

5th April 1940

**THE**  
**LEGISLATIVE ASSEMBLY DEBATES**

**Official Report**

**Volume III, 1940**

*(27th March to 6th April, 1940)*

**ELEVENTH SESSION**  
**OF THE**  
**FIFTH LEGISLATIVE ASSEMBLY,**  
**1940**

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# Legislative Assembly.

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## *Deputy President :*

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MR. A. AIKMAN, C.I.E., M.L.A.

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CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

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MR. A. AIKMAN, C.I.E., M.L.A.

SYED GHULAM BHIK NAIRANG, M.L.A.

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

SIR ABDUL HALIM GHUZZNAVI, M.L.A.

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# LEGISLATIVE ASSEMBLY.

Friday, 5th April, 1940.

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

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## MEMBER SWORN.

Mr. Bertie Munro Staig, C.S.I., M.L.A. (Financial Commissioner, Railways).

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## THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

### (AMENDMENT OF SECTION 386.)

**Sardar Sant Singh** (West Punjab: Sikh): Sir, I move:

“That Mr. E. Conran-Smith be appointed to the Select Committee on the Bill further to amend the Code of Criminal Procedure, 1898 (*amendment of section 386*), in place of the Honourable Sir Reginald Maxwell, and that Mr. P. J. Griffiths be re-appointed to that Committee.”

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

“That Mr. E. Conran-Smith be appointed to the Select Committee on the Bill further to amend the Code of Criminal Procedure, 1898 (*amendment of section 386*), in place of the Honourable Sir Reginald Maxwell, and that Mr. P. J. Griffiths be re-appointed to that Committee.”

The motion was adopted.

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## THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

### (AMENDMENT OF SECTION 205.)

**Sardar Sant Singh** (West Punjab: Sikh): Sir, I move:

“That Mr. E. Conran-Smith be appointed to the Select Committee on the Bill further to amend the Code of Criminal Procedure, 1898 (*amendment of section 205*), in place of the Honourable Sir Reginald Maxwell, and that Mr. P. J. Griffiths be re-appointed to that Committee.”

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

“That Mr. E. Conran-Smith be appointed to the Select Committee on the Bill further to amend the Code of Criminal Procedure, 1898 (*amendment of section 205*), in place of the Honourable Sir Reginald Maxwell, and that Mr. P. J. Griffiths be re-appointed to that Committee.”

The motion was adopted.

## THE DRUGS BILL—*contd.*

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

**Pandit Lakshmi Kanta Maitra** (Presidency Division : Non-Muhammadan Rural) : Sir, before the House adjourned yesterday, I was trying to draw the attention of the House to some of the important provisions contained in clause 5 of the Bill. I maintain that this is the most important provision in the whole Bill, and that the success of the operation of the Drugs Bill will depend mainly on the expert advice that will be tendered by this Board to the Government of India. Very many duties of a very important and technical character are entrusted to this Board. Sir, this Central Advisory Board will in a manner mould the future destiny of the pharmaceutical profession, trade and industry in this country. It will have to give expert advice to the Government regarding proper standards for the composition, strength and purity of drugs of any ingredient or component part thereof, units of standards, methods of tests, analysis of drugs, patent and proprietary medicines, etc., by the biological as well as chemical standards, proper qualifications of public analysts, equipment and technical qualifications of the staff of the manufacturers and procedure about the submission of every batch of specific drugs to the Central Laboratory for approval or for public sale, methods and manufacture, preparation and storage, packing, carriage, delivery, exposure of drugs, etc., for sale to safeguard them from adulteration . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : What is the Honourable Member reading from?

**Pandit Lakshmi Kanta Maitra** : These are contemplated in clause 6 of the Bill. The Bill provides for all these things.

**Mr. President** (The Honourable Sir Abdur Rahim) : But the Honourable Member need not read it *in extenso*.

**Pandit Lakshmi Kanta Maitra** : And, Sir, this Committee will have to give expert advice on the inspection, equipment and staff and processes of manufacture, duties and qualifications of Inspectors, modes of labelling drugs, nature and limitations of the kind of label to affix to drugs and medicinal preparations . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : The Honourable Member need not read the whole clause. He may only refer to those matters.

**Pandit Lakshmi Kanta Maitra** : In other words, the Bill confers powers on the Central Advisory Board which cover a large field and wide area embracing almost every branch and every field of activity in the manufacture, import, distribution, sale and storage of drugs and medicinal preparations. It, therefore, strikes me, Sir, as I am sure it will strike every Honourable Member of this House, that these onerous duties of a technical character cannot be successfully discharged and expert evidence on these may not be expected to be tendered if the Advisory Board has not on it

representatives of manufacturers, importers and distributors of drugs. But provision for this is conspicuous by its absence in the Drugs Technical Advisory Board. I remember a remark made by some of the previous speakers that the manufacturers' representatives should not be on this Advisory Board on the ground that their action would come up for consideration, for regulation by the Board, and as such, such an interested element should not be represented on the Central Advisory Board. This was also the contention of my Honourable friend, Sir Girja Shankar Bajpai. My Honourable friend, Mr. Boyle, actually took the cue from him and emphatically asserted that, as their activity was going to be controlled and regulated, they should not find any place on the Board. But may I tell the House that in the Bill which was circulated to the Provincial Governments in 1939, a few months back,—in that Bill the representatives of the different interests were given representation in the proposed Drugs Technical Advisory Board. There the provision was for manufacturers' representatives, representatives from the Indian Medical Council and also from the independent medical profession. The Drugs Committee's report also recommended a Central Advisory Board and suggested that it should be composed as follows: "The Director General of the Indian Medical Service, *ex-officio*, to be its Chairman, the Public Health Commissioner, *ex-officio*, the Director or other member of the staff of the Central Laboratory—only three *ex-officio* members." And the Committee recommended that there should be 11 members elected by the General Medical Council of India, the General Council of Pharmacy of the medical faculties of the statutory Universities, and the independent medical practitioners in India. So, it was recommended that this branch of the industry should also be represented, and as I pointed out just now, in the Bill of 1939, which was circulated to Provincial Governments, this body was given representation. Why is that representation denied now? I fail to get any satisfactory answer. Is it contended that in the Technical Advisory Board the presence of one or two representatives from the side of manufacturers and importers would so completely influence the decision of the Board as a whole that the very purpose of regulation of drugs would be defeated? In the Therapeutic Substances Act of Great Britain they have got a Central Advisory Committee. There also one member is appointed by the British Medical Association, one member appointed by the Council of the Pharmaceutical Society of Great Britain, and one member appointed by the Council of the Institute of Chemistry of Britain and Ireland.

**Mr. J. D. Boyle** (Bombay: European): May I suggest that in that case they are all technical people? That will not apply to the representatives of importers and manufacturers necessarily in India.

**Pandit Lakshmi Kanta Maitra**: My Honourable friend suggests that they are all technical people in England. I may tell him at once that I also want technical men from those categories. I would have left the point at that, but when my Honourable friend has invited me to a discussion on that, I will show him that even in the Drugs Act or similar legislation in England, in the Federal Food and Cosmetics Act of the United States of America, and in the drug legislation of every country, these pharmaceutical people, people trained in pharmaceutical chemistry, pharmacy, pharmacognosis,—get a preponderating element of representation on the Advisory Boards. Not only that, but even the administration of these Acts in those countries—the enforcement of their provisions is

[Pandit Lakshmi Kanta Maitra.]

controlled by the Pharmaceutical Society which represents the manufacturers. I do not suggest for a moment that in this Board there will be petty grocers or dealers of drugs and no technical men. Experts with scientific technical knowledge from the manufacturers and importers may be taken. There is no dearth of such expert and technical men in India. In the Food and Poisons Act of Great Britain representation is given to the manufacturers, pharmaceutical chemists, on the Statutory Board in a fairly large proportion. In the Council also administering the Pharmacy and Poisons Act of 1933, in Great Britain, 21 representatives out of 24 are taken from the manufacturers and pharmaceutical chemists. Is it then to be argued that what is true of Great Britain, what is true of every progressive country is not true of India? Is it going to be seriously contended that representatives of manufacturers and importers with drug smell will completely pollute the atmosphere of the Central Advisory Board if they are there? Indian manufacturers are not untouchables. If manufacturers and pharmaceutical chemists in all the progressive countries of the world may be allowed preponderating representation not only on the Advisory Board, but on the very Councils which give administrative effect to the provisions, I do not understand how it can be contended with any show of reason :

"No, we cannot give Indian manufacturers or importers any representation because their action will come in for consideration, criticism and regulation."

That argument does not appeal to me. It cannot appeal to any reasonable or sensible man. It is attitude like this which engenders suspicion in our minds.

**Mr. J. D. Boyle:** Indians and Europeans are both excluded.

**Pandit Lakshmi Kanta Maitra:** I am suggesting all manufacturers. I do not say that Europeans, who have adopted this country as their own, should be excluded. My point is manufacturers and importers, whether they are Indians or Europeans, should be represented on the Advisory Board. So far as I am concerned I am not prepared to make any differentiation in the colours of skin in this respect. I say that by excluding representatives of Indian manufacturers and importers from the Advisory Board, while such representation is granted on similar Advisory Boards—and even on the executive Councils of those Boards—in other countries, you are making a discrimination in India. That is my whole case with regard to this matter.

**Mr. J. D. Boyle:** There is no reason to introduce a racial issue here.

**Pandit Lakshmi Kanta Maitra:** I am doing nothing of the kind. My friend has been rubbed the other way. I am sure my argument is going home.

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions : Muhammadan Rural) : He will not be a candidate for that.

**Pandit Lakshmi Kanta Maitra:** There is another important reason which I submit for the serious consideration of the House. Of the total quantum of drugs medicinal preparations and chemicals that are in use in India,



80 per cent. are imported from foreign countries. These imports are going to be controlled. When this Bill is enacted into law and its provisions enforced, a huge amount will be derived from these people in the shape of import duties, taxes, licence fees, analysis fees, registration fees and in a variety of other ways. They will be contributing the bulk of the revenue that will be derived from the operation of this Bill and fairness and equity demand that they should have some representation in the Board. I think it is an accepted principle of life that one who pays the piper has the natural right to call for the tune. Sir, a statement has been made from the Treasury Bench that as soon as the pharmaceutical profession in this country is organised, Government would change the process of nomination into that of election. I do not know what is going to be the standard by which it is to be judged whether a particular organisation is properly organised or not. I am certainly of opinion that if Government had cared to enquire or consult public opinion they would have known that there had already been in existence pharmaceutical associations in India. In India at the present moment there are at least three well organised pharmaceutical associations. There is the Bengal Pharmaceutical Association. There is the Indian Pharmaceutical Association recently re-named the U. P. Pharmaceutical Association and there is also the Pharmaceutical Society of India with its head office at Madras. The names of the Bengal and U. P. Associations should not convey the impression that they are provincial organisations. The Bengal Pharmaceutical Association which is the oldest, largest and the best organised association of its kind in India has within its fold practically all the leading manufacturers, importers, stockists and distributors of pharmaceutical and allied products from all parts of India, namely. . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): At this stage the Honourable Member need not go into details. When the Bill is considered clause by clause and when that particular clause is reached, then the Honourable Member can speak on it. The Honourable Member is really going too much into details.

**Pandit Lakshmi Kanta Maitra:** I am replying to the Honourable Member's remark that there is no pharmaceutical association in India . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has mentioned that there are some organisations. He need not go into great detail.

**Pandit Lakshmi Kanta Maitra:** I am only showing that it is a highly organised and thoroughly representative body.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is pointing these out with reference to certain clauses. When those clauses are reached, the Honourable Member can bring up these points.

**Pandit Lakshmi Kanta Maitra:** I bow to your ruling, Sir. I would ask the Honourable Member to consider even now whether representation from these interests would be permitted on the Central Advisory Board

[Pandit Lakshmi Kanta Maitra.]

I know that I will be told that the Central Advisory Board has power to form certain *ad hoc* committees where these people may be consulted but my submission is that unless experts are drawn from these categories in the parent body technical advice on these highly intricate matters cannot be successfully tendered.

After the constitution of the Board comes the most important question of fixing uniform standards both for the imported and manufactured drugs in the centrally administered areas as well as in the Provincial Governments. We feel that the purity of drugs cannot be ensured all over this country unless Government by legislation make it mandatory that the schedule embodying the standards of drugs and medicinal preparations should not be interfered with by the Provincial Governments at random. There should be only one schedule prescribing uniform standards for drugs and medicines, both imported and manufactured in this country. I know that under section 103 of the Government of India Act, 1935, a Provincial Legislature has power to modify these provisions if it likes to do so, but that must not mean that we should not set standards for them if they so desire. It is open to them to make any change but the Central Government should not give them a handle to change the standards any way or any time they like. My next point is that elaboraté provisions have been made for the powers of Inspectors. The qualifications of Inspectors have not been prescribed. In Great Britain, the United States and other progressive countries Inspectors are a class of people highly trained in pharmacy, pharmaceutical chemistry, pharmacology and pharmacognosis. In India it will be extremely difficult to find a large number of such qualified Inspectors to whom will be entrusted these wide powers under the provisions of this Bill. The Central Government, with the advice of the Board, should prescribe the requisite qualifications of Inspectors.

**Mr. President** (The Honourable Sir Abdur Rahim) : This is a matter of detail and the Honourable Member may speak on it when the amendment is under discussion. The Honourable Member has already spoken more than an hour.

**Pandit Lakshmi Kanta Maitra** : I am shortening my speech, Sir. But I must draw the attention of the House to some of the drastic provisions in the Bill which should be modified if the Honourable Member wants our support for the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair believes there are amendments on the agenda paper, and these details can be discussed when those amendments are under consideration.

**Pandit Lakshmi Kanta Maitra** : The Chair can well understand that most of the amendments have been tabled by me. My point is . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim) : The Chair takes it, the Honourable Member wishes to move those amendments. If so, then he can explain those points.

**Pandit Lakshmi Kanta Maitra** : Sir, I will now refer to the powers given to the Inspectors which should be adequately curtailed. In particular I would like to draw the attention of the House to powers proposed to be

given under clause 21 (c), and not only 21 (c) but 21 (e), which is very vague and indefinite and gives further wider powers than are contained in 21 (c). Sir, one thing that strikes me as very surprising is that while powers of prosecution, powers of seizure of medicinal products have been given to the Inspectors, there is not even one provision in the whole body of the Bill,—and I respectfully invite the attention of my Honourable friend Sir Girja Shankar Bajpai to this,—which gives any thing in the nature of protection or a right of appeal to the aggrieved party. People who may be prejudicially affected by an order either of cancellation of registration or of the license have no relief.

**The Honourable Sir Girja Shankar Bajpai** (Member for Education, Health and Lands): Sir, may I interrupt the Honourable Member to give my explanation in regard to this point? We are not providing in the body of the Act for an appeal to judicial tribunal because these are primarily administrative matters, but our intention is that in the rules that would be framed to regulate the granting of licenses and so on, an appeal to some higher executive authority than the Inspector will be provided for.

**Mr. Lakshmi Kanta Maitra:** I am thankful to the Honourable Member for the interruption. He has thrown some light on the point. But what I want to emphasise is, when in the Bill itself the Honourable Member makes elaborate provisions for seizure of medicinal products, for forfeiture, for stoppage of sale, for prosecution, and for all manner of things, could he not make one provision in the Bill for the redressal of wrongs done, except leaving it to the Board to make rules in that direction? Could he not make one statutory provision by which aggrieved people might have some chance of relief? Where is the safeguard against a likely abuse of powers?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has tabled an amendment to that effect.

