

Thursday, 17th February, 1938

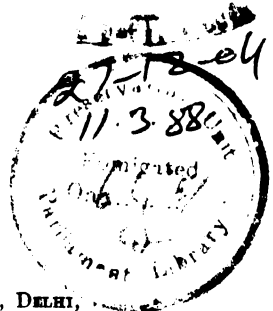
THE
COUNCIL OF STATE DEBATES

VOLUME I, 1938

(14th February to 8th April, 1938).

THIRD SESSION
OF THE
FOURTH COUNCIL OF STATE, 1938

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Council of State

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BAR.-AT-LAW.

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THE HONOURABLE SIR RAMUNNI MENON.

THE HONOURABLE MR. HOSSAIN IMAM.

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THE HONOURABLE SIR RAMUNNI MENON.

THE HONOURABLE MR. R. H. PARKER.

THE HONOURABLE SIR A. P. PATRO, K.C.I.E.

} *Members.*

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COUNCIL OF STATE.

Thursday, 17th February, 1938.

The Council met in the Council Chamber of the Council House at Eleven of the Clock, the Honourable the President in the Chair.

MEMBER SWORN :

The Honourable Mr. E. Conran Smith (Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

RAILWAY POLICE EXPENDITURE COMMITTEE.

81. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state whether the Railway Police Expenditure Enquiry Committee, which was appointed by the Railway Board, has completed its enquiry? If so, what are its main conclusions ?

THE HONOURABLE SIR GUTHRIE RUSSELL : The Railway Police Expenditure Committee has not yet completed its enquiry.

RETURN TO INDIA OF LALA HARDAYAL.

82. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state whether they have received any application from Lala Hardayal asking to be allowed to return to India ? Do Government propose to lift the ban imposed on him ?

THE HONOURABLE MR. E. CONRAN SMITH : No such application has been received by the Government of India. The case of Hardayal is at present under consideration, but I am not in a position to make any statement on the subject.

THREATENED STRIKE ON THE B. AND N.-W. R.

83. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Has the B. and N.-W. Railwaymen's Association, Gorakhpur, threatened a general strike very soon, if certain of their demands are not complied with ? What steps do Government propose to take to cope with the situation ?

THE HONOURABLE SIR GUTHRIE RUSSELL : Government understand that the Agent, B. and N.-W.R., has received a representation from the B. and N.-W. Railwaymen's Association, Gorakhpur, an unrecognized Union of employees, putting forward certain grievances and stating if these are not rectified it might be necessary to call a strike. On the information before them Government do not consider that there is any need for their intervention.

NUMBER OF PRISONERS IN THE ANDAMANS.

84. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Will Government state the number of prisoners, if any, now left in the Andamans, and the provinces to which they belong, together with the number of prisoners repatriated to the different provinces ?

THE HONOURABLE MR. E. CONRAN SMITH: There are now no terrorist prisoners in the Andamans. They were all removed by the 18th January, 1938. 245 were re-transferred to Bengal, two to Madras, ten to the Punjab, two to the United Provinces, six to Assam, 16 to Bihar and one each to Delhi and Ajmer-Merwara.

There are over 6,000 volunteer convicts in the Andamans, but I have no exact information as to the provinces from which they came.

MR. FAWCETT.

85. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Has a foreign expert who was a chemist in the service of the London Midland and Scottish Railway been brought into India sometime back to conduct an investigation into the possibilities of effecting an improvement and economy in the painting of railway carriages in India? If so, what is his name, and what are his qualifications? What was his pay in England, and what is he getting in India? Was no capable Indian available for this work?

THE HONOURABLE SIR GUTHRIE RUSSELL: Yes, Mr. Fawcett is a Fellow of the Institute of Chemists, Associate Member of the Institute of Chemical Engineers, Chief Paint Technologist to the London Midland and Scottish Railway. Government has no information regarding Mr. Fawcett's pay in England. He was paid at the rate of Rs. 1,500 a month for the period he was absent from England. The reply to the last part is in the negative.

THE HONOURABLE MR. G. S. MOTILAL: Will Government enquire what he was getting in England and then inform this House?

THE HONOURABLE SIR GUTHRIE RUSSELL: We got Mr. Fawcett on the lowest possible pay we could get him for.

DELAY IN THE DELIVERY OF MAILS IN CAWNPORE.

86. THE HONOURABLE RAJA YUVERAJ DATTA SINGH: Has the attention of Government been drawn to the complaint of a number of businessmen in Cawnpore (*vide* the *Leader*, dated the 28th January, 1938) relating to the recent Post Office arrangement, as a result of which ordinary and registered letters and packets are now delivered to the public too late to be dealt with the same day? Do Government propose to take any steps in the matter?

THE HONOURABLE MR. S. N. ROY: Government have seen the complaint to which the Honourable Member refers. The complaint appears to be based on a misapprehension, for the revised delivery arrangements in Cawnpore have been made with the object of accelerating the delivery of mails, and particularly of the important registered mail, received from Calcutta in the afternoon which is now delivered on the forenoon of the day of receipt instead of on the following morning, as was the case formerly. The Post-master-General, United Provinces, has already taken action to explain the

situation to the signatories of the complaint and to set right any deficiencies which may be revealed. Government see no reason therefore to intervene in this matter.

ORDER-IN-COUNCIL ABOUT KENYA HIGHLANDS.

87. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Have the highlands in Kenya been reserved for Europeans only to the entire exclusion of Indians? Has the Kenya draft Order-in-Council been published and, if so, how does it affect the general status of the Indians? What steps have been taken by Government in the matter of the exclusion of the Indians from the Highlands of Kenya?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : So far as the Government of India are aware, no Order-in-Council reserving the Highlands in Kenya for Europeans only has either been issued or is contemplated. The Government of India's attitude regarding the recommendations of the Carter Commission in this matter was stated in this House by Mr. Ram Chandra on 20th September, 1935.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Have Government received any representations on this subject from the Deputation that has come from Kenya?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, I have received no written representation but I have had an opportunity of listening to the views of the Deputation orally.

CONSTRUCTION OF AN AEROPLANE BY THE CADETS OF THE AERONAUTICAL TRAINING CENTRE OF INDIA, LTD.

88. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state whether the staff and cadets of the Aeronautical Training Centre of India have built the first aeroplane in this country and, if so, what is the measure of success attained by them?

THE HONOURABLE MR. S. N. ROY : I presume the Honourable Member refers to the Miles type machine which underwent preliminary trials at the Delhi Aerodrome on the 28th January, 1938. The machine was not, strictly speaking, constructed in India, but was assembled by the staff and students of the Aeronautical Training Centre of India, Ltd., from major components imported from the manufacturers in England. The pilot had unofficially stated that the performance of the aircraft was well up to the requirements of this type of machine, but no official report has yet been received.

