulsorily retired on attaining the age of 55.

(c) Does not arise.

Mr. S. Satyamurti: May I know why the rule about compulsory retirement at 55 is confined to ministerial servants and does not extend to the superior services?

The Honourable Sir James Grigg: I am not quite sure,—I am bound to confess,—what exactly ministerial posts are. But I imagine that the reason is that the Government of India desire to avoid a large increase in the non-effective grant. If people retire while they are still fit for active service it will involve a large increase in the pension list.

Mr. S. Satyamurti: As relevant to that have Government considered that if people on higher salaries retire and freshmen are recruited at the bottom there will be a saving also? And have they taken those savings into consideration along with the possible pension charges and have they come to the conclusion, and if so on what grounds, that it is against economy to compulsorily retire all people at 55?

The Honourable Sir James Grigg: I understand that except for the Secretary of State's services, non-ministerial servants retire at 55 now. I think there is an exception in special circumstances, but that is the general rule.

EXPENDITURE ON MILITARY OPERATIONS ON THE NORTH-WEST FRONTIER.

254. Mr. S. Satyamurti: Will the Defence Secretary be pleased to state:

- (a) the extra expenditure incurred on actual defence military operations apart from the Defence Department establishment on the operations on the North-West Frontier from 1st April to the latest date for which information is available with Government;
- (b) the main items on which such expenditure has been incurred;
- (c) whether preliminary sanction has been obtained from the Finance Department for all such extra expenditure; and
- (d) whether it is intended to cover this expenditure by reappropriations and, if so, to what extent or by supplemental demands; if so, to what extent and when these supplemental demands will be placed before this House?

Mr. C. M. G. Ogilvie: (a) I refer the Honourable Member to my reply to part (b) of starred question No. 101 asked by Mr. Abdul Qaiyum on the 6th instant.

(b) The main items on which extra expenditure has been incurred are extra establishment, transportation, special works and stores of all categories.

(c) Yes.

(d) Additional appropriation will be required to meet the extra expenditure. As, however, the expenditure is non-voted, the question of placing the supplementary demand before the House does not arise.

Mr. S. Satyamurti: Has this appropriation been sanctioned by the Finance Department already?

The Honourable Sir James Grigg: I expect so, but I must have notice.

Mr. S. Satyamurti: What is the practice? I want to know if expenditure is incurred in advance of appropriation being sanctioned or after sanction. Seeing that these are non-voted demands and do not come before the House I want to know whether they are treated merely as excess appropriations or treated as supplemental demands and sanction is obtained before expenditure is incurred.

The Honourable Sir James Grigg: If the Honourable Member wants to know whether the Finance Department will stop the operations until their sanction is obtained, no.

Mr. S. Satyamurti: I am not saying that. I am asking whether with regard to expenditure which is foreseeable and foreseen previous sanction of the Finance Department is always asked for and obtained before expenditure is incurred.

The Honourable Sir James Grigg: Before the operations are started, assuming that there is any option in the matter, the Finance Department or the Finance Member is consulted on the policy undertaken. After that, I am bound to say, the operations proceed to their conclusion and it is no good raising the question of sanction at any stage. The only question which can be raised is the Finance Member's raising the question of the desirability of going on with them.

Mr. S. Satyamurti: Then may I take it that the Finance Member gives sanction without counting the cost or without being told approximately what the cost of the operation is and he gives a *carte blanche* for the expenditure and sanctions it ultimately as a matter of course?

The Honourable Sir James Grigg: No. that is wrong.

Mr. S. Satyamurti: Does he get any estimate in the Finance Department as regards the cost of these operations?

The Honourable Sir James Grigg: In so far as estimates are possible, yes.

BAN ON THE RETURN OF RAJA MAHENDRA PRATAP TO INDIA.

†255. *Sardar Mangal Singh: Will the Honourable the Home Member please state:

- (a) whether the Government of India have received any communication from the United Provinces Government to the effect that Raja Mahindra Pratap be allowed to return to India;
- (b) whether the Government of India have received any communication from Raja Mahindra Pratap himself asking for permission to return to this country; and
- (c) what decision the Government of India have taken in this matter?

The Honourable Mr. E. M. Maxwell: (a) I would refer the Honourable Member to the reply given by me earlier today to Mr. Akhil Chandra Datta's question No. 244.

(b) Yes.

(c) The matter is under consideration.

†Answer to this question laid on the table, the questioner having exhausted his quota.

JEW'S ENTERING INDIA.

†256. *Sardar Mangal Singh: Will the Honourable the Home Member please state:

- (a) the number of Jews refugees who have entered India from 1st October, 1938, to 31st January, 1939;
- (b) whether Government have given them any relief in any form; and
- (c) whether any scheme is in contemplation of the Government to give them any assistance in any form or shape?

CUT ON THE SALARIES OF GOVERNMENT SERVANTS.

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

- (a) whether Government contemplate imposing a sliding scale cut on the salaries of the officials from the next financial year;
- (b) whether they propose to see that the proposed cut will not be imposed on the salaries of officials getting Rs. 300 or less; and
- (c) what amount Government hope to save by this measure?

REPRESENTATION REQUESTING FOR A CHANGE IN THE INSTRUMENT OF INSTRUCTIONS TO THE GOVERNOR GENERAL.

258. *Mr. Manu Subedar: (a) Will the Defence Secretary please state whether it is a fact that certain European commercial interests represented to the Secretary of State for the deletion of the following paragraph from the Instrument of Instructions to the Governor-General:

"Notably, he (the Governor-General) shall bear in mind the desirability of ascertaining the views of his Ministers when he shall have occasion to consider matters relating to the general policy of appointing Indian Officers to our Indian forces, or the employment of our Indian forces on service outside India."

- (b) Have Government received any representation of this kind.
- (c) What were the reasons given by these European commercial interests for the deletion?
- (d) What is the decision of His Majesty's Government and/or of the Government of India, on the subject?
- (e) Is the policy of the Government of India modified in any respect on account of this representation?
- (f) What is the "general policy of Indianisation" referred to by the Secretary of State in his reply?
- (g) Is there any document where the same has been defined?
- (h) If not, will the Defence Secretary please give details of this policy?

Mr. C. M. G. Ogilvie: (a) to (h). I refer the Honourable Member to the reply given by the Leader of the House to Mr. Santhanam's starred question No. 68 on the 4th February, 1939.

†For answer to this question, see answer to question No. 240.

‡For answer to this question, see answer to question No. 241.

Mr. Manu Subedar: The Leader of the House did not say what was the general policy of Indianisation with reference to the Secretary of State's reply. I want some details on that point.

Mr. C. M. G. Ogilvie: The Honourable Member will find what he wants in the letter of the Reforms Department which was alluded to by the Honourable the Leader of the House and a copy of which is in the Library.

MOTOR VEHICLES IN THE ARMY.

259. *Mr. Manu Subedar: (a) Will the Defence Secretary please state how many motor vehicles there are in the Army?

(b) How many are added every year?

(c) Is it a fact that the spare parts in connection with these motor vehicles have been found to be excessive, and that some of them have lost value on account of the change of designs?

(d) Are any bodies of lorries built in India? If so, where, and at what cost per body?

(e) Of what make were the motor vehicles imported by the Army during 1937-38, and at what price?

(f) Is the purchase made in India from agents, or is the purchase made directly in the United Kingdom and, if it is the latter case, is the purchase made by the Indian Stores Department, or the Stores Department, London, or by the Army authorities themselves?

Mr. C. M. G. Ogilvie: (a) 5,110 including 1,052 motor cycles.

(b) The average annual increase, based on the figures of the past three years is 204 including motor cycles. This figure excludes the replacement of worn out vehicles.

(c) Yes, for three or four makes and types only.

(d) Yes. Bodies of various types are at present being built by:

(i) The Heavy Repair Shops Royal Indian Army Service Corps at Chaklala, Quetta and Deolali.

(ii) Messrs. Mackenzie Ltd., Bombay.

(iii) Messrs. Maira Brothers, Lahore.

The cost varies from Rs. 760 to Rs. 1,200 per body.

(e) Morris (6 wheelers and trucks) Rs. 4,40,877.

Vickers (Armoured fighting vehicles) Rs. 20,64,556.

Nortons motor cycles Rs. 2,88,462.

These were all specified pattern and not commercial pattern vehicles.

(f) Vehicles for the Army are purchased in India through the Indian Stores Department and in the United Kingdom through the High Commissioner for India, under whom the Director General, Indian Store Department in the United Kingdom works. No vehicles are purchased direct by the Army authorities themselves.

Mr. Manu Subedar: Is any attempt being made to produce anything more than the body in this country? Are there any consultations which are likely to lead to something more than the mere assembling of parts here?

Mr. O. M. G. Ogilvie: I think the Honourable Member had better inquire from the Indian Stores Department or the Commerce Department.

RETRENCHMENT IN THE GOVERNMENT OF INDIA DEPARTMENTS.

260. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member please state what was the circular sent out to the Departments of Government by him with regard to retrenchment?

(b) Will a copy be placed on the table of the House?

(c) Was it indicated in the circular that all temporary staff was to be cut down, regardless of the period of service?

(d) Have Government received any complaints to the effect that such action is being taken in an attempt to secure economy in certain Departments of the Government of India, and that it is grossly unfair to men who have served five, ten and fifteen years, though technically called temporary?

The Honourable Sir James Grigg: (a) I do not know to which circular the Honourable Member is referring. Instructions have been issued from time to time urging the Departments of Government to effect economy in various ways.

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

(d) No.

RESTRICTIONS ON THE FREE ALLOWANCE FROM CUSTOMS TO PASSENGERS LUGGAGE.

261. *Mr. Manu Subedar: (a) Will the Honourable the Finance Member please state whether Government received any representations, which led them to make restrictions on the free allowance from customs to passengers luggage? If so, from whom?

(b) Have Government issued any instructions to customs officials to see that the personal luggage of *bona fide* passengers is not charged?

(c) What steps are being taken to warn passengers of the change effected?

(d) What is the rough estimate of the amount of customs duty hitherto lost through the old list of free allowances?

(e) Were any cases of abuse brought to the notice of Government, and, if so, what were they?

The Honourable Sir James Grigg: (a) The attention of the Honourable Member is invited to the Press Communique, dated the 5th November, 1938, a copy of which I place on the table.

(b) The rules continue to provide for this, subject to certain limits in regard to specified articles.

(c) The amendments to the rules, by which the change has been effected, were published in the Gazette of India, dated the 5th November, 1938, i.e., nearly two months before they were brought into effect.

(d) It is not possible to form an estimate.

(e) From the nature of the case it is not possible to specify concrete instances, but experience of their actual working convince Government that the rules required amendment in the way which has now been done.

GOVERNMENT OF INDIA.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 5th November, 1938.

Press Communiqué.

Representations have been made in the past to the Government of India (i) on the one hand, by certain Trades Associations complaining that the interests of Indian shopkeepers and traders are suffering as a result of the extent to which the free allowances admissible under the existing baggage rules framed under section 75 of the Sea Customs Act can be taken advantage of or are being misused and (ii) on the other hand, by persons arriving in this country on a *bona fide* transfer of residence after residence abroad of more than three years, expressing a sense of grievance that they have to pay duty on their household effects which have been in use abroad for a considerable time but which are not covered by the baggage concession, even when the articles are of Indian origin or are articles which have paid duty in India once before, the customs exemption allowed in respect of reimported private personal property not being applicable when the reimportation takes place after three years from the date of re-exportation.

2. The Government of India have examined the matter carefully and have come to the conclusion that both the complaints are more or less justified and that while the present regulations press with undue severity on persons coming to this country after a prolonged period of residence abroad, they are too liberal for other classes of passengers, particularly those who return to India after visits abroad which may be repeated annually and who are allowed on every occasion the full benefit of the baggage rules in respect of articles such as plated ware, linen, etc.

3. The Government of India have accordingly decided (1) to amend the existing baggage rules, with effect from the 1st January, 1939, in order to restrict considerably the free allowances and (2) to exempt by notification under section 23 of the Sea Customs Act the personal and household effects of persons arriving on a *bona fide* transfer of residence.

Mr. Manu Subedar: Have Government received any complaints with regard to the deterrent effect of these rules, particularly in the matter of jewellery of distinguished visitors and tourists coming to this country?

The Honourable Sir James Crigg: I should like to have notice of that.

(b) WRITTEN ANSWERS.

COLLECTION OF STATISTICS AND INFORMATION REGARDING INDUSTRY AND SEPARATE CENSUS OF RELIGIOUS MENDICANTS.

262. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Home Member please state:

(a) whether it is in contemplation for the next census to collect statistics and information regarding industry as was done in the 1921 census; and

- (b) whether religious mendicants will be separated from 'economic' beggars?

The Honourable Mr. R. M. Maxwell: (a) The suggestion will be considered.

(b) No.

CLASH BETWEEN VILLAGERS AND SOLDIERS OF THE SOUTH STAFFORDSHIRE REGIMENT AT KALYANPUR NEAR CAWNPORE.

263. *Mr. Badri Dutt Pande: (a) Will the Defence Secretary be pleased to state if there was a clash between a number of villagers and soldiers of the South Staffordshire Regiment encamped at Kalyanpur near Cawnpore in January, 1939?

(b) Is it a fact that the cause of trouble was that the soldiers are alleged to have molested a woman, who was answering a call of nature in the fields, where soldiers were out shooting?

(c) Were the soldiers arrested by a Reserve Bank peon?

(d) Is it a fact that while one of the arrested soldiers was being taken to the *Thana*, he was rescued by over 20 fellow soldiers who came to his assistance, and they locked the peon and beat him?

(e) What action was taken by the military to punish these soldiers?

Mr. C. M. G. Ogilvie: (a) Yes.

(b), (c), (d) and (e). I am unable to make any further statement at present as the matter is *sub judice*.

SIMLA EXODUS.

264. *Seth Govind Das: Will the Honourable the Home Member please state:

(a) whether the problem of Simla exodus with a view to reducing the expenditure has been considered and whether there will be a curtailment of staff and officers made this year as compared with last year;

(b) the net reduction in expenditure he proposes effecting this year under this head;

(c) whether other reasons than financial, such as shortage of houses as well as public health, as described by the Wadely report, have influenced Government to keep down the influx of Government staff to Simla; and

(d) what are the offices and staff he proposes leaving behind in Delhi this year as compared to that of the last year?

The Honourable Mr. R. M. Maxwell: (a) The problem is under consideration. There will be some curtailment of the exodus this year as compared with last year in the offices of the Director of Civil Aviation, the Military Accountant General and the Chief Controller of Standardisation.

(b) The net reduction of expenditure which is expected this year is about Rs. 92,000 as compared with a saving of Rs. 74,750 effected last year.

(c) Yes. Government are keeping in view considerations of public health and the shortage of houses in Simla in addition to financial considerations.