**Pandit Lakshmi Kanta Maitra:** Sir, I have put in an amendment. I want to suggest to the Honourable Member that there should be some provision in the Bill by which cases in which any adverse order of grant, refusal, revocation or suspension of a licence or the like has been passed, may be taken up before a Civil court for a judicial review of that order, so that the aggrieved party may get redress at the hands of a judicial authority free from any bias or influence of the Central Advisory Board. Sir, there are two other matters which are of great importance and I think the Honourable Member will realise the results that are likely to follow if those provisions are not deleted. This Bill is designed to ensure the purity of imported and manufactured drugs in this country. But, Sir, in the Bill itself, two provisions have been embodied, one in proviso (2) of clause 9 and the other in proviso to sub-clause (1) of clause 17. The first provides that the Central Government may exempt the import of any drug or class of drugs not being of standard quality. And there is its counterpart when it relates to the provinces, *viz.*, that the Provincial Government may exempt the manufacture for sale, sale or distribution of any drug or class of drugs not being of standard quality. Sir, these two loopholes will completely undermine any good result that is likely to ensue from the operation of this Act. What is sought to be given by one hand is taken away by the other. If we are out here to control the import of impure and adulterated drugs why should the Government reserve to itself the power to dump

[Pandit Lakshmi Kanta Maitra.]

into this country drugs which are not of an acknowledged purity? Sir, these are the two very dangerous provisions and unless they are taken out or substantially modified by the Honourable Member, it will not be possible for us to give our support to this Bill. In fact these two provisions raised a great suspicion in our mind. My Honourable friend appealed that this Bill should not be treated as a controversial measure. But, Sir, when we consider the history of this legislation, and the fact that the representatives of various interests concerned were not even shown the formal courtesy of consultation, and the way in which it is sought to be passed by this House it raises in us the strongest suspicion that it is not the purity or genuineness of drugs that is sought to be secured by this Bill, but it is the import from other countries of under-strength stuff that is going to be legalised and helped. Again, at the present moment, if import only is controlled or certified, do my friends realise the consequences? The consequences would be that an undue premium would be put on the imported stuff. It will create confusion and may mislead our countrymen, including those in the medical profession, to think that the drugs passed for import have the hall-mark of purity and genuineness and they will be prepared to our indigenous products. By this, Sir, a great blow will be dealt to the indigenous drug industry of my country. Therefore, our apprehension is that while it will not be possible for the Central Government to control manufacture in the provinces, which will require lot of conditions to be fulfilled, they may straight off proceed to control import and the result would be disastrous to my country.

Sir, I have read some very interesting articles recently from the manufacturers and the retail and wholesale distributors of medicinal drugs of Great Britain. I will read one or two passages from them which will show which way the wind is blowing and how the field is being prepared for a copious and regular supply of British drugs in this country. My Honourable Leader, Mr. Aney, yesterday asked Col. Kahman while he was speaking "when Great Britain exports drugs into this country, do they not control the manufacture there?" No answer to that question was forthcoming. But, Sir, the answer is very simple. Drugs which are meant for distribution and sale in their own country and in other European countries are manufactured under strict regulations and under strict control. Those who are in the drug trade know very well that medicinal drugs that are intended for tropical countries or are intended for export to India are clearly and prominently labelled and displayed as such. They are not used in their own country as they do not want to undermine the health of their own men. But as I was telling the House, Sir, my country has been the dumping ground for all kinds of quack medicines. The Pharmaceutical Society of Great Britain, while we are enacting a drug legislation in this country, are announcing through the Journals that they are prepared to give an uninterrupted supply of their products to India, so that India may not be anxious on that score. The Pharmaceutical Society of Great Britain has published an appeal to India with a message from Sir Firoz Khan Noon, the High Commissioner for India, in which it says:

"The historical and political ties between India and Great Britain are reflected in the association between the pharmaceutical professions and the drug trades of the two countries. Many Members of the Pharmaceutical Society in the two countries are closely linked in tradition and teaching . . . ."

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member need not read it at length.

**Pandit Lakshmi Kanta Maitra:** I will quote only one or two sentences, Sir:

"Those houses, even under war conditions, should be able to supply most of the products that have hitherto reached India from other sources. The material benefits of such action by the Indian drug trade will be great; the moral effect of this evidence of co-operation and support will be even greater. I therefore confidently commend this policy to you and I take this opportunity of expressing the cordial good wishes of British pharmacy for the increasing association of the drug trades of the two countries and for the continued prosperity of our Indian conferes."

I have seen many other appeals on similar or more direct lines from British manufacturers. I feel that this will be an indirect way of allowing the Imperial Preference to creep through backdoor. There are the loopholes in this Bill already referred to, which will open the floodgates of imports of under-strength and spurious drugs from Great Britain. My Honourable friend asked me not to import politics in this Bill. But do not all these facts and circumstances taken together give a flavour of politics to the whole scheme? The way in which the Bill is going to be rushed through, the callous indifference of the Government to our demands, the mischievous provisions and the attendant circumstances?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is not helping very much in rushing this Bill through. The Honourable Member cannot complain that this Bill is being rushed through. He has himself taken more than an hour and a half.

**Pandit Lakshmi Kanta Maitra:** I quite realise that, but what I want to bring to the notice of the House is that it is one of the most important Bills that has ever been introduced in the life of this Assembly and it was taken up for consideration only yesterday. It is a Bill which is going to affect the health of 400 millions of my countrymen. It is a Bill which is going to control the import, manufacture and sale of medicinal drugs in my country and to affect for good or for evil the entire drug industry of India.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member need not repeat all that. He has said that very often.

**Pandit Lakshmi Kanta Maitra:** Sir, with your indulgence and with the indulgence of the House I have been able to speak for quite a long time, for which I am grateful to you. But I must do my duty by my constituency. Therefore, whatever Government may say, I smell politics in it. My nerves are not so dull and dense that I cannot sense what is going on. I can see through this subterfuge. If this Bill is not modified in the way I have suggested and if it is not made more acceptable to us, I am afraid we cannot lend our support to it. This is an important measure which no patriotic Indian should support with closed eyes. It is a most important piece of legislation and in such matters we should not be guided by any consideration for trades and professions of other countries. At this stage, I content myself with this appeal and I will adjust my future course of action with regard to this Bill according to the attitude that is shown by the Government.

**Dr. Sir Ziauddin Ahmad:** Sir, I will not detain the House very long, but I wish to draw the attention of the House to a few salient points. The first point to which I would like to draw the attention is the definition of "drug"

[Dr. Sir Ziauddin Ahmad.]

as given in sub-clause (b) of clause 3. They have rightly omitted the Ayurvedic and Unani systems of medicine, as the opinions are divided whether these two systems should be included in the Bill or not. But I think in the experimental stage it is rather wise to omit these two systems altogether and consider them only when the working proves to be satisfactory. I have, however, two difficulties which I would like to point out. Homoeopathic medicines are not excluded, and I have one difficulty about these medicines. I hope my friend, Mr. Griffiths, or my friend, Dr. Dalal, will be able to solve that difficulty. We all know that in the case of homoeopathic medicines the potency or power increases with adulteration of water. If we put more water in it, then the efficacy of the medicine will increase. I will just give an illustration. Suppose I put a pound of homoeopathic medicine at Hardwar in the Ganges, I have calculated that it will take 16 days for that medicine to travel right up to Allahabad. Just at that proper time when the medicine has reached Allahabad, I draw out a bucket of water from the Ganges just below the Fort. I would like to know what would be the potency of that particular medicine in that water? My mathematical knowledge failed me, and I seek the assistance of a mathematician like Mr. Griffiths on the one hand and of a doctor of repute, Dr. Dalal, on the other. My second difficulty is whether that bucketful of water drawn from the Ganges at Allahabad will come under the purview of this Bill? Will the Inspector have a right to inspect whether the medicine has been properly adulterated or not, and so on? These are two difficulties, and I hope I will be enlightened on these two points.

Now, Sir, we have excluded the Unani system of medicine and have included only the allopathic system. In this connection also two difficulties will arise. The first difficulty is a direct one. I have seen it myself that in the case of dysentery, they prescribe ordinary *aesopghool* which costs only half an anna. They colour *aesopghool* and put it in a bottle and charge two rupees. I had myself to pay this price and the name is changed to *Aesoghool*. I opened it and tasted it and I found it to be nothing else than *aesopghool* worth only about half an anna. I submit, this method of colouring an ordinary Unani medicine and then charging 64 times the price is not correct. I think cases of that kind ought to be taken up in this particular Bill. I have tabled a small amendment to this effect, and I hope that the Government will accept the same in order to safeguard the interests of those people who are cheated by this wrong use of names. There is also the reverse process. They take an ordinary allopathic medicine, and, by giving it a Unani name, try to evade the provisions of this Bill. For instance, they take a *bona fide* allopathic medicine and give it a false Unani name such as *arke zokam* with which it has nothing to do. I hope the Government will introduce proper provisions so as to remove both these classes of defects.

The next thing to which I should like to draw the attention of the Government is the powers of the Inspectors. I think it is very desirable that since we have invested the Inspectors with very large powers, we should see that they have no financial interest in the sale of medicines. I have tabled an amendment, and I will discuss it at the proper time. There is no doubt that the Inspectors should have the powers vested in them, but they require some revision. They are too wide. When we come to this

particular clause, I will discuss the manner by which these powers should be curtailed keeping intact the efficiency of the working of this clause.

The next point on which I should like to emphasise is this. Whenever any patent medicine comes here for sale, either from Europe or manufactured in this country, it is exceedingly desirable that the formula should be indicated on the bottle and no patent medicines should be sold without this formula. This is rather very important, and, in the absence of this formula, there is a very great danger that doctors may transform themselves into quacks. I have repeatedly seen persons, who invent patent medicines, sending a large quantity to doctors to be used for patients. There is a big label outside to the effect that it can cure this disease and that disease, perhaps every conceivable disease on the face of the earth is mentioned on the bottle. In this way the doctors are tempted to make experiments on their patients simply by reading the advertisement. They do not know the exact formula of the medicine. I have also seen doctors harming their patients by administering these patent medicines whose composition they do not know. In the absence of the formula composing the patent medicine, the doctors tend to become quacks making experiments on their patients without knowing the effect of the patent medicine in regard to particular diseases of their patients. I submit that it is very desirable that in this particular Bill, some provisions should be introduced in this direction compelling the manufacturers of patent medicines to give on the bottle the composition of those medicines. Unless the formula is printed outside the bottle, no patent medicines ought to be allowed for sale. I hope the Government will accept my suggestion.

The next point is this. The importers bring a large number of medicines from foreign countries, medicines like serum and various other products, and they charge very high price for the same here, sometimes 20 to 50 times their cost price. I think the Board which we have set up or a sub-committee of this Board should look into the matter and fix the maximum price at which these things ought to be sold. In the absence of any such provision, I am afraid the public will be cheated into paying abnormal prices. Some of the dealers in medicine speculate and charge high prices. I have tabled some amendments to remove these defects, and I hope the Government will accept them.

Another serious drawback which I notice in the medical profession is this. A doctor says he is not going to charge any consultation fees from his patients, but he charges only the cost of the medicines which he alone sells. The doctor gives a prescription to his patient and says he does not charge any consultation fee, but he insists that the prescription should be dispensed only in his shop. In this way he recovers in the shape of cost of medicines his consultation fee also. Sometimes the charges are fabulous for the medicine. This is an indirect form of fleecing the patients. This reminds me of a story of a person who was selling camels free. He, however, played a trick. He attached a cat to the neck of the camel and said that by giving the price of the cat, the camel could be taken free. In this way, by raising the price of the cat, he realised the price of the camel also though ostensibly he said that the camel was free. Really speaking, this is the practice which some of our doctors adopt. The doctors say that consultation is absolutely free, but the medicines are charged very

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heavily. This practice I should not call it dishonest, but certainly it is not within the etiquette of the medical profession. I hope this will be looked into and some remedy found out.

The next point is, there should be some kind of practical test in the case of chemists. At present, any person, whether he can read or write or not, can open a medical hall and begins to sell the medicines. I think some kind of test ought to be prescribed for those who really administer the prescriptions. They should know something about chemistry and about the way in which prescriptions ought to be made. I think it is very desirable that this point also should be looked into by the Government.

The next point which I wish to emphasise is that there is really a great difference between a medical man, a doctor, and a person who manufactures drugs. They require two different kinds of knowledge. A doctor may be very good in using medicine, but he may not know how these medicines are made. This is entirely a different kind of knowledge. I, therefore, think that in your appointments, whether on the advisory committee or whether on the inspectorate, it is desirable that you should emphasise that persons who have got a knowledge of pharmaceutical chemistry and a knowledge of the way in which these medicines are prepared ought to be there; the medical men may be good in using these medicines; but they will not be good in making these medicines which require a different kind of training, a different kind of study for which they may or they may not be qualified. With these words, I resume my seat.

**Some Honourable Members:** The question may now be put.

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

“That the question be now put.”

The motion was adopted.

**The Honourable Sir Girja Shankar Bajpai:** Sir, there are two ways in which one can deal with a debate like this. One is to take up  
12 NOON. the points made by Honourable Members individually; the other is to pick up the main points and then, so far as possible, associate in one's answer the name or the particular Honourable Member who made each point. For the sake of economy of time, I propose to follow the second method, and I hope that Honourable Members will acquit me of discourtesy if I do not particularise the name of each Honourable Member who has stressed some particular point or point of view.

Sir, before I go on to the main points, I should like to make one general observation. In my speech suggesting that the Bill be taken into consideration I appealed to Honourable Members to treat this Bill in a non-controversial spirit. I regret to say that in certain quarters that appeal failed to evoke the response that I had expected. I do not propose to criticise any Honourable Member for that; we are all welcome and free to hold our own views. But two specific charges were made against Government which I think it is my duty to controvert briefly but emphatically. The first was that Government had been dilatory and they had been dilatory with a certain sinister purpose. This particular question has been dealt with in the course of questions and answers in this House and, in



particular, in the course of a debate in 1935 in the other place. On all occasions, it has been emphasised that, in a matter of this kind, we had to carry the Provincial Governments with us, because it was not possible to regulate the manufacture and distribution of drugs manufactured in this country or distributed after the manufacture in this country except with the co-operation of the Provincial Governments. That meant the creation of a special staff of inspectors and so on, which in turn involved expenditure; and surely it is not suggested that under the old Government of India Act, which came into force in 1921, or the present Government of India Act, the centre would have been justified in shouldering the financial burden for enforcing all the provisions of the Act? There has been nothing sinister in the delay at all. The delay has been due to the circumstances which I have indicated.

The second charge that has been made against Government has been one of dishonesty. My Honourable friend, Dr. Banerjea, said that although he was not making that charge himself, he was repeating a charge made by an Honourable Member who is absent from the House. I think if the Honourable Member who made that charge really feels strongly or sincerely that that charge is justified, it was his duty to have been here. In so far as the charge of dishonesty is concerned, I repudiate it emphatically. And I can assure all my Honourable friends here that Government have been animated by one desire and one desire only, and that is to protect the welfare of the 400 millions to whom my Honourable friend, Pandit Maitra, referred. Government, Sir, in this matter are *sans peur et sans reproche*.

