

14th September 1937

**THE
LEGISLATIVE ASSEMBLY DEBATES**

(Official Report)

Volume V, 1937

(2nd September to 17th September, 1937)

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



**PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI.
PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, SIMLA.
1938.**

Legislative Assembly.

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Deputy President :

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

SIR LESLIE HUDSON, M.L.A.

SIR COWASJI JEHangir, BART., K.C.I.E., O.B.E., M.L.A.

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MIAN MUHAMMAD RAFT, BAR.-AT-LAW.

Assistants of the Secretary :

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RAI BAHADUR D. DUTT.

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

MR. M. GHIASUDDIN, M.L.A.

MR. MATHURADAS VISSANJI, M.L.A.

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LEGISLATIVE ASSEMBLY.

Tuesday, 14th September, 1937.

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

MEMBER SWORN.

Mr. Alan Hubert Lloyd, C.S.I., C.I.E., M.L.A. (Government of India : Nominated Official.)

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

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

495. *Mr. Badri Dutt Pande : (a) Is the Defence Secretary aware :

- (i) that the military authorities of Lansdowne Cantonment did not allow an election meeting in a private compound, within the Cantonment Area, during the last Provincial Council elections, convened in favour of a Congress candidate to the Council ;
- (ii) that the same military authorities allowed the holding of such a meeting at the Nirendra Club in support of a candidate opposing the Congress candidate ; and
- (iii) that the military authorities prohibited meetings to be held at Lansdowne on the 1st August, 1937, and also prohibited National flags to be flown in the Bazar area on the same date ?

(b) Was the action of the military authorities mentioned in part (a) (iii) above based on any orders either from the Local Government or from the higher military authorities ?

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

(ii) No.

(iii) Yes.

(b) No.

Mr. Badri Dutt Pande : Do Government know that it was I who applied to the Officer Commanding for an election meeting to be held in Lansdowne ?

(1615)

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

Mr. Badri Dutt Pande : Have Government cared to inquire ?

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

Mr. Mohan Lal Saksena : Will Government issue instructions that henceforth no meetings should be stopped unless they are held for unlawful purposes ?

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

Mr. Badri Dutt Pande : Is it not a fact that election meetings were held all over India ? Why is it that only the election meeting at Lansdowne was banned ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member has said that he has no information.

Mr. Badri Dutt Pande : Will he make inquiries in the matter ?

Mr. C. M. G. Ogilvie : I am perfectly willing to make inquiries.

Mr. S. Satyamurti : With reference to the answer to part (a) (iii) of the question, may I know the reasons why the military authorities prohibited the flying of the National flags in the Bazaar area on that day ?

Mr. C. M. G. Ogilvie : The question is still under investigation.

Mr. S. Satyamurti : What was the answer to clause (a) (iii) ?

Mr. C. M. G. Ogilvie : It was " Yes ".

Mr. S. Satyamurti : What does that " Yes " mean ? Did the military authorities prohibit the flying of the National flags in the Bazaar area on the 1st of August, 1937 ?

Mr. C. M. G. Ogilvie : The Honourable Member has received the answer—Yes.

Mr. S. Satyamurti : May I then know the reasons why the National flag was prohibited from being flown ?

Mr. C. M. G. Ogilvie : I have already said that the matter is under investigation.

Mr. S. Satyamurti : May I know if the prohibition still continues, that is to say, National flags are not allowed to be flown in the Bazaar area of the Lansdowne Cantonment ?

Mr. C. M. G. Ogilvie : The matter is still under investigation. I can say no more than that.

Mr. Badri Dutt Pande : Have any shops been declared to be out of bounds in Lansdowne, and are they still out of bounds ?

Mr. C. M. G. Ogilvie : I believe that eight shops were declared to be out of bounds at Lansdowne. I am not sure whether they are still out of bounds or not.

Mr. Badri Dutt Pande : Why were these eight shops declared to be out of bounds ?

Mr. C. M. G. Ogilvie : The matter is still under investigation.

Mr. Badri Dutt Pande : Will the Honourable Member be able to place the information before the House before the end of the Session ?

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

Qazi Muhammad Ahmad Kazmi : Who is carrying on the investigation in this matter ?

(No reply.)

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

**OCCUPATION OF GOVERNMENT QUARTERS IN THE LANSDOWNNE CANTONMENT
BY A RETIRED MILITARY OFFICER.**

496. ***Mr. Badri Dutt Pande :** (a) Will the Defence Secretary state if a retired military officer is entitled to occupy Government quarters ?

(b) If so, is such a retired military officer liable to pay any rent for the quarters which he occupies ?

(c) Is it a fact that a retired military officer is occupying Government quarters at Lansdowne Cantonment ?

(d) If so, is any rent charged from him ? If not, why not ?

Mr. C. M. G. Ogilvie : (a) and (b). A retired military officer is not entitled to occupy a Government quarter ; but if such a quarter is available, any such officer or other private person may be allowed to occupy it on payment of the local rate for similar accommodation or the assessed rent of the quarter whichever is higher.

(c) Yes.

(d) The full assessed rent of the quarter is being recovered from him.

Mr. Badri Dutt Pande : Is not Captain Dhoom Singh, who is a retired military officer, occupying a quarter in Lansdowne ?

Mr. C. M. G. Ogilvie : I do not know what the officer's name is, but a retired officer is occupying a quarter.

Mr. Badri Dutt Pande : Is he paying any rent or not ?

Mr. C. M. G. Ogilvie : If the Honourable Member had listened to my answer, he would have heard it.

Mr. Badri Dutt Pande : What is this retired officer doing for Government ?

(No answer.)

Mr. Badri Dutt Pande : My information is that he is not paying any rent.

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

ALLOWANCES PAID TO SARDARS MUHAMMAD UMAR KHAN AND MUHAMMAD SARWAR KHAN, AFGHAN DETENUS.

497. ***Mr. Badri Dutt Pande** : (a) Will the Honourable the Home Member state since how long have Sirdars Muhammad Umar Khan and his brother Muhammad Sirwar Khan of Afghanistan been interned in India under Regulation III of 1818 ?

(b) Why are they so detained ?

(c) What allowances are paid to them for maintenance ?

(d) When are they likely to be released ?

(e) Why were they arrested at the motor station of Naini Tal on the 31st July, 1937, and placed in the European lock-up ?

(f) How many children and women have they got ?

(g) Has any complaint been received by Government from them regarding their allowances ?

Lieut.-Colonel A. E. B. Parsons : (a) Since 20th March, 1917.

(b) The Sardars are the descendants of the late Sardar Ayub Khan, brother of the *ex*-Amir Yakub Khan, who took refuge in India, after the Second Afghan War. In the interests of India's friendly relations with Afghanistan, it is still necessary to impose some restrictions on the movements of their descendants so that they should not interfere in that country.

(c) Rs. 250 per mensem *plus* certain allowances.

(d) Government are unable to say.

(e) Because they attempted to leave for Afghanistan without permission.

(f) According to Government's information, their families consist of :

(i) *S. Muhammad Umar Khan*

Six (wife, two sons and three daughters).

(ii) *S. Muhammad Sarwar Khan*

Six (mother, wife, two sons and two daughters).

(g) Yes.

Mr. S. Satyamurti : With reference to the answer to clause (b) of the question, may I know if they are detained at the request of the Afghan Government ?

Lieut.-Colonel A. E. B. Parsons : They are detained because, in order to fulfil their International responsibilities, the Government of India cannot allow these people to go across into Afghanistan and create trouble there.

Mr. S. Satyamurti : May I ask for the elucidation of the phrase 'International responsibility' ? May I know whether this responsibility is laid by any International law, or whether it is merely the result of an agreement or understanding with the Afghan Government ? Is it not a fact that they are detained here, only at the request of the present Afghan Government ?

Lieut.-Colonel A. E. B. Parsons : They are detained by the Government of India in their own interests.

Mr. S. Satyamurti : Am I to take it, therefore, that the answer of "International responsibility" or of preventing any disturbances in Afghanistan is not the correct answer, but that the Government of India consider that it is in their own interests, that they ought to detain these people here ?

Lieut.-Colonel A. E. B. Parsons : The answer was perfectly correct. It is in the interests of the Government of India that their International responsibilities should be fully carried out.

Mr. S. Satyamurti : What is that International responsibility ? Are we bound to keep all the rebels or possible rebels of all countries in this country ?

Lieut.-Colonel A. E. B. Parsons : No, Sir.

Mr. S. Satyamurti : Then what is the specific International responsibility under which the Afghan citizens are detained in this country at our expense ?

Lieut.-Colonel A. E. B. Parsons : I think that right through the world, when people take refuge in another country, it is the business of that country to see that they do not use that country as a base against a friendly neighbour.

Mr. S. Satyamurti : Why did not Government extern these Sardars from this country to their own country, instead of keeping them here and making the taxpayers of this country pay for their maintenance ?

Lieut.-Colonel A. E. B. Parsons : It has always been the policy of His Majesty's Government that political refugees from other countries should not be turned out.

Mr. Badri Dutt Pande : Did these Sardars submit a memorial on the 9th September, 1936, that their allowances were inadequate and that they were prisoners since their birth ?

Lieut.-Colonel A. E. B. Parsons : The Honourable Member will please refer to my answer to part (g) of the question.

OCCUPATION OF "RAMSAY HOUSE" IN THE ALMORA CANTONMENT BY CERTAIN OFFICERS.

498. ***Mr. Badri Dutt Pande :** (a) Will the Defence Secretary state whether the house known as "Ramsay House" or "Circuit House" or "Sessions House" is situate within the Cantonment of Almora ?

(b) Are the bye-laws published in the United Provinces Government Gazette Notification No. 2107-1|XI-II-C.-24, dated the 16th September, 1932 [under section 282 (30) Cantonments Act, 1924], also applicable to this house ?

(c) Is it a fact that the provisions of these bye-laws, specially of those mentioned in paragraphs 2 and 3 of the bye-laws mentioned in part (b) above have been held in abeyance as far as the house mentioned in part (a) above is concerned ?

(d) If not, is it a fact that no medical certificate was demanded from the Deputy Commissioner, In-charge Kumaon, and his staff when they resided in the "Ramsay House" and premises during the last week of July, 1937, or from the District Judge and staff when he resided therein from the 4th August, 1937, or from the Superintendent of Police, Kumaon and staff when they resided therein on the 6th August, 1937 ?

(e) If the bye-laws mentioned in part (b) above have been rescinded as far as the house mentioned in part (a) above is concerned and, if so, under what Government Notification has this been published ?

Mr. C. M. G. Ogilvie : I am collecting the information and will lay it on the table in due course.

RECOMMENDATIONS OF THE MAXWELL COMMITTEE.

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

- (a) whether preparations are going on to implement the recommendations of the Maxwell Report ;
- (b) whether the posts of Assistant Secretaries will be abolished in the future, and will be replaced by posts of Under Secretaries who will be Indian Civil Service men ;
- (c) whether there is a proposal that Federal Ministers should have no knowledge of the departmental discussions and therefore official files are not to be submitted to them in original, and in their place only a concise, self-contained memorandum, including specific recommendations, will be submitted to them, by the heads of the Departments ; and
- (d) if so, the reasons why ?

Mr. R. F. Mudie : I would refer the Honourable Member to the reply I gave to Mr. C. N. Muthuranga Mudaliar's question No. 166 on the 27th August to the effect that the document sometimes referred to as the Maxwell Report is only a confidential note prepared by certain Secretariat Officers on points arising out of the Wheeler Committee's Report. The recommendations of the Wheeler Committee are still under consideration. The Report of the Wheeler Committee will be published as soon as it is found practicable to do so. Until this report is published, I am not prepared to make any statement on the recommendations contained therein.

Mr. S. Satyamurti : With reference to the answer to part (a) of the question, may I know whether these notes prepared by the various Secretaries were collated or examined from one comprehensive point of view by the Honourable the Home Member ?

Mr. R. F. Mudie : I understand that it was a joint note.

Mr. S. Satyamurti : I quite understand that it may be a joint note, but it may consist of several notes prepared bit by bit, and put under one docket. I am asking whether beyond any such physical jointure.

there was any attempt on the part of the Government or a single Member thereof to look at these notes from one point of view, and produce a co-ordinated set of recommendations.

Mr. R. F. Mudie : Yes, Sir. The object of the report, I understand, was to collate the various points of view on the various subjects.

Mr. S. Satyamurti : With reference to the answer to part (b) of the question, may I know whether Government are now considering any proposal for the abolition of the posts of Assistant Secretaries to be replaced by Under-Secretaries belonging to the Indian Civil Service ?

Mr. R. F. Mudie : I have already said that I am unable to give any information until the report is published.

Mr. S. Satyamurti : Is it covered by the report and therefore confidential ?

Mr. R. F. Mudie : I am not even prepared to answer that.

Mr. S. Satyamurti : With reference to the answer to part (c) of the question, may I know whether there is any proposal to deny to the Federal Ministers the normal knowledge which now comes to the Members of the Viceroy's Executive Council, but to supply them only a concise precis, so that they may not know the full facts unless they are very alert and vigilant as Honourable Members can now know from the papers, placed before them ?

Mr. R. F. Mudie : That is the same question over again. I am not prepared to answer that until the report is published.

Mr. S. Satyamurti : With reference to the answer to part (c), it will be noticed, Sir, that it does not ask for any recommendation in the categories mentioned by my Honourable friend, but the reference is merely .

“ Whether there is a proposal that Federal Ministers should have no knowledge of the departmental discussions and therefore official files are not to be submitted to them in original, and in their place only a concise, self-contained memorandum, including specific recommendations, will be submitted to them by the heads of the Departments.”

I am not asking this question with reference to the Maxwell Report ; but I am asking this question, independently, whether there is any proposal that Federal Ministers should have no knowledge of departmental discussions, and therefore official files are not to be submitted to them in original, and in their place only a self-contained memorandum. I want to know whether such a proposal is being considered by the Government of India.

Mr. R. F. Mudie : I understand the whole question refers to the Maxwell Report and therefore I can give no further information

Mr. S. Satyamurti : Either the Government should say that it is in the Maxwell Report in which case the answer already given covers my question, or they must say that there is no such proposal. They cannot leave it in that obscurity, not even saying that it is covered or not covered by the Maxwell Report. If it is said that it is covered by the Maxwell Report, I shall be quite content, and shall not pursue this question further.

Mr. R. F. Mudie : I understand that the dilemma put to me is whether or not it is in the Maxwell Report. I am supposed to be bound to give an answer. If I answer this question, I should be giving information about the Maxwell Report which I am afraid I am not in a position to do.

Mr. S. Satyamurti : Apart from the Maxwell Report, may I know if any such proposal, as is contained in part (c) of the question, is being considered ?

(No reply.)

Mr. K. Santhanam : Is the Honourable Member in a position to deny this ?

(No reply.)

Mr. Mohan Lal Saksena : Will the Honourable Member state whether before deciding upon the abolition of the posts of Assistant Secretaries, they will give this House an opportunity of expressing opinion on the Wheeler Committee Report ?

Mr. R. F. Mudie : When the Wheeler Committee Report is published, if the Honourable Member wishes to raise a discussion thereon, the ordinary methods are open to him.

Mr. Mohan Lal Saksena : Before finally deciding upon the abolition of the post of Assistant Secretaries, will the House be given an opportunity to express its opinion ?

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

FORMATION OF AN ARMY LEAGUE IN GREAT BRITAIN TO IMPROVE CONDITIONS OF ARMY SERVICE IN INDIA AND OTHER COUNTRIES, ETC.

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

- (a) whether his attention has been drawn to the formation of an Army League in Britain designed to strengthen and popularise the army and improving the conditions of service in the stations abroad, especially India by a committee of 11 members ;
- (b) whether it is a fact that among the recommendations included in a preliminary manifesto published by the committee is the provision of additional pay for service in India or the alternative of long service with pension ;
- (c) whether that report advocates the grouping of recruits into four classes, and what the effect of such groupings will be on Indian finance by way of military expenditure ;
- (d) whether the Defence Department of the Government of India was ever consulted in this matter ;
- (e) whether the recommendations of this committee represent to any extent the opinions either of the British Government or of the Government of India ;

- (f) whether the Legislature will be consulted before the Government of India agree to any extra expenditure on account of British soldiers or officers in India ;
- (g) whether Government are aware of the strong opinion in India that the army in India has been organised so as to constitute a central reserve for the defence of the Empire ; and
- (h) whether Government propose to press on the British Government that on account of this contribution of army in India, Great Britain should make a bigger contribution towards the defence expenditure of India ?

Mr. C. M. G. Ogilvie : (a) to (e). The Army League of Great Britain is a private body and Government have no information of its activities.

(f) No.

(g) Government are aware that a certain school of thought hold this opinion.

(h) I refer the Honourable Member to the statement made by His Excellency the Commander-in-Chief on this matter in the Council of State on the 7th October, 1936.

Mr. S. Satyamurti : With reference to the answer to part (h), and with reference to the statement contained in the Governor General's address to this Legislature yesterday, may I know whether the Government of India have addressed the British Government for a contribution to army expenditure in India and whether that letter or application to His Majesty's Government contains a request for extra grant not only for the present army, but also for future army expenditure ?

Mr. C. M. G. Ogilvie : I can tell the Honourable Member no more than what His Excellency the Viceroy said yesterday in this House.

Mr. S. Satyamurti : May I know the reasons why the Honourable Member cannot inform this House whether the Government of India have addressed the Government of Great Britain on the question of additional help to India's defence expenditure, and if so, under what heads ?

Mr. C. M. G. Ogilvie : I cannot add to the reply I have already given.

Mr. S. Satyamurti : With reference to the answer to parts (a) to (e) of my question, may I know whether the Government of India have, since the receipt of this question taken any steps to ascertain the opinion of this unofficial body called "The Army League" in Great Britain on the matters raised in these clauses of the question ?

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

Mr. S. Satyamurti : May I know the reasons why the Government have not taken steps to ascertain this information ?

Mr. C. M. G. Ogilvie : They did not think it necessary.

Mr. S. Satyamurti : With reference to the answer to part (f) of the question, may I know the reasons why the Government refuse to consult this Legislature before they agree to any extra expenditure on account of the British soldiers or officers in India ?

Mr. C. M. G. Ogilvie : The matter concerned is the responsibility of the Government of India and not of this House.

Mr. S. Satyamurti : Since this House has been consulted on such matters in the past, and since the House also expressed its opinion thereon, may I know the reasons why, in view of the large expenditure under this head already, and in view of the strong opinion expressed on the floor of the House, the Government do not propose to consult this House before incurring any extra expenditure on the British element ?

Mr. C. M. G. Ogilvie : I cannot add anything to the answer I have already given.

Mr. S. Satyamurti : You have answered nothing. I am putting all these questions in the hope that some day something definite will be said to this House, and until that time I will not refrain from putting these questions.

TOURS OF ARMY OFFICERS.

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

- (a) whether it is fact that, under the auspices of Army Headquarters in India, a number of tours by Army Officers are being arranged in various areas where army pensioners are residing and which have been in the past and in many cases still are recruiting grounds for the army ;
- (b) the purpose of these tours ;
- (c) the expenditure contemplated on these tours ;
- (d) the principles on which these touring officers are selected and whether any Indian officers are selected for this purpose ;
- (e) whether these officers are sent in order to justify the large defence expenditure in this country, and if so, why ;
- (f) whether the attention of Government has been drawn to a speech on the 5th August, at Palamcottah in the Madras Presidency by Major Hancock ending with his question to his audience " would they therefore think seriously before they acquiesced in any demand for the reduction of defence services " (reported in the *Hindu* of the 7th August, 1937 ; and
- (g) whether Government are prepared to consider the desirability of stopping this propaganda ?

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

(b) Recruiting purposes.

(c) Rs. 16,000 a year.

(d) The most suitable officers available, including Indian Commissioned Officers, are selected.

(e) No.

(f) No.

(g) No.

Mr. S. Satyamurti : With reference to parts (e) and (f), may I know if the answers ' No ' definitely means that their attention has not been drawn or that the speech was not made ?

Mr. C. M. G. Ogilvie : The answer, I think, was clearly given that officers were not sent for this particular purpose, but that they were sent for recruiting purposes and as regards the speech alleged to have been made, the Government have no information on the subject and their attention has not been drawn to it.

Mr. S. Satyamurti : Since the receipt of this question, did the Government find out from Major Hancock whether he did say so, namely, " would they therefore think seriously before they acquiesced in any demand for the reduction of the defence expenditure " ?

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

Mr. S. Satyamurti : Government did not address this officer to find out if he had said so ?

Mr. C. M. G. Ogilvie : The Government did not think it necessary.

Mr. S. Satyamurti : Are the Government aware that there is a strong feeling in this House and in the country that the defence expenditure is too high, and they do not want any propaganda to be carried on against any attempt to reduce that expenditure, and are Government justified in sending their own officers to propagate their own doctrine that defence expenditure could never be too high ?

Mr. C. M. G. Ogilvie : I think I have said clearly that the purpose of these tours is not propaganda, nor do Government admit for one moment that an invitation to think seriously before deciding on so serious a matter is either reprehensible or of the nature of propaganda.

Mr. S. Satyamurti : Have Government taken steps or will they take steps to confine the activities and speeches of these gentlemen to purely recruiting purposes instead of indulging in political propaganda justifying the heavy defence expenditure ?

Mr. C. M. G. Ogilvie : Government do not consider that conversations on the subject of defence expenditure are political propaganda.

Mr. S. Satyamurti : It is not a conversation ; it is a public speech, reported in public newspapers.

Mr. President (The Honourable Sir Abdur Rahim) : It is a matter of opinion ; he does not consider it as propaganda.

Mr. S. Satyamurti : I am asking whether, apart from conversations, to which I do not and cannot object, Government will take steps to stop public propaganda reported in the public press, on the part of their officers justifying defence expenditure on the present scale ?

Mr. C. M. G. Ogilvie : Government will certainly make no statement on the subject.

Mr. S. Satyamurti : Does that mean that Government propose to allow these gentlemen to carry on political propaganda ?

Mr. C. M. G. Ogilvie : Government do not admit for one moment, as I have already said, that lectures or talk on defence or defence expenditure partake in the very least of the nature of political propaganda.

CERTAIN STATEMENTS MADE BY SIR MUHAMMAD ZAFRULLAH KHAN AT THE IMPERIAL CONFERENCE.

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

- (a) who authorised Sir Muhammad Zafrullah Khan, India's delegate to the Imperial Conference, to state in the course of his speech at that Conference that India appreciated the service that the British Empire was rendering to the cause of world peace ;
- (b) who authorised him again to state, that India would derive enormous benefits from her participation in the Imperial Conference, even though she was not participating on the same footing as the Dominions, inasmuch as Sir Muhammad Zafrullah Khan had no authority of the people of India behind him ; and
- (c) whether the Government of India propose to take steps to convey to His Majesty's Government and other Governments who took part in the Imperial Conference, that India was not represented at the Imperial Conference by Sir Muhammad Zafrullah Khan ?

Mr. J. A. Thorne : (a) and (b). I cannot accept the Honourable Member's version of Sir Muhammad Zafrullah Khan's utterances. I will quote from the official Summary. The first passage is as follows :

“ To a troubled and harassed world nothing could furnish a more hopeful or reassuring augury for the maintenance and preservation of international peace than the spectacle of a united Empire co-operating towards securing this end. If there is one thing which has been made clear beyond doubt as the result of these deliberations it is that the dominant purpose of the Commonwealth is peace and that all our energies are bent towards securing and ensuring its permanence.”

The second passage is as follows :

“ The two outstanding topics which have mainly occupied the attention of the Conference are Defence and Foreign Affairs. Both these are subjects respecting which the Government of India is responsible, and even under the Federal Constitution will continue to be responsible, not to the people of India but to the United Kingdom Parliament ; nevertheless Indian representatives have been glad to participate in the discussion of these subjects and to make their contribution with respect to them as it is realised that the Conference affords valuable opportunities for arriving at a true appreciation of the problems within these spheres with which the Commonwealth is confronted and the efforts that are being made to solve them.”

