

20th November 1940

**THE  
LEGISLATIVE ASSEMBLY DEBATES**

**Volume V, 1940**

*(19th November to 27th November, 1940)*

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



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# Legislative Assembly.

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# LEGISLATIVE ASSEMBLY

Wednesday, 20th November, 1940.

## SPEECH DELIVERED TO THE COUNCIL OF STATE AND THE LEGISLATIVE ASSEMBLY BY HIS EXCELLENCY THE VICEROY.

His Excellency the Viceroy, having arrived in procession with the Presidents of the Council of State and the Legislative Assembly, took his seat on the Dais at Eleven of the Clock.

**His Excellency the Viceroy:** Gentlemen, I am very glad to meet you all again today.

The fourteen months that have elapsed since I last addressed you has been a period of great events, events of profound significance both in their immediate effect and in their ultimate reaction on the fortunes of civilization and the history of the world: I warned you in September 1939 that we should be ill-advised if we thought that victory was easily achieved or that the course of the conflict would be free from reverses to our arms. I expressed at the same time complete and entire confidence in the outcome of the war. I emphasized how vitally important it was to India, the Empire, and to the world's civilization that that outcome should be satisfactory, and I added that I felt certain beyond any question that the response which India would make in a conflict for ideals so dear to her would be one of the utmost value and importance, and one worthy of her traditions and her ancient name.

When I spoke to you we could none of us have foreseen that fourteen months later the Empire would be bearing single-handed a burden so heavy as it bears today; that of its allies at the beginning of the war Poland and France would have been overrun and conquered; that unprovoked Nazi aggression would have added to its victims Norway, Denmark, Holland and Belgium; and that Italy would have made an equally unprovoked attack on the gallant people of Greece, whose superb resistance commands our admiration today. (Applause.) But we should have been well content fourteen months ago had we, with any foreknowledge of the events which have happened, of the vastly increased burden placed upon the Empire, of the intensification of the most ruthless and unprincipled forms of attack on human life and human property by air and sea, of the singular disregard with which our enemies have continued to treat international obligations and treaties so long as they could derive a temporary advantage in doing so, had we, I say, been enabled to foresee, too, the valour and the success of the resistance offered. The work of the armed forces of the Crown by sea, by land, in the air, in every theatre of war; whether they are drawn from India, from the Dominions and Colonies, or from the Home country, is such as to fill us with pride, with thankfulness, and with confidence for the future.

While the war lasts, its implications, its consequences, are such that it can never for a moment be out of our minds, that in everything that we do it must always be present to us. But I do not propose today, nor

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would this be the place, to enlarge in this speech on the detail of India's war effort, on the splendid work which Indian troops have done and are doing in the fighting line, or on the magnificent achievements of India, whether British India or the Indian States, in the provision of men, of money, of materials. No praise could be too warm for that achievement. It is one that has struck the imagination of the world, one for which the whole Empire is I know deeply grateful. And, substantial as that achievement already is, no pains are being spared to enable India to give still further effect, in all the ways I have mentioned, and with as little delay as may be, to the universal desire in this country to help the Allies and to see the triumph of the ideals for which they are fighting. The confident hope that I expressed a year ago that India would live up to her highest traditions have been fulfilled in the highest degree. You may be confident, Gentlemen, that in this vital matter I and my Government are fully alive to the importance not only of responding to India's desire to help, but of making her in the matter of defence as self-sufficient as possible; and to the necessity of bringing her defensive equipment to the highest practicable pitch of adequacy and efficiency.

I said, Gentlemen, that the war must be continually in our thoughts and must be related to everything we do. Of the matters on which I shall touch in the remainder of my speech, the great bulk arise out of, or have some connection with, war activities or the war situation. There are one or two which I shall also mention, which are not so directly connected. But in their case the interest taken in them by the general public is sufficiently great to justify me in making a reference which I should not otherwise have made.

It was with much regret that I learned of the refusal of the Legislative Assembly to take into consideration the Finance Bill designed to facilitate the financing of India's war effort. It will, I think, be very generally appreciated that it would be impossible for me to acquiesce in the decision of the Assembly, and I have made a recommendation which will be placed before the Assembly this afternoon.

The work of the Department of Supply, which as you will remember was established shortly before the outbreak of the war, has been of great value in connection with India's war effort; and I should like to pay a tribute to the importance of this work, and to the work of the Ordnance factories (which were not until recently brought under the Department). I should like to associate with that tribute the business community in this country, whether Indian or British. At a time of considerable strain the Department has had the most valuable assistance from business firms, and I am glad to think that that friendly collaboration and patriotic assistance, so readily given, has led to some remarkable results. In the field of munitions, the Ordnance factories since the beginning of the war have been able to export to His Majesty's Government about one hundred million rounds of small arms ammunition and nearly four hundred thousand rounds of gun ammunition. On the stores side, Indian industry has made contributions on the largest scale to the war effort in the shape of engineering stores, jute goods, and many other manufactured products. I and my Government have been at pains to endeavour to secure that such changes should be made in the organisation of the Department as practical working showed likely to produce still better results. You may be confident that the lessons of experience will not be lost upon us, and that such further

modification of the supply organisation as experience may dictate will be made without hesitation or delay. As I speak today, indeed, further changes in the Supply Department are in view, designed further to speed up work, and to ensure that the organisation as a whole is as compact, and as economically run, as is consistent with the magnitude and the character of the operations which fall to be performed.

It was with the greatest satisfaction that I recently welcomed to India the Members of the Eastern Group Conference, and the Mission from the Ministry of Supply headed by Sir Alexander Roger. Much as may have been done, much still remains to be done if India is to make her full contribution to the war effort; and the importance, whether to India or to the Empire as a whole, of the labours of the bodies to which I have just referred cannot be over-estimated. I should like to take the opportunity to express our deep gratitude to the non-official Advisers from India who have, with such public spirit, placed their services at the disposal of these bodies.

The need for harnessing India's economic resources to the task of making her a great centre for supplying the requirements of the military forces engaged in the war must take first place in our attention. But the Government of India are in no way blind to the pressing problems that war conditions have brought to Indian trade and industry. The dislocation of our export trade by the cutting off of nearly all European markets has been receiving the closest attention not only of my Government but of the Export Advisory Council, in the hope of dealing with the problem of surplus production and of reducing the size of any surplus by finding new outlets for our products and manufactures. This last attempt is being pursued in various ways, of which mention may be made, in particular, of the exploratory mission of Dr. Gregory and Sir David Meek to America, and of the decision to increase the number of our Trade Commissioners in continents other than Europe, beginning with Australia. On the other side of the picture, the cutting off of many supplies which normally came from abroad has created many gaps, not only in India itself, but also in neighbouring countries, which Indian industry can hope to fill. I am glad to note that business and industrial interests in the country have not been slow to undertake enterprises designed to fill these gaps, while my Government have done their best to mobilise technical skill for their assistance by setting up the Board of Industrial and Scientific Research, which, through its numerous Sub-Committees and in collaboration with the Director of Research, has already produced valuable results.

The war has thrown a considerably increased burden upon the Provincial police forces, for, apart from their normal responsibility for law and order, they now are under obligation to undertake the safeguarding of places of vital importance to the internal defence of the country, such as power plants, major installations, and a number of protected places, in addition to affording an enhanced degree of protection to railways, and to watch and ward against sabotage. That burden has been materially eased by the establishment in all Provinces of the Civic Guard, and by the assistance given by that body in maintaining internal security. The response to the call for volunteers has been most encouraging. The Civic Guard has on many occasions already given practical proof of its usefulness and efficiency and I am confident that it will, as its training progresses, play a most valuable and important part in India's war effort.

[H. E. the Viceroy.]

Though immediate danger to India from enemy air raids may not be apparent at the moment, he would be a wise man who could accurately foretell the development of the war, and we must be prepared for all eventualities. For this reason Air Raid Precautions in India have been initiated in a manner designed to form a solid basis on which further expansion can take place. Close liaison exists on this most important matter between the Central Government and the Provinces; and its expert advice, and substantial grants-in-aid, have been placed at their disposal. Good progress has been achieved in the past year, a progress made possible by the willing co-operation and voluntary effort of the people of India. There is however still much to be done, and I need not remind you, Gentlemen, of the value of the help which you can individually give to stimulate interest and co-operation on the part of the public and of local bodies in the areas from which you come.

Since the last meeting of the Legislature, compulsory national service has been introduced in India for European British subjects. For the smooth working of the machinery for enrolment I gratefully acknowledge the work of the National Service Advisory Committees—all of it voluntary; and the spirit of willing service has been evident on every hand. The European community in India have yielded to none in the enthusiasm and self-sacrifice which they have shown in the common cause.

In the treatment of enemy aliens the policy of my Government has been guided by the desire not to disorganise the good work of missionary institutions, and to avoid imposing unnecessary hardship on innocent and harmless people. Although, as a result of events in Europe last summer, reinternment, or restriction to parole centres, was necessary for most of those who had earlier been released on the recommendation of a special Committee, the case of some priests and missionaries, of certain Jews of enemy nationality, and of other enemy aliens who can show that they have consistently and publicly opposed the Nazi or Fascist régime, is receiving special consideration.

The outbreak of war found many Indian students in the United Kingdom. Arrangements were promptly made through the High Commissioner in London to repatriate those desiring to return to India, and to maintain a register of those who preferred to continue their studies overseas. To both categories the High Commissioner was authorised to make financial advances where necessary. In the case of students returning to India the Universities have all, I am glad to say, agreed that the period already spent at a British University should be recognised for the purpose of enabling them to complete their degree courses in India. Special arrangements have also been made, under the general control of the Chief Justice of India, for holding Bar Examinations in this country.

Realising as I do the importance attached by the Muslim community to the performance of the sacred duty of pilgrimage to Mecca, I am happy that, in spite of war-time difficulties, it has been possible to arrange shipping facilities,—at Calcutta, this year, as well as at Bombay and Karachi,—and, with the collaboration of His Majesty's Government, to prevent fares for the sea passage soaring beyond the reach of the classes from whom the pilgrims are mainly drawn. Indeed I understand that, thanks to a substantial reduction in charges announced by the Saudi



Arabian Government, and to our being prepared, even in war time, to permit the taking of gold sovereigns out of India by the pilgrims, to enable them to overcome exchange difficulties in the Hedjaz, the minimum cost to the pilgrim will be substantially lower than it would otherwise have been. In fact it will be lower this year than last.

The greatly increased burden which has fallen on the Government of India in connection with war preparation and war work has inevitably necessitated some expansion of staff and some additional expenditure. It would clearly be a shortsighted policy to reject expenditure which, on a broad view, would assist in the mobilization of the economic resources of the country and further the successful prosecution of the war. But I would take this opportunity to say that I am fully alive to the vital importance of economy in the civil administration, and of eliminating all forms of avoidable expenditure at a time when we have no choice but to spend large sums of money on defence and to augment the revenues of the Government by additional taxation.

In spite of their immediate pre-occupation with questions arising out of the war my Government continue to keep a vigilant watch on the interests of Indians overseas. In the Union of South Africa, the Broome Commission, which was appointed in May last to enquire into alleged penetration of Indians into predominantly European areas in Natal and Transvaal, commenced its labours last month. The ban on the assisted emigration of unskilled labour to Malaya continues while questions of the wages of Indian labourers and of the status of the Indian community are still under discussion with the Malayan Governments. In regard to Burma, my Government are awaiting the results of Mr. Baxter's enquiry into the facts concerning Indian immigration into that country, and they are also watching with close attention the course of certain recent legislation which may directly affect the Indian community. An experienced officer was sent to Mauritius to ascertain recent developments in that Colony, so far as they affect Indians. I regret that the recent conversations between my Government and the representatives of the Government of Ceylon should not have had more satisfactory results.

In the field of foreign affairs, my Government's relations with Nepal continue to be most cordial. The friendly attitude of His Highness the Prime Minister of Nepal and of his Government is evident from His Highness' offer of two Brigades of Nepalese troops for the defence of India and from the generous donations of money made by His Highness and the members of his family. This attitude of ready and friendly co-operation is greatly appreciated by the Government of India.

His Holiness the thirteenth Dalai Lama died in 1933, and his incarnation was discovered towards the end of 1939. The installation ceremony of His Holiness the new Dalai Lama took place in February last. A mission headed by Mr. B. J. Gould, who is responsible for the Government of India's relations with our friendly neighbour, Tibet, was deputed to Lhasa to attend the ceremony on behalf of His Majesty's Government and the Government of India.

In October I and my Government had the pleasure of welcoming to India a Mission of Goodwill from Thailand. The Mission were the guests of the Government of India. During their visit they were able to make wide contacts and to cover much ground. On their return to Thailand

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they took with them precious Buddhist relics from Taxila presented to the Thai Government by the Government of India, who also arranged, at the request of the Mission, for earth from certain sacred Buddhist places in India to be placed on the aeroplane on which they returned to Bangkok. I am confident that the visit of this Mission will help to cement still further the bonds which already exist between India and Thailand.

From China we are glad to welcome Dr. Tai Chi Tao, an eminent Buddhist scholar, and Chairman of the China Public Service Commission.

His Excellency the Governor of the French Establishments in India issued an announcement in September last identifying French India with the cause of free France.

It gives me great satisfaction to be able to inform the House that the relations between India and Afghanistan continue to rest on a firm and friendly basis, and that there are signs that the bonds between our two countries are being drawn even closer in the cultural and commercial fields. I am glad, too, to say that in spite of the disturbance of men's minds by a period of war and intensive rumour the Frontier tribes have on the whole remained remarkably steady. The whole tribal belt from Chitral to the sea has been entirely quiet save in Waziristan, and there are many signs that the tribesmen are in sympathy with the democratic front. And in Waziristan, largely as the result of measures undertaken to control portions of tribal territory which had served as harbourage for the collection of gangs, a better spirit prevails, and the peace of the Districts of the North-West Frontier has recently been less disturbed than at any time during the last few years.

Since I last addressed you Labour in India has not been without its problems; but I am happy to say that owing to the good sense of all concerned there has been no major dislocation of work since the war began, and I believe that Indian labour will continue its substantial contribution to the war effort. When disputes have arisen, the influence of my Government has always been thrown in favour of adjustment and conciliation rather than dictation. Complaints of inadequate wages in the circumstances of the war situation have always received careful and anxious consideration: an examination has already been made of the cost of living in the coalfields and an enquiry has also been instituted into the claim of railway labour for a dearness allowance.

My Government has taken steps to obtain skilled labour for those industries which are engaged on war production, ensuring at the same time that the interests of the artisan are safeguarded. Under the Technical Training Scheme, in the operation of which I have to acknowledge the willing assistance of Provincial Governments, we have planned not only to meet the immediate needs of the war effort, but by providing well-equipped and competently staffed institutions for training thousands of our young men to be skilled technicians, we have kept in view the needs, when peace is at last restored, of India's expanding industries.

Let me turn now to the constitutional field. I will not detain you with any detailed recapitulation of the discussions with political parties that have taken place since the outbreak of war. As you know I have had discussions at various times with all the leading political figures in this country, and with representatives of all major parties and communities;

and I can, I think, claim to have spared no effort to bring the parties together, and to reach an accommodation in the constitutional field which would be generally acceptable. It is a matter of profound disappointment to me that those endeavours should not have been more successful than they have been, and that the differences which have stood in the way of that constitutional advance which His Majesty's Government have been so anxious to see should still persist. The latest and the most important of the endeavours made by His Majesty's Government is represented by the statement which I was authorised to issue three months ago.

On August the 8th I published a statement on behalf of His Majesty's Government. That statement reaffirmed the attainment by India of free and equal partnership in the British Commonwealth as the proclaimed and accepted goal of the Imperial Crown and of the British Parliament. In order to remove all doubt as to the intentions of His Majesty's Government as to the method and time of progress towards that goal, it declared the sympathy of His Majesty's Government with the desire that the responsibility for framing the future constitutional scheme of Indian self-Government should—subject to due fulfilment of the obligations which Great Britain's long connection with India has imposed on her—be primarily the responsibility of Indians themselves, and should originate from Indian conceptions of the social, economic and political structure of Indian life. At the same time it emphasised the concern of His Majesty's Government that full weight should be given to the views of the minorities in the framing of that scheme, and it made it clear that His Majesty's Government could not contemplate the transfer of their present responsibilities for the peace and welfare of India to any system of government whose authority was directly denied by large and powerful elements in India's national life. The method by which these two indispensably linked objects were to be secured was the setting up, on the basis of friendly agreement, of a body representative of all the principal elements in India's national life to devise the framework of the new constitution. This body was to be set up immediately after the war, but His Majesty's Government expressed their desire to welcome and promote in the meantime every sincere and practical step taken by Indians themselves that could prepare the way for agreement upon its form and procedure, as well as upon the principles and outlines of the constitution itself. Meanwhile, in order to associate Indian public opinion more closely with the Government of India at the Centre, and in the hope of promoting the unity of India by the creation of new bonds of understanding through practical and responsible co-operation in the task of governing India and directing the Indian war effort. I was authorised to invite Indian political leaders to join my Executive Council, as well as to establish a War Advisory Council containing representatives of the Indian States and of other interests in the national life of India as a whole.

Outside India these proposals, both in their immediate and in their larger ultimate aspects, have been welcomed as liberal in conception, and as representing the best practical solution of existing differences. In India itself, too, they have met with the support of a large body of opinion: in their more immediate aspect, however, namely, the expansion of my Executive Council, I have not secured the response that was hoped from political leaders in India. The reasons for which they have been unable to accept the proposals of His Majesty's Government are conflicting, and

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indeed, in some ways mutually destructive. However that may be, the effect is that the major political parties concerned are not in present circumstances prepared to take advantage of the opportunity offered to them.

His Majesty's Government note this conclusion with sincere regret. The proposals in question would place real power and real responsibility in Indian hands. Their acceptance would afford the most hopeful contribution which Indian political leaders could make at this critical time towards the preservation of Indian unity, and towards an agreed constitutional settlement for the future. His Majesty's Government do not propose to withdraw them, and are still prepared to give effect to them as soon as they are convinced that a sufficient degree of representative support is forthcoming. But as that degree of support has evidently not yet manifested itself, His Majesty's Government have decided that I should not be justified in proceeding with the expansion of my Executive Council, or the establishment of the War Advisory Council, at the present moment.

