

2nd September 1936

THE

# LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

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Volume VI, 1936

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

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## FOURTH SESSION

OF THE

## FIFTH LEGISLATIVE ASSEMBLY, 1936



NEW DELHI  
GOVERNMENT OF INDIA PRESS  
1937

# Legislative Assembly.

*President :*

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

*Deputy President :*

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

*Panel of Chairmen :*

MR. S. SATYAMURTI, M. L. A.

SIR LESLIE HUDSON, KT., M.L.A.

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

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

*Secretary :*

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

*Assistant of the Secretary :*

RAI BAHADUR D. DUTT.

*Marshal :*

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

*Committee on Petitions :*

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

SIR LESLIE HUDSON, KT., M.L.A.

PANDIT NILAKANTHA DAS, M.L.A.

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

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

# CONTENTS.

VOLUME VI.—31st August to 14th September, 1936.

	PAGES.		PAGES.
<b>MONDAY, 31ST AUGUST, 1936—</b>		<b>TUESDAY, 1ST SEPTEMBER, 1936—contd.</b>	
Members Sworn . . . . .	1—2	Motions for Adjournment re—	
Questions and Answers . . . . .	2—36	Withdrawal of the Government of India from the League of Nations—Not moved	189—90
Unstarred Questions and Answers . . . . .	36—50	Refusal of the British Delegation in Addis Ababa to give pro- tection to the Indians there—Not moved . . . . .	190
Statements laid on the Table . . . . .	50—105, 110—12	Introduction of the System of Nomina- tion in the Selection of Candidates for the Indian Civil Service in England—Barred. . . . .	190
Deaths of Khan Bahadur Mian Sir Fazl-i-Husain, Sir M. Ramachandra Rao and Mr. W. S. Lamb . . . . .	105—09	Sir Otto Neimeyer's Report—Not moved. . . . .	190
Nomination of the Panel of Chairmen . . . . .	109	Shifting of the Provin- cial Headquarters of Orissa from Cuttack —Not moved . . . . .	190
Appointment of the Com- mittee on Petitions . . . . .	109	Abolition of the Tariff Board—Withdrawn . . . . .	190—91, 222—26
Motion for Adjournment re New Rules for Re- cruitment to the Indian Civil Service—Adopted . . . . .	109—10, 140—60	The Arya Marriage Vali- dation Bill—Presenta- tion of the Report of the Select Committee . . . . .	191
Governor General's assent to Bills . . . . .	110	The Indian Railways (Amendment) Bill— Discussion on the motions to refer to Select Committee and to circulate not con- cluded . . . . .	191—222
The Indian Companies (Amendment) Bill— Presentation of the Report of the Select Committee . . . . .	112		
The General Clauses (Amendment) Bill— Introduced . . . . .	112		
The Repealing and Amending Bill—Intro- duced . . . . .	112—13		
The Chittagong Port (Amendment) Bill—In- troduced . . . . .	113		
The Indian Railways (Amendment) Bill— Discussion on motions to refer to Select Com- mittee and to circulate not concluded . . . . .	113—40		
<b>TUESDAY, 1ST SEPTEMBER, 1936—</b>		<b>WEDNESDAY, 2ND SEPTEMBER, 1936—</b>	
Questions and Answers . . . . .	161—89	Questions and Answers . . . . .	237—72
		Motion for Adjournment re Reduction of Duty on British Textiles without consulting the Legislative Assembly— —Talked out . . . . .	272, 305—30

	PAGES.		PAGES.
<b>WEDNESDAY, 2ND SEPTEMBER, 1936—contd.</b>		<b>THURSDAY, 3RD SEPTEMBER, 1936—contd.</b>	
The Indian Railways (Amendment) Bill—Discussion on the motions to refer to Select Committee and to circulate not concluded	272—305	The Indian Motor Vehicles (Amendment) Bill—Discussion on motions to refer to Select Committee and to circulate not concluded	394—413
<b>THURSDAY, 3RD SEPTEMBER, 1936—</b>		<b>FRIDAY, 4TH SEPTEMBER, 1936—</b>	
Statement re Demonstration against the ruling of the Chair	331—33	Questions and Answers	415—46
Questions and Answers	333—64	Statements laid on the Table	446—50
Motions for Adjournment re—		Ruling re Adjournment Motions	451—52
Prohibition of the Printing of Pictures of Mahatma Gandhi and others, etc., on cards and covers—Not moved	364	Motion for Adjournment re Strict Neutrality on the part of Local Governments in respect of Provincial Elections—Disallowed by the Governor General	452, 457
Alleged Active Acquiescence of the Government of India in the recent political Activities of Sir Sikandar Hayat Khan, a Deputy Governor of the Reserve Bank of India—Not moved.	364	Statement re Demonstrations against the ruling of the Chair	452—57, 457—60
Reduction of the Import Duty on Grey Cotton Goods and on Bordered and Bleached Cotton Goods imported from the United Kingdom—Withdrawn	365	Order from His Excellency the Governor General	457
Strict Neutrality on the part of Local Governments in respect of Provincial Elections—Disallowed by the Governor General	365—73	The Indian Motor Vehicles (Amendment) Bill—Circulated	461—83
Election of the Provincial Legislature in Bihar—Ruled out of order	373—79	The Cantonments (Amendment) Bill—Discussion on the motion to consider not concluded	483—89
Government's Breach of promise—Disallowed by the President	379—81	Statement of Business	489
Mr. Subhash Chandra Bose—Not pressed	381—82	<b>MONDAY, 7TH SEPTEMBER, 1936—</b>	
The Indian Railways (Amendment) Bill—Circulated	383—94	Questions and Answers	491—520
		Short Notice Question and Answer	520—21
		Motion for Adjournment re Order served on Khan Abdul Ghaffar Khan not to enter the North-West Frontier Province and the Punjab—Disallowed by the Governor General	521, 536—37
		The Geneva Convention Implementing Bill—Introduced	552
		The Cantonments (Amendment) Bill—Discussion on the consideration of clauses not concluded	552—36, 537—69
		Message from His Excellency the Governor General	536—37

	PAGES.		PAGES.
<b>TUESDAY, 8TH SEPTEMBER, 1936—</b>		<b>THURSDAY, 10TH SEPTEMBER, 1936—<i>contd.</i></b>	
Questions and Answers . . . . .	571—602	Extension by the Government of Bengal of the Provisions of Chapters II and III of the Bengal Public Security Act, 1932, to the Town of Calcutta and the Districts of 24 Parganas and Howrah—Disallowed by the President . . . . .	772—74
Short Notice Question and Answer . . . . .	602—03	Situation in Palestine—Ruled out of order . . . . .	774—76
Motions for Adjournment <i>re—</i>		The Indian Companies (Amendment) Bill—Discussion on the motion to consider not concluded . . . . .	776—815
Arrests and Detention of Public Workers in the Punjab—Ruled out of order . . . . .	603—04	<b>FRIDAY, 11TH SEPTEMBER, 1936—</b>	
Interference by the Government of the United Provinces with the Sunni Muslims of Lucknow—Ruled out of order . . . . .	604—05	Questions and Answers . . . . .	817—51
Arrest of Public Workers in the North-West Frontier Province—Disallowed . . . . .	605	Short Notice Questions and Answers . . . . .	851—53
Extermination of Mr. M. R. Masani from the Punjab—Disallowed by the Governor General . . . . .	606, 631	Statements laid on the Table . . . . .	853—54
The Indian Companies (Amendment) Bill—Discussion on the motion to consider not concluded . . . . .	606—30, 631—49	The Indian Companies (Amendment) Bill—Discussion on the consideration of clauses not concluded . . . . .	854—97
Message from His Excellency the Governor General . . . . .	631	<b>MONDAY, 14TH SEPTEMBER, 1936—</b>	
<b>WEDNESDAY, 9TH SEPTEMBER, 1936—</b>		Questions and Answers . . . . .	899—930
Questions and Answers . . . . .	651—93	Short Notice Questions and Answers . . . . .	930—32
Motion for Adjournment <i>re</i> Extermination of Mr. M. R. Masani from the Punjab—Consent to move not given . . . . .	693	Motion for Adjournment <i>re</i> British Policy in Palestine—Disallowed by the Governor General . . . . .	932—33, 947—48
The Indian Companies (Amendment) Bill—Discussion on the motion to consider not concluded . . . . .	693—735	Motion <i>re</i> Expunction of certain Passages from the Proceedings of the Legislative Assembly . . . . .	933
<b>THURSDAY, 10TH SEPTEMBER, 1936—</b>		The Indian Rubber Control Bill—Introduced . . . . .	934
Questions and Answers . . . . .	737—71	The Bangalore Marriage Validating Bill—Introduced . . . . .	934
Motions for Adjournment <i>re—</i>		The Red Cross Society (Alienation of Property) Bill—Introduced . . . . .	934
Murder of Mail Guard Golam Sattar on a Calcutta Sirajgang Train between Rana-ghat and Chuadanga—Disallowed by the President . . . . .	772	The Indian Companies (Amendment) Bill—Discussion on the consideration of clauses not concluded . . . . .	934—47, 948—80
		Message from H. E. the Viceroy and Governor General . . . . .	947—48

# LEGISLATIVE ASSEMBLY.

Wednesday, 2nd September, 1936.

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

## QUESTIONS AND ANSWERS.

### EFFECT OF THE APPLICATION OF SANCTIONS IN INDIA AGAINST ITALY.

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

- (a) the effect of the application of sanctions in India against Italy ;
- (b) the probable loss of Indian trade by the application of sanctions ;
- (c) whether any attempt has been made to get reparations for the loss suffered ; and
- (d) with what result ?

Sir Aubrey Metcalfe : (a) and (b). In the seven months December, 1935, to June, 1936, Indian exports to Italy and the Italian Colonies were valued at Rs. 89 lakhs as compared with Rs. 366 lakhs in the seven months December, 1934, to June, 1935. There was, however, an increase of about Rs. 12 crores in the value of Indian exports to all other countries during the same period. It is impossible to state to what extent the decrease in trade was due to the imposition of sanctions.

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

### ALTERATIONS IN THE INDIAN CIVIL SERVICE RECRUITMENT RULES.

47. \*Sardar Sant Singh : (a) Is it a fact that the Secretary of State for India has made important alterations in the Indian Civil Service recruitment rules ? If so, what are the changes, and what would be its effect on the Indianisation of the service ?

(b) Is it a fact that according to these new rules, no Indian can sit in the competition in England unless he has been a student in England for two years or over in certain specified universities ? If so, what are the reasons for such restrictions ?

(c) Is it a fact that Public Service Commission in England has been given power to nominate Britishers without competition for Indian Civil Service ? If so, is there any such rule for the British Home Service or Colonial Service ? If not, what is the reason for the innovation in the case of the Indian Civil Service ?

(d) Do Government propose to lay these rules on the table of this House and appoint a day for the discussion of these rules ?

**The Honourable Sir Henry Craik :** (a) With reference to the first part, I would refer the Honourable Member to the Home Department Press Communiqués, dated the 27th April, 1936, and the 9th July, 1936, copies of which are available in the Library. As regards the second part, I may mention that the changes mentioned in the Press Communiqué, dated the 27th April, 1936, will not affect the progress of Indianisation in the Indian Civil Service, as there will be no change in the ratio fixed for the recruitment of Europeans and Indians.

(b) The Honourable Member will find the information asked for in the Press Communiqués referred to in my reply to the preceding part.

(c) Any deficiency in European recruitment will be made good by selection of candidates who are recommended for appointment by a Selection Committee acting with the assistance of the Civil Service Commissioners. As regards the second part, recruitment to some of the Colonial Services is now made by selection. As regards the third part, I have nothing to add to what is stated in the Press Communiqués referred to.

(d) The Press Communiqués in the matter are available in the Library.

**Mr. S. Satyamurti :** May I know whether it is the intention of the Government to so work the rules and the new changes, as to provide that all the fifty per cent. Indian recruitment shall take place in India ?

**The Honourable Sir Henry Craik :** No, not the whole of it. I think I explained that the other day. The Press Communiqué states that a certain number of vacancies in London will be available for Indians.

**Mr. S. Satyamurti :** May I know whether Government have any information as to the approximate number which will be available, say, during next year, for Indians in London and for Europeans in India ?

**The Honourable Sir Henry Craik :** That is given in the Press Communiqué of which I gave the Honourable Member a copy the other day.

**Mr. S. Satyamurti :** I want to know whether the object of these changes is to gradually eliminate Indian competition in London, and confine it to Delhi.

**The Honourable Sir Henry Craik :** No, not altogether ; the intention is that Delhi should be the main door for the recruitment of Indians, but not the sole door.

**Mr. S. Satyamurti :** May I know whether any other criteria for judging their fitness for nomination, apart from their academical qualifications, that is, the possession of an honours degree of British Universities, have been laid down for the recruitment of Europeans by nomination ?

**The Honourable Sir Henry Craik :** They have to appear before a Selection Board which will take into account their academic qualifications and their other qualifications such as character, personality, good health, and so on.

**Mr. S. Satyamurti** : Is there to be a  *viva voce*  examination ?

**The Honourable Sir Henry Craik** : There is to be an interview with a Selection Board.

QUALIFICATIONS FOR APPOINTMENT AS HIGH COMMISSIONER FOR INDIA IN LONDON.

48. **\*Sardar Sant Singh** : (a) Will Government be pleased to state what qualifications they take into consideration when deciding the claims for appointment as India's High Commissioner in London ?

(b) What are the qualifications of Sir Feroze Khan Noon for such appointment ?

(c) How many candidates' claims were considered along with Sir Feroze Khan Noon's claim ? What are their names and their qualifications ?

(d) Have Government seen the comment of *The Tribune* on this point, made in its issue dated the 10th May, 1936 ?

(e) Is it a fact that Sir Feroze Khan Noon actually went to the houses of the Muslim rioters during Punjab disturbances in connection with Shahid Ganj agitation in July-August, 1935 ?

(f) Is it also a fact that he started lists of subscriptions to help the law-breakers ? If so, were any complaints made in the Press and to the Government as to the propriety of such a conduct by a Member of the Punjab Government ?

(g) Did Government take into consideration his antecedents before deciding upon appointing Sir Feroze Khan Noon to the high post of a High Commissioner ?

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

(b) Capacity to discharge with ability and dignity the functions of his high office.

(c) It is not the custom of Government, nor, so far as I am aware, of any reputable public or private body, to publish lists of the names and qualifications of unsuccessful candidates.

(d) No.

(e) and (f). Government have no information.

(g) Yes.

**Sardar Sant Singh** : May I know, when the Honourable Member says " All qualifications," what he exactly means by this ? Is it a fact that the mere fact of appointment goes to give all the qualifications to the person appointed ?

**The Honourable Sir Muhammad Zafrullah Khan** : No. The question was whether Government would be pleased to state what qualifications they took into consideration when deciding this question, and I said " all the qualifications."

**Sardar Sant Singh** : What are the qualifications in this case which Government have weighed in favour of Sir Feroze Khan Noon ?



**The Honourable Sir Muhammad Zafrullah Khan :** That is given in answer to part (b) of the question. "Capacity to discharge with ability and dignity the functions of his high office".

**Sardar Sant Singh :** That is too vague a term to be understood at all. Will the Honourable Member say whether he has got any academic qualifications, his experience as a High Commissioner, as a trader or commercial man or any such thing ?

**The Honourable Sir Muhammad Zafrullah Khan :** The gentleman in question did possess some of the qualifications mentioned.

**Sardar Sant Singh :** I want to know what are those qualifications ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have replied, in answer to part (b) of the question, that this gentleman was judged to possess the "capacity to discharge with ability and dignity the functions of his high office".

**Sardar Sant Singh :** I just want to understand the meaning of the words "capacity to discharge with ability and dignity the functions of his high office". What were the criteria to judge of that ?

**The Honourable Sir Muhammad Zafrullah Khan :** If the Honourable Member does not know the meaning of the words "capacity to discharge", I am afraid I cannot enlighten him.

**Sardar Sant Singh :** The Honourable Member wants to evade my question, but I still persist in asking for an answer. What were the university qualifications for this post ?

**The Honourable Sir Muhammad Zafrullah Khan :** Sir, is the Honourable Member in order in saying that I am trying to evade his question ?

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member is not justified in making any such allegation.

**Sardar Sant Singh :** Am I not entitled to know in some definite language what the qualifications were which led Government to make this appointment ?

**Mr. President (The Honourable Sir Abdur Rahim) :** The Honourable Member has given his answer repeatedly—the qualification is a "capacity to discharge the duties of the office".

**Pandit Sri Krishna Dutta Paliwal :** What are his academic qualifications ?

**The Honourable Sir Muhammad Zafrullah Khan :** He is a graduate of Oxford and a barrister-at-law.

**Sir Muhammad Yakub :** May I know if Sir Feroze Khan Noon is the first Muslim High Commissioner for India ?

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

**Sir Muhammad Yakub :** Is it not sufficient to disqualify him to hold any important post under the Crown ?

**The Honourable Sir Muhammad Zafrullah Khan :** No, Sir.

**Sardar Sant Singh** : May I know if it is not the case that among the other candidates for this post were Muslims and Muslims of better education than Sir Feroze Khan Noon ?

**The Honourable Sir Muhammad Zafrullah Khan** : I am not prepared to disclose any information regarding other candidates.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair cannot allow this sort of discussion to go on.

†49.

TRADE NEGOTIATIONS WITH CEYLON.

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

- (a) whether they are aware of Mr. Peri Sundaram's speech reported in the *Hindu*, dated the 29th April, 1936, that Ceylon is looking forward to a new agreement with India ;
- (b) whether any trade negotiations with Ceylon have been started ; and
- (c) if so, at what stage these negotiations are ?

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

(b) and (c). The Government of India have been in communication with the Government of Ceylon on the subject of the grant of mutual tariff preferences. The matter is, however, now bound up with the denunciation of the Ottawa Trade Agreement, which included Ceylon, and it is not possible to proceed further until the negotiations with the United Kingdom have reached a more advanced stage.

**Mr. T. S. Avinashilingam Chettiar** : When do Government expect this agreement with the United Kingdom to be completed ?

**The Honourable Sir Muhammad Zafrullah Khan** : I am afraid I am unable to state that at this stage.

**Mr. T. S. Avinashilingam Chettiar** : In that case the negotiations with other countries will stop and cannot be proceeded with ?

**The Honourable Sir Muhammad Zafrullah Khan** : I have explained that Ceylon was a party to the Ottawa trade preferences. It is quite possible that Ceylon may also be a party to any fresh agreement that is concluded with the United Kingdom, in which case the question will be taken into consideration during the negotiations that are proceeding.

REPORT OF THE WHEELER COMMITTEE.

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

- (a) whether they have considered the report of the Wheeler Committee ;
- (b) what is the result of the consideration ;

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†This question was not put by the questioner.

(c) whether the Committee have recommended any change in the methods of recruitment, and

(d) whether the report of the Committee will be made available to the Members of the Legislative Assembly?

**The Honourable Sir Henry Craik :** (d) and (b). The action to be taken on the Report is still under consideration.

(c) and (d). The Report of the Committee will be published as soon as Government is in a position to state its conclusions as to the action to be taken.

**Mr. T. S. Avinashilingam Chettiar :** May I know the answer to clause (c) ?

**The Honourable Sir Henry Craik :** I have said that the report of the Committee will be published as soon as Government are in a position to state their conclusions as to the action to be taken. I am not prepared to disclose any particular recommendation of the report prior to publication.

**Mr. T. S. Avinashilingam Chettiar :** Am I to understand that it is going to be published ?

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

**Mr. S. Satyamurti :** Does the report contemplate any extra or additional expenditure to the Governments, Provincial or Central ?

**The Honourable Sir Henry Craik :** The Honourable Member must wait till it is published.

**Mr. T. S. Avinashilingam Chettiar :** What is the answer to clause (b) ?

**The Honourable Sir Henry Craik :** The action to be taken on the report is still under consideration.

**Mr. M. Ananthasayanam Ayyangar :** Have Government any objection to publishing it in advance so that public criticism may be invited before Government decide to take action on it ?

**The Honourable Sir Henry Craik :** Government have objection.

**Mr. M. Ananthasayanam Ayyangar :** Why ?

**The Honourable Sir Henry Craik :** The course which they have decided to take is what they think the best.

**Mr. M. Ananthasayanam Ayyangar :** Do Government think that it is inadvisable to invite public opinion upon this ? Is it the opinion of the Government that public opinion ought not to be invited with respect to this report ?

**The Honourable Sir Henry Craik :** The report deals with what is purely a domestic matter, viz., details of the internal administration of the Government of India, and the decision must rest with the Government.

**Mr. M. Ananthasayanam Ayyangar :** Is it not then the concern of the people at large and the country as a whole ?

**The Honourable Sir Henry Craik** : No, I do not think so.

**Mr. S. Satyamurti** : In so far as the recommendations contemplate any extra expenditure, do not Government want to invite public opinion, because they have got to foot the Bill ?

**The Honourable Sir Henry Craik** : I do not think any extra expenditure is involved.

REPORT OF THE INCOME-TAX ENQUIRY COMMITTEE.

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

- (a) whether the Income-tax officers have submitted their report ;
- (b) whether they have considered it ;
- (c) if so, the result of the consideration ; and
- (d) whether they contemplate introducing legislation to amend the Income-tax Act in view of the report, and if so, in what respects ?

**Mr. A. H. Lloyd** : (a) Not yet. /

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

**Mr. T. S. Avinashilingam Chettiar** : When do Government expect the report ?

**Mr. A. H. Lloyd** : Within the next few months.

**Dr. Ziauddin Ahmad** : May I ask, Sir, the two questions Nos. 53 and 54 together ? It will facilitate supplementary questions.

DIVIDENDS ANNOUNCED BY THE TATA IRON AND STEEL COMPANY, LIMITED.

53. **\*Dr. Ziauddin Ahmad** : (a) Are Government aware that Tata Iron and Steel Company, Ltd., announced the following dividends for the year ended March 31st, 1936 :

- (1) 9 per cent. on first preference shares ;
- (2) 14 per cent. on second preference shares ; and
- (3) Rs. 7½ per share on deferred shares ?

(b) What was the Bank rate of interest during the same period ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a) (1). The dividend declared on first-preference shares was Rs. 9 per share of Rs. 150, i.e., 6 per cent.

(2) On second preference shares it was Rs. 17-8-0 which included certain arrears of payment.

(3) Yes.

(b) The Bank rate was 3½ per cent. from 1st April to 27th November, 1935, and 3 per cent. from 28th November, 1935, to the end of the year.

INSPECTION OF THE ACCOUNTS OF THE TATA IRON AND STEEL COMPANY,  
LIMITED.

54. \*Dr. Ziauddin Ahmad : (a) Did Government inspect the accounts of the Tata Iron and Steel Company, Ltd., to find out whether the Company, as a result of excess protection, was getting more profit than that promised by the Tariff Board ? If not, why not ?

(b) Is it not a fact that the Fiscal Commission recommended periodic inspection of the accounts of protected industry ?

The Honourable Sir Muhammad Zafrullah Khan : (a) and (b). The answer to the first part of the question is in the negative. I would refer the Honourable Member to paragraphs 117 and 118 of the Report of the Indian Fiscal Commission, copies of which are in the Library. From these he will see that the Commission's recommendation that the accounts of protected industries should be periodically inspected was linked with their conclusion that the imposition of a time-limit on protective duties was impracticable. But as he is aware, the Government of India have not shared the doubts of the Commission as to the practicability of imposing a time-limit on the operation of protective import duties, and when such duties are imposed they are normally imposed for a specified period of years before the expiry of which the question of their continuance forms the subject of further enquiry. I would also invite attention to the provisions of section 4 of the Indian Tariff Act, 1934.

Prof. N. G. Ranga : For how long is this protection offered to steel ?

The Honourable Sir Muhammad Zafrullah Khan : I could not give the exact period without notice.

Dr. Ziauddin Ahmad : Is it not a fact that the Tariff Board on steel industry recommended a profit of six per cent. on the capital, and the actual profit is much more than six per cent. ? If that is the case, I would like to know whether this excess profit should not reasonably go to the labourers who helped to produce this wealth ?

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

REPORT OF THE WHEELER COMMITTEE.

55. \*Mr. Ram Narayan Singh : Has the attention of Government been drawn to the leading article in the *Statesman* of the 13th May, dealing with the Wheeler Committee's report on the reorganisation of the Central Secretariat under the future Federal Government of India ?

The Honourable Sir Henry Craik : Yes.

REPORT OF THE WHEELER COMMITTEE.

56. \*Mr. Ram Narayan Singh : Will Government be pleased to state the reasons for the delay in publishing the Wheeler Committee's

report on the reorganisation of the Central Secretariat under the future Federal Government of India ?

**The Honourable Sir Henry Craik :** The Honourable Member is referred to the answer given to Mr. T. S. Avinashilingam Chettiar's question No. 51.

**Mr. T. S. Avinashilingam Chettiar :** May I know why there has been this long delay in considering the report ?

**The Honourable Sir Henry Craik :** The subject is one of some complication and involves correspondence with the India Office.

CONSTITUTION OF THE CENTRAL UNIVERSITY BOARD.

57. **\*Mr. Ram Narayan Singh :** Will Government be pleased to state :

- (a) what the constitution of the Central University Board is ; and
- (b) what the need, the authority and the up-to-date achievements of the said Central University Board are ?

**Sir Girja Shankar Bajpai :** (a) There is no Central University Board.

(b) Does not arise.

EXPENSES ON TROOPS SENT FROM INDIA TO ABYSSINIA DURING THE ITALO-ABYSSINIAN WAR.

58. **\*Mr. M. Ananthasayanam Ayyangar :** (a) What is the amount of money that was spent upon the contingent of troops sent from India to Abyssinia during the Italo-Abyssinian War ?

(b) Have the Government of the United Kingdom contributed any portion of the expenses ? If so, how much ? If, not, why not ?

(c) Was not the contingent of troops intended for the protection of British interests in Abyssinia as much as, if not more than those of Indians ?

**Mr. G. R. F. Tottenham :** (a), (b) and (c). The entire cost of the contingent is borne by His Majesty's Government and the Government of India have no information what the exact bill amounts to. I would, however, refer the Honourable Member to the answer given on 3rd September, 1935, to Mr. Satyamurti's short notice question on the subject, in which it was stated that the cost of transport to Djibuti was about Rs. 20,000 and the monthly pay bill of the detachment about Rs. 13,000.

**Mr. M. Ananthasayanam Ayyangar :** Are these charges also borne by His Majesty's Government ?

**Mr. G. R. F. Tottenham :** Yes.

**Mr. M. Ananthasayanam Ayyangar** : Both their passage and their maintenance ?

**Mr. G. E. F. Tottenham** : Yes.

#### INDIA'S WITHDRAWAL FROM THE MEMBERSHIP OF THE LEAGUE OF NATIONS.

59. **\*Mr. M. Ananthasayanam Ayyangar** : (a) Do Government propose to take early steps to withdraw from the membership of the League of Nations ?

(b) Are Government prepared to withhold the contribution to the League for this year and in future ?

**The Honourable Sir Nripendra Sircar** : (a) and (b). The answer is in the negative.

**Mr. M. Ananthasayanam Ayyangar** : What is the amount of contribution that is now being paid to the League of Nations ?

**The Honourable Sir Nripendra Sircar** : That question does not arise.

**Mr. M. Ananthasayanam Ayyangar** : Is it not a fact that other nations are considering the question as to whether they should continue their membership of the League of Nations ?

**The Honourable Sir Nripendra Sircar** : May I remind the House that yesterday the adjournment motion on the League of Nations was not moved very properly, because my Honourable friend, Mr. Satyamurti, said that this matter will be discussed in a Resolution for which 30 Members have given notice. I submit that I should not be asked to enter into the merits of the question of the League of Nations in answer to supplementary questions.

**Mr. President** (The Honourable Sir Abdur Rahim) : Yes, supplementary questions cannot be asked about the League of Nations on this question.

**Sardar Sant Singh** : Have Government received any communication by His Majesty's Government about the reformation or re-organisation, and have they been consulted on the point ?

**The Honourable Sir Nripendra Sircar** : I must ask for notice of that question.

#### LOSS OF TRADE SUFFERED BY INDIA BY ADOPTING THE SANCTIONS AGAINST ITALY.

60. **\*Mr. M. Ananthasayanam Ayyangar** : (a) What, if any, is the loss of trade suffered by India by adopting the sanctions hitherto imposed against Italy ?

(b) What steps, if any, are being taken to regain the volume of Indian trade with Italy ?

**Sir Aubrey Metcalfe :** (a) I would refer the Honourable Member to the reply given by me to Mr. T. S. Avinashilingam Chettiar's question No. 46.

(b) The present hindrances to the resumption of normal trade relations are due to import and exchange restrictions imposed by Italy.

**Mr. M. Ananthasayanam Ayyangar :** Are any negotiations going on with this country regarding the removal of these restrictions ?