Sir Muhammad clearly had authority to express himself thus at the conclusion of the Conference.

(c) No.

Mr. S. Satyamurti : With reference to the answer to clause (a), may I know whether, in giving Sir Muhammad Zafrullah Khan authority to say what he did say, did Government take into consideration the betrayal of Abyssinia by the British Empire when it was conquered ruthlessly by Italy, their helplessness over the Mediterranean, and their ominous silence over the Sino-Japanese conflict.....

Mr. President (The Honourable Sir Abdur Rahim) : These international questions are too big to be discussed just now.

Mr. S. Satyamurti : My question is this. Sir Muhammad Zafrullah Khan said that after all whatever the world may be the British Empire is a potent instrument for peace. I want to know whether at that time the Government of India did not know that Abyssinia had been betrayed and therefore the peace of the world had been allowed to be disturbed by international robbers, and why the Government of India allowed Sir Muhammad Zafrullah Khan to state that the British Empire was an instrument of peace.

Mr. President (The Honourable Sir Abdur Rahim) : That is a matter of opinion.

Mr. S. Satyamurti : If that is Government's opinion, Sir, I will take it from you.

Mr. President (The Honourable Sir Abdur Rahim) : I think the Honourable Member realises that it is a very wide question. It may admit of different views and it is not a matter which can be discussed now.

Mr. S. Satyamurti : I want to know why the Government of India authorised Sir Muhammad Zafrullah Khan to say all this, in view of these well known international facts ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member may think that these facts made a difference ; they may think that they made no difference.

Mr. S. Satyamurti : With reference to the answer to clause (b), may I know the reasons why the Government of India authorised Sir Muhammad Zafrullah Khan to express appreciation of India taking part in that Conference, when she has no voice in defence and foreign affairs, which were the main subjects discussed at the Conference ?

Mr. J. A. Thorne : I suggest, Sir, that that also is a matter of argument. Sir Muhammad Zafrullah Khan went as one of the Indian representatives and it was clearly his duty to express the views of the Indian representatives on the proceedings of the Conference in the concluding speech.

Seth Govind Das : Was he elected by the people of India ?

REPORT OF THE CONSTITUTIONAL COMMITTEE OF THE IMPERIAL CONFERENCE.

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

- (a) whether Government will place on the table of the House a copy of the full report of the Constitutional Committee of the Imperial Conference ;

- (b) whether the Government of India were invited for an expression of opinion on the question of the definition of British subjects ;
- (c) whether the Government of India proposed at the Imperial Conference the need for including the Indians as such in the definition of British subjects, so that, wherever they are in the British Commonwealth, they may enjoy the privileges thereof ;
- (d) whether the Government of India have any information on the recommendation that any member of the Commonwealth contemplating to pass a law on the membership of its community should submit its proposals to the other members, so as to enable them to offer observation on the law, if they feel so inclined ; and
- (e) whether the Government of India propose to press for being consulted on all these matters ?

Mr. B. F. Mudie : (a) The only report available is that contained in section XIV of the published Summary of Proceedings of the Imperial Conference, 1937.

(b) Yes.

(c) The present position is that British Indian subjects have the full status of a British subject. The Conference approved that position.

(d) and (e). None beyond that contained in section XIV of the Summary of Proceedings of the Imperial Conference, 1937.

Mr. S. Satyamurti : With reference to the answer to clauses (b) and (c), may I know whether Government have pursued the matter, from the point of view of the status of British Indian subjects in the dominions of the British Commonwealth ? I am not talking of Britain alone. Did the Government of India examine and press at the Imperial Conference the need for conferring the status of British subject on British Indian subjects, in all parts of the British Commonwealth ?

Mr. B. F. Mudie : If my Honourable friend will read the proceedings to which I have referred, I think he will be fully satisfied that British Indian subjects have the full status of British subjects.

Mr. S. Satyamurti : Has my Honourable friend examined the point that in South Africa the Indians have no franchise ?

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

Mr. S. Satyamurti : With reference to the answer to clause (d), may I know whether the Government of India pressed at this Conference that the British Naturalisation and Status of Aliens Act should be amended, so as to put India in the Schedule, and confer on India the right which the dominions have of either conferring or not conferring the status of British subjects on aliens, apart from their having been domiciled in Great Britain ?

Mr. E. F. Mudie : I have no information to give except what is contained in the Summary.

**GRANT OF A PIECE OF LAND TO A PRIVATE GENTLEMAN OR FIRM IN THE
AMBALA CANTONMENT.**

504. ***Mr. Sham Lal :** (a) Will the Defence Secretary be pleased to state whether there is a big piece of land adjoining the premises of Messrs. Mohan Lal and Company, Wine Merchants, Ambala Cantonment, the Penn Symmons Memorial Club, and the playground of the Municipal Board High School, Ambala Cantonment ?

(b) Is or was there any proposal to grant this piece of land privately to some gentleman or firm of the Cantonment of Ambala ?

(c) Is it in public interest to make a private grant of the land to a private person ?

(d) Are Government prepared to consider the advisability of keeping the land vacant till it is required for any public purpose, or dispose of it by public auction, as provided in the Cantonment Land Administration Rules ?

Mr. C. M. G. Ogilvie : I have called for the necessary information from the local authorities concerned and will lay it on the table as soon as it is received.

**POST OF INSPECTOR GENERAL OF CIVIL HOSPITALS AND PRISONS OF THE NORTH-
WEST FRONTIER PROVINCE.**

505. ***Mr. Sham Lal :** (a) Will the Defence Secretary be pleased to state whether it is a fact that the post of Inspector General of Civil Hospitals and Prisons of the North-West Frontier Province has been reserved for European officers of the Indian Medical Service ?

(b) If so, since when and why ?

Mr. C. M. G. Ogilvie : With your permission, Sir, I would answer questions Nos. 505 and 506 together. They should have been addressed to the Secretary, Department of Education, Health and Lands.

POST OF DEPUTY DIRECTOR GENERAL, INDIAN MEDICAL SERVICE.

†506. ***Mr. Sham Lal :** (a) Will the Defence Secretary be pleased to state the number of senior Indian officers who have been superseded by European officers and have been selected for higher appointments in the Indian Medical Service during 1936 and 1937 ?

(b) Is the post of Deputy Director General, Indian Medical Service, a tenure post ? If so, was an Indian I. M. S. appointed to it but was replaced by an Englishman before the expiry of his tenure ?

(c) Is it the intention of Government to reserve this post for a European in future ?

†For answer to this question, see answer to starred question No. 505.

LAND ACQUIRED BY THE MILITARY AUTHORITIES IN AND AROUND THE KOHAT CANTONMENT.

507. ***Mr. Abdul Qaiyum** : (a) Will the Defence Secretary please state how much land has been acquired by the military authorities during the last 15 years in and around the Kohat Cantonment ?

(b) Is it not a fact that most of this acquired land consisted of orchards which have been cut down and turned into recreation grounds for military officers ?

(c) Is it not a fact that the price paid for the land was much less than the current market rate ?

(d) Will the Defence Secretary lay on the table figures showing the prices paid for the land acquired and also the prices according to the five yearly average prepared by the Revenue officials ?

Mr. C. M. G. Ogilvie : (a) The time and labour involved in collecting the information would not be commensurate with the result achieved.

(b) Government have no information.

(c) When land is acquired under the Land Acquisition Act, the amount of compensation is determined by the Land Acquisition Collector. If any one is not satisfied with the award of the Collector, it is open to him to prefer an appeal to Court.

(d) Does not arise.

Mr. Abdul Qaiyum : May I know if you have made inquiries as to how much land has been acquired, and, if so, when ?

Mr. C. M. G. Ogilvie : No, Sir, the reason being that it would mean searching into records for 15 years in civil offices wherever land has been acquired under the Land Acquisition Act, and into records of military offices over the same period wherever land has been acquired by private treaty.

ORDERS FOR NOT SOWING CERTAIN CROPS IN THE KOHAT CANTONMENT.

508. ***Mr. Abdul Qaiyum** : (a) Will the Defence Secretary please state whether it is not a fact that the Mian Khel Zamindars close to the perimeter wire, Kohat Cantonment, have been ordered not to sow crops like maize and sugar-cane, etc. ?

(b) If so, who has passed the above order, and under what Law ?

(c) Has any compensation been paid to the said Zamindars for the loss of their crops, and for their being forced to sow inferior crops ?

(d) If not, why not ?

Mr. C. M. G. Ogilvie : (a) The Zamindars who own land near the perimeter wire in the Kohat Cantonment are not permitted to grow

any kind of trees, including fruit trees, in their land, but are permitted to grow only vegetables or low growing crops not exceeding 18" in height.

(b) The order is in force in consequence of an agreement between the headman and villagers of Mian Khel and the Secretary of State for India, dated 9th October, 1923.

(c) Compensation amounting to Rs. 25,184 was paid to the villagers by the Deputy Commissioner, Kohat, on 4th October 1923, under the terms of the agreement; and in accordance with the terms agreed upon no further compensation is payable for the removal of crops, etc., subsequent to the date of agreement.

(d) Does not arise.

Qazi Muhammad Ahmad Kazmi : How long is that agreement to continue ?

Mr. C. M. G. Ogilvie : So long as the perimeter wire stands round Kohat.

Mr. Abdul Qaiyum : Is the headman the only owner of all this property round the perimeter wire ?

Mr. C. M. G. Ogilvie : I am afraid I cannot tell.

Mr. Abdul Qaiyum : Has the headman any authority to enter into an agreement on their behalf ?

Mr. C. M. G. Ogilvie : I presume he has.

Mr. Abdul Qaiyum : Presumption is nothing. The agreement has been reduced to writing and you have it on record. Will you please tell me whether he was duly authorised by the owners to enter into an agreement on their behalf ?

Mr. C. M. G. Ogilvie : The matter is 14 years old, and, as far as I know, it has not been raised till today.

Mr. Abdul Qaiyum : Will you please get the information and lay it on the table. It deprives them of their right to raise certain crops.

REORGANISATION OF THE GOVERNMENT OF INDIA SECRETARIAT.

509. ***Mr. C. N. Muthuranga Mudaliar :** (a) Will the Honourable the Home Member be pleased to state whether it is a fact that Government, in pursuance of the scheme for reorganization of the Government of India Secretariat, are taking steps to abolish the posts of Assistant Secretaries in all Departments of the Secretariat and to replace them by officers of the Indian Civil Service as Under Secretaries (mostly Europeans) ?

(b) Is it a fact that under the arrangement at present in vogue a great deal of important work in the Secretariat is now being done by subordinates under the direction of the Assistant Secretaries ?

(c) Are Government aware of the impression that the officers of the Indian Civil Service, under cover of reorganisation of the Secretariat, seek to consolidate their position before Federation is ushered in at the Centre ?

(d) Have Government considered that if the class of Assistant Secretaries is dispensed with, the Superintendents, however capable and experienced, cannot go beyond that rank ?

(e) Are Government prepared to consider the advisability of taking the verdict of the House before any far-reaching changes are introduced by way of reorganisation of Secretariat ?

Mr. R. F. Mudie : (a), (d) and (e). On the assumption that the Honourable Member is referring to the intentions of Government with regard to the recommendations of the Wheeler Committee, I would refer the Honourable Member to my reply to Mr. Satyamurti's question No. 499 on the subject. Until the Wheeler Report is published I regret that I can make no statement on the recommendations contained therein or the action which Government are likely to take thereon.

(b) No such general statement can be made. The practice varies in different departments.

(c) No.

Mr. S. Satyamurti : May I know, Sir, why Government do not propose to take the verdict of the House, before any far-reaching changes are introduced by way of reorganisation in the Secretariat ?

Mr. R. F. Mudie : I have already answered that supplementary question before. When the report is published the Honourable Member has the ordinary methods open to him to invite a discussion in the House.

Mr. T. S. Avinashilingam Chettiar : Will Government put it before the House ?

Mr. R. F. Mudie : No.

Mr. Mohan Lal Saksena : Will Government consider the feasibility of putting off changes until the inauguration of Federation ?

Mr. R. F. Mudie : No.

†510*.

INDIANS EMPLOYED AS GARRISON ENGINEERS.

511. ***Sardar Sant Singh :** (a) Will the Defence Secretary be pleased to state the number of Indians employed as Garrison Engineers ?

†This question was not put by the questioner.

(b) Is it a fact that Indians with English qualifications and degrees obtained from Roorkee Engineering Institute are available? If so, is the employment as Garrison Engineer open to such qualified men?

(c) How many of such men have been employed as Garrison Engineer? If not, why not?

(d) How many of these Garrison Engineers at present in the Military Services in India are not Royal Engineers? How many of them have been raised from Military Sub-Divisional Officers?

Mr. C. M. G. Oglvie : With your permission, Sir, I will answer questions Nos. 511, 512 and 513 together. I refer the Honourable Member to the replies I gave to identical questions asked by Lala Sham Lal on the 27th August, 1937, and by Sardar Mangal Singh on the 1st April, 1937.

INDIANS EMPLOYED AS SUB-DIVISIONAL OFFICERS IN THE ARMY.

†512. ***Sardar Sant Singh :** (a) Will the Defence Secretary be pleased to state the number of Indians employed as Military :

- (i) Sub-Divisional Officers, Buildings and Roads ;
- (ii) Sub-Divisional Officers, Electrical and Mechanical ; and
- (iii) Furniture and Stores,

and the number of non-Indians in the above section ?

(b) What is the scale of pay for civilians and Military Sub-Divisional Officers in the above three branches ?

(c) How many Indians with English and Roorkee qualifications are working as Overseers, temporary and permanent, and at what pay? What is the bar in promoting them to Sub-Divisional Officers posts in place of Military Sub-Divisional Officers ?

(d) In view of the difference of pay in recruiting Indians, is the Defence Secretary prepared to take early steps to stop further recruitment of Military Sub-Divisional Officers ?

GIVING OF HONORARY MILITARY RANKS TO CIVILIANS IN THE MILITARY ENGINEERING SERVICES.

†513. ***Sardar Sant Singh :** (a) Will the Defence Secretary be pleased to state whether it is a fact that qualified Indians are appointed as Royal Engineers with Sappers and Miners? If so, why are such Indians not appointed with the Military Engineering Services ?

(b) Is it a fact that honorary military ranks are not given to civilians in the Military Engineering Services? If so, why? Are Government prepared to grant such ranks to civilians ?

†For answer to this question, see answer to starred question No. 511.
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JOURNAL OF THE IMPERIAL SERVICES.

514. *Mr. Sri Prakasa : Will the Honourable the Home Member state :

- (a) if it is a fact that the Imperial Services, like the Indian Civil and the Indian Police, have their journals which they regularly issue confidentially and circulate in the centrally administered areas also; wherein they ventilate their so-called grievances and give threats to the authorities in case their demands are not conceded;
- (b) if, in case Government are not aware of this, they will institute enquiries ; and
- (c) if permission is taken from Government before these journals are allowed to be published ?

Mr. J. A. Thorne : (a) to (c). I have no information whether any Association of Members of the all-India Services issues a periodical publication. Demands and threats have certainly not been conveyed to Government by means of any such publication. The Government see no need to make enquiries unless instances are alleged of the issue of such publications without the permission of Government.

Mr. Sri Prakasa : May I understand, Sir, that he has not seen the dear little journals printed by the Imperial Police Association in green covers, marked confidential, in which all sorts of threats are given to Government about what they will do in case their pay, pensions, privileges, powers, patronage, and other " p.'s " are not attended to ?

Mr. J. A. Thorne : The answer is no.

Mr. Sri Prakasa : I must ask my C. I. D. to give him a copy.

ALLOWANCES PAID TO SARDARS MUHAMMAD UMAR KHAN AND MUHAMMAD SARWAR KHAN, AFGHAN DETENUS.

515. *Maulana Zafar Ali Khan : (a) Will the Honourable the Foreign Secretary please state whether the Government of India brought the late Sardar Muhammad Ayub Khan from Mashad to India as their " Honoured Guest " ?

(b) What was the allowance that Government were paying to the late Sardar Muhammad Ayub Khan for his personal expenses ?

(c) What was the amount that Government were paying to the retinue of the late Sardar Muhammad Ayub Khan ?

(d) What were the respective amounts fixed for the late Sardar Muhammad Ayub Khan's sons after his death ? When was their present allowance fixed ?

(e) Were the Sardars Muhammad Umar Khan and Muhammad Sarwar Khan bachelors at the time their present monthly allowances were fixed ?

(f) How many children has each of the two Sardars got now ?

(g) When were these two Sardars put under Regulation III of 1818 and why ?

(h) Have or have not these two Sardars been petitioning Government since their allowances were fixed at Rs. 250 per mensem each, to remove their grievances by meeting the growing needs of their families for the last twenty years? What action did Government take on their petition? If none, why not?

(i) Are Government bound to look after their needs as well as their families' needs according to their social status as provided by Regulation III of 1818, or not? Have they done so? Did they ever give them or their families medical aid?

(j) Do Government provide them with accommodation up the hills during the summer season? If not, why not?

(k) Are Government aware that their hill allowance is hardly sufficient for their fares, etc., up and down the hills?

(l) Have Government issued any instruction to the Press that no statement about them, even by responsible persons, be published?

(m) What arrangement, if any, have Government made for the education of or provision for the male issues of the Sardars?

(n) What arrangements have Government made for the education and marriage of their female issues?

(o) Are Government prepared now to meet their request and redress their legitimate grievances? If not, why not?

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

(b) Rs. 8,500 per month.

(c) Rs. 5,000 per mensem approximately.

(d) After the death of S. Muhammad Ayub Khan, the following allowances were sanctioned for his sons :

	Rs. Per mensem.
1. S. Muhammad Abdul Qadir Khan Effendi	500
2. S. Muhammad Akram Khan	400
3. S. Muhammad Azam Khan	300
4. S. Sultan Ahmad Khan	300
5. S. Sher Ahmad Khan	250
6. S. Nur Ahmad Khan	250
7. S. Muhammad Sarwar Khan	250
8. S. Muhammad Umar Khan	250
9. S. Abdul Aziz Khan	250
10. S. Abdus Samad Khan	150
11. S. Abdur Rashid Khau	150

These allowances, which the Sardars (with the exception of No. 10) are at present drawing, were sanctioned by Government on 8th September, 1915. No. 10 is receiving an allowance of Rs. 200 per mensem which was fixed in January, 1918.

(e) Yes.

(f) and (g). I would refer the Honourable Member to the answer I have just given to Mr. Badri Dutt Pande's question, No. 497.

(h) Yes, but Government have not found it possible to accede to their request as they consider the allowances to be adequate.

(i) Government make suitable provision for the support of these detenus according to their rank in life and for such medical aid, as is beyond their own resources.

(j) No, but they get hill allowances of Rs. 300 each for the season.

(k) Government consider this allowance to be sufficient.

(l) No.

(m) Government have sanctioned an educational allowance of Rs. 25 per mensem to Muhammad Akbar, son of S. Muhammad Sarwar Khan. They have also sanctioned an educational allowance of 50 per annum for one of the sons of Sardar Muhammad Umar Khan in 1932, but he refused to accept it.

(n) Government do not hold themselves responsible for the marriages of the daughters, but consider applications for educational allowances on their merits.

(o) Government do not consider their grievances legitimate and do not propose to increase their allowances.

Maulana Zafar Ali Khan : With regard to sub-clause (e) of this question, may I know whether the allowances given to Sardar Muhammad Umar Khan and Sardar Muhammad Sarwar Khan are really adequate? Government may think so, but they do not; and why is this invidious distinction between the allowances given to these two gentlemen and the other illustrious members of the family?

Lieut.-Colonel A. E. B. Parsons : I think it must always be left to the giver to decide how much he should give.

Qazi Muhammad Ahmad Kazmi : Have Government got any idea as to the number of family members of Sardar Umar Khan and Sardar Sarwar Khan at the present time?

Lieut.-Colonel A. E. B. Parsons : If the Honourable Member had listened to my answer to the previous question, No. 497, today, he would have got an answer.

Mr. Mohan Lal Saksena : Is it not a fact that the allowances to these two gentlemen were fixed in 1915 when they were unmarried?

Lieut.-Colonel A. E. B. Parsons : I said so.

Mr. Mohan Lal Saksena : Do not Government consider it necessary that since they have married and got families the allowances should be increased?

Lieut.-Colonel A. E. B. Parsons : I do not think the Honourable Member would suggest that in succeeding generations all their children, legitimate and illegitimate, and their children again should receive allowances from Government. And as far as I know, the Honourable Member is of opinion that Rs. 500 is enough remuneration for any person in this world when he does hard work : surely he will not disagree with me when I say that Rs. 300, which is approximately what they get, is sufficient for people who do no work at all ?

Seth Govind Das : Who is responsible for their not doing any work ? Will they be made free ?

Lieut.-Colonel A. E. B. Parsons : They themselves.

Sir Cowasji Jehangir : The Honourable Member said in reply to a supplementary question that it was left to the giver to decide as to how much he should give. Who is the giver in this case ?

Lieut.-Colonel A. E. B. Parsons : The Government of India.

Sir Cowasji Jehangir : Does that mean the tax-payer ?

Lieut.-Colonel A. E. B. Parsons : The Honourable Member's knowledge of constitutional law is better than mine.

Sir Cowasji Jehangir : Does the Honourable Member admit that if it is the tax-payer who gives the money, then this Honourable House is interested in the matter and that the opinion of this Honourable House should carry weight with the Government ?

Lieut.-Colonel A. E. B. Parsons : If any Member of this House wishes to put down a Resolution that the allowances of these people should be increased, doubtless it will come before the House. Meanwhile, the Government of India are responsible to see that the revenues of India are not wasted.

Maulana Zafar Ali Khan : The Honourable Member has admitted in reply to sub-clause (a) of this question that the late Sardar Ayub Khan was an honoured guest of the Government ; and then comes the question of the giver and the taker. In this case, may I know whether the Government of India, who deported the late Sardar Muhammad Ayub Khan from Meshed and kept him as their honoured guest, will see that the allowances given to his descendants are in proportion to the honour of the honoured guest ?

Mr. President (The Honourable Sir Abdur Rahim) : He has already said that Government have certain responsibilities in the matter.

INDIANS IN CHINA.

516. ***Seth Govind Das :** Will the Foreign Secretary be pleased to state :

(a) the number of Indians at present in China ;

(b) the number of Indians as residents, traders and in service in the towns of Shanghai, Nanking and other areas where China-Japanese war is going on ;

- (c) the number of Indian lives lost as a result of the China-Japanese war ;
- (d) the extent to which property of Indians has been lost or damaged since the commencement of the war ;
- (e) what action, if any, Government have taken to safeguard their lives and property ; and
- (f) what is the latest report on the situation affecting Indians in the war areas of Chinese and Japanese territories ?

Lieut.-Colonel A. E. B. Parsons : The Honourable Member's attention is invited to the reply given by me on the 9th instant to Mr. T. S. Avinashilingam Chettiar's starred question No. 424. I regret I have no further information to give the House.

Seth Govind Das : At that time also the Honourable Member did not give any particular information. Will he now collect this information and give it before the end of this Session ?

Lieut.-Colonel A. E. B. Parsons : I am doing my best to get some information, but as I explained to the Honourable Member and to the House at that time, it is very difficult to get it.

Mr. T. S. Avinashilingam Chettiar : Have the cables been reconstructed ?

Seth Govind Das : May I know what attempts have been made to get further information after that date ?

Mr. Lalchand Navalrai : What attempts have been made ? How have the Government of India failed to get information ?

Lieut.-Colonel A. E. B. Parsons : I have sent telegrams, but I have so far failed to get any answer.