(d) The remaining half of the Director of Civil Aviation's Office, a section of the office of the Military Accountant General and part of the Chief Controller of Standardization's office will remain in Delhi in addition to those offices which remained last year. Owing to the international situation, however, there will this year be some decrease in the portion of the Indian Stores Department which it has been found possible to leave in Delhi.

IMPORT OF FOREIGN SALT INTO INDIA.

265. *Seth Govind Das: Will the Honourable the Finance Member please state:

- (a) whether it is a fact that since the discontinuance of protection to the salt industry, in the beginning of the last fiscal year, foreign countries other than Aden have shipped to India over one lakh tons of salt:
- (b) whether he is aware that the selling prices have declined by about Rs. 15 per 100 maunds during the period and are considered below the cost of production; and
- (c) whether it is a fact that most of the imports are from Port Said and Red Sea ports?

The Honourable Sir James Grigg: (a) Yes.

(b) The Honourable Member's attention is invited to replies given to parts (b) and (c) of Mr. K. S. Gupta's question No. 117 on the 6th February, 1939.

(c) No.

REPRESENTATIONS OF THE INDIAN SALT INDUSTRY.

266. *Seth Govind Das: (a) Will the Honourable the Finance Member please state whether he is aware that attempts were made by Indian salt manufacturers to arrive at an amicable settlement, fixing Aden's share of India's consumption, have ended in a failure on account of Aden manufacturers not accepting Indian terms?

(b) Whether the representatives of the Indian salt industry made representations to Government for intervention?

(c) Whether Government have taken steps to intervene in the matter for successful results?

The Honourable Sir James Grigg: (a) Government are aware that the attempts have failed.

(b) No.

(c) No.

GRANT OF PROTECTION TO THE INDIAN SALT INDUSTRY.

267. *Seth Govind Das: Will the Honourable the Finance Member please state:

- (a) whether Government propose granting protection to the Indian salt industry in view of the foreign competition in salt in India;

- (b) whether Government propose excluding Aden, while granting protection to the Indian salt industry; and
- (c) when Government propose granting the protection to the salt industry in the country?

The Honourable Sir James Grigg: I would refer the Honourable Member to my reply to part (e) of Mr. Manu Subedar's question No. 2014 on the 9th December, 1938.

SIMLA EXODUS.

263. *Mr. S. Satyamurti: Will the Honourable the Home Member be pleased to state:

- (a) at what stage the consideration of the Simla exodus of Government offices from New Delhi stands;
- (b) what are the departments and the strength of those departments which will go to Simla this year;
- (c) whether Government are considering the housing shortage as well as the general public health conditions in Simla in respect of this matter;
- (d) whether Government are considering the question of moving up only camp offices to Simla;
- (e) when Government hope to come to a conclusion on this matter; and
- (f) whether Government propose to place the final proposals for the next year before the House, before the end of this Session?

The Honourable Mr. R. M. Maxwell: (a) The question is at present under the consideration of Government.

(b) A statement will be laid on the table, when ready.

(c) Yes.

(d) This is one of the possible solutions and is being examined along with the whole question.

(e) and (f). As far as the summer of 1939 is concerned I would refer the Honourable Member to my reply to Seth Govind Das's starred question No. 264 whatever the final conclusion may be, overcrowding in Simla makes some early modification of the present arrangements very desirable. It is from this point of view that the question is being examined at the moment, and I hope it may be possible to make a further announcement before the end of the Session, though I cannot promise this. The Honourable Member will no doubt realise that a final conclusion must await the advent of Federation, since it is intimately bound up with the question whether there will be a summer Session of the Federal Legislature and, if so, where.

ARTICLES IN THE *TIMES OF INDIA* BY MR. FINDLAY SHIRRAS RE INDIA'S POPULATION.

269. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Home Member please state:

- (a) whether his attention has been drawn to the series of articles recently contributed in the *Times of India* by Mr. Findlay Shirras, showing that the population of India shows during the period 1871-1931, i.e., 60 years, an annual percentage increase of only 0·69 which is far lower than in England, Wales, Japan, Canada, or Australia, and that during the thirty years between 1901 and 1931, the annual percentage increase is still lower, being 0·66 as compared to higher figures elsewhere, and also showing by statistics that the population in India has increased *less* rapidly than production; and
- (b) whether Mr. Findlay Shirras has connection with the Central or any Provincial Government; if so, what?

The Honourable Mr. B. M. Maxwell: (a) I have seen the articles mentioned by the Honourable Member.

(b) Mr. Findlay Shirras is an officer of the Indian Educational Service at present employed as Principal, Gujrat College, Ahmedabad, under the control of the Bombay Government.

STRENGTH OF AUXILIARY FORCE.

270. *Maulvi Abdur Rasheed Chaudhury: (a) Will the Defence Secretary please state the total strength of Auxiliary Force in India?

(b) How many Indians, Anglo-Indians and Europeans, are there in this Force?

(c) What is the total number of Indian officers in this Force?

(d) If the reply to part (c) be in the negative, why is no Indian officer there?

(e) Is there any statutory bar preventing Indians to become officers in the Auxiliary Force? If so, why?

Mr. C. M. G. Ogilvie: (a) and (b). I refer the Honourable Member to my reply to parts (a) and (b) of Mr. Abdul Qaiyum's starred question No. 235 which I have answered today.

(c) N

(d) and (e). I refer to the Honourable Member to my reply to starred question No. 1990, dated the 9th December, 1933, and supplementary questions and replies thereto.

TENDERS FOR THE SUPPLY OF ARTICLES OF CLOTHINGS, ETC., FOR THE INDIAN DEFENCE FORCE.

271. *Maulvi Abdur Rasheed Chaudhury: Will the Defence Secretary please state:

- (a) whether tenders for supply of articles of clothing, etc., for the Indian Defence Force are called for simultaneously from firms both in India and in England;

- (b) the reason why tenders are called for from firms outside India when supplies are available in India;
- (c) whether tenders were called for from any Indian firms for the supply of 4,11,000 tooth brushes supplied to Indian Defence Force in 1937-38; and
- (d) whether any tenders were called for from Indian firms for the supply of 96,800 yards of mosquito netting supplied to Indian army by British firms in 1937-38?

Mr. G. M. G. Ogilvie: I refer the Honourable Member to the reply I gave on the 9th December, 1938, to starred question No. 2006 on the same subject. The detailed replies to his questions are as follows:

- (a) I refer the Honourable Member to my reply to Mr. Abdul Qaiyum's supplementary questions to the same starred question.
- (b) Tenders for the supply of articles of clothing, etc., required for the Indian Defence Forces are called for from firms abroad only when it is known previously that such articles are not manufactured in India up to army specifications, or when the requirements cannot be met in full in India.
- (c) No, because brushes of the standard required for the army are not manufactured in India.
- (d) Yes.

APPELLATE JURISDICTION OF THE FEDERAL COURT IN CIVIL MATTERS.

272. *Mr. M. Ananthasayanam Ayyangar: (a) Will the Honourable the Home Member be pleased to state whether Government propose to enlarge the appellate jurisdiction of the Federal Court in civil matters so as to do away with the necessity of direct appeals to the Privy Council? If so, in what matters? If so, why not?

(b) Are Government aware of a ruling of the Federal Court that that court has no power under the Act to give special leave for any appeals for being preferred before it?

(c) Do Government propose to take any steps to have the Act suitably amended?

The Honourable Mr. E. M. Maxwell: The question should have been addressed to the Honourable the Leader of the House.

APPLICATION FOR THE APPOINTMENT OF A TARIFF BOARD ON SALT.

273. *Mr. Akhil Chandra Datta: Will the Honourable the Finance Member please state whether any application has been received from the salt industry for the appointment of a Tariff Board to secure a reasonable price in the Calcutta market? If so, what decision, if any, has been reached thereon?

The Honourable Sir James Grigg: No.

POLL TAX ON PERSONS ENTERING THE EXCLUDED AREAS IN ASSAM.

273A. *Mr. Brojendra Narayan Chaudhury: Will the Honourable the Finance Member please state :

- (a) whether the propriety of continuance of the imposition of poll tax on persons entering the line of "excluded areas" in Assam, has recently been considered or going to be considered;
- (b) whether the fact that the income is negligible, whereas the restraint on movement of persons and trade is considerable, has been or will be taken into consideration; and
- (c) the object of imposition of this poll tax financial or protective; if protective, whom and in what way the poll tax protects?

The Honourable Sir James Grigg: (a) No.

(b) Does not arise.

(c) The charge is of the nature not of a tax but of a fee, the provision for which in section 4 of Bengal Eastern Frontier Regulation of 1873 was apparently intended to meet part of the expense involved in administering the Regulation.

THE MUSLIM DISSOLUTION OF MARRIAGE BILL.

Qazi Muhammad Ahmad Kazmi (Meerut Division: Muhammadan Rural): Sir, I move:

"That the Bill to consolidate the provisions of Muslim law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie, as reported by the Select Committee, be taken into consideration."

In dealing with the report, I feel bound first to discharge the great debt of gratitude which I owe to the Honourable Members of this House and which I could not properly discharge when I spoke last in Simla, due to shortness of time at my disposal. It is only through the active help of the Leader of my Party—the Leader of the Opposition—the co-operation of the Muslim League Party and the European Group, and the acceptance of the proposal for time by the Government and the willing acquiescence and practical co-operation of the Leader of the Congress Nationalist Party that I am in a position today to move for the consideration of the report of the Select Committee. Had I not received all this support, the utmost that I could do today would have been to ask the House to refer the Bill to Select Committee. Therefore, I think I must discharge this obligation at the very outset.

The next thing that I want to submit in this connection is an admission of my own failure. I feel that I have absolutely failed in convincing the House about one requisite of the Muslim community that it stands in need of the administration of personal law. In certain matters regulated by Muslim personal law, the presence of a kazi is absolutely necessary, and marriage and dissolution of marriage are two of such matters. As a matter of fact, when I put in a provision in this Bill about Muslim judges, it was only invented to satisfy that condition, but it was not the same as is required by the Muslim law, and it was only by making interpretations that we could justify even the appointment of a Muslim judge. Yet

[Quazi Muhammad Ahmad Kazmi.]

I feel that I have not at all succeeded in making my point of view and the point of view of the Muslim community clear on this point, and I have abandoned it now only because I feel that it is better to have a measure at the present stage as it is, rather than insist on a thing which does not appeal to the country at the present time and finish the Bill. Some people of my own community are of opinion that the real spirit has been taken away by the deletion of that clause. Still I feel that there is a certain justification for me for proceeding with this Bill in spite of the omission of that clause, and it is this. There are two parts of law: one is the substantive law, and the other the agency by which that law is to be enforced. What we are doing in this Bill is only giving the Muslim law as it is, and we are enunciating the provisions as they are. We are not providing for the agency. It could have been provided in this Act, but we are leaving it and, as a matter of fact, we have got to leave it if we want it not only for this particular part of the law, but certain other branches also. We know that some other branches of Muslim personal law also require the appointment of a Muslim kazi. So in the case of all such matters which have to be dealt with by the kazi, we must—with the agreement and approval of this House—try to get a separate Bill in which we can define the particular powers which we want to invest the kazi with, and get their approval for his appointment, instead of having a Muslim officer or a Muslim judge of the present courts. That is a separate matter altogether, and I think that we may try later on to bring before this House that particular point of view of the Muslim community, and by the approval and good will of all the parties concerned succeed in getting a measure of relief in that direction also.

The other reason for proceeding with this Bill is the great trouble in which I find the women in India today. Their condition is really heart-rending; and to stay any longer without the provisions of the Bill and allow the males to continue to exercise their right and to deprive the women of their rights given to them by their religion any longer would not be justifiable.

As to the merits of the Bill, I have very little to say. We have tried to carry out the wishes of the House to the greatest possible extent in the Select Committee. We have redrafted the provisions of the Bill, and, instead of saying according to the rules of Hanafi law or Maliki law or any other law, we have incorporated those provisions in the Bill itself. As to clause 5, we have, to the best of our ability, tried to meet the wishes of all the communities by inserting that proviso and also bringing it under clause 2. With these observations, I move that the report of the Select Committee be taken into consideration.

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

"That the Bill to consolidate the provisions of Muslim law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie, as reported by the Select Committee, be taken into consideration."

I find that notice has been given of a motion for circulation of the Bill—one by Mr. Abdullah who is not in his place, and another by Mr. Suryya Kumar Som, Mr. Akhil Chandra Datta, Dr. P. N. Banerjee and Pandit Lakshmi Kanta Maitra: I understand that is not going to be moved. The discussion will now proceed on the motion just moved.

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, it is indeed a matter of great gratification to us all in this House that on a Bill which was considered to be a very contentious measure in the beginning there has been complete unanimity of opinion from all sides of the House. It is very seldom that Bills which have any tinge of religious dictates receive the unanimous approval of all parts of the House, and I must congratulate those Honourable Members who were on the Select Committee for submitting a unanimous Report and solving this great problem affecting Muhammadan law. Sir, it is high time that we conceded the rights of our women, whether they be Hindus, Muslims or Christians. I am glad that the Muslims of India, and especially the Muslim Members of this House took up this legislation in hand in right earnest to accord proper rights to the fair sex, and I hope and trust that other communities, when they come forward with legislation affecting their community, will receive the same measure of support from us Muslims, and that we shall not fail them. But I want to make one point quite clear. We know, that when occasion arises it may be necessary to take a different view from what we have adopted in this legislation today. It is quite possible we may have occasion to come forward with some amendments at a later stage even on this Bill and when we do so, we hope and trust that our friends of other communities will extend to us the same support as they have given to us so far.

Sir, there is one point on which the public outside is somewhat perturbed. We wanted in this Bill that some kazi or Muslim judge should be appointed to decide cases of divorce. It is a great pity that some could not see eye to eye with us on this point. Perhaps our plain description of the duties of a kazi have not been clearly understood by our other friends. According to Muslim law, a kazi is a necessary element to pronounce the formula of divorce, just as among our Hindu friends a qualified priest is a necessary element to sit by the fireside and utter *mantras* to complete the marriage. A Muhammadan cannot sit and perform the marriage ceremony of our Hindu friends and declare the marriage to be complete; in the same way, so far as the Hanafi *Shariat* is concerned, it is necessary that there should be a Muslim judge or a kazi to pronounce the formula of divorce, and nobody else can do so. I know that this opinion has not been corroborated by some lawyers in this country and they have not been able to see eye to eye with us. There has been a cry in some quarters that if a Muslim judge or a kazi is appointed to decide these cases of divorce, then it will not be consistent with our policy and the policy of the British rule in India. The fact is this, that those people who have pronounced this opinion have either been Judges of the High Court or in Government service holding similar responsible positions, and, therefore, they could not give an opinion on this subject quite contrary to what the courts as a whole have held. My submission is this. We know that judges of the Courts will not decide these divorce cases on any personal grounds, but my point is, it will not be consistent with the *Shariat* of Islam, because nobody except a Muslim Judge or kazi can pronounce the formula of divorce, just as I said before, a Muslim or a Christian will not be eligible to utter the *mantras* or say the formula by the fireside at the time of a Hindu marriage. Therefore, Sir, the Muslims consider that the *Shariat* should be respected. It may be said that there are people who differ from this point of view, but at least the majority hold that the formula of divorce cannot be uttered by anyone

[Mr. Muhammad Azhar Ali.]

except a Mussalman. I am sorry that this view did not find favour with the majority of the Select Committee. However, in spite of all this, I submit that whatever we are achieving by this measure will be enough for our present purposes and much of the distress which our Muslim ladies feel will be relieved by passing this measure. Therefore, Sir, I support the motion.