Gentlemen, I do not wish to conceal from you the deep disappointment which I feel at this failure to secure, within the framework of the constitution, due expression of that ultimate and essential unity in which the hopes and the labours of so many of us have been founded, and upon which must depend the future position and influence of India in time to come. Nevertheless I would counsel you not to be cast down by the immediate difficulties that beset the path of political advance in this great country. For, indeed, stress of war may well in the end come to strengthen and extend that very process of unification, and to hasten the achievement of those constitutional changes implicit in self-government with unity, which at this moment it appears to obstruct. Meanwhile in the circumstances of the world today the duty of my Government is clear. It is to press forward with all speed and in every field of activity those preparations upon which rests the capacity of this country to wage war with ever-growing strength and successfully to overcome the hazards that confront her. Many things may happen before I address you again; but whatever the trials and anxieties that lie before us, however sharp the tests to which we may be subjected, we may have faith in the capacity of India to continue to play a glorious part in this righteous war against the forces of darkness and oppression. With all faith and confidence in your resolution and affection, I invite you and all men and women of goodwill throughout this land to support in this critical hour, with all strength of body and spirit, the cause of India and the Empire. (Applause.)

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

## STARRED QUESTIONS, AND ANSWERS.

### (a) ORAL ANSWERS.

#### ABOLITION OF TRAIN VENDING ON THE ASSAM BENGAL RAILWAY.

174. \***Shaikh Rafuddin Ahmad Siddiquee:** (a) Will the Honourable the Railway Member please state whether he is aware that the Assam Bengal Railway Company abolished train vending with effect from the 1st October, 1940 and this has been a source of great inconvenience to the travelling public?

(b) Will the Honourable Member please state whether he is aware that after the introduction of the new rules on the Assam Bengal Railway with effect from the 1st October, 1940, a passenger has to purchase aerated water from station stalls and, when doing so, has to deposit the price of the bottle (six annas) in addition to the price of its contents—the aerated water—and has again to demand back the price so deposited, from any other stall on his way when the bottle may be empty and the stall licensee according to the new rules introduced and referred to above, is bound to refund the price of the empty bottles, as soon as demanded, which was deposited by the passenger at another stall, no matter whether the latter has or has not got the necessary fund and time at his disposal at that particular moment for the refund and that this in particular has been a source of much inconvenience and unnecessary annoyance both to the travelling public and the stall vendors?

(c) If the answer to parts (a) and (b), or the answer to any one of them, be in the affirmative, are Government prepared to take necessary steps to amend the rules referred to above?

**The Honourable Sir Andrew Clow:** (a) and (b). The facts are as stated, except that Government are not aware that the revised arrangements have been a real source of inconvenience or annoyance to the travelling public or stall vendors.

(c) No: Government are not in a position to issue any such instructions to the Assam Bengal Railway. I would mention, however, that the arrangements had the prior concurrence of the majority of the Local Advisory Committee who agreed that they should be given a trial.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member, since these persons say they are inconvenienced very much, why Government are not going to relieve them of those inconveniences since they are having to make a deposit when buying a bottle of soda water?

**The Honourable Sir Andrew Clow:** I would explain that I am not in a position to issue instructions to the Company. The arrangement has the concurrence, as an experiment, of the Local Advisory Committee.

**Mr. Lalchand Navalrai:** May I, therefore, request the Honourable Member to send the question and answer to the Railway so that the Local Advisory Committee might consider it again?

**The Honourable Sir Andrew Olow:** I am not clear that there is any need for asking the Local Advisory Committee to reconsider the matter; they must have considered all the points set down in this question.

**Dr. Sir Ziauddin Ahmad:** In view of the fact that we should have some kind of uniformity about the sale of these aerated waters, is the Honourable Member prepared to discuss this question with the Central Advisory Committee?

**The Honourable Sir Andrew Olow:** No, Sir. I see no reason to do that. It has been discussed with the Local Advisory Committee who are in a much better position to judge the local needs.

**Dr. Sir Ziauddin Ahmad:** Why not with the Central Advisory Committee for all the Railways because this is a common complaint?

**The Honourable Sir Andrew Olow:** I am not aware of any other Railway on which this system prevails.

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

#### INDIAN RAILWAYS WHERE TRAIN VENDING IS NOT MAINTAINED.

**175. \*Shaikh Rafiuddin Ahmad Siddiquee:** Will the Honourable the Railway Member please state the name or names and the number of the Indian Railways, both State and Company-managed, where train vending is not maintained?

**The Honourable Sir Andrew Olow:** Of the Class I Railways, the only one is the Assam Bengal Railway. I have not particulars of the smaller lines.

#### DECLARATION OF MUSLIM HOLIDAYS AS GENERAL HOLIDAYS ON THE ASSAM BENGAL RAILWAY.

**176. \*Shaikh Rafiuddin Ahmad Siddiquee:** (a) Will the Honourable the Railway Member please state whether he is aware that Muhammadan holidays are not treated as General Holidays on the Assam Bengal Railway, although Mussalmans are in an overwhelming majority in the Provinces through which the said Railway runs?

(b) If the answer to part (a) be in the affirmative, will the Honourable Member be pleased to state whether Government are prepared to take steps to have them declared General Holidays by the Assam Bengal Railway?

**The Honourable Sir Andrew Olow:** (a) No.

(b) Does not arise.

**Dr. Sir Ziauddin Ahmad:** Is it not a fact that the Muslim employees are not given a holiday to offer their *Id* prayers on this line?

**The Honourable Sir Andrew Olow:** I have already said that I am not aware what the general holidays are in this respect. I had particulars of holidays in the workshops. I do not think the statement made here is correct.

**Dr. Sir Ziauddin Ahmad:** Will he make inquiries now, because the allegation is that the Muslim employees are not allowed to say their *Id* prayers on this line?

**The Honourable Sir Andrew Olow:** The Honourable Member will have to table a question, for so far as I recollect, it has been raised before.

**Dr. Sir Ziauddin Ahmad:** Will you now ask the Railway Administration to inquire whether this is a fact or not?

**The Honourable Sir Andrew Olow:** The Honourable Member will have to table a question.

**Dr. Sir Ziauddin Ahmad:** I am asking you now on the floor of the House?

**The Honourable Sir Andrew Olow:** I am not aware of that.

**Mr. President** (The Honourable Sir Abdur Rahim): He wants notice of the question.

**Dr. Sir Ziauddin Ahmad:** I am asking whether he will make inquiries.

**The Honourable Sir Andrew Olow:** I would prefer it if the Honourable Member will table a question, but I will consider the matter.

**NON-SINDHI MUSLIMS IN CLERICAL POSTS IN THE OFFICE OF THE DIVISIONAL SUPERINTENDENT, NORTH WESTERN RAILWAY, KARACHI.**

**177. \*Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that nine clerical posts in the office of the Divisional Superintendent, North Western Railway, Karachi, reserved for Muslims only, could not be filled for want of Sindhi Muslim candidates coming forward?

(b) Is the Honourable Member aware that Sindhi Muslims are generally not taken into railway service, even though they apply for such posts, and that an impression has gained ground that it would be useless to spend money on application forms for railway service? What steps do Government propose to take to induce Sindhi Muslims that they will get fair treatment in the matter of appointment to railway service?

(c) Is it a fact that for posts referred to in part (a) above, nine persons were imported into Karachi from other Divisional Headquarters? If so, why were the Muslim Associations in the Province of Sind not consulted when filling these appointments, *vide* paragraph 8 of the "Memorandum of Supplementary Instructions connected with the orders contained in the Government of India, Home Department, Resolution No. F. 14/17-B/33-Ests., dated the 4th July 1934"?

(d) Do Government propose to ensure that these instructions are carried out in the Karachi Divisional Headquarters? If not, why not?

**The Honourable Sir Andrew Olow:** (a) and (c). I have called for information and will lay a reply on the table of the House.

(b) The answer to the first part is in the negative. As regards the latter part I am not satisfied that any steps are necessary.

(d) If there has been any failure to follow relevant instructions, to railway administration, to whom this question and answer will be forwarded, will doubtless take necessary action.

**Mr. Lalchand Navalrai:** May I know if he is aware that outsiders are imported into Sind, so much so that there is great inconvenience on the part of the people to understand their language, and, in order to facilitate transactions, is the Honourable Member prepared not to import these outsiders, but take Sindhis, whether Muslims or Hindus?

**The Honourable Sir Andrew Clow:** I have already stated that we do not recruit on a strictly territorial basis.

**Mr. Lalchand Navalrai:** I do not want that you should recruit on a strictly territorial basis, but in some sections, where there is a paucity of candidates belonging to one community, why should not the others within the same province be taken on, instead of importing people from outside and causing inconvenience?

**An Honourable Member:** Re-export them.

**The Honourable Sir Andrew Clow:** Does he mean that there is a paucity of Muslims from Sind and that the Hindus of the Province should be given preference over Muslims from elsewhere?

**Mr. Lalchand Navalrai:** I say if Muslims from outside cause so much inconvenience to the local people, then it may be that until such time as the Muslims of Sind come forward or are available, the appointments should be given to the local people?

**The Honourable Sir Andrew Clow:** I do not think there is anything in the question regarding Muslims causing inconvenience?

**Mr. Lalchand Navalrai:** Not inconvenience, but I am suggesting that on account of the Muslims of Sind not coming forward and since there is another community which is there to take the places if so given to them, then the importations of outsiders who come there and cause inconvenience on account of not knowing the language will be obviated.

**The Honourable Sir Andrew Clow:** I have explained that we do not recruit on a provincial basis; it is not a question of importation; the whole basis of recruitment is different.

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

#### APPRENTICE TRAIN EXAMINERS ON THE NORTH WESTERN RAILWAY.

178. \*Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:

(a) Will the Honourable Member for Railways be pleased to state whether it is a fact that several Apprentice Train Examiners on the North Western Railway, on completion of their apprenticeship in 1929-31, were employed even though there were no vacancies?

(b) Will the Honourable Member please lay on the table of the House the agreements entered into by these apprentices, and the terms of their apprenticeship?

(c) Is it a fact that the Workshop out-station Apprentices who completed their apprenticeship in 1931, were not retained in service, though



they had similar agreements and terms of appointment as those of Apprentice Train Examiners? If so, why was different treatment accorded to out-station Workshop Apprentices?

**The Honourable Sir Andrew Glow:** (a) Yes, in 1980 and 1981.

(b) I do not propose to lay these on the table but they can be inspected in the office of the Railway Board.

(c) The retention of the men in such circumstances appears to have been a practice of the former Carriage and Wagon Department and had regard to the fact that the training given was of little service in employment outside the railway.

**Mr. Lalchand Navalrai:** With regard to clause (c) of the question, when these workshop out-station apprentices had concluded their apprenticeship in 1981, why is it that a distinction is being observed and they are not being appointed?

**The Honourable Sir Andrew Glow:** I have given the special circumstances which were apparently regarded at the time as sufficient for adopting a different procedure in the case of these men. I have already explained, in reply to previous questions, to the Honourable Member why these men were not appointed.

**Mr. Lalchand Navalrai:** Is the Honourable Member prepared to revise that opinion and find out at this moment whether they can be engaged?

**The Honourable Sir Andrew Glow:** No, Sir; the decision must be accepted as final.

#### LOCAL EXAMINATION FOR WALTON TRAINING SCHOOL QUALIFIED GUARDS.

**179. \*Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that the staff who have qualified from Walton Training School, Lahore Cantonment, in Guards' duties, have been called upon to pass a local examination in guards' duties, *vide* Divisional Personnel Officer, North Western Railway, Karachi's letter No. 940-E./31, dated the 2nd October, 1940? If so, why?

(b) Will the Honourable Member please refer to the specific rule under which local examinations referred to in part (a) are being held? If there is no such specific rule or order, is it proposed to ensure that there is only one qualifying examination from the Walton Training School in such cases?

(c) Is there any arrangement for re-examination locally in Divisional Headquarters, of candidates or employees who fail to qualify from the Walton Training School? If not, why should Walton School qualified employees pass another examination at Divisional Headquarters?

**The Honourable Sir Andrew Glow:** (a) The reply to the first part is in the affirmative; as regards the latter, Government have no information.

(b) I am not aware of any specific rule. As regards the latter part of the question, the matter is receiving the attention of the Administration.

(c) The reply to the first part is in the negative; as regards the latter part, I would refer the Honourable Member to the reply given to part (b) of the question.

**Mr. Lalchand Navalrai:** Why is the third examination necessary, Sir,—once when they are selected in one section, then at the headquarter offices, and then again when they are re-employed these men have to undertake a third examination?

**The Honourable Sir Andrew Clow:** I am not clear why the examination was regarded as necessary, but as I have stated in reply to part (b), the matter is receiving the attention of the Administration.

**REDUCTION OF THE GANG STAFF ON JACOBABAD-KASHMIRE SECTION, NORTH WESTERN RAILWAY, TO LOWER SCALES OF PAY.**

**180. \*Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:**

(a) Will the Honourable Member for Railways be pleased to state whether the attention of Government has been drawn to the editorial which appeared in the *Railway Herald*, Karachi, dated the 8th July, 1940, under the caption "Scales for Inferior Engineering Staff on Jacobabad-Kashmore Section" of the North Western Railway?

(b) Is it a fact that Jacobabad-Kashmore section was opened for carriage of traffic in 1918 or thereabouts?

(c) Is it a fact that general scales of pay for employees on the North Western Railway were revised in 1920?

(d) Is it a fact that 'C' scales of pay were fixed for gang staff on Ruk-Sibi section and is it a fact that Jacobabad-Kashmore section takes off from the middle of the section Ruk-Sibi, for which 'C' scales of pay were fixed?

(e) Is it a fact that the gang staff on Jacobabad-Kashmore section was given 'C' scales of pay from the date of the revision of scales in 1920 or thereabouts? If not, when was the staff on this section given 'C' scales of pay and why?

(f) Is it a fact that the staff is now reduced to 'B' scales of pay? If so, why? Are there any rules authorizing the North Western Railway Administration to reduce employees to lower scales of pay, after having drawn the higher scales for so many years? If so, will the Honourable Member please refer to these rules?

(g) Is it a fact that in similar cases, for instance Engineering labour staff employed at Kotri proper, who were given 'C' scales of pay in the first instance, or *chowkidars* who were given higher scales on Karachi Division, the individual employees were not reduced to lower scales of pay, but the scale of the posts was reduced, when such posts fell vacant? Why is the same policy not being followed in the case of gang staff on Jacobabad-Kashmore section also?

(h) Is it a fact that almost all staff so affected by this reduction comprises of illiterate Muslims?

**The Honourable Sir Andrew Clow:** (a) Yes.

(b) It was opened for traffic in December, 1914.

(c) Yes.

(d) to (h). I have called for information and will lay a further reply on the table of the House in due course.

#### DEDUCTIONS MADE FROM THE SALARIES OF THE GANG STAFF ON JACOBABAD-KASHMIRE SECTION.

181. \*Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:

(a) Will the Honourable Member for Railways be pleased to state if it is a fact that the gang staff on Jacobabad-Kashmore Section has been called upon to make good the amount alleged to have been drawn in excess during the last twelve months only and deductions are being made from the salaries of the employees? If so, why?

(b) Is it a fact that the employees who have retired have been paid gratuity at lower rates of pay? If so, why? Is it a fact that there are rules that, when an employee is reduced, he should be paid gratuity at the higher rate for the period of service that he has put in in that scale and at a lower rate for the period that he has put in in lower scales? If so, why is this principle not being observed in case of retired gang staff on this section?

(c) Under what provisions of the Wages Payment Act are the deductions made? What is the maximum period after which no recoveries can be made for alleged excess payments? Have the Railway Board or the North Western Railway administration issued any rules on the subject? If so, will the Honourable Member please lay a copy of these rules on the table of the House?

**The Honourable Sir Andrew Clow:** (a) and (b). I have called for information and a reply will be laid on the table of the House in due course.

(c) As regards the first part, such deductions would be permissible under section 7 (2) (f) of the Payment of Wages Act, 1936. As regards the remaining parts of the question, the Honourable Member is referred to Chapter XVII of the State Railway General Code, a copy of which is in the Library of the House.

#### PROMOTION OF TRAFFIC PUPILS WORKING ON THE NORTH WESTERN RAILWAY AS TRAFFIC INSPECTORS.

182. \*Mr. Lalchand Navalrai: (a) Will the Honourable the Railway Member be pleased to state if it is a fact that in answer to question No. 181 asked by Diwan Chaman Lall in the Legislative Assembly on the 5th September, 1929, it was admitted that the Traffic Pupils working in the North Western Railway were recruited with a view to eventual advancement to the posts of Traffic Inspectors, if qualified?

(b) Will Government be pleased to state how many of them have been promoted as Traffic Inspectors during the last fourteen years?

(c) Is it a fact that these Traffic Pupils had received satisfactory reports from the officers under whom they worked?

(d) Is it a fact that these men possess educational and departmental qualifications equivalent to those recruited for the superior service of Transportation and Commercial branches?

(e) Is it a fact that some of them have been recommended for the posts of Assistant Officers by their Divisional Officers?

(f) Is it a fact that only two Muhammadan Traffic Pupils have been promoted as Traffic Inspectors although the work of others was stated to be "Uniformly satisfactory" by the Agent?

(g) If the answer to part (f) above be in the affirmative, will Government be pleased to state the reasons for this discrimination?

(h) If the answer to part (g) above is that preference was given to Muhammadans on communal basis, will Government be pleased to state the number of Traffic Inspectors in the North Western Railway community-wise?

(i) Is it a fact that certain communities are very much under-represented as compared to the Anglo-Indians and the Europeans?

(j) What steps do Government propose to take in the matter in order to redress communal inequalities?

**The Honourable Sir Andrew Olow:** (a) to (g), (i) and (j). I would refer the Honourable Member to my reply given to parts (a) to (f), (h) and (i) of his starred question No. 86 on Saturday of last week.

(h) Does not arise.

**Mr. Lalchand Navalrai:** May I ask whether these persons were taken on any communal basis? If they were not so taken, then what was the speciality in these two that they were preferred to the other three?

**The Honourable Sir Andrew Olow:** As far as I remember, the Honourable Member put supplementaries to me on the almost identical question he asked last week. To the best of my recollection, they were selected on the merits.

**Mr. Lalchand Navalrai:** If they were selected on the merits, then is it not a fact that these 5 persons were selected out of 300 who sat in the examination? Where is the necessity of another selection?

**The Honourable Sir Andrew Olow:** I do not know how many they were selected from.

#### ADMISSION OF THE INFERIOR AND LABOUR SERVICE EMPLOYEES ON STATE RAILWAYS TO THE PRIVILEGE OF CONTRIBUTING TOWARDS PROVIDENT FUND.