**Sir Aubrey Metcalfe :** Not so far as I am aware.

LOSS OF LIFE OR PROPERTY OF INDIANS IN ABYSSINIA.

61. **\*Mr. M. Ananthasayanam Ayyangar :** (a) Was there any loss of life or property of Indians in Abyssinia after the commencement of war by Italy ?

(b) If the answer to part (a) be in the affirmative, what are the reasons for such occurrence ?

(c) What preventive measures have been taken ? And why were not more adequate steps taken to avert this ?

**Sir Aubrey Metcalfe :** Attention is invited to the statement, read out yesterday in reply to question No. 45 by Mr. T. S. Avinashilingam Chettiar.

**Mr. Lalchand Navalrai :** May I know, Sir, if the Indians who are there now are safe ?

**Sir Aubrey Metcalfe :** There is a further question on that point which I propose to answer as soon as it comes on. It will be difficult to enter into discussion on it now.

PADDY IMPORTED FROM SIAM INTO INDIA.

62. **\*Mr. M. Ananthasayanam Ayyangar :** (a) Are Government aware that 24,000 bags of paddy have been imported from Siam into India from one Japanese steamer named "Peiping" on or about 6th May, 1936 ?

(b) What is the quantity of paddy imported month after month into India from foreign countries since the 1st of April, 1936, and for the whole years 1934-35 and 1935-36 ?

(c) What steps, if any, do Government propose to take in the matter ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) The paddy in question was imported from Indo-China.

(b) A statement is laid on the table.

(c) The matter is receiving the consideration of the Government of India.



**STATEMENT I (B).**  
*Imports of rice into India from foreign countries.*

Montha.	Whole rice.				Broken rice.				Paddy.			
	From Siam.	From Indo-China.	From others.	Total.	From Siam.	From Indo-China.	From others.	Total.	From Siam.	From Indo-China.	From others.	Total.
April, 1934 .. .. .	500	25	675	1,200	28,895	2,168	1	31,064	1,386	1,663	..	3,049
May, 1934 .. .. .	3,195	39	23	3,257	12,507	515	501	13,523	3,439	300	..	3,739
June, 1934 .. .. .	1,657	..	13	1,670	12,377	573	..	12,950	5,750	10,133	1	15,884
July, 1934 .. .. .	228	4,391	706	5,325	9,888	396	..	10,284	3,101	2,499	..	5,600
August, 1934 .. .. .	5,893	197	8	6,098	17,328	682	..	18,010	1,881	8,636	..	10,517
September, 1934 .. .. .	7,149	301	15	7,465	11,727	486	..	12,223	6,218	3,940	1	10,159
October, 1934 .. .. .	2,135	2,487	5	4,637	35,252	300	..	35,552	7,405	15,368	3	22,676
November, 1934 .. .. .	3,424	1,442	8	4,874	22,348	1,244	..	23,592	4,030	4,427	2	8,459
December, 1934 .. .. .	2,870	2,751	25	5,646	24,517	4,555	1	29,073	5,329	20,772	1	26,093
January, 1935 .. .. .	1,453	..	6	1,459	4,179	217	..	4,896	1,517	..	..	1,517
February, 1935 .. .. .	1,306	1,832	4	3,142	12,916	285	..	13,213	..	3,935	..	3,935
March, 1935 .. .. .	2,594	3,414	4	6,012	22,095	5,513	150	27,758	..	..	..	..
Total for 1934-35 .. .. .	32,404	16,889	1,492	50,785	214,031	16,954	653	231,638	40,047	71,573	8	111,628

April, 1935	..	..	607	6	918	3,918	600	..	4,518	..	1,442	..	1,442
May, 1935	..	..	..	8	508	..	..	..	..	..	10,548	..	10,548
June, 1935	..	..	..	4	4	..	..	..	..	..	7,360	3	7,363
July, 1935	..	..	..	6	604	..	..	..	..	5,073	3,411	..	8,484
August, 1935	..	..	..	5	755	9,035	..	..	9,685	560	14,326	..	14,876
September, 1935	..	..	205	6	664	11,930	..	..	11,930	5,359	10,497	..	15,855
October, 1935	..	..	892	7	1,300	5,792	150	..	5,942	3,247	17,456	1	20,704
November, 1935	..	..	200	7	1,880	9,602	547	1	10,150	3,535	3,960	..	7,495
December, 1935	..	..	..	5	2,893	7,696	492	1	8,179	837	4,782	..	5,019
January, 1936	..	..	701	12	10,351	5,833	751	..	6,584	..	537	1	538
February, 1936	..	..	598	1	4,609	1,938	..	..	1,928	3,760	2,122	..	5,872
March, 1936	..	..	1,759	8	4,032	3,506	6	1	3,512	1	20,934	..	20,935
Total (1935-36) 1st April to 31st March.	..	..	4,962	74	28,514	59,239	2,536	3	61,778	22,351	97,375	5	119,751
April, 1936	..	..	196	9	634	1,051	..	..	1,051	1,265	2,966	..	4,231
May, 1936	..	..	..	7	1,134	940	..	2	942	..	11,867	..	11,867
June, 1936	..	..	400	9	409	501	..	..	501	752	10,985	..	11,717
July, 1936	..	..	311	8	1,868	..	..	..	..	2,101	31,471	4	33,576

**Mr. T. S. Avinashilingam Chettiar :** Are Government satisfied that the present duty on broken rice is enough to stop the imports of foreign rice ?

**The Honourable Sir Muhammad Zafrullah Khan :** Government are satisfied that the present duty is enough for the purpose for which it was intended.

**Mr. T. S. Avinashilingam Chettiar :** How does the last year's import of foreign rice compare with this year's ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have laid a statement on the table. Will the Honourable Member please study it ?

**Prof. N. G. Ranga :** Are not the imports of paddy increasing ?

**The Honourable Sir Muhammad Zafrullah Khan :** On the whole, there was some increase in 1935 over 1934, as the figures will show in the statement that I have laid on the table.

**Prof. N. G. Ranga :** What steps are Government taking to see that imports do not increase further ?

**The Honourable Sir Muhammad Zafrullah Khan :** If I were in a position to say straightaway what steps Government propose to take, I would not have said that the matter is receiving the consideration of Government.

**Mr. C. N. Muthuranga Mudaliar :** Are Government aware that the prices of paddy and rice have fallen during this year as compared with the prices of last year ?

**The Honourable Sir Muhammad Zafrullah Khan :** They have fallen all over the world, not only in India.

#### NEGOTIATIONS FOR THE TUNGABHADRA PROJECT.

63. **\*Mr. M. Ananthasayanam Ayyangar :** (a) At what stage do the negotiations for the Tungabhadra Project stand ?

(b) When is the agreement likely to be reached among all the States interested ?

(c) What steps are Government taking to expedite the matter ?

**The Honourable Sir Frank Noyce :** (a) and (c). The Government of India have suggested to the interested Provinces and States that a small conference should be held with their representatives, under my Chairmanship, in order to settle certain preliminary issues on which a decision is required before any tribunal can be appointed.

This course has been proposed in order to avoid the delays which would be involved by any attempt to settle the preliminary issues through correspondence. The Madras, Bombay and Hyderabad Governments have already agreed to attend the conference which, if held, is likely to take place about November next.

(b) I am not yet in a position to say when an agreement is likely to be reached among all the States interested.

**Prof. N. G. Ranga :** What was the reply received from the Mysore Government ?

**The Honourable Sir Frank Noyce :** I think my Honourable friend can draw the inference from what I have said, namely, that the Madras, Bombay and Hyderabad Governments have already agreed to attend the conference, that we have not yet received a reply from the Mysore Government.

**Prof. N. G. Ranga :** How long ago was the Mysore Government addressed on this matter ?

**The Honourable Sir Frank Noyce :** They were addressed at the same time as the other Governments. I cannot say how long ago. But I imagine that the delay is due to the fact that His Highness the Maharaja of Mysore and his Diwan, Sir Mirza Ismail, are at present in Europe.

**Prof. N. G. Ranga :** Is it not a fact that there has been a considerable amount of delay experienced in the correspondence carried on by the Government of India with the Mysore Government during the last two years in regard to this matter ?

**The Honourable Sir Frank Noyce :** I want notice. My Honourable friend is as well aware as I am that there are often delays in correspondence with Indian States.

#### TICKETLESS TRAVELLERS CHARGED AND PUNISHED IN INDIA.

64. **Mr. M. Ananthasayanam Ayyangar :** (a) What is the number of ticketless travellers charged and punished in the whole of India during 1935-36 and during the five years previous thereto ?

(b) What was the loss to Government ?

(c) What is the percentage of richmen to beggars among the ticketless travellers ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a), (b) and (c). I am placing on the table a statement giving such particulars as are available for the six years ending with December, 1935.

Statement shewing particulars regarding Passengers travelling Without Tickets for six years ending December, 1935.

Year.	(i)	(ii)	(iii)				(iv)
	Total No. of passengers found travelling without tickets.	No. of passengers who paid excess fares and penalty on detection.	Particulars regarding details of punishment inflicted under Sections 112, 113 and 132.				No. of persons (indigents, etc.), let off or ejected.
			(a)	(b)	(c)	(d)	
			Let off.	Fare and penalty recovered.	Punishment inflicted.	Pending in Courts.	
1930 ..	2,778,488	Figures not available.	12,143	26,459	8,099	35,660	Figures not available.
1931 ..	2,367,665	Do.	34,557	45,999	10,655	132,576	424,457
1932 ..	2,376,627	184,345	37,619	44,851	20,465	61,502	581,440
1933 ..	2,911,687	1,607,597	28,473	54,733	16,913	70,361	90,553
1934 ..	2,694,164	1,714,841	29,192	31,837	17,709	72,129	332,952
1935 ..	2,877,014	1,957,638	28,416	30,315	26,695	91,082	338,621

NOTES.—

1. Figures for columns (ii) and (iii) (a), (b), (c) and (d) were not recorded separately by all railways and therefore the totals of the figures in these columns do not agree with the figures in column (i).
2. Some railways have not recorded separately the number of mendicants, etc., let off or ejected but have included these in column (i), and therefore while the figures shewn in column (iv) are exclusive of those given in column (i), the total number of mendicants, etc., who were let off or ejected shewn in column (iv) is not quite accurate.

**Mr. T. S. Avinashilingam Chettiar :** What is the answer to part (c) ?

**The Honourable Sir Muhammad Zafrullah Khan :** I said the information is contained in the statement I was laying on the table.

**Mr. President (The Honourable Sir Abdur Rahim) :** The whole matter is now under discussion in connection with the Indian Railways (Amendment) Bill.

RELEASE OF MR. SUBHASH CHANDRA BOSE.

65. **\*Mr. M. Ananthasayanam Ayyangar :** (a) Are Government aware that Srijut Subhash Chandra Bose's day was celebrated throughout the length and breadth of India on the 10th May, 1936 and that there is a persistent demand for his release ?

(b) Are Government prepared to release him forthwith ? If not, why not ?

**The Honourable Sir Henry Craik :** (a) I am aware that meetings were held in various places, but my information is that they were not largely attended and generally very little interest was displayed.

(b) No. I have already explained the reasons for the action taken by Government.

**Prof. N. G. Ranga :** Are Government aware that in innumerable villages, peasants gathered in large numbers to protest against the action of the Government of India in keeping Mr. Subhash Chandra Bose under detention, and are demanding his release ?

**The Honourable Sir Henry Craik :** I have no information on that point. The information that I have is that meetings were held in large towns.

**Mr. T. S. Avinashilingam Chettiar :** Who gives this information to the Honourable the Home Member ?

**The Honourable Sir Henry Craik :** The Local Governments concerned.

**Mr. T. S. Avinashilingam Chettiar :** How do they get that information ?

**The Honourable Sir James Grigg :** The usual way.

**Mr. T. S. Avinashilingam Chettiar :** What is the usual way.

**Mr. M. Ananthasayanam Ayyangar :** Has there been a single instance of any meeting where there was a demand for the continuance of Mr. Subhash Chandra Bose in detention.

**The Honourable Sir Henry Craik :** Not that I am aware of.

AMALGAMATION OF THE LONDON STORES DEPARTMENT WITH THE INDIAN STORES DEPARTMENT.

66. **\*Mr. T. S. Avinashilingam Chettiar :** (a) Has the intended investigation into the question of amalgamation of the London Stores Department with the Indian Stores Department been completed ?

(b) What is the result of the investigation ?

(c) What action have Government taken in the matter ?

**The Honourable Sir Frank Noyce :** (a) The investigation has recently been completed but no report has yet been submitted to the Government of India.

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

**Mr. T. S. Avinashilingam Chettiar :** When do Government expect the report ?

**The Honourable Sir Frank Noyce :** Very shortly.

167\*.

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\*This question was not put by the questioner.

## INDIANS IN FIJI AND SUBSTITUTION OF NOMINATION FOR ELECTIONS.

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

(a) the latest situation regarding Indians in Fiji and the attempted substitution of nomination to elections ; and

(b) whether they have received any representations from His Majesty's Government, and, if so, what ?

**Sir Girja Shankar Bajpai :** (a) and (b). I lay on the table a summary of a despatch addressed by His Majesty's Secretary of State for Colonies to the Government of Fiji, conveying the decision of His Majesty's Government on the proposal to substitute nomination for election to the Fiji Legislative Council.

*Summary of a despatch addressed by the Secretary of State for the Colonies to the Government of Fiji regarding the constitution of the Legislative Council of the Colony.*

I have given careful consideration to the representations which have been made to me on the proposals to substitute nomination for election of non-official European and Indian members of the Legislative Council and I have also had conversations with Governor and with two European elected members of the Legislative Council. From representations which have been made to me and from enquiries which I have made it is apparent that first part of proposal, *viz.*, suggestion that elective system be abandoned is one on which opinion within the Colony is sharply divided, there being a considerable body of opinion both for and against that suggestion. For the second part of the proposal, *viz.*, suggestion for equality of representation of three communities, I gather there is a much wider measure of agreement. I have been urged to decide that the choice of the continuance or discontinuance of the present system of election of European and Indian members be referred to European and Indian electors but there are in my view weighty objections to that course. If elections were to be held at this juncture there is a very real possibility that they might be bitterly contested, that the votes for or against the change might not be sufficiently conclusive and that a more acute political situation than existing at present might be produced.

2. I am also unwilling to entertain the suggestion that a referendum be held either of European and Indian electors exclusively or on a more extended basis.

3. I am confident that it is the desire of all the communities in Fiji that political peace shall be restored with least possible delay and that the settlement be conceived in spirit that interests of the Colony be placed before those of any one section of the population. On a full consideration of position and mindful of racial and other issues involved I have come to the conclusion that it will be in the interests of the Colony that a compromise should be imposed by me. It is not to be expected that any solution of problem will give universal satisfaction, but it is my earnest wish that Colony generally will be ready to accept a compromise which I conceive to be in the public interest.

4. As to Fijian representation I understand it to be the wish of the Fijians that their representatives be selected as heretofore, *viz.*, by the Governor from a panel submitted by Great Council of Native Chiefs and I am happy to acquiesce.

5. As regards European and Indian representatives I gather some Europeans and Indians are wanting elective principle to be given up while others are wanting it to be retained and that there is real reason to doubt whether if election or a referendum were to be held there would be a convincing majority among Europeans or Indians for either of those alternatives. In the circumstances I cannot see my way to decide that elective principle be dispensed with altogether either for Europeans or Indians. In my opinion more satisfactory course will be to provide that in future some of the European and Indian members shall be elected and the others nominated. On the question of a common electoral roll I understand that Indians were never unanimous on that matter and that as time passes more and more of Indians who

were wanting a common roll in Fiji are abandoning their advocacy of it. On that issue I am in full agreement with view expressed by Mr. Amery in 1925, viz., that circumstances of Fiji and in particular the nature of organisation of native inhabitants and position in which Crown stands to them are such as to make it impossible to arrange for representation of 3 sections of population on Legislative Council by means of a general franchise. I have accordingly decided to recommend to His Majesty that there shall be a reconstituted Legislative Council consisting of Governor, 16 official members, 5 European members (3 to be elected on a communal franchise and 2 to be nominated), 5 Fijian members (all to be selected as at present) and 5 Indian members (3 to be elected on a communal franchise and 2 to be nominated). The reduction from six to three in the number of European elected members will involve a readjustment of European electoral divisions, and I contemplate that simplest possible geographical boundaries shall be chosen, such as one member for Suva and environs, one member for rest of Viti Levu and near islands, and one member for rest of Colony. A more precise definition will be required and I would welcome an early recommendation from you on this point.

6. With the number of Indian elected members remaining at three, alteration of existing Indian electoral divisions will not be necessary though I am prepared to give consideration to any recommendation which may be made on that point.

7. The determination of details of new constitution will necessarily occupy some time and, in order to provide an interval for this, steps have been taken to enable life of existing Legislative Council to be prolonged until the 31st December, 1936, or such other date not being later than the 14th July, 1937, as may be fixed by the Governor by proclamation.

**Mr. T. S. Avinashilingam Chettiar :** What is the substance of the Despatch ?

**Sir Girja Shankar Bajpai :** The substance is that Indian representation has increased from 3 to 5 which gives equality with the representation of other communities and that the elective principle is maintained to the extent of three.

**Mr. T. S. Avinashilingam Chettiar :** Have the Fiji Government replied to that representation ?

**Sir Girja Shankar Bajpai :** There is no question of representation. That is the decision of His Majesty's Government.

**Mr. S. Satyamurti :** What is the Indian population in Fiji, which makes them get a representation of only five, as also the population of non-Indians who get the same five ?

**Sir Girja Shankar Bajpai :** My Honourable friend is aware that unfortunately or fortunately these matters are not determined in relation to the population alone.

**Mr. S. Satyamurti :** May I know what are the criteria on which a very large Indian population has been given a representation of only five, while the non-Indian population has been given the same representation of five ?

**Sir Girja Shankar Bajpai :** As far as I know, the justification for this given by His Majesty's Government is that, so long as there is an official majority, it is immaterial as to what the representation of individual communities is.

**Mr. S. Satyamurti :** Will the Government of India press on the attention of His Majesty's Government the need for increasing the representation of Indians in some more reasonable proportion to their population in the island.



**Sir Girja Shankar Bajpai** : I would suggest that my Honourable friend might refresh his memory of the statement which was made on behalf of the Government of India in regard to the representation of Indians in Fiji Legislative Council a few years ago. It was stated then that the question of the strength of Indian representation might be taken up with His Majesty's Government again when a favourable opportunity occurred.

**Mr. S. Satyamurti** : Will the Government of India take it up now, now that a decision has been given, and we know that it is wholly disproportionate to our numbers there ? Will the Government of India take it up now ?

**Sir Girja Shankar Bajpai** : I submit that the knowledge that the representation of Indians is disproportionate to the population of the community is not subsequent to this decision. That knowledge has been there all this time.

#### RATIFICATION OF THE INTERNATIONAL LABOUR CONVENTION OF FORTY HOURS A WEEK.

69. **\*Mr. M. Ananthasayanam Ayyangar** : By how many countries in the world has the International Labour Convention of forty hours a week been ratified and given effect to ?

**The Honourable Sir Frank Noyce** : The Convention had not been ratified by any country up to the end of July, 1936.

#### ORGANISATION OF PUBLIC WORKS IN CONNECTION WITH THE RELIEF OF UNEMPLOYMENT.

70. **\*Mr. M. Ananthasayanam Ayyangar** : (a) Have Government considered any scheme for the organisation of public works in connection with the relief of unemployment ?

(b) Is it not a fact that the organisation of public works in relation to unemployment has been set out as one of the subjects for consideration in the 1937 session of the International Labour Conference ?

(c) What is the attitude of Government in this matter ?

**The Honourable Sir Frank Noyce** : (a) Yes. The various schemes embodied in the Provincial Famine Codes are designed to relieve persons unemployed by reason of famine or scarcity and provide for their employment on various public works.

(b) Yes.

(c) The instructions to be given to the Government delegates have not yet been considered.

**Mr. M. Ananthasayanam Ayyangar** : I want information as regards the nature of public works organised for relief of unemployment normally not during exceptional seasons as famine ?

**The Honourable Sir Frank Noyce** : That is a matter for Provincial Governments. As far as the Central Government are concerned, I would refer, as I have done time and again in reply to numerous questions which have been asked on the subject, to the New Delhi capital programme. (Laughter.) This is not a matter for my Honourable friends to laugh at,

The programme of public works in New Delhi was definitely resumed with the idea of relieving unemployment as was explained at the time.

**Mr. T. S. Avinashilingam Chettiar :** In view of the statement made by the Honourable the Finance Member yesterday that capital programmes for relieving unemployment are taken only when they are remunerative, may I know how far are the New Delhi capital programmes remunerative ?

**The Honourable Sir Frank Noyce :** I would suggest to my Honourable friend that he puts that question to my Honourable colleague.

**Mr. N. M. Joshi :** May I ask whether the Government of India have considered the question of providing housing accommodation to all Government employees as a measure of relieving unemployment when money is very cheap ?

**The Honourable Sir James Grigg :** No, Sir.

**Mr. N. M. Joshi :** May I ask, why, no, Sir ?

**The Honourable Sir James Grigg :** Because the project would not be remunerative.

**Mr. T. S. Avinashilingam Chettiar :** May I have an answer to my question ?

**The Honourable Sir James Grigg :** I think if the Honourable Member will examine my various statements on the subject he will find that I said that in future there would be no question of undertaking capital works unless they were remunerative.

**Prof. N. G. Ranga :** Is it not a fact that in spite of the prevalence of famine in Gujerat and Maharashtra, no famine relief works have been undertaken by either the Provincial Government or the Central Government ?

**The Honourable Sir Frank Noyce :** Surely, Sir, that is purely a matter for the Bombay Government.

**Prof. N. G. Ranga :** Then if not in the provinces, where do the Government of India expect to undertake famine relief works in order to relieve unemployment ?

**The Honourable Sir Frank Noyce :** My Honourable friend knows as well as I do that the Provincial Famine Code is administered by the Provincial Governments.

**Mr. N. V. Gadgil :** Do the Central Government propose to make any contribution to the famine relief fund if works are started in the Bombay Presidency and other provinces ? The Honourable Member may take it that the Maharashtra districts are experiencing the bitterest famine during the last 60 years.

**The Honourable Sir Frank Noyce :** I can only repeat that famine relief in Maharashtra is purely a matter for the Bombay Government.

**Mr. N. V. Gadgil :** My question is, will the Central Government send some contribution to the Provincial Governments in order to finance famine relief schemes ?

**The Honourable Sir James Grigg :** As regards the Bombay Government, the Bombay Government have made a very considerable profit by the separation of Sind which the Central Government has got to pay for.

**Prof. N. G. Ranga** : In view of the fact that a considerable amount of unemployment and distress prevails in the United Provinces, Bengal and Bihar, because of the recent floods, have the Government of India considered the advisability of making any grant or subvention to these provinces to enable them to relieve the distress there ?

**Sir Girja Shankar Bajpai** : Neither the Government of Bihar nor the Government of the United Provinces have made any approach to the Central Government yet.

**SCHEMES FOR THE RELIEF OF UNEMPLOYMENT SUGGESTED BY THE SAPRU COMMITTEE.**

71. **\*Mr. M. Ananthasayanam Ayyangar** : (a) Have Government considered and devised any schemes for the relief of unemployment as suggested by the Sapru Committee ?

(b) If so, what are they and, if not, why not ?

(c) Have Government taken any steps to collect statistics of the educated unemployed ? If so, what are they and, if not, why not ?

(d) Is there any proposal to restrict admission to pupils in the colleges with a view to prevent the increase of educated unemployed ?

(e) Is there any minimum age prescribed for eligibility to appear at the Matriculation examination in Delhi University and, if so, what is it ?

(f) Are Government aware that in Madras, Government have fixed 16 years as the minimum age for eligibility for the S. S. L. C. examination ?

(g) Does similar restriction regarding age exist for eligibility to appear at colleges examinations in England or any other country ?

(h) What are the reasons for fixing such minimum age ? Is such minimum age insisted on for reducing unemployment in the country ?

**The Honourable Sir Frank Noyce** : (a) and (b). The attention of the Honourable Member is invited to the reply given by me on the 31st August, 1936, to Mr. T. S. Avinashilingam Chettiar's question No. 24.

(c) The attention of the Honourable Member is invited to the answer given to part (b) of starred question No. 1482 asked by Mr. Satyamurti in the Legislative Assembly on the 8th April, 1936.

(d) No general proposal of this kind is before Government. The question is discussed in Chapter XIV of the Sapru Committee's report and in restricting admission to some of their own institutions—the School of Mines, for example—the Government of India have regard to the prospects of employment for students.

(e) Delhi University does not conduct a Matriculation Examination. The Honourable Member probably refers to the High School and School Leaving Certificate Examinations which are held by the Board of Secondary Education, Delhi. No minimum age limit is prescribed for these examinations.

(f) Government have no information whether the Madras Government have fixed 16 years as the minimum age for eligibility for the Secondary School Leaving Certificate Examination, but the Madras University have

laid down an age limit of 15 years for admission to their Matriculation Examination.

(g) Yes, in certain Universities.

(h) Restrictions, where imposed, are imposed in the interest of the students themselves and of their health.

**Prof. N. G. Ranga** : Have Government considered the advisability of closing down these universities for a few years in order at least to stop the increase of unemployment among the educated middle classes ?

**The Honourable Sir Frank Noyce** : No, Sir.

**Mr. M. Ananthasayanam Ayyangar** : With reference to the answer to clause (c) have any statistics been collected so far about the educated unemployed ?

**The Honourable Sir Frank Noyce** : I have referred my Honourable friend in reply to that part of his question to the answer I gave to Mr. Satyamurti's starred question No. 1482 on the 8th April last. I may add, however, that the matter is on the agenda of the next meeting of the Central Advisory Board of Education.

EXTERMENT OF MR. V. V. GIRI BY THE PONDICHERRY GOVERNMENT.

72. **\*Mr. M. Ananthasayanam Ayyangar** : (a) Are Government aware that Mr. V. V. Giri, M.L.A., was externed from Pondicherry by the Pondicherry Government, when he had gone there in connection with the Labour Conference ?

(b) Are Government prepared to consider the desirability of referring to the Pondicherry Government regarding the reasons and propriety of the externment order ?

**Sir Aubrey Metcalfe** : (a) According to the information received by the Government of India Mr. Giri was not externed from Pondicherry but was informed on arrival that the meeting in which he wished to take part could not be held in French territory. He is reported then to have withdrawn to British territory.

(b) Does not arise since there was no externment order.

**Mr. M. Ananthasayanam Ayyangar** : Was he not asked to quit French territory ?

**Sir Aubrey Metcalfe** : I have given the information which we have which is that he was informed that the meeting in which he was to take part could not be held in French territory.

**Mr. V. V. Giri** : Sir, on a matter of personal explanation, I was externed by the French Government, but without the intervention of this Government the French Government again thought it desirable to invite me back to Pondicherry, and I went there and settled certain matters.

CONVENTION FOR ESTABLISHMENT OF A MACHINERY FOR FIXING MINIMUM WAGES.

73. **\*Mr. M. Ananthasayanam Ayyangar** : (a) Have Government got ratified the International Labour Convention of 1928 on the establishment of a minimum wage fixing machinery ?

(b) Is it not a fact that Mr. Ramaswami Mudaliar, workers' delegate of India, moved a resolution to draw the attention of the States for the establishment of a machinery for fixing minimum wages ?

(c) Have Government taken any steps to organise such a machinery for India ? If so, what are they and, if not, why not ?

(d) Is it not a fact that this convention has so far been ratified by 18 countries including Australia, Canada, Union of South Africa and Great Britain ?

**The Honourable Sir Frank Noyce :** (a) No.

(b) Yes.

(c) The matter concerns the Provincial Governments. A summary of the conclusions reached by them is given on pages 122-23 of the Fourth Report showing the action taken on the recommendations made by the Royal Commission on Labour in India, 1935, a copy of which is in the Library of the House.

(d) Yes.

**Prof. N. G. Ranga :** Is there no action that the Government of India can possibly take in order to persuade these Provincial Governments to fix this minimum wage ?

**The Honourable Sir Frank Noyce :** I have explained that this is a matter entirely for the Provincial Governments. I would suggest to my Honourable friend that he might read what the Whitley Commission said on this subject on pages 211—214 of their report which explains the difficulties in the way of action.

**Prof. N. G. Ranga :** At the same time, is it not a fact that labour is the responsibility, not only of the Provincial Governments, but also of the Central Government, and, therefore, whenever the Provincial Governments fail to discharge their duty towards labour, the Central Government is at liberty and is bound to interfere in that affair and see that the Provincial Governments discharge their duties ?

**The Honourable Sir Frank Noyce :** The Central Government does not recognise in this instance that there is any duty on the part of the Local Governments to establish wage fixing machinery. The Central Government realises much more fully than my Honourable friend appears to do the difficulties in the way of taking action.