Mr. Lalchand Navarai (Sind: Non-Muhammadan Rural): Sir, I wish to make some observations on this very important Bill. I say, Sir, it is important in that it has connection with the Muslim community as a whole, Shias, Sunnis, Hanafis and all other denominations. It is also important in another respect, because it affects the interests of Hindus also, because in this Bill there are certain provisions which, according to the Select Committee, have been distilled down a bit, but still there are certain points in which the Hindu community is interested.

Now, Sir, I am very glad to find that a very serious view is intended to be taken of this Bill, and the indication of it is that the motion for circulation has not been put forward. That clearly shows that the importance of this measure has been accepted and nobody wants to adopt any dilatory tactics. Therefore, Sir, I submit that the House should give consideration to each of the points that has been decided by the Select Committee. My Honourable friend who spoke last should excuse me if I do not see eye to eye with him when he says that there is unanimity of opinion in the Select Committee. It is not so. It is quite obvious from the very amendments that have been put forward that there is no unanimity of opinion, at least I must say there is no unanimity of opinion with regard to clause 4 and to some portion of clause 2. Before I come to these clauses, I would submit generally that there are certain defects in this Bill to which attention of the House should be directed. At the very outset, I find in the Select Committee's Report, a reference is made to the opening words of clause 2. In clause 2 we find the opening words apply the clause to any woman married under Muslim law and she shall be entitled to obtain a decree for the dissolution of her marriage on the grounds set out in the Bill. This would mean that if the woman is married under the Muslim law, then only she can have a right of divorce. On this point what the Select Committee has said is this. "We the undersigned members of the Select Committee to which the Bill to consolidate the provisions of Muslim law relating to suits by married Muslim women for dissolution of marriage" and then below that in clause 2 it is said—"The opening words apply the clause to any woman married under Muslim law even though she may not herself profess Islam".

The words to which I wish to direct the attention of the House are "even though she may not herself profess Islam". If she has not professed Islam by her own free will, then she does not come under the provisions of clause 2 as it is. I have read through the whole Bill very carefully, but I want that everything should be made absolutely clear so as not to leave any doubts on the point.

It is an important Bill, nobody will say that it is not an important Bill. What I submit is that I do not share this opinion of the Select Committee, and I would refer to the note of Mr. Asaf Ali which supports my view. At the end of paragraph 2 of his note he says that if the husband proves

intolerant of her religious profession or practice she is entitled to relief under sub-clause (e) of clause 2 (ix) of the Bill. The statement of the Select Committee is incorrect and it should be considered as redundant. Under sub-clause (e) to which I have referred what we find is this, that a married woman will be entitled to a decree on the ground that the husband obstructs her in the observance of her religious profession or practice. An amendment to that effect has been put in by a Muhammadan Member of this House, and I hope that that would be accepted, or at least what is stated by the Select Committee appears to be a little misleading and it should be made clear. Then sub-clause (x) requires a little clarification. We should specifically lay down what are the grounds. At present a Muslim woman gets a judicial separation by a decree on only one or two grounds, namely, impotency and one other. (Interruption by Mr. M. Asaf Ali). Judicial separation is more or less provided for in the Hindu law; in the Muhammadan law it is dissolution, which I call judicial separation. On this my Honourable friend, Mr. Asaf Ali, has made an observation, and I want that to be specifically incorporated in sub-clause (x). Sub-clause (x) says:

"On any other ground which is recognised as valid for the dissolution of marriages under Muslim law."

So many grounds have been given and the last ground is a general one. Under the Muslim law, if there is apostasy, if the woman has renounced her religion or she has converted herself to any other religion, then that apostasy dissolves the marriage. If anybody has any doubt about it, I will read out Mulla's Muhammadan Law, at page 209, where it says:

"Apostasy from Islam of either party to a marriage operates as a complete and immediate dissolution of the marriage."

Therefore, it is a ground for dissolution. I do not say that this has not been considered by the Select Committee; on the contrary they have considered it and come to the conclusion that it would be a ground by putting in sub-clause (x) to the effect that if there is apostasy she will be entitled to a decree if she goes to court. But what I mean to say is this that this makes a distinction. The distinction that is made is that under the Muhammadan Law, from the passage that I have just read out to the House, the marriage will *ipso facto* become dissolved, but by this provision she will have the right to go to the Court and get a decree for dissolution on the ground of apostasy. In this view I am supported by Mr. Asaf Ali:

Mr. M. Asaf Ali (Delhi: General): I do not think you are supported by me.

Mr. Lalchand Navalrai: I shall read the paragraph:

"As regards the clause of apostasy, I am still of opinion that as a general rule in the case of all communities, in the case of change of religion there should be an automatic dissolution of marriage."

Mr. M. Asaf Ali: I am afraid that is not my note. It is Dr. Deshmukh's.

Mr. Lalchand Navalrai: I am sorry. I will now read from paragraph 2 of my Honourable friend, Mr. Asaf Ali's note. He says:

"Under the present provision she will have to institute a suit for dissolution of marriage on the ground (a) that she has abjured Islam or she has been converted to a faith other than Islam . . ."

[Mr. Lalchand Navalrai.]

Can there be anything clearer than that? Then, he says:

"... (b) that either her husband makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment or that he obstructs her (this is the point) in the observance of her religious profession or practice or prevents her from exercising her legal rights over her property."

It is quite plain and it is common sense also. Here you are making changes giving extensive power to Muhammadan women. You have allowed dissolution even on lesser grounds such as non-maintenance and cruelty. You are now making the door wider for her to come to court and ask for dissolution and apostasy or renunciation of Islam should be a reason for coming into court. I say it is the Select Committee's view, and it should be made clear. However on that point myself and Bhai Parma Nand have actually put in an amendment to clarify the position and say that that is one of the grounds for her coming into court for dissolution.

Then, taking the question of sub-para. (vi) of clause 2. I find that judicial divorce has been provided on the ground that the husband was impotent at the time of the marriage and continues to be so. That is also the present law. You will find it on page 209 of Mulla, 10th Edition, article 299. Now I will ask the Mover of this Bill to answer this question. At present the law is that the wife is entitled to sue for divorce on the ground of her husband's impotence provided that the defect existed at the time of marriage and had continued since then. This has been reproduced in the present Bill. There is another point also and that is that she did not then know of it. A woman at the time of marriage knows full well that she is contracting a marriage with a particular person. She may at that time have expected that the man may be relieved of the malady or she may have certain reasons for marrying that man. Therefore, the law, that if the woman has contracted the marriage with her eyes open, then that would be no ground for dissolution.

Then, there is one other point in this connection and that is in Mulla's Muhammadan Law on page 209. It establishes a certain practice which the courts have been following at present. Even though there is a question at issue with regard to the impotence of the husband, a certain practice is followed by the courts and that practice is mentioned in this para. If the facts about the man's impotence are established, then the further hearing of the suit will have to be adjourned for a year in order that it may be ascertained whether the defect is removable. If the period has expired, the court may on the application of the wife and on proof that there has been no sexual intercourse between husband and wife during that period pass a decree dissolving the marriage. This precaution has been introduced by the authorities. After all separation between husband and wife is a serious thing and if impotency is alleged, sometime should be given for recovery if recovery is possible and I hope that this provision of the law also does exist. It cannot be said that by making this law we have not reproduced this, which is a decision of the judicial authorities and at present the law of the country.

Now, Sir, I will say a few words with regard to clause 4 and then I will say more when I move my amendment. Clause 4 is clause 5 of the Bill. Everybody knows that on this clause there was a great contest when the matter was going on to the Select Committee and it was said that it is no use touching any point which might injure the feelings or

affect any other community. After all this is a Bill applicable to Muhammadans and in that there should not be anything put in which might offend the feelings of the Hindus or create complications. Therefore it was expected when the matter was going to the Select Committee that the Select Committee will expunge that clause. That has not taken place. What has taken place is only a little change in it which is now shown in the proviso to clause 4. Clause 5 stands substantially in clause 4, part 1, and I certainly submit that the Hindu community cannot be said to agree with regard to this clause. I have read the Muhammadan Law from Mulla. It clearly puts forward that from time immemorial it has been the law and also practice that whenever there is apostasy, the marriage *ipso facto* comes to an end. I would, therefore, submit that there is no need for both parts of clause 4. Both of them should be deleted. On this point also amendments have been put in, and I submit that these points I have put forward should be given consideration. In social legislation of this kind, there should be agreement between both Hindus and Muhammadans and then only it will be considered to be the best and true law, even though it may change the law that is existing at present. Therefore, even from the point of view of sentiment and from the point of view of Hindu opinion, this clause 4 should be deleted.

Mr. Abdul Qayum (North-West Frontier Province: General): I tried to follow the clarifying process which was set out at great length by my Honourable friend, Mr. Lalchand Navalrai. When I read the Bill, as it emerged from the Select Committee, I thought that the Bill had emerged as a much better Bill, a clearer Bill, and a business-like Bill. If we try to clarify it even more, it would result in greater confusion, and it would not be any improvement on the Bill. My learned friend touched the question of apostasy at great length. I may remind him that this Bill and similar other Bills which were passed by this House—I may mention especially the one dealing with the *Shariat* Act—are the result and the outcome of the great awakening that has taken place in the Muhammadan community in India, and the more enlightened section of the community believe that the time has come when a serious attempt should be made to restore all the rights which were granted by the Koran to Muslim women so as to put them on terms of absolute equality with men. It is in furtherance of this desire that the *Shariat* Act was passed, which, for the first time, did away with the dead hand of custom and conferred upon Muhammadan women the right to inherit property which is granted to them by the Koran in their capacity as sisters, mothers, or daughters. This Bill, dealing with the dissolution of married women, is also of the same kind. After all, even my Honourable friend, Mr. Lalchand Navalrai, will not have the courage to deny this or to say that Muslim women have in practice been allowed to follow the Muhammadan law in the matter of divorce. The males have appropriated to themselves all the privileges and all the rights which have been given to them by the Koran, but wherever any rights were given to poor women, they fell out of use simply because they were not allowed to be enjoyed by them by the males of the community. Therefore, this has resulted in a great hardship to Muslim women, and this Bill seeks to do away with that evil which, undoubtedly, exists at the present time in the Muslim community. Undoubtedly there is a great demand in the community, that such cases should be tried by Muslim judges. We have received letters from the Jamiat-i-Ulemai Hind pressing upon us the desirability of having all such cases tried by Muslim

[Mr. Abdul Qaiyum.]

judges. As far as I am concerned, I think it would be much better, where Muslim judges are not available, to have these cases to be tried by non-Muslim judges. We should rather trust to their sense of fairness, and should have faith in their sense of justice. I, for one, do not feel at all that any hardship is going to result because we are not enacting in this Bill that such cases should be heard only by Muslim judges. As far as I understand Islam, it contains certain cardinal principles and the main principle is the unity of God and the brotherhood of man. All other things are of subsidiary and minor importance. There is no doubt that there is a proposal that such cases should be tried by Muslim judges, but I do not think that if such a provision is not inserted, we would be committing any really very great sin. That is my view subject to the opinion of learned divines, and of those more learned in Muhammadan law. My learned friend, Mr. Lalchand Navalrai, severely criticized the provisions regarding apostasy. There is no denying the fact that at present owing to the attitude of the males of the Muhammadan community and the high-handed manner in which Muslim women are treated, Muslim women have been forced in innumerable instances to resort to conversions which were not genuine conversions, in order to escape from the marital tie. These conversions were not genuine and I think many people in this country are aware of that fact, and this has been supported by the large volume of opinion which has been offered by people belonging to all the communities, as well as by judges belonging to all the communities who have had occasion to try such cases. As far as conversion is concerned, let me remind the House that Bhai Parma Nand put the case against this as strongly as he possibly could, and I would just invite attention to three or four sentences which he uttered at the time when he spoke when the Bill was being referred to the Select Committee. He was asked to "first tell us your opinion". Bhai Parma Nand said:

"You want my opinion? I think as the Honourable Mr. Kazmi has agreed to the proviso and if the Select Committee accept this proviso, I would have practically very little objection to the Bill. That proviso is that this clause will apply only to Muhammadan women who are born as Muhammadans, and it would not apply to any other women who are not born as Muhammadans."

That proviso has been incorporated in clause 4 of the Bill. That means that no woman who has become a convert from a religion other than Islam will be estopped, as a result of the provisions of this Bill, from going back to her religion if she so desires. I think Bhaiji put the case at the highest and that has been amply met by the proviso that has been incorporated in this Bill. Now, certainly this cannot be described as "little change" as my friend, Mr. Lalchand Navalrai, tried to make out, because the maximum demand put at the time was that the people outside the pale of Islam who desire reconversion to their original faith should be allowed to do so. And this has been incorporated. Therefore, I submit for the consideration of this House, that the Bill has emerged in a form which is almost non-contentious, and I hope the House will now expeditiously pass this Bill. Sir, I support the motion.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Labour): Sir, there is very little to say at this stage on behalf of Government. I had, when speaking on the Bill in the Simla Session, pointed out certain considerations which weighed very seriously with Government and I had said that Government would not be able to support this Bill unless the difficulties that I had pointed out were met. Those difficulties

have been met in the Select Committee entirely, and, therefore, generally—and that is all that we are concerned with at this stage—Government are prepared to support the Bill as it has emerged from the Select Committee.

Honourable Members: The question may now be 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 the Bill to consolidate the provisions of Muslim law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

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

“That clause 2 stand part of the Bill.”

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I move:

“That sub-clause (i) of clause 2 of the Bill be omitted and subsequent sub-clauses be re-numbered accordingly.”

The sub-clause says:

“That the husband has been sentenced to imprisonment for a period of two years or upwards and has made no provision for her maintenance”

It may be that in the public interest the husband may have courted imprisonment and may have been sentenced, but it would not be right that the lady should have the right to have a decree for the dissolution of her marriage on that ground alone. Therefore, I want this clause to be omitted.

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

“That sub-clause (i) of clause 2 of the Bill be omitted and subsequent sub-clauses be re-numbered accordingly.”

Qazi Muhammad Ahmad Kazmi: Sir, so far as this amendment is concerned, I think it would be an improvement, and I am prepared to accept it.