183. **\*Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state how the request for giving provident fund benefits to the inferior and labour service employees on the State-managed Railways has been disposed of?

(b) How the sum of Rs. 12 lakhs set apart in 1940-41 budget, for the purpose of giving provident fund benefits to the inferior and labour staff on the State-managed Railways was distributed? If not, why not?

(c) Is it a fact that the Railway Board propose to reduce its share of contribution from 100 to 75 per cent. on the provident fund deductions from all employees and utilise the savings for admitting the members of inferior and labour services to the privilege of contributing towards provident fund? If so, why?

(d) Since how long have the Railway administrations been paying cent. per cent. bonus on the employees' provident fund deductions?

(e) Have there been any protests against the proposal referred to in part (c)? If so, will Government please furnish details thereof?

(f) Is it proposed to consult the employees likely to be affected, before final orders of reduction of the Government's contribution are passed? If not, why not?

**The Honourable Sir Andrew Olow:** (a) and (b). Government expect to issue orders in this matter in the near future.

(c) No.

(d) 1916.

(e) and (f). In view of the reply to part (c), these questions do not arise.

**DISCHARGE OF STAFF CONTROLLED BY THE GENERAL MANAGER BY THE DIVISIONAL SUPERINTENDENT, NORTH WESTERN RAILWAY.**

**184. \*Mr. Lalchand Navalrai:** (a) With reference to the reply to starred question No. 1257 asked on 23rd March, 1939, will the Honourable the Railway Member be pleased to state when a reply is likely to be laid on the table of the House?

(b) Is it a fact that certain orders have recently been issued by the Railway Board to the General Managers amending the schedule of officers' powers, to bring it into conformity with the rules framed by the Railway Board in their letter No. E-34/R. G. 6, dated the 22nd June, 1935? If so, will the Honourable Member please lay a copy of these orders on the table of the House?

**The Honourable Sir Andrew Olow:** (a) The reply was laid on the table on the 5th November, 1940.

(b) No; but the North Western Railway Administration was asked to review the delegation of powers to inflict penalties to accord with the spirit of the rules made by the Governor General in Council and have issued certain instructions.

**Mr. Lalchand Navalrai:** In clause (b) of my question I have asked whether those instructions can be placed on the table of the House?

**The Honourable Sir Andrew Olow:** No, Sir; the Honourable Member's question referred to the orders of the Railway Board.

**Mr. Lalchand Navalrai:** Will the Honourable Member place the other orders also on the table of the House?

**The Honourable Sir Andrew Olow:** I will have a look at them and consider the matter.

**RETRENCHMENT IN THE HIGHER GRADE APPOINTMENTS OF YARD FOREMEN AND YARD SUPERVISORS ON THE NORTH WESTERN RAILWAY.**

**185. \*Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state what was the total number of Yard Foremen's and Yard Supervisors' posts in various grades on each division of

the North Western Railway separately on the 1st January, 1939, and 1st October, 1940?

(b) What are the reasons for decrease, if any, in higher grade sanctions? Is this based on any definite principle? If so, which? If not, why not?

(c) Is it a fact that the Railway Board, under the Director Establishment letter Nos. E.-89/A/113, dated the 4th August, 1939 and 16th October, 1940, addressed to the General Manager, North Western Railway, Lahore, proposed to increase the number of higher grade posts in order to relieve the block in promotions in grade I? If so, how the policy of reducing sanctions is proposed to be reconciled?

(d) Do Government propose to take steps to relieve hardship entailed on the North Western Railway staff by these retrenchments in higher grade appointments? If not, why not?

**The Honourable Sir Andrew Clow:** (a) I lay on the table of the House a statement giving the information available with Government.

(b) The grades are related to the work attached to them; variations in the latter result, therefore, in corresponding changes in the number of appointments in the various grades.

(c) I am not prepared to lay on the table correspondence between the Railway Board and Administrations, but have no objection to informing the Honourable Member that the letters he has in mind did not relate to Yard Foremen at all.

(d) Government are not prepared to admit that the interests of individual staff should override considerations of economic management.

*Statement showing the number of Yard Foremen and Yard Supervisors on the various Divisions of the North Western Railway on 1st January, 1939, and 1st October, 1940.*

Division.	1st January, 1939.				1st October, 1940.			
	Grade V.	Grade VI.	Grade VII.	Grade VIII.	Grade V.	Grade VI.	Grade VII.	Grade VIII.
Lahore		3	1	1		3	1	1
Multan		..	1			..	1	..
Delhi .		1	2			1	1	..
Karachi	2							..
Total	2	4	4	1		4	3	1

**Mr. Lalchand Navalrai:** May I ask if the number of these higher posts has been reduced or there has been a retrenchment in the posts of these Yard Foremen?

**The Honourable Sir Andrew Clow:** I have the figures here for Grades V, VI, VII and VIII. There has been a reduction in some of the divisions.

**Mr. Lalchand Navalrai:** If there is a reduction in the higher posts, then there will be very slow promotion. May I ask the Honourable Member what he proposes to do when their promotion is barred?

**The Honourable Sir Andrew Clow:** I have stated in reply to part (d) that we do not propose to take any action in the matter.

**Mr. Lalchand Navalrai:** Why not?

**The Honourable Sir Andrew Clow:** For the reason I then gave.

**Mr. Lalchand Navalrai:** The reason is apparent. When these people come to a time when they have got to have their promotion, why should they be refused that promotion?

**The Honourable Sir Andrew Clow:** Because we cannot accept the principle that every time, for administrative reasons, an adjustment is made in grades, compensation should be given.

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

#### MUSLIM RAILWAY OFFICERS IN THE RAILWAY BOARD PROPER.

**186. \*Dr. Sir Ziauddin Ahmad:** Will the Honourable the Railway Member be pleased to state:

- (a) how many Muslim Railway officers there were in the Railway Board proper in the year 1937; and
- (b) how many there are in 1940?

**The Honourable Sir Andrew Clow:** (a) Four.

(b) Three.

**Dr. Sir Ziauddin Ahmad:** In view of the policy of the Honourable Member not to appoint any Mussalmans in the Railway Board, is it not a fact that no Mussalmans will be left in the year 1942?

**The Honourable Sir Andrew Clow:** I think the latter part of the question was deleted from the original question; and the first is an entire misrepresentation of fact. I have never expressed any such intention.

**Dr. Sir Ziauddin Ahmad:** Is it not the policy of the Honourable Member not to appoint any Mussalmans in the Railway Board?

**The Honourable Sir Andrew Clow:** It is not my policy to discriminate against any community.

#### GRADE I TRAIN EXAMINERS ON THE EAST INDIAN RAILWAY.

**187. \*Bhai Parma Nand:** Will the Honourable Member for Railways please refer to the Minute Sheet No. O. P. E. 1902-A, dated 1st April 1940 of the General Manager, East Indian Railway (Personal) and state:

- (a) whether grade I scale 300—25—400, is an old grade of Train Examiners instituted by the company-managed East Indian Railway;

- (b) the regulation or authority for the prior sanction of the Railway Board for permitting the staff of the Old Oudh and Rohilkhand Railway system and the staff appointed on Co-ordinated scales of pay introduced in 1928 after the amalgamation of the two systems to draw the grade I pay in scale 300—25—400; and
- (c) whether the staff appointed after 15th July, 1931, is eligible to grade I pay in scale 300—25—400; if not, why not?

**The Honourable Sir Andrew Olow:** I have not seen the circular referred to by the Honourable Member, but the answer to part (a) is in the affirmative and to part (c) in the negative as staff appointed after 15th July, 1931, are not entitled to the old scales according to Government's orders. I have been unable to understand what information is required under part (b).

**PROMOTION OF A RECORD LIFTER AS A CLERK IN THE CHIEF ACCOUNTS OFFICE ON THE NORTH WESTERN RAILWAY.**

**188. \*Mr. H. M. Abdullah:** (a) Will the Honourable Member for Railways please state whether it is a fact that a record-lifter employed in the Chief Accounts Office on the North Western Railway has recently been promoted as a clerk, in spite of the fact that all recruitment to clerks' rank is made directly?

(b) Have there been any instances of record-lifters being promoted as clerks like this at a time when regular selection boards are held for direct recruitment to clerical grades?

**The Honourable Sir Andrew Olow:** (a) Yes; but the Honourable Member is incorrect in assuming that all recruitment to clerical grades is made directly.

(b) I have no particulars of previous promotions, but the promotion referred to in part (a) was made on the recommendation of a Selection Board.

**Mr. Sri Prakasa:** Is a record lifter a person who steals the records?

**The Honourable Sir Andrew Olow:** No, Sir.

**Mr. Sri Prakasa:** Then, what does he do with them?

**The Honourable Sir Andrew Olow:** He lifts them.

**INCREMENT IN THE PERCENTAGE OF PROMOTIONS OF ROUTINE CLERKS IN GRADE II BY THE CHIEF ACCOUNTS OFFICER OF THE NORTH WESTERN RAILWAY.**

**189. \*Mr. H. M. Abdullah:** (a) Will the Honourable Member for Railways please state whether the Chief Accounts Officer has recently increased the percentage of promotions of routine clerks in grade II, which increase had not been made by his predecessors?

(b) Has this increase had the effect of proportionately reducing the number of direct recruits of Muslims and other minority communities to the grade of clerks class II?



**The Honourable Sir Andrew Clow:** (a) Yes, with the sanction of the General Manager, the percentage was raised from five per cent. to ten per cent. which was the figure in force some years ago.

(b) It has the effect of reducing the reserved vacancies in this grade, but not in the office as a whole.

**REPORT re THE REPRESENTATION OF MUSLIMS AND OTHER MINORITY COMMUNITIES IN THE SUBORDINATE RAILWAY SERVICES.**

**190. \*Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state:

- (a) the date of publication of the report by Mr. K. M. Hassan on the representation of Muslims and other minority communities in the Subordinate Railway Services including the Appendix and Statistics;
- (b) the cost of that publication;
- (c) the number of copies printed of that publication; and
- (d) how that number of copies of that print was disposed of and, if no record of the disposal is maintained, the reasons therefor?

**The Honourable Sir Andrew Clow:** (a) 1932.

(b) No record is now available of the cost.

(c) Seven hundred.

(d) No record is now available; records of this kind are not retained permanently.

**BROADCAST OF SIKH RELIGION AND HISTORY BY THE LAHORE, PESHAWAR AND DELHI BROADCASTING STATIONS.**

**191. \*Sardar Sant Singh:** Will the Honourable Member for Communications please state:

- (a) for what time during the year 1939-40 (from 1st April, 1939 to 31st March, 1940) the All-India Radio allowed its Lahore, Peshawar and Delhi stations to be used for broadcasting Sikh religion and history on important Sikh festivals;
- (b) what those days were;
- (c) how many Sikh speakers participated, and what their status in life was;
- (d) how many poets recited their poems;
- (e) how many such days were given to Muslims and Hindus;
- (f) whether there is any proportion fixed for various communities to use all stations on their religious occasions; and
- (g) what was the amount paid to members of each community on such occasions?

**The Honourable Sir Andrew Clow:** The information is being collected and a reply will be laid on the table in due course.

**APPOINTMENT OF A SIKH OFFICER TO OFFICERS' ESTABLISHMENT OF THE RAILWAY BOARD AND ITS ATTACHED OFFICES.**

**192. \*Sardar Sant Singh:** Will the Honourable the Railway Member please state the number of vacancies on the officers' establishment of the

Railway Board and its attached offices that have been filled since 1st April, 1940, and, if any Sikh officer has been appointed? If not, why not?

**The Honourable Sir Andrew Clow:** There have been six permanent vacancies and six temporary vacancies (including leave vacancies) in the Railway Board and its attached office, the Central Standards Office, since the 1st April, 1940. No Sikh officer has been appointed to any of these vacancies. The criteria for appointment to permanent vacancies in the Board's office or its attached office are experience, administrative efficiency and technical ability and not the community to which an officer belongs. In the case of temporary vacancies, administrative convenience has also to be considered.

**Sardar Sant Singh:** May I know if the same criteria have been observed in the case of Anglo-Indians, Christians and the Mussalmans?

**The Honourable Sir Andrew Clow:** The same criteria have been observed as regards all appointments in the Railway Board.

#### LOSS OF PROSPECTS OF GUARDS IN GRADES I AND II BY THE ABOLITION OF GRADE IV ON THE NORTH WESTERN RAILWAY.

193. \***Sardar Sant Singh:** (a) Will the Honourable the Railway Member kindly state the strength of guards grades III and IV, separately, on each Division of the North Western Railway in 1929, and how many were actually working on each Division?

(b) Is it a fact that the number of guards in those grades has been reduced, and grade II guards have to work in their place? If so, are the former given any officiating allowance while so working in the higher grades, as is done in other branches of the Railway administration? If not, why not?

(c) Are Government aware that the guards when they entered service had natural expectation, subject to general efficiency, to reach the maximum of Rs. 210 in grade IV before retirement?

(d) Is it a fact that grade IV has been totally abolished and the number of posts in grade III has been so reduced that a majority of guards cannot even expect to reach the maximum of Rs. 115?

(e) Do Government propose to compensate the guards in grade I and II for loss of prospects? If so, how? If not, why not?

**The Honourable Sir Andrew Clow:** (a) The information is being secured and will be laid on the table of the House in due course.

(b) The answer to the first part is in the affirmative and to the second part in the negative. As regards the third part, as it is not practicable rigidly to demarcate the duties of the various grades of Guards above the lowest, no officiating allowance is payable.

(c) No; it does not appear that they could legitimately have had such expectations, as promotions from grade to grade were not common in the past.

(d) The answer to the first part is in the affirmative. As regards the second part, Government have no reason to believe that staff suitable for promotion cannot expect to reach the maximum of grade III or other posts open to them by transfer on promotion from grade III.

(e) Government are satisfied that there has been no such loss in prospects as would justify a scheme of compensation.

**Sardar Sant Singh:** May I ask the Honourable Member in regard to the answer to part (c) of the question whether in the ordinary course of doing the work satisfactorily and earning the next grade it is possible during the period of service to reach the grade of Rs. 210? .

**The Honourable Sir Andrew Olow:** Will the Honourable Member refer to grades by their numbers instead of their pay? It will then be easier for me to follow him, as I have not the scales of pay here.

#### PROMOTION OF GUARDS GRADE II TO GUARDS GRADE III, ON THE NORTH WESTERN RAILWAY.

194. \***Sardar Sant Singh:** (a) Will the Honourable the Railway Member kindly state what is the period laid down on the North Western Railway for guards grade II to get to grade III, or the approximate period after which the former can reasonably expect promotion to grade III? What has been the rate of promotion from grade II to grade III during the last ten years?

(b) Is any period fixed for promotion of guards from one grade to another on the East Indian and the Great Indian Peninsula Railways, and has any reduction been made in the number of higher grade appointments of guards on those Railways? If not, why has it been done on the North Western Railway?

**The Honourable Sir Andrew Olow:** (a) As regards the first part, no period is laid down for promotion of Guards from grade II to grade III; as regards the second part, no estimate can be made as it depends on the occurrence of vacancies in the higher grade and the suitability of the men for promotion. As regards the third part, in the past practically no such promotions were made as posts of grade III were filled by direct recruitment. In June, 1940, however, 16 Guards were promoted.

(b) As regards the first part, I am not aware that any period has been prescribed by the East Indian and Great Indian Peninsula Railways, or that there has been any such abolition of a grade or reduction of posts as has taken place on the North Western Railway; the action taken on the North Western Railway was based on the special circumstances prevailing there.

**Mr. Lalchand Navalrai:** Is there any ratio fixed for direct recruitment and for promotions?

**The Honourable Sir Andrew Olow:** The direct recruitment is limited to a maximum percentage.

#### RESERVATION OF THE POSTS OF ENQUIRY CLERKS, ETC., FOR GUARDS WITH DEFECTIVE VISION ON THE NORTH WESTERN RAILWAY.

195. \***Sardar Sant Singh:** (a) Will the Honourable the Railway Member please state whether Government are aware that (i) guards on the North Western Railway have to work for whole nights on duty, while the other staff works for the first or second half of a night, (ii) they have to do

their writing work in the light of a kerosene lamp with  $\frac{1}{4}$ " wick in moving trains, (iii) they have to look out for signals when the train is running at a speed of 40 miles an hour, and the wind strikes straight into their eyes and face, (iv) they are exposed to the scorching heat and extreme cold and (v) they get poor diet on account of their small pay and irregular hours of duty?

(b) Is it a fact that, in the Army, personnel who contract a disease in the execution of duty are invalidated out with invalid pension, whereas a guard is sent out, or his salary is reduced by putting him on some lower jobs on account of defective vision?

(c) Are Government prepared to reserve for such guards the posts of enquiry clerks, Platform Inspectors, Luggage Inspectors, Stationery and Form Inspectors, Head Ticket Collectors, Head Trains Clerks, Special Ticket Examiners, Clerks of Transportation and Rolling Stock Sections, etc.? If not, why not?

**The Honourable Sir Andrew Clow:** (a) (i). Yes, if the trains they work so require.

(ii) Yes, on goods trains.

(iii) Yes.

(iv) Being outdoor workers they are exposed to the weather.

(v) No.

(b) The first part is in the affirmative. Government do not consider that failure in vision in the case of Guards is attributable to their duties.

(c) No, because the claims of staff in whose normal channel of promotion the designations specified fall have to be considered, nor would all Guards be suitable for such posts.

**Mr. M. S. Aney:** With reference to the reply to part (a) (v) referring to the poor diet of these guards, how does the Honourable Member say that they are not getting poor diet on account of their small pay?

**The Honourable Sir Andrew Clow:** I was asked whether I was aware and my reply was that I was not aware.

**Mr. M. S. Aney:** How did the Honourable Member say that their diet was not poor and that is not due to their small pay?

**The Honourable Sir Andrew Clow:** I simply said, I was not aware.

**Mr. T. S. Avinashilingam Chettiar:** Have the Government satisfied themselves that there are no accidents because the guards have to work throughout nights?

**The Honourable Sir Andrew Clow:** I study reports of accidents and have not seen any attributed to this cause.

#### NON-OBSERVANCE OF THE PRINCIPLE OF SUB-LETTING OF RAILWAY CONTRACTS IN THE CASE OF A CERTAIN CONTRACT AT THE DELHI RAILWAY STATION.

