

21st September 1942

# THE LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

Volume III, 1942

(14th September to 24th September, 1942)

## SIXTEENTH SESSION OF THE FIFTH LEGISLATIVE ASSEMBLY 1942

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# Legislative Assembly

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# LEGISLATIVE ASSEMBLY.

Monday, 21st September, 1942.

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

## MEMBER SWORN:

Sir George Richard Frederick Tottenham, C.S.I., C.I.E., M.L.A.,  
(Home Secretary).

## STARRED QUESTIONS AND ANSWERS.

### (a) ORAL ANSWERS.

#### STERLING POSITION OF INDIA:

**110. \*Mr. Amarendra Nath Chattopadhyaya:** (a) Will the Honourable the Finance Member be pleased to make a statement regarding the sterling position of India in regard to repatriation of sterling debts upto 31st August, and lay it on the table?

(b) Will the Honourable Member be pleased to state what is the total amount of sterling standing at present to the credit of India and how he contemplates to invest this amount?

**The Honourable Sir Jeremy Raisman:** (a) Out of a total sterling debt (exclusive of Railway Stock, debentures and annuities) of £276 million outstanding at the end of 1936-37, £199 million had been repatriated by the 31st August, 1942. Of the balance still outstanding, about £60 million will be redeemed in January, 1943 in accordance with the notice of discharge given in December, 1941.

(b) For information regarding sterling assets I would refer the Honourable Member to the weekly statements of the Reserve Bank which are regularly published in the Gazette of India. Practically the whole of these assets is already held by the Bank in the form of investments.

**Dr. Sir Ziauddin Ahmad:** What is the amount lying in England in favour of India in sterling balances?

**The Honourable Sir Jeremy Raisman:** I have already said that these are given in the weekly statements of the Reserve Bank which are published in the Gazette of India.

**Mr. Jamnadas M. Mehta:** What is the total premium paid on the portion which is already repatriated?

**The Honourable Sir Jeremy Raisman:** As the Honourable Member is aware, there is a difference of opinion as to whether any premium has been paid and what is the meaning of that.

**Mr. Jamnadas M. Mehta:** Anything in excess of the face value of the scrip, I would call premium.

**The Honourable Sir Jeremy Raisman:** The Honourable Member will remember that some of these repatriations have taken place at below the face value of the scrip and if that is his criterion I think it may be found that there was no premium.

**Mr. Jamnadas M. Mehta:** I want to know what is the premium paid on the portion repatriated from 1936 till August 1942, the period referred to in the question.

**The Honourable Sir Jeremy Raisman:** I am afraid I cannot answer that offhand. I have not got the figures. If the Honourable Member will put down a question, I will give him the figures.

**WAR EXPENDITURE IN MALAYA AND BURMA, APPORTIONMENT OF DEFENCE EXPENDITURE AND LEASE AND LEND POSITION OF INDIA.**

**111. \*Mr. Amarendra Nath Chattopadhyaya:** (a) Will the Honourable the Finance Member please state what amount of expenditure on the wars in Malaya and Burma including the allowances to European, Anglo-Indian and Indian evacuees from Burma and Malaya, the Government of India have decided to bear? What is the ratio of apportionment of defence expense between Government of India and His Majesty's Government?

(b) What is the position of India in relation to United States in respect of Lease and Lend Act arrangement? Is India being involved in debt to United States? If so, what is the present financial obligation of India so far as United States supply of materials, and soldiers for defence of India are concerned? What portion of the expenses on account of these troops is being borne by His Majesty's Government and what portion has to be shared by India?

**The Honourable Sir Jeremy Raisman:** (a) No part of Defence expenditure in Malaya and Burma is charged to Indian revenues. Maintenance grants to evacuees from Burma and Malaya are given in the shape of repayable advances. It is impossible to say at this stage what the cost to Government will be of irrecoverable advances.

(b) Questions regarding Lease-Lend arrangements should be addressed to the Honourable the Supply Member. As regards expenditure on supplies and services for the United States Forces in India, the incidence of the expenditure is under consideration.

**Mr. Lalchand Navalrai:** May I know who will repay them?

**The Honourable Sir Jeremy Raisman:** I am not sure whom the Honourable Member means by 'them'. Does he mean the evacuees?

**Mr. Lalchand Navalrai:** I mean the evacuees' expenses.

**The Honourable Sir Jeremy Raisman:** We hope that it will be repaid by the recipients who are in a position to make repayments.

**Mr. Lalchand Navalrai:** If they are not in a position?

**The Honourable Sir Jeremy Raisman:** I leave that to the Honourable Member's own inference.

**Mr. Lalchand Navalrai:** Will the British Government pay or the Indian Government or the Burmese Government?

**The Honourable Sir Jeremy Raisman:** If the original liability was that of His Majesty's Government, then of course His Majesty's Government will suffer the loss.

**Dr. Sir Ziauddin Ahmad:** Will the authority which is now paying for the maintenance of the Burmese Government in India pay also for the expenses of the evacuees?

**The Honourable Sir Jeremy Raisman:** I am not quite clear what the Honourable Member means by the "authority which is now paying".

**Dr. Sir Ziauddin Ahmad:** The British Government, in plain words.

**The Honourable Sir Jeremy Raisman:** The authority which has the liability would obviously bear the loss but I would like to have notice of the question.

**Maulana Zafar Ali Khan:** The Burmese Government has only been shifted from Burma to India. It is the guest of the Indian Government. Would the evacuees from Burma represent their case to the Burmese Government or the Indian Government?

**The Honourable Sir Jeremy Raisman:** I must have notice of that question.

**Maulana Zafar Ali Khan:** What I want to point out is that the Burmese Government still exists, after the liquidation of Burma which went to the Japanese. It has only been shifted from Burma to India. Should the evacuees from Burma represent their case to the Burmese Government or to the Indian Government?

**The Honourable Sir Jeremy Raisman:** I think there is some misunderstanding on this point. Perhaps I myself have not been quite clear about the question. I believe I am right in saying that my Honourable Colleague, the Overseas Member, would be able to verify this. All payments to Indian evacuees from Burma are being paid by the Indian Government on the basis that they are our nationals who are in difficulties, and if that is so it is clear that any ultimate loss which will accrue on that account will be at the charge of the Government of India.

**Pandit Lakshmi Kanta Maitra:** In view of the fact that the Indian evacuees from Burma and Malaya have the same domicile as the Britishers; will the Honourable Member explain to the House on what principle

in the Indian Government made to bear the expenses with regard to Indian evacuees as well as that of British and Anglo-Indian evacuees?

**The Honourable Mr. M. S. Aney:** I have not quite followed the question.

**Pandit Lakshmi Kanta Maitra:** Will the Honourable Member say if the expenditure on the Indian evacuees is to be borne by the Indian Government and the amounts that are advanced to Anglo-Indian and European evacuees from Burma and Malaya are to be borne by His Majesty's Government?

**The Honourable Sir Jeremy Raisman:** I cannot say offhand. I will have to verify the position.

**Pandit Lakshmi Kanta Maitra:** Is it not a fact that one of the objects of the Honourable Member's visit to England was to discuss that question with the Home Government?

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

**The Honourable Mr. M. S. Aney:** That question does not form part of the financial settlement.

#### TREATMENT OF THE CONGRESS WORKING COMMITTEE MEMBERS UNDER DETENTION.

112. **\*Mr. Amarendra Nath Chattopadhyaya:** Will the Honourable the Home Member be pleased to state if he is aware of various rumours about the treatment of the Congress Working Committee members arrested and kept interned under the Defence of India Act in different places? If so, will the Honourable Member state if there is any foundation for such rumours?

**Sir Richard Tottenham:** I do not know to what rumours the Honourable Member refers and, therefore, cannot say if they are true, but I should think it was most unlikely.

**Pandit Lakshmi Kanta Maitra:** Is not the Honourable Member aware of the persistent rumour in this country that some of the leaders of the Congress Working Committee have been deported from India?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has not specified it in his question.

**Pandit Lakshmi Kanta Maitra:** I only want to know whether the Government of India is in a position to contradict that rumour?

**Mr. President** (The Honourable Sir Abdur Rahim): That ought to have been part of the question.

**Pandit Lakshmi Kanta Maitra:** The question that has been put to the Honourable Member relates to certain rumours . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member ought to have mentioned the rumours on which he wants information. If the Honourable Member wants any information about this particular rumour, he had better put down a question to that effect.

**Pandit Lakshmi Kanta Maitra:** Is it or is it not a fact that some of the leaders of the Congress Working Committee have been deported from India?

**Mr. President** (The Honourable Sir Abdur Rahim): That does not arise out of this question. Next question.

**ALLEGED USE OF MACHINE GUNS, TEAR GAS AND INCENDIARY BOMBS IN CALCUTTA DURING RECENT DISTURBANCES.**

**113. \*Mr. Amarendra Nath Chattopadhyaya:** (a) Will the Honourable the Home Member please say if it is a fact that during the recent disturbances machine-gun fire was used in Calcutta streets due to which more than 150 lives were lost and many more wounded?

(b) Is it also a fact that tear-gas bombs and some other kinds of incendiary bombs were dropped on crowds in Calcutta from aeroplanes?

**Sir Richard Tottenham:** (a) and (b). There is no truth whatever in either of these suggestions.

**REPATRIATED STERLING DEBT.**

**114. \*Dr. P. N. Banerjee:** Will the Honourable the Finance Member please state:

- (a) the amount of the sterling debt of India repatriated since 1939;  
and  
(b) the method and manner of such repatriation?

**The Honourable Sir Jeremy Raisman:** (a) From 1939 till the end of August 1942 debt to the extent of £ 198 million has been repatriated.

