

4th March 1937

**THE
LEGISLATIVE ASSEMBLY DEBATES**

(Official Report)

Volume II, 1937

(23rd February to 13th March, 1937)

**FIFTH SESSION
OF THE
FIFTH LEGISLATIVE ASSEMBLY
1937**



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Legislative Assembly.

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MR. MATHURADAS VISSANJI, M.L.A.

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LEGISLATIVE ASSEMBLY.

Thursday, 4th March, 1937.

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

MEMBER SWORN :

Mr. John Bartley, C.I.E., M.L.A. (Government of India: Nominated Official).

QUESTIONS AND ANSWERS.

RESIGNATION OF SIR OSBORNE SMITH FROM THE GOVERNORSHIP OF THE RESERVE BANK OF INDIA.

478. *Mr. Ganga Singh: (a) Will Government be pleased to state if they are aware of Sir Osborne Smith's resignation from the Governorship of the Reserve Bank of India?

(b) Will Government be pleased to state the date when Sir Osborne Smith was appointed as Governor of the Reserve Bank of India?

(c) Will Government be pleased to state the date of Sir Osborne Smith's resignation from the Reserve Bank of India?

(d) Will Government be pleased to state the reason or reasons which made Government to select Sir Osborne Smith to be the Governor of the Reserve Bank of India?

(e) Will Government be pleased to state what change of reasons during the period of Sir Osborne Smith's holding the office took place and he resigned?

(f) Will Government be pleased to state if it is a fact that Sir Osborne Smith resigned on account of the differences of opinion between the Honourable the Finance Member of the Government of India and himself?

(g) If the answer to part (f) be in the affirmative, will Government be pleased to state what were these differences of opinion?

The Honourable Sir James Grigg: (a) Yes.

(b) 1st January, 1935.

(c) With effect from 30th June, 1937.

(d) to (g). Government consider it necessary in the public interest that the relations between it and the Reserve Bank should be confidential.

In the ordinary way, therefore, I should do no more than refer the Honourable Member to the Press communique issued on the 30th of October, 1936, and the Press report of the annual meeting of the Reserve Bank. But I may take this opportunity to say that there have been no differences of opinion between Government and the Bank on major questions of policy, nor have Government at any time interfered with the Bank in the exercise of its statutory functions.

Mr. S. Satyamurti: May I know what was the period of office for which Sir Osborne Smith was appointed, and what was the period he would have occupied the office, had he not resigned?

The Honourable Sir James Grigg: I think, without having refreshed my memory, the original period was 3½ years.

Mr. S. Satyamurti: May I know if the resignation of Sir Osborne Smith was purely a spontaneous affair, because he found that he could not be here or that he did not want to be here, and that it was not due to any difference of opinion on any major questions of policy between the Government and the Bank?

The Honourable Sir James Grigg: I have nothing to add to the answer that I have already given.

Mr. S. Satyamurti: I want an elucidation of the answer which the Honourable Member gave just now. He added a sentence towards the end of his answer to the effect that there have been no differences of opinion between the Government and the Bank on major questions of policy. I am asking as a further elucidation of his answer

The Honourable Sir James Grigg: I am not prepared to add anything to the answer I have already given.

Mr. S. Satyamurti: Even before I finish my sentence, how can the Honourable Member interrupt and say that he is not prepared to add anything to the answer he gave already?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member says that the relations between the Government and the Reserve Bank are confidential, and he has added that this much he was prepared to say that as regards major questions of policy there was no difference of opinion and that he is not prepared to give any further information.

Mr. K. Santhanam: Was any compensation paid to Sir Osborne Smith for retiring earlier than the agreed period?

The Honourable Sir James Grigg: I am not prepared to add anything to the answer I have already given.

Mr. S. Satyamurti: Surely the question whether any money was paid to Sir Osborne Smith from the Indian Exchequer is relevant and the Honourable Member will please give a reply, because his previous answer does not cover this point?

The Honourable Sir James Grigg: The Honourable Member is making an assertion.

Mr. S. Satyamurti: Was no money paid to him at all?

The Honourable Sir James Grigg: I am not prepared to add anything to the answer I have already given.

Mr. T. S. Avinashilingam Chettiar: May I know whether Sir Osborne Smith resigned for any private reasons?

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has already said that he could not go into all these questions. Next question.

CARRYING OF KIRPANS.

479. ***Mr. Ganga Singh:** (a) Will Government be pleased to state the definition of a *kirpan*?

(b) Will Government be pleased to state in which province of India the carrying of *kirpans* of any length is exempted from operation of the Indian Arms Act, 1878?

(c) Will Government be pleased to state in which province of India the limit of the size of the *kirpan* is still restricted?

The Honourable Sir Henry Craik: (a) A *kirpan* is not defined in the Indian Arms Act, 1878, but comes within the definition of "arms" given in that Act.

(b) and (c). According to Schedule II to the Indian Arms Rules, 1924, *kirpans* are excluded from the operation of the Indian Arms Act except in Burma, where *kirpans*, of which the blade is more than nine inches long, are not excluded. Elsewhere, except in the Punjab and Delhi Province, the exclusion is subject to any restrictions which the Local Governments may think fit to impose under the proviso in the third column against item I of the Schedule. As that is a matter for Local Governments, I am not in a position to give the information desired in clause (c) of the question.

Mr. Ganga Singh: May I ask if a Sikh from the Punjab wearing a *kirpan* of full size proceeds to Burma, what action should he take about his *kirpan* at Calcutta before he embarks on the steamer?

Mr. President (The Honourable Sir Abdur Rahim): The Chair thinks that question has been disallowed as being hypothetical.

SLEEPERS TAKEN BY THE EAST INDIAN RAILWAY.

480. ***Mr. Ganga Singh:** Will Government be pleased to state how many sleepers the East Indian Railway has taken during the years 1933-34, 1934-35 and 1935-36, and also give the following particulars:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased.
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving particulars of timber and cast iron sleepers paid for by the East Indian Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, sizes, etc., of the timber and cast iron sleepers paid for by the E. I. Railway during the years 1933-34, 1934-35 and 1935-36.

Timber Sleepers.				Cast Iron.				
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
			Rs.		1933-34.		Rs.	
B. G.	Sal	39,900	6-75 to 7-70	U. P. & C. P.	E. I. Railway 'Q' type for 75 lb. F. F. rails.	8,231	6-20 excluding freight	India.
					E. I. Railway 'G' type for 90 lb. R. rails.	140,793	6-20 excluding freight	Do.
					E. I. Railway 'G' type for 115 lb. R. rails.	33,184	6-00 excluding freight	Do.
					1934-35.			
B. G.	Sal, 1st class.	59,000	6-50 to 7-75	U. P. & C. P.	CST/9 complete with short tie bars for 90 lb. rails.	200	9-34 to 10-55	India.
B. G.	Sal, 2nd class.	11,000	3-76 to 4-02	U. P. & C. P.	CST/9 complete with long tie bars for 90 lbs. rails.	200	11-75 to 11-94	Do.
					D. & O. for 85 & 88½ lbs. B. H. rails.	90,150	6-14 excluding freight	Do.
					E. I. R. 'G' type for 90 lbs. rails.	177,046	5-52 to 7-23 excluding freight.	Do.

SLEEPERS TAKEN BY THE ASSAM BENGAL RAILWAY.

481. *Mr. Ganga Singh: Will Government be pleased to state how many sleepers the Assam Bengal Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving particulars of the timber and cast iron sleepers paid for by the Assam Bengal Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Assam Bengal Railway during 1933-34, 1934-35 and 1935-36.

Timber Sleeper.				Cast Iron Sleeper.				
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
1933-34.								
Metre Gauge.	Hollock, Hol-long, Jutuli, Sam, etc.	24,478	2-25 to 2-5	Assam.			Rs.	
Do.	Do.	53,237	1-37 to 1-44	Do.			Nil.	
Do.	Sal	40,000	2-25 to 2-31	India.				
Do.	Nahar	18,715	1-69	Assam.				
1934-35.								
Do.	Hollock, Hol-long, Jutuli, Sam, etc.	46,755	1-37 to 1-44	Assam.				
Do.	Sal	150,000	2-25 to 2-31	India.			Nil.	
Do.	Nahar	12,500	1-69	Assam.				
1935-36.								
Do.	Sal	200,000	2-25 to 2-31	India.			Nil.	

NOTE.—The standard size of a Metre Gauge timber sleeper is 6" x 8" x 4½".

Mr. M. Ananthasayanam Ayyangar: What is the need to go in for iron sleepers when there are sufficient number of wooden sleepers available?

The Honourable Sir Muhammad Zafrullah Khan: What is the need of going in for wooden sleepers when there are sufficient number of iron sleepers available?

Mr. M. Ananthasayanam Ayyangar: Are all the iron sleepers used on the railways manufactured in this country or imported from abroad?

The Honourable Sir Muhammad Zafrullah Khan: Yes, Sir, in this country?

SLEEPERS TAKEN BY THE BENGAL NAGPUR RAILWAY.

482. *Mr. Ganga Singh: Will Government be pleased to state how many sleepers the Bengal Nagpur Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving the particulars of timber and cast iron sleepers paid for by the Bengal Nagpur Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Bengal Nagpur Railway during 1933-34, 1934-35 and 1935-36.

Timber sleeper.					Cast iron sleeper.				
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.	
			Rs.					Rs.	
B. G. (Standard).	Sal	96,074	5.50 to 5.75	1933-34. India	B. G. (For 90 lb rails).	95,000	7.50 to 8.25	India.	
B. G. (Irregular sizes).	Do.	19,444	1.37 to 45.37	Do.	(W. M. R. Type).				
N. G. (Standard).	Do.	212,888	1.50 to 1.81	Do.					
N. G. (Irregular sizes).	Do.	694	1.62 to 11.0	Do.					
1934-35.									
B. G.	Do.	165,286	5.50 to 5.70	India.	B. G. for 90 lb. B. S. rails (W. M. R. C. S. T. 6 type modified.)	7,700	7.82 to 8.05	Do.	
B. G.	(Second class A).	16,000	3.00 to 4.00	Nepal.					
N. G.	Sal	126,854	1.35 to 1.45	India	B. G. for 90 lbs. rails (W. M. R. type).	55,600	7.50 to 7.75	Do.	
N. G. (Irregular sizes).	Sal	1,050	3.06 to 22.87	Do.					
B. G. (Do.)	Sal	23,412	1.28 to 25.95	Do.					
1935-36.									
B. G.	*1st class.	162,443	5/4 to 6/8	India.					
B. G.	*2nd class.	1,000	3/8 to 3/10	Do.					
N. G.	Sal	98,805	1/4 to 2/12	Do.	Nil.				
B. G. crossing, bridge, etc.	*	25,272	7 to 36	Do.					
N. G. crossing, bridge, etc.	*	6,489	1 to 36.	Do.					

NOTE.—The standard size of a B. G. timber sleeper is 9' x 10" x 5".
NOTE.—The standard size of a N. G. timber sleeper is 5' x 7" x 4 1/2".
* Presumably *sal*.

SLEEPERS TAKEN BY THE BENGAL AND NORTH WESTERN RAILWAY.

483. *Mr. Ganga Singh: Will Government be pleased to state how many sleepers the Bengal and North Western Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers.
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving the particulars of the timber and cast iron sleepers paid for by the Bengal and North Western Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Bengal and North Western Railway during 1933-34, 1934-35 and 1935-36.

Timber sleeper.				Cast Iron sleeper.				
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
1933-34.								
M. G.	Sal, I Class	160,657	3.00 to 3.50	India		Nil.	Rs.	
M. G.	Sal, II Class	101,706	2.00 to 2.50	Do.				
M. G.	Sal, Special II class.	32,422	2.50 to 2.75	Do.				
1934-35.								
M. G.	Sal, I Class	281,004	3.00 to 3.50	India.		Nil.		
M. G.	Sal, II Class	34,088	2.00 to 2.50	Do.				
M. G.	Sal, Special 2nd Class.	25,922	2.50 to 2.75	Do.				
1935-36.								
M. G.	Sal, I Class	256,500	3.00 to 3.50	India.		Nil.		
M. G.	Sal (ordinary 2nd Class).	53,015	2.00 to 2.50	Do.				
M. G.	Sal, Special II Class.	22,356	2.50 to 2.875	Do.				

NOTE.—The standard size of a M. G. timber sleeper is 6' x 8' x 4½".

SLEEPERS TAKEN BY THE BOMBAY, BARODA AND CENTRAL INDIA RAILWAY.

484. *Mr. Ganga Singh: Will Government be pleased to state how many sleepers the Bombay, Baroda and Central India Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,

- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving the particulars of the timber and cast iron sleepers paid for by the Bombay, Baroda and Central India Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Bombay, Baroda and Central India Railway during 1933-34, 1934-35 and 1935-36.

Timber sleeper.					Cast iron sleeper.			
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
Rs. 1933-34.					Rs.			
B. G.	Sal	30,000	5.50 to 7.40	Nepal	}	Nil.		
B. G.	Do.	20,000	5.54 to 7.25	U. P.				
M. G.	Do.	2,23,407	2.75 to 3.00	India.				
M. G.	Do.	16,666	3.50 to 3.75	Nepal				
Special Odd Sizes.								
B. G.	Sal	3,666	1.80 to 2.22	India.	}			
B. G.	Teak	1,182	2.84 to 5.61	Burma.				
Rs. 1934-35.					Rs.			
B. G.	Sal	48,000	6.05 to 8.61	India.	}	Nil.		
M. G.	Do.	3,61,500	2.50 to 2.75	Do.				
Special Odd Sizes.								
B. G.	Do.	12,612	1.73 to 2.46	Do.	}			
B. G.	Teak	1,601	3.18 per c. ft.	Burma.				
Rs. 1935-36.					Rs.			
B. G.	Sal	47,226	5.50 to 8.60	India.	}	Nil.		
B. G.	Jungle teak	738	6.54 to 6.61	Do.				
M. G.	Sal	3,13,000	2.50 to 3.00	Do.				
Special B. G. Odd sizes.	Do.	3,587	1.92 to 3.96	Do.				
Special B. G. Odd sizes.	Teak	3,241	3.05 to 5.73	Burma				

NOTE—The standard size of a B. G. timber sleeper is 9' x 10" x 5".
The standard size of a M. G. timber sleeper is 6' x 8" x 4½".

SLEEPERS TAKEN BY THE BURMA RAILWAYS.

485. ***Mr. Ganga Singh:** Will Government be pleased to state how many sleepers the Burma Railways has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,

- (c) Name of timber.
 (d) Average cost of a sleeper,
 (e) Name of province or country from where the sleepers were purchased,
 (f) Number of iron sleepers,
 (g) Size of sleepers,
 (h) Average cost of a sleeper,
 (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving the particulars of the timber and cast iron sleepers paid for by the Burma Railways during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Burma Railways during the years 1933-34, 1934-35 and 1935-36.

		Timber sleeper.			Cast iron sleeper.			
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
		Rs. 1933-34.			Rs.			
M. G.	Pyingado class.	1st 2,15,032	2-12 to 2-44.	Burma	}			
M. G.	Pyingado class.	2nd 33,119	1-54 to 1-86.	Do.				
M. G.	Thitya } class.	1st 1,95,783	2-00 to 2-18.	Do.				
M. G.	Thitya } class.	2nd 33,799	1-46 to 1-64.	Do.		NH.		
Special Size M. G.	Pyingado	449-0 tons.	70-90 to 77-60 per ton.	Do.				
Special Size M. G.	Thitya-Ingyin	417-7 tons.	63-90 to 70-60 per ton.	Do.				
Special Size M. G.	Teak	122-1 tons.	86-10 to 92-80 per ton.	Do.				
		1934-35.						
M. G.	Pyingado class.	1st 2,26,333	2-12 to 2-32.	Do.				
M. G.	Pyingado class.	2nd 49,926	1-50 to 1-69.	Do.				
M. G.	Thitya } class.	1st 1,75,736	1-88 to 2-03.	Do.				
M. G.	Thitya } class.	2nd 35,534	1-36 to 1-51.	Do.		NH.		
M. G.	Thitya } class.	3rd 2,173	0-31 to 0-77.	Do.				
Special Size M. G.	Pyingado	375-4 tons.	73-40 to 91-60 per ton.	Do.				
Special Size M. G.	Thitya-Ingyin	383-4 tons.	64-00 to 71-60 per ton.	Do.				
		1935-36.						
M. G.	Pyingado class.	1st 2,50,556	2-00 to 2-12.	Do.				
M. G.	Pyingado class.	2nd 51,375	1-470 to 1-59	Do.				
M. G.	Thitya } class.	1st 1,38,143	1-75 to 1-93.	Do.				
M. G.	Thitya } class.	2nd 27,738	1-31 to 1-49.	Do.	NH.			
M. G.	Thitya } class.	3rd 1,000	0-38 to 0-56.	Do.				
Special Size M. G.	Pyingado	371-4 tons.	72-15 to 83-65 per ton.	Do.				
Special Size M. G.	Thitya-Ingyin	251-4 tons.	64-28 to 77-92 per ton.	Do.				

NOTE.—The standard size of a M. G. timber sleeper is 6' x 8" x 44".

SLEEPERS TAKEN BY THE EASTERN BENGAL RAILWAY.

486. ***Mr. Ganga Singh:** Will Government be pleased to state how many sleepers the Eastern Bengal Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving particulars of the timber and cast iron sleepers paid for by the Eastern Bengal Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Eastern Bengal Railway during 1933-34, 1934-35 and 1935-36.

Timber sleeper.					Cast iron sleeper.			
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of the Province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
1933-34.								
			Rs.					Rs.
B. G.	Sal, 1st class	1,27,200	5.65 to 5.90	India	}			Nil.
B. G.	Sal, 2nd class	7,901	3.33 to 3.58	Do.				
M. G.	Sal	18,250	2.22 to 2.28	Do.				
M. G.	Treated sleepers from A. B. Ry.	85,000	3.56 to 3.81	Assam, India.				
M. G. Special Bridge and Crossing.	...	4,178	3.22 to 3.28	India.				
Bridge and Crossing B. G.		3,475	7.39 to 7.64	Do.				
1934-35.								
B. G.	Sal, 1st class	1,10,000	5.65 to 5.90	India.	}			Nil.
B. G.	Sal, 2nd class	27,100	3.5 to 3.75	Do.				
M. G.	Sal	1,16,250	2.25 to 2.32	Do.				
M. G.	Treated sleepers from A. B. Ry.	23,750	2.63 to 2.75	Assam.				
Bridge and Crossing M. G.	...	4,776	3.75 to 3.80	India.				
Bridge and Crossing B. G.		12,591	8.45 to 8.70	Do.				
1935-36.								
B. G.	Sal, 1st class	1,10,800	5.38 to 5.65	}	}			Nil.
B. G.	Sal, 2nd class	14,476	3.40 to 3.65					
M. G.	Sal, 1st class	1,40,780	2.25 to 2.31					
M. G.	Sal, 2nd class	83,373	1.31 to 1.38					
M. G. Special Bridge and Crossing.	...	8,530	3.63 to 3.69					
B. G. Special Bridge and Crossing.	Sal	7,139	8.13 to 8.38					

NOTE.—The standard size of a B. G. timber sleeper is 9" × 10" × 5".
The standard size of a M. G. timber sleeper is 6" × 8" × 4½".

SLEEPERS TAKEN BY THE GREAT INDIAN PENINSULA RAILWAY.

487. *Mr. Ganga Singh: Will Government be pleased to state how many sleepers the Great Indian Peninsula Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper.
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving particulars of the timber and cast iron sleepers paid for by the Great Indian Peninsula Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Great Indian Peninsula Railway during the years 1933-34, 1934-35 and 1935-36.

Timber Sleeper.					Cast Iron Sleeper.				
Size of sleeper.	Name of timber.	Number of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	Number of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.	
			Rs.				Rs.		
B. G.	Sal	75,000	5-71 to 6-295	India		B. G. (For 100 lbs. rails). (W. M. R. type). B. G. (For 87 lb. rails). (W. M. S. type).	79,554 1,000	8-68 8-592	} Supplied partly in India and partly from abroad.
B. G.	Sal	30,000	6-385	India	.....		Nil.		
B. G.	Sal	50,000	6-625	India		B. G. C. S. T. 9 (For 90 lb. rails). B. G. Duplex rail free joint sleeper for 90 R. rails.	10,000 296	8-728 16-663	India. Do.

NOTE.—The standard size of a Broad Gauge wooden sleeper is 9' x 10" x 5".

SLEEPERS TAKEN BY THE MADRAS AND SOUTHERN MAHRATTA RAILWAY.

488. *Mr. Ganga Singh: Will Government be pleased to state how many sleepers the Madras and Southern Mahratta Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,

- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving particulars of timber and cast iron sleepers paid for by the Madras and Southern Mahratta Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Madras and Southern Mahratta Railway during 1933-34, 1934-35 and 1935-36.

Timber.				Cast iron.			
Size.	Name of timber.	No. paid for.	Price per sleeper at site of work.	Name of the country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site from where purchased.
Rs. 1933-34.				Rs.			
B. G.	Sal	76,150	6 to 8	India	}		Nil.
M. G.	Kanara teak, 1st class	1,00,000	3-56	Do.			
M. G.	Kanara teak, 2nd class	10,000	2-56	Do.			
1934-35.							
B. G.	Sal	1,26,420	6-44	India	}		Nil.
M. G.	Kanara teak, 1st class	88,000	3-06	Do.			
M. G.	Kanara teak, 2nd class	6,000	2-38 to 2-44	Do.			
1935-36.							
B. G.	Sal	1,40,000	6-20	India	B.G. for 16,000 80 lb. rails.	8-02	India.
M. G.	Kanara teak, 1st class	1,24,000	3-06 to 3-56	Do.			
M. G.	Kanara teak, 2nd class	6,000	2-44	Do.			
M. G.	Sal	57,000	3-13	Do.			
M. G.	Dhumo (Creosoted)	15,000	2-94	Do.			

NOTE.—The Standard size of a B. G. Sleeper is 9' x 10" x 5".
The Standard size of a M. G. Sleeper is 6' x 8" x 4 1/2".

SLEEPERS TAKEN BY THE NORTH WESTERN RAILWAY.

489. ***Mr. Ganga Singh:** Will Government be pleased to state how many sleepers the North Western Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper,

- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving the particulars of the timber and cast iron sleepers paid for by the North Western Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the North Western Railway during the years 1933-34, 1934-35 and 1935-36.

Timber sleeper.				Cast iron sleeper.				
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
Rs.				Rs.				
1933-34.								
B. G.	Deodar	3,61,429	6.44 to 7.0	India	<i>B. G.</i> C. S. T. 4 for 90 lbs. rails.	29,000	9.79 to 10.68	India.
B. G.	Chir	82,817	3.63 to 4.19	Do.	C. S. T. 4 A for 87 lbs. rails.	40,000	10.21 to 11.8	} Supplied partly in India and partly from abroad.
B. G.	Kail	20,914	3.81 to 4.37	Do.	C. S. T. 4A for 90 lbs. rails.	22,000	9.84 to 10.7	
B. G.	Fir	59,475	3.44 to 4.0	Do.	C. S. T. 4A for 90 lbs. rails.	13,000	9.85 to 10.71	
1934-35.								
B. G.	Deodar	2,62,490	5.25 to 5.81	India	<i>P. G.</i> C. S. T. 4A for 90 lbs. rails.	1,55,000	9.46 to 10.41	India.
B. G.	Chir	1,73,022	3.37 to 3.93	Do.				
B. G.	Kail	61,571	3.85 to 4.41	Do.				
B. G.	Fir	32,309	3.12 to 3.68	Do.				
Rs.				Rs.				
B. G.	Deodar	2,22,870	4.94 to 5.50	India	B. G. for 90 lbs. rails.	2,20,000	9.46 to 10.32	India
Do.	Chir	1,24,032	3.28 to 3.84	Do.	(C. S. T. 9).	...	...
Do.	Fir	44,193	3.13 to 3.69	Do.	...	...	...
Do.	Kail	57,861	3.75 to 4.31	Do.	...	...	...
Do.	Pyinkado	10,000	7.5 to 8.06	Burma	...	...	...

NOTE.—The standard size of a B. G. sleeper is 9' × 10" × 5".

SLEEPERS TAKEN BY THE ROHILKUND AND KUMAON RAILWAY.

490. *Mr. Ganga Singh: Will Government be pleased to state how many sleepers the Rohilkund and Kumaon Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving particulars of the timber and cast iron sleepers paid for by the Rohilkund and Kumaon Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the Rohilkund and Kumaon Railway during 1933-34, 1934-35 and 1935-36.