**196. \*Syed Ghulam Bhik Nairang:** Will the Honourable the Railway Member be pleased to state:

- (a) whether Government are aware that the Central Advisory Board for Railways has laid down the principle that the sub-letting of railway contracts is not permitted;

- (b) whether on the death of the Hindu vendor, the contract which the deceased had got at the Delhi Railway Station, North Western Railway, was given to his widow who is a *pardanashin* lady; -
- (c) whether it is a fact that the General Manager, North Western Railway, issued instructions about six months ago that the fruit contract of either of the two fruit contractors at Delhi Railway Station when it fell vacant, should be given to the other contractor who was already working; and
- (d) whether the instructions referred to in part (c) were of general application, or for the particular case of Delhi Station of fruit contractors, and whether they have been acted upon?

**The Honourable Sir Andrew Olow:** (a) Yes.

(b) and (c). No.

(d) Does not arise.

**Dr. Sir Ziauddin Ahmad:** May I know whether it is not a fact that the contract at Delhi station is given to a *pardhanashin* lady on the condition that it should be given on sub-contract to a particular individual whose name I do not like to mention?

**The Honourable Sir Andrew Olow:** I believe that the contract was given to the firm. The person actually managing it is, I believe, the brother of the deceased contractor.

**Dr. Sir Ziauddin Ahmad:** As regards the firm which he has mentioned for the first time, is it not a fact that this firm was artificially created after the death of Dip Chand by the widow who is a *pardhanashin* lady. It is a bogus firm, while it is really one individual. There has been a good deal of *golmal* which I do not want to narrate on the floor of the House.

**The Honourable Sir Andrew Olow:** I do not know of any *golmal*. To the best of my recollection, I myself have met the lady in question.

**Sir Muhammad Yamin Khan:** Was the original contract in the name of a firm or was it in the name of an individual?

**The Honourable Sir Andrew Olow:** I think it was in the name of an individual, but I am not certain.

**Sir Muhammad Yamin Khan:** If it was in the name of an individual, how can it go to a firm later on? How has the firm been created after the death of the original contractor?

**The Honourable Sir Andrew Olow:** I do not know when the firm was created.

**Sir Muhammad Yamin Khan:** I understood the Honourable Member to say that the contract continues in the name of the firm. Continuation implies that it was originally given in the name of a firm and not in the

name of an individual. But the Honourable Member admitted that it was given in the name of an individual; if so, how can it continue in the name of a firm?

**The Honourable Sir Andrew Clow:** To the best of my recollection, I did not use the word 'continue'.

**Dr. Sir Ziauddin Ahmad:** Will the Honourable Member make enquiries as to whether it was originally given to one Dip Chand and afterwards on his death, it was given to his wife a *purdhanashin* lady on condition that a certain man should be employed as her sub-contractor. It was only afterwards that she created a firm which is a bogus one.

**The Honourable Sir Andrew Clow:** The real point is whether the contractor is competent or not.

**Dr. Sir Ziauddin Ahmad:** Will the Honourable Member make enquiries as to whether my statement is correct?

**Mr. M. S. Aney:** Does the Honourable Member appreciate the point of enquiry? I have not been able to do so?

**The Honourable Sir Andrew Clow:** I have not been able to appreciate either.

**Lieut.-Colonel Sir Henry Gidney:** Is it a fact or not that it is obligatory on Agents of Railways to advertise for these contracts? Or is it within the power of the Agents of the Railways to appoint any contractor if he is efficient even without advertising?

**The Honourable Sir Andrew Clow:** I am afraid I have to ask for notice.

**'HOURS OF EMPLOYMENT REGULATIONS' INCORPORATED IN THE INDIAN RAILWAYS AMENDMENT ACT, 1930, NOT MADE APPLICABLE TO BRITISH PORTION OF JODHPUR RAILWAY.**

197. **\*Mr. Lalchand Navalrai:** Will the Honourable Member for Railways be pleased to state if it is a fact that the provisions of the Payment of Wages Act, apply to the staff employed on British Indian section of the Jodhpur Railway? If so, why the 'Hours of Employment Regulations' incorporated in the Indian Railways Amendment Act, 1930, have not been made applicable to British portion of Jodhpur Railway?

**The Honourable Sir Andrew Clow:** The answer to the first part is in the affirmative. The answer to the second part is that Government have not yet considered the extension of the regulations to such sections.

**Mr. Lalchand Navalrai:** Should not this section have priority?

**The Honourable Sir Andrew Clow:** I am not sure that such sections should have priority.

**Mr. Lalchand Navalrai:** Why should there be discrimination between those who are working on the Indian State Railways and those who are

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working in the British Indian section? Will not the former be put to a disadvantage?

**The Honourable Sir Andrew Clow:** We have been pursuing the policy gradually of extension of these regulations. There has been always discrimination between one railway and another.

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ISSUE OF CERTAIN INSTRUCTIONS FOR AMPLIFICATION OF RULE 34 OF THE RAILWAY SERVICES (CLASSIFICATION, CONTROL AND APPEAL) RULES.

**108. Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:**

(a) Will the Honourable Member for Railways be pleased to state whether any instructions have been issued in amplification of Rule 34 of the Railway Services (Classification, Control and Appeal), Rules, providing for:

- (i) the issue of a charge-sheet on the completion of the inquiry referred to in the latter part of Rule 34, in connection with charges that are proved or are considered proved in the inquiry;
- (ii) the accused officer having the right of getting copies of evidence and the findings of the Inquiry Committee, either free or on payment of reasonable charges;
- (iii) the authority which can issue a charge-sheet and order inquiries in allegations against:
  - (1) class I officers, and
  - (2) class II officers, and
- (iv) the personnel of the Inquiry Committee to be of superior status to the officer whose conduct is under investigation?

(b) If the reply to part (a) above be wholly or partly in the affirmative, will Government please refer to specific instructions or rules and lay on the table of the House copies thereof, if these instructions have not been published by Government?

(c) If the reply to part (a) above be wholly or partly in the negative, do Government propose to amplify the rules on the points referred to in part (a)? If not, why not?

**The Honourable Sir Andrew Clow:** (a) (i) to (iv). No.

(b) Does not arise.

(c) Government do not consider it necessary to amplify the instructions.

INSTANCES IN WHICH MANDATORY PROVISIONS OF RULES REGULATING DISCIPLINE AND RIGHTS OF APPEAL OF NON-GAZETTED EMPLOYEES ON THE NORTH WESTERN RAILWAY WERE NOT OBSERVED.

**109. Khan Bahadur Mian Ghulam Kadir Muhammad Shahban:** (a) Will the Honourable Member for Railways be pleased to state whether instances have been brought to the notice of the General Manager, North-Western Railway, Lahore, or the Railway Board, in which mandatory

provisions of rules regulating discipline and rights of appeal of non-gazetted employees, made by the Governor General in Council and issued under the Railway Board letter No. E-34/R. G./6, dated the 22nd June, 1935, were not being observed?

(b) Is there any provision in the rules or instructions issued in amplification thereof, that when proper procedure is not followed, the inquiry or proceedings become null and void and should be dropped? If not, why not?

(c) Is the Honourable Member aware that such provisions as are referred to in part (b) exist in other Government Departments? If so, is it proposed to see that railway rules or instructions are in conformity with such rules? If not, why not?

**The Honourable Sir Andrew Clow:** (a) This is a frequent assertion in appeals but it is not usually substantiated so far as my experience goes.

(b) There is no specific rule nor is such a rule considered necessary as appellate authorities are empowered to decide if the proposed procedure has been followed or whether the proceedings should be treated as null and void.

(c) As far as I am aware, such provisions do not exist in other Departments. The latter part does not arise.

#### BOOKS OR SYLLABUS PRESCRIBED FOR PROMOTION COURSES ON STATE RAILWAYS.

**110. Bhai Parma Nand:** Will the Honourable Member for Railways please refer to rules 14, 19, 24, 29, 34, 36B, 36C (b) and 42 of Appendix XXII of State Railway Establishment Code and state the books or syllabus prescribed for promotion courses in those rules by the Eastern Bengal, East Indian, Great Indian Peninsula and North Western Railways?

**The Honourable Sir Andrew Clow:** The information regarding the North Western and East Indian Railways is contained in the Calendars of the Walton Training School, the Railway School of Transportation, Chandausi and the Technical School, Jamalpur, copies of which are available in the Library of the House. There are no promotion or refresher courses on the Eastern Bengal and Great Indian Peninsula Railways.

#### CIRCUMSTANCES AND CONDITIONS UNDER WHICH CERTAIN PENALTIES ARE TO BE IMPOSED ON PERSONS CEASING TO BE RAILWAY SERVANTS.

**111. Bhai Parma Nand:** Will the Honourable Member for Railways please refer to Rule 680 of the State Railway Establishment Code and state:

- (a) the circumstances and conditions under which any of those penalties is to be imposed on a person who ceased to be a railway servant;
- (b) the rule or authority which provides the imposition of a penalty on a person after retirement or on vacation of the Railway services;
- (c) the rule under which the penalty "Leave without pay" is to be imposed against an earned leave;



- (d) the rule under which the penalty of reducing a person in railway services is to have a permanent effect or to affect more than one lower post, stage or time scale; and
- (e) the rule which provides one month's notice or pay in lieu of: the penalty of removal from service against misconduct?

**The Honourable Sir Andrew Olow:** (a) Paragraph 680 of the State Railway Establishment Code does not apply to retired railway servants, but under certain circumstances the passes granted to retired railway servants may be withheld.

(b) As explained in the reply to part (a) the penalties specified in paragraph 680 are not imposable on retired railway servants. Railway servants "on vacation", generally termed leave, are treated as in service.

(c) A period of absence without proper authority may be treated as "leave without pay" under paragraph 891 of the State Railway Establishment Code. Action under paragraph 891 does not fall within Section VII of Chapter XV of the State Railway Establishment Code.

(d) Paragraph 698 of the State Railway Establishment Code.

(e) The terms of service agreements executed by Railway servants.

#### PROCEDURE FOR ENQUIRY INTO CHARGES AGAINST RAILWAY SERVANTS.

**112. Bhai Parma Nand:** Will the Honourable Member for Railways please refer to rules 686 and 687 of the State Railway Establishment Code and state:

- (a) whether the enquiry by a Committee into the charges for which an interval of seven clear days is allowed to submit a written explanation, should be made before the imposition of a penalty;
- (b) whether a railway servant is entitled to ask a Committee to enquire into the charges;
- (c) whether the authority issuing the charge-sheet is entitled to refuse the request of the railway servant for the enquiry by a Committee without recording any reasons in writing and communicating the same to the railway servant and to impose a penalty otherwise;
- (d) whether suspension from service of a railway servant is essential for offences for which the maximum penalty is dismissal or removal from service, if not, the reasons therefor; and
- (e) the reasons for not providing reasonable facilities for the defence against those offences?

**The Honourable Sir Andrew Olow:** (a) A departmental enquiry is provided for in circumstances detailed in paragraph 686 (c) and 687 (a) of the State Railway Establishment Code. It rests within the discretion of the competent authority to decide whether such enquiry shall be conducted by a Committee.

(b) No.

(c) With regard to the first part, there is no rule requiring the competent authority to record the reasons for not agreeing to a committee being entrusted with a departmental enquiry; the refusal of the request

is naturally communicated to the railway servant concerned. As regards the last part, no penalty may be imposed without complying with the procedure laid down.

(d) The Honourable Member is referred to paragraph 690 (2) of the State Railway Establishment Code.

(e) The question is not understood, Government have no reasons to believe that the rules in paragraph 686 (c) in this regard are not being complied with.

#### **PENALTIES IMPOSED ON PERSONS IN RAILWAY SERVICES, CLASSES I AND II.**

**113. Bhai Parma Nand:** Will the Honourable Member for Railways please lay a statement of the penalties imposed on persons in railway service, classes I and II, separately, during the preceding three years or as far as available?

**The Honourable Sir Andrew Olow:** I can furnish particulars only of penalties imposed by the Government of India or the Railway Board. These are as follows:

1938. Class I. Two officers' services terminated and one officer's promotion to senior scale withheld.

Class II. Nil.

1939. Class I. One officer censured.

Class II. One officer reverted to his substantive subordinate appointment.

1940 Class I. Two officers' services terminated and one officer censured (to date).

Class II. One officer's services terminated and one officer reduced to a lower stage in the time-scale.

#### **CLASSES AND GROUPS FOR THE PURPOSES OF VISION TESTS OF CERTAIN RAILWAY EMPLOYEES.**

**114. Bhai Parma Nand:** Will the Honourable Member for Railways please refer to Appendix XXVII of State Railway Establishment Code and state the classes and groups for the purposes of vision tests of the employees engaged as:

- (a) Signallers including Assistant Head and Head Signallers and Telegraph Inspectors;
- (b) Assistant Number Takers including Number Takers and Head Number Takers and Yard Supervisors;
- (c) Ticket Collectors including Travelling Ticket Examiners or Inspectors, Train Conductors and Chief Ticket Inspectors; and
- (d) Coaching clerks and Goods clerks including Assistant Commercial, Commercial and Goods Inspectors, Claims Inspectors, Traffic canvassers, Chief Goods Inspectors and Senior Commercial Inspectors?

**The Honourable Sir Andrew Olow:** I assume that the Honourable Member desires particulars for the North Western Railway. These are:

- (a) Signallers—qualified for Assistant Station Master's posts, A2, other Signallers, Head Signallers, Telegraph Inspectors C2.
- (b) Assistant Numbertakers, } B1  
 Numbertakers, }  
 Head Numbertakers, }  
 Yard Supervisors. . . . . A3.
- (c) and (d). C1.

**DATE OF MAKING PAYMENT TO AN OFFICER OF GOVERNMENT ENTITLED TO RECEIVE PAYMENTS ON BEHALF OF GOVERNMENT.**

**115. Bhai Parma Nand:** Will the Honourable Member for Railways please refer to:

- (a) section 142 of the Indian Railways Act, 1890; and
- (b) paragraph 1438 of the State Railway General Code; and to state the date of making payments or remitting money by post to an officer of Government, entitled to receive payments on behalf of Government?

**The Honourable Sir Andrew Olow:** The Honourable Member's attention is invited to Article 28 of Civil Account Code, Vol. I, and paragraph 1439 of State Railway General Code. The payment of a cheque sent by post, which on presentation is honoured, is deemed to be made on the date when the cover containing it is put into the post.

**ERECTION OF A WALL ON THE SOUTH OF MORADABAD RAILWAY STATION YARD, EAST INDIAN RAILWAY.**

**116. Bhai Parma Nand:** Will the Honourable Member for Railways please refer to section 11 of the Indian Railways Act, 1890; and state:

- (a) the date on which a boundary wall from east to west on the south of Moradabad Railway Station yard, East Indian Railway, off the railway staff quarters, on the mill siding was erected and the cost of the said wall; and
- (b) whether that wall has closed all the convenient crossings for the population close to railway staff quarters and consisting mostly of railway servants?

**The Honourable Sir Andrew Olow:** Enquiries are being made from the Railway Administration and a reply will be laid on the table in due course.

**RECOGNITION OF THE ASSOCIATION OF RAILWAY GUARDS AT LUCKNOW.**

**117. Bhai Parma Nand:** Will the Honourable Member for Communications be pleased to state whether the association of the East Indian Railway Guards at Lucknow has been recognised by the Railway authorities? If not, what are the reasons for not recognising the association which has been registered with the Government under the Government of

India's Trade Union Act and when the association had agreed to abide by the conditions which were offered for recognising it?

**The Honourable Sir Andrew Clow:** So far as Government are aware, this Association has not been recognised by the General Manager, East Indian Railway. It is not the policy of the administration or of Government to recognise small unions whose membership is restricted to certain categories of staff.

**ORDERS IN FORCE FOR PROMOTION OF SERVANTS ON THE NORTH WESTERN RAILWAY ON A COMMUNAL BASIS.**

**118. Bhai Parma Nand:** Will the Honourable Member for Communications be pleased to state whether it is a fact that the orders in force for promotion of servants on the North Western Railway are as follows:

first sixty vacancies by Muslims;

next nine vacancies by Sikhs and Indian Christians; but five vacancies by Anglo-Indians and Domiciled Europeans;

and that the remaining twenty-six vacancies are to be made according to seniority irrespective of community?

**The Honourable Sir Andrew Clow:** No. Promotions are not made on communal considerations.

**DISALLOWANCE OF THE PRIVILEGE OF RENT FREE QUARTERS TO CERTAIN BLOCK MISTRIES RECRUITED AS BLOCK MAINTAINERS ON THE NORTH WESTERN RAILWAY.**

**119. Bhai Parma Nand:** (a) Will the Honourable Member for Railways be pleased to state whether certain Block Mistries were recruited on the North Western Railway to the post of Block Maintainers with effect from the 1st May, 1931 and afterwards?

(b) Is it a fact that they were allowed the privilege of rent free quarters as they were appointed to railway service as Block Mistries prior to 1st August, 1928, the date from which the revised rules for recovery of rents came into effect?

(c) Is it a fact that they enjoyed this privilege of rent-free quarters till the 31st August, 1931, when orders were issued by the General Manager, then Agent, North Western Railway, that such block Maintainers as are referred to in part (b) above will have to pay rent?

(d) Is it a fact that deduction from wages of Block Maintainers on this account was made only on three Divisions, namely Delhi, Karachi and Lahore? If so, why?

(e) Is it a fact that these men continued to send representations and in the letter of the General Manager, then Agent, No. 540-E./104, dated the 27th January, 1936, they were told that with the concurrence of the Chief Accounts Officer, it had been decided that Block Maintainers whose original appointment was that of a Block Mistry and who was promoted as a Block Maintainer, if he had enjoyed the privilege of rent-free quarters prior to the 1st August, 1928, the date on which the new rent rules came into force, would continue to enjoy the privilege as Block Maintainers?

(f) Is it a fact that these very Block Maintainers referred to in part (e) above, have been asked in May this year to pay house rent for quarters occupied by them? If so, why, when their case was decided *vide* General Manager's letter referred to in part (e) above?

(g) Were the orders referred to in part (f) issued by or with the approval of the Railway Board? If not, is the Honourable Member prepared to direct that letter issued in 1936, by the General Manager be followed? If not, why not?

**The Honourable Sir Andrew Clow:** (a) Yes.

(b) Yes. Such of the Block Mistries as were enjoying the concession of rent free quarters prior to 1st August, 1928, in a substantive capacity were allowed to continue to enjoy it on their promotion as Block Maintainers.