(b) The method and manner of repatriation is fully explained in the Ways and Means portions of my Speeches introducing the Budgets for the years 1940-41, 1941-42 and 1942-43 to which I invite the Honourable Member's attention.

**Dr. P. N. Banerjee:** Would not India have obtained any advantage if a slightly different method had been adopted?

**The Honourable Sir Jeremy Raisman:** As I am not aware of the 'other method' the Honourable Member has in mind, I am afraid I cannot answer that question.

**Dr. P. N. Banerjee:** By the 'other method' I mean the better method of fixing the rate at which the repatriation was made?

**The Honourable Sir Jeremy Raisman:** That was a subject of considerable debate in this House and it remains a matter of opinion.

## STERLING BALANCES HELD IN LONDON.

115. \*Dr. P. N. Banerjee: Will the Honourable the Finance Member state:

- (a) the amount of sterling balances held in London on the latest date for which figures are available; and
- (b) whether the Government of India are considering the question of bringing these balances back to India; if so, the manner in which it is proposed to bring them back?

**The Honourable Sir Jeremy Raisman:** (a) If, as I assume to be the case, the expression "sterling balances held in London" is intended to count the sterling assets of the Reserve Bank of India, I would refer the Honourable Member to my reply to Part (b) of Question No. 110 asked this morning by Mr. Chattopadhyaya.

(b) I am at a loss to understand what exactly the Honourable Member means by the expression "bringing these balances back to India". As the Honourable Member is aware, the sterling assets of the Reserve Bank have been, and are being, used for the purpose of repatriating the sterling liabilities of the Government of India.

**Dr. P. N. Banerjee:** Are such large balances required for this purpose?

**The Honourable Sir Jeremy Raisman:** The question whether they are required does not actually arise. These balances are accruing to India in payment of certain services rendered.

**Dr. P. N. Banerjee:** And these balances bring in interest to India?

**The Honourable Sir Jeremy Raisman:** Yes, Sir; they are invested in short term securities at the moment.

**Dr. P. N. Banerjee:** Would not the investment bring in larger amount of interest if otherwise invested?

**The Honourable Sir Jeremy Raisman:** As they form part of the assets largely of the Issue Branch of the Reserve Bank of India, there are certain restrictions on the duration of the securities in which they can be invested. At the present time, I believe, the restriction is five years.

**Mr. Jamnadas M. Mehta:** What is the total liability of the Issue Branch today?

**The Honourable Sir Jeremy Raisman:** The most recent figures which I have actually in my hand is the statement for the week ending the fourth day of September, 1942. On that date, the total liabilities were of the order of 491 crores.

**Mr. Jamnadas M. Mehta:** Against that, the only amount in cash available in India is about 70 crores?

**The Honourable Sir Jeremy Raisman:** The Honourable Member is not strictly correct. The total amount of sterling securities . . . . .

**Mr. Jamnadas M. Mehta:** I mean cash in India—rupee coin and gold—which is available against these 500 crores of rupees is about 70 crores. Is that correct?

**The Honourable Sir Jeremy Raisman:** That is so, if gold is valued at the old rate.

**Mr. Jamnadas M. Mehta:** The practice all these years has been to value gold at the statutory rate and it comes to 44 crores. In addition, there are about 30 crores of rupee coins. This is all the cash you have got against 500 crores of rupee notes. Is that correct?

**The Honourable Sir Jeremy Raisman:** The Honourable Member is arguing and he has rather over-simplified the matter. But it is a fact that at the present rate the gold is worth at least double the amount.

**Mr. Jamnadas M. Mehta:** On the basis of the statement of the Reserve Bank of India which is presented week after week; against the liability of 500 crores the cash and gold in India is only about 70 crores. Is that correct or not?

**The Honourable Sir Jeremy Raisman:** It is not possible to answer the implications of a question like that in one sentence.

**Mr. Jamnadas M. Mehta:** I submit that this is an answer which is capable of being given simply by reference to the weekly statement. I only want him to confirm the figures.

**The Honourable Sir Jeremy Raisman:** Then the Honourable Member can refer to the weekly statement himself. It is unnecessary for me to confirm the figures. They are published every week, but the interpretation to be placed on those figures is a different matter.

**Mr. Jamnadas M. Mehta:** Actually, the figures . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has got the answer.

**Dr. Sir Ziauddin Ahmad:** Is there any country in the world which is at present keeping metallic reserve equivalent to the paper currency?

**The Honourable Sir Jeremy Raisman:** Not that I am aware.

#### ASSETS AND LIABILITIES OF THE RESERVE BANK OF INDIA.

116. **\*Dr. P. N. Banerjee:** Will the Honourable the Finance Member please state the Assets and Liabilities of the Reserve Bank of India on:

- (i) the first week of April, 1939; and
- (ii) the first week of September, 1942 (or any previous week for which the figures are available)?

**The Honourable Sir Jeremy Raisman:** The attention of the Honourable Member is invited to the weekly accounts of the Reserve Bank for the weeks ending the 7th April, 1939 and 4th September, 1942, which have

been published in the issues of the Gazette of India dated the 22nd April, 1939 and 19th September, 1942, respectively.

**Dr. P. N. Banerjea:** Has the cash balance increased or diminished during this period?

**The Honourable Sir Jeremy Raisman:** If by the cash balance the Honourable Member means the amount of rupee coins held in the Issue Branch, then it has decreased.

**Dr. P. N. Banerjea:** To what extent has it decreased?

**The Honourable Sir Jeremy Raisman:** It is somewhat difficult to make these arithmetical calculations on the floor of the House. The Honourable Member could do these sums if he were to look up the figures which are regularly published. The position was that whereas in September 1939 the rupee coin was of the order of 75 crores, in September 1942 it was of the order of 28 crores.

**Dr. P. N. Banerjea:** So, the decrease is to the extent of 300 per cent.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has got the figures before him.

**Dr. P. N. Banerjea:** What is the proportion of this cash to the total liabilities of the Bank on 4th September, 1942?

**The Honourable Sir Jeremy Raisman:** I understand the Honourable Member is referring to what is called in the weekly statement the ratio of total external assets to liabilities. In September 1939, the ratio of external assets to liabilities was 47.39 per cent., and on 4th September 1942, the ratio was 73.4 per cent.

**Dr. P. N. Banerjea:** Has not the ratio of cash to total liabilities fallen to a very dangerous extent?

**The Honourable Sir Jeremy Raisman:** The ratio of external assets has increased and I may remind the Honourable Member, who is an economist, that what is usually regarded as dangerous is a fall in the external assets, and not in the holding of the internal currency of the country. The Mints are always ready to turn out vast quantities of our own coinage.

#### INFLATION OF CURRENCY AND MEASURES FOR CHECKING IT.

117. **\*Dr. P. N. Banerjea:** Will the Honourable the Finance Member state:

- (a) whether any inflation has taken place in India; and
- (b) whether any steps have been taken or are in contemplation to prevent or check inflation?

**The Honourable Sir Jeremy Raisman:** (a) I would refer the Honourable Member to the last report, recently published, of the Reserve Bank of India, which contains a paragraph dealing with this question. It is

there stated that "on a review of the facts and figures bearing on inflation, e.g., the course of prices, the extent of currency expansion, the increase in bank deposits and the volume of bank clearings, that although most of the recognized elements of inflation are present, there is no evidence that inflation is present in the country in any serious form". With this view, I agree.

(b) Government have the situation constantly under review. Their taxation and borrowing programme is designed to draw off surplus spending power, various price control measures have been instituted and others are under active consideration and efforts are being made in collaboration with Provincial Governments for the increase of food production.

**Dr. P. N. Banerjee:** Will the Honourable Member please place a statement on the table of the House regarding the steps that they have taken?

**The Honourable Sir Jeremy Raisman:** The measures I have indicated are not capable of statistical presentation. I have indicated their general nature and I have no doubt that on suitable occasions, information will be given to the House. For instance in regard to taxation and borrowing, information is usually given to the House in the Budget speech.

**Dr. P. N. Banerjee:** Is the Honourable Member aware that in United States of America, steps have been adopted to prevent and check inflation?

**The Honourable Sir Jeremy Raisman:** I shall be glad to hear that the Honourable Member is prepared to support the adoption of those steps in this country.

**Dr. P. N. Banerjee:** What are your methods? Let us compare.

**Mr. E. L. O. Gwilt:** May I ask the Honourable Member whether he has received any deputation representing the *baniya Marwari* communities and whether any proposals they have made to avoid probable inflation were characteristically self sacrificing?

**The Honourable Sir Jeremy Raisman:** I have received no such deputation. I regret I do not hope to receive one.

**Pandit Lakshmi Kanta Maitra:** May I know if it is the policy of the Government to encourage or discourage inflation?

**The Honourable Sir Jeremy Raisman:** It is the policy of the Government to discourage inflation definitely.

**Pandit Lakshmi Kanta Maitra:** What steps do Government propose to take to discourage inflation of which a distinct tendency is visible in the report of the Reserve Bank?

**The Honourable Sir Jeremy Raisman:** I have answered that exact question in reply to part (b). The main steps to discourage inflation must always be first, taxation and second borrowing, and if this House is prepared to support me, I would be prepared to use the first weapon to the maximum possible extent.

**Mr. Jamnadas M. Mehta:** May I ask the Honourable Member if inflation is a necessary evil, if it occurs slowly and progressively in a productive country, industrialised country and agricultural country?

**The Honourable Sir Jeremy Raisman:** I am not prepared to deny that a mild and progressive inflation over a number of years may have certain beneficial effects.

**MONEY VALUE OF WAR MATERIAL SUPPLIED UNDER LEASE-LEND ARRANGEMENTS.**

118. **\*Dr. P. N. Banerjee:** Will the Honourable the Finance Member please state:

(a) the money-value of the war material supplied to India by the United States of America in terms of the Lease-Lend arrangements; and

(b) the time and method of repayment agreed upon?