Mr. Lalchand Navalrai : Why is it that there is no answer, I want to know ?

Lieut.-Colonel A. E. B. Parsons : Probably because war is going on there, I should say.

OVERSEAS ALLOWANCES TO THE INDIAN TROOPS PROCEEDING TO CHINA.

517. ***Mr. Badri Dutt Pande :** With reference to the reply to a supplementary question by Mr. M. Asaf Ali, M.L.A., on the 27th August, 1937, regarding overseas allowance to the Indian troops proceeding to China, will the Defence Secretary be pleased to state the amount of overseas allowance that will be given to

- (a) Indian officers ;
- (b) Non-Commissioned officers ;
- (c) Combatants ; and
- (d) Followers ?

Mr. C. M. G. Ogilvie : Indian forces sent to China will draw " expatriation allowances " at the following scales :

	Rs. Per mensem.
King's Commissioned officers, Indian Commissioned officers, all rank	22 8 0
(a) (i) Viceroy's commissioned officers, except Jemadars	20 0 0
(ii) Jemadars	12 0 0
(b) Non-commissioned officers. ..	9 0 0
(c) Combatants (Indian other ranks) ..	5 0 0
(d) Followers	5 0 0

Mr. T. S. Avinashilingam Chettiar : What is the rate for Indian Commissioned Officers ?

Mr. C. M. G. Ogilvie : Rs. 22-8-0 all ranks.

Mr. T. S. Avinashilingam Chettiar : May I know what the allowances are to British soldiers ?

Mr. C. M. G. Ogilvie : Less for every rank except for Commissioned Officers when it is exactly the same.

LIVES AND PROPERTY OF INDIANS IN CHINA.

518. ***Mr. T. S. Avinashilingam Chettiar :** Will the Foreign Secretary state :

- (a) whether it is true that Shanghai has recently been bombed ;
- (b) what is the population of Indians and Britishers in Shanghai now ; and
- (c) whether Indian lives and property have been lost ; if so, to what extent ?

Lieut.-Colonel A. E. B. Parsons : I have nothing to add to the reply which I gave on the 9th instant to the Honourable Member's question No. 424.

Mr. T. S. Avinashilingam Chettiar : May I know whether the cables have been reconstructed ? I did not get an answer then.

Lieut.-Colonel A. E. B. Parsons : I have not heard so.

Mr. T. S. Avinashilingam Chettiar : When do you expect it ?

Lieut.-Colonel A. E. B. Parsons : I do not expect it.

Sir Cowasji Jehangir : To whom does the Honourable Member send these cables asking for information ?

Lieut.-Colonel A. E. B. Parsons : To the representatives of His Majesty's Government in China.

Mr. Mohan Lal Saksena : May I know whether Government have tried to get into touch with Indians who have returned from China ?

Sir Cowasji Jehangir : May I just point out whether the Honourable Member realises that other Governments are getting information about their nationals in China and that information is being printed in the newspapers every day, and does not the Honourable Member think that the Government of India ought to be in a position to get information about Indians in a foreign country where there is war going on and that the Government of India ought to be in a better position to protect their nationals than being not even able to get a reply to inquiries made ?

Lieut.-Colonel A. E. B. Parsons : The Government of India consider that protecting their nationals on the spot is more important than getting information about the form of protection that is being given.

Sir Cowasji Jehangir : But is the Honourable Member sure that the proper protection is being given to the nationals when he has got no information on the subject ? That is what we want to be assured about.

Lieut.-Colonel A. E. B. Parsons : Government are quite assured on the matter, because it is the invariable practice of His Majesty's Government to give protection to all British subjects abroad.

Mr. M. S. Aney : May I ask whether Government are going on presumption or on fact ?

Lieut.-Colonel A. E. B. Parsons : On fact.

Mr. M. S. Aney : How can it be a fact when Government know nothing about it ?

(No reply.)

Mr. Mohan Lal Saksena : May I repeat my previous question ? Have Government tried to get into touch with Indians who have returned from China ?

Lieut.-Colonel A. E. B. Parsons : They have not ; but they are not aware that any have actually returned from China in the last few days.

Mr. Mohan Lal Saksena : The other day I read that 900 persons have returned from China.

Mr. T. S. Avinashilingam Chettiar : May I know whether getting this information in any way prevents protection being given there ?

Lieut.-Colonel A. E. B. Parsons : Yes, Sir, because the time of the officials is fully occupied in giving protection.

Mr. S. Satyamurti : May I know whether Government have made any arrangements or propose to make any arrangements to get information about the actual state of Indians in the theatre of war, apart from news published in newspapers ?

Lieut.-Colonel A. E. B. Parsons : As soon as it is possible to do so, yes.

Mr. T. S. Avinashilingam Chettiar : What is the difficulty now ?

Lieut.-Colonel A. E. B. Parsons : The fact that all the officials on the spot are already too much engaged in other duties to collect information

NOMINATIONS TO THE ARMY.

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

- (a) whether nominations to the regular army are made from among the officers of the Territorial Forces in England ;
- (b) whether the practice is followed in India ; and
- (c) if not, whether Government are prepared to consider the advisability of following the practice in India also ?

Mr. C. M. G. Ogilvie : (a) Nominations are not made to the regular Army from officers of the Territorial Forces in England, but subject to certain conditions, such officers are allowed to attend the final term of the course at the Royal Military College and to compete for a limited number of Commissions at the final examination.

(b) No.

(c) No.

Mr. T. S. Avinashilingam Chettiar : May I know, Sir, if Government will consider the desirability of adopting that system in India ?

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

Mr. T. S. Avinashilingam Chettiar : Why not ?

Mr. C. M. G. Ogilvie : Because Government do not think it is necessary or suitable. .

Mr. Abdul Qaiyum : May I know the reasons why Government consider that it is not necessary for India when it is already being worked in England ?

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

MEDICAL AID GIVEN TO INDIAN ARMY RESERVE OF OFFICERS.

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

- (a) whether free medical aid is given to Indian Army Reserve of Officers, retired, regular personnels ; and
- (b) whether it is given to the Territorial Force personnel ; if not, why not ?

Mr. C. M. G. Ogilvie : Officers of the Army in India Reserve of Officers are entitled to free medical attention when called up for training or embodied. Such officers when not under training or embodied, as also retired regular officers and men, may receive free medical treatment in certain circumstances.

(b) Members of the Indian Territorial Force are entitled to free medical attention when called up for training or embodied.

Pandit Lakshmi Kanta Maitra : May I know, Sir what is meant by retired regular officers ?

Mr. C. M. G. Ogilvie : Regular officers who have retired.

GRANT OF HELP TO THE FAMILY OF PRINCE MIRZA RAHMAT SULTAN.

521. *Maulana Zafar Ali Khan : Will the Foreign Secretary please state :

- (a) whether he is aware that Prince Mirza Rahmat Sultan, grandson of Bahadur Shah, the *ex*-King of Delhi, has passed away in Rangoon, leaving a widow with five daughters and three sons to mourn his loss ;
- (b) whether he is further aware that the family of the deceased Prince is living in abject poverty and that the eldest son, on whom the burden of earning bread for this large family has fallen, is only a young boy not yet out of his teens ; and
- (c) whether Government are prepared to help this illustrious family in its great distress ?

The Honourable Sir Nripendra Sircar : I answer this on behalf of the Political Department.

(a) Yes.

(b) and (c). Government are not aware of the precise financial circumstances of the deceased's family. Mirza Rahmat Sultan was not in receipt of an allowance from Government ; and as his eldest son is of sufficient age to work for a living, it is not considered that any assistance to the family from public funds would be justifiable.

Maulana Zafar Ali Khan : May I know, Sir, under what law was the last reigning scion of the Mughal dynasty, His Majesty Abu Zafar Bahadur Shah, transported to Burma ? Was it the famous or rather the infamous Ordinance of 1818 ?

The Honourable Sir Nripendra Sircar : I shall want a month's notice, Sir, to answer this question.

DELEGATION OF CERTAIN POWERS TO BAZAR COMMITTEES IN CANTONMENTS.

522. *Seth Govind Das : Will the Defence Secretary be pleased to state :

- (a) whether the assurances given by the Defence Secretary on 4th September, 1936, during the course of a debate in this House on the Cantonment Amendment Bill, regarding giving powers to the Bazar Committees have been given effect to ;
- (b) the extent to which powers have been delegated to the Bazar Committees to carry on detailed administration in the civil areas of the Cantonments ;
- (c) the Cantonments where such powers were so delegated to the Committees ;
- (d) whether it is a fact that the functions entrusted to the Bazar Committees are those of an advisory character ;
- (e) whether it is a fact that the troubles in the civil areas of the Cantonments still continue as a result of the Defence Department not having issued definite instructions over the so-called encroachment of lands, etc., even after the passing of the Act ;

(f) whether the assurances given with regard to the appointment of Executive Officers to undergo the same test as any other; has been contradicted by a Gazette notification that the Governor General in Council may appoint anybody at his discretion, notwithstanding the rules to undergo the test; and

(g) the reasons of Government for not honouring the undertakings given by the Defence Secretary during the course of the debate on the 4th September, 1936?

Mr. C. M. G. Ogilvie: (a) They are now being given effect to.

(b), (c) and (d). The delegation of powers to bazaar Committees, and the extent of those powers, is a matter for each individual Cantonment Board to consider. As yet Government are not aware of the extent to which powers have been delegated. A copy of the instructions which has been issued by Government to Cantonment Boards is laid on the table.

(e) Not understood.

(f) No, Sir. The Cantonment Executive Officers Service Rules, 1937, provide for the recruitment of all new Executive Officers being made through the Federal Public Service Commission. Provision has, however, been made in these rules to enable the existing cadre of civilian Executive Officers and late class II Executive Officers of the Cantonments Department to be brought within these rules and also to allow, if necessary, a few existing class I officers of the Cantonments Department, who have not been selected for the Lands Branch, to serve for a year or two under these rules in order to tide over the shortage until new officers have been selected and trained.

(g) Does not arise.

Cantonments Regulations.

No. 654-R./D.-4.

GOVERNMENT OF INDIA.

DEFENCE DEPARTMENT.

Simla, the 6th September, 1937.

To

THE GENERAL OFFICERS COMMANDING-IN-CHIEF,

ALL COMMANDS.

Functions of Bazar Committees.

SIR,

It has been brought to the notice of the Government of India that misapprehension exists in Cantonments as regards the functions of Committees appointed under Section 43-A of the Cantonments Act, 1924, for the administration of Bazar areas. I am accordingly directed to explain for the information of all concerned that the so-called Bazar Committees are Committees of the Board and must be appointed by the Board in accordance with the provisions of the section quoted above. It was recognised by the Select Committee of the Central Legislature which considered the Cantonments (Amendment) Bill that the authority of these Bazar Committees must constitutionally be derived from the Board as a whole and that the extent of the powers to be delegated to these Committees must in consequence be capable of variation from time to time, if

necessary, by the Board itself. This position was also explained in the Legislative Assembly by the Defence Secretary. It will thus be seen that these Committees will exercise no independent powers and the minutes of their proceedings will be subject to the confirmation of the Board and copies of these minutes will form part of the proceedings of the Board.

The intention, however, is that so far as the bazar areas are concerned, all the work that is at present entrusted to the Committee appointed under Section 44, *ibid*, *c.g.*, Buildings, Education, Sanitation, etc., should be performed by these Committees and that a convention should be introduced by the Board whereby the proceedings of such Committees would be formally confirmed by the Board, unless in any case the official members of the Bazar Committee consider it necessary to protest to the Board against its recommendations particularly in respect of matters pertaining to the health, safety or welfare of the troops or against those which may contravene the provisions of the Cantonment Land Administration Rules.

These Committees will have no financial powers separate from the Board as a whole but there would be nothing to prevent a Board delegating to the Bazar Committees power to sanction expenditure on works connected with bazar areas subject to the allotment made by and the general control of the Board.

The Bazar Committees will not replace other Committees, in regard to the disposal of building applications outside bazar areas but will only deal with the administration of bazar areas.

Questions regarding the appointment, punishment, dismissal, etc., of Cantonment servants, including those employed in schools and hospitals situated within bazar limits will remain with the Board.

2. As regards land in bazar areas, Government will remain the owners of such land but it will be within the power of the Board, or of the Bazar Committee if this power has been delegated to it, to deal with all cases relating to applications for new sites, sub-division of sites, extension of sites, change of purpose and encroachments, in any manner they think proper subject to the provisions of the Cantonment Land Administration Rules regarding the procedure for the disposal of sites and the provision of the Cantonment Property Rules regarding Class C land. The Government of India have no intention of enforcing any restrictions in the way of demanding new leases for sub-division of sites, additional buildings on sites, change of purposes, etc., on old grant sites in bazar areas nor do they intend to interfere with the land administration of the Board unless of course the Board abuses its powers.

3. In conclusion, the Government of India desire that, in accordance with the assurance given by them when the Cantonments (Amendment) Bill was passed, the Bazar Committees should be given a chance of exercising real powers.

I am,

SIR,

Your most obedient servant,

C. MACI. G. OGILVIE,

Secretary to the Government of India.

†523*.

REDUCTION IN THE SALARIES OF MEMBERS OF THE GOVERNOR GENERAL'S EXECUTIVE COUNCIL.

524. *Mr. C. N. Muthuranga Mudaliar : (a) Is the Honourable the Home Member aware that the majority of Ministers in Provinces in India are not in receipt of more than Rs. 500 each as their salary ?

†This question was withdrawn by the questioner.

(b) Has he or the Government of India considered the desirability of fixing a reduced salary for Members of the Governor General's Executive Council ? If not, why not ?

(c) Are Government prepared to consider the question of reduction of the present enormous salaries at least in the case of Indian Members of the Executive Council ?

Mr. R. F. Madie : (a) I am aware that this limit has been prescribed in certain Provinces.

(b) No.

(c) No.

BREAKING OF THEIR PAROLE BY SARDARS MUHAMMAD UMAR KHAN AND MUHAMMAD SARWAR KHAN, AFGHAN DETENUS.

525. ***Mr. Badri Dutt Pande** (on behalf of Pandit Sri Krishna Dutta Paliwal) : Will the Foreign Secretary state :

(a) if it is a fact that the two Sardars, Muhammad Umar Khan and Muhammad Sarwar Khan, broke their parole recently at Naini Tal ;

(b) the reason or reasons which led them to do it ;

(c) if it is a fact that the authorities refused to accept their voluntary surrender ; and

(d) the treatment meted out to them after they broke their parole ?

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

(b) The alleged inadequacy of their allowance of Rs. 250 per mensem each.

(c) and (d). They courted arrest and were put in the Nainital Jail. They were released on the 10th August, 1937, after a detention of ten days.

Mr. Badri Dutt Pande : Is it a fact, Sir, that these princes already owe a sum of Rs. 15,000 in Nainital and Bhowali ?

Lieut.-Colonel A. E. B. Parsons : I cannot remember the exact amount of their debts, but they were considerable.

Mr. Mohan Lal Saksena : Is it a fact, Sir, that pending the decision of the Government of India the Local Government made arrangements to supply provisions instead of giving them an allowance ?

Lieut.-Colonel A. E. B. Parsons : Government have no information. The Local Government have certainly not so reported.

BAN ON THE PUBLICATION OF NEWSPAPERS IN CERTAIN CANTONMENTS.

526. ***Mr. Badri Dutt Pande** (on behalf of Pandit Sri Krishna Dutta Paliwal) : (a) Will the Honourable the Home Member be pleased to state whether the Indian Press and Books Registration Act operates in the cantonments of Neemuch, Mhow, Baroda Residency, Rajkot Civil Station, Mount Abu, Indore Residency Area and the Kolhapur Residency Areas ?

(b) Is it a fact that no newspaper is published in Mhow or Neemuch ?

(c) Is it a fact that several persons wanted to establish a newspaper at either Mhow or Neemuch, but the Honourable the Resident in Central India does not allow any to be published ?

(d) Would the Honourable the Home Member be pleased to enunciate Government's policy in this connection ?

The Honourable Sir Nripendra Sircar : I would refer the Honourable Member to the reply given on the 7th September, 1937, to question No. 71, which was an identical question.

PUTTING IN OF INTERPELLATIONS IN LEGISLATURES BY SERVICE ORGANISATIONS.

527. ***Pandit Nilakantha Das :** Will the Honourable the Home Member state whether the service organisations can openly put in interpellations in respective Legislatures ? If not, what is the rule against the same ?

Mr. B. F. Mudie : Under instruction 6 of the Instructions regarding the recognition by the Central Government of Associations of its Employees other than Associations of Industrial Employees (copies of which are in the Library of the House) recognition may be withdrawn, if an association adopts methods of ventilating its needs other than their communication to Government.

COST OF ESTABLISHMENT AND MAINTENANCE OF THE FEDERAL COURT.

528. ***Mr. Mohan Lal Saksena :** (a) Will the Honourable the Home Member be pleased to state what the total cost of establishment and maintenance of Federal Court will be ?

(b) What will be the total number of likely cases that may come before the Court ?

(c) What is the total number of Judges and their respective salaries ?

(d) In addition to judicial work, will they have any other duties ?

(e) Are Government aware that there is very little prospect of work for the Federal Court, and do Government propose to devise ways and means to reduce the unnecessary expenditure ?

Mr. B. F. Mudie : (a) The total estimated cost during the current financial year from 1st October, 1937, is Rs. 1,18,900. No details for the year 1938-39 have yet been worked out.

(c) The total number of Judges including the Chief Justice will for the present be three. The pay of the Chief Justice will be Rs. 7,000 a month and that of the other Judges, Rs. 5,500 a month each.

(d) I would invite the Honourable Member's attention to the provisions of the Government of India Act, 1935, and particularly to section 213 of that Act.

(b) and (e). It is impossible to estimate the number of cases which will come before the court or the amount of work which the court will be called upon to perform. In consequence only the minimum expenditure has been proposed.

Mr. Sri Prakasa : What is the exact amount now spent ?

Mr. R. F. Mudie : The Court has not yet started.

Mr. Sri Prakasa : And the salaries are being paid ?

Mr. R. F. Mudie : Not yet.

Pandit Lakshmi Kanta Maitra : Is the Court going to sit from the 1st of October ?

Mr. R. F. Mudie : It has been constituted from the 1st of October.

Pandit Lakshmi Kanta Maitra : When is it going to sit ?

Mr. R. F. Mudie : It will sit as soon as it is constituted.

Mr. Sri Prakasa : Will Government take steps to create quarrels to give some work to this Court ?

Mr. R. F. Mudie : I leave that to the Honourable Member.

PROCEDURE *re* INVITING OPINIONS FROM PROVINCIAL GOVERNMENTS.

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

- (a) when the Central Government want the opinions of Provincial Governments, whom they usually address—the Governor or the Governor and his Cabinet of Ministers ;
- (b) whether there has been any change in the procedure since the inauguration of Provincial Autonomy ; and
- (c) whether opinions (when sent to the Central Government) are those of the Governor alone or of the Cabinet and the Governor ?

Mr. R. F. Mudie : (a) All communications between the Central Government and a Provincial Government are signed by and addressed to the Secretaries to those Governments.

(b) No.

(c) The opinions received are the opinions of Provincial Governments.

Mr. T. S. Avinashilingam Chettiar : May I know, Sir, whether two kinds of communications are now sent, some for the opinion of the Governor's Ministers, and some for the opinion of the Governors ?

Mr. R. F. Mudie : No.

Mr. T. S. Avinashilingam Chettiar : May I know whether no communications are sent for the opinion of the Governors alone ?

Mr. R. F. Mudie : No.

UNSTARRED QUESTIONS AND ANSWERS.

APPOINTMENT OF HINDUS IN THE OFFICE OF THE PRIVATE SECRETARY TO HIS EXCELLENCY THE VICEROY.

83. **Sardar Mangal Singh** : (a) Will the Honourable the Home Member be pleased to state whether it is a fact that out of the eleven Hindus at present employed in the office of the Private Secretary to His Excellency the Viceroy eight are Bengalis ?

(b) Is it a fact that two Hindu appointments were made in July and August and that both of them were given to Bengalis ?

(c) Do Government propose to take measures to see that Hindu appointments in the office of the Private Secretary to His Excellency the Viceroy are distributed justly among all provinces ?

Mr. J. A. Thorne : With your permission, Sir, I propose to answer questions Nos. 83 to 85 together.

Appointments to the office of the Private Secretary to His Excellency the Viceroy are made by the Governor General in his discretion, and I regret that I am unable to make any statement in the matter.

ESTABLISHMENT SECTION OF THE OFFICE OF THE PRIVATE SECRETARY TO HIS EXCELLENCY THE VICEROY.

†84. **Sardar Mangal Singh :** (a) Will the Honourable the Home Member be pleased to state whether it is a fact that the total strength of the office of the Private Secretary to His Excellency the Viceroy including stenographers is about 25 men ?

(b) Is it a fact that there are at present three men employed in the Cash Section to deal with the above mentioned establishment ?

(c) Are Government aware that in other offices two or three men are posted in the cash section to deal with the ministerial establishment of about 100 and a far larger number of officers than in the office of the Private Secretary to His Excellency the Viceroy ? If so, are any measures to be taken to reduce the establishment in the Cash Section and retrench surplus hands ?

ABSENCE OF SIKHS IN THE OFFICE OF THE PRIVATE SECRETARY TO HIS EXCELLENCY THE VICEROY.

†85. **Sardar Mangal Singh :** (a) Will the Honourable the Home Member be pleased to state whether it is a fact that there is no Sikh in the office of the Private Secretary to His Excellency the Viceroy ?

(b) Is it a fact that since the transfer of the Sikh clerk of the office of the Private Secretary to His Excellency the Viceroy in 1934 to the office of the Council Secretary, seven clerks have been appointed in the office of the Private Secretary to His Excellency the Viceroy and that none of these seven appointments was given to a Sikh ?

RETRENCHMENT CONTEMPLATED IN THE GOVERNMENT OF INDIA DEPARTMENTS.

86. **Pandit Sri Krishna Dutta Paliwal :** (a) Will the Honourable the Home Member be pleased to state if any retrenchment is being contemplated in any of the Departments under the Government of India ?

(b) If so, will Government be pleased to state whether they will adhere to the principles enunciated in 1931 regarding the maintenance of the existing communal representation in all the cadres of various services—gazetted and non-gazetted—so affected ? If not, what will be the procedure ?

(c) Will the retrenched personnel receive any preferential treatment in connection with the filling of vacancies in that Department or elsewhere ?

Mr. R. F. Mudie : (a) No general scheme of retrenchment of personnel is under consideration.

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

CERTAIN CLERKS OF THE ADJUTANT GENERAL'S BRANCH ON DEPUTATION.

87. **Pandit Sri Krishna Dutta Paliwal :** With reference to the answer given by the Defence Secretary to Assembly unstarred question No. 77, dated the 15th September, 1936, will the Defence Secretary please state :

(a) if the Central Revision Section was permanent in the Defence Department and the men employed therein were not on deputation from Branches,

(i) why Messrs. Karam Elahi, Sundar Dass and Hoshyar Singh were sent on trial to the Master-General of Ordnance Branch in connection with their promotion and why Messrs. Seth and Alam Chand Singh were recently sent to the Adjutant General's Branch for promotion ;

(ii) why the men from Master-General of Ordnance Branch are now being returned to that Branch after the period of seven years ; why the work cannot be done in the Defence Department as heretofore ; and

(b) whether the reply given to the Assembly question referred to above was incorrect ?

Mr. C. M. G. Ogilvie : (a) (i). Yes. The clerks are not on deputation. The ministerial establishment lent by Branches are allowed, if qualified, the benefit of promotion, as their turn comes, in their respective Branches. For the higher posts a trial before promotion is necessary.

(ii). The exigencies of the service have dictated this rearrangement.

(b) No.

