

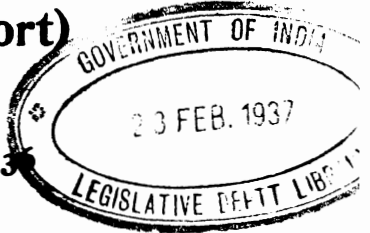
16th September 1936

THE

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume VII, 1936



(15th September to 28th September, 1936)

FOURTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY, 1936



NEW DELHI
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1937.

Legislative Assembly.

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

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

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LEGISLATIVE ASSEMBLY.

Wednesday, 16th 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.

KALKA-DELHI-CALCUTTA AND THE CALCUTTA-BOMBAY MAI LS RUN BETWEEN HOWRAH AND MOGHAL SARAI.

398. *Mr. Sri Prakasa : (a) Are Government aware that the two mails namely the Kalka-Delhi-Calcutta and the Calcutta-Bombay Mails run between Howrah and Moghal Sarai within a couple of hours of each other, both Up and Down, and stop at practically the same stations *en route* ?

(b) Are Government satisfied that both the mails are necessary in view of traffic ?

(c) Do Government propose, in the interest of economy, to consider the desirability of recommending to the East Indian Railway to discontinue the Kalka-Calcutta Mail between Howrah and Moghal Sarai and arrange to bring a few through carriages between the two stations by both the main and the grand chord lines by the Punjab-Calcutta and the Calcutta-Bombay Mails, and form a full mail train from Moghal Sarai to Kalka ?

The Honourable Sir Muhammad Zafrullah Khan : (a) There is an interval of 34 minutes between the departure of the two Up Mails from Howrah and of about three hours between the arrival of the Down Mails at Howrah. 3 Up Mail between Howrah and Moghal Sarai makes two more stoppages than 1 Up Mail.

(b) The Agent, East Indian Railway, states that both Mails are necessary.

(c) Government are informed that it is not practicable to discontinue the Howrah-Kalka Mail between Howrah and Moghal Sarai as the load for the traffic offering will be too heavy for one train, and that there is no room for several additional carriages which would be necessary on 5 Up and 6 Down Punjab Mails if the Honourable Member's suggestion were accepted.

Mr. Sri Prakasa : Is the Honourable Member aware that there used to be formerly only one Mail by the main line and one by the Grand Chord ? Are Government satisfied that there is sufficient increase in traffic to necessitate two mails running now on the grand chord line, besides the one on the main line.

The Honourable Sir Muhammad Zafrullah Khan : I have answered that in my answer to part (b) of the question.

Mr. Sri Prakasa : What I ask is whether Government are satisfied that both Mails are necessary ? The Honourable Member stated that the Agent was satisfied.

The Honourable Sir Muhammad Zafrullah Khan : Government have no reason to think that the information supplied by the Agent is not correct.

TRANSLATIONS FROM ENGLISH OF THE NOTICES PASTED ON RAILWAY PLATFORMS AND INSIDE THE COMPARTMENTS.

399. ***Mr. Sri Prakasa :** (a) Has the attention of Government been drawn to the violence that is being done to the grammar and syntax of the Bengali, Hindi and Urdu languages in the translations from English of the notices pasted on railway platforms and inside railway compartments ?

(b) Are Government prepared to make reasonably sure that the translations are made in correct and intelligible language ?

(c) Do Government approve of the use of grammatically incorrect English expressions in railway notices, and if not, do they propose to instruct the Bengal and North Western Railway not to use expressions like " Do not spit. It spreads disease " ?

The Honourable Sir Muhammad Zafrullah Khan : (a) No, but I would point out that notices are not pasted on railway platforms.

(b) I am sure Railway Administrations will be grateful to the Honourable Member if he will bring to notice incorrect and unintelligible translations.

(c) I hope it will satisfy the Honourable Member if the question is brought to the notice of the Agent, Bengal and North Western Railway.

PRINTING IN TIME TABLES THE DETENTION PERIOD OF TRAINS AT JUNCTION STATIONS IN CASE CONNECTING TRAINS ARE LATE.

400. ***Mr. Sri Prakasa :** (a) Is it a fact that at junction stations, Station Masters are instructed to keep certain trains waiting for fixed periods of time in case connecting trains are late ? If so, do Government propose to recommend to the Railway Administrations to print the amount of time permitted at various junction stations in their time tables, to enable passengers wanting to catch these trains to make sure about their movements when connecting trains are late ?

(b) In case this may not be found desirable in all cases, are Government prepared to recommend at least to the East Indian Railway to give this information in their time tables in the case of junction stations of Moghal Sarai and Tundla to help passengers from Benares and Agra ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Station Masters of junction stations have instructions to detain trains to connect with others that may be running late : the time for which they may be detained, provided that by such detention the connection is established, varies according to circumstances, e.g., on one railway, the general instructions

issued provide for a main line train to be detained to connect with a branch line train for not more than fifteen minutes and for a branch line train to be detained to connect with a main line train for not more than one hour, but these general instructions are superseded by special instructions providing for the detention being either more or less than that generally prescribed according to the importance or otherwise of the connection to be established. Government do not consider that it is desirable to act on the suggestion in the latter part of the question, as the publication of such information might be misleading if circumstances arose necessitating a deviation from the standing orders.

(b) No.

RECOMMENDATIONS OF THE HIDES COMMITTEE.

401. *Pandit Sri Krishna Dutta Paliwal (on behalf of Qazi Muhammad Ahmad Kazmi) : (a) Will Government be pleased to state whether any of the main recommendations of the Hides Committee of 1929 have been adopted by them ? If so, which and with what result ?

(b) What was the total expenditure incurred on that Committee ?

(c) Has any practical benefit to the country been derived by the report of that Committee ?

(d) If the answer to part (c) be in the affirmative, what is that benefit ?

(e) Have Government now under their consideration any steps for the amelioration of the hide trade and leather industry, as recommended by the said Committee ?

(f) If the answer to part (e) be in the affirmative, will Government be pleased to state briefly what those steps are ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b), (e) and (f). I would refer the Honourable Member to the reply given to his question on the same subject on the 4th September, 1935. There has been no material change in the situation since then.

(c) and (d). Though it has not as yet been found possible to give effect to the main recommendations of the Hides Cess Enquiry Committee, Government believe that the Report of that Committee which has been published has proved of benefit to the industry in bringing to light the existing defects and suggesting remedies therefor.

REDUCTION OF THIRD CLASS FARE ON THE SHAHDARA-SAHARANPUR RAILWAY.

402. *Pandit Sri Krishna Dutta Paliwal (on behalf of Qazi Muhammad Ahmad Kazmi) : (a) With reference to my question No. 1269 asked on the 17th March, 1936, will Government be pleased to state whether the Managing Agents of the Shahdara-Saharanpur Railway paid any consideration to the suggestion of bringing down the railway fares to the level of other Railways in Northern India ?

(b) If the answer to part (a) be in the affirmative, what is the result of that consideration ?

(c) If the answer to part (a) be in the negative, why has it not been considered ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). Government are informed that the question of reducing passenger fares was examined last year, but there seemed to be no evidence justifying any change:

DIVIDENDS GIVEN BY THE SHAHDARA-SAHARANPUR RAILWAY TO ITS SHAREHOLDERS.

403. *Pandit Sri Krishna Dutta Paliwal (on behalf of Qazi Muhammad Ahmad Kazmi) : Will Government be pleased to state the amount of dividend that Shahdara-Saharanpur Railway Company has been giving to its shareholders for the last five years ?

The Honourable Sir Muhammad Zafrullah Khan : Dividends declared by the Shahdara-Saharanpur Light Railway Company during the five financial years ending 31st March, 1935, are as follows :

Years.	Dividend per cent.
1930-31	.. 9
1931-32 .. ..	.. 6
1932-33 .. ..	.. 6
1933-34	7
1934-35	6

EXTENSION OF THE WESTERN PLATFORM AT THE SAHARANPUR RAILWAY STATION.

404. *Pandit Sri Krishna Dutta Paliwal (on behalf of Qazi Muhammad Ahmad Kazmi) : With reference to my starred question No. 1271, asked on the 17th March, 1936, will Government be pleased to state whether the Agent of the North Western Railway has given any consideration to the question of extending the western platform at Saharanpur Railway Station, so as to provide facility to the passengers going to the Shahdara-Saharanpur Railway Station ? If so, with what effect ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : The North Western Railway have reported that there is an extension of the foot overbridge already in existence at the east end of Saharanpur Station, which gives access from the broad gauge to the narrow gauge line. An extension to the foot overbridge at the west end would cost approximately Rs. 30,000 and is not considered justified by the number of passengers likely to use it.

PROVISION OF LATRINES IN THIRD CLASS COMPARTMENTS ON THE SHAHDARA-SAHARANPUR RAILWAY.

405. *Pandit Sri Krishna Dutta Paliwal (on behalf of Qazi Muhammad Ahmad Kazmi) : With reference to the answer given to my starred question No. 1274 on the 17th March, 1936, will Government be pleased to state whether the Managing Agents of the Shahdara-Saharanpur Railway have given any consideration to the provision of latrines in old coaches ? If so, with what result ? If not, why not ?

The Honourable Sir Muhammad Zafrullah Khan : The average passenger journey on night trains on the Shahdara (Delhi) Saharanpur Light Railway is under 20 miles and Government have no reason to believe that serious inconvenience is caused to the public. Steps are, however, being taken by the Railway Administration to increase the proportion of latrine fitted coaches on night trains.

OPENING OF THE TELEGRAPH OFFICES ON THE SHAHDARA-SAHARANPUR RAILWAY TO THE PUBLIC.

406. *Pandit Sri Krishna Dutta Paliwal (on behalf of Qazi Muhammad Ahmad Kazmi) : (a) Will the Honourable Member in charge of the Telegraph Department be pleased to state whether the telegraph offices on Shahdara-Saharanpur Railway are open to the public ?

(b) If the answer to part (a) be in the negative, have Government considered the advisability of persuading the Shahdara-Saharanpur Railway authorities to arrange the opening of the telegraph offices to the public ? If not, why not ?

The Honourable Sir Frank Noyce : (a) and (b). Enquiries made from the Manager, Shahdara-Saharanpur Light Railway, indicate that of the twenty-one stations on that Railway thirteen are fitted for the reception and despatch of telegraph messages. Of these thirteen, five offices are open for public traffic. No demand for opening any of the remaining offices for public traffic has been made by the local residents. Should any such demand be received by the Railway it would have no objection to opening such offices also for public traffic.

DEFECTS IN THE JAIL LIFE OF THE ANDAMANS FOUND BY THE HOME MEMBER.

407. *Bhai Parma Nand (on behalf of Mr. Lalchand Navalrai) : (a) Will the Honourable the Home Member, who recently visited the Andaman Islands and gave a rosy picture of the jail life there, be pleased to enlighten the House if he found any such defects which required to be remedied ? If so, which, and what steps do Government propose to take in order to eradicate the same ?

(b) What is the death rate in the Andamans ?

(c) Is it a fact that the civil and military officers remain there unwillingly owing to unwholesome climate and difficulty of water ? Do such difficulties exist there ?

(d) Is there a constant danger to life and property at the hands of the local aboriginals, and what safeguards are there against any such danger ?

The Honourable Sir Henry Craik : (a) I found no serious defects in the administration of the Cellular Jail, Port Blair, which required to be remedied.

(b) According to the Public Health Commissioner's report for 1934, which is the latest report available, the death rate was 11 per thousand of the total convict population.

(c) No. There is no trouble about the water supply in the Andamans except in a year of poor rainfall, but steps are being taken to increase

and improve the water supply. The climate, though not bracing, is not unwholesome.

(d) No. There is a Bush Police force to protect the Settlement against raids from the Jarawas who inhabit the forests on the border of the Settlement. The Military Police is also available if required.

Mr. G. Morgan : With regard to item (d) of the question, is it a fact that there are only 200 to 250 Jarawas who inhabit the western part of the middle Island of the Andamans ?

The Honourable Sir Henry Craik : The number is certainly very small but I have no accurate idea as to how many there are. When I was in the Andamans in April or May last, nobody had seen a Jarawa for over two years.

Mr. Sri Prakasa : In view of the fact that the Andamans are Paradise, where do the prisoners go after they die ? (Laughter.)

The Honourable Sir Henry Craik : That, Sir, is a matter of speculation. I should like to take this opportunity of stating that the phrase which is so often quoted as 'Paradise' was not the phrase I used. I said it was a "paradise for prisoners" and I maintain that, in comparison with any other jail or convict settlement in British India, it is a paradise.

Mr. Sri Prakasa : That is why I asked that the Andamans being a paradise for prisoners, where do these prisoners go after death there ?

(No answer.)

OVERHAULING OF THE JAIL RULES AND REGULATIONS.

408. ***Bhai Parma Nand** (on behalf of Mr. Lalchand Navalrai) :

(a) Has the attention of Government been drawn to a contribution in the *Sind Observer*, dated the 14th June, 1936, under the caption "Jawaharlal's Glimpses of Prison Life in India", suggesting overhauling of the rules and regulations to suit modern conditions and civilized sense of justice and humanity ?

(b) Is it a fact that in 1920 Government appointed a Committee under the Chairmanship of Sir Alexander Cardew, which made some recommendations for the improvement of jail life ?

(c) Was any effect given to the recommendations of that Committee in practice ? If so, how ?

(d) Have any steps been taken since then to enquire into the rules and regulations with a view to reform them ? If so, which ?

(e) Do Government propose to take any steps into this matter in order to introduce modifications to keep pace with the rapid strides the other countries including English have made in this direction ?

The Honourable Sir Henry Craik : (a) Yes.

(b) Yes in 1919.

(c) Information showing the progress made in giving effect to the recommendations of the Committee will be found in the Jail Administration Reports published annually by Local Governments. As the Committee made 584 recommendations, I cannot give a complete reply, but

I lay on the table a statement showing the action taken on the more important of them.

(d) and (e). No specific committee of enquiry has been appointed by the Government of India since that of 1919-20. But revised orders were issued in 1930, after consultation with Party Leaders, on the treatment and classification of prisoners; and the Local Governments, upon whom the main responsibility rests, are continually making reforms in the treatment of convicts. Some of them have appointed Committees to enquire into their jail administration. Periodical conferences of Inspectors-General of Prisons have been held and the Government of India are kept in touch both with the discussions held on this subject under the auspices of the League of Nations, and, through the Annual Reports of the Prisons Commissioners, with modifications in English practice.

Statement showing the more important recommendations of the Indian Jails Committee which have been accepted and given effect to by Local Governments.

No.	Recommendation.	Action taken.
<i>Superintendence and Inspection.</i>		
1	Superintendence of Prisons should be in the hands of trained whole-time experts.	Accepted. All Superintendents of Jails receive special training. Some officers have also attended special courses of instructions in the United Kingdom.
2	Strict limit to be imposed on the number of Prisoners collected in one prison. Maximum of 1,500 not to be exceeded.	This limit is observed as far as local circumstances permit.
3	Every Central Jail should be in charge of a whole-time Superintendent.	Accepted.
4	Biennial conferences of Inspectors-General of Prisons to promote uniformity in important matters of jail administration.	Accepted. Five of these conferences have been held.
5	Post of Inspector General of Prisons should be filled by selection from Superintendents of Central Jails, whether Medical or non-Medical.	Not accepted. The post in each province is reserved for Indian Medical Service Officers.
<i>Warder Staff.</i>		
6	Employment of better class of Warders. Strength to be based on average prison population.	Accepted. Local Governments have done a good deal to strengthen their warder staff and to improve the conditions of service.
<i>Medical Staff.</i>		
7	At least one whole time medical subordinate in each central and district jail.	Accepted.

No.	Recommendation.	Action taken.
<i>Convict Officers.</i>		
8	No convict officers should have independent charge of any file, gang or other body of prisoners.	Accepted.
9	Non-habituals should not be employed as convict officers in charge of habituals.	Accepted.
10	Paid warders should be in charge of habitual gangs and workshops.	Accepted.
<i>Classification and separation of Prisoners.</i>		
11	Separation of habituals from non-habituals	Accepted. Local Governments have taken steps as far as their jail accommodation permits to segregate the habituals from the non-habituals.
12	Habituals not to be excluded from remission system.	Accepted.
13	All non-habitual prisoners should be divided into two classes (a) star, and (b) ordinary.	Under the present system of classification the prisoners are divided into three classes viz., A. B. and C., according to their social status, education and mode of living. Principle of separation of the various classes of prisoners is enforced.
<i>Jail labour and manufacture.</i>		
14	Main object of prison labour to be kept in view should be reformation.	Accepted.
15	Up to date methods of labour to fit prisoner for free life under modern conditions.	In most provinces prisoners are employed on labour suited to modern conditions. In addition to arts and crafts, model farms have also been started in certain provinces. In certain provinces, schools have been started for the prisoners.
16	Jail manufacture should be carefully chosen so as to do the least possible injury to private enterprise.	This principle is observed in all provinces.
<i>Prison discipline.</i>		
17	Every offence to be dealt with by Superintendent and to be recorded in punishment book.	Accepted.
18	Award of corporal punishment should be restricted to mutiny or incitement to mutiny and serious assaults on public servants or visitors.	Accepted. Corporal punishment is resorted to only in serious cases affecting jail discipline after other measures have failed. The procedure proposed by the Jails Committee is followed in the infliction of the punishment.
19	The prison punishment of solitary confinement should be abolished.	Accepted. The Prisons Act, 1894, has been amended.

No.	Recommendation.	Action taken.
20	<p>Maximum period of separate confinement to be reduced to three months.</p> <p><i>Use of irons as means of restraint and for security.</i></p>	<p>Accepted. Necessary amendment made in the Prisons Act, 1894.</p>
21	<p>Prisoners inside a jail should not be fettered as a means of restraint except on grounds that they are dangerous.</p>	<p>Accepted. The punishment of standing handcuffs and barfeters is resorted to in extreme cases when the maintenance of jail discipline is at stake.</p>
22	<p>Use of fetters in case of prisoners employed outside jail or sent beyond jail premises to be avoided.</p> <p><i>Reformatory influences.</i></p>	<p>Accepted.</p>
23	<p>Remission to be extended to sentences of six months and over.</p>	<p>Accepted.</p>
24	<p>Remission of 2 days a month for good conduct and 2 days for industry.</p> <p><i>Gratuities to prisoners.</i></p>	<p>Accepted. More liberal remissions than those recommended by the Indian Jails Committee for work on holidays and Sundays and for convict sweepers, etc., are granted.</p>
25	<p>Grant of gratuities as an incentive to labour</p> <p><i>Interviews and letters.</i></p>	<p>The "pecule" system was tried in the Punjab but did not prove a success. Grant of remissions is more appreciated by prisoners.</p>
26	<p>Rules for interviews and letters</p> <p><i>Prison Libraries and supply of books, etc.</i></p>	<p>Accepted. Interviews and letters are allowed once a fortnight for A class prisoners, once a month for B class and once in three months for C class.</p>
27	<p>Every central and district jail should contain a small library of books.</p> <p><i>Religious and moral instruction.</i></p>	<p>There are libraries in all prisons.</p>
28	<p>Religious and moral instruction should be provided. Interference with caste prejudices to be avoided.</p> <p><i>Hospital administration and care of sick.</i></p>	<p>Accepted. Religious teachers are admitted into the jails and all facilities afforded for religious observances.</p>
29	<p>Special jails or wards to be provided for cases of tubercle.</p>	<p>Accepted.</p>
30	<p>Prisoners, who cannot adequately be dealt with, to be removed to local civil hospitals.</p>	<p>Accepted.</p>

No.	Recommendation.	Action taken.
<i>Overcrowding.</i>		
31	Duty of every Local Government to take prompt measures to prevent overcrowding.	Accepted. Wherever possible special prisons are constructed in times of emergency.
32	A central association for the assistance of released prisoners should be set up in the capital city of each province.	In the majority of the provinces there are Prisoners' Aid Societies.
<i>The Child Offender.</i>		
33	Definitions of "Child" and "Young Person" as in the English Children's Act, 1908, and treatment of young offenders.	Accepted, but financial and local conditions have prevented some local Governments from giving effect to all the recommendations of the Jails Committee. Madras, Bombay, Bengal and Central Provinces have Children's Acts while in Burma there is the Prevention of Crime (Young Offenders) Act 1931.
<i>Adolescent Criminals.</i>		
34	Adolescent offenders should not be sent to ordinary jails, but should be confined in separate jails or institutions.	Accepted. Most local Governments have Borstal Schools and Juvenile jails.
<i>Probation.</i>		
35	Probation system and appointment of probation Officers.	Probation officers under section 562 Criminal Procedure Code and Children's Acts have been appointed in several Provinces. The Punjab Government have the Good Conduct Prisoners Probation Release Act, 1926 and the Central Provinces Government have introduced a Probation Act.
<i>Indeterminate sentences.</i>		
36	Revision by Advisory Boards of sentences of long-term prisoners.	Advisory Boards have been instituted in all provinces and are working satisfactorily.
<i>Female Prisoners.</i>		
37	Separation of adolescents from older prisoners and provision of a matron or female warder in every jail for female prisoners.	Accepted.
<i>Lepers.</i>		
38	Separate jail or annexe to a jail to be provided for leper convicts.	Accepted.
<i>Lunatics.</i>		
39	Non-Criminal lunatics should not be sent to jail but to a civil hospital.	Accepted.

No.	Recommendations.	Action taken.
<i>Visitors. -</i>		
40	Sufficient number of official and non-official visitors to be appointed in every jail. Lady visitors to be appointed for jails for female prisoners.	Accepted.
<i>Transportation and the Andamans.</i>		
41	Deportation to Andamans should cease except in regard to specially dangerous prisoners and any others whose removal from Indian Jails is considered by Government in the public interests.	Except for a small number of terrorist prisoners, all convicts in the Andamans, are now persons who have volunteered to go there, and after a short period of confinement live outside the Jail.
42	Reclamation of swamps	This has been done, and the health of the settlement has much improved in consequence.
43	Provision of moral and religious influences; embargo on construction of religious buildings should be withdrawn.	Accepted. The embargo has been withdrawn, a number of religious buildings have been built in the settlement and religious and moral teachers are encouraged to visit the jail.

Mr. S. Satyamurti : Did this Committee of Enquiry, referred to in part (b) recommend the abolition of the Andamans, as a convict settlement ?

The Honourable Sir Henry Craik : Yes, Sir.

Mr. S. Satyamurti : May I know why and when Government went back on that recommendation ?

The Honourable Sir Henry Craik : The Government, I think, reversed that decision about the year 1925, after Sir Alexander Muddiman, the then Home Member, visited the Andamans.

Mr. S. Satyamurti : May I know if the Government are aware that that Committee gave very strong reasons for their recommendation for the abolition of the Andamans as a convict settlement, and have any new facts come into the possession of the Government to make them go back on that recommendation ?

The Honourable Sir Henry Craik : Yes ; many new facts ; it is rather difficult for me to state them all in reply to a supplementary question, but I understand a Resolution has been tabled on the subject and I am perfectly prepared to explain in detail when that Resolution is discussed. The reasons why the Government of India reconsidered their decision to abandon the Andamans were fully stated in a Resolution published at that time.

Mr. S. Satyamurti : Are Government considering the question of abolishing the present classification of prisoners as ' A ', ' B ', and ' C ' class in the case of political prisoners and having a special class of

political prisoners, that is those not convicted of offences involving violence to person or property ?

The Honourable Sir Henry Craik : The Honourable Member and his friends always refer to terrorist prisoners as political prisoners, although they have been convicted of crimes of violence, but I do not recognise any distinction between political prisoners and other prisoners.

Mr. S. Satyamurti : Apart from terrorist prisoners—I do not admit what the Honourable the Home Member has said about them—I am asking for information whether, apart from what he calls the terrorist prisoners, with regard to other political prisoners have Government any intention of considering the creation of a special class, as they have in England of such prisoners giving them special treatment ?

The Honourable Sir Henry Craik : No, Sir.

Mr. S. Satyamurti : Why not, Sir ?

The Honourable Sir Henry Craik : Government do not think it necessary.

Mr. S. Satyamurti : May I know if Government are considering the question of supplying at least one daily newspaper to those political prisoners ?

The Honourable Sir Henry Craik : That is a matter for the Local Governments to consider.

Mr. S. Satyamurti : May I know if Government are considering the question of promoting free association amongst these political prisoners, if necessary, by concentrating them in one or more jails in each province ?

The Honourable Sir Henry Craik : No, Sir.

Mr. S. Satyamurti : Why not, Sir.

The Honourable Sir Henry Craik : Because in most provinces, it is impracticable owing to the expense involved.

Mr. President (The Honourable Sir Abdur Rahim) : A discussion of all the recommendations of the Cardew Committee—I know what those recommendations are—cannot be done in question hour.

Pandit Lakshmi Kanta Maitra : I understood the Honourable Member to say that revised orders were issued in 1930 in consultation with Party Leaders on the treatment and classification of prisoners ; ever since has any fresh recommendation been given effect to in connection with jail administration ?