		Timber sleeper.			Cast iron sleeper.			
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
Rs. A. P.								
1933-34.								
B. G.	Sal (II class)	7,776	2-8-0 to 3-0-0	India	}	Nil.		
M. G.	Sal (I class)	65,169	2-6-0 to 2-8-0	Do.				
M. G.	Sal (Spl. II class)	14,978	1-8-0 to 1-10-0	Do.				
M. G.	Sal, 2nd class	4,294	1-0-0 to 1-4-0	Do.				
Bridge and Crossing.	Sal	1,474	1-8-0 to 2-4-0 per c. ft.	Do.				
1934-35.								
B. G.	Sal, II class	5,000	2-8-0	India	}	Nil.		
M. G.	Sal, I class	82,156	2-4-0 to 2-8-0	Do.				
M. G.	Sal, II class	16,949	1-4-0 to 1-10-0	Do.				
M. G.	Sal, III class	4,145	0-12-0 to 0-13-0	Do.				
Bridge sleepers.	Sal	17	2-0-0 to 2-8-0	Do.				
Crossing sleepers.	Sal	211	1-12-0	Do.				
1935-36.								
M. G.	Sal, I class	35,552	2-0-0 to 2-8-0	India	}	Nil.		
M. G.	Sal, Spl. II class	16,616	2-0-0	Do.				
M. G.	Sal, Ord. II class	21,685	1-2-0 to 1-8-0	Do.				
Bridge	Sal	807	2-0-0 per c. ft.	Do.				
Pts. and Crossings	Sal	1,053	1-12-0 per c. ft.	Do.				

NOTE.—The standard size of a M. G. timber sleeper is 6' x 8" x 41".
The standard size of a B. G. timber sleeper is 9' x 10" x 5".

SLEEPERS TAKEN BY THE SOUTH INDIAN RAILWAY.

491. *Mr. Ganga Singh: Will Government be pleased to state how many sleepers the South Indian Railway has taken during the years 1933-34, 1934-35 and 1935-36 giving the following details:

- (a) Number of wooden sleepers,
- (b) Size of sleepers,
- (c) Name of timber,
- (d) Average cost of a sleeper,
- (e) Name of province or country from where the sleepers were purchased,
- (f) Number of iron sleepers,
- (g) Size of sleepers,
- (h) Average cost of a sleeper,
- (i) Name of province or country from where the sleepers were purchased?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement giving particulars of timber and cast iron sleepers paid for by the South Indian Railway during the years 1933-34, 1934-35 and 1935-36.

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the South Indian Railway during 1933-34, 1934-35 and 1935-36.

Size of sleeper.	Name of timber.	Timber sleeper.			Cast iron sleeper.			
		No. of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of province or country from where purchased.
Rs.								
1933-34.								
B. G.	Surli or Nangal	16,720	4.75 to 5.15	India	} Nil.			
B. G.	Kongu or Irumbogam.	1,574	4.75 to 5.15	Do.				
B. G.	Irul	1,693	4.75 to 5.15	Do.				
B. G.	Malabar teak	4,513	4.75 to 8.00	Do.				
M. G.	Surli or Nangal	5,602	1.81 to 2.31	Do.				
M. G.	Kongu or Irumbogam.	4,581	1.81 to 2.31	Do.				
M. G.	Irul	74,785	1.81 to 2.31	Do.				
M. G.	Malabar teak	17,530	2.0 to 3.0	Do.				
Special Size 6' x 8" x 6"	Surli or Nangal	672	2.41	Do.				
Special Size 6' x 8" x 6"	Kongu or Irumbogam.	35	2.41	Do.				
Special Size 6' x 8" x 6"	Irul	2,293	2.41	Do.				
1934-35.								
B. G.	Surli or Nangal	26,891	4.1 to 5.2	India		} Nil.		
B. G.	Kongu or Irumbogam.	15,863	4.2 to 6.0	Do.				
B. G.	Irul	40,304	4.1 to 5.2	Do.				
B. G.	Malabar teak	6,021	6.5 to 6.8	Do.				
B. G.	Karimarudu	97	5.2	Do.				
M. G.	Surli or Nangal	3,375	1.5 to 2.3	Do.				
M. G.	Kongu or Irumbogam.	7,701	1.6 to 2.3	Do.				
M. G.	Irul	41,492	1.6 to 2.3	Do.				
M. G.	Malabar teak	20,023	2.4 to 3.5	Do.				
M. G.	Karimarudu	529	2.3	Do.				
Special Size (M. G.) 6' x 8" x 6"	Malabar teak	2,500	5.4	Do.				

Statement showing the number, average price, size, etc., of timber and cast iron sleepers paid for by the South Indian Railway during 1933-34, 1934-35 and 1935-36—contd.

Timber Sleeper.					Cast Iron Sleeper.			
Size of sleeper.	Name of timber.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of the province or country from where purchased.	Size.	No. of sleepers paid for.	Price per sleeper at site of work.	Name of Province or country from where purchased.
1935-36.								
B. G.	Suruli or Nangal	46,607	4.5 to 6.0	India				
B. G.	Kongu or Irum-bogam.	40,342	5.0 to 6.0	"				
B. G.	Iral	38,012	4.5 to 6.0	"				
B. G.	Malabar teak	155	4.5	"				
B. G.	Karimarudu	120	6.0	"				
M. G.	Suruli or Nangal	7,139	1.87 to 2.75	"				
M. G.	Kongu or Irum-bogam.	24,096	2.25 to 2.75	"				
M. G.	Iral	14,257	1.87 to 2.75	"				
M. G.	Malabar teak	67,498	2.37 to 2.73	"				
M. G.	Karimarudu	250	2.75	"				
Special size 6" x 8" x 6".	Malabar teak	2,000	5.0	"				

NOTE.—The standard size of a B. G. timber sleeper is 9' x 10" x 5".

The standard size of a M. G. timber sleeper is 6' x 8" x 4½".

DAMAGE DONE TO THE ROLLING STOCK BY IRON SLEEPERS AND PURCHASE OF SLEEPERS FROM BURMA.

492. *Mr. Ganga Singh: (a) Will Government be pleased to state if it is a fact that the iron sleepers damage the rolling stock and reduce their life about 30 per cent. and if not 30 per cent. to what percentage?

(b) Will Government be pleased to state whether the sleepers were taken from Burma where the hard-wood like tiya, pingado, engine-wood and other such timbers are found in abundance and available at any time? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) Government have no reason to believe that cast iron or steel sleepers cause more damage to rolling stock than wooden sleepers.

(b) Burma wooden sleepers are purchased when and where their price, including freight, estimated life, etc., appear to justify purchase, in competition with Indian timbers and metal sleepers.

Mr. Sri Prakasa: Which of the two types of sleepers is more economical?

The Honourable Sir Muhammad Zafrullah Khan: I do not think a definite opinion can yet be given, but the inclination is on the side of cast iron sleepers.

REDUCTION OF SECOND CLASS FARE ON BURMA RAILWAYS.

195. ***Mr. Ganga Singh:** (a) Will Government be pleased to state in detail the net income in Burma Railways of third, second and first classes during the years 1928-29, 1929-30, 1930-31, 1931-32, 1932-33, 1933-34, 1934-35 and 1935-36?

(b) Will Government be pleased to state the number of passengers who travelled by second class and first class during the year 1928-29, 1929-30, 1930-31, 1931-32, 1932-33, 1933-34, 1934-35 and 1935-36?

(c) Will Government be pleased to state if they are aware that on account of depression the percentage of persons travelling by second class has considerably fallen?

(d) Will Government be pleased to state whether in view of the number of second class passengers falling on account of economic depression, they are prepared to reduce the fare to 2/3 of the existing fare or six pies per mile?

The Honourable Sir Muhammad Zafrullah Khan: (a) and (b). I am placing on the table statements showing the gross earnings from each class of passenger traffic and the number of first and second class passengers carried.

(c) There has been a considerable falling off in the number carried in both first and second classes.

(d) I am communicating the Honourable Member's suggestion to the Agent of the Burma Railways for consideration.

Gross Earnings of the Burma Railways.

Year.	1st Class.	2nd Class.	3rd Class.
1928-29	4,80,000	9,68,000	1,38,33,000
1929-30	4,59,000	9,06,000	1,27,46,000
1930-31	4,06,000	7,68,000	1,06,77,000
1931-32	3,39,000	6,09,000	88,19,000
1932-33	2,86,000	5,68,000	84,77,000
1933-34	2,86,000	4,97,000	78,74,000
1934-35	2,83,000	4,60,000	80,99,000
1935-36	2,75,000	4,73,000	84,08,000

Number of passengers carried on the Burma Railways.

Year.	1st Class.	2nd Class.
1928-29	70,500	673,000
1929-30	58,400	612,100
1930-31	51,600	540,000
1931-32	38,400	378,600
1932-33	31,900	298,200
1933-34	26,900	242,100
1934-35	24,600	254,900
1935-36	23,100	265,100

PROVISION OF CERTAIN AMENITIES FOR THIRD CLASS PASSENGERS ON BURMA RAILWAYS.

494. *Mr. Ganga Singh: (a) Will Government be pleased to state the breadth of the third class seats in Burma Railways?

(b) Will Government be pleased to state if it is a fact that the breadth of the seat is 15" and on the motion of Burma Railway Advisory Council the Burma Railway Administration agreed to increase it to 18"?

(c) Will Government be pleased to state the date when it agreed to increase this size of the seat?

(d) Will Government be pleased to state when it is going to carry out the recommendations of the Burma Railway Advisory Council?

(e) Will Government be pleased to state if it is not a fact that Burma Railways third class is most uncomfortable and no effort has been made to improve it and to provide comfort to the third class passengers?

(f) Will Government be pleased to state what attention is given to the cleanliness of third class and are they aware that even the cob-webs are found in the branch line third class carriages and in the latrines of the main line, mail and express trains coaches?

(g) Will Government be pleased to state what steps it has taken during the last 30 years to give amenity of travelling to the passengers travelling in the third class?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b), (c) and (d). The width of third class seats on the Burma Railways is approximately 15". The Burma Railways Advisory Council, at their 65th meeting held on the 7th June, 1935, agreed that the width of seats should be increased from 15" to 16" approximately in seven mail and express trains rakes subject to Railway Board's sanction. It was subsequently agreed at a meeting of the Council held on the 19th of August, 1935, to postpone the above work due to financial stringency.

(e) Government have no reason to believe that such is the case.

(f) Carriage cleaners and sweepers are provided at all carriage examining stations. The reply to the latter part is in the negative.

(g) A list of amenities provided for third class passengers during the last 30 years on the Burma Railways is laid on the table.

List of Amenities.

- (i) Fitting bogie passenger stock with vacuum brake inter-communication system.
- (ii) Electric lights in 3rd class compartments.
- (iii) Provision of end and side ventilators.
- (iv) Replacement of panel shutters by leuvre type of 1'-11" length to prevent rain driving in.
- (v) Adoption of larger size latrines (4'-4½" x 3'-0½").
- (vi) Replacement of cast iron latrines sheets by enamel ones as being cleaner and more sanitary.
- (vii) Provision of electric lights in 3rd class latrines of main line mail rakes.

- (viii) Painting 3rd class coach interiors with "cement grey" paints instead of "Creosote and cleaning oil", as avoiding damage to passengers' clothes and reflecting more light.
- (ix) Provision of latrines in all local trains running between Letpadan-Paungde and Letpadan-Wanetchang-Hmawbi.
- (x) Replacement of 4-wheeler coaching stock by bogie stock. Since March 1936 no 4-wheeled passenger carrying stock has been employed.
- (xi) Alterations to improve the riding of coaches.

Mr. Sri Prakasa: What is the gauge of the Burma Railways?

The Honourable Sir Muhammad Zafrullah Khan: I believe it is the metre gauge.

INSANITARY CONDITION OF QUARTERS FOR SUBORDINATES OF THE BURMA RAILWAYS AT MALAWGONE AND INSEIN.

495. ***Mr. Ganga Singh:** (a) Will Government be pleased to state the places where the Railway quarters of officers and subordinates are situated for the Railway officers working in Rangoon?

(b) Will Government be pleased to state if they are aware that the Railway subordinate quarters at Malawgone are most insanitary and uninhabitable?

(c) Will Government be pleased to state what report the Chief Medical Officer, Burma Railways, has made during the last three years about the sanitary condition of these quarters?

(d) Will Government be pleased to state if it is a fact that after sunset horribly bad smell comes from the surroundings of these quarters?

(e) Will Government be pleased to state if the Director of Public Health, Burma, has ever inspected these quarters or any other officer concerned with the factories in Burma has taken trouble to visit these quarters and how many times during the last ten years the Agents of Burma Railways have inspected these quarters?

(f) Will Government be pleased to state if they are aware that the condition of the Railway subordinate quarters at Insein is poor and requires improvement?

The Honourable Sir Muhammad Zafrullah Khan: (a) The quarters for officers are situated at Hume Road, Mission Road, Fytche Road, Gymkhana and Prome Road and Botataung, and those for subordinates at Dhoby Lines (Rangoon), Botataung and Malagaon.

(b), (c) and (d). The quarters at Malagaon are not uninhabitable.

A municipal rubbish dump exists parallel with and at a distance of 100 yards from the nearest line of quarters. This dump and an open drain running alongside of it are the cause of an offensive smell particularly in the evenings. The question of the removal of the dump has been the subject of correspondence between the Railway Administration and the Municipality for some years and the Local Government has also been addressed in the matter.

The Corporation of Rangoon has under consideration a scheme which it is hoped may soon materialise for closing this dump and tipping rubbish at another site some miles away.

The Chief Medical Officer, Burma Railways, has on many occasions commented on the insanitary conditions at Malagaon but owing to the site being low lying it is difficult to dispose of surface drainage. Work on local reclamation and improvement of the drainage has been taken in hand.

(e) As mentioned in reply to (b), (c) and (d), the Local Government and the Agent, Burma Railways, are aware of the conditions at Malagaon.

(f) No. The sanitary state of the railway area at Insein is, in the opinion of the Chief Medical Officer, Burma Railways, satisfactory and superior to that obtaining in the adjacent civil area.

PROPOSAL FOR THE APPOINTMENT OF A HIGH COMMISSIONER FOR BURMA IN LONDON.

496. ***Mr. Ganga Singh:** (a) Will Government be pleased to state what arrangements it is going to make in connection with the High Commissioner for Burma on its separation?

(b) Will Government be pleased to state if it will appoint a Burman as High Commissioner of Burma in London?

(c) Will Government be pleased to state what proposals have been made in connection with this High Commissioner's appointment for Burma?

(d) Will Government be pleased to state what is the total expenditure of the High Commissioner for India in London giving details (i) pay of High Commissioner and other expenditure involved in connection with entertainment, etc., (ii) expenditure incurred in connection with the staff and office?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b), and (c). I would invite the attention of the Honourable Member to section 150 of the Government of Burma Act, 1935, from which he will see that the appointment of a High Commissioner for Burma will be in the discretion of the Governor of Burma after its separation.

(d) The attention of the Honourable Member is invited to "Demand No. 87—Expenditure in England under the control of the High Commissioner" in the Book of Demands for Grants for 1936-37, a copy of which is in the Library of the Legislature. I may state that the High Commissioner for India receives a salary of £3,000 per annum with no entertainment allowance.

APPOINTMENT OF INDIAN TRADE COMMISSIONERS AND MARKETING OFFICERS IN FOREIGN COUNTRIES.

497. ***Mr. Ganga Singh:** (a) Will Government be pleased to state if it has any proposals to appoint Indian Trade Commissioner and Marketing Officers in foreign countries?

(b) Will Government be pleased to state if there is any proposal that the separated Burma will have its separate Trade Commissioner and Marketing Officers in foreign countries, and if not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a) The Government of India have recently appointed an Indian Trade Commissioner to Japan, and are about to appoint another to East Africa. There is no proposal to appoint marketing officers in foreign countries.

(b) The Government of India are not aware of any such proposal. The matter is one for the Government of Burma to consider.

APPOINTMENT OF BURMAN OFFICERS AND CLERKS IN THE JOINT OFFICE OF THE HIGH COMMISSIONER FOR INDIA AND BURMA.

498. ***Mr. Ganga Singh:** Will Government be pleased to state if it intends to keep a joint office of the High Commissioner for India and Burma? If so, how many Burman officers and clerks will be appointed from Burma?

The Honourable Sir Muhammad Zafrullah Khan: I would refer the Honourable Member to the reply just given by me to parts (a) to (c) of his starred question No. 496.

RETIREMENT OF BRITISH OFFICERS IN BURMA BEFORE ITS SEPARATION.

499. ***Mr. Ganga Singh:** Will Government be pleased to state if it is a fact that the British Officers serving in Indian Services in Burma will have option to retire on completion of 25 years service or over 50 years of age before the separation of Burma?

The Honourable Sir Henry Craik: No.

POSTING OF INDIAN MEDICAL SERVICE OFFICERS TO BURMA.

500. ***Mr. Ganga Singh:** (a) Will Government be pleased to state how many I. M. S. Officers have been posted to Burma during the last six months with the name and date of postings?

(b) Will Government be pleased to state the necessity which required the Government of India to post these officers?

(c) Are Government aware that this posting of I. M. S. Officers has proved detrimental to the Burmanisation of services?

(d) Will Government be pleased to state if Government are aware of the feelings of the Burma Medical Officers in this connection as this action deprives them of their chances of promotion?

Mr. G. B. F. Tottenham: (a) During the six months ending the 31st December, 1936, eight I. M. S. officers were posted to Burma. I lay on the table a statement containing the required particulars.

(b) They were asked for by the Government of Burma in order to fill the posts reserved by the Secretary of State for I. M. S. officers in that province.

(c) No, because these appointments are reserved for I. M. S. officers and all the Burman officers of that Service are serving in Burma either on the military or the civil side.

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

Name.	Statement.	Date of posting.
1. Captain C. F. Carfit		23th October 1936.
2. Major G. J. Smith		2nd November 1936.
3. Captain R. L. Raymond		5th November 1936.
4. Captain A. E. Kingston		11th November 1936.
5. Captain G. W. Miller		14th November 1936.
6. Captain M. S. Purvis		21st November 1936.
7. Captain S. Annaswami		4th December 1936.
8. Lieutenant M. S. Zan		4th December 1936.

Pandit Lakshmi Kanta Maitra: May I know if any of these eight I. M. S. officers is a Burman?

Mr. G. E. F. Tottenham: I do not think any of these eight that I referred to just now are Burmans, but there are Burman officers in the I. M. S. who are serving in Burma.

Mr. Sri Prakasa: Are any I. M. S. officers in Burma appointed as Superintendents of Jails?

Mr. G. E. F. Tottenham: I must have notice of that question.

Mr. Lachand Navalrai: Are there any Sindhi I. M. S. officers in Burma? (Laughter.)

Mr. G. E. F. Tottenham: I must have notice of that also.

DRINKING OF LIQUOR BY RAILWAY EMPLOYEES WHILE ON DUTY.

501. ***Mr. Ganga Singh:** (a) Will Government be pleased to state if drinking of liquor by railway employees while on duty is allowed in the Railway service?

(b) Will Government be pleased to state what percentage of the Railway staff of undermentioned nationalities drink liquor while on duty:

- (i) Europeans,
- (ii) Anglo-Indians, and
- (iii) Indians?

(c) Will Government be pleased to state if it is a fact that 90 per cent. of the Railway staff are addicted to drinking of liquor?

(d) Will Government be pleased to state how many of the Railway staff who were found drunk on duty were dismissed, removed or prosecuted in the Indian Railways in 1934-35 and 1935-36?

(e) Will Government be pleased to state if they are aware that these officers who are drunk on duty are generally insubordinate and offensive to passengers?

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

(b), (c) and (d). Government do not maintain statistics in regard to the habits of their employees in this respect.

(e) Government have no reason to believe that the staff generally do not observe the rules regulating their conduct while on duty and their behaviour towards travelling public.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform this House how many of the railway staff consume drinking water?

The Honourable Sir Muhammad Zafrullah Khan: Every one of them.

PRICES OF B. O. C. PETROL AT DIFFERENT PLACES.

502. ***Mr. Ganga Singh:** Will Government be pleased to state the rate per gallon at which B. O. C. petrol No. 2 (Burma products) is sold at Rangoon Syrian, Yenangyaung, Mandalay, Maymyo, Lashio, Calcutta, Nagpur, Madras, Delhi, Bombay, Karachi and London?

The Honourable Sir Muhammad Zafrullah Khan: I lay on the table a statement showing the information asked for by the Honourable Member.

Statements showing the prices of B. O. C. Petrol at different places.

The current selling rates of B. O. C. petrol per Imperial gallon in bulk are as follows :

	Rs.	A.	P.
Rangoon	1	2	6
Syrian	1	2	9
Yenangyaung	1	7	6
Mandalay	1	7	3
Maymyo	1	8	6
Lashio	1	10	0
Calcutta	1	5	0
Nagpur	1	3	6
Madras	0	15	0
Delhi	1	5	6
Bombay	0	15	0
Karachi	1	5	0

Packed rates are one anna per gallon higher than bulk rates.

The selling rate of motor spirit No. 1 in London on the 2nd December 1936 was 1s. 5d per gallon.

BURMA OIL COMPANY'S OIL-FIELD AND PETROL REFINERY.

503. ***Mr. Ganga Singh:** Will Government be pleased to state if it is a fact that Burma Oil Company's oil-field is at Yenangyaung and Petrol Refinery at Syrian and Rangoon?

The Honourable Sir Frank Noyce: I know of no field called Yenangyaung and the Honourable Member is presumably referring either to the Yenangyaung field or to the Yenangyat field. The Company hold leases in both fields, and have refineries at Syrian and at Dunneedaw, near Rangoon.

RECOGNITION OF THE BURMA RAILWAYS EMPLOYEES UNION.

504. ***Mr. Ganga Singh:** (a) Will Government be pleased to state if it is a fact that there is a Union of the Burma Railway Employees, called "The Burma Railway Employees' Union"?

(b) Will Government be pleased to state if it is a fact that that Union was registered in the year 1933 and started in about 1930?

(c) Will Government be pleased to state what was the name of this Union before its registration?

(d) Will Government be pleased to state if they are aware that it was registered under the Trade Union Act in 1933?

(e) Will Government be pleased to state if it is a fact that it has applied three or four times for its recognition?

(f) Will Government be pleased to state the number of members on the roll of Unions of the East Indian Railway, Assam Bengal Railway, Bengal Nagpur Railway, Bengal and North Western Railway, Bombay, Baroda and Central India Railway, Eastern Bengal Railway, Great Indian Peninsula Railway, Southern Mahratta Railway, North Western Railway, South Indian Railway and the Burma Railways?

(g) Will Government be pleased to state which of the above unions are recognised and what is the total number of membership of each?

(h) Will Government be pleased to state the reason or reasons why Burma Railways Employees' Union was refused recognition?

(i) Will Government be pleased to state how many strikes have taken place since Burma Railways started?

(j) Will Government be pleased to state if they are aware that the Burma Railway employees are very keen to get their union recognized?

(k) Will Government be pleased to state if they are willing to recognise this union (*i.e.*, the Burma Railways Employees' Union)?

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

(b) The reply to the first part is in the affirmative. As regards the second part, Government have no information.

(c), (e), (f), (h) and (j). Government have no information.

(g) I lay on the table of the House a statement giving the information available with Government.

(i) The information readily available with Government is that contained in pages 250 to 258 of the Memorandum by the Railway Board for the Royal Commission on Labour, a copy of which is in the Library of the House.

(k) The question of the recognition of the Union is a matter within the discretion of the Agent, Burma Railways, to whom I am sending a copy of this question and my reply for such action as he may consider necessary.

Statement showing particulars regarding the recognition of or the withdrawal of recognition from individual unions on Railways.

Railway.	Name of union.	Date from which the union has been accorded recognition.
B. B. & C. I.	The B. B. & C. I. Railway Employees' Union, Parel, Bombay.	Recognized since May, 1929.
M. & S. M.	The M. & S. M. Railway Employees' Union.	Not recognized by the Railway.
A. B.	The A. B. Railway Indian Employees' Association, Mymensingh.	Not recognized.
Burma	Burma Railways Employees' Union	Not recognized.
Burma	The National Union of Railwaymen of India and Burma.	Not recognized.
S. I.	The South Indian Railway Workers' Union.	Not recognized.
G. I. P.	National Union of Railwaymen of India and Burma.	24th September, 1928.
G. I. P.	G. I. P. Railway Administration and Executive Offices Staff Union.	18th March, 1932.
G. I. P.	New G. I. P. Railway Staff Union	11th April, 1935.
G. I. P.	G. I. P. Railway Workers' Union	Not recognized.
G. I. P.	All-India and Burma Covenanted Non-Gazetted Railway Services Association.	Recognition discontinued.
G. I. P.	G. I. P. Railway Muslim Employees' Association.	Not recognized.
G. I. P.	All-India Muslim Railway Employees' Association.	Not recognized.
G. I. P.	G. I. P. Railway Labour Union	Not recognized.
B. N.	The B. N. Railway Indian Labour Union.	14th May, 1921.
B. N.	The B. N. Railway Workers Welfare Association.	3rd July, 1935.
B. N.	The B. N. Railway Employees Union	30th March, 1928.
E. B.	E. B. Railway Indian Employees Association.	1921.
E. B.	National Union of Railwaymen's of India and Burma.	18th November, 1930.
E. B.	Kanchrapara Railway Workmen's Union.	18th April, 1928.
E. I.	The E. I. Railwaymen's Union, Lucknow.	7th February, 1933.
E. I.	E. I. Railway Employees' Association	24th September, 1935.
E. I.	National Union of Railwaymen of India and Burma.	10th December, 1928.
E. I.	All-India and Burma Covenanted non-Gazetted Railway Service Association.	4th May, 1928.
N. W.	N. W. Railway Union	31st January, 1921.
N. W.	N. W. Railway Accounts Union	1928.
N. W.	Association of Accountants, N. W. Railway.	May, 1935.
B. & N. W.	B. & N. W. Railwaymen's Association	1929.