**The Honourable Sir Jeremy Raisman:** The question should have been addressed to the Honourable the Supply Member.

**Dr. P. N. Banerjee:** Is the Honourable the Supply Member interested in money value of material? The Honourable the Finance Member dealt with a part of the question in his last Budget speech.

**The Honourable Sir Jeremy Raisman:** It is quite true that in the Budget speech, I dealt with the financial aspect of the activities of many other departments. I understand that the correct allocation of this item of business is to my Honourable Colleague.

**Dr. P. N. Banerjee:** Then the Honourable Member might ask the Honourable the Supply Member to reply?

**The Honourable Sir Homi Mody:** I am going to answer all those questions later on.

**DESIRABILITY OF ENTRUSTING ALL MATTERS CONNECTED WITH THE PRESS SOLELY TO ONE DEPARTMENT AND ONE MEMBER-IN-CHARGE.**

119. **\*Mr. K. C. Neogy:** (a) With reference to the present arrangement under which the Member-in-charge of Information and Broadcasting is responsible for the general conduct of Government relations with and advice to the Press, excluding the administration of the laws relating to the Press (including the provisions of the Defence of India Act and Rules framed thereunder as applying to the Press), while the Home Member is in charge of these excluded subjects, will the Honourable the Home Member be pleased to state whether in actual dealings with the Press in regard to the administration of the Defence of India Act and Rules and other laws relating to the Press, the Honourable Member-in-charge of Information and Broadcasting is usually consulted?

(b) Has the question of redistribution of these subjects, included in the portfolios of the two Honourable Members as indicated above, been

under consideration at any time with a view to enabling the Press to deal with one Department and one Member-in-charge for all the above purposes?

**Sir Richard Tottenham:** (a) Yes.

(b) No. Not since the new Department of Information was created. It was very fully discussed before the separation took place.

**Mr. K. C. Neogy:** Is it a fact that this division of responsibilities was partly responsible for the resignation of Sir C. P. Ramaswami Aiyar?

**Sir Richard Tottenham:** The division took place a long time before Sir C. P. Ramaswami Aiyar joined the Government of India.

**Mr. K. C. Neogy:** Was this responsible in any way for his resignation?

**Sir Richard Tottenham:** Not to my knowledge.

#### SUBVENTION TO, AND POSITION OF, THE NATIONAL WAR FRONT.

**120. \*Mr. K. C. Neogy:** (a) Will the Honourable Member for Information and Broadcasting please say if the National War Front movement is in receipt of any subvention from the Government of India? If so, what is the amount thereof?

(b) In what official relationship, if any, does this organisation stand with any of the Departments of the Government of India?

(c) Is the movement a purely non-political one, or is it concerned with controversial politics?

**Mr. P. N. Thapar:** (a) The National War Front has received a grant of Rs. 31.40 lakhs from the Central Government.

(b) The main work of the National War Front in British India is done by Provincial Branches which are not in any sense under the control of the Government of India. There is, however, a Central Organisation of the National War Front, the functions of which are to advise the Provincial Organisations, to act as a co-ordinating agency between them and to prepare propaganda material for use at their discretion. This Central Organisation forms part of the Information and Broadcasting Department of the Central Government.

(c) The only objects of the movement are to assist the War effort in all directions, to keep up the morale of the people of India and to fight any influences which tend to hamper India's War effort. It is in no sense concerned with controversial politics but it is, of course, concerned with opposing and criticising any movement which is intended or likely to hamper the War effort.

**Pandit Lakshmi Kanta Maitra:** Will the Honourable Member say whether Rs. 31 lakhs were made available to the National War Front?

**Mr. P. N. Thapar:** Yes, Rs. 31.40 lakhs.

**Pandit Lakshmi Kanta Maitra:** Will the Honourable Member kindly state if this Central organisation finances the provincial branches of this National War Front?

**Mr. P. N. Thapar:** As I have said the total sum allotted by the Central Government in connection with the National War Front is Rs. 81.40 lakhs. Of this about 19 lakhs has been distributed to the Provinces for provincial and district organisations; about eight lakhs has been allotted for expenditure on propaganda vans and about four lakhs only has been allotted for the issue of propaganda material, on advertizing or on the Central organisation.

**Pandit Lakshmi Kanta Maitra:** Did the Honourable Member say that eight lakhs is made available for the purpose of carrying on propaganda?

**Mr. P. N. Thapar:** For propaganda vans. The provinces in British India have been supplied with about 50 motor vans which have been fitted with cinema projectors and the cost of these vans is about eight lakhs.

**Pandit Lakshmi Kanta Maitra:** May I know from the Honourable Member who furnishes the material for propaganda and whether this department bears any relation to the Department of Information and Publicity of the Government, and if so, what relation?

**Mr. P. N. Thapar:** Material for National War Front propaganda is prepared both by the provincial branches themselves for their own use and also by the Centre. The central material is sent to the National War Front organisers in the provinces but it is for use at their discretion; If they think that the material is suitable for their province, they use it, but if they find that the material is not suitable for their province they can reject it.

**Pandit Lakshmi Kanta Maitra:** The Honourable Member has said that the Central Government furnishes certain material, which may or may not be utilized by the Provincial Governments according to the needs of those particular provinces. I want to know from the Honourable Member who, on behalf of this National War Front organization, prepares the material for propaganda and whether this department bears any relations to the Department of Information, and if so, what relation this Information and Publicity Department has to the National War Front?

**Mr. P. N. Thapar:** The intention of the whole movement is that it should be a non-official organization and therefore its connection with the Information and Broadcasting Department is only on the financial and administrative side. So far as its propaganda policy is concerned, it is determined without any orders or instructions from the Government of India. The organizer of the National War Front is constantly in touch with the organizers and leaders of this movement in the provinces and after consultation with them he works out a policy which is followed by the front.

**Pandit Lakshmi Kanta Maitra:** May I know from the Honourable Member if it is correct, as he says, that his Department makes absolutely no reference to the Government of India and that they were free to carry on on any line without reference to the Government of India?

**Mr. P. N. Thapar:** No, that is not the position. They can and do consult the Government of India for guidance on policy or main publicity lines, but they are not obliged to follow this advice.

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

†121\*—122\*.

WAR EXPENDITURE INCURRED AND ITS APPORTIONMENT.

123. \*Mr. K. O. Neogy: Will the Honourable the Finance Member be pleased to make a statement, for the period April, 1942, to August, 1942, showing:

- (i) the total expenditure on account of the war met out of Indian revenues;
- (ii) how much of the above amount is chargeable to His Majesty's Government; and
- (iii) how much of the said liability of His Majesty's Government has actually been liquidated during the period?

**The Honourable Sir Jeremy Raisman:** (i) The total net expenditure brought to account on the books of the Military Accountant General was 174·2 crores of rupees.

(ii) and (iii). The great bulk of the expenditure is charged in the first instance to His Majesty's Government, India making monthly 'on account' payments. The exact allocation between India and His Majesty's Government is done at the end of each financial year for the reason that the factual basis for it cannot, in view of the rapidly changing situation, be known until sometime after the close of the year.

**Mr. Jamnadas M. Mehta:** May I know from the Honourable Member whether the principles under which this is to be done are settled?

**The Honourable Sir Jeremy Raisman:** The principles are guided by the Defence Expenditure Settlement.

**Mr. Jamnadas M. Mehta:** Did the Honourable Member recently proceed to England to settle this matter or any part of it?

**The Honourable Sir Jeremy Raisman:** Yes, Sir. I proceeded to discuss certain problems arising out of this settlement.

**Mr. Jamnadas M. Mehta:** Could the Honourable Member enlighten the House broadly as to what came out of it?

**The Honourable Sir Jeremy Raisman:** No, Sir. I am answering a question a little later on this subject. I am afraid I shall not be in a position yet to make a statement to the House.

SCOPE OF THE MARTIAL LAW ADMINISTRATION IN SIND.

124. \*Mr. Lalchand Navalrai: (a) Will the War Secretary be pleased to state whether the object of establishing martial law in Sind was solely intended to put down the Hur trouble which was causing havoc there?

(b) Is it a fact that the jurisdiction of the martial law in Sind was intended to apply to 'Hur' element, their supports and abettors only and not to other civil population?

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†These questions were withdrawn by the questioner.

(c) Is it a fact that the Chief Administrator of the Martial Law has framed rules and regulations and has included in them the application of the martial law relating to punishments and trials for offences to the civil population also? If so, to what extent and why?

(d) Is it a fact that the ordinary offences under Chapter XVI (affecting the human body) and Chapter XVII (against Property) of the Indian Penal Code could, under the above regulations, be tried and punished, against the civil population, unconnected with the Hur movement, in the areas where martial law has been applied, by the Martial Law Courts?

(e) Are Government, in view of the facts that the aforesaid regulations are causing great inconvenience to the civil population unconnected with the 'Hur' movement, prepared to revise the regulations, exempt such civil population from their application and direct such civil population to be tried by the ordinary courts under the ordinary laws as they would otherwise be? If not, why not?

**Mr. C. M. Trivedi:** (a) Yes.

(b) No.

(c) Yes. Martial Law Regulations or orders apply to all persons within the defined Martial Law area. The regulations issued give power to special courts of criminal jurisdiction to try and punish any person for contravention of Martial Law Regulations, or orders, or for offences under ordinary Law. They also direct that the criminal courts, as by Law established, shall continue to exercise jurisdiction over persons accused of offences other than offences created under Martial Law, or not connected with the present disturbances, or which, though connected with the present disturbances, have been transferred under Martial Law Regulations for trial by such courts. The object is to enable the courts established by Law to continue functioning to the maximum extent possible.