The Honourable Sir Henry Craik : I have said I am laying on the table a statement showing the action on the more important of 584 recommendations of the Indian Jails Committee. I cannot say the exact date on which action was taken on which of the recommendations.

Pandit Lakshmi Kanta Maitra : Has the attention of the Government of India been drawn to the recent demand made by the people on the All-India Prisoners Day ?

The Honourable Sir Henry Craik : I saw something in the newspaper about that.

Pandit Lakshmi Kanta Maitra : Do Government propose to take any action on that irresistible volume of public opinion behind that demand ?

The Honourable Sir Henry Craik : I am not aware of the volume of public opinion behind the particular demand which the Honourable Member referred to.

Pandit Lakshmi Kanta Maitra : Is not the Honourable Member aware that meetings were held in all important cities in India on the All-India Prisoners day ?

The Honourable Sir Henry Craik : Not aware.

Mr. Mohan Lal Saksena : Will the Honourable Member consult Party Leaders again ?

The Honourable Sir Henry Craik : About what ?

Mr. Mohan Lal Saksena : About modifying the rules regarding reclassification of prisoners.

The Honourable Sir Henry Craik : No, Sir.

Mr. S. Satyamurti : May I know whether, following the precedent when Government consulted Party Leaders in this House and laid down the classification of ' A ', ' B ' and ' C ' class prisoners, the Government have any intention of consulting Party Leaders again in this House, with a view to finding out if any reclassification is required, and if so the reasons therefor ?

The Honourable Sir Henry Craik : No, Sir, Government have no such intention.

PASSENGERS WHO ATTENDED THE KURUKSHETRA FAIR.

409. ***Bhai Parma Nand** (on behalf of Mr. Lalchand Navalrai) :
(a) Will Government be pleased to state the number of passengers who travelled both ways by railway for attending the last Kurukshetra fair on the occasion of the Solar Eclipse ?

(b) What were the railway earnings and the expenditure on the occasion ?

(c) Was the railway arrangement for checking tickets and collecting them complete and satisfactory ?

(d) Will Government be pleased to state how many ticketless passengers travelled on the occasion, and how many of them paid the fares after being detected and how many were placed before the authorities for recovery of the fares and with what result ?

(e) How much in all was recovered by the railway from the ticketless passengers and how many of them were unable to pay the fares ?

The Honourable Sir Muhammad Zafrullah Khan : (a) To Kurukshetra, from 1st to 19th June—87,140 from Kurukshetra, from 19th to 23rd June—57,204.

(b) Earnings from passengers booked from Kurukshetra amounted to Rs. 58,141. The earnings from passengers booked to Kurukshetra cannot be readily ascertained, but may be taken as approximately Rs. 87,000.

Excluding the cost of running trains carrying passengers to and from Kurukshetra as it is not practicable to ascertain this, the expenditure in connection with the arrangements made for the fair amounted to about Rs. 69,000.

(c) Yes.

(d) and (e). 953 passengers were detected at Kurukshetra travelling without proper tickets. 582 of these were beggars, 307 of these were let-off as they had no money, and Rs. 111-9-0 were recovered from the remaining 275 beggars. 370 other passengers paid the charges due and one was placed before a magistrate and punished. The amount recovered from these 371 passengers was Rs. 371-14-3.

Special Ticket Examiners recovered a further amount of Rs. 725-12-0 from passengers detected travelling without proper tickets at various stations *en route* to or from Kurukshetra. A large number of beggars were also ejected at various stations as and when they were detected without tickets.

MOTOR AND LORRY TRAFFIC COMPETITION WITH THE RAILWAY ON THE OCCASION OF THE KURUKSHETRA FAIR.

410. *Bhai Parma Nand (on behalf of Mr. Lalchand Navalrai) :

(a) Will Government be pleased to state if there was motor and lorry traffic competition with the railway on the occasion of the Kurukshetra fair ? If so, from what maximum distances ?

(b) Are Government in a position to say, even approximately, how much loss the railway suffered by the motor competition on roads parallel to the railway on the occasion of the fair ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes ; for a distance of about 200 miles.

(b) No.

COLLISION OF TRAINS ON THE OCCASION OF THE KURUKSHETRA FAIR.

411. *Bhai Parma Nand (on behalf of Mr. Lalchand Navalrai) :

(a) Was there any collision of trains on the occasion of the fair ? If so, what were the casualties and what was the cause of the collision ? What steps have Government taken against those responsible for it ?

(b) Was there any special officer put on duty to specially watch and see that no accidents take place on the occasion ? If so, what is the explanation of that officer as to the occurrence of the collision ?

(c) Has any compensation been paid to the killed and the injured in the collision ? If so, how much in all ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Yes, 360 Down mixed train was admitted at Kalayat station on to a line on which a

train composed of empty stock returning from Kurukshetra was already standing. Two passengers were killed, two seriously injured, sixty-one received minor bruises and abrasions and two railway servants were slightly injured. The Assistant Station Master on duty and a Pointsman are being prosecuted.

(b) Several officials were on special duty to see to the welfare of pilgrims, but not at every station on the various routes to Kurukshetra. Kalayat station, where the accident occurred, is the seventh station from Kurukshetra in the Narwana direction. The latter part of the question does not, therefore, arise.

(c) The question of payment of compensation to those entitled to it will be considered by the Railway Administration if and when claims have been received.

TICKETLESS PASSENGERS TRAVELLING ON THE NORTH WESTERN RAILWAY.

412. ***Bhai Parma Nand** (on behalf of Mr. Lalchand Navalrai) :
(a) Will Government be pleased to state how many ticketless passengers travelled on the North Western Railway during the year 1935 ?

(b) How much was recovered from these ticketless travellers, and how much loss did the railway sustain owing to non-recovery of fares ?

(c) How many of these ticketless passengers were railway servants ?

The Honourable Sir Muhammad Zafrullah Khan : (a) 462,432 passengers were detected travelling without proper tickets.

(b) Rs. 5,27,482 were recovered. This figure includes amounts outstanding from passengers detected without proper tickets during 1934 but excludes an amount of Rs. 37,658, which was due at the close of the year and a portion of which may have been recovered during the current year. Amounts due to be recovered during one year but recovered after the close of that year are not recorded separately. The loss due to non-recovery of fares from passengers without tickets who were not detected is not known.

(c) 701.

FOREIGN EXPERTS INVITED TO EXAMINE THE GOVERNMENT OF INDIA DEPARTMENTS.

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

(a) which departments of the Government of India foreign experts have been invited to examine ;

(b) the purpose of these investigations ;

(c) when the investigations are expected to be over ; and

(d) whether they have received reports from any of these experts ; if so, what action they have taken on them ?

The Honourable Sir Henry Craik : I lay on the table a statement containing the information asked for.

Statement.

(a)	(b)	(c)	(d)
Department of Industries and Labour.	To advise the Government of India on a general plan for the development of broadcasting in India.	The investigations were completed in May 1936.	Yes. The recommendations made by the expert have been considered by the Government of India in consultation with local Governments and proposals will shortly be laid before the Standing Finance Committee, for consideration.
Imperial Council of Agricultural Research.	To carry out a scientific review of the research programme of the Imperial Council of Agricultural Research whether accomplished, in progress or contemplated, with a view to ascertaining how far the Council has succeeded in performing its task of co-ordinating, encouraging and developing agricultural research and to suggest directions in which improvements may be effected also to give expert advice as to the manner in which the production and handling of dairy products can be improved in India.	By April 1937	Not yet.
Finance Department (Central Board of Revenue).	To conduct an exhaustive examination of the income-tax system (law, machinery and recruitment of staff).	By the end of October 1936.	Not yet.

NOTE.—In fulfilment of the promise given by the Honourable Kunwar Sir Jagdish Prasad in the Council of State last Session, the Department of Education, Health and Lands also proposes to obtain expert advice to give a more practical turn to secondary education. It is expected that the necessary investigations will last until March, 1937.

Mr. T. S. Avinashilingam Chettiar : May I know in how many cases foreign experts were invited and examined the questions here ?

The Honourable Sir Henry Craik : The Honourable Member will see from the statement I lay on the table.

Mr. T. S. Avinashilingam Chettiar : I want to know only the number.

The Honourable Sir Henry Craik : Three.

Mr. T. S. Avinashilingam Chettiar : May I know if it is a fact that the allowances and the remuneration paid to these experts are more than double what they were getting in their previous positions ?

The Honourable Sir Henry Craik : I want notice.

Mr. T. S. Avinashilingam Chettiar : May I know whether there are any rules governing the grant of allowances and remuneration to these foreign experts ?

The Honourable Sir Henry Craik : I want notice.

Mr. S. Satyamurti : Is there any proposal to import foreign experts to advise us, on the reformation of vocational education in this country ?

Sir Girja Shankar Bajpai : I answered that question the other day, that it was the intention of Government.

Mr. T. S. Avinashilingam Chettiar : May I know what are the three cases in which foreign experts were invited ?

The Honourable Sir Henry Craik : First, to advise the Government of India on a general plan for the development of broadcasting in India, secondly to carry out a scientific review of the research programme of the Imperial Council of Agricultural Research and thirdly to conduct an exhaustive examination of the income-tax system.

Mr. K. Ahmed : Was there any chance for any Indian to get all these posts or any of them ?

The Honourable Sir Henry Craik : The question relates to foreign experts.

The Honourable Sir James Grigg : I may point out that with regard to the income-tax inquiry an Indian was associated with that.

Mr. Ram Narayan Singh : May I know to which nation these foreign experts belong ?

The Honourable Sir Henry Craik : I must ask for notice.

INDIAN SECRETARIES, JOINT AND ASSISTANT SECRETARIES IN THE GOVERNMENT OF INDIA.

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

- (a) the number of the Indian Secretaries, Joint and Assistant Secretaries in the Government of India, at present ; and
- (b) which are the departments in which there is no Indian, either as a Secretary or Joint or Assistant Secretary, and what the reason for this is ?

The Honourable Sir Henry Craik : (a) There are at present three Indians employed as Secretaries, two as Joint Secretaries and 19 as Assistant Secretaries in the Government of India Secretariat. These figures include officers holding posts of corresponding status.

(b) There are no Indians in the Imperial Council of Agricultural Research Department holding posts corresponding to those of Secretary, Joint Secretary or Assistant Secretary but the Secretary of the Imperial Council of Agricultural Research who has the status of a Deputy Secretary to the Government of India is an Indian.

Mr. T. S. Avinashilingam Chettiar : May I know whether the number of Indian Secretaries and Joint Secretaries has increased as compared with last year and previous years ?

The Honourable Sir Henry Craik : I cannot say from the information with me.

Mr. T. S. Avinashilingam Chettiar : May I know whether Government are paying any attention to their promise that there will be progressive Indianisation in the higher services of the Government of India ?

The Honourable Sir Henry Craik : Yes, Sir ; the question of Indianisation is constantly borne in mind.

Mr. T. S. Avinashilingam Chettiar : May I know whether that is shown by the results ?

The Honourable Sir Henry Craik : If the Honourable Member wants a comparative statement he should have asked for it. I have not got the comparative figures.

Sir Muhammad Yakub : May I know how many of these Secretaries and Joint Secretaries are Muslims ?

Mr. S. Satyamurti : Are Muslims not Indians ?

Sir Muhammad Yakub : You are not the President, keep quiet. Don't go on interrupting like that.

Mr. S. Satyamurti : I can also shout, if you will shout.

The Honourable Sir Henry Craik : Two out of the five are Muslims.

Pandit Krishna Kant Malaviya : May I know whether in some departments of the Government of India Hindus are being ousted and replaced by Europeans ?

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

ABOLITION OF THE TARIFF BOARD.

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

- (a) whether it is true that the Tariff Board has been abolished ;
- (b) how many matters are still pending, awaiting reference to the Tariff Board ; and
- (c) what their object is in abolishing the Tariff Board ?

The Honourable Sir Muhammad Zafrullah Khan : (a), (b) and (c). The Honourable Member is referred to the replies given to Mr. M. Ananthasayanam Ayyangar's starred question No. 361 in the current Session.

LOANS ADVANCED TO THE JHARIA WATER BOARD.

416. ***Pandit Lakshmi Kanta Maitra** : (a) Will Government please state at what figure the loan advanced by them to the Jharia Water Board stands at present ?

(b) What is the rate of interest charged on the loan ?

(c) Is it a fact that each colliery served by the Jharia Water Board has to pay for supply of water only a cess of nine pies per ton of coal despatched from it ?

(d) Is it a fact that the total amount of the water cess realised from collieries works out at about Rs. 10 per head of colliery employees, per year, for water supply alone ?

(e) Do Government propose to consider the question of reducing the rate of interest in view of the cheapness of money prevailing at the present moment and the prolonged depression in the coal trade ?

The Honourable Sir Frank Noyce : (a) and (b). The loan is one from the Government of Bihar to the Jharia Water Board. The Government of India have no information of the amount still outstanding or of the rate of interest payable by the Board.

(c) and (d). The Government of India have no information. The rate of cess to which reference is made is determined by the Board from time to time with the approval of the Local Government.

(e) This is a matter for the Local Government to consider.

TAXATION PROPOSALS OF PROVINCIAL GOVERNMENTS AND COAL CESS IN BIHAR.

417. ***Pandit Lakshmi Kanta Maitra :** (a) Will Government be pleased to state what the considerations are that weigh with them in according sanctions to proposals of taxation made by Provincial Governments ?

(b) What are the criteria by which Government judge the soundness of such taxation proposals ?

(c) Is the necessity for raising such increased taxation and the capacity of the proposed tax-payers to bear the burden examined ?

(d) Do Government accept the view held by the Indian Taxation Enquiry Committee (1925) in paragraph 474 of their Report that "The general cesses are raised for general services of the local bodies and are therefore levied on the 'ability' principle, whereas special cesses are earmarked for specified services and in this case the 'benefit' principle is appropriate" ?

(e) If the answer to part (d) be in the affirmative, will Government please state for what specific purpose the special cess on production and despatches of coal in Bihar is to be applied ?

(f) If the answer to part (d) be in the negative, will Government be pleased to state their own principle in the matter of imposition of local cess on mining and other industries ?

The Honourable Sir James Grigg : (a) I presume the Honourable Member is referring to the previous sanction which is required under clause (a) of sub-section (3) of section 80A of the Government of India Act to provincial legislation for the imposition of a tax not embraced by the Scheduled Taxes Rules. That sanction is accorded not by the Government of India but by the Governor General.

(b) In examining proposed legislation of this character the Government of India are not called upon to judge of the soundness of the taxation proposed. They are concerned only with the question whether the proposals encroach upon the fiscal sphere of the Central Government or otherwise interfere with Central taxation, and whether they adversely affect inter-provincial relations.

(c) to (f). For the reasons I have given, these matters, in their relation to provincial taxation, concern only the Local Government and the local legislature.

Prof. N. G. Banga : Are we to understand that so long as local proposals for fresh taxation do not come into conflict with the Central system of taxation, the Local Governments are entirely free to impose any taxes they like and to whatever extent they like ?

The Honourable Sir James Grigg : If the Honourable Member will read my answer and study it at leisure, I do not think he will be able to draw any such conclusion from it.

LEVY OF LOCAL CESS ON INDUSTRIES.

418. ***Pandit Lakshmi Kanta Maitra :** (a) Are any of the industries in India, except the mining industries in Bengal, Bihar and the Central Provinces, assessable to any local cess either on income or on production ?

(b) Is it a fact that the mining industries in the Bombay Presidency and the Punjab do not pay any local cess ?

(c) Is it a fact that collieries in Bengal and Bihar pay local cess both on rent of the surface lands they occupy and on their profits ?

The Honourable Sir Frank Noyce : (a) and (b). Local cesses are levied by Provincial Governments and Legislatures and I have no complete list of them, but the answer to part (a) of the Honourable Member's question would appear to be in the affirmative and to part (b) in the negative as the report of the Indian Taxation Enquiry Committee refers to local cesses paid by the mining industries in Bombay and Assam. I believe that there is no such tax in the Punjab.

(c) Yes.

Pandit Lakshmi Kanta Maitra : With regard to part (c), why is this dual form of taxation going on ?

The Honourable Sir Frank Noyce : I am afraid I must ask for notice. I have given my Honourable friend all the information I have got.

Mr. K. Ahmed : Is it not a fact that because the mining industry in Bombay and the Punjab are not profitable concerns, therefore the Local Governments do not impose any local cess ?

The Honourable Sir Frank Noyce : I must ask for notice.

REMISSION OF SENTENCE PASSED ON THE ACCUSED IN THE COIMBATORE EXTORTION CASE.

419. ***Mr. M. Ananthasayanam Ayyangar :** (a) Has the attention of Government been drawn to a series of articles in the *Hindu* by Messrs. V. V. Srinivasa Iyengar, ex-High Court Judge, and Mr. J. R. Venkatrama Sastri, ex-Advocate General of the Government of Madras, on the remission of sentence passed on the accused in the Coimbatore extortion case ?

(b) Has the attention of Government been drawn to the article in the *Hindu* of the 11th May, 1936, on the same subject by Mr. V. V. Srinivasa Iyengar, detailing the grounds, conditions and limitations under which alone clemency could be exercised ?

(c) What are the special reasons for invoking the special prerogative of the Crown in this case ?

(d) Is it not a fact that the accused had preferred an appeal to the High Court regarding the reduction of sentence and that the same was dismissed ?

(e) Were the Judges of the High Court, who heard the appeal, consulted and, if so, what was their opinion, and, if not, why not ?

(f) Has there been any agitation in the Press by any large body of public men or an appeal by any influential section for mercy ? If so, what and who were they ?

(g) Has there been any other case where the special powers of the Crown were invoked in cases where death sentence was not inflicted ?

(h) Was there any additional material or new and important fact arising after the decision on the appeal by the High Court which necessitated the interference and, if so, what were they ?

(i) Was there any representation made by Members of the Assembly or *ex-Members* of the Assembly and if so, who were they ?

(j) Are Government aware that the interference by His Excellency the Viceroy has tended to shake the faith in the impartial administration of justice ?

(k) Is it a fact that the accused was absconding and was staying somewhere in Delhi, near the Assembly quarters while the appeal was pending before the High Court ?

(l) What are the grounds set out in the petition for clemency by the accused ? Did Government agree with the serious allegations of partiality against the jurors on account of their having been Brahmins and, if so, on what evidence ?

(m) Are Government aware that no such exception was taken to the composition of the jury, either in the Original Court or in the Court of Appeal ?

The Honourable Sir Nripendra Sircar : (a) and (b). Yes.

(c) Governor General in Council exercised powers under section 401, Criminal Procedure Code. No special prerogative of the Crown was involved in the matter. Governor General in Council is not prepared to disclose the reasons, and it is opposed to public interest.

(d) Yes.

(e) No. Such consultation is not compulsory under the provisions of section 401, Criminal Procedure Code.

(f) Government is not aware of any such agitation in the Press or of any such appeals.

(g) There have been many cases where power under section 401, Criminal Procedure Code, has been exercised where no death sentence had been passed.

(h) No. The decision was based on the records of the case

(i) No representations were made. I was asked in private conversation by two Members of this House—one belonging to the Congress Party

and another not belonging to that Party to look into the papers carefully. This was before the records had been received here. I am not prepared to disclose their names.

(j) The interference was not by His Excellency the Viceroy but by Governor General in Council in exercise of statutory power, and Government believes that the assertion in the last part of the question is wholly unfounded.

(k) Government has no such information.

(l) The petition is a very lengthy document and has been published in several newspapers. Government paid no attention to allegations against Jurors as there was no legal proof in support of them.

(m) Yes.

Mr. M. Ananthasayanam Ayyangar : If no additional materials were placed before them, will the Honourable Member be pleased to state at least the main ground on which the decision was arrived at ?

The Honourable Sir Nripendra Sircar : I have nothing to add to what I have already said : the Governor General in Council is not prepared to disclose the reasons as it is opposed to public interest.

Mr. K. Ahmed : Will there be any objection on the part of the Government of India if a resolution is moved in the Assembly for the remission or acquittal ?

(No answer.)

CASE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

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

- (a) the reasons why they remitted the balance of sentence of imprisonment for two years on one Ratnasabhpathi Gounder of the Coimbatore District in the Madras Presidency, last March ;
- (b) whether they are aware that this person was found guilty of the offence by a jury which returned a unanimous verdict, and that the Judge accepted the verdict and sentenced him to two years' rigorous imprisonment ;
- (c) whether the accused appealed to the High Court against the conviction and sentence ;
- (d) whether the District Magistrate moved the Government to apply to the High Court for an enhancement of the sentence on the ground of its inadequacy, and also suggested an appeal against acquittal in respect of the other charges against him ;
- (e) whether the Advocate General was consulted by Government ;
- (f) whether the Advocate General supported both the proposals of the District Magistrate ;
- (g) whether the Government of Madras accepted only the recommendation to apply for enhancement of the sentence ;
- (h) whether the Government of India are aware that the Government of Madras have said that they did not apply for en-

enhancement on the ground of inadequacy, but only on the ground of a technicality ;

- (i) whether they are aware that the intention of the Government of Madras, in so applying for the enhancement of the sentence, was to give a right to the accused to re-open the whole case and go into the facts, as stated by them ;
- (j) whether the High Court dismissed both the appeal and the petition for enhancement ;
- (k) whether they are aware that after the decision of the High Court, the accused remained free, and presented a petition asking the Government to remit his sentence ;
- (l) whether they are aware that the accused's petition was published in the *Justice*, a local newspaper ;
- (m) whether they are aware that the petition of the accused contained scandalous allegations against jurymen, the police, etc. ;
- (n) whether the Government of Madras referred it to the District authorities for verification ; if not, why not ;
- (o) whether the petition was referred to the High Court for remarks, as contemplated by section 401, clause 2 ; and
- (p) whether they are aware that in the judgment of the High Court, the learned Judges have said that the conviction was thoroughly justified, and the Sessions Judge's charge to the jury was unduly favourable to the accused ?

The Honourable Sir Nripendra Sircar : (a) Government is not prepared to disclose the reasons, and the same is against public interest.

(b), (c), (j) and (l). The answer is in the affirmative.

(d), (e), (f), (g), (h), (i), (k) and (n). Government have no information.

(m) The petition contained allegations against Jurymen and a Policeman to which no attention was paid.

(o) Reference to the High Court is not necessary under section 401, Criminal Procedure Code.

(p) That is the trend of the judgment though the exact language used in the question may not have been used.

Mr. S. Satyamurti : With reference to the answer to clauses (b) and other clauses to which the answer was in the affirmative, may I know whether, in passing the order they did, they took into account the facts stated in clause (b) of the question, that the person was found guilty of the offence by a jury which returned a unanimous verdict, and that the Judge accepted the verdict and sentenced him to two years' rigorous imprisonment ?

The Honourable Sir Nripendra Sircar : Yes.

Mr. S. Satyamurti : May I know, with reference to the answer to part (a)—I am not asking because the Government have said they are not prepared to answer, as it is against the public interest—if Government are prepared to answer this question, whether it was a case of

exercising clemency or mercy, or whether they went into the merits of the case at all ?

The Honourable Sir Nripendra Sircar : They went fully into the merits of the case.

Mr. S. Satyamurti : May I know if my Honourable friend's attention has been drawn to the communiqué issued by the Bengal Government, where they interfered in a similar case, in which they said, in exercising powers under section 401, that they had no intention of interfering with the judgment on the merits of the case ?

The Honourable Sir Nripendra Sircar : Yes.

Mr. S. Satyamurti : May I know if the Government of India accept that position, or if they have taken up the position in this case, that they should act as a semi or quasi-appellate court, against the judgments of the courts of the land ?

The Honourable Sir Nripendra Sircar : This cannot be answered 'yes' or 'no'. But under section 401 discretion has been given to the Governor General in Council and they will exercise that discretion having regard to all the facts and circumstances, without being bound by any definite ruling, or any general principle applicable to all cases.

Mr. S. Satyamurti : May I take it, therefore, that, in this case as in similar cases, they will consider the merits of the case, apart from any question of clemency or mercy ?

The Honourable Sir Nripendra Sircar : They have always been doing it. I myself have been doing it every day and that is why I have got to go into the merits of each mercy petition received.

Sardar Sant Singh : Is it a fact that section 401 is meant for the purpose of giving a special power to the Governor General in Council ?

The Honourable Sir Nripendra Sircar : What section 401 is meant for is a question of the construction of the Statute : I express no opinion.

Mr. K. Ahmed : With regard to part (1) of the question, remission of sentence under section 401 was passed in the Imperial Council.

The Honourable Sir Nripendra Sircar : What is the question ?

Mr. K. Ahmed : Is not that a fact ?

The Honourable Sir Nripendra Sircar : Speaking from memory, the Code of Criminal Procedure was passed in 1898 : I do not know if my Honourable friend had any hand in passing it.

Mr. K. Ahmed : Since the irrelevancy arises out of the question, may I ask whether the forerunner of this Assembly in 1898, the Imperial Legislative Council, passed section 401 and we amended it in 1923 in this Assembly ?

The Honourable Sir Nripendra Sircar : The Council which was then functioning must have passed it.