CENTRAL REVISION SECTION OF THE DEFENCE DEPARTMENT.

88. **Pandit Sri Krishna Dutta Paliwal :** Will the Defence Secretary kindly state if, prior to this, there was any other Revision Section in the Army Headquarters on a permanent basis like the Central Revision Section ? If not, will Government please state why this important appointment was taken over from the Master-General of Ordnance Branch by the Defence Department and why it is now being sent back to that Branch after eight years ? Is it a fact that a new post of Deputy Secretary (Revision) has recently been created in the Defence Department with some four officers under him and how do Government justify Mr. Macdonald's promotion to Deputy Secretary's (Revision) post ?

Mr. C. M. G. Ogilvie : The work of revision was formerly carried on piecemeal. Part of it was done in Adjutant General's Branch, a part in Master General of the Ordnance Branch and a part in the Defence Department. Only the part previously dealt with by the Master General of the Ordnance is being returned to him. The post of Deputy Secretary (Revision) is not new, the designation of the Director, Regulations and Forms, has simply been changed to Deputy Secretary (Revision), and one of the two appointments taken over from Army Headquarters is being continued for the time being.

POST OF DEPUTY SECRETARY (REVISION) IN THE DEFENCE DEPARTMENT.

89. **Pandit Sri Krishna Dutta Paliwal :** Will the Defence Secretary kindly state what work after returning the Revision work to the Master-General of Ordnance Branch will be done by the Deputy Secretary (Revision) and his four officer assistants and how was this work done in the past and what was the necessity for its being taken over by the Defence Department ?

Mr. C. M. G. Ogilvie : Mainly on the revision of regulations. In the past the work was partly done in Branches and partly not at all. The work was taken over by the Defence Department as central control will facilitate and expedite work.

POSTS OF DEPUTY SECRETARY (REVISION) AND ASSISTANT SECRETARY IN THE DEFENCE DEPARTMENT.

90. **Pandit Sri Krishna Dutta Paliwal :** Will the Defence Secretary please state what is, and in which Department, the substantive appointment of Mr. Macdonald and what is his pay there ? What pay will he get in his new post as Deputy Secretary (Revision) ? Is it a fact that the post of Personal Assistant to Defence Secretary has been abolished and a new post of Assistant Secretary created to do the same work ? If so, does it involve any extra expenditure and how much ?

Mr. C. M. G. Ogilvie : Mr. Macdonald holds his present appointment substantively. His pay is the same as before the designation of his appointment was changed. The appointment of the Personal Assistant to the Secretary has been abolished and replaced by a stenographer on a much lower rate of pay. The work done by the Assistant Secretary whose appointment has been created is not the same as was done by the Personal Assistant. No extra expenditure is involved.

PROMOTIONS IN THE MINISTERIAL ESTABLISHMENTS OF THE ARMY HEADQUARTERS.

91. **Pandit Sri Krishna Dutta Paliwal :** Will the Defence Secretary please state whether promotions in the ministerial establishment of the Army Headquarters are made by seniority or otherwise ?

Mr. C. M. G. Ogilvie : Yes, subject to the individuals concerned being qualified for promotion.

PROMOTIONS IN THE MASTER-GENERAL OF ORDNANCE BRANCH.

92. **Pandit Sri Krishna Dutta Paliwal :** (a) Will the Defence Secretary kindly state if any Departmental promotions in the junior grades in the Master-General of Ordnance Branch have been made irrespective of seniority ? If so, how many and why ?

(b) Since when has this practice been introduced in the Master-General of Ordnance Branch ?

(c) Is this practice followed by all other Branches ? If not, why is it followed in the Master-General of Ordnance Branch ?

Mr. C. M. G. Ogilvie : (a) Only to the extent that unqualified men were not promoted. Six men who were not senior on the roll were promoted.

(b) It has always been the practice to promote only those qualified for promotion.

(c) Yes. The rest of the question does not arise.

AFGHAN POLITICAL PRISONERS DETAINED AT MUSSOORIE.

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

(a) the number and the names of Afghan political prisoners now detained at Mussoorie ;

(b) the reason why they are so detained ;

(c) whether they recently resorted to hunger-strike and, if so, why ; and

(d) what their grievances are and whether those grievances have been redressed and, if not, why not ?

Lieut.-Colonel A. E. B. Parsons : (a) There are eight Afghan refugees, descendants of the late *ex*-Amir Yakub Khan, at present residing in Mussoorie for the summer, namely :—

1. Sardar Muhammad Akram Khan.
2. Sardar Muhammad Azam Khan.
3. Sardar Muhammad Afzal Khan.
4. Sardar Muhammad Ismail Khan.
5. Sardar Muhammad Umar Khan.
6. Sardar Abdul Ali Khan.
7. Sardar Abdur Rahim Khan.
8. Sardar Abdur Rauf Khan.

(b) As the Honourable Member is aware, the *ex*-Amir took refuge in India after the Second Afghan War, and in the interests of India's friendly relations with Afghanistan it is still necessary to impose some restrictions on the movements of his descendants so that they should not interfere in that country.

(c) and (d). No.

FIRM OF MUHAMMAD ALI IN ADDIS ABABA.

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

- (a) the latest position with regard to the Indian firm of Muhammad Ali in Addis Ababa ;
- (b) whether it is a fact that this firm is finding it impossible to export its assets out of the country even after having disposed of its property somehow, owing to Italian currency restrictions ; and
- (c) whether Government propose to take steps to see that this firm is not hit further by the Italian Government ?

Lieut.-Colonel A. E. B. Parsons : (a) Negotiations are still proceeding.

(b) I would refer the Honourable Member to my answer to part (c) of Mr. Badri Dutt Pande's question No. 403 given on 9th September last.

(c) Government are taking all possible steps to assist the firm.

THE INDIAN TARIFF (SECOND AMENDMENT) BILL.

Mr. A. H. Lloyd (Government of India : Nominated Official) : I
12 Noon. beg to move for leave to introduce a Bill further to
amend the Indian Tariff Act, 1934, 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 Indian Tariff Act, 1934, for a certain purpose.”

The motion was adopted.

Mr. A. H. Lloyd : Sir, I introduce the Bill.

THE INSURANCE BILL.

Mr. President (The Honourable Sir Abdur Rahim) : The House will now resume consideration of the Insurance Bill.

Amendments Nos. 20 to 30 stood over, and they will be taken up first.

The Honourable Sir Nripendra Sircar (Law Member) : No. 20 is in my name, and I would like to move it.

Mr. Bhulabhai J. Desai (Bombay Northern Division : Non-Muhammadan Rural) : With reference to these amendments which have stood over, may I ask that they may be taken up along with clause 26 ? I shall give the House my reasons for the same.

Sardar Sant Singh (West Punjab : Sikh) : Will the Honourable Member kindly speak up ? We cannot hear a word on this side.

Mr. Bhulabhai J. Desai : My principal reason is this, that while I bear in mind the difficulty which was pointed out by the Honourable the Leader of the House as regards the construction of section 113 of the Government of India Act, though I submit with respect I do not read sub-sections (1) and (2) in the way he does, when taken conjunctively, for the purposes of this adjournment I do not wish to enter into that discussion. It will be recognised by all sections of the House that, in so far as non-U. K. companies in the *bonâ fide* sense of the term are concerned, that is to say, supposing ten Frenchmen, or ten Germans, or ten Italians choose to form a company in England, if they are to get the benefit of being an U. K. company,—I do not think that even the framers of the Act would ever have imagined such a position. I am equally certain that, while the *bonâ fide* Britisher may legitimately, by reason of the force by which he has conquered this country and is keeping it, hope to expect that protection should be given to him—I do not think that he will go to the extent that whoever goes to England and gets himself incorporated should have all the benefits of an U. K. company. I am only mentioning it for this reason that this Bill, so far as it goes, and particularly clause 26, as I pointed out in the speech which I made during the course of general discussion,—so far as that clause and clause 53 are concerned, they require to be carefully considered to the extent to which at least foreign insurers other than *bonâ fide* U. K. and Indian companies are entitled ; to that extent such protection as can be granted to the Indian insurer along with the U. K. insurer is a matter of great importance. I, therefore, ask that this matter may not be precipitated but may be taken up along with clause 26.

The Honourable Sir Nripendra Sircar : I am at one with my Honourable friend in contriving means, if that is possible, for shutting out, say, Italians and Germans, getting the benefit of this legislation. But that has nothing to do with this amendment, because this amendment will either be carried or it will be lost. If it is lost, then surely when we come to section 26. I may join with my friend in framing some phrase or language which will enable us to gain the object which my Honourable friend has in view and with which I entirely agree. I am not taking up an obstructive attitude so far as that point of view is concerned, and I intend really to labour that point in the speech which I am going to make now.

Mr. Bhulabhai J. Desai : May I add this, that if the Honourable Member would include a similar consideration as regards clause 53, I certainly will not press the matter ?

The Honourable Sir Nripendra Sircar : I certainly shall. Clause 53 is far, far off.

Mr. Bhulabhai J. Desai : I know it is, but it must be reached some day.

The Honourable Sir Nripendra Sircar : Yes, but clause 26 is much nearer.

Sir, I beg to move :

“ That sub-clause (8A) of clause 2 of the Bill be omitted.”

[Sir Nripendra Sircar.]

That definition of Indian insurer is directed in this way, that an Indian insurer—I am using rather loose language, but that will not matter for the moment,—an Indian company will mean a company of which three-fourths of the paid up capital is owned by British Indians and of which three-fourths of the directors are British Indians. That is the idea. I am not, in asking for deletion, relying merely on the ground that this definition was used only in clause 3A, and as that clause has been deleted by this House there is no occasion for keeping the definition; that would be too narrow a view to take of a subject which I really consider to be of importance. To take my Honourable friend's point first, I agree with him entirely that when section 113 was enacted by Parliament, [although we may differ as regards (1) and (2) being taken conjunctively or disjunctively—let us keep that out for the moment], I agree that it could not have been in the contemplation of Parliament that the power will be left open for other non-Britishers like Germans and Italians, incorporating in England and then getting the full benefit of section 113, whatever the extent of that may be. And, as I said, if this definition is wanted to prevent that mischief, I shall not only not object but shall strongly support that idea. But, Sir, I hope I shall convince the House that, although that is a very desirable object and we should pool our resources together for seeing whether that object can be gained, this definition will not attain that object. The difficulties which I feel—and I again assure the House that I am not taking these points or rather these difficulties merely from the technical point of view, but they are of substance. First, of all, the definition of three-fourths of the paid up capital being owned by British Indians—that leads to impossible situations making the definition altogether unworkable. I did go into this matter at some length and my Honourable friend, Mr. Mathuradas Vissanji, tried to meet it. I wish somebody else had done it because my Honourable friend has not met the point at all. He said, "I admit that there are considerable difficulties, but that difficulty can be met by preventing transfer of shares, which will mean an upsetting of the balance of three to one." Well, that is not possible, we cannot prevent transfer of shares. Let us look at it from a dispassionate point of view. Myself and the Opposition are not in disagreement as to the object which is to be attained. First, three-fourths of the capital. It is easy to imagine that a company of which today three-fourths of the shares are owned by British Indians may change its character completely tomorrow if a block of shares is sold by Indians to non-Indians. That cannot be prevented. Secondly, the House will remember the ordinary practice of buying and selling shares in the market. In nine cases out of ten the broker who comes to me acts for an undisclosed principal and I have not the least means of knowing whether my shares will pass to Indian or to non-Indian hands. Nor have I any control over the Indian passing my shares or transferring them to non-Indians. Another common practice, I am sure my Honourable friend, Mr. Desai, knows more about it than I do, the practice is for banks to get themselves registered as owners of shares. All sorts of securities, shares in insurance companies, shares in jute mills and so on are kept with the bank for purposes of security by clients. That being done, the bank takes the next step and gets itself registered in the books of the company. Now, once a shareholder is registered under section 33 of the Indian Companies Act, the Company cannot inquire into any

question of trust. It cannot say to A ' Mr. A. You are an European but as a matter of fact there is an Indian behind it ' or *vice versa*. There will be no power either in the company or in the Superintendent to make any inquiry into the nationality of the person who is beneficially entitled to the shares. Imagine what happens. A block of shares is deposited with the Central Bank. I presume the Central Bank is Indian. Therefore, when the Central Bank gets itself registered, possibly no harm is done to it, from the point of view of the definition of Indian insurer, but if the block of shares is pledged or kept as security with an English bank and the English Bank gets itself registered, then the company knows that this non-Indian is the owner of the shares. You cannot get behind these things. The banks will not disclose to you as to who are the clients beneficially interested in these shares. Therefore, I venture to submit that this will be unworkable but I come back to the point which I consider of the greatest importance, which was raised by my Honourable friend, Mr. Desai, and that is what can be done for the purpose of avoiding a situation which will be created by a number of Germans—I refer to Germans only by way of example.....

Mr. S. Satyamurti (Madras City : Non-Muhammadian Urban) : You need not apologise to Hitler.

The Honourable Sir Nripendra Sircar : Well, I do not know. After all the dictators are the only persons who count. Sir, we want to avoid a situation under which a number of Germans come over to England and get themselves incorporated there. There we are all agreed—at any rate, those whom I have consulted, they are all agreed. As a matter of fact, I wonder if the House knows that there are, so far as I could trace, at least two companies today who are doing insurance business here, who are British in the sense that they were incorporated in England but the capital is not owned by the British at all. It is run by the money of other nations. One is an American Company, the Continental and the other is French but these companies are of course U. K. companies and as I read the language of section 113, I may be wrong but my conviction is quite strong, that under section 113, although these companies are not British in the sense that they are not run by Britishers or the capital is not owned by Britishers, yet they will have all the advantages of an U. K. company. So, you realise the steps we are following. First of all, my friend, Sir Leslie Hudson, is to be deemed an Indian, for the purpose of section 113 and for no other purpose (Laughter) and then the next step is that my German friend is also going to be deemed an Indian because he says : " Well, under both English law and Indian law, you cannot inquire as to who is owning the capital or who is the director ". The question which arises is : " Is it an U. K. Company ? " If it is an U. K. company, I claim the benefit of section 113.

There is another very serious difficulty which is probably due to oversight—the use of the language ' directly owned by British Indians '. I am using it colloquially. First of all, as I said, whether it is directly owned by British Indians is a matter which cannot be investigated. Secondly, if you confine it to British Indians, the result will be that many of the Indian companies today, according to this definition, will be declared to be non-Indian. I have got some information which confirms my impression. I do not want to name the companies, although the names are here. The Hyderabad State has holdings in two companies

[Sir Nripendra Sircar.]

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to the extent of five lakhs. His Highness of Bhopal has holdings in another company to the extent of two and a half lakhs. There is similarly large holding by Gwalior State in another company and so on. The position, therefore, is this, that if it is confined to holdings directly owned by British Indians, many of the companies will, from today, be deemed to be non-Indian companies, because the largest holding in these companies is not by British Indians but by members of the Indian State. That, of course, can be corrected by changing British India to India but that is not the definition for the moment. I am trying to show the difficulties that will be created by the definition as it stands. If you keep the words 'directly owned by British Indians' then a fairly decent number of companies today will be declared to be non-Indian because three-fourths of the share holdings are not to be attributed to British Indians.

Then, Sir, the House should also know what is the position as regards the number of new entries in connection with foreign insurance companies. Now, section 26 is confined only to life insurance business. In life insurance business as also in other forms of insurance business we cannot have any figures for 1929, because only after the Act of 1928 was passed have these returns of non-Indian companies been filed. I find that between 1929 and 1937 there have been three entries by non-British foreign companies. One is from Canada—the Crown. Another is German, who are doing a very large amount of business here, the Allianz and Stuttgarter and the third is another equally unpronounceable name, from Switzerland. These are the three entries between 1929 and 1937. The last entry was made early in 1931, so that, apparently, during seven years, there has been no entry of non-British companies coming to India for doing insurance business. I was informed by my Honourable friend, Mr. Husenbhai Laljee, that there are three companies who are watching the destiny of this Bill and if the Bill goes against them, they will incorporate in England. That is exactly my point, that not only is the definition absolutely futile, not only is it objectionable by keeping out the members of the States which, however, is a small point but this will be positively harmful, because the result will be that the Germans instead of incorporating here will incorporate in England. What is the benefit? If they have incorporated here, at any rate, we shall have some kind of supervision and we can know what they are doing, and so on. We gain nothing by giving an incentive to the German or the Italian company to incorporate itself in England rather than in India. If we can stop them—and there I am one with my Honourable friend—and if the joint resources of this House can devise some means to do so, I shall be only too glad to accept them. Although it may not be strictly relevant, the House may as well know what is the position of new entries in connection with insurance. I have already given the figures for life insurance between 1929 and 1931. As regards the general insurance, namely, fire, marine, accident and so on, between 1929 and 1937, I believe, eleven new companies have come in. As against that, one has got also to remember that twelve companies have ceased to carry on business, so that there are eleven entries and twelve exists. I do not think I will take up the time of this House too long over this question because, as I said and I repeat the assurance, that if in connection with clause 26 any Honourable Member opposite can evolve a formula which will attain

the object, which we all have in mind, I shall be only too happy to welcome it. But I confess that I have thought over the matter for a pretty long time and I have been unable to arrive at a solution. But that does not mean that others will not succeed where I have failed.

Pandit Lakshmi Kanta Maitra (Presidency Division : Non-Muhammadan Rural) : Try, try again.

The Honourable Sir Nripendra Sircar : You had better start doing it now. My friend, Pandit Lakshmi Kanta Maitra, is an astrologer of great repute, and he can tell us today whether a solution can be found or not. With the help of some paper and pencil, he can tell me now whether we can find a solution or not.

One word more, Sir, and I shall conclude. My Honourable friend said that this may be wanted not only for purposes of clause 26 but also for clause 53. That really does not matter because, if it is wanted for clause 26, that is reason enough for paying the greatest consideration to this matter. But, with great respect, I doubt if it is wanted for clause 53 and whether a definition will really be a retrograde or not. If Honourable Members kindly turn to clause 53 of the Bill, which has shortly been called "powers of retaliation", they will find this :

"Where by the law or practice of any country outside India in which an insurer carrying on insurance business in British India is constituted, incorporated or domiciled, insurance companies incorporated in British India are required as a condition of carrying on insurance business," and so on.

Supposing, there was no question of section 113 today and we were not troubled with it and assuming that this definition which has been drafted by the Select Committee and ratified by this House is put in clause 53, what do we gain? Without using the drafting language, the idea is that if any country discriminates or puts burdens on Indian insurance companies, then we shall do the same unto them. That is the purport of the clause. Now, if I were to accept the definition of the 'Indian insurer' and put it here, the obvious answer will be that we have no discrimination, as such, against a company because it is constituted of three-fourths Indians and one-fourth non-Indians. A discrimination may not be directed to such a peculiarly constituted company but the discrimination, if it exists at all, is against all companies incorporated in a particular country, say India. I do not want to be dogmatic, but I would ask the House that when we come to clause 53 it should bear in mind whether we shall, in any way, improve our position by trying to put in a definition of an Indian insurer or a non-Indian insurer in clause 53. If it is wanted for clause 26—and I admit once more that it is wanted for clause 26,—then any effective means can be devised by the House.

Sir H. P. Mody (Bombay Millowners' Association : Indian Commerce) : What happens to clause 3 (3) which we have already passed?

The Honourable Sir Nripendra Sircar : That will be of no use to us by reason of our defining 'Indian insurer' in this particular manner.

Sir H. P. Mody : I would like to draw the attention of the Honourable Member to the fact that we may have to do something in connection with clause 3 (3) which has already been passed because it says :

“ In the case of any insurer having his principal place of business or domicile outside British India,..... ”

Supposing an Italian or a German Company were to come and incorporate themselves in British India, the provisions of this sub-clause will not apply to them at all and something will have to be done in that case also.

The Honourable Sir Nripendra Sircar : Sir, I do not think I should go back to clause 3 (3) now, but that is a matter which my Honourable friend as well as every one may certainly remember in connection with later clauses, like clauses 26 and 53. But, as I said, I need not waste the time of the House over clause 53. I am conceding that the matter has got to be carefully considered in connection with clause 26 whether by way of explanation or by adding suitable words in clause 26 which will carry out the object which we all have in view. That is a matter for the House to help me and if it is possible to find a solution. At the present moment, I am asking the House and I think I am not unreasonable in stating so that this definition is really no good. Apart from the smaller point of the objection to the use of the word “ British ” Indian, which can be corrected by moving an amendment to omit the word “ British ”, I think that this definition will be futile for the reasons which I have humbly submitted to this House. What I mean to say is that non-British companies, instead of incorporating here, will incorporate in England and they will derive all the benefits which are available to the United Kingdom companies under section 113. If that is so, what is the good of this definition. Let this definition go and when we come to clause 26, and as I suggested, we shall try our best—whether we succeed or not is another matter—to avoid the situation which none of us like, namely, that non-British foreigners will be allowed to take advantage of what could not have been contemplated by the Parliament. I do not think for one moment that anybody here will say with confidence that, when section 113 was drafted, the British Parliament had any very tender concern for the Germans or the Italians. What the effect of the language of section 113 is, one has got to bear carefully in mind when we come to clause 26. I venture to submit for the consideration of this House that, instead of wasting the time over this definition, it would be better for us to concentrate our attention on what can be done, if anything can be done at all, in connection with clause 26.

Sir, I move.

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

“ That sub-clause (8A) of clause 2 of the Bill be omitted. ”

Mr. Bhulabhai J. Desai : Sir, I wish to speak in a spirit of as much helpfulness as I am able to contribute to a debate of this character, and I trust my Honourable friend will accept that statement at its fullest face value. It is not a sense of *amour-propre* that is at all dictating what I am going to submit to the House. I fully realise and agree with him that

the framers of section 113 (1) could not have contemplated the protection being extended to persons who are not domiciled British citizens, but who have incorporated themselves in the United Kingdom. But bearing that in mind I wish the House first to look at the definitions which are intended to be incorporated and see whether they will serve any useful purpose. I quite agree that if they do not serve any useful purpose *a fortiori* if they detract from the value of the effort we are making, they need not stand. The definitions are 8-A.:

“ ‘ Indian insurer ’ means an insurer three-fourths of whose paid up capital is held in their own right by British Indian subjects domiciled in India, and three-fourths of the Members of whose governing body are British Indian subjects.”

I call attention now to clause 8-B.:

“ Every insurer who does not comply with the conditions mentioned in clause 8A shall be deemed a ‘ non-Indian insurer ’.”

The next clause is 8-C which says :

“ ‘ United Kingdom insurer ’ means an insurer to whom the provisions of sections 111, 113 and 114 of the Government of India Act, 1935, apply.”

Now, Sir, the points in order of importance are these. I need not argue that if this is going to serve any useful purpose in reframing clause 26, the propriety of the definition is not questioned, that is to say the necessity of incorporating a definition is not questioned. I wish to speak very cautiously as regards its value, so far as clause 53 is concerned, in a moment. In so far as the definitions are concerned while clause 8-C. saves the effect of section 113, it still remains to be considered to what extent the interpretation, as now received by my Honourable friend from the legal advisers, is in our way as a matter of absolute bar. If I may put my proposition before I deal with the clause, perhaps it would be easier for appreciation. What I mean is this. The definition does not prevent a true interpretation of section 113 in the more limited view that I submit to the House. For, after all, what we are prevented from doing is to legislate contrary to or inconsistent with the true interpretation of section 113 of the Government of India Act. If, therefore, we do not purport to interpret section 113, but leave it as it stands, taking the chance and a fair reasonable chance of its interpretation in the narrower sense which I will submit presently to the House, not for acceptance but merely for consideration, should we or should we not take that chance or should we rule out the definition on the ground that inasmuch as one interpretation of section 113 is put forward now, we must accept that and act upon it. In view of that, I call attention to section 113 :

“ Subject to the following provisions of this chapter, a company incorporated, whether before or after the passing of this Act, by or under the laws of the United Kingdom and the members of the governing body of any such company and the holders of its shares.....”

