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SIXTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY, 1937



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CONTENTS.

VOLUME VII.—30th September to 7th October, 1937.

PAGES.	PAGES.
<p>THURSDAY, 30TH SEPTEMBER, 1937,—</p> <p>Starred Questions and Answers 2721—47</p> <p>Motion for Adjournment <i>re</i> Trade Agreement with Great Britain—Ruled out of order 2747—52</p> <p>Message from the Council of State 2752</p> <p>The Insurance Bill—Discussion of the consideration of clauses not concluded 2752—94</p> <p>FRIDAY, 1ST OCTOBER, 1937,—</p> <p>Starred Questions and Answers 2795—2832</p> <p>Postponed Question and Answer 2832—33</p> <p>Unstarred Question and Answer 2833</p> <p>Statement laid on the Table <i>re</i> certain Draft Conventions and Recommendations of the International Labour Conference 2833—59</p> <p>Agreement between the Reserve Bank of India and the Governor of Bengal (laid on the table). 2859—63</p> <p>The Insurance Bill—Discussion on the consideration of clauses concluded 2863—2912</p> <p>SATURDAY, 2ND OCTOBER, 1937,—</p> <p>Starred Questions and Answers 2913—23</p> <p>Unstarred Questions and Answers 2923—26</p>	<p>SATURDAY, 2ND OCTOBER, 1937,—<i>contd.</i></p> <p>Statements laid on the Table 2926—29</p> <p>The Indian Companies (Amendment) Bill—Presentation of the Report of the Select Committee 2929</p> <p>The Indian Tariff (Second Amendment) Bill—Passed 2929—33</p> <p>The Indian Securities (Amendment) Bill—Passed 2933—40</p> <p>The Insurance Bill—Passed as amended 2940—87</p> <p>TUESDAY, 5TH OCTOBER, 1937,—</p> <p>Member Sworn 2989</p> <p>Starred Questions and Answers 2989—3018</p> <p>Short Notice Questions and Answers 3018—20</p> <p>Statements laid on the Table 3020—38</p> <p>Motion for Adjournment <i>re</i> Arrest of the Grand Mufti and other Arab leaders in Palestine—Disallowed by the Governor General 3038</p> <p>The Prevention of Cruelty to Animals (Amendment) Bill—Introduced 3039</p> <p>The Indian Mines (Amendment) Bill—Passed as amended 3039—65</p> <p>The Patna University (Amendment) Bill—Discussion postponed 3065—76</p>

	PAGES.
TUESDAY, 5TH OCTOBER, 1937,— <i>contd.</i>	
The Manœuvres Field Firing and Artillery Practice Bill—Discussion on the motion to consider not concluded	3076—79
WEDNESDAY, 6TH OCTOBER, 1937,—	
Starred Questions and An- swers	3081—3116
Unstarred Questions and Answers	3116—18
Motion for Adjournment <i>re</i> Appointment of Mr. S. P. Chambers from England as Chief Commissioner of Income-tax—Adopted	3118—19, 3152—69.
Message from the Council of State	3119
The Control of Coastal Traffic of India Bill—Re- appointment of Mr. M. Slade to the Select Com- mittee	3119
The Indian Tea Control Bill—Introduced	3120
The Patna University (Am- endment) Bill—motion to consider withdrawn	3120
The Manœuvres Field Firing and Artillery Practice Bill—Discussion on the motion to consider not concluded	3120—52
THURSDAY, 7TH OCTOBER, 1937,—	
Starred Questions and An- swers	3171—80
Unstarred Questions and Answers	3180—81

	PAGES.
THURSDAY, 7TH OCTOBER, 1937,— <i>contd.</i>	
Statements laid on the Table	3181—91
Motion for Adjournment <i>re</i> appointment of a non- Indian as Economic Ad- viser to the Government of India	3191 3243—59
Agreement between the Reserve Bank of India and the Government of Bombay (laid on the table)	3191—97
The Manœuvres Field Fring and Artillery Practice Bill—Motion to consider adopted	3197—3204
The Workmen's Compensa- tion (Amendment) Bill —Referred to Select Com- mittee	3204—11
The Import of Drugs Bill— Referred to Select Com- mittee	3211—14
The Indian Patents and Designs (Amendment) Bill—Circulated	3214—15
Resolution <i>re</i> Payment of contributions from Rail- way revenues to General revenues—Adopted	3215—27
Demands for Excess Grants for 1935-36	3227—38
The Durgah Khawaja Saheb (Amendment) Bill—Dis- cussion on the considera- tion of clauses not con- cluded	3238—43

LEGISLATIVE ASSEMBLY.

Thursday, 30th September, 1937.

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

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

INDIAN TROOPS SERVING OUTSIDE BRITISH INDIA

918. ***Mr. M. Ananthasayanam Ayyangar** : (a) Will the Defence Secretary please state how many Indian troops are at present serving outside British India ?

(b) How much money including (i) pensionary charges, (ii) capitulation charges, and (iii) marriage allowances is the British Government paying for the services of such troops ?

(c) How much money is the Indian Government receiving from England in respect of the training and pensionary charges of the Indian troops who have served outside India in the past ?

Mr. C. M. G. Ogilvie : (a) 3,262 including 937 in Burma.

(b) Indian troops are lent for service under His Majesty's Government in the following terms :

All charges in connection with the despatch of the unit and all charges of the unit proper from the date of embarkation of the unit till the date of disembarkation of the unit in India are borne by the Imperial Government. The total amount received from the Imperial Government depends upon the length of service under that Government.

(c) The proportionate charges of the training unit concerned are met by His Majesty's Government. The annual contribution paid by His Majesty's Government on account of pensionary charges amounts to about Rs. 33 lakhs.

Mr. T. S. Avinashilingam Chettiar : May I know how many troops there are in Burma ?

Mr. C. M. G. Ogilvie : 937.

Mr. M. Asaf Ali : May I know where the rest of the troops are stationed at present ?

(2721)

Mr. C. M. G. Ogilvie : The First Kumaon Rifles are in Hong Kong, the Fifth Rajputana Rifles are in Hong Kong, one battalion of the Second Punjab Regiment is in Taiping and there are elements of the R. I. A. S. C. at Kawloon and an Indian Hospital Corps at Kowloon and Taiping.

Mr. M. Asaf Ali : With reference to part (b), will the Honourable the Defence Secretary be kind enough to state separately how much is received in respect of pensionary charges, how much in respect of capitation charges and how much in respect of marriage allowances from Great Britain ?

Mr. C. M. G. Ogilvie : I am afraid I am unable to do that. The units are paid for in various ways. The capitation rate, for example, includes all the effective charges and all non-effective charges also in respect of Indian troops, but other charges,—for example, the cost of transportation of the unit, and colonial allowances to officers—are borne direct by His Majesty's Government and not included in the capitation rate.

Mr. M. Asaf Ali : The question is how much money, including the pensionary charges, the capitation charges and the marriage allowances is the British Government paying for the services of such troops ? I want to know the actual amount.

Mr. C. M. G. Ogilvie : The actual amount I have not been able to calculate at present ; it varies from time to time in accordance with the number of troops despatched.

Mr. M. Asaf Ali : May I know whether these calculations are ever made at all ?

Mr. C. M. G. Ogilvie : They can be.

Mr. M. Asaf Ali : Are they not in the defence estimates ?

Mr. President (The Honourable Sir Abdur Rahim) : I suppose the Honourable Member may supply the information later on.

Mr. T. S. Avinashilingam Chettiar : May I know whether Burma is contributing anything towards pensionary charges and other allowances ?

Mr. C. M. G. Ogilvie : I must ask for notice.

Mr. K. Santhanam : May I ask how many Indian commissioned officers are serving with troops outside India ?

Mr. C. M. G. Ogilvie : If the Honourable Member will refer to the Army List and look up the battalions and other units serving outside India and count up the number of Indian commissioned officers serving, he will get the answer.

Mr. K. Santhanam : I submit that is not a respectful answer.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. The Honourable Member is perfectly right. All that was asked was about Indian troops. No question was specifically asked as regards Indian commissioned officers serving abroad. Next question.

EXPENDITURE ON TROOPS AND OFFICERS SHOWN IN THE BUDGET ESTIMATE ON DEFENCE SERVICES.

1919. ***Mr. M. Ananthasayanam Ayyangar** : Will the Defence Secretary please explain why all the expenditure incurred in respect of (i) Indian, (ii) non-Indian and (iii) British troops and officers is not separately shown in the Budget Estimates of Expenditure on Defence Services ?

Mr. C. M. G. Ogilvie : Wherever possible the cost of British and Indian troops is shown separately in the Defence Services Budget Estimates ; for example pay and allowances. This occurs where a strict division is possible. But this system cannot be followed throughout because there exist many agencies for their maintenance which are common to both and serve both British and Indian troops in ratios which vary from time to time, for example the feeding of troops by the Royal Indian Army Service Corps, their clothing and equipment by the Indian Army Ordnance Corps, and their accommodation by the Military Engineer Services. To attempt a separation on such variable items would lead to an intolerable complication of accounts.

Mr. M. Asaf Ali : I have in my hand at present the Defence Estimates. May I refer the Defence Secretary to page 4 of the Defence Estimates and ask him whether he can now state how much of the Rs. 38,62,00,000 odd is debitable to the expenses incurred on account of British troops in India ?

Mr. C. M. G. Ogilvie : I cannot do it exactly—no.

Mr. M. Asaf Ali : I understood the Defence Secretary to say that wherever possible these are separately shown. I just want to know where they are separately shown ? Can he refer me to any page of the Defence Estimates where they are separately shown ?

Mr. C. M. G. Ogilvie : They are shown in the major items of pay and allowances.

Mr. M. Asaf Ali : I have gone through these Defence Estimates very carefully and am unable to find them. Sir, an evasive answer will not do.

Mr. C. M. G. Ogilvie : I must protest against the expression “ evasive answer ”. I have not given the Honourable Member an evasive answer.

Mr. President (The Honourable Sir Abdur Rahim) : I did not hear the last answer.

Mr. C. M. G. Ogilvie : I said I must protest against the term “ evasive answer ”, and that I had not given an evasive answer but that I was trying to give him the best answer in my power.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not have used the expression “ evasive answer ”.

Mr. M. Asaf Ali : Whatever answer the Honourable Member has supplied appears to me to be incomplete and therefore I would like the Honourable Member to be a little more explicit on the subject and tell me where I can find these separate items in the Defence Estimates.

Mr. C. M. G. Ogilvie : If the Honourable Member will refer to page 25, I think he will find the cost of all types of units accurately worked out.

Mr. Abdul Qaiyum : Why is the expenditure on non-Indian non-British troops not separately shown ?

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

Mr. Abdul Qaiyum : That has not been answered ? He did not refer at all to the non-Indian non-British troops. The Honourable Member was dealing only with the British element while I mean the foreign mercenaries. I want to know the expenditure incurred on Gurkhas.

Mr. C. M. G. Ogilvie : As regards Gurkha troops, I think if the Honourable Member will refer to page 25 of the printed Budget, he will find stated there the cost of an Indian infantry battalion and all charges connected therewith. The cost of a Gurkha battalion is, as far I know, exactly the same as that of an Indian infantry battalion.

Mr. Abdul Qaiyum : May I ask why these non-Indian foreign troops are employed when there are so many unemployed Indians ?

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

Mr. M. Asaf Ali : Sir, I want to draw your attention to the fact that the Honourable the Defence Secretary referred me to page 25 of the Defence Estimates. I have looked at that page and I want to draw his attention to the fact that it does not give the figures which I had asked for.

Mr. President (The Honourable Sir Abdur Rahim) : You mean to say that the pay and allowances are not given there.

Mr. M. Asaf Ali : This is not the total amount incurred. It simply says that it is the approximate annual cost of typical units.

Mr. C. M. G. Ogilvie : The total amount can be obtained by multiplying the cost of each typical unit by the number of units of that type.

Mr. M. Asaf Ali : How many units are there ?

Mr. President (The Honourable Sir Abdur Rahim) : I will not allow further questions.

Mr. M. Asaf Ali : I would, Sir, like to draw your attention to this fact that the other day we had a discussion on this subject and the Honourable the Finance Member stated certain figures which were disputed. It was in respect of that point that these questions were really asked and it is also in respect of the coming Budget. Unless we have all these facts and figures, we cannot dispute what they say. I maintain that 20 crores can be saved and the Finance Member said that only 10 crores can be saved. I want to know the figures.

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

TRANSFERS OF BRITISH OFFICERS FROM NON-INDIANISED TO INDIANISED UNITS.

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

- (a) whether it is a fact that in the 3rd Cavalry Regiment which has been "Indianised" there are only nine Indian commissioned officers, all of them Lieutenants as against fourteen British commissioned officers only two of whom are Lieutenants and the rest are Captains or hold higher ranks, and the reason why ;
- (b) whether recently two British officers from non-Indianised units were transferred to this regiment and this retards the promotion of the Indian officers ;
- (c) whether in the 7th Light Cavalry Regiment which has also been Indianised there are five Indian Captains one of whom is due to become a Major in 1938 ;
- (d) whether recently two British officers senior to this Indian officer have been transferred from the 8th and 9th Cavalry Regiments both non-Indian units, to this regiment, thus blocking the promotions of the Indian officer ;
- (e) whether in the 16th Light Cavalry Regiment which has also been Indianised two British Majors have recently been transferred to this regiment, from other non-Indianised units, and, if so, why ; and
- (f) the reasons why transfers of British officers are made from non-Indianised to Indianised units just a year or two before a vacancy for squadron commanders or second in command's post occurs in Indianised units ?

Mr. C. M. G. Ogilvie : (a) Yes. None of the Indian Commissioned Officers and King's Commissioned Indian Officers have yet completed the requisite service for promotion to the rank of Captain.

(b) One British Officer has recently been transferred to the 3rd Cavalry and one has been temporarily seconded to it.

Such transfers do not retard the promotion of the Indian Officers which is regulated according to length of service.

(c) Yes.

(d) Yes. These officers do not block the promotion of the Indian Officers as their promotion is made according to length of service.

(e) No.

(f) British officers are introduced from outside an Indianising cavalry regiment for duty as 2nd-in-Command or Squadron Commanders only when officers of sufficient seniority are not available within the regiment.

Mr. S. Satyamurti : With reference to the answer to clauses (b) and (d) of the question, may I ask for some more elucidation ? My Honourable friend, the Defence Secretary, stated that the fact that these British

officers are transferred there does not stand in the way of promotion of these people, because promotion depends on the length of service. May I ask whether, in spite of the fact that these British officers are there, the promotion of Indian officers will automatically go on ?

Mr. C. M. G. Ogilvie : The officers there are put there because they have sufficient length of service to hold those appointments, that is to say, in this case they were very much senior to the officers in the regiment. They will not stay there for ever and presumably by the time that the officers in the regiment have reached the stage when promotion can be granted to them, they will not be prejudiced in any way by these temporary arrangements.

Mr. S. Satyamurti : May I ask whether the meaning of that answer is that at the time when these Indian officers become eligible for that promotion, these officers will either be transferred or their retention in the regiment will not be counted as a factor against the promotion being given to the Indian officers ?

Mr. C. M. G. Ogilvie : These transfers are worked out systematically and one of the principles upon which they are made is that the chances of officers already serving in the regiment will not be prejudiced when the time comes.

Mr. S. Satyamurti : May I know the reason why these British officers are posted to these fairly high offices in Indian units ?

Mr. C. M. G. Ogilvie : Because there are no Indian officers as yet of sufficient seniority to fill these posts.

Mr. Abdul Qaiyum : May I ask whether in the question of promotion no other considerations besides the length of service are taken into account ?

Mr. C. M. G. Ogilvie : For the filling of certain senior posts selection is combined with seniority.

Mr. Abdul Qaiyum : Is not the racial aspect also taken into consideration ?

Mr. C. M. G. Ogilvie : No, Sir.

Mr. S. Satyamurti : With reference to clause (f) of the question, may I know if the answer of my Honourable friend is that these postings are made only because there are no Indians who are sufficiently senior to take those places, and they are not made just a year or two before a vacancy for higher commands arises ?

Mr. C. M. G. Ogilvie : Most certainly not. They are made for the simple reason which I have given, namely, that there are no Indian officers of sufficient seniority to be considered for these posts and for no other reasons of any kind whatever.

ACTIVITIES OF THE *Fauji Akhbar*.

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

- (a) whether the Defence Department runs a newspaper called *Fauji Akhbar* or 'Army Newspaper' ;

- (b) the policy of this paper in regard to Indian affairs ;
- (c) whether this paper is by Government order sent to all arms of the service, which have to pay annual subscriptions ;
- (d) whether this paper carries on propaganda for the Government of India ;
- (e) the policy of this paper regarding nationalism and particularly the ideals and work of the Indian National Congress ; and
- (f) whether Government propose to stop the propagandist activities of this paper and confine it merely to army affairs, army instructions, orders, and to eschew all politics, and, if not, why not ?

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

(b) To give accurate information on topics of the day and, as the "leading journal of rural reconstruction" to support measures for the welfare of the agricultural classes.

(c) No. Government do not exert any pressure for the sale of this paper.

(d) No. The paper is run in the interests of the defence services.

(e) The rule that the Defence Services are not permitted to concern themselves with party politics is fundamental and the paper in question conforms to this rule.

(f) Does not arise.

Mr. S. Satyamurti : May I know who edits this paper ?

Mr. C. M. G. Ogilvie : The paper is edited in the Army Headquarters by a serving soldier.

Mr. S. Satyamurti : May I ask what are the qualifications of this serving soldier for editing a newspaper, "the leading journal of rural reconstruction" ?

Mr. C. M. G. Ogilvie : I should think that the best method for the Honourable Member to arrive at a conclusion on this subject was to study the *Fauji Akhbar*.

Mr. S. Satyamurti : Sir, I am asking for some information, namely, what are the qualifications of a serving soldier to edit the leading journal of rural reconstruction, and I am asked to read the newspaper. This is not right. There should be some answer to the question asked.

Mr. President (The Honourable Sir Abdur Rahim) : Can the Honourable Member answer that question.

Mr. C. M. G. Ogilvie : I am afraid, Sir, I cannot answer it in a better way than I have done. The officer concerned is naturally not a professional journalist but he does produce, I think, a very good paper indeed.

Mr. S. Satyamurti : Has he any academic or journalistic qualifications ? Is he an Indian or a non-Indian ? Does he know India ?

Mr. C. M. G. Ogilvie : He is not an Indian, but he has served in India for many years.

Mr. S. Satyamurti : Does this paper have leading articles ?

Mr. C. M. G. Ogilvie : I think so.

Mr. S. Satyamurti : May I know what is the policy of the paper in its leading articles ?

Mr. C. M. G. Ogilvie : I have stated that its policy is to give accurate information on the topics of the day.

Mr. S. Satyamurti : Apart from the information given in these leading articles, may I know what is the general policy of this paper, that is to say, whether it is intended merely to advertise the activities of the Government of India, and to criticise the Indian National Congress and all its activities ?

Mr. C. M. G. Ogilvie : It is not intended to advertise the activities of the Government of India nor is it intended to criticise the activities of the Congress Party. It has no party politics of any kind and it is run not in the interests of the Government of India but in the interests of the defence services.

Mr. Abdul Qaiyum : Is it a fact that this paper is carrying on propaganda in favour of the present system of Government ?

Mr. C. M. G. Ogilvie : As the paper is run for the defence forces of Government, it cannot be expected to be opposed to the present system of Government, but whether or not it ever dwells on the subject much, I do not know. I personally think it does not.

Mr. Abdul Qaiyum : Is it proper for an army paper to indulge in this type of propaganda ? Is it not necessary that the army should keep absolutely out of politics ?

Mr. C. M. G. Ogilvie : It is necessary that the Army should keep themselves absolutely out of politics. That I have clearly stated is what this paper stands for.

Mr. K. Santhanam : How many copies of this paper are being circulated ?

Mr. C. M. G. Ogilvie : I want notice.

Pandit Lakshmi Kanta Maitra : May I know what is the cost incurred by the Army Department in conducting this paper ?

Mr. C. M. G. Ogilvie : I want notice.

Mr. Badri Dutt Pande : Is it a fact that the rank and file, including even the Indian officers, are forbidden from subscribing to any paper except this ?

Mr. C. M. G. Ogilvie : No.