Mr. S. Satyamurti : With reference to parts (1), (m), (n)..... (Laughter)..... If Honourable Members knew more about this scandalous abuse of power, they would not laugh—I am sorry, Sir.....

The Honourable Sir Henry Craik : The Honourable Member said that this was a scandalous abuse of power : I submit that that is not a parliamentary expression and should be withdrawn.

Mr. S. Satyamurti : I have done that already : I do not stand in need of correction from the Home Member. May I ask my Honourable friend whether he is aware that this petition contained an allegation that the jurymen were Brahmins, the policemen were Brahmins, that he was a non-Brahmin who belonged to the Justice Ministry in power, and therefore the jurymen committed a grave offence by returning an incorrect verdict, that the policemen did not discharge their duties without prejudice but on caste lines, and therefore, as a loyal supporter of the Justice Party, he ought to be let out ?

The Honourable Sir Nripendra Sircar : I have already answered that. I do not know if my friend by repeating wants publicity : but I may tell him there were allegations against jurymen, there were allegations against a policeman ; there were allegations on political lines. But I have said already in answer to questions, that no attention was paid to them because there was no legal proof in support of any of these apparently unfounded allegations.

Mr. K. Ahmed : Is it not a fact that in the Khord-Govindpur (Rajshahi) case, there is legal proof found in the Calcutta High Court decided by Justices Cunliffe and Henderson only a couple of months ago that the conviction by the Hindu Sessions Judge in trial and by the majority of the Hindu jury convicting the Muhammadan accused and sentencing them for transportation for life and ten years' rigorous imprisonment for kidnapping offences under sections 366 and 376 and the Judges of the Calcutta High Court who on remand had it tried by a Christian European Sessions Judge at Jalpaiguri with a majority of Muhammadan juries who reduced the sentence and a light sentence ranging from six months to four years was awarded to meet the ends of justice ?

The Honourable Sir Nripendra Sircar : My Honourable friend, Mr. K. Ahmed,.....

Mr. President (The Honourable Sir Abdur Rahim) : The question does not arise.

The Honourable Sir Nripendra Sircar : May I finish the sentence, Sir ? My Honourable friend is misleading the House and insulting the Calcutta High Court by saying they said something which they have not said at all.

Mr. K. Ahmed : Evidently, Sir, my friend is not aware of the decision.

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

CASE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

421. **Mr. S. Satyamurti :** Will Government be pleased to state, in connection with the case of one Ratnasabhpathi of Coimbatore District in the Madras Presidency whether, in remitting the sentence, they considered the verdict of the jury, and the judgment of the Sessions Judge, which were all in favour of the guilt of the accused ?

The Honourable Sir Nripendra Sircar : Yes.

Mr. Sami Vencatachalam Chetty : What was the number of days that intervened between the passing of the sentence by the Madras Government and the remission of the balance of the sentence by the Government of India ?

The Honourable Sir Nripendra Sircar : I submit that does not arise from this question.

CASE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

422. **Mr. S. Satyamurti :** Will Government be pleased to state, in connection with the case of one Ratnasabhpathi of Coimbatore District in the Madras Presidency whether in the petition for remission filed by the accused, the petitioner introduces political elements and urges his services to the Justice Party, and claims that he was convicted because he was a prominent member of the Justice Party ?

The Honourable Sir Nripendra Sircar : The question reproduces the gist of part of the petition with substantial correctness.

Mr. S. Satyamurti : May I know if Government took any steps, or propose to take any steps to remove the possible misapprehension that this was one of the grounds which weighed with the Government of India in remitting the whole sentence ?

The Honourable Sir Nripendra Sircar : Government does not want to take any steps for removing a misapprehension which, I do not admit that it does exist, and which in any case must be totally unfounded.

Mr. S. Satyamurti : May I know if the Government are aware that the petition for mercy itself contained those allegations which are often asked to be expunged by courts and even executive officers, before they consider a petition which contains unfounded allegations ?

The Honourable Sir Nripendra Sircar : That has never been done. Petitions for mercy contain all sorts of things, and it is for the officer to take notice or not of such things, but I have never followed in dealing with petitions the practice to ask for expungement of certain sentences because the allegations are unfounded.

Mr. S. Satyamurti : May I take it, then that, this allegation has nothing to do with his services to the party ?

The Honourable Sir Nripendra Sircar : I have said so three times, and I repeat it again for the fourth time.

Sir Srinivasa Sarma : Is it or is it not a fact that my friend, Mr. Satyamurti, was assured, perhaps to his entire satisfaction, that there was no political element at all in one of those very mysterious but very frequent interviews that he has had with His Excellency the Governor of Madras, which however much he may like publicity, has been very carefully kept out of the press ?

Mr. Sri Prakasa : On a point of order, Sir. Are any of these interviews of Mr. Satyamurti the primary concern of the Governor General in Council ?

The Honourable Sir Nripendra Sircar : I am glad that my Honourable friend is taking up cudgels on behalf of the Governor General in Council.

CASE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

423. ***Mr. S. Satyamurti :** Will Government be pleased to state, in connection with the case of one Ratnasabhpathi of Coimbatore District in the Madras Presidency :

- (a) whether they will issue a statement to allay the feeling in the Province that political and party influences have been at work to remit the sentence on the accused ;
- (b) whether they will appoint a committee to go into the question ; and
- (c) if not, why not ?

The Honourable Sir Nripendra Sircar : (a) The allegation that political and party influence had been at work is wholly incorrect. Government do not admit that there is any such feeling as has been assumed in the question. The answer, therefore, is in the negative.

(b) No.

(c) There are no reasons for doing it and further the discretionary power given to Governor General in Council by section 401, Criminal Procedure Code, is not open to investigation or revision, by any Committee howsoever appointed.

Mr. S. Satyamurti : May I know if Government have any intention of appointing any Committee, not to go into this particular question but into the question of laying down any general principles for guidance in future ?

The Honourable Sir Nripendra Sircar : No, Sir.

REMISSION OF SENTENCE OF ONE RATNASABHAPATHI GOUNDER OF THE COIMBATORE DISTRICT.

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

- (a) whether their attention has been drawn to an article entitled " A sordid episode ", published in the *Indian Express*, dated the 21st April, 1936, regarding the remission of sentence of Ratnasabhpathi Gounder ;
- (b) whether they propose to take any steps in the matter ; and
- (c) if not, why not ?

The Honourable Sir Nripendra Sircar : (a) Yes.

(b) and (c). The answer is in the negative and reasons have been given in answer to questions already put regarding this matter.

Mr. Sami Vencatachelum Chetty : May I know how many days have intervened between the remission of a part of this sentence by the Madras Government and the balance by the Government of India ?

The Honourable Sir Nripendra Sircar : I am not very good at calculating, but the file came up here, and it was disposed of in the ordinary course which took a little more time, because one had to go

very carefully through the records, but there is nothing very exceptional either in the matter of delay or of expedition in connection with that petition.

Mr. Sami Vencatachelam Chetty : Did the Government of India recommend the balance of the sentence ?

The Honourable Sir Nripendra Sircar : No, Sir.

Mr. M. Ananthasayanam Ayyangar : Was it consulted at all ?

The Honourable Sir Nripendra Sircar : By whom ?

Mr. M. Ananthasayanam Ayyangar : By the Government of India ?

The Honourable Sir Nripendra Sircar : No, Sir.

Mr. M. Ananthasayanam Ayyangar : How long was this before a decision on the Ottawa Agreement took place ?

The Honourable Sir Nripendra Sircar : I cannot solve one unknown quantity in terms of another, as I do not remember the dates.

Mr. President (The Honourable Sir Abdur Rahim) : Two answers have been given already. Next question please.

STATE CONTROL OF THE BENGAL AND NORTH WESTERN RAILWAY.

425. ***Mr. Ram Narayan Singh** : (a) Will Government be pleased to state whether they have finally decided to take over the management of the Bengal and North Western Railway under the State control, and if so, from what date or year ?

(b) Has the attention of Government been drawn to the leading article in the *Searchlight*, dated Patna, the 27th May, 1936, headed "Golden Opportunity for Taking over Bengal and North Western Railway", and if so, do Government propose to accept the recommendations made therein ?

The Honourable Sir Muhammad Zafrullah Khan : I invite the Honourable Member's attention to the replies I have given to the several questions during the current Session.

Mr. Mohan Lal Saksena : Are the Government aware of the rumour in Gorakhpur that the contract will be extended by another five years ?

The Honourable Sir Muhammad Zafrullah Khan : No, Sir.

SPEECHES DELIVERED BY THE GOVERNOR GENERAL TO THE LEGISLATURE.

426. ***Mr. Sri Prakasa** : Are the speeches delivered by the Governor General to the Legislature a part of the proceedings of the Assembly ? If not, why are they printed in the Legislative Assembly Debates ?

Mr. President (The Honourable Sir Abdur Rahim) : Mr. Sri Prakasa's question No. 426 asks why are speeches, delivered by the Governor General to the Legislature, a part of the proceedings of the Assembly, and, if not, why are they printed in the Legislative Assembly debates ? As regards this point, I want to make the position quite clear.

At least one of my predecessors in office (Sir Frederick Whyte) was distinctly of the opinion that when the Governor General addresses the Members of the Assembly or of the Assembly and the Council of State together under section 63-B (3), that is not a meeting of the Assembly or a "Joint Sitting" of the two Chambers and that a meeting of the Assembly is only duly constituted when Mr. President has taken the Chair. This was laid down in connection with the question whether a new Member may attend without having taken the oath. I am aware that the Presidents of some Provincial Legislative Councils have expressed a different view, but I am inclined to agree with Sir Frederick Whyte.

The next question therefore whether the President acting under Standing Order 75 can direct that the Address of the Governor General so delivered be included in the Proceedings of the Assembly must be answered in the negative. At the same time, it has been the uniform practice from the commencement of this Assembly to include the Address of the Governor General in the Proceedings of the Assembly and no question has hitherto been raised as to its propriety. It is also obvious that a full and authentic report of the Address should be made available to the Members in a convenient form as soon as practicable, for its importance as bearing on the course of future legislation in the Assembly and the general policy of the Government cannot be denied. And it might well have been thought that the President in order to enable the Members to discharge their duties properly could, in the exercise of his administrative powers as the Head of the Assembly Department, authorize the publication of such speeches as part of the Proceedings of the Assembly. Having regard to these considerations I do not propose to alter the established practice in this connection unless the House clearly expresses a desire to that effect by appropriate motion.

PROBABLE DATE OF THE INAUGURATION OF FEDERATION.

427. *Mr. Satya Narayan Sinha : Will Government be pleased to state the probable date of inaugurating the Federation ?

The Honourable Sir Nripendra Sircar : The attention of the Honourable Member is invited to my answer to part (a) of question No. 87.

CORONATION OF KING EDWARD VIII IN INDIA.

428. *Mr. Satya Narayan Sinha : (a) Has the attention of Government been drawn to Reuter's cable, published some time back in all the leading newspapers of the country, in which it was stated that the Coronation of the King will be held in this country in the month of January, 1936, when His Majesty the King will inaugurate the Federation ?

(b) If the reply be in the affirmative, will Government be pleased to state how far the said news is correct ?

The Honourable Sir Henry Craik : (a) I have not been able to trace any cable in these terms.

(b) I would refer the Honourable Member to the reply which I gave to Mr. M. Ananthasayanam Ayyangar's starred question No. 88 on the 3rd September, 1936.

Mr. K. Ahmed : Is it not a fact, Sir, that just before we commenced our Session here, His Excellency the Viceroy went down to Delhi to inspect the Assembly Chamber and found that the number of seats could be increased? Is it in the mind of the Government of India that the Federation is coming in the year 1938? What was then the necessity of incurring so much expense? What is the object of increasing the number of seats in the Delhi Assembly Chamber?

The Honourable Sir Henry Craik : That question seems to arise out of No. 427 which we have just finished. I have since answered No. 428 which has nothing to do with this supplementary.

Mr. K. Ahmed : Inauguration of Federation by His Majesty in January, 1938?

GIVING EFFECT TO THE RECOMMENDATIONS OF THE TARIFF BOARD ON THE COTTON TEXTILE INDUSTRY.

429. ***Mr. Satya Narayan Sinha :** Will Government be pleased to state the reason for giving effect to the recommendation of the Cotton Tariff Report, without ascertaining the opinion of the Legislative Assembly?

The Honourable Sir Muhammad Zafrullah Khan : The Honourable Member is referred to paragraphs 2 and 3 of the Government of India, Commerce Department, Resolution No. 341-T. (10)36, dated the 25th June, 1936, on the Report of the Special Tariff Board on the cotton textile industry and to my speech in this House on the 2nd September, 1936, in connection with the Adjournment Motion by Mr. T. S. Avinashilingam Chettiar on the subject.

END OF THE TUNGABHADRA DISPUTE.

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

- (a) whether the Tungabhadra dispute has come to an end ;
- (b) whether the concerned parties met at a conference and came to a conclusion ; and
- (c) if so, what are the conclusions ?

The Honourable Sir Frank Noyce : (a) and (b). No.

(c) Does not arise.

Mr. T. S. Avinashilingam Chettiar : Is there any conference in contemplation ?

The Honourable Sir Frank Noyce : I have already answered questions on two or three occasions in this House about this when my Honourable friend has been present.

RAILWAY EARNINGS.

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

- (a) the exact position of railway earnings in the current year as opposed to last year's income ;
- (b) whether the railway rates on certain articles have been increased ; and
- (c) the effect of this change in the railway tariff ?

The Honourable Sir Muhammad Zafrullah Khan : (a) The total approximate gross earnings of State-owned Railways from 1st April to 31st August, 1936, amounted to Rs. 39 crores as compared with Rs. 37.77 crores during the corresponding period of 1935.

(b) Yes : reference to the more important enhancements was made in paragraph 22 of the Explanatory Memorandum of the Railway Budget of the Government of India 1936-37.

(c) As will be seen from the figures given in my reply to part (a) of this question, there has been an increase in the gross earnings of Rs. 123 lakhs, some of which may be attributed to the changes in the tariff.

Mr. T. S. Avinashilingam Chettiar : May I know whether according to the present rates they expect to have a deficit or a surplus in the coming year ?

The Honourable Sir Muhammad Zafrullah Khan : If railway earnings continue to increase at the present rate I think on the commercial lines there may be some surplus.

STEPS TAKEN TO IMPROVE THE RAILWAY REVENUES AND REDUCE THE RAILWAY EXPENDITURE.

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

- (a) what steps have been taken to improve the railway revenues and reduce the railway expenditure, since the last Session ;
- (b) whether they contemplate appointing any expert to go into this matter ; and
- (c) if so, who is the expert they propose to appoint ?

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

(b) and (c). I would refer the Honourable Member to the reply I gave to Mr. Ananthasayanam Ayyangar's question No. 84 on the 2nd September, 1936.

Mr. T. S. Avinashilingam Chettiar : May I take it that it has not been finally settled whether to bring in a foreign expert or not ?

The Honourable Sir Muhammad Zafrullah Khan : Yes, the Honourable Member may take it.

†433*.

SUFFERERS FROM ITALIAN GAS BOMBS IN ADDIS ABABA.

434. ***Sardar Sant Singh** : (a) Was any representation made by the Indian community in Addis Ababa to Sir Sidney Barton, the British Ambassador, on the 31st March, 1931 ? If so, will Government lay a copy of the same on the table of the House ?

(b) Is it a fact that the British Ambassador gave a reply to the representation ? If so, what was the reply ? Will Government lay a copy of the same on the table of the House ?

(c) Is it a fact that an Association of Indians was formed in Addis Ababa to help the sufferers from the Italian gas bombs ? If so, is it a fact that this Association passed a resolution demanding gas masks from the British Legation and requesting the Ambassador to arrange for the expropriation of Indian women and children ? If so, what reply was given by the British Legation to this resolution of the Association ?

Sir Aubrey Metcalfe : (a) to (c). The Government of India have no information.

Mr. S. Satyamurti : Will they kindly call for the information ?

Sir Aubrey Metcalfe : It is somewhat difficult to call for information about what happened in Addis Ababa five years ago.

Sardar Sant Singh : It must be 1936, and 1931 is a mistake in printing.

Sir Aubrey Metcalfe : That is the question as it reached us, and it is somewhat difficult for Government to correct such mistakes.

Sardar Sant Singh : It is a mistake in printing. It must be 1936. Will the Honourable Member find out the information after correcting the mistake ?

Sir Aubrey Metcalfe : Notice was received as to 1931 and I submit that it is not the duty of Government to correct mistakes of five years.

Mr. President (The Honourable Sir Abdur Rahim) : Is the Honourable Member really sure that it is a misprint here ?

Sardar Sant Singh : Yes. It must be 1936 and not 1931. 1931 is a mistake.

An Honourable Member : Give fresh notice.

BRAVERY OF SIKHS IN ADDIS ABABA.

435. ***Sardar Sant Singh** : (a) What part did the Sikh guard play in protecting the lives and property of the foreigners in Addis Ababa during the plunder that followed after the Negus left the capital ?

(b) Were any letters of appreciation received by the Legation as to the conduct of the Sikh soldiers ? If so, will Government lay the same on the table of the House ?

(c) In what form have the Government of Great Britain, or the Government of India, appreciated the bravery of the Sikhs in Addis Ababa ?

Mr. G. E. F. Tottenham : (a) The attention of the Honourable Member is invited to the press communiqué issued on September 1st,

a copy of which was laid on the table in reply to question No. 212 on the 9th September, 1936.

(b) Many letters of appreciation were received at the Legation. Copies of those available have been placed in the Library.

(c) Both His Majesty's Government and the Government of India communicated their appreciation by telegram.

Sardar Sant Singh : What steps have Government taken to reward the personnel of the Sikh Guard which had shown such bravery in such a situation ?

Mr. G. E. F. Tottenham : Obviously I cannot make any statement about what may or may not happen in the future in this matter.

Sardar Sant Singh : Are Government considering any steps to reward these people ?

(No answer.)

PROPORTION OF SIKHS IN CERTAIN DEPARTMENTS UNDER THE GOVERNMENT OF INDIA.

436. ***Sardar Sant Singh** : (a) Will Government be pleased to state if they have received any copies of the resolutions passed by various Sikh institutions, complaining against the arrangement of proportional communal representation in the services under the Government of India in the following departments :

- (i) Railways ;
- (ii) Posts and Telegraphs ;
- (iii) Customs ; and
- (iv) Home ?

(b) What steps do Government propose to take to remedy the defect and to remove the complaint of the Sikh community ?

(c) In case Government propose to take no steps, will they be pleased to lay on the table a statement showing the figures of the proportion of the Sikhs in these departments in the various grades, and state if the proportion in service is even equal to their proportion in population ?

The Honourable Sir Henry Craik : (a) Copies of such resolutions were received by the Home and Railway Departments only.

(b) Government are not prepared at present to fix separate reservations for Sikhs but will watch the annual returns showing the communal composition of the services and the vacancies filled by direct recruitment, to see that the Sikhs get their due share of vacancies.

(c) I lay on the table four statements showing the representation of Sikhs in the Departments mentioned by the Honourable Member. The Sikhs form 1.211 per cent. of the population of India proper, and it will be seen from the statement that their representation is more than this figure in the Railway services, in five out of the nine categories into which the Posts and Telegraphs services have been divided, in the temporary subordinate staff of the Customs Department, and in the Second and Third Divisions of the ministerial staff of the Home Department.

Statement showing the Representation of Sikhs in the Railway Services, on 31st March, 1935.

Names of Railways, etc.	Gazetted staff.												Subordinate Staff.			
	Departments.															
	Agency.	Accounts.		Engineering.		Transportation and Commercial.		Mechanical Engineering.		Stores.		Other Departments.		No.	%	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%			
1. Assam Bengal Railway	1	5.00	..	1.92	..	..	..	..	..	..	23	0.04		
2. Bengal Nagpur Railway	94	0.91		
3. Bengal and North Western Railway	14	0.26		
4. Bombay, Baroda and Central India Railway	1	2.86	1	2.80	..	..	..	..	..	..	104	0.44		
5. Eastern Bengal Railway	1	2.86	..	1.27	..	..	..	..	..	..	36	0.35		
6. East Indian Railway	1	7.69	..	141	0.61		
7. Great Indian Peninsula Railway	58	0.36		
8. Madras and Southern Mahratta Railway	2	6.25	..	..	..	..	..	..	4	0.04		
9. North Western Railway	1	3.60	4	7.41	1	1.79	..	..	..	..	1,481	7.20		
10. Rohilkund and Kumaon Railway	1	0.11		
11. South Indian Railway		
12. Railway Board and Miscellaneous offices	62	2.61		
Total	3	2.63	6	1.07	9	1.91	1	0.33	1	1.39	2	1.07	2,018	1.48

Total of Sikhs among Gazetted staff : 22/1779, or 1.24%.

Statement showing the figures of the proportion of the Sikhs employed in the Posts and Telegraphs Department in the various grades as on 31st December, 1934, excluding the inferior staff and the staff working in the Burma Circle.

Grade.	Total Number employed.	Number of Sikhs.	%
I. Gazetted Staff	398	8	2.01
H. Engineering Supervisors, General and Tele- phones and Electrical Supervisors ..	258	2	0.78
III. Wireless Supervisors and Wireless Operators ..	122	2	1.64
IV. Telegraphists and Telegraph Masters ..	2,320	9	0.39
V. Clerical Staff	28,758	458	1.59
VI. Line Staff	3,648	45	1.23
VII. Postmen, Mail Guards, Departmental Branch Postmasters, Overseers, Overseer Postmen, Head Sorting and Reader Postmen ..	26,273	119	0.45
VIII. Other Non-gazetted, Non-clerical, Superior Staff	1,159	30	2.59
IX. Direction (Clerical)	180	2	1.11
Total ..	63,116	675	
		Or 1.07%	

		Permanent.												Temporary.						
		23	3-06	160	26-06	..	02	15-33	222	37-00	4	0-06	72	12-16	18	3-00	9	1-50	600	
1.	Non-Clerical	..	..	..	..	..	02	15-33	222	37-00	4	0-06	72	12-16	18	3-00	9	1-50	600	
2.	Clerical..	..	..	770	77-16	2	0-20	112	11-21	21	2-10	1	0-10	68	6-31	9	0-90	5	0-50	988
Total		..	1-29	930	58-56	2	0-19	204	19-56	243	15-30	5	0-21	141	8-88	27	1-70	14	0-88	1,588
		Temporary.																		
1.	Non-Clerical	..	..	13	25-53	..	..	12	27-08	17	26-17	1	2-13	4	8-51	..	..	..	..	47
2.	Clerical..	..	..	65	55-55	..	..	24	20-51	10	6-55	1	0-06	12	10-26	3	2-26	2	1-70	117
Total		..	..	77	46-05	..	..	37	23-59	27	16-45	2	1-23	16	9-76	3	1-53	2	1-22	164

* The figures include those for Burma.

† Including 2 I. C. S. Officers.

Subordinate Service—

Statement showing the representation of Sikhs in Home Department, on the 1st January, 1936.

	No.	%
1. Imperial Secretariat Service, Class I (Assistant Secretary) .. .. .	..	..
2. Imperial Secretariat Service, Class II (Assistants) .. .. .	..	..
3. Imperial Secretariat Stenographers' Service .. .. .	..	..
4. Subordinate Service (Second Division clerks)	2	9.52
5. Subordinate Service (Third Division clerks)—		
(i) Permanent	1	5.26
(ii) Temporary	1	25.00

NOTE.—One of the Sikhs in the Second Division is provisionally permanent in the First Division, and the other is a provisionally permanent stenographer.

Sardar Sant Singh : Is it a fact that the Sikhs are not getting their proportion in services according to their population in the departments in the Punjab ?

The Honourable Sir Henry Craik : Does the Honourable Member mean departments under the Local Government ?

Sardar Sant Singh : I mean departments under the Central Government.

The Honourable Sir Henry Craik : Which particular department ?

Sardar Sant Singh : Railways, Posts and Telegraphs and Home.

The Honourable Sir Henry Craik : I have said that the Sikhs are getting more than their population representation in the Railway services, in five out of the nine categories into which the Posts and Telegraphs services have been divided, in the temporary subordinate staff of the Customs Department, and in the Second and Third Divisions of the ministerial staff of the Home Department. The Home Department has no staff in the Punjab so far as I am aware.

Sardar Sant Singh : Is it not a fact that in the Posts and Telegraphs Department the Sikhs' representation in the Punjab is about 8.3 per cent., while their population is about 14 per cent. ?

The Honourable Sir Henry Craik : I have no separate figures for provinces, I can only give the figures for India as a whole.

Dr. Ziauddin Ahmad : With reference to part (a) of the question, will the Honourable Member add a fifth department, that is, the P. W. D. of Delhi, and afterwards give the figures of the combined departments ?

The Honourable Sir Henry Craik : That was not asked for in the question.

SPEECH DELIVERED BY THE *ex-EMPEROR* OF ABYSSINIA IN THE LEAGUE OF NATIONS.

437. ***Sardar Sant Singh :** Has the attention of Government been drawn to the speech made by the *ex-Emperor* of Abyssinia in the July meeting of the League of Nations ? If so, what steps have been taken by Government, as an independent member of the League, to show their disapproval of the policy of the League in this affair ?