Pandit Lakshmi Kanta Maitra: May I know if the Honourable Member's Department has got any machinery by which to determine whether a particular railway organisation has got a labour union?

The Honourable Sir Muhammad Zafrullah Khan: No particular machinery is necessary for that purpose.

Pandit Lakshmi Kanta Maitra: Am I to understand from the Honourable Member that they do not keep any information as to whether these new unions are growing anywhere on the railways?

The Honourable Sir Muhammad Zafrullah Khan: That does not arise out of this question.

Mr. Lalchand Navalrai: Is there any list of these unions in the Railway Board?

The Honourable Sir Muhammad Zafrullah Khan: There is a long list that I have placed on the table in answer to the question.

Lieut.-Colonel Sir Henry Gidney: Will the Honourable Member inform this House whether Company-managed Railways are under any obligation or under the orders of the Railway Board in regard to the recognition of railway unions?

The Honourable Sir Muhammad Zafrullah Khan: I must have notice of that question.

Pandit Lakshmi Kanta Maitra: May I know if the Burma Railways Association approached the Honourable Member's Department for recognition of their union?

The Honourable Sir Muhammad Zafrullah Khan: That does not arise out of this question.

ATTITUDE OF AUTHORITIES TOWARDS PERSONS JOINING THE BURMA RAILWAYS EMPLOYEES UNION.

505. ***Mr. Ganga Singh:** (a) Will Government be pleased to state if they are aware that the authorities of the Burma Railways are making and noting persons who join the Burma Railway Union?

(b) Will Government be pleased to state if they are aware that even the promotions of persons who join the Burma Railway Employees' Union are jeopardised by their joining the Burma Railways Union?

(c) Will Government be pleased to state what facility or facilities the authorities of Burma Railways have given for organisation of the Burma Railways Union?

(d) Will Government be pleased to state if they are aware that certain Station Masters of class "A", have ordered their men not to join the Union?

(e) Will Government be pleased to state how many employees of the Burma Railways have joined the Burma Railways Union from Kemmendine Station?

(f) Will Government be pleased to state if they propose to issue instructions that no employee of the Burma Railways be interfered with, or influenced, in connection with his willingness to join the Burma Railways Employees' Union? If not, why not?

The Honourable Sir Muhammad Zafrullah Khan: (a), (b), (c), (d) and (e). Government have no information, but have no reason to believe that the allegation contained in parts (a), (b) and (d) of the question are correct.

(f) Does not arise.

I am, however, sending a copy of this question and my reply to the Agent, Burma Railways, for such action as he may consider necessary.

Mr. S. Satyamurti: Will Government call for the information, and satisfy themselves that the legitimate activities of the Burma Railways employees who join this union are not sought to be punished?

The Honourable Sir Muhammad Zafrullah Khan: If information is given to Government that anywhere any legitimate activity of any employee is sought to be penalised, Government will certainly look into it.

Mr. S. Satyamurti: In view of this question, will Government be good enough to call for the information on the specific allegations contained in this question, particularly in clauses (b) and (d)?

The Honourable Sir Muhammad Zafrullah Khan: These are very general kinds of allegations.

Mr. S. Satyamurti: If my Honourable friend will look at clause (d) of the question, he will find that that is specific enough. Will he call for the information?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid it is not specific. It refers to certain Station Masters of class A. Why not specify the Station Masters, in which case inquiries can be made?

Mr. Ganga Singh: Has the Honourable Member at any time taken the trouble to inquire into the conditions of the employees on the Burma Railways?

The Honourable Sir Muhammad Zafrullah Khan: I am afraid that is a very general question which does not arise out of this question.

CONSTRUCTION OF A TOMB OVER THE GRAVES OF THE LATE EMPEROR BAHADUR SHAH AND EMPRESS ZINAT MAHAL AT RANGOON.

506. ***Mr. Ganga Singh:** (a) Will Government be pleased to state where the remains of the late Emperor, Bahadur Shah II, were buried?

(b) Will Government be pleased to state if it is a fact that they were buried in the compound of Captain Davies, situated at that time in a locality near Sadar Bazar in Rangoon?

(c) Will Government be pleased to state in what year his Empress, Zinat Mahal, died?

(d) Will Government be pleased to state if it is a fact that the Empress was also buried in the compound of Captain Davies?

(e) Will Government be pleased to state if it is a fact that the compound of Captain Davies belonged to the military authorities at that time and was leased out to him?

(f) Will Government be pleased to state whether and if so, what steps they took and what provisions they made to have the land where the Emperor and the Empress were buried exclusively for their *mazaar* (tomb)?

(g) Will Government be pleased to state if it is a fact that Captain Davies transferred the right of the land along with the grave to one Mrs. Dawson?

(h) Will Government be pleased to state if any dispute arose between the legal representative of the Emperor, namely the Princess Rounaq Zamani Begam, the grand-daughter of the Emperor and Mrs. Dawson in the matter of the land occupied by the graves?

(i) Will Government be pleased to state if it is a fact that the Rangoon High Court decided that the compound belonged to Mrs. Dawson and the Princess Rounaq Zamani Begam could have a right to visit the tomb for religious purpose, and no other persons were allowed to enter?

(j) Will Government be pleased to state if it is a fact that even the right of visiting the grave was not conceded by the High Court to the Muslim public?

(k) Will Government be pleased to state if it is a fact that the Muslim public approached the High Court to create a trust for the property and the High Court refused, as the land was not invested in the name of the Muslim public?

(l) Will Government be pleased to state if it is a fact that the Government of Burma has now given a portion of the land for this purpose?

(m) Will Government be pleased to state if they are aware that there is a discontent among the Muslim public over the matter and the land granted is not sufficient for the purpose?

(n) Will Government be pleased to state the length and breadth of the site allowed for this purpose?

Sir Aubrey Metcalfe: (a) No. 58, Theatre Road, Cantonments, Rangoon.

(b) Yes.

(c) 1886.

(d) Yes.

(e) Yes.

(f) The plot of land occupied by the graves was resumed by Government and fenced off from the rest of the holding.

(g) No. The land along with the graves passed through the hands of several owners before it came into the possession of Mrs. Dawson.

(h) Yes.

(i) Yes.

(j) Yes.

(k) In 1934, the descendants of Emperor Bahadur Shah and certain other members of the Muslim community of Rangoon moved the High Court at Rangoon for the purposes, amongst others, of framing a proper scheme for the management of the Trust and appointing suitable persons as Trustees. In March, 1935, the Honourable the Judge of the Court trying the suit passed an order stating that there were difficulties in the way

of the Court framing a scheme for the management of the tombs referred to in the plaint, the land vesting in Government and the tombs not having been declared to be trust property, and that in order to enable Government to be approached with a view to having the property vested in the Trustees the case would stand out of the list *sine die* with liberty to the parties to apply.

(l) Yes. The Government of Burma has issued a grant, free of revenue, of the site on which the tomb stands to a body of Trustees for the purpose of administering it. The grant has itself created a Trust over the property.

(m) Government have no knowledge of any discontent over the matter. On the contrary, the Trustees have conveyed to Government the thanks of the entire Muslim community of Burma and India.

(n) The approximate length of the site is 150 feet, while the breadth is 115 feet; the area is approximately 0.397 of an acre.

Sir Muhammad Yamin Khan: When the Honourable Member says in reply to part (m) that there is no discontentment in India and he is not aware of any, has the Honourable Member been reading newspapers about this, that there is really a great deal of discontent in the minds of the Muslim public and amongst the Hindus as well, that the tomb of Bahadur Shah is not properly built and the ruins of the last Emperor have not been given the proper attention as ought to have been given to him, because he was entirely in their hands?

Sir Aubrey Metcalfe: Is this a question?

Mr. President (The Honourable Sir Abdur Rahim): It is very difficult to find out what the question is—the Honourable Member is making a speech. He had better put it in the form of a question.

Sir Muhammad Yamin Khan: Has the Honourable Member read newspapers about this resentment or not?

Sir Aubrey Metcalfe: No, I have not. All the information I have is that the Muslim public in Burma are very satisfied and they have expressed their satisfaction to Government for what they have done.

Sir Muhammad Yamin Khan: I am asking about the Indian public, not about the Burman public.

Mr. Ganga Singh: May I ask what is the measure which the Government adopt to know the discontent prevailing among the people on such subjects?

Sir Aubrey Metcalfe: I submit that it is not the Government's business to show curiosity about that. Their business is to meet reasonable requests so far as they can, and that they have done in this matter.

Mr. Ganga Singh: I take it then that a riot is the only measure which awakes Government on such occasions.

CONSTRUCTION OF A TOMB OVER THE GRAVES OF THE LATE EMPEROR BAHADUR SHAH AND EMPRESS ZINAT MAHAL AT RANGOON.

507. ***Mr. Ganga Singh:** (a) Will Government be pleased to state if it is a fact that at present the grave of the late Emperor, Bahadur Shah II, lies devoid of all honour which was due to him?

(b) Will Government be pleased to state if they are willing to give sufficient land for the purpose of making a *mazaar* of the late Emperor Bahadur Shah II?

(c) Will Government be pleased to state if they are aware that the philanthropic Muslims of Rangoon are anxious to erect a *mazaar* (i.e., tomb) suitable to the dignity of an Emperor?

(d) Will Government be pleased to state if they are willing to contribute a reasonable amount for the building of the tomb and satisfy the Muslims in particular and the public in general?

(e) Will Government be pleased to state if they are willing to offer their co-operation to the philanthropic Muslims, and other Indians in the matter of constructing the tomb?

(f) Will Government be pleased to state how many relatives of the late Emperor, Bahadur Shah, are still living and what help they are getting from the Central Government?

(g) Will Government be pleased to state if they are aware that the trustees of the Bahadur Shah Trust, Rangoon, are putting forth their efforts in the cause of erecting the tomb, and if the Government are prepared to help them?

Sir Aubrey Metcalfe: (a) and (b). I would refer the Honourable Member to the replies given to parts (l) and (m) of his previous question.

(c) Yes.

(d) and (e). Any proposals received through the Government of Burma will be given due consideration. It is not possible to give any assurance at present.

(f) The following relatives of Bahadur Shah are still living and are in receipt of the allowances stated against their names:

	Rs.
	per mensem.
1. Khatiza Bee	30
2. Mirza Nazim Shah	20
3. Mirza Abu Zuffer Sharajuddin	23
4. Mirza Wahiduddin	15

Mirza Nazim Shah is reported to have one step-daughter; the others are reported to have a number of children and grand-children.

(g) The reply to the first part is in the affirmative. As regards the latter part, I would invite the Honourable Member's attention to the reply to parts (d) and (e) of this question.

Pandit Lakshmi Kanta Maitra: May I know if Government do not consider these allowances ridiculously small?

Sir Aubrey Metcalfe: The Honourable Member asks for an expression of opinion.

Pandit Lakshmi Kanta Maitra: I want to know the opinion of Government on this matter.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can form his own opinion.

Sir Muhammad Yamin Khan: Is the pension given to these relatives equal to what is generally given to a *chef* in a household?

Mr. M. Ghiasuddin: May I ask if Government think that this pension is enough for members of an *ex-Royal House*?

Sir Aubrey Metcalfe: I do not think I am expected to give a reply to a question which merely asks for an opinion.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member has given the figures: every one can draw his own inferences.

Pandit Lakshmi Kanta Maitra: May I know what are the considerations that weighed with the Government in fixing these amounts?

Sir Aubrey Metcalfe: All relevant considerations.

Mr. M. Ghiasuddin: What were those relevant considerations, may I ask?

Sir Aubrey Metcalfe: That I am not prepared to state except with notice.

Mr. Sri Prakasa: In view of the fact that these gentlemen might have been the rulers of this country if certain unfortunate accidents and incidents had not happened, will Government consider the desirability of giving them proper subsistence in their present condition?

Sir Aubrey Metcalfe: That, I think, is hypothetical.

Mr. S. Satyamurti: Will my Honourable friend accept similar pensions when they are sent out of this country? (Laughter.)

Sir Cowasji Jehangir: May I ask the Honourable Member who pays these pensions—will the Government of Burma pay them in future?

Sir Aubrey Metcalfe: I should require notice of that.

Pandit Lakshmi Kanta Maitra: May I know when these pensions were first fixed?

Sir Aubrey Metcalfe: I must ask for notice of that.

Mr. M. Ghasuddin: Who is the authority who fixed these pensions?

Sir Aubrey Metcalfe: The Government of India.

Mr. Ganga Singh: Who are the successors to that Royal Family in this country, may I know?

Sir Aubrey Metcalfe: I have given the names of all the descendants which was all that was asked for in the question.

Mr. Ganga Singh: I mean to ask who are successors to that Royal Family in India at present.

Sir Aubrey Metcalfe: I submit that that does not arise out of the late Emperor's tomb.

† 508*.

ELECTION OF MEMBERS TO THE CENTRAL ADVISORY BOARD OF HEALTH.

Sir Girja Shankar Bajpai (Secretary, Department of Education, Health and Lands): Sir, I move:

"That the Members of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, two persons from among their own numbers to be members of the Central Advisory Board of Health constituted by the Government of India."

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

"That the Members of this Assembly do proceed to elect, in such manner as may be approved by the Honourable the President, two persons from among their own numbers to be members of the Central Advisory Board of Health constituted by the Government of India."

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan Rural): Sir, I rise to oppose this motion, because I think the House by this time is convinced of the futility of all such committees. This is a committee on health, and I do not know what functions this committee will be able to fulfil. I do not know even if this committee will meet; and when it meets, the only purpose perhaps of the members will be to submit their bills for travelling expenses and do nothing more. We have an education committee. That is doing nothing, for it cannot do anything. We have various other committees that do nothing; and the formation of such committees only enables Government to side track issues and to shunt the discussion of important questions. When any objection is raised to their treatment of the various nation-building departments, they say that they have committees which would look after those things. But these committees are unable to do anything, for the simple reason that when any important proposals are put before them, the Government say that they have no money. It is a curious thing that the Government have always plenty of money to pay for these committees, to pay members of these committees to travel very long distances and come to Delhi or Simla; but they have no money to implement the proposals and the

†Question No. 508 was not asked by the questioner.

[Mr. Sri Prakasa.]

resolutions of such committees. It has been computed that the average income of an individual in our country is about seven pice per day; and, if I am not mistaken, Sir Girja Shankar Bajpai himself on one occasion said in this House that at least two annas per day is necessary to keep a man in proper food. I do not know what exactly he himself spends on his food; but for others

Sir Girja Shankar Bajpai: Less, Sir; if I may interrupt my Honourable friend, I spend less than two annas a day on my food.

Mr. Sri Prakasa: I am very glad to find that he can live on less than two annas a day; and I see no reason why he should draw his immense salary. I do not know what he does with the rest of the money that he saves after spending two annas per day on his own food and two annas per head on members of his family. I do not know how many members there are in his family

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): He never said that he spent two annas per head on members of his family. He lives on vegetables and grass.

Mr. Sri Prakasa: In any case, Sir, from the little mathematics that I learnt at school, I find it difficult to compute how it would be possible for a man to spend two annas on his food when he has only seven pice as his income; and if he cannot make the two ends meet that way, how can he be helped by a Health Committee? The Health Committee would probably propose schemes like "Drink more milk, live in better houses" . . .

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): Use mosquito curtains! (Laughter.)

Mr. Sri Prakasa: Use mosquito curtains, do this, that and the other; but the main fact is that we have no money, and when we have no money, we cannot possibly meet all the requirements that are necessary for keeping up good health. The chief trouble of our country is firstly poverty, and, secondly, ignorance. The removal

Mr. President (The Honourable Sir Abdur Rahim): The Chair doesn't think the Honourable Member can go into those matters. He must speak to the motion; he cannot really go into all those questions here.

Mr. Sri Prakasa: With due respect, Sir, I should say that the proposal of my friend is that a Health Committee should be appointed. My contention is that a Health Committee is useless, because it can do nothing when there is ignorance and poverty in the country; and the way of removing ignorance and poverty is not by appointing a Health Committee, but by taking such measures as would really go to help the people to remove their ignorance and poverty. But for these things the Government have no money; and, therefore, Sir, I say that when the Government have no money to carry out the proposals that are bound to be made by a Health Committee, if the Health Committee should function properly, then it is useless to appoint that Health Committee. In these circumstances, I oppose this motion, and I hope that the House will throw it out.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I want information on the following points. How many times did this Health Committee meet . . .

Sir Girja Shankar Bajpai: It has not yet been appointed, and so how can it meet?

Pandit Lakshmi Kanta Maitra (Presidency Division: Non-Muhammadan Rural): What will be the functions of this Health Committee?

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

"That the Members of this House do proceed to elect, in such manner as may be approved by the Honourable the President, two persons from among their own numbers to be members of the Central Advisory Board of Health constituted by the Government of India."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): I may inform Honourable Members that for the purpose of election of Members to the Central Advisory Board of Health the Notice Office will be open to receive nominations up to 12 Noon on Saturday, the 6th March, and the election, if necessary, will as usual be held in the Secretary's Room in the Council House, New Delhi, between the hours of 10-30 A.M. and 1 P.M. on Tuesday, the 9th March, 1937. The election will be conducted in accordance with the principle of proportional representation by means of the single transferable vote.

THE CODE OF CIVIL PROCEDURE (THIRD AMENDMENT) BILL.

AMENDMENT OF RULE 3, ORDER XXXII.

Mr. J. A. Thorne (Government of India: Nominated Official): Sir, I beg to move for leave to introduce a Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose.

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

"That leave be granted to introduce a Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose."

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, I want to ask a question here.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member cannot ask any question now. The question is:

"That leave be granted to introduce a Bill further to amend the Code of Civil Procedure, 1908, for a certain purpose."

The motion was adopted.

Mr. J. A. Thorne: Sir, I introduce the Bill.

THE INDIAN RED CROSS SOCIETY (AMENDMENT) BILL.

Mr. G. R. F. Tottenham (Defence Secretary): Sir, I move for leave to introduce a Bill to amend the Indian Red Cross Society Act, 1920, for certain purposes.

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

"That leave be granted to introduce a Bill to amend the Indian Red Cross Society Act, 1920, for certain purposes."

The motion was adopted.

Mr. G. R. F. Tottenham: Sir, I introduce the Bill.

THE INDIAN LIMITATION (AMENDMENT) BILL.

Mr. J. D. Anderson (Secretary, Legislative Department): Sir, I move:

"That the Bill further to amend the Indian Limitation Act, 1908, for a certain purpose, be taken into consideration."

This Bill, Sir, is a very simple measure. The need for it and its scope are, I think, both apparent from the Statement of Objects and Reasons, and I can do little more than proffer to the House a commentary on this statement. As the House knows, at present, whenever the Secretary of State enters court as a suitor, then whatever the court or the cause may be, he has for his limitation a period of 60 years. I do not suggest that it is not necessary that the Secretary of State should have this period of limitation. It is, I submit, obvious that the Secretary of State is in a very different position from the ordinary litigant, and it is necessary that in the public interest he should have a very much longer period of limitation in which to sue. The Bill which is now under consideration does not affect the existing position at all. It concerns not the suits which now have been brought or can be brought, but a very limited class which will come into being as the result of the new Constitution. I wish to refer Honourable Members first to Article 149 of the First Part of the First Schedule of the Indian Limitation Act, 1908, as it stands at present. It reads:

"Any suit by or on behalf of the Secretary of State for India in Council."

Under section 293 of the Government of India Act, 1935, it will be necessary for the present Statute-book to be brought into conformity with the Constitution Act, and, after the 1st of April, Article 149 will read more or less as follows: "Any suit by or on behalf of the Secretary of State in Council, the Crown Representative, the Central Government and any Provincial Governments". I now ask Honourable Members to refer to section 204 of the Government of India Act, 1935,—a section which deals with the powers of the Federal Court to give declarations in certain matters. Those matters are: "If, and in so far as the dispute involves any question whether of law or fact on which the existence or extent of a legal right depends",—in simpler words, if there is any doubt what the constitutional position may be, then certain parties can approach the Federal Court and obtain a declaration of the correct legal position. Among the parties which can go to the Court are the Central Government and Provincial Governments. If there be no change in the existing law, the period of limitation, under which the Central Government and the Provincial Governments will be permitted to go before the Federal Court, will be 60 years, and I submit that it is obvious that 60 years is far too long a period. If there are any doubts about the constitutional position.

it is most necessary that those doubts should be resolved without any undue delay. For that purpose this Bill has been introduced in this Honourable House. Its intention is to take this very special class of suit out of the ambit of Article 149 and to bring it within the ambit of the residuary Article of the First Schedule, that is to say, Article 120. The result of this proposed change, if it becomes law, will be to compel both the Central Government and the Provincial Governments to take before the Federal Court any constitutional question within the period of six years, and I submit that that period is a reasonable one. Sir, I move.

Pandit Lakshmi Kanta Maitra (Presidency Division: Non-Muhammadan Rural): Six years instead of sixty years?

Mr. J. D. Anderson: Yes.

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

"That the Bill further to amend the Indian Limitation Act, 1908, for a certain purpose, be taken into consideration."

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, I am not able to see what necessity there is for this Bill. According to me, there does not appear to be any need at all for this Bill. Article 149 of the Limitation Act governs only suits by or on behalf of the Secretary of State in Council, for which a special period of limitation is provided. Under the Government of India Act, 1935, section 176, it is clear that in future whenever a dispute arises between a province and a province or between a province and a State or between the Federation and a province, the Secretary of State for India in Council will not be brought in at all; he completely goes out of the picture. A province can sue or be sued in its own name as the province of Madras or the province of Bombay, and the Federation can sue or be sued in its own name as the Federation of India, and with respect to States, the States can sue or be sued in the name of the States. You will please refer to section 176 of the Government of India Act, 1935:

"The Federation may sue or be sued by the name of the Federation of India and a Provincial Government may sue or be sued by the name of the Province, and, without prejudice to the subsequent provisions of this chapter, may, subject to any provisions which may be made by Act of the Federal or a Provincial Legislature enacted by virtue of powers conferred on that Legislature by this Act, sue or be sued in relation to their respective affairs in the like cases as the Secretary of State in Council might have sued or been sued if this Act had not been passed."

Thus, Sir, there is absolutely no provision under which the Secretary of State need be made a party or can have the right of suit in any of those matters. Then, again, please look at section 179. Even with respect to suits against the Secretary of State in Council, hereafter a suit may be filed against the Federation or a province according as the subject matter relates to the Federation or the province:

"Any proceedings which, if this Act had not been passed, might have been brought against the Secretary of State in Council may, in the case of any liability arising before the commencement of Part III of this Act or arising under any contract or statute made or passed before that date, be brought against the Federation or a Province, according to the subject matter of the proceedings, or, at the option of the person by whom the proceedings are brought, against the Secretary of State, and any sum ordered to be paid by way of debt, damages, etc."

[Mr. M. Ananthasayanam Ayyangar.]

So far as section 204 is concerned, the original jurisdiction relates to suits between provinces *inter se* or between a province and the Federation, or between a State and a province, or between a State and the Federation. Therefore, the Secretary of State in Council need not be a party to any of these proceedings at all. Article 149 of the Indian Limitation Act refers to suits by or on behalf of the Secretary of State for India in Council specifically and by name. Therefore, it is not necessary to provide for that class of cases where the Secretary of State is not a party as it would not arise and with respect to which there cannot be any doubt or difficulty. Under section 79 of the Civil Procedure Code as originally passed and as it continues at present, it is clear that all suits by or on behalf of Government have to be filed by or on behalf of the Secretary of State for India in Council:

"Suits by or against the Government shall be instituted by or against the Secretary of State for India in Council."