Pandit Lakshmi Kanta Maitra : When was this paper brought into existence ?

Mr. C. M. G. Ogilvie : I want notice.

Mr. Mohan Lal Saksena : Will the Honourable Member supply a copy of this paper to the reading room of the Legislative Assembly ?

Mr. C. M. G. Ogilvie : I shall gladly do so.

Mr. S. Satyamurti : What is meant by 'this is the organ of the defence services of India' ? May I know what are the principles or politics which the defence services must propagate through an organ of their own ?

Mr. President (The Honourable Sir Abdur Rahim) : You cannot discuss that in a supplementary question.

Mr. S. Satyamurti : My Honourable friend said that this newspaper was the organ of the defence services. I am asking why the defence services want an organ of their own. What are the principles which they want to propagate ?

[At this stage, Mr. Badri Dutt Pande, Mr. Mohan Lal Saksena and Mr. Santhanam—all rose at the same time to put supplementary questions.]

Mr. President (The Honourable Sir Abdur Rahim) : If several Honourable Members rise at the same time to put supplementary questions, I will be obliged to stop an Honourable Member from putting a supplementary question unless his name is called. If this sort of confusion prevails, it cannot be tolerated.

Mr. S. Satyamurti : In answer to a supplementary question, the Honourable Member said that this paper was the organ of the defence services. Now, I want some elucidation of that answer. What are the principles or doctrines or policy of the defence services, apart from those of the Government of India, which they want to propagate through this organ ?

Mr. C. M. G. Ogilvie : In the first place, I did not say that this paper was the organ of the defence services of India. I said that the paper was run in the interests of the defence services.

Mr. S. Satyamurti : I want to correct my Honourable friend on a statement of fact. The Honourable Member did say it was an organ of the defence services.

Mr. C. M. G. Ogilvie : I have answered a great many supplementary questions on this subject. As far as I remember, I never used the term "organ". I said this paper was run in the interests of the defence services and its policy is, as I have stated already, to supply information on current events on a strictly non-party basis.

Mr. S. Satyamurti : What are the special interests of the defence services, apart from those of the Government of India, which this journal propagates ?

Mr. C. M. G. Ogilvie : It will take a very long time to go into everything which is in the interest of defence services.

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

INSULT TO NATIONAL FLAG BY BRITISH SOLDIERS.

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

- (a) whether his attention has been drawn to the report of an incident entitled " Tommy insults National Flag " in the *Hindustan Times* of the 8th September, 1937 ;
- (b) whether Government have instituted any enquiries in the matter and what the result of the enquiry is ;
- (c) if they have not so far instituted any enquiry, whether Government propose to institute any enquiry into this matter and report the result to this House and, if not, why not ; and
- (d) whether in view of such incidents Government are prepared to take steps to see that instructions are issued to all British soldiers in the country to honour the national flag, especially as it is the flag now of seven Provincial Governments of this country and if not, why not ?

Mr. C. M. G. Ogilvie : (a) to (d). I refer the Honourable Member to the reply I gave on the 22nd September to Mr. M. A. Ayyangar's starred question No. 738 on the same subject.

Mr. S. Satyamurti : With reference to part (d), may I know whether Government will issue instructions to all British soldiers in this country to honour the national flag, especially as it is the flag of seven Provincial Governments ?

Mr. C. M. G. Ogilvie : I submit it does not arise either out of this question or out of the facts disclosed by my answer to question No. 738.

Mr. S. Satyamurti : I am asking for information....

Mr. President (The Honourable Sir Abdur Rahim) : It is a question of policy which cannot be discussed now on a supplementary question.

Mr. S. Satyamurti : I am asking for information. I am not discussing the policy.

Mr. President (The Honourable Sir Abdur Rahim) : It is a question of policy whether a certain flag ought to be respected or not ?

Mr. S. Satyamurti : The question is this : Have instructions been issued to all British soldiers to honour the national flag ? I am asking information whether such instructions have been issued.

Mr. President (The Honourable Sir Abdur Rahim) : The Government Member says it is a question of policy and therefore it cannot be discussed now.

Mr. S. Satyamurti : I can get information on my question. I cannot discuss questions of policy, I admit. I am asking for information whether the Government are going to issue such instructions as suggested in my question.

Mr. President (The Honourable Sir Abdur Rahim) : I do not want any argument.

Mr. S. Satyamurti : I only want information.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member can answer it if he can.

Mr. C. M. G. Ogilvie : The answer is, the Honourable Member will see if he refers to the question I have just quoted which was previously answered, that no action of the kind having been committed by any British soldier, the question of issuing instructions does not arise.

HUNGER-STRIKE BY PRISONERS IN THE ANDAMANS.

923. ***Mr. S. Satyamurti** : Will the Home Secretary be pleased to state :

- (a) the latest position with regard to the hunger-strike of the prisoners in the Cellular Jail in the Andamans—that is to say whether any of them is still on hunger-strike and if so the state of their health ;
- (b) the latest position with regard to the repatriation of these prisoners in the Andamans, province by province ;
- (c) how many and which Provincial Governments have so far asked the Government of India to repatriate their prisoners, and how many have been so far repatriated or are proposed to be repatriated to their respective provinces ;
- (d) whether the Bengal Government have now definitely asked the Government of India for the repatriation of these prisoners and if so whether they have been or are being repatriated and how many of them have been repatriated, and when the others will be repatriated to Bengal ;
- (e) whether the Government of India have come to any conclusion on the release of these prisoners, or have left it entirely to the respective Provincial Governments ; and
- (f) when they are all expected to be released, in view of their definite statements, that they have no longer any faith in violence and believe only in non-violence as the best method for attaining the freedom of this country ?

Mr. J. A. Thorne : (a) No prisoner is now on hunger-strike in the Cellular Jail.

(b) to (d). I would refer the Honourable Member to the reply which I gave on the 20th September to his short notice question and to the supplementary questions. I believe that 72 prisoners—34 of whom were convicted in Bengal, seven in Madras, 16 in Bihar, six in the Punjab, six in Assam, two in Delhi and one in Ajmer-Merwara, have so far been repatriated from the Cellular Jail, Port Blair.

(e) and (f). The question of release is not one in which the Government of India have any right to interfere, except in the case of prisoners convicted in the centrally administered areas. There is no intention of remitting the sentences of the latter. I must point out that the Honourable Member is mistaken as to the attitude of the prisoners. They have not said either that they have no longer any faith in violence or that they believe only in non-violence.

Mr. S. Satyamurti : With reference to part (d)—I remember the answer which the Honourable Member gave in reply to my short notice question the other day—may I know whether the position remains exactly as it was then, or whether since then, the Bengal Government have approached the Government of India for the repatriation of more of the prisoners or all the prisoners from Bengal in the Andamans ?

Mr. J. A. Thorne : I have no information as to the attitude of the Bengal Government except that which has appeared in the News Agency telegram this morning, with which I suppose my Honourable friend is acquainted

Mr. S. Satyamurti : Is the Honourable Member referring to the News Agency telegram to the effect that the Bengal Government have decided to ask for the repatriation of all their prisoners from the Andamans ?

Mr. J. A. Thorne : The actual text of the News Agency telegram is as follows :

“ To discuss the question of repatriation of Bengal terrorist prisoners in Andamans, a conference of party leaders of both Houses of provincial legislature was held this morning in the Secretariat, Sir Nazimuddin, Home Minister, presiding, the result of the discussion will be placed before the Government for final decision. It is understood the problem of accommodation will be solved, when in about four months time Dum Dum jail will be ready, this being one of the problems involved in the present proposal. In the meantime it is understood another batch of these prisoners will be brought to Bengal in November.”

Mr. S. Satyamurti : May I take it that the position of the Government of India is that, in respect of those prisoners whose Provincial Governments are asking for their repatriation, they will be repatriated ?

Mr. J. A. Thorne : The only Provincial Government that is now concerned is Bengal.

Mr. S. Satyamurti : May I take it with reference to Bengal, that the position of the Government of India is that these prisoners will be repatriated the moment the Bengal Government ask them to be repatriated ?

Mr. J. A. Thorne : Yes.

Mr. S. Satyamurti : With reference to the reply to part (f) of my question, may I know whether my Honourable friend in drafting this reply had in his mind the statement of Mahatma Gandhi based on the telegram which passed between Mahatma Gandhi and these prisoners which were sent to the Home Department ?

Mr. J. A. Thorne : I cannot remember the precise terms of the statement made by Mr. Gandhi, but the answer is based on the messages sent by Mr. Gandhi to the prisoners and their reply.

Mr. S. Satyamurti : May I know whether my Honourable friend's attention has been drawn to the actual words of the message of the prisoners from the Andamans to Mahatma Gandhi in which they said—

I do not say that the exact actual words are reproduced here—words very much to the same effect as the words contained in part (f) of my question ?

Mr. J. A. Thorne : It is on that point that I differ from my Honourable friend. The actual words were quite different from those which are contained in his question.

Mr. Mohan Lal Saksena : Will the Government of India address the Bengal Government and find out their decision regarding repatriation and make a statement in this House before it adjourns for the session ?

Mr. J. A. Thorne : That will be done, Sir, if we do not in the course of the next day or two receive from the Government of Bengal some communication on the subject.

SITUATION IN THE NORTH-WEST FRONTIER PROVINCE.

924. ***Mr. S. Satyamurti :** Will the Secretary for External Affairs be pleased to state :

- (a) the latest situation in the North-West Frontier Province especially in Waziristan ;
- (b) whether the terms which have been offered by the Government of India have been accepted by the tribes, and if so by how many, and by whom ;
- (c) whether the hostilities are now going on, and if so the number engaged, British and Indian, in such hostilities ;
- (d) the amount of money spent on these operations since the beginning of this financial year ;
- (e) the precise objective for which the hostilities are now being continued ;
- (f) whether the Congress Government on the North-West Frontier Province has been consulted with regard to the continuation of the hostilities and the terms of peace offered ; and
- (g) if not, whether Government propose to consult them and if not, why not ?

Lieut.-Colonel A. E. B. Parsons : (a), (c) and (e). The situation in Waziristan is that active operations on a large scale have ceased and the troops are engaged in dealing with small gangs and in building roads. The regular fighting strength is British troops 4,700, Indian troops 34,900. This includes the strength of the normal garrison of Waziristan. The situation elsewhere is normal.

(b) The terms have so far been announced to the Mahsud and Wazir Tori Khel Jirgas who have accepted them.

(d) The attention of the Honourable Member is invited to the reply given by the Defence Secretary on 1st September, 1937, to part (c) of starred question No. 238. I regret it is still impossible to give an answer.

(f) and (g). No. The Provincial Government are not concerned with the administration of the tribal areas.

Mr. S. Satyamurti : Sir, with reference to the answer to clause (d), they undertook to give us the figures before the end of this Session, and now they say they cannot be given yet. I ask your direction on this matter, Sir, so that before we adjourn, we may get an approximate idea of the cost of these operations.

Mr. President (The Honourable Sir Abdur Rahim) : I do not know whether the Honourable Member in charge of External Affairs is unable to give the figures or they have not been prepared yet ?

Lieut.-Colonel A. E. B. Parsons : I do not think this Department can, but I will inquire again from the Finance Department and the Defence Department if they are able to give the figures before the end of the Session.

Mr. S. Satyamurti : Sir, I ask your direction on this matter. In view of the undertaking given by the Defence Secretary that the figures will be given before the end of the Session.....

Mr. President (The Honourable Sir Abdur Rahim) : He is trying to get the figures, but it is impossible for him to say whether they will be ready before a certain date or not.

Mr. S. Satyamurti : Is it impossible ?

Mr. President (The Honourable Sir Abdur Rahim) : I do not know what the figures are, but what he says is that it is certainly impossible to say whether they will be ready before a certain date or not.

Mr. Bhulabhai J. Desai : Sir, may I suggest this ? It is quite a reasonable thing to any business man, if this thing is being taken up on any business principle of accounting, let a line be drawn at the end of the last month as at that point we can get the expenditure. I quite agree that it is difficult if you go on from day to day and it is easy therefore to evade it by saying that it cannot be done. But in all companies and in all commercial concerns including Government, accounts are published as on a particular date ; and what I now ask is whether they will be prepared, before the Assembly adjourns, to give this House at all events an estimated idea, if not very accurate to the last figure, as at the end of the last month.

Mr. C. M. G. Ogilvie : Sir, I am in a position to say that on 5th October I hope to receive the estimated figure. It may not be complete but it will probably be a fairly accurate figure.

Mr. Abdul Qaiyum : What is the normal strength of the garrison in Waziristan ?

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

ALLEGED PROPAGANDA AGAINST ANY DEMAND FOR THE REDUCTION OF DEFENCE SERVICES.

925. ***Mr. Mohan Lal Saksena** : (a) With reference to his answer to question No. 501 answered on the 14th September, 1937, will the Defence Secretary be pleased to state whether it is a fact that on the 5th August, 1937, at Pallamcottah in Madras Presidency, Major Hancock delivered a

speech ending with the following question " would they therefore think seriously before they acquiesced in any demand for the reduction of defence services " as reported in the *Hindu* of the 7th August, 1937 ?

(b) Do Government propose to issue necessary instructions to put an end to this kind of propaganda by Government servants ?

Mr. C. M. G. Ogilvie : (a) Government have now obtained a copy of *Hindu* of the 7th August, 1937. The report of the speech quoted by the Honourable Member does not seem to appear in it.

(b) I refer the Honourable Member to the replies I gave on the 14th September, 1937, to Mr. S. Satyamurti's starred question No. 501 on the same subject and the supplementary questions arising therefrom.

Mr. M. Asaf Ali : May I know whether Major Hancock is subject to the Government Servants' Conduct Rules ?

Mr. C. M. G. Ogilvie : Yes, Sir.

Mr. M. Asaf Ali : Are Government servants free to indulge in propagandist talks and deliver lectures of the kind Major Hancock has been delivering ?

Mr. C. M. G. Ogilvie : I refer the Honourable Member to my answers to the questions I replied to on the 14th September last.

Mr. M. Asaf Ali : I shall be very glad to hear them now.

Mr. President (The Honourable Sir Abdur Rahim) : Those answers cannot be repeated now.

PROTECTION OF THE LIFE AND PROPERTY OF INDIANS IN SHANGHAI.

926. ***Mr. Mohan Lal Saksena :** (a) Will the Foreign Secretary be pleased to state how many Indians were residing or carrying on business at Shanghai and the neighbouring area before the breaking out of the present Sino-Japanese war ?

(b) What steps have been taken by the British Government or the Government of India for the protection of their life and property ?

(c) Has there been any loss of life or property of Indian nationals in Shanghai because of the Sino-Japanese conflict ?

(d) How many Indians have returned to India since the out-break of the hostilities ? If so have Government taken any steps to come into touch with them and to find out what arrangements have been made for the protection of their property in China ?

Lieut.-Colonel A. E. B. Parsons : The Honourable Member's attention is invited to the replies given by me on the 9th and the 22nd September, 1937, to starred questions Nos. 424 and 735 by Messrs. T. S. Avinashilingam Chettiar and M. Ananthasayanam Ayyangar, respectively.

The only further information that I have to give to the House is that the Government of India have requested the Bengal Government to receive the Indian subjects who were recently evacuated from the fighting area in Shanghai, feed them and, where necessary, give them advances for their journeys home.

Mr. S. Satyamurti : Have Government now made arrangements for daily or prompt information being obtained by the Government of India, with regard to the position of Indians in the theatres of war ?

Lieut.-Colonel A. E. B. Parsons : Government have made no arrangements for daily reports, and from my perusal of the English papers the information about Indians is as full as that about any other form of British subjects.

Mr. S. Satyamurti : Will the Government of India consider taking any steps to get information directly themselves as the Government of India, with respect to their nationals in the theatres of war ?

Lieut.-Colonel A. E. B. Parsons : If the Honourable Member will tell me what information he requires, I can give him the answer.

Mr. S. Satyamurti : I refer to information about their present position, the measures taken to protect their interests adequately, and whether any of them have suffered or are suffering as a result of the military operations there.

Lieut.-Colonel A. E. B. Parsons : I have already given the information in one of the answers to which I have referred, as to the damage done to personnel ; and I have stated in that answer that it is quite impossible in the present circumstances to discover how much damage has been done to property.

Mr. M. Asaf Ali : Are Government in a position to give any information as regards the number of Indian nationals who are still within the danger zone ?

Lieut.-Colonel A. E. B. Parsons : The figures could again be obtained by a simple method of arithmetic from the answers I have already given.

Mr. Mohan Lal Saksena : Of those persons who have returned, may I know if any one has been arrested ?

Lieut.-Colonel A. E. B. Parsons : By whom ? By the Japanese ?

Mr. Mohan Lal Saksena : By the Government of Bengal ?

Lieut.-Colonel A. E. B. Parsons : What for ?

Mr. Mohan Lal Saksena : I do not know.

Lieut.-Colonel A. E. B. Parsons : Nor do I.

Pandit Lakshmi Kanta Maitra : Can the Honourable Member give us an idea as to the number of refugees who have come ?

Lieut.-Colonel A. E. B. Parsons : Yes, Sir. I think I saw the number given in the newspapers as 800, but our figures are rather less,—about 600.

RELEASE OF MR. AMIR HAIDER KHAN DETAINED UNDER REGULATIONS III OF 1818.

927. ***Mr. Mohan Lal Saksena :** (a) Will the Home Secretary be pleased to state whether it is a fact that Amir Haider Khan (of the Punjab) has been incarcerated under Regulation III of 1818 in the Madras Presidency ? If so, for how long and under whose orders ?

- (b) What allowance, if any, is being paid to him and his dependents ?
 (c) When was his case last reviewed ?
 (d) Was the opinion of Madras Government taken into account while reviewing the case ?
 (e) Is it not a fact that the Madras Government is in favour of his release ?
 (f) Are Government prepared to consider the desirability of releasing him forthwith ?

Mr. J. A. Thorne : (a) Amir Haider Khan was originally detained in September, 1934, under Madras Regulation II of 1819 under the orders of the Madras Government. In October, 1936, he was transferred to the Punjab and there detained under Regulation III of 1818 under the orders of the Central Government. Since the 1st April last he has been detained under the orders of the Punjab Government.

(b) I have no information.

(c) and (d). His case was last reviewed by the Central Government in December, 1936. The Punjab Government but not the Madras Government were consulted.

(e) and (f). Neither the Madras Government nor the Central Government are now concerned with the detention of the prisoner.

Mr. Mohan Lal Saksena : May I know whether the Punjab Government passed orders of detention before the expiry of the order of detention passed by the Central Government ?

Mr. J. A. Thorne : I think the change on the 1st April was automatic. The subject then passed entirely out of the scope of the Central Government and passed entirely within the scope of the Provincial Government.

Mr. Sham Lal : Is the Punjab Government competent to release him ?

Mr. J. A. Thorne : Yes, Sir.

Prof. N. G. Ranga : Where is he detained now ?

Mr. J. A. Thorne : So far as I know, he is detained in the Muzaffargarh jail.

CROSSWORD COMPETITIONS IN INDIA.

928. ***Mr. Mohan Lal Saksena :** (a) Will the Home Secretary be pleased to state whether the attention of Government has been drawn to Professor Brij Narain's article on crosswords published in the *Tribune* of Lahore, particularly the following paragraph :

" It is evident that crossword competitions in India have degenerated into pure swindles. Immediate State action is necessary to safeguard the interests of the public against crossword cheats. There is a strong case for a public enquiry into crossword competitions which are run as an open or disguised lottery " ?

(b) What action, if any, do Government propose to take in the matter ?

Mr. J. A. Thorne : (a) I have read the article.

(b) The Government are not convinced that any action on the part of the Central Government is called for.

PROHIBITION OF GOVERNMENT SERVANTS FROM DOING INSURANCE BUSINESS.

929. ***Mr. Mohan Lal Saksena** : (a) Will the Home Secretary be pleased to state whether it is a fact that Government have taken action under the Government Servants' Conduct Rules to regulate contributions which compete with the contributions of professional journalists ? If so, will Government state what instructions have been issued in the matter ?

(b) Are Government prepared to consider the desirability of taking similar action to put an end to competition in the business of insurance ?