Now, to pass on to the particular points. The first that was emphasised by a number of speakers, *e.g.*, Sir Henry Gidney, Dr. Banerjea, Mr. Boyle and others, was that there shall be uniformity in the application of this measure, both as regards the time when the measure is to come into force and as regards the standards that are to be prescribed in the different provinces with regard to indigenously manufactured drugs. As regards that, the attitude of my friends, Dr. Banerjea, and Pandit Maitra who is a lawyer,—I regret to say that I cannot claim to be a lawyer myself and can merely repeat the opinions of other people who are experts in law,—has been that the centre should compel the provinces to observe uniformity with regard to both these two points. Now, Sir, I can assure the House that we are as conscious of the importance, indeed the necessity, of uniformity as any Honourable Member; and the bureaucracy is generally attacked for being too fond of power rather than reluctant to assume power. It follows from that, that if the centre could legally, and within the provisions of the Government of India Act, have taken power to itself statutorily to enforce uniformity it would have taken power; but that is not the case. We took the best legal advice available to us on the subject and I shall give the House one relevant extract from the Government of India Act, 1935. This is from sub-section (2) of section 49 which says:

“Subject to the provisions of this Act, the executive authority of each Province extends to the matters with respect of which the legislature of the Province has power to make laws.”

This particular provision cannot be over-ridden or superseded by a resolution passed by the Legislature of a province under section 103 of the Government of India Act. That is the opinion that has been given to

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us by our lawyers. That being so, and it also having been held that the framing of regulations as also the putting into effect of the law are both executive Acts, I fail to see how it is possible by any method or by any exercise of ingenuity to get round this particular provision of the Government of India Act. That, Sir, has been the main obstacle, not any reluctance on our part to assume power or to provide in the statute for the enforcement of uniformity. But I gave the committee an assurance, and I gave the House an assurance yesterday, that we propose to call together a meeting of the Central Advisory Board of Public Health for the purpose of trying all the powers of persuasion of which we are capable, so that the provinces and the centre should act in conformity with each other and observe both chronological and administrative uniformity. That, Sir, is as far as I can go. My Honourable friend, Mr. Boyle, suggested that we should call together an *ad hoc* meeting of the Public Health Advisory Board for that purpose. I have not had time to consider that suggestion overnight, but I can tell him this that I will certainly give the most sympathetic consideration to that suggestion of my Honourable friend.

Now, Sir, again dealing with the particular points that were raised in the course of the discussion, my Honourable friend, Mr. Boyle, was at pains to bring out certain detailed provisions of the Bill which bear upon the effect of this measure upon the trade. Sir, in the time-limit which I propose to impose upon myself, it will not be possible to go in detail into all the suggestions which my Honourable friend made. But I can tell him this that there has been, and there is, no intention, and certainly we shall not in the administration of this Act try, in any way, to harass the legitimate activities of the trade, be they importers or be they indigenous manufacturers and distributors. His suggestions will be examined in that spirit. And so far as the centre is concerned,—and the centre is concerned only with imported drugs,—I can supplement the assurance by saying that we shall see to it that, when our rules and regulations are framed, full weight is given to the views of representatives of the trade who can be brought together by the machinery of putting up committees of the Advisory Board for which provision is made in the Act itself. As regards the provinces it will only be possible for us to tell the Provincial Governments to do likewise, and I see no reason whatsoever why they should not follow in the footsteps of the Government of India in this respect.

Then, Sir, my Honourable friend, Maulana Zafar Ali, and a number of other Honourable Members raised the question of the Indian States. They asked what we were going to do with regard to the possibility of deleterious drugs being imported into this country, *i.e.*, British India, from Indian States. The position with regard to them will be exactly the same as with regard to drugs that are imported from foreign countries. The machinery that is available to us will be utilised for the purpose of applying all the preventive provisions of this Bill to drugs which are imported from Indian States.

Another suggestion, a suggestion for an administrative arrangement with Indian States, so that they should apply the provisions of this law themselves to the extent that provinces may be prepared to apply to them, was also made. All that I can say at this stage with regard to that suggestion is that I shall take it into sympathetic and careful consideration.

Finally, we come to the question of the composition of the Central Advisory Board. My Honourable friend, Pandit Maitra, was both eloquent and indignant and, if I may say so, somewhat prolix in his comments upon the composition of this Board. He said in the Bill that was originally circulated there was provision for the representation of manufacturers and importers and distributors. That is perfectly true. But that does not dispose of the fact that in a body which is supposed to advise Government as to restrictions that should be imposed upon importers or manufacturers or distributors, it would be the height of unwisdom to give those importers and distributors and manufacturers representation. You might as well say that on the bench a party should be given a seat alongside with the judge and power also to adjudicate. You cannot do that. It was for that reason that on second thoughts, we decided to give up the idea of giving representation to manufacturers, distributors and importers. But that does not mean that these people are not interested or that their co-operation and their advice will not be necessary for the purpose of satisfactorily applying the provisions of this law; and, as I have indicated before, that advice is to be sought by calling these gentlemen together on committees which the Central Advisory Board is empowered to set up . . . .

**Pandit Lakshmi Kanta Maitra:** Did not Colonel Chopra also suggest that?

**Mr. President** (The Honourable Sir Abdur Rahim): If the Honourable Member wishes to intervene in the debate again, he must go back to his seat.

**The Honourable Sir Girja Shankar Bajpai:** The next criticism that was directed against the composition of the Board was that it did not inspire or was not likely to inspire public confidence. The question that I ask is this: what test is the public going to apply to the composition of a Board like this? It is not a Parliamentary Board, it is not a political body that we are creating, indeed it is not even an executive authority we are setting up. We are setting up an Advisory Board for the purpose of advising specially and strictly in regard to technical matters. I should have thought that the test which the public would apply would be that competent pharmaceutical chemists and others competent to judge matters that will come before the board should be on the board. That is what we have tried to do. But, inasmuch as there was pressure from certain quarters that a practising doctor unconnected with teaching and so on should also be on the board—in fact a number of them should be on the board—we, in the Select Committee, decided to give the Indian Medical Council the power to elect such a person. I feel that on a broad view, the composition that we have suggested for the board is a satisfactory one, considering the authority and the power which this board is going to be called upon to exercise . . . .

**Pandit Lakshmi Kanta Maitra:** May I ask the Honourable Member one question? Is it not a fact that in the proposed Committee you are giving representation to Government manufacturers—the Director of the

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Central Research Institute who manufacture sera and vaccines and supply them to hospitals, and to the Director of the Veterinary Research Institute at Muktesar and to others?

**The Honourable Sir Girja Shankar Bajpai:** My Honourable friend does not seem to differentiate between a Government activity which is purely a public utility activity, with no consciousness or idea of making a profit, and the activities of private traders whose main object is to make profit. That is really the reason why we have given representation to these people. And I may also add, not because they are manufacturers or that Government is a manufacturer, but because they have the requisite technical knowledge to serve on a body like this. But, Sir, in spite of the rather vitriolic terms in which some Honourable Members spoke, I still desire to maintain an atmosphere of friendliness with regard to the discussion of this Bill, and I have suggested to certain Honourable Members that if they are prepared to come to a compromise with us on the question of the constitution of the Board, as also the setting up of a consultative committee representative of the Centre and the provinces, the terms of the compromise being that the majority of the other amendments which are in my judgment extraneous to the Bill should not be moved, I am still prepared to come to that compromise. But, beyond that, it is impossible for me to go.

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

"That the Bill to regulate the import, manufacture, distribution and sale of drugs, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

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

"That clause 3 stand part of the Bill."

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, . . . . .

**The Honourable Sir Girja Shankar Bajpai:** Sir, I submit that this particular amendment does not comply with the provision with regard to the requisite notice. It was only sent in yesterday.

**Mr. President** (The Honourable Sir Abdur Rahim): As objection has been taken that sufficient notice has not been given as required by the Standing Orders, the amendment cannot be moved.

**Pandit Lakshmi Kanta Maitra:** Sir, I move:

"That in sub-clause (b) of clause 3 of the Bill, the words 'or animals', occurring in the second and the fifth lines, be omitted."

The definition of drugs reminds me of Dr. Johnson's definition of the word "oats": oats, according to Dr. Johnson, is food for horses in Britain and for men in Scotland. I find in this Bill animal medicine also has been brought in. Ayurvedic, Unani, and Homoeopathic medicines and also

biochemic products have all been excluded from the operation of this Bill. I do not understand why medicines for animals should also be included in this definition. I think it will create further complications; medicines and medicinal products intended for veterinary purposes are very clearly labelled "meant for horses or cattle", and if any human being who has rationality added to animality cares to use medicines which are intended specifically for animals, the legislature ought not to protect him. I, therefore, feel it will be creating only complications and it should be deleted. Sir, I move.

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

"That in sub-clause (b) of clause 3 of the Bill, the words 'or animals', occurring in the second and the fifth lines, be omitted."

**Mr. S. H. Y. Oulsnam** (Government of India: Nominated Official): Sir, Government must oppose this amendment. The words "or animals" which are included in part (b) of clause 3 were included with the definite purpose of closing a possible loophole for evasion of the provisions of the Act. Not only was it thought that it would provide a loophole, but it was also considered that it was desirable that advantage should be taken of this opportunity to bring veterinary medicines also under control. Government are advised that ordinary medicines which are used in veterinary practice are the same in quality as medicines which are used by medical practitioners. The only difference is one of dose. It may be necessary to make certain exceptions; for example, it may not be possible to prescribe any standards for the sera and vaccines which are used in veterinary practice as distinct from ordinary drugs, but if after further consideration and further inquiry action is found necessary, then the powers of exemption which are provided by the Bill will be exercised. But Government are unable to agree that the words "or animals" should be removed from part (b) of section 3. Sir, I oppose this amendment.

**Dr. Sir Ziauddin Ahmad**: Sir, I thought the Honourable Member would quote if there are certain medicines which are used for treatment of animals and not for the treatment of human beings. I thought that every medicine used for animals is also used for the treatment of human beings, and the words "or animals" were redundant. I think the only good reply that could be given is to quote the names of one or two medicines which are exclusively used for the treatment of animals and which are not used for the treatment of human beings, otherwise the objection from this side that the words "or animals" are redundant will stand.

**The Honourable Sir Girja Shankar Bajpai**: Sir, if I may intervene in the debate, the position really is this. We are dealing in the definition of drugs, not merely with chemical or bio-chemical drugs, but also with vaccine and sera. We are dealing with all three, and the position is, so far as vaccine and sera are concerned, the dose employed for animals may be different, but actually so far as the potency and composition are concerned, they are the same as regards human beings and animals. We went into this matter very carefully in the Select Committee, and we came to the conclusion that by reason of this community of use in respect of vaccine and sera and drugs for human beings and animals, it was necessary to insert

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the words "or animals", otherwise you might have all kinds of deleterious vaccine and sera imported, ostensibly for the use of animals, which would ultimately be sold in this country for the use of human beings.

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan): Sir, the exclusion from the operation of this Bill of Unani, Tibbi, Ayurvedic or Homoeopathic patents, I think, will create a lot of mischief . . . . .

**The Honourable Sir Girja Shankar Bajpai**: On a point of order, Sir. We are dealing now with the question of the deletion of the words "or animals", which has nothing whatever to do with the Unani and Tibbi medicines.

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

**Maulvi Muhammad Abdul Ghani**: The clause is before the House.

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

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

"That in sub-clause (b) of clause 3 of the Bill, the words 'or animals', occurring in the second and the fifth lines, be omitted."

The motion was negatived.

**Mr. Muhammad Nauman**: Sir, may I have your permission to move the amendment which stands in my name on Supplementary List No. 1?

**Mr. President** (The Honourable Sir Abdur Rahim): The notice was not given in time.

**Mr. Muhammad Nauman**: But under Standing Order 46, you can waive the objection.

**Mr. President** (The Honourable Sir Abdur Rahim): The Chair refuses to waive it. Objection has been taken.

**Pandit Lakshmi Kanta Maitra**: Sir, I beg to move:

"That to sub-clause (d) of clause 3 of the Bill the words 'after consultation with the Board' be added at the end."

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

"That to sub-clause (d) of clause 3 of the Bill the words 'after consultation with the Board' be added at the end."

**The Honourable Sir Girja Shankar Bajpai**: I accept the amendment.

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

"That to sub-clause (d) of clause 3 of the Bill the words 'after consultation with the Board' be added at the end."

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is: "That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is: "That clause 5 stand part of the Bill."

**Dr. P. N. Banerjea** (Calcutta Suburbs: Non-Muhammadan Urban): Sir, before you come to clause 5, I wish to move an amendment. . .

**Mr. President** (The Honourable Sir Abdur Rahim): Has the Honourable Member circulated the amendment to all the Members?

**Dr. P. N. Banerjea**: Yes, it has been circulated to all the Members.

**Mr. President** (The Honourable Sir Abdur Rahim): But the Chair has not got a copy of the amendment.

**Dr. P. N. Banerjea**: If some little time is given, it may be circulated, and you may take it up after Lunch.

**Mr. President** (The Honourable Sir Abdur Rahim): It is an additional clause?

**Dr. P. N. Banerjea**: An addition to the heading, Chapter II.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural): If there is any difficulty about this amendment, this may be taken up after the luncheon hour.

**Pandit Lakshmi Kanta Maitra**: May I suggest one thing, Sir. The amendment to which Dr. Banerjea referred is in substitution of an amendment of which I gave notice. . .

**Mr. President** (The Honourable Sir Abdur Rahim): To which clause?

**Pandit Lakshmi Kanta Maitra**: Amendment to clause 5. I suggest that the consideration of clause 5 may stand over till recess; meanwhile, we may proceed with clause 6.

**Mr. President** (The Honourable Sir Abdur Rahim): Has clause 4 got anything to do with it?

**Mr. M. S. Aney** (Berar: Non-Muhammadan): If you postpone the consideration of Chapter II and proceed with Chapter III, that will solve the difficulty.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member in charge has spoken to me already. Clause 5 will stand over.

**Mr. M. S. Aney:** Let the whole of Chapter II stand over.

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

**The Honourable Sir Girja Shankar Bajpai:** In so far as the whole of Chapter II is concerned, it is not necessary, because, with regard to clause 6, I do not think that there is any agreed amendment.

**Mr. M. S. Aney:** It is better if the whole of Chapter II will stand over.

**Mr. President** (The Honourable Sir Abdur Rahim): Chapter II will stand over. In the meantime, whatever amendments have to be circulated, they must be circulated to all Members. Notice also must be given of the amendments. The question is:

"That clause 7 stand part of the Bill."

**Pandit Lakshmi Kanta Maitra:** I beg to move:

"That in sub-clause (1) of clause 7 of the Bill the word 'First', occurring in the fourth line, be omitted."