TRAINING OF AERODROME OFFICERS.

89. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state what are their plans for training aerodrome officers in future? Is it contemplated to send such officers for training to Karachi instead of England?

THE HONOURABLE MR. S. N. ROY : Aerodrome Officers are recruited by promotion from the rank of Assistant Aerodrome Officers. The latter are recruited through the Public Service Commission and a scheme for giving them training in India is being prepared by the Director, Civil Aviation.

EMPIRE FLYING BOAT SERVICE.

90. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Will Government state from what date the Empire Flying Boat Mail Service is expected to operate ; and what are the seaplane bases and landing sites in India ?

THE HONOURABLE MR. S. N. ROY : The Empire flying boat service between England and India and the East is expected to begin on the 23rd of this month. The landing stations on the seaplane route through India will be Karachi, Raj Samand in Udaipur State, Madho-Sagar in Gwalior State, Allahabad and Calcutta.

TRANSFER OF CERTAIN VILLAGES IN AJMER-MERWARA TO UDAIPUR AND JODHPUR.

91. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Is it a fact that there is a proposal to transfer about 115 villages situated in the Merwara sub-division of Ajmer-Merwara Province, and administered by the British Government for over a century, to some Indian States ? If so, to whom does the area in question belong, how and when was it transferred to British India, and why is it going to be transferred ? Have the inhabitants concerned been consulted in the matter ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The Honourable Member is presumably referring to certain villages belonging to Udaipur (94 in number) and Jodhpur (24 in number). If so, I would refer the Honourable Member to the Press Communique, dated the 2nd February, 1938, a copy of which has been placed in the Library of the House.

I would add that as the inhabitants of the villages in question are mostly State subjects the question of consulting them in the matter did not arise.

DISABILITIES OF INDIANS IN AFGHANISTAN.

92. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether the Afghanistan Government has been putting various restraints upon Indians trading with that country ? If so, what are they and what steps do Government propose to take in the matter ?

THE HONOURABLE SIR MUHAMMAD YAKUB : No restrictions have been imposed by the Afghan Government specifically against Indians trading with Afghanistan. The latter part of the question does not therefore arise.

DEPUTATION THAT WAITED ON SIR AUBREY METCALFE IN CONNECTION WITH THE INDO-AFGHAN TRADE.

93. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : Did a deputation of the Frontier Chamber of Commerce wait on Sir Aubrey Metcalfe, Foreign Secretary to Government, in Peshawar recently, and put before him the grievances of Indian traders regarding the Afghan Government's trade policy ? Will Government state what these grievances are and what steps are being taken to remedy them ?

THE HONOURABLE SIR MUHAMMAD YAKUB : The reply to the first part of the question is in the affirmative. As regards the latter part, the deputation complained of *Hundi* and Afghan Promissory Notes being

disbanded by the Peshawar Branch of the Afghan National Bank and of the likelihood of the "advances" made by Indian merchants to traders in Afghanistan being lost as a result of the recent creation of a Fruit Monopoly Company in Afghanistan. The matter is receiving the consideration of the Government of India.

ADVERTISEMENT FOR ASSISTANT AIRCRAFT INSPECTORS.

94. THE HONOURABLE RAJA YUVERAJ DATTA SINGH : (a) Has the attention of Government been drawn to an advertisement published in the press (*vide* the *Pioneer*, dated the 23rd January, 1938) over the signature of the Secretary, Federal Public Service Commission, Delhi, inviting applications "from British subjects, or subjects of an Indian State, for two permanent non-pensionable posts of Assistant Aircraft Inspector (grade I) in the Civil Aviation Directorate".

(b) Does the expression "British subjects" include British Indian subjects? If so, why in many other advertisements issued from the Office of the Federal Public Service Commission "British Indian subjects" are definitely stated?

(c) What are the rules relating to the appointment of subjects of Indian States in public services in British India?

THE HONOURABLE MR. S. N. ROY : (a) Yes.

(b) Yes. When the recruiting authority desires to restrict candidature to British subjects of Indian domicile, the Federal Public Service Commission use the term "British subjects of Indian domicile" in their advertisements. Otherwise the term "British subjects" is used.

(c) Subjects of Indian States are not eligible to hold any office under the Crown in India unless a declaration of eligibility has been issued in their favour under section 262 of the Government of India Act, 1935.

IMPORTS OF DRY FRUITS FROM AFGHANISTAN.

95. THE HONOURABLE MR. RAMADAS PANTULU (on behalf of the Honourable Mr. B. N. Biyani) : Will Government please state :

(a) The quantity of dry fruits imported into India every year from Afghanistan from the year 1930 to 1937?

(b) The import duty levied on Afghan dry fruit per maund?

THE HONOURABLE SIR MUHAMMAD YAKUB : (a) Statistics of trade between India and Afghanistan are being recorded separately only with effect from the 1st February, 1937. Imports of dry fruits from Afghanistan into India during the period 1st February to 31st October, 1937 for which statistics are available were valued at about Rs. 33½ lakhs.

(b) No duty is levied on dry fruits imported into India from Afghanistan

IMPORTS OF CULTURE PEARLS.

96. THE HONOURABLE MR. RAMADAS PANTULU (on behalf of the Honourable Mr. B. N. Biyani) : Will Government please state :

(a) (i) The names of countries from which culture pearls are imported into India and (ii) the value of imports from each country?

(b) Do Government propose to restrict the import of culture pearls into India ?

THE HONOURABLE SIR MUHAMMAD YAKUB: (a) The information is being collected and will be laid on the table, as far as available, in due course.

(b) No, Sir.

DEATH OF SIR PRABHASHANKAR PATTANI.

THE HONOURABLE THE PRESIDENT: Honourable Members, I have to communicate to you with much grief the sad death of one of our colleagues the late Honourable Sir Prabhashankar Pattani. He died in Bhavnagar yesterday morning. He was a Member of this Council since 1936 when the Fourth Council of State was formed. But he was previously for many years in the late Imperial Council where he did good work. He died in the ripeness of age and in the zenith of his popularity. Unfortunately we did not see much of his work during the one and a half years he was here on account of his failing health. His loss will be felt not only in Bhavnagar but also in the Council of State, in the Bombay Presidency, and all over India. In Bombay, as Member of the Executive Council for the long term of five years, he did excellent work and he made himself very popular. The State of Bhavnagar owes its prosperity to his indefatigable exertions and industry and it is also indebted to him for his upholding the rights of Indian States as well. We are very sorry to lose him from this Council. I shall communicate to his sons the sorrow the Council feels in losing such a valuable Member.