I shall skip over words so that only the bare material words would be before the House :

“ ...shall be deemed to comply with so much of any Federal or provincial law as imposes in regard to companies carrying on or proposing to carry on business in British India requirements or conditions relating to or connected with.....”

[Mr. Bhulabhai J. Desai.]

Then follow the place of incorporation, the currency of capital, place of domicile, etc., members of the governing body or the holders of shares:

“ provided that no company or person shall by virtue of this section be deemed to comply with any such requirement or condition as aforesaid if and so long as like requirement or condition is imposed by or under the law of the United Kingdom in regard to companies incorporated by or under the laws of British India and carrying on or proposing to carry on business in the United Kingdom.”

Then, I call attention to sub-section (2) of this section :

“ If and in so far as any total or partial exemption from or preferential treatment in respect of, taxation imposed on companies by or under any Federal or provincial law depends on compliance with conditions as to any of the matters mentioned in sub-section (1) of the section, any company incorporated..... be entitled to the exemption or preferential treatment accordingly so long as the taxation imposed by or under the laws of the United Kingdom on companies incorporated by or under the laws of British India and carrying on business in the United Kingdom does not depend on compliance with conditions as to any of the matters so mentioned.”

I ask the House to consider—not necessarily to accept—if the true interpretation of the two sub-sections is not this. The first part of the section defines the conditions which may be deemed to be complied with by what may be described as U. K. company so far as any Federal or Provincial law requires to the contrary, in this case as distinguished from Indian companies. My submission to the House is that that is not a section or a clause complete in and by itself, for sub-section (1) gives no purpose of why and to what extent being deemed to be Indian, notwithstanding being non-Indian gives him any protection. The purpose and the object as expressed in sub-section (2), namely, to the extent to which that company which may be deemed to be Indian is sought to be treated either by way of exemption or preferential treatment in the matter of taxation to that extent the company which is deemed to be Indian shall also be so exempted. In other words.....

The Honourable Sir Nripendra Sircar : May I put a question for elucidation ? If that view is right, namely, that sub-section 2 is disjunctive and it is only under paragraph 2 that the operative portion is to be looked into, will it not follow that we can legislate here that no U. K. company can carry on business in fire insurance because if my Honourable friend's argument is right and paragraph 1 leads to nothing, paragraph 2 is the operative portion, that prevents only preferential taxation, therefore, we can say that while Indian companies shall carry on business in fire, marine and life insurance business, you, Englishmen, can carry on business in only one kind of insurance.

Mr. Bhulabhai J. Desai : I have two answers to that difficulty. I am not really arguing in the hope of convincing you or for that matter the whole House. My only point is this : to the extent to which there is a reasonable chance to take of an interpretation may we not take it without in terms so legislating as to prevent us from doing meaning thereby....

The Honourable Sir Nripendra Sircar : May I answer that question. I would have said, yes. But as I explained in two of my speeches that I am rather oppressed by the practical difficulties of the situation because then it will reasonably be said that the matter is doubtful, and if that happens, I pointed out what will happen to this Bill. It may have to be sent to England for the signification of His Majesty's pleasure. That is a practical question that does not touch the construction of the section,

but as my Honourable friend asked, whether there is any objection in taking that reasonable risk, I suggest the risk is great, because that means really either destruction or inordinate delay so far as this Bill is concerned.

Mr. Bhulabhai J. Desai : I am trying to answer that. I will bear that in mind and, if at the end of what I have to state before the House, the House still feels that on either the one ground or the other ground the definition should exist or be deleted, it will be for the House to decide. I may be allowed to repeat, if I may, that I am saying this in a perfectly helpful spirit and have no desire that if there is a substantial objection I should insist upon it.

As my Honourable friend put it to me just now, my first answer to that is the very answer which he purported to give to me, that it is possible to say that as a matter of construction section 113 (1) should be treated differently from section 113 (2) even though, as he put it rightly, it could not have been contemplated by Parliament that ten Germans or ten Italians or ten other non-British domiciled citizens should have the benefit of section 111. The way in which I am using it is this. If that was not the intention in the legal sense of the term and yet happens to be the intention according to me, may I not point out that we are not bound to consider in this House as to the extent of the protection which the Britisher, in fact, has got under this Act? Supposing, for the purpose of argument, that the Britisher while desiring that he should be protected against any legislation preventing him from trading here has not in fact secured it, that is not our fault. Therefore, because the section does not give the utmost degree of protection which the Britisher may have wished to get and has in fact failed to get by the legislation, that is no argument for not construing the section as it stands. I may point out to my Honourable friend that section 111, to a large extent, would come in the way of any such argument and that in so far as such a thing is concerned, I shall draw attention also to the section with reference to ships and aircraft,—section 115. In other words, supposing they made an effort to protect themselves to the best of their ability or requirement and if a construction against me is to be strained, that is no reason for saying equally that a construction against them should not be strained.

The Honourable Sir Nripendra Sircar : Then we should not have given up the reinsurance.

Mr. Bhulabhai J. Desai : I am not now talking of that; I gave that up for reasons which I shall presently explain. I am trying only to answer what has been stated. The objection raised against me is this. If the view that I am submitting is right, it may well be that the Britisher has not got all that he might have wished for. That is no argument, for the simple reason that if he has not got it, he has not got it on a true construction of the section. It is no fault of ours; it is the fault of those who were trying to protect him by their legislation. Therefore, the fact that the Britisher may be so left out by another construction, in many other matters, is no ground putting upon the section its true construction. That is my answer to my Honourable friend. Therefore, going back to section 111, my friend will remember and see the importance of what I am saying, there the words used are very appropriate words,—“British subject domiciled in the United Kingdom”. In other words, either the words “domiciled in the United

[Mr. Bhulabhai J. Desai.]

Kingdom " were inadvertently or advisedly omitted from section 113. I am assuming against myself that they were inadvertently omitted. That does not affect the construction, as my Honourable friend knows, under the rules for construction of statutes. If they were on the other hand advisedly omitted, it is good ground for construing that section in a limited way, because it is then quite obvious that it could not have been intended that anybody who chooses to incorporate himself in the United Kingdom should, for all purposes and for any purpose on earth, be deemed to come under section 113. I wish to point out how violent is that construction, not so much, I repeat, for the purpose of getting you to decide it but to say if there is a reasonable prospect of the view that I am submitting to the House prevailing before any tribunal to whom it may go. Is it or is it not right in us to so legislate without directly going against section 113 ? No objection can be taken to this Bill on the ground that I am doing anything contrary to the Parliamentary Act because, if I say " United Kingdom insurer " and if that protects only the United Kingdom insurer, i.e., the British domiciled citizen, well and good. If on the other hand on a true construction of section 113 he does not come within the protection in so far as insurance legislation is concerned, if he has not got what he has not got, there is no reason why we may not, to the extent to which it is open to this House, legislate even against him. So that, shortly stated, my point is this, that the definition in terms cannot possibly go against the Act. That has got to be omitted. But once I say that " United Kingdom insurer " means an insurer to whom among others section 113 applies, nobody can quarrel with me on the ground that I am now legislating against the United Kingdom insurer. I say, no. Whatever protection he has got under this let him get, but if he has not got it he has not got it, and it is not my fault that he has not got it. Therefore, I may legislate against him to the extent to which that section leaves me the option to legislate against him, leaves me discretion and leaves me room to legislate against him.

Sir H. P. Mody : May I ask one question ? There is a definition of " Indian Insurer " in clause 8-A, but there is no provision in the Bill which relates to Indian insurer. Is it the intention of my Honourable friend to put in in the appropriate clauses the words " Indian insurer " ?

Mr. Bhulabhai J. Desai : That is right, otherwise there will be no purpose in it. I think I can answer that affirmatively without any hesitation. And I think my Honourable friend did concede this to me that if either in clause 23 or clause 53 this language can be appropriately used for the purpose of protecting the Indian insurer to the extent to which we are entitled so to protect him, we, as I have pointed out before, intend to move, and I ask any other Member of the House, who may be so inclined or advised, to move appropriate amendments to both those clauses for the purposes of protection. Otherwise there will be no point in the definition ; but I am labouring the point which, I submit, is worth labouring even to a greater extent from the point of view of the Indian, having regard to the fact that these provisions, 113 to 116, bear hard upon us and would have no parallel in any other legislature except where, of course, we are a subject race. Therefore, to the extent to which we have lost and we could not help, we, at present at all events, will bear it and submit to it in the hope that our efforts will succeed in getting rid of the

Act : but to the extent to which the Act exists and leaves room to us and gives us an opportunity to have our own enactments, I do not see why we should tie ourselves up by a supposed larger protection which the language of the Act does not give them. For, while, on the one hand, it is contended that 113 (1) gives them a protection for every act under the sun, is it reasonable, I ask, to contend that AB shall be deemed to be CD without a purpose stated for it. I ask my Honourable friend himself, whatever may be the legal advice he may have otherwise obtained, could you possibly say AB shall be deemed to be CD and state no purpose for it.

The Honourable Sir Nripendra Sircar : For the purpose of being treated like CD.

Mr. Bhulabhai J. Desai : That is not a purpose, I say with very great respect, that is purely verbal—AB shall be deemed to be CD for the purpose of being called CD. I think it is obvious, that you say AB shall be deemed to be CD for the purpose of a particular exemption or an imposition or a restriction, but I think it passes my comprehension, and I am merely expressing my personal opinion, that a definition could be treated disjunctively. 113 (1) says, for all purposes and for all time AB shall be deemed to be CD, then what is the point in having sub-section (2) is the next question I must ask myself and my Honourable friend. If AB is CD for all purposes, you certainly do not need sub-clause (2) at all, the very limited sub-clause that in so far as AB is exempt from a tax CD shall also be exempt from a similar tax, and I still, therefore, ask the House, in a reasonable way to read 113 (1) disjunct from 113 (2). The difficulty that is said to confront us does not exist because it is obvious that if 113 (1) makes CD equal to AB for all times and for all purposes, you do not need 113 (2), for that gives him a very small sphere of immunity, AB being deemed to be CD. On the other hand, I am of the view that there is nothing to prevent this Legislature apart from 111. I feel myself that, in so far as a British subject, domiciled in the United Kingdom, is concerned, 111 gives him protection, and, therefore, I appeal to my friends that in so far as they and I stand on the same footing, to exclude non-British and non-U. K. persons. Their interests lie in avoiding and not in attempting to extend the protection of their skirt to German or Italian or to any other non-U. K. person. Their fight is wrongly placed. If they realise that 111 gives them protection as between me and them, which I am willing to recognise at once, let them not strain 113 and not merely claim protection for themselves but for Germans and non-U. K. persons, persons who are not domiciled in the United Kingdom : all that they have got to do is to pay a small fee and register themselves in the United Kingdom.

The Honourable Sir Nripendra Sircar : On your construction they are not protected at all.

Mr. Bhulabhai J. Desai : Therefore, if they are not, they are not : I may tell that what they are entitled to under 111, I agree to. As I said, I am talking in a spirit of explanation to the extent to which I have laboured to understand the Act. It has now become, so far as this Legislature is concerned, an over-riding law, and, therefore, it is my duty, as much as his, to see that I do not impose too many restrictions and, at the same time, see that to the extent to which obedience is required to the Act I accord it. Therefore the issue before the House today is not whether a

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British subject domiciled in the United Kingdom has or has not got protection which is claimed for him : the question before the House is this—are we legislating in a manner contrary to the over-riding Act, and if we are not and if there is a reasonable chance of gaining by it, are you going to throw it away by fright. The whole point shortly is this. Are you going to be frightened by the fact that it may possibly be contrary and if it is the contrary, and a tribunal will so hold it, then they will say you have not legislated usefully. I will tell you how the question can come up. Suppose a company of Germans say we are a United Kingdom company and, therefore, we have all the protection of the Act and the Registrar or the Superintendent says no, I rule against you, then the case goes to a court of law. Then the court of law will have to decide as to the true effect of section 113 (1) and (2) and would have to decide whether that company is entitled to that protection or not. As my friend is also aware, such a question, if it arises, can be reserved for the court for which there was no business as my friend, Mr. Mudie, pointed out, from the 1st October, because the Act provides that whenever any question arises in regard to the construction of this Act, it may be reserved for the decision of the court and also there is the right of appeal to the Supreme Court. The way in which we regard this matter, a matter of very great importance to us, is that the Act should be amended, and it will achieve a real and big purpose : it will call the attention of the Parliament and all my friends to see that the Act is suitably amended so as to protect those whom it is intended to protect, namely, the British citizen domiciled in the United Kingdom, or they may say that so far as this is concerned let the judgment of the tribunal prevail, in that we never intended to grant them this supposed right of protection. I think the House will agree, and my friend will agree, that it can only be extended to the United Kingdom domiciled citizens. It is not, however, so simple as it looks : they may say it does not matter, what we intended was merely exemption in a very limited manner. Well, if they have so intended it let us not throw away the chance. Shortly stated, therefore, the position is this : first, my answer is that we are not legislating contrary to the Government of India Act in that, in the definition of the United Kingdom insurer, we are giving him just so much and no more but no less protection than he is entitled to under 113. Therefore, that need not worry us. If that does not worry, what else could possibly worry you ?

Then the next question is, three-fourths are shareholders and three-fourths are managers. My friend has been practising for many years but I think even more than myself he is fond of precedents. What I have learnt of him during the last three years has convinced me that precedents convince him more than a good argument sometimes, though I do not say that he is not appreciative of either for I know his legal acumen too well to disregard that element. There is a provision in a very recent Act, the Irish Insurance Act of 1936.....

The Honourable Sir Nripendra Sircar : What is the Irish Company Law ? It depends on that.

Mr. Bhulabhai J. Desai : True, but let us first get to the first point :
 1 P.M. then I am coming to the next. I realise all the difficulties and for the purposes of a grave matter of this kind I have thought out as much as I could the rest of the argument before

the House. In the Irish Act there is a provision as to what is an Irish Company—I do not pretend to pronounce the Irish words which my friends will probably laugh at—so I do not intend to do it—there is a definition in which the words are these :

The following conditions, that is to say :

“ That an Irish Company that is, the company which is formed after the commencement of this part of the Act which complies with the following conditions, that is to say, the issued shares of such company are to an extent not less than two-thirds in nominal value thereof and carrying voting rights is in the beneficial ownership of a person who is or two or more persons all of whom are citizens of.....and the majority of the directors, etc., are citizens of the same State.”

Then follows section 19 which provides that a company which ceases to comply with that condition shall have its registration cancelled. To the extent to which a precedent has any value I will give you another one, that it is not at all beyond the power of this House and should be within its contemplation if these definitions are accepted, that a provision similar to the one that is in the Reserve Bank Act even of this country where you have made restrictions on holding of shares of individuals in their own beneficial right and a declaration filed to that effect, with a further restrictive right of voting, of which my friends are fully aware : so that it cannot be beyond the ingenuity of my Honourable friend—in fact it cannot be beyond his ordinary normal knowledge—that if provision has got to be made for protecting interests that cannot and should not be protected and the spirit or the language which is used is slightly defective, it may be open—after all they are trained draftsmen there and a lawyer of great eminence—we are merely here to assist to the extent to which our knowledge permits. There is, as I say, first the precedent. Second, there is this : I quite agree that if in the company law of a country there is a distinction between registration of two types of companies or even a refusal to register a certain type of company, that need not necessarily come in our way of dealing with it *qua* insurance companies. His difficulty was merely what he calls a practical difficulty : that is to say, a company may change its capital. How the Irish law, however Irish it may otherwise be, can possibly prevent the difficulties except by meeting them and facing them.....

The Honourable Sir Nripendra Sircar : But how is that Act worked ? You have no idea.

Mr. Bhulabhai J. Desai : At all events they have had the courage to legislate and the courage to face the consequences of that legislation. I have often been defeated by being asked, “ How will self-government in this country work ? The Britisher has always done this and that ”. My only answer is that if that is your state of mind I cannot help you much. I am one of those who believe that you must take steps and do your best to meet difficulties as and when they present themselves. The question shortly is this : that in so far as any provision is necessary for the purpose of getting a check, by which a practical check can be devised, in order to find out whether a company has not ceased to be a non-Indian insurer, that is a matter that cannot come in the way of the definition. Again, my friend says—and I quite agree—that shares are sold on a blank transfer, but there is no objection : in fact it has been the desire from the point of view of stamp duty alone of a provision being enacted in so far as the Companies Act is concerned that no share transfer shall remain blank for more than a limited period of time and shall not be used

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for the purpose of a second transaction in the same set of shares. It is a point which came to me in several ways in so far as the Bombay Province is concerned and there is no difficulty in meeting the case merely of a blank transfer as and when it does arise. But let us not deflect our attention from the main issue before the House now,—to what extent having accepted the definition we shall require that provision shall be made in order to make its practical working more and more easy. After all is said and done, supposing a man wants to be a member of an Indian insurance company and take a share in it, I do not think it is any hardship if it is provided that in any such insurance company formed for such a purpose every shareholder shall, as in the Reserve Bank Act, have to declare as and when necessary that he holds a share in his own right. There are penalties if he holds it for another. Therefore, as I am able to see the position before the House now, it can be summed up as follows : first, so far as I can see, once you say that a United Kingdom insurer, whoever he may be and to the extent he can be protected by 113, we are protecting him by the definition. Therefore it involves no doubt—I wish to tell my friend about 3-A—it involves no doubt whatever if I say that everybody protected by the Act is protected. How can there be a doubt ? It is not as if I am saying “ Accept my construction of the Act and frame the definition on that consideration ”. Then I can well understand my friends saying in as much as there is a doubt as to the true construction in virtue of the Instrument of Instructions, he is bound or at all events the Viceroy and Governor General is bound to reserve this for the assent or the pleasure of His Majesty. But how can there be a doubt if I repeat the provision of the Act through a legislative enactment, and leave it to interpretation as to who gets the benefit of it ? If the Government of India Act is such that the foreigner is going to get the protection, I will say I am helpless. After all, why should I be thwarted in making an attempt to get the protection which, according to me, is reasonably probable ? Why should I give up that attempt, I would like to know ? Why should this House give up this attempt ? For the simple reason that if I say : Supposing this case goes before the Supreme Court in the end and the Supreme Court decides “ We are of the view that clause 2 must be read as part of and along with clause 1 ”, that clause 1 (a) shall be deemed to be (b) is meaningless without a purpose : that it could not—and I would be offending the Parliamentary draftsmen by believing that they could ever have intended to perpetrate the absurdity which is claimed for it, namely, that A shall be deemed to be B for no purpose, meaning for all purposes, for nothing. But I say ‘ No ’. It is on the other hand more reasonable to say that when they say A shall be deemed to be B for the purpose and to the extent to which any discrimination by way of differentiation in their taxability is concerned, that is an intelligible thing. It may be then that that section would have to be amended ; equally would it then be my opportunity to say ‘ exclude other people whom you don’t intend ’. In fact, I am trying to create a situation which, I think, the House ought to take the earliest opportunity of doing, because from that situation we shall extricate ourselves. The Act would be so amended as to exclude the real foreigner. That will be the first thing that will happen as soon as it is decided by the Supreme Court that the Britisher does not get a protection either.

Sir Cowasji Jehangir (Bombay City : Non-Muhammadan Urban) : What will happen to the Bill ?

The Honourable Sir Nripendra Sircar : The Bill will go.

Mr. Bhulabhai J. Desai : Nothing will happen to the Bill.

Sir Cowasji Jehangir : May I ask one question ? Suppose that contingency arises as the one just explained by the Honourable Member, what will happen to this Bill ? Will it go by the board ?

Mr. Bhulabhai J. Desai : The first question is, there is no question of doubt left on the face of the Bill which will require to be resolved. 8 (c) runs as follows : " United Kingdom insurer means an insurer to whom section 113 applies ". How can there be any doubt on the face of that Bill ? My friend cannot contend when I say 113 there may be a doubt. Of course there may be a doubt as to what 113 means. That is not the doubt in the Instrument of Instructions.....

Mr. M. S. Aney (Berar : Non-Muhammadan) : If the definition which is given here is incorporated in any one of the relevant clauses, does my friend mean to say that even in that case a reasonable doubt cannot arise ?

Mr. Bhulabhai J. Desai : I shall answer the question presently. I am glad my friend put that question. This is a discussion, I hope, on a plane where there is no room for misunderstanding each other ; it is intended to resolve each other's doubts....

The Honourable Sir Nripendra Sircar : All that I want to say is, you may have no doubt, but under the Instrument of Instructions, the doubts of the Governor General is the only question and your doubts and my doubts do not come into the picture at all.

Mr. Bhulabhai J. Desai : I agree....

Sir H. P. Mody : On the face of the Bill there will be no doubt.

Mr. Bhulabhai J. Desai : I will try to answer both and each one of you, but I crave your indulgence because, it is a matter of great moment from our point of view, that unless you put it to the test in that way, unless you get 113 construed one way or the other, you would remain, according to me, in a most dangerous condition, for this reason that, so long as it is believed that 113 (1) gives a protection to any ten men being non-domiciled British citizens to be merely incorporated in London and thereby get all the benefits, exemptions and everything under the Government of India Act, as my friend himself admitted,—that is not the purpose,—I don't mean the legal purpose because the legal meaning of every statute is what its words show,—but that is not its purpose in the other more loose sense, namely, we did not wish it to be so ; that is, even they did not wish it to be so. What is the way in which we can force the issue on this point ? If my friend were in a position to assure me that he will get 113 amended so as to merely extend its provisions to domiciled citizens of the United Kingdom, then I would probably be prepared to consider and wait so far as these sections are concerned.....

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

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

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

Mr. Bhulabhai J. Desai : Mr. Deputy President, with reference to the question which was raised whether this definition and its incorporation in appropriate places in the Bill would necessitate the reservation of this Bill for His Majesty's pleasure I would respectfully call attention to clause XIII of the Instrument of Instructions.

An Honourable Member : It was XIX of the draft.

Mr. Bhulabhai J. Desai : I have got the final Instrument of Instructions, but if you look at the draft there is no change whatsoever so far this particular clause is concerned. The words are these :

“ Without prejudice to the generality of his powers as to reservation of Bills, Our Governor General shall not assent in Our name to, but shall reserve for the signification of Our pleasure, any Bill of any of the classes herein specified, that is to say :—.....”

Then, the class, which is material to this question, is class (c) :

“ Any Bill regarding which he feels doubt whether it does, or does not, offend against the purposes of Chapter III, Part V, or section 299 of the Act.”