In the course of the debate on the consideration of the Report of the Select Committee, I pointed out that if the provisions of the Drugs Bill were to be successfully administered, the first requisite was that there should be one uniform standard both for imported drugs as well as for those manufactured in this country. In the Bill, there is provision for two Schedules. Schedule No. I relates to the standards to be complied with by imported drugs. Schedule No. II deals with standards to be complied with by drugs manufactured, sold, stocked or exhibited for sale or distributed. The idea of this amendment of mine is that there should be one Schedule prescribing one and the same standard for the imported and manufactured drugs. Without this, the result would be that the standard or specification prescribed for imported drugs would begin to vary from standards that may be set up for manufactured drugs in the provinces. One great source of adulteration of drugs in this country is the post-import manipulation of drugs, by importers, their compounding and their branding after they are imported into the country. In other words, adulteration of imported drugs happens mostly after the post-import stage. It is quite possible that drugs according to the prescribed standard laid down in Schedule I may be imported, they may be found on analysis to tally with the specifications laid down there, but when they are spread over the provinces, the danger is that, if there is mixing or branding or blending of these drugs, there is no provision in the Act to stop that practice. The result would be that the very object of maintaining and securing the purity of drugs and medicinal preparations would be defeated. Provincial Governments may prescribe different standards in respect of drugs and medicinal products for their particular province, and inter-provincial jealousies and idiosyncrasies would make the situation so complicated that a drug with prescribed specifications of one province will find great difficulty to have access to other provinces where entirely different standards and specifications may be laid down. In other words, there will be the greatest handicap to the free movement of drugs in the provinces as also in the centrally administered areas. As I was pointing out to the House yesterday, one very salient recommendation of the Drugs Enquiry Committee was that in this country efforts should



be made to build up an indigenous drug industry. The Committee was decidedly of opinion that the problem of eliminating spurious, under-strength and adulterated drugs could not be effectively grappled with unless along with the restrictive provisions of legislation there was a positive movement in the country, helped by State aid and control, to construct an Indian drug industry.

There was a further observation that in a poor country like India where people had to buy medicines and medicinal products at considerably high rates, it would be necessary and desirable to have drugs of standard quality manufactured in India according to prescribed specifications so that they may be made available to the people of this country at very moderate and reasonable rates. The difficulty of having two schedules with different standards would be further accentuated when a mixed or misbranded or under trial drug adulterated in a particular province would be sold in another at competitive rates.

**The Honourable Sir Girja Shankar Bajpai:** May I just intervene for one moment. The principle that there should be one Schedule instead of two is part of the compromise. Only the form of the language to be used may have to be somewhat different from what my Honourable friend has suggested. I suggest that he need not pursue this point further. We have still a few minutes before the luncheon interval and the other clauses with regard to which there is no dispute and which are not part of the compromise might be put to the House for its acceptance.

**Pandit Lakshmi Kanta Maitra:** I am thankful to the Honourable Member. I am submitting—that if there is one Schedule which is applicable both to the provinces and the Centre for the manufactured and the imported stuff and if at the same time power is also given in the Bill to the provinces to change or modify the Schedule, the difficulty would not be removed. I am pointing out—of course we shall be able to draft an agreed amendment within a couple of minutes after we adjourn for Lunch—the difficulties which are likely to be experienced even when we have got one Schedule and at the same time we give the Provincial Governments power to change the standards or specifications of the drugs in the Provinces.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member can talk this over with the Honourable Member in charge during the luncheon interval.

Today being Friday, the House will now adjourn and meet again at a Quarter Past Two.

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

The Assembly re-assembled after Lunch at a Quarter Past Two of the Clock, Mr. M. S. Aney, one of the Panel of Chairmen, in the Chair.

**Pandit Lakshmi Kanta Maitra:** Sir, before the House adjourned for recess, I had been explaining to the House that it was necessary, for the purposes of this Act, to have only one Schedule instead of two. Sir, I

[Pandit Lakshmi Kanta Maitra.]

think it is the desire of the House also to have one Schedule substituted for two. No doubt the Provincial Government has power, as I was pointing out, to amend or modify as they like the Schedule which applies to them, but I do not think that we should give power here to the Provincial Governments to make the modifications by retaining these two Schedules. Sir, I have explained my position sufficiently clearly and I hope the Honourable Member will accept it. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That in sub-clause (1) of clause 7 of the Bill the word 'First', occurring in the fourth line, be omitted."

**Mr. Muhammad Azhar Ali:** Sir, I do not find any great difference in the two Schedules. The one is under section 7 and the other under section 15. The only difference in the two sections is that in the First Schedule the words are mentioned as "Central Government" while in the Second Schedule the words are "Provincial Government". Otherwise, they are absolutely one and the same. There is no difference, and we trust that the Honourable Member will accept the suggestion and the amendment of Pandit Maitra. With these words, I recommend to the Honourable Member to accept the amendment.

**Dr. P. N. Banerjee:** I support this amendment, and, in doing so, I wish to invite your attention and the attention of the House to pages 14 and 15 of the Bill. Page 14 gives the First Schedule and page 15 the Second Schedule. Page 14 gives the Schedule which refers to the standards to be complied with by imported drugs and it is laid down in item No. 2 that the standards maintained at the National Institute of Medical Research, London, and such further standards of strength, quality and purity may be prescribed by the Central Government. This has already been pointed out by my Honourable friend, Mr. Azhar Ali. If we look at item No. 3, here again we find the same thing, namely, that the standards of strength, quality and purity will have to be prescribed by the Central Government. Now, if we look at the Second Schedule, we find that this deals with standards to be complied with by drugs manufactured for sale, sold, stocked or exhibited for sale, or distributed. In other words, the First Schedule relates to imported drugs, and the Second Schedule relates to locally manufactured drugs. What is the distinction to be observed between the two? If you look at item No. 2 of the Second Schedule, you will find that the standards will have to be prescribed by the Provincial Governments. Similarly, if you look at item No. 3, you will find that the standards have to be prescribed by the Provincial Governments. So, these are the real points of distinction; in the first place we draw a distinction between imported drugs and drugs locally manufactured and in the second place we lay down that the standards for imported drugs are to be prescribed by the Central Government, while the standards for locally manufactured drugs are to be prescribed by the Provincial Government. This is a very anomalous position. Suppose a different standard is prescribed by the Central Government from the standard which is prescribed by the Provincial Government with regard to the same kind of drugs, a difficulty will then arise. . . .

**The Honourable Sir Girja Shankar Bajpai:** Sir, if I might just for the convenience of the House make a suggestion in so far as the principle of having one Schedule instead of two is concerned. I have already expressed my willingness to agree to that; only certain changes have to be made in clause 7 and in clause 15, I believe. So I suggest that clause 7 and clause 15 stand over and we go on with the rest.

**Dr. P. N. Banerjea:** Where are the amendments?

**The Honourable Sir Girja Shankar Bajpai:** The amendments will be in the hands of Honourable Members by 2-30 p.m.

**Dr. P. N. Banerjea:** All right; with these words, Sir, I support the amendment which has been moved by my Honourable friend, Pandit Lakshmi Kanta Maitra.

[The consideration of clause 7 and clause 15 was postponed as suggested by the Honourable Sir Girja Shankar Bajpai.]

Clause 8 was added to the Bill.

**Mr. Chairman** (Mr. M. S. Aney): The question is:  
"That clause 9 stand part of the Bill."

**Pandit Lakshmi Kanta Maitra:** Sir, I beg to move:  
"That the second proviso to clause 9 of the Bill be omitted."

This only refers to an exemption that may be granted in respect of the import of any drug or class of drugs not being of the standard quality. I have already explained in the course of my speech that this provision, if allowed to remain, might facilitate the import of under-strength and impure drugs and medicinal products which might injure the health of the people and defeat the very purpose of the Bill. I, therefore, think that the position must be clarified by the Government as to what they mean by this provision. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:  
"That the second proviso to clause 9 of the Bill be omitted."

**Dr. P. N. Banerjea:** May I ask the Honourable the Mover of the Bill, Sir, to give an assurance to the House that this will be applied only for non-medicinal purposes?

**The Honourable Sir Girja Shankar Bajpai:** Sir, I explained to the House that that really is the reason why we have put in this proviso. There are certain things which would otherwise come within the mischief of the definition of drugs but which are in reality intended for industrial rather than medicinal purposes.

**Pandit Lakshmi Kanta Maitra:** Sir, I hope the Honourable Member also means that those drugs are not intended for application to human beings.

**The Honourable Sir Girja Shankar Bajpai:** I have already said that we are really thinking of exemption in cases where the so-called drugs are intended for non-medicinal purposes.

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

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That clause 9 stand part of the Bill"

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10 was added to the Bill.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That clause 11 stand part of the Bill"

**Pandit Lakshmi Kanta Maitra:** Sir, I beg to move:

"That part (j) of sub-clause (2) of clause 11 of the Bill be omitted."

This amendment relates to cases where drugs are to be imported for the specific purpose of transport through and export from India. My apprehension is that there may be scope for adulteration after the drugs are imported. I want to know from the Honourable Member what is exactly sought by this provision of exemption in respect of drugs that are to be transported through or exported from British India. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That part (j) of sub-clause (2) of clause 11 of the Bill be omitted."

**The Honourable Sir Girja Shankar Bajpai:** Sir, I think I can reassure my Honourable friend quite easily. The intention of this is to permit transit through this country of drugs intended for places, such as, Afghanistan or Kashgar or Tibet or those countries with whom we have no arrangement and over whom we have no control as regards the import or manufacture of drugs. It is not the idea that this power should be utilised for the purpose of enabling illicit dealers here to adulterate drugs.

**Dr. Sir Ziauddin Ahmad:** Sir, may I just point out to the Honourable Member that from Afghanistan and other countries mentioned by him we can get medicines belonging to the Unani system but we can hardly expect to get from those countries the drugs as defined in clause 3? Afghanistan is not the place where you can get these drugs.

**The Honourable Sir Girja Shankar Bajpai:** That is all the more reason why nobody should object to this.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That part (j) of sub-clause (2) of clause 11 of the Bill be omitted."

The motion was negatived.

**Dr. Sir Ziauddin Ahmad:** Sir, I move:

"That after part (a) of sub-clause (2) of clause 11 of the Bill the following new part be inserted:

'prescribe the maximum price of a drug at which it should be sold'."

Sir, as I pointed out at the consideration stage, there is a medicine which we call "*Easop gool*". They take only a bit of this medicine, which costs them half an anna, fill it up in a bottle, colour it and change the name of the medicine by omitting the letter "p" as if it was an entirely new medicine and charge Rs. 2 for that bottle. So, if we find that an ordinary Unani medicine is converted into a patent medicine under a new name or a new colour, it is not desirable to raise the price arbitrarily. I think the consumers and the patients need the protection of the Government against such abnormal prices of ordinary Unani medicines. Of course, the number of medicines manufactured in India are very few, but there is an enormous number of articles which are coming from Germany and America and are being sold at abnormal prices although the cost of their production is very small. We have insisted on previous occasions that in all such cases the formula ought to be indicated, so that by seeing the formula, it is quite possible for an Advisory Board or a sub-committee that may be appointed for this purpose to fix a reasonable price for these medicines. The price should not be fixed at an abnormally high level. The amendment which I am suggesting does not make it obligatory, but it simply empowers the Government to make rules if they desire to do so. If the Government do not want to enforce any maximum price, if they do not want to restrict the sale, then let them not frame any rule. If they have clear proof that there is a good deal of misuse and that an article is being sold at an abnormally high price, I think it is up to the Government to step in and regulate the price under this clause. I clearly say that it is not incumbent on the Government. They may or may not do it. This only empowers the Government to frame rules if they choose to regulate the price of the articles. I know there are cases of drugs which come from Germany and other places which are sold at high prices. I think it is very desirable that there should be some kind of control over these things.

I said last time that after the passing of this measure, there will be a strong tendency also to sell allopathic drugs under an Indian name. They may prescribe a special fluid for cold and call it *arke zukam*. People will thereby understand that it is a Unani medicine, whereas it is really an allopathic medicine. We want protection for both, that is, the allopathic medicine should not be passed off as Unani medicine like *arke zukam*, or, the other way round, a Unani medicine should not be passed off as allopathic medicine simply by changing its name. In this particular case, I am not asking to stop such a practice. It may be difficult to do so unless there is a regular attempt to cheat. As I already said, a Unani medicine like *Aesop Gool* which costs only one pice cannot be converted into *Easop gool* and charged two rupees. What I attempt in my amendment is to stop these high prices. At present, the Government have not got the power to do so; but if they desire to do so, they can make rules to regulate the prices. On the one side, we always try to curtail the powers of Government, but in this particular amendment, I am adopting the reverse process. I want to give more powers to Government. It is not

[Dr. Sir Ziauddin Ahmad.]

right on the part of the Government to say "No, we shall not have such a power. There may be something hidden in this provision. There may be some motive behind it which may or may not be clear. Those hidden motives will come out later on". I say, if there are hidden motives found, then do not frame the rules later on. But have the power to frame rules. It is not obligatory for the Government to make rules under each and every one of the clauses. You may make rules under one sub-clause, you may not make rules under another sub-clause. If you do not want to exercise these powers, you can simply allow it as a dead letter. But occasion may arise in future when Government may have to exercise these powers. I hope the Government will not refuse to take these powers so generously offered to them.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That after part (n) of sub-clause (2) of clause 11 of the Bill the following new part be inserted:

'prescribe the maximum price of a drug at which it should be sold'."

**The Honourable Sir Girja Shankar Bajpai:** Sir, my Honourable friend's generosity is most touching, and I should certainly have availed myself of it but for certain legal inhibitions. The position is that this Bill is designed to regulate the quality of drugs. Neither the Provincial Governments nor the Government of India have made any provision in the body of the statute attempting to regulate such extraneous, though important matters, as the fixations of the prices of drugs. What my Honourable friend has said is extremely important, but I submit that it falls outside the ambit of the Bill as drawn up, and that, therefore, it is impossible to accept his amendment.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That after part (n) of sub-clause (2) of clause 11 of the Bill the following new part be inserted:

'prescribe the maximum price of a drug at which it should be sold'."

The motion was negatived.

**Pandit Lakshmi Kanta Maitra:** Sir, I beg to move:

"That part (o) of sub-clause (2) of clause 11 of the Bill be omitted."

I simply move this amendment without any speech. What I have to say on this amendment, I had already said. I want to know what is exactly meant by the Government by this provision.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That part (o) of sub-clause (2) of clause 11 of the Bill be omitted."

**The Honourable Sir Girja Shankar Bajpai:** My Honourable friend Pandit Lakshmi Kanta Maitra said that on this amendment he had already said what he had to say. I submit that I have also said already what I had to say.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That part (o) of sub-clause (2) of clause 11 of the Bill be omitted."

The motion was negatived.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clauses 12, 13 and 14 were added to the Bill.

**Pandit Lakshmi Kanta Maitra**: Sir, I beg to move:

"That in the heading to Chapter II of the Bill, for the words 'AND THE CENTRAL DRUGS LABORATORY' the words 'THE CENTRAL DRUGS LABORATORY AND THE DRUGS CONSULTATIVE COMMITTEE' be substituted."

This is moved in anticipation of another amendment which I am going to move just now and which if accepted by Government would necessitate a change in the heading in the terms suggested by the amendment. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That in the heading to Chapter II of the Bill, for the words 'AND THE CENTRAL DRUGS LABORATORY' the words 'THE CENTRAL DRUGS LABORATORY AND THE DRUGS CONSULTATIVE COMMITTEE' be substituted."

**The Honourable Sir Girja Shankar Bajpai**: Sir, I accept the amendment.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That in the heading to Chapter II of the Bill, for the words 'AND THE CENTRAL DRUGS LABORATORY' the words 'THE CENTRAL DRUGS LABORATORY AND THE DRUGS CONSULTATIVE COMMITTEE' be substituted."