(d) Yes.

(e) The Government of India are satisfied that Martial Law in the area is being administered so as to cause the minimum of inconvenience to law-abiding persons and see no reason for any action.

**Mr. Lalchand Navarai:** Has the Honourable Member been apprised of the fact that actually many complaints have been made to the effect that Martial Law is being applied to the civil population very severely?

**Mr. C. M. Trivedi:** No, Sir. I have received no such reports. On the contrary we have received reports that the proclamation of Martial Law was generally appreciated by the law-abiding section of the population.

**Mr. Lalchand Navarai:** The proclamation may have been asked for and applied but the question is whether these regulations that have been made are not so stiff as to injure the civil population also.

**Mr. C. M. Trivedi:** No, Sir. I have received no such reports.

**Mr. Lalchand Navarai:** May I know from the Honourable Member if these regulations received the consent of the Government of India?

**Mr. C. M. Trivedi:** The regulations have been issued by the Martial Law Administrator in his discretion.

**Mr. Lalchand Navalrai:** May I know from the Honourable Member under what law have they been made—under the ordinary law or under any other law?

**Mr. C. M. Trivedi:** The regulations have been made under the Proclamation of Martial Law.

**Sardar Sant Singh:** May I know from the Honourable Member if he is aware that similar appreciations from the people were made during the Martial Law regime in 1919 and they were condemned by the Hunter Committee Report later on?

**Mr. C. M. Trivedi:** I have no information.

### POSTPONED QUESTIONS AND ANSWERS.

#### FINANCIAL LIABILITY FOR AMERICAN AND CHINESE FORCES ON SERVICE IN INDIA.

**40. \*Mr. K. C. Neogy:** Will the Honourable the Finance Member please state what is the understanding with the Governments of United States of America and China, respectively, as regards the responsibility for financing the armed forces of these countries while on service in India; and what is the present estimated amount of financial liability undertaken by India on this account, of a capital as well as recurring character, in the case of the forces of each of these countries?

**The Honourable Sir Jeremy Raisman:** The United States Forces in India are paid by the Government of United States of America. Certain supplies and services are provided on Reciprocal Lease-Lend the allocation of the cost of which is under consideration.

Chinese forces in India are provided with supplies and services on Lease-Lend by His Majesty's Government and no financial liability has been undertaken by India.

#### BROADCAST STATEMENT ON RECENT DISTURBANCES BY THE SECRETARY OF STATE FOR INDIA.

**42. \*Mr. K. C. Neogy:** (a) With reference to Mr. Amory's broadcast on the 9th August last on which date Mahatma Gandhi and other Congress leaders were placed under arrest in Bombay, to the effect that he believed that the trouble that might arise could be dealt with by the Government of India through the police and courts, and the statement issued by the India Office on the 12th August that the 'authorities in India have the situation completely in hand and that any picture of widespread disorder in that country is utterly distorted', will the Honourable the Home Member be pleased to state whether these statements were made on the basis of information supplied on behalf of the Government of India?

(b) In how many places and on how many occasions in the different parts of India during the last few weeks, had the Police to use force for the purpose of dispersing processions or other crowds and quelling disturbances of various kinds, and on how many occasions fire arms had

to be used either by the Police or by the Military for the purpose of quelling these disturbances?

(c) How many persons were killed or wounded, respectively, as a result of such shooting?

(d) Has a full report of the situation, or a censored version on the lines of the reports appearing in the Indian Press been sent to the Secretary of State day after day on behalf of the Government of India?

**Sir Richard Tottenham:** (a) The statements were of course made on the basis of such information from India as was available at the time when they were made.

(b) and (c). It will be some time before full information on these subjects can be collected from Provincial Governments, and it may not be possible to obtain accurate details until the disturbances are completely at an end.

(d) The Government of India have naturally kept the Secretary of State fully informed of the situation.

**VISIT TO GREAT BRITAIN OF THE HONOURABLE THE FINANCE MEMBER AND THE ECONOMIC ADVISER TO THE GOVERNMENT OF INDIA.**

opened  
on 16th  
September,  
42.

**47. \*Mr. K. C. Neogy:** (a) Will the Honourable the Finance Member be pleased to make a statement explaining the mission that took him recently to Great Britain and the result achieved thereby, with particular reference to:

(i) any alteration in the existing basis of allocation of expenditure as between His Majesty's Government and the Government of India in relation to the war expenditure in different theatres of war and in India,

(ii) further repatriation of sterling,

(iii) the financial aspect of lease-lend supplies to India, and

(iv) the settlement of war accounts between Great Britain and India?

(b) Have definite decisions been arrived at in regard to any of the matters comprised within the Honourable Member's mission to Great Britain, or are they still open to negotiation?

(c) Was the visit of the Economic Adviser to the Government of India to Great Britain along with the Honourable Member undertaken as a deputation specially in connection with any specific matters appertaining to the Commerce Department, or was it broadly connected with the mission of the Honourable Member himself?

(d) Did the Honourable Member and the Economic Adviser jointly represent the Government of India in their discussions with the authorities in Great Britain regarding the important financial and economic issues arising out of the war, and such other issues as may arise in post-war conditions in the fields of international trade and financial and economic reconstruction?

(e) Were they fully authorised by the Government of India to carry on negotiations in regard to these matters on the basis of any definite scheme approved by the Government of India, or were their duties merely exploratory in character?

(f) Was the question of partially utilising the sterling balances of India for the acquisition of investments of the United Kingdom in industrial projects in India, particularly Railways and other utility concerns, considered in the course of these discussions?

**The Honourable Sir Jeremy Raisman:** (a) I regret I am not in a position to make a statement.

(b) No. The matter is still under consideration.

(c) I would invite the Honourable Member's attention to the Press Note issued by the Commerce Department on the 14th July, 1942, which explained the reason for Sir Theodore Gregory's visit to London.

(d) No.

(e) The duties were exploratory, and there was no authorisation to commit the Government of India.

(f) There was some general discussion of questions of this nature.

**Mr. Jamnadas M. Mehta:** When is the Honourable Member likely to be in a position to inform the House and the country?

**The Honourable Sir Jeremy Raisman:** I cannot say until the Government of India have themselves had time to go into these matters.

**Mr. Jamnadas M. Mehta:** Will the Honourable Member advise the Government of India to hold a special Session to discuss their provisional decisions in this matter?

**The Honourable Sir Jeremy Raisman:** There will in any case be a Budget Session and I expect that by that time the decisions will be made known to the House.

**Mr. Jamnadas M. Mehta:** Will it not be too late in this important matter where hundreds of crores of rupees are concerned?

**The Honourable Sir Jeremy Raisman:** I cannot say at present whether it will be appropriate, or whether I should be in a position, to announce a decision at any earlier stage.

**Dr. Sir Ziauddin Ahmad:** May I ask whether the Government intends to consult this House before finally making up their mind on this question?

**The Honourable Sir Jeremy Raisman:** I do not think the questions will be such as to be suitable for discussion in this House before decisions are taken.

**Dr. Sir Ziauddin Ahmad:** These are very important financial questions and we will have to pay by means of taxes: is it not fair that the House should be consulted?

**The Honourable Sir Jeremy Raisman:** The House will in any case be in a position to discuss and make its comments on the Budget.

**Mr. Jamnadas M. Mehta:** In this important matter before Government comes to a decision, if somehow our advice is sought earlier, the final responsibility rests with the Government.

**The Honourable Sir Jeremy Raisman:** I think the Government is fully aware of the different opinions in India on all the matters which are at issue.

**Dr. Sir Ziauddin Ahmad:** When was it expressed?

**The Honourable Sir Jeremy Raisman:** It is being expressed to my knowledge almost every day in the newspapers.

**Dr. Sir Ziauddin Ahmad:** Is it fair that we should pay without having any voice in the decision?

**The Honourable Sir Jeremy Raisman:** That is a matter of opinion.

**Pandit Lakshmi Kanta Maitra:** Do I take it that the Honourable Member's proposal is that after the Government have taken a decision on this matter, it will be submitted before the House at the next Session for some sort of *ex post facto* approval of the House?

**The Honourable Sir Jeremy Raisman:** It may take some time before the Government of India reach decisions on this question.

**Pandit Lakshmi Kanta Maitra:** My point is whether the Honourable Member is prepared to give an undertaking to this House that before final decisions on this matter are reached, which may entail heavy commitments on the part of India, the House should be taken into consultation and given an opportunity to express itself?

**The Honourable Sir Jeremy Raisman:** I regret I cannot give an undertaking of that kind.

**Sir Cowasji Jehangir:** Does the Honourable Member's answer mean that the House will consider this question only when they are discussing the budget provisions?

**The Honourable Sir Jeremy Raisman:** I think that that will probably be the position.

**Mr. Huseinbhoj A. Lalljee:** May I take it that it is the opinion of the Government not to consult the House before this question is decided?

**The Honourable Sir Jeremy Raisman:** I have already answered in different forms that same question.

**Mr. Muhammad Azhar Ali:** May I know if when discussing these financial questions when the Finance Member was there, the question of the ratio was under discussion?

**The Honourable Sir Jeremy Raisman:** I am afraid the ratio question has become obsolete in present days.

**Mr. N. M. Joshi:** May I ask whether there is to be a Session of the Assembly in the month of November as usual?

**The Honourable Sir Jeremy Raisman:** I am not in a position to say. I believe it has been announced that there will not be such a Session.