Pandit Krishna Kant Malaviya (Benares and Gorakhpur Divisions: Non-Muhammadan Rural): Sir, to me it seems that the amendment that has been proposed for the deletion of sub-clause (i) of clause 2 should not be accepted. The sub-section says:

“That the husband has been sentenced to imprisonment for a period of two years or upwards and has made no provision for her maintenance”

As a matter of fact, I do not know what the Select Committee mean when they say that the husband has been sentenced to imprisonment for a period of two years and has made no provision. To which thing is the importance attached? To the husband going to the jail or simply to the fact that he has not made any provision for the maintenance of his wife? I think going to jail should be the more objectionable thing. What my Honourable friend, Mr. Ananthasayanam wants, can be achieved simply by

[Pandit Krishna Kant Malaviya.]

the introduction of the words "for moral turpitude" after the word "imprisonment". If the clause were to read "that the husband has been sentenced to imprisonment for moral turpitude for a period of two years or upwards and has made no provision for her maintenance", the object of my friend would be achieved. What I want is that a wife should have a right to divorce a husband who is a jail-goer or who is sentenced for some offences.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): What about us?

Pandit Krishna Kant Malaviya: I have said that there might be a provision for civil resisters. The words "moral turpitude" might be introduced for civil resisters. But I do not want that a woman should remain the wife of a thief or murderer simply because there is some provision for her maintenance. Do my friends want that a wife should continue to be the wife of a murderer or a thief or a gambler?

Mr. M. Asaf Ali: Sub-clause (iv) covers it.

Pandit Krishna Kant Malaviya: I am not in favour of this amendment.

Mr. M. Asaf Ali: Sir, I think my learned friend, Mr. Malaviya, is labouring under a misapprehension. If he refers to sub-clause (iii) of clause 2, he will see that the case has been met by it as far as the question of maintenance is concerned.

Pandit Krishna Kant Malaviya: On a point of personal explanation, Sir. I think my Honourable friend has quite misunderstood me. I want a provision that a wife should seek divorce simply because her husband has been sentenced to jail, not that he has not made any provision for her maintenance.

Mr. M. Asaf Ali: I was just trying to explain the attitude of the Select Committee. It was not the intention of the Select Committee to make a provision that a married woman might secure dissolution of her marriage merely on the ground that her husband had gone to the jail. But if it is a case of a very serious offence, it is already dealt with in sub-clause (iv) which says that she can obtain a dissolution of her marriage if the husband has been sentenced to imprisonment for a period of seven years or upwards. That is to say, the Select Committee have made provision for serious offences under sub-clause (iv). But so far as sub-clause (i) is concerned, it is completely covered by the contents of sub-clause (iii) which says: 'that the husband has neglected or has failed to provide for her maintenance for a period of two years'. So, it is merely a question of a husband not making any provision for his wife for two years, which is completely covered by sub-clause (iii) and, therefore, we are quite prepared to accept this amendment.

Mr. M. Ghiasuddin (Punjab: Landholders): Sir, I rise to oppose this amendment moved by my Honourable friend, Mr. Ananthasayanam Ayyangar. I am afraid for political considerations this very useful social Bill is being whittled down by this political party or that political party to suit this political thought or that political thought. In my opinion, the whole thing is clear. Here is a woman whose husband has gone to jail. It

may be that he had gone to jail for a political offence and he is an honourable man, or it may be that he has gone to jail for the meanest of crime and he is a villain, and I think it would be very unfair for a woman to be tied down to that man. Besides, the modern tendency is that both man and woman should have equal rights of divorce. Even if the man is a hero and he has gone to jail for a political offence, his wife may not like it and she may hold the opposite political views. She may not like his going to jail. I would, therefore, request all the Parties in this House to look at this Bill merely from a social point of view and not to thrust their political views in it. In my opinion, this Bill has come out in a much worse form from the Select Committee than what it was before, and I will beg the House not to whittle it down any more for political considerations. They should only think of women who have been suffering for a very long time under the cruel yoke of their men folk, and now that this measure is before us, it should be supported, and it should not be whittled down on any ground whatsoever. Sir, I oppose the amendment.

Sir Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, I had no intention of getting up and speaking on this amendment, but my reason for getting up is that my friend, Mr. Ghiasuddin, has probably not understood what the real idea behind this clause is. He has laid the emphasis on the fact that a woman can leave her husband only on the ground that he has gone to the jail but there he is mistaken, because the clause as it stands has nothing to do with the sentence or the committing of any offence. As has been clearly pointed out by my friend, Mr. Asaf Ali, the idea of the Select Committee was that there ought to be the maintenance for the woman. If she has been left without any maintenance, then she should have a right to get divorce. That was the real idea. The idea was never present in the mind of the Select Committee that the woman should have the right to get a divorce simply because the husband has been sentenced to jail for one or the other offence. If the husband was a murderer or a cut-throat, then provision has been made in sub-clause (iv). As far as desertion is concerned, that is provided in sub-clause (iii). Therefore, it was really not necessary to have sub-clause (i). I think this was the misunderstanding in the mind of my friend Mr. Ghiasuddin and I hope he will withdraw his opposition to this amendment because this sub-clause really does not affect one way or the other. If the husband is sentenced to jail but he has made a provision for her maintenance, then she cannot get a divorce. If a thief or a murderer has been sentenced to jail for a period of two years or for a period of less than 7 years and makes a provision for her maintenance, then she cannot get a divorce under this provision. Therefore, the objection was due to the misunderstanding of the provision and I hope my Honourable friend will withdraw his objection.

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

"That sub-clause (i) of clause 2 of the Bill be omitted and subsequent sub-clauses be re-numbered accordingly."

The motion was adopted.

Maulvi Syed Murtaza Sahib Bahadur (South Madras: Muhammadan): Sir, I beg to move:

"That sub-clause (ii) of clause 2 of the Bill be re-numbered as sub-clause (i), and, in the sub-clause, as so re-numbered, for the words 'two years' the words 'four years' be substituted and the words 'and that he has made no provision for her maintenance' be omitted."

[Maulvi Syed Murtuza Sahib Bahadur.]

Sir, my motion is to the effect that so far as the period of two years is concerned, it is too short a period. According to Maliki School of jurists, the time given is four years. So it is that I move my amendment, because it is supported by one of the four eminent jurists that belong to the Maliki set of jurists. Sir, I move.

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

"That sub-clause (ii) of clause 2 of the Bill be re-numbered as sub-clause (i), and, in the sub-clause, as so re-numbered, for the words 'two years' the words 'four years' be substituted and the words 'and that he has made no provision for her maintenance' be omitted."

Qari Muhammad Ahmad Kasmi: I have no objection in accepting this amendment which brings the law in consonance with Shia and Maliki law.

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

"That sub-clause (ii) of clause 2 of the Bill be re-numbered as sub-clause (i), and, in the sub-clause, as so re-numbered, for the words 'two years' the words 'four years' be substituted and the words 'and that he has made no provision for her maintenance' be omitted."

The motion was adopted.

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan): Sir, I beg to move:

"That in sub-clause (ii) of clause 2 of the Bill, after the words 'for her' the word 'proper' be inserted."

I think the word "proper" is necessary, and hence I move this amendment.

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

"That in sub-clause (ii) of clause 2 of the Bill, after the words 'for her' the word 'proper' be inserted."

Mr. M. Asaf Ali: Sir, I am sorry I have to oppose this amendment. But I do so on the ground that by the insertion of the word "proper" before word "maintenance" the whole question will become rather indefinite, and in each case it will be left to the discretion of the Court to find out what is the proper maintenance in a particular case. Therefore, I do not think this amendment is likely to improve the situation. I oppose the amendment.

The Honourable Sir Muhammad Zafullah Khan: May I, Sir, in support of what fell from Mr. Asaf Ali point out for the consideration of the Honourable the Mover that this amendment is really unnecessary because there is no minimum standard or maximum standard of maintenance laid down and in each case the Judge will have to see whether provision for maintenance is adequate for the lady concerned. I do not think any other interpretation of the clause is possible.

Maulvi Muhammad Abdul Ghani: After hearing the views of the Honourable Members, I beg leave to withdraw the amendment.

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

Maulvi Syed Murtaza Sahib Bahadur: Sir, I beg to move:

"That for sub-clause (v) of clause 2 of the Bill the following be substituted:
(v) that her husband is impotent and had no conjugal connection with her since her marriage."

Sir, these are very important words to be inserted in the Bill.

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

"That for sub-clause (v) of clause 2 of the Bill the following be substituted:
(v) that her husband is impotent and had no conjugal connection with her since her marriage."

The Honourable Sir Muhammad Zafrullah Khan: Sir, may I invite the attention of the Honourable the Mover to this that the latter part of his amendment really imports the question of evidence into the substantive law. The clause, as it stands, reads:

"that the husband was impotent at the time of the marriage and continues to be so."

Surely one of the rebuttals of such a plea would be that there has been consummation of the marriage, and that would show that the husband was not impotent all the time since the marriage took place. It is only a question of evidence. My submission is that so far as the provision of the law is concerned, the clause correctly lays down the law that the husband was impotent at the time of the marriage and has throughout continued to be so. If in between consummation has taken place, the case of the plaintiff fails.

Maulvi Syed Murtaza Sahib Bahadur: Sir, I beg leave of the House to withdraw the amendment.

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

Maulvi Syed Murtaza Sahib Bahadur: Sir, I beg to move:

"That in sub-clause (vii) of clause 2 of the Bill, the words 'father or other' be omitted."

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

"That in sub-clause (vii) of clause 2 of the Bill, the words 'father or other' be omitted."

The Honourable Sir Muhammad Zafrullah Khan: Sir, I have been informed that it has been agreed that this and certain other amendments to what is now sub-clause (vii) should be accepted. Therefore, I am not opposing the amendment if it is the view of the Honourable Members who scrutinised the provisions of this Bill that this amendment should go through. But I owe it to the Select Committee to explain why the clause stands as it does in the Bill.

There are two sets of amendments which seek to bring the clause into conformity with what is generally understood to be the doctrine of Hanafi law in the matter; (1) as regards the age limit and (2) whether there shall or shall not be the option of puberty in the case of a marriage contracted on behalf of a minor by her father or grandfather. I should incidentally point out that if the paternal grandfather is meant, the word "paternal" should be added in the amendment. It was thought in the Select Committee that instead of leaving the matter vague on the question of the minority:

[Sir Muhammad Zafrullah Khan.]

of the girl given in marriage, the judge should be given a sure guidance in the matter and that a definite age limit should be prescribed. It was, therefore, laid down that if a girl below the age of seventeen is given in marriage by her guardian, she should have the option of puberty which she could exercise up to the time of attaining the age of nineteen years. On the second matter, it was recognised that it was the generally accepted doctrine of Hanafi law, though it had not, by any means, been universally accepted. That there should be no option of puberty when a minor had been given in marriage by her father or paternal grandfather. There was, however, considerable doubt whether the generally accepted doctrine correctly interpreted the meaning of the law. It has been said that whereas there may be some apprehension that a guardian, other than the father or the paternal grandfather, may give a minor in marriage without studying her welfare and may be actuated by ulterior motives in arranging the marriage, the presumption in the case of the father or the paternal grandfather should be that they would not be actuated by any such motive. I think, Sir, that that kind of reasoning is based upon a misconception of the legal position with regard to this kind of marriage. I venture to submit that the correct position is that when a marriage has been contracted on behalf of a minor, he or she can repudiate it on attaining puberty.

In the case of a male, it is not necessary to make any special provision as he has the power to put an end to the marriage by pronouncing divorce. In the case of a female, if there has been consummation of the marriage, it is proof of her confirmation of the marriage, but before consummation it is open to her to repudiate the marriage. I agree that a later amendment, which seeks to make it clear that there can be no repudiation if there has been consummation, is in order, though I should have thought that the matter was implicit in the language of the clause as it stands. But with regard to the question whether the option of puberty is or is not available in the case of a marriage contracted on behalf of the minor by her father or paternal grandfather, I fail to see why this distinction should be made. I am informed that in the first case of the kind that arose in Islam the option of puberty was allowed in a case where a minor had been given in marriage by her uncle. That case is regarded as authority for the doctrine of option of puberty, but there is nothing in that case which warrants the conclusion that the option is not available where a minor has been given in marriage by her father or paternal grandfather. In my view the basis of the doctrine being that a contract entered into on behalf of a minor by his or her guardian is not binding upon the minor unless confirmed by the minor on attaining puberty or majority, the option of puberty should be available in all cases. That is the reason why the Select Committee thought that the option should be available in all cases where a minor had been given in marriage by a guardian, no matter who the guardian may be. On the other hand if it has been agreed between Honourable Members on that side that this amendment should be made, however much I might regret that that should be so, I shall not oppose the amendment on behalf of Government.

Mr. N. V. Gadgil (Bombay Central Division: Non-Muhammadian Rural): May I ask one question? Is not the right of the minor girl after attainment of puberty to exercise her right of repudiation affected, if this amendment is accepted?

The Honourable Sir Muhammad Zafrullah Khan: I have explained that so far as I am concerned, I think the clause, as it stands, is all right. But, after all, this is a matter with which juristic interpretation has a great deal to do. And if Honourable Members on those Benches feel that the interpretation which has generally been accepted so far should continue to govern this matter, as I have said, I would personally regret it but I am afraid there is no help for it

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

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

Sir Muhammad Yamin Khan: Sir, I listened with great interest to the arguments put forward by the Honourable the Commerce Member who was a prominent member of the Select Committee. He has fully explained the position of the Committee and the reasons which guided them to come to this conclusion to add the words "father or other person". We tried to find out if there was any authority either in the Koran or any of the Hadis. If anything can be shown to me from the Koran or even the Hadis against this I shall be the first person to jump up and accept the amendment which has been moved by my Honourable friend

The Koran is the law made by God, and nobody who calls himself a Muslim has any right to say that any change should be made in the law as laid down in the Koran. The best interpreter of the laws of the Koran was the person through whom the Koran was handed over to the world and that person was the Prophet, whose words have been recorded every time he spoke, and they are known as the Hadis. Amongst the Hadis, there is only one which has come to our knowledge, and that is to the effect that a lady went and complained to the Prophet that she had been given in marriage, while she was not a major, by her uncle to a man and she did not like that man. The Prophet said that the marriage was dissolved. As the Honourable the Commerce Member has pointed out rightly, on this two interpretations have been put. One was that it was a question of uncle only and as uncle means other than the father, therefore this right of puberty could be exercised in cases where the girl has been given in marriage by any person other than the father. But the interpretation which has been given by the Honourable Sir Zafrullah Khan is this: that really the principle involved in the ruling or interpretation of the Prophet on the Koranic law is that a woman, where she has been given in marriage by a person when she was a minor, has got a right to accept that marriage or not to accept that contract, because under Muhammadan law marriage is really a civil contract and that contract can be accepted or nullified by her just like any other thing done on account or on behalf of a minor in civil matters. I have got the greatest respect for the jurists who put other interpretation: as a matter of fact I follow one of those jurists myself: I am a Hanafi and I follow Abu Hanifa in all things. But if I find anything which he has omitted or something which needs correction, then I am at liberty to do so. As a matter of fact he allowed the opinion of his two disciples to overrule his own decision sometimes. Yusuf and Muhammad, his two great disciples, were great jurists themselves and on many occasions they differed from Abu Hanifa and on many times he accepted their opinions. So it leads me to think that when Hazrat Abu Hanifa himself allowed his

[Sir Muhammad Yamin Khan.]

own disciples to differ from and overrule him, it means that he laid down the principle that every follower of Abu Hanifa can, when he finds that there is reason to differ from the law laid down by him, or by his disciples, be allowed to do so. This was the old law, the Roman law, in which, according to the *patria potestas*,—that the father had absolute right over the children and could dispose of and sell them into slavery or do anything he liked: that a remnant of those ideas might have been influencing the opinion prevailing at that time. But when Islam came, it gave freedom and liberty to every person. The father had a right only in certain matters over the children, as long as they remained minors. Here too the father could exercise that power just like a certificated guardian under the present law. But when a woman is made to live with a husband she must be allowed to have her say in all matters. 1,355 years ago, the law was given to the woman by the Prophet of Islam, which was not enjoyed by the women at that time and even in many cases it is not enjoyed even now. That was the spirit of the Islamic law, and it was far in advance of the then state of the world. When that law gave to the woman her proper right, now that any Muslim should come and say that he wants to curtail those powers and those rights instead of advancing them is in my opinion not Islamic.