The motion was adopted.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That clause 5 stand part of the Bill."

**Pandit Lakshmi Kanta Maitra**: Sir, I beg to move

"That after part (x) of sub-clause (2) of clause 5 of the Bill the following be added:

'(xi) one person to be elected by the Central Council of the Indian Medical Association and one person to be elected by the branches in India of the British Medical Association'."

This is meant to enlarge the Advisory Board as given in sub-clause (2) of clause 5 so as to give representation to the Indian Medical Association and the British Medical Association. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That after part (x) of sub-clause (2) of clause 5 of the Bill the following be added :

'(xi) one person to be elected by the Central Council of the Indian Medical Association and one person to be elected by the branches in India of the British Medical Association'."

**The Honourable Sir Girja Shankar Bajpai**: Sir, I accept the amendment.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That after part (x) of sub-clause (2) of clause 5 of the Bill the following be added :

'(xi) one person to be elected by the Central Council of the Indian Medical Association and one person to be elected by the branches in India of the British Medical Association'."

The motion was adopted.

**Mr. Muhammad Nauman**: Sir, I move:

"That after part (xi) of sub-clause (2) of clause 5 of the Bill the following be added :

'(xii) one member of the Unani profession to be nominated by the 'Tibia College of Delhi' from amongst the teachers of the said college'."

I know Government will not be prepared to accept this amendment and it seems out of place now as the Unani and Ayurvedic systems have been taken out of the purview of this Bill. I only want to say that Government must know that people attach a lot of importance to the Unani and Ayurvedic systems of medicine in this country; and although it may not be possible just now for the Government of India to have these systems represented on this Board, I will be satisfied if they will give an assurance that they will consider this question and present a Bill as early as they can to have equal control over these indigenous systems of medicine. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That after part (xi) of sub-clause (2) of clause 5 of the Bill the following be added :

'(xii) one member of the Unani profession to be nominated by the 'Tibia College of Delhi' from amongst the teachers of the said college'."

**Pandit Lakshmi Kanta Maitra**: Sir, I will say a word or two in connection with this amendment. I can assure the Mover that I am in thorough agreement with him in his views about the Unani and Ayurvedic systems of medicine. My Honourable friend, Maulana Zafar Ali, yesterday made a strong appeal for these two systems. Personally I am extremely thankful to Government for excluding these systems from the purview of this Bill. Up till now they have done nothing for the revival of these or taken any steps to encourage or induce the growth of these systems on healthy lines.

**Mr. Chairman** (Mr. M. S. Aney): Does the Honourable Member support or oppose the motion?



**Pandit Lakshmi Kanta Maitra:** I am suggesting to my Honourable friend that he might withdraw the amendment. If somehow or other Government were to exercise control over the Ayurvedic and Unani systems you can take it from me that these systems will be further ruined and ruined beyond repair. I would therefore appeal to him not to allow these powers to Government, but leave them to deal with the allopathic system only. We have been vigorously advocating the encouragement of the homoeopathic system of medicine which prevails in all other parts of the civilised world and also got a Resolution passed to that effect, but nothing has been done. I will be very happy if Government do not lay their hands on the Ayurvedic and Unani systems. I hope my Honourable friend will withdraw this amendment because instead of doing any good to these indigenous systems of medicine it will mean further disaster for them.

**The Honourable Sir Girja Shankar Bajpai:** Sir, I can assure my Honourable friend that speaking personally for myself I am fully aware of the importance attached by large sections of the people of this country to the Ayurvedic and Unani systems of medicine. But he has himself given reasons why I cannot accede to his amendment, because really the Unani and Ayurvedic products are outside the purview of this particular measure.

**Mr. Chairman (Mr. M. S. Aney):** The question is:

"That after part (xi) of sub-clause (2) of clause 5 of the Bill the following be added:

'(xii) one member of the Unani profession to be nominated by the 'Tibia College of Delhi' from amongst the teachers of the said college.'"

The motion was negatived.

**Mr. Muhammad Nauman:** Sir, I move:

"That in sub-clause (2) of clause 5 of the Bill, for the words 'three years' the words 'two years' be substituted."

I shall not take up much of the time of the House in explaining such a small matter: my object is only this: if the term is reduced from three years to two years, it might keep members more interested in their work than if they were given a longer period of office. That is my only submission. Sir, I move.

**Mr. Chairman (Mr. M. S. Aney):** Amendment moved:

"That in sub-clause (2) of clause 5 of the Bill, for the words 'three years' the words 'two years' be substituted."

**The Honourable Sir Girja Shankar Bajpai:** Sir, I think that my Honourable friend would be very reluctant to apply that particular form of reasoning to, shall we say, the term of Honourable Members of this House. In any case, with regard to this particular matter, I may mention for his information that we wavered between five years and a shorter period, and finally we came to the conclusion that three years was a reasonable compromise between the interests of continuity on the one hand and the desirability of getting new members in frequently on the other.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That in sub-clause (3) of clause 5 of the Bill, for the words 'three years' the words 'two years' be substituted."

The motion was negatived.

**Dr. P. N. Banerjee:** Sir, before you put clause 5, as amended, I wish to ask two questions. Part (vi) of clause 5 (2), contains the words "two persons holding the appointment of Government Analyst under this Act, etc.". May I ask if it is the intention of the Government that these two analysts are to be Provincial Government men? Again, in regard to part (vii) of the same sub-clause of clause 5, I wish to ask whether it is the intention of the Government that the pharmacologist and pharmaceutical chemist should be non-officials?

**The Honourable Sir Girja Shankar Bajpai:** Sir, in so far as the first question of my Honourable friend is concerned, the answer is in the affirmative: that is to say, the intention is to employ analysts serving under Provincial Governments. As regards the second part, we do not propose to restrict our choice to a particular category or class: we shall choose the best pharmacologist and pharmaceutical chemist that we can get; but normally speaking, if suitable non-official talent is available, naturally we will try to encourage it.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That clause 6 stand part of the Bill."

**Mr. Muhammad Nauman:** Sir, I move:

"That after part (f) of sub-clause (2) of clause 6 of the Bill the following be added:

'(g) the procedure for advertising the medicines in reference to their use.'

The object of my amendment is merely that the Board should also undertake to direct manufacturers, merchants and agents, in what way they should advertise. We have noticed not only exaggerations but also false statements as regards the efficacy of certain drugs; moderation is necessary. It has been very common in this country; and this has not been limited only to the productions of this country but also to the products imported from Europe. They also do not use caution in saying what they should say. That is my simple purpose and I hope Government will see the necessity of using caution in the matter of advertisements. With these words I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That after part (f) of sub-clause (2) of clause 6 of the Bill the following be added :

'(g) the procedure for advertising the medicines in reference to their use.'

**Mr. S. H. Y. Oulsnam**: Sir, the amendment which has been moved is, I am afraid, entirely out of place in clause 6. This clause deals with the Central Drugs Laboratory, and sub-clause (2) of this clause, to which it is proposed to add this amendment, deals with the rules which may be made in relation to this Laboratory, its functions and so on. So the provision for advertisements in this clause would of course be out of place. But on the general question of control of advertisements, I may say that the matter has been very carefully considered by Government in the preparation of this Bill and certain provisions have been made which will enable some control to be exercised. I would invite the Honourable Member's attention to clause 16 of the Bill. Part (f) of that clause says that a drug shall be deemed to be misbranded if its label or container or anything accompanying the drug bears any statement, design or device which makes any false claim for the drug or which is false or misleading in any particular . . .

**Mr. Muhammad Nauman**: May I ask whether it refers also to imported medicines?

**Mr. S. H. Y. Oulsnam**: There is a corresponding clause in Chapter III which deals with imported medicines in exactly similar terms. Then turning to clause 32 (2) (f), that gives power to the Provincial Government to make rules which may specify the disease or ailments which a drug may not purport or claim to cure or mitigate and such other effects which a drug may not purport or claim to have. Government are advised that this is as far as it is possible to go within the limitations of the Resolutions under section 103 of the Government of India Act which have been passed by Provincial Legislatures, and under which this Bill has been brought forward. But it is hoped that these provisions will in effect achieve the object which the Honourable Member has in mind.

**Mr. Muhammad Nauman**: Sir, in view of the explanation given by the Government, I beg leave of the House to withdraw my amendment.

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

**Mr. Chairman** (Mr. M. S. Aney): The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

**Pandit Lakshmi Kanta Maitra:** Sir, I beg to move:

"That after clause 6 of the Bill the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

7. (1) The Central Government may constitute an advisory committee to be called 'the Drugs Consultative Committee' to advise the Central Government, the Provincial Governments and the Drugs Technical Advisory Board on any matter tending to secure uniformity throughout the Provinces in the administration of this Act.
- (2) The Drugs Consultative Committee shall consist of two representatives of the Central Government to be nominated by that Government and one representative of each Provincial Government to be nominated by the Provincial Government concerned.
- (3) The Drugs Consultative Committee shall meet when required to do so by the Central Government and shall have power to regulate its own procedure'."

Sir, the purpose of this amendment is to devise some machinery which would be able to introduce and maintain uniformity in the administration of the provisions of this Bill. This is the next best we could have in place of the Joint Committee, for which I gave notice in an earlier amendment

**Mr. Chairman** (Mr. M. S. Aney): That is not before the House.

**Pandit Lakshmi Kanta Maitra:** I am told that it is *ultra vires*, and I am extremely grateful that we have been able to evolve a formula by which something in the nature of a Joint Committee can be installed in this country to give effect to the provisions of this Bill in all the provinces as well as in the Centrally Administered Areas, I hope the Government will accept it. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

"That after clause 6 of the Bill the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

7. (1) The Central Government may constitute an advisory committee to be called 'the Drugs Consultative Committee' to advise the Central Government, the Provincial Governments and the Drugs Technical Advisory Board on any matter tending to secure uniformity throughout the Provinces in the administration of this Act.
- (2) The Drugs Consultative Committee shall consist of two representatives of the Central Government to be nominated by that Government and one representative of each Provincial Government to be nominated by the Provincial Government concerned.
- (3) The Drugs Consultative Committee shall meet when required to do so by the Central Government and shall have power to regulate its own procedure'."

**The Honourable Sir Girja Shankar Bajpai:** Sir, I am prepared to accept the amendment

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That after clause 6 of the Bill the following new clause be inserted and the subsequent clauses be re-numbered accordingly :

7. (1) The Central Government may constitute an advisory committee to be called ‘the Drugs Consultative Committee’ to advise the Central Government, the Provincial Governments and the Drugs Technical Advisory Board on any matter tending to secure uniformity throughout the Provinces in the administration of this Act.
- (2) The Drugs Consultative Committee shall consist of two representatives of the Central Government to be nominated by that Government and one representative of each Provincial Government to be nominated by the Provincial Government concerned.
- (3) The Drugs Consultative Committee shall meet when required to do so by the Central Government and shall have power to regulate its own procedure.”

The motion was adopted.

New clause 7 was added to the Bill.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That in sub-clause (1) of clause 7 of the Bill, the word ‘First’, occurring in the fourth line, be omitted.”

The motion was adopted.

**Dr. Sir Ziauddin Ahmad**: Sir, I beg to move:

“That sub-clause (2) of clause 7 of the Bill be omitted.”

Now, this sub-clause says this:

“The Central Government, after consultation with the Board and after giving by notification in the official gazette not less than three months’ notice of its intention to do so, may by a like notification add to or otherwise amend the First Schedule, and thereupon the said Schedule shall be deemed to be amended accordingly.”

I object to this in principle, because the Schedule forms part of the Act. It is an essential complement to it, and it is not right to hand over the power to the Central Government to modify, amend or to add to anything by executive action and by notifying it in the official Gazette, it is against the fundamental principle of all legislation. If you want to alter the provisions of the Act by means of an executive order, what is the use of all this talk? Only a one-clause Bill would have been quite enough, and the Government could do whatever they liked for regulating the drugs. Only a one-clause Bill with the title and the preamble would have been quite sufficient. The whole idea of legislation is that all the fundamental principles should be decided by the Legislature which should form part of the Bill, and only the rules should be framed to regulate the procedure. The alteration of the Schedule is certainly not an ordinary routine work. It is a fundamental part, and it should not depend upon the executive action of the Government. On the previous Bill about regulating the cess duty on agricultural products, we did object to the power of the Government to add to the Schedule whenever they chose to do so. Throughout the life of this Legislature we had been objecting to the granting of this power. I think the story of the fowl and Israel will apply more particularly in this particular case. This is the first time when

[Dr. Sir Ziauddin Ahmad.]

we are giving power to the executive Government to take action to modify a Schedule by notification in the Government Gazette without coming to the Legislature. Once this power is given, we do not know when and where it will end. I think this is the first occasion when this power is demanded, and we should set our foot down on such a proposal. Let Government carry it by means of their own votes, I do not mind. Government have got the power to rule by means of Ordinances, we do not mind. But we cannot be a party. The Legislature cannot be a party to handing over this power of the Legislature to the executive Government, to modify the Schedules whenever they choose to do so. If the schedules are of such a type that they can be modified by executive action, then why should they come in the Schedule at all? They could as well have added a small clause. If they want really to modify the whole of it by executive action, the simplest course for them would have been not to have a Schedule at all, but take this power under the rule-making clause. That they could have done. But here they want us to give them the authority to change the Schedule, which we have persistently refused to do before. We have not given the Government power to change Schedules in any enactment of this Legislature so far, and it is rather unfair on the part of the Government to ask us to give them the power to change the Schedules. My Honourable friend may say that the Schedule is not a very important part of the Bill. If so, they could have taken the power under the rule-making section. But once a Schedule is put in, and the Schedule is always a part of the Bill—I think it is very unfair that the Government should take this power which really is not justified, and that has not been done in any previous case. In this case the Honourable Member may say that this is really a fowl. Today it is a fowl, tomorrow it may be the case of a camel or a cow, and day after tomorrow it may be human beings, as Israel has seen the House. When the first case comes before us, we should put our foot down on any such proposal. This power, I think, is rather very unfair on the part of the Government to demand from this House as it is at present constituted. All that we can do is to lodge our strong protest against such action of the Government, that they ought not to adopt this method of altering the Schedule. It is very irregular and contrary to the practice of the House. The objection which the Government may take that this particular Schedule is not of such vital importance that they must always come to the Legislature—to that my reply would be, if so, why not take the power under the rule-making power, because they have got very large powers . . . . .

**Mr. Chairman** (Mr. M. S. Aney): The Honourable Member is repeating himself.

**Dr. Sir Ziauddin Ahmad**: Therefore, I move that this particular sub-clause ought not to be there.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

“That sub-clause (2) of clause 7 of the Bill be omitted.”

**The Honourable Sir Girja Shankar Bajpai**: My Honourable friend has put forward an important constitutional point, and that I am in practical

sympathy with some of the arguments which he urged today will be evident from the fact that the other day, when the Agricultural Cess Bill was under consideration, I agreed to the deletion of a clause which gave the executive power to add to the list of dutiable articles. But, Sir, you cannot apply these principles without considering the content of the law to which you are applying them. If my Honourable friend will be so good as to look at the First Schedule, he will find that what it purports really is to regulate the standards of drugs, the composition of drugs, the manner in which drugs are to be described, and so on. If we were to hold up these changes every time until we had had an opportunity of obtaining the approval of the House, my Honourable friend would agree that the trade would be in a state of not merely anxiety but considerable inconvenience and embarrassment. In the remarks which I made with reference to something which fell from Mr. Boyle yesterday, I said that the purpose of this Bill was not to harass the trade or subject it to vexatious restrictions, but to facilitate its work, and I submit that, if I were to agree to the proposition which my Honourable friend has put forward, I would really be subjecting the trade to a very grave, and, in my humble judgment, unnecessary handicap. Therefore, I would suggest to my Honourable friend that he might differentiate between political issues or financial issues like those which he discussed the other day, and this purely administrative issue which in my judgment does not come under the category of what Lord Hewart described in his book as the New Despotism.