Mr. R. F. Mudie : (a) and (b). Government have drawn the attention of all concerned to rule 13 of the Government Servants' Conduct Rules, 1935, applicable to services under the control of the Secretary of State and the corresponding rule 15 of the rules applicable to other services, which provides that a Government servant may not, without the previous sanction of the Local Government, engage in any trade or undertake any employment or work, other than his public duties.

Mr. S. Satyamurti : Are Government aware of the allegation that several Government servants use their position, with respect to those who serve under them, to unduly influence them on behalf of certain insurers ?

Mr. R. F. Mudie : Government are aware of the allegation just made.

Mr. S. Satyamurti : And have they looked into the allegation ?

Mr. R. F. Mudie : They have not yet had time to do so.

ARMY ORGANISATION AND RE-EQUIPMENT.

930. ***Mr. T. S. Avinashilingam Chettiar** : Will the Defence Secretary state :

- (a) with reference to the army organisation and re-equipment mentioned in His Excellency the Viceroy's speech to the Legislature on the 13th September, 1937, whether there is any proposal to mechanise the Indian army ;
- (b) what the probable cost of mechanisation will be ;
- (c) whether they have approached His Majesty's Government for contribution towards meeting this cost ;
- (d) whether they have received any replies from His Majesty's Government ; and
- (e) if so, what is the reply ?

Mr. C. M. G. Ogilvie : (a) to (e). I have nothing to add to the statement made in His Excellency the Viceroy's address to the Central Legislature on the 13th September, 1937, and to my answers to supplementary questions to starred question No. 703 asked on the 22nd September.

Mr. T. S. Avinashilingam Chettiar : May I know when they expect a reply from His Majesty's Government ?

Mr. C. M. G. Ogilvie : I cannot give any accurate idea.

Mr. T. S. Avinashilingam Chettiar : May I know whether this mechanisation of the Indian Army will not be proceeded with unless they get a contribution from His Majesty's Government ?

Mr. C. M. G. Ogilvie : I can give no further information than that which is already in possession of the Honourable House.

Mr. M. Asaf Ali : Is it not a fact that a certain amount of mechanisation has already been undertaken and it is going on apace ?

Mr. C. M. G. Ogilvie : Yes : as far as mechanical transport is concerned and certain other items. This question, I think, referred to new schemes of mechanisation of troops.

Mr. M. Asaf Ali : With reference to clause (a), something has been said about re-equipment : may I know whether the last re-equipment programme has been completed ?

Mr. C. M. G. Ogilvie : No : it has not.

Mr. S. Satyamurti : May I know whether the Honourable the Defence Secretary's attention has been drawn to the answer of His Excellency the Commander-in-Chief in another place in which he stated that he expected an answer from His Majesty's Government to this request within two months ?

Mr. C. M. G. Ogilvie : No : I have not seen it.

HOLDING OF MEETINGS AND FLYING OF THE NATIONAL FLAG IN CANTONMENT AREAS.

931. ***Mr. Badri Dutt Pande :** Will the Defence Secretary be pleased to state :

- (a) whether the Defence Department have instructed the local cantonment authorities to disallow election, political and constitutional meetings within the cantonment areas ;
- (b) if so, why ; if not, whether he will give a statement elucidating the policy of the Defence Department in this connection ;
- (c) if it is a fact that the Defence Department has instructed local cantonment authorities to prohibit the flying of the national flags within the cantonment areas ; if so, why ; if not, what is the attitude of Government in this respect ; and
- (d) if the answers to parts (a) and (c) be in the negative, whether he is prepared to consider the desirability of issuing specific instructions to the cantonment officers, asking them not to interfere with the holding of constitutional (election and political) meetings and flying of the National flags within the cantonment areas ?

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

(b) and (d). The matter is under consideration.

(c) I presume the Honourable Member is referring to the flag of the Congress party and not to the Union Jack. The Defence Department have issued no such instructions.

Mr. Badri Dutt Pande : Are we to understand that there will be no ban on constitutional meetings and Congress flags being flown at such meetings ?

Mr. C. M. G. Ogilvie : It entirely depends on the place, the time and the nature of the meeting, and the meaning given to the word " constitutional ".

Mr. S. Satyamurti : With regard to election meetings particularly, may I know whether, since such meetings are statutorily contemplated by the Government of India Act, the Defence Department have any policy in the matter, and whether they have issued any *interim* instructions to allow or not to allow election meetings ?

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

Mr. S. Satyamurti : My Honourable friend's answer is that the policy is under consideration. My question is—what is the present attitude of the Defence Department with regard to election meetings in cantonment areas ?

Mr. C. M. G. Ogilvie : I have already said that the matter is under consideration and I can give no more information than that.

Mr. S. Satyamurti : Are Government considering whether election meetings should or should not be allowed ?

Mr. C. M. G. Ogilvie : Government are considering the whole question of cantonments and cantonment areas *vis a vis* meetings of all kinds.

Mr. S. Satyamurti : May I know what is the *interim* direction given with regard to election meetings which may have to be held till the Government make up their mind one way or other ?

Mr. C. M. G. Ogilvie : That, I submit, is hypothetical.

Mr. M. Asaf Ali : Is it not a fact that there is such a thing as the cantonment authority, and to this body members will be elected in the ordinary way ? Will meetings in connection with these elections be allowed in cantonment areas or not ?

Mr. C. M. G. Ogilvie : Certainly they will.

PROHIBITION OF CONGRESS ELECTION MEETINGS AND FLYING OF NATIONAL FLAGS IN THE LANSDOWNE CANTONMENT.

932. **Mr. Badri Dutt Pande :** With reference to the promise contained in his answer to question No. 495, dated the 14th September, 1937, will the Defence Secretary be pleased to make a full statement regarding the situation at Lansdowne wherein constitutional election meetings were not allowed to be held by the military authorities and also explain the circumstances under which eight shops were declared out of bounds for flying the national flag ; and if the orders have been withdrawn since ?

Mr. C. M. G. Ogilvie : The facts are that permission to hold a Congress meeting was refused. No request to hold any other political meeting was sought by any political section. The reason why the permission to hold a Congress meeting was refused was that at the time and in the circumstances prevailing, the local military authorities considered that the holding of any meeting in the Lansdowne Cantonment might be prejudicial to the discipline of the troops there stationed. Permission to hold meetings on the 1st August last was not refused because it was never sought.

The flying of Congress flags was not prohibited on this or any other date and as far as is known to Government these flags are still being flown.

Eight shops have been declared out of bounds by the Commanding Officer of one of the Battalions stationed at Lansdowne because he considered that the resort of men under his command to those shops might be prejudicial to their discipline and efficiency ; and the whole of the Bazar by the Officer Commanding another Battalion for the same reasons. These orders have not so far been withdrawn.

Mr. T. S. Avinashilingam Chettiar : May I know how it would prejudice the soldiers in his charge to purchase things in a particular shop ?

Mr. C. M. G. Ogilvie : I imagine that goods for sale are not the only things to be found in those shops.

Mr. T. S. Avinashilingam Chettiar : What are the other things to be found there ?

Mr. C. M. G. Ogilvie : Shopkeepers.

Mr. T. S. Avinashilingam Chettiar : Do they imagine that the shopkeepers were doing propaganda for anything which is not good for the soldiers ?

(No reply.)

Mr. Badri Dutt Pande : Is it not a fact that it was not a Congress meeting, but it was an election meeting and that it was I who applied to the officer commanding ? Is that fact known to the Defence Secretary ?

Mr. C. M. G. Ogilvie : The fact that the Honourable Member was the gentleman who applied is known to me, as he himself stated it some days ago.

Mr. Mohan Lal Saksena : Is the Honourable Member also aware that he was a candidate to the Upper House ?

Mr. C. M. G. Ogilvie : Yes.

Mr. Mohan Lal Saksena : Was it not in connection with that election that this meeting was going to be held ?

Mr. C. M. G. Ogilvie : Presumably, yes.

Mr. Mohan Lal Saksena : Then why was the permission refused ?

Mr. C. M. G. Ogilvie : Because, as I have stated in my answer, it was thought that such a meeting in the circumstances then prevailing would not be a meeting of a sort that could be held with impunity in a Cantonment station.

Mr. Badri Dutt Pande : Then why was Mr. Mukandlal, who was my rival, allowed to hold a meeting there ?

Mr. C. M. G. Ogilvie : The answer has been given that no permission was given for holding any other meeting.

Mr. S. Satyamurti : My friend suggested, with regard to the prohibition of this meeting, that the local military authorities thought that the holding of the meeting would be prejudicial to the discipline of the troops stationed therein ; may I know how the authorities came to the conclusion that the holding of a congress election meeting would prejudicially affect the discipline of the troops ?

Mr. C. M. G. Ogilvie : The reason is this. The permission was asked for on the 29th January and it was refused. From what actually happened at a meeting held outside the cantonment boundary on the following day it must, I think, be clear that the decision was a right one. The chief speaker was the Honourable Member who has put this question, and I am informed that his speech included praise of the soldiers of the 2nd 18th Royal Garhwal soldiers, one of the regiments now stationed at Lansdowne, who refused to obey orders in the Peshawar incident, and also that it included proposals for the erection of a gate of honour to a ringleader of the meeting.

REVISION OF THE SALARIES OF THE INDIAN CIVIL SERVICES AND THE INDIAN POLICE SERVICE.

933. ***Mr. C. N. Muthuranga Mudaliar :** (a) Will the Honourable the Home Member please state with reference to previous questions on the subject at what stage the question of revision of the salaries of the Indian Civil Service and the Indian Police Service is at present ?

(b) When do Government expect to pass final orders in the matter ?

(c) Will the Assembly be given an opportunity to record its opinion on the matter ?

Mr. R. F. Mudie : (a) The question has been deferred till the occasion arises to review the future recruitment and conditions of service of the Indian Civil Service and the Indian Police.

(b) It is for the Secretary of State and not the Government of India to pass orders in this matter.

(c) No : for the reason given in (b) above.

Mr. C. N. Muthuranga Mudaliar : Have the Government of India asked the Secretary of State to expedite this matter ?

Mr. R. F. Mudie : No, Sir.

Mr. T. S. Avinashilingam Chettiar : May I know if this matter has been pending for a fairly long time, and that in the other services, provincial and others, the pay has been reduced already ? Is the Honourable Member aware of it ?

Mr. R. F. Mudie : I am not aware of it.

Mr. T. S. Avinashilingam Chettiar : You are not aware of it.

CURTAILMENT OF EXODUS TO SIMLA.

934. ***Mr. C. N. Muthuranga Mudaliar :** (a) Will the Honourable the Home Member please state if there is any proposal to keep down in Delhi in the next summer (1938) any office or portion of an office which till now has been moving to Simla ?

(b) Is it a fact that there have been a number of cases of small-pox, typhoid and other such diseases during the current season in Simla as well as in the past few years owing to over-crowding in Simla ?

(c) Are Government prepared to consider the advisability of restricting the annual exodus to the proportion of a camp office consisting of the Secretaries and a few clerks not more than three from each department ?

(d) Do Government propose to consider the advisability of holding the next Simla Session (September, 1938) in New Delhi ?

(e) Are Government aware of the great inconvenience and hardship to Honourable Members of this House owing to want of accommodation ?

Mr. R. F. Mudie : I would refer the Honourable Member to the reply given by Sir Frank Noyce to the Honourable Member's starred question No. 601 in this House on the 9th March, 1937. No decision inconsistent with that reply has since been taken.

CERTAIN FACILITIES TO MR. AMIR HAIDER KHAN DETAINED UNDER REGULATION III OF 1818.

935. ***Mr. Sham Lal :** (a) Will the Honourable the Home Member be pleased to state whether Mr. Amir Haider Khan was arrested at Madras three years ago, was detained without trial under Regulation III of 1818 at Rajamandri Jail and is now in Muzaffargarh sub-jail ?

(b) Is he allowed to correspond with his friends ?

(c) Is it a fact that a letter addressed by Babu Shri Niwas Rao, Secretary, Madras Congress Socialist Party to Mr. Khan, was withheld and not delivered to Mr. Khan ?

(d) What is the state of health of Mr. Khan ?

(e) Is not Muzaffargarh very hot and the temperature sometime 120 degrees ?

(f) Is it a fact that Mr. Khan's original weight was 135 pounds, that it came down to 120 pounds in Rajamundri and has gone down further to 111 pounds in Muzaffargarh sub-jail ?

(g) Are Government prepared to consider the advisability of allowing Mr. Khan to correspond with his friends and also transfer him to some healthier place in the Madras Province ?

(h) If not, are Government prepared to give him an opportunity of proving his innocence in a court of law ?

Mr. J. A. Thorne : (a) Yes—except that while in Madras the prisoner was detained under Madras Regulation II of 1819.

(b) to (f). Government have no information.

(g) and (h). The continued detention of this prisoner and the conditions of his detention are matters which concern only the Punjab Government.

Qazi Muhammad Ahmad Kazmi : Was he found guilty of any undesirable practices in the Punjab and was that the reason why the Punjab Government proceeded against him ?

(No reply.)

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

Mr. Abdul Qaiyum : Sir, I do not propose to put question No. 936, but I will ask No. 937.

METALLED ROADS, SCHOOLS, ETC., IN WAZIRISTAN AND REPORT ON CONDITION OF TRIBES IN THE NORTH-WEST FRONTIER PROVINCE.

937. ***Mr. Abdul Qaiyum :** (a) Will the Foreign Secretary kindly state how many miles of metalled roads have been constructed ever since the present Waziristan campaign began in that territory ?

(b) How many schools have been set up in Waziristan ever since the Government took over or entered that country ?

(c) What steps have been taken or are proposed to be taken to improve the economic conditions of the tribes in Waziristan ?

(d) Do Government propose to consider the desirability of publishing an annual statement about the economic condition of the tribes in the North-West Frontier Province, specially indicating any material improvements effected in their condition ?

Lieut.-Colonel A. E. B. Parsons : (a) Approximately sixty miles of shingle roads have already been constructed. A total length of 106½ miles of roads has been sanctioned.

(b) In South Waziristan there are two lower middle and seven primary schools. In North Waziristan there are one middle and nine primary schools. In Bhitanni country there is one primary school at Jandola.

(c) Government are constantly examining methods of improving the economic condition of the Waziristan tribes and have been able to give assistance in agricultural and irrigation projects. Their examination, however, leads them to conclude that little can be done in the development of the country and that economic relief can best be given by extending the opportunities for Government and other service.

(d) Information regarding the improvements in the economic condition of the tribes on the North-West Frontier Province is published in the Annual Border Administration Report of the North-West Frontier Province which is on sale to the public. Copies are placed in the Library of the House.

ADMINISTRATION OF GILGIT.

938. *Mr. Abdul Qaiyum : Will the Foreign Secretary be pleased to state :

- (a) whether Government have taken over the civil administration of the Gilgit tract ?
- (b) whether any fresh troops have moved up to Gilgit with this change in administration ; if so, what is their number ;
- (c) whether this change in Gilgit has resulted in any additional expenditure ; if so, how much this increase is in the annual expenditure ;
- (d) whether Government contemplate building a new road to Gilgit ; if so, when the work is likely to start ; and
- (e) whether it is intended to improve the communication between Gilgit and the Chinese Turkestan ?

Lieut.-Colonel A. E. B. Parsons : (a) Yes.

(b) and (c). No.

(d) No.

(e) The matter is under consideration.

Mr. Abdul Qaiyum : With reference to clause (b), is it not a fact that fresh troops have been moved up since the civil administration of the Gilgit tract has been taken over ?

Lieut.-Colonel A. E. B. Parsons : May I refer the Honourable Member to the answer I have just given to (b) and (c),—No.

Mr. T. S. Avinashilingam Chettiar : May I know when these roads are built from what funds is the money found ?

Lieut.-Colonel A. E. B. Parsons : What roads ?

Mr. T. S. Avinashilingam Chettiar : With reference to clause (d), Sir, may I know from what funds these roads are built ?

Lieut.-Colonel A. E. B. Parsons : The answer is—If they are made, they will be paid for out of central revenues.

Mr. T. S. Avinashilingam Chettiar : I want to know whether they are contributed out of defence expenditure ?

Lieut.-Colonel A. E. B. Parsons : There is no money contributed at present.

Mr. T. S. Avinashilingam Chettiar : Whenever a road is made, from what funds is the money found ?

Lieut.-Colonel A. E. B. Parsons : That is hypothetical.

(b) WRITTEN ANSWERS.

PERCENTAGE OF MUSLIMS IN THE MILITARY ENGINEERING SERVICES IN THE NORTH-WEST FRONTIER PROVINCE.

939. ***Maulana Zafar Ali Khan :** (a) Will the Honourable the Home Member please state whether any ratio has been fixed for the Muslims in the Military Engineering Service ; if so, what percentage has been so fixed ?

(b) Is there any all India representation fixed for Muslims in the Military Engineering Service or does it vary from Province to Province ?

(c) Has any percentage been fixed for Muslims in the North-West Frontier Province ?

Mr. C. M. G. Ogilvie : (a) Yes. A minimum of 25 per cent. has been fixed for Muslims in the Military Engineer Services.

(b) The communal representation for Muslims in the Military Engineer Services is fixed on an all-India basis.

(c) No.

INADEQUATE REPRESENTATION OF MUSLIMS IN THE MILITARY ENGINEERING SERVICE IN THE NORTH-WEST FRONTIER PROVINCE.

940. ***Maulana Zafar Ali Khan :** (a) Will the Honourable the Home Member please state what is the total number of persons employed by the Military Engineering Service in various grades in the North-West Frontier Province and how many of these are Muslims ?

(b) Why is the Muslim representation so utterly inadequate in a Province where they constitute 95 per cent. of the population ?

(c) What steps do Government propose to take to redress this wrong ?

Mr. C. M. G. Ogilvie : (a) The Military Engineer Services establishments are not fixed by Provinces but by Commands. From the latest returns the number of persons employed in the Military Engineer Services in Northern Command is 453 of which 135 are Muslims.

(b) Muslim representation in the Military Engineer Services is 25 per cent. on an all-India basis and not on a Provincial basis. In Northern Command the number of Muslims, actually employed is 30 per cent. of the establishment.

(c) Does not arise.

FORMATION OF A UNIVERSITY TRAINING CORPS FOR THE ANNAMALAI UNIVERSITY.

941. ***Mr. C. N. Muthuranga Mudaliar** : (a) With reference to the answer to starred question No. 695, asked on the 19th March, 1937, will the Defence Secretary be pleased to state whether the officer in charge of Headquarters, Southern Command, has resubmitted the application of the Annamalai University for permission to form a University Training Corps ?

(b) What orders have been passed thereon by the Government of India ?

(c) If the application has not yet been returned by the officer in charge of Headquarters, Southern Command, do Government propose to remind him to expedite its return and pass orders on the same ?

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

(b) Does not arise.

(c) I refer the Honourable Member to the reply given by my predecessor to parts (a) and (b) of Mr. S. Satyamurti's starred question No. 570 of the 8th March, 1937.

MOTION FOR ADJOURNMENT.

TRADE AGREEMENT WITH GREAT BRITAIN.

Mr. President (The Honourable Sir Abdur Rahim) : I have received notice of an adjournment motion from Mr. Satyamurti to this effect—that the House do now adjourn to consider a definite matter of urgent public importance, namely, the refusal of the Government to give an undertaking that they will abide by the verdict of or even consult the Assembly before coming to any decisions on a Trade Agreement with Great Britain, as a result of the present Indo-British talks to replace the Ottawa Agreement.

Is there any objection ?

The Honourable Sir Saiyid Sultan Ahmad (Member for Commerce and Railways) : Yes, Sir. I submit, it is not a matter of urgent public importance. A question was put to me yesterday to this effect—No. 880 (j), whether, before concluding any agreement with Great Britain on this and other allied matters, Government will fulfil their pledges to the House and take the verdict of the House and act accordingly, if not, why not. The answer I gave was—(j). The Honourable Member is referred to the replies given by me to part (e) of his own starred question No. 15 and its supplementaries in this Session. Government have given no pledges whatsoever.

[Sir Saiyid Sultan Ahmad.]

Then, my friend put to me supplementaries yesterday—"with reference to the answer to clause (j) of the question and the information that he gave that Government have given no pledges whatever, I will not pursue the matter now as it is not brought up at question time,—I am asking whether Government have definitely refused now to commit themselves to take the verdict of the House before they come to any agreement with Great Britain;—and my answer was—Government have not come to any conclusion whether they will consult or abstain from consulting the Assembly.