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

LEVY OF MINIMUM CHARGES FOR ELECTRICITY BY THE NEW DELHI MUNICIPAL COMMITTEE.

THE HONOURABLE KUNWAR SIE JAGDISH PRASAD' (Education, Health and Lands Member): Sir, I beg to lay on the table the information promised in reply to questions Nos. 277—279 asked by the Honourable Mr. Kumarsankar Ray Chaudhury on the 5th October, 1937.

The Government understand that the New Delhi Municipal Committee sent a circular to consumers regarding the levy of certain minimum charges for electrical energy. As a result of objections received from consumers, the whole matter will now be reconsidered and the revised minimum charges will not be levied until this reconsideration is complete. In the circumstances the Government do not think it necessary to give the detailed information asked for.

GAZETTED OFFICERS IN THE GOVERNMENT OF INDIA SECRETARIAT AND ITS ATTACHED OFFICES WHO HAVE BEEN GRANTED EXTENSIONS OF SERVICE.

THE HONOURABLE MR. E. CONRAN SMITH' (Government of India: Nominated Official): Sir, I lay on the table the information promised in reply to question No. 287 asked by the Honourable Mr. Hossain Imam on the 15th November, 1937.

Statement showing the number, etc., of gazetted officers in the Government of India Secretariat and Attached Offices granted extensions of service during the calendar years 1933 to 1937.

Name of office or department.	No. of officers to whom extensions of service were granted during the years 1933 to 1937.	Officers to whom extensions have been given and who were in service on 1st January, 1938.		Remarks.
		No.	Age.	
<i>Secretariat.</i>				
Finance	1	1	Y. M. D. 55 5 14	On leave preparatory to retirement for 4 months from 13th November, 1937.
Legislative	1	1*	57 11 11	
Labour	1	..	..	*Retired with effect from 20th January, 1938.
E., H. and L.	3	2	55 5 8 54†10 15	
†Attains the age of 55 on 17th February, 1938 and has been granted a year's extension from that date.				
I. C. A. R. (including the Office of the A. M. A.)	2	1	56 8 0	
Railway	1	..	..
<i>Attached Offices.</i>				
D. I. B.	2	..	..	‡One officer was refused leave under F. R. 86 (a) and an extension of service was given for this reason.
F. P. S. C.	1	..	..
M. A. G.	1	..	..
Indian Stores	3‡	1	55 1 21	
Printing and Stationery P. and T.	1	..	..	§Two officers were refused leave under F. R. 86 (a) and extensions of service were given for this reason.
	6§	2	55 5 27 55 6 3	
Total	23	8	..	

STANDING COMMITTEE FOR THE DEPARTMENT OF LABOUR.

THE HONOURABLE SIR MUHAMMAD YAKUB (Commerce and Labour Member): Sir, I beg to move:

"That this Council do proceed to elect, in such manner as the Honourable the President may direct, two non-official Members to serve on the Standing Committee to advise on subjects with which the Labour Department is concerned."

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: With reference to the Motion which has just been adopted by the Council, I have to announce that nominations to the Committee will be received by the Secretary up to 11 A.M. on the 21st February, 1938, and the date of election, if necessary, will be announced later.

REPEALING BILL.

THE HONOURABLE MR. A. DEC. WILLIAMS (Government of India : Nominated Official) : Sir, I move :

“ That the Bill to repeal certain enactments, as passed by the Legislative Assembly, be taken into consideration.”

As Honourable Members are doubtless aware, the Indian Statute-book has recently undergone very considerable revision by the Government of India (Adaptation of Indian Laws) Order, 1937. For the convenience of the general public, a new edition of the General Acts is now under preparation and the opportunity is now being taken of repealing a very considerable number of amending Acts. I may say that we do not propose to repeal any Acts passed after 1935. The object is to repeal only those amending Acts the effect of which is by now well appreciated. Act XIX of 1936 inserted in the General Clauses Act a new section, section 6A, which places it beyond all doubt that the repeal of an amending Act in no way affects the amendments effected by the Act repealed. This Bill, therefore, amounts to nothing more than a very drastic curtailment of the volume of the Statute-book which really is in the interests of everyone.

The only two clauses I would mention are clause 3, which saves from the effects of this repeal certain saving clauses which are contained in some of the amending Acts which are being repealed, and clause 4 which makes it quite clear that these repeals do not affect amendments made in Provincial Acts by repealed Central Acts, because this new section 6A in the General Clauses Act only refers to Central Acts which amend Central Acts and not to Central Acts which amend Provincial Acts. Therefore, clause 4 has been put in to make that clear.

Sir, I move.

The Motion was adopted.

The Schedule was added to the Bill.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, I move :

“ That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

DANGEROUS DRUGS (AMENDMENT) BILL.

THE HONOURABLE MR. J. C. NIXON (Finance Secretary) : Sir, I move :

“ That the Bill further to amend the Dangerous Drugs Act, 1930, for a certain purpose as passed by the Legislative Assembly, be taken into consideration.”

Sir, I do not think I need take much of the time of the Council in commending this small Bill to amend the Dangerous Drugs Act, 1930, for their favourable consideration. The main statute, the Dangerous Drugs Act, 1930, was put on the Statute-book as a consequence of an international agreement come to at Geneva in 1925, intended to implement the Hague Opium Convention of 1912. The Act of 1930 has worked well to date and has served its purpose, except that a recent incident, or rather the threat of a recent incident, indicated that there was a slight flaw in its machinery. If a vessel comes into Bombay harbour carrying some dangerous drugs concealed amongst its cargo the Customs people have the power to deal with the smuggled drug. But if on the other hand they come into Bombay harbour intending not to land anything but have a thousand chests of opium openly displayed on the decks of the vessel and with the thousand chests properly entered in the ship's books, apparently as the Act stands the Customs people are powerless to deal with it. So we wish by this measure slightly to amend the definition of import into British India so that we may deal with a case of that sort if it arises, and, as I say, a recent incident has indicated that that sort of situation may arise.

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. J. C. NIXON : Sir, I move :

"That the Bill further to amend the Dangerous Drugs Act, 1930, for a certain purpose as passed by the Legislative Assembly, be passed."

The Motion was adopted.

INSURANCE BILL.