(c) No. The practice on the various Divisions in regard to the grant of rent free quarters to Block Maintainers promoted from Block Mistries varied until the issue of the General Manager's letter of 27th January, 1936, alluded to in part (e) of the question.

(d) Yes; as the matter was not referred to the General Manager till late in 1936.

(e) Yes.

(f) No such orders were issued in May, 1940, but it is presumed that the Honourable Member is referring to the orders issued in the previous year. If so, the reply to the first part is in the affirmative. These orders were issued as on a further examination of the question by the General Manager it was held that as the Block Mistries did not enjoy the privilege of house allowance in lieu of free quarters they were, under the rules, not entitled to rent free quarters on promotion to a subordinate post.

(g) The reply to the first part is in the negative. As regards the second part, orders have been issued restoring the decision of 1936.

#### PASSES FOR VAN SORTERS ON THE NORTH WESTERN RAILWAY.

**120. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that the Van Sorters on the North Western Railway are paid a fixed salary of Rs. 80 per mensem?

(b) Are they entitled to the class of passes on this consolidated pay or on the pay in their substantive appointments? If on the latter pay, why?

(c) Is it a fact that for determining class of passes for running staff 75 per cent. of pay is added to the pay of the employee for determining class of passes? If so, why are not Van Sorters allowed passes on consolidated pay of Rs. 80?

**The Honourable Sir Andrew Clow:** (a) Yes.

(b) They are entitled to passes according to their consolidated pay, as long as they continue to work as van sorters. The second part of the question does not arise.

(c) The answer to the first part of the question is in the affirmative. The second part does not arise.

**ELIGIBILITY OF THE NIGHT VISION FAILED STATION MASTERS GROUP STAFF FOR CERTAIN APPOINTMENTS.**

**121. Mr. Latchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether the night vision failed Station Masters group staff are considered for appointments, such as Van Sorters, Luggage and Platform Inspectors, Claims, Rates and Sales Inspectors and Assistant Inspectors? If not, why not?

(b) What are the subjects in which the following members of staff are examined at the Walton Training School, and how the information contained in part (f) of the Honourable Member's reply to starred question No. 397 asked on 15th March, 1940, is reconciled:

- (i) Station Masters,
- (ii) Goods Clerks, and
- (iii) Booking Clerks?

**The Honourable Sir Andrew Clow:** (a) The answer to the first part is in the affirmative; the second part does not arise.

(b) The information is contained in the Calendar of the Walton Training School, a copy of which is available in the Library of the House. The fact that staff are trained in goods and coaching work does not necessarily imply that they are as suitable as staff who, in addition to being so trained, have been actually employed on this work.

**DEVALUATION OF ASSISTANT STATION MASTER'S GRADES ON THE NORTH WESTERN RAILWAY.**

**122. Mr. Lalchand Navalrai:** With reference to the Honourable Member's reply to parts (d) and (e) of starred question No. 482 asked on the 20th March, 1940, will the Honourable Member for Railways please state the result of his examination and place a copy of the orders issued on the table of the House?

**The Honourable Sir Andrew Clow:** The matter is still under examination.

**HOLDING IN ABEYANCE ORDERS IN RESPECT OF CERTAIN BRIDGE STAFF MEMORIALISTS OF THE NORTH WESTERN RAILWAY.**

**123. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that with reference to memorials from the temporary bridge staff of the North Western Railway, orders were issued by the Chief Engineer, in letter No. 522-E./266, dated the 22nd April, 1940, to absorb the memorialists in future vacancies?

(b) Is it a fact that these orders were issued in consequence of a deputation of the staff interviewing the then General Manager, North Western Railway?

(c) Is it a fact that these orders were held in abeyance within less than a week's time of their issue? If so, why and who held them in abeyance? If it was not done by the General Manager himself, what were the powers of Deputies and Assistants in connection with the holding of the orders in abeyance?

(d) When are the orders referred to in part (a) likely to be re-issued? If not, why not?

**The Honourable Sir Andrew Olow:** I have called for information and a reply will be laid on the table in due course.

**POLICY OF MAKING PROMOTIONS FROM AMONGST EMPLOYEES OF THE SAME BRANCH ON THE NORTH WESTERN RAILWAY.**

**124. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state whether it is a fact that promotion to higher appointments on the North Western Railway is generally made from amongst the employees of the same branch?

(b) Is it a fact that the General Manager, North Western Railway, declared the above as the policy, *vide* his letter No. 522-E./14, dated April, 1939, in reverting a Booking Clerk promoted as a Parcel Clerk on Quetta division?

**The Honourable Sir Andrew Olow:** (a) Yes.

(b) I understand that the letter referred to by the Honourable Member was not issued by the General Manager, but the general practice is as stated by the Honourable Member in part (a) of the question.

**LOWER RATES OF CONSOLIDATED TRAVELLING ALLOWANCE FOR VAN SORTERS ON THE NORTH WESTERN RAILWAY.**

**125. Mr. Lalchand Navalrai:** Will the Honourable Member for Railways be pleased to state:

- (a) the rates of consolidated travelling allowance for
- (i) old Travelling Ticket Examiners,
  - (ii) Special Ticket Examiners, and
  - (iii) Van Sorters employed on the North Western Railway?

(b) If the Van Sorters are paid lower rates, what is the reason for this differentiation? Do Government propose to give all employees equal treatment? If not, why not?

**The Honourable Sir Andrew Olow:**

- (a) (i) Those drawing less than Rs. 100 per mensem . Rs. 35 per mensem.  
 Those drawing Rs. 100 per mensem but less than Rs. 200 per mensem . . . . . Rs. 50 per mensem.  
 Those drawing Rs. 200 per mensem and over . Rs. 65 per mensem.
- (ii) Grade 66-4-90 . Rs. 25 per mensem.  
65-5/2-85  
105-5-140  
 Grade 100-10/2-120 . Rs. 35 per mensem.

NOTE.—Special Ticket Examiners when drawing Rs. 100 per mensem are given Rs. 25 per mensem as consolidated travelling allowance.

(iii) Rs. 20 per mensem.

(b) The reason for the lower rate of consolidated Travelling Allowance in the case of Van Sorters is that the average amount of touring performed by them is less as compared with the Special Ticket Examiners.

For this reason and because higher rates of permanent travelling allowance were specially sanctioned for old Travelling Ticket Examiners in view of the fall in their emoluments on account of the stoppage of mileage allowance, Government do not propose to apply a uniform rate.

**PERCENTAGE OF LEAVE RESERVE FOR THE TRAFFIC TECHNICAL INFERIOR STAFF ON THE NORTH WESTERN RAILWAY.**

**126. Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Railways be pleased to state the percentage of leave reserve for the Traffic Technical Inferior staff employed on the North Western Railway?

(b) Is it a fact that when a member of the Traffic Technical staff proceeds on leave without pay, the relief is drawn from the leave reserve sanctioned for this category? If so, why? Does the leave reserve percentage also include provision for leave without pay? If so, how?

(c) Is it a fact that non-technical traffic inferior staff on the North Western Railway are generally not given any casual leave, as a relief is required and no leave reserve is employed for them nor can a substitute be engaged for casual leave vacancies? If so, what steps do Government propose to take to see that arrangements are made to give casual leave freely to this class of staff? If not, why not?

**The Honourable Sir Andrew Clow:** (a) The leave reserve for Traffic technical inferior staff on the North Western Railway varies from 11 to 25 per cent. in accordance with the requirements of the Divisions.

(b) Yes, when relief is available from the leave reserve, if relief is not available, temporary staff are engaged, if necessary. The leave reserve does not normally include provision for leave without pay.

(c) Government have no information about the casual leave enjoyed by such staff, but they do not consider any action is necessary as they are satisfied that staff generally obtain the leave to which they are entitled.

**NON-INCLUSION OF REVIEW ON THE WORKING OF THE STATE RAILWAY REGULATIONS *re* DISMISSAL OF NON-GAZETTED STAFF IN THE RAILWAY ADMINISTRATION REPORT.**

**127. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state the reasons for not reviewing the working on State-managed Railways of the regulations regarding dismissals and discharges and rights of appeal of non-gazetted Railway servants since June 1931 in the Report on the Administration of Railways by the Railway Board submitted each year to the Government of India?

**The Honourable Sir Andrew Clow:** The Report is not intended to serve as a review of regulations of this type, but as a record of the year's work. Such review of the regulations as has taken place is done independently and amendments have been made since 1931 as occasion required.

**LIMITING OF THE RAILWAY REFRESHER COURSES TO THE AGE OF 45.**

**128. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 7, asked in this House on the 5th November, 1940, and state the reasons for limiting the refresher courses to the age of 45 when ordinarily it is not required by



Rule 14 of Appendix XXII of the State Railway Establishment Code, and also state whether the qualification in that course before the age of 45 is not considered for promotion if it occurred after the age of 45?

**The Honourable Sir Andrew Clow:** The first part of the question is not understood as the stipulation is laid down in rule 14 quoted by the Honourable Member. As regards the second part, there is no objection to treating the qualification so named as sufficient in suitable cases.

#### NUMBERS AND CHARACTER OF NON-GAZETTED POSTS ON CERTAIN STATE RAILWAYS.

**129. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 9, asked on the 5th November, 1940, and state the source from where the information in respect of Eastern Bengal and North Western Railways is available?

**The Honourable Sir Andrew Clow:** The information will be available with the General Managers of the Eastern Bengal and North Western Railways.

#### RULES GOVERNING THE PUBLICATION OF MATTERS IN RAILWAY GAZETTES.

**130. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 12, asked on the 5th November, 1940, and lay on the table of the House:

- (i) the rules governing the publication of matters in Railway gazettes; and
- (ii) the list of various media?

**The Honourable Sir Andrew Clow:** (i) Government are not aware of any rules.

(ii) Apart from Railway Gazettes, circulars and notices are used by Railway Administrations as required. Besides, the various media open to the public such as newspapers are also available to the Railway staff.

#### PROCEDURE OF REPORTING THE WORK AFTER THE EXPIRY OF THE PROBATIONARY PERIOD.

**131. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 14, asked on the 5th November, 1940, and state:

- (a) the procedure of reporting the work after the expiry of the probationary period of twelve months;
- (b) how confirmation is made when no report on the work during the probationary period or after the expiry of the probationary period is forthcoming or made; and
- (c) whether the confirmation is delayed even after the work is reported to be satisfactory; if so, how and why?

**The Honourable Sir Andrew Clow:** (a) No special procedure is laid down.

(b) I am not aware of any case in which no information is available.

(c) There is frequently an interval, which may arise from various causes.

**NON-GAZETTED RAILWAY SERVANTS CHARGED WITH OFFENCES IN THE MORADABAD DIVISION, EAST INDIAN RAILWAY.**

**132. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state:

- (a) the class of employees (non-gazetted Railway servants),
- (b) kind of offences charged for,
- (c) nature of enquiry made into those offences, and
- (d) kind of penalty imposed against those offences with the authority imposing that penalty,

during the period from 1st January, 1939 to 31st October, 1940, on the Moradabad Division, East Indian Railway?

**The Honourable Sir Andrew Clow:** These particulars are not available with Government or the Railway Board and I regret I cannot undertake the collection of the information required by the Honourable Member.

**CERTAIN QUARTERLY STATEMENT FORWARDED BY THE DIVISIONAL SUPERINTENDENT, MORADABAD DIVISION, ON THE EAST INDIAN RAILWAY.**

**133. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 21, asked on the 5th November, 1940, and state:

- (a) the number of appeals withheld;
- (b) to whom those appeals were addressed;
- (c) the nature of the penalty against which those appeals were preferred; and
- (d) the authority which imposed that penalty?

**The Honourable Sir Andrew Clow:** (a) Nine, between 1st January, 1939 and 30th June, 1940; the return for the quarter ending 30th September, is not yet complete.

(b) Eight to the General Manager and one to the Chief Commercial Manager.

- (c) Five against removal from service;
  - One against recovery of rent;
  - One against forfeiture of security deposit;
  - One regarding officiating allowance; and
  - One regarding accelerated promotion.

(d) Government have no particulars.

**CALCULATION OF PERIOD OF SICK LEAVE ON STATE RAILWAYS.**

**134. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 24, asked on the 5th November, 1940, and state:

- (a) the difference between the two forms of certificates, that is, sick certificate and certificate recommending leave;
- (b) the necessity of having the said two forms of certificates; and

- (c) out of those two forms, which is a recommendation by a medical officer for leave and which is not?

**The Honourable Sir Andrew Olow:** (a) The Honourable Member's attention is invited to sub-rules (2) and (3) of rule 1 of the 'General Rules governing the issue of medical certificates to non-gazetted railway servants applying for leave in India on medical certificate' contained in Part III of Appendix VIII to the State Railway Establishment Code as substituted by correction slip No. 744, a copy of which is in the Library of the House.

(b) A reference is invited to rules 2 and 6 of the rules referred to in the reply to part (a) of the question.

(c) Both are, in effect, a recommendation for leave, although the former merely records the fact of unfitness and its probable duration.

**NOTICE OF A SUIT ON BEHALF OF MIR MAQBOOL MAHMOOD OF AMRITSAR AGAINST THE NORTH WESTERN RAILWAY.**

**135. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please refer to the reply given to part (a) of question No. 96, asked in the Council of State on the 8th April, 1940, and state:

- (a) whether it is a fact that the Government of India in the Railway Department received in July or August 1940 a letter of Notice of a suit under section 80 of the Code of Civil Procedure to recover rupees 10,000 (ten thousand) from the Central Government as damages for malicious prosecution by the North Western Railway Administration, on behalf of Mir Maqbool Mahmood of Amritsar, Member, Legislative Assembly, and Parliamentary Secretary, Punjab;
- (b) the action taken on that notice;
- (c) whether the sum of rupees ten thousand has since been paid to Mir Maqbool Mahmood; if not, whether it has been compounded; if so, on what terms;
- (d) whether the sum of rupees ten thousand or the compounded amount has been recovered from the Railway servant; if not, why not;
- (e) the reasons for retaining in service any further of the subordinate on whose conduct the Government of India received that notice; and
- (f) whether Government propose to enquire into the conduct of the subordinate concerned by an independent committee?

**The Honourable Sir Andrew Olow:** (a) Yes.

(b) It was forwarded to the North Western Railway for such action as they considered necessary.

(c) No.

(d) Does not arise.

(e) Because the receipt of a notice of this kind is not a different ground for doing otherwise.

(f) No.

**TRAINS RUN THROUGH DELHI-SHAHDARA ON THE NORTH WESTERN RAILWAY.**

**136. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state:

- (a) the number of passenger trains run through Delhi-Shahdara on the North Western Railway in each direction, separately;
- (b) the number of those trains which did stop in each direction at that station;
- (c) the minimum and maximum period of stoppage of those trains at that station;
- (d) the daily average third class passenger traffic to and fro that station in each direction, separately.
- (e) the daily average accommodation provided for passengers in third class compartments of those trains in each direction, separately;
- (f) the daily average of third class tickets sold and collected at Booking offices and gates of Delhi for those trains in each direction, separately; and
- (g) the objection the Railway Administration has in not stopping the East Indian Railway's Running Power of trains in each direction at that station?

**The Honourable Sir Andrew Clow:** (a) 20 Up and 19 Down.

(b) 14 Up and 13 Down.

(c) Minimum two minutes; maximum five minutes.

(d)

From Delhi to Delhi Shahdara.

2,340

(including monthly season tickets, and through tickets for S. S. Light Railway).

From Delhi Shahdara to Delhi.

2,437

(including monthly season tickets and through tickets to S. S. Light Railway).

(e) Approximately 560 seats per train in each direction.

(f) At an average, 1,200 tickets are issued daily, in addition to 246 monthly season tickets and 56 suburban tickets. The daily average number of third class tickets collected is about 934.

(g) All the East Indian Railway trains except their Mails and Expresses stop at Delhi Shahdara. It is not the function of fast long-distance trains to cater for purely local traffic between stations four miles apart.

**SELECTION BOARDS OR COMMITTEES ASSEMBLED IN MORADABAD DIVISION ON THE EAST INDIAN RAILWAY.**

**137. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state:

- (a) the number of days during the period from 1st January, 1939, to 31st October, 1940, when the selection boards or committees assembled in Moradabad Division on the East Indian Railway;

- (b) the number of officers who attended those boards or committees;
- (c) the number of non-gazetted staff examined by those boards or committees; and
- (d) the average hour of each officer occupied by those boards or committees for examining each staff?

**The Honourable Sir Andrew Clow:** Government do not receive any reports of meetings of selection boards in Divisions and no record is ordinarily maintained of the hours taken by them to carry out the duties entrusted to them. I regret, therefore, that I cannot furnish the particulars required.

**ACCIDENTS TO PERSONS AT OR NEAR DELHI-SHAHDARA RAILWAY STATION,  
NORTH WESTERN RAILWAY.**

**138. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state:

- (a) the number of accidents to persons at or near Delhi-Shahdara Railway Station on North Western Railway during the preceding three years, or as far as available; and
- (b) the causes of those accidents?

**The Honourable Sir Andrew Clow:** (a) and (b). It is a little difficult to reply with precision as opinions may vary regarding the meaning of "near Delhi-Shahdara station"; but of the accidents occurring between Delhi and Sahibabad in the years 1937, 1938 and 1939, the following are regarded by the Administration as falling within the area indicated in the question:

- four due to persons committing suicide;
- six due to persons trespassing on the line;
- two due to persons falling or jumping from trains in motion.

The total is 12.

**COOLY CONTRACTS IN MORADABAD, LUCKNOW AND ALLAHABAD DIVISIONS,  
EAST INDIAN RAILWAY.**

**139. Mr. Muhammad Azhar Ali:** Will the Honourable Member for Railways please state the terms of cooly contracts in Moradabad, Lucknow and Allahabad Divisions on the East Indian Railway?

**The Honourable Sir Andrew Clow:** I have called for the information and will lay a reply on the table of the House.

**INDIANISATION OF THE POSTS OF LOCO. FOREMEN AND INSPECTORS ON THE  
NORTH WESTERN RAILWAY.**

**140. Bhai Parma Nand:** Will the Honourable Member for Railways please refer to the reply given to unstarred question No. 93, asked on the 20th March, 1940, and state:

- (a) the number of staff (Indian) qualified in T13 course;
- (b) how many of them have been promoted to the vacancies in Loco. Foremen and Inspectors' grade during the preceding six months; if no one is promoted, the reasons therefor; and

- (c) whether Government propose to compensate the Indian staff by promoting them irrespective of the seniority against the block by European grade IV staff; if not, why not?