Sir Aubrey Metcalfe : The Government of India have seen the speech referred to and have taken no steps of the kind suggested by the Honourable Member.

Sardar Sant Singh : May I know, having regard to the fact that about Rs. 125 lakhs have been paid by India as a contribution to the League of Nations, is it not the duty of the Government of India to interfere in the working of the League of Nations if they find it against the interests of India as a whole ?

Sir Aubrey Metcalfe : The Honourable Member has asked me for an opinion on a hypothetical question.

SAFEGUARDING OF THE INTERESTS OF EUROPE ALONE BY THE LEAGUE OF NATIONS.

438. ***Sardar Sant Singh :** (a) Has the attention of Government been drawn to the speeches made in the League of Nations' July Session whereby the representatives of the French and other nations stressed the point that the League stands to safeguard the interests of Europe alone ?

(b) In the presence of such utterances in the open Session, do Government propose to give notice of withdrawal from the League ?

The Honourable Sir Nripendra Sircar : (a) The official report of the speeches made on the occasion to which the Honourable Member refers has not reached the Government of India who have no reason to suppose that observations in the sense indicated by the Honourable Member were made.

(b) Does not arise.

Sardar Sant Singh : May I know whether the attention of the Honourable Member was drawn to the report of the speeches made in the League of Nations on that occasion, especially by the French Premier, in which it was stressed that the European interests were the only interests which the League of Nations had to protect ?

The Honourable Sir Nripendra Sircar : We consulted the *Times* of London and there is nothing there in the speech to justify the inference which, according to me, has been wrongly drawn by the Honourable Member.

TERMINATION OF THE OTTAWA TRADE AGREEMENT.

439. ***Seth Haji Abdoola Haroon :** (a) Will Government be pleased to state whether it is a fact that Ottawa Pact has been cancelled ?

(b) If the reply to the above be in the affirmative, are Government prepared to consider to have a fresh agreement with Britain for preferential treatment to Indian goods ?

(c) If so, do Government propose to enter into negotiation for preferential treatment to Indian sugar, so that, in view of prices having declined in India, an encouragement may be found in the United Kingdom ?

The Honourable Sir Muhammad Zafrullah Khan : (a) Six months' notice of termination of the Ottawa Trade Agreement was given on behalf of India on the 13th May, 1936.

(b) and (c). Negotiations with His Majesty's Government in the United Kingdom for a fresh Agreement are in progress, but it is not yet possible to make any statement as to the articles likely to be included in the Agreement.

INCONVENIENCE SUFFERED BY THIRD CLASS PASSENGERS ON THE EAST INDIAN RAILWAY.

440. ***Mr. Sri Prakasa :** (a) Is it a fact that on the East Indian Railway, third class compartments meant for from 40 to 52 passengers, have only one door on either side ?

(b) Are Government aware that at way-side stations, passengers are very often seriously inconvenienced in getting in or out during the short time at their disposal ?

(c) Are Government prepared to insist on railways having not less than one door on each side for 15 to 20 persons at the utmost ?

The Honourable Sir Muhammad Zafrullah Khan : (a) There are compartments with a seating capacity of 40 passengers with one door on each side. In compartments carrying more than 40 passengers, in addition to the door on each side, an additional door for exit and entrance through the adjacent compartment is provided, except in the case of one carriage only in which there is a third class compartment with a seating capacity of 62 passengers which has only one door on either side. The Agent, East Indian Railway, is being asked to arrange for this compartment, when the carriage is next in shops, to be provided with one more door on each side.

(b) Government are not aware that the passenger traffic at way-side stations is sufficient to cause the inconveniences referred to.

(c) No.

Mr. President (The Honourable Sir Abdur Rahim) : I have to inform Honourable Members that Sir Girja Shankar Bajpai will be going to Bombay on Government business and will not return till Monday. I think it will suit the convenience of the House if the questions he has to answer stand over till Monday.

†441*.

MOTIONS FOR ADJOURNMENT.

DISALLOWANCE OF ADJOURNMENT MOTIONS.

Mr. President (The Honourable Sir Abdur Rahim) : I have received notice of two adjournment motions. One is from Mr. Satya Narayan Sinha, who writes :

12 NOON.

" I do hereby give a notice that the House do now adjourn to discuss a definite matter of urgent public importance, namely, the disallowance of almost all adjournment motions given notice of by the Honourable Members in this Session on some pretext or other."

† This question was withdrawn by the questioner.

I want to know from the Honourable Member who disallowed the motions.

Mr. Satya Narayan Sinha (Darbhanga-cum-Saran : Non-Muhamadani) : By the President and the Governor General.

Mr. President (The Honourable Sir Abdur Rahim) : Then, why is it not stated ?

Mr. Satya Narayan Sinha : I thought it was understood.

Mr. President (The Honourable Sir Abdur Rahim) : This motion has been brought in respect of the adjournment motions that have been disallowed. As regards that, I should like to point out to the House that it has been clearly ruled on a previous occasion, and I entirely agree with that ruling, that no adjournment motion can be moved in this House to call in question the exercise of certain functions by the Governor General. I refer to the ruling which is recorded as No. 20 on page 18 of "A Selection from the Decisions of the Chair". The President, Sir Frederick Whyte, ruled thus :

"The Governor General, in the discharge of any of his functions or in the exercise of any of his powers as Governor General, and not as Governor General in Council, cannot be brought into debate in this House."

I should also like to mention that it has been ruled by me on previous occasions, and there are other rulings to this effect, that the rules impose certain duties on the President with respect to the motions for adjournment, and the President deals with such motions. Then, there are other powers which are vested in the Governor General in these matters, for instance, whether a motion can be moved consistently with public interest or whether it refers to a matter which is primarily not the concern of the Governor General in Council. These powers are vested in the Governor General himself and not in the President. I, therefore, rule this motion out of order.

FREEDOM OF INDIVIDUAL MEMBERS OF GOVERNMENT TO EXPRESS PERSONAL OPINIONS.

Mr. President (The Honourable Sir Abdur Rahim) : There is another motion in the name of Mr. Satyamurti. He wants to move the adjournment of the House "to consider a definite matter of urgent public importance, namely, the unsatisfactory attitude of the Government of India in respect of the freedom of individual Members of Government to express personal opinions, out of accord with the accepted policy of the Government, as stated in the answers to my short notice question yesterday on the subject, and the supplementaries thereto". Is there any objection ?

The Honourable Sir Nripendra Sircar (Leader of the House) : I object that this is not within the rules which permit the adjournment of the House to discuss matters of a particular kind. The reason given is that certain answers were given yesterday which are said to be unsatisfactory. I have to blame myself for that, because I was foolish enough to accept short notice. If you will turn to page 13 of the

[Sir Nripendra Sircar.]

Second Part of the Decisions from the Chair you will find that the President, in admitting the motion as a special case, observed :

“ It has been in the past the practice in this House to move the adjournment of the House on the unsatisfactory reply given by a Member of Government to a question. The Chair has now to decide whether, in the light of all the circumstances connected with the present case, the motion sought to be moved by the Honourable Member is in order. The Chair must say that the general line of argument adopted by the Honourable the Leader of the House in taking an objection to this motion is valid. There seems to be an impression in the minds of certain Honourable Members at any rate, that the mere fact that the answer to a question is unsatisfactory is in itself a sufficient ground to make a motion for adjournment on that point *ipso facto* in order. The Chair should distinctly rule that by itself the answer to a question is not sufficient ground for moving a motion for the adjournment of the House. In deciding the admissibility of such a motion, the Chair has always to take into consideration the subject-matter with which the question is connected and, if the subject-matter itself is in violation of the rules and Standing Orders relating to the motion for adjournment, no manner of unsatisfactory answers would make such a motion in order. But, in this particular case, there are other factors to be taken into consideration.”

I am omitting the other factors but I would draw your attention to page 14, towards the end of that paragraph :

“ The Chair would make it perfectly clear that the ruling of the Chair that in this particular case this motion is in order would not be taken as a precedent, because the Chair wants it to be distinctly understood once again that by itself the answer to a question cannot be sufficient ground for moving the adjournment of the House unless the subject-matter of the question itself conforms to the rules and regulation relating to adjournment motion.”

Applying that test, if you will kindly turn to the notice for one moment, in considering the question of the alleged unsatisfactory reply, what is the definite matter of urgent public importance? The unsatisfactory attitude of the Government of India in respect of the freedom of individual Members of Government to express personal opinions. I submit an attitude is not a definite matter of urgent public importance. No complaint was made of the speeches by adjournment motion.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Oh, yes.

The Honourable Sir Nripendra Sircar : My friend says, “ Oh, yes ”. He is not occupying the Chair. The attitude now complained of, as you will find from my reply to part (c) of the short notice question, refers to certain speeches made by my Honourable colleague, the Finance Member. These speeches were made long long ago and they have been repeated several times. I submit that an attitude which has to be gathered from certain events which have happened is not a definite matter of urgent public importance. There has been no recent speech from which an attitude could be gathered.

Mr. President (The Honourable Sir Abdur Rahim) : When was the last speech made ?

The Honourable Sir Nripendra Sircar : The last one was made in Bombay a year ago. I submit that this is really an abuse of the special provisions which allow only urgent matters of definite public importance. If my Honourable friend had moved his adjournment motion basing it on a speech which had been recently delivered, then, Sir, one could have seen whether he had come forward promptly enough or not.

If, on the other hand, he is not complaining of one speech but of a series of speeches which show the alleged attitude—even the last one was more than one year old—I submit that this is not the way in which the rules should be abused simply because I agreed to accept short notice. You have discretion to rule it out.

Mr. S. Satyamurti : Sir, I deprecate the use of the word “ abuse ”. You have not yet given your ruling. So far, I have given notice of a motion, and you have asked for objections.

Mr. President (The Honourable Sir Abdur Rahim) : Do you want to disallow it on the ground that it is an abuse of the Standing Orders ?

The Honourable Sir Nripendra Sircar : That is my submission.

Mr. S. Satyamurti : I desire to say, Sir, that the object of my motion is not, to-day, the unsatisfactory answer of my friend yesterday or of the speeches of the Honourable the Finance Member of a year ago. The point in connection with which I am now seeking your leave for moving the adjournment is the unsatisfactory attitude of the Government in respect of public speeches by Honourable Members of Government out of accord with the accepted policy of the Government. I desire to invite your attention to the answer to clause (a) of my short notice question of yesterday. My question was :

“ (a) whether Government have considered or propose to consider the question of Members of Government making public speeches against the accepted policy of Government ”.

The answer was this :

“ (a) I must dissociate myself from any implication which the Honourable Member may seek to convey to the effect that any particular speeches made by Members of the Government are correctly describable as having been made against the accepted policy of Government.”

The next sentence is :

“ Government have, however, taken the opportunity afforded by the Honourable Member's previous question to review the general position in respect of the freedom of individual Members to express personal opinions out of accord with the accepted policy of Government.”

Sir, for the first time myself and this Honourable House and the Government alike have the opportunity of considering this question of the freedom of individual Members of Government to express personal opinions out of accord with the accepted policy of the Government. Then, Sir, clause (b) of my question was :

“ (b) what their conclusion on the matter is ? ”

And the answer was :

“ (b) The view of Government is that complete identity of opinion is no more possible among the Members of a Government than among the members of any other associated body. The question of when an avowed divergence of opinion is incompatible with continuance in the Government of the individual Member concerned is a question of degree to be decided by the head of the Government.”

Till this answer was given, Sir, I had no information, and I believe you had none, as to what the attitude of the Government was. There is no doubt that Honourable Members of Government were making speeches against the accepted policy of the Government, and I can quote instances. Till this answer was given, I had no information, and you

[Mr. S. Satyamurti.]

had no information also I submit, and this House had no information, as to what the exact attitude of the Government was. It was only the week before, that I heard, on the floor of the House, that individual Members could express their own personal opinions. When the question of protection *versus* free trade came up, my Honourable friend, the Finance Member, said here on the floor of this House, that he was making this speech in his personal capacity. On that, I gave notice of a short notice question. I took the earliest opportunity, and I am grateful to the Honourable the Leader of the House for accepting a short notice question, and the answer has come : and I have taken the next earliest opportunity to ask your leave and the leave of this House to condemn or censure this attitude of the Government. I am not complaining against the unsatisfactory answer given or against the speeches but against the attitude of the Government....

Mr. President (The Honourable Sir Abdur Rahim) : Is the answer a recent occurrence ? You say that it is recent ?

Mr. S. Satyamurti : Not the answer, but the attitude of the Government. You will notice, Sir, these words of the answer given, and they are important :

“ Government have, however, taken the opportunity afforded by the Honourable Member's previous question to review the general position in respect of the freedom of individual Members to express personal opinions out of accord with the accepted policy of Government.”

Sir, “ review ” means “ to examine again ” ; whatever the attitude previously was, I submit they have taken advantage of my question to review the whole position, and to lay down this new attitude.

Mr. President (The Honourable Sir Abdur Rahim) : What has been the new attitude which you say has been laid down ?

Mr. S. Satyamurti : That, Sir, is in reply to clause (b) of the question :

“ (b) The view of Government is that complete identity of opinion is no more possible among the Members of a Government than among the members of any other associated body.....”

The question, on which I am now asking your leave and the leave of the House to move this motion of adjournment, is on this point, *viz.* :

“ the question of when an avowed divergence of opinion is incompatible with continuance in the Government of the individual Member concerned is a question of degree to be decided by the head of the Government.”

Mr. President (The Honourable Sir Abdur Rahim) : Is that a new decision arrived at on this review ?

Mr. S. Satyamurti : Yes, Sir. (*Voices from the Official Benches* : “ Not at all ”). Sir, the words here are “ to review ”. The decision has been given. I am not concerned with the merits of the question. The simple point, which you have to consider now, Sir, is whether I have not satisfied you, under the Rules and Standing Orders, that it is a definite and urgent matter of public importance. Nobody can deny that it is of public importance, nobody can deny that it is a definite matter, the only thing is whether it is urgent. I submit, Sir, that up to yesterday morning

when I read the answer, I had no idea what the attitude of the Government was, and the Government themselves said that they have reviewed the whole position, and they have communicated their decision to us for the first time.

Mr. President (The Honourable Sir Abdur Rahim) : You want to discuss the abstract question ?

Mr. S. Satyamurti : I want to discuss a concrete question, *viz.*, the review made by the Honourable Member. I am concerned with this—what is the attitude of the Government of India as a corporate body ?

Mr. President (The Honourable Sir Abdur Rahim) : What do you mean by “ attitude ” ? I want to understand the position.

Mr. S. Satyamurti : My point is that the Government of India must function as a corporate body. If any Member wants to make a speech against the accepted policy of the Government, he must go to his colleagues and convince them that that is not against the policy of the Government as a whole. You will remember, Sir, that when Sir Samuel Hoare went to Paris in connection with the negotiations over the Italo-Abyssinian question, he had made a speech and he was dismissed by the Prime Minister ; because of this that, while the Prime Minister sympathised with the views expressed in his speech it was against the accepted policy of the Government.

Mr. President (The Honourable Sir Abdur Rahim) : I have nothing to do with that. I am not concerned with the appointment of Members of Government. All I want to know is this—whether a motion for adjournment was or was not moved in Parliament. I want to know whether any motion for adjournment was moved ?

The Honourable Sir Nripendra Sircar : A motion for adjournment was moved on specific speeches,—one by Mr. Neville Chamberlain and another by Sir Austin Chamberlain—which were supposed to be against the accepted policy of the Government.

Mr. S. Satyamurti : I am obliged to my friend, the Honourable the Leader of the House. In that case, the policy of the Government is well understood and well-known. In England, the policy of collective responsibility of the Government has been well laid down in a convention. Here, Sir, we have been in darkness, and only yesterday the light came in.

Mr. President (The Honourable Sir Abdur Rahim) : The policy of the Government is really for the Governor General in Council to decide.

Mr. S. Satyamurti : I submit, Sir, that if a Member expresses opinions against the accepted policy of the Government, that is a definite matter of public importance for one to move an adjournment upon. The simple point now is whether or not it is urgent.

Mr. President (The Honourable Sir Abdur Rahim) : What is the definite matter ?

Mr. S. Satyamurti : The decision, on a review by the Governor General in Council, of their attitude towards Members of Government making public speeches out of accord with the accepted policy of the

[Mr. S. Satyamurti.]

Government. One speech has been made. Till now I did not know the policy. You will notice, Sir, that I lay great stress on the words "to review". Government themselves did not know their own mind.

Mr. President (The Honourable Sir Abdur Rahim) : If there is a Government like the Government of India, I should think it is assumed that they will act as a body as they always do as the Governor General in Council whatever may be the differences of opinion amongst themselves. But supposing there has been a breach of such convention, then as soon as the breach occurred there may or may not be a question to be raised.

Mr. S. Satyamurti : I submit that, if hereafter a speech is made against the policy as laid down by the Government, it will be open to any Honourable Member of the House to bring it to the notice of the Government or of the House.

Mr. President (The Honourable Sir Abdur Rahim) : So far as I have heard the Leader of the House and your remarks, I must say I do not know what is the definite matter there. Is it the decision of the Government of India ?

Mr. S. Satyamurti : I say it is a new matter, and it is a definite matter, and I say that the House ought not to approve of it. Whether it will agree with me or not will be decided only after 4 o'clock, if I secure your permission. At the present moment, the question is whether the matter is new, urgent and definite. I submit all these tests are satisfied.

Mr. President (The Honourable Sir Abdur Rahim) : Do you really mean to say that it is a question for argument that the Governor General is the authority to decide ? If it is a question for argument, then you can say that, but does it admit of argument ?

Mr. S. Satyamurti : I make two submissions on that. First of all, whether it is an arguable point is a matter for the House to decide. Assuming that you are the sole judge of that, I say there are at least two possible points of view—either the entire Government has to decide this question, or the Governor General alone. My submission to the House will be, if I get a chance of moving it, that the whole Government ought to decide. I will give you one example. A Member of Government talks against the protectionist policy of Government. But my friend, the Commerce Member, may feel hurt all the time that his policy is being torpedoed by his colleague's public speeches. Where will he come in the picture if it is solely for the Governor General to decide the freedom of expression of opinion ?

Mr. President (The Honourable Sir Abdur Rahim) : The Governor General is virtually the appointing authority for the Members of the Council.

Mr. S. Satyamurti : Under the Government of India Act of 1919, he has nothing to do with it. He is a cypher so far as that opinion is concerned. The Governor General is practically nobody under the sections of the Government of India Act of 1919. Of course, he acts as the Governor General in Council but in case of difference of opinion, he cannot do anything by himself, except in very exceptional cases. He can write a note of dissent to the Secretary of State.

The Honourable Sir Nripendra Sircar : Are you allowing, Sir, a debate on this question ?

Mr. S. Satyamurti : My second submission is that the Honourable the Leader of the House has referred to a very long ruling, but the narrow question there was the unsatisfactory nature of the answers.

Mr. President (The Honourable Sir Abdur Rahim) : That is well understood. The mere unsatisfactory nature of an answer is not sufficient.

Mr. S. Satyamurti : This has nothing to do with it. I am now basing my case, merely on the definite matter which was announced yesterday in the House, with regard to the attitude of Government on receipt of my question, that the Governor General is the sole judge of the degree of freedom to be enjoyed by Members of Government, when expressing publicly their policy. I submit this decision is out of order.

Mr. President (The Honourable Sir Abdur Rahim) : I will consider this matter and give my ruling tomorrow.

I may here mention as regards Sardar Sant Singh's question relating to Addis Ababa that the date he has written in his question is distinctly '17th March, 1931'. He ought not to have imputed the blame to office.

The Honourable Sir Nripendra Sircar : Sir, I wanted to put in a word when my friend was arguing but he asked me to wait till he had finished his remarks. I am not going to make a speech. But if you will kindly look at page 85 of the Standing Orders and Rules of the Assembly Manual you will find that the words are "a specific matter of recent occurrence". If the questions go out, what is the matter of recent occurrence ? We have reviewed the whole position.....

Mr. President (The Honourable Sir Abdur Rahim) : Very well ; I will consider all these points and give my ruling tomorrow.

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

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as reported by the Select Committee. The motion before the House is :

"That clause 30, as amended, stand part of the Bill."

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

"That in clause 30 of the Bill, in sub-section (6) of the proposed section 77, after the words 'number of shares held by them respectively' the words 'to be forwarded to all members of the company and' be inserted."

The original sub-section (6) of clause 30, as amended, will read thus :

"(6) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be forwarded to all members of the company and to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting."

[Prof. N. G. Ranga.]

Sir, my object in moving this amendment is that if it is considered to be necessary to make the list available to all members of any particular company of the names, descriptions and addresses of the members of the company and also the number of shares held by them, then, I think it is only fair to the ordinary shareholders that that particular list should be printed and copies of it sent to everyone of them so that they may go prepared and make use of it to the extent they are expected to make use of it. That list is not sent but is kept at the office for their inspection. Sir, I move this amendment in the hope that the Honourable the Law Member will find it possible to accept it.

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

“ That in clause 30 of the Bill, in sub-section (6) of the proposed section 77, after the words ‘ number of shares held by them respectively ’ the words ‘ to be forwarded to all members of the company and ’ be inserted.”

Mr. Susil Chandra Sen (Government of India : Nominated Official) : Sir, I beg to oppose the amendment and my reasons are these. My Honourable friend, Prof. Ranga, in asking for the adoption of his amendment is really imposing an unreasonable burden on the company. If you look at the proposed sub-section (6) of section 77, you will find that it says :

“ The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.”

Sir, we must not forget that this is a provision relating to a statutory meeting which is the first meeting held after the issue of the prospectus and after the company is incorporated. In the prospectus the names and description of the directors are all given. The only further information which this list can possibly give is the number of shares which have been subscribed in the meantime and the names and addresses of these shareholders. As to this first of all there is a share register which is available to every shareholder to find out who the shareholders are. Over and above that, a list is to be placed on the table for the help of the shareholders, but even that is not sufficient for my Honourable friend. He wants the company to print all this information and to circulate it to such of the shareholders as ask for it free. I do not know for what reasons. The reasons given by my Honourable friend are not at all convincing and I beg to oppose the amendment.

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

“ That in clause 30 of the Bill, in sub-section (6) of the proposed section 77, after the words ‘ number of shares held by them respectively ’ the words ‘ to be forwarded to all members of the company and ’ be inserted.”

The motion was negatived.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : Sir, I beg to move :

“ That in clause 30 of the Bill, in sub-section (10) of the proposed section 77, after the word ‘ director ’ the words ‘ managing agent or officer ’ be inserted.”

Sir, I submit it is a necessary amendment, because, if Honourable Members will read the entire section, they will find it gives several duties of directors, regarding statutory meeting of a company. Knowing the constitution of a company, after all, the directors may not be able to influence the managing agents and officers who have got to carry out the resolutions of the company. I submit this is a necessary amendment. "Officers" are defined in the Act, and they will include all those people who are guilty of default. I may add that we are proposing to put in this Bill a section on the lines of the section in the English Act, giving powers to Courts to give relief in all proper cases, where default was excusable and for *bona fide* reasons. Sir, I move.

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

"That in clause 30 of the Bill, in sub-section (10) of the proposed section 77, after the word 'director' the words 'managing agent or officer' be inserted."

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : Who is an "officer" ?

Mr. S. Satyamurti : My Honourable friend will find in sub-section (11) of section 2 of the Act, "officer" is defined. An officer "includes any director, manager or secretary but, save in sections 235, 236 and 237, does not include an auditor".

Sir Cowasji Jehangir : Which officer is to be guilty ?

Mr. S. Satyamurti : Any director, manager or Secretary.

The Honourable Sir Nripendra Sircar (Law Member) : I oppose the amendment. It may be a very laudable idea to go on putting the words 'managing agent' wherever possible in every section, but it is a complete misfit here. If you will turn to sub-section 2, the primary duty of calling a statutory meeting is that of the directors. "The Directors shall at last 21 days before the day on which the meeting is held, forward a report, etc." It is the primary duty of the director. He cannot take shelter behind the managing agent and say that the other man is responsible and not he. It is a complete misfit to put in the managing agent here. If the primary responsibility is that of the director, I submit there is a penalty for the punishment of the man who is primarily responsible if he makes default. There is absolutely no reason for putting in the words 'managing agent or officer' in this sub-clause. Sir, I oppose.

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

"That in clause 30 of the Bill, in sub-section (10) of the proposed section 77, after the word 'director' the words 'managing agent or officer' be inserted."

The motion was negatived.

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

"That clause 30, as amended, stand part of the Bill."

The motion was adopted.

Clause 30, as amended, was added to the Bill.

Clause 31 was added to the Bill.

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

“ That clause 32 stand part of the Bill.”

Mr. L. C. Buss (Nominated Non-Official) : Sir, I beg to move :

“ That in clause 32 of the Bill, in sub-section (1) of the proposed section 79, after the words ‘ with respect to meetings of a company ’ the words ‘ other than a private company not being a subsidiary of a public company ’ be inserted.”