#### STEPS TAKEN TO REDUCE THE CONSUMPTION OF OPIUM IN INDIA.

74. **\*Mr. M. Ananthasayanam Ayyangar :** (a) Are Government taking any steps to prevent opium eating and opium smoking in the province of Assam and the western districts of the Madras Presidency and, if so, what are they and, if not, why not ?

(b) What is the policy of Government regarding opium production and its sales within British India ?

(c) Are any steps being taken to reduce the consumption of opium in India on a progressive scale ?

**Mr. A. H. Lloyd :** (a) and (c). I would refer the Honourable Member to the annual Memoranda on Excise (Opium) Administration in

India and the Report by the Government of India for the calendar year 1934 on the Traffic in Opium and other Dangerous Drugs, copies of which are available in the Library. The Government of India have no information beyond what is contained in these publications as the control of opium consumption is part of the provincial transferred subject of 'Excise'.

(b) The cultivation of the poppy in British India is permitted under licence and is confined to a limited area in the United Provinces that supplies the Government Opium Factory at Ghazipur. Sale of opium within British India is the concern of Local Governments.

**Mr. M. Ananthasayanam Ayyangar** : Is it not a fact that, on account of the Resolution passed in the League of Nations, the sale of opium to China is prohibited and has been absolutely stopped ?

**Mr. A. H. Lloyd** : The export of opium to China from India was stopped six years before the League of Nations came into existence.

**Mr. M. Ananthasayanam Ayyangar** : If so, what progressive steps are being taken to abolish the consumption of opium in India ?

**Mr. A. H. Lloyd** : I have already pointed out to the Honourable Member that the control of the consumption of opium in India is a matter for the Local Governments.

**Pandit Lakshmi Kanta Maitra** : Has not the Central Government got any policy with regard to opium consumption in India, to restrict the use of opium exclusively for medical purposes ?

**Mr. A. H. Lloyd** : The Central Government have not adopted any such policy in advance of the decisions of the Local Governments.

**Dr. N. B. Khare** : Have Government more regard for the people of China than for the people of India ?

**Mr. A. H. Lloyd** : That, Sir, seems to be asking for an expression of opinion.

**Mr. M. Ananthasayanam Ayyangar** : On what grounds was the export of opium to China given up ?

**Mr. A. H. Lloyd** : I am afraid I cannot quote the reference but I will supply the Honourable Member with reference to the announcement made by His Excellency the then Viceroy, Lord Reading, on this subject, and to the debates in the Assembly and in the Council of State in which the decision of the Government of India in this matter was approved by Resolutions of those two Houses. I will give the Honourable Member those references.

**Mr. M. Ananthasayanam Ayyangar** : Is it not because it is an immoral traffic ? If so, why is it pursued here in India ?

**Mr. A. H. Lloyd** : The answer to the first part of my Honourable friend's question is in the negative. The answer to the second part, it seems to me, is that it does not arise.

**Sir Abdul Halim Ghuznavi** : Sir, I am not asking this question.

**Mr. S. Satyamurti** : May I ask that question, Sir, because we are discussing the Railway Ticketless Travellers Bill, and I think the information with regard to this question would be very important ?

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

**Mr. S. Satyamurti** : I put question No. 75.

ALLEGATIONS AGAINST THE STAFF AT THE KAMALASAGAR STATION ON THE  
EASTERN BENGAL RAILWAY.

75. \***Mr. S. Satyamurti** : (a) Has the attention of Government been drawn to the report published in the *Star of India*, an English daily of Calcutta, in its issue of Monday the 18th May, 1936, to the effect that a passenger by name Abdul Ghani, holding third class ticket No. 7718, and travelling from Kulaura to Hajiganj on the Assam Bengal Railway, was roughly handled and forcibly detained by the station authorities at Kamalasagar for using the latrine on the platform and was also forced to clean it ?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to state what action has been taken against the Railway staff concerned for the forcible detention and for compelling the passenger to clean the latrine ?

(c) If the reply to part (a) be in the negative, do Government propose to make an enquiry and inform this House of the result of the enquiry ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a) The attention of Government was drawn to a report to this effect published in *The Sunrise* of the 23rd May, 1936.

(b) A criminal case was filed by the complainant against the Station Master, but was withdrawn.

(c) The Agent, Assam Bengal Railway, states that he is satisfied from the enquiries made that the complaint has no foundation in fact.

**Mr. S. Satyamurti** : Have Government made any inquiries since the receipt of this question, and are they satisfied that the facts alleged in clause (a) of this question are all untrue ?

**The Honourable Sir Muhammad Zafrullah Khan** : Government made an inquiry from the Agent of the Assam Bengal Railway, and the information that Government received from the Agent has been placed before the House in reply to the question.

**Mr. S. Satyamurti** : Have Government satisfied themselves that the Agent made any inquiry at all.

**The Honourable Sir Muhammad Zafrullah Khan** : Government have no reason to imagine that, when the Agent says he made inquiries, he has not made any inquiry at all.

**Mr. S. Satyamurti** : Have Government taken any action to prosecute this man for filing a malicious and false complaint, against a railway servant on facts which they now find are false ?

**The Honourable Sir Muhammad Zafrullah Khan** : Government are not concerned with the matter. It is a Company-managed Railway, as presumably the Honourable Member knows, and, therefore, the matter lies in the hands of the Station Master or the Agent.

**Mr. V. V. Giri :** Will Government advise the Agent to do so ?

**The Honourable Sir Muhammad Zafrullah Khan :** Certainly not.

**Pandit Lakshmi Kanta Maitra :** In view of the fact that a grave allegation is made against the railway, does the Honourable Member think, in the interests of purity of administration, that some action should be taken against the persons who brought forward these complaints against the railway ?

**The Honourable Sir Muhammad Zafrullah Khan :** I am afraid if, in every case, where a complaint is withdrawn, because it has no foundation, a prosecution were to be launched, there would be no end to these matters.

**Mr. Lalchand Navabhai :** May I know if the inquiry showed that every allegation that was made was false—even with regard to the cleaning of the latrines ?

**The Honourable Sir Muhammad Zafrullah Khan :** I understand that was the gravamen of the complaint.

**Dr. Ziauddin Ahmad :** On a point of order, Sir, when a question has not been asked by a Member, can supplementary questions be put on that question ?

**Mr. President (The Honourable Sir Abdur Rahim) :** The original question has been asked and certainly supplementary questions can be put.

**Mr. Mohan Lal Saksena :** Did the newspaper concerned express any regret for having published these allegations ?

**The Honourable Sir Muhammad Zafrullah Khan :** I am afraid I have no information.

**Pandit Lakshmi Kanta Maitra :** Did Government inquire whether they were *bonâ fide* about the publishing of these false news about a railway company ?

**The Honourable Sir Muhammad Zafrullah Khan :** No.

PROPOSALS FOR EDUCATIONAL REFORMS AND MEASURES TO FIGHT AGAINST UNEMPLOYMENT.

76. \***Mr. M. Ananthasayanam Ayyangar :** (a) Have Government received any proposals for educational reform, and measures to fight against unemployment from the various Provincial Governments ?

(b) If so, what are they and have Government formulated any general scheme for the whole of India ?

(c) Are Government considering the reform of female education with a view to prevent addition to unemployment among the educated ?

**Sir Girja Shankar Bajpai :** (a) and (b) : The question of educational reform in relation to unemployment is under the consideration of the Government of India in consultation with Provincial Governments, and necessary steps are being taken in accordance with the resolution of the Central Advisory Board of Education, passed at its first meeting held in December, 1935.



(c) The steps contemplated to deal with the problem of educational reform which is referred to in part (a) of the question are not limited to the education of boys.

**Mr. M. Ananthasayanam Ayyangar :** May I know, with respect to female education in particular, what steps are being taken so as not to drive females also to run a race with men in pursuit of employment ?

**Sir Girja Shankar Bajpai :** I am not aware that females in this country are anxious to run a race with men for the goal of unemployment. But, in so far as primary and secondary education of girls is concerned, that will come under review to exactly the same extent and in exactly the same way as the secondary and primary education of boys.

**Mr. M. Ananthasayanam Ayyangar :** As regards part (b), have any Local Governments formulated a scheme ?

**Sir Girja Shankar Bajpai :** Local Governments are considering the scheme which was formulated by the Central Advisory Board of Education.

#### DENIAL OF FACILITIES TO INDIANS IN ADDIS ABABA.

77. **\*Mr. M. Ananthasayanam Ayyangar :** (a) Has the attention of Government been drawn to an article headed "Facilities denied to Indians in Addis Ababa" in the *Indian Express* of the 13th May, 1936 ?

(b) Was any help rendered by the British Legation to afford protection to Indians against air raids and gas bombs from Italian air bombers, either by way of shelter within the Legation compound or by providing them with gas masks ?

(c) Did any Indians take shelter in the Legation compound and, if so, how many ?

(d) Were any Indians given financial assistance to repatriate their wives and children to India, and, if so, how many, and by what sum on the aggregate ?

(e) Is it a fact that a cable was sent by the Association of Indians in Addis Ababa to Srijiut Babu Rajendra Prasad, and that the same was suppressed and was not delivered to him ?

(f) Have Government made any independent enquiries regarding the truth of the allegations contained in that article ?

**Sir Aubrey Metcalfe :** (a) Yes.

(b) and (c). The attention of the Honourable Member is invited to the statement which I made to the House yesterday in reply to question No. 45 by Mr. T. S. Avinashilingam Chettiar.

(d) No request had been received by the British Minister in Abyssinia for financial assistance. On the other hand, the British Consul on the 7th April reminded representatives of the local Indian community of the existence of normal facilities for repatriation of distressed British subjects. The representatives of the Indian community replied that they were aware of the existing facilities, but did not choose to avail themselves of them.

(e) Enquiries which have been made show that there is no trace of any such message having been withheld in India.

(f) No, as the allegation that the British Legation refused to afford protection to Indians is contrary to all the information in the hands of the Government of India.

**Mr. M. Anantasayanam Ayyangar :** Was any such cable received ?

**Sir Aubrey Metcalfe :** I have said that enquiries which have been made show that there is no trace of any such message having been withheld in India. I cannot say whether it was received or not.

APPOINTMENT OF INDIAN CONSULS AND TRADE COMMISSIONERS IN FOREIGN COUNTRIES.

78. \***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government prepared to consider the desirability of appointing Indian Consuls in countries where there are a large number of Indians with vested interests ?

(b) Are Government prepared to consider the desirability of making the Indian Trade Commissioners in the countries where they are, also Indian Consuls in such foreign countries ?

(c) Are Government considering the question of appointing any more Trade Commissioners in foreign countries during the coming year ? If so, in what countries ?

**Sir Aubrey Metcalfe :** (a) The Government of India are not prepared to consider the desirability of appointing Indian Consuls in foreign countries, since in present constitutional circumstances the appointment of Consuls in foreign countries is a function which vests in His Majesty's Government and not in the Government of India.

(b) No. Since the functions of Consular Officers are entirely different from those of Trade Commissioners, the latter would be hampered in the discharge of their legitimate functions if they were expected to undertake Consular duties in addition.

(c) Yes ; in East Africa and Japan.

**Pandit Lakshmi Kanta Maitra :** Do Government propose to make recommendations to His Majesty's Government for appointing these Consuls since the matter is not in the hands of the Government of India ?

**Sir Aubrey Metcalfe :** The constitutional position at the present moment does not permit of the Government of India appointing Consuls. There is no point, therefore, in making a recommendation for a thing which is constitutionally impossible.

**Pandit Lakshmi Kanta Maitra :** I am asking whether the Government of India is going to request His Majesty's Government to do this on behalf of the Government of India.

**Sir Aubrey Metcalfe :** Certainly not.

**Pandit Lakshmi Kanta Maitra :** Why not ?

**Sir Aubrey Metcalfe :** Because it would be unconstitutional, and is, therefore, impossible.

**Mr. S. Satyamurti** : With reference to the answer to clause (c), may I know if Government will consider the claims of competent Indians to be appointed as Trade Commissioners and appoint them ?

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

PUBLICATION OF THE REPORT OF SIR OTTO NEIMEYER.

79. **\*Mr. M. Ananthasayanam Ayyangar** : (a) Is it not a fact that Sir Otto Neimeyer's report was printed in India on the 23rd of April, just the day on which the Assembly Session was closed ?

(b) Why was not the report published at least a few days earlier, or the Assembly Session continued for a few more days so as to give an opportunity to the Assembly to express its opinion on the report ?

(c) Are Government aware that almost all provinces are dissatisfied with the report ?

(d) Is it not a fact that Government in answer to a question of Mr. Satyamurti, replied that they did not know when the report would be ready for publication ?

**The Honourable Sir James Grigg** : (a) and (d). Yes.

(b) Because the date of publication in India was dependent on the date on which His Majesty's Government decided to publish the Report in the United Kingdom.

(c) I would refer the Honourable Member to the White Paper containing the views of Provincial Governments, the Government of India and the Secretary of State.

**Mr. S. Satyamurti** : Are any Government satisfied with the report ?

**The Honourable Sir James Grigg** : I am unable to discriminate between their expressions and their real feelings. In some cases I have reason to believe that the expression of views was a little beyond their feelings.

WORK DONE BY THE CENTRAL MARKETING BOARD.

80. **\*Mr. M. Ananthasayanam Ayyangar** : (a) What is the work that the Central Marketing Board has done during the year ?

(b) Has any report been published, and, if so, will Government be pleased to lay the same on the table of this House ?

(c) Were any facilities afforded during the year for marketing agricultural produce ? If so, what is the volume of additional trade that has flowed from them ? If not, why were no such facilities afforded ?

**Sir Girja Shankar Bajpai** : (a) and (b). The work of the Central Marketing Board is described in the Annual Report of the Agricultural Marketing Adviser for 1935. Besides the Annual Report certain other publications have also been issued by the Agricultural Marketing Adviser and copies of all of these publications are available in the Library of the House.

(c) The Central Marketing Office is still collecting data ; the development of marketing can only be attempted after its investigations are complete.

**Prof. N. G. Ranga :** Have they finished their survey of marketing facilities prevailing in the country for any of the crops grown ?

**Sir Girja Shankar Bajpai :** My information is that investigations in regard to wheat, linseed, tobacco, eggs, milk and cattle have been completed and that the reports ought to be published about October.

**Mr. M. Ananthasayanam Ayyangar :** How long have they been sitting at this ?

**Sir Girja Shankar Bajpai :** So far as I know, they have been most active.

**Mr. M. Ananthasayanam Ayyangar :** When do Government expect to have their full Report ?

**Sir Girja Shankar Bajpai :** You will have their Report in regard to individual commodities.

**Prof. N. G. Ranga :** Are they conducting any inquiries into the marketing facilities of either paddy or wheat ?

**Sir Girja Shankar Bajpai :** I have already informed my friend that investigation in regard to wheat is complete, and, speaking from memory, investigations in regard to paddy are also in progress.

**Prof. N. G. Ranga :** Do Government consider the advisability of taking up the necessary legislation for the organization of local markets all over India ?

**Sir Girja Shankar Bajpai :** I cannot anticipate the decisions of Government on consideration of Reports which have not yet reached them.

**Prof. N. G. Ranga :** Are they aware of the fact that the Indian Cotton Committee which was appointed somewhere about 1916 or 1918 had recommended the organization and development of open markets all over India, but up till now no action has been taken on their recommendation ?

**Sir Girja Shankar Bajpai :** My friend is referring to the activities of the Indian Central Cotton Committee which are in no way connected with the activities of Marketing Advisers.

**Prof. N. G. Ranga :** In view of the fact that the Committee was appointed, first of all, by the Government of India and the Indian Central Cotton Committee has come into existence as a result of their recommendations, will the Government of India be pleased to say why they have so far failed to take any action on the recommendation made so long ago, not by the Indian Central Cotton Committee, but by the Indian Cotton Committee—it was a Committee appointed long before my Honourable friend came to this Assembly ?

**Sir Girja Shankar Bajpai :** It is quite possible that my friend's researches into antiquity have gone further than mine, but the point is that I am answering questions regarding the Agricultural Marketing Adviser who was appointed by the Government of India only three years ago. If my friend wants information about the Indian Cotton Committee and is good enough to put down a question, I shall certainly undertake to answer it.

## STATE CONTROL OF THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

81. \***Mr. M. Ananthasayanam Ayyangar** : (a) Have Government decided upon taking over to State management, the Madras and Southern Mahratta Railway, in accordance with the Resolution of the Assembly ?

(b) If so, when do they propose to give notice to the company ? If not, why not ?

(c) What is the attitude or desire of the company in the matter ?

(d) Is the Honourable the Commerce Member aware with regard to his apprehensions regarding the availability of cheap credit to pay off the company, that the Post Office Savings Bank rate has been reduced from 2½ to 2 per cent. ?

**The Honourable Sir Muhammad Zafrullah Khan** : (a) No decision has yet been reached.

(b) Does not arise.

(c) Government have no information ; but it is immaterial.

(d) I am afraid, the Post Office Savings Bank rate is not much use as a guide in estimating the rate which Government will have to pay for long term loans of any magnitude. The total sum required for the purchase of the three railways whose contracts fall due for termination in 1937, is nearly £17 million sterling or 23 crores of rupees.

**Prof. N. G. Ranga** : Is it not possible for the Government of India to float a Rupee Loan in India itself and raise the necessary money ?

**The Honourable Sir James Grigg** : It is no good raising rupees in India unless you can translate them into sterling.

**Mr. M. Ananthasayanam Ayyangar** : Has any difficulty been felt in raising a sterling loan in England ?

**The Honourable Sir James Grigg** : No difficulty has been felt in providing our present commitments.

**Mr. S. Satyamurti** : Does the Honourable the Finance Member anticipate, as a result of his operations so far in the loan market in London, any future difficulties ?

**The Honourable Sir James Grigg** : It depends entirely on the character and magnitude of the commitments.

**Mr. S. Satyamurti** : About buying up this Railway ?

**The Honourable Sir James Grigg** : I cannot anticipate events of the next twelve months ; even in the next 12 months there may be a change in the money markets of the world.

**Prof. N. G. Ranga** : Is it not a fact, Sir, that in view of the continued export of gold, it is still possible for the Government of India to raise a Rupee loan in India and convert those rupees into gold and send it over as sterling to pay this Railway company and take over its management ?

**The Honourable Sir James Grigg** : As I said, it depends on the magnitude and the time of the operation. This operation does not fall due for another 12 months. In any case another consideration which

has not been taken into account by my friend is that even when you raise the money, it will not remunerate you for the interest paid on it.

**Mr. M. Ananthasayanam Ayyangar :** Is the Honourable Member aware that the Reserve Bank of India has advertised that it will purchase large amount of sterling in India ?

**The Honourable Sir James Grigg :** Of course I am aware of it.

**Mr. M. Ananthasayanam Ayyangar :** Then does not the Honourable Member find it easy enough to raise money locally ?

**The Honourable Sir James Grigg :** It is no good talking about conditions over a year hence and arguing from what the conditions are now.

**Mr. M. Ananthasayanam Ayyangar :** What is the consideration that is weighing with the Government,—is it the consideration of raising money to be paid 12 months hence ?

**The Honourable Sir James Grigg :** All relevant considerations including the character of the investment.

**Mr. M. Ananthasayanam Ayyangar :** If it makes up its mind to purchase now then when has the loan to be raised—certainly a year in advance ?

**The Honourable Sir James Grigg :** Certainly not.

**Mr. M. Ananthasayanam Ayyangar :** I would like to know, Sir, what the considerations are which weigh with the Government which prevents them from taking up the management of this Railway ?

**The Honourable Sir James Grigg :** I have answered that one of the main considerations is the remunerative character of the investment which the Honourable Member is entitled to leave out of account, but the Government of India is not.

**Mr. M. Ananthasayanam Ayyangar :** How then is the company working at a loss ?

**Mr. President (The Honourable Sir Abdur Rahim) :** You cannot have a debate now.

AMALGAMATION OF THE MADRAS AND SOUTHERN MAHRATTA AND THE SOUTH INDIAN RAILWAY COMPANIES.

82. **\*Mr. M. Ananthasayanam Ayyangar :** (a) Were any negotiations started regarding the amalgamation of the Madras and Southern Mahratta and the South Indian Railway Companies, and if so, at what stage are the negotiations ?

(b) What is the extent of saving expected by such an amalgamation ?

(c) Are the companies themselves moving in the matter, or does the suggestion entirely proceed from Government ?

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

(b) No detailed estimates have been made.

(c) I am not aware of any proposals for amalgamation by the companies themselves.

**Mr. M. Ananthasayanam Ayyangar :** Was it not suggested by the Honourable the Railway Member in his Railway Budget speech that there is an alternative which the Government would consider ?

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

**Mr. M. Ananthasayanam Ayyangar :** Since then have no negotiations been going on ?

**The Honourable Sir Muhammad Zafrullah Khan :** No negotiations can be undertaken till some decision has been arrived at with regard to the acquisition of the Railways.

**Mr. M. Ananthasayanam Ayyangar :** I want to know whether any negotiations have been going on and whether any conclusions have been reached ?

**The Honourable Sir Muhammad Zafrullah Khan :** I said " No ".

**Mr. M. Ananthasayanam Ayyangar :** Why have not even negotiations been started ?

**The Honourable Sir Muhammad Zafrullah Khan :** Because it is not possible to start them till certain decisions have been arrived at.

#### IMPROVEMENT OF FINANCES AND REDUCTION IN THE DEFICIT IN THE RAILWAY FINANCE.

83. **\*Mr. M. Ananthasayanam Ayyangar :** (a) Have any, and if so, what steps been taken so far and are being taken to improve the finances and to reduce the deficit in the railway finance ?

(b) Have Government considered the possibility of further economy by (i) abolition or amalgamation of departments, (ii) abolition or reduction of offices and officers, (iii) reduction of salaries, (iv) economy in working expenses, and (v) economy in stores purchase, since the beginning of this year and if so, with what result and if not, why not ?

(c) What, if any, are the recommendations of the Sub-Committee on Railways of the main committee of the Assembly, for retrenchment and economy given effect to or adopted during the course of the year ?

**The Honourable Sir Muhammad Zafrullah Khan :** (a) The Honourable Member is referred to the reply given to Mr. S. Satyamurti's question No. 37 on the 1st September, 1936.

(b) All the possibilities mentioned by the Honourable Member have been given due consideration, and the result is the reduction that has been effected in the working expenses since 1931-32, as will be evident from a perusal of the Administration Reports on Indian Railways.

(c) I would refer the Honourable Member to the reply I gave to Mr. S. Satyamurti's question No. 56 on the 5th February, 1936.

**Mr. M. Ananthasayanam Ayyangar :** With regard to the answer to clause (b) of this question, may I know whether, in any of those directions, namely, abolition or amalgamation of departments, abolition or reduction of officers or offices, reduction of salaries, economy in working expenses or economy in stores purchase, any steps have been taken at all ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have replied to that. I have said that information will be found in the Volume to which I have referred in the reply.

**Mr. M. Ananthasayanam Ayyangar :** May I know if the Honourable Member has considered the question of the abolition of the Railway Clearing House which was recommended by the Railway Retrenchment Sub-Committee ?

**The Honourable Sir Muhammad Zafrullah Khan :** The matter is under the consideration of Government.

**Mr. M. Ananthasayanam Ayyangar :** How long has it been under their consideration ?

**The Honourable Sir Muhammad Zafrullah Khan :** I could not say that exactly without notice.

**Mr. M. Ananthasayanam Ayyangar :** Is the Honourable Member aware that the Committee reported so early as 1931 ?

**The Honourable Sir Muhammad Zafrullah Khan :** I am willing to take it from the Honourable Member.

**Mr. M. Ananthasayanam Ayyangar :** If so, has it taken five years for the Government of India to consider the matter ?

**The Honourable Sir Muhammad Zafrullah Khan :** It is a question of simple arithmetic.

**Mr. M. Ananthasayanam Ayyangar :** Is the Honourable Member aware that in the Railway Clearing Accounts Office a number of typewriters have been bought on hire purchase system which has cost nearly 50,000 or 60,000 rupees, and they have to pay up all that money, though all the work could have been done by a number of clerks ?

**The Honourable Sir Muhammad Zafrullah Khan :** How does that arise out of the question which the Honourable Member has put down ?

**Mr. M. Ananthasayanam Ayyangar :** Yes, Sir, in this way, it is one of the modes of reducing working expenses.

Then with respect to clause (c), what are the recommendations of the Railway Retrenchment Sub-Committee which the Honourable Member proposes to give effect to during the current year ?

**The Honourable Sir Muhammad Zafrullah Khan :** I have drawn the Honourable Member's attention already to a reply given by me in the last Session of the Assembly.

APPOINTMENT OF AN EXPERT FROM ENGLAND TO CONSIDER THE QUESTION OF IMPROVING THE RAILWAY FINANCES.

84. **\*Mr. M. Ananthasayanam Ayyangar :** (a) Is there any proposal to appoint an expert from England to consider the question of improving railway finances ?

(b) Has the person been decided upon ? If so, what are his qualifications for the task and what are the conditions of his service regarding his remuneration and how long is he expected to work ?

(c) Are there no persons in service competent to undertake such a task ?



(d) What are the subjects that are to be referred to the expert ?

(e) Are Government aware that the railway administration and railway problems in America are similar to a large extent to those in India, and have Government considered the desirability of getting an expert from America ?

(f) Have Government considered the desirability of sending Indian members in Railway service in India to foreign countries for studying their administration ? If not, why not ?

**The Honourable Sir Muhammad Zafrullah Khan :** The question of instituting an expert enquiry into railway finances as suggested by Sir Otto Neimeyer is under the consideration of Government.

#### INTRODUCTION OF COMPULSORY MILITARY TRAINING IN INDIA.

85. \***Mr. M. Ananthasayanam Ayyangar :** (a) Are Government aware that as preparation for defence in any war the Australian Government is considering the adoption of measures to give compulsory military training to all the able bodied citizens ?

(b) Are Government considering any such proposal to introduce similar measures in India ? If so, when, and, if not, why not ?

**Mr. G. B. F. Tottenham :** (a) No.

(b) No, because they do not think it necessary or desirable or financially feasible.

#### MOTION FOR ADJOURNMENT.

#### REDUCTION OF THE DUTY ON BRITISH TEXTILES WITHOUT CONSULTING THE LEGISLATIVE ASSEMBLY.

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

12 Noon. I have received notice of a motion for the adjournment of the business of the Assembly to discuss a definite matter of urgent public importance, namely, the reduction of the duty on British textiles without previously consulting the Assembly. Does the Honourable Member wish to ask for leave to move that motion ?

**Mr. T. S. Avinashilingam Chettiar** (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : Yes, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim) : Is there any objection ?

(No objection being raised.)

The motion will be taken at 4 o'clock.

#### THE INDIAN RAILWAYS (AMENDMENT) BILL.

**Mr. President** (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill further to amend the Indian Railways Act, 1890, for certain purposes.

**Qazi Muhammad Ahmad Kasmi** (Meerut Division; Muhammedan Rural) : Sir, yesterday, while I was discussing this motion, I submitted that the defence of the Honourable the Law Member that this Bill makes no encroachment on the principles of criminal jurisprudence could not hold good. I then said that when a person boards a train he boards it with the intention of travelling and not with the intention of defrauding. It is only the act of boarding the train with the intention to defraud that can make him criminally liable, and we have to take the whole of the act as one and we cannot split it into two. So, according to the current conceptions of criminal jurisprudence, if the man goes before the magistrate, it will be presumed that the man boarded the train with the intention of travelling and paying the money afterwards, and it will be for the prosecution to prove that the action was a fraudulent one. I find that the very definition of the word "fraud", as contained in the Indian Penal Code, is :

"A person is said to do anything fraudulently if he does that thing with the intention to defraud, but not otherwise."

My submission is that the chief ingredient in making the act criminal or penal is that the intention must be proved, and by the present Bill criminal intention is presumed and so it is an encroachment on the principles of criminal jurisprudence. The other thing that I submitted yesterday was that travelling in a railway compartment gives rise only to a civil liability and a civil liability cannot be made a criminal one except for very good reasons.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member need not repeat what he has already said.

**Qazi Muhammad Ahmad Kasmi** : I am only summarising, Sir ; I am finishing. These are the two main grounds on which we are opposing this Bill so far as jurisprudence is concerned.

Now, I shall take up the case as to how far the present Bill, if enacted into law, can be helpful to the railway itself. My point is that it will not at all help the railways in getting greater revenue or in stopping ticketless travelling. For this purpose, let us see how this Act will actually work when it is put on the Statute-book. I will take the example of a third class passenger who boards a train without informing the guard and he is caught by a member of the railway staff. As soon as the passenger is caught by the railway servant, the latter has got the option of proceeding against the man under section 113 and demanding the amount of the fare for the distance he had travelled *plus* a penalty of one rupee. My Honourable friend, Mr. Mudie, says that this is not so. If we read section 113 as it stands—there is only an addition to it— it says :

"If a passenger travels in a train without having a proper pass or a proper ticket with him, or, being in or having alighted from a train . . . , etc., he shall be liable to pay, on the demand of any railway servant appointed by the railway administration on this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled . . . . ."