**Dr. Sir Ziauddin Ahmad:** My Honourable friend did not reply to one of my questions. Why did he put in the Schedule?

**The Honourable Sir Girja Shankar Bajpai:** For the simple reason that the trade feels that if, to begin with, there is a set of standards prescribed in the Statute, then they would be a sort of moral exemplar both to the Centre and the Provinces not to go about meddling with the Statute unnecessarily.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That sub-clause (2) of clause 7 of the Bill be omitted.”

The motion was negatived.

**Pandit Lakshmi Kanta Maitra:** I beg to move:

“That in sub-clause (2) of clause 7 of the Bill, for the words ‘First Schedule’ the words ‘Schedule for the purposes of this Chapter’ be substituted.”

The point has been explained at considerable length, and this is more or less consequential. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

“That in sub-clause (2) of clause 7 of the Bill, for the words ‘First Schedule’ the words ‘Schedule for the purposes of this Chapter’ be substituted.”

**The Honourable Sir Girja Shankar Bajpai:** I accept.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That in sub-clause (2) of clause 7 of the Bill, for the words ‘First Schedule’ the words ‘Schedule for the purposes of this Chapter’ be substituted.”

The motion was adopted.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That clause 7, as amended, stand part of the Bill.”

The motion was adopted.

Clause 7, as amended, was added to the Bill.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That clause 15 stand part of the Bill.”

**Pandit Lakshmi Kanta Maitra**: Sir, I move:

“That in sub-clause (1) of clause 15 of the Bill, for the words ‘Second Schedule’ the word ‘Schedule’ be substituted.”

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That in sub-clause (1) of clause 15 of the Bill, for the words ‘Second Schedule’ the word ‘Schedule’ be substituted.”

The motion was adopted.

**Pandit Lakshmi Kanta Maitra**: Sir, I move:

“That in sub-clause (2) of clause 15 of the Bill, for the words ‘Second Schedule’ the words ‘Schedule for the purposes of this Chapter’ be substituted.”

This is purely consequential. Sir, I move.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That in sub-clause (2) of clause 15 of the Bill, for the words ‘Second Schedule’ the words ‘Schedule for the purposes of this Chapter’ be substituted.”

The motion was adopted.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That clause 15, as amended, stand part of the Bill.”

The motion was adopted.

Clause 15, as amended, was added to the Bill.

Clause 16 was added to the Bill.

**Mr. Chairman** (Mr. M. S. Aney): The question is:

“That clause 17 stand part of the Bill.”



**Pandit Lakshmi Kanta Maitra:** Sir, I move:

“That after the first proviso to sub-clause (1) of clause 17 of the Bill the following further proviso be added :

‘Provided further that nothing in this section shall apply to the preparation, by a registered medical practitioner, for any of his own patients or colleagues, of a drug to which this Act applies if it is specially prepared with reference to the condition of, and for the use of, an individual patient.’”

Sir, the object of this amendment is very simple. I do not want that private registered medical practitioners, who may in the course of their daily work be called upon to give any auto-vaccine injections, should be called upon to take out a licence. Any medical practitioner may have to prepare such things for daily use. If he is called upon to take out a licence, it will be extremely inconvenient in acute cases, which may prove fatal. There will be delay and trouble in getting hold of the proper man. This is a small matter and the right will be confined to individual medical practitioners only who treat individual patients in very urgent and exceptional cases. I hope the Honourable Member will accept it.

**Mr. Chairman** (Mr. M. S. Aney): Amendment moved:

“That after the first proviso to sub-clause (1) of clause 17 of the Bill the following further proviso be added :

‘Provided further that nothing in this section shall apply to the preparation, by a registered medical practitioner, for any of his own patients or colleagues, of a drug to which this Act applies if it is specially prepared with reference to the condition of, and for the use of, an individual patient.’”

**Mr. Muhammad Azhar Ali:** I do not see why my friend wants to restrict this concession to registered medical practitioners. It means that other practitioners are excluded. I do not see why registered medical practitioners should be given this right.

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

In my judgment, there might be others who may be qualified to treat their patients with their specifics. This amendment shows discrimination to some extent. I would therefore ask my friend to reconsider the matter.

**The Honourable Sir Girja Shankar Bajpai:** Sir, my Honourable friend's provision or proposed provision is much too wide altogether. It may be that in certain circumstances or cases it may be necessary to empower a competent medical practitioner in emergent cases like those that he mentioned to manufacture his drugs for a particular patient. But that can be allowed under sub-clause (2) of clause 11 and sub-clause (c) of sub-clause (2) of clause 32 under rules made in this behalf, after consultation with the Board. I think that is a much more satisfactory way of securing the object that the Honourable Member has in view than the statutory provision which he proposes. I oppose the amendment.

**Pandit Lakshmi Kanta Maitra:** Sir, I beg leave of the House to withdraw the amendment.

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

**Pandit Lakshmi Kanta Maitra:** Sir, I move:

“That the second proviso to sub-clause (1) of clause 17 of the Bill be omitted.”

Sir, I move.

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

“That the second proviso to sub-clause (1) of clause 17 of the Bill be omitted.”

**The Honourable Sir Girja Shankar Bajpai:** Sir, I have already explained the purpose underlying this and other similar provisions in the Bill. The idea is to exercise the power of exemption with regard to drugs which may come within the definition of drugs in this Bill, but are intended for non-medicinal use.

**Pandit Lakshmi Kanta Maitra:** Sir, I beg leave of the House to withdraw the amendment.

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

**Pandit Lakshmi Kantra Maitra:** Sir, I move:

“That sub-clause (2) of clause 17 of the Bill be omitted.”

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

“That sub-clause (2) of clause 17 of the Bill be omitted.”

**The Honourable Sir Girja Shankar Bajpai:** Sir, I accept the amendment.

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

“That sub-clause (2) of clause 17 of the Bill be omitted.”

The motion was adopted.

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

“That clause 17, as amended, stand part of the Bill.”

The motion was adopted.

Clause 17, as amended, was added to the Bill.

Clause 18 was added to the Bill.

Clause 19 was added to the Bill.

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

"That clause 20 stand part of the Bill."

**Dr. Sir Ziauddin Ahmad:** Sir, I beg to move:

"That to sub-clause (1) of clause 20 of the Bill the following proviso be added:

'Provided that no person who has any financial interest in the manufacture, import, or sale of drugs shall be appointed to be an Inspector under this sub-section.'

Sir, the object of this amendment is that we want to exclude any person, who has any financial interest in the drugs for manufacture, or sale, from being appointed as Inspector. In the following clause, we are giving very wide powers to these Inspectors. We are authorising them to go to any firm they like and tell them not to sell such and such drugs for ten days, and take any action whatsoever. Now, if the Inspector himself has got any interest in a rival firm, then a good deal of heart-burning will be created, and, I think, it is exceedingly desirable that the Inspectors appointed should have absolutely no financial interest of any kind in manufacture, import or sale of drugs, directly or indirectly. In order to carry out the provisions of this Bill in an impartial manner, I think it is desirable that the Inspectors appointed should be impartial and should have no financial interests. Sir, I move.

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

"That to sub-clause (1) of clause 20 of the Bill the following proviso be added:

'Provided that no person who has any financial interest in the manufacture, import, or sale of drugs shall be appointed to be an Inspector under this sub-section.'

**Mr. M. S. Aney:** Sir, I think this amendment lays down a very salutary principle which is recognised by the Government in many other cases. So, I think, the Government should have no objection to accept it.

**The Honourable Sir Girja Shankar Bajpai:** I accept the amendment, Sir.

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

"That to sub-clause (1) of clause 20 of the Bill the following proviso be added:

'Provided that no person who has any financial interest in the manufacture, import, or sale of drugs shall be appointed to be an Inspector under this sub-section.'

The motion was adopted.

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

"That clause 20, as amended, stand part of the Bill."

The motion was adopted.

Clause 20, as amended, was added to the Bill.

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

“That clause 21 stand part of the Bill.”

**Sir Syed Raza Ali** (Cities of the United Provinces: Muhammadan Urban): Sir, I beg to move:

“That to sub-clause (c) of clause 21 of the Bill the following proviso be added:

‘Provided that the Inspector shall not take any action under this clause unless he has reported the facts to the District Magistrate or the Chief Presidency Magistrate and has been authorized by such Magistrate to take such action.’”

Sir, the powers conferred on the Inspector under clause 21 are very wide indeed. Sub-clause (c) has attracted the attention of several Members of this House and having regard to the standing which the proposed Inspector is likely to have, it is very important that the powers exercised by him should be subjected to proper control. Dr. Sir Ziauddin Ahmad has already referred to some of the powers which he would enjoy under sub-clause (c). It will be open to him to stop the sale of any drugs for a period not exceeding 10 days. Similarly, it will be open to him under certain circumstances to seize the stock of any particular drug. Sir, it would be dangerous to let the Inspector exercise these powers without control. The exercise of the power by him may be arbitrary or capricious. Indeed it may even not be honest. I hope the latter thing won't happen but the danger is there. Now that we are legislating, we have to take all these things into consideration. I believe the best safeguard that we can provide is that it should not be left to the Inspector to exercise these powers in an arbitrary or irresponsible manner. Therefore, my amendment proposes that the Inspector should not have the power to take action with regard to certain important matters unless he has reported the facts of the case to the District Magistrate or the Chief Presidency Magistrate and such Magistrate has authorised him to take such action.

My Honourable friend, Mr. Aney, whispers that he should be authorised to act only on a warrant issued by the District Magistrate or the Chief Presidency Magistrate. I have not considered it necessary to import certain provisions of the Criminal Procedure Code into the matter or to make them applicable. In that case, the procedure would become too elaborate and having regard to the contingencies of the moment it may be that the Inspector's object might be frustrated in certain emergencies. Therefore, I think it would afford sufficient protection to all those who sell these drugs if a proper check is put on the power of the Inspector to exercise the right given to him under this sub-clause. The very fact that he will not be able to exercise these powers unless he is authorised by the District Magistrate or the Chief Presidency Magistrate is a sufficient guarantee, so far as I can see, in this behalf. If this amendment is accepted, then it will, so far as I am able to see, meet the requirements of the case. It will safeguard the rights of all those who deal in these drugs and who sell these drugs. At the same time, it will prevent chemists from selling drugs of questionable manufacture. Sir, I move.

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

"That to sub-clause (c) of clause 21 of the Bill the following proviso be added:

'Provided that the Inspector shall not take any action under this clause unless he has reported the facts to the District Magistrate or the Chief Presidency Magistrate and has been authorized by such Magistrate to take such action'."

**The Honourable Sir Girja Shankar Bajpai**: Sir, I am prepared to accept the amendment.

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

"That to sub-clause (c) of clause 21 of the Bill the following proviso be added:

'Provided that the Inspector shall not take any action under this clause unless he has reported the facts to the District Magistrate or the Chief Presidency Magistrate and has been authorized by such Magistrate to take such action'."

The motion was adopted.

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

"That clause 21, as amended, stand part of the Bill."

The motion was adopted.

Clause 21, as amended, was added to the Bill.

Clauses 22 and 23 were added to the Bill.

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

"That clause 24 stand part of the Bill."

**Pandit Lakshmi Kanta Maitra**: Sir, I move:

"That in sub-clause (1) of clause 24 of the Bill, after word 'report', occurring in the fourth line, the words 'with detailed protocol' be added."

Sir, the object of this amendment is that the Government analysis report should contain the detailed protocol so as to enable all the parties to know the strength and the purity of the drug and also the methods applied for the chemical or biological assay. This is necessary in the interests of the trade itself. Sir, I move.

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

"That in sub-clause (1) of clause 24 of the Bill, after word 'report', occurring in the fourth line, the words 'with detailed protocol' be added."

**The Honourable Sir Girja Shankar Bajpai**: Sir, the purpose of my Honourable friend is a perfectly legitimate and valid one, but what I should like to point out to him is that it can be better achieved by the making of rules under section (a) of sub-section (2) of clause 32 of the Bill which says: "prescribe the forms of report to be given by Government Analysts, and the manner of application for test or analysis".

We do not go into the details in the Bill.

**Pandit Lakshmi Kanta Maitra**: Sir, I beg leave of the House to withdraw the amendment.

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

**Mr. J. D. Boyle:** Sir, I move:

"That in sub-clause (3) of clause 24 of the Bill, for the word 'ten' the word 'twenty-eight' be substituted."

This is just to give more time to the person from whom a sample has been taken and who desires to adduce evidence in controversion of the Analyst's report. Sir, I move.

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

"That in sub-clause (3) of clause 24 of the Bill, for the word 'ten' the word 'twenty-eight' be substituted."

**The Honourable Sir Girja Shankar Bajpai:** Sir, I have no objection.

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

"That in sub-clause (3) of clause 24 of the Bill, for the word 'ten' the word 'twenty-eight' be substituted."

The motion was adopted.

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

"That clause 24, as amended, stand part of the Bill."

The motion was adopted.

Clause 24, as amended, was added to the Bill.

Clauses 25 to 31 were added to the Bill.

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

"That clause 32 stand part of the Bill."

**Pandit Lakshmi Kantra Maitra:** Sir, I move.

"That to part (h) of sub-clause (2) of clause 32 of the Bill, the words 'or after the expiry of the date of potency' be added at the end."

Sir, the amendment speaks for itself. Sir, I move.

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

"That to part (h) of sub-clause (2) of clause 32 of the Bill, the words 'or after the expiry of the date of potency' be added at the end."

**The Honourable Sir Girja Shankar Bajpai:** Sir, I have no objection.

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

"That to part (h) of sub-clause (2) of clause 32 of the Bill, the words 'or after the expiry of the date of potency' be added at the end."

The motion was adopted.

**Pandit Lakshmi Kanta Maitra:** Sir, I move:

"That part (q) of sub-clause (2) of clause 32 of the Bill be omitted."

This particular sub-clause provides for the exemption, conditionally or otherwise, from all or any of the provisions of this Chapter or the rules made thereunder of any specified drug or class of drugs. We have already had certain clauses passed which provide for exemption of certain classes or categories of imported drugs and manufactured drugs. I do not understand what exactly is sought to be covered by this sub-clause. What is the purpose of exempting the provisions of Chapter IV from the cases contemplated by this sub-clause? To me it seems it ought to be deleted and I should like to hear from the Government what they have to say. Sir, I move.

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

"That part (g) of sub-clause (2) of clause 32 of the Bill be omitted."

**The Honourable Sir Girja Shankar Bajpai**: Sir, my Honourable friend referred to earlier discussions on comparable provisions in earlier Chapters of the Bill. Those earlier provisions relate to the powers of the Central Government; these relate to the powers of the Provincial Governments.