**Sir Cowasji Jehangir:** May I remind the Honourable Member that as the Constitution and the constitution of the House stand at present this Honourable House has very little say and very little effective voice in the provisions of the Budget, except talking and giving their advice or perhaps going to the lobby ineffectively? In those conditions and under those circumstances, would it not be advisable for the Honourable Member to make a statement at any rate, or issue a press communique long before the Budget, so that the country may be able to consider what he has done and what the Government of India are proposing to do with regard to the negotiations he has had, so that Members may come ready with matured views? If the Honourable Member means to make a statement merely along with the budget statement and if the provisions that he wishes this House to make will be included in the Budget, the country will not have sufficient time to consider his proposals nor will this Honourable House. Under these circumstances and considering the present Constitution under which we are working, would it not be advisable for the Honourable Member at least to undertake to make a statement in good time?

**The Honourable Sir Jeremy Raisman:** These aspects of the matter will certainly receive consideration. But it depends on the nature of the decisions whether it is necessary to give my Honourable friend and others any particular period of time in which to consider them, other than the normal period which is available for all matters relating to the Government's financial policy.

**Dr. Sir Ziauddin Ahmad:** Will the Honourable Member watch over the privileges of the House so that this House is not reduced to the position of Public Accounts Committee doing only *post mortem* examination?

**Mr. President** (The Honourable Sir Abdur Rahim): The answers to the next questions of Mr. Neogy will be laid on the table as they are in excess of the quota.

#### FINANCIAL LIABILITY FOR INDIAN TROOPS EMPLOYED IN THE WAR IN FAR EAST AND BURMA.

†48. **\*Mr. K. C. Neogy:** (a) Will the Honourable the Finance Member please state whether Indian revenues had to bear any portion of the cost entailed by the employment of Indian troops in the recent war in the Far East and Burma? If so, what is the total amount thereof and on what principle has this been assessed?

Postponed  
from 16th  
September  
1942.

(b) As regards the contemplated campaign for the re-conquest of Burma, will Indian revenues be expected to bear any portion of the cost involved?

**The Honourable Sir Jeremy Raisman:** No part of the expenditure on the employment of Indian troops in the Far East and Burma is debited to Indian revenues.

†Answer to this question laid on the table, the questioner having exhausted his quota.

**ALLOCATION OF EXPENDITURE ON AIR RAID CAMPAIGNS ON BURMA.**

Postponed  
from 16th  
September,  
1942.

†61. \*Mr. K. C. Geogy: (a) Will the Honourable the Finance Member explain to the House the procedure adopted in respect of the allocation of expenditure in connection with the Air Raid Campaigns on Burma since the occupation of Burma by the Japanese Forces?

(b) Will the Honourable Member state the amounts spent separately on operations by (i) Royal Air Force, and (ii) American Air Force, in their raids on Burma, and whether any payments were received from the Government of United States of America in respect of these expenses?

**The Honourable Sir Jeremy Raisman:** (a) It is impossible to compile separately or even to estimate the expenditure on any single operation of this description. The allocation of expenditure between India and His Majesty's Government is done on a much broader basis under the Defence Expenditure Plan.

(b) For the reason I have just given the information is not available. As regards the last part of the question, the answer is in the negative.

**SHORT NOTICE QUESTIONS AND ANSWERS.**

**RECEIPTS FROM NEW AND ENHANCED TAXES, ETC.**

**Dr. P. N. Banerjee:** Will the Finance Member please state:

- (a) the approximate total yield of the new taxes levied and of the enhanced rates of the old taxes;
- (b) the approximate total sum received by the Government of India as the result of the amendment of the Niemeyer formula; and
- (c) the approximate total amount received from the earnings of the Indian Railways, from the date of commencement of the War to the 30th June, 1942?

**The Honourable Sir Jeremy Raisman:** (a) The estimated yield from new taxation measures has been indicated by me each year in my Budget Speeches, to which I would invite the Honourable Member's attention. It would not be possible, without a totally disproportionate expenditure of time and labour, to arrange for the compilation of figures giving the actual receipts from these several taxation measures.

(b) It is not possible to give the information asked for since, but for the amendment of the Niemeyer Order, the Government's scheme of war taxation would in some of its aspects have followed a different course from that which it has actually taken.

(c) I presume that the Honourable Member desires to know the contribution to general revenues from the railway surplus. The contribution is worked out on an annual basis and the relevant figures are Rs. 4.33 crores in 1939-40; Rs. 12.16 crores in 1940-41 and approximately Rs. 20.2 crores for 1941-42.

†Answer to this question laid on the table, the questioner having exhausted his quota.

## EXPANSION OF INDIAN CURRENCY.

**Dr. P. N. Banerjee:** Will the Honourable the Finance Member please state:

- (a) whether any expansion of Indian currency has taken place since the commencement of the War; and
- (b) if the answer to part (a) above be in the affirmative, the amount of money received by the Government of India as profit from this source?

**The Honourable Sir Jeremy Raisman:** (a) Yes. I assume that the Honourable Member has in mind the increase in the Reserve Bank of India's note circulation.

(b) The amount received by the Government of India as its share of the surplus profits of the Reserve Bank is shown in Statement VI of the Financial Secretary's Explanatory Memorandum on the Budget for 1942-43 (which has been circulated to Honourable Members with the usual budget papers), but I would add that this receipt is offset by payment of interest in so far as the expansion has been effected against rupee securities and by loss of interest in so far as the expansion has been made against Sterling.

**Dr. P. N. Banerjee:** What is the position at the present moment? Can the Honourable Member tell us?

**The Honourable Sir Jeremy Raisman:** The position in this respect can only be determined at the close of each year.

## SUBSCRIPTIONS TO DEFENCE LOANS.

**Dr. P. N. Banerjee:** Will the Honourable the Finance Member please state the total amount of money received from the flotation of loans since the commencement of the war?

**The Honourable Sir Jeremy Raisman:** The total subscriptions to the various defence loans up to the 12th September, 1942, amount to Rs. 1,22,01,96,000. In this connection, I would draw the Honourable Member's attention to the Press Communique on the subject dated the 17th September, 1942, which gives the progress of figures for the various loans.

## CONTRIBUTIONS BY THE BRITISH GOVERNMENT TOWARDS INDIA'S MILITARY EXPENDITURE.

**Dr. P. N. Banerjee:** Will the Honourable the Finance Member state the amounts of contribution made by the British Government during the financial years 1939-40, 1940-41, 1941-42, 1942-43 (from 1st April, 1942, to the date for which figures are available) towards India's military expenditure:

- (i) In India, and
- (ii) Outside India?

**The Honourable Sir Jeremy Raisman:** The following expenditure on defence and supply was brought to account in Government of India's books

as chargeable to His Majesty's Government under the Financial Settlement:

1939-40 Actual	.. .. .	Rs. 4 crores.
1940-41 Actual	.. .. .	Rs. 53 crores.
1941-42 (Revised Estimate)	.. .. .	Rs. 185 crores.
1942-43 (Budget)	.. .. .	Rs. 387 crores.

In addition as mentioned in my last budget speech, His Majesty's Government have undertaken to supply to India without charge a large quantity of aeroplanes, vehicles, guns and other equipment required in connection with the expansion of India's Navy, Air Force and Army. The total value of such free supplies already made or expected to be received by the end of 1942-43 was estimated at Rs. 60 crores when the budget was framed. No later estimate has been made.

**Dr. P. N. Banerjee:** What proportion of this expenditure has been incurred in India and what proportion outside India, approximately?

**The Honourable Sir Jeremy Raisman:** As I have pointed out, the figures I gave relate to expenditure brought to account in the Government of India's books, and by that is meant expenditure incurred in India.

#### COMPLAINTS AGAINST THE WORKING OF THE FOOD CONTROL.

**Dr. P. N. Banerjee:** Will the Honourable Member for Commerce please state:

- (a) whether Government are aware of the great inconvenience which is being felt by the people in different parts of the country on account of the manner in which food control is practised; and
- (b) whether Government propose to consider the desirability of taking steps to remove this grievance?

**The Honourable Mr. N. R. Sarker:** (a) Yes. The Government of India have received many general complaints of this nature. The difficulties experienced were not all due to the defective working of the Price Control Machinery but to numerous other factors, such as panicky or speculative hoarding of stocks, inability of some Provincial Governments to set up adequate organisation, lack of adequate transport facilities and so on.

(b) The difficulties stated above were thoroughly discussed at the recent Price Control Conference and the matter is now under active consideration of the Government. Their decision in the matter will be announced shortly.

**Dr. Sir Ziauddin Ahmad:** Is it not a fact that the control of prices without control of the stock and compelling people to sell compulsorily does more harm than good.

**The Honourable Mr. N. R. Sarker:** Sorry, I have not followed the question.

**Dr. Sir Ziauddin Ahmad:** I ask whether the control of prices without previously controlling the entire stock does any good? Is it more injurious or useful?

**The Honourable Mr. N. E. Sarker:** I cannot give any categorical answer to that question.

**Dr. Sir Ziauddin Ahmad:** Is it not a fact that the control of price of wheat has failed on account of the fact that people began to hoard and did not bring the grain to the market?

**The Honourable Mr. N. E. Sarker:** That is not the only reason.

**Dr. Sir Ziauddin Ahmad:** Is it not the main factor?

**The Honourable Mr. N. E. Sarker:** That is a question of opinion.

**Sir Syed Raza Ali:** Do Government propose to requisition stocks compulsorily so that the price control may keep pace with the market rate, namely, the rate at which the grain is actually sold?

**The Honourable Mr. N. E. Sarker:** Up to the present that matter is still with the Provincial Governments, but now the whole question is under the consideration of the Government of India and they will decide that issue.

**Maulana Zafar Ali Khan:** Is it not a fact that since the commencement of the control of prices the prices of commodities have actually risen?

**The Honourable Mr. N. E. Sarker:** Yes, in the case of some commodities they have risen.

**Maulana Zafar Ali Khan:** And Government cannot do anything?

**Sardar Sant Singh:** May I ask the Honourable Member if he is aware that the control of wheat and wheat flour has not effectively checked the making of profits on *maida* and *sooji*, which are the products of wheat, and, as a result *maida* and *sooji* of inferior qualities are being sold at very high prices?