THE HONOURABLE MR. A. DEC. WILLIAMS (Government of India : Nominated Official) : Sir, I move :

"That the further amendments made by the Legislative Assembly in the Bill to consolidate and amend the law relating to the business of insurance be taken into consideration."

The Legislative Assembly has accepted the very considerable improvements effected in this Bill by the Council with very few modifications, which I may say at the outset Government accept. They are only six in number and I will refer to them as briefly as possible.

No. 1. The Council will remember that the application of clause 3 (2) (f) was restricted by the Council to life insurance business, largely on the ground that the clause requires a certificate by an actuary which would not be appropriate in the case of business other than life insurance business. In the Assembly it was noticed that clause 41 of the Bill which deals with rebates requires some of this information to be given at the time of applying for registration in respect of insurance business other than life insurance business. It was therefore felt that clause 41 would not be readily workable unless there was restored to this class the reference to insurance business other than life insurance business, and that has been done with a proviso which somewhat mitigates the effect of that except in the case of workmen's compensation and motor car insurance business.

[Mr. A. D.C. Williams.]

As to No. 2, this Council added a sentence to the substantive part of clause 15 (I), with the result that the words "said period" in the proviso became somewhat ambiguous, and this amendment has been made to make it clear that the words "said period" refer to the period of six months referred to earlier in the sub-clause.

As regards No. 3, the Council will remember that they removed the retrospective effect of clause 45. It was felt in the Assembly that some retrospective effect should be given, and that has been restored but in a less drastic form, because there is still a period of two years after the Bill becomes law left for settling disputes and ambiguities.

No. 4. Clause 60 at the outset refers to the insolvency of "any other insurer" as well as to the winding up of a company. So it is necessary later on in the clause on three occasions to insert these words "or other insurer".

Amendment No. 5 has been made in clause 114 because the Assembly desired to make it clear that rules made under this Act should lie before each Chamber of the Legislature for one month during a session. This seems reasonable.

Amendment No. 6 is purely formal, because throughout the Act we have substituted "policy-holders" for "policy owners", and therefore it is desirable to do so in the Fourth Schedule also.

Sir, I move.

THE HONOURABLE THE PRESIDENT: I may remind the Council that this is the first time since the inception of the Council of State in 1920 that a Bill passed by the Council of State has come back after amendment in the other House to this Council.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Mr. President, it is very rare to find a Bill sent back to the revising Chamber after its first trip to this House. We had hoped that the Assembly would make up for the defects which had crept into the Bill through the Government majority here.

THE HONOURABLE THE PRESIDENT: No defects; improvements.

THE HONOURABLE MR. HOSSAIN IMAM: The inadequate improvements, I may put it, Sir. But I find that in the crucial test the other place has failed and not done its duty. I refer to amendment No. 5. The original proposition passed by the Assembly was, that the rules would not have any effect until the Legislature agreed to them. Government rightly objected that they could not frame rules tentatively and give effect to them until and unless the Assembly and the Council of State agreed to them. If they wanted to have a rule in an emergency they would have been debarred from giving effect to it, unless and until the Assembly and the Council of State had sat over it for a month. That was a perfectly valid argument on behalf of the Treasury Benches, but the difference between us and the wording of the amendment was that the Government have so worded this amendment that it is the agreement of the two Houses which will over-ride the Government's decision, and we know the standing majority of the Government in this House and therefore it is idle to hope that anything done by the Government will have anything but endorsement from this House. The Assembly ought to have been awake to this reality and they should have made it compulsory on

the Government that the future effect of the rules would be dependent on the agreement of the two Houses and failure of the agreement of the two Houses would make the rules null and void. That would have been an inducement to the Government to modify and to bring round this House to agree with the Assembly. But the wording of the amendments as it is now makes it perfectly impossible for any rules made by the Executive to be inoperative. The two Houses will never agree and until they agree you cannot effect any change in the rules. It is only on this one issue that I feel strongly and people did not realise the real meaning of the amendment which the Honourable the Law Member has introduced. All the other amendments are merely verbal and some of them merely fill in the gaps which had been left out.

Sir, I have nothing more to add.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, I am afraid that I do not agree with my Honourable friend Mr. Hossain Imam when he says that all the other amendments are merely verbal, I would like to refer to section 45. Now, when this section was under consideration last November it was apparently agreed on all sides in this House after very careful consideration that the section ought only to apply to policies of life insurance effected after the Act came into force. Now, a great change has been made in that respect and after two years have passed all policies will be affected by the clause. This point was very carefully explained to the House by the Honourable Mr. Pantulu on the last occasion, but I think I am right in saying that he expressed the view that it was quite improper that policies already in force should be affected. Then, a practical difficulty has been brought to my notice by one of my constituents, the Oriental Government Security Life Assurance Company. They tell me that they have some Rs. 3½ lakhs of policies and they think therefore that it will be quite impracticable to go through them all and examine all the papers relating to them in the space of two years. I would very much rather see the Bill as it was when it left this House last November. But if that is not practicable I would ask Government in future to consider within the next two years whether it is necessary or desirable that that period should be extended and to introduce an amending Bill accordingly if they think so.

THE HONOURABLE MR. RAMADAS PANTULU (Madras: Non-Muham-madan): Sir, it is a matter for gratification that the Assembly has accepted almost all the important amendments made by the Council and the Bill has come back to us in very much the same form as it emerged from this House. I am inclined to agree with the Honourable Mr. Parker in thinking that the amendment made to clause 45 by the Assembly was not very helpful. It is very inconvenient for old companies which have thousands of policies, perhaps hundreds of thousands of policies, already in their books to make a search to find out cases where the policies can be questioned under clause 45. The present practice is for the companies to raise their objections when the claims arise. I quite agree that it is not a very satisfactory position and that section 45 makes a very important change in the law to safeguard the interests of the policy-holders. I at once concede that should be the rule in future. But so far as policies in existence are concerned, in many cases they are so numerous that it will be a huge task, a task involving much labour and expense, to find out in what cases objections can be raised. Probably in many cases no objections can be raised, because policies have been in force for a long time. Even taking the two or three years period before the commencement of the Act the number of policies will be far too many to permit the companies to undertake

[Mr. Ramadas Pantulu.]

this task of examining them in detail. No great hardship could have been caused by leaving the amendment of section 45 as made in this House intact. It would have conduced to the convenience of all concerned. However, this is not the stage at which we can ask the Government again to amend the Bill but I trust the appeal made by the Honourable Mr. Parker to the Government to consider the advisability of giving a little more time if cases arise will be considered by the Government.