**Pandit Lakshmi Kanta Maitra**: You have under this Chapter exemption in provincial matters also.

**The Honourable Sir Girja Shankar Bajpai**: For exactly the same purpose as for the Central Government, namely, non-medicinal purposes . . . .

**Pandit Lakshmi Kanta Maitra**: Will the Honourable Member kindly refer to proviso 2 to clause 17 of the Bill. There also the Provincial Governments may permit the manufacture of under-strength drugs. So the provision here seems quite unnecessary.

**The Honourable Sir Girja Shankar Bajpai**: As my Honourable friend will see for himself this lays down the heads under which the rules may be made. In clause 17, you have direct powers of exemption; here you have power of amplifying it by rules made under them.

**Pandit Lakshmi Kanta Maitra**: In view of the explanation of the Honourable Member, I beg leave of the House to withdraw the amendment.

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

**Dr. P. N. Banerjee**: Sir, before you put clause 32 to the House, I wish to ask one question. Will the Honourable Member give us an assurance that the Central Government will take steps to have a set of model rules framed for the guidance of the Provincial Governments?

**The Honourable Sir Girja Shankar Bajpai**: Sir, my Honourable friend is aware of the fact that we have now agreed to set up specifically a consultative committee for the purpose of ensuring uniformity in the matter of rules to be framed under the different provisions of the Act. I have no doubt myself that that consultative committee would proceed on this basis and consider rules which are applicable to all provinces.

4 P.M.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is: "That clause 32, as amended, stand part of the Bill."

The motion was adopted.

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

Clause 33 was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): The question is: "That the First Schedule stand part of the Bill."

**Pandit Lakshmi Kanta Maitra**: Sir, I beg to move:

"That in the heading of the First Schedule, for the words 'First Schedule', the word 'Schedule', for the words and brackets '(See section 7)', the words and brackets '(See sections 7 and 15)' and for the words 'standards to be complied with by imported drugs', the words 'standards to be complied with by imported drugs and by drugs manufactured for sale, sold, stocked or exhibited for sale, or distributed' be respectively substituted."

Sir, these are all consequential amendments. Sir, I move.

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

"That in the heading of the First Schedule, for the words 'First Schedule', the word 'Schedule', for the words and brackets '(See section 7)', the words and brackets '(See sections 7 and 15)' and for the words 'standards to be complied with by imported drugs', the words 'standards to be complied with by imported drugs and by drugs manufactured for sale, sold, stocked or exhibited for sale, or distributed' be respectively substituted."

The motion was adopted.

**Pandit Lakshmi Kanta Maitra**: Sir, I beg to move:

"That in the First Schedule to the Bill, in the second column, against items 2 and 3, the words 'by the Central Government' be omitted."

Sir, this is a purely consequential amendment. Sir, I move.

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

"That in the First Schedule to the Bill, in the second column, against items 2 and 3, the words 'by the Central Government' be omitted."

The motion was adopted.

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

"That the First Schedule, as amended, stand part of the Bill."

The motion was adopted.

The First Schedule, as amended, was added to the Bill.

**Mr. President** (The Honourable Sir Abdur Rahim): The Second Schedule disappears on account of the amendments which have been carried.



**Pandit Lakshmi Kanta Maitra:** Sir, I beg to move :

“That the clauses of the Bill be re-numbered and all corrections consequential on the amendments made therein be carried out.”

Sir, this amendment is purely in the interest of the Government, and I am not going to make any appeal to them to accept it. Sir, I move.

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

“That the clauses of the Bill be re-numbered and all corrections consequential on the amendments made therein be carried out.”

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir Girja Shankar Bajpai:** Sir, I beg to move :

“That the Bill, as amended, be passed.”

**Syed Ghulam Bhik Nairang** (East Punjab : Muhammadan): Sir, I must congratulate my Honourable friend, Sir Girja Shankar Bajpai, on the wonderful way in which he has piloted this very difficult and, in spite of what he characterised it to be, a highly contentious Bill.

Yesterday when he moved the motion for consideration of the Bill as reported by the Select Committee, the atmosphere was surcharged with opposition, and we had a very oninous state of things prevailing in the House till the close of yesterday's meeting. Today things did not look very much more hopeful, but thanks to the conciliatory and considerate attitude of the Honourable Member in charge of the Bill the situation improved very soon, and before we had finished our Friday prayers things had taken a hopeful turn and we have got the wonderful result before us. This shows what an important part personality plays in the conduct of legislative business. It is not only a sound knowledge of the subject-matter with which a Bill deals, it is not only the amount of work which the Member in charge bestows on it, but it is the proper and continuous attention to all the contending interests with which the Bill is concerned and the way the Member in charge deals with these contending interests that leads to the success of a measure. I, therefore, must, as I said at the beginning, offer my hearty congratulations to my Honourable friend, Sir Girja Shankar Bajpai. It is not only the way in which he has piloted this Bill through this House but really the important nature of the legislation as well with which the House has been dealing which brings him all the greater credit. As has been admitted in all the speeches made today, the measure is of the highest importance to the country and deals with a subject which all must regard as of the highest importance, namely, the welfare of the public health of India. So, not only the Honourable Member but the House also must be congratulated on placing on the Statute-book a measure of that importance and vital significance.

Incidentally I may be permitted, Sir, to bring to the notice of the House and of the Chair that in striking contrast to the attitude of the Honourable Member some impatient Members on the Treasury Benches wanted to move the closure a bit too early. Government are aware of their comfortable majority in the House and they can carry any measure

[Syed Ghulam Bhik Nairang.]

through in spite of even the combined opposition of non-official Parties. I do not, therefore, understand, why one or two Members who wanted to speak were not allowed to do so by the closure being moved too early. Of course, we did not think it proper to divide on that point because that would have marred the pleasant atmosphere which was just then beginning to be felt, but I must pointedly bring to the notice of the House that it has been resented by people who lost their opportunity to speak, although for practical purposes it would have made no difference at all.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member is really not in order in discussing the closure. The closure motion has to be accepted by the Chair and the Chair does not accept any closure that is moved unless it is fully satisfied that there has been a sufficient debate. And once it is accepted it is not open to any one to discuss it.

**Syed Ghulam Bhik Nairang:** I do not for a moment mean to say that the closure was not properly accepted.

**Mr. President** (The Honourable Sir Abdur Rahim): It really comes to that.

**Syed Ghulam Bhik Nairang:** All that I want to say is that Government should think twice before moving for closure at such a time.

**Mr. President** (The Honourable Sir Abdur Rahim): My own opinion is that Government did not move the closure too soon and there had been a full debate before it was moved.

**Syed Ghulam Bhik Nairang:** That, Sir, was your view after it was moved. But it was not proper for the Government Benches to move it. Sir, I support the motion.

**Mr. P. N. Banerjee:** Sir, this is a very important Bill. But when it was first introduced last month it had many defects and shortcomings. The Select Committee was able to remove some of the defects, but now during the consideration stage many other defects and shortcomings have been removed. For this our thanks are due to the manner in which the Honourable Member in charge has piloted this measure. He has shown an attitude of conciliation and a spirit of sweet reasonableness in regard to the amendments moved from this side of the House and with reference to the defects and shortcomings we were able to point out. It may be asked, how has this change come about? To me it seems that Sir Girja Shankar Bajpai now occupies a higher position than he occupied in the month of February, and a higher position always carries with it a greater sense of responsibility. Sir Girja Shankar Bajpai is a man of great ability, and if he goes on in the manner in which he has just begun he will be able to render a great deal of service to his country. So far as this Bill is concerned, I hope he will always keep a strict watch over the administration of the Act and make it the fully beneficent measure that it ought to be.

**Mr. M. S. Aney:** Sir, it was well-known that this Bill being a contentious measure would not have a smooth passage through this House.

My friend, Syed Ghulam Bhik Nairang, has pointed out how at first the atmosphere was rather ominous and how it gradually smoothed down to calmness. Much of the credit is due to the reasonable and conciliatory attitude of the Honourable Member in charge of the Bill. This shows that reasonableness shown at the proper time evokes a response even from what is often described as in irreconcilable opposition. There is no such thing as an irreconcilable opposition at all. It only requires a proper amount of reasonableness to evoke the proper response.

In regard to this Bill I do not want to deal with the amendments that we moved here, but I will draw attention to one point. The success of this measure lies in the alertness with which the Provincial Governments will assume the responsibility that is thrown on them. And the task of the Honourable Member is not so easy as it was in dealing with us. If he succeeds in persuading the Provincial Governments to properly accept their responsibilities, which are directly or indirectly thrown upon them, in order to make this measure a complete success, then alone can the full benefit of this measure be had by this country, and I hope the reasonableness which has enabled him to succeed in this House will also help him in bringing round the Provincial Governments to take up their part properly and make this Bill as useful as it is intended to be. Expressing my appreciation for the manner in which the Bill has been piloted in this House, and offering my congratulations to him on having been able to pilot two important Bills successfully immediately on the assumption of his responsible office, I resume my seat.

**Mr. Muhammad Nauman:** Sir, I have only to express my satisfaction that after all the Honourable Sir Girja Shankar Bajpai has tried to help the Opposition in accepting some reasonable amendments that the elected Members suggested, and particularly the one proposed by my friend, Dr. Sir Ziauddin Ahmad, regarding Inspectors—that they should not have any financial connection or anything to do directly or indirectly with those concerns, and I hope that the Government will realise that we have been modest in giving our amendments and have tried to help the Government as well, by making it a non-controversial affair in so far as it was practicable. All the doubts which were in the minds of the opposition were freely mentioned by Mr. Maitra in his long and well-defined speech. We have now only to see that the imported drugs are not helped in any way and the rules will be made especially to take care of this part of the Act. With words of congratulation to the Honourable Sir Girja Shankar Bajpai, I resume my seat.

**Maulvi Muhammad Abdul Ghani:** Sir, I will speak only one word. The Bill is not perfect, but we have every hope that the Pharmacy Act will soon be passed. The only danger after passing this Bill is that the allopathic medicines and patent drugs will take shelter under the Unani and Tibbi, homœopathic and Ayurvedic systems that have been exempted under this Bill and call themselves by those names. Government should try their level best to see that mischief under those shelters is not committed to the public health. With these words I support the Bill.

**The Honourable Sir Girja Shankar Bajpai:** Sir, the very generous way in which my Honourable friend, Mr. Nairang, and other Honourable members including Mr. Aney, have spoken about my part in the piloting of

[Sir Girja Shankar Bajpai.]

this Bill has naturally gratified me and also filled me with gratitude. I may, in the words of the Persian poet, say:

*"Jamál-i ham nashin dar man asar kard, Wagar na man haman Khákam ki hastam."*

That is to say, it is the good qualities of my associates that have influenced me: otherwise I am just the humble dust that I always was. Actually I attribute the passage of the Bill not so much to any extraordinary effort or endeavour on my part, but to the ready co-operation of the House. And I would like at this stage to say that although Pandit Lakshmi Kanta Maitra and Dr. Banerjea and I differed, and differed forcefully on certain points, we have ultimately been able to compose our differences, because they also have been animated by a spirit of goodwill and by a desire to serve the public weal. That I think is all that I need say on the laudatory side, whether with regard to myself or with regard to other Honourable Members of this House.

Mr. Aney said that a spirit of reasonableness should be extended to the Provincial Governments in our dealings with them. I can assure him that so far as I am concerned that spirit of reasonableness will be forthcoming and I hope that it will evoke a reasonable response from the other side also. That is all that I need say at this stage.

I would, however, before I conclude, like to bring to the notice of the House the extremely valuable work which my friend and colleague in the department, Mr. Oulsnam, has done in the preparation of the Bill in all its stages. He is one of those modest men who do not advertise themselves whether by speech or otherwise. That is the opportunity and the temptation that is offered to us on the front benches, but it should naturally form part of the duty of a Member of the Government that he should pay a public tribute to those who, though silent, really carry on the administration of the land.

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

"That the Bill, as amended, be passed."

The motion was adopted.

### THE INDIAN MINES (AMENDMENT) BILL.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Member for Commerce and Labour): Sir, I move:

"That the Bill further to amend the Indian Mines Act, 1923, be taken into consideration."

This is a very simple measure and I shall explain the three provisions contained in the three clauses of this Bill. The first provision in clause 2 says that for the words "the Government" the words "the Crown" shall be substituted. The Chairman of the Coal Mines Stowing Board happens to be a servant of a Provincial Government. It has been interpreted that the word "Government" could only mean the Government of India: so, to enable a servant of a Provincial Government to be appointed Chairman of this Board, this particular amendment is necessary.

The second amendment deals with the omission of certain words. Under section 19(iA)(b) of the Indian Mines Act, power is conferred on the Chief Inspector or Inspector of Mines to limit by order in writing addressed to the owner, agent or manager of a mine the galleries that may be driven in mines to reasonable dimensions. As a result of the recommendations made by the Coal Mining Committee, detailed regulations under section 29 of the Indian Mines Act have been issued to the same effect, so that this particular clause becomes superfluous and the Bill suggests that the clause may now be omitted.

The last clause deals with a provision made under section 29. The Coal Mining Committee made the following recommendation:

"In every mine the materials required for the support of the roof and side shall be provided by and at the expense of the owner of the mines. The manager and supervising staff, attendants and clerks and all persons employed in connection with the raising and lowering of persons shall be payable and their wages paid by the owner, notwithstanding that the mine or any part thereof is worked or any part operations therein is carried on by a contractor, and no such contractor nor any person employed by him shall be appointed to be the manager."

This recommendation has been accepted by the Government, and this last clause gives the necessary powers to the Government to enforce that recommendation. If a contractor is given full power to do this, he may not care for the safety of the people working underground; he may so work that he may raise all the coal he can, because he is going to be paid at so much per ton of coal which he has excavated and the safety of the people employed will be endangered. So we must fix some responsibility on somebody, and therefore it is that this provision is sought to be made. I may explain here that the lessee of a coal mine is as much an owner as the owner himself, and there is no difference between the two. All that we can do to stop this is to have some independent person on whom this responsibility can be laid, and either the owner or the lessee, who is also the owner, should have full responsibility in this matter.

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

"That the Bill further to amend the Indian Mines Act, 1923, be taken into consideration."

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): Sir, as regards the amendment which the Honourable Member in charge has suggested, namely, clause (b) of sub-section (1A) of section 19 of the Indian Mines Act be omitted, he has not given any reasons to show why it should be omitted. I think he should have explained why the galleries. . . .

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar**: May I say this? The power was given to the Inspector or the Inspector of Mines by order in writing to make these provisions, but now as a result of the recommendations of the Coal Mining Committee, detailed regulations under section 29 have been framed by the Government itself which makes it unnecessary for any Inspector to exercise those powers. Under those regulations now the mines are being worked. Therefore, this has become a superfluous provision, and no Inspector need pass any order at all because the regulations are there which govern these in the light of the recommendations of the Coal Mining Committee.

**Dr. Sir Ziauddin Ahmad:** Provisions are made elsewhere in the rules. Since the provision is made in the rules, is it the idea that the provision in the Act itself is unnecessary?

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** An order by the Inspector of coal mines is unnecessary, because a higher authority has made the order, namely, the Government of India.