This is a clear provision. It has not been amended. The railway servant has got the authority to go to the passenger and ask him to pay the fare *plus* the penalty, that is, one rupee, and he will be allowed to go

[Qazi Muhammad Ahmad Kazmi.]

in the train. Supposing the traveller refuses to pay, then, under sub-section (4) of the same section, he can make a complaint about that passenger and hand him over to the police, produce him before a magistrate and ask the magistrate to realise this fare *plus* the penalty as a fine. This is at the option of the railway servant as the Act stands today and as the Act will stand even after this Bill has been enacted into law. There is another alternative for the railway servant provided by the amendment. Instead of proceeding under section 113 of the Railways Act, he can directly invoke the aid of section 131. Under that section he is entitled to get the man arrested even though the person is prepared to pay the fare and the penalty and is also prepared to give his correct address, and even though the railway authorities are convinced of the accuracy and respectability of the person. After the amendment of the Act by this Bill, they will be entitled to arrest the man at the option of the railway servant, and this result is secured by the provision of the Bill that "in sub-section (1), after the figures '101' the figures '112' shall be inserted". If we insert 112 after 101, section 131 will read as follows :

"If a person commits any offence mentioned in sections 100, 101, 112, etc., he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid."

The thing is very clear. After this Bill becomes law, it will be at the option of the railway servant either to arrest him in spite of the fact that he is prepared to pay, in spite of the fact that he is prepared to give his address and in spite of the fact that he is a respectable person, or if the railway servant wants, he can proceed under section 113 and take only the amount of fare and the penalty. What does this mean? It means that the railway official will exercise his discretion in favour of those persons from whom he can get money. He can very well threaten the man, "I shall take proceedings against you under section 112. Pay me some money". If the man is not prepared to pay and the man has really nothing from which to pay, he makes himself liable to criminal prosecution and for that kind of passengers you may proceed either under section 113 or section 131. What will be the result? The criminal prosecution shall be launched only against those persons who have not got enough money and they shall be sent to jail. Let us see what justification has the present Mover of this motion got for sending up to jail persons found travelling without a ticket.

This is what is said in the Statement of Objects and Reasons :

"In many cases such passengers are found to have no assets and are discharged. Where a distress warrant is issued against any person, the results are usually quite incommensurate with the time, trouble and expense involved in court proceedings, etc., as the amount payable is frequently not realised."

They are imposing this penalty only because they want to get money out of them and they themselves admit that distress warrants and proceedings against persons who cannot pay the money are absolute waste of money and it is no use sending them to jail. If they send them to jail, the only difference would be that the Railway company will not be able to realise the money and the taxpayer will have to pay for a period of two months for the maintenance of these persons. In my opinion so far as this provision is concerned, it cannot be justified on the basis of the

fact that the railway will get any further revenue on account of this enactment. So, I submit that on this ground also we are not in a position to support this Bill. If the Government had brought forward an amendment of the present Act and suggested that a period of imprisonment may be prescribed for the person who is fined under section 112 and makes a default in paying the amount, it would have been a much easier process for arriving at the result which this Bill aims at.

Now, having said that and being of opinion that this Bill is a useless waste, I have some suggestions to make as to how we can increase the revenue of the railways.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair cannot allow a general discussion as to how the revenue of the railways can be improved.

**Qazi Muhammad Ahmad Kazmi** : There have been suggestions and counter-suggestions. Some suggestions have been made by the other side that this measure is intended to increase the revenue of the railways and that is my justification for making these suggestions. I maintain that the revenue is low on account of the slackness of control by the Railway Department.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair cannot allow that. It is not relevant.

**Qazi Muhammad Ahmad Kazmi** : Then I submit that the very proposition which has been made the basis of this Bill, namely, that the railways will get further revenue on account of this Bill is without foundation, and, under the circumstances, we cannot but oppose the Bill.

**Mr. Akhil Chandra Datta** (Chittagong and Rajshahi Divisions : Non-Muhammadan Rural) : I had no idea of taking part in this discussion, but my inclination to speak is due to the great provocation given to us by the speech of the Law Member yesterday on the legal aspects of the question. I shall examine the position taken up by the Honourable the Law Member in regard to the legal aspects. His case is that even under the proposed amended section 112, the onus will be on the railway and when we told him that the question here was about the initial onus, Sir Nripendra Sircar told us that even the initial onus was on the railway. My submission is that that is a position which is absolutely untenable.

As I read section 112 of the existing Act, there are two ingredients which the prosecution must prove, one ingredient being entering the carriage in contravention of section 68, that is entering into a carriage without permission or a pass or a ticket. That is one ingredient and the other ingredient under the existing section is the intention to defraud the railway administration. These are the two facts which the prosecution has to prove and the onus is on the prosecution. Now, the Honourable the Law Member says that even under the proposed section it will be for the railway to prove the entry into the carriage without a pass or ticket or permission. There are two essential elements to the offence. One is entry without ticket and the other is the intent to defraud. In other words, the fraudulent intention is the gist of the offence, and, therefore, it is for the railway to prove, not merely the entry without ticket, but also the intention to defraud. Under the amended section, there is only one ingredient which the prosecution

[Mr. Akhil Chandra Datta.]

will have to prove. As regards the second ingredient, *viz.*, the intention, on that point the onus is shifted to the accused. It will be for him to prove his innocent intention: and therefore, in laying down his proposition, the Honourable the Law Member overlooks the fact that under the existing section, the initial onus cast on the Railway is two-fold, *viz.*, to prove the two ingredients—the intention and the wrongful entry; whereas under the amended section they will have to prove only one ingredient, *viz.*, entry without ticket. Then, Sir, the learned Law Member invoked the aid of the principle contained in section 106 of the Evidence Act and contended that, as regards the circumstances in which the accused happened to enter the carriage without a ticket, that is a matter within his own especial knowledge and therefore he has got to prove it; the onus is on him under section 106. Now, there again, Sir, that is a most fallacious argument. If really the onus is upon the accused under section 106 on this particular question, *viz.*, the question of intention, then the difficult question arises—why do you change the law? You can leave it as it is and, on the question of onus, rely on section 106.

Then, Sir, in support of his contention he cited *Illustration (b)* of section 106, but what is that illustration? That illustration only says this that if the accused denies the charge that he had no ticket, if his defence is that, "no, I had a ticket"—if that is the defence taken up by the accused, in that case section 106 comes in and lays down that the onus of proving that he had a ticket is on him. Now, I submit, Sir, that that is altogether irrelevant on the question of intention. There, the question is, had he or had he not a ticket?—and *Illustration (b)* of section 106 places the onus on the accused to prove that he had a ticket. *Illustration (b)* has absolutely nothing to do with the question of intention. So, Sir, as the main section 106 is irrelevant, so the *Illustration (b)* is equally irrelevant on the question of onus as to intention. But, Sir, I need not labour this point because later on the Honourable the Law Member said that section 106 of the Evidence Act is not sufficient for their purpose and that they were really going to change the law as regards the question of onus. So in that view of the matter, it is difficult to understand as to why the Honourable the Law Member was discussing this question of onus either under section 106 or under *Illustration (b)* to that section. On the contrary, I am prepared to concede that if the issue is whether the accused had a ticket or not,—on that question the Honourable the Law Member could very well say that the onus is on the defendant to prove that he had a ticket. But, strangely enough, there the Honourable the Law Member places the onus upon the railway. Therefore, my submission is this. He places the onus in either case on the wrong party. Where the onus is not on the railway, I mean on the question as to whether the passenger had a ticket or not, there he wrongly places the onus on the railway. On the other hand, on the question of intention, although, really, the onus is on the prosecution, he shifts it and places it on the accused. Now the Honourable the Law Member is absent and therefore I should not like to use any strong language. Had he been present, I was going to say that although he is a very great lawyer and I have got the highest respect for his knowledge of law, but I really think there was a lot of loose thinking and confusion of ideas in his mind about the burden of proof of these two ingredients.

Then, he made a very pathetic appeal to my friend who is also absent, addressing Pandit Lakshmi Kanta Maitra, the Honourable the Law Member said, "Supposing you are appointed Crown Prosecutor in a case under section 112 of the Railways Act, I ask you in all seriousness, how would you prove that the accused had any intention to defraud?" In a mood of absolute helplessness, he appealed to him to consider how difficult it is to prove such an intention? My answer is this—and that was the answer given by my friend, Pandit Lakshmi Kanta Maitra—"prove his intention by his conduct, by the conduct of the accused, by his previous conduct, by his subsequent conduct, and prove it by his statements, prove it by all possible collateral facts". That is the answer to this question. Sir, the question of intention is not an isolated question which has arisen only in connection with section 112 of the Railways Act: the question of intention is there in almost every criminal case. There are hundred and one offences in the Indian Penal Code—in which the criminal intention is the gist of the offence—of course in the case of the Criminal Law Amendment Act no question of onus arises. (Laughter.) Now, Sir, so far as the question of intention is concerned, it is a very commonplace question arising in almost every criminal case of any importance.

Now, Sir, with regard to the Indian Penal Code, it would not be an exaggeration to say that from cover to cover the whole Code makes intention an essential element of the offence. The Honourable the Law Member made a most pathetic appeal to my friend, Pandit Lakshmi Kanta Maitra—how to prove a mental condition, a psychological fact, how to prove that the intention of the ticketless traveller was fraudulent or dishonest? Now, Sir, the question of intention and that question as regards the onus of proving intention is a most elementary question in criminal jurisprudence, and the Indian Evidence Act, which was quoted by the Honourable the Law Member, has answered that question in very many sections. Now how do you prove a case under section 302? You are going to hang a man, and you have got to prove the intention; it won't do for you merely to prove the act of killing, you must prove the further fact, *viz.*, intention to cause death. How do you do that? I wonder if the Honourable the Law Member in his career as a lawyer, as an Advocate-General, ever felt handicapped and helpless in proving intention of the offender. I wonder whether he ever felt any difficulty in proving the intention. Of course, there must be difficulty where there is no intention but if there is intention in point of fact there should be no difficulty in proving it in the vast majority of cases. I do not know if it ever occurred before to the Honourable the Law Member that the law of burden of proof of intention is defective and therefore the whole of the Penal Code and Evidence Act ought to be amended. I say, Sir, there is nothing in that argument. Every criminal practitioner knows how to prove intention. Apart from legal technicality take the commonsense view of the matter. Can you say as a matter of commonsense that merely because you prove that a man entered into a railway carriage without a ticket, it follows conclusively that he must have had a wicked intention, a dishonest intention? Sir, the intention is the gist of the offence under section 112 of the Indian Railways Act which was passed in 1890 and which is now about half a century old. Half a century before, the onus was cast on the railway to prove the intention. Now, what has

[Mr. Akhil Chandra Datta.]

happened after this half a century that you are resorting to this retrograde movement of placing the onus on the accused ? The Honourable the Law Member says that it is not a violent departure from the elementary canons of jurisprudence on the question of onus. My submission is that he is absolutely wrong there. The law of burden of proof is this. He who asserts a fact must prove it. That fact may be a physical fact, namely, the entry into a railway carriage without a ticket or that fact may be a psychological fact, namely, the intention to defraud. Now, if the Railway alleges these two facts they must prove them. That is the well settled law of burden of proof. There is no trouble about it.

The Honourable the Law Member said : " Supposing it has been proved that the man was travelling without a ticket and supposing he had no explanation to offer, what would happen ? " Does he mean to suggest seriously that because a man enters a railway carriage, it follows as a matter of course as the night follows the day that he must have entered with a fraudulent intention. If you are of that opinion, then, of course, the fact that he does not give any explanation will be conclusive against him. But a man may travel without a ticket either with a dishonest intention or without a dishonest intention and if no evidence is given by the prosecution as to the intention and no evidence is given by the defence about the intention, what happens ? The law is clear on the subject : it is a most elementary question. There the Magistrate cannot but hold that it is not proved that he had a dishonest intention. There may be a dishonest intention, there may not be a dishonest intention. That being the position, in the absence of any evidence, unless a Magistrate is a puppet in the hands of the Railway or the Government, he cannot but acquit the accused. Sir, there is no substance in the argument of the Honourable the Law Member. He was, in fact, constrained to admit that the Bill seeks to make a material change in the existing law. The question is whether that is a change which can be accepted. What is proposed now is that the mere fact that a man enters into a railway carriage without a ticket is enough to make him liable to a sentence not only of fine but also of imprisonment. Is that a position which is acceptable to any right-minded people ? Sir, I had no mind to speak but it was only this legal jugglery on the part of the Honourable the Law Member which impelled me to offer these observations.

Now, I wish to say a word or two on the merits of the Bill. It is stated in the Statement of Objects and Reasons that the present provisions are not effective and are not deterrent. In all humility and with all respect for the Honourable Member in charge of the Bill, may I ask this question ? If the prospect of a fine of Rs. 100 under the existing Act could not prevent the ticketless travellers from travelling, is it seriously suggested that the mere addition of a sentence of two months will bring about a wholesale change in the character of the dishonest travellers and the moment they hear that the Indian Legislative Assembly has amended the law and that in addition to the fine of Rs. 100 there may be a sentence of imprisonment of two months also, they will never think any more of travelling without a ticket ?

**Captain Rao Bahadur Chaudhri Lal Ghand** (Nominated Non-Official) : Then make it four months.

**Mr. Akhil Chandra Datta :** You may make it one year, but I tell you that will not change the mentality of these people who are really dishonest. A man travels a distance of, say, 100 miles and he has got to pay a fare of, say, Rs. 2. If, in spite of that provision of Rs. 100 fine, he takes the risk, I, for one, cannot believe that the addition of a sentence of two months or, for the matter of that, four months as suggested by my Honourable friend there, will make any difference. If you want to increase the revenue, that is another matter. But to talk seriously of an improvement of the position by this provision of sentence of imprisonment, my submission is that it will not in any way achieve the desired result. I, therefore, support the motion for circulation and oppose the motion for reference to the Select Committee.

**Mr. E. N. Dey (United Provinces : Nominated Official) :** Mr. President, I should first attempt to deal with some of the objections raised against this Bill. The first is a mathematical one which has emanated from the eminent mathematician from my province, the United Provinces. His argument was that only about .5 per cent. travellers of the total number of the travelling public travel without ticket. What would you think of the argument that since criminals form but .05 per cent. of the total Indian population, therefore the jails should be abolished, law courts dismantled and all lawyers interned in the Andaman Islands, which, I believe, is shortly to become vacant ?

**An Honourable Member :** It is paradise now.

**Mr. E. N. Dey :** Supposing the Honourable Member went to a tailor and he was placed against the Christ Church Tower and was informed that his cubic circumference was but .5 per cent. of the background, and, therefore, he was too insignificant to be tailored, what would he consider of the tailor's answer ? We have to look at this question like practical men, that is we have to employ lower mathematics and not higher mathematics. At least to start with we have got to measure the evil in itself before we proceed to percentages. Let us not forget that it is lower mathematics that makes one and one, two, the best form of company that you require for making love. Higher mathematics would reduce that to an infinitesimal fraction of the lunacy that pervades the world at large. Now, Sir, figures and statistics were given by my Honourable friend, Mr. Mudie, and he stated that 17 lakhs 75 thousand persons were detected travelling without tickets. This number excludes beggars. The evil therefore is a very widespread one and I quite agree with the Honourable Member opposite who said that a very large proportion of the ticketless travellers come from the better class, and, therefore, travel in the higher class. Statistics do not always reveal the whole truth. They cannot take the place of administrative or economic realism. These numbers do not include the vast number of people who remain undetected while travelling without ticket. You often come across boasts made by people that they have cheated the railway by travelling without tickets, escaping scot-free. Another aspect is to be borne in mind. Since the evil is a growing one, we cannot wait till the evil has assumed very widespread dimensions. We have got to try and nip it in the bud. Therefore the law must be so framed as to have a deterrent effect before the evil becomes too large to cope with. Why is the evil growing ? Obviously because railway travelling has become more and more necessary, while the social sense has not developed. When you get the perfect social sense, the payment of tax is regarded as the



[Mr. R. N. Dey.]

highest form of charity, but at present we find that the very shopkeepers, who make regular contributions to temples or mutts, have no qualms in cheating the Government in the matter of income-tax. Also we have to take into account that beggars are becoming a source of increasing nuisance. You may have heard of the incident as to how 400 *sadhus* entered a village in the Sitapur district in my Province and burnt a whole village because they did not receive fuel. Another argument raised against the Bill was an ethical one by Mr. Sri Prakasa. I will do him the credit to think that he did not mean it seriously. His idea was that the railway administration, for the good of their soul, should allow ticketless travelling as a matter of charity. This charity will help not the poor but the professional swindlers who form such a large bulk of ticketless travellers. The next argument also raised by the same Honourable Member was the pseudo-commercial one. It was said that the amendment turns a civil liability into a criminal one. It was argued that a grocer does not have the right to get a customer who has not paid his bill arrested. I submit, Sir, that the analogy is a completely muddled one. A ticketless traveller, who without the consent of the railway administration, makes use of the public utility of travel, afforded by the railway, is not to be compared with a *bonâ fide* customer of the grocer, but with a pilferer, who steals the goods of the grocer without his knowledge. Sir, it is surprising that some of the distinguished lawyers on the other side have never thought of the fact that even the grocer has the right to arrest a pilferer then and there and take him to the nearest *thana*.

**Mr. Sri Prakasa** (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : What about the policeman who does not pay his *ekka* hire or the motor bus fare ?

**Mr. B. N. Dey** : The railway administration should have the same right as the grocer, irrespective of what the policeman may do or what right the *ekka* driver may have.

Lastly, there was the sentimental argument raised by my Honourable friend, Mr. Lalchand Navalrai. This was buttressed by a story which was not lacking in a certain amount of pathos in it. The story was that twelve persons, six men and six ladies went for a picnic. Except for this distribution of numbers, the picnic would not have been possible. The young men were so conscious of their better halves or their about-to-be better halves that they became unconscious of the better halves of their tickets and the result was that at the end of the outward journey they returned to the railway the wrong halves, the return halves of the tickets. The wicked railway servant, regardless of the situation of the picnic party, arrested them and took them to the police. Well, Sir, that story is of considerable help to us, because it makes clear that the power of arrest and the possibility of its misuse exist even under the present law. The law as it stands at present is rather unintelligible. Section 132 lays down the condition that there must be a reasonable ground to believe that the name and address are wrong before arrest could be made. It is very difficult for an honest railway official to set out the reasons for believing that the name and address are wrong. Hence the honest railway servant is deterred from making arrests, while the dishonest railway servant certainly disregards this difficulty. The new law makes the power a little wider. I quite sympathise with the desire of Honourable Members opposite that corrup-

tion amongst the railway servants should be put down, though it has to be borne in mind that this corruption exists in other countries also. I can relate my experience in Italy. I never got to know the time of the departure of a train in a railway station unless I tipped the Station Master two liras for his macaroni.

**Prof. N. G. Ranga** (Guntur *cum* Nellore : Non-Muhammadan Rural) : Even under Mussolini.

**Mr. E. N. Dey** : That was before the days of Mussolini. If you desire to stamp out corruption, Honourable Members cannot do that without sympathy for the lot of the poor official. Nor can lack of understanding that it requires two parties to produce corruption do any good. Nor failure to give the devil his due, help. We should not, therefore, be too blatant and self-righteous and sweeping in condemning corruption amongst our officials. When any Indian public man condemns hosts of petty officials, let him not forget that they come from the same stock, that before they became officials they were non-officials. Similarly I would submit that when an Indian officer condemns any Indian public men, let him remember that we are all members of the same nation. The brush that tars one lot, indirectly tars the other also. Honourable Members on the opposite side are regarded as very big men by their constituencies, and quite rightly. They are all potential Ministers of the autonomous provinces. Their attitude now is being watched.

Now, Sir, an injustice has been done to the petty railway servants. I will show this by figures. Mr. Mudie gave the figure that thirty thousand passengers gave false names and addresses. Now these were persons who were not arrested by the railway servants, though they had the power to do so, because they had given false names and addresses. Therefore, it would be most unjust to say that the whole lot of the railway servants is corrupt and should be treated as an absolutely rotten lot. Sir, the *bona fide* traveller is protected even under the law as proposed to be amended. If he pays the excess on demand he cannot be arrested. Now the excess in the case of third class passengers is only two annas and in the case of higher class passengers it works out to an average of one rupee per head. Sir, I am authorised to state that it never is the intention of Government that those persons who pay the excess should be arrested.

One word about the onus of proof before I finish. Actually, under the present law, all that the prosecution has to prove,—I say actually,—is that the man has been found travelling without a ticket in view of section 106 of the Evidence Act, which was dealt with at length by the Honourable the Law Member. The reason is that the circumstances which can show that there was no intention to defraud are known only to the traveller himself, and therefore under section 106 it is for him to discharge the burden of proof. Now, Sir, actually the same principle applies in the case of those persons, who are found in possession of stolen property. All that the prosecution has to prove in their case is that the man has been found in possession of this stolen property. The burden then shifts on the accused to show that there was no dishonesty in the manner in which he received it. Also the power to evict ticketless travellers is not given under the present law. Section 120 allows eviction only in cases of drunkenness and in cases where a traveller makes a nuisance of himself, not in the case of the ticketless traveller. Therefore, the provision in the Bill that in the case of ticketless travellers there should be a power to

[Mr. R. N. Dey.]

evict is a right one. It has also to be borne in mind that the power to arrest is given in several other cases also, cases other than those of ticketless travelling, for instance, if a man is drunk or is obstructing railway servants or is making a nuisance of himself. It has also to be considered that there has never been any complaint that these powers have been misused by railway officials.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, the last speaker, I believe, is a District Magistrate, and he is the most powerful argument against this Bill. Some people must rush in, where angels fear to tread. We had a magnificent discourse on the law of evidence and the burden of proof by the Honourable the Law Member yesterday. I regret he is not in his place just now ; but, if the law as laid down by my Honourable friend, who just finished his speech, is the law as he understands it, when he administers these Acts or this Bill when it becomes an Act, woe betide the unfortunate passengers who are brought before him. I believe that is a conclusive argument, and that is all I want to say about his speech.

Sir, I rise to oppose the motion made by the Railway Member. I wish the House had had only that motion, and had a straight vote and rejected this Bill. And I will give you one general reason, before I deal with the Bill and the Statement of Objects and Reasons, and the arguments which have been advanced in support of the Bill. I am one of those who feel that ticketless travel is an offence as heinous as theft, that it ought to be punished, and that no Government ought to leave anything undone which is in its power to prevent such an offence being committed. But I feel, Sir, that this Bill ought not to be supported, for two reasons. The first is that it will not achieve the object which it proposes to achieve. It will defeat its own purpose, and I will tell you why. Those who are *bonâ fide*—if I may use that phrase,—ticketless travellers for any reasons beyond their control can be dealt with under the existing Act, as it stands ; and when they are confronted with the fact that they have not got a ticket they always pay if they have the cash ; if they do not, they give their names and addresses. I am talking of *bonâ fide* passengers from whom money is afterwards recovered. As regards the beggars, mendicants, and the other class of *mala fide* passengers, most of them are admittedly too poor to pay the fare. Then, what happens under the Bill ? You arrest them, prosecute them, and throw the burden of proof on them. You get them convicted and send them to the prisons of this country. Who feeds them there ? My Honourable friend said that is a matter between one branch of Government and another. I regret to say it is not. Whatever branch of Government may administer the jails, the taxpayer has got to pay for the jails and for the railways. And, therefore, to say that you will check ticketless travelling by sending a few people to jail does not add to the revenues of the State through railways. On the other hand it adds to the expenditure of the State, I believe by Provincial Governments, under jails. I want to know what is the purpose of doing that.

My second reason against this motion is this. The railways are in a very bad and parlous state, so far as their finances are concerned. They owe to the State about 50 crores of rupees. They are losing about 4 or 5 crores a year. We have been suggesting to them in various places, by questions, by resolutions, to do something to set their house in order.

They will do nothing in the matter. They will not give up the Lee concessions, or more accurately, the Lee loot. They will not reduce their expenses; they will not retrench. They will take no steps to set their house in order. And, if we tell them they are wrong, like incompetent insolvents they throw the blame on everybody except themselves. They have got two people on their heads just now, the ticketless traveller and the motor transport owner. The railways are not paying; therefore, control motor transport. Let everybody be compelled to travel in my railway. Secondly, let me have some power of sending to prison these ticketless travellers. It seems to me that the railways are erecting a perfect camouflage,—a word which became very famous during the last war,—in order to distract the attention of this House and of the public, from their own incompetency and inefficiency. That is the reason why I think this House ought not to be a party to this Bill. With that preliminary observation, let us look at this Bill.

The first clause leaves section 68 of the Act as it stands. May I ask  
 1 P.M. my Honourable friend, the Railway Member, whether in drafting this Bill he or his advisers went into this section as it stands and examined the need for leaving it as it is? The section reads like this :

“ No person shall without the permission of a railway servant enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.”

I draw his attention to the words “ without the permission of a railway servant ”. I want to know—I am asking in ignorance for enlightenment—why should this power of giving permission be given to a railway servant? Why should not the section read simply: “ No person shall enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket ”? I am asking that question because “ railway servant ” is defined in section 3 (7) in a very comprehensive manner—“ ‘ Railway Servant ’ means any person employed by a railway administration in connection with the service of a railway ”. I think even a porter will come under that definition. I think he will, because he is a person employed by a railway administration in connection with the service of a railway. Section 68 does not say, “ railway servant specially empowered in this behalf ”. It does not say that; and, as I read this Bill, that section will remain as sub-section (1) of the proposed section 68 as redrafted in this Bill. I suggest, that if this is left as it is, it leads the way to gross abuse. The Honourable Member, who spoke just before me, pleaded eloquently for the unfortunate persecuted railway servants. I am not willing to say that all of them are equally black or black at all: many of them may be white; but I think everybody will readily agree that, if you give this power to any railway servant to give permission to a ticketless traveller, taking it along with the subsequent sections which give a kind of exemption from arrest or punishment, this is liable to gross abuse: I do not want to put it higher than that. But the Honourable the Railway Member will, I am sure, realise that this is liable to gross abuse.

Then, sub-section (2) says :

“ A railway servant when granting the permission may, if empowered in this behalf by the railway administration, grant to the passenger a certificate, etc.”

I take it these words “ empowered in this behalf ” qualify only sub-section (2), and do not apply to sub-section (1). Sub-section (2)

[Mr. S. Satyamurti.]

undoubtedly gives him the additional power of giving a certificate that the passenger has been permitted to travel upon condition that he subsequently pays the fare. No doubt that may be all right, because it answers my second point that you could include even porters, whereas this will only mean, specially empowered officers. But, taking section 68 as it is, which I submit has been left unamended, that undoubtedly gives the power to the ticketless traveller to enter a carriage without contravening section 68, if he has got the permission of any railway servant. It does not even say "permission in writing". A railway servant may say 'I orally permitted A or X to travel', and it is a complete answer. As I say, it is liable to gross abuse.

Again, take sub-section (2) ; it says :

"grant to the passenger a certificate that the passenger has been permitted to travel in such carriage upon condition that he subsequently pays the fare payable for the distance to be travelled."

What does the word "subsequently" mean there ? At what stage of time has he to pay the fare, and where is he to pay the fare ? Is it to be a year hence or a month hence ? It does not even say before the end of the journey, or within 24 or 48 hours after the end of the journey. Then, what is the meaning of the phrase "for the distance to be travelled" ? Is it for the distance actually travelled or distance to be travelled by the traveller until his destination ? These are merely verbal criticisms, it may be argued ; but, at the same time, as you are creating an offence and creating under this, an exception on the lines of the Indian Penal Code, I submit the wording must be much more accurate before this can be enacted into law. As it is, it is too vague and puts too large a power into the hands of the railway servants, and is therefore liable to gross abuse. At any rate, I do not see how, unless you want to create an exception to a new offence which you are creating, this section can at all be enacted.

Then, clause 3 seeks to substitute for section 112 a new section altogether. Section 112 is this : "If a person with intent to defraud a railway administration (a) enters in contravention of section 68 any carriage on a railway, he shall be punished with fine which may extend to 100 rupees in addition to the amount of a single fare for any distance which he may have travelled". In place of that the Bill reads .

"If a person enters in contravention of section 68 any carriage on a railway, he shall, unless he satisfies the Court that he had no intention to defraud the railway administration, be punished with imprisonment which may extend to two months, or with a fine which may extend to one hundred rupees, etc., etc."