**The Honourable Mr. N. E. Sarker:** I know that and steps are being taken to prevent it.

**Dr. Sir Ziauddin Ahmad:** The Honourable Member said that there were other factors which decided the control of markets. What are those other factors please?

**The Honourable Mr. N. E. Sarker:** As I said, the lack of adequate transport facilities, and Provincial Governments' inability to organise the price control machinery effectively.

**Dr. Sir Ziauddin Ahmad:** In view of the fact that the Honourable Member has already replied to the points raised in my short notice question in his answer to starred question No. 47, I do not ask the question.

ALLEGED REFUSAL BY THE AUTHORITIES OF THE IRWIN HOSPITAL, DELHI,  
TO GIVE BLOOD TRANSFUSION TO A PERSON WOUNDED IN RECENT RIOTING.

**Sir F. E. James:** Will the Honourable Member for Education, Health and Lands be pleased to state whether there is any foundation for the allegation made in the Legislative Assembly by an Honourable Member—I think it is Mr. Neogy—that the authorities of the Irwin Hospital refused to give a blood transfusion to a person suffering from wounds sustained in the recent rioting in Delhi on the ground that he was a rebel?

**Mr. J. D. Tyson:** Government have been entirely unable to trace any such incident. None of the doctors concerned with the transfusion service at the Irwin Hospital is able to recall any occurrence which could possibly have formed the basis of this extraordinary story. During the period of the disorders no facilities for blood transfusion were refused. On the contrary, blood transfusions were given by the Superintendent of the Hospital to members of the public said to have been injured in the rioting.

**Pandit Lakshmi Kanta Maitra:** Will the Honourable Member tell the House if his Department is prepared to hold a judicial enquiry into this question with a promise of immunity?

**Mr. J. D. Tyson:** I am not prepared to hold a judicial enquiry. The position is that on the 16th September, an Honourable Member in this House made a very general allegation in the form of a question. He said, "Is it a fact that in the Irwin Hospital blood transfusion was refused to such patients (in the plural) on the ground that they were rebels?" We have done our best to trace the origin of this allegation and we have been unable to find any basis for this. There is no question therefore of a judicial enquiry. There is no specific allegation before us.

**Sir F. E. James:** Will the Honourable Member take steps to see that the real facts as now disclosed by him will receive the same publicity through the press as the original allegation?

**Mr. J. D. Tyson:** I have no control over what the press will do, but I have answered the question on the floor of the House. I hope they will give the same publicity.

**Mr. K. C. Neogy:** As the matter refers to me, I should like to enquire as to whether the Government ever enquired from the Honourable Member of the Executive Council whose name I have given to the Honourable the Leader of the House and who also heard the very same allegation,—whether the Government have enquired from him as to the sources of his information?

**The Honourable Mr. M. S. Aney:** The Honourable Member has referred to me. The other day, after the debate was over, I asked the Honourable Member whether he would give the name of the Honourable Member who was supposed to have knowledge of this fact. The allegation as we understood it was that this fact was within the knowledge of an Honourable Member and that he was present. That was our understanding (Interruption by Mr. K. C. Neogy.) I am telling the House how we understood it, but you made it clear to me later. He only wanted to say that

one of the Members present here had knowledge of the fact, and he gave me his name. I did not communicate that name of the Honourable Member to the Secretary of the Department because I did not know that another question was going to be tabled by somebody and an answer was going to be given. Otherwise I would have mentioned the name to the Secretary.

**Sir F. E. James:** May I ask the Honourable the Secretary of the Department whether there are any instructions, standing or otherwise, under which the authorities of the Hospital make any differentiation in the giving of blood transfusions in respect of persons who might suffer injuries as a result of civil commotion?

**Mr. J. D. Tyson:** No, Sir. There are no instructions which would prevent the utilisation of blood collected in the Irwin Hospital for persons who have suffered injuries in civil disorders. On the contrary, the Superintendent's policy is to collect blood for the general purposes of the hospital as he regards the maintenance of facilities for blood transfusion as the proper function of any upto date hospital: and he has appealed to persons to give their blood to the hospital for the purpose of serving the needs of the people of Delhi without any reservation that it should be for A. R. P. casualties or any other kind of casualties. There was therefore no reason why blood should be refused in circumstances such as have given rise to this question.

**Sir F. E. James:** Is my Honourable friend aware that during these disturbances surgeons of the Irwin Hospital, both Indian and European, were working at a stretch for 14 hours in alleviating the sufferings of those who were wounded?

**Mr. President** (The Honourable Sir Abdur Rahim): That hardly arises. The matter has been sufficiently discussed.

#### PAYMENT OF DEARNESS ALLOWANCE TO NON-GOVERNMENT EMPLOYEES AND WORKMEN.

**Mr. K. C. Neogy:** (on behalf of Sir Abdur Halim Ghuznavi): Will the Honourable Member for Labour be pleased to state:

- (a) Whether the Government of India has apportioned a certain amount of money for payment of whole or part of any dearness allowance to workers in factories or other industrial concerns;
- (b) whether the Government of India has under consideration the payment in whole or part of any dearness allowance to employees and labour who are not employed by the Government directly and if they have, what is the nature and description of those who employ such labour?

**The Honourable Dr. B. R. Ambedkar:** (a) No.

(b) Government do not pay or propose to pay dearness allowance as such either wholly or in part to employees other than their own.

TRANSPORT FACILITIES FOR RELIEVING THE GRAVE FOOD GRAINS SITUATION  
ON THE MALABAR COAST.

**Mr. H. A. Sathar H. Essak Sait:** Will the Honourable Member for Commerce be pleased to state:

- (a) whether he is aware of the grave situation on the Malabar Coast with regard to food grains;
- (b) whether he is aware that before the war Malabar depended largely on Burma for its staple food grains, e.g., rice;
- (c) whether the present stock of rice in that district is very small;
- (d) what steps Government are taking to remedy this state of affairs; and
- (e) in view of the possibility of further curtailment of facilities for transport, is he prepared to consider the taking of special measures to rush supplies immediately to the West Coast?

**The Honourable Mr. N. R. Sarker:** (a), (c) and (d). According to the latest information received, the Madras Government are fully alive to the rice situation in all parts of the Province including the West Coast. The information regarding the surpluses and deficits of any districts is not available to the Government of India. They are trying to meet the food situation as best as they can.

(b) Yes.

(e) All possible consideration will be given to any request that may be made by the Government of Madras for special arrangements in this connection.

**Mr. Muhammad Nauman:** The Government of Madras, the Honourable Member said, is fully alive to the situation but they have not conveyed the full report to the Central Government as to what the stock is. We wanted to know whether the Government of India have any information not as to the stock they have on the Malabar side.

**The Honourable Mr. N. R. Sarker:** I have no information. We discussed the present situation last week with the representative of the Madras Government and he said that the Madras Government will be able to meet the situation.

**Mr. H. A. Sathar H. Essak Sait:** Is the Honourable Member satisfied that so far as the transport facilities are concerned there will be sufficient number of wagons available for the Madras Government?

**The Honourable Mr. N. R. Sarker:** We shall try for it as much as possible.

**Dr. Sir Ziauddin Ahmad:** The Madras Government said that they would meet the situation themselves.

**The Honourable Mr. N. R. Sarker:** That is what they stated. As a matter of fact, they are meeting it.

**Mr. H. A. Sathar H. Essak Sait:** I was wanting to know whether the wagons would be supplied, whether we could get priority?

**The Honourable Mr. N. E. Sarker:** That is for the Honourable Member in charge of War Transport to say.

**Mr. H. A. Sathar H. Essak Sait:** So far as the question of priorities are concerned, will the Government of India be able to supply as many wagons as the Madras Government may require?

**The Honourable Mr. N. E. Sarker:** That I cannot say.

### MOTION FOR ADJOURNMENT

#### ALLEGED MALTREATMENT TO MR. AND MRS. S. N. JAUHAR BY THE DELHI POLICE.

**Mr. President** (The Honourable Sir Abdur Rahim): I have received notice of a motion for the adjournment of the business of the House, signed by two Members, Sardar Sant Singh and Mr. Govind V. Deshmukh. I do not know what is the object of two Members signing it but if it means that both of them have a right or any of them to make a speech at this stage, that is not allowed. The notice runs to this effect:

"We beg to ask the leave of the House to make a motion that the business of the Assembly be adjourned to discuss a definite matter of urgent public importance, namely, the merciless beating given to Mr. S. N. Jauhar, a leading businessman of Delhi, after his arrest on Friday afternoon, the 18th September, 1942, by 25 armed policemen and in the presence of a Magistrate outside his office in Connaught Circus and also assault made on his driver who came to save his master from the beating and the dragging away of Mrs. Jauhar who tried similarly to save her husband from unlawful and unjustifiable beating."

Will the Honourable Member tell me on what charge this gentleman was arrested, if any. Why was he beaten and what has happened to him? Is he in hospital?

**Sardar Sant Singh** (West Punjab: Sikh): I hold before me the statements of eye-witnesses . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): I do not want the statements of eye-witnesses. I want to know the facts.

**Sardar Sant Singh:** I do not know what was the charge against him. He was arrested two or three miles away from Delhi, at a station. He was brought from that place by the Police. The officer in charge of the party was Rai Sahib Lal Gopal, who is a high police official . . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): Was there any charge against him?

**Sardar Sant Singh:** I do not know what the charge was. He was brought to his office in Connaught Place. He was given ten minutes to see his wife and ten minutes to see his subordinates in his office. Before he could enter his office, he was waylaid by one Sitaram, a C. I. D. official . . . . .