That is the statutory provision which brings in the Secretary of State in Council as a party. Wherever a dispute arises in which the Government of a province or the Government of India as a whole are a party, the Secretary of State is added as a defendant or as a plaintiff. But under the new constitution, this provision is practically abrogated in that each province can appear as a legal entity as plaintiff or defendant, likewise the Federation and the States. Therefore, to that extent section 79 of the Civil Procedure Code is abrogated, and when no longer section 79 is in force, the Secretary of State has absolutely no place either as a defendant or a plaintiff. You will then see another inconvenience which would arise if section 79 of the Civil Procedure Code should be applied to proceedings which may arise in future. If the province of Madras has to file a suit against the province of Bombay, and if a suit is filed before the Federal Court, and if section 79 of the Civil Procedure Code is to continue in operation, the Government of Madras can sue only in the name of the Secretary of State in Council, and it has to sue the Government of Bombay which again can be represented only by the Secretary of State in Council; this means that the Secretary of State will be both plaintiff and defendant. Thus, it is clear, though in express terms it does not so state, that section 79 of the Civil Procedure Code has been implicitly abrogated by the provisions of section 176 of the Government of India Act, 1935. Therefore, the Secretary of State in Council disappears from the picture altogether in any suit or proceeding which may be filed before a Federal Court or which may be filed for the matter of that before any other Court.

Mr. President (The Honourable Sir Abdur Rahim): Does section 176 come into operation from the 1st April?

Mr. M. Ananthasayanam Ayyangar: Yes. Section 318 says:

"Notwithstanding that the Federation has not yet been established, the Federal Court and the Federal Public Service Commission and the Federal Railway Authority shall come into existence and be known by those names, and shall perform in relation to British India the like functions as they are by or under this Act to perform in relation to the Federation when established."

Mr. President (The Honourable Sir Abdur Rahim): The Federal Court may or may not come into being from the 1st April, but even if the Federation does not come into force from the 1st April, no doubt, the provinces will become autonomous from that date.

Mr. M. Ananthasayanam Ayyangar: Section 176 refers not only to the Federation, but to the provinces also. In so far as there may be suits between provinces *inter se*, the section will come into operation immediately on the 1st April. If it does not come into force until the Federation is established, then there is absolutely no need to provide against a contingency which may not arise at all. These very statutes are expected not to create doubts. Very often I have known in practice that when there is no class of suits provided for under the general law, very often the Limitation Act is looked into for the purpose of setting up a kind of suit, merely because there is a provision in the Limitation Act for a particular class of suits. This will create another difficulty by providing a thing which should not arise, and will, therefore, create doubts and suspicions. The Federal Court comes into being even before the Federation is established. The Federal Court has jurisdiction in disputes between Federation on the one hand and provinces on the other, between the provinces *inter se* and between the provinces and the States, let alone the Federation. As it is, suits cannot be filed by or against the Secretary of State. With respect to Federation, until it comes into being, there is no kind of suit provided for. In either case, there is absolutely no need for this amendment. There is absolutely no suspicion that Article 149 could possibly be invoked in favour of any particular party with respect to suits to be tried within the original jurisdiction of a Federal Court. With great respect I would say that this provision is unnecessary and the Bill may be dropped.

Mr. Lalchand Navarai (Sind: Non-Muhammadan Rural): Sir, this Bill aims at amending Article 149 of the Limitation Act. Article 149 of the Limitation Act provides that a suit by or on behalf of the Secretary of State can be filed against a private man within 60 years. Now, in view of the Federation coming into force, this Bill aims at amending Article 149 by eliminating the suits which would be filed before a Federal Court in the exercise of its original jurisdiction. It is true that the Secretary of State shall not have to file any suit in the Federal Court in the exercise of its original jurisdiction. I would agree on that point with my Honourable friend. The last speaker, that the Secretary of State shall not have to file a suit. That is quite true, but it appears to me that this amendment is necessary, since there will be a likelihood of some misunderstanding and that misunderstanding ought to be cleared up. When a Federal Province comes to a Federal Court against another Federal Province or against a State, a suit would be represented more or less by the Crown on both sides, and it may be assumed that the Crown will be represented in those matters by the Secretary of State. Therefore, a doubt may arise which requires to be cleared up.

Mr. M. Ananthasayanam Ayyangar: The Secretary of State will be on either side both as plaintiff and as defendant.

Mr. Lalchand Navarai: I have said so. I have followed the Honourable Member very well, but it appears to me that the amendment will remove a possible wrong impression.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): What wrong impression? In whose mind? And why?

Mr. Lalchand Navalrai: It may be in anybody's mind. It is only with a view to removing any doubts which may arise at any time that it may be said that the suit means a suit by the Secretary of State. Therefore, I submit that this amendment is to remove that doubt, and hereafter, when the Central Federation is adopted, it would be necessary to amend the Civil Procedure Code also, to provide in what form a province can come against another province, and how a province can come against the Central Government. In that case, it would be in my humble opinion necessary to amend the Civil Procedure Code. If the amendment to the Civil Procedure Code will hereafter be necessary, it does not in the least mean that this amendment should not be made now. But there is one thing that I would refer to with regard to this amendment. It is with regard to the period of limitation that is being provided for. Now, Sir, 60 years period is not being applied to a suit by a province against another province or against the Central Government. Of course, 60 years will be too much. In my humble opinion, even six years is too long. From this point of view, if there is any difference of opinion between province and province or between the provinces and the States on any litigated point, it must be decided very soon. Very important questions will arise which cannot be left to be hanging fire for a long time. I submit that the period of six years should also be curtailed, so that matters of this nature may be decided without undue delay. In the Federal Court also, they will take some time to be decided. (*An Honourable Member*: "Do you want six months"?) It may be two years or three years at the utmost. With these words, I resume my seat.

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): The real section to which the attention of the House should be drawn is section 204 of the Act which defines the original jurisdiction of the Federal Court, and once it is read, I submit that it is impossible to suppose that any amendment of the kind now sought to be made is necessary. The section runs as follows:

"Subject to the provisions of this Act, the Federal Court shall, to the exclusion of any other Court, have an original jurisdiction in any dispute between any two or more of the following parties, that is to say, the Federation, any of the Provinces or any of the Federated States, if and in so far as the dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends."

The rest of the section is immaterial for the purpose of the motion before the House. It is, therefore, obvious that the parties to the dispute which would be subject to the original jurisdiction of the Federal Court are there defined. None of these parties happen to be the Secretary of State in Council in any form. Article 149 of the Limitation Act merely refers to a suit by or on behalf of the Secretary of State. There is not the remotest possibility of any doubt arising with regard to the parties who alone can seek relief from the original jurisdiction of the Federal Court. The parties are the Federation, the provinces and the federated States. I turn to the article of the Limitation Act. The article of the Limitation Act is this: Any suit by or on behalf of the Secretary of State for India in Council. With very great deference, if there had been

12 Noon.

even a remote reference to the Secretary of State for India in Council, being able to sue in the original jurisdiction of the Federal Court, one can understand the possibility of the application of section 149 and a desire, therefore, to remove that doubt or to exclude that particular suit. Here, inasmuch as the plaintiff under no circumstances in the Federal Court can be the Secretary of State for India in Council, it is inconceivable to omit from section 149 a plaintiff who cannot be a plaintiff under section 204, and with that submission I say that this is entirely inconceivable. The point is that there is no reference in article 120 to a party. Any party may be the plaintiff. Article 120 might still apply, because that article is a general article with reference to cases of action irrespective of who might be the plaintiff or defendant—the only article which has reference to the period of limitation depending on who is a plaintiff and Article 149 is irrespective of what is the cause of action. The radical difference between sections 120 and 149 is that, whereas, in 120, the reference undoubtedly is and depends upon the cause of action irrespective of who the parties may be; supposing 149 does not exist, then the Secretary of State would have to file the suit within a period of six years under 120 if the cause of action were such that it was covered by that Article.

Mr. President (The Honourable Sir Abdur Rahim): This Bill provides for a suit before the Federal Court whoever may be the party.

Mr. Bhulabhai J. Desai: True, it cannot be "whoever the party"; you must read that as an exception to 149. The amended Article 149 would run as follows if this were passed into law:

"Any suit by or on behalf of the Secretary of State for Indian Council except a suit in the Federal Court."

Mr. President (The Honourable Sir Abdur Rahim): Those suits would not come under 149?

Mr. Bhulabhai J. Desai: A suit by the Secretary of State for India in Council in the Federal Court would not come under 149. The simple point, therefore, is whether, having regard to the extent of the original jurisdiction as defined by the Act of Parliament in section 204, there can be any suit by the Secretary of State for India in Council at all. The jurisdiction is defined there with reference to the parties.

Mr. President (The Honourable Sir Abdur Rahim): Is not the question, who is competent to sue, different from the question of limitation?

Mr. Bhulabhai J. Desai: That is a different point.

Mr. President (The Honourable Sir Abdur Rahim): The Chair is simply putting the points that strike it: the Chair is not suggesting for one moment whether this Bill is justified or not.

Mr. Bhulabhai J. Desai: I am not addressing the House in any disputing spirit. I am trying to point out to the House this, that if under 204, supposing the jurisdiction of a Court is limited by an Act of Parliament, *viz.*, that no person may go there but certain named parties, the named parties being either the Federation or any Province or any Federated State, I take it that the Statute means that nobody else has a right to resort to

[Mr. Bhulabhai J. Desai.]

204. At all events, it is enough to say negatively that the Secretary of State for India in Council is not one of the parties who, if a suit were attempted to be filed, it would have to be dismissed by the Federal Court on the preliminary ground that that is not its original jurisdiction, and, therefore, it is useless to legislate for a suit which cannot be filed, and that is what we are trying to do. Therefore, it is not a mere matter of saying that doubts may be removed on a matter which is capable of doubt, and, generally speaking, an amending Act is brought in if a doubt is raised substantially by a judgment of some Court.

Mr. President (The Honourable Sir Abdur Rahim): Does this Act provide who can sue in the transitory period on behalf of a Province?

Mr. Bhulabhai J. Desai: That is not really the issue, Sir.

Mr. President (The Honourable Sir Abdur Rahim): The Chair simply wanted to know.

Mr. Bhulabhai J. Desai: It has nothing to do with this point.

Mr. President (The Honourable Sir Abdur Rahim): Does it apply to the transitory period?

Mr. Bhulabhai J. Desai: The emphasis is on the original jurisdiction of the Federal Court. There are other suits which would have to be filed; for instance, in possibly a case of tort, a case of action founded on injury while travelling by rail, a suit may be filed against the Secretary of State for India in Council for damages. That is not in the Federal Court; that will be in the ordinary courts, for that provision is made in section 179 of the Government of India Act. It says:

"Any proceedings which, if this Act had not been passed, might have been brought against the Secretary of State in Council may, in the case of any liability arising before the commencement of Part III of this Act or arising under any contract or statute made or passed before that date, be brought against the Federation or a Province, according to the subject-matter of the proceedings"

so that the provision has been made in respect of suits in Courts other than the Federal Court where, instead of the Secretary of State for India in Council now, either the Federation or the respective provinces may sue in respect of a proper cause of action; that has nothing to do with the point of order. . . .

Mr. President (The Honourable Sir Abdur Rahim): The point is before the House—not before the Chair. (Laughter.)

Mr. Bhulabhai J. Desai: I know; you put this question in order that the House may appreciate a somewhat technical matter which is before the House. All I am saying is that there is a transitory provision for suits being filed against the Federation or the respective Provinces once the Secretary of State is "substituted" by them, but that has got nothing to do with the point. Those are suits in the ordinary course of law. The only suit with which we are now concerned, so far as the amendment before the House is concerned, is a suit before the Federal Court in the exercise

of its original jurisdiction, so that, confining our attention really to the point, the question is whether there is any possibility of a suit being filed before the Federal Court in the exercise of its original jurisdiction by the Secretary of State for India in Council and at any period,—not only during the transitory period, but during the whole of the period during which section 204 continues to be the Act of Parliament in defining the original jurisdiction of the Federal Court. Therefore, with respect, I submit to the House that this amending Bill is brought in under some misapprehension, and I submit with great deference that the House ought not to accept it at this stage.

Mr. J. D. Anderson: I feel, Sir, that I owe an apology to this Honourable House. For many months past, myself and a number of other officials of the Provinces and of the Central Government have been engaged in the work of the revision of the Indian and Provincial Statute-books. The whole corpus of law in force in this country is of necessity to be brought into conformity with the new Constitution Act I mentioned, when I spoke before, that section 293 of the Government of India Act, 1935, is very relevant to the discussion of the Bill which is now before the House. With your permission, I will read that section to the House :

“His Majesty may by Order in Council to be made at any time after the passing of this Act provide that, as from such date as may be specified in the Order, any law in force in British India or in any part of British India shall, until repealed or amended by a competent Legislature or other competent authority, have effect subject to such adaptations and modifications as appear to His Majesty to be necessary or expedient for bringing the provisions of that law into accord with the provisions of this Act and, in particular, into accord with the provisions thereof which reconstitute under different names governments and authorities in India and prescribe the distribution of legislative and executive powers between the Federation and the Provinces.”

Of necessity the new Constitution has led to a great reshuffling of powers. Certain functionaries have for certain purposes gone out of existence, and they have been replaced by other functionaries. The whole Statute-book has had to be adjusted to suit this new state of affairs, and one of the changes which will be made is the change which I mentioned in Article 149. Honourable Members have rightly pointed out that at present the Secretary of State for India in Council is the only litigant whose description appears in that article. Honourable Members have also rightly pointed out that the Secretary of State for India in Council is nowhere mentioned in section 204 of the new Constitution Act. But, when Article 149 is amended and brought into accordance with the new Constitution Act, the Secretary of State for India will remain, but in addition to him there will be the Crown Representative, the Central Government and Provincial Governments. All these four functionaries will find a place in Article 149, and the result of their finding a place will be that, unless we amend Article 149 in the sense now proposed, the limitation of 60 years must apply. The provinces, as has been rightly pointed out, will be the only persons who at first can sue under section 204, but the provinces so suing will have in their favour this period of 60 years. Indeed, they will and I do trust that the House will accept my statement to that effect.

Mr. S. Satyamurti: Sir, I want to answer.

Mr. President (The Honourable Sir Abdur Rahim): But the Honourable Member in charge of the Bill has replied.

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

"That the Bill further to amend the Indian Limitation Act, 1908, for a certain purpose, be taken into consideration."

The Assembly divided:

AYES—45.

Abdul Hamid, Khan Bahadur Sir.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Aikman, Mr. A.
 Anderson, Mr. J. D.
 Bajpai, Sir Girja Shankar.
 Bansidhar, Rai Sahib.
 Bartley, Mr. J.
 Bewoor, Mr. G. V.
 Bhide, Mr. V. S.
 Buss, Mr. L. C.
 Chanda, Mr. A. K.
 Chapman-Mortimer, Mr. T.
 Dalal, Dr. R. D.
 DeSouza, Dr. F. X.
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
 Griffiths, Mr. P. J.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Lal Chand, Captain Rao Bahadur Chaudhri.
 Lalchand Navalrai, Mr.
 Lalit Chand, Thakur.
 Mehta, Mr. S. L.

Menon, Mr. K. R.
 Metcalfe, Sir Aubrey.
 Mudie, Mr. R. F.
 Mukherjee, Rai Bahadur Sir Satya Charan.
 Murid Hussain Qureshi, Khan Bahadur Nawab Makhdum.
 Nagarkar, Mr. C. B.
 Nauman, Mr. Muhammad.
 Naydu, Diwan Bahadur B. V. Sri
 † Hari Rao.
 Noyce, The Honourable Sir Frank.
 Rajah, Raja Sir Vasudeva.
 Rau, Sir Raghavendra.
 Sale, Mr. J. F.
 Sarma, Sir Srinivasa.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan, Captain Sardar Sir.
 Slade, Mr. M.
 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Verma, Rai Sahib Hira Lal.
 Witherington, Mr. C. H.
 Yakub, Sir Muhammad.
 Zafrullah Khan, The Honourable Sir Muhammad.

NOES—35.

Aaron, Mr. Samuel.
 Aney, Mr. M. S.
 Ayyangar, Mr. M. Ananthasayanam.
 Azhar Ali, Mr. Muhammad.
 Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chettiar, Mr. T. S. Avinashilingam.
 Das, Mr. Basanta Kumar.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Ganga Singh, Mr.
 Giri, Mr. V. V.
 Govind Das, Seth.
 Gupta, Mr. Ghansham Singh.
 Hans Raj, Raizada.
 Hosmani, Mr. S. K.

Ismail Khan, Haji Chaudhury Muhammad.
 Jedhe, Mr. K. M.
 Kailash Behari Lal, Babu.
 Khare, Dr. N. B.
 Lahiri Chaudhury, Mr. D. K.
 Maitra, Pandit Lakshmi Kanta.
 Malaviya, Pandit Krishna Kant.
 Mudaliar, Mr. C. N. Muthuranga.
 Pant, Pandit Govind Ballabh.
 Parma Nand, Bhai.
 Raghurib Narayan Singh, Choudhri.
 Raju, Mr. P. S. Kumaraswami.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.

The motion was adopted.

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

"That clause 2 stand part of the Bill."

Mr. M. Ananthasayanam Ayyangar: Sir, there is a slight mistake which has crept into my amendment. The word "minimum" should be deleted.

Mr. President (The Honourable Sir Abdur Rahim): All right.

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

“That in clause 2 of the Bill, after the words ‘original jurisdiction’ the words ‘for which the period of limitation shall be twelve years’ be added.”

Sir, my object in moving this amendment is this. By the introduction of this Bill and by the passing of it and the acceptance of the principle underlying it—if this clause should be accepted as it is—it will take out of the purview of Article 149 suits which are filed before a Federal Court in the exercise of its original jurisdiction, that is to say, with respect to suits affecting between a province and another or between a province and an Indian State, the period of limitation would be six years. Under the residuary Article 120 of the Limitation Act, the Federal Court can only give a declaratory decree and all suits for such decrees have been held to come within Article 120, Limitation Act. Now, by my amendment, I want to enlarge this period of six years to 12 years. If really suits between one province and another come within Article 149, then, but for this amendment of mine, the limitation for those suits would be a period of six years. By the amendment embodied in the Bill, as now introduced, the period of limitation would be reduced from sixty years to six years. I want to raise this period of six years to twelve years. It is for this reason. Under the Government of India Act, an Assembly in a province is allowed to exist for a period of five years, unless there is dissolution. A Ministry may sleep over the rights of the province. The Government of a province will, for all practical purposes, be in the hands of Ministers, though the Governor will be the legal head. If a Ministry does not care to file a suit or if the Ministers as a bloc do not care to file suits before the Federal Court but sleep over these rights, or with fraudulent intent they do not take action against another province or against a State, let it be open to the succeeding Government, let it be open to the succeeding set of Ministers or another Assembly to take up this matter and file suits before their period of tenure is over. The period of six years will be too short a period for the succeeding Ministry or for the succeeding Assembly to find out the flaws or the acts of omission that were perpetrated by the previous Ministry in not trying to take care of their rights or discharging their responsibilities, and it is with a view to enabling the succeeding Ministry to take up the matter that the period of limitation should be extended to twelve years. The succeeding Ministry can bring this matter before the Federal Courts. It is with this very object that the period of limitation is fixed at 60 years so far as the Secretary of State in Council is concerned.

Mr. M. S. Aney (Berar Representative): There will be always Law Officers of the Crown or the Advocate-General in charge of these legal affairs who will advise the Ministry.

Mr. M. Ananthasayanam Ayyangar: The Advocate-General is appointed by the Governor and the Ministers come in of their own accord. We do not know how far the future Advocates-General of the Governors will work in collaboration with the Ministers. There may arise conflicts, they may not give good advice. Many things may occur. Therefore, if one Government, during a period of five years, does not do things properly, let it be open to others who come in later on to rectify this mistake. After all, it is too long a jump from sixty years to six years. If the

[Mr. M. Ananthasayanam Ayyangar.]

Secretary of State in Council has got a period of sixty years allowed to him to look into the details of every case before a suit is filed—the Collector of a district is normally entrusted with this task on behalf of the Secretary of State—the same facility should be given to Ministries of provinces to file suits. In the case of the Secretary of State in Council it was thought necessary to give the longer period of limitation—namely, sixty years—so that public rights may not be encroached upon by private individuals, and they ought not to be allowed to lapse on account of the negligence or indifference or wilful misconduct of any particular officer of Government. Therefore, the longest period has been given with respect to public rights. Let that not be curtailed to six years in the case of the Ministry. All that I am saying is that if one Ministry or one Government should commit a mistake, let it be open to the succeeding Ministry or the succeeding Government to rectify the mistakes. Twice five, that is, 10 years would be the normal period. Under Article 120, the period is six years and therefore, twice that period will be 12 years. I, therefore, move this amendment that in case of suits filed before the Federal Court in the exercise of its original jurisdiction, the period of limitation should not be the ordinary period of six years under Article 120, but that a special period of twelve years should be granted on the analogy of sixty years granted to the Secretary of State in Council. If the rights of private individuals are concerned, one would expect that one should take the best care and no laches ought to be tolerated. Much more care should be taken in the case of suits which are of a special nature as those instituted or sponsored on behalf of the public before the Federal Court and no negligence should be allowed to deprive the public of their rights. Whereas, in the case of rights of private individuals, the period of limitation could be as much restricted as possible, with respect to the public rights, they ought to be protected at any cost. That is why, even with respect to suits filed by or against trustees, suits filed by or on behalf of the Secretary of State in Council, special and longer periods of limitation are provided for. Therefore regarding suits filed by one province against another or by one province against a State, let it not be the normal period of six years as in the case of suits filed by or on behalf of private individuals. Let the period of limitation be extended to another period of six years, so that there will be a total period of 12 years available. I would say that this is in the public interest, and, therefore, my amendment should be accepted by the House.

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

“That in clause 2 of the Bill, after the words ‘original jurisdiction’ the words ‘for which the period of limitation shall be twelve years’ be added.”

Mr. Lalchand Navalrai: Sir, I will say a word with regard to this amendment. I have already given my reasons why the period should not be too long. I see that the reason now given is that if one Ministry or the members of it are slack or have got any ulterior motive, they may not bring any litigation before the Federal Court, and, therefore, the time should be 12 years. I do not agree in this. On the contrary, we should expect that they will have no motives: rather they will be very pure and not open to any reproach of that nature. After all, the period of the Ministry will be five years, and what Government want

is six years' limitation, i.e., there will be one year more for the new Ministry to operate. Apart from that, I think matters of this nature should be decided very soon and without any delay and no laches should be allowed. From that point of view, I am sorry, I have to oppose this amendment.

Mr. J. D. Anderson: Sir, I regret I must oppose this amendment. My reasons I have already indicated when I made some remarks on the Bill as a whole. The Honourable Member is apprehensive that if the period be six years only, Government will be able to shirk their responsibilities. I venture to suggest that just the opposite will happen. Let us assume that at the very moment when Government come into power, the cause of action arises. It is only in that case that Government will have the whole five years of the limitation running in its favour. Even so, a year will be left for its successors to institute the necessary suit. But, Sir, I think we must assume, either that the Governments of the future are going to exercise a proper sense of responsibility, or that, if they do not, they will not remain in power for the full period of five years, and this question of limitation will largely solve itself.

There is another matter, and perhaps I may describe it as a psychological one. We use in our offices red slips and blue slips. When we get a red slip, we know that the matter is not very urgent, and we leave the files on our table for our successors to deal with. Twelve years' limitation is a red slip; six years' period of limitation is a blue slip. I oppose the amendment.

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

"That in clause 2 of the Bill, after the words 'original jurisdiction' the words 'for which the minimum period of limitation shall be twelve years' be added."

The motion was negatived.

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

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. J. D. Anderson: Sir, I move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

THE INDIAN TEA CESS (AMENDMENT) BILL.

The Honourable Sir Muhammad Zafrullah Khan (Member for Commerce and Railways): Sir, I beg to move:

"That the Bill further to amend the India Tea Cess Act, 1903, for a certain purpose, be taken into consideration."

[Sir Muhammad Zafrullah Khan.]

This is a Bill which deals with a purely formal matter. The Indian Tea Cess Act of 1903 by its language applies to Burma though the cess for which this Act makes provision is not actually levied in the case of tea exported from Burma. Burma, as Honourable Members are aware, will be separated from India from the 1st April, 1937. Section 148 of the Government of Burma Act provides that all Acts in force in India on the 1st April, 1937, will continue to be in force in Burma unless repealed, amended or modified. As I have said, the Tea Cess Act is not in active operation in Burma, though by its language it applies to Burma. If the cess were levied on exports of tea from Burma, the amount collected would be very small and questions of apportionment of the funds between India and Burma and of the division of the activities of the Indian Tea Market Expansion Board between India and Burma would arise and would lead to complications. It is, therefore, proposed that by expressly excluding Burma from the operation of the Tea Cess Act before the 1st April, 1937, the Tea Cess Act should be made inapplicable to Burma. That is the object of this Bill. This amendment is proposed to be carried out by adding the words "and Burma" to sub-section (2) of section 1 of the Tea Cess Act of 1903. That sub-section defines the operation of the Act as extending to India except Aden. It will now read, "except Aden and Burma".