Sir, clause 32 of the Bill deals with provisions for notice to be given of meetings, the right to demand a poll and other like matters. The amendment proposes that this clause should not apply to private companies other than those which are subsidiaries of public companies. My submission is that there is no reason to impose all these conditions in the case of other private companies. A number of irksome formalities would have to be complied with and no one will secure any advantage or protection from them. The clause is designed for the preservation of the rights of shareholders and it is not applicable to the case of a private company in which the shareholders are frequently identical with the directors. The principle of exempting private companies from unnecessary restrictions and obligations has been accepted in a number of other clauses of the Bill and I hope I am right in thinking that it will be agreed to here also. The amendment has no other object than to allow a private company which is not the subsidiary of a public company to conduct its affairs in such a manner as it might find most convenient and suitable. I may perhaps be permitted to remind Honourable Members that a private company is defined as one which among other things prohibits any invitation to the public to subscribe to the share if any or debentures of the company. The public is not therefore concerned with the details of such company's affairs. It is on those grounds that I commend this amendment to this House. Sir, I move.

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

“ That in clause 32 of the Bill, in sub-section (1) of the proposed section 79, after the words ‘ with respect to meetings of a company ’ the words ‘ other than a private company not being a subsidiary of a public company ’ be inserted.”

Mr. M. Aananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, I oppose this amendment. The thin end of the wedge was introduced when some of the restrictions that were imposed or some of the safeguards that were imposed on the working of a public company were taken away with respect to a private company. The private company was exempted from these restrictions. That is now sought to be taken advantage of in pursuing the same exemption and getting it almost with respect to every matter connected with a private company. Sir, after all a private company is not absolutely private. A private company is one which can have members on its rolls to the extent of 50. It is not confined to only three persons. The majority of cases are not cases where there are only three shareholders all of whom are directors. There is ample provision made with respect to that case. If there are three

persons and all of them agree to dispense with notice, in this case the inconvenience contemplated or apprehended does not arise at all. I invite the Honourable Member's attention to that portion of the clause where it is said that if they agree, notice might be dispensed with :

" a meeting of a company other than a meeting for the passing of a special resolution may be called by not less than fourteen days' notice in writing ; but with the consent of all the members entitled to receive notice of some particular meeting that meeting may be convened by such shorter notice and in such manner as those members may think fit ; "

If there are only three or four persons there may not be any notice at all. All of them may agree in writing that on a particular day a meeting may be held. The agenda need not be sent and no further notice need be given. But in a case where there are 50 persons a notice is absolutely necessary. Sir, you will find from the definition of " private company " that not only there may be 50 but there may be more. The definition excludes from the number 50 those persons who might be members of the company who are employed in the company. They may be 20 or 30 or even 50. There may therefore be cases of more than 50 persons or nearly a hundred, in which case it ought not to be open to one or two directors to say that they issued notice and absolutely informally passed resolutions which will affect not only those three or four directors but the general body. This provision is absolutely innocuous. Let it be 20 ; if they agree in writing that these formalities may be dispensed with, there is nothing that stands in the way. Therefore this provision must be there to provide against all abuses that might creep in later on. Therefore there ought to be no objection to the introduction or the standing of this clause. The amendment ought to be stoutly opposed.

Sir, with respect to a private company it may be limited. The liability is limited, unlike a firm where there is unlimited liability of individuals to this extent that if they transfer the business to some other company or carry on business or purchase a large amount of property, it is necessary that the formalities should be strictly observed because day after day they come into contact with other business. In these circumstances I would urge that all the detailed restrictions imposed upon the working of a public company should also be insisted upon in respect of private companies except in cases where unnecessary hardship would arise. In this case no unnecessary hardship would arise. Although two or three persons may form themselves into a private company, the Act provides for a larger number being there. In those circumstances I would say that this amendment is not in the best interests of a company which may consist of 50 or more than 50 persons.

The Honourable Sir Nripendra Sircar : Sir, as regards this amendment I have no objection to it.

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

" That in clause 32 of the Bill, in sub-section (1) of the proposed section 79, after the words ' with respect to meetings of a company ' the words ' other than a private company not being a subsidiary of a public company ' be inserted."

The motion was adopted.

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Mr. G. E. J. Robertson (Burma : European) : Sir, may I have your permission to move amendments 61 and 62 together : They deal with the same point.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member cannot move two amendments together.

Mr. G. E. J. Robertson : Sir, I beg to move :

“ That in clause 32 of the Bill, in sub-section (1) of the proposed section 79, after the words ‘ notwithstanding any provision made in the articles of the company in this behalf ’ the words ‘ save as expressly permitted by this section ’ be inserted.”

The point that I have to make here is split into two parts, the other part being dealt with by the following amendment. I shall deal with both while talking on this.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member may refer in his speech to the substance of the next amendment.

Mr. G. E. J. Robertson : If I understand the object of sub-section (1) (a) of section 79 correctly, my amendments do not aim at altering that object but rather at clarifying it. I understand the object of sub-section (1) (a) to be to lay down an adequate minimum period of notice in the interest of shareholders. That being so, I cannot imagine that there can be any objection to a company providing in its articles for a longer minimum period of notice than 14 days.

The Honourable Sir Nripendra Sircar : Sir, will my Honourable friend permit me to point out that he is under some misapprehension ? Amendment No. 61 refers to clause 32 of the Bill and sub-section (1) of the proposed section 79. Sub-section (1) has nothing to do with (a), and I hope before my Honourable friend sits down.....

Mr. President (The Honourable Sir Abdur Rahim) : I think he is simply referring to it because I understand they are both connected.

Mr. G. E. J. Robertson : Yes.

Mr. President (The Honourable Sir Abdur Rahim) : He is not moving No. 62 now.

The Honourable Sir Nripendra Sircar : I am not thinking of No. 62 ; I am thinking of No. 61 which refers to sub-section (1). My Honourable friend in his speech is referring to sub-section (a) which is not the subject matter of the amendment. But be that as it may, before my Honourable friend resumes his seat I hope he will kindly explain to the House why this is necessary and what difference it makes.

Mr. G. E. J. Robertson : I am afraid I cannot make my point on amendment No. 61 without referring to sub-section (a).

Mr. President (The Honourable Sir Abdur Rahim) : Certainly the Honourable Member is at liberty to do that. He can refer to it if it is necessary for his argument.

Mr. G. E. J. Robertson : My point is this, that a company,—and I know of instances,—may very well provide in its articles for a minimum period of notice which may be 30 days or 45 days and I

even know of 60 days. And I cannot imagine that this House will object to a company having such a provision in its articles. The greater includes the less. But if we read section 79 (1) we see the words, "notwithstanding any provision made in the articles of the company in this behalf". I think the word "any" is important; and I submit that if this clause stands it would have the effect of regularising a meeting called by the management or by the requisite minority of shareholders, by more than 14 days notice, notwithstanding that the notice given was actually less than that required under the articles of the company. The point of my amendment is to allow a company to provide for a longer minimum period of notice than 14 days, if it thinks fit in the interest of the shareholders some of whom may reside at a long distance from the registered office of the company. Sir, I move.

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

"That in clause 32 of the Bill, in sub-section (1) of the proposed section 79, after the words 'notwithstanding any provision made in the articles of the company in this behalf' the words 'save as expressly permitted by this section' be inserted."

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment, because it is unnecessary and unintelligible. My Honourable friend said that certain articles provide for 40 days and 45 days. But 40 is not less than 14; and all that we have said is that the notice must not be less than 14 days although the article may provide for three days. I object to this amendment because it is wholly unnecessary.

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

"That in clause 32 of the Bill, in sub-section (1) of the proposed section 79, after the words 'notwithstanding any provision made in the articles of the company in this behalf' the words 'save as expressly permitted by this section' be inserted."

The motion was negatived.

Mr. T. Chapman-Mortimer (Bengal : European) : Sir, I move :

"That in clause 32 of the Bill, in sub-section (1) (b) of the proposed section 79, for the words 'with a statement' the words 'specifying the general nature' be substituted."

No question of principle is involved in this amendment and I hope that it will be more fortunate than its immediate predecessor.

The Honourable Sir Nripendra Sircar : There is no reason why it should be more fortunate.

Mr. T. Chapman-Mortimer : The Select Committee have introduced a novel proposal in the proposed section 79 (1) (b). This is a proposal which may be judged to mean that directors must produce a very elaborate report and it may further mean that anything not mentioned in that elaborate report may be ruled out of order at the meeting of the company concerned. In the present Act there is no existing provision that would provide for the point covered by the Select Committee's amendment. The select committee proposes, if I may just read it to the House,

[Mr. T. Chapman-Mortimer.]

that notice of the meeting of a company with a statement of the business to be transacted at "the meeting shall be served on every member". That is a new provision of an unsatisfactory nature. At present we have in regulation 49, table A, a provision which is very similar to that and I should like, if I may, to read it to the House: I should add it is a very common, almost universal, form of article: it reads:

"Fourteen days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given), specifying the place, the day, and the hour of the meeting and, in case of special business, the general nature of that business, shall be given....."

In other words, normally you do not have to give notice of such ordinary business, as for example, the declaration and passing of a dividend, election of directors and so forth; but that if any special business is to be discussed at that meeting you must give notice specifying the general nature of that business. That being the situation today and the Select Committee having proposed that this position should be made statutory and obligatory on all companies for ordinary business, it does seem to me that we should not go further than the general practice today in connection with special business. Sir, I move.

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

"That in clause 32 of the Bill, in sub-section (1) (b) of the proposed section 79, for the words 'with a statement' the words 'specifying the general nature' be substituted."

Mr. Susil Chandra Sen: Sir, I am sorry I have to oppose my friend, Mr. Chapman-Mortimer and I do this for these reasons. My friend referred to Article 9 in table A in support of his argument; but I think if he reads it carefully he will find that the qualification there as to the disclosure is only with regard to any special items in which case you give the general nature. But apart from article 49, I ask my Honourable friend who, I know, has large experience of the working of companies in Bengal at least, as to what he does when an ordinary meeting is called. Does he not along with the notice give an agenda and does he not there specify the business which is to be conducted at the meeting? If that is done, why then have a departure simply because this statute embodies what they ordinarily do? I think there is no sense in asking for this change. If there is any business to be done in a meeting, the notice should contain the agenda specifying the business to be done, so that all persons concerned may have an idea as to what is going to be done. There may be harm in introducing the word 'general' because you may under the guise of 'general nature' not disclose matters which otherwise it would be necessary to disclose. Sir, I oppose.

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

"That in clause 32 of the Bill, in sub-section (1) (b) of the proposed section 79, for the words 'with a statement' the words 'specifying the general nature' be substituted."

The motion was negatived.

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

“ That in clause 32 of the Bill, in sub-section (1) (d) of the proposed section 79, the following proviso be added :

‘ Provided that no such instrument shall be valid for more than six months from the date of its execution ’.”

Sir, a proxy is issued when a person is not able to attend a meeting himself. There is a practice in some cases, by virtue of which the managing agents obtain proxies for an indefinite period and then on the basis of such proxies always manage to outvote the members who take an intelligent interest in the affairs of the company. Ordinarily every member of a corporation should be expected to be acquainted with the business to be transacted at a meeting before he authorises any other person to act on his behalf. Otherwise his participation in the business is not real. It is illusory ; and in some cases misleading. The proper practice would be for proxies to be issued after a person has received notice of the meeting, so that he may before issuing the proxy satisfy himself as to the propriety or expediency of issuing such a proxy. But when such a suggestion was made there was objection from some of my friends that it might cause difficulty in the case of people living abroad or at a considerable distance from the place of the meeting. I saw some force in that objection and so I have suggested that a proxy should not remain in force for more than six months and that after six months from the execution of a proxy it should be treated as exhausted : and after that if a person wants to issue another proxy, he must appoint another person or the same person by issuing a new proxy. I may inform Honourable Members—presumably they are already aware of it—that under the Reserve Bank Act a proxy has to be issued specifically for every meeting. It is laid down there that a person will be allowed to make use of an instrument by which he is appointed a proxy only if that proxy has been issued specifically for that particular meeting. That provision is much more rigid and inelastic than the proposal that I am making. It is only to enable the shareholders to take a more intelligent interest in the affairs of the company than they are supposed to be doing in a number of cases today that I am making this proposal. It will not cause any hardship to anybody, for I have provided a period of six months which should meet all difficulties in the case of people residing abroad or at a distance from the place of the meeting. I may also inform Honourable Members that there are articles of companies which lay down that a proxy will have to be given specifically for every meeting, but I am not insisting on that. The best authority for this will be the Reserve Bank Act. I have gone much further than that, and my provision is much more elastic than that contained in the Reserve Bank Act. I hope the House will be pleased to accept this proposal.

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

“ That in clause 32 of the Bill, in sub-section (1) (d) of the proposed section 79, the following proviso be added :

‘ Provided that no such instrument shall be valid for more than six months from the date of its execution ’.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. For a proxy given for voting at a particular meeting, I think, the stamp charge is two annas ; a general proxy of this kind would cost Rs. 10 for stamp.

1 P.M.

An Honourable Member : Eight annas and Rupees 10.

The Honourable Sir Nripendra Sircar : A general proxy is in the nature of giving a general power of attorney. If I have faith in somebody, there is nothing to prevent me from giving him a general power of attorney, not only for voting at a particular meeting or meetings, but to attending to all my business, authorising him to sign my name on proxies, and the articles even allow him to sign under a power of attorney, so that he goes on signing my name but every six months he has got to pay Rupees 10. I don't see why we should proceed on the assumption that because I have confidence in a managing agent, I have given him a general power of attorney. What is objectionable in it? How can one person prevent another from having confidence in another and from giving him a general power of attorney? Sir, I object to this amendment.

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

“ That in clause 32 of the Bill, in sub-section (1) (d) of the proposed section 79, the following proviso be added :

‘ Provided that no such instrument shall be valid for more than six months from the date of its execution ’.”

The motion was negatived.

Pandit Sri Krishna Dutta Paliwal (Agra Division : Non-Muhammadan Rural) : I move, Sir :

“ That in clause 32 of the Bill, in clause (e) of sub-section (1) of the proposed section 79, the words and figures ‘ in any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936 ’ be omitted.”

Sir, clause (e) of sub-section (1) of the proposed section 79 in clause 32 of the Bill puts an end to an injustice which some of the companies were doing to the shareholders. Up till now some of the companies used to put a restriction upon the voting rights of the shareholders by inserting a clause in the Articles of Association that no shareholder whose name was not in the register of shareholders of the company for a certain period, usually varying from two to six months, shall have the right to vote at the time of the meeting. This device in the articles of association is an example of the various subterfuges resorted to by the manager and agents to make things convenient for themselves without caring for the injustice done to the shareholders. Naturally this provision has been welcomed by the shareholders, but, Sir, the clause as it stands includes the words which I want to omit. And, Sir, these words deprive the shareholders of companies incorporated before the commencement of this Act of the advantages of this provision. I can't understand why there should be any difference made between the companies incorporated before the commencement of this Act and those incorporated after the commencement of this Act. Sir, is it a crime to be a shareholder of a company which has been incorporated before the commencement of this Act? If not, why should a shareholder be penalised for being a shareholder of a company which was incorporated before the commencement of this Act? Suppose the Act commences on the 1st of January, 1937, and the company was incorporated in December, 1936, the shareholders of this company will not be able to derive the advantage of this provision. That is why I press that this amendment should be accepted.

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

“ That in clause 32 of the Bill, in clause (e) of sub-section (1) of the proposed section 79, the words and figures ‘ in any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936 ’ be omitted.”

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. Under articles of certain companies, it is very often provided that a person must be on the register, let us say for two weeks, before he can exercise certain rights. That limitation is introduced not by anything which is to be found in the Act, but by the articles, and the shareholders, if they so think fit, they can change those articles if there is great hardship caused by any particular set of provisions. What has been provided for is this, that for future companies we are laying down that there should be no such conditions in the articles. But I fail to see that any case has been made out for giving retrospective effect to companies which exist and which are governed by articles which will be hit by this provision. Generally, I will not agree to give retrospective effect to any measure unless a case of abuse has been proved. Sir, I oppose this amendment.

Mr. S. Satyamurti : It seems to me, Sir, that, if this is good enough, that is to say, any shareholder whose name is entered on the register of shareholders of a company having the same rights and being subject to same liabilities as all other shareholders of the same class, surely there is no vested right which is sought to be adversely affected by my friend's amendment ; that is to say, by giving retrospective effect to it, if my Honourable friend, the Law Member, had argued that we are taking away certain vested rights and it will affect.....

The Honourable Sir Nripendra Sircar : You are taking away the vested rights accrued under the articles.

Mr. S. Satyamurti : There can be no such vested rights. With regard to voting rights, there are no past meetings contemplated under this amendment or under clause (e) in the future. This amendment merely carries out the general principle that there should be no discrimination between shareholders of the same class. The whole object of the amendment is that, if there is a shareholder whose name is entered in the register of shareholders, there shall be nothing in the articles of association which would cast certain disabilities which are not common to all other shareholders of the same class. And, after all, the amendment does not seek to confer on any shareholder any rights extra or in addition to the rights of shareholders of the same class. My Honourable friend said generally, “ I will not accept any amendment having retrospective effect, unless any abuse is proved ”. But, surely, it seems to me that there is enough in the evidence before us to show that these differential rights given to different shareholders are likely to give rise to abuse. Therefore, the amendment of my Honourable friend which merely seeks to omit the words “ in any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936 ” is a simple one, and I support it.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : My Honourable friend, Mr. Satyamurti, has advanced no reason why the provisions which exist in the articles of practically all companies that a certain time must elapse before a shareholder who is on the register can be allowed to exercise the right of a shareholder at general meetings should be done away with. His only argument is that as we are

[Sir H. P. Mody.]

providing this in the case of new companies, there should be no differentiation. My own feeling is that this facility which is being given to shareholders in new companies is objectionable, but like so many other things, there have been compromises and concessions, and we have not objected to a provision being inserted in the articles of new companies which would enable shareholders, as soon as they acquire shares, to attend and vote at general meetings. But there is no reason for applying this to companies which for all these years have worked on a different basis. And it is a very salutary principle that a man should not become a shareholder merely in order to put forward a certain point of view at a general meeting. He must be a *bona fide* shareholder, a shareholder who is interested in the company, and not merely interested in a general meeting and therefore wanting to come on to the register of the company. For that reason I support the objections of the Honourable the Law Member.

Sir Cowasji Jehangir : This is a very small point in my opinion and does not deserve the waste of a very large amount of the time of the House on it. I do feel that there is a good deal in the argument put forward by the Honourable the Mover of this amendment. If you once admit the principle that it is wrong, that it is unjust to admit the purchaser of a share on the register, and not allow the same man to exercise his rights and privileges for even one day, what could be the reason for not giving it retrospective effect? The Honourable the Law Member's argument, on the other hand, is certainly a sound one. He goes on the general principle, that he will not give retrospective effect to anything unless it be to cure an abuse. He thinks and he believes that it is not an abuse up to now to deprive a shareholder of the right of voting after he has been admitted on the register for a few weeks. He does not think that an abuse; he is correct, though there may be a difference of opinion. But we have admitted in the Select Committee that it is unjust

Sir H. P. Mody : No, we have not.

Some Honourable Members : Yes, we have.

Sir Cowasji Jehangir : The provision in the Bill shows that you have. There is a provision in the Bill that in future no shareholder who is on the register shall be deprived even for one day of his rights and privileges. Having admitted that, then in my humble opinion, I can see no great damage done in giving it retrospective effect. But I do see the Honourable the Law Member's point because he stands on a principle, and the principle is decided by opinion. Is it an abuse or is it not an abuse? In his opinion it is not an abuse. But having put it in the Act itself, it does appear that he must have thought it an abuse; and if not an abuse, he must have thought it unjust or thought it inequitable and therefore it must have retrospective effect. Let us not waste the time of the House over this, but let us follow the principle of calling no division.

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

"That in clause 32 of the Bill, in clause (e) of sub-section (1) of the proposed section 79, the words and figures 'in any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936' be omitted."

The Assembly divided :

AYES—53.

Aney, Mr. M. S.
 Asaf Ali, Mr. M.
 Ayyangar, Mr. M. Ananthasayanam.
 Azhar Ali, Mr. Muhammad.
 Bajoria, Babu Baijnath.
 Bhagchand Soni, Rai Bahadur Seth.
 Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chettiar, Mr. T. S. Avinashilingam.
 Chetty, Mr. Sami Vencatacheliam.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Essak Sait, Mr. H. A. Sathar H.
 Gadgil, Mr. N. V.
 Ghiasuddin, Mr. M.
 Giri, Mr. V. V.
 Govind Das, Seth.
 Hans Raj, Raizada.
 Hosmani, Mr. S. K.
 Jedhe, Mr. K. M.
 Jehangir, Sir Cowasji.
 Jinnah, Mr. M. A.
 Jogendra Singh, Sirdar.
 Joshi, Mr. N. M.

Kailash Behari Lal, Babu.
 Khan Sahib, Dr.
 Maitra, Pandit Lakshmi Kanta.
 Malaviya, Pandit Krishna Kant.
 Mangal Singh, Sardar.
 Mudaliar, Mr. C. N. Muthuranga.
 Murtuza Sahib Bahadur, Maulvi Syed.
 Nauman, Mr. Muhammad.
 Paliwal, Pandit Sri Krishna Dutta.
 Pant, Pandit Govind Ballabh.
 Parma Nand, Bhal.
 Raju, Mr. P. S. Kumaraswami.
 Ranga, Prof. N. G.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Satyamurti, Mr. S.
 Sham Lal, Mr.
 Shaunkt Ali, Maulana.
 Siddique Ali Khan, Khan Sahib Nawab.
 Singh, Mr. Ram Narayan.
 Sinha, Mr. Anugrah Narayan.
 Sinha, Mr. Satya Narayan.
 Sinha, Mr. Shri Krishna.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Umar Aly Shah, Mr.
 Varma, Mr. B. B.

NOES—43.

Abdul Hamid, Khan Bahadur Sir.
 Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ayyar, Diwan Bahadur B. V. Krishna.
 Bajpai, Sir Girja Shankar.
 Buss, Mr. L. C.
 Chapman-Mortimer, Mr. T.
 Chunder, Mr. N. C.
 Dalal, Dr. R. D.
 Das-Gupta, Mr. S. K.
 DeSouza, Dr. F. X.
 Dey, Mr. R. N.
 Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Hossack, Mr. W. B.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Khurshaid Muhammad, Khan Bahadur
 Shaikh.
 Lahiri Chaudhury, Mr. D. K.
 Lloyd, Mr. A. H.
 Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Mody, Sir H. P.

Morgan, Mr. G.
 Mudie, Mr. R. F.
 Mukherjee, Rai Bahadur Sir Satya
 Charan.
 Murid Hossain Qureshi, Khan Bahadur
 Nawab Makhdum.
 Naydu, Diwan Bahadur B. V. Sri Hari
 Rao.
 Noyce, The Honourable Sir Frank.
 Rajah, Rao Bahadur M. C.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Scott, Mr. J. Ramsay.
 Sen, Mr. Susil Chandra.
 Sharma, Mr. D.
 Sher Muhammad Khan, Captain Sardar.
 Singh, Rai Bahadur Shyam Narayan.
 Sircar, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Thorne, Mr. J. A.
 Visaanji, Mr. Mathuradas.
 Witherington, Mr. C. H.
 Yamin Khan, Sir Muhammad.

The motion was adopted.

The Assembly then adjourned for Lunch till Twenty Minutes to
 Three of the Clock.

The Assembly re-assembled after Lunch at Twenty Minutes to Three of the Clock, Mr. Deputy President (Mr. Akhil Chandra Datta) in the Chair.

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) :
Sir, I move :

“ That in clause 32 of the Bill, after clause (e) of sub-section (1) of the proposed section 79, the following be added :

‘ (f) in any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936, the voting rights of the different classes of shares (excepting preference shares) shall be strictly in proportion to the capital paid up respectively by each of such classes of shares ’.”