In regard to amendment No. 5 I am not inclined to agree with the criticism of my Honourable friend Mr. Hossain Imam. I think the present amendment of the Assembly is a great improvement over the original clause as well as the clause as amended by the Council of State. Now the responsibility of modifying or abrogating any rule is definitely laid down upon both Houses. It is for them to make up their minds whether they will modify a rule or abrogate it, but to hold up the operation of a rule till both Houses agree to a certain course will be not convenient. Many of the beneficial provisions of the Act may be delayed by a very restrictive rule-making power like that. I hope still both Chambers can agree and the Council of State will consider the advisability of agreeing with the Assembly and following the lead of the Assembly. There is nothing in the clause to minimise the responsibility of the House in regard to taking a progressive view and falling into line with the Assembly's action. I think the present amendment is more helpful than the one which was originally adopted in the Assembly, or the one which this House has made. I have therefore great pleasure in supporting this Motion, Sir.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern : Non-Muhammadian) : Mr. President, the observations of my Honourable friend Mr. Ramadas Pantulu incline me to give strong support to what fell from my Honourable friend Mr. Hossain Imam with regard to the amendment made to section 114 of the Bill before us by the Assembly. My Honourable friend Mr. Ramadas Pantulu welcomes the amendment made by the Legislative Assembly and regards it as being an important one. I confess I fail to see where its importance lies. What would have happened had no such amendment been made? Members of both the Houses could either have discussed the rules formulated by Government or put questions regarding them in order to show where they were dissatisfied with them and if Government had been pleased in their generosity to accept the view put forward by the non-official Members I have no doubt that the changes asked for would have been made in the rules. Now is the position any better because of this amendment? My Honourable friend says "Yes". Well, in what respect is the position better? If any modification is to be made in a rule or its operation is to be prevented both the Houses must agree. Now, in this House, as my Honourable friend Mr. Hossain Imam has pointed out, Government have a standing majority; at any rate the habitual supporters of Government are in a permanent majority. It is obvious therefore that there never can be any agreement between this House and the Assembly unless it is favoured by Government. (*An Honourable Member* : "What was the position before this amendment?") The position was precisely as it is now. Let me develop my point. This House can agree with the other House only if Government are inclined to support the view taken in the other House.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY (East Bengal : Non-Muhammadian) : That is applicable for all laws.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: I do not know what the Honourable Member means by "all laws". We are discussing only one particular Bill. He ought to understand that. It seems to me therefore, Sir, that this amendment has not improved the position in any respect. Government formerly had the power of modifying rules in accordance with any representations made to them. They have the same power still. Their power has not been reduced to the slightest extent, and that of this House has not been raised by an iota. If this amendment has served any purpose it is this—it has deceived even the non-official Members on this side of the House into thinking that Government have really made any concession. The Assembly, therefore, by introducing this amendment has actually done a disservice to us. Sir, in view of the opinion I have expressed I feel disposed to vote against the amendment made by the Assembly in clause 114 for as it appears it is not only of no practical value but has been a means of throwing dust into the eyes of Members whom we have hitherto regarded as vigilant guardians of the public interest.

THE HONOURABLE SIR A. P. PATRO (Madras : Nominated Non-Official) : Sir, for once I am inclined to agree with the views of the Honourable Mr. Ramadas Pantulu. I have listened to the remarks of the Honourable Pandit Kunzru with respect but I have not heard any reason from him or any grounds on which he could criticise the amendment now before the House. Nor has the Honourable Mr. Hossain Imam been able to convince the House that there is any lacuna or any difficulty in carrying out its provisions.

THE HONOURABLE THE PRESIDENT : Has he ever convinced ?

THE HONOURABLE SIR A. P. PATRO : I cannot make any personal reflection, Sir, but I can only say that he has not given any convincing reason for the proposition which he laid down. This amendment is in consonance with public opinion as expressed in the Lower House. It has been said that this House is overweighted with a Government majority, as if the Members of this House had no independent judgment of their own nor could they come to independent conclusions in regard to propositions and measures laid before them. It is a sad reflection on the discretion and judgment of the Members of this House that the Government may have a majority and yet at the same time the Honourable Members are equally entitled to express their views and independent judgment in any matter. Therefore, Sir, it seems to me quite irrelevant that any such reflection should be made on the judgment of this House when even the Government has got a majority. I suppose the Honourable Members are more influenced by the majorities working elsewhere in the views they have expressed today with regard to the majority in this House. But all that I say is that there is absolutely no reason alleged in order to criticise the amendment before the House. This amendment is the result of agitation made in the other House and by the public that the Executive want to carry out legislative measures on their own responsibility. If, for instance, power is given to the Government independently of the Legislatures then they will be making practically legislation without the Legislatures. It is to avoid such inconsistency that this amendment was proposed in the other House and accepted by this House and the amendment in the amended form is made with a view to being in conformity with public opinion and public demand.

THE HONOURABLE SIR NRIPENDRA SIRCAR (Law Member) : Sir, the points in controversy are very few and I shall deal with them briefly. My

[Sir Nripendra Sircar.]

Honourable friends Mr. Hossain Imam and Pandit Kunzru have dealt with section 114. If I may venture to say so with due respect to them, they have entirely missed the point of the amendment. When this Bill left this House, what was the position of affairs, Sir, with regard to section 114? In the first place, there could be no change of the rules unless both Houses were in agreement. That is still there: that has not been changed. Secondly, the two Houses got a month for changing the rules made by Government. That has not been changed: that is still there. Thirdly, the rules were to come into operation at once without waiting for the approval of the House; and that remains there. Therefore, so far as these three main points are concerned, they are in exactly the same condition as they were when this Bill passed this House. Now, what is the change? The change is this. The language which was used in the amendment moved in this House which we accepted did not make it compulsory on the Government to lay the rules on the table for a month: nothing of the kind. Whereas the Houses were given a month for changing the rules, there was no express obligation on the Government that these rules should be laid on the table here and on the table in the other House for another month. That is the only change that has been made. It may not be a vast improvement but where is the point in saying that it amounts to throwing dust in the eyes of people and that this thing has deteriorated, and so on? Sir, that is enough for section 114.

Then my Honourable friend Mr. Parker says the Oriental Life is a constituent of his and they have now discovered that they have Rs. 3½ lakhs of policies and by giving retrospective effect there will be a great hardship on the Oriental. Sir, when this amendment was moved and unanimously passed in the other place, we had a strong representative of the Oriental in the House, —Sir Cowasji Jehangir,—but he did not open his lips. Then, Sir, at that time, as my friend is certainly aware, the Actuary of the Oriental was in Delhi. He gave very useful help to me and to others. But though Sir Cowasji Jehangir was in the House and the Actuary watched him from the public gallery, no voice was raised against this amendment. Now, Sir, it is said that they have Rs. 3½ lakhs of policies. Well, Sir, he has done a little bit of propaganda for the Oriental though they hardly require it and for that I congratulate him. But, surely, Sir, am I to understand that they were up to this moment taking no steps whatsoever to find out about the condition of their insurances? Is it only because this Bill has been passed now that the Directors of the Oriental will wake up? Is that the position?