Mr. President (The Honourable Sir Abdur Rahim) : The motion says : "The refusal of the Government to give an undertaking that they will abide by the verdict of or even consult the Assembly before coming to any decision...."

The Honourable Sir Saiyid Sultan Ahmad : I was further asked :

"Since we are drawing to the close of the session, I am asking in the terms of the question whether Government definitely refuse to give an undertaking to this House that, before they come to any conclusion they will consult and take the verdict of the House ?"

My answer was :

"I am afraid I must repeat my answer—I can give no further information. Government have not come to any conclusion whether they will consult or abstain from consulting the Assembly."

Last year about this very time....

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member should not enter into a discussion of the merits.

The Honourable Sir Saiyid Sultan Ahmad : No. Last year, Seth Govind Das put a question to the then Commerce Member—No. 701—with respect to these negotiations. The question was :

"Whether, and if so, when this House will discuss the merits of the negotiations conducted by Government and whether any opportunity will be afforded to this House for the scrutiny of the principles involved, before committing the country, whether provisionally or finally, to the terms of trade relationship ?"

The answer was :

"The Government of India are under no constitutional obligation to place before the House for discussion the terms of a trade agreement before it is concluded."

Then question No. 15 put to me on the 23rd August of this year was this :

"Will the Honourable the Commerce Member be pleased to state whether the proposals of the Government of India will be placed before the Assembly for an expression of its opinion before any commitments are undertaken by the Government of India : and if so, when ?"

My answer was :

"The Honourable Member's attention is invited to the reply, given to part (f) of Seth Govind Das's starred question No. 701 on the 29th September, 1936."

Then, I was further pursued by Mr. Avinashilingam Chettiar who asked :

"May I know whether it will be placed before the House before it is ratified ?"

My answer was, "No."

Then a further question was put to me, and I said :

“ It depends entirely on whether there is an agreement or not. We will wait and see. We cannot come to any conclusion at present. The Government of India are not in a position to come to any decision about it. The negotiations are going on and we must see whether there is an agreement or not. Then and then alone can we come to some decision.”

Further, in answer to another supplementary question I said :

“ I have answered the question by saying that it is the responsibility of the Government of India, and they will come to certain conclusion. It may be before or after and they do not like to commit themselves at all at present. It is their responsibility and they will discharge that responsibility when the agreement is arrived at or even when there is no agreement.”

Then you put to me a question :

“ But will they consult the House before the decision is arrived at ? ”

My answer was :

“ Not necessarily, Sir.”

Since that date, there was a Resolution tabled on the 10th September, 1937, to this effect. The Resolution was tabled by Mr. Sham Lal. The Resolution ran :

“ This Assembly recommends to the Governor General in Council that they should conclude no further Indo-British Trade Agreement or any trade agreement of a similar nature without consulting and ascertaining the verdict of the Assembly.”

This was allowed to lapse.

Some Honourable Members : No, no. It was not reached.

The Honourable Sir Saiyid Sultan Ahmad : Sir, I submit that this matter was the subject matter of questions and supplementaries twice over, and the answers given at that time were the same as those which I gave yesterday, namely, that Government have come to no decision about it and Government will not commit themselves at present. On the 29th September, 1936, the then Commerce Member distinctly stated on the floor of this House that it was the responsibility of the Government and Government alone, and I stated on the 23rd August this year in answer to questions and supplementaries that Government have come to no conclusion, that they will wait and see and that they do not propose to come to any conclusion at all. Then, this Resolution was tabled for discussion, but whether it was reached or not is immaterial. My first submission is that this motion is barred, because the matter had already been before the House for full one year, or at any rate, since the 23rd August of this year.....

Mr. President (The Honourable Sir Abdur Rahim) : You mean it is not urgent ?

The Honourable Sir Saiyid Sultan Ahmad : Yes, that it is not urgent. There is no question of a recent event at all. It was the subject matter of questions and answers previously. For the last one year, we have taken up that attitude, and I repeated that yesterday.

Mr. S. Satyamurti (Madras City : Non-Muhammadan Urban) : I do not now go into the question whether Government have given any pledges in this matter or not. When this motion is allowed and discussed, that point will be dealt with. But now the question is simply one of urgency. In regard to questions and answers yesterday, my

[Mr. S. Satyamurti.]

Honourable friend did not read the further questions and answers, which I seek your leave to read. My Honourable friend said in answer to my question : " whether Government definitely refuse to give an undertaking to this House that, before they come to any conclusion, they will consult and take the verdict of the House,—my Honourable friend said : " I am afraid I must repeat my answer—I can give no further information. Government have not come to any conclusion whether they will consult or abstain from consulting the Assembly." Then, I asked :

" May I know, in view of the fact that the Session is concluding in a week or so, and we shall not meet again till the last week in January or thereabouts, whether Government propose to await the decision of this question till the Assembly meets ? "

It was only yesterday and the Government definitely refused to give an undertaking to consult the Assembly either now, or when it meets later. The point is this. With reference to the earlier question and answer to which my Honourable friend referred, where his predecessor gave an answer, and also with reference to the question of the 23rd August this year, the position of the Government was indefinite.

Mr. President (The Honourable Sir Abdur Rahim) : No. Their position was that they are not bound to consult the Assembly.

Mr. S. Satyamurti : But on the specific question as to whether they are going to consult the Assembly.....

Mr. President (The Honourable Sir Abdur Rahim) : But the question whether Government are bound to consult the Assembly is still more important. They said that they were not bound to consult. If your case is that they ought to consult the House, then the motion would have been in order at once.

Mr. S. Satyamurti : That is not the point I am raising. If they are constitutionally bound there is no need for an adjournment motion ; they can do nothing, without consulting the House. If our constitution demands and requires that they should consult us, there is no need for any non-official Member taking the initiative in the matter. It then becomes their responsibility to come to us and take our verdict.

Mr. President (The Honourable Sir Abdur Rahim) : It depends on whether they want to consult the House or not.

Mr. S. Satyamurti : I perfectly agree. The Government took the view till yesterday, and even yesterday, that they have not yet made up their minds whether to consult or not.

Mr. President (The Honourable Sir Abdur Rahim) : That is more a concession than anything else.

Mr. S. Satyamurti : I am very grateful for the concession, but that is neither here nor there, if I may say so respectfully. The question I am seeking to raise is this. I want the House to have an opportunity of telling the Government, if it so desires, that in its opinion Government ought to consult the House before coming to any decision on this question.

Mr. President (The Honourable Sir Abdur Rahim) : That ought to have been done long ago.

Mr. S. Satyamurti : May I submit that the answer of last year was more or less academic ? It was only this year that actual negotiations started, and after that, the Honourable the Commerce Member, in answer to your question from the Chair on the 23rd August, 1937, said, " Not necessarily ". What he says now is : " We may or we may not consult ". Moreover, he had said in answer to an earlier question that the negotiations may or may not be over ; but I was hoping that before the Session ended, there will be a possibility of the Government making a statement before the House on the conclusion of these negotiations. These negotiations, admittedly, Mr. President, have been much more protracted than they were expected to be. We asked questions. We were told that the Indian Trade Delegates are leaving, and that there was a deadlock with regard to jute or textiles. We knew nothing about it.

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member ought to have come up much earlier.

Mr. S. Satyamurti : I was hoping till yesterday that Government would make a statement and it is only yesterday, I admit it was an unreasonable hope, that in view of the fact that our Delegates have been in England since April or May last.....

Mr. President (The Honourable Sir Abdur Rahim) : The question is whether they ought to consult the House or not and they refused to commit themselves.

Mr. S. Satyamurti : They never definitely refused to consult us. The position became urgent only yesterday, when the Government made a statement that they had not made up their mind whether to consult this House or not. The negotiations are not over, and the Session is rapidly coming to a close, and the urgency of the matter arises in this way. The negotiations will be over after we adjourn and the Government may conclude an agreement before we meet in January. That is the real danger of the situation. We were hoping till yesterday that an opportunity would be given to the House to pronounce its opinion on these negotiations. Owing to factors, in regard to which we have no knowledge, they have been protracted longer than we expected, and between now and January the whole thing will be over. I submit the House is entitled to an opportunity of having its say.....

Mr. President (The Honourable Sir Abdur Rahim) : I have got to apply the rules.

Mr. S. Satyamurti : The urgency arose yesterday, when the Government told us that they did not expect that the negotiations will conclude before the end of the Session.....

Mr. President (The Honourable Sir Abdur Rahim) : I follow your argument.

Mr. S. Satyamurti : and I only want them to consult us before coming to a decision.

Mr. President (The Honourable Sir Abdur Rahim) : I must rule this motion out of order. Although the subject is one of great importance, the attitude taken up by the Government is not a new one and, as far back as 25th September, 1936, they told the House that they themselves had the entire responsibility as to whether they will consult the House

[Mr. President.]

or not and that they were not bound to consult the House. All that happened yesterday was that the Government spokesman said that the Government had not come to any conclusion one way or the other. Even on the 23rd August, Government had made their own position perfectly clear. The motion is not, therefore, urgent within the meaning of the rules, and I rule it out of order.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, the following Message has been received from the Council of State :

“ Sir, I am directed to inform you that the Council of State, at its meeting held on the 28th September, 1937, agreed without any amendment to the following Bills which were passed by the Legislative Assembly at its meetings held on the 25th and 26th August, 1937, namely :

1. A Bill to extend the Petroleum Act, 1934, to Berar ;
2. A Bill to provide for the continuance in force of certain rules and regulations ; and
3. A Bill to empower the Federal Court to make rules for regulating the service of processes issued by the Court.

THE INSURANCE BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Insurance Bill. The amendment under discussion is No. 852 on the main list. Dr. Banerjea.

Dr. P. N. Banerjea (Calcutta Suburbs : Non-Muhammadan Urban) : I finished my speech yesterday.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : This amendment stood over yesterday in order to see whether a mutual agreement could be arrived at with regard to the working capital of Mutual Insurance Companies and Co-operative Insurance Societies. I understand that Mr. Sen has given notice of amendments which I believe will commend themselves to the House. In view of that, I hope Dr. Banerjea will withdraw his amendment in favour of Mr. Sen's amendment.

The Honourable Sir Nripendra Sircar (Law Member) : The House was good enough to allow this matter to be adjourned with a view to seeing if there could be an arrangement between the different sections of the House holding different views. We had a consultation today. There were present Mr. S. C. Sen, representing the views of the Government, the Congress Party and Mr. Maitra representing Dr. Banerjea's Group.

Mr. President (The Honourable Sir Abdur Rahim) : Has this been circulated to all the Members ?

The Honourable Sir Nripendra Sircar : The agreement was reached only at 12 o'clock today, and I understand that, if the House would only know what the terms are, they may not insist on circulation.

Mr. President (The Honourable Sir Abdur Rahim) : I must insist that it should be circulated. I don't know if Government have got enough copies.

The Honourable Sir Nripendra Sircar : No, Sir. We have got only six copies. We cannot circulate it before ; we hope to be ready at half past two. But this will mean that all these three sections have got to remain pending because they are all connected, and we have come to an arrangement which covers 86, 88 and 89. They really dispose of the whole of that chapter which ends with 92 and begins at 86.

Mr. President (The Honourable Sir Abdur Rahim) : Very well. They will be taken up later. In the meantime, they must be circulated.

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

" That clause 90 stand part of the Bill "

The motion was adopted.

Clause 90 was added to the Bill.

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

" That clause 91 stand part of the Bill. "

Mr. N. V. Gadgil (Bombay Central Division : Non-Muhammadian Rural) : Sir, I move :

" That in clause 91 of the Bill, after the words ' Mutual Insurance Company ' the words ' and Co-operative Insurance Society ' be inserted. "

Sir, I move.

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

" That in clause 91 of the Bill, after the words ' Mutual Insurance Company ' the words ' and Co-operative Insurance Society ' be inserted. "

The Honourable Sir Nripendra Sircar : We accept that, Sir.

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

" That in clause 91 of the Bill, after the words ' Mutual Insurance Company ' the words ' and Co-operative Insurance Society ' be inserted. "

The motion was adopted.

Mr. Thirumala Rao (East Godavari and West Godavari cum Kistna : Non-Muhammadian Rural) : Sir, I move :

" That in the proviso to clause 91 of the Bill, for the words ' similar publication shall be made in two newspapers of that province ' the following be substituted :

' publication of balance sheet, revenue account and notice of the meetings shall be made in a newspaper or newspapers published in the principal languages of that province and circulated therein ' "

Sir, there are about eight or nine principal vernaculars, and it is expected that by this amendment reasonable publicity will be secured for the balance-sheet and other important items that policy-holders are expected to know. Sir, I move.

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

“ That in the proviso to clause 91 of the Bill, for the words ‘ similar publication shall be made in two newspapers of that province ’ the following be substituted :

‘ publication of balance sheet, revenue account and notice of the meetings shall be made in a newspaper or newspapers published in the principal languages of that province and circulated therein ’.”

Mr. T. Chapman-Mortimer (Bengal : European) : Sir, I regret to have to oppose this amendment. On the face of it it sounds quite a reasonable proposal that the balance-sheet and revenue account should be published in the principal languages of the province as well as in English. But, Sir, I understand there are very serious difficulties, especially for one or two of the larger societies that will be affected. There is also the obvious difficulty of knowing which languages in a province are the principal languages. In Madras for example there are a number of principal languages. If it were to read “ one of the principal languages of British India ”, there might be some point in it, but as it is this is an imposition on the company which is unnecessary and would act unfairly in certain circumstances.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : Sir, we have tried to make this provision much more easy to Mutual Societies and Mutual Co-operative Societies than the provision which is made in the present Bill, for the present provision is that the balance-sheet, the revenue accounts and a lot of other documents filed, should be published in one English newspaper and also in a principal vernacular paper circulating in the province. Now, by this amendment, we have removed the necessity of publishing it in an English newspaper because the majority of the policy-holders know one or other of the local languages and their publication in an English newspaper is not necessary. In its place we have said that it must be in one or more principal languages of the province. There may be 220 languages in this country but the principal languages are only eight or nine. In Madras there are Tamil, Telugu and Malayalam and Kanarese is common to both the Madras Presidency and to Bombay. In Bombay the other two vernacular languages are Gujerati and Marathi and Hindi is also there. With Urdu in addition we cover the whole of India and there is Bengali in the East of India. With these nine languages we complete the rest of India.

An Honourable Member : What about Assam ?

Mr. M. Ananthasayanam Ayyangar : Assam is also Bengali-speaking, and Bengali is known both to Oriyas and indigenous Assamese. If there are only a few policy-holders in the province, he need not publish it in a newspaper ; this is not obligatory, it is only optional. Therefore, this is intended to enable Mutual Societies which have a number of policy-holders all over the country to curtail their expenditure. It would be quite unnecessary to publish the various documents to which nobody would pay any attention. This is more economical. We have, in a later clause, insisted upon the publication of the balance-sheet and the revenue accounts but not the other documents. Therefore, in the interests of Mutual Co-operative Societies, I commend this to the acceptance of the House.

Mr. M. S. Aney (Berar : Non-Muhammadan) : Will you omit the revenue account ?

Mr. M. Ananthasayanam Ayyangar : The balance-sheet and revenue accounts must be included.

The Honourable Sir Nripendra Sircar : Sir, I have no objection to accept the amendment.

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

“ That in the proviso to clause 91 of the Bill, for the words ‘ similar publication shall be made in two newspapers of that province ’ the following be substituted :

‘ publication of balance sheet, revenue account and notice of the meetings shall be made in a newspaper or newspapers published in the principal languages of that province and circulated therein ’.”

The motion was adopted.

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

“ That clause 91, as amended, stand part of the Bill.”

The motion was adopted.

Clause 91, as amended, was added to the Bill.

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

“ That clause 92 stand part of the Bill.”

The Honourable Sir Nripendra Sircar : Sir, there is a consequential amendment to be made in this clause. I move :

“ That after the word ‘ Company ’, in the first line, the following be added :

‘ and Co-operative Insurance Society ’.”

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

“ That after the word ‘ Company ’, in the first line, the following be added :

‘ and Co-operative Insurance Society ’.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, a further consequential amendment is also necessary. I move :

“ That after the figures ‘ 1913 ’, in line 5, add the words :

‘ or to the Registrar of Co-operative Societies of the province in which the Co-operative Insurance Society is registered ’.”

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

“ That after the figures ‘ 1913 ’, in line 5, add the words :

‘ or to the Registrar of Co-operative Societies of the province in which the Co-operative Insurance Society is registered ’.”

The motion was adopted.

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

“ That clause 92, as amended, stand part of the Bill.”

The motion was adopted.

Clause 92, as amended, was added to the Bill.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : Sir, before you go to clause 93, would you not like to take up clauses 1 to 9 and deal with the amendments left over ?

The Honourable Sir Nripendra Sircar : It was ordered by the Chair yesterday that, only after this Chapter has been finished, will the amendments to those clauses which were left over be taken up.

Mr. President (The Honourable Sir Abdur Rahim) It was the general agreement that we should finish this chapter and then go back to the clauses left over. The question is :

“ That clause 93 stand part of the Bill.”

Mr. T. Chapman-Mortimer : Sir, I beg to move :

“ That at the beginning of sub-clause (1) of clause 93 of the Bill, the words ‘ except as otherwise provided in this Act ’ be inserted.”

Sir, this is necessary in view of the fact that the punishment by fines differs in different sections of the Act. I would draw the attention of Honourable Members to the penal provisions, for example in clauses 94 and 95 and also in other clauses. Sir, I move.

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

“ That at the beginning of sub-clause (1) of clause 93 of the Bill, the words ‘ except as otherwise provided in this Act ’ be inserted.”

The Honourable Sir Nripendra Sircar : I accept the amendment.

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

“ That at the beginning of sub-clause (1) of clause 93 of the Bill, the words ‘ except as otherwise provided in this Act ’ be inserted.”

The motion was adopted.

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

“ That clause 93, as amended, stand part of the Bill.”

The motion was adopted.

Clause 93, as amended, was added to the Bill.

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

“ That clause 94 stand part of the Bill.”

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : Sir, I beg to move :

“ That to clause 94 of the Bill, the following proviso be added :

‘ Provided that nothing in this section shall apply to the business of reinsurance between the head office of an insurer in British India and the head office of an insurer not having an office in British India ’.”

Sir, it not infrequently happens that insurance companies find difficulty in placing reinsurance business with companies registered in British India. It is necessary, therefore, that the words of section 94 should not be held to include reinsurance business, because otherwise, the normal transaction of business would become impossible. It is with that idea of making clear that insurance business does not mean reinsurance business that I am seeking to add this proviso to clause 94. Sir, I move.

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

“ That to clause 94 of the Bill, the following proviso be added :

‘ Provided that nothing in this section shall apply to the business of reinsurance between the head office of an insurer in British India and the head office of an insurer not having an office in British India ’.”

Mr. S. C. Sen (Government of India : Nominated Official) : We accept the amendment.

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

“ That to clause 94 of the Bill, the following proviso be added :

‘ Provided that nothing in this section shall apply to the business of reinsurance between the head office of an insurer in British India and the head office of an insurer not having an office in British India ’.”

The motion was adopted.

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

“ That clause 94, as amended, stand part of the Bill.”

The motion was adopted.

Clause 94, as amended, was added to the Bill.

Clauses 95, 96 and 97 were added to the Bill.

Mr. S. C. Sen : Sir, I beg to move :

“ That after clause 97 of the Bill, the following new clause be inserted :

‘ 97A. Save and except where it is instituted by the Superintendent of Insurance, no proceedings under this Act against an insurer or any director, manager or other officer of an insurer shall be instituted by any person unless he has previous thereto obtained the sanction of the Advocate General of the province where the principal place of business of such insurer is situate to the institution of such proceedings ’.”

Sir, under the present Act we have given facilities for the institution of proceedings in many sections and in order to provide a safeguard that insurers are not needlessly harassed, we have provided this safeguard, viz., that the previous sanction of the Advocate General should be taken except in the case where the Superintendent of Insurance wants to institute proceedings. Sir, I move.

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

“ That after clause 97 of the Bill, the following new clause be inserted :

‘ 97A. Save and except where it is instituted by the Superintendent of Insurance, no proceedings under this Act against an insurer or any director, manager or other officer of an insurer shall be instituted by any person unless he has previous thereto obtained the sanction of the Advocate General of the province where the principal place of business of such insurer is situate to the institution of such proceedings ’.”