Sometimes, Sir, it is seen that the ordinary shareholders are deprived of their right of control over the affairs of the company by the very ingenious device of issuing deferred shares, founder shares, management shares, and so on, which, though of very small denominations, carry disproportionately high voting rights. Sir, this disproportionate voting right is most inequitable and unjust to the ordinary shareholders who form the bulk of the shareholders of the company and who contribute the major portion of the capital of the company. Sir, a very glaring case came to light in Calcutta in the case of a very big jute mill managed by a very big European concern. In this company there are ordinary shares each of the value of Rs. 375 and there are 23,200 shares, which means that the total amount invested by the ordinary shareholders is Rs. 87 lakhs. Now they have got only 23,200 votes, whereas the managing agents have, by issuing deferred shares of a nominal value of one rupee each, to the number of 30,000 shares of this nature, got 30,000 votes by investing only Rs. 30,000. So what I say is that on the one side there is a capital of Rs. 87 lakhs, and the votes are only 23,200, and on the other side there are Rs. 30,000 only and they have got 30,000 votes, and these thirty thousand shares are held in the company by the nominees of the managing agents, and so the ordinary shareholders get practically no voice in the management of that company. Sir, I understand there are one or two other companies which have issued deferred shares with such disproportionate voting rights ; there may be more, I do not know, but I will not tire the House by giving details of all these. Sir, I think that though the deferred shares may be issued in such circumstances that the dividends or other terms which the deferred shareholders may be granted may be quite different to those which the ordinary shareholders have, still as regards the voting rights, I do not see any reason why these deferred shares should have such disproportionately higher voting rights than the ordinary shareholders. Sir, I am supported in this also by the Calcutta Shareholders' Association. I would now like to read a few lines from their letter to the Government of Bengal, dated the 22nd July, 1936 :

“ It is not rare to find the capital of a company being divided into various classes of shares with different rights and voting powers. By this policy it often happens that the capital structure is so manipulated as to give undue and disproportionate voting power to the promoters or managing agents, as the case may be. In the interest of the investing public this disproportionate division of voting power is not healthy and fair. In view of this it appears to be desirable that a fresh clause (d) be substituted in place of clause (d) which has been recommended above for deletion, providing that all classes of shareholders should be entitled to vote at meetings of the company in proportion to the capital held by them with a proviso that preference shareholders shall not vote other than in winding up or where specifically provided for by the Act.”

In my amendment also I have explicitly excluded preference shareholders. In many companies preference shares do not carry any voting rights, because they do not run any risk; they get their dividends preferentially. Before they get their dividend, the ordinary shares do not get anything. As regards the preference shares of companies, I am leaving it to the articles of association whether they will give opportunities to the preference shares in the matter of voting rights or not, but as regards the ordinary shares and deferred shares or other such shares, I think the voting rights must be proportionate to the capital invested by these classes of shares. Sir, I move.

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

“ That in clause 32 of the Bill, after clause (e) of sub-section (1) of the proposed section 79, the following be added :

‘ (f) in any company incorporated after the commencement of the Indian Companies (Amendment) Act, 1936, the voting rights of the different classes of shares (excepting preference shares) shall be strictly in proportion to the capital paid up respectively by each of such classes of shares ’.”

Mr. T. Chapman-Mortimer : Sir, I wish to oppose this amendment, and I do so with all the more (*Voices* : “Speak up”) regret when I see it supported and sponsored by my Honourable friend, Mr. Bajoria. The chief objection to Mr. Bajoria’s proposal is that it cuts right across the accepted principles of company law as we have them here in India today and as they are known in England. As things are at present, a company can make whatsoever arrangements it thinks best in the interests of its shareholders,—to decide what classes are to have votes, and in what proportion. The Honourable the Law Member in his speech the other day made it perfectly clear that there are many occasions when it is necessary for a company to make special provision in regard to some particular director or board of directors. He quoted, for instance, the case of an Indian State which had put up money for a company on condition that it got someone on the board. That is clearly a case which can hardly be provided for if Mr. Bajoria’s amendment is carried. Sir, I oppose the amendment.

Mr. M. Ananthasayanam Ayyangar : Sir, I rise to support this amendment, for this reason. Sir, under the Bill, each shareholder member shall have a vote per share. Now, managing agents generally, with a view to continuing or perpetuating their rights or association with the company, divide the shares into what are known as deferred shares. The deferred shares are sometimes of smaller value than the ordinary shares and at times they may be of the same value as the ordinary shares. Sometimes an ordinary shareholder is entitled to have several votes. Sometimes they are entitled to have 3 and sometimes even 5 votes. This is in almost all cases where deferred shares have been provided either in the Articles of Association or in the Memorandum of the company. These deferred shares have always been uniformly taken by the management. This has been used as a weapon in their hands for the purpose of perpetuating their management. Many evils have arisen because of this practice. Under section 49 of the existing Act it is open to the directors of the company to issue any class of shares from time to time and if these shares are not taken, their value may be reduced, and by a later section they may be sub-divided and so on. At the time when these sections were originally incorporated the danger

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of these provisions was not fully appreciated. Since then cases have arisen when, in case the term of the managing agency was about to expire, the managing agents with a view to safeguard their position have issued a number of deferred shares. Therefore, it was not in the interests of adding to the capital money or to make the company properly stand on its own legs that deferred shares were declared but it was only for the purpose of giving more votes to the managing agents or the directors. Honourable Members may be aware that this amendment is only to restrict the voting strength or voting qualification regarding a share. But if a person were to invest his money either in ordinary shares or in deferred shares, there is no provision for it. He may get sufficient dividends when the company is secure : there is absolutely no fear for his capital. But if we want to avoid the cornering of shares for the purpose of getting more votes than they are normally entitled to on the share capital which they have invested, then this amendment is necessary. The Honourable the Mover of the amendment referred to the opinion of the Calcutta Shareholders' Association. The Bombay Shareholders' Association, in the opinions which they have circulated to the Members of this House, have given three or four instances. I wish to refer to one or two of these instances. At page 34 of the yellow book there is a reference to the India Jute Mills, Calcutta where 39,920 were added to the ordinary shares and 30,000 deferred shares of one rupee each were included later on. The deferred shares were taken up by the management and the balance sheet on 31st December, 1935, showed 23,200 ordinary shares and 30,000 deferred shares. The ordinary shareholders subscribed 87 lakhs whereas those persons who took the management and who took 30,000 deferred shares paid only Rs. 30,000. Sir, there is such a lot of difference between 87 lakhs and Rs. 30,000. But the fact remains that persons who subscribed for 30,000 deferred shares got the same voting rights which the other had. The other instance that I wish to mention is in regard to the New Victoria Mills Company, Limited, Cawnpore. In this case the value of a deferred share was Rs. 1-8-0 and only eight annas was called, whereas the value of the ordinary share was Rs. 2-8-0. The value of the deferred share was much less than the value of the ordinary share and yet the deferred share carried with it two votes. Later on, it would be interesting to note that the additional deferred shares were issued in spite of the fact that on 207,666 deferred shares already issued a call of annas eight was due, which fact clearly suggests that the issue of additional deferred shares could not have been made for capital requirements of the company. There is a third case also reported in this book where for 30 lakhs of rupees there were 75,000 ordinary shares and for one lakh of rupees 35,000 deferred shares were issued. Thus, for one-thirtieth of the capital the persons who subscribed for the deferred shares got half the voting strength. Some very important persons were connected with these institutions but once the question of pecuniary interest arises, greatness of man does not count. These great men who were in charge of this company did not hesitate to use these deferred shares for their own purposes. Therefore, it is not desirable to allow deferred shares to be floated for small sums carrying a large number of votes and thus frustrating the combination of ordinary shareholders and making their voice absolutely futile. It is therefore necessary that the voting strength should be adjusted on the amount of share capital subscribed in proportion to the value of the ordinary shares. Sir, I wholeheartedly support this amendment.

The Honourable Sir Nripendra Sircar : Sir, if under the guise of improving this company law, we are going to destroy the whole structure, then let the whole thing go along with the Mitakshara family for which Mr. Bajoria is so anxious. Since the company law has been in existence, it has been the right of the company to issue shares on whatever terms it liked. For the purpose of attracting capital it may be necessary at one time to issue shares different from other classes of shares and it may be necessary to give extra voting power for the purpose of attracting capital. The one answer I hear is : But the Bombay Shareholders Association have said that some dozen rascals have done something which shows that the whole law ought to be changed.

Mr. M. Ananthasayanam Ayyangar : You are referring to the Honourable persons who have associated with these companies.

The Honourable Sir Nripendra Sircar : Will my friend allow me to go on ? I was submitting, Sir, that this is not a small matter like the one which we were discussing before the midday adjournment. This destroys the whole structure of the company law. That is to say, companies in future are not to be allowed to issue shares with different voting rights. Why should it be so ? Because some people have been dishonest. But that ignores the fact that capital has to be attracted for the company. I do not want to take more time than is absolutely necessary but this amendment is of such an important character and it causes such an encroachment on the existing company law that I must oppose it.

Babu Baijnath Bajoria : Sir, in view of what the Honourable the Law Member has said that my amendment will destroy the very structure of this Bill, I do not press it.

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

Mr. M. Ananthasayanam Ayyangar : Sir, I beg to move :

“ That in clause 32 of the Bill, after clause (e) of sub-section (1) of the proposed section 79, the following be added :.....

Some Honourable Members : What is the number of this amendment ?

Mr. M. Ananthasayanam Ayyangar : It is No. 1 of the last Supplementary List.

Mr. Deputy President (Mr. Akhil Chandra Datta) : The Chair understands that this amendment was received rather late last evening with the result that copies have not been circulated.

The Honourable Sir Nripendra Sircar : When was it received ? When was the notice of the amendment received ?

Mr. Deputy President (Mr. Akhil Chandra Datta) : Last evening.

The Honourable Sir Nripendra Sircar : I would ask you not to suspend the rules. We have got 400 amendments already. I am not taking a technical objection, but I do not know what is being moved and I will ask you not to suspend the rules. I insist on it and I hope you will support me that the two days rule should be followed in this case.

Mr. Deputy President (Mr. Akhil Chandra Datta) : In view of the fact that this amendment raises a technical and complicated matter and nobody can discuss it without previous notice without difficulty, the Chair thinks that this is not a fit case for suspending the rule about notice.

Prof. N. G. Ranga : Sir, I beg to move :

“ That in clause 32 of the Bill, to clause (b) of sub-section (2) of the proposed section 79, the words ‘ for such a meeting and not less than one-twentieth of all the members of a company or those who hold one-twentieth of the shares of the company, provided they are more than fifty in number shall be a quorum for all other meetings of the company ’ be added at the end.”

Sir, the original provision in the Bill reads as follows :

“ in the case of a private company, two members, and, in the case of any other company, five members, personally present, shall be a quorum.”

Sir, in so many places in this Bill mention is made of special meetings and extraordinary meetings of the company and special resolutions to be passed at such meetings, but yet no provision is made in the Bill for quorum for any such special meetings at all. As it is now in the Bill, this particular quorum is much too small and it does not provide sufficient protection for the shareholders. Any day and on any occasion very easily five people can gather and can enable the Board of Directors to have a meeting and pass any special resolutions they want and empower them to carry on the work and in that way nullify the effect of many of the special resolutions that are passed according to this particular Act. I am quite prepared to amend this amendment of mine to this extent that instead of fifty, I can have twenty, provided the Honourable the Law Member is prepared to accept the amendment. I am told that more than 20 members will never come to a meeting. If they do not come even for special meetings and if they are not going to take any interest whatsoever on occasions when special resolutions have to be passed to implement many of the provisions of this particular Act, then I do not know what exactly the Honourable Member expects the shareholders to do or what exactly he expects the directors to do in order to implement many of the sections of this Act. Personally I think it is very easy indeed to nullify the whole of the protection sought to be afforded to shareholders by this particular Bill as it is only necessary for five people to gather together and thus enable the directors or the managing agent to pass any special resolutions they like. The only safeguard, if my amendment is not accepted, before any special resolution is passed is the notice that has to be given and the agenda that has to be published in regard to any special resolution. I do not think it is enough. I therefore hope that the Honourable the Law Member will see it fit to accept my amendment. If he likes, I am willing to amend this “ fifty ” into “ twenty ”.

Mr. Deputy President (Mr. Akhil Chandra Datta) : Does the Honourable Member move his amendment as it is in the agenda, because the Chair has to know what to put to the House.

Prof. N. G. Ranga : If the Honourable the Law Member is prepared to accept my amendment, I am prepared to amend it in this way that instead of “ fifty ”, I will put “ twenty ”.

Mr. Deputy President (Mr. Akhil Chandra Datta) : At the present moment the only point is whether the Honourable Member moves the

amendment as it is in the agenda or he does not move it. The Chair has to know what precise amendment to put to the House.

Prof. N. G. Ranga : I move it as it is in the agenda.

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

“ That in clause 32 of the Bill, to clause (b) of sub-section (2) of the proposed section 79, the words ‘ for such a meeting and not less than one-twentieth of all the members of a company or those who hold one-twentieth of the shares of the company, provided they are more than fifty in number shall be a quorum for all other meetings of the company ’ be added at the end.”

The Honourable Sir Nripendra Sircar : Sir, before I deal with my Honourable friend's amendment on its merits, I have got to draw the attention of the House to a matter which has been brought to my notice by my Honourable friend, Sir Cowasji Jehangir, for which I am grateful. This House accepted amendment No. 60 which says :

“ That in clause 32 of the Bill, in sub-section (1) of the proposed section 79, after the words ‘ with respect to meetings of a company ’ the words ‘ other than a private company not being a subsidiary of a public company ’ be inserted.”

Therefore, the whole of these different sub-clauses refer to meetings not of all private companies but private companies which are subsidiary of public companies. What I mean to say is that my Honourable friend is quite right in pointing out that as a result of the House having accepted amendment No. 60, a consequential amendment becomes necessary in 2 (b) in the case of a private company and it should now be limited to, ‘ in the case of a private company being a subsidiary of a public company ’. That is the first thing to which I wish to draw the attention of the House.

Sir Cowasji Jehangir : There are many occasions on which private company is mentioned. You will have to do the same thing throughout.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : That is not quite correct. If you turn to clause 32, the first set of sections in sub-clause (1) relate to what you may call obligatory provisions in that it provides :

“ The following provisions shall have effect notwithstanding any provision made in the articles of the company.....”

When you turn to sub-clause 2 it belongs to a different kind, to a different class :

“ The following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf.”

I do not think that the one need follow the other because it is open to any company whether private or public to make provisions in respect of matters otherwise than what is contained in (a), (b) and (c) and the following sub-clauses so that the one does not really follow from the other at all.

The Honourable Sir Nripendra Sircar : I understand my Honourable friend's point is that the amendment which we have accepted is limited to sub-section 1 and not to sub-section 2 and therefore the point does not arise. If I may say so, that seems to be quite correct. Coming back to Prof. Ranga's amendment, I oppose it. What he wants is that for a quorum there should be present not less than one-twentieth of all the members of the company. There is nothing about a special meeting. For

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an ordinary meeting not less than one-twentieth of all the members should be present. But we all know that my friend's very laudable proposition that they should be allowed travelling expenses has been turned down, and I rather suspect it will be very difficult to have meetings if we insist on a quorum of one-twentieth of the shareholders of the company. I surely think this will create difficulties and I am not willing to accept this for that reason only.

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

“ That in clause 32 of the Bill, to clause (b) of sub-section (2) of the proposed section 79, the words ‘ for such a meeting and not less than one-twentieth of all the members of a company or those who hold one-twentieth of the shares of the company, provided they are more than fifty in number shall be a quorum for all other meetings of the company ’ be added at the end.”

The motion was negatived.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, I beg to move :

“ That in clause 32 of the Bill, to clause (g) of sub-section (2) of the proposed section 79, the words ‘ or the Registrar or the Inspector of the Companies appointed by the Local Government ’ be added at the end.”

The original clause provides that a proxy must be a member of the company, and I propose that the proxy may either be a member of the company or it may be the Registrar or the Inspector. I will lay before the House the difficulties which have led me to move this motion, and I am really representing the viewpoint of the shareholders as a result of my own experience. I had some shares in a company whose name I would not like to mention ; Mr. Ramsay Scott knew it very well. I took some shares in that company and naturally year after year the promoters of the company and the directors sent me a slip asking me to appoint them as proxies. I as an honest shareholder gave my proxy to those people whose honesty I had no reason to doubt at that time. Of course I was being told by some persons that the company was not doing well. But suddenly I discovered that the persons to whom I had given the proxy and who were really the directors and managing agents had greater interest in another subsidiary company, and they took up the administration of this particular company on condition that for the next 130 years all the profits should be given by this company to the other company. So that I have received intimation that no profits whatsoever will be paid to shareholders for the next 130 years, and that was all done by the managing directors. If it had been possible for me to give my proxy to any outside agency, I would have been able to discover the defects of the company much earlier than I did. And the manner in which I discovered it was this. On one occasion I thought I better spend some money and I travelled at my own expense to attend that meeting, and there I discovered the true state of affairs. A small shareholder has not got sufficient interest to travel at his own expense, and so unless things are found out it is very hard for him. I will give another example, also from my own experience. I took some shares in a match factory and as it is a protected industry I never suspected for a single moment that a match factory would ever fail so long as this protection continues to exist. There also I was told that everything is not all right. But here I did not like to travel at my own expense a long distance in order to find out whether things were right or

not. So I gave my proxy to those persons who were really the promoters ; and suddenly on one occasion I discovered that the whole thing was in liquidation and I had absolutely no chance of finding out what was happening. Had I known a little earlier through some outside agency I could have taken some action. I would have travelled at my own expense and would have made some fuss about it and would have given publicity to their maladministration. This is not all. I can quote two other companies where I purchased shares and suffered. I am myself a very great victim of the way in which these companies are administered and when the time comes I will expose the difficulties of the small investors. But I am not the only person who has suffered in this way ; there are large numbers of persons who have suffered likewise. The people who managed the whole thing embezzled all the money. But we have to look after the interest not only of the capitalists and those people who swindle money of the small shareholders but also the interest of these small investors. We have got to create confidence in the minds of the small investors so that they may be able to invest their money safely ; and the only way in which it can be done is to devise some method by which the shareholders can find out whether it is safe or not.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : How will you find out by giving proxy to the Registrar ?

Dr. Ziauddin Ahmad : The Registrar or the Inspector appointed by the Local Government will be able to tell me how matters stand. Publicity is a great safeguard. My whole object in moving this amendment is that the poor shareholders should be able to find out in time whether the administration of these companies is going on properly or not ; and I thought that the only way in which it can be done is to give our proxy to an outside agency, a person who is going to watch on behalf of Government and on behalf of the small taxpayers the affairs of the company. At least when he goes there on my behalf and as my proxy he will be able to tell me how matters stand. Of course if I were able to find out this maladministration a little earlier I might sell the shares and get a certain percentage of the money I had invested, and not lose everything. Therefore, I will leave the interests of the small investors in the hands of the Honourable the Law Member and I appeal to those who have got the interest of the companies at heart that they should try to create some kind of confidence in the minds of small investors. One thing is that there should be some kind of machinery by means of which small investors may be able to find out whether things are moving rightly or not and whether there is a good deal of maladministration. In big towns like Bombay and Calcutta, shareholders can get correct information in time ; but those in the mufassal really do not know the intricate machinery of these companies and find it exceedingly hard to know exactly how things are going on. And for these persons I have suggested a method whereby their interests can be protected : that is, appoint as proxy a person who has got no personal interest in this and who may be able to get correct information.

Another point is that shareholders do not know the names of other shareholders : they only know the names of the directors : and if they give a proxy to the directors, it will be very hard for the directors to give out the true state of affairs. Therefore in the absence of proxies being given to other shareholders whose names we do not know, the only method which strikes me by means of which the interests of the small investors

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can be safeguarded is that we approach the Government Inspector or Registrar who can attend meetings on behalf of a particular shareholder and get to know the true state of affairs, about the internal administration of the company. Sir, I move.

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

“ That in clause 32 of the Bill, to clause (g) of sub-section (2) of the proposed section 79, the words ‘ or the Registrar or the Inspector of the Companies appointed by the Local Government ’ be added at the end.”

The Honourable Sir Nripendra Sircar : Sir, after what I told the House about the business acumen of myself and Dr. Ziauddin Ahmad (Laughter) it is not surprising that out of all the companies in India he chose just the one which for 130 years is not going to give him any dividend. Sir, the obvious proposition is that fools and very learned men cannot be protected. (Laughter.) My Honourable friend's proposition is that the Registrar will be a proxy-General, something like the Solicitor General, that is to say, the Registrar of Bengal will attend meetings simultaneously at Chittagong, Darjeeling and Burdwan. That is the idea. As regards the other gentleman, the Inspector, he does not come into the scene at all unless under certain circumstances mentioned in the Act an investigation is going to take place. So that apart from any other grounds, this is absolutely impracticable and I must oppose it.

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

“ That in clause 32 of the Bill, to clause (g) of sub-section (2) of the proposed section 79, the words ‘ or the Registrar or the Inspector of the Companies appointed by the Local Government ’ be added at the end.”

The motion was negatived.

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

“ That clause 32, as amended, stand part of the Bill.”

The motion was adopted.

Clause 32, as amended, was added to the Bill.

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

“ That clause 33 stand part of the Bill.”

Mr. S. Satyamurti : Sir, I move :

“ That sub-clause (a) of clause 33 of the Bill be omitted.”

Honourable Members will notice that clause 33 seeks to amend section 81 of the Act, and says :

“ (a) for sub-section (2) the following sub-section shall be substituted, namely :

‘ (2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than twenty-one days' notice specifying the intention to propose the resolution as a special resolution has been duly given :

Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given.”

Honourable Members will also notice that section 81 of the Act provides the machinery for the passing of what are called special resolutions. Section 81 (1) deals with extraordinary resolutions, and provides for a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given. Sub-section (2) defines the manner in which a special resolution shall be declared to have been passed. It provides for two stages : first, a resolution shall be a special resolution when it has been :

(a) passed in manner required for the passing of an extraordinary resolution ;

that is to say, that the notice prescribed has been duly given, and a majority of not less than three-fourths of members entitled to vote as are present vote for the same ; and

(b) confirmed by a majority of such members entitled to vote as are present in person or by proxy (where proxies are allowed) at a subsequent general meeting of which notice has been duly given, and held after an interval of not less than fourteen days, nor more than a month from the date of the first meeting.

I will deal only with sub-clause (a) of clause 33, because the others are consequential. (a) by itself merely suggests that, hereafter, the distinction between extraordinary and special resolutions shall be wiped out. Hereafter, there will be no such thing as a special resolution ; provided three-fourths of the majority of those present entitled to vote vote for it, it shall have the sanction of a special resolution.

Now, there is also a proviso on which I should like some light from my Honourable friend, the Leader of the House :

“ provided that if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than twenty-one days' notice has been given.”

Does it mean in the extreme case, that in a meeting of which this prescribed notice has not been given, a resolution may be brought up and if all the members agree, it may be passed as a special resolution ? That is also a new innovation....

Sir H. P. Mody : It is so.

Mr. S. Satyamurti : I am glad to be assured of that. That means this : that there are two important changes being made now. The first change is that there shall be no subsequent meeting to confirm or not to confirm the original resolution : secondly, that even in the case of the first meeting, without the prescribed notice, a resolution may be brought up and passed as a special resolution. That is the proviso.

Now, I submit that there are my other amendments, which are consequential : the vote on this amendment will decide the fate of those subsequent amendments, and the two amendments which have been adjourned for the result of the voting of the House on this amendment. I merely want to say that, in the scheme of the original Act, a special resolution has been given this special requirement, for its being

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declared to be duly passed, because there are other reasons also : under section 12 of the Act it is provided :

“ Subject to the provisions of this Act, a company may, by special resolution, alter the provisions of its memorandum so as to change the place, etc., etc.”

It has been said, on the floor of the House more than once that the memorandum is the charter of the company, and I think Honourable Members will agree with me that, in order to change the memorandum of a company, you do want something more than the mere machinery of an extraordinary resolution. You want some machinery by which, not only at one meeting but at a subsequent meeting members will have an opportunity of reconsidering their original decision, listening to other points of view, withdrawing their proxies if they so choose, and attending in person and discussing the whole matter and deciding at a subsequent meeting whether to confirm the original resolution or not. It has been said by more than one member that whereas the original meeting contemplates a three-fourths majority, at a subsequent meeting a bare majority will do. It seems to me that it is not too much of an argument against this amendment because when the subsequent meeting takes place, I expect that shareholders who did not have a clear conception of what was going to happen at the extraordinary meeting, may realise after the resolution has been passed, what has happened, and they may withdraw their proxies, attend in person and even a minority in that meeting may be able to convert others to a bare majority against the previous resolution to which they were parties. After all, if you believe in meetings, in discussions, in people reacting on other people, in mind responding to mind, you must agree that in a subsequent meeting there is a bare chance of even those who originally voted, changing their minds in view of fresh facts or arguments which are placed before them. I would want to quote, I regret to say, the Old Testament once more. I am not familiar with the Christian faith, but I think myself that Christians believe the Old Testament as much as they do the New Testament.

The Honourable Sir James Grigg : No. (Laughter.)

Mr. S. Satyamurti : You do not believe either in the Old Testament or in the New Testament. (Laughter.) What is to be done ? It is not a case of the lion devouring the lion, but of the lion taking the lamb by its side.

Sir Leslie Hudson : Inside. (Laughter.)

Mr. S. Satyamurti : I said, by its side. Inside, I tried, but impossible. I am a vegetarian. (Laughter.)

“ Special Resolution. A proposal was made by the Associated Chambers of Commerce in 1926 shortly after the recommendations of the Green Committee had been published that the necessity of calling a second confirmatory meeting for special resolutions should be done away with. I regret to say I am unable to recommend acceptance of this suggestion although it has been adopted in the English Act. . . . ”

The Honourable Sir Nripendra Sircar : I am very glad I am able to accept that suggestion though Mr. Sen does not accept it.

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

Mr. S. Satyamurti : My amendment ?

The Honourable Sir Nripendra Sircar : No.