Sir, I move.

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

"That the Bill further to amend the India Tea Cess Act, 1903, for a certain purpose, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sir Muhammad Zafrullah Khan: Sir I move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

THE INDIAN ARMY (AMENDMENT) BILL.

Mr. G. R. F. Tottenham (Defence Secretary): Sir, I beg to move:

"That the Bill further to amend the Indian Army Act, 1911, for a certain purpose, be taken into consideration."

This is a very simple Bill the object of which is clearly explained in the statement attached to it, and I do not think that any further argument on my part is required. The point is an extremely simple one, and I cannot

see that any possible objection can be taken to it. What it amounts to is simply this. We have recently brought into existence two forms of officer reserve for the Indian army. The first is known as the regular reserve which, as in the British army, is intended for regular officers after they have retired on pension or gratuity. The other is the Army in India Reserve of Officers which is intended not so much for regular officers as for Indian gentlemen who do not make the army their regular career. The officers of these reserves will form a sort of reinforcement for our Indianised Army. Now, the Indian Army Act is defective in that it does not take account of either reserve; both kinds of reserves are provided for under the British Army Act; and we are merely filling up the gap. It is obvious that if a person undertakes reserve liabilities of any kind, he must be subject to military discipline when he is actually fulfilling those obligations. But it is equally clear, I think, that when he is not fulfilling those reserve obligations and merely living in the ordinary way, he should not be subject to any form of military discipline. That is all that we intend to ensure by this Act. Sir, I move.

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

“That the Bill further to amend the Indian Army Act, 1911, for a certain purpose, be taken into consideration.”

Mr. M. Ghiasuddin (Punjab: Landholders): Sir, I rise to oppose this Bill. My only object in doing so is that this Honourable House has always objected to discrimination between the Indian commissioned officers and the King's commissioned officers. As I see from the speech of the Honourable the Defence Secretary these Indian gentlemen are meant to be posted to those units which are Indianised; and we have shown over and over again that the status of the Indian commissioned officer is inferior to that of the British officer of the Indian army. Now, by passing this Act we will commit ourselves to the principle that we appoint officers in the Indian Army Reserve of Officers to the Indianised units. Naturally the status of those officers will be inferior to that enjoyed by the British officers, and this distinction will be perpetuated, and, by passing this Act, this House will be committing itself to the principle of discrimination. This is one thing against which we have objected and against which we will continue to object. We are not going to be any party to any discrimination: and we are not going to be a party for the perpetuation of this discrimination. I think the Honourable the Defence Secretary should remember that for the last two years this Honourable House has passed censure votes by the refusal of supplies on that very principle, that is, that we are not going to tolerate the inferiority of the Indian commissioned officers to the King's commissioned officers. Therefore, Sir, I oppose this Bill.

Mr. S. Satyamurti (Madras City: Non-Muhammadan Urban): Sir, I think the House should be obliged to my Honourable friend, Mr. Ghiasuddin, for having raised this point. The Defence Secretary is a very plausible gentleman, and always, whenever he introduces very unpleasant measures, he makes a very plausible speech; and he now says with an air of conviction: “It is a very small Bill, and I cannot possibly think of anybody opposing this Bill for any reason whatever.” But I

[Mr. S. Satyamurti.]

am sure the speech of Mr. Ghiasuddin must have appealed to the self-respect, I trust, of every Indian Member of this House, and, may I add, to the sympathy of every non-Indian Member of the House, were he free to vote with us. The Statement of Objects and Reasons of this Bill is very illuminating. If you look at it, you will find it is stated there:

"Under section 175 (9) of the Army Act, officers of the British wing of the army in India Reserve of Officers are only subject to military law when called out in a military capacity. There is no corresponding provision in the Indian Army Act for officers in the Indian wing of the Army in India Reserve of Officers. It is therefore proposed to amend the Indian Army Act, 1911. (VIII of 1911), to put officers of the Indian wing in exactly the same position as officers in the British wing."

That is what we object to. We do not recognise—this House has not recognised, and will not recognise this cruel and insulting distinction between the British wing and the Indian wing among officers. We have always pleaded for the Indianisation of the army, and we believe that the first step should be the abolition of this wing based on a racial distinction. Of course, I am saying nothing about the merits of the Bill. So long as there are officers, whether they are British or Indian, I want them to be placed all on the same footing so far as liability to military discipline is concerned, and is being confined only to the time when they are called to military duty. That is perfectly all right. What we want is one Act governing all officers, British and Indian, in the Army. My objection to the Bill is this: this Bill seeks to perpetuate the provision in the Army Act—I believe it is the English Army Act—section 175 (9) .

Mr. G. R. F. Tottenham: Not the Indian Army Act, the Army Act.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Section 175 (9) is in the British Army Act.

Mr. S. Satyamurti: I believe I am right in saying that it is the British Army Act: in the Indian Army Act, there are only 127 sections. If I am right, I submit that this House is now being asked to recognise statutorily, what it has always refused to recognise when it came to a vote of the House on the Army demand, that the British Army Act should govern British officers serving in this country, and we should supplement that legislation by Indian legislation governing only Indian officers. I do not see why this House ought not to pass a law governing both British and Indian officers, whose bill we foot. I object to the Indian taxpayer being asked to pay for British officers, who will not even submit to the law of the land. Why should British officers have a different law made for them in their own country, even when they serve in my country and eat my salt? My position is that, if you want to equalise the position of British and Indian officers in the Indian Army, you ought to have a simple straightforward Act governing both the classes of officers. Therefore, we object very strongly to this provision, by which we are asked statutorily to recognise this distinction.

So far as clause 2 (b) is concerned, that is a matter which does not come within the scope of the objection I have raised, because that refers to the Indian Regular Reserve; but the racial sting is in clause 2 (a) of the Bill. We cannot agree to this distinction. I hope this House will

not stultify itself, I say it with great respect, by going back on its consistent votes of the last two years, and I hope this year also we will similarly vote against this distinction based on racial grounds, between British and Indian. Hereafter, under the new Government of India Act, this defence service will come less and less under our control. Perhaps, this is the last opportunity when this House will have a chance of vindicating its self-respect and registering a vote against this attempt to perpetuate racial distinctions in the Army. I, therefore, confidently appeal to the House not to let slip this opportunity to show by a decisive vote that at least the Indian section of the House will not be a party to this cruel, insulting, racial discrimination, in the defence of the country for which we pay.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, notice that this Bill would be brought up for discussion and consideration today was served upon us late last night. I find that the questions involved in this amending Bill are of such serious consequence that it is necessary that public opinion should be gathered. The Bill must be circulated for public opinion. As it was given to us late, there was no time to move such amendments . . .

Mr. President (The Honourable Sir Abdur Rahim): The Chair understands what was sent out last night was the revised agenda: but notice of this Bill had been issued to the Members two days ago.

Mr. M. Ananthasayanam Ayyangar: Sir, I oppose the consideration of this Bill on the same grounds as those urged by both the previous speakers. The reason is, Sir, there ought to be no distinction, there must be a uniform law for both Indian and British officers in regard to this matter. It is not an inadvertent mistake or omission that is made, because, for over 25 years, since the passing of the Act of 1911, such a provision has not been considered necessary. By proposing such an amendment in the Indian Army Act as the proviso to sub-section (b) in the clause which says:

“Provided that an Officer of the Indian Land Forces retired therefrom and appointed to the Indian Regular Reserve of Officers shall again become so subject when ordered on any duty or service for which he is liable as a member of such reserve force”,

we will be perpetuating a distinction. This will be too much of an innovation and too much of a restriction placed upon the officers who have retired and whose willing co-operation is to be sought and they ought not to be placed in this position. On both these grounds, Sir, I oppose the consideration of this Bill.

Mr. K. Santhanam (Tanjore cum Trichinopoly: Non-Muhammadan Rural): Sir, it is a wise principle that no laws should be passed unless it is absolutely necessary. It might be that there is a lacuna in the present Army Act, but have there been any serious difficulties in the working of the present Army Act? The Honourable the Defence Secretary has not given us any instances to show what are the difficulties experienced owing to this lacuna in the Army Act, and unless he can show us the necessity for amending the present Army Act, we cannot give our support to the motion before the House. There is no hurry to

[Mr. K. Santhanam.]

amend the present Act. This Assembly is legally bound to terminate by the end of this year, and I think the Honourable the Defence Secretary can bring in an amending Bill in the new Assembly. I do not see any urgency about this, and, therefore, on the score that no legislation should be passed unless it is absolutely necessary, I oppose this Bill.

Sir Cowasji Jehangir: It appears to me, Sir, that there is not much difference of opinion as to what we desire with regard to Indian officers when they retire and join the Indian Reserve Force. The difference between us is one of wide principle of having two Acts, one for the British officer of the Indian Army and another for the Indian commissioned officers of the Indian Army. That is the main difference between us. Here is a Bill which proposes to put the Indian officers of the Indian Army exactly in the same position as the British officers of the Indian Army, but unfortunately, it only amends the Indian Army Act, a thing against which we have always protested. We have always contended that the British officers of the Indian Army and the Indian officers of the Indian Army should be governed by one Act. We naturally feel that, although we agree to the principle underlying the Bill, we might be tacitly committed to having agreed to this main distinction against which we have constantly protested if we voted for the Bill. That, I understand, is the feeling on this side of the House, and even by implication we do not wish to be committed to that principle, and we are naturally bound to be committed to it if we vote for this Bill. That, in short, is our objection. How the Defence Secretary can get over that objection, I really cannot understand. When the Army Act of 1911 was passed, I presume these arguments were not placed before the Legislature which passed that Act, but the amendment of 1934 introduced distinctions, which ought to cease as soon as possible. These are the circumstances under which we feel that we must oppose this Bill.

Sardar Mangal Singh (East Punjab: Sikh): Sir, this Bill raises a very important principle. At present there are two kinds of Commission in the Indian Army, one is the Indian Commission and the other is the British Commission. Since this House passed the Indian Army Act some years ago, the Indian public opinion has been persistently protesting against the racial discrimination that is perpetuated in the Army. The Indian Commission is in every way inferior to the British Commission. The pay of the Indian commissioned officers is less, their status is low and it is inferior to that of the British commissioned officers. When an Indian commissioned officer, though he may be senior to a British commissioned officer, gives orders to a British commissioned officer of the same unit, he would not accept such orders, or he would not be put under the command of the Indian commissioned officers, however senior he may be . . .

Mr. G. R. F. Tottenham: On a point of order, Sir. All that the Honourable Member is saying is entirely irrelevant to the objects of this Bill. This Bill seeks to regularise the legal position of certain officers of the Army in India Reserve of Officers. It has nothing to do with the position of the Indian commissioned officers in the regular Army.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must remember that the Bill only deals with that.

Sardar Mangal Singh: My submission is that this Bill raises a very important issue, because it in a way perpetuates the same racial distinction

Mr. President (The Honourable Sir Abdur Rahim): So far as certain liabilities of officers in the Reserve are concerned, the Honourable Member can dwell on it if he likes.

Sardar Mangal Singh: I am doing the same thing, Sir. I am illustrating that the Indian commissioned officer is inferior in status, pay and in every other way to the British commissioned officer, and that distinction is being perpetuated by this Bill. Therefore, Sir, I very strongly protest against this measure which perpetuates the same racial distinction. Sir, I come from a province which is very greatly concerned with the welfare of the Indian army. In my province, public opinion is very strong against this racial discrimination. Last year we had an opportunity to discuss this matter in an Army Conference, and several Honourable Members raised the same point there also. We then tried to impress on the Government of India that the pay

Mr. G. R. F. Tottenham: May I point out, Sir, that the Conference that was held last year had nothing whatever to do with the Reserves.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member must confine himself to the Bill before the House.

Sardar Mangal Singh: I am dealing with the

Mr. President (The Honourable Sir Abdur Rahim): But the Honourable Member is straying away from the subject. The question of the equal status of British and Indian officers raises a very large number of points. It is a different question altogether. This Bill seeks to lay down what are or what are not the liabilities of Indian commissioned officers, when they retire, under certain conditions, in the Reserve of Officers and the Honourable Member can speak on that.

Mr. M. Ghiasuddin: May I point out, Sir, that the Indian Reserve Officers who will come up now will enjoy the same status as the Indian commissioned officers of the regular army, and, therefore, my submission is

Mr. President (The Honourable Sir Abdur Rahim): That Act was passed, the Chair thinks, some time ago, and you cannot go into the merits of that Act now. What the Honourable Member can do is this. If he feels that this measure involves a distinction between the two classes of officers, he is perfectly justified in dwelling upon that. He cannot go into the merits of the old Act.

Sardar Mangal Singh: But this Bill makes certain provisions about the Reserve of Officers of the Indian Army. When they will serve in the army, they will draw the same pay, they will have the same status as is given to the Indian commissioned officer under the Army Act which this House passed some years ago. We object to the continuation of the same racial discrimination in the Reserve of India Officers, by this Bill. If my point is wrong, I shall be very glad to be corrected.

Sir Cowasji Jehangir: It removes a distinction by an Act which is objectionable.

Sardar Mangal Singh: I oppose this Bill.

Mr. Sham Lal (Ambala Division: Non-Muhammadan): When the Honourable Member was discussing the Bill, it appeared to be quite innocent and we thought that some benefit was going to be conferred upon India. I think it was very good of my Honourable friend, Mr. Ghiasuddin, to have pointed out the racial discrimination, and we fully realise that when a thing appears to be quite innocent some valuable right is going to be taken away. The object of the Bill is certainly that when the Army in India Reserve of Officers are put on duty and service, the military law will apply. We have got nothing to say against it, but the question is whatever duties and whatever status are imposed upon an Indian officer the same law should apply to British officers. We are not going by a legislation passed by this House to perpetuate racial discrimination and to accept that the British law may apply to British officers and the Indian law to Indian officers. If you want this law, have one Act, and I think it would be better for the Government to repeal the British Act and have an Act passed that the Indian law shall apply to British officers. Of course, I do not think there would be any necessity, because there may not be after some time British officers. They might think that they shall remain, but we hope that they shall not remain, but so long as they are here, we do not want this racial discrimination. We do not want one law to apply to the British officer, getting pay from us, getting money from us, getting everything from us and overlording us and saying that the British law shall apply to them and that the Indian law shall apply to the Indian officer. I think it is a very good point, and we should not accept the principle of the Bill.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore cum North Arcot: Non-Muhammadan Rural): I have with me the Indian Army Act of 1911 which this Bill seeks to amend, and I am surprised at the actual facts that are existing today. We know that the pay of the British soldier is about three times or more than that of the Indian sepoy. We know that the attention that they are receiving, the emoluments that they are receiving, are more, and we know further that the highest appointments in the Indian Army are manned by the British. We know further by the answers to questions that at present there is only one Indian major, but beyond all this we did not know that the law governing the Britisher and the British Army is something different.

from the law governing the Indian portion of the army. This Act before me, VIII of 1911, reads as follows:

"An Act to consolidate and amend the law relating to the government of His Majesty's Indian Forces."

I see further that for the expressions "native" and "a native", wherever they occur in this Act, the expressions "Indian" and "an Indian" were substituted respectively by section 2 of the Indian Army (Amendment) Act, 1918 (XI of 1918). Coming to the section which this Bill seeks to amend, it reads as follows:

"2. (1) The following persons shall be subject to this Act, namely:

(a) Indian officers and warrant officers . . ."

Mr. G. R. F. Tottenham: May, I intervene and say that the Honourable Member is reading from the Act as it stood before it was amended in 1934?

Mr. T. S. Avinashilingam Chettiar: This Bill is further to amend the Indian Army Act, of 1911, and that is what I have before me.

Mr. G. R. F. Tottenham: The Indian Army Act, 1911, as amended by the Indian Army (Amendment) Act of 1934.

Mr. President (The Honourable Sir Abdur Rahim): Yes, it means that. The Indian Army Act, 1911, as amended by the Act of 1934.

Mr. T. S. Avinashilingam Chettiar: We asked the Office and we got these copies only. This Bill was given to us yesterday.

Mr. S. Satyamurti: I submit, Sir, that only these copies have been given to us. The Government cannot rush this legislation. We must have time to read the amended Act. Let the thing be adjourned till we have had sufficient time to go through the enactment.

Mr. T. S. Avinashilingam Chettiar: They have got their office, they have got Secretaries, Deputy Secretaries, and so on, I.C.S., men, whereas we have no help at all. We are only given three days notice, and I was only reading from the Act as it was given to me by the Library. I got it from the Library.

Mr. G. R. F. Tottenham: Perhaps I can save the Honourable Member trouble by reading out the Act as amended. I have got it here.

An Honourable Member: Please read it slowly.

Mr. G. R. F. Tottenham: The section in question which the Honourable Member is quoting reads now as amended:

"The following persons shall be subject to this Act, namely:

(a) Indian commissioned officers and Viceroy's commissioned officers."

[Mr. G. R. F. Tottenham.]

Those terms are defined in the definitions in the Act and those classes of officers are subject to the Indian Army Act without any limitation whatever. This Bill merely proposes to exempt them from military discipline when they are in the reserve and at times when they are not called up for service. But nothing that can be done now can alter the position that those officers are subject to the Indian Army Act.

Mr. T. S. Avinashilingam Chettiar: I am very much obliged to the Honourable Member for reading out the amendment. But the point I wanted to impress was that in the new Bill it was stated Indian officers and you will see that the expressions "native" and "a native" were substituted by the words "Indian" and "an Indian", respectively. What I sought to impress upon the House was that this Act was passed purely and only to govern the Indian personnel in the Indian army. We talk about the Indian army which is supposed to protect us, but in fact the Indian portion of the Indian army only is governed by this law, but the British portion is governed by the British law. If you will kindly see the Statement of Objects and Reasons, you will see there is reference there to section 175 (9) of the Army Act. I have looked up the Indian Army Act, and there is no section 175 there at all. The last section in this Act is 127. The Act that he meant is probably . . .

Mr. G. R. F. Tottenham: The Honourable Member is again mixing up the two Acts. The Army Act is a British Statute, which is quite different from the Indian Army Act. Section 175 (9) referred to in the Statement of Objects and Reasons relates to the British Army Act. There is no section 175 of the Indian Army Act.

Mr. T. S. Avinashilingam Chettiar: Section 175 in the Statement of Objects and Reasons refers to the British Army Act, and what I would like to impress upon the House is that there are two sets of people serving in this country, who are paid in this country, one in a much more advantageous position than the other. It has been pointed out times without number that the British personnel is paid more than they deserve, paid more than their Indian brethren, and, what is more, they are not governed by the Indian law at all. Can there be a greater scandal than this, that the people serving in this country, who get paid out of the revenues of this country, who get the major portion of the revenues of this country, they are not to be governed by an Act of the Legislature of India but ought to be governed by a British Legislature. I say it is highly unjust and we are all very much obliged to our Honourable friend, Mr. Ghiasuddin, for having brought this point before the House and shown us that this inequality exists at this time. This Act was passed in 1911. We are now in 1937. Much water has flown under the bridge since then. Our outlook has changed, and it is high time that the Government came forward with a Bill which should govern, not only the Indian personnel of the Indian Army, but also the British personnel of the Indian Army, so long as they serve in this country and so long as they are paid out of the revenues of this country. We shall not be a party to an Act, or to the addition of any provision in an Act which governs only the Indian personnel of the Indian army. We would suggest to the Government and to the Honourable Member sitting opposite that they should take the earliest opportunity of bringing a law which would govern,

not only the Indian personnel, but also the British personnel that is serving in this country.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions: Non-Muhammadan-Rural): I am not one of those who are very much worried over racial distinctions. When nature has tarred us with different brushes, I do not mind differences in treatment, in salaries, in rights and in privileges. As you know, Sir, and as the House knows, I have been consistently wanting that the Indian servants of Government should be paid less than their English masters, and it is an unfortunate fact that our Indian servants raise up their standards of life and ape English ways in order to be able to show that their expenses are as high as those of Europeans. But the whole process goes against our country's best interests.

Now, Sir, one great objection I have to this Bill is that I suddenly discover that a certain portion of the Indian army is being governed by a law of England. I do not see any reason why the law of a foreign country should govern any portion of the army in India. I had no idea that that was the case. I am rather glad that this Bill has been introduced, because it has enabled us to find out this salient fact that was long buried in the midst of a great deal of lumber. Secondly, I find that this Bill seeks to put the Indian wing on a level of equality with the British wing so far as their disciplines are concerned, when they are not on duty.

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

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

Mr. Sri Prakasa: I was saying, Sir, when the House adjourned for Lunch, that there is a patent difference between ourselves and those who rule us. There is no use trying to equalise by artificial means, because that type of equalisation will not be a genuine one. Only this morning at question hour, we found that Bahadur Shah, the last King of India, was given the boot and his descendants disposed off with paltry sums of Rs. 20 or Rs. 25 while Nicholson has got a statue in Delhi! Sir, the difficulty with us is this, that large numbers of our people, because of the artificial advantages that Government service offers, go in for that service

Mr. A. K. Chanda (Bengal: Nominated Official): On a point of order, Sir, is all this relevant?

An Honourable Member: Do you know what we are discussing now?

Mr. Deputy President (Mr. Akhil Chandra Datta): The Chair hopes Mr. Sri Prakasa will make it relevant and will speak in such a way as to make it relevant.

Mr. Sri Prakasa: My dear old and Honourable friend, Mr. Chanda, was not perhaps in the House when I was speaking before lunch, otherwise he would have found that I was very relevant and that his own objection was wholly irrelevant. Sir, our people in the foreign services gain all the rights and privileges, and even the titles that the Britishers have, but they evidently do not understand their duties to their own:

[Mr. Sri Prakasa.]

country; and if we can penalise them in any way, I think we must do so. Other services may, perhaps, be excused; but when an Indian joins the military services, he clearly declares himself to be against his own country, for he offers to shoot his own countrymen if so ordered. So, when a man does that, he must take the risk of his profession; and when he is once a soldier, he must always be a soldier. He must not be allowed to strut about with his titles and decorations and his military rank when not on military duty and still claim to be exempt from military discipline.

I understand that this Bill seeks to save Indian officers from military discipline when they are not actually on military service. Well, when a person and an Indian to boot has decided to become a soldier in the British Army, he must face the risk and stick to his work whatever it may be. I will say, Sir, that such Bills, coming in in an underhand manner, appear on the face of them to try to equalise the position of the two countries, they do not actually do so; and I can assure the Government that revenge sometimes comes in strange ways. Here I am reminded of a story which I shall relate to this House and finish my observations. It is said, Sir, that at a mediæval Indian court the priest, the Rajguru, and the jester, the *Vidushak*, were at war. They could not agree with each other in any way. Once it so happened that the dowager-empress was very seriously ill and she summoned her son to her bedside. As her last wish she wanted to have a feed of sweetmeats made wholly of almonds and pistachios. By the time the almonds and pistachios could be cleaned in water, could be pounded and turned into nice sweetmeats, the poor old lady expired. The king was sorely grieved, he summoned his head priest the next morning and asked him what he should do to expiate the great sin of having not been able to fulfil his mother's last wish. The priest said: "Nothing easier, Your Majesty; you just feed a hundred Brahmins with sweetmeats of almonds and pistachios and they will reach the soul of the late lamented lady." So the king ordered a big feast and fed a hundred Brahmins with beautiful sweets. Now, Sir, this jester was on the look-out. He seemed to be very much of the same temperament as myself. (Laughter.) A few days later, he called the identical Brahmins to a feast at his house. The priest was very glad. He said that at least they had a chance of feeding at that fellow's expense for he never fed Brahmins at all. With great joy, they all went at the time appointed to his house. When they were all in, the good host closed the door, took a rod of iron, heated it in the fire and started cauterising the whole lot. They were sore upset; they tumbled over one another, broke open the door, rushed to the king and loudly complained to him that his jester was inflicting such grievous iniquity upon them. The king was wrath and summoned his jester immediately in his presence and asked him what he meant by all that. My friend replied: "Sir, the simple fact is that my dear mother was suffering from a wasting disease. I summoned the doctors. They advised that nothing but cauterisation could save her. By the time I heated my iron rod and took it to her bedside, she expired. I thought that if I now cauterised these Brahmins, she would be cauterised in heaven". (Loud Laughter.) Sir, I warn Government that vengeance comes sometimes in strange ways; and I fear that by our vote on this Bill we are going to show that vengeance has come on them even when they are proposing a seemingly helpful Bill; and so prove that despite their show of

equalizing the status of the Indian and the Britisher, they are really on the wrong path, for they are really not doing so.