Mr. M. Ananthasayanam Ayyangar : Sir, under the section regarding prohibition of rebates, the person who receives as also the person who pays rebates are both liable to prosecution. The person who pays comes under this. Why not bring within it also the person who receives rebates ?

The Honourable Sir Nripendra Sircar : I have no objection. If my Honourable friend will suggest suitable words to be added, he can move it as an amendment.

Mr. M. Ananthasayanam Ayyangar : I will draft an amendment.

Mr. T. Chapman-Mortimer : Sir, while we are waiting for the Honourable Member to draft his amendment, I should like to draw attention to a point here which may give rise to obscurity in the case of non-Indian insurers. I suggest that in the amendment the words "in British India" should be inserted after the words "place of business", in order to clarify the position.

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

"That in the amendment (No. 41) moved by Mr. Sen (in supplementary list No. 1), in line 4, after the word 'insurer' the words 'or any person who is liable under section 36 (2)' be inserted."

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

"That in the amendment (No. 41) moved by Mr. Sen (in supplementary list No. 1), in line 4, after the word 'insurer' the words 'or any person who is liable under section 36 (2)' be inserted."

The motion was adopted.

Mr. T. Chapman-Mortimer : Sir, I beg to move :

"That in the proposed clause 97A, after the words 'principal place of business' the words 'in British India' be inserted."

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

"That in the proposed clause 97A, after the words 'principal place of business' the words 'in British India' be inserted."

The motion was adopted.

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

"That the proposed clause 97A, as amended, stand part of the Bill."

The motion was adopted.

New clause 97-A, as amended, was added to the Bill.

Clauses 98 and 99 were added to the Bill.

Mr. S. C. Sen : Sir, I beg to move :

"That after clause 99 of the Bill, the following new clause be inserted :

'99A. An appeal shall lie to the Court having jurisdiction from any of the Appeals. following orders, namely :

- (a) an order under section 3 refusing to register or cancelling the registration of an insurer ;
- (b) an order under section 4 directing the insurer to change his name ;
- (c) an order under section 37 cancelling the license issued to an agent ;
- (d) an order under section 65 refusing to register an amendment of rules ;
- (e) an order under section 77 directing an enquiry by an auditor or actuary ;
or
- (f) an order made in the course of the winding up or insolvency of an insurer or a provident society ."

This is a comprehensive clause for giving a right of appeal against the various important orders from which we consider that an appeal should lie. Sir, I move.

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

“ That after clause 99 of the Bill, the following new clause be inserted :

‘ 99A. An appeal shall lie to the Court having jurisdiction from any of the Appeals. following orders, namely :

- (a) an order under section 3 refusing to register or cancelling the registration of an insurer ;
- (b) an order under section 4 directing the insurer to change his name ;
- (c) an order under section 37 cancelling the license issued to an agent ;
- (d) an order under section 65 refusing to register an amendment of rules ;
- (e) an order under section 77 directing an enquiry by an auditor or actuary ; or
- (f) an order made in the course of the winding up or insolvency of an insurer or a provident society ’.”

Mr. Bhulabhai J. Desai : Sir, I merely wish to know whether this

1 P.M.

is an omission : in some place it should be provided that the Court having jurisdiction either under this section or the Act is the Court where the principal place of business of the insurer is situated in British India or words to that effect : because I do not recollect any provision where the Court having jurisdiction has been defined.

The Honourable Sir Nripendra Sircar : Will not that be guided by the Civil Procedure Code as to the principal place of business ?

Qazi Muhammad Ahmad Kazmi (Meerut Division : Non-Muhamadan Rural) : The defendant will be the Superintendent.

The Honourable Sir Nripendra Sircar : The Superintendent will not be the defendant.

Mr. Bhulabhai J. Desai : In cancellation : otherwise, I do not know who will be the defendant.

The Honourable Sir Nripendra Sircar : Is any special provision wanted ?

Mr. Bhulabhai J. Desai : I think so. With great respect, the point is this : unless this Act defines how the jurisdiction is to be determined, there is no other provision : I know there is a general provision in the Civil Procedure Code that all proceedings under any Act shall be governed by it. But I have found one or two decisions in which it is said that it does not refer to the jurisdiction section : it merely refers to proceedings. In every Act that I know of, wherever any penalty or procedure is provided, the provision has to be made what Court has jurisdiction in the matter.

Mr. S. C. Sen : May I suggest, Sir, that by way of explanation we shall add, that for the purposes of this section the Court, having jurisdiction under this section, shall be the Court at which the principal place of business of the insurer is situated.

Mr. K. Santhanam (Tanjore cum Trichinopoly : Non-Muhammadan Rural) : I have got another doubt which may also be cleared. All the orders, except the last, are orders of the Superintendent of Insurance : I do not know whether the last is the order of the liquidator or of the Court. It must be made clear.

The Honourable Sir Nripendra Sircar : This is an order of the liquidator.

Mr. K. Santhanam : It may be made clear.

The Honourable Sir Nripendra Sircar : No one else can make that order. If the Court makes an order, that is appealable without our help.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Sir, I am glad, that provision has been made for appeal against certain orders of the Superintendent of Insurance in certain cases. Will this order of the Court be deemed as a decree within the meaning of the Civil Procedure Code, so that there may be further appeal or revision in the High Court above ? Though it is characterised as decision in appeal, to all intents and purposes it is an order of the Court and if that order is treated as a decree within the meaning of the Civil Procedure Code, then there will be right of further appeal and revision. Supposing for example a case is taken in the District Court of Ganjam, where the place of business of the insurer is situated, after the Superintendent of Insurance has made an order : if the District Court passes an order, I want that that order should be appealable to the High Court, by way of second appeal or that there should be revision.

The Honourable Sir Nripendra Sircar : That is not our intention.

Pandit Lakshmi Kanta Maitra : Since you have gone so far to give a remedy to the aggrieved party you can go a step further, I hope ; and allow the aggrieved party to go to the High Court. I want a further concession in the interests of all concerned, it should be made a decree within the meaning of the Civil Procedure Code so that we may have more chances of remedy by second appeal and revision. I hope you will kindly consider this suggestion.

Mr. Suryya Kumar Som (Dacca Division : Non-Muhammadan Rural) : May I suggest that in clause (c) of the proposed amendment, the words ' or revising ' should be inserted after the word ' cancelling ' ?

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow further amendments.

Pandit Lakshmi Kanta Maitra : This is a very important clause, Sir, and it requires some reconsideration.

Mr. President (The Honourable Sir Abdur Rahim) : If the clause is so very important, it ought to have struck the Honourable Members earlier and they ought to have given notice of amendments.

Pandit Lakshmi Kanta Maitra : When you have allowed so many things to stand over, Sir, you can allow this as well. This is a very important matter and requires very careful consideration of all of us.

Mr. President (The Honourable Sir Abdur Rahim) : I cannot allow it to stand over.

The Honourable Sir Nripendra Sircar : Sir, I think it was pointed out by the Honourable the Leader of the Opposition that we ought to make it clear as to what "Court" means here; and I am moving with your permission—because it is not a controversial matter, we want only to make it clear—an explanation :

"That for the purposes of this section the Court having jurisdiction under this section will be the Court having jurisdiction in the place in British India at which the principal place of the insurer is situated."

Mr. Bhulabhai J. Desai : "For the purposes of this section" may be omitted : I think it is a repetition.

Mr. Abdul Qaiyum (North-West Frontier Province : General) : Sir, I wish to say a few words in connection with this amendment. My submission is this, according to this amendment we are providing for a right of appeal presumably to the principal Court of civil jurisdiction in the district in which the head office of the company is situate. Some of the matters which will form the subject matter of these appeals are very important matters, and there must be some provision for a further right of appeal from the order of that Court, as has been suggested by my Honourable friend, Pandit Lakshmi Kanta Maitra. It would be very unfair to leave the matter in the hands of the principal Court of civil jurisdiction. For instance, the refusal to register a company or cancelling the registration is a very important matter, and I urge that a further proviso be added whereby such orders of the original Court are treated as decrees with a right of appeal and revision to the High Court concerned.

Mr. F. E. James (Madras : European) : I support the suggestion just made by my friend opposite, and if it is not possible to prepare an amendment just at this moment, perhaps the Honourable the Law Member would give an assurance that he would consider the matter with a view to putting in suitable amendments in the other place.

The Honourable Sir Nripendra Sircar : No, no ; let us do it here. It does not require a long adjournment ; it is only eleven minutes past one now, and I shall be quite ready to come back at 1-15 with an amendment to the effect that any orders passed by the Court under this section will be deemed to have the effect of a decree under section 2 of the Civil Procedure Code, or an amendment on some other lines, the idea being that appeals may lie from the judgment of a District Court to a High Court. Possibly in the High Court it may mean a judgment in which case there will be an appeal but to make the point clear,—it requires only three minutes adjournment,—and if you are pleased to give a little time, I shall be able to come back with an amendment. This is a matter of great importance as to whether appeals should further be allowed or not.

Mr. President (The Honourable Sir Abdur Rahim) : I thought this matter was considered in the Select Committee.

Mr. Bhulabhai J. Desai : As regards the explanation, I suggest this—"for the purposes of this section the court having jurisdiction will be the court within whose local jurisdiction the principal place of business of the insurer is situate."

Mr. K. Santhanam : Sir, I want to move also that in the last clause after amendment No. 93 after the word.....

Mr. President (The Honourable Sir Abdur Rahim) : I cannot accept that now.

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

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

Mr. S. C. Sen : With reference to the two clauses which stood over before the midday adjournment, I have drafted the alterations, and may, I, Sir, read them out and then hand them over to you ?

“ That the proposed new section 99A be re-numbered as 99A (1).

That the following new sub-sections be added, viz. :

(2) The Court having jurisdiction for the purposes of sub-section (1) shall be the principal Court of Civil Jurisdiction within whose local limits the principal place of business of the insurer concerned is situate.

(3) An appeal shall lie from any order made under sub-section (1) to the authority authorised to hear appeals from the decisions of the Court making the same and the decision on such appeal shall be final.”

I have carried out the idea which was accepted on the floor of the House, namely, that there should be a right of further appeal in the nature of what we have in the Civil Procedure Code against a decision by a first court and that we should have some sort of a definition of the Court which is entitled to hear the appeal. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : I suppose Honourable Members are able to follow the new addition that is sought to be made to the amendment which was moved before the adjournment. The amendment will read like this. Amendment No. 893 will read :

“ That after clause 99 of the Bill, the following new clause be inserted :

“ 99A. (1) An appeal shall lie to the Court having jurisdiction from any of the following orders, namely :

(a) an order under section 3 refusing to register or cancelling the registration of an insurer ;

(b) an order under section 4 directing the insurer to change his name ;

(c) an order under section 37 cancelling the license issued to an agent ;

(d) an order under section 65 refusing to register an amendment of rules ;

(e) an order under section 77 directing an enquiry by an auditor or actuary ; or

(f) an order made in the course of the winding up or insolvency of an insurer or a provident society.

(2) The Court having jurisdiction for the purposes of sub-section (1) shall be the principal Court of Civil Jurisdiction within whose local limits the principal place of business of the insurer concerned is situate.

(3) An appeal shall lie from any order made under sub-section (1) to the authority authorised to hear appeals from the decisions of the Court making the same and the decision on such appeal shall be final.”

The alteration suggested is a definition of the Court which shall have jurisdiction,—I suppose, original jurisdiction ?

Mr. S. C. Sen : Yes.

Mr. President (The Honourable Sir Abdur Rahim) : Then, an appeal is provided.

Mr. S. C. Sen : Yes.

Mr. President (The Honourable Sir Abdur Rahim) : That is all right. That is the amendment now before the House.

Pandit Lakshmi Kanta Maitra : This amendment, as it is now moved, will meet the requirements of the situation.

Other Honourable Members : Yes.

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

“ That after clause 99 of the Bill, the following new clause be inserted :

‘ 99A. (1) An appeal shall lie to the Court having jurisdiction from any of the following orders, namely :

- (a) an order under section 3 refusing to register or cancelling the registration of an insurer ;
- (b) an order under section 4 directing the insurer to change his name ;
- (c) an order under section 37 cancelling the license issued to an agent ;
- (d) an order under section 65 refusing to register an amendment of rules ;
- (e) an order under section 77 directing an enquiry by an auditor or actuary ;
or
- (f) an order made in the course of the winding up or insolvency of an insurer or a provident society.

(2) The Court having jurisdiction for the purposes of sub-section (1) shall be the principal Court of Civil Jurisdiction within whose local limits the principal place of business of the insurer concerned is situate.

(3) An appeal shall lie from any order made under sub-section (1) to the authority authorised to hear appeals from the decisions of the Court making the same and the decision on such appeal shall be final ’.”

The motion was adopted.

Mr. S. C. Sen : As these amendments regarding clauses 86, 88 and 89 have been circulated, may I have your leave to move them ?

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

Mr. S. C. Sen : I move :

“ That in sub-clause (b) of clause 86 of the Bill, after the word ‘ co-operative ’ occurring in the first line the word ‘ Life ’ be inserted.”

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

“ That in sub-clause (b) of clause 86 of the Bill, after the word ‘ co-operative ’ occurring in the first line the word ‘ Life ’ be inserted.”

The motion was adopted.

Mr. S. C. Sen : I move :

“ That in sub-clause (b) of clause 86 of the Bill, as amended, after the words ‘ Co-operative Societies ’ where they occur for the second time, the words ‘ which carry on business in life insurance and ’ be inserted.”

This is consequential to the first one which has just been passed.

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

“ That in sub-clause (b) of clause 86 of the Bill, as amended, after the words ‘ Co-operative Societies ’ where they occur for the second time, the words ‘ which carry on business in life insurance and ’ be inserted.”

Dr. P. N. Banerjea : There must be some misprint somewhere. ‘ Co-operative Insurance Society ’ means an insurer being a society registered under the Co-operative Societies Act.....

Mr. S. C. Sen : May I explain ? Yesterday we have carried an amendment as a result of which after “ 1912 ” the provision for Acts passed by Provincial Legislatures have been introduced.

Dr. P. N. Banerjea : That is all right.

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

“ That in sub-clause (b) of clause 86 of the Bill, as amended, after the words ‘ Co-operative Societies ’ where they occur for the second time, the words ‘ which carry on business in life insurance and ’ be inserted.”

The motion was adopted.

Mr. S. C. Sen : I move :

“ That in sub-clause (b) of clause 86 of the Bill, after the words ‘ share capital ’ the words ‘ on which dividend or bonus is payable ’ be inserted.”

This is to meet the point which was raised under the Co-operative Societies Act, namely, that they may have share capital but no bonus or dividend is payable in respect thereof. Sir, I move.

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

“ That in sub-clause (b) of clause 86 of the Bill, after the words ‘ share capital ’ the words ‘ on which dividend or bonus is payable ’ be inserted.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : I move :

“ That in clause 86 (b) of the Bill, after the word ‘ only ’ the words ‘ and all ’ be inserted.”

Mr. S. C. Sen : We accept this amendment.

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

“ That in clause 86 (b) of the Bill, after the word ‘ only ’ the words ‘ and all ’ be inserted.”

The motion was adopted.

Mr. Thirumala Rao : I beg to move :

“ That to clause 86 (b) of the Bill, the following proviso be added :

‘ Provided that any co-operative life insurance society in existence at the commencement of this Act shall be allowed a period of one year to re-organise itself in accordance with the provisions of this Act ’.”

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

“ That to clause 86 (b) of the Bill, the following proviso be added :

‘ Provided that any co-operative life insurance society in existence at the commencement of this Act shall be allowed a period of one year to re-organise itself in accordance with the provisions of this Act ’.”

The Honourable Sir Nripendra Sircar : What is the reorganisation ?

Mr. Thirumala Rao : There is some share capital in the present societies. For instance, in Madras, there is a Madras Provincial Bank which has thousands of rupees towards share capital in the co-operative insurance society. Some time must be given for these societies to refund the share capital if it is a large amount. In order to help these societies to come into line with the present Act, some time must be given to them to make the necessary adjustments.

Dr. P. N. Banerjee : I support this amendment. The co-operative societies have borrowed moneys by issuing debentures which under the present Bill will have to be paid back to the debenture-holders. That will take some time. This means re-organisation. I hope the Government will accept this amendment. Otherwise the co-operative societies will be put to very great difficulties.

The Honourable Sir Nripendra Sircar : Does this amendment mean that they shall be allowed one year for complying with the provisions of this Act.

Mr. Thirumala Rao : That is the idea.

The Honourable Sir Nripendra Sircar : Then I suggest that the words ‘ for complying ’ be substituted for ‘ to re-organize itself in accordance ’.

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

“ That to clause 86 (b) of the Bill, the following proviso be added :

‘ Provided that any co-operative life insurance society in existence at the commencement of this Act shall be allowed a period of one year for complying with the provisions of this Act ’.”

The motion was adopted.

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

“ That clause 86, as amended, stand part of the Bill ”

The motion was adopted.

Clause 86, as amended, was added to the Bill.

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

“ That clause 88, as amended, stand part of the Bill.”

Mr. S. C. Sen (Government of India : Nominated Official) : Sir, I move :

“ That in clause 88 of the Bill, for the word ‘ twenty-five ’, occurring in the sixth line, the word ‘ fifteen ’ be substituted.”

[Mr. S. C. Sen.]

The result of this amendment is that the provision for working capital in the case of mutual and co-operative societies is reduced from twenty-five thousand to fifteen thousand. Sir, I move.

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

“ That in clause 88 of the Bill, for the word ‘ twenty-five ’, occurring in the sixth line, the word ‘ fifteen ’ be substituted.”

Mr. M. S. Aney (Berar : Non-Muhammadan) : There is already a motion to this effect moved by Dr. Banerjea.

The Honourable Sir Nripendra Sircar : Dr. Banerjea can withdraw his motion.

Dr. P. N. Banerjea : Why should I withdraw, unless the Government want it to go on record that this is a Government amendment ? I have moved and made a speech.

The Honourable Sir Nripendra Sircar : That was not intended.

Mr. President (The Honourable Sir Abdur Rahim) : Then, Mr. Sen's amendment is barred. I shall put Dr. Banerjea's amendment No. 852. The question is :

“ That in clause 88 of the Bill, for the words ‘ twenty-five thousand rupees ’ the words ‘ fifteen thousand rupees ’ be substituted.”

The motion was adopted.

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

“ That in clause 88 of the Bill, for the words ‘ deposits to be made under ’ the words ‘ deposit to be made before or at the time of application for registration in accordance with sub-section (2) of section 89 of ’ be substituted.”

This only makes the matter clear. This refers to the initial deposit to be made at the time of registration. Similar words were amended in a similar manner in section 5 of the Bill when we were referring to insurers in general. This is only a formal sort of amendment to make the meaning clear. I hope the House will accept it.

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

“ That in clause 88 of the Bill, for the words ‘ deposits to be made under ’ the words ‘ deposit to be made before or at the time of application for registration in accordance with sub-section (2) of section 89 of ’ be substituted.”

Mr. S. C. Sen : We accept it.

Mr. Bhulabhai J. Desai : I should like to draw your attention to the fact that in clauses 87 and 88, wherever the words “ Co-operative Insurance Society ” occur, the word “ life ” has to be added after the word “ co-operative ”.

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

“ That in clause 88 of the Bill, for the words ‘ deposits to be made under ’ the words ‘ deposit to be made before or at the time of application for registration in accordance with sub-section (2) of section 89 of ’ be substituted.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, I move, as a consequential amendment :

“ That in clause 88, in line three, after the word ‘ co-operative ’ add the word ‘ life ’.”

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

“ That in clause 88, in line three, after the word ‘ co-operative ’ add the word ‘ life ’.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, I move as a consequential amendment :

“ That in clause 88, after the words ‘ Co-operative Societies Act, 1912 ’, the following words be added :

‘ Or under an Act of a provincial legislature governing the registration of co-operative societies ’.”

This was added by an amendment yesterday, and this has to be carried out as a consequential amendment in this clause 88. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim) : The word “ co-operative ” occurs only once ?

Mr. M. Ananthasayanam Ayyangar : Yes.