**The Honourable Sir Andrew Clow:** (a) Seven.

- (b) As regards the first part, one; the second part does not arise.  
 (c) No, as promotions are not made on racial consideration.

**PROMOTION TO SENIOR SUBORDINATES OF TRANSPORTATION STAFF AND TO SENIOR SUBORDINATES OF LOCO. STAFF.**

**141. Bhai Parma Nand:** Will the Honourable Member for Railways please state whether it is a fact that promotion to senior subordinates of Transportation staff is made by selection?

- (b) Is it a fact that promotion to senior subordinate of Loco. staff is made according to seniority?

**The Honourable Sir Andrew Clow:** (a) Yes.

- (b) No. These posts also are selection posts.

**CERTAIN RESTRICTIONS ON APPOINTMENTS TO SUBORDINATE SERVICE POSTS ON NORTH WESTERN RAILWAY.**

**142. Bhai Parma Nand:** (a) With reference to his reply to unstarred question No. 125, asked by Mr. Lalchand Navalrai on the 1st April, 1940, will the Honourable Member for Railways be pleased to state why the inferior staff with the requisite educational qualification appointed after the 1st April, 1926, and prior to the issue of the General Manager, Lahore, circular letter No. 831-E./43, dated the 13th September, 1938, (under which the age limit has been fixed) should not be exempted from the age limit condition on the analogy of the same principle as was adopted in the case of the staff appointed prior to the 1st April, 1926, as there was no such age limit condition for men already in service at the time of their appointment and that condition was only introduced in 1938?

- (b) Is it a fact that *ex*-military men do enjoy the privilege of joining Railway subordinate service up to 40 years of age? If so, is it proposed to extend the same privilege to departmental inferior servants, who are qualified for the subordinate service?

**The Honourable Sir Andrew Clow:** (a) I would refer the Honourable Member to the replies to parts (b) and (c) of Question No. 125 referred to by the Honourable Member.

- (b) As regards the first part, Government are not aware that *ex*-military employees obtain a preference in the matter of the age limit. The second part does not arise.

**MESSAGE FROM H. E. THE VICEROY.**

**Mr. President** (The Honourable Sir Abdur Rahim): I have received the following Message from His Excellency the Viceroy:

*"Whereas by its vote of the 19th November, 1940, the Legislative Assembly has refused to take into consideration a Bill entitled a Bill to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on*

income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies;

Now, therefore, I, Victor Alexander John, Marquess of Linlithgow, in pursuance of the provisions of sub-section (1) of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, do recommend to the Legislative Assembly that it do pass the Bill in the form hereto annexed.

NEW DELHI;

LINLITHGOW,

The 20th November, 1940.

Viceroy and Governor General."

### THE INDIAN FINANCE (No. 2) BILL.

**The Honourable Sir Jeremy Raisman** (Finance Member): Sir, I move for leave to introduce a Bill to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies, in the form recommended by the Governor General.

3 P.M.

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

"That leave be given to introduce a Bill, to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies, in the form recommended by the Governor General."

**Mr. Bhulabhai J. Desai** (Bombay Northern Divisions: Non-Muhammadan Rural): Sir, I am fully aware that this procedure on the part of Government is not without precedent. Yet I had hoped that some time and after the nature of the debate which we listened to during the last six days a different spirit might possibly prevail in regard to the working of what is called the gift of the Government of India Act. Though it is common and commonplace, one is bound to say very respectfully that there are some people who will never learn or unlearn; and if that is the attitude that Government adopt, they should have no doubt about the nature of the opposition that they find not merely in this House, but throughout the country. It was because of actions of this character that we felt our presence unnecessary here on which a good deal of comment has been made. More than that, it was, as Lord Zetland himself pointed out, as a token of our attitude towards the matter of this war that as soon as information was conveyed to me by His Excellency the Governor General through the Governor of Bombay that troops were sent as a matter of precaution prior to the declaration of war, we thought fit as a matter of protest not to attend any more in this House so that at all events it may be known that the meaning of the word 'consultation' is not merely intimation. However, Sir, this sorry history of complete defiance of public opinion may be the last, for all I know. But whether it is the last or not it is a matter of great regret that standing in my place I should have to oppose a motion even for leave to introduce a Bill which normally and conventionally I would not have thought fit to do. You have seen, Sir, the opinion of this House reflected in the manner in which the vote was given, apart from those nominated non-officials and my friends the protectors of Britain, as I say in India, and those friends which still think that

[Mr. Bhulabhai J. Desai.]

they will cling to what my friend Mr. Rajagopalachariar called a leaky boat. But it is entirely their own choice; I daresay they will continue to do so until the fate which is bound to overtake them will take place in due course of time. To them I have nothing to say except this that in the face of opinion in India they might have acted differently; but after all it is for them to consult their own opinions and their own ideas and their own policy.

There is one other thing that I wish to say because my Honourable friend, Mr. Jinnah, referred in passing to the question of the political issue as it is called and which I see repeated often even in the highest quarters from time to time. So far as we are concerned it was, as I repeat again, a genuine desire to have the co-operation of all the sections of the country, should it commend itself to the British Government to allow us an opportunity so to do. In fact the question is dead not because we could not find means or avenues of co-operation but because the Britisher would not accept it. But none the less and notwithstanding the temporary barriers which sometimes arise by reason of circumstances in the country,—my Honourable friend, Mr. Jinnah, and myself have been associated in a profession for a period of over a quarter of a century and otherwise in public life since the days of Home Rule,—if any co-operation is needed and such an opportunity materialises, we have not the smallest doubt that we shall find it forthcoming.

There is only one other thing which I should like to say and which I wanted to say while I was speaking on the Bill but with a view not to exceed my time I did not do so. With reference to what is called this voluntary effort there is a letter which was sent to me by Dr. Katju, ex-Minister of the United Provinces,—a letter addressed to his wife when she wanted the lease of a house transferred to her which required Government sanction. And this is an official letter written by the Khas Mahal Officer of Puri to "Sreemati Lachmi Rani Katju", etc.:

"With reference to your application of the 30th September, 1940, asking for permission for purchasing holding No. 46, in \* \* district, I have the honour to say that before the necessary permission is granted the Collector has to be satisfied that the transferee is a suitable person to own a homestead holding in this Khas Mahal."

Now you will see what suitability consists of:

"With a view to prove your loyalty, I am directed by the Collector to request that you will kindly contribute generously to the Orissa War Fund started in this district at the instance of His Excellency the Governor of Orissa. Your contribution may kindly be sent as early as possible."

**Sir Syed Raza Ali** (Cities of the United Provinces: Muhammadan Urban): Is the amount mentioned?

**Mr. Bhulabhai J. Desai:** You are thinking of 14 crores. No.

This is only an instance of many thousands which have come to those who belong to my fold, call it good, call it bad, or call it indifferent. And, therefore, it is not unnatural that we must feel that notwithstanding the propriety of what is wished the actual facts in this country are entirely contrary. Sir, in view of these events, in view of the feeling in the country in general on which, as I said, barring my five friends all the constituents



here represented have given their vote, I feel it right and just to oppose the motion which has been made before the House.

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban):  
Sir, . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Only two speeches are allowed at this stage, one by the Mover and the other by the Member opposing.

**Sir Cowasji Jehangir**: Sir, the Leader of the Opposition has taken advantage of his privilege to make an attack . . .

**Mr. Bhulabhai J. Desai**: No, I did not make any attack.

**Mr. President** (The Honourable Sir Abdur Rahim): Attack or no attack, the Honourable Member will have to find some other appropriate occasion to reply.

**Sir Cowasji Jehangir**: Very well, Sir, I will take another opportunity.

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

"That leave be granted to introduce a Bill to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies, in the form recommended by the Governor General."

The Assembly divided:

AYES—53

Abdul Hamid, Khan Bahadur Sir.  
Ahmad Nawaz Khan, Major Nawab Sir.  
Ayers, Mr. C. W.  
Bewoor, Sir Gurunath.  
Bhagchand Soni, Rai Bahadur Seth.  
Boyle, Mr. J. D.  
Bunyad Hussain, Khan Bahadur Sayad.  
Buss, Mr. L. C.  
Caroe, Mr. O. K.  
Chaudhury, Maulvi Abdul Halim.  
Chettiar, Dr. Rajah Sir S. R. M. Annamalai.  
Clow, The Honourable Sir Andrew.  
Daga, Seth Sunderlal.  
Dalal, Dr. R. D.  
Dalpat Singh, Sardar Bahadur Captain.  
DeSouza, Dr. F. X.  
Dumasia, Mr. N. M.  
Frampton, Mr. H. J.  
Ghuznavi, Sir Abdul Halim.  
Gidney, Lt.-Col. Sir Henry.  
Griffiths, Mr. P. J.  
Gwilt, Mr. E. L. C.  
Ikramullah, Mr. Muhammad.  
Imam, Mr. Saiyid Haider.  
Ismail Ali Khan, Kunwar Hajee.  
James, Mr. F. E.  
Jawahar Singh, Sardar Bahadur Sardar Sir.

Jehangir, Sir Cowasji.  
Kamaluddin Ahmed, Shamsul-Ulema.  
Kushalpal Singh, Raja Bahadur.  
Laljee, Mr. Husenbhai Abdullabhai.  
Lawson, Mr. C. P.  
Maxwell, The Honourable Sir Reginald.  
Miller, Mr. C. C.  
Mody, Sir H. P.  
Muazzam Sahib Bahadur, Mr. Muhammad.  
Mudaliar, The Honourable Diwan Bahadur Sir A. Ramaswami.  
Mukharji, Mr. Basanta Kumar.  
Ogilvie, Mr. C. M. G.  
Ormiston, Mr. J. F.  
Pillay, Mr. T. S. S.  
Rahman, Lieut.-Col. M. A.  
Raisman, The Honourable Sir Jeremy.  
Scott, Mr. J. Ramsay.  
Shahban, Khan Bahadur Mian Ghulam Kadir Muhammad.  
Sheehy, Mr. J. F.  
Sivaraj, Rao Sahib N.  
Spence, Sir George.  
Staig, Mr. B. M.  
Thakur Singh, Captain.  
Tyson, Mr. J. D.  
Zafrullah Khan, The Honourable Sir Muhammad.  
Zaheer, Mr. Saiyid Hasan.

## NOES—55

Abdul Qaiyum, Mr.  
 Abdul Wajid, Maulvi.  
 Abdur Rasheed Chaudhury, Maulvi.  
 Aney, Mr. M. S.  
 Asaf Ali, Mr. M.  
 Ayyangar, Mr. M. Ananthasayanam.  
 Banerjee, Dr. P. N.  
 Chaliha, Mr. Kuladhar.  
 Chattopadhyaya, Mr. Amarendra Nath.  
 Chaudhury, Mr. Brojendra Narayan.  
 Chettiar, Mr. T. S. Avinashilingam.  
 Chetty, Mr. Sami Vencatachelam.  
 Chunder, Mr. N. C.  
 Daga, Seth Sheodasa.  
 Das, Mr. B.  
 Das, Pandit Nilakantha.  
 Datta, Mr. Akhil Chandra.  
 Desai, Mr. Bhulabhai J.  
 Deshmukh, Dr. G. V.  
 Deshmukh, Mr. Govind V.  
 Gadgil, Mr. N. V.  
 Govind Das, Seth.  
 Gupta, Mr. K. S.  
 Hans Raj, Raizada.  
 Hegde, Sri K. B. Jinaraja.  
 Hosmani, Mr. S. K.  
 Jedhe, Mr. K. M.  
 Jogendra Singh, Sirdar.

Joshi, Mr. N. M.  
 Kailash Bihari Lal, Babu.  
 Lahiri Chaudhury, Mr. D. K.  
 Lalchand Navalrai, Mr.  
 Maitra, Pandit Lakshmi Kanta.  
 Mangal Singh, Sardar.  
 Manu Subedar, Mr.  
 Misra, Pandit Shambhu Dayal.  
 Muhammad Ahmad Kasmi, Qazi.  
 Pande, Mr. Badri Dutt.  
 Parma Nand, Bhaji.  
 Raghbir Narayan Singh, Choudhri.  
 Ramayan Prasad, Mr.  
 Rao, Mr. M. Thirumala.  
 Reddiar, Mr. K. Sitarama.  
 Saksena, Mr. Mohan Lal.  
 Sant Singh, Sardar.  
 Santhanam, Mr. K.  
 Satyamurti, Mr. S.  
 Sham Lal, Lala.  
 Sharma, Pandit Pyare Lal.  
 Shrivastava, Babu Hari Saran Prasad.  
 Singh, Mr. Gauri Shankar.  
 Singh, Mr. Ram Narayan.  
 Sinha, Mr. Satya Narayan.  
 Sri Prakasa, Mr.  
 Subbarayan, Shrimati K. Radha Bai.

The motion was negatived.

### THE EXCESS PROFITS TAX (AMENDMENT) BILL.

**The Honourable Sir Jeremy Raisman** (Finance Member): Sir, I move:

"That the Bill to amend the Excess Profits Tax Act, 1940, be referred to a Select Committee consisting of Sir Cowasji Jehangir, Sir Homi Mody, Mr. F. E. James, Mr. E. L. C. Gwilt, Sir Muhammad Yamin Khan, Sir Syed Raza Ali, Dr. Sir Ziauddin Ahmad, Mr. M. S. Aney, Sardar Sant Singh, Mr. J. F. Sheehy, Mr. C. W. Ayers, Rao Sahib N. Sivaraj and the Mover, with instructions to report on or before the 25th November, 1940, and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

Sir, this Bill proposes no change of principle in the Act, but it is merely concerned with correcting certain hardships and removing certain anomalies which experience has shown are likely to arise in the working of the Act as it stands. Some of the clauses are purely machinery clauses, for example, clause 7, which rectifies the omission in section 26 to provide for the manner in which and the time limit within which applications may be made under that section to the Central Board of Revenue. Other clauses are designed to correct disharmonies in the existing provisions. A clause in point is clause 4 (a) which provides that in the case of a change of ownership or of an amalgamation of businesses, the successor, who is to be treated in the computation of his standard profits or average capital as if there had been no change of ownership, should also receive, as was originally intended, the same allowance for depreciation of plant, machinery and buildings as would have been allowed to his predecessor had he continued in his business.

Other clauses, perhaps the most important, are intended to secure that the comparison of the profits of a chargeable accounting period with those of the standard period, which is the essential basis of the tax, shall be a fair one. An example of this class is that of clauses 4 (b), (c) and (d) which give power to the Excess Profits Tax Officer to make such proper modifications in the case of changes of ownership in computing the profits or average capital either for the standard period or a chargeable accounting period, as will secure a fair comparison. I may remark here that this provision may operate equally to the advantage of the assessee or of the revenue . . . .

**Mr. F. E. James** (Madras: European): Always?

**The Honourable Sir Jeremy Raisman**: No, Sir.

Another, clause (a), provides that interest or salaries payable abroad which have been included in profits for income-tax purposes shall be excluded for excess profits tax purposes. As this income-tax provision has been in force only since 1939-40, it would clearly be unfair to compare profits including such items with the profits of a standard period when there was no corresponding inclusion . . . .

**Sir Cowasji Jehangir** (Bombay City: Non-Muhammadan Urban): Unfair to whom?

**The Honourable Sir Jeremy Raisman**: Unfair to the assessee.

Clauses 6 (a) and 8 (c) correct definite flaws in the Act which it has been found would operate to the detriment of the assessee. The first of these clauses provides for the allowance, in computing profits for income-tax and super-tax purposes, of all excess profits tax payable on those profits in British India or elsewhere. The Act, as it stands, allows foreign excess profits tax only to the extent to which the profits charged actually arose in another country, with the result in some cases that the taxation of a concern's excess profits would be at a rate in the aggregate of considerably more than 100 per cent.

The second of these clauses proposes to correct an unforeseen anomaly in the operation of Rule 7 of the First Schedule to the Act. That rule, in the case of director-controlled companies, disallows any excess of the directors' remuneration for a chargeable accounting period over that for the standard period, but provides for no adjustment where the remuneration of the chargeable accounting period is less. The proposed amendment will secure that only the excess remuneration, if any, over the whole duration of the tax is disallowed.

Although in the Notes on Clauses attached to the Bill and in the explanatory examples that I have just given the amendments appear to be matters of relative simplicity, they are in fact matters of some technical difficulty and their phrasing needs careful correlation with the wording of the sections and rules which they are designed to supplement or amend. For that reason I recommend to this House that the Bill be referred to a Select Committee in order that the House may have the benefit of their careful and detailed consideration of its provisions. Sir, I move

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

"That the Bill to amend the Excess Profits Tax Act, 1940, be referred to a Select Committee consisting of Sir Cowasji Jehangir, Sir Homi Mody, Mr. F. E.

[Mr. President.]

James, Mr. E. L. C. Gwilt, Sir Muhammad Yamin Khan, Sir Syed Raza Ali, Dr. Sir Ziauddin Ahmad, Mr. M. S. Aney, Sardar Sant Singh, Mr. J. F. Sheehy, Mr. C. W. Ayers, Rao Sahib, N. Sivaraj and the Mover, with instructions to report on or before the 25th November, 1940, and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

**Mr. F. E. James:** Sir, I wish to support the motion to refer this Bill to a Select Committee. I think I did not hear the name of my old friend, Sir Abdul Halim, on this Committee, because he is a member, if the Honourable Member will remember, who has had more accurate information about the standard period . . . . .

**The Honourable Sir Jeremy Raisman:** Post-prandial period.

**Mr. F. E. James:** I think they are one and the same thing.

**The Honourable Sir Jeremy Raisman:** I understand he has to attend a wedding.

**Mr. F. E. James:** I take it that there is a standard period between the two functions. There are three points which I should like to touch upon. The first relates to the new amendment in clause 8 (c) of the Bill which adds a new sub-section after sub-section (3) of section 26 of the Act. That sub-section refers to applications to the Central Board of Revenue to grant relief in special cases. It only allows a period of one month from the date on which the order of the Board of Referees has been communicated to the assessee, within which the application must be made. It is a small point. The period is too small and I hope that the Honourable Member will consider an extension of that period. The second point relates to clause 9 (d) of the Bill. It inserts after rule 10 of the schedule, a new rule No. 11. This appears to drive a coach and four through the principle of the second proviso of rule 10 of the schedule. If Honourable Members will turn to the First Schedule of the original Act they will find that the first proviso to rule 1 provides:

"Provided that where the profits during any standard period have already been determined for the purpose of an assessment under the Indian Income-tax Act, 1932, such profits as so determined, shall, subject to the adjustments required by this Schedule, be taken as the profits during that period for the purpose of excess profits tax."