Captain Sardar Sir Sher Muhammad Khan (Nominated Non-Official): Sir, I think there is a vast amount of misunderstanding today. My friends opposite do not try to understand the matter, or the objects of this Bill have been explained to them in a wrong way. You will find, Sir, from the Statement of Objects and Reasons that there is a section, 175, which exists already for officers of the Indian Army, for both kinds of officers, the British wing and the Indian wing. Three years ago, when the Dehra Dun College was opened, this Honourable House passed an Act in which they mentioned the power and status of the Indian commissioned officers. There are British officers, Indian king's commissioned officers, and Indian commissioned officers. There are three kinds of officers existing in the army today. Boys from the Dehra Dun College who finish their training at Dehra Dun are called Indian commissioned officers and there are different rules in the Indian Army Reserve of Officers for both wings. Recently, the rules for the Indian Army Reserve of Officers have been revised and applications have been solicited from India from gentlemen or even retired soldiers to join the Indian Army Reserve of Officers. At present, there is no provision for this. Even the new kind of officers who will join the Indian Army Reserve of Officers will be nowhere, because there is a provision for the British wing that all officers who are commissioned from Sandhurst or the Dehra Dun College, Indian or British, are under the British law and that they are under military law when they join the Reserve. Ordinarily, he is either a retired officer or a gentleman from the town. The second object is to help the retired military officers like myself who have served in the regular army and have now retired. If I want to join the Indian Army Reserve of Officers when I am at Jhelum, I do not think Honourable Members would like me to be under the military law. This Bill only aims at this that if the officers in reserve are called on military duty, they will become subject to the military law. But when they are at their homes and are not doing any military duty, they will not be under the military law. That is the only object of this Bill.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): But you ought to be under the military law even when you are at Jhelum. You cannot be allowed to remain uncontrolled anywhere and at any time.

Captain Sardar Sir Sher Muhammad Khan: I think I am well disciplined as compared to other Honourable Members.

Sardar Mangal Singh: May I ask one question? When an Indian officer joined the Army in India Reserve of Officers, what would be his rank, precedence and status as compared with the British officer? That is the point at issue.

Captain Sardar Sir Sher Muhammad Khan: As Honourable Members know, there are two kinds of officers in the regular army—the British officers and the Indian commissioned officers. There are two wings in this Reserve of Officers—one is the British wing, whose status and power are similar to those of the British officers in the regular army, and the other is the Indian wing, whose status and power will be exactly that of the Indian commissioned officers from the Dehra Dun College.

Mr. S. Satyamurti: We object to it.

Captain Sardar Sir Sher Muhammad Khan: Then, you want vengeance, as the last speaker said. You are not talking on the merits of the Bill, but you are simply taking a vengeance. If you want me or any retired military officer who has joined the Reserve when he is at home or when he is enjoying his holiday in Kashmere to be brought to Delhi for court-martial, it is rather hard on the officer. If my Honourable friends try to understand the Bill, they will find that there is no difference in the treatment of an Indian officer and that of the British officer. Anybody who wishes to join the Reserve, he must see first the rules and regulations. From these he will find that there is no discrimination at all between the Indian wing and the British wing. The Indian commissioned officers from the Dehra Dun College, when they will join the Reserve, will have the same status as the Indian officers in the regular force. There already exist the status of Indian officers in the army, and the status of the officers on the Reserve must be on the same footing. There is one thing more which Honourable Members do not understand. What are the duties of the Reserve Officers? When there is mobilization or when there is war, these officers are called for duty, to replace the British officers or the Indian commissioned officers in the regular army, and when they are called for such duty, they will come under the military law. If they are at home, they will not be under the military law. That is the object of this Bill. If you want to oppose it just for the sake of opposition, it is quite a different thing. The last speaker gave a story, and I can also give one. A person committed a murder in the kingdom of a small Nawab or Raja and then disappeared. After a long search, the police came back and said: "Your Highness, we could not find the man who has committed murder." The Raja said: "Where is his son?" They said: "He is there all right." The Raja said: "Bring him before me." When the son came before the Raja, he was asked where his father was. He replied that he had disappeared. The Raja said: "All right, hang the son." That is why you are having this opposition against the Indian Reserve of Officers. (Loud Applause from Official Benches.)

Mr. G. R. F. Tottenham: Sir, I am fully aware, and if I had not been aware, I should have been gently reminded this morning, of the fact that there has always been a strong feeling against what is called discrimination between the treatment of British and Indian officers. That, Sir, is a plain fact, and it is no use denying it. My Honourable friend, Mr. Ghiasuddin, however, said that this House had always been opposed to that discrimination. What he meant was that a very large section of this House had always been opposed to it. Actually, this House carried an amendment to the Indian Army Act in 1934, the result of which is that Indian officers of the Indian Army are subject to the Indian Army Act and British Officers of the Indian Army are subject to the British Army Act. That, Sir, is a *fait accompli*. Nothing can be done today to alter that fact. If by any vote of the House today that position could be altered, I would have understood the attitude of Honourable Members opposite in opposing this Bill. But I want to make it perfectly clear that whatever happens today, that position cannot be altered. Incidentally, I would refer to one or two things that my friend, Sardar Mangal Singh, said: I think he ought to have known better. He definitely stated in his speech that there were practical differences between the treatment of British and Indian officers under the Indian Army Act.

He went on to state that senior Indian officers were unable to command junior British officers and I think he even suggested that junior British officers may exercise powers of command over senior Indian officers.

Sardar Mangal Singh: I did not say that.

Mr. G. R. F. Tottenham: Well, he certainly suggested that senior Indian officers could not exercise powers of command over junior British officers in the Indian army. Well, Sir, the Sardar Sahib ought to have known perfectly well that that is incorrect. I have previously stated here on the floor of the House perfectly clearly that there is complete reciprocity of powers of command between British and Indian officers of the Indian army, and senior Indian officers do automatically exercise powers of command over junior British officers.

Well, Sir, I will now go on to the Bill itself. This Bill is concerned simply and solely with the liability of reserve officers to military law when they are called up or when they are not called up with the reserve. Nothing more and nothing less than that. If this Bill is passed into law, the effect will be that officers of the reserve will not be subject to military law except when they are called up. If this Bill is not passed into law, those officers will continue to be subject to military law at all times. In other words, there is at present discrimination between the treatment of British and Indian officers of the reserve. British officers of the reserve who come under the Army Act are protected against being subjected to military law except during periods when they are actually called up. Owing to the fact that there is no corresponding provision in the Indian Army Act, Indian officers of the reserve are subject to military law as officers of the reserve at all times. What this Bill proposes to do is to remove that discrimination. Now, Sir, if Honourable Members opposite are so opposed to the principle of discrimination in a matter which they cannot now alter by whatever vote they give, I do not see why they should boggle at getting rid of a discrimination which they can abolish and which this Bill seeks to abolish. If they wish, they can, of course, have it their own way. The result will make no difference whatsoever to the Government. The Government are not concerned one way or the other. The only effect of rejecting this Bill will be that Indians who join the Reserve will continue to be subject to military law at all times. Now, Sir, if this House wishes to be published abroad as a House which desires to perpetuate that particular discrimination between Indian and British officers, I admit that they are at full liberty to do so.

Sardar Mangal Singh: Why don't you amend the original Army Act?

Mr. G. R. F. Tottenham: We cannot here and now make any alteration in that Act.

Mr. S. Satyamurti: Why not?

Mr. G. R. F. Tottenham: Because that would require separate action. If Honourable Members wish to propose an amendment to the Indian Army Act, it is open to them to use the procedure of the House for doing so. But nothing that they do here today will have any effect upon that. I do suggest to the House that they should think twice before rejecting this Bill, for that would be an extreme example of cutting off one's nose to spite somebody else's face.

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

"That the Bill further to amend the Indian Army Act, 1911, for a certain purpose, be taken into consideration."

The Assembly divided:

AYES—47.

Abdul Hamid, Khan Bahadur Sir.
Ahmad Nawaz Khan, Major Nawab Sir.

Ahsan, Maulvi Muhammad.
Aikman, Mr. A.

Anderson, Mr. J. D.
Bajpai, Sir Girja Shankar.

Bansidhar, Rai Sahib.

Bartley, Mr. J.

Bewoor, Mr. G. V.

Bhagchand Soni, Rai Bahadur, Seth.

Bhide, Mr. V. S.

Buss, Mr. L. C.

Chanda, Mr. A. K.

Chapman-Mortimer, Mr. T.

Dalal, Dr. R. D.

DeSouza, Dr. F. X.

Fazl-i-Haq Piracha, Khan Bahadur Shaikh.

Griffiths, Mr. P. J.

Hudson, Sir Leslie.

James, Mr. F. E.

Jawahar Singh, Sardar Bahadur Sardar Sir.

Lal Chand, Captain Rao Bahadur Chaudhri.

Lalit Chand, Thakur.

Mehta, Mr. S. L.

Menon, Mr. K. R.

Metcalfe, Sir Aubrey.

Morgan, Mr. G.

Mudie, Mr. R. F.

Mukherjee, Rai Bahadur Sir Satya Charan.

Murid Hussain Qureshi, Khan Bahadur Nawab Mahkudum.

Nagarkar, Mr. C. B.

Nauman, Mr. Muhammad.

Naydu, Diwan Bahadur B. V. Sri Hari Rao.

Noyce, The Honourable Sir Frank.

Rajah, Raja Sir Vasudeva.

Rau, Sir Raghavendra.

Sale, Mr. J. F.

Sarma, Sir Srinivasa.

Scott, Mr. J. Ramsay.

Sher Muhammad Khan, Captain Sardar Sir.

Slade, Mr. M.

Thorne, Mr. J. A.

Tottenham, Mr. G. R. F.

Verma, Rai Sahib Hira Lal.

Witherington, Mr. C. H.

Yakub, Sir Muhammad.

Zafrullah Khan, The Honourable Sir Muhammad.

NOES—46.

Aaron, Mr. Samuel.

Aney, Mr. M. S.

Ayyangar, Mr. M. Ananthasayanam.

Azhar Ali, Mr. Muhammad.

Banerjea, Dr. P. N.

Bhagavan Das, Dr.

Chaliha, Mr. Kuladhar.

Chattopadhyaya, Mr. Amarendra Nath.

Chettiar, Mr. T. S. Avinashilingam.

Das, Mr. B.

Das, Mr. Basanta Kumar.

Das, Pandit Nilakantha.

Desai, Mr. Bhulabhai J.

Essak Sait, Mr. H. A. Sathar H.

Ganga Singh, Mr.

Ghiasuddin, Mr. M.

Ghulam Bhik Nairang, Syed.

Giri, Mr. V. V.

Govind Das, Seth.

Gupta, Mr. Ghansham Singh.

Hans Raj, Raizada.

Hosmani, Mr. S. K.

Ismail Khan, Haji Chaudhury Muhammad.

Jedhe, Mr. K. M.

Jehangir, Sir Cowasji.

Kailash Behari Lal, Babu.

Khare, Dr. N. B.

Lahiri Chaudhury, Mr. D. K.

Lalchand Navalrai, Mr.

Maitra, Pandit Lakshmi Kanta.

Malaviya, Pandit Krishna Kant.

Mangal Singh, Sardar.

Mudaliar, Mr. C. N. Muthuranga.

Pant, Pandit Govind Ballabh.

Raghubir Narayan Singh, Choudhri.

Raju, Mr. P. S. Kumaraswami.

Saksena, Mr. Mohan Lal.

Sant Singh, Sardar.

Santhanam, Mr. K.

Satyamurti, Mr. S.

Sham Lal, Mr.

Shaukat Ali, Maulana.

Siddique Ali Khan, Khan Sahib Nawab.

Som, Mr. Survyra Kumar.

Sri Prakasa, Mr.

Umar Aty Shah, Mr.

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

Mr. G. B. F. Tottenham: Sir, I move:

"That the Bill be passed."

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

"That the Bill be passed."

Sardar Mangal Singh: Sir, before we vote on this Bill, I want to make one or two points clear. We voted against this Bill, not because we do not want that the Army in India Reserve of Officers should not be given some facilities, but our position is that we want that our Indian reserve officers should have the same status, the same rank, the same position and the same salaries in our country that the British officers are getting. That is the whole point. The Defence Secretary has said that this racial discrimination is a settled fact, and, therefore, we should agree to that proposition. It may be a settled fact or it may be soon unsettled,—that is a question of time. But, so far as we are concerned, we want to very clearly and emphatically protest against the enactment of the Army Act which was passed in 1934. This Bill extends the same principle of racial discrimination to the Army in India Reserve of Officers. That is our protest. We refuse to accept only 10 or 12 annas, but we insist that our Indian officers should be given the full 16 annas. I want to assure the Indian Reserve officers that we want to make their position equal to that of the British officers. I was really sorry, I was rather ashamed, to hear the speech of an Indian retired military officer who comes to this House to protect the interests of the Indian military officers and soldiers.

Sardar Sant Singh (West Punjab: Sikh): But he is a nominated Member.

Sardar Mangal Singh: That should not alter the position. He is an Indian. His body is made up of Indian earth and Indian water, and he should not accept the position that in his own country the Indian officer is lower in position than the British officer. We want that the position and rank of our Honourable friend, Sir Sher Muhammad Khan, should be equal in every respect to the position of my Honourable friend, the Defence Secretary. I want to help him to raise his position, but unfortunately he is himself content with a lower position and lower status, for some reason best known to himself. But so far as I am concerned, I do not want that my countrymen should in any case be in a lower position than the British people here. That is the crux of the whole problem. We want to oppose this Bill, because it deals with a question on which Indian public opinion feels very strongly and very keenly. On the last occasion, that particular Bill was carried by only three votes and almost all the elected Members opposed that Bill. The Defence Secretary said that the House has accepted the Bill. But if the division list be consulted, he will find that very few elected Members voted for the enactment of that Bill. The whole country outside protested against it and today we are asked to commit ourselves to the same principle of racial discrimination in the army. It is a matter of great shame and sorrow that in our own country we are given a lower position and status than that given to British officers. If my

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Honourable friend, Sir Sher Muhammad Khan, goes into the army as a reserve officer, he will be given an Indian Commission, while my Honourable friend, the Defence Secretary, will get a British Commission and his status would be higher and his salary would be higher. I want Sir Sher Muhammad Khan and Mr. Tottenham to be on the same level in every respect. That is the whole point.

An Honourable Member: Does he want it?

Sardar Mangal Singh: He may not want it for himself, but I being his countryman will not be satisfied with an inferior position.

Captain Rao Bahadur Chandhuri Lal Chand (Nominated Non-Official): The position is the same. You do not know.

Sardar Mangal Singh: If it be the same, why are not the Indian army and the British army governed by the same Act, and why should there be different Acts? I ask the Defence Secretary if it is provided in the Indian Army Act that Indian commissioned officers would be in a position to command a British regiment. I was saying that there is no provision in the Indian Army Act—I will be glad to be corrected—that an Indian commissioned officer would be in a position to command a British regiment, to command British officers. For temporary purposes, there may be provisions, there may be special orders to meet a particular emergency; but I maintain that there is no provision in the Indian Army Act that an Indian commissioned officer would be in a position to command a British regiment

Mr. G. R. F. Tottenham: There is no provision in any Army Act in the world that I know of regulating the powers of command of officers under the Act.

Sardar Mangal Singh: In every Army Act there is provision for senior officers to command

Mr. G. R. F. Tottenham: Where?

Sardar Mangal Singh: In the army, whoever is senior will command. I will illustrate my point. Suppose there is a division and I am the senior-most Indian officer in that division: suppose there are some British regiments and some British officers—King's commissioned officers, lieutenants and captains: I am a Major. I put it to the Defence Secretary whether, without any special extra provision, I will automatically be in a position to command them.

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

Sardar Mangal Singh: Under what section?

Mr. G. R. F. Tottenham: It is not a question of a section of the Act. It is a question of the King's Regulations. It is laid down there for both British officers and Indian officers.

Sardar Mangal Singh: I say in a case of particular emergency a special order may be issued

Mr. G. R. F. Tottenham: There is no question of any particular emergency.

Sardar Mangal Singh: I know there is some order and it was read out to the House. I say they are misleading the House. There is no provision in the Indian Army Act that automatically the senior officer would be able to command. I put another question, whether an Indian commissioned officer would be entitled to sit on a court martial when a British soldier or a British officer is court-martialled. No

Captain Sardar Sir Sher Muhammad Khan: That depends on the accused. If the accused is an Indian, he can ask for a British officer or an Indian officer: similarly, if he is a British soldier, he can ask for an Indian officer if he wants one.

Sardar Mangal Singh: But there is no provision. An Indian commissioned officer cannot sit on a court martial over a British soldier or a British officer

Mr. G. R. F. Tottenham: On a point of order, Sir. May I ask how this is in any way relevant to the Bill?

Sardar Mangal Singh: I submit it is quite relevant. We are making legislation for the governance of the Army in India Reserve of Officers of the Indian wing. When they will be in the army, they will be given some official rank. I object to that, because that status and position would be lower than that given to a British officer and I am illustrating that position that in so many ways he would be lower. Suppose I am an Indian commissioned officer and I am going on a road. A British soldier comes and meets me. Will he salute me? And if he does not, am I in a position to arrest him and bring him up and punish him? No. He may pass me without saluting me, because I am not a King's Commissioned officer. I, therefore, submit that the position of the Indian commissioned officer is lower, is inferior to the British commissioned officer. I do not think that any Indian Member, whether he is elected or nominated, as an Indian Member will submit to this humiliation in his own country. I put it to Sir Sher Muhammad Khan whether any self-respecting Indian would submit to it

Mr. P. J. Griffiths (Bengal: Nominated Official): On a point of order, Sir: how is this relevant to the present Bill?

Mr. Deputy President (Mr. Akhil Chandra Datta): It is perfectly relevant. The Honourable Member is giving his reasons for opposing the Bill. The motion is that the Bill be passed.

Mr. P. J. Griffiths: May I submit, Sir

Mr. Deputy President (Mr. Akhil Chandra Datta): Is it another point of order, quite independent of the previous one? -

Mr. P. J. Griffiths: No: it is not independent: but my submission . . .

Mr. Deputy President (Mr. Akhil Chandra Datta): Then, the Chair has already given its ruling.

Sardar Mangal Singh: I was just illustrating how the position given to the Army in India Reserve of Officers provided in this Bill would be lower and inferior to a British officer

Mr. G. B. F. Tottenham: It is not provided in this Bill.

Sardar Mangal Singh: What Commission would be given to me if I become a Reserve Officer? An Indian commission

An Honourable Member: The same as Captain Lal Chand has got . . .

Sardar Mangal Singh: He has got it without going to the Army. (Laughter.) Under the Bill, which is now before the House, if I offer myself and join the Reserves in the Indian wing, I would be given an Indian commission; while, if my Honourable friend, Mr. James, joins the Reserves, he would be given a British Commission. I want to make this position quite clear to the Indian Reserve officers who may be affected by this Bill. Our position is not that they should not be given any of these facilities which this Bill gives; but we insist that their position in the Army should be equal to the British officer. Our position should not be misunderstood by the Indian Reserve officers or by the Indian army in general. We wish to help them to raise their position, to make it equal to that of the British officer in every respect. I, therefore, oppose this Bill.

Mr. M. Ghiasuddin: Mr. Deputy President, we are generally told that the sins of the father shall not visit the progeny; but in this case, I am sorry to say, we have to pay for the wrongs of our predecessors. In the last Assembly, this Honourable House passed an Army Act. I think every Indian should hang his head in shame when he sees that such discrimination was perpetuated against Indians with the help of some non-official elected Indian Members who voted for that Bill.

Mr. F. E. James (Madras: European): May I rise to a point of order? If I understand my Honourable friend, he is casting a very direct reflection upon the vote of this House before. On a previous occasion, even a slight reference to the vote of this House was ruled out of order. This time, it is a wholesale condemnation of a previous vote of the House, and, as such, it is not in order.

Mr. M. Ghiasuddin: I have not passed any reflection on the vote of the House as a whole. What I did say was that those Indian Members who voted for this measure had not deserved well of their country. I did not say anything about the vote of the House.

Now, Sir, whenever we want to air our grievances, whenever we want to bring our grievances to the notice of this House, the injustice suffered by our fellow countrymen, who hold Commissions in the Indian Army, we are always taunted with the fact: "Well, this Honourable House passed this Act and the Government are not responsible". This is the answer we always get from the Treasury Benches. Now, Sir, I wish some of those Honourable Members, who voted for this measure in the last Assembly, had been present in the visitors' gallery.

Sardar Sant Singh: I am here. I will tell you.

Mr. M. Ghiasuddin: If they had been present in the gallery today, they would have seen how their vote affects us, and how it affects the officers in the Army. Now, Sir, this very thing has been repeated today, because I was very sorry to see some of the elected Members going into the Government lobby and giving their blessing to that Act, for the repeal of which the country has been crying hoarse for over four years. Some of the old Assembly Members got their desserts; we see very few of them who voted for that measure here today. Where are they? The country has pronounced its terrible judgment on them, and they have been shunted out of the public life. I am afraid the same will be the fate of those Members who have voted for this measure with the Government today

[At this stage, Mr. Deputy President (Mr. Akhil Chandra Datta) vacated the Chair which was then occupied by Sir Leslie Hudson, one of the Panel of Chairmen.]

It is really a very sad matter. Sometimes we lose in this House and sometimes we win, but it really breaks one's heart when you see elected Members voting with the Government on a measure like this. My Honourable friend, Sardar Mangal Singh, made this clear in his speech that we did not want the Indian officers of the Army Reserve in India to remain under the military law when they are not called for military duty. This is not the object of the Honourable Members on this side, and it never was. What we wanted was to protest against this discrimination that is being shown by the Defence Department against the Indian officers of the Army. It is a thing against which this House has protested again and again, it is a thing which will not be liked by any self-respecting Indian. The army budget has been thrown out on this very account, and yet, I am sorry to say, the Government do not accommodate us on this point, on the other hand they are pushing forward the principle of discrimination. The Government knew fully well that this discrimination was very unpopular in the country, and yet they went a step forward and introduced this discrimination in the Army in India Reserve of Officers. This is a Bill which will never receive the blessings of any self-respecting Indian. Sir, I oppose this Bill.

Captain Rao Bahadur Chaudhuri Lal Chand (Nominated Non-Official):

Sir, as has already been explained by my friend, Sir Sher Muhammad Khan, the present Bill is a most inoffensive measure and is only meant to correct an anomaly, but my friends opposite, instead of speaking on the merits of the Bill, are looking at the provisions of another Bill outside the scope of this Bill, and have raised question of policy or principle, which were all discussed when the Indian Army Bill was passed. My friend, Sardar Mangal Singh, said that the Indian officers should get 16 annas in the rupee as the European officers are getting. He said he would not be satisfied if Indian officers got only ten annas. Now, Sir, Indianisation has been proceeding in the civil as well as in the military departments. In the Indian Army, there is this distinction that, the same pay is not given to the Indian Academy officers as is given to British officers enlisted in England for the Indian Army. My friend wants that, just as in the civil department when an English officer vacates his office and an Indian officer succeeds him, he gets his pay on the same scale, he wants to introduce this principle in the army also. My submission, Sir, is that it is in the civil

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departments that injustice is being done to the taxpayer, and the Defence Department ought to be congratulated on giving us a lead in this method of Indianisation. This is so in the Imperial Police Service, as well. In other civil departments, whenever British officers leave their jobs, the Indian officers, who succeed them, draw the same scales of salaries. In the Police Department, those who are recruited by the Secretary of State in England are paid Rs. 100 as overseas allowance, while those who are recruited in India get Rs. 100 less. There is thus so much relief to the Indian taxpayer, otherwise, what is the use of all this Indianisation if we demand that men recruited locally and Indians should be paid the same scales of pay even when they are serving in their own country, sometimes in their own districts and in their own home towns. I have seen that great mischief is being done under this plea of equal treatment. (Laughter.) Sir, I know of some officers who are not only serving in their own province, in their own districts, but in their own home towns, and yet getting overseas allowances under the old scheme. I know of an officer who never went even up to Bombay and who never saw the sea, except perhaps on the map, getting an overseas allowance. For future entrants this evil has been corrected, but there are still some Indians who have never crossed the seas, whose homes are here, and yet they are getting overseas allowances. So, my point is this. Indianisation is very good. I am all for it. I want as many Indians as possible to be employed, not only in the army, but in the civil administration also, but at the same time I want that the taxpayer also should be given some relief. The Indians should be given cheaper rates than the rates given to Europeans

Maulana Shaukat Ali (Cities of the United Provinces: Muhammadan Urban): Why do you want them?