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who began to beat him and then the public gathered there and they protested. There were 25 policemen with them and they all joined in beating him. Beating was given to the driver who tried to save his master. Then his wife came and she was dragged away forcibly. After that, those 25 policemen began to beat him indiscriminately. Then one Sikh gentleman, a local pleader, came and he protested against this lawlessness and he was also arrested and taken away. I have got here the statement of one Attar Singh and also two other witnesses. The beating was given without any provocation whatever. I am not concerned with the offence. I am protesting against the treatment meted out to him after the arrest. My point is that the police had absolutely no right to beat a person after they had arrested him.

**Mr. President** (The Honourable Sir Abdur Rahim): Can the Honourable Member on behalf of Government give any information about this matter?

**Sir Richard Tottenham** (Home Secretary): Sir, I object to this motion on two grounds. In the first place, if the allegations made were true, the individual concerned, Mr. Jauhar, clearly has a legal remedy and his proper course would be to go to the court. In the second place, it is only fair that the House should know that two charges of resistance to lawful authority and escape from lawful custody have been lodged against Mr. Jauhar and a number of other people by the police.

**Mr. President** (The Honourable Sir Abdur Rahim): Are there cases pending before any Magistrate?

**Sir Richard Tottenham**: The cases have not yet been put before the Court but they are likely to be put before the Court. The first incident took place at Mehrauli when the attempt was successful. There were two police officers and they were both injured. The second attempt took place at Connaught Circus and a third police officer was also injured on that occasion.

**Mr. President** (The Honourable Sir Abdur Rahim): Attempt to do what?

**Sir Richard Tottenham**: After he had been arrested, he attempted to escape out of the car in which he was being taken to the police station. Then a scuffle took place, in the course of which he received certain injuries and the police also received injuries. These two reports have been lodged by the police in the respective police stations and I understand that the cases will probably go into Court very shortly.

**Mr. President** (The Honourable Sir Abdur Rahim): Has Mr. Jauhar also lodged any complaint?

**Sir Richard Tottenham**: I am not aware of that. But I submit that in these circumstances, the trial would undoubtedly be prejudiced if the matter were discussed on the floor of the House.

**Sardar Sant Singh**: May I reply to the points raised by the Honourable Member? The first point . . . .

**Mr. President** (The Honourable Sir Abdur Rahim): I simply asked him what the facts are and no reply is needed. The motion is clearly out of order. Whatever may have taken place, the person concerned has a legal remedy, and if there has been any assault on the police by him or by his friends, the police have also their remedy. Surely, this is not a matter which can be usefully debated in the Assembly.

ELECTION OF A MEMBER TO THE ADVISORY COMMITTEE FOR THE UTILIZATION BRANCH OF THE GEOLOGICAL SURVEY OF INDIA—*contd.*

**Mr. President** (The Honourable Sir Abdur Rahim): Further consideration of the motion moved by the Honourable Dr. Ambedkar on Monday, the 14th September. Dr. Ambedkar had then stated that this motion might stand over so that he might be able to give some information.

**The Honourable Dr. B. R. Ambedkar** (Labour Member): May I know, Sir, how you propose to deal with the amendments? Perhaps it would be better if the amendments are moved so that I may deal with the motion and the amendments also.

**Mr. President** (The Honourable Sir Abdur Rahim): I think the Honourable Members who wish to move their amendments may formally move them now. Then, the motion and the amendments will be for discussion before the House.

**Mr. H. A. Sathar H. Essak Sait** (West Coast and Nilgiris: Muhammadan): Sir, I beg to move:

"That in the motion for the words 'one representative' the words 'four representatives' be substituted."

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

"That in the motion for the words 'one representative' the words 'four representatives' be substituted."

**Pandit Lakshmi Kanta Maitra** (Presidency Division: Non-Muhammadan Rural): Sir, I beg to move:

"That in the motion for the words 'one representative' the words 'three representatives' be substituted."

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

"That in the motion for the words 'one representative' the words 'three representatives' be substituted."

**The Honourable Dr. B. R. Ambedkar**: Sir, the motion and the amendments raise two questions. Last time when I moved the motion, my Honourable friend, Mr. Neogy, asked for some information to be given to the House with regard to the constitution of the Utilisation Branch of the Geological Survey of India. As the House will remember, on the very next day the Honourable Mr. Neogy had tabled a question with regard to the very same question. In the course of my reply, I gave some information with regard to the Utilisation Branch and I do not

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know whether my Honourable friend and the rest of the Members of this House desire any more information with regard to this Branch. But I see that there is probably some information which it was not possible for me to give to the House by reason of the fact that it could not be put either as answer to the main question or because of the peculiar nature of the supplementary questions that were asked on that day. I propose to give to the House some information now which I was not able to convey to it the other day.

The first thing that I wish to refer from the point of view of information is the duties of the Utilisation Branch which, I think, I did not mention that day. I should like to inform the House that according to the constitution of the Utilisation Branch, it will have three main duties. Firstly, to carry out the necessary field work for proving mineral deposits; secondly to initiate, where necessary, preliminary mining operations; and, thirdly, conduct experimental work as may be necessary to solve problems in ore dressing and smelting and other problems of production that may be capable of solution by the utilisation of India's minerals. These are the duties of the Utilisation Branch.

Then, with regard to the programme of work of the Utilisation Branch, I would like to inform the House that at present it falls under six heads: (1) re-opening of the lead and zinc mines of Zawar in Udaipur State in Mewar; (2) development of Rajputana mica mines; (3) working of sulphur deposits in Baluchistan; (4) operations on wolfram in Bengal and the Central Provinces; (5) examination of certain deposits in Bihar; and (6) search for certain minerals, stones and salts and other related substances.

The third question on which my Honourable friend, Mr. Neogy, wanted information was the relationship in which the Utilisation Branch stands to the Board of Scientific and Industrial Research. Now, Sir, the position is this. The Board of Scientific and Industrial Research deals with three things, namely, inventions, heavy chemicals and naturally occurring salts. The Utilisation Branch deals with the discovery of minerals and proving them. Obviously, their functions are different. At the same time, there is a certain amount of inter-relationship between the Board of Scientific and Industrial Research and the Utilisation Branch, and the inter-relation has been brought about in this way. Dr. Fox, who is in charge of the Geological Survey of India, is the Chairman of the Committee on heavy chemicals which is working under the Board of Scientific and Industrial Research. On the other hand, the Director of Scientific and Industrial Research is a Member of the Advisory Committee to the Utilisation Branch of the Geological Survey, and, secondly, by this arrangement, the House will see that exchange between the two Departments has been arranged.

There were two other questions to which my Honourable friend referred. They were by way of criticism of Government's actions. He stated that there was a neglect of India's mineral resources and, secondly, he suggested that the Utilisation Branch was started more for the purpose of providing occupation for evacuees from Burma. Now, Sir, with regard to the first question, I say I regret as much as my Honourable friend does that the question of the development of India's mineral resources was not taken in hand earlier than it was done. But I think my Honourable

friend realises that there were three principal difficulties in the way of India's undertaking a project such as the one we have now undertaken, namely, the establishment of the Utilisation Branch. It is to be admitted that up to the present time the Geological Survey of India had not qualified official mining personnel. Unfortunately, the Indian Geological Survey of India followed the functions which the Geological Survey in England had followed, namely, to act merely as an inspectorate of mines rather than as a technical body of experts who were engaged in developing the mineral resources of India. Secondly, there is a certain amount of shyness in the mineral exploitation due to the risks involved in opening up mineral deposits. There was a general belief prevalent in India, probably due to long disuse of mining operations in the country, that India was not well-endowed with minerals other than those which were suitable for export, such as manganese and mica. What I would submit to the House and to my Honourable friend is that while we may regret that we have not tackled the business much earlier than we have done, whether it is not a case where one ought to say that better late than never.

With regard to the question of the employment of Burmese evacuees, I would like to point out to my Honourable friend as well as to the House that in this matter, we really had no choice. As I told my Honourable friend we have been suffering from lack of official mining personnel. Burma was the only place where mining, such as, for instance, of lead and zinc, was carried on on an extensive scale. Burma is the only place where mining engineers were trained. Consequently rather than saying that we have opened this branch to give employment to Burmese evacuees I think the correct interpretation would be to say that it is because we were able to use the services of the Burmese evacuees that we have been able to undertake this project which I have no doubt is going to be not merely an item in India's war effort, but is going to be one of the greatest things for the future of India.

Sir, turning to the question of the amendments, one thing I would like to say. I am really very glad that these amendments have been made. I can now say that the account which I have given of the Utilisation Branch is so convincing that those who came to scoff have remained to pray. But the temple is a very small one and although I welcome the enthusiasm of the worshippers, I cannot allow this small temple to be so overcrowded as to leave no breathing space. I am sorry I cannot accept the amendments.

**Sir Syed Raza Ali** (Cities of the United Provinces: Muhammadan Urban): Would you refuse them entry into the temple even.

**The Honourable Dr. B. R. Ambedkar:** I am sorry I have to oppose these amendments. I will tell the House exactly the reasons which have dictated this policy. I would like to draw the attention of the Honourable Members who have moved these amendments to bear in mind that this Committee is not an Executive Committee. It is not a Committee which can take decisions and, therefore, anything that is done in this Committee is not going to commit this House one way or the other. It is purely an Advisory Committee. The second thing which in my judgment presents a stronger reason than the first arises out of the object of the Committee. The object of the Committee is to bring together experts of the representatives of trade and industry together. That is the primary object of

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this Committee. I would like to draw the attention of Honourable Members to the composition which has been devised for this particular Committee in order that this principal object may be achieved. Sir, there are altogether 16 Members on this Committee as planned for the present. The House will see that what has been done is to put five experts on the Committee and to put five representatives of trade and industry along with them. First of all, there is the Director of Geological Survey, the Director of the Board of Scientific and Industrial Research, one representative of the Mining and Metallurgical Institute, one representative of the Indian Mining Association and representative of the Indian Mining Federation. They constitute a body of experts who will sit on this Committee. Then, as representatives of trade and industry, we have given two seats to the Federation of Indian Chambers of Commerce. We have given two seats to steel industry and we have the Secretary of the Commerce Department to represent the Commerce Department on this Committee. From this the House will see that the object of the Committee is really to bring experts who will tell the industrialists and the representatives of the trade, what minerals they are in a position to prove and representatives of trade and industry will tell the experts how they could be commercially exploited.