Now, this amendment gives power to the excess profits tax officer to vary this principle where he does not consider that the deduction represents a sum reasonably and properly attributable to that accounting period. That is a very important power which is sought to be placed in the hands of the excess profits tax officer. As I interjected in the course of my Honourable friend's remarks in introducing the Bill, our experience is that the benefit of the doubt is not given to the assessee. I am sure that the excess profits tax officer will follow the long traditions of the Income-tax Department in this regard. Therefore, we are a little suspicious on that particular point.

**Mr. M. S. Aney** (Berar: Non-Muhammadan): What is that long tradition?

**Mr. F. E. James:** That the assessee does not get the benefit of the doubt, where there is a doubt in these matters. There is also one other question which arises out of this, but I need not trouble the House with it, that can be discussed in the Select Committee. The third point is this.

I understand that according to this Bill, section 26 of the Act is being somewhat extensively amended. Section 26 of the Act made a very useful provision for an appeal to the Central Board of Revenue to grant relief in special cases. I remember, when we argued this clause at the time of the Select Committee on the original Bill, that we put before Government the cases of oil companies for example, or similar companies in connection with which there might have to be large payments for the right to exploit the land, to get oil out of the land or to mine the land, in the case of coal mines. I understood that section 26 of the Act as it stood would enable a business working on a wasting asset, where there was no depreciation allowance on that wasting asset itself, to go direct to the Central Board of Revenue with the request that it was a special case and that in that instance there should be some modification of the statutory percentage.

**Mr. J. F. Sheehy** (Government of India: Nominated Official): Is it the Honourable Member's suggestion that we are in this Bill cutting down the powers given to the Central Board of Revenue under section 26? There is no intention whatever of doing so.

**Mr. F. E. James:** I entirely acquit the Government of any intention of that kind, but as we are amending section 26 I should like to know whether the class of case that has been covered in the English Finance Act is covered by this particular section.

**Mr. J. F. Sheehy:** Yes.

**Mr. F. E. James:** I would like to put it a little more specifically. My Honourable friend knows better than I do that section 13 of the Finance Act (No. 2), 1940, in the United Kingdom contains an arrangement by means of which a larger standard profit can be fixed for classes of businesses consisting, for example, in the getting of minerals or oils from any mine, oil well, or similar natural source of a wasting nature. The fixation of the standard profit in such cases is entirely a matter for the Board of Referees.

**Mr. O. W. Ayers** (Government of India: Nominated Official): With a limitation of four per cent.

**Mr. F. E. James:** In this country there is no such provision. What I want to be made clear is as to whether section 26 of the Act, as it is now worded, would give such an assessee the right to go to the Central Board of Revenue, argue the case and get a larger statutory percentage?

**Mr. O. W. Ayers:** Yes, alleging the fact that the working of the wasting asset is a special circumstance. That would be accepted as a special circumstance.

**Mr. F. E. James:** So that in that case, I take it that Government do not consider that it is necessary at this stage to put in a specific reference to this particular class of business, and that it will fall within the general description which is now contained in the provisions of section 26 of the Act.

**Mr. C. W. Ayers:** Definitely. The question was considered and we came to the conclusion that the power under section 26 is already much wider than in the United Kingdom and there is no need to cover the specific case. It is already covered.

**Mr. F. E. James:** That was certainly the intention of the Select Committee, and, I understood, of the Government and I am very glad to hear that that point is already covered. I have no more remarks to offer and I support the motion.

**Sir Cowasji Jehangir:** I have no remarks to make on the Bill itself, except to congratulate the Finance Member on being able to move these important money Bills in piping times of peace. We have had a little storm but luckily he will move these measures, as I have said, in piping times of peace. I trust that notwithstanding these times he will give due consideration to what we have to say.

**The Honourable Sir Jeremy Raisman:** I made it clear during the Session in which the original Excess Profits Tax Bill was dealt with that I was prepared to give due consideration all points of substance and equity which were brought forward and I think the Honourable Member then agreed that I had given due consideration. That will remain my attitude.

As regards the points touched on by my friend, Mr. James, it is clear that points of that nature cannot be usefully discussed in the full House and they indicate the desirability of a Select Committee on this Bill. Those points will be fully considered in the Select Committee.

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

"That the Bill to amend the Excess Profits Tax Act, 1940, be referred to a Select Committee consisting of Sir Cowasji Jehangir, Sir Homi Mody, Mr. F. E. James, Mr. E. L. C. Gwilt, Sir Muhammad Yamin Khan, Sir Syed Raza Ali, Dr. Sir Ziauddin Ahmad, Mr. M. S. Aney, Sardar Sant Singh, Mr. J. F. Sheehy, Mr. C. W. Ayers, Rao Sahib, N. Sivaraj and the Mover, with instructions to report on or before the 25th November, 1940, and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

The motion was adopted.

## THE INDIAN RAILWAYS (AMENDMENT) BILL.

**The Honourable Sir Andrew Olow** (Member for Railways and Communications): Sir, I move:

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Dr. Sir Ziauddin Ahmad, Maulana Zafar Ali Khan, Mr. G. V. Deshmukh, Khan Bahadur Mian Ghulam Kadir, Muhammad Shahban, Mr. J. Ramsay Scott, Mr. B. M. Staig and the Mover, with instructions to report on the opening day of the next Session of the Assembly, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

With your permission, Sir, I wish to substitute "four" for "five", in view of the numbers of the committee.

I do not think I need argue in this House on the general principle of taking all measures that are reasonable to check this serious abuse of

ticketless travel. I am aware that outside the House there are those who think that they ought to be allowed to travel free, even to a football match, and that gentlemen who happen to wear or to put on for the occasion a religious robe ought to be allowed to travel free. But I do not think that either of these suggestions will appeal to Honourable Members of the House who, I am sure, recognise the wisdom and the soundness of doing what we can to ensure that railways are paid for the services they render. Nor need I dwell on the seriousness of the evil. The ticketless traveller is everywhere and in spite of various measures taken on many railways his numbers do not show any great tendency to decline. The aggregate amount of which the railways, that is, in the end the honest travellers and the taxpayer are deprived in a year must run to very large sums. I would take it then that the principle is granted and the question that remains is what measures can suitably be taken to check the evil.

Four years ago, a Bill was introduced in this House by my Honourable friend, the Leader of the House, which had the same purpose as this Bill—the checking of ticketless travel. It evoked a large amount of controversy and I think I am right in saying that the controversy was focussed on two points. In the first place, it proposed to alter the burden of proof in respect of a ticketless traveller. The traveller might be called upon to show that he did not travel with intent to defraud. In the second place, it conferred a power of arrest without warrant by railway servants of persons travelling without tickets. Neither of these provisions will be found in the present Bill. I should like to make it clear that they are omitted not because the Government consider them mistaken but because we are anxious to meet as far as we can the misgivings and doubts which were expressed in this House on that occasion and because we entertain the hope that if this much more modest proposal is accepted, we can do a great deal to check the abuse. I am myself convinced after some study of the question that this is not merely a matter of amending the law and that we cannot put the whole blame for ticketless travel on defects in the law. It is also very largely a question of administration and if the House consents to the proposals now before it, I shall do my best to see that we do not let the case go by default owing to defective administration of the law as amended.

Let me then come to the actual provisions of the Bill. Put briefly, they aim at enhancing the penalties for ticketless travel. We desire to put up substantially the maximum possible penalty in cases of proved fraud, that is, where a man, without any change in the existing law as regards the burden of proof, has been proved to have travelled with intent to defraud the railway. The maximum penalty we have put at the same level as the penalty for the least aggravated form of cheating in the Indian Penal Code and I hope the House will agree that the man who endeavours to cheat the community deserves no less punishment than the man who endeavours to cheat an individual.

In the second place, we have enhanced for some cases the penalties for ticketless travel where fraud is not proved. The existing penalties date from 1890, when the value of money was rather different from what it is today and if the Honourable Members care to examine them, they will find them in certain respects anomalous. The man who has deprived the railway of five rupees suffers no severer penalty than the man who

[Sir Andrew Clow.]

deprives the railway of one rupee and, in some cases, the man who has brought the fact that he has not got a ticket to the notice of the authorities at an early stage suffers just as severely as the man who has omitted to do so. The enhancements in the penalties are, I submit, reasonable and will act, I hope, as a deterrent to the practice of forgetting to take a ticket. We have also made it clear that in the event of failure to pay the dues to which a passenger is liable under section 113, he may be subjected to a short term of imprisonment. The Act as it now stands says that the sum is recoverable "as if it were fine". There was a ruling of a High Court in the old days that permitted the imprisonment of the man who failed to pay but all the more recent rulings I have seen are in the contrary sense. It is a reasonable that we should treat this as a fine and that the man who does not pay the fine should be subject to the same penalties as the man who fails to pay a fine of a different character.

The remaining provisions are extremely simple; they relate to the power of ejection, which I do not think was seriously contested even on the previous Bill and to a very minor amendment of what is obviously an error in the law. The Bill is, Sir, on the whole so straightforward that at first my motion today was set down for its consideration at once in this House. But I found that Members of influential Parties felt that it would be useful to have the Bill examined by a Select Committee before it was enacted and I have, therefore, altered my motion so as to secure a small Select Committee which will I hope be able to report before we meet for the opening Session of 1941. Sir, I move.

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

"That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of Dr. Sir Ziauddin Ahmad, Maulana Zafar Ali Khan, Mr. G. V. Deshmukh, Khan Bahadur Mian Ghulam Kadir, Muhammad Shabban, Mr. J. Ramsay Scott, Mr. B. M. Staig and the Mover, with instructions to report on the opening day of the next Session of the Assembly, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan):

Sir, I have given notice of a motion "that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st March, 1941", but with your permission I want the date to be changed to the 31st January. Sir, I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1941."

Sir, the Honourable Member in charge of the Bill, while accepting my motion in substance, has just mentioned that he proposes that the Select Committee will submit its report before the next Session so that the measure may be taken up during relaxation. Now my circulation motion will achieve the same object and at the same time the public will have their say on the provisions of the Bill, because the provisions directly relate to the public who will be the sufferers and at the same time the date for eliciting opinion will be by the 31st of January,—and the Session I think, will commence from early in February, so that this measure can be referred to a Select Committee early enough and during the Session the measure may be passed by March the 31st so that it may have effect from the new financial year. Sir, my



main objection is that the Government wants that instead of a punishment of a fine of Rs. 100 under section 112 of the Indian Railways Act, 1890, they want to insert the provisions "or imprisonment for a term which may extend to one year or". I fail to understand what imprisonment will bring to them. A fine will bring to them money and it will add to the public exchequer, whereas the imprisonment will not bring them anything, and I do not find that there is any parallel to this in any other country. I wonder why officials here are so fond of having people imprisoned. Sir, the Honourable Member in charge of the Bill should first of all, in the interest of the public, abolish the system of granting free passes. I think it will bring him about a crore of rupees. I believe, as was pointed out also sometime ago, that there is an enormous amount spent by the Railways on account of issuing free passes to the railway employees. Sir, this is a novel procedure. No other employees of any other Department either of the Government of India or of the Provincial Governments get any such benefit and I fail to understand why these people should become the chosen people of the country or of the State; and I say, without fear of contradiction, that after abolishing the issue of free passes, the amount which is left unrealized by some persons travelling without a ticket will be compensated, or there will be a very little amount left unrealized as a receipt and I think that the public should be consulted on the point of their punishment being a fine of one hundred rupees or one year's imprisonment. Besides, there are other provisions in this Bill which require the eliciting of the opinion of the public. Sir, in the meantime it will serve both the purpose of having public opinion and also of referring it to a Select Committee. With these words I move my motion.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1941."

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, I was a party to that former Bill when it was discussed in this House,—  
 4 P.M. a "party" in the sense that I had taken part in the discussions that took place then. I won't do that now, because I know what the fate will be even if I speak for three days. Sir, that Bill, when it came before the House as it was put in by the Honourable Sir Muhammad Zafrullah Khan who was then in charge of the Railways, was considered in the House to be not only unpopular, but most drastic. No doubt that Bill went to the Select Committee, but it was not proceeded with much further. The points that were raised at that time, the difficulties that were presented to the House, and the drastic nature of the Bill were considered at cooler moments and the Bill was shelved and not proceeded with any further. Four years elapsed, and it was considered that the Bill had died its natural death. But now that the Honourable Sir Andrew Clow has come in office, he has softened the provisions of the Bill to some extent and brought it before the House to be passed. He was so sure of its passage in the beginning, that he did not even propose that it be sent to the Select Committee. Subsequently, perhaps on some pressure being brought by some of the Honourable Members, or may be that he thought that the Bill was very drastic in the matter of punishment, he thought that he should have the opinion of Members whether it is at all necessary that the punishments should be so harsh and severe. In my humble

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opinion, a Bill like this is not at all necessary. Seeing that the Railways are a commercial concern, it would simply make them unpopular if you were to provide such a harsh punishment for persons who are travelling without tickets and who for such a long time have not been subjected to that punishment. The railways are already suffering on account of competition by motor buses. Therefore, they should show to the public that they are not proceeding in any manner which is unreasonably harmful to them. On the contrary, if they deal with the public in the right manner, they will get more money, and the railways will become a more earning concern. What we find is this, that by a Bill like this the Railway is going to show that there are ticketless travellers who should be strictly dealt with. This is the case all over the world. Nobody can deny it. Therefore, the making of such enactments is not right. In the first place, we know who are travelling without ticket. The Honourable the Railway Member would admit it himself that most of these persons are beggars and indigent people or religious mendicants. (Interruption by Lieut.-Colonel Sir Henry Gidney.) The Anglo-Indians are the biggest sinners in the matter of ticketless travel on railways. They are railway servants, and they take the utmost advantage of their position.

When we know that the class of people who are guilty in this respect are generally persons who are not travelling because they intend to defraud the railways, but because they are helpless, Government ought to make some arrangement for their travel, or there ought to be some correction houses for them to live in. When Government have been able to make such arrangements, then only can they come forward with Bills like this. Then, Sir, I do not blame these persons so much as I blame the Railway Department itself. The Railway Department has not taken proper precautions to see that these beggars or indigent persons who travel without tickets do not enter the platform or the trains. At several stations they have no fencing at all. They have open doors at several stations. Therefore, first put your own house in order, and then take the proper precautions. You can then come to this House and say that in spite of all those precautions, you have failed to achieve the object, and, therefore, you want an enactment like this. Now, Sir, it is a fact that the railway servants are mostly responsible for this ticketless travel and they allow their own relatives and friends to do the same. Therefore, the burden cannot be thrown on the public.

Now, Sir, it will be much better if I were to speak with some authority to show that no proper precautions are taken, and it is because of that that we find ticketless travellers in the railways. On that point, Mr. K. C. Ghosh, the Special Railway Magistrate, Howrah, while presiding over the All-India Railway Magistrates Conference on the 10th instant, said something, and I would like to read out his words to the House. Referring to the causes of the evil of ticketless travel, Mr. Ghosh said:

"The growing poverty of the masses was undoubtedly a factor, apart from criminal propensity or moral depravity."

Now, if there is no moral depravity and no criminal propensity why do you want to send such men to the jail?

**The Honourable Sir Andrew Clow:** If I caught the quotation correctly, Mr. Ghosh did not say that there was no criminal propensity or moral

depravity, but that apart from those things there was another factor. That was his opinion.

**Mr. Lalchand Navalrai:** I am coming to that. I was going to say that this is one of the reasons he has given and I agree with him there. Sir, I have said that the Railways should take proper precautions to see that these persons do not get into the trains. They can get into the trains only from the platforms; they cannot enter into the running trains. Or it may be that out of compassion the railway servants allow them to travel. In that case, is it right that you should catch them at the next station and send them to jail? Mr Ghosh goes on to say:

"But the outstanding cause, in his opinion, was the slackness and inefficiency of the checking staff who should be much more alive to their responsibility."

Sir, you must create responsibility first before sending people to jail. I admit that in the former Bill which was before the House, the burden of proving fraudulent travelling was placed upon the accused. It was shown that that was against fundamental laws and rules and there was great objection raised with regard to burden of proof. In every case the burden of proof always lies on the prosecution. Now, Sir, so far as that portion of the Bill is concerned, of course it has been removed, but the Honourable Member disputes they have not deleted that portion for the above reasons. The intent, however, is that severe punishment be provided. The question of fraudulent travelling is in practice lightly treated. What is being done usually in Courts is not that they are going to show by any circumstances that a man has fraudulently entered the train. They go into Court and say, "he had no ticket and he had been caught". The magistrate accepts that it was fraudulent and that he was cheating the railway in the sense that he had not paid any fare. In that case, what I would submit is that it is so easy in practice. Of course it is very difficult to prove fraud otherwise. There should be strong evidence to prove; otherwise there will be no difference between section 118 and section 112. No doubt the word "fraudulently" has been put in there. I should like to know even from the Honourable Member that if in practice or from his experience he can tell me if anything more has been proved in order to bring a person under this section than merely travelling without ticket. On the contrary I should like to know from the Honourable Member for Railways what they have been proving up to now in order to bring it under fraud, so that the punishment for that should be extended and that a heavier punishment should be enacted.

I submit, Sir, that finding that section loosely worded already, it can be urged that because a man is travelling without ticket, he is travelling fraudulently. Considering the former Act we find that apart from the burden that was going to be placed upon the accused, that portion has been taken away now no doubt. With regard to the removal it is said that if a man has got no ticket and he is ready to give his name and his address and he is also such a man whose address is known, why should he be removed by force? This is giving a handle into the hands of small railway officials to call the police and evict even well-to-do and respectable men out of the compartment. In the former Bill, you were providing that it should be cognizable offence, but here too you are more or less making it cognisable in the sense of removal by force. Now,

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you want this Bill to be sent to the Select Committee. I know that the Bill will go to the Select Committee, because the House is very thin now. The Government need not even adopt the formality of sending the Bill to the Select Committee. They can straightaway get the Bill passed into law. I appeal to the Honourable the Railway Member not to press for such a stringent provision. Why not ask for an increase in the penalty so that he can have more income? It is a commercial proposition. Why do you want people to be sent to jail? If you send people to jail, you have to pay for their lodging and boarding?

**The Honourable Sir Muhammad Zafullah Khan** (Law Member): If you increase the penalty and nevertheless he does not pay, what is the remedy?