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

“ That in clause 88, after the words ‘ Co-operative Societies Act, 1912 ’, the following words be added :

‘ Or under an Act of a provincial legislature governing the registration of co-operative societies ’.”

The motion was adopted.

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

“ That clause 88, as amended, stand part of the Bill.”

The motion was adopted.

Clause 88, as amended, was added to the Bill.

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

“ That clause 89 stand part of the Bill.”

Mr. S. C. Sen : Sir, I move :

“ That in sub-clause (2) of clause 89 of the Bill, for the word ‘ fifty-thousand ’ occurring in the fourth and eighth lines the word ‘ twenty-five thousand ’ be substituted.”

Sir, the net result of this amendment is that the initial deposit in the case of Co-operative Societies and Mutual Insurance Companies is reduced from Rs. 50,000 to Rs. 25,000. I move.

Mr. President (The Honourable Sir Abdur Rahim) : Is that a consequential amendment ?

Mr. S. C. Sen : It is a substantive amendment, Sir. It is in the List which, according to your directions, has been circulated.

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

“ That in sub-clause (2) of clause 89 of the Bill, for the word ‘ fifty-thousand ’ occurring in the fourth and eighth lines the word ‘ twenty-five thousand ’ be substituted.”

The motion was adopted.

Mr. M. Ananthasayanam Ayyangar : Sir, I move as a consequential amendment :

“ That in clause 89, in the second line, after the word ‘ co-operative ’, the word ‘ life ’ be inserted.”

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

“ That in clause 89, in the second line, after the word ‘ co-operative ’, the word ‘ life ’ be inserted.”

The motion was adopted.

Mr. Sri Prakasa : Sir, I move :

“ That in sub-clause (1) of clause 89 of the Bill, for the word ‘ officers ’, occurring in the fourth line, the word ‘ offices ’ be substituted.”

Sir, either it is a printer's mistake or the officers are to be trusted too much. I am not willing to trust the officers, Sir ; it is just as well that the money should be handed over to the offices. (Laughter.) I move.

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

“ That in sub-clause (1) of clause 89 of the Bill, for the word ‘ officers ’, occurring in the fourth line, the word ‘ offices ’ be substituted.”

Mr. S. C. Sen : Sir, it is the printer's mistake and we accept it.

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

“ That in sub-clause (1) of clause 89 of the Bill, for the word ‘ officers ’, occurring in the fourth line, the word ‘ offices ’ be substituted.”

The motion was adopted.

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

“ That clause 89, as amended, stand part of the Bill.”

The motion was adopted.

Clause 89, as amended, was added to the Bill.

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

“ That clause 100 stand part of the Bill.”

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

“ That in line six of sub-clause (1) of clause 100 of the Bill, the word ‘ registered ’ be omitted.”

I only want to make the reference complete. This word 'registered' was not in the Bill as it was originally intended; it was put in later on. I merely want the insurer and the insured to be put on the same footing. I do not want that there should be greater obligation on the insured, than there is on the insurer. It is a very simple and business like amendment and I trust the Government and the House will accept it.

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

"That in line six of sub-clause (1) of clause 100 of the Bill, the word 'registered' be omitted."

Mr. S. C. Sen : Sir, we accept this amendment.

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

"That in line six of sub-clause (1) of clause 100 of the Bill, the word 'registered' be omitted."

The motion was adopted.

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

"That clause 100, as amended, stand part of the Bill."

The motion was adopted.

Clause 100, as amended, was added to the Bill.

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

"That after clause 100 of the Bill, the following be inserted :

"100A. Notwithstanding anything to the contrary contained in this Act an insurer carrying on the business of life insurance shall be at liberty to declare an *interim* bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the inter-valuation period on the recommendation of the investigating actuary made at the last preceding valuation."

This new clause is necessitated by the fact that we have passed an earlier clause making it unlawful to give *interim* bonuses, that is, making it lawful to pay bonuses only after an actuarial valuation which is to take place once in five years or as often as the insurer may think fit. That does not contemplate the payment of *interim* bonuses. If during those five years anybody's claim matures, he is not to wait for five years and has to be paid immediately or the amount has to be deposited in a Court. That provision we have already made and it will be obligatory upon the insurer to make that payment, otherwise he will come under one or the other of the penal provisions. By this clause we are providing that notwithstanding the previous clause, an *interim* bonus may be declared either on the death of the individual or in other contingency by which the policy matures. Sir, I move.

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

“ That after clause 100 of the Bill, the following be inserted :

‘ 100A. Notwithstanding anything to the contrary contained in this Act an insurer carrying on the business of life insurance shall be at liberty to declare an *interim* bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the interval-valuation period on the recommendation of the investigating actuary made at the last preceding valuation ’.”

Mr. F. E. James : May I ask a question from the Honourable Member ? What relation does his amendment bear to section 100 ? His amendment ought to have come under section 43.

Mr. M. Ananthasayanam Ayyangar : My amendment has an intrinsic connection with the whole of the insurance law.

Mr. S. C. Sen : Sir, we accept the amendment, although it appears to be in a wrong place.

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

“ That after clause 100 of the Bill, the following be inserted :

‘ 100A. Notwithstanding anything to the contrary contained in this Act an insurer carrying on the business of life insurance shall be at liberty to declare an *interim* bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the interval-valuation period on the recommendation of the investigating actuary made at the last preceding valuation ’.”

The motion was adopted.

Dr. G. V. Deshmukh (Bombay City : Non-Muhammadan Urban) : Sir, I beg to move my amendment with a little verbal alteration which has been agreed to by the Leaders of the different Parties. I move :

“ That after clause 100A of the Bill, the following new clause be added :

‘ 100B. In cases where a definite number of premiums is payable, a policy on which all premiums have been paid for three consecutive years shall acquire a guaranteed surrender value and notwithstanding any contract to the contrary shall not lapse by reason of non-payment of further premium but shall notwithstanding such non-payment be kept alive to the extent of its paid up value.

Explanation.—(1) The paid up value above-mentioned will be such a proportionate part of the sum assured as the number of full premiums paid bears to the total number of premiums payable under the policy.

(2) A policy paid up as above will not participate in the profits of the insurer earned after such non-payment.

(3) This section will not apply where the paid up value will be less than rupees one hundred or where the parties after the default has occurred in the payment of premium agree in writing to some other arrangement ’.”

Sir, I do not want to take up the time of the House. I have consulted the leaders of the different Parties and they are agreeable to this amendment. Therefore, I move it for the acceptance of the House.

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

That after clause 100A of the Bill, the following new clause be added :

100B. In cases where a definite number of premiums is payable, a policy on which all premiums have been paid for three consecutive years shall acquire a guaranteed surrender value and notwithstanding any contract to the contrary shall not lapse by reason of non-payment of further premium but shall notwithstanding such non-payment be kept alive to the extent of its paid up value.

Explanation.—(1) The paid up value above-mentioned will be such a proportionate part of the sum assured as the number of full premiums paid bears to the total number of premiums payable under the policy.

(2) A policy paid up as above will not participate in the profits of the insurer earned after such non-payment.

(3) This section will not apply where the paid up value will be less than rupees one hundred or where the parties after the default has occurred in the payment of premium agree in writing to some other arrangement."

Mr. T. Chapman-Mortimer : Sir, I regret to have to oppose this amendment even with the words inserted in the beginning, namely, "in case where a definite number of premiums is payable". Even then I submit,—and I hope the House will believe me when I say it—that it is unworkable in practice because there are types of policies where in fact you have no surrender value and cannot have a surrender value. I myself happen to have a policy wherein, before the end of ten years, I have to exercise certain options on that policy. But then if it lapses I lose actually everything. That is the condition under which you take that type of policy and such a type of policy would be ruled out by this amendment. It is a life policy on which I have certain options up to a certain limited period. That type of policy is this. Say it is a ten-year policy. At the end of five years, you have got a chance of exercising your option. If you exercise that option, then you have to increase the amount of premium that you pay and you continue to pay the rate of premium that would be payable in any case, on an ordinary endowment policy taken out with that same company at the same age as when you convert it. If, on the other hand, you do not exercise the option and you do not die within ten years, then at the end of the time, the policy is finished. You have got no rights whatsoever. Why should you have any rights at all? You paid very much lower premium for the benefit of having your life covered during those ten years. Now, Sir, such a policy would be ruled out straightway by this amendment. Then again, what do we find in the explanation? It says, 'a policy paid up as above will not participate in the profits of the insurer earned after such non-payment'. Supposing you had an endowment policy and as is very general with good companies, they have a provision that if an assured fails to pay either by arrangement or because he could no longer pay, he then receives up a paid up policy of a certain value. It still remains an endowment policy possibly with a share in the profits. Are you going to deny that assured the right of sharing in the profits?

The Honourable Sir Nripendra Sircar : That is saved by the last paragraph.

Mr. T. Chapman-Mortimer : Only partially. The last para. says :

“ This section will not apply where the paid up value will be less than Rs. 100 or where the parties after the default has occurred in the payment of the premium agree in writing to some other arrangement.”

Dr. G. V. Deshmukh : Will my Honourable friend withdraw his opposition now ?

Mr. T. Chapman-Mortimer : I will withdraw it only to that extent. From the other points of view, the amendment is just as objectionable as I pointed out before. As I was trying to explain there are types of policies in which you have no rights at all. It is not reasonable that you should expect any rights having paid very much lower premiums. If you do not die the reason why you took out the policy goes. I really think this amendment is unworkable and impracticable amendment. I would, therefore, ask my Honourable friend to withdraw his amendment.

Sir Cowasji Jehangir : Sir, I saw this amendment on the agenda paper and so I was able to give it a little thought and consideration. I do not think my Honourable friend, Mr. Chapman-Mortimer, had sufficient time to study this amendment. It really does not apply to any of the policies which he has in mind. This is an amendment which ensures that a policy holder who has paid three premiums shall not be deprived of all his rights and privileges by the insurer. It does not go any further than that. Suppose an insurer receives three premiums and then the insured fails to pay any further premium, it is only then that this clause comes into operation. In no other case does this clause come into the picture. If he fails to pay the fourth or the fifth premium, then I understand that some insurers deprive him of all his privileges and rights. It is, therefore, necessary to safeguard the interests of the insured, who has paid three premiums and then cannot afford to pay anything more. This amendment provides that such a person shall acquire a guaranteed surrender value. That is the first thing that that man acquires who fails to pay further premiums. He acquires a guaranteed surrender value, and, notwithstanding any contract to the contrary such value shall not lapse, such guaranteed value shall not lapse by reason of non-payment of further premium. This only applies to cases where there is non-payment of premium. My Honourable friend surely will not come into the category of a person who has not paid his premium. If my Honourable friend will carefully look at this amendment he will find that he is labouring under a misunderstanding. My experience tells me that all respectable companies have this rule, and no responsible and respectable company will deprive the insured who has given three premiums of his surrender value.

Mr. J. C. Lang (Bengal : European) : For policies of short period there is no surrender value. Supposing you take a five-year policy under which the contract is that if you die within five years, the sum assured is payable. That kind of policy is a very cheap policy. There is no surrender value to it, nor any paid up value. If you paid premiums for three years, and then ceased, are you to get three-fifths of that policy as paid up ? This is what might be understood from the amendment. No company will give that for a short period, five-year policy.

Sir Cowasji Jehangir : Sir, I am not as great an authority on insurance as my Honourable friend is, but, so far as I know, in the

case of a limited policy for 20 years or ten years, the Oriental will, if three premiums have been paid, pay a guaranteed surrender value. All respectable companies do it. That is how I understand the position. I understand that some companies do not pay a guaranteed surrender value. There is no such thing mentioned as a guaranteed surrender value in their policy, and in those cases, unless it is brought to their attention, they simply refuse to pay. But that is a hardship and a hardship that may be remedied on this present occasion. Under the circumstances, so far as I can see, there is no objection to this amendment.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions : Muhammadan Rural) : Sir, Dr. Desmukh has been pressing for the last fortnight that the policies should have some surrender value and this surrender value should be known to the policy-holders ; it may be either in the English language or in the language of the insurer or the insured. He has been pressing this point both inside the House and outside, at dinner table and at tea table, and I can assure him that he has got considerable support in this House in this idea that the surrender value ought to be fixed and the policy-holder should know what that value is. He brought this motion sometime ago but the lawyers said that that was not properly worded, and this time he has taken very great care and he has bracketed the name of one of the best lawyers in this House in proposing this amendment, so that there can be no doubt that from the legal point of view it cannot be ruled out of order. He has been pressing this for a considerable time in the interest of the life policy-holders who, very often, are ignorant men, and they should certainly know definitely what the surrender value of their policy would be at the end of successive years. That has been brought forward in different ways but, unfortunately, it never received the assent of this House ; but, in this modified and mild form, I hope it will be supported by the House.

Mr. M. S. Aney : Sir, I have tried to understand what my Honourable friend, Mr. Chapman-Mortimer, had to say. He is generally very lucid and there is usually no serious difficulty felt by us in understanding him. But on this occasion, with my best desire to understand him and with the best effort he has made to make himself intelligible to us, I have not been able to understand the real point of the objection raised by him. I think he himself has misunderstood the scope of the amendment before the House or he is labouring under a misconception. The point is very clear, that is, whether this House is going to make a provision for guaranteeing a surrender value in the case of those who have paid three premiums and this surrender value that is guaranteed should not lapse on non-payment of further premia. That is a perfectly equitable principle. I am told and I believe those who are conversant with insurance business know that this is the invariable practice observed by all the respectable companies today ; it is not an innovation. It is only certain companies which are taking advantage of the absence of a provision like this and denying the privilege to which the policy-holder is entitled. In order to prevent the recurrence of this inequitable conduct on the part of insurance companies, it is necessary for us to introduce a provision of this nature. I believe this House will, in equity, endorse the view contained in this amendment and give its solid support to it. Sir, I support the amendment.

The Honourable Sir Nripendra Sircar : Sir, I have been trying to understand the difficulty and I believe I have understood the difficulty, although that can apply to very few cases. I was rather sorry to hear from Mr. Chapman-Mortimer the announcement that his policy had nothing to do with his marriage. (Laughter.) As I understand it, the difficulty is this. I believe some policies are issued, under which risk for a short-time is taken ; that is to say, it is a five years' policy. If the man lives for five years, at the end of that period he gets nothing, but if he dies within the five years, he gets the amount insured.

Mr. Sri Prakasa : Not he but his survivors. (Laughter.)

The Honourable Sir Nripendra Sircar : Yes, his survivors. Now, Sir, the point seems to be this that it will be unfair to the insurer in this special class of cases, which must be very few, that when he is bargaining that he will pay nothing in certain conditions, i.e., the man living for five years, that the other man having taken out a policy on these favourable terms should, after three years, refuse payment or is unable to make payments and should in fact get a paid-up policy that he has not bargained for. I, personally, am not acquainted with these policies but I am told by Mr. Lang and Mr. Chapman-Mortimer that there are such policies. It is only in that class of policies that there may be any difficulty. In all other cases I do not see any difficulty of any kind whatsoever, and the question is, whether for this rare class of policies a principle which is acceptable to the House and which seems consonant with reason should be altogether rejected.....

Mr. F. E. James : They are not rare.

The Honourable Sir Nripendra Sircar : But cannot anything be suggested to keep only that class of cases out ? If we are given this alternative, that is to say, some injustice to this class of cases or giving up this idea altogether it will be difficult. I ask Mr. Chapman-Mortimer, is there no *via media* ?

Mr. Bhulabhai J. Desai : Is there any technical name for this class of policies ? Then we can accept it.

Mr. F. E. James : I believe " short-term " is the expression.

Mr. Bhulabhai J. Desai : That does not express it at all.

The Honourable Sir Nripendra Sircar : I believe the idea is a short term policy under which nothing is payable if the man survives after a short period.

Mr. Bhulabhai J. Desai : Then what we can do is to use the expression " short term " in the body of the section and add an Explanation to the effect that short term policy means a policy under which if the man survives at the end of a certain period of time he gets nothing.

Mr. F. E. James : Would the Law Member be prepared to keep this over just for a little time while we devise an amendment along the lines suggested by the Leader of the Opposition ?

The Honourable Sir Nripendra Sircar : If the Chair will so permit, I think it may be taken up after one or two other clauses are done. We may get a little time to think of it.

Mr. President (The Honourable Sir Abdur Rahim) : Very well.

The question is :

“ That clause 101 stand part of the Bill.”

Mr. T. Chapman-Mortimer : Sir, I move :

“ That part (e) of sub-clause (2) of clause 101 of the Bill be omitted.”

This was a sub-clause inserted by the Select Committee at an earlier stage : I think it was done without having due regard to the difficulties of laying down rules prescribing the manner in which prospectuses and tables referred to in section 36 (1) shall be published. It is inevitable that prospectuses of companies may vary : in fact they will vary, and it is equally inevitable that the tables will vary. But here it is prescribed that under rule the Central Government will lay down the manner in which these prospectuses will be published and the form in which they should be drawn up : that is to say, that the Central Government is going to take upon itself an enormous amount of actuarial work, which seems to me to be out of all proportion to the value which might accrue from any such provision. In addition to that, they will be taking a responsibility which, I suggest, is a responsibility not for the Central Government but for the insurer. Sir, I move.

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

“ That part (e) of sub-clause (2) of clause 101 of the Bill be omitted.”

Mr. Bhulabhai J. Desai : Sir, I oppose this amendment. My Honourable friend, Mr. Chapman-Mortimer, I am sure, is aware of almost every Act, passed by the Legislature, here as well as in England, where without prejudice to the general power—in fact he gains nothing, because, notwithstanding the deletion, the power under 101 will remain : and the specification is generally with the object that unless it becomes necessary, those particulars, the subject matter of the items, should be borne in mind : he has not pointed out any item in these items enumerated there which goes beyond that. Therefore, if it does not go beyond that, I do not know what he gets by it, whereas it is always convenient—even in companies' articles my friend knows that very well—that when the general power of management is given without prejudice to the generality of power, the managing agent can do the following—that is a form of drafting which is well known and there is no reason to depart from it.

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

“ That part (e) of sub-clause (2) of clause 101 of the Bill be omitted.”

The motion was negatived.

Mr. T. Chapman-Mortimer : Sir, I move :

“ That part (g) of sub-clause (2) of clause 101 of the Bill be omitted.”

As the House is aware, we laid down certain disqualifications : otherwise according to what My Honourable friend, the Law Member, said—or from what I understood him to say—any person not so disqualified would be qualified to act as an agent : here it is proposed that certain qualifications should be laid down by the Central Government.

[Mr. T. Chapman-Mortimer.]

I suggest that in view of the changes made in clause 37 by the amendment of my Honourable friend, Mr. Chunder, this part (g) is now redundant. Sir, I move.

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

“ That part (g) of sub-clause (2) of clause 101 of the Bill be omitted.”

The Honourable Sir Nripendra Sircar : Sir, I agree that the last portion about qualifications should go out, but the other portion should remain. It really means the procedure as to how an application has got to be made and so on. But I agree that the last words should go out. Amendment No. 899 is quite acceptable. If Mr. Chapman-Mortimer withdraws this one, we can accept No. 899 and that will gain the object which Mr. Chapman-Mortimer has in mind.

Mr. T. Chapman-Mortimer : Sir, in the circumstances, I ask for leave to withdraw my amendment.

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

Mr. Sri Prakasa : Sir, I move :

“ That in part (g) of sub-clause (2) of clause 101 of the Bill, the words ‘ and the qualifications to be possessed by such agents ’ be omitted.”

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

“ That in part (g) of sub-clause (2) of clause 101 of the Bill, the words ‘ and the qualifications to be possessed by such agents ’ be omitted.”

The motion was adopted.

Mr. T. Chapman-Mortimer : Sir, I move :

“ That part (m) of sub-clause (2) of clause 101 of the Bill be omitted.”

In view of the amendment passed today, inserting new clause 97—the amendment of my friend, Mr. Sen, providing that any proceedings should only be taken with the approval of the Advocates General of the provinces—I suggest that this sub-clause (2) (m) is redundant and should be omitted. Sir, I move.

(Mr. Abdul Qaiyum rose to object.)

The Honourable Sir Nripendra Sircar : I do not see any necessity for keeping it now, and I would like to know why there is any objection.