We have to see the Islamic law under the spirit of Islam. The spirit must be there. We must be guided not merely by the rulings or interpretations that have been given under totally different circumstances on the principles of law. When we find here that the law is intended to give absolute freedom of choice to a woman to marry, that freedom must exist in all cases and that freedom can be exercised by her only, because she is the person who is to gain or lose, to enjoy or suffer through the marriage tie. Therefore, it is really incumbent on every Muslim who comes as a jurist here, who wants to legislate for Indian woman, that he should take into consideration the fact that the rights of women should not be jeopardised simply because they are not represented in this House. I am sure, if we have a single Muslim woman properly educated here in this House, then absolutely different ideas would have been expressed on the floor of this House. I know, Sir, that the demand from educated Muslim women is becoming more and more insistent that their rights should be conceded to them according to Islamic law. The one result of it has been the recent enactment of the Shariat Bill and the person who brought forward that Bill is hailing from the Punjab where the Shariat law had never before seen the light of day.

Now, Sir, the Muslim jurists thought that every Mussalman, like themselves, would be a very honest man, he will be under no influence of others, because they all lived at a time when they were under the influence of nobody else. They were all honest and independent people, and nothing deterred them from doing their duty, and therefore the jurists in those days thought that according to Islamic principles every Mussalman would be an ideal Mussalman, and as such he would be an ideal father and he would sacrifice his life rather than sacrifice the interests of his daughter. That was the state of affairs when they gave an opinion of this kind, but now what is the position? Are the Mussalmans of India today coming up to the expectations formed of them by those old jurists? The Mussalmans

in those days were given the power to contract marriages on behalf of their daughters,—it was not their inherent right,—it might have been an inherent right under the old Roman law which had greatly influenced the people who lived at that time,—and the fact that they were given the power to contract marriages on behalf of their daughters presupposed that the fathers would be absolutely honest men. But today we find to our great sorrow that many fathers ignore the interests of their daughters through the influence of step mothers. I have come to know of many cases of this kind. When a man marries a second time, his daughter is not properly looked after by his second wife; that second wife influences her husband who completely ignores the interests of his daughter by the first wife. This is our experience at the Bar and many cases of this kind have come to our notice. A majority of Muslims in this country have not been properly educated in the spirit of the Islamic law, and they do not exercise the power which is vested in them through this interpretation of the law. That interpretation is not quite correct and not suited to the present circumstances in the country. For instance, if a girl is given in marriage by her father to a man who treats her cruelly, she can seek a divorce under the present Bill. That is all right. But if, let us say, a girl of 10 or 12 is given in marriage to an old man of 50 or 60—when she attains proper age this man will become an old crouy—she will not be able to get divorce from him under this Bill, and a divorce will become absolutely necessary in such a case owing to the wide disparity in age between the two. There may also crop up many other questions, and she must be given complete liberty to decide whether she should remain under this old man or to get away from him, but it is only a power given to the girl after it has been taken away from her father. That is only a transfer of power and nothing else, and this transfer of power does not go against the spirit of Islamic law. But I can assure the House that if the Ulemas outside will produce any authority from the Quran which will be contrary to this or which says that the power must be exercised by the father only and not by the daughter, then certainly I shall bow to them, and I shall be the first to come forward with an amendment to amend this law in that form, but until we get such a view I think a Muslim woman must be given full liberty and full right to exercise her choice in matrimonial matters. Sir, I regret I cannot agree with the amendment moved by my friend, and I hope he will see his way to withdraw it, because we can always make necessary amendments if we find the present legislation defective in any respect.

Mr. M. Ghiasuddin: Mr. Deputy President, I agree word for word with what has fallen from my Honourable friend, Sir Muhammad Yamin Khan. He has deplored the absence of a Muslim Lady Member in this House, for if one were present today, she would have put before the House a different point of view, the point of view of Muslim women. But, Sir, we are happy that at any rate we are fortunate to have one Lady Member present among us, and I think the House can rightly expect to have the benefit of her views on this Bill. As far as the present amendment is concerned, the whole question is this. If the father gives away his daughter in marriage to a man whom she considers to be unsuitable or undesirable, has she the right or the power to nullify the marriage when she attains her age? I would request Honourable Members to look at this question from a purely logical standpoint, because, after all, it is the daughter who has to live all her life with the man and perform all the duties of a wife. What is she to do if that husband is absolutely repulsive to her? Is she to go on living a

[Mr. M. Ghiasuddin.]

sort of living death? Because her father contracted her marriage when she was young, has she no right to call her soul her own and resist or nullify the marital tie when she knows her own mind? This is the position before the Honourable Members, and I am sure if they look at it from a dispassionate point of view, they will decide properly. Islam has given rights to women and we have to judge the question in this light whether Islam has given women the right to call their souls their own or not. That is the whole question. Again, while deciding any point the Muslim jurists have in the past always exercised that right with common sense. So I will request all Honourable Members in this House to look at this question without any consideration of Party feelings or Party Whips and to look at it from the common sense point of view, whether women should be able to exercise their own judgment, where their own personality is concerned or not. That is the question before the House and I hope that they will give their verdict in a proper manner.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Mr. Deputy President, I had no intention of taking part in the discussion over the amendment that has been moved, but it appears to me that the opposition to the amendment raises a question of importance over which I, at any rate, shall not be justified in keeping mum. Much has been said about the rights of women from the theoretical point of view. I am not second to any one in this House as a supporter of the real rights of women, especially the rights of Muslim women which have been conferred on them by Muslim law. But it appears to me that in the matter of the marriage of a girl effected by a father or by a paternal grandfather we should not be influenced too much by the idea that possibly the girl's best interests, if the marriage takes place during her minority, have not been borne in mind by the father or the paternal grandfather. In fact, the Muslim jurists, in acceding to her the option of puberty in cases other than those where the marriage had been effected by the father or grandfather, did all that should have been done and could have been done, and to go beyond this, I would suggest to the House, would be really entertaining too much suspicion about the motives which influence the father or the grandfather in the matter of such marriages.

Mr. N. M. Joshi (Nominated Non-Official): Leave it to the girl whether to accept the decision of the father or not.

Syed Ghulam Bhik Nairang: If you saddle the father or the paternal grandfather with the responsibility of bringing up, educating and in all other ways consulting the best interests of their charge, certainly you must make a very, very strong presumption about their having consulted the girl's best interests in the matter of giving her in marriage, especially when she happened to be a minor yet. I think we must presume that the tenderest regard and the most delicate affection will be entertained by the father or grandfather towards their innocent charge, especially when she is a minor, and I think the presumption is almost inevitable that in giving her away in marriage the father, at any rate, cannot have acted otherwise than honestly and with the best of intentions and with the best of motives. I think in Muslim law there is even in the matter of father or grandfather an exception where it is proved that the father or grandfather actually acted in bad faith. That is to say, the presumption is always in favour of

his having acted in good faith and in the best interests of the minor, but it can be proved as a matter of evidence in a particular case that in that case the father acted otherwise than in good faith or acted with improper motives. That is a different thing altogether, but we must not think of rare cases where the father would be so influenced. We should think of the vast majority of cases where as a matter of natural course of events he does not act otherwise than in the girl's best interests. It has been said that, in the good old days when the Muslims used to be ideal Muslims and used to act according to the true tenets of Islam and felt their responsibility in these matters as real Muslims, matters were different, but now-a-days we have fallen on bad days and there are any number of people who act otherwise than in good faith. I think the trend of the argument was such that Honourable Members who laid stress on that point appeared to ask us to presume that the father must have acted otherwise than in the best interests of the minor and the minor on attaining the age of majority or on reaching a certain age should have the option of having the contract of marriage revised and should have the right to exercise her own independent judgment as to whether she would abide by the contract or not. I submit that to adopt such an attitude would really be subversive of the social system. I think if a father is not given the absolute right of disposing of

Sir Muhammad Yamin Khan: On a point of personal explanation, Sir. I think my Honourable friend has misunderstood me. I did not say that it should be presumed that the father acted against the interests of his daughter. But what I say is that if the father does act against the interests of the daughter, the girl must have the right to exercise her right of puberty.

Syed Ghulam Bhik Nairang: I am thankful to my Honourable friend for having enlightened me as to what he meant. But I do not think that in any way affects my argument. I say that the kind of cases where, according to his personal experience, fathers have acted either for mercenary considerations or some other dishonest motives,—those cases must be very, very rare and confined to what I am very reluctantly compelled to call the lower strata of society. But I would respectfully point out to Sir Muhammad Yamin Khan that in these so-called lower strata of society—I am loathe to call them the lower strata of society, but such language has occasionally to be used even against one's will—in those lower strata of society, the question of the girl, on attaining majority, making a choice for herself will seldom arise and, therefore, he must not be influenced too much by that. He should rather think of the normal state of things. The normal state of things is certainly this, that the father never fails to consult the best interests of the girl, and if he has made a choice, certainly the girl, as soon as she has attained majority or reached the age of seventeen years, will not be a better judge of her interests than her father was at the time of her marriage or is even when she has attained majority. So, I submit that in refusing to accept this amendment we shall be really committing a mistake because we know that as a matter of fact the vast majority of Muslims in India are Hanafi Muslims and the well-known doctrine of the Hanafi school has so far been the doctrine known as the option of puberty which has certain conditions attached to it, and one of the conditions is that when the father gives away the daughter in marriage

[Syed Ghulam Bhik Nairang.]

there is no option of puberty. I think in overruling that doctrine we shall be making a very violent departure from the established law, a departure which I am afraid will give good cause to the Muslim Community to complain that their personal law has been too much interfered with. No doubt, we have made every effort—I was in the Select Committee too—to go as far as we could in the direction of observing all the essential conditions of Muslim law as laid down by the various schools but it appears to me on further consideration that perhaps in this matter we did not pay enough regard to the essentials of the Hanafi doctrine of option of puberty and one or two more amendments on this point are to follow. We shall still be not accepting the Hanafi doctrine as it stands in every minute detail but we shall be adhering to it in substance, and then we shall have reasonable grounds for convincing people that after all their personal law as it stood till today has not been interfered with in any material way. I would very respectfully ask the Muslim Members of this House to reconsider the matter in the light of the very few observations I have made and not to insist too much on this theoretical right of the girl to judge for herself even when the father has judged for her to the best of his ability and in all good faith. For these reasons I support the amendment moved by Syed Murtuza Sahib Bahadur.

Mr. Abdul Qayyum: The only point which has been made so far in support of this amendment is the doctrine of the infallibility of the father.

3 P.M. I have come across many fathers who have given away their daughters in marriage for all sorts of motives. They have given away their daughters for money, and there have been many instances where fathers have given away daughters to very old persons where some money has been forthcoming or where the marriage might result in the feeling that they are connected with a very important family. I think this right, which is a very valuable right, of denouncing the marriage after puberty or a certain age, if the girl feels that the marriage is a wrong one, should not be whittled down in the manner in which it is sought to be whittled down by this amendment. We are taking away with one hand what we are giving with the other, and if this amendment is carried, then the rest of the clause becomes useless. Sir, I oppose this amendment.

Mr. M. Asaf Ali: I would not have spoken but for what my learned friend, Mr. Ghulam Bhik Nairang, has said. He was also a Member of the Select Committee and a very prominent Member who took an active part in the deliberations of the Committee. He has changed his mind on second thoughts.

Syed Ghulam Bhik Nairang: I said 'on further consideration'.

Mr. M. Asaf Ali: I am even now inclined to support the recommendation of the Select Committee as far as this particular clause is concerned, because I think the Select Committee went into all the pros and cons of the various arguments which have been advanced now and eventually they came to the conclusion that after all, marriage under Muslim law—I want to go to the root of the whole thing—is a purely contractual relationship.

An Honourable Member: It is a socio-religious function.

Mr. M. Asaf Ali: If it is a purely contractual relationship, it is perfectly simple that, if a minor guardian enters on behalf of the minor into a contract surely the minor ought to have the option to repudiate that contract on attaining the proper age. That seems to be a very simple and straightforward issue. Why should we lay stress on the fact that there is a great deal of case law on the subject? Case law on the subject is only the result of the deliberations of the various jurists who considered the conditions of their times and gave their decisions according to the circumstances which prevailed at the time. Today it is open to us to reconsider the whole situation in the light of our experience. I quite realise that there is a very strong feeling on the subject. I do not want to minimise its importance. There is a strong feeling outside and among certain Muslim Members here that the doctrine of *Khayar-i-blugh* (option of puberty) as interpreted by various jurists so far should not be departed from. I am fully aware of that fact but in spite of that feeling I think that it only stands to reason that a minor girl who has been given in marriage by anybody has not exercised her free consent and if the marriage has not been consummated she should have the right to exercise the option of majority. I see absolutely nothing wrong about it. I am not suggesting for a single moment that I am determined to stick to this opinion. This is my personal view of what should be done. I want to make my position clear. I want to accept the report of the Select Committee as I find it, but if a majority of Muslims present in this House are anxious that they should go further than that, I shall give in on this point only to this extent—I want to make it clear and if no assurances are forthcoming I shall certainly oppose this amendment also—that I shall be prepared to accept amendment Nos. 27 and 28 but I will not accept amendments 29 and 30. Provided you do not insist on pressing amendments Nos. 29 and 30 to a division, I shall certainly accept amendments Nos. 31 and 32 but not 32. This is my position. In other words I am prepared to amend this sub-clause in such a way that it may read as follows: "that she having been given in marriage by her lawful guardian before she attained the age of 15 repudiated the marriage before attaining the age of 17 years". If this is how it is going to read, I do not mind accepting the amendment but if you want to go further than that, I shall certainly oppose all the amendments.