**Mr. Lalchand Navalrai:** The fine, may be recovered. Why should imprisonment be provided for in default? They will certainly pay the fine; they must have some property. I am talking of those people who designedly fraudulently go into a compartment and then it cannot be said that these people are unable to pay the fine. They have been paying the fine up to this time. Even beggars sometimes pay their fines. My point is that the railways have not suffered in any way. I, therefore, say that these stringent provisions should be removed.

The Honourable Member for Railways said that much of the stringent portions of the old Bill have been removed, but has he seen that Bill with regard to punishment? In the former Bill, with regard to punishment, I find that section 3 said "if a person enters in contravention of section 68 any carriage or railway he shall be, unless he satisfies the Court (of course this has been removed now) punished with imprisonment which shall extend to two months". Now he is making it into one year. I cannot understand how it appears reasonable to him that a punishment should be for one year in place of two months which was proposed in the original Bill. At that time it was not only with regard to burden of proof that objection was raised, but also it was with regard to removal, and also with regard to punishment as well. There was objection even for two months imprisonment. Now, we find that the Bill is going to be more stringent. With regard to that the present law does not provide any punishment in default. Now, for the first time punishment is provided for non-payment of fine. But Government will not get any benefit from it; on the contrary they will be losers. It was said that the punishment is as provided in the Indian Penal Code. But there the question of cheating is very different, not such as travelling without ticket. One can twist and turn and say that it is fraudulent.

This Bill cannot be very lightly treated, but as it is bound to go to the Select Committee, I would request the members of the Select Committee to consider these objections, compare this Bill with the former one and consider the feelings of the public, and also consider what the gain to the railways would be by stiffening the punishment.

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): Sir, this question of transferring civil liability into criminal liability has been before us since 1922. In the year 1922 the

Bengal Nagpur Railway represented the seriousness of the position to the Indian Railway Conference Association and pressed for a revision of the Railways Act in order to make the infringement of sections 112 and 113 a cognisable offence. Thereupon, the Railway Conference in October, 1922, passed the following Resolution:

"That in view of the increase in the number of passengers travelling without tickets and of the loss to railways and to Government caused thereby, this Conference recommends for the consideration of the Railway Board the advisability of revising the Railways Act in order to provide better security for railways in recovering fares and penalties for travelling without tickets."

This question was referred to the Central Railway Advisory Council and in July, 1923, the Council recorded this Resolution:

"The Council is not prepared to advise the adoption of this method until all other possibilities have been tried, and it considers that further experience should be gained of the improved system of checking tickets now under trial on the North Western, Oudh and Rohilkund and other railways."

Later on, the subject drew the attention of the Railway Conference Association and they repeated their Resolution of 1922 in 1925 and in 1926. The matter stood there till an enthusiastic Member who is also a lawyer took up the matter and drew up a Bill which was laid before the Legislative Assembly on the 23rd March, 1936. It was taken up for discussion on the 31st August 1936, and voted upon on the 3rd September, 1936. On that occasion I moved a motion that the Bill should be circulated for the purpose of eliciting public opinion thereon. My Honourable friend, Mr. Satyamurti, at that time said that he would very much like the Bill to be thrown out altogether and buried. I wish I had taken his advice then but I pressed for circulation which motion was carried by 54 votes to 46. Sir, I was amusing myself at 4 o'clock this morning in reading the speeches delivered by different Members on that occasion, and I was very much amused to read the speech of my Honourable friend, Mr. Lalchand Navalrai. Before I draw attention to the points of difference between that Bill and the present one I will refer to some salient points to which attention was then drawn—

I said:

"Sir, you seek to legislate in a manner as if railway travel without a ticket is a violation of the public peace; and at the same moment you ask us to believe that the railway system should be treated as a commercial concern."

A business concern would never ask that you should send a person to jail for violating a rule of business. They would like to have their money. A person may be sent to jail for non-payment of dues, but he should not be sent to jail by a magistrate as an alternative to payment. According to the old Act you could recover Rs. 100, but under the clause in the former Bill he could either pay Rs. 100 or go to jail for two months. That was what I pressed on that occasion. If you transfer civil liability into a criminal liability you should not say it is a commercial concern. You cannot treat this as if it were a violation of peace and order. I am prepared to give you this power to send a person to jail if you do not call it a commercial concern, but you cannot have it both ways.

There were few other points raised by several speakers and one very important point was raised by my Honourable friend, Mr. Sri Prakasa. He said:

"I do not think that we can permit any legislation along the lines proposed by the Honourable the Commerce Member, unless he can ensure to the country at large

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an efficient, honest and courteous railway service. Unless this condition is fulfilled, it will be impossible for any representative of the people, sitting in this House, to give countenance to any Bill of the sort that is before us today . . . \*\*\* Have the Government thought of making any law to prevent overcrowding in railways! When a bus is overcrowded there is prosecution. When a railway compartment is overcrowded, so far as I know, there has been no prosecution."

*I shall not waste the time of the House by reading long passages, but shall draw attention only to one or two points. One point to which I referred at that time and shall refer to now is that people try to overawe us by quoting very big figures: they say five lakhs or 50 lakhs—I have not been able to make out what the correct figure is—travel without tickets; but if you take the ratio of the number who travel without tickets to the total number of people who travel by railways, it works out only to .5 per cent., that is, five persons in one thousand travel without tickets, according to the figures which were quoted by Mr. Mudie on that occasion. This is not a very large number—.5 per cent. Let us see the number of ticketless travellers in Road Service. I made inquiries personally at different places and found that about ten per cent. of the persons who travel by buses travel without purchasing a ticket—all police officers, all government servants, all tahsildars and their relatives and their number comes to about ten per cent. Therefore, you are really asking us to legislate for you and transform this civil liability into a criminal liability in the case of railways, while you shut your eyes to this ten per cent. of people who travel by bus without tickets—and you provide no facilities for the recovery of their fares. If you say that this should be a criminal liability, why do you not make it a criminal liability in respect of buses also? We have two competitors—rail and road, and they must be treated fairly by the Legislature: it is not fair that you give one of them a special advantage and leave the other alone. If it is to be a criminal liability, make it so in both cases and for all kinds of communications, for every kind of public carrier—ekka, tonga, bus or railway. Let there be one principle. It is a violation of justice to treat one public carrier, the railway, as a specially favoured class. It is a wrong position.*

There are one or two other small quotations I would like to make. I do not want to quote my friend, Mr. Lalchand Navalrai, as he has already explained himself, but I would like to give a quotation from Mr. Kazmi's speech, which is really very important. Mr. Kazmi said:

"Sir, there are two principles which are involved in the motion before the House. One is this of shifting the onus while the other is that by this Bill they are turning a purely civil liability into a criminal liability. This Bill stands as No. 12 on the Agenda for today, and you just reverse number 12, you get 21. This is the number of another Bill which is appearing on the Agenda of today which provides for the practical abolition of civil imprisonment for debts. What I mean to say is that we in this Assembly have got to consider on one and the same day two Bills, in one of which we are trying to change a civil liability into a criminal liability and at the same time we have to consider another Bill in which we want to abolish civil imprisonment for civil liabilities."

(Interruption by Mr. James.)

My friend, Mr. James, has reminded me and I would just tell him a story, that I proposed to give two medals to two Members of the Assembly—one for first-class jokes—and the second to one who has no capacity to understand a joke. The first medal went to Mr. F. E. James and Sir Homi Mody was the runner up; I do not want to declare the result of the other medal.

Coming to the Bill, I do not want to read out exhaustively what happened on that occasion. This Bill was circulated by the Legislative Assembly Department according to the decision of the House. As soon as the opinions were obtained, I do not know what happened, whether any person in the Railway Board read those opinions or not—probably not, because there is no reference whatever to any one of the opinions in the speech of my Honourable friend, Sir Andrew Clow: but if nobody else read them, I think in the interests of keeping up our reputation we ought to mention some of the opinions, so that everybody should understand that we read the opinions sent to us: I admit that I read every word of the opinions circulated to Members. Later on, when the Congress Members were absent on account of their attending the Congress session, the Government presented the motion during their absence and naturally it was accepted: this was done on the 2nd February, 1937. My friend, Mr. Lalchand Navalrai, says that the same thing will happen now. I think he is perfectly right, that the Government are always looking forward to the opportunity when they can carry the whole thing by their official votes, because they know that public opinion is very much against them, as they will notice from the opinions received by us; it was not very desirable on their part to press this measure at the present moment,—specially during the war. It is quite unnecessary, in my opinion, to give further annoyance when this number of ticketless travellers is not on the increase. The Honourable Member has said nothing on the floor of the House as to whether the number is increasing or diminishing. What was the percentage in 1922 when the question was first raised by the Bengal Nagpur Railway? What was the percentage in 1936 when the Bill was prepared for the first time? And what is the percentage now in 1940 when it has become necessary that the Bill should be revived again.

**Mr. Lalchand Navalrai:** And how many are railway servants who are sinners in this respect?

**Syed Ghulam Bhik Nairang** (East Punjab: Muhammadan): Who can tell their number, because they are never caught?

**Dr. Sir Ziauddin Ahmad:** Now, I come to the second part of my speech, that is, the difference between the old Bill and the new Bill. The fundamental principles of the old Bill were that they attempted to modify section 112 of the Act. Now, section 112 of the Act clearly says:

“Any person who intends to defraud the Railway Administration or enters in contravention of . . . shall be punished with fine which may extend up to Rs. 100, in addition to the amount of the single fare for any distance he may have travelled.”

That was the wording in the original Act.

Now, in the Bill which is presented to us, and which is sent for circulation, this section was changed and it read as follows:

“If a person enters in contravention of section 68 any carriage on a railway, he shall, unless he satisfies the court that he had no intention to defraud the Railway administration be punished with imprisonment which may extend up to two months or with fine which may extend to Rs. 100, in addition to the amount of the single fare.”

Now, there are two principles which the old Bill introduced. One was that the burden of proof did not lie on the railway authorities, but it was laid entirely on the accused. The second was that, instead of

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recovering money which I thought every commercial concern would ask for, they said either send the man to jail or recover the money. Therefore these two alternatives did not appeal to me. I can understand your recovering the money, but I cannot understand any business concern sending its debtor to jail instead of asking him to pay the money even if he is willing to pay it. I am glad that the first part is omitted in the present Bill, that is, the burden of proof no longer rests on the accused. But in one respect it goes still further, that the quantum of punishment of two months is now increased to one year, that is to say, the accused shall be punished with imprisonment for a term which may extend to one year, or with fine. The quantum of punishment has been increased from two months to one year. I am not at all sure that the opinions we have received on this point justify the alternative punishment. After all, when you send a Bill for circulation, you get public opinion, and those opinions should carry weight. I will show from these opinions that the representatives of the people did not like to have a provision of this kind in the Bill, that is to say, people who happen to travel without a ticket should be sent to jail. In the new Bill we have got another provision clause 4 (3) the proviso says:

"Provided that where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, the excess charge shall be one sixth of the excess charge otherwise payable calculated to the nearest anna, or two annas, whichever is greater."

Now, according to the old rule, if a man's intention is honest and if he notified beforehand that he could not purchase a ticket, then he had not to pay penalty, he had only to pay the fare. Now, the new rule is even if a man notifies, even then he will have to pay one sixth of the excess charge . . .

**The Honourable Sir Andrew Clow:** I think it will save the time of the House if I point out that this principle is already in the present Act. The Honourable Member may study sub-section (3) of section 113. clause (a).

**Dr. Sir Ziauddin Ahmad:** My point is, when a person has notified that he could not purchase the ticket, there should not be any excess charge at all. This was made clear in the old Bill, but it is now removed. My principal argument in pressing it is that it is very difficult in many cases to get the tickets in time at many small stations. On most stations they have got only one clerk. He collects the tickets and he issues the tickets. When he is standing to collect the tickets from passengers who get down from the train, it is impossible for him to issue new tickets. I had myself some experience even at a junction station like Ballharshah, which is the terminus of the Nizam's State Railway and G. I. P. Railway. I said that there was only one clerk in the whole station both to issue tickets and to collect tickets. At the time when he really should be issuing tickets, he stands at the gate to collect the tickets from passengers who have got down from the train. Therefore, if you want to be very strict with the travelling public, then it is your duty to provide facilities so that tickets can be readily purchased. We all know that at many small stations it is impossible to



get tickets in time. It was pointed out several times on the floor of the House that in third class booking offices very often the public cannot get tickets unless some *bakshish* is paid, and if there is only one man both to collect tickets and issue tickets, it is very difficult for the man on duty to attend to both duties, and generally he refuses to sell tickets because he is busy in collecting tickets. He is not available at the booking office. He is in a very difficult position. If he does not give a ticket, the honest man suffers; if he gives a ticket to the honest man, then the dishonest man will pass through the gate without a ticket. Therefore, the only way in which the railways can avoid such things is to employ two persons—one to issue tickets and the other to collect tickets at the gate. If I leave a note of Rs. 50 on the road and don't find there on the following morning, I cannot begin to make laws for stopping the dishonesty of the public. So if you provide enough facilities to the travelling public for selling tickets at the right moment, then such things are not likely to occur; but if you fail to do so, it will mean that you yourself are encouraging the public to travel without tickets. Therefore, I repeat that you should make suitable provision beforehand so that honest people may be able to get tickets easily, but such facilities do not exist at present.

Sir, the next thing which the new Bill has introduced is clause 4 (5), and in this there is very great danger of its being misused. Sub-section (5) says:

"Any person who, without having obtained the permission of a railway servant, travels or attempts to travel in a carriage without having a proper pass or ticket with him or in a carriage of a higher class than that . . . may be removed from the carriage by any railway servant authorised by the railway administration in this behalf or by any other person whom such railway servant may call to his aid, unless he then and there pays the fare and the excess charge which he is liable to pay under this section."

This particular clause which is really put in for the first time, which was not in the original . . . . .

**The Honourable Sir Andrew Clow:** This is a verbatim reproduction I think of a clause in the original Bill. It was in clause 112 in the original Bill.

**Dr. Sir Ziauddin Ahmad:** I have got both the Bills here and I do not see verbatim reproduction.

**The Honourable Sir Andrew Clow:** I will mention that in my reply. I have not got the papers with me at the moment.

**Dr. Sir Ziauddin Ahmad:** Here is a copy of the old Bill. Please let me know which is the section. You are speaking without knowing your case. Whether it was in the old Bill or not, I am not concerned with that, that is a minor matter, but my point is that there is a danger of this clause being misused. Suppose a lady travels—and very often ladies travel in female compartments without any male attendant—suppose there is a small girl or boy below the age of three travelling with her and no ticket was purchased. On the wayside the railway servant may say to the lady that the child was more than three years old and she must pay the money, with penalty otherwise he would get her down. The lady may

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have no money, because she may be received by her relatives at the destination station, and with a mischievous intention the railway servant may compel her to get down at the wayside station where she will have nobody to look after her.

**The Honourable Sir Andrew Clow:** As the Honourable Member has asked me for particulars he will find the clause . . . .

**Dr. Sir Ziauddin Ahmad:** I consider it is a minor point, I have said so already.

**The Honourable Sir Andrew Clow:** The Honourable Member said that I did not study the papers and that it was not in the original Bill. I now tell him where to find it. It is in section 112 of the old Bill . . . .

**Dr. Sir Ziauddin Ahmad:** Are you talking of the old Bill? It never had 112 Sections.

**The Honourable Sir Andrew Clow:** Old Bill. The actual clause was 3 of the Bill, 112 of the Act. The clause added will be found there as subsection 3.

**Dr. Sir Ziauddin Ahmad:** I will come to this later on, but let me finish the point I am on now. As I said, there is a great danger of this being misused. There may be a *bona fide* person, but by chance he may have no money with him for the time being. He may be asked to get down at a wayside station where he may have nothing to eat. It sometimes happens that a *bona fide* traveller has purchased his ticket but his ticket may have been with the servant who is left behind at some other station, or he has mislaid the ticket and cannot find it at once. Under this particular clause he will be asked to get down if he is unable to pay the money then and there. He may be a millionaire, he may have a cheque book with him, he may write a cheque for a lakh of rupees, but he may not have enough money with him in cash at the time. Under this provision he can be asked to get down and he may have to suffer enormous harassments under this clause. Another point which is still more important is that you provide an opportunity for bribery and corruption. When you give this power, you are inducing your servant to extract money by this method. They can go and ask any person to get down and if any gratuity is paid the man may be let off. Therefore, why legislate any law which is likely to be abused, which is likely to lead to corruption? It is very desirable that we ought to avoid such a result. This is a very important matter and unless the men who will administer the provisions of the Bill belong to a higher standard of people, I may tell you that it will be very difficult for this provision to be observed properly. The railway authorities are now recruiting their servants on a scale of Rs. 20 and 25, in some railways it is even Rs. 15 a month. These subordinate railway servants who get Rs. 15 or 20, or 30 which is the maximum starting salary on the East Indian Railway, with very poor education, and coming from ordinary families cannot be expected to have high standard of morality. If you give them this power, the chances of the misuse of that power are much greater than we can think of at present. If this power is at all to be exercised you must lay down a rule that it cannot be exercised by any persons below such and such rank, but if it is left to any person to exercise

that power, the chances of misuse are very great. I know that in several cases this has been misused, and in one case it may have led to a serious communal trouble. In a certain case, at the Tundla station two Aligarh students were detained by the police, I know they had some kind of grudge, they detained these boys at night and afterwards they asked them to walk bare headed with handcuffs on from the railway station to the Court where they were presented. There was a great sensation in Agra and there was a very urgent meeting of the Muslim League on that particular matter. They approached the Commissioner who happened to be at the time Sahibzada Khurshid Ahmad Khan. He had imagination and he at once sent an order to the magistrate to release those two boys. Had there been any other man except him with less imagination, there would have been a first class row at Agra between the Hindus and Mussalmans, not on account of the fault of the Local Government, but on account of the special situation which the railway authorities had created. In this particular Bill a volume of matters for trouble are being created for dealing with which the railway authorities will not be responsible but the Local Governments will be responsible. If you enact a law, take the responsibility of administering it yourself. Don't throw the burden on the provincial Governments for its administration, and it is very desirable that if you enact any particular law you should also be responsible for its enforcement. I apprehend that if this Bill becomes a law there may be very serious troubles in future. And this is a thing which you ought to avoid.

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

The Assembly then adjourned till Eleven of the Clock on Thursday, the 21st November, 1940.