I need not refer to section 299 in this connection. Chapter III, Part V, is the chapter covering sections 111—116. So that the only Bill which is to be reserved for the purposes of signification of His Majesty's pleasure is the Bill as to which he feels doubt whether it does or does not offend against the purposes of Chapter III. Now, supposing in this Bill we were attempting to give effect to one of the two conflicting views of this section, I respectfully agree that then it would fall under (c), but not even His Majesty can have a grievance if I say that those for whom protection is intended under 113 shall have that protection. How can there be any question of doubt ? I quite agree that if we were saying that the exemption shall apply only to taxation, therefore, there is no exemption so far as any discrimination in the matter of insurance business is concerned. On the contrary, suppose it was being stated that irrespective of any purpose AB shall be deemed to be CD. In either view I agree that there would be a doubt whether the provision that we are making in our statute is one that offends against the purposes of Chapter III, Part V. Therefore, so long as we save Chapter III in terms, how can there be a doubt if they offend against the Chapter ? It is an argument that makes it so difficult to be answered in that it answers itself. When I say that this law shall be subject to section 113, is it statable that I am offending against 113 ? And if I am not offending against section 113, how can there be any doubt that I am offending against 113 ? It is incapable of being put any more clearly, with great deference. When I say that the definition saves every person to whom protection is extended by section 113, a doubt can only arise if I was

putting forward my view of the construction, which may raise a doubt as to whether it is right or wrong. But if I say, let the section be saved whatever it is, how can my Honourable friend with any show of reason urge, or reasonably be forced with any show of reason to urge if that is the position which he has got to occupy in this connection—that this is a matter in which there is a doubt that we are offending against the purposes of Chapter III? Therefore, my submission is that it is not even possible to argue, at least not reasonably possible to argue that if you save the section you are offending against the section. That being so, there can be no objection on that ground which was stated to the House by my Honourable friend. I wish to add a few more words as regards the question of construction, not for the purpose of persuading you as to my correctness but for the purpose of showing that by so doing we have a reasonable chance of getting an interpretation in our favour; that is to say, that the section is limited. After all, nobody can object to have the Act which they have got correctly interpreted. If the Act is and means what the Honourable the Leader of the House says, we will have to submit to it, but *per contra* supposing the court of law construes it to mean that it is more limited, why should we throw away the advantage by submitting to it now under the belief that the wider construction is correct? Therefore, we do not offend against the law by repeating the law, and secondly, we gain the probable advantage of the law being interpreted in our favour. Thirdly, supposing, at the worst, there was the interpretation which my Honourable friend suggests, then, on their own showing, that was never the intention of the Parliament to extend the protection of these provisions to non-British domiciled citizens. That will immediately invite attention to the necessity of at all events limiting clause (1) only to domiciled British citizens. So that, in any view of the case, what I am urging upon the House is that there is no fear of this being held up because it cannot be so, and secondly, we are getting all the possible advantage that we can get, and that that was their intention appears clear from the answers given by the Secretary of State in his evidence before the Joint Committee at page 291. He makes it quite clear that the provisions intended for this protection in the Act are, so far as it is relevant to the present purposes, confined to taxation. I will read the question and the answer:

“Special provisions for companies incorporated in the United Kingdom but trading in India.

As regards companies which are or may hereafter be incorporated in the United Kingdom and trading in India, it is intended to prevent [subject to the provisions of any Immigration Law which may be enacted consistently with clause (ii), and to the special provision as regards bounties and subsidies of clause (vii) (2)], the imposition in British India of any discriminatory taxation.....”

So that, it is perfectly obvious, that the interpretation which I am now putting before the House, not for acceptance, but for taking our chance so that we may not submit to a larger restriction than the law intends, is correct. My respectful submission, therefore, is that the definition should be allowed to stand in the Bill, that undoubtedly in the appropriate places, wherever the Indian insurer is used it should be coupled with the U. K. insurer. But supposing that under 113 he is not protected, he is not protected. So that every time, while giving him just the protection and no more and no less than what the Act gives him—I am also reserving to Indians, to the extent to which other

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people are not protected, to gain such advantage in their own favour as I submit they are entitled to. I, therefore, submit that these definitions ought to stand.

Mr. B. Das (Orissa Division : Non-Muhammadan) : It is rather difficult for a non-lawyer like me to take part in a debate where two eminent lawyers like my Honourable friend, the Leader of the House, and also my own Leader have clarified the constitutional point that lies behind these definitions (8A), (8B), and (8C).

Sir, I oppose the amendment moved by the Honourable the Leader of the House. The other day, when my Honourable friend, Mr Sen, told the House, that he did not desire to move his amendment No. 19, rather a negative amendment whereby he wanted to define the non-Indian insurer, I heaved a sigh of relief that the Bill was not going to further penalise the Indian businessmen and the Indian industrialists. Sir, it is unfortunate that living as we do, penalised as we are by handicaps over which we have no control we should be afraid of defining what an Indian insurer is. It is our legitimate birthright to define what an Indian insurer should be. I do not want to be told that an Indian is one who does not pretend to be a Japanese, or Chinese or an Italian or Hotentont or an Englishman. I would rather say that an Indian is so and so. This point was completely thrashed out when the discriminatory clauses were discussed in the Round Table Conference. I will take the memory of older Members to what happened in 1933 when Reuter sent a telegram that the subjects of the Dominions and Colonies are going to get the same rights and privileges as the U. K. people in India. This House got alarmed and we moved a motion of adjournment and Sir Fazl-i-Hussain, who replied on behalf of the Government, agreed with us that India, though placed as she is, would allow the U. K. people to share the loaves and fishes with us, yet would not allow people of the Dominions to claim the same rights and privileges as the English companies do. The members of the Joint Parliamentary Committee who are present here, like my friend, Sir Homi Mody and Sir Cowasji Jehangir, will tell us what repercussion they had when they read the cables and telegrams that passed between India and England at that time. I ask the Honourable the Law Member to bear in mind the evidence which Sir Samuel Hoare gave before the Joint Parliamentary Committee and he was questioned there by eminent jurists, by those who are not very friendly to India and who tried to understand the implications of these discriminatory clauses. In that memorandum, which was a confidential document till the day of its discussion on the 6th November, 1933, Sir Samuel Hoare made it clear that those discriminatory clauses want to give effect to the recommendations of the External Capital Committee. I need not take the memory of the House back to the recommendations of the External Capital Committee. In 1925, when Sir Basil Blackett was the Finance Member, a committee was appointed to assess the extent to which external capital can be invested in an internal company and what should be called an external company and what should be called an internal company. Sir Samuel Hoare made it clear that these discriminatory clauses do give certain rights and privileges to the U. K. Companies and that they implement the recommendations of the External Capital

Committee. I have been a continuous Member of this House and I have not heard from any of my friends of the European Group that they contested these statements of Sir Samuel Hoare at the Joint Parliamentary Committee. The External Capital Committee advocates that an Indian company should have 75 per cent. of its capital owned by Indians and that its capital should be rupee capital and that it should have 75 per cent. of Indian directors. The Honourable the Law Member's argument as to how you are to know by whom the shares are possessed is not a new one. We have heard it since the External Capital Committee's report was published. This argument does not hold in the face of the fact that the Secretary of State, on behalf of the British Government, accepted the External Capital Committee's report. It is no use bringing it forward at this late hour and to say that doubts have occurred in its interpretation. I may say that Sir Samuel Hoare was examined very critically by the Marquis of Salisbury and Lord Reading but at every stage he made it clear :

“ Compliance with such conditions as to the composition of the Board of Directors or as to the facilities to be given for training of Indians, as may be prescribed by the Act.”

The note in this connection says :

“ This proposal is intended to give effect to the recommendations of the External Capital Committee's Report, 1925.”

I will take the House a little further. Lord Reading cross-examined a little more minutely, and the Secretary of State replied : I will now quote from Q. 15,443.

“ I may remind you that that was the very question which was raised with the Manchester Chamber of Commerce and that was the question which was put to them, and they agreed that that was not unreasonable ?—Yes, I was much interested in their answer ; I was not surprised at it ; but this, generally speaking, is the proposal that was made by the External Capital Committee, and, I think, during the last two or three years in our discussions it has been generally accepted, anyhow by a great many people.”

Then, the Marquess of Reading further examined him and the answer given was :

“ What we have in mind are the recommendations of the External Capital Committee which reported in 1925. I could have copies of it circulated to members of the Committee ; but, if they will refer to it, they will find, on page 16, that these are the conditions that were recommended by the Committee, and these are the conditions we ourselves have in mind : (1) Reasonable facilities to be granted for the training of Indians ; (2) in the case of a public company that it should be formed and registered under the Indian Companies Act ; (3) that it has a share capital, the amount of which is expressed in the Memorandum of Association in rupees ; and (4) that such proportion of the Directors as Government may prescribe consist of Indians.”

So far, the Government of India have not had the hardihood nor the courage to challenge the proportion laid down in the External Capital Committee's report. Therefore, when I saw the definition in (8A) I felt pleasure that at last a Bill which is going to be passed and made an Act gives effect to the recommendations of the External Capital Committee's report. But the Law Member has not spoken much as if he does not want to define an Indian insurer. He went into legal technicalities and doubted if the definition of the United Kingdom insurer as defined in (8C) satisfies the sections of the India Act. He also hinted that if it does not lead to further discriminating interpretation, then the

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Bill will have to be sent to His Majesty in Council for final sanction. Not being a lawyer, I cannot see the legal flaw that is to be found in sections 111, 112 and 113, which as a man-on-the-street, though much against my will, I have accepted. What is the trouble now? Of course, I have not the knowledge of my esteemed friend, Sir Leslie Hudson. I do not know what his interpretation is and what is it that is agitating his Party because I see the names of Members of his Party who have given this notice that (8A) should be dropped. I have found that my European friends, trading in India, are very anxious that there should be goodwill and mutual co-operation in business atmosphere not to speak of political atmosphere. If that be so, then an Act passed by both the Houses of Parliament where representatives of the European community in India contributed their best to make it as fire-proof or steel-proof as possible ought to be enough for them. When that has been done, why do they manifest these doubts? It may be that my friends have thought over the matter and have no doubt about the interpretation of section 113. But why do they object to the definition of an Indian insurer?

Mr. F. E. James (Madras : European) : May I suggest to my Honourable friend that he should not attack us before he hears our point of view. He should wait.

Mr. B. Das : I have waited since 1925 up to now to hear what the interpretation of the European Group is about the External Capital Committee's report. If my Honourable friends had any doubt about the interpretation of section 113, why have they not revealed their doubts in the shape of questions or a resolution? Sir, I can stand any restrictions, circumstantially placed as I am, but I would not stand this further humiliation that I cannot define myself as an Indian lest it might hurt the susceptibilities of the Britishers trading in India or carrying on any business in India.

Mr. F. E. James : Perhaps it has not occurred to my Honourable friend that our objection to that particular clause is based on quite different considerations.

Mr. B. Das : I will be glad to know them, but at present I am rather suffering from lack of knowledge. But from the interruption that I had from my Honourable friend, Mr. James, I am led to believe that my Honourable friend gives the same interpretation to the External Capital Committee's report as did Sir Samuel Hoare before the Joint Parliamentary Committee and as I am giving before this House.

My own view is, that we need this definition. I want the (8A) definition to be retained. I do not want (8B) which defines a non-Indian insurer. I want that a non-Indian insurer should be defined as a Foreign Insurer for which I have given an amendment. I will just inform the House what my interpretation of a Foreign Insurer is. A Foreign Insurer means an insurer who does not comply with the conditions mentioned in sub-clause (8A) and who is not a United Kingdom company insurer. The Select Committee has defined a United Kingdom insurer in sub-clause (8C). If my Honourable friends of the European Group have any objection to the language of sub-clause (8C), let them suggest their own definition. Surely an Englishman can define himself

better than I can. I find my Honourable friend, Sir Thomas Stewart, shakes his head. I know that three Englishmen make an Empire : so how can they define an Englishman ?

It is a pity that the Government of India have not only penalised us but they have penalised the people of the Indian States also, as was rightly pointed out by the Leader of the House. The Leader of the House pointed out that there are many companies the shares of which are largely owned by the people of the Indian States and, until the Government of India Act, 1935, was passed, I never knew that my Indian brother, who inhabits an Indian State, is a foreigner. Today, my friends from the United Kingdom have equal rights with me and I can call them Indians. They are deemed to be Indians for business purposes. But, unfortunately, these poor people of the Indian States are not deemed to be Indians. I am glad my Honourable friend, Mr. George Joseph, has got an amendment on this subject but I do not know how far he will be permitted to get it through. If that amendment is carried, I am afraid the Bill will be thrown out because it interferes with the powers of the Crown and God alone knows how the Crown keeps connection with the people of the Indian States and their autocratic Rulers. These Indian states people are tied to us in blood relations and yet they are to be treated as foreigners. From what fell from the Honourable the Law Member, I understood that he wants to consider, if suitable suggestion is made, that Indian States will not be disqualified and treated for the purpose of this Bill as foreigners and for that the Honourable the Law Member will have the support of every Indian on the floor of this House.

Handicapped as I am, not knowing what is the exact argument and the exact interpretation of section 113 put by my Honourable friends of the European Group, I am not going to go into detailed arguments, but this question will come up again in connection with clause 2 sub-clause (8B), and sub-clause(8C). There are enough chances to reply, but I do want my Honourable friends of the European Group to bear in mind whether they want to be in friendly relations with us, whether they want to have our co-operation and our good will or they want us always to feel that we are a subject race and that they themselves will go to their grandmother—the Mother of Parliaments—and pass legislation so as to penalise us so that we may always remain serfs in our own country without any independent say in any matter. I am really reflecting the views of the Indian business community and we do want the Government of India to be fair and honest and we want them to accept the recommendations of the External Capital Committee which have already been accepted through the medium of the Government of India Act.....

Mr. F. E. James : May I ask my Honourable friend which particular recommendation of the External Capital Committee's report he is referring to ?

Mr. B. Das : Sub-clause 8A, clause 2 defines an ' Indian insurer ' as an insurer three-fourths of whose paid up capital is held in their own right by British Indian subjects domiciled in India and three fourths of the members of whose governing body are British Indian subjects. In the External Capital Committee's report.....

Mr. F. E. James : I may assure my Honourable friend that this is not in that Committee's report.

Mr. B. Das : Perhaps the Honourable Member has forgotten the recommendation which is accepted but which was dropped later on because the Government became so bureaucratic and reactionary that they never considered the report at all and they were even against accepting them.

Mr. F. E. James : I might possibly help my Honourable friend. I think he is referring to the recommendation which suggests that there might be some proportion of the directors, but no proportion of shareholders particularly is referred to.

Mr. B. Das : Is it the view of my Honourable friend that the shareholders should be 99 per cent. foreign and one per cent. Indian ? Is that the interpretation of my Honourable friend ?

The Honourable Sir Nripendra Sircar : The Honourable Member has been continually repeating that on every occasion ; it is not in that report.

Mr. B. Das : That has been demanded by this side of the House very often. If the majority report of the External Capital Committee has not given a percentage, have the Government taken the trouble all these twelve years to come to fix that proportion ? Why do the Government leave it in thin air ? Have the opinions and the views of the Indian commercial community been taken into consideration ? They have all along demanded that 75 per cent. of the capital should be Indian, 75 per cent. of the Directors or members of the governing body should be Indians. The Government have never made any statement on it. Let them themselves define. If the Government do not agree to 75 per cent., is it just for them to leave the question hanging in thin ethereal air. They should come to some solution. When by force we become the Government and we will then legislate what should be the proper thing to fix.

Sir, I, therefore, ask the House to oppose the amendment. The Honourable the Law Member, who is generally very sympathetic in many other directions, has, unfortunately, himself tabled this amendment which emanated from the directors of the European Group. The Honourable Members of the European Group have all along been unsympathetic to Indian business, Indian commerce and Indian trade ; we cannot expect any sympathy from them, and I, therefore, reserve my judgment on them till I hear their speech. With these observations, I oppose the amendment.

Mr. T. Chapman-Mortimer (Bengal : European) : Sir, I rise to support the motion before the House for the deletion of clause 2, sub-clause 8A. I do so on three grounds. First of all, because we, in this Group, consider it is an unnecessary clause and secondly, it is a useless clause because it entirely fails to secure the objective which it is designed to secure.

Mr. Sri Prakasa (Allahabad and Jhansi Divisions : Non-Muhamadan Rural) : What is the difference between " unnecessary " and " useless " ?

Mr. T. Chapman-Mortimer : Unnecessary from the point of view of the Bill and also useless (because there is a difference) from the point of view of the purpose and intention of Honourable Members opposite. Even the speech of my Honourable friend the Leader of the Opposition, seemed to me to support my view that it is pretty useless. Thirdly, we oppose this because we consider it to be unsound in principle. In regard to its being unnecessary, first of all, I should like to draw the attention of the House to the definition of an 'insurer' in clause 2, sub-clause (8). If Honourable Members will look at that, they will find that it is very complicated and difficult to understand. But there are many lawyers on the Benches opposite that I feel sure for them at all events, even if it is not for a layman, it will be more or less easy to understand. If they will look at that clause and look at the whole construction of this Bill, they will see that there is ample provision there for the one thing they want to secure, namely, to differentiate between different types of companies coming from different countries. That, Sir, is the first point to which I draw the attention of Honourable Members in all parts of the House. Secondly, my Honourable friend, the Law Member, pointed out, that the definition is used nowhere in the Bill. It was used in clause 3A which is now disappearing from the Bill because that too was rather a useless and unworkable clause.

Then, Sir, the contention of my Honourable friend, the Leader of the Opposition, was, that clause 3A was very necessary, more particularly in regard to two clauses, clause 26 and clause 53 and that it is particularly necessary in these two cases to have such a definition as is proposed here. With due respect, I propose to show that he is quite wrong and that, in fact as the Honourable the Leader of the House has told us, necessary provision might be made when we come to clause 26 and a distinction drawn between the three types of companies to which he has referred. That is to say, Indian insurers, United Kingdom insurers and others. I suggest, Sir, that from his own words, what is wanted is that the conditions to be obtained by United Kingdom companies should be restricted to those who are domiciled as well as incorporated in the United Kingdom—I think that is correct. If that is so, it seems to me perfectly possible and easy for the draftsman to make such a definition when we come to clause 26. I suggest, therefore, that this definition, so far from helping us for clause 26, is much more likely to get us into a thorough mess. It is very much simpler to stick to the definition we have got in clause 2 (8), and, if any further differentiation is required such as my Honourable friend, the Leader of the Opposition, has indicated, namely, domicile, let us put that in when we come to clause 26. Then, he will be able to ensure that the thing that he wants to ensure will be secured, namely, differentiation between those who are United Kingdom citizens and those who incorporate themselves in the United Kingdom for the sake of evading this Act. In parenthesis I may say that the number of companies or insurers likely to do that can hardly be counted on one hand,—two or three possibly, more likely none at all. Because, it is to be remembered that if they incorporate themselves in the United Kingdom they will have to comply with the requirements for insurance companies in the United Kingdom. They will have to put up heavy deposits in the United Kingdom and then they will have to do the same thing all over again in India for the sake of a paltry two or

[Mr. T. Chapman-Mortimer.]

three lakhs a year business. I suggest, Sir, that that is a very unlikely event. However, if it would satisfy the anxiety of my Honourable friends opposite and help to secure the object that they want to secure, namely, to differentiate between those foreign companies and United Kingdom companies, the way out is there,—to bring in the word “domicile” as well as “incorporation”.

So much for the first aspect which we considered, namely, that this clause is unnecessary. Then, there is the second aspect to which I have referred, namely, that it does not even secure the purpose it was intended to secure. I do not propose here to follow my Honourable friend, the Leader of the Opposition, in his long and learned disquisition on the merits or demerits of clause 113 of the Government of India Act. I propose to confine myself to the clause we are dealing with here and to some of the main objections to it. First of all, what can these non-Indian companies do? They can incorporate holding companies in India and these holding companies or investment companies can, in turn, hold shares in an insurance company to the extent of three-fourths. Supposing that these non-Indian insurers were determined that they really were going to get round this; all that they would have to do is, to secure possession of a holding company by buying it up or by incorporating it as a new company or by buying a predominating or controlling interest in the shares of some trust company, and they will then have secured all that they want to secure. That is the first thing.

An Honourable Member : Then, we will have our directors.

Mr. T. Chapman Mortimer : No, I will explain that in a moment. Then, you say that three-fourths of the paid-up capital should be held by British Indian subjects. It may be that three-fourths of the share capital is held by British Indian subjects, and one-fourth share is held by me, or a Chinese or a Japanese, and I or they could take pretty good care to see that the voting power was in my hands. It would not pay to have your 75 per cent. of British Indian share-holders.

Then, thirdly, the market for these shares will obviously be restricted. People who deal in insurance shares will not want to have anything to do with these shares, because if anyone by purchasing its shares makes the company an illegal body he will not want to run the risk of having anything to do with an illegal body. So he would probably refrain from purchasing these shares. Then, the proposal is that they should have three-fourths of the members of the governing body British Indian subjects. It is the easiest thing in the world to create dummy directors; it is not peculiar to India.

Mr. B. Das : Is that what you are doing in Calcutta? (Laughter.)

Mr. T. Chapman-Mortimer : No Sir! But the fact remains that whatever the directors may be like in Calcutta, in all countries in the world where you have modern business, whether it is insurance or any other kind of business, you have dummy directors. If some one wants to control the company and make sure that he has got control in his own hands, what happens? He either puts in his friends

there, or if he does not put in his own friends he puts in people who are under some obligation to him or in some way under his influence or control. So that, on that ground also, it is not the slightest bit of good to you to have these provisions that you suggest here. It would not help you to do the thing which you want to do. There is another form of evasion to which my Honourable friend, the Leader of the Opposition, has already referred ; I refer to the type of evasion which would take place by having a holding in British Indian hands but blank transfers in the hands of Chinamen or Japanese or Germans or persons of some other foreign nation. My conclusion from all these points, therefore, is, and I hope it is also the conclusion of a large section of the House,—the larger section, I hope (Laughter),—that this is an entirely unworkable clause. It can be got round in every way and obviously would be got round by people who really wanted to do so.

Finally, I come to the question of principle. We are entirely opposed to provisions which say that any special percentage of capital or directorate should be held by any particular class of person, whether it is a British Indian or Chinese or whomever it may be. It does not seem to us to be a sound provision ; and what is more, though I have listened with great attention to my Honourable friend, Mr. B. Das, I was quite unable to recollect any provision in the External Capital Committee's report such as this provided for here, namely, three-fourths of paid-up capital being held in their own right by British Indian subjects.

Prof. N. G. Ranga (Guntur *cum* Nellore : Non-Muhammadian Rural) : Have you read it at all ?

Mr. T. Chapman-Mortimer : Yes, many years ago (Laughter), but I read it again quite recently. If my Honourable friend likes, I can read it again to him. In the case of bounties and assistance of that kind, it says :

“ In the case of a public company, first of all two conditions should be complied with. The first is that reasonable training should be granted to Indians.”

Well, Sir, people of my community who enjoy the benefits of preference, as we do in some cases, have been trying to implement,—this is for the benefit of my Honourable friend, Mr. Das, who wanted to know what we are doing about it,—we have been trying to implement the first of these provisions, namely, to give reasonable facilities for the training of Indians. Then, we come to No. 2. It is in three simple parts. First of all, it should be a firm registered under the Indian Companies Act, 1913 ; secondly, in regard to share capital, the amount shall be expressed in rupees ; and thirdly, that the proportion of directors as may be prescribed should consist of Indians. Nothing whatever there about three-fourths of the share capital being in British Indian hands ! And as to the value of the third provision, *i.e.*, prescribing that a certain number of directors must be Indians, I have already said, we all know the case of the dummy director ! Therefore, we consider that in principle this is thoroughly bad. It is bad in principle as it is unnecessary to this Bill and unworkable in actual practice. It has been suggested that we should make clear our position in regard to non-United Kingdom foreign companies : I propose,

[Mr. T. Chapman-Mortimer.]

with your permission, to do so. We entirely share the views of my Honourable friend, the Leader of the House. Some kind of differentiation must, and I feel sure, will be made, but we do not consider that this is the way in which to do it. We do not consider that non-United Kingdom subjects should come under the umbrella of section 113 of the Government of India Act and so evade the intention of this Act by incorporating in the United Kingdom. We certainly do not support that idea ; but, as I have already pointed out, the odds against people doing it are very long odds indeed. So much for our position regarding foreign companies. But in view of certain remarks which dropped from the lips of my Honourable friend, Mr. Das, and the appeal he made to us, and in view also of the implications shall I say,—I have not got his actual words,—of the words that came from my Honourable friend, the Leader of the House, the other day, I should like just to make quite clear the position that we take up in regard to our commercial position in this country. My Honourable friend, the Leader of the Opposition, seemed to suggest that European business in this country takes shelter—I think I am correct in saying it—behind clause 113 of the Government of India Act, and he very clearly indicated that, in his opinion, our true safeguard lay not in section 113 or 114, but in trusting the people of this country. Well, Sir, I need hardly say that there is no single sensible European that would not subscribe to that doctrine. We know perfectly well that not only must we win the trust and confidence of the people, but also their esteem if our business in this country is to continue to prosper. We can only do that if we fully recognise what my Honourable friend, the Leader of the Opposition, claimed we ought to recognise, namely, India's right to conserve and promote the business of her nationals : I think these are his exact words. We do fully recognise India's right to conserve and promote the business of her nationals, and we do not seek, in any way, to use these safeguards or to appeal to these safeguards to stand in the way of India's commercial development. I would remind the Honourable Members in this connection of the existence not only of section 113, but also of section 118. If they have a copy of the Government of India Act by them they will be able to see that that provides for the disappearance of this discrimination clause under certain circumstances. In that connection, Sir, I think it is not perhaps unfitting that at this juncture I should remind the Honourable Members opposite how this clause came to be put into the Act. It was necessary because of avowedly expropriatory intentions of a few selfish groups and we know from the pact between Mr. Gandhi and Lord Irwin that Mr. Gandhi fully recognised that in the present conditions of India some sort of protection of this kind was necessary. He subsequently again subscribed to the same idea at the Round Table Conference, as my Honourable friend, Mr. Jinnah, pointed out the other day. Now, Sir, he did think it was necessary to save us from the Congress. Naturally he could not. Think that ! Nor am I afraid of my Honourable friend, the Leader of the Opposition, even when he is in his most fighting mood ; nor am I afraid of the Honourable Members opposite nor are any of us afraid of them or their party any more than they are afraid of us. We fully understand that if our position in this country is ever to be really

secure, I mean our commercial position, it can only be done in one way, and that is by gaining the confidence and trust of the people, and in that, Sir, I am perfectly certain we shall be able in the future to hold our own in this country. Sir, I support the motion.