Pausing here, I want to deal, as best as I can, with the very brilliant, though unconvincing arguments of the Honourable the Law Member on the question of onus of proof. I entirely agree, if I may say so, with the Honourable Member's learned disquisition on the onus of proof ; but if any fault is to be found with the House for stressing that aspect of the matter, the boot is on the other leg : it is the lawyer or lawyers who wrote the Statement of Objects and Reasons, who were the first culprits in this matter. You will notice in paragraph 2 of the Statement of Objects and Reasons, these two brilliant sentences appear :

"In cases in which action is taken under section 112 the onus of proving intent to defraud rests on the railway staff, the discharge of which is not always practicable."

(That is, the onus is on us, but we cannot discharge it.) "It is proposed therefore that the onus of proving that there was no intent to defraud should rest on the person found travelling without a proper ticket."

Now, my Honourable friend, the Law Member, referred to section 106 of the Evidence Act ; but before I do so, I should like to refer to just one or two sections dealing with the burden of proof itself. I wish incidentally that the Indian Evidence Act were more used by judges and magistrates in this country than it is actually used. Section 101 of the Evidence Act lays down :

"Whoever desires any court to give judgments as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person."

Now, take section 112 as it is : it reads thus :

"If a person with intent to defraud a railway administration enters in contravention of section 68 any carriage on a railway....."

Therefore, the prosecution has got to prove two facts there (1) intent to defraud a railway administration, and (2) entry in contravention of section 68 into a carriage on a railway. Section 101 of the Evidence Act says that the prosecution has got to prove both these facts. But the Honourable the Law Member made a point yesterday that, in many cases when the prosecution has proved the fact of entry without a ticket or a permit of a passenger in a train, the Court may draw the inference from the facts that the man had dishonest intention, that is to say, an intent to defraud the railway administration. Now, Sir, I grant that this argument on the burden of proof can easily be over-stated. After all, when a case goes before a Court, any competent Magistrate or Judge will not bother as to on whom the burden of proof lies, because once evidence is let in, he has got to look at the whole evidence and come to a conclusion on the evidence as to the facts of the case. But, Sir, section 103 of the Evidence Act says : 'The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person'. That is the section, Sir, under which the Bill is sought to be drafted now. The section of the Evidence Act says that, normally speaking, when a prosecution alleges that a person has contravened section 112 of the Act as it stands, it has got to prove dishonest intention besides entry without a ticket, but the Act contemplates the burden of proving that fact may be placed by law on another person. The Bill, therefore, now says in section 112 :

"If a person enters in contravention of section 68 any carriage on a railway, he shall, unless he satisfies the Court that he had no intention to defraud the railway administration, be punished with imprisonment",

but I feel that this argument on burden of proof is not really not conclusive on this matter. What is really conclusive is that section 112 as proposed to be re-drafted in the Bill creates a new offence altogether. That is the point which I should like the Honourable the Railway Member to answer. Section 112 as it stands makes it an offence, that is, ticketless travel, only if the prosecution can prove not only ticketless travel, but an intent to defraud ; but section 112 of the Bill creates

[Mr. S. Satyamurti.]

a new offence, the only ingredient of which shall be ticketless travel and no more. The prosecution, on whomsoever the burden of proof may lie, has not got to prove dishonest intention at all. If the prosecution proves A is travelling in a railway carriage without a ticket, the offence is complete. Then it is for the accused, if he can do so, to satisfy the Court that he had no intention to defraud the Railway Administration. It is for him to lead evidence and satisfy the Court that he had no intention to defraud the Railway Administration. My point, therefore, is this, that whatever the Statement of Objects and Reasons may say, it is not so simple as it looks ; it is not merely shifting the burden of proof from A to B. It may be that even that shifting may make the Bill thoroughly objectionable, as I believe it is ; but my point is, that section 112 as proposed to be enacted in this Bill is not a shifting of the burden of proof, or at least not a mere shifting of the burden of proof, but the creation of a new statutory offence consisting only of one element, ticketless travel and no more. If that is so, I should like to ask the Honourable the Railway Member and those who support him as to why they want to create this new offence of merely ticketless travel, even if there be no dishonest intention....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member can resume his speech after Lunch.

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

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

**Mr. S. Satyamurti** : Sir, I was saying, when the House adjourned for lunch, that this new section 112 as contemplated in this Bill creates a new offence, and that is the gravamen of my argument against this section of the Bill. I want to say, on the argument elaborated by the Honourable the Law Member, a point which was suggested to me by my Leader, that really if section 106 of the Indian Evidence Act which casts the burden of proof with regard to facts specially within the knowledge of any person on that person, read with section 112 of the Act as it stands, discharges the prosecution from proving more than the fact of travel under circumstances which will throw the onus on the accused, there is no need for this new section at all. Therefore, either the Honourable the Law Member is right in which case this section is at the best superfluous, or the Bill proceeds on the assumption that the Honourable the Law Member is wrong, and they are right ; they have got to settle it between themselves, but so far as we are concerned, I put it to the House that the conclusive argument against this section is that it creates a new offence altogether, that is to say, ticketless travel simpliciter. The moment a man is found travelling without a ticket, he has got to prove that he had no intention to defraud. I want to ask my Honourable friend who is a distinguished lawyer, supposing he was appearing for the defence, in a case of ticketless travel, how will he set about moving to the satisfaction of the Court that he had no intention to

defraud the railway authorities? It may be one of several explanations; that is to say, he arrived too late in the station, nobody was available, he had lost the ticket, the purse was not with him, he had over-travelled by sleep or owing to forgetfulness. Mr. Deputy President, what is the kind of evidence which the man has to lead—that he came very late? Is he to summon a number of people in the railway station who got into the train or returned from an arriving train, to say that he came at two minutes to three when the train was due to start at three? Similarly, with regard to all these categories, it seems to me that it is casting an impossible burden on the accused to satisfy the Court that he had no intention to defraud. Ultimately, the Court will have to look at the facts of the case as a whole and come to the conclusion whether there was any intention to defraud or not. If that is so, the present section 112 is ample for the purpose. From the point of view of the railways themselves, Mr. Deputy President, I should like to ask my Honourable friend, what is it that he hopes to get out of this creation of a new offence? God knows, third class railway travel is becoming more and more unpopular, because of bus competition in many provinces, certainly in mine, and one of the reasons is that the third class passenger is still treated, in spite of my Honourable friend's *bona fide* attempts to instil some ideas of courtesy on the part of railway servants, as an unwanted guest in most of the railways. Their money is wanted, but not their presence. Every obstacle is put in their way; they cannot get their tickets without *bukshish*, they cannot get into the platform easily, and they cannot get any assistance whatever in boarding a train or in getting out of a train. And when the ticket collectors go to them, they look upon them as servants who are permitted as a matter of grace to travel by the railway and, as if they themselves are the lords and masters. I am not blaming the Honourable the Railway Member, but I am suggesting to him that to make ticketless travel a cognisable offence is about the worst way of attempting to add to the railway finances. If you want to have a draconian legislation and thereby think that you are asserting the majesty of the railways, by all means do so, but if the object of this Bill is, as my Honourable friend claimed it was, to add to the railway finances, I submit, Sir, that it is about the worst way of going about that business. So far as the class of *mala fide* passengers are concerned, I have already said there is no use arresting them and sending them to jail. Somebody has got to feed them and it certainly won't help the finances of the State.

Then, Sir, clause 3 (2) provides that "a person who uses or attempts to use a single pass or single ticket which has already been used on a previous journey, or, in the case of a return ticket, a half thereof which has already been so used, shall be punished with imprisonment which may extend to two months, or with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance he may have travelled". You will notice, Sir,—I do not know if this is deliberate, if it is, it makes the thing worse—in section 112 as it stands, the obligation on the part of the prosecution to prove intent to defraud the railway administration governs both the class of cases, that is to say, entering a railway carriage in contravention of section 68, and also using or attempting



[Mr. S. Satyamurti.]

to use a single pass or single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used. But you will notice, in the Bill as it stands, even the words, "unless he satisfies the Court that he had no intention to defraud the railway administration" are omitted in sub-section (2). I take it, therefore, that it means that, even if the person satisfies the Court that he had no intention to defraud the railway administration, if a person attempts to use a single pass or single ticket which has already been used on a previous journey, or in the case of a return ticket, a half thereof which has already been so used, he shall be punished with imprisonment which may extend to two months, etc. I believe I am right in saying that. If that is so, I should like to have some explanation from the Government. I do not think my Honourable friend referred to this aspect in his opening speech. The present section 112 casts on the prosecution the duty of proving intent to defraud under both the clauses. In the first clause the Bill casts the onus on the accused to prove no intent to defraud, and in the second clause, irrespective of onus, irrespective of intent, a mere attempt is punishable with two months' imprisonment or with fine.

Then, we come to sub-section (3) of section 112. On that matter I was rather impressed by what Mr. Mudie said, that today the railway servants have no power to remove from the railway, passengers who are found travelling without tickets.

**Mr. M. Asaf Ali** (Delhi : General) : What about section 122 (2) ? They have.

**Mr. S. Satyamurti** : I thank my Honourable friend, the Chief Whip. Section 122 of the Railways Act, as it stands today, reads as follows :

"(1) If a person unlawfully enters upon a railway, he shall be punished with fine which may extend to twenty rupees.

"(2) If a person so entering refuses to leave the railway on being requested to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished with fine which may extend to fifty rupees, and may be removed from the railway by such servant or other person."

My Honourable friend, Mr. Mudie, shakes his hand, but I suggest that this is almost a conclusive answer against his position. You will notice, it says, "he may be removed". What does sub-section (3) of the Bill say ?

"Any railway servant authorised by the railway administration in this behalf or any other person whom such railway servant may call to his aid may remove from a carriage a person found travelling therein without having a proper pass or ticket with him, unless he then and there pays the fare and the excess charge which he is liable to pay under the provisions of section 113."

Here, the railway servant has got power to remove from the railway any person unlawfully entering upon the railway.

**The Honourable Sir Muhammad Zafrullah Khan** (Member for Commerce and Railways) : I believe it has been held that "railway" in this section does not include a railway carriage. If you will kindly look at the definition of railway in section 3 of the Railways Act, you will find that there might be something in it. I am not sure whether that ruling is correct, but I am trying to get at the case.

**Mr. S. Satyamurti :** I shall not go into that. I have not looked at that decision. I suggest to my friend, if that is the only difficulty in the way, I should have thought the proper way of dealing with that would be to move an amendment to the definition of "railway" in section 3 of the Act, instead of having this inartistic legislation. If you will see the main definition, you will see that the railway means a railway or any portion of a railway for the public carriage of passengers, animals or goods, etc. I should have normally thought that a railway carriage is also included, but, if there is any doubt owing to a judicial interpretation, the best way would be to include "a railway carriage", instead of having two sections both dealing with removal.

Then, Sir, I come to clause 4 of the Bill which deals with section 113 of the existing Act. Under the existing Act, ticketless travellers are dealt with in two ways. If they are dishonestly travelling without ticket, then they come within the mischief of 112. If, on the other hand, they are merely travelling without tickets, then certain powers are given to the railways. Now, Sir, in 113, the railway gets the power of demanding from a person who is travelling without a ticket the excess charge mentioned in this section, in addition to the ordinary single fare, and the excess charge is fixed with regard to the various categories. If it is felt that this excess charge is too small in dealing with such people, the Government may consider revising it, but it seems to me, if it is a question of merely collecting revenue, section 113 gives them power, provided they have honest ticket examiners and properly control the ingress and egress, and booking offices are opened in time. There is no use saying 'We cannot do all that. We must only punish'. My friend, I think, said in his opening speech that experience has shown that all the money spent on increasing the staff for detecting the ticketless travellers amply pays itself in the way of increased revenue to the same extent. I think I have understood him correctly.

**The Honourable Sir Muhammad Zafrullah Khan :** More or less.

**Mr. S. Satyamurti :** If that is so, I suggest that one of the means of increasing revenue or decreasing the loss of revenue under this head is to make the approaches to the railway stations more difficult than they are today, and thereby control ingress and egress better. Secondly, they must not allow ticket examiners and ticket collectors to live and work under the cloud of corruption under which they work today. There is no use imagining that there is no corruption. There is, and there is no use asking the Opposition 'What do you suggest?' My friends are there to do all that, and before they ask the public to swallow this Bill, they must provide facilities for the issue of tickets in time in all the railway stations.

Then, Sir, two amendments are sought to be made in this section. One is the addition of a proviso to sub-section (2) : Provided that the excess charge referred to in sub-section (1) and this sub-section shall not be payable if the passenger has with him a certificate issued under sub-section (2) of section 68. I say this will be a fruitful source of corruption. A railway servant may mean any class of railway servant, and you must specify that he must be specially empowered in this behalf and section 68 is left as it is.

**The Honourable Sir Muhammad Zafrullah Khan :** I have noted that argument.

**Mr. S. Satyamurti :** At the time when the man is detected, your railway servant specially empowered has got to threaten him—either you have to pay the excess or pay me half the excess, and I will give you a certificate. I believe I am right in saying that the certificate can be given at any time and the moment the man is detected, he is given the option. The fortunate or the unfortunate passenger either has to pay the excess fare, or pay half of it and get a certificate. You are simply adding to the difficulties and temptations of railway servants !

Then, I find another rule of evidence enacted in this Bill. That is after sub-section (4) the following sub-section shall be added : “ An application made under sub-section (4) shall contain a statement, certified as correct by the railway servant, of the sum payable by the passenger and such statement shall, unless the contrary is proved, be proof that the sum so stated is recoverable from the passenger.” May I know why this is put in ? After all, the section elaborately gives the sums due from the passengers. What is the idea in putting in this sub-section and saying that such statement shall be proof that the sum so stated is recoverable from the passenger ? Why should not ordinary evidence be let in ? What is the difficulty which is sought to be met ?

**The Honourable Sir Muhammad Zafrullah Khan :** Sometimes it is a question of how much fare is due from the man and if it can be proved that he got in at a particular station, then the fare is due from that station and in the absence of proof of that kind from the last checking station.

**Mr. S. Satyamurti :** I quite agree. Therefore, when the railway servant applies to the magistrate, he has got to say that the ticket was checked at the last station, he started from a particular station, and that so much excess fare is to be paid. I do not see the point.

**The Honourable Sir Muhammad Zafrullah Khan :** If the passenger contends that he got in at a station after the last checking station, then he should show that he is not liable to pay from the last checking station.

**Mr. S. Satyamurti :** That is so even under the present Act. You just see.

This is what the section says :

“ If a passenger travels in a train without having a proper pass or a proper ticket with him, or being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or if the tickets of passengers travelling in the train have been examined since the original starting of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, where last examined.”

Therefore, they have got to prove all this ; if this section means anything at all, it means this. The railway servant says, whatever the station was where the tickets were examined, pay from the starting station.

**The Honourable Sir Muhammad Zafrullah Khan :** That is not the intention. That can be made perfectly clear. In any case the charge cannot be more than is laid down in the Act. One way of proving the contrary will be : " The last checking station was so and so, why is the man charging me from such and such a station ? " The whole object is that a definite sum will be placed before the magistrate. It is open to the person who has become liable to pay it to show that in some respect it is incorrect ; otherwise the magistrate would not have to enter into an inquiry with regard to the rates and fares and last checking stations. I assure the Honourable Member that there is nothing sinister in it ; it merely avoids a protracted inquiry.

**Mr. S. Satyamurti :** Even as I read the Act as it is, the man says he has got to pay so much and the accused says, not so much, and the magistrate will decide.

Then, Sir, I come to the last but one clause of the Bill which deals with section 131. Now, this section 131 casts on the authorities the right to arrest without warrant certain classes of persons and this Bill wants to add to that class of offences. " Any person who contravenes section 112 ", that is to say, travelling without a ticket—and I want the House just to look at these sections. Section 131 says, " if a person commits an offence under section 100, section 101, etc." I will just mention the classes of offences for which people can be arrested now. Then, the House will see the absence of any sense of proportion on the part of the Government when they want ticketless travellers to be thus arrested. Section 100 concerns railway servants being drunken ; section 101, endangering the safety of persons travelling by railway ; section 119, male passengers entering carriages reserved for female passengers ; section 120, passengers being drunken and using obscene language and gestures ; section 121, wilful obstruction of railways ; section 126, wrecking or attempting to wreck trains ; section 127, maliciously hurting persons travelling by railway ; section 128, endangering the safety of persons travelling by railway by a rash or negligent act or omission, and 131, committing acts endangering the safety of persons. This Act contemplates, in the case of these very serious and in some cases very heinous offences, that persons can be arrested without warrant. To this class of persons, my friend asks us very coolly to add the offence of travelling without a ticket, whatever the intention may be. Does he himself accept that ? Is it right ?

**The Honourable Sir Muhammad Zafrullah Khan :** It is an offence if there is a certain intention ; and my Honourable friend has himself in the opening part of his speech described it as a heinous offence, as heinous as theft.

**Mr. S. Satyamurti :** A theft is a theft, if there is a dishonest intention.

**The Honourable Sir Muhammad Zafrullah Khan :** A theft is a theft only if there is a dishonest intention but when a man is arrested for theft, nobody knows whether he is going to be acquitted or convicted. Nor, when a man is arrested under section 112, would anybody know whether he is going to be acquitted or convicted ?

**Mr. S. Satyamurti :** Section 112 as contemplated in the Bill creates ticketless travel by itself as an offence. There is no question of dishonest

[Mr. S. Satyamurti.]

intention in it at all. At any rate section 112 of the Act says "dishonest intention". You say, "no, you can prove if you want that you had no dishonest intention of travelling without a ticket", and therefore he becomes guilty : and at that moment of arrest, there is no question of the accused wanting to prove.....

**The Honourable Sir Muhammad Zafrullah Khan :** Nor is there in the case of theft.

**Mr. S. Satyamurti :** But here, taking the offences of drunkenness, using obscene language or gesture, entering female compartments, hurting passengers, is it a right sense of proportion that you must put in this class men or women travelling without a ticket ? And talking of women, Sir, I want to put it to my friend that there is a wide-spread fear in this country that this section, if it becomes law, will lead to unnecessary annoyance and molestation of women by railway servants. Sir, in this country, where our people are so weak and are not sufficiently courageous to stand up to public authority as they ought to, there is a danger of this abuse of power, especially in the case of women travelling alone. Then, we come to the other case. The section also provides : "if a person fails or refuses to pay any excess charge or other sum demanded under section 113 and there are reasonable grounds for believing that except by his arrest he cannot be placed before a Magistrate without undue delay, trouble or expense.....". Now who is to be the judge of this ? The arresting authority ; and, any day, it is easier to arrest a person than to send a summons to him ; and another temptation will be to arrest a man, rather than to summon him to appear before a Magistrate. This also is liable to gross abuse.

Then the last clause of this Bill is an amendment of 132. They want to make this clause consistent with the amended section, and therefore they propose that the words "or fails or refuses to pay any excess charge or other sum demanded under section 113" shall be omitted, because they have got the word "arrest" elsewhere. But, I suggest, in answer to the charge that very often people give false names and addresses, and therefore that they lose revenue, that you are responsible for it, because the section gives you the power. If there is reason to believe (section 132) that the name and address given by him is incorrect, any railway servant or police officer or any other person may call to his aid and may without warrant or authority arrest him. Therefore, wherever a railway servant has reason to suspect that the name or address given is incorrect, he can arrest him. Now why does not he arrest him ?

**The Honourable Sir Muhammad Zafrullah Khan :** Because, ordinarily, when a man says, "my name is A and my address is B", how can you decide that there is reason to suspect that this is false ?

**Mr. S. Satyamurti :** Therefore, your people are incompetent, and you must have a better class of men.

**The Honourable Sir Muhammad Zafrullah Khan :** How ? Supposing I myself were checking a particular compartment and a man found travelling without a ticket told me that his name was B. C. Roy and he belonged to No. 32 such and such a lane in Calcutta, and if, from his appearance, he looked to be a Bengali gentleman, what means would I have of deciding whether he gave me a wrong or correct address ?

**Mr. S. Satyamurti :** Since you cannot decide that, you want to give the power of arresting everybody ! Therefore, the remedy is to do something else. My answer is—today you have got the power of arrest in the case of persons who give wrong names and addresses. My Honourable friend, Mr. Mudie, said yesterday, that, if railway servants take the responsibility of arresting passengers, they may be liable to all kinds of actions. I want to point out that railway servants, for the purpose of this section, are defined as public servants in Chapter X of the Indian Penal Code, and you will see that that undoubtedly casts on these persons the duty of giving correct information ; and, if they do not give that, they become liable under various other sections of the Indian Penal Code ; and therefore I suggest that they have the power of arrest today. And, in any case, Sir, it seems to me that the Railways have not yet provided the elaborate arrangements which they must provide, and they have not yet eliminated corruption amongst their own servants ; and, therefore, it seems to me that this Bill, as it stands, does not deserve the support of this House.

I want to say only one word on the opinions which have been received. Somebody was saying that you will get no more opinions which will be useful. Very good. Take the opinions as they are. I have counted fifty opinions amongst them against the Bill as it stands. The Bihar Government, the Burma Government, many Judges of the Madras High Court, many Chambers of Commerce, have pointed out the dangers in this Bill, and it seems to me that if the House wants to decide on the opinions so far available, it can only vote against this motion. My Honourable friend, Dr. Ziauddin Ahmad's motion of course is a compromise. Personally, our feeling is that this Bill ought to be thrown out at this stage completely, and no more heard about it, but since Dr. Ziauddin Ahmad has moved this amendment, and since we feel that if we can effectively deal with ticketless travellers without placing arbitrary powers in the hands of certain people which will work great harm to our people, we are willing to send it out to circulation. I only want to read just one or two opinions. I am reading first from the Government of Burma at page 9 :

“ The first criticism of importance directed at the Bill is that it is desirable to provide in the Bill a specific punishment for the aiding and abetting by officers of the railways of the offence of travelling without tickets.”

My friend may take it from the Burma Government that the Railway  
3 P.M. servants abet in ticketless travelling.

**The Honourable Sir Muhammad Zafrullah Khan :** You can move it in the Select Committee.

**Mr. S. Satyamurti :** First clean your Augean stables, before you come to this House with this Bill. If the Burma Government says that your servants are corrupt and aid and abet travelling without ticket, then take back this Bill. That is the least you can do.

**The Honourable Sir Muhammad Zafrullah Khan :** The Burma Government will soon cease to have anything to do with the Indian Railways.

**Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan-Rural) :** Have they no railways at all ?

**The Honourable Sir Muhammad Zafrullah Khan :** They have.

**Mr. S. Satyamurti :** Then the Burma Government goes on :

“ It is also feared that the provision, if adopted, may cause innocent persons who enter a railway carriage to talk to passengers at the many stations where platform tickets are not issued to run the risk of prosecution. It is further suggested that the clause in its present form may be likely to provide yet another inducement to railway servants to obtain illegal gratifications from ignorant persons. With these criticisms the Governor in Council is in general agreement.”

Further on, they say :

“ There is also obviously some considerable apprehension of abuse of the power proposed to be given to railway servants of arrest of persons travelling without a ticket.”

**The Honourable Sir Muhammad Zafrullah Khan :** Perhaps you might read out the next sentence also.

**Mr. S. Satyamurti :**

“ It is suggested that, as a condition of making section 112 cognizable the words ‘ if he fails or refuses to pay on demand the fare due plus the excess charge under section 113 ’ should be inserted in section 131.”

But I am taking advantage of the first sentence, that is to say, there is considerable apprehension of the abuse of power by railway servants.

Now, Sir, I would like to quote the opinions of two or three District Magistrates and Commissioners themselves. Several District Magistrates of Madras have protested against this Bill, and are of opinion that it will work great hardship. The Inspector General of Police in Madras has said :

“ The existing Railway Police staff will probably not be adequate to meet the demands likely to be made on them without detriment to their legitimate duties, and if this is found to be the case, additional staff will have to be provided, the cost of which should, I think, be met by the Railway administrations concerned.”

Therefore, the first fruit of this Bill will be to have additional expenditure thrown on your shoulders. The District Magistrates of Salem, Kurnool, Vizigapatam are against this Bill. The Advocate General of Madras and the Government Solicitor have also said that the present Bill is too drastic and may result in punishing innocent persons. You will notice, Sir, that the Honourable Mr. Justice Venkataramana Rao of the Madras High Court has said :

“ I am not in favour of the amendment relating to onus. The effect of the amendment is to make it *prima facie* a criminal offence to travel without a ticket and in view of the amendment which seeks to impose a sentence of imprisonment, throwing the onus on the passenger would work hardship.”

Mr. K. S. Menon, Mr. Pandrang Row, Mr. Cornish and Mr. Madhavan Nair are more or less in favour of the opinion of Mr. Venkataramana Rao that this Bill is too drastic.

Then, Sir, I would like to quote the opinions of the Bihar Government. They will be found on page 34 of the second volume :

“ The opinions received, while supporting measures of some kind to check the evil of travelling without a ticket, are generally opposed to the detailed provisions of the Bill on the ground that they would give too many opportunities for dishonesty and extortion to railway subordinates. . . . The Governor in Council considers the provision that a written statement of railway subordinate should, unless the contrary is proved, be proof that the sum stated is recoverable from the passenger to be contrary to the principles of English Law, and pregnant with mischief. This provision, coupled with the power of arrest given by the amendment proposed in section 131 of

the Act, would enable a dishonest railway subordinate to arrest a passenger in the middle of a long journey and to send him before a magistrate with an application containing the statement that a certain sum is recoverable. The statement being *prima facie* proof, the railway servant would not be obliged to attend the Court in the first instance to support his charge. Consequently, if the passenger should deny the charge, the Court would be obliged to adjourn the case and summon the railway servant. The passenger, who has already had journey interrupted, would be obliged to make another journey to a Court, perhaps a thousand miles from his home, to rebut the charge. The Governor in Council apprehends that the result of such procedure would be that innocent passengers wrongly charged by dishonest railway servants would pay the amount claimed rather than subject themselves to the harassment of a defence, and that dishonesty among railway servants might thus be encouraged.

The Governor in Council is also opposed to the amendment proposed in section 131 of the Act in respect of section 113."

Therefore, on the whole, I think I am right in saying that most of the opinions so far received by the Government are against the major provisions of this Bill. I therefore feel that there is no point gained by sending the Bill to a Select Committee. The Honourable the Commerce Member said that these are all Select Committee points. I respectfully submit that they are not Select Committee points. They go to the root of this Bill. The three main features of this Bill are that you throw the burden of proof or rather, as I prefer to call it, you create a new offence. You make him liable to punishment by imprisonment, etc., and you give power of arrest to railway servants. All these are fundamental points. If they go, there is nothing in the Bill. It seems to me, therefore, that the House ought to reject the Bill or, in the alternative, it should at least support the motion of my Honourable friend, Dr. Ziauddin Ahmad, that the Bill be circulated for public opinion, the opinions to be received by the 31st December, 1936.

**Babu Kailash Behari Lal** (Bhagalpur, Purnea and the Sonthal Parganas : Non-Muhammadian) : Sir, I must thank you that after all I have got an opportunity to speak on this Bill. Before I speak on the Bill itself, I must tender my apology to the Honourable the Commerce Member lest I may be charged with discourtesy, because he has included my name in the list of the members of the Select Committee.

Sir, I would not have tried to speak on this subject had I not had my own grievance to narrate so far as this piece of legislation is concerned. I think a piece of legislation like this is a slur on our national character. It has been said in the Statement of Objects and Reasons attached to this Bill that as the present law is not sufficient to cope with the growing criminal tendency of the people to travel without tickets, so the proposed legislation is necessary. I submit it is a pity that this sort of legislation comes from persons who are our own countrymen. It is being defended by no less a person than the Honourable the Law Member in whom we should have felt some pride. I submit that the anxiety of the Honourable the Commerce Member to meet the deficit in the railway budget is the root cause of bringing up this piece of legislation. Here I am reminded of the proverb which is prevalent in our society that when a man loses his wealth he loses his sense of righteousness and his sense of truth as well. I appeal to the Honourable the Commerce Member that he should not have uppermost in his mind only the question of making up the deficit in the budget.



[Babu Kailash Behari Lal.]

As has been pointed out by so many Honourable Members on this side of the House, the Government should have some regard for right principles. The legal aspect of this Bill has been discussed threadbare and therefore I think I should not say a single word about that aspect. The Bill has been ably discussed by Honourable Members on both sides of the House, by Honourable Members like our Leader, Mr. Satyamurti, and by the Honourable the Law Member. I want to place the common-sense point of view before this House. Everybody knows with what extraordinary powers these ticket collectors are clothed at present. They are all little police officers. Whenever they enter a railway compartment for checking tickets, they are not less awful than police officers elsewhere. Whatever little power is given to these ticket collectors, they use it to tyrannise over the passengers. Several examples of the highhandedness of the ticket collectors have already been narrated in this House. I want to narrate a recent example relating to myself. I was travelling this time to Simla with my family, and when the train arrived at Aligarh station, the ticket collector, after checking the tickets of passengers in the compartment, checked my ticket and the tickets for my servants and of my wife. There was a little child with us, a girl below three years of age. The ticket collector demanded a ticket for the child. I told him that the child was below three years. He said he was not going to believe my statement. I told him that there was no help if he did not believe my word. Of course his intention was not to charge me excess fare for the child, but his intention was to over-awe me so that he might squeeze something out of me. I was not the person to yield to his threats, and I told him to take whatever steps he liked. He said he was phoning up to Delhi station asking them to keep a medical man ready to examine whether the child was below three years of age or above three years of age. I asked him to give me his name, so that if any man should come at the Delhi station to examine the child as to its age, I would be able to identify him. He did not give me his name. At the Delhi station, I found nobody turned up to examine the child. Thus the ticket collector escaped from being brought to book. I make a present of this instance to the Honourable the Commerce Member. What would have been my fate if the proposed law had been in force. I would have been harassed and arrested by the ticket collector and I would have been detained at the station without being allowed to proceed with my journey. I do not find any alternative to that which the Honourable the Railway Member could point to me as remedy.