THE HONOURABLE MR. R. H. PARKER: I believe so.

THE HONOURABLE SIR NRIPENDRA SIRCAR: You believe so. Then, Sir, no harm has been done.

Then, Sir, my friend says: "What happens nowadays? After a man dies, then we enquire as to whether we can challenge the policy". That is exactly what is intended to be changed. It is only when a man dies that the Insurance Company discovers that the assured had concealed the fact that his grand-mother was suffering from asthma 50 years ago and therefore the policy was bad. But looking at the matter from a practical point of view, how long would any insurance company, whether oriental or occidental, take to reject a claim, if I put forward a claim? I am bound to get the rejection if any in a month or possibly two months or at the latest three months, saying your policy is bad because the assured had this or had that. If they can now do it within

two months or a month, why cannot they do it within the time they are getting, which is two years *plus* the time of one month they now get to go into them. There is little or no substance in that. But if my Honourable friend wants me to say that when the amended Bill is taken up this point will be attended to, I can say categorically that nothing of the kind will be done. When this Bill comes to be worked, I have no doubt defects will be discovered, but we shall have to remove them by making amendments as we think best and as conditions require, but there is little hope of Mr. Parker's point being met. But surely, having regard to the arguments which have been put up by my Honourable friend Mr. Parker, the representative in the Lower House being silent, there is no occasion whatsoever for the Government changing its mind and allowing the Oriental to get out of this clause. There will be no sort of hardship at all. They have got two years and six months. Then, Sir, about this astronomical Rs. 3½ lakhs, do I understand that in every case they enquire about concealment of facts by the assurer, or is it not the fact that this is only rarely—few and far between? Divide the Rs. 3½ lakhs by about 10,000 and we shall come nearer the mark.

THE HONOURABLE MR. R. H. PARKER : They have got to go through them all, Sir.

THE HONOURABLE SIB NRIPENDRA SIRCAR : I am sure in your case they will not go through it.

I think, Sir, these were the two points raised. I do not want to detain the House any longer.

THE HONOURABLE THE PRESIDENT : The Question is :

“That the further amendments made by the Legislative Assembly in the Bill to consolidate and amend the law relating to the business of insurance be taken into consideration.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Legislative Assembly amendment No. 1. The Question is :

“That the Council do agree to this amendment.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Legislative Assembly amendment No. 2. The Question is :

“That the Council do agree to this amendment.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Legislative Assembly amendment No. 3. The Question is :

“That the Council do agree to this amendment.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Legislative Assembly amendment No. 4. The Question is :

“That the Council do agree to this amendment.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : Legislative Assembly amendment No. 5. The Question is :

“That the Council do agree to this amendment.”

THE HONOURABLE MR. R. H. PARKER : Sir, there are only one or two comments which I wish to make on what the Honourable the Law Member has said. One is that I do not think the fact that any point was overlooked in the Lower House is a good reason why we should overlook it here—

THE HONOURABLE SIE NRIPENDRA SIRCAR : We are dealing with amendment No. 5 now.

THE HONOURABLE MR. R. H. PARKER : I am sorry.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, the Honourable the Law Member has clarified the situation and cleared the air. Those who thought that there have been vast improvements made in the new amendment have been disillusioned and they have found that they have been backing the wrong horse. The only improvement is that the Government has been compelled to lay those rules on the table of the House. We thought that was implied in our original amendment. The language has simply clarified it. Even otherwise, if I understand correctly the attitude of the Government, at that time was implied in the amendment which was moved in this House. The Honourable Mr. Kumarsankar Ray Chaudhury had said that it happens always that the two House have to agree. Therefore, there is nothing new in this provision that the changes will be done by the agreement of the two Houses. But he has missed one basic point, that there, agreement is necessary to bring it into force, while here, it is unnecessary. That is the crucial difference. If the rules were to come into effect only in case of agreement of the two Houses, that would have satisfied us. That is exactly what we have been demanding. Here, the position is this. If the Assembly makes an amendment in a Government Bill, the Council of State has to agree in order to get that legislation passed. If the Council of State does not agree to the Assembly amendments, what happens ? There is a disagreement and the Bill is sent back.

THE HONOURABLE THE PRESIDENT : No, there will be a Joint Session.

THE HONOURABLE MR. HOSSAIN IMAM : There will be a Joint Session, but in all these 18 years of the Montford Scheme, there has never been a Joint Session.

THE HONOURABLE THE PRESIDENT : That is no argument.

THE HONOURABLE MR. HOSSAIN IMAM : Government has thought discretion to be the better part of valour. (*An Honourable Member :* “Do you want a Joint Session now ?”) If Government had made that provision that these rules will be passed in a Joint Session, we would have been satisfied, because then the public voice would have been in a majority. I find that some Honourable Members, particularly my Honourable friend Sir A. P. Patro, took exception to the remark that the Government had a standing majority in this House. There is nothing to be ashamed of, because, at the present moment, all democracy is worked on this basic principle, that individuals have to give way to collective forces. In the Provincial Legislatures where we had popular Ministries, individual members had to sink their

differences and individual opinions, and members had to work according to the Whip which the Government or Party in power gave. There is nothing to be ashamed of in this. We ourselves on the Opposition Benches have differences of opinion, but when we get a party Whip, we follow it, and therefore, for the nominated Members to feel that they have been insulted by our statement that Government has a standing majority in this House is being rather thin skinned.

THE HONOURABLE SIR A. P. PATRO: Why should you make that reference unnecessarily ?

THE HONOURABLE MR. HOSSAIN IMAM: Because facts cannot be denied, and facts are facts and they exist. At the present moment, the Government has a standing majority in this House which cannot be denied, and which has been proved to the hilt times out of number.

THE HONOURABLE THE PRESIDENT: But that is according to the Constitution.

THE HONOURABLE MR. HOSSAIN IMAM: That is what I say. My submission is, that there is no inducement to the Government to agree with the Assembly. That is exactly what I have been pointing out, that in the case of legislation there is compulsion.

THE HONOURABLE THE PRESIDENT: This is all irrelevant. One remark was made by one Member and you have replied to it. Now you come to the Bill before the House, please.