Mr. S. Satyamurti :

".....The reasons given by the Associated Chambers were that after the matter has been fully discussed at the first meeting the shareholders generally ceased to take any further interest in the matter, and there is consequently difficulty in procuring a quorum at the second meeting. No specific cases were given to show that difficulties have been, in fact, experienced in bringing off the second meeting."

I would ask the House to note that :

"No specific cases were given to show that difficulties have been, in fact, experienced in bringing off the second meeting."

And so far as my own experience goes, luckily this is not a matter of option, it depends upon facts,—so far as my own experience goes, I have up till now not heard of any such complaint :

"The provision for the holding of a confirmatory meeting is, in my opinion, really in the nature of a safeguard available to the shareholders. It gives them an opportunity of reconsidering the matter if, owing to the discovery of new facts or some other reason, they are desirous of reconsidering the matter. Under the existing provisions they have a chance of undoing a wrong step by voting down the motion for confirmation at the second meeting. They can thus prevent the perpetuation of a wrong step even if they have a bare majority with them at the second meeting. This right in the shareholders of further considering the matter can prejudice nobody and on the contrary is in my view a very useful weapon in the hands of the shareholders. I cannot therefore recommend any modification of the existing provisions in this behalf."

I cannot improve the ideas or the language of the above extract. Sir, I move.

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

"That sub-clause (a) of clause 33 of the Bill be omitted."

The Honourable Sir Nripendra Sircar : As My Honourable friend has explained, following the English law the Bill does away with what has been called the confirmatory meeting. The arguments in favour of that are these. First of all, these confirmatory meetings for special resolutions are being held for at least the last fifty years. I cannot accept Mr. Sen's argument. I may put forward another argument for the consideration of the House. Tens of thousands of confirmatory meetings have been held. Is it within the experience of anybody that in the confirmatory meeting a different result was arrived at ?

Prof. N. G. Ranga : Additional opportunity.

The Honourable Sir Nripendra Sircar : I say it is an additional calamity for the company for his reason. (Laughter.) It means giving another notice, waiting for another fourteen days, incurring expenses. What for? If as a matter of fact, we know that in no case—there may be some cases somewhere, but I do not think Mr. Sen from his experience will be able to tell you. I asked him repeatedly, has he ever come across a case where in a confirmatory meeting a different result has been arrived at? If not, why delay matters? Why incur expenses of having another meeting after fourteen days? That is the first argument. Then, about the second argument, I would ask Mr. Satyamurti—his second argument being that you help the shareholders, it will give them time to think over the matter and so on. Some of my Honourable friends have been

[Sir Nripendra Sircar.]

proceeding on the assumption that conditions in India are very different, because the shareholders live apart, and do not come together very easily, whereas the managing agent by reason of his dominant position and by reason of his holding a fairly large bloc of shares has got opportunities which the shareholder has not. I do not accept that to the extreme limit for every purpose. Let us assume this that for once somehow or other the shareholders have got together and they have passed a special resolution against the managing agent. It is not the fact that the managing agent has in every case got 51 per cent., as the book which has been so often quoted will show. For instance, in the jute mills in Bengal, the holding of the managing agent is sometimes as low as 19, hardly more than 25 per cent. Supposing that at one time by superhuman exertion, organisation, whipping, canvassing, and so on, the shareholders have succeeded in passing a special resolution against the managing agent. If we have a confirmatory meeting after fourteen days, who is better off by having this confirmatory meeting? That is an argument which I cannot altogether ignore. But my principal argument is the one which I have advanced at first, but which I do not desire to repeat. I think that it is unnecessary—a thing which has been found to be absolutely useless, and that is the reason why the Green Committee has accepted it and it has been embodied in the English statute. Why should that be perpetuated and why should we not follow the more sensible method laid down in the English Act of 1929? Sir, I oppose this amendment.

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

“ That sub-clause (a) of clause 33 of the Bill be omitted.”

The motion was negatived.

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

“ That clause 33 stand part of the Bill.”

The motion was adopted.

Clause 33 was added to the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : It would perhaps be convenient at this stage to take up the amendments left over yesterday. Amendment No. 47. Mr. Sen.

Mr. Susil Chandra Sen : Sir, I move :

“ That after clause 20 of the Bill, the following clause be inserted :

‘ 20A. In section 53 of the said Act,—

(a) in sub-section (1), the words ‘ or in the case of a special resolution the confirmation ’ shall be omitted ;

(b) sub-section (2) shall be re-numbered as sub-section (3), and the following sub-section shall be inserted as sub-section (2), namely :

‘ (2) The notice to be given as aforesaid shall include particulars of the classes of shares affected and the conditions (if any) subject to which the new shares are to be issued.’ ”

As I explained yesterday, sub-clause (a) is merely consequential to the amendment of my friend, Mr. Satyamurti, which has just been

disposed of. The House having agreed to the change indicated in the said clause 53, this is only consequential. But as regards sub-clause (b) that is a new addition. Section 53, as you will find, indicates that notices have got to be given in certain events, and what we want to incorporate by this amendment is that the notices should give certain particulars which will enable those who receive them to follow what are the changes made. It is in the interests of the shareholders, and I think it will be accepted by the House readily. Sir, I move.

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

“ That after clause 20 of the Bill, the following clause be inserted :

‘ 20A. In section 53 of the said Act,—

(a) in sub-section (1), the words ‘ or in the case of a special resolution the confirmation ’ shall be omitted ;

(b) sub-section (2) shall be re-numbered as sub-section (3), and the following sub-section shall be inserted as sub-section (2), namely :

‘ (2) The notice to be given as aforesaid shall include particulars of the classes of shares affected and the conditions (if any) subject to which the new shares are to be issued .’ ”

The motion was adopted.

Clause 27 was added to the Bill.

Clause 21 was added to the Bill.

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

“ That clause 27 stand part of the Bill.”

The motion was adopted.

Clause 27 was added to the Bill.

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

“ That clause 34 stand part of the Bill.”

The motion was adopted.

Clause 34 was added to the Bill.

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

“ That clause 35 stand part of the Bill.”

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muharamadan rural) : Sir, I move :

“ That in clause 35 of the Bill—(this is in Supplementary List No. 2 to the Final List)—in the proposed sub-section (4) of section 83, for the words beginning with the words ‘ The books containing ’ and ending with the word and figures ‘ Act, 1936 ’ the following be substituted :

‘ The minutes of the proceedings of the general meetings of a company held after the commencement of the Act shall be recorded in books called ‘ General Minute Books ’, within three days of the holding of any such meeting; and all such books .’ ”

Sir, the purpose for which I move this amendment is obvious. According to the Bill itself, you will see that the minutes of the proceedings of general meetings can be inspected by members ; and that the

[Mr. Sri Prakasa.]

managers have to provide two hours during which this inspection can take place each day. But there is no provision allowing sufficient time for the recording of these minutes. It is quite possible in the words of the Honourable the Law Member some busybody may come round the very day a meeting is held and ask for the minutes of a particular meeting, before they could possibly have been recorded. We will take it that the business hours are from 10 to 4, and the managers have set aside two hours, namely, 2 to 4 in the afternoon for the inspection of these records. Suppose a general meeting is held from 10 to 12, and some people in order to tease the manager, arrive at 2 and demand to see the minutes of the meeting held the same morning. I think, provisions should be made to obviate such an undesirable possibility; and if the amendment I propose is accepted, all difficulties would be set at rest. Sir, I move.

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

“ That in clause 35 of the Bill—(this is in Supplementary List No. 2 to the Final List)—in the proposed sub-section (4) of section 83, for the words beginning with the words ‘ The books containing ’ and ending with the word and figures ‘ Act, 1936 ’ the following be substituted :

‘ The minutes of the proceedings of the general meetings of a company held after the commencement of the Act shall be recorded in books called ‘ General Minute Books ’, within three days of the holding of any such meeting, and all such books ’.”

Mr. Susil Chandra Sen : Sir, I have listened very carefully to the arguments advanced by my friend, Mr. Sri Prakasa, but I feel that his amendment will not meet what he wants. What he really wants is that some time limit should be imposed before which no inspection can be made in order that the company may not be put to difficulties. As my friend points out, supposing a general meeting is held this morning a man may come round at 12 and ask for inspection of the Minutes, before they are written out and signed. But may I ask my friend to look into the amendment proposed by him and find if that will meet his case. If you will look at sub-clause (4), you will find, Sir, that there is a safeguard in the words within the brackets, namely, ‘ subject to such reasonable restrictions as the company may by articles impose ’. It is the easiest thing for the company in the articles to say that no inspection shall be given say within three or four days from the date of the meeting.

Mr. Sri Prakasa : The company will have to set apart two hours any way. They cannot avoid that. The restrictions the company imposes will not allow the company not to give these 2 hours for the inspection of records; and a demand may be made for inspection before recording had been humanly possible.

Mr. Susil Chandra Sen : So far as I understood my friend, he did not complain of the two hours business. What he said was that a busybody might get into the office and ask for inspection of the records of the meeting at an inopportune time before the minutes are correctly recorded.....

Mr. Sri Prakasa : No, Sir, I am sorry I was not able to express myself clearly. The two hours, say from 2 to 4, have been, let us say,

set apart by the company for inspection of records. A general meeting has taken place from 10 to 12, the same morning. A busybody comes at 2 and asks for the minutes of the meeting held only a couple of hours before. I want some provision to be made so that at least three days may be allowed to a company to record particular proceedings during which no demand for inspection could be made.

Mr. Susil Chandra Sen : That is exactly what I was pointing out. My Honourable friend wants some time to be set apart for the minutes to be written up and correctly recorded in the minute books. What I was pointing out was that this amendment will not really have the desired effect because it will only afford three days time to the companies to record the minutes, but will not prevent inspection within the time and therefore will not serve the purpose. On the other hand I was pointing out that the words within the brackets will enable the company by a proper provision in the articles to restrict the right of inspection within three days or any other reasonable time from the date of holding the meeting. Therefore, Sir, I do not think my Honourable friend's amendment will serve the purpose he has in view. Although I am in sympathy with his ideas, I do not think this amendment will, if accepted, carry them out.

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

“ That in clause 35 of the Bill, in the proposed sub-section (4) of section 83, for the words beginning with the words ‘ The books containing ’ and ending with the word and figures ‘ Act, 1936 ’ the following be substituted :

‘ The minutes of the proceedings of the general meetings of a company held after the commencement of the Act shall be recorded in books called ‘ General Minute Books ’, within three days of the holding of any such meeting, and all such books ’.

The motion was negatived.

Prof. N. G. Ranga : Sir, I beg to move :

“ That in clause 35 of the Bill, in the proposed sub-section (5) of section 83, the words ‘ at a charge not exceeding six annas for every hundred words ’ be omitted.”

In clause 35, we find that according to sub-section (4) every shareholder of the company is entitled to go to the office of the company and to inspect the minutes of any general meetings that are held from time to time. It is admitted again and again that it is so very difficult for more than 5 people to attend the meetings of these companies. Even to get 20 is almost impossible on many occasions and therefore most of the shareholders are really absentee shareholders and are not very much interested or do not attend these general meetings. It is to help these people who will not be able to attend general meetings that this particular provision is made for the inspection of these minutes. Not every one can go to the office of the company, especially during the hours that are fixed by that particular company and so it is that this provision has been made that every shareholder who asks for a copy of these minutes must be prepared to pay and the payment that he has to pay is rather very heavy—at the rate of six annas for every 100 words. If it is a fact that most of the shareholders are not able to attend these meetings and if it is also a fact that most of the shareholders are not able to go to the office of these companies and inspect the minutes of these meetings, then it is right to conclude that most

[Prof. N. G. Ranga.]

of them are really in need of the circulation of the minutes and that need cannot be satisfied unless the proceedings of the company are supplied to them free of charge. I do not maintain that they should be printed and sent to every shareholder without his requesting for it. I only ask for the supply of copies to those who want them. Not every one will ask for the supply. It may be said that so many things will be decided upon that it will be really unnecessary to have to supply a full account of the proceedings of the meetings held from time to time and to avoid that particular difficulty it is already stated here that certain portions of these proceedings need only be supplied. Therefore, Sir, I suggest that the Honourable Member will be doing a service to the shareholders themselves by accepting this amendment.

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

“ That in clause 35 of the Bill, in the proposed sub-section (5) of section 83, the words ‘ at a charge not exceeding six annas for every hundred words ’ be omitted.”

Mr. Susil Chandra Sen : I am sorry to oppose this amendment of my friend, Prof. Ranga. I do not find any logic in the arguments which he has advanced. Let us take the case of a general meeting and analyse the various stages it passes before we come to the question of supply of copies of the minutes. In the first place the shareholder who is content to reside at his home and does not take any interest gets a notice of the meeting containing the agenda. He does not attend the meeting. A meeting is held. Under this clause, as a new departure he is allowed the free right of inspection of the minutes if he wants and he does not avail himself of this opportunity and suddenly he comes and wants copies of the minutes to be sent to him free of cost. Why should a company send free of cost to a shareholder who has been dilatory to such an extent that he will not attend and will not avail himself of the facilities of inspection offered. There is no logic in this argument and we will only be placing an unwarranted burden on the company. Sir, I oppose the amendment.

Mr. M. Ananthasayanam Ayyangar : I support the amendment moved by my friend, Prof. Ranga. Mr. Sen is aware that even in Courts certified copies are applied for and got on a charge of 3 annas for every 320 words. I do not know why a company wants to make a profit at the expense of the shareholder.

The Honourable Sir Nripendra Sircar : Three annas is the mofussil rate. It is six annas in Calcutta.

Mr. M. Ananthasayanam Ayyangar : There are companies within the jurisdiction not only of the High Court but in the mufassil also. My Honourable friend, Mr. Susil Chandra Sen, said—“ why should there be indulgence shown to this man ?” Sir, who is this man who wants this copy ? He is the owner who is trying to inter-change places, and he is entitled to know what is exactly happening. Sir, there are persons who take shares who live at a distant place, not always in the place where the head office is located. Such a man wants to know what exactly happens. In the case of municipal corporations and local boards, the minutes of the proceedings are not always printed in the Gazette. Copies of the meetings of proceedings are however sent to all the members of the committee. I would

therefore say that there is absolutely no logic in saying that "you are already aware of the agenda, you do not care to attend". But, Sir there might be many portions of the agenda which might have been left over or adjourned or some might have been torpedoed at the meeting. Therefore it is necessary for the shareholder to safeguard his own interest and to know exactly what happened at the meeting. We are not talking only of companies within the jurisdiction of the High Court: there are thousands of small companies in the mufassil. I would therefore say that even at some expense this should be done; after all, it is at the expense of the shareholder himself; the cost is only distributed over all the shareholders. Sir, I support the amendment.

Prof. N. G. Ranga : Sir, if it is agreeable to the Honourable the Law Member, I would like that the six annas be reduced to two annas or three annas.

The Honourable Sir Nripendra Sircar : The Law Member has only one vote; there are others who have to be consulted.

Prof. N. G. Ranga : If the Law Member agrees, then we shall consult the House.

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

"That in clause 35 of the Bill, in the proposed sub-section (5) of section 83, the words 'at a charge not exceeding six annas for every hundred words' be omitted."

The motion was negatived.

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

"That clause 35 stand part of the Bill."

The motion was adopted.

Clause 35 was added to the Bill.

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

"That clause 36 stand part of the Bill"

Babu Baijnath Bajoria (Marwari Association : Indian Commerce) : Sir, I beg to move :

"That in clause 36 of the Bill, for sub-clause (a), the following be substituted :

'(a) for sub-section (1), the following shall be substituted, namely :

'(1) Every company shall have at least three directors.'"

Sir, if section 83A is amended as proposed in clause 36 of the Bill, it will read thus :

"Every company registered after the commencement of this Act shall have at least two directors, or if registered after the commencement of the Indian Companies (Amendment) Act, 1936, at least three....."

So we shall have three classes of companies : first, those which were registered before 1913—they may not have any director—those which were registered after 1913 and before the passing of this Bill,—they will have at least two directors,—and those registered after the passing of this Bill—they will have at least three directors. Sir, what I want is that there should be a minimum of at least three directors in every class of company.

Dr. Ziauddin Ahmad : Not private companies ?

Babu Baijnath Bajoria : This section applies only to public companies because sub-section (2) of section 83A says :

“ This section shall not apply to private companies.”

I am amending only sub-section (1). Sir, if there are two directors, supposing myself and Professor Ranga were the two directors on the company (Laughter), there is every likelihood of our differing in many matters if not in most matters, so we must have a third man, say Dr. Ziauddin, who is to weigh the balance between us. Sir, I do not think there will be any difficulty on the part of present companies in having an additional director in case the number of directors is less than three. Sir, I move.

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

“ That in clause 36 of the Bill, for sub-clause (a), the following be substituted :

‘ (a) for sub-section (1), the following shall be substituted, namely :

‘ (1) Every company shall have at least three directors ’.”

Dr. Ziauddin Ahmad : Sir, I rise to support the motion. (Hear, hear.) I thought the Honourable the Leader of the House would immediately accept this amendment because it tallies with the suggestions which he himself put forward sometime ago before this House. Now my first difficulty is this. Suppose there are two directors. Now the first question is—who should be the chairman of the meeting of those directors, and while each will vote for himself, who will have the casting vote in order to elect the chairman, and supposing they do not disagree about the election of the chairman and one man is elected as chairman ; but whenever there is a difference of opinion, the opinion of one man will prevail, that of the man who is the elected chairman of this meeting because he will have a second and casting vote, and practically that will mean the opinion of one person. This is my second difficulty and I think we should always have at least three persons on the board of directors in order to come to fair conclusion. I do not want to examine today the most sensible proposal that the Honourable the Law Member put forward the other day that the ideal board of directors is a board consisting of himself as chairman and of Professor Ranga and myself. (Hear, hear.) I wanted to have one condition, viz., that he should charge no fees for his professional work, that he should be the legal adviser but he should also agree to work in honorary capacity like other two directors. Then, in that case, it will be an ideal board. Prof. Ranga would be an exceedingly good member on this board of directors, because he will convince all the workers that he lives in the same condition as they do, and that they do not find him riding in Rolls-Royces and living in palatial buildings, and he will convince them that he will see that nothing illegitimately goes into the pockets of the directors. My friend, the Law Member, will be a really ideal chairman provided he takes no fees, but in case he usurps most of the income in the shape of his fees, then practically he will be no better than a managing agent which we are condemning here. So in that case the proposal which has been put forward is to my mind a very sensible proposal and I support it.

The Honourable Sir Nripendra Sircar : Sir, my Honourable friend's amendment is that every company shall have at least three directors. The

definition of "company" is to be found in section 2 of the existing Act : "company" means "a company formed and registered under this Act or an existing company". "Existing company" is defined thus : "existing company" means "a company formed and registered under the Indian Companies Act, 1866, or under any Act or Acts repealed thereby, or under the Indian Companies Act, 1882". Therefore, Sir, if my friend's amendment is carried, all companies, whether they have been constituted under the Act of 1866 or that of 1882, whatever their age, are going to have forced upon them three directors. As a matter of fact there are companies constituted before 1882 which have no directors, if I can give one example of a well-known company, that is, Messrs. Kettlewell Bullen & Co., Ltd., of Calcutta.

Now, Sir, these old companies have been able to carry on their business very well indeed for the last 50 years without being inflicted with any directors. Why should they have three directors forced on them? I do not see any reason why all these companies should have three directors. There is not much force in the argument that if there are two directors and if they quarrel, then there will be no one to decide between them. As my Honourable friend himself pointed out, one man will have the casting vote. Of course, he will be in perpetual majority if he is in conflict with the other, but such a thing may equally happen if, of the three, two join hands as against the third. That is all I have got to say on the amendment. But I cannot ignore the fling which my Honourable friend had about the fees in that ideal company, but as that ideal company will go into liquidation within a fortnight there will be nothing to get fees from.

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

"That in clause 36 of the Bill, for sub-clause (a), the following be substituted :

'(a) for sub-section (1), the following shall be substituted, namely :

'(1) Every company shall have at least three directors.'"

The Assembly divided :

AYES—54.

Aney, Mr. M. S.
Asaf Ali, Mr. M.
Ayyangar, Mr. M. Ananthasayanam.
Azhar Ali, Mr. Muhammad.
Bajoria, Babu Baijnath.
Bhagavan Das, Dr.
Bhagchand Soni, Bai Bahadur Seth.
Chaliha, Mr. Kulandhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachelam.
Das, Mr. B.
Das, Pandit Nilakantha.
Datta, Mr. Akhil Chandra.
Desai, Mr. Bhulabhai J.
Deshmukh, Dr. G. V.
Gadgil, Mr. N. V.
Giri, Mr. V. V.
Govind Das, Seth.
Hans Raj, Raizada.
Hidayatallah, Sir Ghulam Hussain.

Hosmani, Mr. S. K.
Jogendra Singh, Sirdar.
Joshi, Mr. N. M.
Kailash Behari Lal, Babu.
Khan Sahib, Dr.
Khare, Dr. N. B.
Maitra, Pandit Lakshmi Kanta.
Mangal Singh, Sardar.
Mudaliar, Mr. C. N. Muthuranga.
Murtuza Sahib Bahadur, Maulvi Syed.
Nauman, Mr. Muhammad.
Paliwal, Pandit Sri Krishna Dutta.
Pant, Pandit Govind Ballabh.
Parma Nand, Bhai.
Raghubir Narayan Singh, Choudhri.
Raju, Mr. P. S. Kumaraswami.
Ranga, Prof. N. G.
Saksena, Mr. Mohan Lal.
Satyamurti, Mr. S.
Sham Lal, Mr.
Sheodass Daga, Seth.

AYES—contd.

Singh, Mr. Bam Narayan.
 Sinha, Mr. Anugrah Narayan.
 Sinha, Mr. Satya Narayan.
 Sinha, Mr. Shri Krishna.
 Som, Mr. Surya Kumar.
 Sri Prakasa, Mr.

Thein Maung, Dr.
 Umar Aly Shah, Mr.
 Varma, Mr. B. B.
 Vissanji, Mr. Mathuradas.
 Yakub, Sir Muhammad.
 Ziauddin Ahmad, Dr.

NOES—52.

Abdul Hamid, Khan Bahadur Sir.
 Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ahmed, Mr. K.
 Ayyar, Diwan Bahadur R. V. Krishna.
 Bajpai, Sir Girja Shankar.
 Buss, Mr. L. C.
 Chapman-Mortimer, Mr. T.
 Chunder, Mr. N. C.
 DalaI, Dr. B. D.
 Das-Gupta, Mr. S. K.
 DeSouza, Dr. F. X.
 Dey, Mr. R. N.
 Ghiasuddin, Mr. M.
 Grant, Mr. C. F.
 Griffiths, Mr. P. J.
 Grigg, The Honourable Sir James.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jehangir, Sir Cowasji.
 Jinnah, Mr. M. A.
 Khurshaid Muhammad, Khan Bahadur
 Shaikh.
 Lahiri Chaudhury, Mr. D. K.
 Lal Chand, Captain Rao Bahadur
 Chaudhri.
 Laljee, Mr. Husenbhai Abdullabhai.
 Lloyd, Mr. A. H.

Metcalfe, Sir Aubrey.
 Milligan, Mr. J. A.
 Mody, Sir H. P.
 Morgan, Mr. G.
 Mudie, Mr. B. F.
 Mukherjee, Rai Bahadur Sir Satya
 Charan.
 Naydu, Diwan Bahadur B. V. Sri Hari
 Rao.
 Noyce, The Honourable Sir Frank.
 Rajah, Rao Bahadur M. C.
 Rau, Mr. P. S.
 Robertson, Mr. G. E. J.
 Roy, Mr. S. N.
 Sant Singh, Sardar.
 Sarma, Sir Srinivasa.
 Scott, Mr. J. Ramsay.
 Sen, Mr. Susil Chandra.
 Sharma, Mr. D.
 Sher Muhammad Khan, Captain Sardar.
 Siddique Ali Khan, Khan Sahib Nawab.
 Singh, Rai Bahadur Shyam Narayan.
 Sircar, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Witherington, Mr. C. H.
 Zafrullah Khan, The Honourable Sir
 Muhammad.

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) : The next amendment No. 83 is in the name of Mr. Sri Prakasa. As amendment No. 82 has been adopted, the Honourable Member cannot move another amendment.

Mr. Sri Prakasa : In my amendment there is a portion fixing the maximum number of directors.

Mr. President (The Honourable Sir Abdur Rahim) : I do not know how this can come in now. The other amendment has been passed by the House.

Mr. Sri Prakasa : Then, is there no way of fixing the maximum number of directors ?

Mr. President (The Honourable Sir Abdur Rahim) : You can move it as an amendment to the amended sub-clause (a).

Mr. Sri Prakasa : Sir, I beg to move :

“ That in sub-clause (a), as amended, of clause 36 of the Bill, after the words ‘ at least three ’, the words ‘ and in any case not more than eleven ’ be inserted.”