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

On account of the law that is being enforced, there has sprung up a fourth class of passengers. The three classes of passengers have already been enumerated by my Honourable friend, Mr. Sri Prakasa. The fourth class of ticketless passengers are those ticketless passengers who are encouraged to travel without tickets by these railway servants themselves. There is a rule or some circular which requires that these ticket checkers should show some collection of extra fares and penalties from passengers. If they do not show some work every month, their services will be dispensed with. In order to get over this difficulty, these ticket checkers allow some people to travel without tickets and under the pretence of

checking, they collect fares from such people. Sometimes these ticket checkers promise the passengers that they would not collect more than the legitimate fare from them. In that way ticketless passengers are shown to exist. I submit it is because of the existence of such kind of circulars that the ticket checkers resort to this practice. In the Bengal and North Western Railway, some ticket collectors told me that on account of the existence of some such circular, they have to find out some work or other and thus save themselves from being axed. If no work is shown by them, their service is put an end to. It is, therefore, no wonder that on account of the existence of such a circular, a fourth class of ticketless travellers has sprung up. The Government should find out whether ticketless travel has increased on account of this circular.

Another point that I wish to submit is that the railway authorities are sometimes heartless and they do not do justice to their own sense of justice. Even this day at question time when some instances were brought to the notice of Government, it was said that an enquiry was held and it was found that it was not a true case. I may remind the Honourable the Commerce Member that I myself approached him and narrated to him about a case in which two ticketless passengers who had taken privileged passes that are meant for railway servants were detected by some ticket checkers. When they were hauled up it was found that the privileged ticket orders were obtained through a railway servant. Then that railway servant was not punished, but another man with the same name was punished. I brought this case to the notice of the Honourable Member for Railways and he promised that he would hold an enquiry personally.....

**The Honourable Sir Muhammad Zafrullah Khan :** If I might be allowed to interrupt, on the receipt of these particulars, I sent for all the papers connected with this case, personally read through the whole case and satisfied myself that there was enough evidence against this man which, if it was to be believed, found him to be guilty. I naturally could not discover from the papers whether these men who had given evidence against this man could or could not be believed. It was only when I was satisfied that there was enough evidence on the record which if believed would warrant his dismissal that I sent the papers back. I am afraid no Member could do more in the case than I did.

**Babu Kailash Behari Lal :** I have told the Honourable Member that the fact was that there was a regular case in the law Court and it was said in the judgment that it was not Karu Gope but rather Karu Mian who was guilty. When I represented that to the Honourable Member he said he would look into the case. Nothing was done and it was sent to the Advisory Board where the Agent about whom I have already told the Honourable Member.....

**The Honourable Sir Muhammad Zafrullah Khan :** Sir, I am extremely sorry to observe that even after I have assured the Honourable Member that I went through the case myself he persists in making the allegation, that in spite of my assurance to him I did not look into the case. I personally looked into the case ; I read through the evidence, and found that one of these two men had actually identified this Karu Gope as the man who had passed on the privileged ticket order to them. On that evidence, unless I could say that I had some instrument in my possession by the use of which I could judge whether they were telling the truth

[Sir Muhammad Zafrullah Khan.]

or making a false statement, I was bound to hold that there was enough material to show that this man Karu Gope was at fault, and that, therefore, his dismissal was justified.

**Babu Kailash Behari Lal :** I had told the Honourable Member that there was a judgment of the law Court, which is now in my possession, and if that is not to be believed in preference to the statements of those who want to tyrannise over him and shelter another man, then things are very serious indeed. I have already told the Honourable Member that there are black sheep in their own fold. Unless they are taken to task there will be no end to this corruption. And I can promise the Honourable Member that if he takes up the case and holds an open inquiry, if he allows the victimised man to be present during the inquiry, the real thing will come to light. I know the name of the man who is taking the side of the real culprit and wants to victimise this Karu Gope. The law Court has held that it is Karu Mian who is guilty and not Karu Gope. If the judgment of the law Court is to be brushed aside before the obstinacy of the authorities or the red-tapism of the department, then there is no help. The Honourable Member should remember that in cases of complaints against railway servants we are as good men as the railway servants or those Honourable Members who are on the opposite side. The fault lies on their side. They think Congressmen have no sense ; they sometimes take those sides which they should not take. I myself have approached high Government officials and they always take the line that we have no sense at all. If that is to be their attitude towards those who look to the interests of the poor people there is no help. We have got quite as good sense as they have and if they look at it from that point of view, I think much justice can be done to the people.

In conclusion, I will deal with the case of the third class passenger. I will say that the condition of the third class passenger has been a thing of great concern even to men like Mahatma Gandhi who said.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member seems to be going beyond the scope of the Bill now.

**Babu Kailash Behari Lal :** It would react upon the third class passenger.

**Mr. President** (The Honourable Sir Abdur Rahim) : We do not want reactions ; we want a discussion of this Bill.

**Babu Kailash Behari Lal :** This piece of legislation will react more on third class passengers than on others. The higher class passengers will not suffer under it. I am not dealing with the law as that has been discussed by other Honourable Members but I am showing how it will practically affect that section of the people for whom even the Railway Member says he has got a warm corner in his heart. Even the present law, which according to him is insufficient, is working very hard on the third class passenger. And now if this power of arrest is given to ordinary ticket checkers, the third class passenger will be oppressed in a way which we cannot imagine. Even now the ticket checkers tyrannise over them ; how much they will be tyrannised over under the proposed legislation can better be imagined than described. I appeal to the Honourable the Commerce Member to think twice before he presses this Bill. If the

power of arrest given to the ticket checkers be taken out there will be very much less objection to this measure and it can be improved later. So this power should be taken away and this is my suggestion to the Railway Member.

**Several Honourable Members :** The question may now be put.

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

“ That the question may now be put.”

The motion was adopted.

**The Honourable Sir Muhammad Zafrullah Khan :** Sir, in the course of this three days' debate, a very large number of points have been taken. I shall, however, confine myself to dealing with only some of the miscellaneous points taken first, and shall then go on to the main points which have been taken on the merits of this Bill.

So far as the motion of Dr. Ziauddin Ahmad to circulate the Bill is concerned, may I be permitted to say this : this Bill is of a character that affects all classes of the people of this country who have occasion to travel by railways. There is nothing very technical about it, and there is nothing about it with regard to which Honourable Members in this House do not possess either some experience or some knowledge gained from their own observation. As a matter of fact, one Honourable Member, who is included among the proposed members of the Select Committee, has assured the House that he has a great deal of experience of travel on the railways, almost as much as anybody else could claim ; and he has cited his personal experiences in support of some of the points that he sought to make. I therefore venture to submit that the Bill having already been officially circulated and opinions elicited upon it from people who have had something to do with the administration of the Railways Act, and it having been subjected to criticism during these three days from every point of view and every angle of vision, there is nothing to be gained by insisting upon further circulation of it. I think the variety of criticisms to which it has been subjected is alone proof of the fact that no further time need be lost in trying to elicit further opinions about this measure.

I shall now come to some of the miscellaneous points raised. To begin with it was said that the number of people who travelled without tickets was so small that it really was not worth while doing anything to strengthen the law in this respect. It was said that the highest number we were able to detect travelling without tickets was 29 lakhs—or, say, roughly 3 millions : the number of passengers travelling upon the Indian railways during a year is about 400 millions and therefore the number of people who have attempted to travel without tickets during a year does not exceed  $\frac{1}{14}$  per cent. of the total number of travellers, and that therefore the extent of the evil is not such as to call for any further remedy than is contained in the Indian Railways Act. Now, Sir, the number of people detected travelling without a ticket is not anywhere near the number that do actually travel without a ticket. As I said in my opening speech whenever there has been any intensive check on a section of the railways with regard to the people who travel without tickets, it has been found that the normal number is exceeded sometimes by 200 and sometimes by 300 per cent. But take it roughly that the total number is double the

[Sir Muhammad Zafrullah Khan.]

number actually detected, it would then come up to 6 millions, that is, about 1½ per cent. I do not profess to know what percentage Honourable Members would require to be established before they think a case had been made out for checking the evil more effectively than it is possible to check it under the present law. But I do venture to submit that even the lower number—¾ per cent.—is a substantial number requiring more effective remedies. May I draw the attention of such Honourable Members who attach importance to this argument to the fact that the number of people who are charged with stealing articles from various shops which they enter on the pretence of making purchases is infinitesimally small as compared with the number of total purchasers from these shops ; yet it has never been contended that these people should not be dealt with severely because the number is so small. . . . . (Interruptions.)

**Mr. Sham Lal** (Ambala Division : Non-Muhammadan) : But the burden of proof remains on the prosecution.

**The Honourable Sir Muhammad Zafrullah Khan** : If Honourable Member will not anticipate my reply to the different points that have been sought to be made from different sections of the House, I shall try to place my view with regard to them during the course of my speech. I am dealing at present only with the argument as regards numbers. Instances could be multiplied where it could be shown that the number of delinquents with regard to many classes of offences is extremely small as compared with the number of people who could possibly have committed them but have not committed them ; and yet it has never been argued that therefore the penalties for such offences ought to be reduced. The number is big enough from this point of view. As I have submitted, the most modest estimate of the loss of revenue to the railway in this respect is placed at Rs. 50 lakhs a year. That is an amount that the railways cannot afford to go on losing. Even if it were not the case that the railways are at present running at a deficit, even if they were making very good profits, the loss of such a sum would be an extremely good reason for removing such defects in the law which prevent the evil being effectively dealt with. . . . .

**Dr. Ziauddin Ahmad** (United Provinces : Southern Divisions : Muhammadan Rural) : May I ask one question in this connection, if I may ? The railway authorities are now having a regular census at various stations : will he be able to tell of persons who are travelling without tickets ?

**The Honourable Sir Muhammad Zafrullah Khan** : I am afraid it is a question of reading Zuleikha the whole night and not knowing the next morning whether it was a man or a woman. (Laughter.) I have said that figures have been kept since 1928 and are available up to the end of 1935, that the lowest figure during these years was 23 lakhs, that the highest was 29 lakhs of people who were actually detected travelling without tickets.

Another point taken by the same Honourable Member was that ticket checking to his knowledge on English, German and other continental railways was much more effective than it was in this country, and that, before any other remedies were resorted to, the system of checking on Indian Railways should be made at least as effective as it is in other

countries which the Honourable Member cited, or at least considerably improved. One Honourable Member did point out that effective check on the continent was due to the fact that a very large majority of continental trains were corridor or vestibule trains, which makes checking much easier and much more effective. It is true that if on Indian railways also it were possible to run corridor trains the checking could be made much more effective. But even if it were decided to convert our trains into corridor trains, I am afraid it would take a period of 30 years from today to attain to that ideal position ; and I am sure the Railways cannot afford to go on losing revenue on this account for another 30 years in the hope that by the introduction of corridor trains checking might be made much more effective.

Another suggestion was that approach to, and escape from, railway stations should be made more difficult, and one method of doing it would be to fence in the whole railway area and to compel people who want to get on to the platform or to get away from it to use only the authorised means of ingress and egress. An estimate has been made of the cost of fencing railway stations in such a way as to compel people only to use the authorised means of egress and ingress, and the most modest estimate amounts to 3 crores of rupees, on which the interest would be somewhere in the neighbourhood of 15 lakhs of rupees a year. That factor alone rules out the practicability of adopting that suggestion.

Then it was said, though this argument ran counter to the other arguments used, that the greater part of the Bill now before the House was redundant inasmuch as travelling without a ticket upon a railway with intent to defraud the railway amounted to the offence of cheating, and if it amounts to the offence of cheating, you already have very stringent provisions with regard to it in the Indian Penal Code and it is not much use making the present provisions of the Indian Railways Act a little more stringent in that respect. My reply to that criticism is that if the opinion of the Honourable Member who put forward this suggestion is correct in law, then it meets a very great deal of the criticism of this Bill which has proceeded along the line that this is a very drastic measure. If the act of travelling without a ticket upon the railways with intent to defraud the railways amounts to cheating, then the provision that we have put forward is very much less drastic than the provision that is applicable to the case, and therefore the criticism that this is a drastic measure falls to the ground.

A curious argument was then advanced by another Honourable Member who said : " O ! a man who is found on a railway without a ticket should under no certain circumstances be presumed to intend to defraud the railways, why should you presume such an intention at all ? His intention is to travel, not to defraud, and any loss that results to the Railways is merely subsidiary to the main object, which is to perform a journey from point A to point B ". I am afraid, Sir, that argument would destroy the criminal element in almost every act which is now regarded as an offence. If a man mainly with the object of making provision for himself and his family committed a theft or robbery or dacoity, could he plead that his main intention was to provide for himself and his family, and the fact that he has deprived somebody else of his property was merely a subsidiary thing done in order to achieve his main object ? People must be presumed to intend the natural consequences of their acts. When a man is found travelling without a ticket upon a railway and there

[Sir Muhammad Zafrullah Khan.]

are no circumstances,—I am not at the moment discussing the burden of proof, it does not matter upon whom the burden lies—indicating that he did not intend to defraud the railway, well the natural inference is that he intended to make the journey without paying for it, and that amounts to defrauding the Railways.

I now come, Sir, before I go on to the main features of the Bill which have been criticised, to some of the questions that have been touched upon by Mr. Satyamurti. He said that one of the reasons why he was opposed to this measure was that several suggestions had been put forward from that part of the House with regard to economy on the railways, reduction of expenditure and so forth, and inasmuch as the Railways had not accepted those suggestions, the Honourable Member and his party were not willing to support this measure. Now, Sir, apart from the merits of this measure, I have too much confidence in the practical good sense of the Honourable Member to believe that he really was serious in saying this,—that because with regard to some other matters Government did not see eye to eye with the Honourable Member and his party, therefore the Honourable Member and his party should give no support to a measure which is designed to check what the Honourable Member himself characterised as a heinous offence, an offence as heinous as theft. He went on, however, to offer certain specific criticisms of this measure, and those criticisms themselves are the strongest plea in support of the motion that this measure should be referred to a Select Committee. He first took up section 68 of the Railways Act as it stands at present, and pointed out that the section makes it possible for any railway servant to give permission, orally or in writing, to a person to travel without a ticket upon a railway with the consequence that when such a person has to make a payment in respect of his journey, he would not render himself liable to any penalty or excess charge. I will not criticise that position. I will say only this that if section 68 as it stands at present is capable of that interpretation, then it is high time that the Honourable Member's suggestions were accepted and the section amended in the manner suggested by him. That makes out a case for the amendment of the section in one respect. He then went on to criticise the proposed amendment of section 68 in the Bill which is now under discussion, and he pointed out that the proposed amendment says that a railway servant who is authorised in that respect may grant a certificate to a passenger who has not been able to purchase a ticket to the effect that the passenger is liable subsequently to pay the charge in respect of the journey ;—and his criticism was that the word " subsequently " is vague, that the clause does not specify when the payment is to be made, whether before the conclusion of the journey or within 24 hours or within 48 hours. Again, I will not enter into the merits of this piece of criticism at the moment, but accepting it at its face value, here is another case cited by Mr. Satyamurti where you have got to define the whole thing much more strictly than it is defined at present. I am extremely grateful to him for having made so close and so thorough a study of the measure before the House, and I will accept his criticism that these sections in the original Act as well as the proposed clauses are capable of considerable improvement ; and it is for this reason that the House is being asked to set up a Select Committee to go into these matters and to suggest improvements. Again, in criticising section 112 (3) as proposed in the amending Bill, Mr. Satyamurti pointed out that a

railway servant had already power to remove a passenger from the railway under section 122 of the Railways Act. It was pointed out to him that it had been held by the Calcutta High Court in 44 Calcutta, page 279, that this power given in section 122 did not extend to ejecting people from a railway carriage, inasmuch as the definition of "railway" in section 3 of the Railways Act did not include a railway carriage. Well, then his suggestion was, "if that is so, why don't you proceed by way of amendment of the definition of 'railway' in section 3 of the Railways Act rather than by adding this new sub-section to section 112?" There, again, that is a matter concerning which I am quite sure the Honourable Member does not expect an immediate and off-hand reply whether the amendment of section 3 of the Railways Act suggested by him would entirely meet the case, but if it is his contention that it would meet the case, that is another instance where both sides are agreed with regard to the object to be attained, and yet there is a difference as to the means to be adopted for attaining it. If the amendment of section 3 of the Railways Act as suggested by the Honourable Member would meet the requirements of the case, I am quite prepared to proceed by the method suggested by him rather than by the method which has been put forward in the amending Bill. Now, Sir, these are illustrations to show that there are several matters both in the original Act as well as in the amending Bill which is now before the House, which require careful scrutiny and which are capable of being improved upon, and so long as the main object is achieved, I am entirely indifferent as to whether it is achieved by amendment of one section or by amendment of another section.

I now come to the main criticisms that have been put forward with regard to the amending Bill. These are, briefly, the question of the burden of proof, the question of the enhancement of punishment, and the question of the power of arrest. I understand that, apart from some small matters to which reference has been made and some of which I have already dealt with, these are the three main obnoxious features of the amending Bill which are unacceptable to Honourable Members who have spoken against the merits of the Bill. And they are obnoxious because the fear is entertained that they would lead to undue harassment of *bonâ fide* travellers. With regard to a person who does intend to defraud the railways, again apart from the question of burden of proof, let us assume that it is established beyond doubt and to the satisfaction of everybody that a person was travelling upon the railway with intent to defraud—I understand that the view of Honourable Members opposite is that such a person ought to be dealt with and that he may even be dealt with with some severity.

**Prof. N. G. Ranga :** But not to be sent to jail, as is proposed by this Bill.

**The Honourable Sir Muhammad Zafrullah Khan :** The criticism was not that the dishonest traveller who has cheated the railways is not to be sent to jail ; the criticism with regard to that part of the Bill was that sending him to jail will do no good. I do not think it was contended that a man who is guilty of what one Honourable Member opposite described as the offence of cheating and another Honourable Member opposite described as an offence as heinous as the offence of theft, should not be sent to jail. I do not think any sympathy has been expressed on the opposite side with a man who deliberately intends to



[**Sir Muhammad Zafrullah Khan.**]

defraud the railway and does defraud the railway. I thought all the apprehension expressed was that these provisions might be utilised to harass or even to prosecute the *bonâ fide* traveller. That being so, let us look into the case of the *bonâ fide* traveller. A *bonâ fide* traveller has been described, say, as a person who arrives at the railway station at such a time that he finds, either owing to his late arrival or owing to rush of passengers, that he is unable to provide himself with a proper ticket before he commences his journey. That is the typical instance put forward and I accept that as an instance where a man may be compelled to commence his journey upon without first providing himself with a proper pass or ticket. Such a person, if his inability to provide himself with a pass or ticket was due to some such circumstance as I have indicated, would be a *bonâ fide* traveller who does not intend to defraud the railway of its dues. Now, assuming such a person arrived at the railway station and found that he could not provide himself with a ticket and boarded the train without a ticket, if he does not intend to deprive the railway of its just dues, what would he do? In the first place, he would try to get a certificate, either at that station, or at the next station from some person authorised to give such a certificate indicating that he was travelling without a ticket because he could not get one. Difficulties have been pointed out in this respect, and I shall try to meet them. It has been pointed out that recently some railways have withdrawn the authority from their servants to issue such certificates. That I shall also deal with. But that is the first stage,—assuming that it were possible for him to obtain such a certificate, he should obtain the certificate, because an honest man would be troubled all the time in his mind that he should find some means of paying the just dues of the railway to the railway. Supposing he could not get such a certificate, the next thing he could do would be to notify either a travelling ticket examiner or some other member of the staff travelling with the train that he was travelling without a ticket, that is to say, he should notify before detection; in which case, if he belongs to the class of persons for whom great anxiety has been expressed from the opposite benches, that is to say, if he is travelling in a third class compartment, the maximum excess charge or penalty to which he would subject himself would be two annas.

**Mr. Sri Prakasa :** Will the Honourable Member allow me to say that as a matter of fact, third class carriages are sometimes so overcrowded that it is impossible to get out of them to notify any one.

**The Honourable Sir Muhammad Zafrullah Khan :** It may not even be necessary to get out. All that is necessary in order to obtain the benefit of this provision of the law is to notify to a railway servant before detection, that is to say, it should be a voluntary notification and not detection by a railway servant that the man has no ticket.

**An Honourable Member :** How is it possible?

**Mr. D. K. Lahiri Chaudhary (Bengal : Landholders) :** The mail trains stop one minute or two minutes at stations, and the third class compartments are overcrowded, and how can it be possible to come out of the compartment and notify anybody?

**The Honourable Sir Muhammad Zafrullah Khan :** The moment the travelling ticket examiner enters the compartment he can be notified, . . .

**Pandit Krishna Kant Malaviya** (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Supposing I boarded a train at a wayside railway station and notified to some official there, and I meet the ticket examiner after four or five stations, and tell him that I mentioned the fact of having no ticket to some station official whose name I do not know at that station, now who is to come forward to appear as a witness and support my statement ? The station official may say I do not remember or I do not know.

**The Honourable Sir Muhammad Zafrullah Khan** : That would not comply with the provisions of the law. Notification should be to some of the staff on the train. . . . .

(It being Four of the Clock.)

**Mr. President** (The Honourable Sir Abdur Rahim) : Mr. Avinashilingam Chettiar.

### MOTION FOR ADJOURNMENT.

#### REDUCTION OF THE DUTY ON BRITISH TEXTILES WITHOUT CONSULTING THE LEGISLATIVE ASSEMBLY.

**Mr. T. S. Avinashilingam Chettiar** (Salem and Coimbatore-cum-North Arcot : Non-Muhammadan Rural) : Sir, I move  
4 P.M. that the House do now adjourn.

The specific matter which I want to raise by means of this motion of adjournment is the reduction of the duties on British textiles without previously consulting this House. In the short time that is left to me, I do not propose to go into the correctness or otherwise of the conclusions of the special Tariff Board but I propose to prove that not only has injustice been done to this House and a grave injustice has been done to the textile industry in this country but solemn undertakings and promises given on the floor of this House have been thrown to the winds. Page 3 of the report of this special Tariff Board gives the terms of reference to the committee. It says (paragraph 5) :

" To recommend on a review of present conditions and in the light of the experience of the effectiveness of the existing duties, the level of the duties necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom, etc." (and the last sentence says) " By adequate protection is meant duties which will equate the prices of imported goods to the fair selling prices for similar goods produced in India."

The next paragraph, paragraph 6, says :

" In the course of this inquiry, the Board will give a full opportunity to the cotton textile industry, whether in India or the United Kingdom, to present its case and, if necessary, to answer the cases presented by other interested parties."

From these passages it will be clear that the method of inquiry that has been proposed is specifically and directly that which has been covered by the Indo-British Agreement. Let me for the recollection of this House just read a few lines of the Indo-British Agreement from which these lines have been directly taken. Article 3, paragraph 2 says :

" The Government of India further undertake that the measure of protection to be afforded shall be only as much as and no more than would equate the prices of imported goods to the fair selling prices for similar goods produced in India and

[Mr. T. S. Avinashilingam Chettiar.]

when the question of the grant of substantive protection to an Indian industry is referred for inquiry to a Tariff Board, the Government of India will afford an opportunity to any industry concerned in the United Kingdom to state its case and to answer the case presented by other interested parties."

It is clear that the method of inquiry suggested to this special Tariff Board is one under the Indo-British Agreement which was brought before the Assembly early last year. Honourable Members will remember what a tough fight the Assembly had to put up against the Government in this matter of the Indo-British Agreement and finally the Government were defeated in that matter. The Members on this side of the House expressed their apprehensions that this method of inquiry would be to the disadvantage of the Indian textile industry, but the Honourable Sir Joseph Bhore, in trying to dispel our fears, said :

" Secondly, the inquiry is to be our inquiry, ordered by ourselves and entrusted to those whom we consider suitable to carry out the investigation. Thirdly, the conclusions on that enquiry are to be our conclusions and lastly if the substantive level of protection granted by the Legislature is to be reduced, it is the Legislature that will reduce the level of protection."

It was specifically given to understand that any reductions recommended by a Tariff Board inquiry will be brought before the Legislature and then it should be done with the consent of the Legislature and it will be only the Legislature that will reduce the rate of protection that might be given and now the Government have acted under section 4 (1) of the Tariff Act. I have nothing to say against section 4 (1) of the Tariff Act except this. If we study the circumstances that have attended this case, some of us think that this action has been deliberately planned. We know that the Imperial preference under the Ottawa Agreement has been opposed tooth and nail and notice of termination of the Agreement has been given. This House also knows that the Indo-British Trade Agreement was thrown out by this Assembly and suspicion has of late been growing that the Government feel sorry for the policy of discriminating protection that they had embarked upon in one of their lucid moments and on the top of this comes this special Tariff Board. The composition of this Tariff Board was questioned both in the press and by the public as well as in this House and after it had published its recommendations, they were questioned by the various chambers of commerce. They had submitted memoranda and stated that these recommendations if given effect to would deal a great blow to the textile industry of this country. I have not the time or the intention to refer to the various memoranda that have been submitted by the various chambers of commerce, the Federation of Chambers of Indian Industry and Commerce, the Calcutta Chamber of Commerce, and so on. They have all expressed the opinion that these are not in the best interests of the textile industry of India. Let me put their views in brief : If it is remembered that the extent of protection now afforded is the result of an arbitrary averaging, and that the goods, which are sufficiently dissimilar to stand in the way of comparison of costs and prices, are, at the same time, sufficiently similar to take them essentially competitive, it will be realised that there is the gravest risk in reducing the duty on plain grey piecegoods to 20 per cent. *ad valorem* or 3½ annas per lb. whichever is greater and the duty on bordered grey bleached and coloured piecegoods to 20 per cent. *ad valorem*. Business leaders have expressed their apprehension that the reductions in the

scale of import duties might not only cut into the profits of the more efficient mills, but would have the effect of sending into liquidation a number of other units which may be considered to be reasonably efficient.

These fears were expressed, and what did the Government do? The Government rushed along. There is an English proverb which I do not want to repeat. I must thank the Honourable the Commerce Member in supplying me with a copy of this Resolution. On page 2, para. 3, they state their reasons for the decision outlined above. They say:

"In taking the decision outlined above, the Government of India have given the fullest consideration to the possible reactions of the reduction of duties on customs revenue and the budgetary position. It has already become clear that with the continuance of the present uncertainty as to the future level of the cotton textile duties, the revenue from imports of British cotton piece goods must fall far short of the amount included in the current estimates. The interests of the revenue required an early termination of this uncertainty and the Government of India are satisfied not only that the yield of the duties at the present level will not be appreciably less in the current year than it would have been if the former duties had been continued but also that there is no reason to anticipate that in future years revenue will be deleteriously affected."

In the first place, Sir, I should rather feel sorry that questions of revenue should have cropped up more prominently in deciding a matter like this. Not only that, but I should rather doubt the very argument in the latter part of this order. It seems to go against the very reason why they should not have arrived at a decision. They say: "We have reduced the duties". At the same time, they say that the revenues will not suffer. Sir, if twenty articles of import are taxed at the rate of eight annas each, we get a revenue of ten rupees, and if we get the same amount of revenue, is it not common sense and common mathematics that the imported articles should be forty instead of twenty? That being the case, this very argument proves that this goes to the root of the protection that has been given to the textile industry.

One word more, Sir, and I have done. The real reason why they have taken this action is that the Government have been demoralized to a certain extent. They feel that they are faced with defeats when they come forward day in and day out, they feel that their proposals are not in the best interests of the country, and they feel that their recommendation will never be confirmed by this House and so they come forward by the back-door and they want to face us with an accomplished fact because they dare not come to this House and face it. It is mere callousness. The demoralization, I fear, has gone so far—and more examples may be given. I heard that this change in the rules with regard to the I. C. S. recruitment was decided upon and made even when the Assembly was sitting but it was announced much later to avoid discussion in this Assembly. So I am really sorry that this callousness and this demoralization in the Government ranks should have gone on so far. They ought to have, if they were honest, placed this matter before the Assembly and got their opinion in a matter which concerns vitally one of the biggest and one of the most organized industries in this country. Sir, I move.