Captain Rao Bahadur Chaudhuri Lal Chand: The day when you could dispense with Europeans has not yet come. It is on account of the peace and settled Government that we enjoy, on account of the sacrifices made by the Indian army and by the European officers on the North-West Frontier that we can afford to talk of them in this fashion (Laughter from the Congress Party Benches), and but for the presence of British officers in India, things would have been quite different. Sir, I do not claim that the Army Act is perfect in every way.

Maulana Shaukat Ali: It is very bad.

Captain Rao Bahadur Chaudhuri Lal Chand: Yes, it is very bad in certain directions, and I will point out one great defect in that Act, and that is, that the army ranks have been opened to non-martial classes.

Mr. M. Ghiasuddin: On a point of order, Sir. Is the Honourable Member in order in referring to martial and non-martial classes? Is it a matter relevant to the Bill under discussion?

Mr. Chairman (Sir Leslie Hudson): The Honourable Member is just as relevant as those Honourable Members who have spoken before him. (Laughter.)

Captain Rao Bahadur Chaudhuri Lal Chand: I am grateful to you for this ruling. I was referring to the evils that have been introduced by this all accommodating Government into the Indian army also. I have received a letter signed by all the Indian officers of a regiment serving in Jhelum. They say that they would rather have only Viceroy's commissions, that is, the old Jamadar, Subadar and Risaldar commissions than to have men who have never seen a naked sword or who have never ridden a horse, coming as officers. The defect is this. I would not mind if non-martial classes were recruited in the ranks as well and let the officers be in proportion to the number of recruits which each community supplies. The result of the new rule is that we serving in the ranks are confined to martial classes,—we supply the man power and the officering is being done by non-martial classes.

Sardar Sant Singh: But you are a Captain.

Captain Rao Bahadur Chaudhuri Lal Chand: Why do you grudge that? The result will be what happened in Kashmir. Sir, I am reminded of an old story of the Kashmir Durbar. Once upon a time, the grandfather of the present Maharaja of Kashmir was approached by his Kashmiri subjects. They said: "Why do you import Punjabis, Sikhs and Muslims into this State? We Kashmiris are strong enough. One regiment should be raised which will wholly consist of Kashmiris". Well, Kashmiris are a fine lot, they can mount up a hill with five maunds on their back, and the Maharaja ordered a regiment of Kashmiris to be raised. The recruits were supplied uniforms, they marched very well in uniforms and looked very fine. After some time, say, about a year, the battalion was reported to have completed its training course. A durbar was held, the commanding officer was presented to the Maharaja, and after saluting the Maharaja in the right royal fashion, he told him: "Your Highness, my battalion is ready for action". The Maharaja at once ordered that this battalion should relieve one Sikh regiment in the Gilgit frontier. The commanding officer, instead of retiring, saluted again and wanted to say something more. The Maharaja was furious: "Why don't you retire?" The commanding officer said: "I want a dozen Sikh sepoy to help us to guard the armoury at night". The result was that the battalion was disbanded, and my prophecy is that if the Government of India continue in their policy of recruiting non-martial classes as officers, the story of Kashmir will have to be repeated again here in India.

An Honourable Member: What has that got to do with the Bill?

Captain Rao Bahadur Chaudhuri Lal Chand: We have only to wait for another Great War, and Honourable Members will see of what stuff the new Indian officers that are being recruited are made.

Sardar Sant Singh: What will you prove to be as a Captain of the army?

Captain Rao Bahadur Chaudhuri Lal Chand: You will see. My Honourable friend, Sardar Mangal Singh, also served in the army, and I am told by an Honourable friend of mine here that he was appointed commander-in-chief of the volunteer force when the Congress session was held in Lahore. Is it a fact or not?

An Honourable Member: Go on.

Mr. M. Ghiasuddin: He has seen active service.

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

Captain Rao Bahadur Chaudhuri Lal Chand: He belongs to a martial class, he is a Jat Sikh, and I have great regard for him, and but for his association with non-martial people he would have made a perfect soldier. But it so happened, while riding a horse as commander-in-chief of the volunteer forces in Lahore, he fell down from the horse. (Laughter.) So merely owing to association with non-martial people, he could not control the horse, and now that non-martial people are being recruited in the army, what will be the fate of the army, I leave it to Honourable Members to imagine for themselves.

Mr. B. Das (Orissa Division: Non-Muhammadan): This martial man must learn manners.

Captain Rao Bahadur Chaudhuri Lal Chand: I know that this is all beside the present Bill. (Laughter.) But as my Honourable friends on the other side have been introducing subjects which do not apply to the present Bill and which ought not to be discussed here on this occasion and as they raised the question of principle and pointed out defects, I have submitted that the Army Bill has got this defect also, and this is the most serious defect. Sir, I have done.

Sardar Sant Singh: I had no intention of participating in the discussion of this Bill, but certain remarks, which fell from an Indian here who has always prided himself on the fact that he comes from the martial classes and who helped so vigorously in the recruitment to the army in the last War, and probably as a reward for his services got the distinction of being known as an honorary captain, but does not seem to have imbibed any martial spirit at all, compel me to intervene in this debate. Probably my Honourable friend had no respect for those whom he sent to the front for being mown down by the machine guns of Germans and others, but simply wanted to get a distinction from the Government for enlisting them. It is a significant thing that not one European spoke in favour of the principle which was opposed by this side of the House. You will excuse me, Sir, if I draw the attention of the House to one fact. When, under the Montagu-Chelmsford Reforms, representation was conceded to the army by nomination, it was expected that the person who would be nominated would be one who really represented the army interests. Otherwise, there is no meaning in having a person here nominated as representing the army interests. But we have found that whenever a question of discrimination between the Indian army ranks and the British army ranks comes under discussion, our Honourable friend, Sir Sher Muhammad Khan, who has been nominated to represent army interests, opposes the popular view. It was not even on one occasion that he voted with the popular side. Two gentlemen now sitting side by side, Captain Rao Bahadur Chaudhuri Lal Chand, and Captain Sir Sher Muhammad Khan who have nothing in common excepting one thing, namely, that both are captains, stand against the very principle for which democracy is fighting here in India. There are two ways in which process of levelling can go on in a country. One is the way of democracy. It has been defined as having a tendency to level up and level down. Here, in this House, we represent a

democratic institution in which our main effort is to bring up to the same level both the British and Indian officers. The other method is out of place in this House. Sir, I would not mention it. However, the vital principle underlying the present opposition is not the few clauses which form this Bill, but the perpetuation of the discrimination between the British officers and the Indian officers in India. This principle is running through the whole Act, and this side will always do well in opposing any such principle. My learned friend, Captain Lal Chand, has misunderstood the meaning of the principle of Indianisation when we insist upon it. He says that by Indianisation we expect the Indians to get lower pay. This is one part of Indianisation. The other part is that we do not want any outsider to get more than what the country can afford to pay him. That is why we are trying to bring the salaries of Ministers, Generals, and everybody to the same level

Mr. T. Chapman-Mortimer (Bengal: European): On a point of order. Is it in order for the Honourable Member to discuss Indianisation and other such matters in connection with the third reading of a Bill of this kind?

Mr. President (The Honourable Sir Abdur Rahim): The Chair should point out to the Honourable Member that he can only discuss the provisions of this Bill and not enter upon any larger questions.

Sardar Sant Singh: I will accept your ruling, but I may say that I referred to them because the previous speakers have referred to all these principles and the ruling of the Chairman was just to the contrary. However, I will obey your ruling, and I won't discuss it.

Mr. M. S. Aney (Berar Representative): On a point of order. When there is a ruling given by anybody who happened to occupy the Chair, before the Honourable the President was there, I think that ruling has got the same validity as the ruling of the President himself. Am I wrong in that?

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not know what the ruling on this point was. Even then, Honourable Members should know that it is for the person who is occupying the Chair at the time to give his ruling on any point that is raised.

Sardar Sant Singh: Proceeding further, I will refer to one important point that was raised by my friend, Mr. Ghiasuddin, on the floor of this House. While speaking, he had said that it is really surprising how an elected Member of the last Assembly could vote for such a Bill. I happened to be one of those few Members who have been returned to this House this time. I can assure him and assure the new Members that even in that House, where the Opposition was not as strong as it is in the present House, Government could get through that Bill only by a majority of three votes. At one time it seemed that the Bill would fall through by the strength of the Opposition. The result of this voting was visited upon those Members whom we do not find here, on account of their having gone with the Government on that occasion. The point which we want to stress in this Bill is that India will not willingly stand

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any discrimination between the British officer and the Indian officer. That is the chief point which we want to stress, and I hope the Defence Secretary will see the strength of the feeling in this House as well as in the country outside and will try to bring up measures by which this discrimination is done away with. With these words, I oppose this Bill.

Mr. S. Satyamurti: Mr. President, I rise to oppose this motion of the Honourable the Defence Secretary, that this Bill to amend the Indian Army Act of 1911 be passed into law. As I said, in the course of my speech at an earlier stage of this Bill, my friend, the Defence Secretary, always appears, whenever we take any position against his, to say that he is doing his best for this country, and that we, either through ignorance or prejudice or both, are trying to prevent him from serving the country which he so much loves. It seems to me that that is a pose, which is somewhat, shall I say, hypocritical and cannot deceive anybody. It does seem to me that the attitude of certain friends who supported him suggested a want of respect to their Honourable colleagues, which they ought not to have shown. I do not know what my Honourable and gallant friend, who spoke for the Bill at an earlier stage, stands for, and what interests he represents. He is supposed to protect the Indian army interests. Does he consider it, consistent with this idea, that every time we put up a gallant fight, it may be a losing fight, for equalising the status of British and Indians, he should take up an attitude of opposition? He may love his chains, but why should he prevent us from removing the chains from others? It does seem to me that a calm reflection will convince him, that he is not serving the best interests of the Indian army. Does he or does he not want the Indian officers to be placed on a position of equality with the British officers? I take the position that the Indian army should be completely Indianised in all its ranks, from the highest to the lowest, but unfortunately we have to pay the price of the British connection, and if some British officers are here, I think common sense demands, self-respect demands, patriotism demands, and a sense of equality demands that we should at least insist that the rights of Indian officers should be absolutely the same as those of the British officers. Of course, the answer will be "That is exactly what I am doing, and you, gentlemen, are so foolish as to obstruct me in this great attempt of trying to equalise their status". My answer will be an analogy. You put chains round me, and because a particular chain is weak, you want to make that chain stronger and you say "You are not helping me in making your chain of uniform strength and you kick against it". My objection to this Bill is that it asks the vote of this House indirectly in favour of the Indian Army Act, 1911, as amended by the Act of 1934. We refuse to be a party to that Act. I may not be strong enough to fight the British, and send them out of the country, but I am not going to be a willing party to any legislation, so long as I am in this House and my friends are in this House, which seeks to stamp with the brand of inferiority the Indian officer in the Indian army today.

Now, Sir, a great deal has been said about the Indian Army Act of 1911, and my friend, the Defence Secretary, in a somewhat uncommonly defiant mood, said that no vote of this House could touch the Indian Army Act. Is he quite sure that we cannot amend the Indian Army Act?

Mr. G. R. F. Tottenham: I did not mean that. What I said was that no vote of the House on this Bill will have the effect of altering the Act in the way that he wants.

Mr. S. Satyamurti: There, I think, he has a slight misunderstanding. If this House shows, as I hope it will, by a decisive vote that it will not have anything to do with the Indian Army Act of 1911, as amended by the Act of 1934, the Government will be compelled to bring up a completely amending or repealing Bill of this Indian Army Act, and bring a new Bill in which there will not be any trace of this humiliating distinction between Indian and British. Why should not this House show by a decisive vote now that we are not going to be a willing party to this brand of inferiority? And, on this Indian Army Act, Mr. President, I just want to say one thing. I am casting no reflection on the vote of the House when I say that a particular Act ought to be repealed or amended. Surely, if every Act passed by any House is to be regarded as sacrosanct for all time, there is no need for this Honourable House at all.

Mr. F. E. James: It was light-hearted?

Mr. S. Satyamurti: I know you are always light-hearted! Apart from the fact that, in that very House when you were leading the Independent Party, this Bill was passed by a narrow margin of three votes—51 to 48—and that practically all the Indian elected and some nominated Members even voted against the Bill, I just want to read two or three sentences, from a speech delivered, not by the President, but by Sir Abdur Rahim, the Leader of the Independent Party. I am quoting you, Sir, as a politician and Leader of that Party; this Bill is cast in our face, and I want to read what you said:

“Sir, what we want to know is this. What are the difficulties in the way of the Army Council or the British Council in conceding to the Indian commissioned officers the same opportunities which the British officers have? Is it because you call this commission an Indian commission? Then why call this an Indian commission?”

Then, Sir, you said:

“We fail to understand why this distinction is sought to be made. Then it has been said that “Oh! the Commission that will be given in case this Bill is dropped will be of a limited character. But how? Even if this Bill is passed you say that the commission will be of a limited character. (Hear, hear.) What difference does it make to us if the Bill is dropped? Then, at any rate, we shall be relieved of the responsibility of consenting to a situation which the whole country is bound to resent, a situation humiliating to us and humiliating to the Indian nation. On the other hand, if you pass this Bill in spite of our opposition, the responsibility will be yours, and not ours. (Applause.)”

And I also repeat those words now, Sir:

“if you pass this Bill in spite of our opposition, the responsibility will be yours, and not ours.”

And, after all, Mr. President, do the elections now not have any effect on this Government? Where are the men now who then voted with the Government on this Bill? They are no longer on the floor of this House. Why should the Government imagine that these elections make no difference at all?

[Mr. S. Satyamurti.]

Then, Sir, my Honourable friend, the Deputy Leader of the Independent Party, spoke on this motion when he was a Member of the Independent Party even then, I think, and he said: (*An Honourable Member*: "Who is that?") It is my friend, Sir Cowasji Jehangir. (Applause.) This is what he said, it is still more striking and almost prophetic:

"I see looming in the future before me a considerable amount of trouble for all of us. It may be quibbling today, but it won't be quibbling in five years' time. You may pass your Bill. Nothing may be heard about it for five or seven years; but in five or seven years you *will* have to make a change of a very radical character, a much more radical character than would be necessary today. (Loud Applause.)"

I want to say, Sir, that my friend's words have become true, but my friend, the Defence Secretary, sits there quietly smiling and tells us: "Take it or leave it. I won't touch the Army Act. It must be there. I am giving a small concession to Indian Reserve officers. Are you going to be so unintelligent and unpatriotic and unwise as to reject this small concession?" Yes. He gave us the usual story of cutting the nose, to spite somebody else's face. Sir, I want to keep my nose, and spite your face and I will do that. This House will not be a willing party to this piece of legislation, which seems to brand the Indian officers with the brand of inferiority. I do hope all this quibbling on the part of the Government will cease. Sir, these gentlemen are supposed to represent the Indian army interests, but they never stand by the Indian army. By whom they stand, God alone knows. (Hear, hear.) I would even appeal to them at the last moment and also to my friend, Captain Sardar Sir Sher Muhammad Khan, still to think of his country occasionally, and to support us when we give notice to this Government that, whether we are strong or weak today, so long as we get the opportunity on the floor of this House to mark our protest against these racial humiliations, we will every time give our vote against the Government. (Applause.)

Sir Cowasji Jehangir: Mr. President, my one regret is that this debate does not take place before the members of the British Government, who are really responsible for the amendment of the Army Act of 1911 in the year 1934. This Act was amended in that year, when the Round Table Conferences had been concluded and I well remember the warnings that we sounded in India and in England of what the feeling of the country was bound to be if legislation of this sort was pushed through the Assembly. It was passed on that occasion, as you will well remember, Mr. President, by merely three votes, and the minority of three votes then does mean today a huge majority. (Hear, hear.) There was nothing on that occasion that was left unsaid, and my friend, Mr. Satyamurti, has quoted from our speeches. This is again a lesson, not to my Honourable friends on the Treasury Benches who are really not responsible, but to British statesmen and British public opinion. We realise that the army can never be just now a transferred subject and must remain a reserved subject, but there is not the slightest reason why these distinctions should have been made in 1934 notwithstanding the strongest opposition in this very Honourable House and throughout India; and I may tell my Honourable friend that he may convey this message to England. It is no use speaking to Honourable friends in India. He may convey this message to England that if, in this Legislature or in any future Legislature, an

attempt is made to have the amended Army Act again amended in any way whatsoever, then the only amendment that this House now or in the future will consider will be an amendment which will put Indian officers and British officers serving in the Indian Army on an equal footing. (Hear, hear.) Well, Sir, I trust, the debate today is a true eye-opener to the state of feeling in this country. I would again repeat that this is not the opinion or sentiment of men who believe that the Indian Army can be Indianised this very year. It is not the opinion of such men, but it is the opinion of men who realise that it will take many years to Indianise the Indian army. But during that process they will not allow any distinctions to be made between British and Indian officers. Looking back over that debate, I find that an analogy was made between the Indian army, the Australian army and the Canadian army. We were told that the same sort of Act applied to Canada and to Australia. It was a ridiculous analogy. In the Canadian army and in the Australian army there are only Canadians and Australians who are officers. If in the Canadian army or in the Australian army there had been British officers as well as Canadian or Australian officers, would the Canadians or the Australians have stood for one moment any distinction between their own officers born and bred in Canada or Australia and the Britishers coming to Canada or Australia for the purpose of serving as military officers? They would not have tolerated it for a minute.

Mr. President (The Honourable Sir Abdur Rahim): How does that arise 4 P.M. upon this Bill?

Sir Cowasji Jehangir: In your absence, Sir, there has been a very wide discussion on this question.

Mr. President (The Honourable Sir Abdur Rahim): It is not known what happened in the absence of the President, but this must be pointed out that it is not relevant to the Bill.

Sir Cowasji Jehangir: I would like to refer, with your permission, Sir, to some very insulting remarks about martial races and non-martial races that came from one of my Honourable friends, who represents the Indian army here. Since he made those remarks, I think I have the privilege and the right to reply.

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

Sir Cowasji Jehangir: On more than one occasion has my Honourable friend referred to martial classes and said that the one virtue in the Indian army was that it consisted of the martial races and he taunted some Honourable Members, either behind me or on my left, with not being members of the martial races, and that if ever they were admitted into the Indian army, great catastrophe would follow. Now, Sir, I do not know whether I come from a martial or a non-martial race, but my own conviction is that, as long as any partiality is shown to any one class or community or religion with regard to the army in this country, the army will remain as it is and will be officered by men like my Honourable friend, and this is what we do not want to continue. We want our future officers, not only to consist of muscle, but also of brains, and as long as our officers of the future will only be well-known for muscle and not for

[Sir Cowasji Jehangir.]

brains, so long will they be inferior to the British officer in India, not in name, but in practice. It is because we desire to obviate their being really inferior, in practice and not only in name, that we desire that the army should be thrown open to all classes, to all creeds and to all religions, to men who possess both brains and muscles, and not only to communities who can only produce muscle and no brains. That is the distinction between martial races and non-martial races. I trust that the non-martial races can produce both muscle and brains.

Captain Rao Bahadur Chaudhuri Lal Chand: Martial races are also producing both muscle and brain.

Sir Cowasji Jehangir: We have the example of brains in the Honourable Member. (Prolonged Laughter from Non-Official Benches.) I am sick and tired of hearing this talk of martial races in this Honourable House and from lips that do anything but give evidence of brains. I think the ruin of Indian army has been this distinction between martial and non-martial races, and if you want to continue to ruin the army, its prestige and its status, by all means continue this distinction, which is an unnatural distinction. I will say no more, but I have been driven to these remarks by the remarks of my Honourable friend who has made them in this Honourable House on more than one occasion. I tell him now that if he repeats those remarks again, he will get something worse than what he has got today. I trust that before he attempts to make these irritating and insulting distinctions, he will try and improve his mental calibre.

Captain Rao Bahadur Chaudhuri Lal Chand: In the interests of the peace of the country, I challenge these remarks.

Mr. President (The Honourable Sir Abdur Rahim): There cannot be any sort of challenge here.

Sir Cowasji Jehangir: I have been only driven to these remarks after repeated remarks from the lips of my Honourable friend. Not only during this Session, but also in the past Sessions he has always trotted out this question of the martial races and has thrown back his broad shoulders to show us what a martial race can produce. But, Mr. President, when we weighed up what came out of his mouth, it was not very martial; it was not worthy of the most unmartial community in this country. I have nothing further to say.

Major Nawab Sir Ahmad Nawaz Khan (Nominated Non-Official): Sir, I had no desire to participate in this debate, because, in the beginning, I thought that the Bill was simple enough. It does not in any way make the case of the Indians worse, but certainly improves it. If my Honourable friends opposite had any objection, it was to the previous Act. This Bill simply gives another privilege to those officers who want to go into the Reserve. The chief idea of the Opposition is that there should be an equality between the British officers and the Indian officers, but this point is not under consideration at the present moment. Much has been

said in support of this argument, and I do not want to repeat the same remarks. But when my Honourable friend, Sir Cowasji Jehangir, spoke about the words that had fallen from the lips of Captain Lal Chand about the martial and non-martial races, I thought I had better intervene and say something about the martial and non-martial races.

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not think that a subject like this ought to be discussed on this question. It is quite extraneous to the Bill. It has nothing to do with the Bill and the Chair will not allow any discussion on it.

Major Nawab Sir Ahmad Nawaz Khan: I will briefly say that by the word "martial" we mean

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member did not use that word before.

Major Nawab Sir Ahmad Nawaz Khan: I will not take more than one minute in explaining what is meant by the word "martial".

Mr. President (The Honourable Sir Abdur Rahim): This question does not arise upon this Bill, and, therefore, it is irrelevant. The Chair allowed Sir Cowasji Jehangir to speak on this matter only in reply to some remarks that had been made by Captain Lal Chand.

Major Nawab Sir Ahmad Nawaz Khan: I am not supporting in any way Captain Lal Chand, but I wish to give the real definition of martial and non-martial classes.

Mr. President (The Honourable Sir Abdur Rahim): The Chair does not want that matter to be raised again.

Mr. Sham Lal: Sir, at first I thought it was a sentimental question, but after the speech of the Honourable the Defence Secretary, the position is very clear. He means that the Act of 1934 is a settled fact, and any other measure, which is a corollary to that Act, should be accepted by the House; because you cannot do away with that Act of 1934, therefore you should affix your seal to any other measure arising from it. We refuse to do it, and if you bring in any measure to supplement the Act of 1934, we would reject it and we would force the Government to amend the Act of 1934. I think that is the most reasonable course to adopt. If he wants to be furnished with any argument for repealing the Act of 1934, those arguments are provided to him by Honourable Members of this House. What he means is that if officers are in the Reserve force they should not be bound by military law. Whether you enact this law or not, you will find that they are always bound by military law. Three Honourable Members belonging to the military department have made speeches. What do they do here? They obey the military law of walking into the Government lobby and making speeches according to the Government's view and talking

[Mr. Sham Lal.]

against the army interests. We remember what a lot of agitation was raised against those Honourable Members when they voted for the Army Act of 1934. I do not want to go into that question now, nor do I want to go into the question whether it is, in order to maintain peace in this country, that we have to import Englishmen from England. I say, if the peace of the country is to be disturbed, it would be disturbed by importing foreigners from foreign countries. Well, that is not the question under discussion now, and the Honourable the President has not allowed a discussion on that point. But I wish to say that the sole point as pointed out by the Defence Secretary is that this Bill is a corollary to the Act of 1934. In effect, the Defence Secretary says, as you are helpless, as you are powerless to change this Act, it is your duty to support this Bill which lays down that the Indian officers in the Reserve would not be bound by the military law. We do not care whether they are bound by the military law or not. We are ready to forego those advantages, for otherwise we will be approving and affixing our seal to an Act which is unjust and which is against public opinion and which is a disgrace to the Statute-book. Therefore, I oppose the Bill.

Mr. G. R. F. Tottenham: This morning we strayed some distance away from the immediate object of this Bill. But this afternoon we have gone even further away from that object. It is perfectly clear, however, what the meaning and wishes of Honourable Members opposite are. They wish to make it perfectly clear to the world at large that if they had been here in 1934, the Indian Army (Amendment) Act of 1934 would never have been passed, and, in view of that fact, they are not prepared to touch the Indian Army Act at all today whether to make it better or to make it worse or to leave it as it is. I endeavoured to point out this morning that this Bill is a small attempt to make that Act better from the point of view of Indian officers. If nothing is done, the position remains exactly as it is. If this Bill is passed, you do actually remove one small point of discrimination between the treatment of British officers and Indian officers. Member after Member got up today and said that he would not stand for any measure of discrimination between the British officer and the Indian officer. This Bill before the House today does remove some degree of discrimination between British and Indian officers.

An Honourable Member: How?