Sir, my purpose in moving this amendment is to fix the maximum number of directors that a company can have just as the House has fixed a minimum. I should like the maximum also to be fixed. The worthy successors of the great East India Company, the Governor General in Council are able to carry on their work with only eight members ; and I believe they are quite satisfied with what they do, whatever others may think of their administration. I think eleven directors would be quite enough to manage the biggest of companies. My particular anxiety is that I want politicians, who are usually simple minded persons and are easily taken in, to be protected from designing promoters of companies. What is happening nowadays is this : company promoters first have 11 or 12 businessmen as directors. Then they feel that if they could get hold of a few politicians they could exploit their names. So they approach well-known politicians and invite them to be on their directorates. For instance, rival insurance companies may go to my Honourable friend, Pandit Govind Ballabh Pant, and ask him to serve on the directorates of their companies. He finds persons interested in all these companies are his friends whom he does not like to say ‘ no ’, so he agrees to serve on both. If, however, you fix the number of directors, we shall be saved from the attention of company promoters, and commercial companies may also be able to do better without the help of politicians. I therefore hope that the maximum number suggested by me will be accepted by the House.

Mr. President (The Honourable Sir Abdur Rahim) : I have allowed the amendment to be moved in this particular case, because it would cause no inconvenience. But ordinarily if an amendment is moved to an amendment, the original amendment would not have been put to vote. It ought to be moved before it is put to the vote. Amendment moved :

“ That in sub-clause (a), as amended, of clause 36 of the Bill, after the words ‘ at least three ’, the words ‘ and in any case not more than eleven ’ be inserted.”

Sir Cowasji Jehangir : Sir, I understand now my Honourable friend's anxiety to limit the number of directors on a Board. He does not want politicians. Since he himself, as a well-known politician, has lately become the Chairman of an Insurance company, I presume he does not want that example to be followed by his Honourable friends on his own side. Greatly as I sympathise with him in his anxiety for not having Honourable Members of his own Party as directors of other insurance companies, there is another aspect of the case which he perhaps does not quite realise. There are some very big companies in existence and likely to come into existence in this country where 11 directors will not be sufficient and I have a case in my mind just now, where it is intended to have 28 directors, and I may assure my Honourable friend that none of them will be put on there simply because they are politicians, nor because they have big names, either, but because they will be interested in the company of which they are directors. Every one of them will represent as far as I understand not only certain sections of the industry but they will be large shareholders themselves.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Who is a politician ? Can you define ?

Sir Cowasji Jehangir : You, yourself are a good example.

Mr. K. Ahmed : What about ninety-nine others ? You must define a politician first.

Sir Cowasji Jehangir : The companies I have in mind are merger companies and they are coming into existence and you will not be able to get on with 11 directors. There are other companies with enormous capital where several sections of the shareholders are to be represented ; special interests have to be represented, large block of shareholders whose interests have to be represented on the Board. They all cannot be accommodated in 11, though such companies may be very few. They may be exceptions, but you cannot handicap them in the way my Honourable friend suggests. I do hope that he will withdraw his amendment which will be a restriction on the expansion of trade and industry in this country.

Mr. Sri Prakasa : I ask for leave of the House to withdraw my amendment.

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

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

“ That clause 36, as amended, stand part of the Bill.”

The motion was adopted.

Clause 36, as amended, was added to the Bill.

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

“ That clause 37 stand part of the Bill.”

Mr. S. Satyamurti : Sir, I move :

“ That in clause 37 of the Bill, for the words ‘ Section 83B of the said Act ’ the following be substituted :

‘ In sub-section (ii) of section 83B of the said Act, after the words ‘ in general meeting ’ the words ‘ by election on the principle of proportional representation by the system of the single transferable vote ’ shall be inserted and section 83B as amended ’.”

Pandit Govind Ballabh Pant : Sir, there are some amendments which affect the present clause and ask for insertion of certain words in the body of the clause. These follow the amendments standing in Mr. Satyamurti's name.

Mr. President (The Honourable Sir Abdur Rahim) : Is there any amendment to Mr. Satyamurti's amendment ?

Pandit Govind Ballabh Pant : There may be some amendments.

Mr. President (The Honourable Sir Abdur Rahim) : If that is carried, these will fall out unless they are moved as amendments to his amendment.

Pandit Govind Ballabh Pant : The text of the present clause is not affected even by Mr. Satyamurti's amendment.

Mr. President (The Honourable Sir Abdur Rahim) : If that is so, the others can be moved. Then this should be disposed of first.

Pandit Govind Ballabh Pant : There is another amendment, for example, No. 100, which stands in my name. There is some little difference between Mr. Satyamurti's amendment and mine ; but supposing his amendment is carried, mine will fail. In case that is not carried I think it will be open to me to move mine.

Mr. President (The Honourable Sir Abdur Rahim) : I think the best procedure in the circumstances would be for Pandit Govind Ballabh Pant to move his amendment also. Then there will be a discussion on both and each one will be put to the vote of the House.

Mr. S. Satyamurti : Sir, clause 37 of the Bill reads like this :

“ Section 83B of the said Act shall be re-numbered as sub-section (1) of that section and to the section as so re-numbered the following sub-section shall be added, namely : ”, etc.

Section 83-B of the Act reads as follows :

“ In default of, and subject to any regulations in the articles of a company other than a private company—

(ii) the directors of the company shall be appointed by the members in general meeting ; ”

Now, Sir, my amendment seeks to add some words, after the words “ in general meeting ” ; and so added, this sub-section (ii) of section 83-B will read as follows :

“ The directors of the company shall be appointed by the members in general meeting by election on the principle of proportional representation by the system of the single transferable vote.”

That is the main point. The question now is whether the House is in favour of what is called a simple majority election, or in favour of the system of proportional representation by the single transferable vote. I merely want to explain in a very few words exactly what this system is. Supposing there are a thousand shareholders, i.e., a thousand voters, and there are four directors to be elected the system works out like this. Four plus one, i.e., five will be the divisor, and the quotient comes to 200. So 200 plus one, i.e., 201 is the quota or the minimum. Whoever gets 201 first votes is declared elected. Each voter has got as many preferences as there are candidates, and he has to mark the votes in favour of the candidates whom he wants to select. In order of preference he will mark against the candidate whom he wants foremost on the directorate, No. 1, the man whom he wants next, No. 2 and then No. 3 and No. 4, and so on. Then, Sir, when the votes are all collected, they are counted and the first votes are taken first, and whoever gets the quota, i.e., 201 votes, is declared automatically elected. Then, at the other end, there is a figure below which, whoever gets a number of votes is eliminated. His votes are transferred in full value to those who are after him in that voting paper. Then, in regard to those who have got more than the quota, the remaining votes are transferred in fractional proportions to those who come second, third and fourth, and so on. At that rate calculation goes on, elimination on the one side and

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transfer on the other, until four men who have got the quota are declared elected. Now, Sir, the arguments in favour of this are simple. My Honourable friend, Mr. Sen, argued the other day that democracy means rule by a majority, and the minority must not complain if the majority rules. I entirely agree; but there is also another and perhaps equally vital principle of democracy, namely, that the minority accepts the rule of the majority, because the minority lives and works in the hope and the faith that it can convert itself into a majority. Otherwise, there will be anarchy and tyranny. The real reason of majority rule is that the majority is not supposed to be permanent. As the opinions of the voters change, as political currents and cross-currents act and react, the minority expects it will one day take the place of the majority. That is the solvent, that is the oil, which makes the working of democracy easy. On the other hand, if the majority becomes a permanent majority, democracy becomes a mere masque for tyranny. Now, in the companies with which we are dealing, it is, I think, common ground that in many cases—I will not attempt to state the proportion or the number—the managing agents often command a majority of shares. And, if a managing agent has 51 per cent. of the shares, it simply means that, at no time, can the 49 per cent. ever hope to gain the majority. The result is that continually the majority goes on; whereas, in the other system which I suggest by this amendment, the majority will undoubtedly get a proportion of directors proportionate to the voting strength, but the minority will not be unrepresented.....

Mr. K. Ahmed : You want communal representation ?

Mr. S. Satyamurti : My friend seems past all hope : he can neither understand, nor let others understand. I am not talking of communal representation. There is a limit even to his jokes : I suggest he keeps them for himself : sometimes, they are not even jokes. I think we must go on with a business proposition like this : let him keep it for question hour. I suggest that, according to this system, there is no question of the majority being deprived of its right to govern the institution. It will get that, if it wisely uses its power ; but, on the other hand, the real merit of this system is that the minority will not be unrepresented, they will get the number of directors proportionate to their strength. (Interruption from Mr. K. Ahmed.) Please shut up. Therefore, what happens is that while the majority will be there, the minority will have an opportunity of representing its point of view and placing this point of view before the entire directorate.

I want to urge only one thing more.....

Dr. Ziauddin Ahmad : May I ask one question before he develops his argument further, just to understand him ? Does the Honourable Member want that one man should have only one vote, no matter whether he holds 100 shares or one share, because in the Reserve Bank Bill, we have already passed this principle, one man one vote, irrespective of the number of shares he may have.

Pandit Govind Ballabh Pant : That is wrong. A man can have more than one vote, subject to a certain limit.

Mr. S. Satyamurti : I personally believe in the doctrine, one man one vote ; but I want to tell my friend that the problems we are facing are big enough, and that any more suggestions will only complicate matters further. Irrespective of voting strength, which depends on other sections of the Act, I am merely pleading that we must provide that the minority must be represented. I do not know what the arguments are which my Honourable friend, the Law Member, if he chooses to oppose it, is going to advance. I am still hoping that he may see his way to accept it.....

The Honourable Sir Nripendra Sircar : What are the grounds for your hope ?

Mr. S. Satyamurti : First, hope springs eternal in the human breast : second, I still believe in human nature, even the Law Member's human nature.....

The Honourable Sir Nripendra Sircar : Human nature is opposed to such a violent suggestion.

Mr. S. Satyamurti : I am glad to hear that testimony. I put it to my friend, how he supports the Government of India Act, 1935, under which the successor of this Honourable House will be filled, to the extent of British Indian representatives, thereon by provincial lower houses, electing their representatives in communal compartments on the principle of the proportional representation by the single transferable vote. Is that not human nature ? Is that British human nature ? Does my friend support that Act or has he fought it ?

The Honourable Sir Nripendra Sircar : Human nature depends on circumstances.

Mr. S. Satyamurti : I know : when I am on that side, human nature is on my side : when I am on this side, human nature is not on my side. If that is the change of circumstances, I wish him joy of it : but I want to put it to my Honourable friends especially on that side, those who accept the Government of India Act and look to it as the herald of a new democracy, a new heaven and a new earth for this country, how they can reconcile themselves to opposing this modest proposal in the Companies Act, when they have swallowed the big camel of proportional representation in the Government of India Act : we here represent tens of thousands of voters : but our successors will be people who have pocket and therefore rotten boroughs, with five or six or seven people as their electors.....

Mr. K. Ahmed : Address the Chair, please.

Mr. S. Satyamurti : Sir, I am glad that I get some opportunity of recovering my breath.

I want to conclude on the merits. I want to put it to my Honourable friends who believe in democracy that this democracy is doomed to failure, unless you provide ample opportunities for minorities to make themselves felt and convert themselves into majorities. You cannot tolerate any system of democracy, where a perpetual majority will always rule. I, therefore, believe I am right in saying that, as against a tyranny which is not a mere theoretical tyranny but quite

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a practical tyranny in the case of companies where managing agents control the bare majority of shares, we must give a chance to the minorities to get their representatives properly elected ; and I want to conclude by saying it is not against the smooth, or the harmonious, or the efficient working of companies, because even bare majority will get under my system adequate representation on the board. It will ensure harmonious working ; it will ensure representation to minorities ; and I think, on the whole, it is consistent with the most advanced notions of democracy in the world today. I, therefore, beg to commend my amendment to the acceptance of this Honourable House. I move.

Mr. K. Ahmed : I shall vote with you if you apply the principle on the other matters as well, such as communal award and public services.

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

“ That in clause 37 of the Bill, for the words ‘ Section 83B of the said Act ’ the following be substituted :

‘ In sub-section (ii) of section 83B of the said Act, after the words ‘ in general meeting ’ the words ‘ by election on the principle of proportional representation by the system of the single transferable vote ’ shall be inserted and section 83B as amended ’.”

Pandit Govind Ballabh Pant : Sir, may I just move it now and speak later ?

Mr. President (The Honourable Sir Abdur Rahim) : Just as you like.

Pandit Govind Ballabh Pant : I move it now and shall speak later. I move :

“ That in clause 37 of the Bill, after the proposed sub-section (2) of section 83B, the following new sub-section be added :

‘ (3) The election of directors shall be held on the principle of proportional representation by means of single non-transferable vote according to rules framed for the purpose under sub-section (4) of section 151 of this Act ’.”

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

“ That in clause 37 of the Bill, after the proposed sub-section (2) of section 83B, the following new sub-section be added :

‘ (3) The election of directors shall be held on the principle of proportional representation by means of single non-transferable vote according to rules framed for the purpose under sub-section (4) of section 151 of this Act ’.”

Babu Baijnath Bajoria : I have got an amendment, Sir, which is an amendment to Mr. Satyamurti's amendment : it is No. 87. I want the words “ Every three years ” to be inserted in this amendment.

Mr. President (The Honourable Sir Abdur Rahim) : Very well : you can move that.

Babu Baijnath Bajoria : I will move it, Sir, and make my remarks later. I move :

“ That in clause 37 of the Bill, for the words ‘ Section 83B of the said Act ’ the following be substituted :

‘ In sub-section (4) of section 83B of the said Act, after the word ‘ appointed ’ the words ‘ every three years ’, and after the words ‘ in general meeting ’ the words ‘ by the system of proportional representation by means of single transferable vote ’ shall be inserted, respectively, and section 83B as amended ’.”

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

“ That in clause 37 of the Bill, for the words ‘ Section 83B of the said Act ’ the following be substituted :

‘ In sub-section (4) of section 83B of the said Act, after the word ‘ appointed ’ the words ‘ every three years ’, and after the words ‘ in general meeting ’ the words ‘ by the system of proportional representation by means of single transferable vote ’ shall be inserted, respectively, and section 83B as amended ’.”

Mr. N. C. Chunder (Calcutta : Non-Muhammadan Urban) : Sir, I had no desire to take part in this debate.

Mr. President (The Honourable Sir Abdur Rahim) : All the three amendments are now under discussion.

Mr. N. C. Chunder : As I was saying, Sir, I had no wish to take part in this debate, because I belong to a profession where I have to deal with company law, and I have been keeping myself aloof from the discussion that has been taking place, as I did not want my views to be coloured by what is happening here, so that in future if anybody came to me for advice I may not be misled into giving him wrong advice. But, Sir, what pains me most is to find that the principles which are found to be useful in determining the question of proportional representation in politics are sought to be introduced in business management or business organization in the name of Democracy. When I find that principle is being applied to business, when it is sought to make the Board of Directors Act like a group of Kilkenny cats fighting amongst themselves, I feel that I must intervene in the debate. It is all very well to say that when there is a deliberative body, the minority can get properly represented in that body by the principle of single transferable vote, but when you come to a business body, a body which has got to work, an executive body, not even in the Indian National Congress, do you accept this principle. . . .

Mr. S. Satyamurti : Oh, yes, it is there.

Mr. M. S. Aney (Berar Representative) : It was there, but it is not there now.

Mr. N. C. Chunder : It was there but it was found unworkable. Even now when we elect our working committees in the Congress we leave it to the President to choose the Committee, because we know that committee has to work. If the Directorate is to be a working body, if the directors are to exercise control over the the affairs of the company, then they must be a body of one mind, they must be able to move together, they must trust each other. It is not a question of proportional representation when it comes to executive action. When you have to form an army council, when you have to form a cabinet, you do not constitute it by

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single transferable vote. After all, what is a Board of Directors in a company but its army council in its struggle for existence when it is fighting through difficult times? What is a Board of Directors but a Cabinet of workers? A Board of Directors is not a deliberative body or a deliberative assembly like the Legislative Assembly where things are decided on mere votes. I think, Sir, in the name of democracy we will be committing a great folly if we support Mr. Satyamurti's amendment.

Mr. P. J. Griffiths (Bengal : Nominated Official) : Mr. President, it was not my intention to take part in this debate on a very technical subject regarding which I cannot claim much personal experience. But I cannot refrain from attempting to refute the serious and even dangerous fallacy which appears to me to underlie the present proposition. The amendment before the House at present rests on two foundations, both of which appear to me unsound. It rests first on the belief that in a Board of Directors representation of minorities is desirable; and secondly on the belief that either a single transferable vote or, according to my friend, Pandit Pant, a single non-transferable vote, is the best way of securing such all round representation. I propose briefly to contest both these propositions. I take first the belief that representation of minorities on a Board of Directors is desirable. This belief, Sir, appears to me to proceed from an entirely confused and incorrect analogy with political elections. I am confirmed in this view which I have long held by the extremely clever speech of my friend, Mr. Satyamurti, in which he endeavoured to drag into the discussion his much vaunted principles of democracy. This amendment entirely overlooks the fact that the purpose of a political election is fundamentally different from the purpose of an election of a Board of Directors.

Some Honourable Members : No.

Mr. P. J. Griffiths : What is the purpose of a political election? According to my friends opposite, the purpose of a political election is to secure adequate representation of the views of the various classes of the community. Whatever may be the contention of idealists, the fact remains that within a community the interests of the different classes do conflict, and it follows, therefore, that no democratic Government can have any real stability unless it in itself represents those conflicting interests. But when we turn to the question of the election of a Board of Directors, surely the position is entirely different. What are the conflicting interests of the shareholders of a company? The interests of each and every *bona fide* shareholder are one and the same. (*Some Honourable Members* : "No, no. Question.") What does a shareholder want from his company? I am speaking now of the ordinary hard-headed shareholder, and not of the shareholder whose views are coloured by political theory. All that is required by the ordinary shareholder from his company is the payment of good dividends, the maintenance of the value of his shares, and the running of the company on sound business-like lines...

Mr. M. A. Jinnah : So that they may get dividends.

Mr. P. J. Griffiths : Efficiency is the sole criterion which he will apply in considering whether a Board of Directors is good or bad.

Mr. N. M. Joshi (Nominated Non-Official) : Is that necessary in politics?

Mr. P. J. Griffiths : No, Sir, I will answer that question now. In the sphere of Government, efficiency is not the sole criterion. It may frequently happen—(Interruptions from Opposition Benches)—if my friends will refrain from interrupting me, I will try to explain to them the position,—it may frequently happen that a Government is efficient and manages the affairs of the State on sound businesslike lines, but if that Government does not represent the different classes of the community, as my friend, Professor Ranga, has so often told us, there will be bitterness and anarchy smouldering within the State. Efficiency within the State is not the sole criterion ; in a Board of Directors efficiency and nothing else is what we aim at. Do not let us confuse the issue by dragging the principles of politics into business management. The principles of politics are admirable in their own place, and I say with all respect that the methods of this Assembly are admirable in this place, but they would be far from admirable in the management of the business of a company. (“Hear, hear” from the Opposition Benches.) We are all aware of the methods followed in the sphere of the Assembly ; a great deal of time is taken in settling any one particular question. Could such a procedure, would such dilatory tactics, however necessary here, be suitable in the administration of the business of a company ? We must safeguard ourselves against this fundamental danger of political methods being introduced into business administration.

My second point is that the very words of this amendment betray its unsoundness—the very use of the term “proportional representation”. Representation of what ? Of parties, of groups, of factions ? (*An Honourable Member :* “Shareholders.”) Who wants parties and groups and factions amongst shareholders in the administration of a business ? There is another point in this connection which is worth serious consideration. Any system which will enable a minority to secure representation on a board of directors is playing directly into the hands of the disgruntled few. It is playing into the hands of rival companies which may think it worth their while to purchase a few shares in order to obtain some voice in the control of the company concerned. Nothing could be more dangerous than to place power in the hands of a small section of the shareholders to exercise control over the administration of the company.

I pass on from this fundamentally false assumption to the second assumption which I conceive to be equally false. I refer to the belief that either the single transferable vote or the single non-transferable vote is a suitable means of obtaining all round representation. I can best explain this by taking a concrete case, and I must say that in the presence of Dr. Ziauddin I have much hesitation in committing myself to an exposition of figures and letters which must, however, necessarily play some part in this discussion. Let us take a concrete case of a company consisting of 1,500 shares, in which 5 directors are to be elected and there are 7 probable candidates. Let us call them, for the sake of convenience, A, B, C, D, E, F, and G. My Honourable friends opposite will contend that if by chance 751 of the shareholders vote for a single group of directors and 749 vote for another group of directors, the 749 will go unrepresented. This particular concrete case which I have chosen will expose the fallacy of that argument. Suppose 751 vote for A, B, C, D and E, and suppose 749 vote for C, D, E, F, and G. Under the present system A, B, C, D, and E will be elected. The 749 who also voted for

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F and G, have all voted for 3 out of the 5 members who have been elected. Under your present system even the minority of 749 has voted for 3 out of the 5 elected directors. In other words,—I shall ask my Honourable friend Dr. Ziauddin to check my calculations later on,—in other words, even the minority among the shareholders has a majority representation on the board of directors. Let us turn now to the various proposals before the House. First we have the proposal of the non-transferable vote. Let us again take the same illustration, the same candidates, the same 1,500 shareholders, the same 5 directors to be elected. Let us suppose that of these 7 candidates two, namely, D and E are outstanding. Of the two, suppose that D is slightly better than E because he is more experienced, but both are men who would be wanted by every reasonable member of the company. Let us assume then that 1,400 *bona fide* shareholders choose D and E. It may so happen that, if the election is not manipulated, 1,380 vote for D and 10 for E. If that is the case the remaining 100 votes will carry the day and put in their own three candidates against the claims of E. The main objection to the non-transferable system is that the second best man might easily be left out unless the election is manipulated. I am perfectly well aware that any intelligent man in command of 1,400 votes can so organise his votes as to secure the return of candidates wanted by him. I am fully aware of that. That is the case under the present system, and it will be the case under any new system that may be devised. (*An Honourable Member* : “A misconception.”) If it is a misconception, my Honourable friend will demonstrate it arithmetically. But, as I see the situation, any person having 1,400 votes under the present system or the non-transferable system, by giving 300 votes to each of four candidates and 200 to a fifth candidate can very well secure the return of those particular candidates whom he wants. If that is the case,—I shall await the fallacy being demonstrated by my Honourable friend, Pandit Govind Ballabh Pant,—what is the advantage of this new cumbrous system over the system which is at present in force? Then, to take another proposal, I take the case of the single transferable vote. I could take many preliminary objections to this proposal. I could take the fundamental objection that this amendment as it stands now means nothing. There are at least three or four different systems of election in force throughout the world known by the name of single transferable vote. I have no doubt that my Honourable friend, Mr. Satyamurti, has in his mind a very clear conception of the particular system which he wishes to apply to the administration of a company, but I very much doubt whether the Court in interpreting the statute will necessarily be aware of what particular interpretation was in the mind of my Honourable friend, Mr. Satyamurti, on the 16th September, 1936. If my Honourable friends wish to introduce a provision of this sort they should have at least set forth in their amendments the exact mechanism or at any rate the principles of the mechanism which they wish to function. To take two simple cases, the commonest example of the single transferable vote is the system under which the second preference—only one preference—can be transferred. On the other hand, there is the system to which Mr. Satyamurti referred, under which all preferences can be transferred. It is most vital that in his amendment the Mover should state which of those particular systems he wishes to follow. Let me assume for the moment that he wishes to follow the system of transfer of second preferences only. Let me turn back briefly to my case of 1,500 shareholders. 1,400 would

prefer D, E, A, B, C. 100 would prefer E, D, F, G and C. I assume that the election is not manipulated and that each shareholder votes according to his conviction. 1,400 give first preference to D and their second preference is given to E. In that case 300 votes would go to D and 1,100 would be transferred to E. E will also have received 100 first preferences from the minority group. E therefore gets altogether 1,200 votes. Of those 1,200, 900 are to be transferred to somebody else. Which 900 will you transfer? Will you transfer the 900 including 100 votes from the minority group? Or will you transfer only the second preferences in the majority group? If you adopt the first alternative the next preference will go partly to A and partly to F. If you adopt the second alternative the next preference will go wholly to A. (Interruption.) I am perfectly prepared to demonstrate this proposition mathematically at any time in the lobby to Mr. Satyamurti or to Pandit Govind Ballabh Pant. At this stage I merely wish to draw the attention of the House to the fact that the Movers are asking us to embark on an elaborate system which will be exceedingly cumbrous to work and which will not secure the object they have in view.

Pandit Govind Ballabh Pant : Why do you want us in the lobby?

Mr. P. J. Griffiths : Because I think that some of the Members present may not be able to follow the calculations. You are embarking on a system which depends upon the existence of parties. Where you have parties and where the election is between party and party, there I agree that the proportional representation system has much to commend it but where no such parties exist the system is meaningless and even dangerous. On all these grounds, Sir, I ask the House to reject this amendment—firstly on the ground that it misunderstands the purpose of the election, secondly on the ground that it would introduce into business management the element of faction and thirdly that from the arithmetical point of view it would fail to achieve the objects which its Mover has in mind.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 17th September, 1936.