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

"That the Assembly do now adjourn."

**Sir Abdul Halim Ghurnavi** (Dacca cum Mymensingh : Muhammadan Rural) : My Honourable friend, who has moved this motion this

[Sir Abdul Halim Ghuznavi.]

afternoon, was not unfortunately a Member of this House in 1934. Therefore, he is not aware of the statement made on the floor of this House when the Mody-Lees Pact was ratified by this Honourable House.

**Mr. M. S. Aney** (Berar Representative) : Are they not published in the proceedings ?

**Sir Abdul Halim Ghuznavi** : But my Honourable friend has not taken the trouble of reading those proceedings.

Now, Sir, the first point I wish to make out is this—did the Government take the power of increasing or decreasing these protective duties into their hands apart from the Assembly's vote ? I find, Sir, that power was taken at the time the Steel Industry (Protection) Bill of 1927 was passed into law. You will find that in the report on the Inquiry into the Steel Industry they say :

“ Though we do not contemplate that the additional duties should be varied to meet slight or temporary changes in the prices of continental goods when circumstances indicate that a change in duty is required, there should be no unnecessary delay in arriving at a decision giving effect to it.”

Now, Sir, you raised from the floor of the House a very important question, while discussing the Steel Industry Bill of 1934. You moved an amendment to the effect that the action taken under this power should cease to have effect after two months unless approved by the Legislature. That amendment, Sir, was negatived by this Assembly. So that power stands, and the Assembly approved of a power being given into the hands of the Government.

**Mr. M. Ananthasayanam Ayyangar** (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : That has nothing to do with the textile industry.

**Sir Abdul Halim Ghuznavi** : That power is in the hands of the Government apart from the textile industry or any other industry.

(Interruption by Mr. B. Das.)

**Mr. President** (The Honourable Sir Abdur Rahim) : If the Honourable Member (Mr. B. Das) wishes to put any question, he must rise in his seat.

**Mr. B. Das** (Orissa Division : Non-Muhammadan) : Sir, may I ask.....

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member does not give way.

**Sir Abdul Halim Ghuznavi** : Sir, when this Mody-Lees Pact was ratified in this Honourable House, Sir Joseph Bhore, in his speech, as reported in the Legislative Assembly Debates of the 13th March, 1934, said :

“ The tariff rates on British goods will remain in force for two years in accordance with the terms of the Agreement between the Lancashire Delegation and the Millowners Association, Bombay, that is, the present rate of 25 per cent. *ad valorem* or 4 3/8 annas per pound on plain grey goods, and 25 per cent. *ad valorem* on other goods will, during this period, continue until the second surcharge comes off as a general measure. If and when this happens, the duty will be reduced to 20 per cent. *ad valorem* or 3 1/2 annas per pound on plain grey goods, and 20 per cent. *ad valorem* on other goods.”

That surcharge did not come off and the duty remained at 25 per cent. *ad valorem* or 4½ annas per pound. Then he said :

“ On the expiry of the two years covered by the Agreement, the duties on British goods for the remaining period of protection will have to be decided on a review of the conditions then existing and in the light of such experience as may have been gained.”

What he said was, therefore, this, that the duties would remain, but it would have to be decided on a review of the conditions then existing, and in the light of such experience as may have been gained. In pursuance of that statement on the floor of this House, they had to ask the Tariff Board to go into the matter once again as on the expiry of the two years that undertaking was given by the then Commerce Member. The Tariff Board, consisting of the following Members—Sir Alexander Murray, Diwan Bahadur Ramaswami Mudaliar, and Sir Fazl Ibrahim Rahimtoola—examined this matter, and they have recommended to the Government that from 25 per cent. the duty should be reduced to 20 per cent. In pursuance of their recommendation and the power which the Government possess, they have decided to give the remission of five per cent. as soon as they saw it was practicable and possible. The Honourable the President himself wanted to amend this power which was refused by this House.

**An Honourable Member :** It was not the Honourable the President, but the Honourable Sir Abdur Rahim.

**Sir Abdul Halim Ghuznavi :** Yes, it was the Honourable Sir Abdur Rahim, and he moved a very reasonable amendment. Sir, this is the position. Government have done nothing whatsoever for which they can be censured.

**Mr. Muhammad Ashar Ali** (Lucknow and Fyzabad Divisions ; Muhammadan Rural) : They have done something illegal.

**Sir Abdul Halim Ghuznavi :** They have done nothing illegal. What they have done is this,—the then Commerce Member gave an undertaking on the floor of this House that, after the expiry of two years, the Tariff Board would examine the position, and, whatever might be the result of their examination, Government would give effect to their recommendations, and, by the power which is vested in the Government, they have given effect to those recommendations.

**Mr. N. M. Joshi** (Nominated Non-Official) : Not without the consent of the Legislature.

**Sir Abdul Halim Ghuznavi :** My friend, Mr. Joshi, says “ not without the consent of the Legislature ”. But you have yourself given the power to the Government.

**Mr. N. M. Joshi :** That is an emergency power.

**Sir Abdul Halim Ghuznavi :** No, it is not an emergency power. Sir Abdur Rahim wanted to cancel the power if it was not before the House in two months' time. Unfortunately, it was not accepted by this House, otherwise Government could not have exercised the power which they have exercised today.

Now, Sir, the position is this. If anyone has been affected, it is the Bombay millowners, and they do not object to this, because they are sensible people. They understand their own business. It is not business to oppose this, because, after all, you have to understand this that India

[Sir Abdul Halim Ghuznavi.]

cannot yet supply her requirements and that there must be good feeling subsisting between England and India. I would remind the House of what I said in my speech when the Mody-Lees Pact was being discussed in this House. I am going to read only a few sentences from that speech. You must bear in mind that we cannot displease Lancashire, because they are the largest buyers of our cotton. What I said was this :

“ I shall say now a few words in regard to the two Agreements, one with the United Kingdom.....”

**An Honourable Member :** You are quoting yourself.

**Sir Abdul Halim Ghuznavi :** Yes, I am quoting from my own speech.

**Mr. M. S. Aney :** That is not permissible.

**Sir Abdul Halim Ghuznavi :** Unless the President gives his ruling to the contrary, I am going to read it.

**Some Honourable Members :** Go on.

**Sir Abdul Halim Ghuznavi :**

“ .....and the other with Japan. Firstly, after all, their operation is confined to two and three years, respectively. It is only for two or three years. Secondly, you have to bear in mind that India has to find a market for nearly four million bales of surplus cotton.”

**Mr. N. M. Joshi :** How much England takes ?

**Sir Abdul Halim Ghuznavi :** I will tell you how much they take and what they are taking now, and what they used to take before. Let me continue with the quotation :

“ You must be friendly with these two countries, England and Japan. England can buy our cotton, and she has promised to buy Indian cotton more and more. Thirdly, it would be some years before India will be able to manufacture enough to clothe her entire population. In matters textile, we must think nationally, and if we do so, India will be able to assert her rightful position. India refuses to recognise inter-provincial jealousies in this connection.”

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhammadan Rural) : A magnificent speech !

**Sir Abdul Halim Ghuznavi :** It will not please you, because you have got the wrong vision.

Now, Sir, what I say is that the Government have done nothing whatsoever for which there can be a censure motion brought against them. They have acted exactly on the undertaking given by the then Commerce Member on the floor of the House. They had the Tariff Board's report, and they gave effect to their recommendation by using the powers vested in them.

**Pandit Krishna Kant Malaviya** (Benares and Gorakhpur Divisions : Non-Muhammadan Rural) : Behind the back of this House.

**Sir Abdul Halim Ghuznavi :** The power has been given to them, and they can exercise that power whether behind the back or in front of this House. Sir, I oppose this motion.

**Mr. J. Ramsay Scott** (United Provinces : European) : Mr. President, I would like to call the attention of the House to the Press Communiqué

of the 16th of October, 1935, giving the terms of reference to the Tariff Board :

“ To recommend on a review of present conditions and in the light of the experience of the effectiveness of the existing duties, the level of the duties necessary to afford adequate protection of the Indian Cotton Textile Industry against imports from the United Kingdom of (a) cotton piecegoods, (b) cotton yarn, (c) fabrics of artificial silk, and (d) mixture fabrics of cotton and artificial silk. By adequate protection is meant duties which will equate the prices of imported goods to the fair selling prices for similar goods produced in India.”

You will note that adequate protection is used twice to emphasise it. I am very glad to have the opportunity of congratulating Government on taking immediate action on a Tariff Board Report. In the past, we have had numerous cases where, when Government took action, the report was out of date and when new conditions had arisen which the Tariff Board could not foresee. My Group and I have always asked for quick action to be taken on Tariff Board reports, and although in this case we may not agree with the action taken in every respect, we see no reason to blame Government for taking quick action ; but, as I have said before, we would rather thank Government and hope this means that they have turned over a new leaf.

There is nothing new or extraordinary in this action. There have been at least four cases that I know of where Government have taken action, and the action can be either to lower duties or increase duties. The action to increase duties is, however, only possible where the industry is a protected one and where imports lower the protection awarded to the industry by this Honourable House. The outcry against the lowering of the duty on cotton piece goods from the United Kingdom and its damaging effect on the industry is “ all rot ”. The supposition has been that the lowering of the duty by five per cent. on cotton piece goods would mean the swamping of Indian markets by goods from the United Kingdom. For several years imports from the United Kingdom have been dwindling until they have practically stopped and the reduction was an attempt to help conditions and in my opinion, and in the opinion of those who really know the conditions of the textile trade, it was nothing more than a friendly gesture which will cost the country next to nothing. I maintain that a friendly gesture which costs this country nothing and which will not harm this country is all important at the present moment. You may tell me that we ought to have got something in return from the United Kingdom but I know that when the negotiations start for a new treaty between India and the United Kingdom, this will be a wonderful bargaining counter to show the goodwill of this country towards the United Kingdom. There are several cotton magnates who are going Home to advise Government and I feel sure that they will make the most of this kindly and friendly action of our Government and I also feel sure that it will have very far reaching effects to promote better relations between India and Great Britain. Although I am not in agreement with the Government action on cotton yarns, as cotton yarns are not properly protected, I can see no reason to censure the Government in any shape or form.

**Sir Srinivasa Sarma** (Nominated Non-Official) : Sir, exactly this time twenty-four hours ago, this House listened to the very eloquent speeches from Honourable Members opposite on the importance to this country of having a permanent Tariff Board and of Government carrying



[Sir Srinivasa Sarma.]

out the recommendations of that Board. Within twenty-four hours of those eloquent speeches.....

**An Honourable Member :** Forty-eight hours.

**Sir Srinivasa Sarma :** No, twenty-four hours. This is another specimen of the kind of exaggerations which Honourable Members opposite indulge in. It is only an indication of how things are exaggerated in this House ! Well, Sir, within twenty-four hours, we see those very Honourable Members waxing eloquent condemning the Government for giving effect to the recommendations of the Tariff Board, consisting of.....

**An Honourable Member :** A special Tariff Board.

**Sir Srinivasa Sarma :** That does not make any difference, whether it is ordinary Tariff Board or a special Tariff Board. Sir, within twenty-four hours we see Honourable Members opposite taking Government to task for giving effect to the recommendations of the Tariff Board consisting of very eminent men. (Hear, hear.) Nobody can dispute, in spite of the usual interruptions of my Honourable friend, Mr. Satyamurti, that the Tariff Board was constituted of very eminent men. Sir Alexander Murray, a name very well respected in Calcutta, and who was very well-known all over Bengal as a pro-Indian European in Calcutta, was the Chairman of the Tariff Board. He was one of those who tried very hard, during his business career in Calcutta, to improve the relations between Europeans and Indians in this country. Such a person was the Chairman of the Board. Then, there was Diwan Bahadur A. Ramaswami Mudaliar,—whatever Honourable Members opposite may say about him, I am sure, those who were Members of the last Assembly will remember that on practically all popular measures, he voted with the popular side and voted against the Government. The third Member was Mr. Fazl Ibrahim Rahimtoola. Everybody here will admit that he is more interested in textile industry of Bombay than any Member sitting opposite. I submit that the recommendations of a Board consisting of such three eminent men are recommendations that will carry weight with the industry in this country as it has done. But that is beside the point. (Laughter.) I mean it is beside the point to the discussion raised by my Honourable friend, Mr. Avinashilingam Chettiar, whose adjournment motion is to censure the Government for taking a particular action without consulting this House. Whether Government have done rightly and whether they did not go beyond their jurisdiction is the only matter before the House, and Government had not only exercised their power by the right conferred upon them by this very Legislature, but I think it will be news to those Honourable Members sitting opposite that Government have exercised similar powers on three or four occasions in the past without the Assembly then existing taking them to task for it.....

**Pandit Nilakantha Das (Orissa Division : Nan-Muhannadas) :** It is no news to us.

**Pandit Lakshmi Nanta Matra :** Very excellent justification.

**Sir Srinivasa Sarma :** This Assembly has given the right and the power to Government to act on the recommendations of the Tariff Board, and, it is in pursuance of that, that the Government have acted in this case. Whether the Assembly agree with them or not is another matter.

If the Assembly does not want it, it is open to raise that point in a hundred and one other ways. But to condemn the action of Government for taking action in pursuance of the power vested in them by this very Assembly is a thing which no sensible man can support.

**An Honourable Member :** You are the only sensible Member in this House.

**Sir Srinivasa Sarma :** Well, Sir, I do not believe in undue modesty, and I accept the compliment of my Honourable friend. I am a sensible man, and may I ask whether any sensible man will condemn the Government for taking an action which they did under the powers given by the Assembly itself. The Government took action on the recommendations of the Tariff Board,—can any sensible man condemn the Government for that ? In view of this, I do not think that Government can be censured at all. Sir, I oppose the motion for adjournment.

**Pandit Krishna Kant Malaviya :** Sir, I have been listening most attentively to the speeches that have been delivered by my Honourable friends opposite, but it appears to me that all along they have been shirking the main issue before the House. My Honourable friend to my left was telling us that it was very good friendly gesture so far as the British Government and the English people are concerned. What I want to know is this. It may be a friendly gesture so far as the British people are concerned. But where is the friendly gesture to the Members of this House and to the representatives of the people in this House. Why were they not consulted ? As regards the Tariff Board, as my Honourable friend, Mr. Satyamurti, pointed out yesterday, we want a permanent Tariff Board and that every thing should be done by Government only on the recommendations of such a Tariff Board. But we never wanted that the recommendations of the Tariff Board should not be placed before this House or that we should not be consulted or that matters should be finally decided behind our backs. We want that Government should show to this House some friendly gesture. What is the good of showing friendly gesture to people who live beyond the seas ? You cannot afford to be friendly with us, but you want to be friendly with the British people. This can be no consolation to us.

**Dr. Ziauddin Ahmad** (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I have no interest in Lancashire or in the millowners of Bombay, Ahmedabad or of any other place. They are all rich people, and they can very well look after their interests themselves. The people in whom I am interested and whose interests I would always like to safeguard are the millions of poor people of this country and of consumers, and it is only from their point of view that I should like to judge the proposition before the House. The first question that was raised was whether Government had any power to act in the manner they did. I have got a copy before me of the Indian Tariff Act. It refers to the power of the Governor General in Council to alter protective duties. There is no mention of emergency. It is not an emergency power. The section says :

“ Where in respect of any article chargeable under the First Schedule with a duty characterised in the third column thereof as protective, the Governor General in Council is satisfied, after such enquiry as he thinks necessary, that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India, he may, by notification

[Dr. Ziauddin Ahmad.]

in the Gazette of India, increase or reduce such duty to such extent as he thinks necessary either generally or in respect of such article when imported from or manufactured in any country or countries specified in the notification."

That is the power which this House has conferred in 1926 on the Governor General in Council, and if any one is to blame, we have to blame the Assembly as it was then constituted which gave this particular power, and my Honourable friend, Mr. Joshi, was a Member of that Assembly which gave the power to the Government. This power was given to them and given, to my mind, wrongly, because I could never vote in favour of this particular amendment. But it is a fact that the Legislative Assembly gave them this power, and we cannot blame Government for using the power which this House gave them.

There is one other point. This section says that the Governor General in Council has to be satisfied after such inquiry as he thinks necessary. In this case I find the matter was referred to the Tariff Board. I do not go to the personnel of the Tariff Board, because I believe in the maxim that we should think of what the person says and not think who said it. Therefore, I do not go to the personnel of this Board. Of course two of them are ex-Members of this House, and they were both very prominent Members. Here I have before me all their facts and figures and their conclusions. If you think their calculations are wrong, somebody should get up and find out the flaw in their argument. After going through all these figures which are outlined here, and I spent one hour in studying them, I find they have given their main conclusion from the data obtained by personal enquiry. This is what they say in section 37 of their recommendations :

"The Board recommends that on cloths of bordered grey bleached goods and coloured goods (excluding prints) the duty necessary to afford adequate protection to the Indian cotton textile industry against imports from the United Kingdom should be 20 per cent. *ad valorem*."

This is the conclusion they have arrived at as a result of their own calculations. If we object to their calculations, our primary duty is to find out the flaw in their argument on the basis of which this conclusion has been drawn. I have no basis on which to object to their figures, because I have got no figures at my disposal. So I have to take their figures, and then it is a case of simple arithmetic to arrive at their conclusion. What more searching enquiry could the Governor General make on this point ?

Now, I come to my arguments on general grounds, and I first refer to the recommendations of the Fiscal Commission and I will then point out the general economic position of the country. As regards the quantum of protection, the Fiscal Commission said :

"We cannot shut our eyes to the fact that in protectionist countries considerable difficulty is experienced in reducing and removing duties even when they are no longer required ; and it is probable that such an industry will impose on the whole a greater burden on the consumer than its conditions really require."

I look at it from the point of view of the consumer. I am quite prepared to put a special burden upon myself in order to develop an Indian industry. But the duty which ought to be imposed upon me as consumer should be just adequate and as much as may be necessary to

keep the industry in flourishing condition, and it should not be more than what is really required for protection, because the same Fiscal Commission at another place also clearly outlined the disadvantages of excessive protective duties. A duty which is less than necessary for adequate protection is as bad as a duty which is imposed in order to give excessive protection. We must have just enough protection in order that the capitalists may have a profit which may be justified according to the circumstances prevailing at that particular time. So the Tariff Board by a calculation has seen that the duty was excessive and they have reduced the duty by five per cent. The other argument which I would very much like to press today is this. I have repeatedly said on the floor of this House that we are suffering at present under the maladjustment of prices between raw materials and manufactured articles. Taking the figures of 1914 as 100, we find that the price index of raw cotton has gone down from 100 to 74, but the price index of manufactured textile articles has gone up from 100 to 114. The price index of raw products has gone down and the price index of cotton textile has gone up. Therefore, it is the duty of Government, if they care for the interests of the people of this country, that they should try to raise the price index of agricultural products and lower the price index of manufactured articles in order that these maladjustments may no longer exist.

Now, I have been pressing time after time that we should make every effort to reduce the price level of these manufactured cotton textiles, and the only way in which it can be done is that we should reduce the import duty on these artificial articles. No one will question that reduction in import duty leads to the reduction in prices and reduction in price index. I have been here for six years, and for six years I have found that time after time import duties have been increased and increased on all kinds of articles including textiles. This is the first time during the last six years that the Government have lowered the duty, although by a small amount of five per cent. This really means that the price index of 114 of other textiles comes down by at least three or four per cent.; and this will reduce the balance of maladjustment between manufactured articles and raw materials. Therefore, any attempt, which may be made in order to reduce the price index of manufactured articles and to increase the price level of cotton, will be welcomed by the teeming millions of the population who are the children of the soil and who have really to buy manufactured articles by selling their cotton. This is really the problem. At the same time I must say that it should be reduced to such an extent that the industries may not suffer. In this case I understand the industries have not been affected. Had the industries been affected there would have been strong protests from the millowners of Bombay and Ahmedabad and other places. But I see no sign of protest from anywhere. The protest comes only from those persons whom the Fiscal Commission described as always opposing the reduction of duty whether the persons affected protest or not. Had these protests come from the millowners and had they given their arguments that they cannot afford to reduce the duty by 5 per cent., that the figures given by the Tariff Board are wrong and the basis of their calculations is incorrect and the conclusions they have arrived at are not justified, then I would have come forward and said that we cannot afford to destroy our mill industry, however undesirable it may be for me to continue to pay up higher cost of my manufactured articles. In the

[Dr. Ziauddin Ahmad.]

absence of any protest, we can conclude that evidently this action of the Governor General in Council has satisfied all the parties. After all, when we imposed this protective duty, it was clearly pointed out by the Tariff Board that it is not for ever. It is for a limited period, and we always look forward to the time when it will be reduced, and ultimately removed altogether.

As I pointed out, this increased duty is in the shape of a loan from the consumers to an industry. If I pay higher duty for my cloth, it is really a loan which I am giving to the mill industry on the security of the Government. I am carefully calculating the cost of sugar, how much more money I have paid on sugar, and, at the end of seven years, I will bring forward a suit against the Finance Member for the increased cost, because he has promised me, when giving this protection, that after the year 1939, that industry will stand on its own legs, and they will be able to reduce the price of sugar; and if these prices are not reduced, protection was not justifiable. In the case of textiles, we find that, after all, the time has arrived after giving them protection for fourteen years that they are in a position to reduce the taxation by five per cent. *ad valorem*. This is really something to our advantage, and I think we should welcome it. The Fiscal Commission promised us that, as soon as an industry progressed, the burden on the consumers would continue to diminish and that it should not continue indefinitely on the consumer. (Interruption.) I have no interest for anybody under the sun except the consumers. (Laughter and *Cries of "Oh"*.) It is their interest that I am pleading. As regards the handloom industry, there is one complaint I have to make. There are definite proposals of the Tariff Board on this point, and I hope that the time will soon come when the burden on the cottage industries in the shape of excessive duty on yarns will also be removed, and they will be in a better position. My inclination is always to vote for the reduction of duty on any protected article, provided it is justifiable, provided it is based on the report of a Tariff Board. I also welcome reduction of the duty as it would tend to reduce the maladjustment of the prices which I just pointed out.

**Pandit Govind Ballabh Pant** (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural) : Sir, before dealing with the real issue that is before the House, I should like to say a few words with reference to the arguments that have been advanced by some of the speakers who have opposed this motion. With apologies to Dr. Ziauddin Ahmad and the gentleman who preceded him, I feel that both of them have betrayed a confusion of thought. They say that there is no occasion for finding fault with the Government, because they have only exercised a power which they possessed under the Tariff Act. If they had done something against the law, then we would have gone to a law Court and obtained an injunction and perhaps damages against the Member in charge. We in this House are seldom concerned with the unlawful acts of the Government : unlawful acts ought to be the subject of action in another place which is above the influence of this Government. We are always concerned here with an abuse of discretion. When we argue that the Government should not have imprisoned—say, for example, Dr. Ziauddin Ahmad—without any trial, the Government have the power under the law, but we say that it was an abuse of power. When we say that a certain person should not

have been confined as a State Prisoner, it is not because there is no Act under which the Government did not possess that authority, but because we feel that the Government had misused the discretion and the authority vested in it ; of course, whatever authority the Government possess under an Act is by virtue of some enactment of this House. So, it is not a valid argument that because the Government possess a power under an Act, therefore we are not entitled to raise—it is not even open to us to raise—an objection for gross abuse of that power. Then, the Honourable Knight—I do not know his full name, and it would not be proper to call him " Mr. Sarma "—twitted us for raising an objection today against action which had been taken by the Government in conformity with the recommendations of the Tariff Board while we had been pressing for a permanent Tariff Board yesterday. Exactly. This is an illustration which shows the danger of an *ad hoc* committee. It shows how conclusions are manipulated, how data are distorted, and the facts are misinterpreted, how pre-determined courses are adhered to by means of the subtle device of getting some sort of decision from a manipulated Tariff Board ; and what I am saying will be borne out if I am allowed to proceed further.

Those of you who have seen the Indo-British Trade Agreement must be knowing that there was a suggestion there that the *ad valorem* duty should be reduced from 25 to 20 per cent., and specific duty from 4½ annas to 3½ annas per pound. It is rather a strange coincidence that, after all this elaborate inquiry, this Tariff Board should have arrived exactly at those very conclusions, namely, that the *ad valorem* duty should be reduced from 25 to 20 per cent., and the specific duty to 3½ annas per pound, which was desired by British manufacturers in the Indo-British Trade Agreement. It is rather suspicious and amazing how the prophets could have foretold the decisions of the Tariff Board about two years before its appointment. This is a genuine case of inspiration. That, Sir, shows the danger of *ad hoc* Tariff Boards.

These are, however, not the main points with which we are concerned today. The point is this : whether the Government have acted faithfully, or faithlessly, honestly or dishonestly, with candour or with hypocrisy in the matter ; and I use these words designedly. I will tell you what has happened. This is what we were told by Sir George Schuster in the year 1930-31 on an occasion more or less like this :

" We made it clear to the British Government that in a matter of this kind, giving preferential treatment to British goods by putting additional duty of 5 per cent. on non-British cotton textiles after frankly stating our conclusions, we should desire to put our carefully considered views before the Legislative Assembly. *With them the final decision must rest.*"

That was the definite declaration made by Sir George Schuster on the floor of this House in 1930-31—that any proposals for the reduction of duties on British goods must be placed before this House *with whom the final decision must rest*. We have already been reminded of the definite promise, the solemn pledge and undertaking that Sir Joseph Bore gave when the Indo-British Trade Agreement was discussed. I will quote his exact words :

" The conclusions of the inquiry are to be our conclusions and if the substance and level of the protection is to be reduced it is the Legislature that will reduce the level of protection."

[Pandit Govind Ballabh Pant.]

That was an unequivocal promise given by Sir Joseph Bore with reference to this very proposal about the reduction of import duty on British textile goods from 25 to 20 per cent. and from 4½ annas to 3½ annas per pound. You have contravened every solemn undertaking. Official memories are short, but I think the Government of India may not have quite forgotten what it published only few months back. When they issued their notification appointing this Tariff Board, what did they contemplate, and what did they tell the country? Sir, I will read out to the House paragraph 4 from their own notification by virtue of which this blessed Tariff Board was appointed. I am reading from paragraph 4,—and I will ask Honourable Members to note just a few words that appear in this paragraph :

5 P.M.

“ In the course of the debate on the Bill, the then Commerce Member, Sir Joseph Bore, in moving that the Bill be referred to a Select Committee, stated on behalf of the Government that, though it was intended to afford the textile industry protection for a period of five years, the tariff rates on British goods would remain in force for two years in accordance with the terms of the Agreement between the Lancashire Delegation and the Millowners' Association. On the expiry of the two years covered by the Agreement, the duties on British goods for the remaining period of protection would have to be decided on a review of the conditions then existing and in the light of such experience as may have been gained.”

Now come the important sentences :

“ The period of the Agreement will expire on the 31st December, 1935, and it will be necessary to introduce, in the course of the next Budget Session, legislation to give effect to any changes in the duties which may be found necessary.”

This was, Sir, the unequivocal declaration made by the Government of India in the body of the very notification by which the Tariff Board was appointed,—from which Tariff Board we have these erratic recommendations which cannot stand the test of even a moment's examination, but I have no time to deal with those recommendations at the present stage. The Government of India have really lost all sense of decency and have thrown to the winds promises made by their responsible spokesmen in this House again and again, and I will tell the House the reason for it. The reason was this. If the proposals that emanated from this Tariff Board had been placed before this House, they could not have stood the light of reason and scrutiny even for a second, and the Government would have found it impossible to support the conclusions of the Tariff Board. Sir, the Government should know one thing,—and they know it,—that whenever there is a proposal for preferential treatment of Great Britain, there is naturally a widespread suspicion in the country. The Government of India are subordinate to the Government of Great Britain and cannot resist the pressure exerted on them by the British Government; and when any preference is given to Great Britain, the man in the street jumps at the conclusion, even if it be not justified, that the action of the Government must be due to alien influences and extraneous considerations. Now, was there any special reason for the appointment of this Tariff Board? This Tariff Board, Sir, is supposed to have been appointed in consequence of the Agreement of January 1934, but that Agreement itself was appended to the Ottawa Agreement, and it was laid down in that Agreement itself that it should remain alive only so long as the Ottawa Agreement remained alive. The Ottawa Agreement having been denounced, having been burnt and buried, why did the Government follow the erratic footprints and of the dead devil which had no trace left at the

time? I repeat that there was no occasion for taking action on this Agreement then. Then, Sir, the House having thrown out the Ottawa Agreement, why did the Government grant one sided preference? Even at the last Session in Delhi we had a Tariff (Amendment) Bill relating to fents, and the Government wanted some sort of preference for British articles imported into India. This House threw it out, and it reiterated that it would not be a party to any kind of unilateral preference to British imports. Now, let us go further and see if this was an appropriate occasion for action of this sort. Well, the Commerce Member, I believe, is carrying on or contemplates starting negotiations with the British Government about a bi-lateral agreement. Was it proper to grant a preference to one side without any *quid pro quo*? Could you not have waited for a few days more and seen to it that if England got any advantage from India, India also got something in return from the United Kingdom? Don't you remember, Sir, that when in England some questions were raised recently about imports from India, then the Member in charge of the Board of Trade said that as the whole matter was to be reviewed it was not an occasion for dealing piecemeal with anything. Sir, we on our part have been showering benefits on United Kingdom one after another. I think Honourable Members of this House are aware that while the import duty on imports from other countries stood at 50 per cent., on British textiles this import duty did not go beyond 25 per cent., and England was enjoying an advantage of 50 per cent. as against other countries even before the reduction; and even that was not considered enough. Why should we go on giving fresh advantages? If the Government of India were candid and told us that they are only a subordinate wheel in the mill, and, as such, cannot do anything better, it would be intelligible, but they lack candour and honesty, and in trying to defend the indefensible look ridiculous. Sir, the attitude the Government of India have adopted in this matter is not only anti-national and detrimental to the interests of this country, but amounts to a distinct breach of faith.