The Honourable Sir Nripendra Sircar : I have not the right of reply on an amendment, but I am not going to reply on the amendment : I want to make a statement. The two statements I have heard seemed to give me hope that the matter is capable of solution : one, the statement of the Leader of the Opposition that he was willing to make it expressly clear in every section that (he will kindly correct me if I am wrong) he is not discriminating between the United Kingdom companies and the Indian companies : I find that the last speaker, Mr. Chapman-Mortimer, agrees with the view which was shared by me and Mr. Desai equally, that there is no reason why we should give any opportunity to a German company incorporating in England or anywhere and getting the advantages of being a United Kingdom company. Well, if that is the position, I believe this difficulty is capable of solution, and I would like this matter to be taken up later, but, to avoid misleading the House, I want to make it perfectly clear that if my friend, Mr. Desai's position taken up at one time is accepted, namely, whatever their rights under 113, if United Kingdom have not got such rights they have not got them, then I do not think, Sir, so far as I am concerned, I shall be able to come to an agreement. I cannot agree to let the matter remain in doubt ; that there is going to be no discrimination against United Kingdom must be free from doubt ; I am quite willing to find a possible means of solution on the following lines, namely, that it will be made clear that there is no discrimination between the genuine United Kingdom companies and Indian companies and that the desire of all the sections of the House is to find a solution for the narrower problem, viz., that a French company or, say, a German company incorporated in England may not get the benefit of 113, and that 113 may not be extended to an extent which possibly Parliament never contemplated. If my friends will agree, and I appeal to the Leaders of the Opposition, to leave the matter in that condition. I can assure the House we shall then be able to save this Bill. I know what will inevitably happen if you leave it to a court to judge, how United Kingdom companies have been affected by this Bill. I do not say this by way of a threat but this Bill, for which we all have laboured so much, will be altogether wrecked. As my friend agreed that he would not make any discrimination against United Kingdom, and as the European Group has also agreed it will help us in coming to a solution for fighting the kind of companies we are thinking of, I would ask you, Sir, to take this up with 26.

If I may make one more request that, as we do not know when this definition is taken up, what form it will take or whether we may be able to do without any definition and put the proper words in clause 26, some indulgence may be given to all parties in the matter of drafting amendments to clause 26. What I mean, Sir, is this. I have to draft amendments to clause 26. Now, in drafting them, I have to make my mind as to whether I shall use the word Indian insurer or not. If this matter had been decided today I would have proceeded on the assumption either that these words exist or disappear, but as they are remaining in a kind of suspended animation, when this is taken up I and the other parties

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may not be ready with our amendments. What I request the Chair to do is this : should it commend itself to this House this matter should stand over till 26 is taken up, a little latitude may be given in the matter of amendments. By it I mean that we should not be asked to draft amendments then and there, but that at least one day may be given to us for putting in amendments. If this is acceptable to the House and to the Chair I am quite agreeable to letting the matter stand over.

Sir Leslie Hudson (Bombay : European) : If I may add just one word to what the Honourable the Law Member has said : speaking for my Party, we should be perfectly willing to agree to that, but we do think that if some way is to be found out of this impasse, a conference should be held at which the representatives of all parties should be present.

Mr. Deputy President (Mr. Akhil Chandra Datta) : May I take it that the sense of the House is that this should stand over till clause 26 is reached ?

Honourable Members : Yes.

The Honourable Sir Nripendra Sircar : Sir, I would like to have a ruling from you, that we may have at least one day, if not two days, for putting our amendments on clause 26, because I do not know exactly what will happen when this definition will be taken up, and the form of my amendment must depend on the exact language which is adopted by the House on the definition. All that I am asking is that in connection with the amendment of clause 26, after this definition is disposed of, we may be given 24 hours time to put in our amendments to clause 26.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : I understand that if some satisfactory amendment is made to section 26, then this definition may not be insisted upon—that is how I understand. May I then suggest to the House and to the Leaders of the various parties that it will be better if a few of us should meet and see whether we can produce or draft a settled amendment between ourselves ? If that course is adopted, I think it will facilitate the work, and if the amendment drafted is acceptable to all the parties, then the work is done.

The Honourable Sir Nripendra Sircar : I am quite willing to meet all the parties and help to try and find out if we can come to some arrangement ; but I was providing for the possibility—let us hope a remote possibility—that after we meet no solution is found. Then this definition comes up. It is either retained or it goes out : and I am asked to move my amendments on clause 26 : I do not know what language to use. I shall do my best : I shall meet the Leaders in conference and try my best to come to an arrangement ; but if that fails, all that I want is that I may not be asked to move my amendments then and there after this thing has been taken up. After all a day's delay will not matter : there are other sections, following section 26 : we have got various controversial sections after 26.

Mr. Deputy President (Mr. Akhil Chandra Datta) : I think the House is agreeable to the suggestion which the Honourable the Leader

of the House has made. But if any attempt to come to a settlement fails, and if one or two days is wanted, it will be given for amendments to be proposed and tabled to section 26.

Mr. B. Das : Sir, I move :

“ That after part (i) of sub-clause (1) of clause 6 of the Bill, the following be inserted :

‘ (j) where the business done or to be done is marine insurance relating to country craft and/or its cargo, ten thousand rupees only ’.”

Sir, before this insurance idea was known to the Anglicised Indians and to the people of India generally, a form of marine insurance was being carried on from time immemorial by many Indian firms who used to insure cargo boats plying on the coasts of India. The Honourable the Law Member has already received their representation ; on the Bombay coast there are four or five underwriters' firms who carry on business to the tune of a crore of rupees, and the amount they receive in premia is to the extent of Rs. 50,000. In Karachi side also there are a few Indian firms of underwriters who carry on similar insurance business and the extent of business is nearly 50 to 60 lakhs, and the premia they get is 50 to 60 thousand rupees. It is understood that there is similar business done in Madras and Bengal coasts but I have no information whether such cargo boats and country crafts insure with Indian firms as is done on the Bombay and Karachi side. These firms which carry on marine insurance for small cargo boats insure those boats to the extent of five to ten thousand rupees and sometimes to 15 thousand rupees. When the amount is 15,000 rupees, then four firms distribute the risk, as big insurance companies also do : and payment is always ready if any accident takes place. If any damage takes place they get hold of the help of the Customs Department of the Government of India or a surveyor from Bombay or Karachi and they assess the extent of the damage and the money is paid. So far as I have ascertained, nowhere has there been any trouble as regards payment. But these firms of underwriters, who are Indian firms, not incorporated companies, do not know English : they are carrying on business as their ancestors did 5,000 years or a 1,000 years ago. The money is paid if the boat is lost on the seas or its cargo lost or damaged ; and no complaint has been heard anywhere that the money has not been paid. As we are legislating today a highly scientific insurance law, we penalise these firms whom I will call underwriters firms for marine insurance who are doing business for ages and giving a certain amount of help to the country craft and cargo boat trade : these boats in every case are owned by one or two boatmen. They ply their trade. Sir, the English Government, during their regime of 150 years and odd, have not educated the whole of India in the English language. So far only six per cent. of the population is literate in India. We cannot expect these country boat proprietors to suddenly learn English and go to big Insurance companies. I do not think that any Indian on this side who knows his countrymen, particularly, those who are living in distant nooks and corners of India and who do not know English and the modern ways of civilization, would like, that a penalty should be imposed on poor Indians so as to induce them to go to Bombay and other places and approach big insurance agents and pay probably double the premium. It is never the intention. Probably the Honourable the Law Member, whose heart is full of sympathy for the poor, does not mean to penalise these poor people in that

[Mr. B. Das.]

way. The other day he interjected when some one was speaking and said that these people do business worth a crore of rupees. Yes, but the insurance premium paid is only worth about Rs. 50,000 or Rs. 60,000, and so the money is not large. But to expect these people to undergo all the trouble of going to distant places or of preparing a balance sheet and all that sort of thing would be extremely troublesome, because these private firms are not accustomed to modern ways. Therefore, I have moved this amendment, and I do hope that the House will consider it most indulgently and accept it. If that is accepted, I have got a further amendment subsequently in the miscellaneous sections where the Governor General will have power to make regulations about the control of these underwriters firms. With these observations, Sir, I commend my amendment to the House.

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

“ That after part (i) of sub-clause (1) of clause 6 of the Bill, the following be inserted :

‘ (j) where the business done or to be done is marine insurance relating to country craft and/or its cargo, ten thousand rupees only ’.”

Mr. Mathuradas Vissanji (Indian Merchants' Chamber and Bureau : Indian Commerce) : Sir, this very point was brought out in the course of my speech at the time of the general discussion. My friend, Mr. Das, has already brought out the major points on which I wanted to speak, and so I shall restrict myself to one aspect of the question, and that is, if this relief is not afforded to country craft insurers, there is every possibility of their being wiped out if not totally, at least partially, and to that extent it will make the position of people who want to insure their goods in country craft very difficult. Sir, I am told that some of the big insurance companies are doing this kind of business to a limited extent, but these companies do not afford those facilities which these small country craft owners do. In that case, shipments by country craft will naturally be restricted but nobody would like to take the risk unnecessarily. And if big insurance companies are encouraged to compete with these country craft people, what will happen to the country craft insurance trade ? That will again add to unemployment. Sir, we have been doing the country craft building business for ages, and now the only thing left to us is to build country craft in our country, and if that is also not to be encouraged, then what are we to do ? Therefore, Sir, I think the House will consider this question very favourably to give the necessary relief to these country craft business people. I support the amendment.

Mr. Husenbhai Abdullabhai Laljee (Bombay Central Division : Muhammadan Rural) : Sir, I rise to support the amendment moved by my friend, Mr. Das. It must be remembered that the country craft business is confined to the Indian coast, and we have recently heard a good deal about the reservation of coastal traffic to Indian bottoms. But, Sir, the important question is this. We have a large traffic between smaller ports, and that traffic is carried on by country craft, and the House should remember that the carrying capacity of a country craft is not more than 200 tons. That means a country craft with a capacity of 200 tons cannot carry goods worth more than Rs. 5,000 or Rs. 7,000 or Rs. 10,000 at the most. It has been stated by some Honourable Members that the total volume of business done by these country crafts comes

to about a crore of rupees. Surely, the coast of India is very large, and there are many ports between which traffic is carried on by these small country crafts. But the main thing we have to consider is what is the total amount of risk undertaken at one time? Again, another point is with regard to marine risk. It does not take more than a week or a fortnight to settle claims in the event of an accident or loss, and the liabilities also don't come to very much. Another point is, these country crafts are insured by the merchants themselves,—they work more or less on a co-operative basis. If a country craft accepts goods, say, worth about Rs. 10,000 belonging to five or six different owners, the risk is evenly distributed among various merchants. When a man insures his goods sent by country crafts, he first takes care to see what the underwriter is worth. Sir, this is an ordinary business carried on on trust. In fact, in the ordinary course of business we give our customers goods worth lakhs of rupees on approval, and nobody takes any objection to it, but there is a *bona fide* business carried on by small traders and Government wants to interfere with them and wipe them out of existence. I am sure my Honourable friend, the Law Member, who has a sympathetic heart for the poor, will consider this amendment favourably and will accept this amendment and thus encourage the small country craft business, or at least he will allow this business to exist. Sir, we have heard of sympathy being extended to European firms in the name of United Kingdom and when we get enough motor boats, we shall certainly go to our European friends, but surely so long as we confine our business to country crafts, no impediments should be placed in the way of small traders, and if it is intended to indirectly handicap these small country crafts and kill their trade, then God help Indians.

The Honourable Sir Nripendra Sircar : Sir, these small men are lucky in having very big supporters. But, I have got their representation before me in which they say they are only about half a dozen in number, and the insurance business is done to the extent of a crore of rupees. The premium in all this business is about Rs. 35,000 to Rs. 50,000 a year; small men are handling big amounts! What is the difficulty if there are six men?

Mr. Husenbhai Abdullabhai Laljee : I question that they are six. I know that there are more than 20 men. I know that for a fact.

The Honourable Sir Nripendra Sircar : I am reading the representation sent by them.

Mr. Husenbhai Abdullabhai Laljee : It may be only six who have been put up to do that.

The Honourable Sir Nripendra Sircar : Probably, like the fisherman counting his family by making all one. But what is it that they say? "There are half a dozen of us who are taking marine risk on cargo." It may be six families; it does not matter. But the point is this. If they are 6, or 16, or 20, or make a concession of one, let them be 21, who are doing this business on the coast.

Mr. Husenbhai Abdullabhai Laljee : It is only in Bombay, but there are many outside.

The Honourable Sir Nripendra Sircar : Let my Honourable friend take care of Bombay; the other provinces won't matter. (Laughter.)

[Sir Nripendra Sircar.]

If they are 21, I am sure that if they go to Mr. Sen, for less than Rs. 2,000 they can get a private company formed and, therefore, the whole of them can put in all altogether,—instead of each of them putting in Rs. 10,000,—it will be Rs. 2,10,000,—they can put in Rs. 1,50,000 on behalf of that private limited company. If they are not more than 20, they can form a partnership. But is there any reason for differentiating them when they are dealing in such large amounts? I am told that the heart of everyone of us is melting for the policy-holder! Goods worth one crore of rupees, belonging not to the small man but to other people. If we were trying to protect the policy-holders in all branches of insurance why should we be so hard-hearted against people who deal with the smaller crafts? But, as I pointed out, it is not a question of lack of sympathy or lack of understanding or anything of that sort. There is really no difficulty in their way. They can combine—if not more than 20 they can form a partnership; if more, they can form a private limited company. And they are not worse off than others; on the other hand, they will possibly be better off. Sir, I am sorry I cannot accept this amendment. I oppose it.

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

“ That after part (i) of sub-clause (1) of clause 6 of the Bill, the following be 4 P.M. inserted :

‘ (j) where the business done or to be done is marine insurance relating to country craft and/or its cargo, ten thousand rupees only.’ ”

The Assembly divided :

AYES—65.

Abdul Ghani, Maulvi Muhammad.
Abdul Qaiyum, Mr.
Abdullah, Mr. H. M.
Aney, Mr. M. S.
Ayyangar, Mr. M. Ananthasayanam.
Bajoria, Babu Baijnath.
Banerjee, Dr. P. N.
Bhagavan Das, Dr.
Chaliha, Mr. Kuladhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chaudhury, Mr. Brojendra Narayan.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachclam.
Chunder, Mr. N. C.
Das, Mr. B.
Desai, Mr. Bhulabhai J.
Deshmukh, Dr. G. V.
Deshmukh, Mr. G. V.
Essak Sait, Mr. H. A. Sathar H.
Gadgil, Mr. N. V.
Ghiasuddin, Mr. M.
Govind Das, Seth.
Gupta, Mr. K. S.
Hans Raj, Raizada.

Hosmani, Mr. S. K.
Jedhe, Mr. K. M.
Jahangir, Sir Cowasji.
Jogendra Singh, Sirdar.
Joseph, Mr. George.
Kailash Behari Lal, Babu.
Lalchand Navalrai, Mr.
Laljee, Mr. Husenbhai Abdullabhai.
Maitra, Pandit Lakshmi Kanta.
Malaviya, Pandit Krishna Kant.
Mangal Singh, Sardar.
Misra, Pandit Shambhu Dayal.
Mody, Sir H. P.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Murtuza Sahib Bahadur, Maulvi Syed.
Paliwal, Pandit Sri Krishna Dutta.
Pande, Mr. Badri Dutt.
Parma Nand, Bhai.
Raghubir Narayan Singh, Choudhri.
Ramayan Prasad, Mr.
Ranga, Prof. N. G.
Rao, Mr. Thirumala.
Saksena, Mr. Mohan Lal.

AYES—contd.

Sant Singh, Sardar.
 Santhanam, Mr. K.
 Satyamurti, Mr. S.
 Sham Lal, Mr.
 Shaukat Ali, Maulana.
 Sheodass Daga, Seth.
 Siddique Ali Khan, Khan Sahib Nawab.
 Singh, Mr. Gauri Shankar.
 Singh, Mr. Ram Narayan.

Sinha, Mr. Satya Narayan.
 Som, Mr. Suryya Kumar.
 Sri Prakasa, Mr.
 Umar Aly Shah, Mr.
 Varma, Mr. B. B.
 Vissanji, Mr. Mathuradas.
 Zafar Ali Khan, Maulana.
 Ziauddin Ahmad, Dr.

NOES—47.

Abdul Hamid, Khan Bahadur Sir.
 Ahmad Nawaz Khan, Major Nawab Sir.
 Bajpai, Sir Girja Shankar.
 Boyle, Mr.
 Buss, Mr. L. C.
 Chanda, Mr. A. K.
 Chapman-Mortimer, Mr. T.
 Dalal, Dr. R. D.
 Dalpat Singh, Sardar Bahadur Captain.
 DeSouza, Dr. F. X.
 Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
 Fazl-i-Ilahi, Khan Sahib Shaikh.
 Ghulam Muhammad, Mr.
 Gidney, Mr. C. W. A.
 Griffiths, Mr. P. J.
 Grigg, The Honourable Sir James.
 Highet, Mr. J. C.
 Hudson, Sir Leslie.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Kamaluddin Ahmed, Shams-ul-Ulema.
 Kushalpal Singh, Raja Bahadur.
 Lang, Mr. J. O.
 Lloyd, Mr. A. H.
 Mackeown, Mr. J. A.

Mani, Mr. R. S.
 Mehr Shah, Nawab Sahibzada Sir Sayad Muhammad.
 Mehta, Mr. S. L.
 Mudie, Mr. R. F.
 Nagarkar, Mr. C. B.
 Nayudu, Diwan Bahadur B. V. Sri Hari Rao.
 Ogilvie, Mr. C. M. G.
 Parsons, Lieut.-Colonel A. E. B.
 Pursell, Mr. R. S.
 Rahman, Lieut.-Colonel M. A.
 Roy, Mr. S. N.
 Scott, Mr. J. Ramsay.
 Sen, Mr. S. C.
 Shahban, Mr. Ghulam Kadir Muhammad.
 Sher Muhammad Khan, Captain Sardar Sir.
 Sircar, The Honourable Sir Nripendra.
 Spence, Mr. G. H.
 Staig, Mr. B. M.
 Stewart, The Honourable Sir Thomas.
 Sukthankar, Mr. Y. N.
 Sultan Ahmad, The Honourable Sir Saiyid.
 Thorne, Mr. J. A.

The motion was adopted.

Mr. S. Satyamurti : Sir, I move :

“ That in sub-clause (2) of clause 6 of the Bill, for the words ‘ one and a half ’ the word ‘ two ’ be substituted.”

This refers to one of those mysteries in the Bill, called the Society of Lloyd's. As I said the other day, I have not yet understood what exactly Lloyd's means, but I am told frequently that every member of this Lloyd's is a millionaire, and, therefore, there is no danger of any loss to anybody. I have been told in many places publicly and privately ‘ Why do you ask about Lloyd's. Every person there is a millionaire. They are so good, so rich ’ and so on. If Honourable Members will look at this clause 6, they will find this :

“ Where the insurer is an insurer specified in sub-clause (c) of clause 8 of section 2, he shall be deemed to have complied with the provisions of this section as to deposits, if in respect of any class of insurance business transacted by him in British India under a standing contract of the nature referred to in sub-clause (c) of clause 8 of section 2 a deposit of an amount one and a half times that specified in sub-section (1).”

[Mr. S. Satyamurti.]

and so on. I simply want to substitute two times for one and a half times. I submit it is a reasonable amendment. It ought not to be opposed, and I hope, Sir, that Government will see their way to accept the amendment. In any case, I trust that the House will carry it unanimously. I move.

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

“ That in sub-clause (2) of clause 6 of the Bill, for the words ‘ one and a half ’ the word ‘ two ’ be substituted.”

The Honourable Sir Nripendra Sircar : With great respect to my friend, I think this is rather vindictive. Lloyd's average annual out-turn here is between 12 and 13 lakhs of rupees. Of course, that is not even 1/250th part of their whole business. Their Indian business is between 12 and 13 lakhs. We are taking only one time, if I may use the expression from at least three like the Norwich, who are doing business to the extent of eleven lakhs. If there is anything like a rule of three, up to 15 or 16 lakhs ought to be covered by the 1½ times which they are paying. Why raise it to two ? I say, there must be some method in it and I object to this amendment.

Mr. M. Ananthasayanam Ayyangar (Madras ceded Districts and Chittoor : Non-Muhammadan Rural) : I have given an amendment which seeks to raise the amount of deposit to five times but I am now confining myself to this very modest amendment. The House may ask who these Lloyd's are and who their agents are. Whatever their reputation in England may be, they are individuals who transact this marine insurance business in their individual capacity. Whenever a policy is sought to be undertaken, four or five of them constitute themselves into a syndicate and each one of them takes a particular portion of the risk. They do not even constitute a partnership. In England there are a number of public men who are members of this Lloyd's Association and they constitute themselves into a corporation only for the purpose of enabling them to come together, so that individually they may enter into agreements with various persons who want to insure their ships and other things. Therefore, let us not be carried away by the impression that because they have their branches here and there this Lloyd's Corporation is directly responsible for the risks. It is not that Corporation which has got these buildings here and there that is the insurer. It is simply a member of that Corporation who is the insurer working in his individual capacity. It may be that sometimes a member enlarges himself into a syndicate constituting three or four persons, and there are 300 or 400 such syndicates in England. The other day when we were on the definition of Lloyd's it was said that we should include similar associations or similar individuals who might carry on similar business in the whole of the British Empire. That was the original extent of the definition, but this House resolved that it ought not to be extended to any other corporation or any other body or members of corporation other than the Lloyd's. To that extent we have gained. It was found that individuals ought not to be allowed to carry on this business lest there should be a risk involved and they may not be able to meet the risk.

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

Now, we are on another stage when we are seeking to impose an additional restriction that they ought to deposit twice as much as any other insurer. The Honourable the Leader of the House has just told us that Lloyd's carry on business to the extent of 13 or 14 lakhs per year.