The Honourable Sir Muhammad Zafrullah Khan: So far as I am concerned, I have adopted and shall maintain a position of neutrality on this, but with regard to what Mr. Asaf Ali has just said, I want to clear up one point. He says he is prepared to accept amendments Nos. 27 and 28, which would mean that the plaintiff must have been given in marriage by her lawful guardian. That will include the father and the grandfather!

Mr. M. Asaf Ali: That is why I said that I was prepared to accept this amendment.

Maulvi Abdur Rasheed Chaudhury (Assam:—Muhammadan): Mr. Deputy President, if the amendment moved by my Honourable friend, Maulvi Syed Murtuza Sahib Bahadur, is accepted, it will mean that the girl, once she is given in marriage by her father or grandfather, would not be able to repudiate the marriage on her attaining the age of nineteen. Sir, this amendment would have been appreciated in the *satya yuga* when fathers were real fathers and grandfathers were real grandfathers and they saw to the best interests of the girls and nothing else but in the *kali yuga*

[Maulvi Abdur Rasheed Chaudhury.]

opinions have changed and fathers have changed and grandfathers have changed and we know from our every-day experience how many influences work in deciding the marriage of a girl even by a father or by a grandfather. There are instances where a father will not hesitate, if he can acquire a little sense of aristocracy, to give his daughter in marriage even to an undesirable person. There are instances where the influence of property also works in deciding the marriage of a girl and there are also instances in which fathers and grandfathers frequently sell girls for money. Such being the case in this *kali yuga*, we cannot rely on fathers and grandfathers. The girl should have all the protection given under the law to her and a father or grandfather should not be made any exception. If a father or a grandfather is going to be exempted in this sub-clause, it means that in ninety per cent. of the cases the girls will lose their independence and the right of repudiating the marriage because in the majority of the cases the fathers or the grandfathers get such girls married when they are minors. So, Sir, it is no good passing this Bill if the action of the father or the grandfather is going to be exempted. I oppose this amendment.

Mr. Lalchand Navalrai: Sir, it appears to me that now that I find that there is some difference of opinion amongst the Muslim Members here, I would like to place before this House the legal position. Now, what is the legal position at present with regard to the marriage of a minor done by a father or by a grandfather? The present position is that, under the Child Marriages Restraint Act, children, under fourteen years of age, cannot be given in marriage by the father or by the grandfather or by any guardian. It might be said that if the marriage of a girl under fourteen years of age is made by any guardian or by the father or grandfather, such a person may be punished under the Act, but the marriage will not be invalid. I may mention that the present position is that authorities before whom these cases have come in the Courts have held that if a father or anyone else performs the marriage of a girl under fourteen years of age against the Child Marriage Restraint Act, he will be incompetent to be a guardian and the Court will not give the custody of the girl to such a guardian. Therefore, I say that since the present law is like that, why should not the power under the Muhammadan law, given to a girl of repudiating a marriage performed by a father or anyone else when she was a minor, be exercised?

Qazi Muhammad Ahmad Kasmi: Sir, all sides of the argument have been very clearly placed before the House, and I have specially considered the appeal that has been advanced by my Honourable friend, Mr. Lalchand Navalrai. I would, therefore, commend to the attention of the House the proposals that have been suggested by my Honourable friend, Mr. Asaf Ali. That may meet probably the wishes of all of us though we are going to a certain extent against our own conviction. Therefore, I would commend the suggestion of Mr. Asaf Ali to the House.

Sir Muhammad Yamin Khan: Sir, I would suggest a procedure that if you would allow all the amendments, that have been mentioned by Mr. Asaf Ali with regard to which he has said that he is going to accept, to be moved together and put all those amendments before the House as a whole, that might be better?

Mr. Deputy President (Mr. Akhil Chandra Datta): There can be no bargaining.

The question is:

"That in sub-clause (vii) of clause 2 of the Bill, the words 'father or other' be omitted."

The Assembly divided:

AYES—12.

Abdul Ghani, Maulvi Muhammad.
Abdullah, Mr. H. M.
Asaf Ali, Mr. M.
Azher Ali, Mr. Muhammad.
Bhutto, Mr. Nabi Baksh Illahi Baksh.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.

Ghulam Bhik Nairang, Syed.
Muhammad Ahmad Kazmi, Qazi.
Murtoza Sahib Bahadur, Maulvi Syed.
Raza Ali, Sir Syed.
Shahban, Mian Ghulam Kadir Muhammad.
Umar Aly Shah, Mr.

NOES—27.

Abdul Hamid, Khan Bahadur Sir.
Abdul Qaiyum, Mr.
Ahmad Nawaz Khan, Major Nawab Sir.
Ayyangar, Mr. M. Ananthasayanam.
Basu, Mr. R. N.
Deshmukh, Mr. Govind V.
Gadgil, Mr. N. V.
Ghiasuddin, Mr. M.
Gupta, Mr. K. S.
Hegde, Sri K. B. Jinaraja.
Joshi, Mr. N. M.
Kailash Behari Lal, Babu.
Kamaluddin Ahmed, Shams-ul-Ulema.

Kushalpal Singh, Raja Bahadur.
Lalchand Navalrai, Mr.
Malaviya, Pandit Krishna Kant.
Manu Subedar, Mr.
Paliwal, Pandit Sri Krishna Dutta.
Rahman, Lieut.-Col. M. A.
Ramayan Prasad, Mr.
Sant Singh, Sardar.
Singh, Mr. Ram Narayan.
Sinha, Mr. Satya Narayan.
Sivaraj, Rao Sahib N.
Som, Mr. Suryya Kumar.
Subbarayan, Shrimati K. Radha Bai.
Varma, Mr. B. B.

The motion was negatived.

Maulvi Muhammad Abdul Ghani: Sir, I move:

"That in sub-clause (vii) of clause 2 of the Bill, before the word 'guardian' the word 'lawful' be inserted."

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

"That in sub-clause (vii) of clause 2 of the Bill, before the word 'guardian' the word 'lawful' be inserted."

Several Honourable Members: This amendment is not necessary.

Mr. Deputy President (Mr. Akhil Chandra Datta): Does the Honourable the Mover wish to withdraw it?

Maulvi Muhammad Abdul Ghani: Yes, Sir.

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

Maulvi Muhammad Abdul Ghani: Sir, I move:

"That in sub-clause (vii) of clause 2 of the Bill, for the words 'before she attained the age of seventeen years' the words 'while she was a minor' be substituted."

By this amendment the laws that have already been passed are not going to be violated or encroached upon. The question here is a simple one. It is the question of the repudiation of marriage and nothing more.

[Maulvi Muhammad Abdul Ghani.]

If we say: 'before the age of 14 or before the age of 17', it is altogether the same. The Child Restraint Marriage Act is not for the repudiation of marriage: it is only a penal Act. It only provides the penalty for contracting the marriage at a certain age. Here the question is about the repudiation. The Muslim jurists are in favour of the repudiation of such marriages only which are performed during the age of minority. If a woman attains the age of puberty, she cannot repudiate the marriage except under the provisions which are going to be provided. After this amendment is carried, there is another part of it which will be found in amendment No. 82. That amendment describes what sort of marriages can be repudiated. If she is a major when her marriage was performed then she has no right to repudiate her marriage because she had sense enough to see her own interest. Therefore, the words: 'while she was a minor' are most essential. Honourable Members will say that it will be very difficult and sometimes disgraceful to discuss in a court points relating to puberty which should not be brought before the court. Expert opinion regarding majority and minority of age is most essential in all cases. Unless a lady doctor examines a girl whether she is a minor or whether she has attained the age of puberty, no court will attach any value. Thus the whole idea of disgrace in court falls to the ground. I move, Sir.

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

"That in sub-clause (ii) of clause 2 of the Bill, for the words 'before she attained the age of seventeen years' the words 'while she was a minor' be substituted."

The Honourable Sir Muhammad Zafrullah Khan: Sir, these are delicate matters and one has to tread warily in respect of them. I have not so much an objection to the amendment which has just been moved, but that amendment necessarily goes with amendment No. 82. If this amendment is carried, then amendment No. 82 will have to be carried; otherwise we shall be fixing a limit by a definite number of years at one end and leaving it indefinite at the other. The clause as it has emerged from the Select Committee puts the two limits at 17 and 19. Now, if 17 is to be substituted by the phrase "while she was a minor", then amendment No. 82 will have necessarily to be accepted, that is to say she may repudiate the marriage on her attaining puberty. I am objecting to amendment No. 80 because a difficulty will be created by amendment No. 82. There the expression which has been used is not "when she attains majority" which would be a question of the age of majority, whether under the Majority Act or under the provisions of the Muhammadan law. There the question will be whether the plaintiff repudiated the marriage immediately on perceiving signs of puberty. I would appeal to Honourable Members that that does involve not merely the question of age which can always be proved in these days by producing the birth certificate but subjecting the plaintiff to cross examination as to when she perceived the signs of puberty. I submit with all respect that cross examination on such a point in a court of law would be immodest and might become indecent. I, therefore, submit to Honourable Members who are responsible for this amendment that it would be far better for the Judge as well as for the parties and the Counsel engaged in the case that they should go by a limit of age. It does not matter what it is. I am not wedded to 17 or 19, rather than that the law should be left in a state where this kind of evidence is to be given in open court. Under the rules of evidence which prevail in modern

courts, I certainly do not wish to make myself a party to anything which should necessitate that a girl of 18, or any woman for that matter, should, for the purpose of obtaining relief, be subjected to cross examination with regard to these matters. I, therefore, say that it would be far better to proceed on the lines of amendments 31 and 33 rather than of amendments 30 and 32. So far as the question of age is concerned, I myself was of the view that the two limits should be 18 and 21, but it was said in the Select Committee that we need not necessarily adopt the two standards which are laid down in the Majority Act under different circumstances and, therefore, the limits of 17 and 19 were agreed to. I think we need not be rigid in these matters. Standards have advanced considerably with regard to these matters and, after all, the whole object is this: if a girl has been given away in marriage while she was a minor, then she should have a reasonable time after attaining puberty within which to repudiate the marriage. Having regard to that you can fix any limit you like. I would appeal to Honourable Members not to fix something which would involve proof as to when the girl perceived signs of puberty and her cross examination on the point.

Mr. Abdul Qayum: I should also like to oppose this amendment because it would be putting a premium on vagueness. Just now the Honourable the Mover of the amendment was so vague in his mind about withdrawing the amendment or not that it led the Honourable the Deputy President also to get confused about the intention of the Mover.

Maulvi Abdur Rasheed Chaudhury: Sir, I also oppose this amendment because no sensible woman would like to put herself to the test of medical examination in order to prove her attainment of puberty. This is a very delicate matter and the less we touch upon it the better. Sense of decency requires that we should not drag such things before courts of law. I would appeal to the Honourable the Mover to think over this and see his way to withdraw the amendment.

Sir Muhammad Yamin Khan: Sir, my objection to this amendment is very simple. The clause, as proposed to be amended by the Honourable the Mover, would read:

"That she, having been given in marriage by her father or other guardian while she was a minor."

This means that in every case when a marriage is contracted as he has explained a medical examination should take place while the marriage is going on to find out whether she has attained puberty or not.

Maulvi Muhammad Abdul Ghani: I never said anything of the kind. I did not say that while marriage is performed a certificate should be produced. I said that when the case comes before the court the court will attach much importance to a certificate granted by a lady doctor.

Sir Muhammad Yamin Khan: Quite right, but when she goes to Court, she will go as a major and not as a minor, and she will say that when she was married, she was a minor, but now she is a major, and, therefore, the marriage should be repudiated. Then the court will want evidence of the fact that she was a minor when married, and my friend by implication means that she must get herself examined at the time of her marriage

[Sir Muhammad Yamin Khan.]

that she was a minor and that when she comes to court she is a major. I think this is an unnecessary amendment which will cause hardship to Muslim women and I hope my friend will withdraw it.

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

"That in sub-clause (vii) of clause 2 of the Bill, for the words 'before she attained the age of seventeen years' the words 'while she was a minor' be substituted."

The motion was negatived.

Maulvi Syed Murtaza Sahib Bahadur: Sir, I move:

"That in sub-clause (vii) of clause 2 of the Bill, for the word 'seventeen' the word 'fifteen' be substituted."

So far as Muslims are concerned, they will agree with me when I say that there is almost a consensus of opinion among Hanafis, Malikis, Shafais and Hambalis that 15 is the age of puberty and, therefore, I say that instead of 17 we should have 15. Sir, I move.

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

"That in sub-clause (vii) of clause 2 of the Bill, for the word 'seventeen' the word 'fifteen' be substituted."

Mr. Abdul Qaiyum: Sir, I oppose this amendment. Here an attempt is being made to reduce the age from 17 to 15 which means that girls between 15 and 17 who are married by their guardians will lose the option of puberty. And, I submit, it is not a proper thing to do. Are the girls between 15 and 17 of such mature judgment and consideration that they should lose this right? I am emphatically opposed to this. I have great respect for the Mover, but not for his views.

Sir Muhammad Yamin Khan: Sir, my Honourable friend, Mr. Abdul Qaiyum, is under a misapprehension. What my friend, the Mover, says is that the consensus of opinion among Muslim jurists is that a girl, when she attains the age of 15, is a major, and, as such, nobody has any right to give her in marriage or contract a marriage on her behalf. She has got full liberty to contract her own marriage. Without her free consent there can be no marriage at all. It is only in the case of minors that the consent of the girl has not to be taken and that happens only when she is below 15. Now, as Muslim jurists have laid down, 15 is the age of puberty and under Muslim law, as I said just now, no father or other guardian has a right to contract a marriage on her behalf. She can refuse it and the marriage will not be valid. And according to the Muslim marriage system either the girl must be present herself to give her consent before the Qazi or she must have one representative and two witnesses that she has given her consent. And unless that consent has been obtained by force or fraud that consent will be taken to be a valid consent. I hope therefore my friend, Mr. Qaiyum, will have no objection to the amendment. I would have liked it to be 17, but I reluctantly accept the amendment.

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

"That in sub-clause (vii) of clause 2 of the Bill, for the word 'seventeen' the word 'fifteen' be substituted."

The motion was adopted.

Maulvi Syed Murtaza Sahib Bahadur: Sir, I move:

"That in sub-clause (vii) of clause 2 of the Bill, for the word 'nineteen' the word 'seventeen' be substituted."

Even without any speech from me I hope the House will accept this.