THE HONOURABLE MR. HOSSAIN IMAM: I am not going to labour that point. I simply wish to stress that I was not comparing the amendment made in this House in clause 114 and the substitute sent by the Assembly. I was comparing the original proposition enunciated by the Assembly first with this one. There is a marked difference between the Bill as it originally came to the Council of State and the Bill as it has come after this second revision, because, in the first, the rules would not have been operative without the agreement of the two Houses—

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians): Why did the Assembly change its mind ?

THE HONOURABLE MR. HOSSAIN IMAM: I am not condemning the Government. If you see the report, you will find that I started by accusing the Assembly of neglect of duty. That point has been further emphasised by the Honourable Pandit Kunzru that the Government has succeeded in throwing dust in the eyes of the Nationalists.

THE HONOURABLE SIR DAVID DEVADOSS: They must be very weak Nationalists to be cheated in this way !

THE HONOURABLE MR. HOSSAIN IMAM: Our complaint is that for this once, they appear to have seen more eye to eye with the Government than could ever have been expected from those convinced opponents of Government. Perhaps the Provincial Ministries had some serious influence on the change of this vision.

Sir, I do not see my way to agree to this amendment.

THE HONOURABLE MR. RAMADAS PANTULU : Sir, I wish to say a word by way of explanation. It was not I that was under any misapprehension as to the nature of the change made in the Assembly. It was my friends on the other side that were labouring under the misapprehension. There were three alternatives. One was to lay down that the rules shall not become operative until both Houses have agreed to them. That means the Government would be helpless to frame any rules and bring them into operation before obtaining previous concurrence of both Houses. The original position was that. The amendment made in this House was that the Government could bring the rules into force and make them operative even before they were laid before both Houses during the session and the two Chambers were merely given an opportunity to modify or amend them. That was the position under the clause as it left this House. The third position arrived at is that it is obligatory on the Government to lay the rules on the table of both Houses for a month and give both Houses an opportunity to amend or abrogate them if they so please. That is the third position and I claim that the change now made is really a vital change. Of course the Honourable the Law Member will not concede it, because it will involve his confessing to having yielded too much to the Assembly for he opposed a similar amendment in this House. But I think a substantial change has been made by the Assembly in the clause as it emerged from the Council. Therefore I claim that the present change is a vital change. I like the change and I claim it to be an improvement on the clause as it was originally framed by the Assembly, under which no rule could be brought into operation until both Houses gave their previous agreement. Therefore I adhere to what I have said that the change now made is a very material change and is an improvement on the clause as it emerged from this Council.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU : Sir, my Honourable friend Mr. Ramadas Pantulu's speech has shown how easily a man can convince himself of the soundness of a thing if he only desires it. My Honourable friend regards the present amendment as a great improvement on the position as it was when the Bill left this House. Now, my Honourable friend the Law Member has made it plain that the Assembly has made no vital change at all. If really my Honourable friend thinks that it is better that Government should in the first instance have the power of enforcing rules and that the Central Legislature should only have the power of making amendments in them, then that change was made before the Bill left this House. That is not a change that has been introduced for the first time by the Legislative Assembly. The only change, as my Honourable friend the Law Member pointed out, which has been made by the Assembly is that the rules will be laid on the table of both the Houses. That is all. (*An Honourable Member :* "For one month".) Yes, for a month. (*Another Honourable Member :* "And it is obligatory".) Yes, it is obligatory, but all the other changes were made in this House.

Now, my Honourable friend contemplated three alternatives only. I suggest to him another alternative. If Government only wanted that they should in the first instance have the power of enforcing the rules framed by them, they could have been given that power but at the same time the power might have been limited to a particular period. Government might have been allowed to keep the rules made by them in operation, say, for six months, and it might have been laid down that the rules would thereafter lapse unless both the Houses agreed to them. In this way the practical difficulty pointed out by the Law Member would have been overcome and the power which the

Legislative Assembly originally desired the Central Legislature to possess would have been given to it. This is a fourth alternative which I would ask my Honourable friend Mr. Ramadas Pantulu to consider carefully before he expresses again the opinion that the change made by the Assembly is a very valuable one and that the position now is better than what it was when the Bill came before this House.

THE HONOURABLE THE PRESIDENT: Legislative Assembly amendment No. 5. The Question is :

“That the Council do agree to this amendment.”

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: Legislative Assembly amendment No. 6. The Question is :

“That the Council do agree to this amendment.”

The Motion was adopted.

THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: On a point of information, Sir. Is it not necessary that the whole Bill should be taken up for being passed by this House ?

THE HONOURABLE THE PRESIDENT: Only the amendments have come forward and the amendments have been put and passed by this House. It is not necessary to put the whole Bill again because the rest of the Bill has been passed by the Council and accepted by the Assembly.

INDIAN COMPANIES (AMENDMENT) BILL.

THE HONOURABLE MR. A. DEC. WILLIAMS (Government of India : Nominated Official): Sir ; I move :

“That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as passed by the Legislative Assembly be taken into consideration.”

This Bill, Sir, as explained in the Statement of Objects and Reasons, was intended simply to remove certain inaccuracies and correct certain errors which have been detected in the Indian Companies Act, 1913, as amended by the amending Act of 1936. The Bill as introduced had 8 clauses. It was referred to a Select Committee of the Legislative Assembly who incorporated in the Bill certain further provisions also designed only to correct mistakes and remove inaccuracies, and as re-drafted by that Committee the Bill comprised 19 clauses, none of which contained any controversial matter. In its passage through the Legislative Assembly the Bill underwent further minor changes and it now runs to 21 clauses.

I will very briefly explain the main provisions of the Bill and I do not propose to deal with the clauses as they come up unless any Honourable Member at that time desires any further explanation.

Clauses 2 and 7 supply certain obvious omissions. Clauses 3, 4, 10, 19 (b), 20 and 21 merely correct obvious mistakes. There is another class of amendments designed to remove inconsistencies from the Act. Thus clauses 5 and 6 are designed to bring sections 86D and 87D into line with section 86F of the Act. Section 86F employs the expression “member or director”. It is therefore necessary to insert the words “member or” in sections 86D and 87D. The first part of clause 9 brings section 134 into line with section 131. Section

[Mr. A. deC. Williams.]