The Honourable Sir Nripendra Sircar : I did not say that. I said 12 to 13 lakhs.

Mr. M. Ananthasayanam Ayyangar : A difference of one or two lakhs does not matter much. Sir, you will note that whereas conditions have been imposed upon persons who carry on life insurance business that they must deposit a large amount in this country to meet matured business, there is no such obligation so far as the persons who carry on either fire or marine business are concerned. No such restriction has been placed and for aught I know it is not contemplated at all in the numerous amendments that have been given either by the Government or by us. There is no amendment to that effect. Therefore, the ordinary safeguard in the case of the life insurance business is not here. That means that 10 to 13 lakhs are being taken away from this country every year and when the time to meet the risk comes, an attempt may be made to prove that the individual insurer is not bound to pay the amount. It is only for that reason that we insist that twice the amount ought to be paid by way of security.

Sir Cowasji Jehangir : Mr. Satyamurti said that they were millionaires.

Mr. M. Ananthasayanam Ayyangar : He only said that they act as millionaires by reputation. We do not know what they really are. And the same we hear about so many other gentlemen here. Of course, I do not mean anything disrespectful to any Member. Having regard to the name and the importance that is attached to this Company, I tried to search from end to end the Year Book 1935 regarding the insurance companies that carry on their business in this country. I did not find the name of Lloyd's at all. I will refer the House to pages 153 and 154 where the figures of the non-Indian companies constituted in the British Empire are given. That only supports my contention that even the small details that are available regarding the foreign companies that transact business in this country are not available in the case of Lloyd's. I do not know from what source the Honourable the Leader of the House got the information that they take 12 to 13 lakhs of rupees from year to year.

Sir, this demand for a deposit of twice the amount is not peculiar to this country nor is it exorbitant. I find that the Union of South Africa have also imposed a similar obligation upon every agent of Lloyd's. They are asked to deposit a sum of £2,000 each. They do not take the deposits in one lump but insist upon their depositing £2,000 individually. Therefore, I would go to the length of saying that

[Mr. M. Ananthasayanam Ayyangar.]

each individual must deposit twice as much as any fire or marine insurer deposits in this country under section 6. Each individual or each group of individuals which constitutes a syndicate is an independent entity. Therefore, all the 300 syndicates that carry on business ought to be asked to deposit a sum of 2 lakhs of rupees each which is twice as much as any other insurer deposits. But, I submit that our claim is absolutely modest and I hope the House will accept it and not merely depend upon the reputation of Lloyd's which may fall to the ground at any moment.

Mr. T. S. Avinashilingam Chettiar (Salem and Coimbatore *cum* North Arcot : Non-Muhammadan Rural) : I am sorry, Sir, the matter has been looked at from an entirely wrong point of view. The amount of security that they are asked to deposit should, in no way, be the result of what business they do here or whether they are rich or poor. The facts are that the Lloyd's are not one single company. I hope I am correct when I say that over 300 separate syndicates are formed into unions.

The Honourable Sir Nripendra Sircar : These 300 syndicates do not work here. Their number is 300 in England.

Mr. T. S. Avinashilingam Chettiar : It is a fact that Lloyd's constitute 300 syndicates or so. Of these 300, how many of them work here I do not know. But it is a fact that there are over 300 syndicates working here.

Mr. S. C. Sen (Government of India : Nominated Official) : There is no syndicate at all.

Mr. T. S. Avinashilingam Chettiar : I am sorry I have not got the reference book here with me but I can give the Honourable Member the reference of the Year Book which gives particulars of the persons who constitute those syndicates. They are all separate entities and do their business separately. The profit and loss of one syndicate is not shared by the other. It is only for the purpose of the regulation of the commission and premium and other things that they are formed into a bigger syndicate and they call themselves Lloyd's. But the insurance companies which constitute the Lloyd's are really more than 300. So, legally, if they are taken separately, their number is 300 and they are all doing separate business. How many of them do business in this country, I am not in a position to say. Bearing that in mind, I can safely say that this amendment is very modest. We should not be carried away by false notions, whether the business transacted by them here is low or not. For the matter of that, many of the smaller companies do not transact very much business and yet we ask them to deposit so much money. So, I submit that their credit or their non-credit or the amount of work they do here is by no means a criterion by which we should judge the amount of the deposit they should make. I submit that this amendment is very modest and it should be accepted by the House.

Mr. Bhulabhai J. Desai : Sir, the question really resolves itself into this, by using the word 'vindictive' you have made a complete argument against the opponents, which as I deem to be a sarcasm, I warn

the House against being misled by the use of that word which in itself assumes the proposition to be proved and judging in that way—I know the proceedings of the Select Committee are sacrosanct and they cannot be divulged here—I am aware of this at least that I tried my best to extract information from one of my Honourable friends in the European Group as to who was liable on a policy of the Lloyds Group—the Lloyds individually whoever he may be—and the answer that I got was so unsatisfactory that as a lawyer I am afraid I would not bank anything on it and would be more careful before undertaking any such policy. But the question now is this. If each one of them ever insured here, he would be an insurer within the meaning of that Act, if each of their Agents were so regarded, they would certainly not merely be more than two, but probably more than 100 because Lloyds agents, so far as I am aware, are in the Western Presidency and other parts and they ought to be found in many important towns. Therefore, if you must have some test, you escape the test of each of the individual dealers. You want to escape by artificial definition, you want to escape so far as your own agents in this country are concerned. I am quite willing that the Honourable the Leader of the House may argue that the 300 are no longer in our country but what about the tentacles through which they work in this country and do we distinguish between people who take one lakh, or two lakhs or five lakhs or even twelve lakhs, each of them who is an insurer pays it. Let us, therefore, either deal with them through their Agents here, who, I believe the Honourable the Finance Member will remember in the Income-tax Act, are the persons through whom he gets non-Indian foreigners who do business in this country or who have business connections—words which have now been interpreted to his satisfaction by the Privy Council. So that if we get the Agent of the man who does business in this country, for income-tax purposes, may I appeal to his Colleague the Law Member to get a similar Agent through whom we may reach the non-resident foreigner who does business of insurance here. I think judged by every test, we ought to have at least fifty times what is now asked for. At least the case for the Agent through whom he does business would be covered by the Income-tax Act. I challenge my Honourable friend on the other side to tell me that the decision of the Privy Council is to the contrary, because though we succeeded in the High Court of Bombay, they went to the Privy Council on another thing and succeeded afterwards. Either get the Principal or if you must neglect the Principal at least get the money through the Resident Agent here. Then, I am told, that the Agents might form a company. Let them do business through a company. My Honourable friend, just a moment ago, told me, why not contractors form an insurance company. These people have not formed a company yet. Special definition is provided out of the solicitude, the extent of which it is very difficult to gauge and, therefore, I do ask that out of sheer decency, if for nothing more, the European Group will now get up and say this is much too little and, therefore, we agree to it.

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

“ That in sub-clause (2) of clause 6 of the Bill, for the words ‘ one and a half ’ the word ‘ two ’ be substituted.”

The Assembly divided :

AYES—55.

Abdul Qaiyum, Mr.
Aney, Mr. M. S.
Ayyangar, Mr. M. Ananthasayanam.
Banerjea, Dr. P. N.
Bhagavan Das, Dr.
Chaliha, Mr. Kuladhar.
Chattopadhyaya, Mr. Amarendra Nath.
Chaudhury, Mr. Brojendra Narayan.
Chettiar, Mr. T. S. Avinashilingam.
Chetty, Mr. Sami Vencatachelam.
Chunder, Mr. N. C.
Das, Mr. B.
Datta, Mr. Akhil Chandra.
Desai, Mr. Bhulabhai J.
Deshmukh, Dr. G. V.
Deshmukh, Mr. G. V.
Gadgil, Mr. N. V.
Govind Das, Seth.
Gupta, Mr. K. S.
Hans Raj, Raizada.
Hosmani, Mr. S. K.
Jedhe, Mr. K. M.
Jogendra Singh, Sirdar.
Joseph, Mr. George.
Kailash Behari Lal, Babu.
Lalehand Navalrai, Mr.
Laljee, Mr. Husenbhai Abdullabhai.
Maitra, Pandit Lakshmi Kanta.

Malaviya, Pandit Krishna Kant.
Mangul Singh, Sardar.
Misra, Pandit Shambhu Dayal.
Mudaliar, Mr. C. N. Muthuranga.
Muhammad Ahmad Kazmi, Qazi.
Murtuza Sahib Bahadur, Maulvi Syed.
Paliwal, Pandit Sri Krishna Dutta.
Pande, Mr. Badri Dutt.
Parma Nand, Bhai.
Baghubir Narayan Singh, Choudhri.
Ramayan Prasad, Mr.
Ranga, Prof. N. G.
Rao, Mr. Thirumala.
Saksena, Mr. Mohan Lal.
Sant Singh, Sardar.
Santhanam, Mr. K.
Satyamurti, Mr. S.
Sham Lal, Mr.
Sheodass Daga, Seth.
Singh, Mr. Gauri Shankar.
Singh, Mr. Ram Narayan.
Sinha, Mr. Satya Narayan.
Som, Mr. Suryya Kumar.
Sri Prakasa, Mr.
Umar Aly Shah, Mr.
Varma, Mr. B. B.
Vissanji, Mr. Mathuradas.

NOES—59.

Abdul Ghani, Maulvi Muhammad.
Abdul Hamid, Khan Bahadur Sir.
Abdullah, Mr. H. M.
Ahmad Nawaz Khan, Major Nawab Sir.
Bajoria, Babu Baijnath.
Bajpai, Sir Girja Shankar.
Boyle, Mr.
Russ, Mr. L. C.
Chanda, Mr. A. K.
Chapman-Mortimer, Mr. T.
Dalal, Dr. B. D.
Dalpat Singh, Sardar Bahadur Captain.
DeSouza, Dr. F. X.
Essak Sait, Mr. H. A. Sathar H.
Fazl-i-Haq Piracha, Khan Bahadur Shaikh.
Fazl-i-Ilahi, Khan Sahib Shaikh.
Ghiasuddin, Mr. M.
Ghulam Muhammad, Mr.
Gidney, Mr. C. W. A.
Griffiths, Mr. P. J.
Grigg, The Honourable Sir James.
Hight, Mr. J. C.
Hudson, Sir Leslie.
James, Mr. F. E.
Jawahar Singh, Sardar Bahadur Sardar Sir.

Jehangir, Sir Cowasji.
Kamaluddin Ahmed, Shams-ul-Ulema.
Kushalpal Singh, Raja Bahadur.
Laug, Mr. J. C.
Lloyd, Mr. A. H.
Mackeown, Mr. J. A.
Manavedan Raja, Rao Bahadur K. C.
Mani, Mr. R. S.
Mehta, Mr. S. L.
Mody, Sir H. P.
Mudie, Mr. R. F.
Nagarkar, Mr. C. B.
Nayudu, Diwan Bahadur B. V. Sri Hari Rao.
Ogilvie, Mr. C. M. G.
Parsons, Lieut.-Colonel A. E. B.
Purseell, Mr. R. S.
Rahman, Lieut.-Colonel M. A.
Roy, Mr. S. N.
Scott, Mr. J. Ramsay.
Sen, Mr. S. C.
Shahban, Mr. Ghulam Kadir Muhammad.
Sher Muhammad Khan, Captain Sardar Sir.
Siddique Ali Khan, Khan Sahib Nawab.
Sircar, The Honourable Sir Nripendra.

NOES—*contd.*

Sivaraj, Rao Sahib N.		Sultan Ahmad, The Honourable Sir Saiyid.
Spence, Mr. G. H.		Thorne, Mr. J. A.
Staig, Mr. B. M.		Yamin Khan, Sir Muhammad.
Stewart, The Honourable Sir Thomas.		Zafar Ali Khan, Maulana.
Sukthankar, Mr. Y. N.		Ziauddin Ahmad, Dr.

The motion was negatived.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, I beg to move :

“ That in sub-clause (2) of clause 6 of the Bill, after the words ‘ insurance business has been made ’ the following be inserted :

‘ in the Reserve Bank of India in one of the offices in India of the Bank for and on behalf of the Central Government cash or approved securities estimated at the market value of the securities on the day of deposit ’.”

As clause 6 (2) stands the deposit may be made in any bank,—the Bank of Italy or the Bank of Germany and in sterling securities or any securities because in sub-clause (1) the society of Lloyd’s has been excluded. And in sub-clause (2) it has not been said where the deposit is to be made and in what securities. Therefore, in order to bring sub-clause (2) into line with sub-clause (1), this amendment is moved and I hope it will be accepted.

Sir, I move.

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

“ That in sub-clause (2) of clause 6 of the Bill, after the words ‘ insurance business has been made ’ the following be inserted :

‘ in the Reserve Bank of India in one of the offices in India of the Bank for and on behalf of the Central Government cash or approved securities estimated at the market value of the securities on the day of deposit ’.”

The motion was adopted.

Mr. Mathuradas Vissanji : Sir, I move :

“ That sub-clause (3) of clause 6 of the Bill be omitted.”

This is in the matter of payment of deposits by general companies. It is within three years that the general companies have got to pay a deposit of 3½ lakhs. At present the general companies, in existence, are nearly 14 ; and looking to the conditions of these general companies, they have been doing good business and on sound principles for years past. I find that about eight companies would not be in a position to pay up the deposit by the time required. In that case either they will have to modify their business inasmuch as they would not be able to do their business or they will have to close down their business. Other companies have got life insurance as well, and so they will have to pay by that time, according to this, 4½ lakhs. This is really very hard on such companies, though doing good business and on sound principles, to meet these demands of the Act. I draw the attention of the House to the fact that generally when they are issuing policies to the trade and the trade is required to finance their holdings, they have got to go to the bank for giving money. When they go either to the exchange banks or to the Imperial Bank, these banks see that their

[Mr. Mathuradas Vissanji.]

requirements of deposits are met with, meaning that some of these insurance companies have got to pay a very good deposit before their policies are accepted by these banks. If that is not done their policies are not accepted and they cannot get insurance. That will be an additional hardship in case this additional deposit has to be made within that certain time. I, therefore, propose that the payment of deposit should be in line with life insurance, i.e., seven years as proposed in sub-clause (4) of clause 6.

Sir, I move.

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

“ That sub-clause (3) of clause 6 of the Bill be omitted.”

Mr. S. C. Sen : Sir, I regret I have got to oppose this amendment. I will draw the attention of Honourable Members to the result of this amendment being carried. My Honourable friend, Mr. Vissanji, has no alternative to this clause. His proposition is that this sub-clause should be deleted. The result would be that general companies who carry on business should not make any deposits at all. That is a state of things which I do not think any Member of this House will even agree to.

Sir Cowasji Jehangir : But what about his other amendments ?

Mr. S. C. Sen : We are now concerned with this amendment. Then, we are told that the banks do not accept the policies issued by these general companies, and my friend expects that if he puts in this amendment and does away with the deposits, their financial position would become stronger and the banks would accept them. The position is hopeless unless there is a substitute here and I oppose it.

Sir Cowasji Jehangir : Sir, I think there is some misunderstanding on the part of my Honourable friend, Mr. Sen. His first argument is, that if this clause is omitted, as desired by my Honourable friend, Mr. Vissanji, there will be no provision for deposits, for companies doing general business. If he will look to the other amendments given by my Honourable friend later on, he will see that all the deposits will remain exactly as specified in the Bill just now. There will be no change made in the amount of the deposits ; the only change that will be made will be that companies doing general business will be in exactly the same position as companies doing life business, with regard to the instalments of deposits. In the Bill, companies doing life business have to **make** their deposits in seven years. General companies have to do it in a fewer number of years. The amendment, if carried, with the subsequent amendments, will have the effect of putting the general companies exactly in the same position as life companies only with regard to the period of deposits. I think my Honourable friend has not looked at the other amendment or he has erred.

Mr. S. C. Sen : We have looked into the other amendment, but we cannot assume that it (171) is going to be accepted.

Sir Cowasji Jehangir : You must assume that the subsequent amendment will be accepted, if you carry this amendment. It very often

happens that in a Bill consequential amendments have to be made. Practically all the other amendments will be consequential amendments, if we accept the principle that the same amount of deposits, as specified in the Bill, should remain, the only change that should be made is that the period should be the same in all classes of insurance business. If you accept that principle, the rest of the amendments become consequential amendments and will naturally be accepted by the House. I take it that is the position, and, under the circumstances, I support this amendment. Let the House understand what the amendment is. What Mr. Mathuradas Vissanji desires to do is to put life insurance companies and general insurance companies on the same position not with regard to the amount of deposit, but with regard to the periods in which those deposits should be paid. That is the only point. If the House agrees with that, then they will accept this amendment and also the other amendments in the names of Mr. Mathuradas Vissanji and Mr. Mangal Singh.

Mr. S. C. Sen : That is not the amendment which has been moved.

Mr. Mathuradas Vissanji : I have given this in one amendment. If it has been split up, it is not my fault.

Mr. S. C. Sen : What I wanted to convey to my Honourable friend is this : that if Mr. Mathuradas Vissanji wanted the two to be considered together, it was his duty to ask the leave of the Chair to move both.

Mr. Mathuradas Vissanji : 171, Sir.

Sir Cowasji Jehangir : I am still in possession of the House. It is a technical point which has been taken by Mr. Sen and it is this : if this amendment is moved by him, then it will have the effect of freeing general companies from the responsibility of making deposits.

The Honourable Sir Nripendra Sircar : To avoid any further discussion, I agree that 162 and 171 may be taken together.

Mr. Mathuradas Vissanji : I beg to move :

“ That in sub-clause (4) of clause 6 of the Bill, the words ‘ in respect of life insurance business ’ be omitted.”

May I request the Chair for permission to move 174 :

“ That in sub-clause (4) of clause 6 of the Bill, the word ‘ life ’, occurring in line three, be omitted.

That will complete the amendment. That will bring in line the whole batch of amendments I have put in.

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

“ That sub-clause (3) of clause 6 of the Bill be omitted.”

The motion was adopted.

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

“ That in sub-clause (4) of clause 6 of the Bill, the words ‘ in respect of life insurance business ’ be omitted.”

The motion was adopted.

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

“ That in sub-clause (4) of clause 6 of the Bill, the word ‘ life ’, occurring in line three, be omitted.”

The motion was adopted.

Bhai Parma Nand (West Punjab : Non-Muhammadan) : I beg to move my amendment No. 170 on the list.

Mr. President (The Honourable Sir Abdur Rahim) : Sub-clause (4) has already been amended by the verdict of the House. That cannot be reversed. Mr. Sri Prakasa, 177.

Bhai Parma Nand : On a point of order, Sir, why was he allowed to move his amendment before mine ?

Mr. President (The Honourable Sir Abdur Rahim) : The Honourable Member, Bhai Parma Nand's amendment No. 170 seeks to substitute a sub-clause for sub-clause (4) of clause 6 of the Bill. He cannot substitute anything like that, because sub-clause (4) of clause 6 must stand as amended according to the verdict of the House. When the clause is moved, then it is possible to negative the clause altogether.

Mr. S. Satyamurti : May I submit, on the point of order, that no sub-clause of a clause is carried by the House until it is put to the House and adopted ? It is a question of merits whether in view of the amendment to sub-clause (4) which has been carried, the House should accept or not accept Bhai Parma Nand's amendment. But surely, I submit, in spite of the amendment which has been carried, it is open to him by argument to commend his amendment to the House, as being superior even to the sub-clause as amended. It is a matter for the House to consider on the merits.

Mr. President (The Honourable Sir Abdur Rahim) : Then, it will become inconsistent ; the two amendments cannot stand : the House has already given its verdict on the previous amendment, and the verdict of the House cannot be reversed so far as that amendment goes. But it is quite open to any Member, when the clause as amended is put to the House, to negative it.

Mr. M. S. Aney : May I suggest that the House has only given its verdict on one word—that the word ‘ life ’ in sub-clause (4) should be omitted. That is the only point on which the House has given its verdict. But there are other points in that sub-clause and there are other amendments by which it is intended to bring about a change. I think the House has done nothing to debar any Member from moving any other amendments if he so chooses.

Mr. President (The Honourable Sir Abdur Rahim) : The proper course for the Honourable Member was, when he seeks to substitute a sub-clause of his own for existing sub-clause (4), that he ought to have got up and moved his amendment first. Then the question would not have arisen.....

Mr. M. S. Aney : At what stage ?

Bhai Parma Nand : I did object, but nobody heard me.

Mr. President (The Honourable Sir Abdur Rahim) : I have given my ruling. I cannot reconsider it.

Mr. Sri Prakasa : Sir, I move :

“ That in sub-clause (4) of clause 6 of the Bill, for the figure ‘ 1st ’, occurring in the fourth line, the figures ‘ 26th ’ be substituted.”

This is only consequential to the amendment we have already accepted to clause 5, where the date has been changed from the 1st January, to the 26th January, and therefore this amendment must be accepted as a matter of course. Sir, I move.

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

“ That in sub-clause (4) of clause 6 of the Bill, for the figure ‘ 1st ’, occurring in the fourth line, the figures ‘ 26th ’ be substituted.”

The motion was adopted.

Mr. H. A. Sathar H. Essak Sait (West Coast and Nilgiris : Muhamadani) : Sir, I should like to move my amendment No. 22 in the supplementary list, but I should like your ruling, because this amendment concerns only life insurance, and life has been removed from there.....

Mr. S. C. Sen : Sir, I submit that this amendment is now not maintainable as it relates to life insurance business which was originally in sub-clause (4), but by the amendment which has been adopted, it has now been extended to all classes of insurance and therefore this amendment is not in order. That is my submission.

Mr. President (The Honourable Sir Abdur Rahim) : I think it can be made applicable to life insurance—I do not know : if it is remodelled so as to apply only to life insurance ?

Mr. S. C. Sen : Not in the form in which it is drafted.

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

Mr. H. A. Sathar H. Essak Sait : Sir, I move :

“ That in sub-clause (4) of clause 6 of the Bill, for all the words beginning with ‘ seven instalments ’ the following be substituted :

‘ Ten instalments, the first instalment being the amount deposited with the controller of currency in accordance with the requirements under the Indian Life Assurance Companies Act, 1912, which shall be transferred to the credit of the insurer before the application for registration is made, and the second instalment will with the first instalment complete one-fourth of the total amount of the deposit required under this section and shall be paid before the 31st day of December, 1938, and the subsequent instalment shall not be less than one-eighth of the balance of the deposit and shall be paid before the 31st day of December in each succeeding year ’.”

I do not think this amendment requires any elaborate argument in support. It tries to meet the cry of the smaller companies and companies newly started. The first difficulty that confronts them, as soon as this Bill is passed, is that they have to pay Rs. 25,000 within three months before they apply for registration. My amendment tries to give them relief, some breathing space : what it seeks to do is that the amount that remains at deposit with the Controller of Currency under the provisions of the old Act of 1912 may be taken as the first deposit, the deposit required

[Mr. H. A. Sathar H. Essak Sait.]

for registration, and on that the company may apply for registration. Once a company gets itself registered, then it will get a little breathing time to look about and scrape the necessary amount to make up the balance of deposit. Sir, we have recently heard a good deal about the inefficiency of some companies and also of some of the methods by which the policy-holders' money is being squandered away, but my own feeling is that once we pass this Bill into an Act and provide the necessary safeguards, even those companies which are described as inefficient today, will really prove efficient and sound. At the same time, there is also another side to be considered. If, Sir, we do not give these small companies this concession, what will happen to them ? Many of them which may not be able to collect the necessary funds within the three months period will have to wind up, and there are those clauses too.....

Mr. President (The Honourable Sir Abdur Rahim) : Is the Honourable Member going to be very long ?

Mr. H. A. Sathar H. Essak Sait : Yes, Sir, I propose to continue tomorrow.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 15th September, 1937.