Mr. G. R. F. Tottenham: As I tried to explain this morning, if nothing is done, if the Indian Army Act remains as it is, any Indian who joins the Reserve will automatically remain subject to the Indian military law of that Act at all times. That will be the position if no legislation is passed today. If we pass this legislation today, those Indians who join the Reserve will be exempted from liability to military law except for the periods when they may be called up to do duty with the Reserve. Therefore, the effect of passing this legislation is to do Indian officers a good turn, if I may say so, perhaps in a small way. It will remove some embarrassment to Indian officers who join this Reserve. Whereas, if we fail to pass this Bill today, we will, in my opinion, be doing them a bad turn, I do not say a very serious injury, by making them, when they join

the Reserve, remain liable to military law and all the penalties that accrue under that law at any time, whether they are called up for duty with the Reserve or not. The point with which the House is concerned is that they wish to make a declaration to the world at large that they are opposed to the principle of discrimination between British and Indian officers in any way. They will, I think, succeed in making that clear to the world at large, if by nothing else, at any rate by the very narrow majority by which the consideration stage of this Bill was passed this morning. That will become public property. Beyond that, is it worth while, I ask Honourable Members, to carry their opposition so far as to destroy a very harmless little Bill of this kind which attempts to make some improvement on the position which they themselves dislike. It makes an improvement, I do not say a very large improvement. But it does make some substantial improvement in that it does remove a discrimination which now exists and which will continue to exist if this Bill is rejected, between the treatment of Indian officers and British officers. My Honourable friend, Sardar Mangal Singh, gave us a lecture about the position—and tried to show what a miserable position it was—of the Indian commissioned officer compared with that of the British officer of the Indian army. He said what he wanted was that I should be in exactly the same position, hold the same rank and draw exactly the same pay as my Honourable friend, Sir Sher Muhammad Khan, if I were to join the Reserve. Well, Sir, I have no intention of joining the Reserve myself, but if I did, I would be only too glad to serve under such a gallant Member or indeed under any other Honourable Member of this House who had reached his position in the army. Nor would I have the least objection to holding a lower rank than his or to receiving less pay.

An Honourable Member: Does the Act provide for that?

Mr. G. R. F. Tottenham: That is not the point. The point is, under the rules as they exist, I deny most emphatically that the Indian commissioned officer is inferior to the British officer in the Indian Army either in position or in rank. I admit that he is inferior to the British officer in the matter of pay and salary. But the fact that he is so, is, I suggest, in entire consonance with the views expressed by Honourable Members of the Congress Party during the course of the budget discussion the other day to the effect that Indianisation must mean a reduction in pay to suit Indian standards of living. There is a very large body of opinion in India that would support the action that we have taken in the Army in making a considerable reduction in the pay of our Indian commissioned officers as compared with British officers, so long as we give them a living wage. But as far as position and rank are concerned, I do maintain that the Indian commissioned officer is on an equality with the British officer in the Indian army. There has always been a certain amount of confusion over this matter, because Honourable Members have time and again asked that a section should be placed in the Indian Army Act, or in some Army Act, to make it clear that the position and status and powers of command of British and Indian officers are equal. It has as frequently been pointed out on this side that no Army Act sets out to regulate the powers of command of its officers. The British Army Act contains a section which gives the King power to make regulations, to regulate the powers of command

[Mr. G. R. F. Tottenham.]

inter se of various officers in His Majesty's forces. These regulations are known as the King's Regulations and they do regulate, and have for many years regulated, the powers of command *inter se* of various officers of the British army. For instance, even now the powers of command of officers who belong to combatant units of the British army are different from the powers of command of those who belong to administrative and non-combatant units, such as doctors. In the same way, under that section of the Army Act His Majesty has power to regulate the powers of command of Indian commissioned officers *vis-a-vis* British officers. When the amending Act was passed in 1934, fears were then expressed,—and I am quite sure the opposition to that measure was due to that fear,—that Indians were going to be put in a definitely inferior position to British officers and would not be allowed to exercise powers of command over them. An assurance was given at that time by my predecessor, Colonel Lumby, who was then officiating as Army Secretary, that the position would be put right so far as the Indian army was concerned, in exactly the same way as it is regulated for the British Army, *i.e.*, by the issue of a paragraph in the King's Regulations. That promise has been redeemed, and I read out last year to the House, I regret I have not got it with me now,—the actual wording of the additional paragraph that has been inserted in the King's Regulations which makes it clear that the powers of command of Indian officers in the Indian Army are exactly the same, on every occasion, as the powers of command of British officers of the corresponding ranks. There is no question of special emergencies or of special orders being issued to suit special occasions. That is the general rule now that whenever an Indian officer is senior to a British officer, he automatically exercises command over him. It is perfectly true that under the scheme for Indianising a Division and Cavalry Brigade, opportunities to exercise these powers of command do not arise inside the Indianising units themselves. But they can and do arise when Indianising units are serving with non-Indianising units, as happened only last year on the frontier when Indianising units took part in the Mohmand operations. In such cases, if a senior Indian officer came into contact with a junior British officer of another unit, he would automatically exercise powers of command over him. I have thought it necessary to say this to remove some of the misconceptions which Sardar Mangal Singh's speech may have produced in the minds of Honourable Members.

I now revert to what I said to begin with that this Bill is perfectly harmless and contains nothing which Honourable Members need really object to. We can understand that they do object to the general principle of discrimination. But they are not going to enforce that objection or to make the position in any way better by rejecting this Bill. By rejecting this Bill they will merely do a slight disservice to Indian officers of the Reserve, in that they will make them continue to be subject to military law at all times instead of giving them what British officers of the Reserve enjoy, namely, freedom from liability to military law, except when they are actually called out for duty with the Reserve.

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

"That the Bill be passed."

The Assembly divided :

AYES—40.

Abdul Hamid, Khan Bahadur Sir.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Ahsan, Maulvi Muhammad.
 Aikman, Mr. A.
 Anderson, Mr. J. D.
 Bajpai, Sir Girja Shankar.
 Bansidhar, Rai Sahib.
 Bartley, Mr. J.
 Bewoor, Mr. G. V.
 Bhagchand Soni, Rai Bahadur. Seth.
 Bhide, Mr. V. S.
 Buss, Mr. L. C.
 Chanda, Mr. A. K.
 Chapman-Mortimer, Mr. T.
 Dalal, Dr. R. D.
 DeSouza, Dr. F. X.
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
 Griffiths, Mr. P. J.
 Grigg, The Honourable Sir James.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Lal Chand, Captain Rao Bahadur Chaudhri.
 Lalit Chand, Thakur.
 Mehta, Mr. S. L.

Menon, Mr. K. B.
 Metcalfe, Sir Aubrey.
 Morgan, Mr. G.
 Mudie, Mr. R. F.
 Mukherjee, Rai Bahadur Sir Satya Charan.
 Murid Hussain Qureshi, Khan Bahadur Nawab Makhдум.
 Nagarkar, Mr. C. B.
 Nauman, Mr. Muhammad.
 Naydu, Diwan Bahadur B. V. Sri Hari Rao.
 Noyce, The Honourable Sir Frank.
 Rajah, Raja Sir Vasudeva.
 Rau, Sir Raghavendra.
 Sale, Mr. J. F.
 Sarma, Sir Srinivasa.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan, Captain Sardar Sir.
 Slade, Mr. M.
 Thorne, Mr. J. A.
 Tottenham, Mr. G. R. F.
 Verma, Rai Sahib Hira Lal.
 Witherington, Mr. C. H.
 Yakub, Sir Muhammad.
 Yamin Khan, Sir Muhammad.
 Zafrullah Khan, The Honourable Sir Muhammad.

NOES—46.

Aney, Mr. M. S.
 Ayyangar, Mr. M. Ananthasayanam.
 Azhar Ali, Mr. Muhammad.
 Bhagavan Das, Dr.
 Chaliha, Mr. Kuladhar.
 Chattopadhyaya, Mr. Amarendra Nath.
 Chetty, Mr. Sami Vencatachelam.
 Das, Mr. B.
 Das, Mr. Basanta Kumar.
 Das, Pandit Nilakantha.
 Datta, Mr. Akhil Chandra.
 Desai, Mr. Bhulabhai J.
 Essak Sait, Mr. H. A. Sathar H.
 Ganga Singh, Mr.
 Ghiasuddin, Mr. M.
 Ghulam Bhik Nairang, Syed.
 Giri, Mr. V. V.
 Govind Das, Seth.
 Gupta, Mr. Ghanshiam Singh.
 Hans Raj, Raizada.
 Hosmani, Mr. S. K.
 Ismail Khan, Haji Chaudhury Muhammad.

Jedhe, Mr. K. M.
 *Jehangir, Sir Cowasji.
 Kailash Behari Lal, Babu.
 Khare, Dr. N. B.
 Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Maitra, Pandit Lakshmi Kanta.
 Malaviya, Pandit Krishna Kant.
 Mangal Singh, Sardar.
 Mody, Sir H. P.
 Mudaliar, Mr. C. N. Muthuranga.
 Pant, Pandit Govind Ballabh.
 Raghurib Narayan Singh, Choudhri.
 Ranga, Prof. N. G.
 Saksena, Mr. Mohan Lal.
 Sant Singh, Sardar.
 Satyamurti, Mr. S.
 Sham Lal, Mr.
 Shaikat Ali, Maulana.
 Siddique Ali Khan, Khan Sahib Nawab.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Umar Aly Shah, Mr.
 Vissanji, Mr. Mathuradas.

The motion was adopted.

THE REPEALING AND AMENDING BILL.

Mr. J. Bartley (Government of India: Nominated Official): Sir, I move:

"That the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration."

[Mr. J. Bartley.]

After the somewhat stormy atmosphere through which we have passed, I think I can claim that this Bill is innocent. I do not think that even Mr. Satyamurti will accuse me of being plausible when I say that there is nothing here that will cause this House any great trouble in accepting this Bill. It involves, neither the perpetuation of, nor the removal of, racial discrimination and it offers few possible opportunities for humour. I think indeed its main fault is that it is unrelievedly dull. These Bills are entirely confined to the process of tidying up the Statute-book, and the preparation of them is about as interesting as going round with a brush and a crumb scoop and tidying up after a feast. It consists chiefly in crossing the T's and dotting the I's of Acts that have been slightly mishandled in the course of successive amendments. On the other hand, we are removing from the Statute-book enactments that there is no longer any reason to retain on the Statute-book.

In the course of years, as the Departments examine the various Bills, slight flaws are disclosed. These slight flaws are caused most frequently by the passage of amendments in existing Acts, and, by the failure to notice at the time slight consequential changes that should be made when the amendments are carried. So far as the repeals are concerned, they will be found in the Second Schedule to the Act. The enactments which are dealt with in this Schedule are of various kinds; many of them are Acts which are spent; many of them are Acts which as repealing other Acts lose their force the moment they are passed, that is to say, they have done what they were intended to do and thereafter serve no useful purpose by remaining on the Statute-book because the repeal of a repealing Act does not restore anything which was in existence at the time of repeal. The third class of Acts which are removed are Acts which have fallen into desuetude owing to the purpose for which they were originally passed being better served by other legislation; and the fourth class are references in existing Acts to Acts which have in the course of time been repealed: such as for instance a small repeal in the Indian Limitation Act. As I said, the material is of unrelieved dullness. We have one main principle in preparing an Act of this kind and we attempt to adhere rigidly to that principle. We make no changes in the existing substantive law or in the state of affairs which obtains under the law as at present in force. If an amendment is proposed for inclusion, when we collect material for these Bills, and if it is brought to our notice that it in any way affects the existing law, we reject it at once. That statement may appear to some Members to come rather unhappily in the present case, because, in regard to one item of the Bill, a correction, which will more accurately retain the existing law, has been proposed in an amendment moved by an Honourable Member.

I should like, however, very briefly to refer to some of the items in the First Schedule by way of explanation of how the necessity for this tidying up of the Statute-book arises. The particular amendment to which I have just referred is the amendment of the Indian Merchant Shipping Act. That Act was amended by a very large and complicated Act passed in 1933, which made extensive changes and large additions to the Indian Merchant Shipping Act; and so far as it was possible to do so, we made all consequential corrections; but we failed to make some; and one of these was due to an amendment which was carried in section 184 of that Act. Section 184 of that

Act, as then amended, made it compulsory for any vessel which carried more than one hundred unberthed passengers to carry on board a qualified doctor. Previously, the law had only required ships of that kind, when plying to or from a port in the Red Sea, to carry such a medical officer. The small change which should have been made consequentially in section 155(e) was overlooked. Section 155(e) had a reference to voyages in the Red Sea, and it was, therefore, incorrect. The amendment which is proposed in the First Schedule, which is before Honourable Members, corrects that omission, but when we prepared the Bill, I am afraid I was unaware of the fact that under the Act certain vessels were exempted from the provisions of section 184 as amended in 1933 by a notification issued under section 148 of the Act, and, therefore, there was a slight discrepancy between the actual state of things under the law, and the result which would be produced if the amendment which is down on the Bill remained in its present form, and I am very grateful indeed that that oversight has been detected in time and that a subsequent amendment to be moved by Sir Leslie Hudson will correct it. To the other items I need hardly refer, because their nature is obvious partly from the notes on clauses attached, and partly from the character of the entries in the First Schedule themselves. For instance, take the entry relating to the Indian Tariff Act, which, I think, is the only entry with an element of interest. The error here corrected was due to the utter incapacity of either the printing press or the drafting officer of the Legislative Department, to appreciate that there could be a difference between Jacquard harness linen cords and Jacquard cards. We thought that the word "cards" should be used in both cases, but we found out subsequently that the Jacquard Apparatus, used to produce a raised design on cloth, consists of perforated cards harnessed to the loom by linen cords. We realized the mistake, and we have had to correct the item in the Tariff Schedule by substituting the word "cord" for the word "cards" in one of the three places where it occurs. In other items included in the First Schedule to this Bill, it will be observed that we insert references to new sections inserted in the Acts concerned by Amending Acts. The nature of the Bill is so formal, and on the whole the matters involved are so trifling that we ourselves never considered for a moment that it would be necessary to trouble the House by suggesting that the Bill should be gone over by a Select Committee. No principles are involved, and all that is involved really is the dullest of dull more or less mechanical work.

As I said before, the Bill offers very few avenues for humour. I will not attempt to anticipate what may arise on the motions that may subsequently be made. I will merely remark that the proposal to omit from the list of Acts repealed the particular enactment which is specified in one of the amendments tabled, would, whether the amendment is carried or not, have no effect on the actual state of affairs. The Act referred to was itself a Repealing Act. By sections 6 and 6A of the General Clauses Act, the moment a repealing Act of this kind has been passed, it has done all it can ever do; thereafter, it simply occupies printing space in the Statute-book and serves no useful purpose, and the sooner it is removed, the better. That, I think, Sir, is all I have to say at the moment. I formally move.

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

"That the Bill to amend certain enactments and to repeal certain other enactments be taken into consideration."

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

"That the Bill be referred to a Select Committee, consisting of the following persons, namely, Pandit Govind Ballabh Pant, Mr. Sri Prakasa, Pandit Lakshmi Kanta Maitra, Mr. J. Bartley and the mover, with instructions to report on or before the 20th of March, 1937, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be three."

Sir, my object in making this motion for reference to Select Committee is this

Mr. President (The Honourable Sir Abdur Rahim): What date is the Honourable Member mentioning?

Mr. M. Ananthasayanam Ayyangar: I have stated as the 20th of March. I have said that in the motion itself.

Sir, there are nearly 40 Acts which have been brought or which are sought to be brought in the purview of this Repealing and Amending Bill. All the Acts have been put under two heads. The first group consists of a number of Acts where certain amendments and alterations are sought to be made; the other group consists of Acts which, according to the Mover, have already been repealed, but they have been included in order to avoid encumbering the Statute-book by unnecessarily printing them and carrying them over from time to time

Mr. J. Bartley: Already spent in effect.

Mr. M. Ananthasayanam Ayyangar: Some are already spent in effect, others have been incorporated in the original Act. Take, for instance, the Criminal Law (Amendment) Act of 1935. I do not know if the Mover would say that this Act is spent. No, it has yet to spend, and that for a long number of years; until we attain Purna Swaraj and take it out of the Statute-book, it will not be spent, it will spend the vitality of this country. It is still on the Statute-book. With respect to such kinds of Acts, what is sought to be done is, when once there is an amending Act, it may even be repealed, as the amendments are incorporated in the original Act. Sir, in the Simla Session, we passed an Act amending the General Clauses Act whereby even if a repealing Act is passed, it would not have the effect of repealing the amendments that have already been carried out in the original Act. It is, therefore, perhaps sought to repeal two sets of Acts,—one set because the early Statutes have already spent themselves and the other to avoid keeping them and others on the Statute-book. First, with respect to the amending Acts, the amendments that are sought to be made are not so formal in character as the Honourable the Mover has made it appear to be. I will take item after item. First, take the Indian Patents and Designs Act. At one place, four months' notice is made necessary, and in another place, it is provided that before an inquiry is started three months after the receipt of notice an inquiry may be started? Sir, I do not know why it has been allowed to stand for such a long time since 1911. What are the inconveniences that have arisen under this Act on account of the provisions having stood so long? No details have been placed before us, and, without reference to a Select Committee, in the short space of time before us, it will be difficult for us to decide whether really the change that is proposed by the Bill is necessary or not.

Then, we come to the amendment of the Indian Companies Act. It was only recently that we sat for a full month over the amendment of the Companies Act, and how this has escaped the notice of the Honourable the Law Member it is not easy to know. Therefore, Sir, by way of addition to clause 1 of section 93, it requires some consideration before it is allowed to be placed on the Statute-book.

Then, as regards the Indian Merchant Shipping Act, I would request Honourable Members to refer in this connection to page 3 where some provisions relating to the Indian Merchant Shipping Act are sought to be repealed—section 146, and in clause (e) of clause 155 the words:

“and if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner.”

That provision regarding the appointment of a medical officer or the carrying of a medical officer on board in all cases where a ship carries 100 or more passengers is sought to be modified, and in its place an amendment is sought to be introduced in this way. The amendment is this:

“In section 155, after clause (e), the following clause shall be inserted, namely:

(ee) in the case of a ship which is to carry more than one hundred unberthed passengers, that she has on board a medical officer licensed in the prescribed manner’.”

In the Statute, as it stands, the description of passengers is not noted, and if all the passengers, whether berthed or unberthed, if their number comes to 100 or more, then a medical officer in attendance is necessary. But here the amendment suggested is that if the number of unberthed passengers is 100 or more, then a medical officer should be appointed. Even to this change which may be in the interests of companies so that it may not be insisted upon that the ship owners should be put to the expense of having a medical officer on board, in every case,—even to that change, notice of an amendment has been given by the European Group and they want to insert the words “unless she is exempted from the provisions of sub-section (1) of section 184”. I, therefore, request Honourable Members to devote some attention to this subject. I have not had the occasion or the opportunity to go on board a ship, but from the rules and regulations that have been framed, I find that, in the interests of the safety and health of the passengers and the sanitation of the ship and the surroundings there, it has been prescribed that if the total number of passengers on board a ship is one hundred or more, there should be a medical officer there, but it is now sought to be amended by the words “if the number of unberthed passengers is one hundred or more”. Even to that, there is notice of an amendment by the European Group, and it is possible or open in certain circumstances to the Governor General or any other authority to exempt any particular ship from the operation of this particular portion. I would say with very great respect that this is not merely a formal amendment, but an amendment of some consequence, and, therefore, greater time and attention ought to be devoted to this particular point.

Then, we come to the Indian Tariff Act where the Honourable the Mover has said that there is no meaning conveyed by the use of the words “Jacquard harness linen cards”, and he wants the words “Jacquard linen cords” to be substituted in their place. Under the Act, as it stands, “cords” is spelt as “cards”, and, in substitution thereof, my Honourable

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friend wants to use the word "cords", so that it may mean something. But reference may be made to the Tariff Act where, in more than one place, the word "cards" is used, such as, "Jacquard cards", and the Honourable the Mover has not chosen to correct it.

Mr. J. Bartley: Can the Honourable Member refer me to the instances he has in mind?

Mr. M. Ananthasayanam Ayyangar: I would request the Honourable Member to refer to the Indian Tariff Act, First Schedule, Article 72(1).

Mr. J. Bartley: That is the item which is corrected here: 72(1) is the item which is corrected here.

Mr. M. Ananthasayanam Ayyangar: My complaint is this: It is only in one case, namely, where you have got "Jacquard harness linen cards", that my Honourable friend wants to change to "cords", but, later on, there are a number of places where the word "cards" is used, but there is no amendment sought with respect to it.

Mr. J. Bartley: I have endeavoured to explain that where the word "cards" appears elsewhere in that article, it is correct. The word "cards" is only incorrect in the expression, "Jacquard harness linen cards": it should be "cords". But the word "cards" is correct in other cases.

Mr. M. Ananthasayanam Ayyangar: Whatever may be the acquaintance of other Honourable Members in this House with these phrases, I have not been able to see the difference between the one and the other. At this stage, I am only pointing out that the word "cards" appears in other places also, and it cannot be passed as it stands. You have got "Jacquard harness linen cards", and, below it, in the same item, you have got "Jacquard cards", yet no amendment is sought to be made in the latter. The introduction of the word "linen" probably makes a difference, but I would say that this is a matter for further consideration, at any rate, before my vote is asked for, and I believe the votes of other Honourable Members also. We would like to have an investigation into the matter why in one place alone it ought to be changed and not in another place. What I submit is that this is not such an easy matter after all, and there is absolutely no need for hurry. My Honourable friend said that there is no harm if this Bill is immediately taken into consideration and passed. But we say that a great deal of inconvenience would be caused if doubts and difficulties are raised when some Acts are deleted from the Statute-book and alterations and additions are made to others. There is no hurry with respect to this, and why should the Government push it through before 5 o'clock?

Mr. M. S. Aney (Berar Representative): It won't be passed by five o'clock.

Mr. M. Ananthasayanam Ayyangar: As regards 72(2), the amendment sought is, that in the entry in the second column, for the words "electric-type blocks", the words "electro-type blocks" shall be substituted. I do

not know where the Honourable Member finds the words "electric type blocks". I have got here a copy of the Act and it says after the words "lithographic stones, stereo-blocks, wood blocks, half-tone blocks", "electro-type blocks" and so on, and if it is so, it does not need any amending at all. Why unnecessarily try to amend an Act when the Act itself is correct? Let us not rush through this Bill without addressing ourselves more carefully to the subject. That is my submission with respect to the first set of Acts which are sought to be amended for the reason either that there are clerical and arithmetical mistakes or that the mistakes have occurred on account of oversight. The amendments that are sought to be made are not merely of a formal character. That is my first reason why I want that this Bill should be sent to the Select Committee.

Then, as regards the second set of Acts, my first submission is that it is really an unfortunate moment when we consented to the passing of the modification of section 6 of the General Clauses Act during the last Session. No doubt, at that stage, we were swayed by the consideration that repealing and amending Acts, once they have been enacted, have served their purpose and they need not any longer encumber the Statute-book. That appeared all right. But today we have found a new difficulty. My friend, Mr. Avinashilingam Chettiar, wanted to take up the Army Act of 1911. Up jumped the Defence Secretary and said that he had not the copy in which the amendments of 1934 were carried out. Is it the intention of the Government to take out the amending Acts from the Statute-book and leave even the Members of this Assembly groping in the dark as to when and where the amendments were made? What is the guarantee that all these amendments have been carried out? If they are not printed along with the other Statutes, we have to grope in the dark. We have to reconsider that aspect of the question. We must have an assurance that the several clauses in the repealing and amending Acts have been carried out in the original Acts properly.

Mr. M. S. Aney: I want to ask one question. If the repealing Act is repealed, then, what is the authority under which the amendments made in the original Act remain there?

Mr. M. Ananthasayanam Ayyangar: There was an Act passed in the Simla Session, that is the amendment of section 6 of the General Clauses Act, which shall have the effect of keeping intact those amendments which were made in the original Act. You and I were parties to that, but we did not appreciate the practical difficulties that would ensue. We are supplied with old Acts in which the amendments are not incorporated and we are left in the lurch. Now, let us take the Merchant Shipping Act, repeal of section 146. Item 4 of the Statement of Objects and Reasons says that these amendments are intended to rectify an oversight and to remove provisions which have become unnecessary. So far as the Merchant Shipping Act is concerned, I feel very great doubt whether the Statement of Objects and Reasons is quite correct. I think this is a substantial repeal and that the matter should be referred to a Select Committee and I have already given the reasons. There is another provision in clause 4 of this Bill. That provision wants to avoid the inconveniences arising by this Repealing and Amending Act. The provision is:

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"The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to."

In addition to the amendment of clause 6 of the General Clauses Act, there is, by way of abundant caution, a further addition made in clause 4.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable Member can continue his speech later.

The Assembly then adjourned till Eleven of the Clock on Friday, the 5th March, 1937.