131 contemplates the laying before a general meeting of an income and expenditure account in the case of companies not trading for profit, so that it has been found desirable to insert in section 134 a reference to the income and expenditure account. Clause 15 has introduced into section 277F an exception in order to make it clear in section 277F (what is already as a matter of fact quite clear from section 277H) that a banking company may be the managing agent of another banking company. The first part of clause 17 removes an inconsistency between sections 277M and 277F(1). Section 277F(1) permits a banking company to hold shares, whereas section 277M as it is now worded (though its object is merely to limit the formation of subsidiary companies to subsidiary companies for banking purposes) appears to prohibit the holding of shares in such companies; this has now been remedied. Sub-clauses (a), (c), (d) and (e) of clause 19 remove certain inconsistencies in the First Schedule. Sub-clause (a) brings regulation 56 into line with section 79 (1) (c). Sub-clause (c) brings regulation 106 into line with section 131. Sub-clause (d) brings regulation 109 into line with section 131 (3) (a), and sub-clause (e) brings regulation 116 into line with section 145(4).

Certain clauses require some separate explanation. Clause 8 is designed to enable companies with branch offices to keep their books at their branch offices, merely sending summarised returns thereof to the registered office. The Act as it stands has occasioned some difficulty by requiring the accounts of branch offices to be maintained at the registered office. The latter part of clauses 9 and 12 and clause 16 provide for the sending of three copies of the relevant returns to the Registrar. This will entail very little extra trouble on the companies, but it will save the Registrar's office the task of preparing copies. I would draw the attention of the Council to the Insurance Bill which in somewhat similar circumstances requires returns to be made in quadruplicate. Clause 11 makes the obligation to give all reasonable assistance in proceedings instituted under the section applicable to all proceedings under the section. As the section stood, this obligation attached only to proceedings instituted under sub-section (6) and that was never the intention. Clauses 12, 13 and 14 are designed to render workable the application of sections 109 to 125 to companies registered outside British India. These sections have hitherto been unworkable in relation to such companies, because these companies have no "registered office" in British India and no "Registrar" in British India and the amendments provide a remedy for this difficulty. Sub-clause (2) of clause 13 protects companies registered outside British India against being penalised for not having in the past complied with impossible provisions of law, but there is a proviso that this defect must be remedied within four weeks of the time when it becomes possible to do so. Clause 18 remedies the omission in the amending Act of 1936 to provide for the winding up of companies which was actually in progress at the time when the amending Act came into force.

Sir, I move.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab Non-Muhammadan): Sir, before we proceed with the debate on the Bill, I want to put a question to the Honourable Mr. Williams as regards the result of clause 4 on the Notes on Clauses. It is said :

"It was not intended that retrospective effect should be given to the change whereby that period of limitation was increased, but the manner in which the amendment was made makes it possible that in some cases such an effect might actually be produced. Clause 3 rectifies this oversight."

Sir, I cannot follow what the actual result has been from the Bill and whether this time has been extended or not? I want the Honourable Mr. Williams to make that point clear before we begin the debate.

THE HONOURABLE MR. A. DEC. WILLIAMS: I am afraid I cannot understand the Honourable Member's point, Sir.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa: Muhammadan): Will you refer to clause 4 in the Notes on Clauses. The amendment of section 235 was perhaps not made?

THE HONOURABLE MR. A. DEC. WILLIAMS: Clause 4 was omitted from the Bill by the Select Committee.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: That means that no extension will be made.

THE HONOURABLE THE PRESIDENT: Will you please address the Chair?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: I am asking for information whether or not the time has been extended, whether the limitation period has been increased or not?

THE HONOURABLE MR. A. DEC. WILLIAMS: No, Sir. Clause 4 as it was in the original Bill has completely disappeared.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, the amending Bill which we are now considering omits to deal with a number of important points which the commercial community think need changing, but I do not think there is any useful purpose to be served by going over these. I can only hope that Government when they receive representations from responsible quarters, as I am sure they have done and will, will consider the points and bring in another amending Bill if necessary.

Turning to the Bill now before us, there do seem to be one or two points which are not quite clear and which it may be desirable to clarify at a later opportunity. The first of these is that the new proviso to section 277E reads "provided that references in the said section to the registrar etc.", while section 277E refers not to one section but to three sections, namely, 118, 119 and 130, from which it would appear that the word "section" has been used erroneously and that it should read "sections".

The second point is perhaps of more substance. The difficulty of giving a meaning to the words "registrar" and "registered office of the Company" has been straightened out, as the Honourable Mr. Williams has told us, but some difficulty may arise in connection with charges created by means of a series of debentures by reason of the fact that in the proviso to sub-section (2) of section 277D no reference is made to section 110. As section 277D now stands it seems to me that the application of section 110 will not affect non-Indian Companies until after the commencement of the Indian Companies (Amendment) Act, 1938, while under the proviso a charge created between that date and the 15th January, 1937, has to be and can be registered according to the provisions of section 109 within four weeks of the commencement of the Indian Companies (Amendment) Act, 1938. If, however, the charge is in the nature of a debenture trust deed it seems the charge will have to be registered within four weeks in the manner prescribed in section 109, but that

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advantage cannot be taken of section 110 as the 21 days after the execution of the deed will have elapsed and the section itself will not operate in respect of non-Indian companies until the commencement of the Amendment Act, 1938. These are two points which, I think, will require attention at a later date, as well as others.

THE HONOURABLE THE PRESIDENT : The Question is :

“That the Bill further to amend the Indian Companies Act, 1913, for certain purposes, as passed by the Legislative Assembly, be taken into consideration.”

The Motion was adopted.

Clauses 2 to 10 were added to the Bill.

Clauses 11 to 18 were added to the Bill.

Clauses 19, 20 and 21 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, I move :

“That the Bill, as passed by the Legislative Assembly, be passed.”

The Motion was adopted.

STANDING COMMITTEE FOR THE DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

THE HONOURABLE THE PRESIDENT : With reference to the announcement made by me on the 14th February, regarding nominations to the two Committees, I have to announce that the following Honourable Members have been nominated for election to the Standing Committee to advise on subjects other than “Indians Overseas—Emigration” and “Haj Pilgrimage,” dealt with in the Department of Education, Health and Lands :

The Honourable Mr. V. V. Kalikar and

The Honourable Sir David Devadoss.

There are two candidates for two seats and I declare them duly elected.

STANDING COMMITTEE FOR THE DEPARTMENT OF COMMERCE.

THE HONOURABLE THE PRESIDENT : The following Honourable Members have been nominated for election to the Standing Committee to advise on subjects in the Department of Commerce :

The Honourable Sir A. P. Patro and

The Honourable Mr. G. S. Motilal.

There are two candidates for two seats and I declare them duly elected.

The Council then adjourned till Eleven of the Clock on Friday, the 18th February, 1938.