Mr. Abdul Qaiyum : Still there is one thing : how is the Superintendent to be moved and how is he to take action ? Before a complaint is actually filed, some sort of rules of procedure will be necessary.

The Honourable Sir Nripendra Sircar : I do not think any rules will be necessary. A man can move the Superintendent. For instance, under the present law in the Civil Procedure Code, the Advocate General has got to give his sanction in certain matters : no rules are laid down : a man writes a letter or puts in a petition. I do not think it is necessary and I would agree to accept the amendment.

Mr. Bhulabhai J. Desai : And besides it is very narrow : it may be confined to rebates : there may be many other complaints.

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

“ That part (m) of sub-clause (2) of clause 101 of the Bill be omitted.”

The motion was adopted.

Sardar Mangal Singh (East Punjab : Sikh) : Sir, I move :

“ That after part (l) of sub-clause (2) of clause 101 of the Bill, the following be inserted :

‘ (m) the conditions under which the securities held by an insurer may be valued on a basis other than their market value prevailing on the date of closing of his accounts ’.”

The Honourable Sir Nripendra Sircar : May I point out to my Honourable friend that in the body of the Act we have given no such power, and, therefore, why should rules be framed ?

Sardar Mangal Singh : We have given wide powers to the Superintendent of Insurance.

The Honourable Sir Nripendra Sircar : But he has no power to do this. I would beg of my friend to consider that this is really *ultra vires* of the section.

Mr. Bhulabhai J. Dessai : May I point out this ; it is not intended for the Superintendent. It is within the Act. There have been to our knowledge during the last 15 years three times when such violent fluctuations in Government securities have taken place, and, if at that time, the quinquennial or triennial valuation happens to take place, what will be the position ? The only object of this motion is to say that in such a case the average of the previous three years may be considered.

The Honourable Sir Nripendra Sircar : It may not be the Superintendent. Under what section ?

Mr. M. Ananthasayanam Ayyangar : Sir, section 12 refers to actuarial valuation. We have put off the consideration of that section, but the point is on what day the securities have to be valued. It might be on that day the market has declined and the actual securities cannot have the actual market value on that particular day. Therefore, power has to be given under this clause to somebody. The necessary modifications will be made in section 12, otherwise some of the companies quite unfortunately might appear to be losing if we take only the value of the securities on which the actuarial value is taken into account. Perhaps both the day before or the day after the prices may go up or down, but on the actual day on which the valuation is taken, the assets would appear to have depreciated. To avoid this contingency it is suggested that rules have to be made under this section. This has been copied from the English and other Acts.

The Honourable Sir Nripendra Sircar : May I draw my friend's attention to section 21 where it is said—“ If it appears to the Superintendent of Insurance that an investigation or valuation to which section 12 refers does not properly indicate the condition of the affairs of an insurer by reason of the faulty basis adopted in the valuation, he may, after giving notice to the insurer and giving him an opportunity to be

[Sir Nripendra Sircar.]

heard, cause an investigation and valuation to be made at the expense of the insurer by an actuary appointed by himself." He has got that power.

Mr. Bhulabhai J. Desai : Section 21 cannot come in. I don't want to press it for the moment, but it is a point urged upon us by every Insurance Company, large and small, because they don't want to be caught at a time when the securities have actually depreciated in value. If the Honourable the Leader of the House will read this section he will agree with what I say. I don't want to press it.

Sardar Mangal Singh : Sir, the object of this amendment is to give some relief to those companies which close their accounts at a time when there is a temporary fall in the price of the securities. The House has already passed that 55 per cent. of the assets should be invested in securities. This provision is all the more necessary now than it was before. I know of several cases in which the companies suffered great difficulty on this account, and when they approached the Government Actuary, the Government Actuary was helpless in the matter as there was no provision in the law. Sir, in 1930, the value of the securities considerably fell down, and I know of two or three companies which held their valuation then. They had to spend Rs. 3,000 or Rs. 4,000 to get over the difficulty as they had to hold their valuations again. I want that another part should be added to this Bill to empower Government to make rules so as to enable the Superintendent to help those companies who hold their valuation at a time when the values of the securities are at a low ebb. Sir, I move.

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

"That after part (1) of sub-clause (2) of clause 101 of the Bill, the following be inserted :

'(m) the conditions under which the securities held by an insurer may be valued on a basis other than their market value prevailing on the date of closing of his accounts'."

The Honourable Sir Nripendra Sircar : Sir, I oppose this amendment. I have understood every word of what has fallen from Sardar Mangal Singh and the Honourable the Leader of the Opposition. Supposing this is passed, what kind of rules am I to frame? This is supposed to be very important because sometimes, quite unexpectedly, situations may arise resulting in slumps and so on. But what kind of stereotyped rules can we frame to meet such situations which may vary from time to time and most of which are unexpected? I submit, Sir, that no really useful rules can be framed, and on that ground I oppose the amendment, and also as it will be misleading.

Mr. Bhulabhai J. Desai : It can be easily provided in the rules that if the fluctuation is beyond ten per cent., the average price of the previous three years may be taken. It is possible to frame such rules.

Sir Cowasji Jehangir : Sir, the long and short of this amendment is this. It is desired that certain methods should be invented whereby a fictitious value should be arrived at for the assets of a company. That is exactly what it will come to. Take an example; an insurance

company has got Government Paper bought at Rs. 90 ; which has fallen to Rs. 50. What my friend wants is that certain rules should be framed whereby it shall not be shown that the Government Paper is of the value of Rs. 50 on a certain date, but something more than Rs. 50, or some average above Rs. 50. Is that fair ? Such misfortunes happen to anybody, including companies. At the time of the valuation of the company's assets, its assets may be reduced in value, certainly not by any action of their own. How can you put a fictitious value on those assets on a particular date for any purpose ? Why should you do that ? Why should you encourage a company to put up fictitious values on its assets in order to show to the public that its assets have not depreciated ? I cannot understand the logic of it. It is quite a common thing in business of all kinds, and of insurance companies in particular, that their assets fall or rise in value according to market fluctuations. Why does not my friend suggest at the same time that if the assets of a company have appreciated, the appreciated value should not be shown but some average between say Rs. 50 and Rs. 90. Will that be fair ? My friend does not want to show the fall in securities from Rs. 90 but to take advantage of the appreciation if any. That is certainly not fair ; it is merely hoodwinking the public.....

Sardar Mangal Singh : The amendment does not say that.

Sir Cowasji Jehangir : I don't say that the amendment was to hoodwink.....

Sardar Mangal Singh : The amendment does not say that this should only apply when the securities have depreciated. It can apply to securities when they have appreciated. Please read the amendment carefully.

Mr. K. Santhanam : I am very surprised to see a Bombay businessman putting forward such an argument. The maturity value of the security may be the same ; the income value of the security may be the same ; but owing to certain causes the local value, on a particular date, may fall or rise to abnormal lengths. This amendment is to cover abnormal increases or abnormal depreciations. It is intended to meet extraordinary circumstances. In that case the company is not bound to sell off the securities ; it may keep the securities to the date of maturity. It will get its interest all right and, therefore, the position of that company will be quite sound. But on paper it will look as if the whole asset has fallen down in value by 50 or 60 per cent. For instance, a loan itself may mature after 15 years, and it may be selling on a particular date at Rs. 50. But the company is not bound to sell it and there is nothing wrong in authorising somebody to say that, though, apparently owing to abnormal causes, the situation appears to be rather wrong about the company, in actual fact it is quite sound. I think these insurance companies should be protected against such abnormal contingencies. The company has to work for a long period of time, and depressions come in a cycle. Every ten years it has been estimated by economists there is a depression. At the time of depression all securities come down by 50 per cent. Then the boom comes and the securities go up to 150 per cent. And are not the public, the policy holders and shareholders to be protected against such abnormal contingencies ? If the provision is not sufficient, as my Honourable friend has suggested,

[Mr. K. Santhanam.]

you may put in suitable amendments under section 12 or in some other place. Therefore, I do not think that any objection need be taken. All that this amendment seeks to provide is that the Government should be empowered to deal with such situations. It does not empower any insurer to do things as he pleases. If such power is given to the insurer, what my Honourable friend says will be correct. But when the Central Government thinks that in such a contingency the value, the true value which is satisfactory to the public, which is satisfactory to the policy holder may be given, why should we object? Is the Central Government going to collude with the insurer to foist some fictitious value on the public? If so, it will be a bad day. But, at least in this matter we hope the Central Government will be honest enough not to allow fictitious values. This amendment should be supported to provide for abnormal contingencies.

Some Honourable Members : Let the question be now put.

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

“ That the question be now put.”

The motion was adopted.

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

“ That after part (1) of sub-clause (2) of clause 101 of the Bill, the following be inserted :

‘ (m) the conditions under which the securities held by an insurer may be valued on a basis other than their market value prevailing on the date of closing of his accounts ’.”

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim) : Amendment No. 907* is covered by my ruling.

Maulana Zafar Ali Khan (East Central Punjab : Muhammadan) : I know the result, Sir, but permit me to plead for the poor people in a few words.

Mr. President (The Honourable Sir Abdur Rahim) : It cannot be moved. This is covered by my ruling.

Maulana Zafar Ali Khan : Unfortunately, I was not here.

Mr. S. Satyamurti : I beg to move :

“ That to sub-clause (2) of clause 101 of the Bill, the following proviso be added :

‘ Provided that rules made by the Central Government under sub-section (1) or sub-section (2) of this section shall not come into force until they have been placed on the table of both Houses of the Indian Legislature for at least a month while the Houses of the Legislature are in session and have been approved by resolutions of both Houses ’.”

“ That after sub-clause (2) (m) of clause 101 of the Bill, the following new sub-clause be added :

‘ (n) The minimum salary, amount of deduction for the provident fund as also the contribution and rate of interest payable by an insurance company, hours of attendance, the leave, the bonus and such other provisions as are necessary to safeguard the interests of the members of the staff of an insurance company ’.”

I believe that this is a change in the existing legislative procedure of this country ; but undoubtedly, in the British Parliament, after which we model so many of our rules and conventions, this is a well-known practice. Especially with regard to the Government of India Act, 1935, and the earlier Government of India Act, 1919, rules made by the Act or under the Act by various authorities to whom the rule-making power is given, as also Orders in Council, which cover very important matters, have to be placed before both Houses of Legislature in one of two forms. Either the more important orders and rules are placed on the table of both Houses and they have to go through the procedure recommended by me in this amendment, that is, an affirmative resolution being passed by both Houses in favour of those orders or rules. There is also a second category of rules and Orders in Council which merely lie on the table for a prescribed period, and unless any member takes action on it and the Houses of Parliament agree with him and they make certain amendments, the rules, automatically, come into force. I have preferred on the whole to plead before the House for its consideration and acceptance the former method, and I will explain the reasons. If Honourable Members will turn to clause 101, they will find that clause 101 (1) is really much the most important clause, although it is briefly worded. As the Honourable the Leader of the House says, "The importance of my opposition ought not to be judged by the brevity of my speech" the importance of sub-clause (1) of clause 101 ought not to be whittled down by any Honourable Member by the brevity of the words contained in that sub-clause, as contrasted with the plethora of words in sub-clause (2). If you turn to sub-clause (1) you will find these words :

"The Central Government may, subject to the condition of previous publication by notification in the Official Gazette, make rules to carry out the purposes of this Act."

That means practically all the field covered by the clauses of this Bill affecting the business of insurance. There is no limitation on that rule making power except the requirement of previous publication in the Official Gazette. I want to plead with my Honourable friends to judge of my amendment from the point of view of sub-clause (1) of clause 101. There the power of Government to make rules is unlimited. It is limited only by two limitations ; one, the rules must be for the purpose of carrying the purposes of this Act. A very wide sphere. They can make rules for any of the matters mentioned in the clauses of the Act, so long only as they are not inconsistent with the provisions of the Statute. The second requirement is pre-publication. That is why I have ventured to place before the House what may seem somewhat more difficult, but what I suggest, is the more democratic method of controlling the rule-making power of bureaucratic authorities. Turning to sub-clause (2) of clause 101, Honourable Members will find that it covers many important matters. Take clause (a)—the qualifications to be possessed by actuaries. The whole working of this Act will depend, to a large extent, on the integrity, efficiency and the capacity to work according to well-known principles of insurance business, of the actuaries. Clause (b) says :

"the manner in which it shall be determined for the purposes of this Act which is insurance business transacted in British India."

[Mr. S. Satyamurti.]

Once this Bill becomes law, no insurer can transact any insurance business, except in accordance with the provisions of this Act. Therefore, any one who does so becomes liable to various pains and penalties.

This rule-making power, apart from and not inconsistent with the 4 P.M. definition of insurance business in this Act, leaves to the rule-making authority the entire power to determine what is insurance business for the purposes of this Act. Then turning to clause (f), Honourable Members will find that it covers matters to be prescribed for the purposes of section 42 of the Bill, that is to say, with regard to the election of policy holder directors. This is a new reform which we are making. We are anxious that it should succeed, that is to say, that the rules which regulate the qualifications of policy holders who shall have a vote and the manner of election should be such as to produce genuine representatives of policy holders. I will give an example. Proxies may be allowed in the election of policy holder directors. I know the abuses to which they have given rise and will give rise. A few people will pocket all the proxies and the policy holder directors will be only two or three extra nominees of the dominant shareholders. This shows the importance of the rules contemplated by sub-clause (2) of clause 101. Then, Sir, take (k)—subject to the provisions of this Act the fees payable thereunder and the manner in which they are to be collected. This is an important matter, and as regards the various fees to be levied, it is important that a popular House should have a voice as suggested by me in my amendment. It seems to me that, considering the position today, and the various powers given to the Government, both under sub-clause (1) and sub-clause (2), my amendment is a modest and workable one. I want to meet one possible objection in the minds of Honourable Members of this House, that perhaps the passing of my amendment may give rise to practical difficulties in the working of the Act. I suggest that the fear is groundless, if I may say so respectfully. So far as existing rules are concerned, I invite Honourable Members to look at sub-clause (3) of clause 101; sub-clause (3) provides :

“ All rules made by a Local Government under the provisions of section 24 of the Provident Insurance Societies Act, 1912, and in force at the commencement of this Act shall so far as not inconsistent with the provisions of Part III continue in force and have effect as if duly made under this section until they are replaced by rules made under this section.”

That covers all the cases of rules governing Provident Insurance Societies. So far as other societies are concerned, according to the timetable now laid down by the Government for the progress of this Bill, this Bill, after it leaves this Honourable House, will go to the other House some time in November. It will come back to us in January next year. In the meantime, Government will have ample opportunity to frame all the rules, as soon as the Bill emerges from the other place, on the assumption that the Bill will not undergo any further radical alteration in this House when it comes back, an assumption which I suggest is not contrary to facts, as they will emerge ultimately. Both the Houses are in Session for the Budget Session from about the middle of January to about early in April, and my amendment simply wants that they should be placed on the table of both Houses of the Indian Legislature for at least a month while the Houses of the Legislature are in Session. Supposing the Bill becomes an Act sometime towards the end of January, all the rules which they want

to make under the various subjects mentioned in sub-clause (2) and any other rules, can well be placed on the table of both Houses sometime in the middle of February. Considering the disposition of business in this House and in the other place, Government can easily get the time to move a formal official Resolution asking the approval of this House to these rules, and subject to any modifications which may be passed, those rules will be affirmed by a vote of both Houses. I suggest that that will be a proper procedure in which these rule-making powers, great as they are, may reasonably be expected to be controlled by the Legislature. As regards later rules, they are bound to be small in content and also small in number, and both Houses meet at least twice every year, and I suggest that the requirements of my amendments are not too much and can be easily complied with.

I will only add one more argument. I am sure Honourable Members of this House have read, as I have read, the book by Lord Chief Justice Hewart called the "*New Despotism*" in which His Lordship very strongly criticised, and rightly in my judgment, the tendency of modern governments to take more and more authority in their hands, by leaving many matters to be disposed of by the rule-making authority; and, therefore, Parliamentary opinion in other countries is veering round to the view that, while we ought not to discuss and dispose of on the floor of popular legislatures all these detailed rules, there ought to be at least, in the alternative, the control suggested in my amendment, that is to say, the Government may frame rules, place them on the table of both Houses, and then move an affirmative Resolution; and, without giving any unnecessary certificate to this House, I can certainly say that, if those rules are just and reasonable, they will get a very favourable reception in this House. In spite of the strenuous efforts of the Law Member and his able assistant, even we humbler Members on this side have been able to make constructive contributions to this very piece of legislation. If, therefore, we have shown that even on a matter of this first class importance there are Honourable Members of this House who can contribute valuable suggestions, I beg of the Government to embrace this opportunity of placing the rules of a big Statute on the table of the House, and taking the verdict of the House thereon. We are all anxious that this Bill should become law. We are anxious that the law should be worked satisfactorily; we are anxious that Indian insurance should grow in strength and prosperity and Indian insurers and policy holders ought to be protected. In order to achieve this object, I suggest that the co-operation of the Legislature should be obtained, even up to the stage when rules are to be made. There are no practical difficulties at all, and I do suggest that Government should see their way not to oppose this amendment. Whatever the Government may or may not do, I trust that every section of this House, which believes in its own capacity to judge of these matters wisely and sensibly, will vote for this amendment.

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

"That to sub-clause (2) of clause 101 of the Bill, the following proviso be added :

'Provided that rules made by the Central Government under sub-section (1) or sub-section (2) of this section shall not come into force until they have been placed on the table of both Houses of the Indian Legislature for at least a month while the Houses of the Legislature are in session and have been approved by resolutions of both Houses.'

Maulana Zafar Ali Khan : I support the amendment. It is a modest and humble amendment, seeing that it comes from my Honourable friend, Mr. Satyamurti, who is out to wreck the constitution. The powers under the section as it stands are unlimited. These powers are possessed by the Imperial British Parliament in its original grandeur. We are told that the British Parliament can do anything, can change the sex even, can change a man into a woman.

An Honourable Member : It is the only thing it cannot do.

Maulana Zafar Ali Khan : Well, it has the power of doing that, and India is an instance in point. (Laughter.) The British Parliament has delegated certain powers to us and here, on the floor of this House, we are assuring the Britishers and we are assuring the official Benches that we are prepared to co-operate with you. So far as this piece of legislation, namely, the Insurance Act is concerned, we are willing to co-operate with you, but we are not going to co-operate with you to the extent of taking away from us our manliness. We will not acquiesce in our being converted into women.

An Honourable Member : Are we all women ?

Maulana Zafar Ali Khan : Some of us are ! (Laughter.) This House is a self-respecting House and I have always bowed down before the Speaker of the House but I only wish that he did not stick to conventions ; we want to break these conventions.

Mr. President (The Honourable Sir Abdur Rahim) : Order, order. The Honourable Member had better not lecture to the Chair as to what to do or what not to do.

Maulana Zafar Ali Khan : I want this House to protect the interests both of the millionaire and of the poor man.

Mr. President (The Honourable Sir Abdur Rahim) : What the Honourable Member is saying has nothing to do with this amendment. He began with a reference to the amendment but now he is diverting to other matters.

Maulana Zafar Ali Khan : Well, Sir, these rules ought to be under the vigilance of this great House. The Governor General is the great power but he owes something to this House and to you, Sir, and when those rules are made by him.....

Mr. President (The Honourable Sir Abdur Rahim) : I do not think it is the Governor General but the Governor General in Council.

Maulana Zafar Ali Khan : Well he and the Law Member alone count, practically speaking. So, Sir, Mr. Satyamurti's amendment, I submit, is a very modest amendment, a very humble amendment, a very reasonable amendment, a sweetly-reasonable amendment and one that should be carried and the Law Member should not say " nay ". I support the amendment.

The Honourable Sir Nripendra Sircar : Sir, I simply want to say that as I am pretty nervous now about the duration of this Bill, I do not want to make any speech. The exact points made by Mr. Satyamurti were made during the Company Law legislation when the same arguments were advanced and I met them, and I simply want to say that I oppose them.

Several Honourable Members : I move that the question be now put.

Mr. F. E. James : Sir, we have a good deal of sympathy with this amendment. There is one practical difficulty we see, and that is that the amendment suggests not only that the rules should be placed on the table of the House, but that they should be approved by Resolutions of both Houses. I think there is really a practical difficulty in that, knowing the congestion of business in our Sessions. We had hoped that amendment No. 895 would have been moved, and I do not know whether my Honourable friend, Mr. Satyamurti, will be prepared to withdraw his amendment in favour of that ?