**Dr. Sir Ziauddin Ahmad:** As regards the second part, which is really the vital part in this Bill for prohibiting the employment of a man either as manager or in any other capacity specified here, except persons specially appointed by the Government who will be directly answerable to the owners of the mines. That means the Honourable Member wishes to secure that the owners of the mines should be made responsible, and they should know what is going on in their own mines. In principle it may be all right, but the responsibility cannot be shifted altogether from the contractors to the mine owners. The contractors take the work on contract, it is they who are actually running the mines and raising the coal, and it is they who should be made responsible for the safety of the people working in the mines. I know in some cases the owners of the mines are the landlords who really do not know what is going on in their mines. Of course, in the case of the coal mines owned by the railways, this system may work well, because they also employ contractors, but in a large number of cases, the mine owners are the landed proprietors, and they do not know what is going on in their mines. Very often they employ some *gumasthas* or agents to work for them. By this arrangement I am very doubtful whether they will improve the situation by shifting the responsibility from the contractors to the owners of mines. The contractors are the people who know all this business, who know their job well, and who know all the rules and regulations about the safety of the people, and it is, therefore, desirable that the whole responsibility should fall on the contractors. If you shift it to the mine owners, then I am afraid they will be dragged in for nothing, because they do not know much about their own mines. The contractors are very clever people, and every time there is any trouble, the contractors will try to drag in the owners in all these matters. Therefore, I think the proposed change is of doubtful utility. I would, therefore, request the Government to consider this matter seriously from the viewpoint of the mine owners who are not very intelligent people, and I fear the object which the Honourable Member in charge has in view may not be achieved by the amendment he proposes to make here.

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I cannot understand why the Government should try to shift the responsibility from the contractors to the owners and lessees. Probably the Honourable Member in charge thinks that the contractors in the majority of cases are irresponsible people and that the owners of mines do have a greater moral as well as legal responsibility. I do not think any differentiation can be made between the legal responsibilities of either of them in this matter so far as the legal liability is concerned, but there might be some greater sense of moral responsibility to owners. What I wish to impress upon the Government is that by making the legislation on mines more complicated, things might become more difficult and much cannot be achieved according to the desire of the Honourable Member in charge. We have recently had the Coal Stowing Bill before this House, and even there the Government have not been able to make out a case. In this case

the Government have not been able to justify the necessity for bringing forward this measure, why the owners should be made responsible. My friend, Dr. Sir Ziauddin Ahmad, has explained that mine owners as a rule have not much knowledge of the working of the mines, and they have to depend on the contractors or the lessees who really work the mines, they are the people who really do the job, and they in return give a small share of profit to the mine owners, and there the whole thing ends. I would like to know from the Honourable Member in charge if any instances have come to his notice which have necessitated him to bring forward this measure. The Honourable Member read out some portion of a report, which of course I could not follow. I should like to know what was the real basis of this recommendation and why this amendment of the Act is necessary. I trust Government will be able to explain matters more fully than the Honourable Member in charge has done.

**Mr. M. S. Aney** (Berar: Non-Muhammadan): Sir, I would like to add one or two words. In the first place, I should like to make a suggestion that whenever Government want to come forward with a short amending Bill, it would be better if, just below the Statement of Objects and Reasons, they also set out the corresponding provisions of the Act because by comparing the provisions Members would be able to follow what the actual amendments mean. However, that is a matter of procedure which I hope that the Government will take into consideration, as I think it will be salutary. The main point of this amending Bill is the amendment which is sought to be made in clause 4 of this Bill. Its net result will be the elimination of the class of contractors in the working of mines. I will not be sorry if the contractors are eliminated provided that it really improves the situation and helps the Government to gain the object which they have in view. The object seems to be, according to the Government as stated in the Statement of Objects and Reasons, that the contractors are only interested in profit making and therefore they are not so much interested in the safe and proper working of the mine. I do not know what is meant by safe and proper working of the mine in this connection, because it is not always the case that those who own the mines are better informed about the condition of the mines and also about the efficient working of the mines. They have to depend upon some experts generally in that case. By merely throwing the responsibility on them of direct payment to the manager and others they can secure one advantage, namely, that the managers and others will be directly responsible to the owner, but if the owner himself is not properly conversant with the conditions under which a mine ought to be worked, then this theoretical responsibility which exists there on account of direct payment made by him will come to very little. The Statement of Objects and Reasons says:

"The Government of India have accepted the recommendation of the Committee, but there is no provision in section 29 of the Mines Act under which a regulation of the type recommended by the Committee can be framed."

Clause (kk), as now introduced, is intended to give the Government of India power, but does it in any way really improve the situation to such an extent that the owners will be in a position to realise their full responsibility merely because they are called upon to be in direct touch with the managers and other servants who work under them. Is there any other thing contemplated by the Government by which they shall succeed in seeing that even in the case of the owners the mines are being worked with due regard to the safety of the persons who work under the mines? How can that be brought about merely by the fact that the servants and managers instead

[Mr. M. S. Aney.]

of being paid by contractors will be paid by the owner? There must be something else to bring about that result also. If there are any other arrangements by which that result is being secured by Government today then the mere existence of the contractor will not, in my opinion, be a serious impediment, and if there are no other arrangements in existence to bring about that result, then, in my opinion, a mere elimination of the contractor will not achieve the necessary result also. That is the difficulty I am in, and I should like to be enlightened how my Honourable friend is going to secure the safe and proper working of mines by making the little amendment which he seeks to make by this amending Bill.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions : Muhammadan Rural): By this Bill I find that Government want power to prohibit the employment of contractors . . . . .

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** No, no.

**Mr. Muhammad Azhar Ali:** The clause says, "for prohibiting the employment in a mine either as manager or in any other specified capacity of any persons . . . . ." This means that Government will have power to make rules to prohibit "the employment in a mine either as manager or in any other specified capacity". My submission is that these words, "or in any other specified capacity" are very wide. If there is an owner of a mine and if he appoints his own son or any other person simply to carry on the work of the mine, then it will be in the power of the Government to prohibit and also if the word "contractor" in any form comes in the deed of appointment. This is what I understand from this clause. Then the clause continues, "except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine". Payment will be a condition precedent for the employment of such a person. I do not see why the Honourable Member wishes that only those people who are paid should be employed. It may be that a contractor may not be taken in, but a person who is an honorary worker or is not paid—he may be employed instead of the contractor. May I remind my Honourable friend here that we may by this legislation condemn contractors in the mines area, but does the Government not know that the whole of this New Delhi was built by contractors and most of Government works are generally given to contractors whether it be in the P. W. D. or any other department? Enlistment of labour is generally in the hands of contractors. It will be very difficult for the owners of mines, whether big mines or small mines—it will be difficult for them to provide labour. So far as I remember, even in other countries like Japan we find that it is the contractor system that provides labour, and so it will be very difficult if the contractor is eliminated from the working of these mines. The owners of the mines will be put to a very great inconvenience if the contractor is eliminated. Simply to say that it should not be given on a term of contract, that so much will be paid for so many tons taken out or so much portion of mine worked,—that all means to say that the man who should be employed must always be paid a certain amount of pay, that his employment condition should not be on any contract system but it should be only on a definite and specified amount of pay that he should work. The object of this Bill is that there may be safety, that there may not be any unsafety in the working of mines. But elimination of contractors will, I



submit, work to the great detriment of those who work in the mines because, as I said just now, it will be very difficult to obtain labour, it will be very difficult to supervise, it will be very difficult to know the technique as the contractors generally do. The owner of the mine or his servant may not know how the mine is to be worked. So far as I understand the Bill, it will put the mine owners to a very great hardship, and if my Honourable friend can explain the whole position we shall be able to know what the meaning of this amending Bill is.

**Maulana Zafar Ali Khan** (East Central Punjab : Muhammadan) : Sir, in the Bills drafted by Government, experts as they are in the art of drafting Bills, the language used is usually very clear, but in this Bill, short as it is, the language used in the Statement of Objects and Reasons is not very clear to me. In fact, certain passages are inconsistent with each other. For instance, when speaking of the contractors who are employed in some of the mines for raising coal, it is said :

“As these contractors are not the owners of the mines their interest lies merely in raising coal as cheaply and in as large quantities as possible, while the proper and safe working of the mine is of little importance to them.”

The implication is that as these contractors are mainly concerned with making money, they cannot be responsible to the owner and, therefore, only those people should be employed who are paid directly by the owner, which again implies that the owner who is the master of the situation and of his own business knows everything about the concerns that he runs. Later on, however, it is said : “In many of these cases the owner of the mine has no idea of mining methods and does not concern himself with the working of the mine.” Then who is going to be responsible for the working of the mine? You do not want the contractors to be there. You admit that the owner of the mine is incompetent and in many cases he does not know his mind. How is the work to go on? I have not been able to understand that.

Then the addition sought to be made is “for prohibiting the employment in a mine either as manager or in any other specified capacity of any persons except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine”. Now, the contractors are paid by the owner of the mine. I cannot, therefore, see how you can logically advance the argument that no person can be employed unless he is paid by the owner of the mine. The owner of the mine pays the contractor. How is the contractor to be eliminated?

**Mr. M. S. Aney** : It is the contractor who pays the owner.

**Maulana Zafar Ali Khan** : The contractor receives money from the owner direct and then, afterwards, he pays the small fry. Anyhow the contractors cannot be eliminated. They are the chief factor in the situation. As has been pointed out by an Honourable Member, all the construction works are done by the contractors. Lakhs and lakhs go to them. The same is the case as regards mines and yet you accuse them of irresponsibility. That is what I cannot understand. All these things should be made clear and these inconsistencies which I have pointed out in the Statement of Objects and Reasons should be removed before I can be satisfied about the passage of the Bill through the Assembly.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** If I had tried to catch your eye earlier, it was because I wanted to throw a little more light on the subject and the discussion would then not have gone on the infructuous lines, which it has done. That conviction has been reinforced by the remarks that have been made by some of the speakers. Sir, the word 'owner' has been defined in the Indian Mines Act and I will only read a portion which shows who a owner is not. An owner is not a person who merely receives a royalty, rent or fine from a mine or is merely the proprietor of the mine subject to any lease, grant or license for the working thereof or is merely the owner of the soil and not interested in the minerals of the mine. These are not the owners. The owners under the Act are really those who are responsible for the working of the mines, the lessees. Let me remove another misconception. This clause is not going to prevent contractors being employed for the working of the mine at all. What we are trying to safeguard is that the supervisory staff which looks to certain conditions of safety for the lowering of the persons and so on should be different from the contractors' staff and should be under the proprietary control of the owner, using that word "owner" not in the sense of an absentee landlord who gets merely the royalty but either the lessee or the managing agents who are directly responsible for the working of the mine. Contractors have done good work. I do not deny it. Contractors are for long periods. They themselves are the special lessees in many cases, in which case they are the owners under the Act but there are cases of mines where a short term contract is given for a few weeks or a few months for a particular contractor. He excavates as much coal as possible and he is paid at so many rupees per ton of coal that is raised by him. There have been persons who have no interest in the supervisory staff and have no supervisory staff and therefore have no interest in the proper safety of the mines and therefore it is that power is taken to see that the manager and the supervisory staff are paid by the owner, using the word again in the extended sense and therefore has a direct responsibility for the mine. It is impossible for any Inspector of coal mines to check these things, if contracts are given only for a few weeks at a time, as is the case in some of the coal mines and, therefore, this provision has been made as a matter of caution to see that the supervisory staff is under the control of the owner and is responsible for the proper working of the mines. No contractor is going to be eliminated, so far as the proper working of the mine is concerned. I trust that that explanation will satisfy the House.

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

"That the Bill further to amend the Indian Mines Act, 1923, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

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

"That clause 4 stand part of the Bill."

**Mr. M. S. Aney:** The explanation which the Honourable the Commerce Member has given us is that the object is not to eliminate the contractor, but to bring the supervisory staff and other servants directly under the

control of the owner as defined in the Act. Now, Sir, I wish to invite the attention of the Honourable Member to the language itself and see whether this language is not such as to eliminate the contractor altogether. The proposed amendment reads like this:

“for prohibiting the employment in a mine either as manager or in any other specified capacity of any persons except persons paid by the owner of the mine and directly answerable to the owner or manager of the mine.”

Everybody else is prohibited to come as a Manager or in any other capacity. Now the wording is too wide and that seems to include the contractors among those who are being prohibited. That is how I feel.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** Sir, I should like to draw the attention of the Honourable Member to the original clause to which this clause is going to be added, which will make the position quite clear. It is:

“The Central Government may, by notification in the official Gazette, make regulations consistent with this Act for all or any of the following purposes, namely:”

**Mr. Muhammad Nauman:** May I move my amendment, Sir?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member ought to have moved it earlier. The Honourable Member must remember that it has been repeatedly pointed out that it is not for the Chair to see that the amendment is moved at the right time but it is for the Members concerned who have got any amendments on the list to move them.

**Mr. Muhammad Nauman:** Thank you very much for that, Sir.

**Mr. President** (The Honourable Sir Abdur Rahim): This is the practice, the House and the Honourable Member ought to know it. He may move the amendment now.

**Mr. Muhammad Nauman:** Sir, I move:

“That in clause 4 of the Bill, in the proposed clause (kk), for the words ‘except persons paid by the owner of the mine’ the following be substituted:

‘except persons paid by the owner of the mine or his representative or a lessee.’”

Sir, the Honourable the Commerce Member has said that the lessee is also included in the definition of ‘owner’ and if that be the fact, I hope he would not have any objection in accepting the amendment in order to make the clause more clear and explicit.

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

“That in clause 4 of the Bill, in the proposed clause (kk), for the words ‘except persons paid by the owner of the mine’ the following be substituted:

‘except persons paid by the owner of the mine or his representative or a lessee.’”

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** Sir, I said that the "lessee" is already under the Act as the "owner", and, as regards the words "or his representative", I do not see how it advances the position either, and this clause would merely make the whole provision redundant in the Act.

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

"That in clause 4 of the Bill, in the proposed clause (kk), for the words 'except persons paid by the owner of the mine' the following be substituted:

'except persons paid by the owner of the mine or his representative or a lessee'."

The motion was negatived.

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

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar:** Sir, I move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

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### THE PETROLEUM (AMENDMENT) BILL.

**The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar** (Member for Commerce and Labour): Sir, I move:

"That the Bill further to amend the Petroleum Act, 1934, be taken into consideration."

Sir, this is really a very simple and innocent measure. The provision seeks to restrict the storage of petroleum to 20 gallons by owners of motor conveyances. By a strange omission Government failed to provide that if a person has got more cars than one, he cannot store as many 20 gallons as the number of cars he possesses. Under the present Act he can do so. That is a dangerous thing to do. He can carry or store petrol up to 20 gallons. But if he has 20 or 30 cars and lorries he should not store as much as 400 or 600 gallons, not that he will be prevented from storing under proper licence and in proper place which will be examined by the Inspector

of Explosives. This Bill seeks to remedy that deficiency. Incidentally, there is another provision in which in case of death due to accidents resulting from the ignition of petroleum or petroleum vapour the Commissioners of Police have to hold an enquiry. Also the Coroner must carry on an inquest under the Coroners Act. There are, therefore, two authorities who are to carry on the inquest as an obligatory part of their duty. It is proposed that where the Coroners carry on the inquest in the Cities of Bombay and Calcutta the Commissioner of Police may be relieved of his duty to do this work. Sir, I trust this Bill will have a speedy passage.

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

“That the Bill further to amend the Petroleum Act, 1934, be taken into consideration.”

The Assembly then adjourned till Eleven of the Clock on Saturday, the 6th April, 1940.