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

"That in sub-clause (vii) of clause 2 of the Bill for the word 'nineteen' the word 'seventeen' be substituted."

The Honourable Sir Muhammad Zafrullah Khan: Sir, I have a suggestion to make. I would ask the Honourable the Mover whether he would be prepared to accept "eighteen". After all, there is no question here of interpretation by jurists, only a question of reasonable time being given within which to repudiate.

Maulvi Syed Murtaza Sahib Bahadur: Sir, I have no objection.

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

"That in sub-clause (vii) of clause 2 of the Bill for the word 'nineteen' the word 'eighteen' be substituted."

The motion was adopted.

Maulvi Syed Murtaza Sahib Bahadur: Sir, I move:

"That to sub-clause (vii) of clause 2 of the Bill, the following proviso be added: 'Provided that there has been no consummation of the marriage'."

Sir, I move.

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

"That to sub-clause (vii) of clause 2 of the Bill, the following proviso be added: 'Provided that there has been no consummation of the marriage'."

The Honourable Sir Muhammad Zafrullah Khan: Sir, this amendment is in a way necessary though it is implicit in the clause, and there can be no objection to it. But I suggest that perhaps it would be better if we say, "Provided that the marriage has not been consummated."

Maulvi Syed Murtaza Sahib Bahadur: Sir, I have no objection.

Sir Syed Raza Ali: Sir, I suggest that the proviso sought to be inserted is wholly unnecessary. This is the essence of the whole thing. Everybody who has anything to do with Islamic law knows that a proviso of this character is wholly unnecessary. A woman forfeits her right to exercise the option of puberty the moment the marriage is consummated. I do not think we need reproduce here undisputed and well-known provisions of the Muslim law. We know that it is the very essence of the exercise of the option of puberty that the marriage should not have been consummated. I think it will be wholly superfluous to say so. Any man who casually goes through the Bill will have a very poor opinion of the legal acumen of this House if amendments of this character are to be carried. I am not opposed to it, but I think it is unnecessary.

Sir Muhammad Yamin Khan: Sir, I fully agree with any learned friend, Sir Syed Raza Ali, that it is a well-known principle of Muhammadan law that marriage cannot be repudiated once it has been consummated. But here we are consolidating the Muhammadan law; we are not going against it; and therefore, it is necessary to lay down expressly what the law is. This was left out by an oversight by the Select Committee, although it may be a necessary implication, and it struck me when I got the Select Committee's Report and I mentioned it to several of my friends that it was necessary to have these words.

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

"That to sub-clause (vii) of clause 2 of the Bill, the following proviso be added: 'Provided that the marriage has not been consummated'."

The motion was adopted.

Bhai Parma Nand (West Punjab: Non-Muhammadan): Sir, I move:

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

'(ix) on the ground of renunciation of Islam or conversion to a faith other than Islam'."

My Honourable friend, Mr. Abdul Qaiyum, referred to my speech on the first reading. I may just tell him that in that speech I was giving expression to the Hindu point of view. Certain objections to the Bill were raised in some Hindu quarters and as my opinion was asked, I said that if this defect was removed that would satisfy me as well as the Hindu community. But here when I move this amendment, I am not talking as a Hindu but as a Member of this House.

This amendment is a very simple one. A number of grounds have been put in clause 2 for getting a decree of divorce; my amendment adds one more. The importance of this amendment lies in the fact that apostasy is the central point of this Bill. The title says: "to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie." This is admitted by almost all the speakers that up till now divorce has not been allowed to muslim women on any ground. As my Honourable friend, Mr. Abdul Qaiyum, suggested, men had usurped this right depriving women of any such privilege, although the teachings of the Koran treated both men and women alike. All the same the fact is that men did not allow the women to have divorce for any reason.

The Honourable Sir Muhammad Zafrullah Khan: In this country. In other Muslim countries it is freely allowed.

Bhai Parma Nand: Yes, I am talking of this country. While the husband can divorce his wife on any ground, however frivolous it may be, wife has no right. Therefore, some way had to be found for women to get this right and this being the chief aim of this Bill I say that apostasy is the central pivot on which this Bill is to move. In the Statement of Objects and Reasons the Mover has said that Hanafi law did not make any provision for Muslim women to get divorce when they were maltreated by their husbands or even not maintained by them, and so on. Again on a matter of principle, Justice Ameer Ali in his Muhammadan Law says: "All sects in Islam join in laying down that conversion from Islam to

other religion by either of the spouses dissolves the marriage tie." I need not go into detail in this matter. I do not think any of my Muslim friends would object to the view, that it is a cardinal principle of the Muslim religion that abjuration of Islam dissolves the marriage tie. This principle has also been recognised by the High Courts and accordingly they have given their rulings; and this has been the recognised practice of the law courts during the last seventy years. In the speeches that have been made, we find that women in order to get rid of their husbands use this apostasy or abjuration of Islam, as a device to get rid of undesirable husbands. All these facts show that this apostasy is the root cause of this Bill.

I have given so many grounds in support of my amendment, i.e., apostasy has all along been acknowledged as a ground for divorce. Now when we find 18 or 19 additional grounds are laid down for allowing women to sue for divorce, why should apostasy be altogether omitted which has all along been recognised as a main ground for getting divorce and has been held so by the law courts. Now, to take away apostasy from all the other grounds which are now discovered as new grounds for getting divorce, does not seem to be either fair or reasonable. Therefore, Sir, my view is, that this amendment, being a very simple one, should be accepted by the Mover. It adds only apostasy as one ground for seeking divorce. My friend, Mr. Asaf Ali, has said in his minute of dissent:

"While the present clause 4 does not rule out "the renunciation of Islam or conversion to a faith other than Islam" as a ground for dissolution of marriage, sub-clauses (a), (d) and (e) of clause 2 (ix) provide ample grounds for dissolution of marriage."

All other grounds may be sufficient to sue for the dissolution of a marriage, and it may not rule out apostasy as one ground for getting a divorce but my point is that as this has been the real way to get a divorce for women all this time both in principle and in practice, I cannot see why apostasy should not be added as one of the grounds for bringing a suit for divorce. I do not think, Sir, that the Mover should find any hitch in accepting this amendment.

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

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

'(ix) on the ground of renunciation of Islam or conversion to a faith other than Islam'."

The Honourable Sir Muhammad Zafrullah Khan: Sir, I have no desire to enter into a controversy over the merits of this amendment. Perhaps other Honourable Members may wish to speak on that aspect of the matter, but I wish to draw the attention of the House to two matters in respect of this amendment. One is that this amendment and ground (e) of what is now clause (viii) have both reference to what is now clause 4. Ground (e) of sub-clause (viii) of clause 2 says that it shall be a ground for divorce if the husband obstructs the wife in the observance of her religious profession or practice. That was put in to meet the objection that if a married Muslim woman becomes a convert to a faith other than Islam, there is grave danger that the husband might resort to this form of persecution, he might put obstructions in the way of the exercise of her faith. Now, that is a ground for divorce already recognised by the

[Sir Muhammad Zafrullah Khan.]

Muslim law. It is not that the ground was invented, but it was put into this Bill in order to put the matter beyond doubt, and it would apply equally to a Muslim wife and to a non-Muslim wife. But the point is this. Some Honourable Members had put down an amendment to the effect that this ground should be deleted,—I think it was amendment No. 36. I persuaded the Members of the Muslim League Party not to move for the deletion of this ground, because this was one of the remedies for the kind of case I have mentioned. That being the case, I think it is rather unfair.—of course it is open to Bhai Parma Nand to press his amendment,—but it is rather unfair that his amendment which really modifies clause 4 should be persisted in.

Then, Sir, the second point is this. Bhai Parma Nand says—and said this somewhat vehemently before the Select Committee also,—that apostasy from Islam or renunciation of Islam has always been recognised under Muslim law as a valid ground for divorce. That is his contention, while the contention of the Muslims is that it has never been recognised as a ground for divorce. But accepting for one moment, that it is so, if he is confident he could establish it before a court of law, it is fully covered by what is now sub-clause (ix) of clause 2, that is to say, that a divorce can be obtained on any other ground which is recognised as valid for the dissolution of a marriage under the Muslim law. I have said it is the contention of Muslim Members, that renunciation of Islam is not a valid ground for divorce, but it is the contention of the Honourable the Mover of this amendment that it is so recognised. If he can establish it before a Court of law, he will get a remedy.

Mr. Abdul Qayyum: Sir, I must congratulate my friend, Bhai Parma Nand, on putting a controversial matter in a non-controversial manner. He has based his case on the assumption that it is a well established principle of Muhammadan law that apostasy immediately results in dissolution of marriage *ipso facto*, and I think speaker after speaker asserted it by supporting that assertion by quotations from the texts to show that among the Muslims also there are two schools of thought. There was a school of thought which held that renunciation of Islam resulted in dissolution of marriage. There is also a very influential section which holds exactly the contrary view. Therefore, Sir, if we were to accept the amendment, then what is the controversial point among the Muhammadans themselves? We would be substituting for it a law which cannot be called Muhammadan law. If the Honourable the Mover of this amendment thinks that renunciation of a religion by a Muslim woman necessarily results in dissolution of marriage, and if the legal position is so clear, then I think there is absolutely no necessity for this amendment. This is the point at issue. The Honourable the Mover thinks that according to Muhammadan law a change of religion means necessarily dissolution of marriage. If he is so sure of it, then I think the last clause, namely, on any ground which is recognised as valid for the dissolution of a marriage under Muslim law fully covers this case, and if he is so sure of his ground, I think it is not necessary for him to press this amendment. I, therefore, make these remarks with a view to explaining the other point of view to Bhai Parma Nand, and I hope he will reconsider his position.

Mr. Lalchand Navakrai: Sir, I still adhere to the opinion that the difference the Select Committee wanted to make out was this, that apostasy, on which according to Muhammadan law there are at present two schools of thought among the Muslims themselves, makes the marriage null and void *ipso facto* according to one school of thought. At least that has been admitted. The idea of the Select Committee was this. They wanted to do away with the right of dissolution, though there is a difference of opinion between the two schools of thought, by enacting clause 4 in which they say distinctly:

"The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage."

There are two schools of thought, and one school says renunciation of Islam will by itself dissolve the marriage. That is not being adhered to so far as that section of the Muhammadans is concerned, by enacting clause 4. Therefore, what I submit is this, that they put in this clause with a view to give power—not that renunciation by itself should dissolve the marriage, but that if there is apostasy then the woman shall have the right to go to court and ask for decree on that ground. I only want at least the Honourable Members of that school of thought, which still sticks to this view that it dissolves the marriage *ipso facto*—should have this clause so that the girl may have at least the right to come to court and ask for a decree. I must say that this remedy which she will have will be also in doubt if you do not make this provision clear. When my Honourable friend, the Commerce Member, said that there are two schools of thought and we are leaving it to the Court to decide, then the controversy remains there. What is this Bill going to be passed for? To remove controversies and not to leave in doubt, and not to make one section of Muhammadans go to court and fight against another section of Muhammadans, and get judgment from the court. I find support for my view from the passage that I read out to the House, on the consideration stage, from the note of Mr. Asaf Ali:

"Under the present provision she will have to institute a suit for dissolution of marriage on the ground (a) that she has abjured Islam . . ."

That is the real view of the Select Committee, and it has not been denied. At any rate that view has to be provided for in the Bill. I do not agree with the view of the Treasury Benches that the controversy should be left to the Court. On the contrary the Honourable Members should help us in clarifying this point. We ask for nothing.

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

We ask for what we think is the opinion of the Select Committee, and I submit that nothing will be lost by saying, yes, on account of the obstruction by the husband in the observance of her religious profession or practice and also on account of the abjuration of Islam she can go to Court and ask for a decree. Why should not that be clarified? I hope the House will take that point into consideration and vote for the amendment.

Sir Syed Raza Ali: I do not propose to make any lengthy speech whatsoever. Having regard to the amendment, the question that the House has to put to itself is whether renunciation of Islam is by itself sufficient to operate to dissolve the marriage. My reading of the Muslim law is that such renunciation does not operate to put an end to the marriage.

[Sir Syed Raza Ali.]

I quote only two or three cases to show that. All schools of Muhammadan thought agree that a marriage between a Muhammadan and a non-Muhammadan who is a unitarian (*Kitabia*) is perfectly valid and lawful under the Muhammadan law. For instance, a Muhammadan can marry a Christian or a Jewish lady. If the question of marriage between a Muhammadan and Brahmo Samaj or an Arya Samaj lady were to be referred to the divines of Islam I for one expect that their answer would be the same, namely, that such union would be lawful. If that be so, if a marriage between a Muhammadan and a Christian or a Jewess is lawful, I put to my Honourable friends, Bhai Parma Nand and Mr. Lalchand Navalrai, how can a marriage which is lawful be rendered unlawful by one of the parties to the marriage, namely, the wife, renouncing Islam and embracing Christianity or Judaism? Such marriage between the two parties, according to Muhammadan law, is valid.—I hope I am making my point clear. My point is that a union between a Muhammadan and a Christian or Jewish lady being lawful according to all schools of thought, it is absurd to expect that a marriage between a Muhammadan and a Muhammadan woman would be rendered invalid by the Muhammadan wife becoming a Christian or a Jew. My submission is that that is not the law. That is what I want to make clear. I do not think I have got anything more to say.

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

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

'(ix) on the ground of renunciation of Islam or conversion to a faith other than Islam'."

The motion was negatived.

The Honourable Sir Muhammad Zafrullah Khan: Before you allow amendment No. 40 to be moved which relates to part (b) of the proviso, there is a consequential amendment to part (a). Ground (i) has disappeared and ground (iv) has now become ground (iii). I shall move it as a consequential amendment, if you will permit me. Sir, I move:

"That in sub-clause (a) of the proviso to clause 2, in place of the words and figures '(i) or ground (iv)', the figure '(iii)' shall be substituted.

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

"That in sub-clause (a) of the proviso to clause 2, in place of the words and figures '(i) or ground (iv)', the figure '(iii)' shall be substituted.

The motion was adopted.

The Honourable Sir Muhammad Zafrullah Khan: There is another consequential change. In the first line of sub-clause (b) of the proviso, we have "a decree passed on ground (ii) shall not take effect". It ought to read "passed on ground (i) shall not take effect". If you will allow me, I shall move it as a formal amendment. Sir, I move:

"That in line 1 of sub-clause (b) of the proviso to clause 2, in place of the figure '(ii)' figure '(i)' shall be substituted."

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

"That in line 1 of sub-clause (b) of the proviso to clause 2, in place of the figure '(ii)' figure '(i)' shall be substituted."

The motion was adopted.

Manvi Syed Murtaza Sahib Bahadur: Sir, the first part of my amendment No. 40 has now become unnecessary. I shall, therefore, move the second part: I move:

"That in part (b) of the proviso to clause 2 of the Bill, for the words 'six months' the words 'four months and ten days' be substituted."