Mr. Bhulabhai J. Desai : Sir, amendment No. 895 begins by saying :

“ That to sub-clause (1).....the following proviso be added.....”

It should really be to (2), not to (1), because it is after sub-clause (2) really, where the proviso is this,—“ provided that no such rule or rules shall have the force of law ”.

Mr. President (The Honourable Sir Abdur Rahim) : That was not moved.

Mr. Bhulabhai J. Desai : It was inappropriate in that place. We can withdraw this.

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

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

“ That to sub-clause (2) of clause 101 of the Bill, the following proviso be added at the end :

‘ Provided that no such rule or rules shall have force of law unless the same are previously laid on the table of the Indian Legislative Assembly for a period of a month for modification in such manner as it may think fit ’.”

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

“ That to sub-clause (2) of clause 101 of the Bill, the following proviso be added at the end :

‘ Provided that no such rule or rules shall have force of law unless the same are previously laid on the table of the Indian Legislative Assembly for a period of a month for modification in such manner as it may think fit ’.”

The Honourable Sir Nripendra Sircar : Sir, as amendment No. 895 has been moved at this stage, I wish to move an amendment to that amendment by the addition of certain words. I beg to move :

“ That to sub-clause (2) of clause 101 of the Bill, the following proviso be added at the end :

‘ Provided that no such rule or rules shall have force of law unless the same are previously laid on the table of both the Houses of the Central Legislature for a period of a month for modification in such manner as they may think fit ’.”

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

“ That to sub-clause (2) of clause 101 of the Bill, the following proviso be added at the end :

‘ Provided that no such rule or rules shall have force of law unless the same are previously laid on the table of both the Houses of the Central Legislature for a period of a month for modification in such manner as they may think fit ’.”

The motion was adopted.

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

“ That clause 101, as amended, stand part of the Bill.”

The motion was adopted.

Clause 101, as amended, was added to the Bill.

Clause 102, was added to the Bill.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I beg to move :

“ That after clause 102 of the Bill, the following new clause be added :

‘ 103. The Central Government may, by notification in the Gazette of India and subject to such conditions and restrictions as they think fit, exempt any person, company or firms doing country craft cargo insurance from all or any provisions of this Act ’.”

The Honourable Sir Nripendra Sircar : We have reduced it to Rs. 10,000.

Mr. B. Das : The House has very kindly accepted my amendment of permitting the country craft cargo insurance underwriters to make a deposit of Rs. 10,000. At that time I said that these are ignorant people and they are not accustomed to the rules and procedure as has been laid down in this Act.

The Honourable Sir Nripendra Sircar : It is no good giving them this power because it will never be exercised.

Mr. B. Das : I will give power to the Government rather than to the Superintendent of Insurance. The Superintendent can permit the country craft cargo insurance underwriters to submit certain modified statements because the Honourable the Law Member himself said that they carry out business only to the extent of Rs. 1,10,000 in all and for that sum there are about 20 firms, who will have to deposit Rs. 2,10,000. On the top of that, they will have to submit all the papers and documents that are required under this Act and this would be very hard on them. We have already conferred power on the Superintendent to modify these Schedules in case of an insurer who is a person. I am not asking for full exemption. I am only asking the House to give this power to the Superintendent and the Government and I am asking the Government to examine this matter at leisure and then ask these country craft cargo insurance underwriters to submit such documents as may be necessary. Sir, I move.

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

“ That after clause 102 of the Bill, the following new clause be added :

‘ 103. The Central Government may, by notification in the Gazette of India and subject to such conditions and restrictions as they think fit, exempt any person, company or firms doing country craft cargo insurance from all or any provisions of this Act ’.”

The Honourable Sir Nripendra Sircar : I oppose this extremely unreasonable amendment.

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

“ That after clause 102 of the Bill, the following new clause be added :

‘ 103. The Central Government may, by notification in the Gazette of India and subject to such conditions and restrictions as they think fit, exempt any person, company or firms doing country craft cargo insurance from all or any provisions of this Act ’.”

The motion was negatived.

Mr. S. C. Sen : Sir, I beg to move :

“ That after clause 102 of the Bill, the following new clause be inserted :

‘ 102A. The Central Government may, by notification in the official Gazette, Power to exempt from certain requirements. exempt any insurer constituted, incorporated or domiciled in an Indian State from the provisions of section 6 relating to deposits or from the provisions of sub-section (1) of section 26 relating to the keeping of assets in British India either absolutely or subject to such conditions or modifications as may be specified in the notification ’.”

Sir, this amendment has been moved with the object of protecting the Indian companies now doing business in the States. If there is any retaliatory measure taken by the States, the Indian companies which are doing a large volume of business in the Indian States will suffer irreparably unless there is some such power as is now proposed. The balance of business is entirely in favour of the British Indian companies now. Sir, I move.

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

“ That after clause 102 of the Bill, the following new clause be inserted :

‘ 102A. The Central Government may, by notification in the official Gazette, Power to exempt from certain requirements. exempt any insurer constituted, incorporated or domiciled in an Indian State from the provisions of section 6 relating to deposits or from the provisions of sub-section (1) of section 26 relating to the keeping of assets in British India either absolutely or subject to such conditions or modifications as may be specified in the notification ’.”

Mr. B. Das : I am not so uncharitable, and I support the amendment.

Mr. M. Ananthasayanam Ayyangar : Sir, while I agree with the principle of this amendment, we ought to take care to see that companies are not incorporated in a State merely for the purpose of evading this law. If there are *bonâ fide* subjects of a State who want to incorporate a company for the purpose of carrying on business there and here, by all means let power be given to exempt them. But if foreigners, who are not Indians, come and start a company there in a State—there are 450 of them in this country.....

The Honourable Sir Nripendra Sircar : It is not compulsory to exercise this power.

Mr. M. Ananthasayanam Ayyangar : As regards the interruption of the Honourable the Leader of the House, I may point out that the Governor General is given power not to discriminate between one man and another. If he thinks it fit, he may impose restrictions in general. I

[Mr. M. Ananthasayanam Ayyangar.]

would ask my Honourable friend to say whether, under this amending clause, it is open to the Governor General to say, if a man comes from Portuguese Goa or French Pondicherry and incorporates in a Native State, he ought not to do so? Is it open to the Governor General to say what class of companies ought to be allowed to transact business and what others not? Both classes of companies are incorporated in a State. In my humble submission, I am not able to read that power in this amendment. It might be the intention of the Honourable the Leader of the House, but it ought to be made specific.

I find in the Order Paper, there is an amendment No. 23 in supplementary list No. 3 given notice of by Sardar Sant Singh. That adds a proviso to this clause :

“ Provided that in the case of an insurer being a company three-fourths of its paid up capital is held in their own right by Indian subjects domiciled in India as defined by section 311 of the Government of India Act, 1935, or by British subjects domiciled in the United Kingdom and three-fourths of the members of its Governing body are such Indian subjects or British subjects as aforesaid.”

Sir, this proviso will give protection to those companies which get incorporated, *bonâ fide*, in the Indian States and this will prevent abuses of this privilege and it will prevent foreign companies coming and incorporating in Indian States and then carrying on business in British India and availing themselves of all the exemptions and concessions that might be granted, according to this section. Under this section no discrimination can ordinarily be made between one class of company and another class of company. Therefore, if this amendment is accepted with the proviso that I have read out, it will be very helpful.

The Honourable Sir Nripendra Sircar : It is open to the Government to say that they will not take this proviso and they say so.

Mr. M. Ananthasayanam Ayyangar : I am aware that in ninety-nine cases out of hundred the Government will say no to any reasonable suggestion coming from this side.

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

“ That after clause 102 of the Bill, the following new clause be inserted :

‘ 102A. The Central Government may, by notification in the official Gazette, exempt any insurer constituted, incorporated or domiciled in an Indian State from the provisions of section 6 relating to deposits or from the provisions of sub-section (1) of section 26 relating to the keeping of assets in British India either absolutely or subject to such conditions or modifications as may be specified in the notification ’.”

The motion was adopted.

New clause 102-A was added to the Bill.

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

“ That clause 103 stand part of the Bill.”

Pandit Lakshmi Kanta Maitra : Sir, I beg to move .

“ That clause 103 of the Bill be omitted.”

I quite realise that this is more or less a drastic amendment, but I will offer a few facts for the consideration of the House. Clause 103 provides :

“ The Superintendent of Insurance may delegate all or any of his powers and functions under Part III to the officer appointed by the Central Government to exercise in a province the powers and functions of the Superintendent of Insurance in relation to provident societies.”

Sir, the Bill before the House seeks to consolidate the existing law about Insurance and Provident Societies, Mutual Insurance Companies and Co-operative Societies. The whole Act, when passed into law, will regulate the entire business of insurance in future. My idea is that these Provident Societies also should be placed on the same footing in the matter of treatment in respect of inspection, supervision and control, etc., by the Superintendent of Insurance as the ordinary life insurance companies.

The Honourable Sir Nripendra Sircar : We are accepting the amendment.

Pandit Lakshmi Kanta Maitra : I understand that the Honourable the Leader of the House is agreeable to accept this amendment. I am indeed thankful to him. I do not, therefore, want to make any speech. Sir, I move.

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

“ That clause 103 of the Bill be omitted.”

The Honourable Sir Nripendra Sircar : I do not object to this clause being deleted because I realise that clause 103 has been drafted in a very wide language. “ The Superintendent may delegate all or any of his powers and functions.... ”. I think that is objectionable. Sir, I accept the amendment.

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

“ That clause 103 of the Bill be omitted.”

The motion was adopted.

Mr. S. C. San : Sir, I beg to move :

“ That after clause 102A of the Bill, the following new clauses be inserted :

‘ 102B. Nothing in this Act shall affect the liability of an insurer being a company to comply with the provisions of the Indian Companies Act, 1913, in matters not otherwise specifically provided for by this Act.

102C. Nothing in this Act shall apply to any Trade Union registered under the Indian Trade Unions Act, 1926 ’.

Sir, clause 102-B, as it will now stand is necessitated by reason of the fact that in the Indian Companies Act there is a provision in section 287 which has given rise to some amount of uncertainty as to which of the provisions are applicable and which are not. It is merely to put it right that this amendment is necessary.

[Mr. S. C. Sen.]

As regards the next clause 102-C, the House will remember that at the time of the general discussion Mr. Joshi raised the question of trade unions. The existing trade unions are now exempted from the operations of Acts V and VI of 1912 and these Acts are now going to be repealed. This clause is only to repeat the same provision.

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

“ That after clause 102A of the Bill, the following new clauses be inserted :

‘ 102B. Nothing in this Act shall affect the liability of an insurer being a company to comply with the provisions of the Indian Companies Act, 1913, in matters not otherwise specifically provided for by this Act.

102C. Nothing in this Act shall apply to any Trade Union registered under the Indian Trade Unions Act, 1926 ’.”

The motion was adopted.

New clauses 102-B and 102-C were added to the Bill.

Mr. B. Das : Sir, I beg to move :

“ That after clause 102C of the Bill, the following new clause be inserted :

‘ 103. Every insurer registered under this Act shall deposit and keep deposited Policy forms to be with the Superintendent of Insurance, Companies deposited with the of all forms of policy contracts issued by him in India ’.”

This is a very simple suggestion and I hope my Honourable friend, Mr. Lang, will subscribe to it. I take this opportunity to congratulate him on his short maiden speech this afternoon which rather confused us a little bit. (Laughter.) I hope my Honourable friend who is an authority on these matters will accept this with alacrity.

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

“ That after clause 102C of the Bill, the following new clause be inserted :

‘ 103. Every insurer registered under this Act shall deposit and keep deposited Policy forms to be with the Superintendent of Insurance, Companies deposited with the of all forms of policy contracts issued by him in India ’.”

Mr. J. C. Lang : Sir, I am sorry I must oppose this amendment. Is this really practicable ? What purpose it serves I do not know. Is it suggested that the insurer should put his life policies, fire policies, marine policies, accident policies.....

Mr. M. S. Aney : Not the policies of individual policy-holders, but the forms only.

Mr. J. C. Lang : Yes, but there are hundreds of forms. What will the Superintendent of Insurance do with them ? Is he going to cart them up and down to Delhi and Simla ? Sir, I am sorry I have to oppose it.

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

“ That after clause 102C of the Bill, the following new clause be inserted :

‘ 103. Every insurer registered under this Act shall deposit and keep deposited Policy forms to be with the Superintendent of Insurance, Companies deposited with the of all forms of policy contracts issued by him Superintendent. in India ’.”

The motion was adopted.

New clause 103 was added to the Bill.

Clauses 104, 105 and 106, were added to the Bill.

Mr. S. Satyamurti : Sir, I beg to move :

“ That at the end of the Bill, the following new clause be added :

‘ 107. Notwithstanding anything in any law for the time being in force, the Governor General in Council or the Government of a Governor's Province may by a notification in the official Gazette direct that every class of insurance business other than life, directly or indirectly controlled by Government of India, Federal Government, or any Provincial Government or Federal Railway authority or by any public or semi-public bodies such as Municipalities, Local Boards, Port Trusts, Improvement Trust established or chartered under any Imperial, Federal or Local Act shall be placed with Indian Insurers holding a Certificate of Registration under this Act, unless a certificate is obtained from the Superintendent of Insurance that such insurance cannot be effected with an Indian insurer holding a Certificate of Registration under this Act ’.”

In moving this amendment, so far as a very large section of this House is concerned, I am convinced there is no need for me to argue the desirability—indeed the necessity—of our effecting all our insurance to the extent to which we can control it—I am not talking of life insurance, but of general assurance—with Indian insurers.....

The Honourable Sir Nripendra Sircar : Sir, I would like to make a statement. If my Honourable friend is not convinced, it is of course open to him to persist in this amendment, but he may be satisfied that it is not necessary to pursue this. The position is this : I agree with him that a large section of the House—almost all sections of the House—will sympathise with his amendment. I inquired very carefully as soon as I saw this proposal made in that big book, and I find that so far as the Central Government is concerned there is no insurance : the buildings are not insured, and even the famous “ Dufferin ” about which we heard so much is not insured either. So that there is no question of any insurance by the Central Government. I am not now raising the question of its going against section 113, but only on the practical side. On the Central Government side we have no insurance. As regards the provinces, I do not want to turn this House into a Federal Court ; but I think the Leader of the Opposition will agree that a series of cases beginning from 7 Appeal Cases lay it down, that although insurance is on the Central list, this right to compel provinces to insure in a particular manner will be *ultra vires*. These questions have come up often and often before the House of Lords, and in the last issue but one there was a case between the Central Government in Canada and the States, the Central Government having provided for a marketing board and made rules and regulations for the export of fruit, and they said they had that power

[Sir Nripendra Sircar.]

because it was under trade and commerce : the provinces objected on the ground that it was agricultural produce ; and, therefore, although you have a right to legislate for trade you cannot do this and all the cases were gone into, and the court came to this conclusion that a particular matter from one point of view may be a Central subject and from another point of view the same thing may be a Provincial subject. But having regard to the trend of the rulings, I feel no doubt in my mind that it will be outside the competence of this Legislature to force this on the provinces. That is a view with which my friends may or may not agree : that is a question of law. But from the practical point of view, there is nothing to prevent the provinces from insuring with Indian companies. As a matter of fact, apart from the six or seven provinces in which my friends are in power, there is no reason to think that in other provinces also the same course will not be followed : and I do not think I am breaking any confidence if I say that in Bengal the Ministry is very much interested in insurance. (Laughter.) I hope my friend will not press this amendment, because it will really lead to no result. Of course, if my Honourable friend is not satisfied and wants to press it, I shall oppose it and take other grounds also.

Mr. S. Satyamurti : Sir, in view of the very humorous remarks that the Honourable Member has made—particularly with reference to Bengal—I beg leave of the House to withdraw this amendment.

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

Mr. S. Satyamurti : Sir, I move :

“ That at the end of the Bill, the following new clause be added :

‘ 108. Notwithstanding anything in any law for the time being in force, no person, firm or company, whether incorporated in British India or a foreign company engaged in any trade or industry shall be eligible for the benefit of any grant, bounty or subsidy payable out of the revenues of Government of India, Federation or of a Province for the encouragement of the same trade or industry or shall be entitled to protection in any shape or form unless as a condition of such grant, bounty, subsidy or protection, such person, firm or company agrees to place every class of insurance business other than life under his or their control with Indian Insurers holding a Certificate of Registration under this Act unless a certificate is obtained from the Superintendent of Insurance that such insurance cannot be effected with an Indian Company holding a Certificate of Registration under this Act ’.”

The Honourable Sir Nripendra Sircar : Sir, I rise to a point of order. I do not desire to argue the point of order, because we took a considerable time yesterday arguing this. The object of the amendment is to lay down conditions which will be applicable to industries which are protected ; and my point is the same that I took yesterday, that protection of industries is not one of the subjects of topics discussed either in any of the three Acts or, in any of the sections here : nor has the subject any affinity with, nor related to or cognate to any matters to be found in those three Acts and in these clauses. I will not repeat the previous arguments.

Mr. M. S. Aney : Not even remotely connected ?

The Honourable Sir Nripendra Sircar : Far more remotely connected than provident funds,—but that is immaterial.

Mr. S. Satyamurti : Sir, I submit that the question of remoteness or nearness does not arise at all. The simple point is whether this clause, which I want to add, is outside the scope of the Bill and, therefore, out of order. I submit that to the extent that this clause seeks to govern the business of insurance, in so far as protected industries or trade are concerned by asking them to place their insurance with an Indian insurer, it is within the scope of the Bill.

Mr. President (The Honourable Sir Abdur Rahim) : There is a ruling—I think with regard to the Steel Industry Protection Bill—that amendments dealing with limitation of profits were out of order in a Bill for protection of an Industry. That goes further than this.

Mr. S. Satyamurti : That was a Bill to protect an industry ; and an amendment was moved then to it. But if you look at this amendment, Sir, it merely seeks to say that certain classes of industries will be compelled to agree to place every class of insurance with Indian insurers. I submit that is certainly insurance business.....

Mr. President (The Honourable Sir Abdur Rahim) : Does not the same principle apply ? That was to limit the profits—I think.

Mr. S. Satyamurti : It was moved by Mr. N. M. Joshi and it was held to be in order by the then President, Sir R. K. Shanmukham Chetty.

Mr. President (The Honourable Sir Abdur Rahim) : A Member sought to move an amendment regulating the fixing of a fair selling price for steel and steel articles, whereupon objection was taken and the President ruled that it was outside the scope of the Bill.....

Mr. S. Satyamurti : After all, Sir, in these matters there is no such thing as a binding precedent. I can argue easily that that Bill was a Bill to protect a particular industry. If one wanted to extend the scope of the Bill to the fixing of fair selling prices of the articles produced by the Industry, it was outside the scope of that Bill. But this Bill seeks to consolidate and amend the law relating to insurance business in this country, and this is certainly the business of insurance ; therefore, I submit, that so far as my amendment seeks merely to say that insurance business under the control of protected industries.....

Mr. President (The Honourable Sir Abdur Rahim) : You want to lay down that certain enterprises which get benefits from the State.....

Mr. S. Satyamurti : Yes, how certain enterprises, which get the benefit from the State, should insure their business. It is not as if I am now asking that all Indian industries should insure with Indian insurers, but my amendment is a very narrow one. It simply concerns the Indian protected industries, that is to say, industries which get some kind of help from the State, and I want that they should be compelled to place their business with Indian insurers. I submit, Sir, it is clearly within the scope of this Bill.....

Mr. President (The Honourable Sir Abdur Rahim) : Is there any clause in this Bill which lays down as to how and where business should be placed ?

The Honourable Sir Nripendra Sircar : There is no such clause, Sir.

Mr. S. Satyamurti : Insurance business can be placed only with registered insurers in this country, because it is clearly laid down here that no insurer, unless he is registered under this Act, can carry on insurance business, and secondly no insurance business can be negotiated except by licensing agents, and those who do so will be liable to pay a penalty, and any insurer who is not registered, and who does insurance business will be liable to penalty.

Mr. President (The Honourable Sir Abdur Rahim) : Very well. I will give my ruling tomorrow.

The Assembly then adjourned till Eleven of the Clock on Friday, the 1st October, 1937.