**Mr. M. Asaf Ali** (Delhi : General) : Sir, I move that the question be now put.

**Mr. F. E. James** (Madras : European) : Sir, after the vitriolic speech of my Honourable friend, Mr. Pant, in which he has not concealed his hatred of everything emanating from, or to the benefit of, the United Kingdom, I desire to place before the House as dispassionately as possible, my reasons for voting against this motion. Before doing so, I should like to congratulate the Honourable Pandit on making his first public declaration that he, and I presume his Party, are no longer concerned with unlawful acts. I suppose that is the result....

**Mr. S. Satyamurti** (Madras City : Non-Muhammadan Urban) : In this House, he said..

**Mr. F. E. James** : .....of the "parliamentary mentality which has come to stay".

Well, Sir, as far as this motion is concerned, I must trouble the House to go back a bit into the history of the appointment of this special Tariff Board. This Board was appointed to investigate the adequacy of protective duties applicable to cotton and artificial silk fabrics and cotton yarns of British manufacture. Admittedly, it was a difficult task,—and I



[Mr. F. E. James.]

must protest against the disgraceful terms which were applied by the Pandit to the Tariff Board which undertook this work a year ago,—their task was an extremely difficult one, and it was discharged with great efficiency and impartiality. (*Some Congress Members*: "Oh, oh".) Conflicting claims were placed before the Tariff Board both from the United Kingdom and from this country, and as usual they were pitched extremely high. If Lancashire's case had been admitted, there would have been no duty; if India's case had been admitted, the existing duties would have been doubled. On the whole, a middle course was followed by the Tariff Board in its recommendations. I am not going to discuss those findings except to point out that in the words of one eminent mill-owner, which are very significant indeed, the result of the findings of the Tariff Board and their acceptance by Government would force the Indian mills to improve their efficiency. If that is the case, the whole country should be grateful to the Tariff Board for their recommendations. Now there was delay in the appointment of this Tariff Board and there was delay in the submission of its report. As a result, there was a considerable period of uncertainty as to what the duties were going to be in the future. This period of uncertainty was detrimental not only to trade, but also to the revenues of the country and the consumers in the country whose interests in this debate have not so far been considered, I claim in the first place that it was the duty of the Government, having in view the trade of the country, the consuming public and the revenues of the Government, once their mind was made up with regard to the recommendations of the Tariff Board, to take immediate action under such powers as they had. I have often wondered during the course of this debate whether this adjournment motion would have been brought forward if the recommendation of the Tariff Board had been for an increase instead of a reduction of duty. I shall deal with that matter a little later.

Now, Sir, under section 4, sub-section (1) of the Indian Tariff Act, the Governor General in Council has power to reduce or raise duties after enquiry. Therefore, under Statute there was no obligation to consult the Legislature. I may here perhaps compare the position in this country under this Act with the position in the United Kingdom. The procedure set out in the United Kingdom Import Duties Act of 1932 is briefly as follows. The Import Duties Advisory Committee has power to recommend to the Treasury that in respect of goods of any class or description any commodity should be admitted free of duty, or the existing duties should be reduced or increased. These recommendations go to the Treasury, and the Treasury after receiving them may, if it so thinks fit, make an order either for the reduction of the duty or for the increase of the duty or that any particular commodity should be admitted free. Such an order is, under the Act, laid before the House of Commons and it ceases to have effect unless, within 28 days of its passing, the necessary resolution is passed approving this particular order by the House of Commons. I may say that in reckoning the period of 28 days no account is taken of any time during which the Parliament may be adjourned or dissolved or even prorogued. It may, of course, be argued that such reference to the Legislature would be advisable in connection with the power now possessed by the Governor General in Council. That

is a matter which is open to argument and serious consideration. The point at the moment, however, is that no such condition is laid down in the Act as it stands, and therefore from the legal point of view the Government of the day are perfectly justified in taking the action that they did.

Now, Sir, it may be argued, as it has been argued, that, although that is the case, there was an undertaking given by the previous Commerce Member that these matters should be placed before the Legislature. I will read the words which govern this undertaking. Sir Joseph Bhore, during the discussion on January 30th, 1935, referred to article 4 of the Indo-British Trade Agreement and said :

“ We undertake under this article, in the event of a radical change in the conditions affecting a protected industry, to order a re-investigation in order to see whether the existing duties are appropriate or not.”

That is an entirely different situation which is contemplated there in that governing sentence, from the situation which arose out of the finding of this Tariff Board. A proposal to reduce duties, for example, by five per cent., could hardly be described as a radical change in the conditions affecting a protected industry. Therefore from that point of view I do not consider that the undertaking of Sir Joseph Bhore need be quoted in this connection. There is some inconsistency in the argument of the Opposition that in this connection the findings of the Tariff Board should, first of all, receive the approval of the Legislature. I have always understood that they have argued in favour of a Tariff Board whose findings should be almost judicial in their character. I suppose under those circumstances they would not expect those findings to be placed before the Legislature. But I do not think it is only the findings of the Tariff Board to which my Honourable friends object : it may be, of course, to its composition ; possibly, it is to the authority of the Tariff Board. But it was never the intention of the Indian Fiscal Commission that the Board, which they envisaged with almost independent authority, should be dependent upon the vote of the Legislature for the acceptance of its recommendations by the Government of the day. Therefore, from these three points of view, namely, public interest, the constitutional position of the executive and the authority of the Statute under which they have operated,—from these three points of view Government have been entirely justified in their action. Sir, I have been a little disturbed at the attitude of the Opposition in this matter, and particularly, after the speech of my Honourable friend, the Pandit. They seem to take this line ; we do not want under any circumstances any reduction of any duties against Britain whatever the economic justification for that reduction may be. We have seen how in the last Session they persisted in describing differential duties as preferential duties ; and it found its way into the Pandit's speech again today where he used the same confusion of thought to emphasise his own argument that a differential duty arrived at after a scientific investigation is Imperial preference. They call for an authoritative Board. When that authoritative Board recommends a reduction, which was more than justified by the facts of the case, they speak of the “ manipulation ” of the Tariff Board. That is a disgraceful term to use with regard to that body. Similar action has been taken by Government before. Why did not the Opposition then complain ? Probably because another country was affected. Why do they take this line

[Mr. F. E. James.]

on this particular occasion ? I would repeat, they cannot bear the thought that possibly, owing to a scientific investigation of the duties which are necessary for this country, a British industry may benefit. They cannot bear to think of any Tariff Board that is so independent, so fair and so just that it cannot under any circumstances be subservient to the Tammany Congress. That is the real secret of this motion. I suggest that on the eve of the opening of negotiations of very great importance between this country and the United Kingdom, to show this spirit in this House is bound to be misunderstood by the country to which our delegates will shortly be going, on the basis of complete equality, to negotiate what we hope will be an agreement which will redound to the lasting benefit of both countries.

**Some Honourable Members :** Let the question be now put.

**Mr. N. M. Joshi :** Sir, I rise to support the motion of my Honourable friend, Mr. Avinashilingam Chettiar. The speech of my Honourable friend, Mr. James, if he will allow me to call him so, has shown one thing very clear to me, and it is this. If the British trade in India stands the risk of being reduced by one particle, then the Indian people must, along with that, take the risk of the hostile attitude of our European friends in this country. My Honourable friend, Mr. James, said that the speech of the Honourable the Deputy Leader of the Congress Party was full of hatred. Unfortunately for Mr. James, I am speaking after him. I do not know what he will think of my speech, but, Sir, I would like to assure you, if my assurance has any value, that when I speak on this question, I am not actuated by any hatred of the British people. Not only that. I will give you a further assurance, that in my heart there is absolutely no hatred towards the British people. I am frankly an admirer of the British people ; but, Sir, I love my people more.

Sir, the Government have taken advantage of the general power given in the legislation passed by the previous Assembly, I shall not say whether it was wisely or unwisely, to alter the tariffs in emergencies. The power which was given by the Legislature, in my humble view, was given in order that the Government of India should be able to take action in an emergency. Sir, I feel that if the Legislature wanted to give power to the Government of India to fix the tariffs on British goods or other goods, as they like, after making any inquiry as they like, they need not have passed that legislation at all. They could have passed one clause and said that the Legislature empowers the Government of India to alter tariffs to any extent by making whatever kind of inquiry they choose to make. That one clause would have been absolutely sufficient, but the Legislature took the trouble of passing an enactment at the same time giving the general power to the Government of India to enable them to take action when action was urgently necessary. I think, therefore, that the Government of India have misused power given to them under that legislation, unless the Government of India can show why action under that clause was urgent. I feel, Mr. President, that there was no urgency of any kind in lowering the duties on British goods. The duties had existed for some years. The Legislature was to meet after a few months, and nothing would have been lost if the Government of India had delayed their action by a few months. Unless the Govern-

ment of India can show what urgency there was in giving effect to the recommendations of the Tariff Board, they have misused the power given to them by the Legislature. I feel there was no case for urgency. A few months' difference would not have put Great Britain to a very serious loss. I do not wish to speak at length on the merits of this question, but the Government of India, by the action which they have taken, have deprived me of an opportunity of dealing satisfactorily with the problem of the protection of the textile industry. I cannot say all I want to say in fifteen minutes' time. If there had been a Bill, I could have spoken for an hour in dealing with the question of the protection of the textile industry. It is an unsatisfactory method of discussing the report of the Tariff Board when you have to confine your speech to fifteen minutes. I, therefore, feel that the Government of India have done injustice to the Legislature by preventing it from expressing its views on the question of the tariff policy in the matter of the textile industry. My Honourable friend, Dr. Ziauddin, said that he is not a millowner, but that he stands for consumers. I am not a millowner myself. It is a great pity that the representatives of the millowners in Bombay are not here at this discussion today, but, Sir, the millowners of Bombay are not very much affected by this. They do not depend upon tariffs. They have found a very good weapon for protecting their industry against the attacks from foreign countries. That weapon is to reduce the wages of the textile workers in Bombay. So long as the Bombay millowners are free to reduce the wages of the textile workers, they will not object to the reduction of the tariff on British goods by five per cent. When the report of the Tariff Board was published, I saw at least one prominent millowner in Bombay coming out with a threat that by this action of the Government of India there is a danger of the wages in Bombay going down. That is my interest in this question, and it is for this reason that I support the motion of adjournment.

Mr. President, I do not wish to go on with the other arguments, but I shall deal only with one or two, and give a few figures. My Honourable friend, Sir Abdul Halim Ghuznavi, talked of reducing the duty in order to induce Great Britain to take our cotton. He does not know what quantity of cotton Great Britain takes. I shall give him the figures. In the year 1930-31, Great Britain took 274 thousand bales out of 6,750 thousand cotton bales. In the year 1934-35, the latest figures are 374 thousand bales. Now, Sir, it has been said that Great Britain has doubled and even quadrupled her imports of Indian raw cotton. Great Britain does not take more than five per cent. of our cotton. What is the use of making much of the cotton being taken by Great Britain? Great Britain takes 45 per cent. of its cotton from the United States of America, and it is no good talking of Great Britain taking our cotton.

Then, Sir, my friend, Dr. Ziauddin, said that he looks to the interests of the consumers. Sir, I also try to look to the interests of the consumers even when I try to protect the interests of the working classes. In this case, there is absolutely no reason to believe that the interests of the consumers will suffer at all. The prices of Indian textile goods are governed by the duties levied on Japan, which are higher, and not on the duties levied on British goods, which are much lower. By the reduction of five per cent. duties on British goods, the prices of British goods in India are not going to be lowered. The British people are merchants; if they can

[Mr. N. M. Joshi.]

get higher prices, they will get higher prices, and they can get higher prices, because the duties on Japanese goods are much higher. I, therefore, feel that there is absolutely no sense in talking like that the consumers' interests will suffer if the duty is not lowered. Mr. President, I support this adjournment motion.

**Several Honourable Members** : Sir, I move :

“ That the question be now put.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable the Commerce Member has not yet spoken, and the Chair does not know whether he will take part in the debate.

**The Honourable Sir Muhammad Zafrullah Khan** (Member for Commerce and Railways) : I intend to reply to the debate, but only two people from the Opposition Benches have so far spoken.

**An Honourable Member** : Mr. Joshi also has spoken.

**The Honourable Sir Muhammad Zafrullah Khan** : Mr. Joshi is not on the Opposition Benches.

**Mr. President** (The Honourable Sir Abdur Rahim) : It is, perhaps time that the Government should now put forward their case.

**The Honourable Sir Muhammad Zafrullah Khan** : Sir, let me first clear the position with regard to the origin of this question. It has been said that this Tariff Board was appointed with the purpose of giving away some benefit to Lancashire. We are, Sir, daily reminded of the policy of discriminating protection laid down by the Fiscal Commission, and it is an integral part of that policy that, where protection is granted, it shall be adequate but no more than adequate ; and it is the duty of Government, whether there is or is not any super-imposed agreement reinforcing that duty, that, when it finds that protection to a particular industry is more than adequate, it shall take action to reduce the degree of protection, just as much as it is its duty, if it finds that the degree of protection in any particular has ceased to be adequate, to take action that it shall again be made adequate. That is the first point I wish Honourable Members to keep in mind in this connection,—that though, starting from the Clare Lees-Mody Agreement and based upon that, there was a specific obligation laid upon Government to make an inquiry into these duties, and if they found that the level of these duties was higher, so far as the United Kingdom was concerned, than would be adequate for the protection to be given to this industry, they must take action ; but even apart from that Agreement, Government are bound in respect of every protected industry to take such action.

Now, the Tariff Boards, with the reports of which Government may have to deal, may for this purpose be divided into two categories. The first category would comprise Tariff Boards which are called upon to make inquiries into the conditions of different industries in order to see whether claims for protection on behalf of such industries have or have not been established. When a Tariff Board, which is inquiring into a matter of that kind, submits a report and finds that protection is necessary and Government are in a position to accept that report, action can only be taken by way of legislation and, therefore,

Government are bound to come to this House in order to put the recommendations, to the extent to which Government are able to accept them, into force. On the other hand, there may be a Tariff Board—and there have been Tariff Boards of that kind before this last one—which has only to deal with the question of the quantum of protection, and when such a Tariff Board makes its report, it is possible, legally, and, therefore, open to the Government to take action under section 4 of the Tariff Act of 1934, which specifically lays down that when the Governor General in Council after such inquiry as he thinks necessary finds that the protection in respect of a particular industry requires an enhancement or a reduction, he can take action under that section up to the necessary extent with regard to all foreign countries or with regard to some of them. That is the broad position. I was not quite clear from the language of the motion set down for discussion whether the objection was that legislation had not been undertaken, or whether the objection was that this House had not been in some other manner consulted. The language of the motion leads one to imagine that the objection is that the House was not previously consulted. Those are the words used. Had it been that Government did not enforce these duties by means of legislation, as is now being contended, I would have taken objection that this was not a matter which could be discussed by way of an adjournment motion, as there are rulings, Sir, both by you and by your Honourable predecessors that where the object of an adjournment motion is to condemn Government for not having taken action by way of legislation or to compel them to undertake legislation, such a matter cannot be discussed by way of an adjournment motion. As regards previous consultation with the Legislature, the position is this. The Clare Lees-Mody Agreement, to which reference has already been made in the course of the debate, laid down—and it must not be forgotten that that was an agreement between the textile industry of the two countries, arrived at without any kind of pressure from anybody, a perfectly voluntary agreement—that :

“ The tariff duties on British goods will remain in force for two years in accordance with the terms of the agreement between the Lancashire Delegation and the Mill-owners' Association, Bombay, that is, the present rate of 25 per cent. *ad valorem* or 4 3/8 annas a pound on plain grey goods and 25 per cent. *ad valorem* on other goods will, during this period, continue until the second surcharge comes off as a general measure. If and when this happens, the duty will be reduced to 20 per cent. *ad valorem* or 3 1/2 annas per pound on plain, grey goods and 20 per cent. *ad valorem* on other goods. On the expiry of the two years covered by the agreement, the duties on British goods for the remaining period of protection will have to be decided on a review of the conditions then existing and in the light of such experience as may have been gained.”

These two years expired on the 31st December, 1935. Long before they expired—and therefore Government cannot be charged with any unreasonable delay in the matter—long before these two years expired, the special Tariff Board was set up and when this Tariff Board was set up, everybody expected and certainly Government expected that their report would be received by the end of the year at the latest and it might then have been possible in some manner, more especially if their recommendations had been of a character different from the ones that Government had actually to deal with, and to that I shall come in a moment, to ascertain the views of the House in the Budget Session. When, however, the report was made the question undoubtedly had become an urgent one and I am afraid Mr. Joshi has not approached it from the proper angle.

[Sir Muhammad Zafrullah Khan.]

It could not be said that there was no urgency in the situation. The Clare Lees-Mody Agreement had expired ; this undertaking had been given by Government ; everybody desired that whatever new scales of duties had to be introduced, whether the duties were to be enhanced or reduced, or whether for the rest of the period of protection they were to continue on the existing level, trade in both countries ought to know what the decision of Government was going to be. But owing to factors over which Government had absolutely no control—and it cannot be argued that Government could in any way force the Tariff Board to report by any particular date—the report was delayed as long as till the end of March. It thus became absolutely impossible to come to this House in any manner whatsoever, by legislation or otherwise, during the Budget Session. In the meantime the position both with regard to the trade and with regard to revenue was rapidly deteriorating ; there was uncertainty at both ends ; there was accumulation of goods in the Customs Houses, and the revenue position itself was being affected. So far as the revenue position is concerned, may I give these figures to the House. In the months of April to June in 1934-35, the duties in respect of goods, with regard to which these recommendations had been made, had amounted to 74,15,000, in 1935-36 to 68,71,000, and in 1936-37 to 52,52,000. Sir, it has been said why did Government take the revenue position into consideration. Government, I am afraid, are concerned with the revenue position at least just as seriously as they are concerned with the question of adequate protection of certain industries.

**Mr. N. M. Joshi :** The surplus budget. They are throwing away crores.

**The Honourable Sir Muhammad Zafrullah Khan :** The budget is not in a condition where the Finance Member could, with equanimity, face a decline in receipts owing to the uncertainty which prevailed with regard to these duties. The report was received, and it did not recommend anything very drastic. Now, what was the report ? I have already read out to the House the scale of duties that were contemplated in the Clare Lees-Mody Agreement when the second surcharge should come off as a general measure. It did not come off, but if it had come off, the duties would have been reduced by five per cent. all round in respect of cotton piecegoods. The recommendations of the Tariff Board did not go so far as the industry in the two countries had contemplated going under certain eventualities. It has been urged by Pandit Govind Ballabh Pant that the fact that the recommendations amounted to a reduction of five per cent. indicates in some way or the other that the recommendations of this Tariff Board were manipulated. I am afraid he was wrong in assuming that the duties were as contemplated in the Mody-Clare Lees Agreement. They were not. They did not go as far as that. In respect of a considerable portion of these goods no recommendation whatsoever was made by the Tariff Board. I am afraid, the Honourable Pandit overlooked the fact that with regard to printed goods there has been no reduction of duties. On the other hand, between the two industries it had been agreed that in the case of the second surcharge coming off as a general measure, all these duties would be reduced. Finding that the recommendations of this Board did not go even as far as the two industries had agreed they should go under the Clare Lees-Mody Agreement and

having regard to the other character of these recommendations, Government came to the conclusion that inasmuch as there was extreme urgency on account of uncertainty with regard to these duties and having regard to revenue position, it could not afford to wait in taking action till the Legislature should be in session again. As a matter of fact, this position had already developed during the Budget Session, and Honourable Members were informed, and, therefore, they cannot now make a grievance on that score, that Government would come to the Assembly only in case legislation was involved. May I draw the attention of the House to the report of the proceedings of the Legislative Assembly on the 24th February, 1936 ? (On that date in reply to supplementary questions put to me on question No. 746, I replied as follows. Mr. Satyamurti asked :

“ May I know with regard to clause (c) of the question whether Government propose to place their recommendations before this House before they make up their minds one way or the other ? ”

My reply was :

“ No, Sir.”

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member's time is up.

**Mr. M. Asaf Ali and several other Honourable Members** : Sir, I move that the question be now put.

**Mr. President** (The Honourable Sir Abdur Rahim) : There seems to be a desire on the part of several Honourable Members that the closure be accepted, but the Chair understands that the Finance Member wants to speak, and it cannot refuse to give him a chance to take part in the debate in view of the fact that his Department is also concerned.

**Professor N. G. Ranga** (Guntur *cum* Nellore : Non-Muhammadian Rural) : May I have your ruling, Sir ? Is it not a fact that when you called upon the Honourable the Commerce Member, it was understood that you would close the debate after his speech was concluded ? Once a Government Member has spoken, no other Government Member can speak.

**Mr. President** (The Honourable Sir Abdur Rahim) : Order, order. The Chair said just now that the Honourable the Finance Member wanted to speak, and the Chair must allow him to speak.

**Mr. Bhulabhai J. Desai** (Bombay Northern Division : Non-Muhammadian Rural) : If any Member of this House of the position of either the Commerce Member or the Finance Member wanted to speak, he had ample opportunity. It is pure subterfuge on the part of the Honourable Member to say that he now wants to take part in the debate, and the Chair must not fall into it.

**Mr. President** (The Honourable Sir Abdur Rahim) : All that the Chair can say is that it does agree that Government Members ought to speak at an earlier stage, but now that the Honourable the Finance Member wants to speak, the Chair cannot refuse him the permission to do so.

**Several Congress Party Members** : Shame, Shame.

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

(At this stage, all the Honourable Members sitting on the Congress Party Benches and on the Nationalist Party Benches, followed by a few



Members belonging to the Independent Party, left the Chamber loudly crying "Shame, Shame".)

**The Honourable Sir James Grigg** (Finance Member) : Sir, as has so often happened in the case of these motions for adjournment, it has been found that a quarter of an hour is not sufficient to allow of a complete statement of the Government case. Therefore, at the risk of being accused, as I am so often accused, of being a commercial traveller from Lancashire or of being, unlike my Honourable colleagues who, as one heard from Pandit Govind Ballabh Pant who was opposite a few minutes ago but is no longer there, are accused of, being the passive agents of His Majesty's Government, an active agent of His Majesty's Government, I intervene for the purpose of making the Government case on this matter, at any rate, a little more complete. Perhaps, before I come to my main contention, I can deal with one or two points which have been raised and which my Honourable colleague had not time to deal with either at all or to deal with adequately. We have heard a good deal from the representatives opposite, who speak so often for the poor toiling masses of this country, that the decision which has been taken by Government is detrimental, if not disastrous, to the Indian mill industry. Well, Sir, perhaps I can give a comment or two on that, quoting from memory from one of our *Kvelier* daily papers. At the time, the day after the decision was published there appeared in a certain newspaper an interview with one of the prominent Ahmedabad millowners who proceeded to prophesy all sorts of disaster to all sections of the mill industry and to all the interests concerned in it, financial, employer and otherwise. In another column of the same paper on the same day, in the stock exchange column there was an account of the reception on the Bombay stock exchange of the announcement of the Government decision, and that report of the Bombay stock exchange for the day before made it clear that shares of practically every mill quoted on the stock exchange had risen sharply in value so that obviously the Bombay millowners themselves and the Bombay speculators or investors did not think that the decision of the Government was likely to do any harm to the Bombay mill industry.

Sir, perhaps I might now deal at a little more length with the revenue aspects of this question which were touched upon by the mover of the motion and in answering which my Honourable friend, the Commerce Member, was engaged when the time allowed to him came to an end. As the Honourable the Commerce Member pointed out, there is no doubt that the delay in arriving at a decision on the future duty to be placed on Lancashire piecegoods was deleteriously affecting the revenue. There is no doubt that uncertainty in fiscal matters always is damaging to the revenue. It will be within the recollection of the House what the course of imports of Lancashire or English piecegoods has been in recent years and what the effect of that has been on the revenue. There is no doubt that the imports of Lancashire piecegoods have been showing a persistent decline and the revenue from them has been showing also a persistent decline. That decline was being very greatly accelerated by the uncertainty as to the future course of the duties. It was a situation which no Finance Member could view with equanimity and from his point of view, at any rate, and also from the point of view of those engaged in the trade, whether they were domestic producers or whether they were those

who were engaged in the import of piece goods from abroad, there was no doubt that both in the interests of revenue and in the interests of trade, the removal of the uncertainty was an extremely important matter. When my Honourable colleague, the Commerce Member, was making that point that the uncertainty itself was damaging the revenue, I think Mr. Joshi interrupted and said something about there being a surplus budget. Mr. Joshi seems to know all about the future course of the budget, which is a little clever of him, seeing that there are still eight months of the year to which it relates to go. Of course I am not going to anticipate what the end of the year is going to show or what the budget will show at the end of the year. But there is no doubt of one thing that if sugar revenue goes on at its present rate there will be a decline of well over a crore on sugar alone, and if that is the case, I do not think that the prospects of a surplus budget are such that we could afford to take Mr. Joshi's word for it. So much for these two particular points.

Now, I should like to raise a few general thoughts which come into my mind from the two exhibitions which we have had on the Adjournment Motions of yesterday and of today. We have had from the Leaders of the Congress Party a series of manifestos on behalf of big business. Their whole cry has been, make the tariffs higher and higher, do not on any account lower them, in order that you may preserve the profits of big business. Now, there are a variety of possible explanations of this anxiety on the part of the Leaders of the Congress Party to promote the good fortune and wealth of big businessmen. Naturally it would not be in order for me to suggest the less respectable explanations. But there are one or two possibilities which I shall have to mention. The first is that the anxiety shown by the Party opposite on behalf of big business.....

**An Honourable Member :** Does the Honourable Member refer to Major Nawab Ahmad Nawaz Khan who is the occupant of the Benches opposite ?

**The Honourable Sir James Grigg :** The Nawab Sahib is a host in himself. As I was about to say one possible explanation of this series of manifestos on behalf of big business is that shall I say, the Right Wing or the Centre of the Congress Party is very much concerned to attenuate the effect of Pandit Jawahar Lal Nehru's speeches on those who have hitherto been foremost in providing the Congress Party with the sinews of war. Another possible reason is that the Leaders of the Party opposite unlike what they say when they are touring the country have no real affinity with the poor toiling masses, but are merely concerned to promote the interests of the rich and well-to-do. Anyhow the whole organization and conduct of the Congress Party in this matter is another example of their intense desire to have it both ways. Simultaneously they try to pose as the friends of the poor and at the same time to act as the protectors of the rich and no wonder, people like my Honourable friend, Professor Ranga, feel some discomfort at the inconsistency in the attitude of their Party. He is continually trying, not with much success, to be allowed to raise his voice on behalf of the really poor, but I do not think his efforts receive all the encouragement they might do from the Front Bench Members of his Party. There is no doubt that sooner or later the Party opposite will have to declare which horse they choose to win, or which is their first string. Incidentally I do not think that either of the horses is going to win in the long run. If they are going on as they are

[Sir James Grigg.]

doing acting for the rich industrialists, they must not expect that they will be able to bamboozle the poor much longer. Even now I should not be a bit surprised if the President of the Congress, Pandit Jawahar Lal Nehru, is not busily engaged in sharpening his tongue to comment on the anxiety of the Leaders of the Congress Party in this House to promote the interests of those whom he has said he will eradicate from his socialist State. It really is a question, the old question for the Party opposite—though I hope I shall not be misunderstood in making this quotation—that they have the lie in the soul. They are fundamentally divided among themselves. They are simultaneously trying to be the friends of the rich as well as of the poor.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair does not think the Honourable Member need discuss the Party opposite,

**The Honourable Sir James Grigg** : Well, Sir, sooner or later, the lie in the soul will receive its due punishment. I was going on to try to expose the inconsistency of Mr. Joshi which I don't like doing in his absence. I regret that he is not here.....

**Mr. President** (The Honourable Sir Abdur Rahim) : It being six of the clock, the debate must now terminate automatically.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 3rd September, 1936.