So far as the six months is concerned, there is no religious authority behind it. As regards four months and ten days, there is religious authority. I hope Government will not oppose it.

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

"That in part (b) of the proviso to clause 2 of the Bill, for the words 'six months' the words 'four months and ten days' be substituted."

The Honourable Sir Muhammad Zafrullah Khan: I am afraid the Honourable the Mover of the amendment is under a misapprehension. I do not dispute that four months and ten days is the period of *iddat* in certain cases but in this sub-clause there is no question of *iddat*. Let me explain the position in a few words. What is provided here is that a decree passed on what has now become ground (i) (*i.e.*, that the whereabouts of the husband have not been known for a period of four years) shall be kept in suspense. That is to say, that no final decree shall be pronounced unless opportunity has been given for the husband to appear and to satisfy the Court that he is prepared to perform his conjugal obligations. The divorce will become effective only if the husband has either failed to appear within six months or has appeared and failed to satisfy the court that he is prepared to perform his conjugal obligations. The *iddat* will begin from that date and it will then run according to the Muhammadan law. Otherwise the difficulty will be this. Suppose we provide here that the decree shall be suspended for four months and ten days, and then within the four months and ten days the husband appears, say, on the expiry of four months and he tells the court that he wants an opportunity to prove that he will perform his conjugal obligations and the court fixes a date for evidence and so on. If the period of four months and ten days is accepted as the period of *iddat*, then the lady is free after the expiry of that period to marry anybody she chooses and suppose she does marry and in the end the court holds that it is satisfied that the husband is willing to perform his marital obligations. The suit will then be dismissed. What will be the position? That illustration will show that the *iddat* can only begin after the decree has become absolute. It cannot run while the decree has been suspended during this period of six months. Therefore, this period does not require any religious authority; it could have been one year, or two months: it is only a precaution lest a decree should be obtained by practising a fraud upon the court. When the decree becomes absolute the lady must observe the period of *iddat*.

Qasi Muhammad Ahmad Kasmi: Sir, I have only one word to say about this, that the difficulty with which we are faced is this, that according to the Muslim law, if the husband returns during the course of the *iddat* the wife is to remain the wife of that man. So the difficulty will again arise when the decree becomes final. After six months' time when the decree becomes final, we shall not be fulfilling the obligations of Muhammadan law if we do not allow the woman to go back to her husband if he comes back after that period of six months.....

The Honourable Sir Muhammad Zafrullah Khan: She will still be at liberty to return to the husband and the same law will still apply.

Maulvi Syed Murtaza Sahib Bahadur: Sir, in view of the explanation of the Honourable the Commerce Member, I have great pleasure in withdrawing this amendment.....

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has got to ask for the leave of the House to withdraw the amendment.

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

Mr. Abdul Qaiyum: Sir, I beg to move:

"That in part (b) of the proviso to clause 2 of the Bill, after the word 'appears' the words 'either in person or through an authorised agent' be inserted."

Sir, the husband may be sick or infirm or may be unavoidably absent. Therefore I think that this amendment is necessary. I hope the Honourable the Mover of the Bill will accept it.

The Honourable Sir Muhammad Zafrullah Khan: "Appearance" in a civil court means appearance in person or through an authorised agent.

Mr. Abdul Qaiyum: It might be literally translated.

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

"That in part (b) of the proviso to clause 2 of the Bill, after the word 'appears' the words 'either in person or through an authorised agent' be inserted."

The motion was adopted.

Maulvi Syed Murtaza Sahib Bahadur: Sir, I move:

"That in part (b) of the proviso to clause 2 of the Bill, for the words 'that he has made provision for the plaintiff's maintenance' the words 'that he is prepared to perform his conjugal duties' be substituted."

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

"That in part (b) of the proviso to clause 2 of the Bill, for the words 'that he has made provision for the plaintiff's maintenance' the words 'that he is prepared to perform his conjugal duties' be substituted."

The motion was adopted.

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

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

The motion was adopted.

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

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

"That clause 3 stand part of the Bill."

The Honourable Sir Muhammad Zafrullah Khan: Sir, before you go on to amendment No. 45, I wish to move a consequential amendment here. As you will see, clause 3 says:

"In a suit to which clause (ii) of section 2 applies . . ."

That clause has now become clause (i) and, therefore, if you will permit me, I will move a formal amendment. Sir, I move:

“That in clause 3, after the word ‘clause’, in the first line, in place of the figure ‘(ii)’ the figure ‘(i)’ be substituted.”

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

“That in clause 3, after the word ‘clause’, in the first line, in place of the figure ‘(ii)’ the figure ‘(i)’ be substituted.”

The motion was adopted.

Maulvi Muhammad Abdul Ghani: Sir, in amendment No. 46, standing in my name, there is a mistake. One word has been left out. Before the word ‘brother’ the word ‘and’ should be substituted. It is purely verbal. I move:

“That to clause 3 of the Bill, the following proviso be added:

‘Provided that grand-father, uncle, and brother above the age of eighteen years— if any—shall be cited as party even if he or they are not heirs.’”

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

“That to clause 3 of the Bill, the following proviso be added:

‘Provided that grand-father, uncle, and brother above the age of eighteen years— if any—shall be cited as party even if he or they are not heirs.’”

The Honourable Sir Muhammad Zafrullah Khan: Sir, I would suggest to the Honourable the Mover that the clause as it stands makes ample provision that a decree shall not be obtained by fraud, as it were, without the knowledge of persons who ought to know of the proceedings. It makes it obligatory to cite all persons who would have been the heirs of the husband under Muslim law if he had died on the date of the filing of the plaint. Now the grandfather, if alive, is bound, under the Muslim law,

Qazi Muhammad Ahmad Kasmi: Not in the presence of the father . . .

The Honourable Sir Muhammad Zafrullah Khan: But if the father has been cited?

Qazi Muhammad Ahmad Kasmi: In the case of a minor son the brother of the absconding person as well as the uncle cannot be made parties and the wife can bring a suit making her own son who is a minor as a party

The Honourable Sir Muhammad Zafrullah Khan: But if she has a son from this husband who has been absconding for four years, would the husband still be a minor?

Qazi Muhammad Ahmad Kasmi: The boy will be a minor. If the person who is absconding has left a wife and son—the son being a minor son, and if the wife wants to bring a suit for the dissolution of her marriage, she can only make the minor son, who is in her custody, a defendant while she has got brothers and uncles who can properly defend the suit.

The Honourable Sir Muhammad Zafrullah Khan: But even then it ought to be "paternal grandfather" and "paternal uncle".

Qazi Muhammad Ahmad Kasmi: The person who has absconded has left only a minor son and a wife. The wife wants to bring a suit against the absconding person, who has left behind only a minor son. He is under the custody of the wife herself. So, the wife can very easily succeed in the suit because there is no person who can really contest the suit. The person who has absconded has left brothers and uncles also, but they are not heirs in the presence of the son. In such a case there is a danger that there may be a collusion between the wife and the son of the person who has absconded.

The Honourable Sir Muhammad Zafrullah Khan: Then, the word 'grandfather' may be omitted and in the case of the uncle, you should have the paternal uncle.

Manvi Muhammad Abdul Ghani: I have no objection.

Mr. President (The Honourable Sir Abdur Rahim): I will now put the amendment as modified. The question is:

"That to clause 3 of the Bill, the following proviso be added:

'Provided that paternal uncle and brother of the husband, if any, shall be cited as party even if he or they are not heirs'."

The motion was adopted.

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

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

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

"That clause 4 stand part of the Bill."

Mr. Lalchand Navarai: Sir, I move:

"That clause 4 of the Bill be omitted."

Sir, it will be seen from the paper on which the amendments are printed that this amendment has been given notice of by as many as 8 Honourable Members. The names of the first two Honourable Members are Mr. K. Santhanam and Mr. Ananthasayanam Ayyangar. The other Honourable Members are the members of my Party and they hold the same views as I propose to place before the House. I cannot understand why these two gentlemen who gave notice of this amendment have not thought fit to move it.

An Honourable Member: Party discipline.

Mr. Lalchand Navarai: It may be on account of party discipline or on account of holy or unholy alliance, or it may be on account of any other political reason, but with regard to this clause, I still maintain that

the consensus of opinion of the Muhammadan jurists is that a marriage becomes null and void on account of apostasy. If the decisions given by the Judges are taken into consideration, we also find that they have also stuck to that view. This House has also admitted and it has come from such a high person as Sir Muhammad Zafrullah Khan that there are at least two schools of thought on this point. Therefore, it will be wholly unfair and we will be doing an injustice to that class of school which still holds that view. We are making with one stroke a legislation ignoring that school altogether and then saying that the marriage will not be dissolved if there is renunciation of Islam or if there is conversion. I know that there is hot and cold wind blowing in this House on this point. Sometimes very orthodox views are taken and it has been said that because the father or the grand-father used to barter away their daughters beforehand, this practice should not be given up. At the same time, modern times are being taken into account. It has been said that in these modern times we must give every kind of liberty to women and if they are unhappy in their marriages, they may ask for dissolution. What I submit is that there is not one view taken on this subject in the House and I still maintain that there is a consensus of opinion of the Muhammadan jurists on this point which should not be set aside.

Sir, I move.

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

“That clause 4 of the Bill be omitted.”

Mr. Brojendra Narayan Chaudhury (Surma Valley *cum* Shillong: Non-Muhammadan): Sir, I rise to oppose this amendment. I look at this Bill not from the standpoint of a personal law of any community, whether Muslim or Hindu, but I look at it from the standpoint of equity and good conscience. I think the world has progressed sufficiently in the year 1939, and today it is possible to have such laws which may permit a man and a woman to live as husband and wife although they may be professing different religions. The effect of the deletion of clause 4 would be that the husband will have to part with his wife simply because one of them has changed the religion. I think the more reasonable course would be to give the option to both the parties to dissolve marriage in case of apostasy if they find that the married life is not bearable to them. I note that the Members of the Select Committee have taken that point into consideration. The House has already been informed by the Honourable the Commerce Member that there is sub-clause (e) of clause 2 which runs thus:

“obstructs her in the observance of her religious profession or practice”.

I have grave doubts whether it will be possible or probable in ninety-nine cases out of hundred for a wife to go before a Court to seek divorce on the ground of obstruction by her husband in her religious practices. Although the Members of the Select Committee and the Honourable the Commerce Member have thought that they have sufficiently provided, I am doubtful whether this law will be operative. I rejoice that the Muslim community in India have responded to the spirit of the time and they are now prepared to harbour as wife a woman who has embraced Hinduism just as the Great Akbar did by marrying Hindu wives and allowing them

[Mr. Brojendra Narayan Chaudhury.]

to remain under the same roof worshipping idols. I hope Honourable Members who support this Bill will try to spread the same spirit of tolerance outside this House, so that the vexed question of music before mosque may not be a stumbling block in the way of communal harmony in India.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, my Honourable friend, Mr. Lalchand Navalrai, has referred to myself and my Honourable friend, Mr. Santhanam, and both of us are present and alive here. I never thought that my Honourable friend would be driven to the necessity of quoting both of us for supporting his amendment and quote outside some text written 1,800 years ago. I always thought that my Honourable friend was a practical and progressive element in this House. With regard to the provisions of this Bill, I am guided by the unanimity of opinion among the Muslim Members in this House who are the representatives of Muslim opinion outside. Therefore, if any Muslim Member here gets up and says that this is improper, I have no quarrel with him. Apart from the question of any particular creed or faith, I would also say that it is improper for a husband or wife to allow to get himself or herself divorced merely by change of religion, not out of innate conviction, but merely because she or he can find no other means of getting out of the wedlock. A Hindu woman, if she is converted into Islam, her marriage tie is not dissolved under the Hindu law. Likewise, if a Muslim woman is converted to Hinduism, her marriage tie should not be dissolved. If a man or woman, simply to get rid of the marriage tie, changes faith, I submit that all progressive opinion in the House ought not to countenance such a procedure. We have tabled another amendment, and I would request my Honourable friend to pay greater attention to it and support it. If a Hindu or any other person gets converted to Islam and then gets reconverted, then this provision ought not to stand in the way. To that extent we want to create exception in favour of a person who gets reconverted to her original faith. For various domestic reasons, a woman might like to get herself converted and thus get rid of the marriage tie. We have advisedly given up this amendment about the deletion of clause 4, and we will press the other amendment.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That clause 4 of the Bill be omitted."

The motion was negatived.

Mr. K. Santhanam (Tanjore cum Trichinopoly: Non-Muhammadan Rural): Sir, before moving my amendment, I should like your permission and the permission of the House to make a slight alteration. I wish to put in the word 'renunciation or' after the word 'such' in my amendment.

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

Mr. K. Santhanam: Sir, I beg to move:

"That to clause 4 of the Bill, the following further proviso be added:

"Provided further that after such renunciation or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2."

Sir, in the preamble to the Bill, it is stated:

"Whereas it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriages"

I think it is very doubtful if after conversion she would be able to get any divorce under clause 2. Though she might come under the words 'married under Muslim law', it is very doubtful whether this section will apply to her. Therefore, as a measure of abundant caution, we have tabled this proviso, and I hope it will be accepted unanimously by the House. I want to tell my Honourable friend, Mr. Lalchand Navalrai, that if this proviso is accepted, the woman's position will be much better than if the clause was deleted, because she would be entitled to claim divorce under any of the grounds mentioned in clause 2. The Honourable Member would have noticed that the grounds mentioned in clause 2 are not so very stringent. If any obstruction to religious practices is offered, then that is also one of the grounds for asking for divorce. Therefore, all the points which we wanted to be met by the deletion of clause 4 are even better met by this proviso, and so I hope this proviso will meet with the unanimous acceptance of the House.

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

"That to clause 4 of the Bill, the following further proviso be added:

'Provided further that after such renunciation or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2.'

The Honourable Sir Muhammad Zafrullah Khan: Sir, I have no objection to the proviso, I think it is unnecessary, but if it is regarded as necessary owing to some fear that the Act may be misinterpreted I am willing that it may be inserted. But may I suggest to the Honourable the Mover that his amendment would fit in better between the main clause 4 and the present proviso instead of at the end of the clause. It should come immediately after the main clause. The clause will then read:

"The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

'Provided that after such renunciation or conversion'

Mr. K. Santhanam: I accept the suggestion. But in that case, the word "further" should be omitted here, and it should be inserted in the second proviso.

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

"That in clause 4 of the Bill, the following proviso be inserted at the end of the third line:

'Provided that after such renunciation or conversion the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2.'

The motion was adopted.

Mr. K. Santhanam: Sir, I beg to move:

"That in the fourth line of clause 4, after the word 'Provided', the word 'further' be inserted."

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

"That in the fourth line of clause 4, after the word 'Provided', the word 'further' be inserted."

The motion was adopted.

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

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

The motion was adopted.

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

The Assembly then adjourned till Eleven of the Clock on Friday, the 10th February, 1939.