Now, Sir, if the House bears in mind that this is the principal object of this Committee, there is really not much scope left for the inclusion of what I might call general opinion in the country.

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): Representatives of the general public.

**The Honourable Dr. B. R. Ambedkar:** Yes, representatives of the general public. The next argument to which I wish to refer is the fact that the Committee is already a large Committee. As planned now, there are 14 Members on it. If I accept the amendment which demands four, then the Committee will consist of 18 and I must take into consideration the fact that if I allow four Members of this House, the Upper House will demand at least three. That means that the Committee will consist of 21 Members which I have no doubt the House will agree will be too unwieldy for doing the business which it will be called upon to undertake.

The next point to which I should like to draw the attention of the House is this: that the constitution of the Committee already provides for the nomination of four Members by the Labour Member and without committing myself to any particular line of using this power of nomination, I think it is perfectly possible that one Member of the House may find a place on it through nomination. Therefore, Sir, having regard to the considerations which I have placed before the House, I am sorry to say that I cannot accept these amendments.

**Pandit Lakshmi Kanta Maitra:** Sir, I have carefully followed what has fallen from my Honourable friend, Dr. Ambedkar. Sir, the main function which the Utilisation Branch of Geological Survey is expected to discharge is that it will, in the first place, carry out a sort of field work and in the second place, initiate preliminary mining operations. Sir, I was told the other day that this Utilisation Branch had been functioning

for some time already. We did not get any information from the Honourable Member as to the progress this Branch had so far made. The vital objection, in my opinion, to this Committee being under the Department of the Honourable the Mover of this motion is that this subject should not be in the Portfolio of Labour. The Board of Scientific Research was brought into being about a couple of years ago and it has been rendering admirable service. This Board should have direct and intimate relationship with this Committee which, for the present at least, is an exploratory body.

Dr. Ambedkar has pointed out that the liaison that will be kept between the Department of Commerce and the Utilization Branch through Dr. Fox . . . . .

**The Honourable Dr. B. R. Ambedkar:** Dr. Fox, who is the Director of Geological Survey, is a member of the Chemicals Committee.

**Pandit Lakshmi Kanta Maitra:** Yes. But I am not sure, Sir, if that by itself will ensure that measure of contact and co-operation with the Scientific Board as is desirable in the best interests which my Honourable friend has in view. The mercantile opinion of the country should have free scope for association with it through the Commerce Department, which deals specifically with the commercial and industrial matters of this country. This is a matter relating to the development of mineral wealth, leading eventually to the industrial development of this country, and, as such, it seems only reasonable that this should be placed under the Department of the Honourable the Commerce Member so that a greater correlation of activity between the Board of Scientific Research and the Utilization Branch of the Geological Survey may be secured effectively.

Another point on which I should like to have a clear assurance from my Honourable friend, Dr. Ambedkar, is this. Is he in a position to tell us in this House that, after the field work is done and after the exploratory work is finished, when the Utilization Branch recommends that certain metals or mineral substances may be commercially mined—and by 'commercially mined' I mean that they may be mined so successfully as to stand competition in the market—Indians will get the benefit out of it? Is he prepared to give us an assurance that the money that will be spent on this Utilization Branch of the Geological Survey will eventually lead to the fostering of Indian enterprise in the development of mineral industry, and not to investment of British capital as has been our unfortunate experience in the past? We have now Mr. Cowen of Mawchi mines, Burma, who is in charge of exploring these Indian mines, and we have a natural apprehension that, when exploratory work is done, British capitalists will be given the benefit and will be given the privileges of monopoly to carry on the mineral development in this country. What would be the position of Indians? In what way would they be able to have an effective voice in the final utilization?

I also want to know whether prospecting licences for mining metals and mineral substances would be given to the Indian business people—Indian commercial community. Unless a clear assurance is forthcoming that Indians would be given every opportunity to invest their money in this business—the development of mineral resources of my country—I do not think I can be enthusiastic about the composition of the Committee.

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or the objects which this Committee has in view. We do not want that in the name of effective prosecution of the war, development of the mineral resources of my country should go to the hands of foreigners. Let this be very clearly understood. We want an assurance to the effect that if the Utilization Branch of the Geological Survey Department ultimately decides that certain types of minerals can be developed in this country profitably, preference should, in the first instance, be given to Indian companies to work and develop them.

The House will do well to bear in mind that the initial grant to this Branch has been on a very liberal scale—I think it is over twelve lakhs of rupees, and the House will remember that for the Board of Scientific and Industrial Research this House only voted ten lakhs. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): I do not know what the Honourable Member is driving at. The question now is whether this Board should exist or not. It is already there. The Honourable Member cannot bring in all sorts of subjects in relation to the question before the House.

**Pandit Lakshmi Kanta Maitra:** I was simply pointing out to the House, Sir, that the interests of the Indian Commercial Community should not be prejudiced. . . .

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

**Pandit Lakshmi Kanta Maitra:** I will now come directly to the question of nominating Members to this Committee from this House. My Honourable friend, Dr. Ambedkar, proposes to impose that ban on temple entry. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member need not go into that.

**Pandit Lakshmi Kanta Maitra:** The Honourable Member has used that very expression, Sir.

However, I want that in place of one Member three Members should be put in so that all Parties in the House may address themselves seriously to the question, and the problems that may crop up from time to time may engage the serious attention of this House. When the Government of India have made an initial grant of over twelve lakhs of rupees, we want adequate representation on the Advisory Committee which is going to be set up and I want to see that the Committee is not still-born. I, therefore, suggest that the Honourable Member should see to it that three Members of this House are associated with this Committee; and if he does that, I do not think his Committee would be handicapped in any way in carrying out the purposes which it has in view. If sixteen members can function in a committee, I do not see any reason why with three more, nineteen members cannot function, unless the Honourable Member does not want more people. Sir, I move.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has already moved it.

**Mr. H. A. Sathar H. Essak Sait**: Sir, I will not detain the House at any great length over my amendment. I will just explain why I am not satisfied with my friend's amendment asking for three and why I want four members in the Committee. My friend has stated that this is an advisory committee and not an executive committee. I think that is all the more reason why the committee should be a bigger one rather than a smaller one. That is my reaction to my friend's statement. I think that if the House is to have a proper share in the consideration of these matters, all the Parties now functioning in the House should be represented and that is why I say four instead of three.

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I have no desire to discuss this simple point at very great length. . . .

**Mr. President** (The Honourable Sir Abdur Rahim): There is only one simple question in it.

**Mr. Muhammad Nauman**: I only want to impress upon the House that the Honourable Member's objection to increasing the number on the Advisory Committee has not impressed anybody; and as has been explained, it is very necessary that when we are a party to the expenditure on that committee, this House which is voting the amount should have a better representation than others. I do not say that the representation of experts or commercial interests should not have been what it is, but I do not see why the representation of this House should be any less than that of commercial representatives. In these times when expansion of the Executive Council has been going on, probably the Honourable Member should not have refused this House this particular expansion in the Committee. If the Executive Council can be expanded from seven to thirteen, there is every reason for claiming four instead of one as proposed on this Committee. I hope the Government will think over the matter once again and satisfy the House by showing them this little courtesy in this very small matter.

**Mr. Hoosinbhoy A. Lalljee** (Bombay Central Division: Muhammadan Rural): Sir, I rise to support the amendment. I think it is but fair that this House should have sufficient representation on such committees formed by the Government who have to look to this House constitutionally for guidance. In fact, we will be paying the taxpayer's money, for which we should be responsible—entirely responsible. I feel that the Honourable Members on the Treasury Benches ought to know that so long as they can have Members to serve on committees from this House, they ought to give them a chance—not only a chance but it will be doing bare justice to the public who have selected them. If the people's voice or their selection does carry any weight with my Honourable friends here, then I think the first thing they should do should be to select and invite Members of this House. Unfortunately, the practice has arisen when we see that the Commerce Department and the Education Department seem to look to somebody else. Of course, they are eminent

[Mr. Hooseinbhoj A. Lalljee.]

experts sometimes. But in these various committees that have been appointed—Price Control Conference, this conference and that committee—they have made it a point to boycott this House. Why is that so? Why are they fighting shy of the people's representatives? You have no right to do so. If you are really working for the rights of the people you have to choose among them also. Surely, there are eminent persons here: we have given you Members to sit on those Benches . . . .

**The Honourable Mr. N. B. Sarker** (Commerce Member): Not for Geological Survey!

**Mr. Hooseinbhoj A. Lalljee**: Do you not think that there are people here who can serve on those Committees? Do you deny that in your own Commerce Department Advisory Committees there are people in this House who know much more?

**An Honourable Member**: This motion has nothing to do with that.

**Mr. Hooseinbhoj A. Lalljee**: I do appeal to the Treasury Benches to realise that it is no use trying to insult the people; they are provoking the people and they are not taking due care and attention to have the representation of this House.

**Mr. Jamnadas M. Mehta** (Bombay Central Division: Non-Muhamadan Rural): Sir, this amendment must be accepted, I submit, . . . .

**An Honourable Member**: Which amendment—three or four Members?

**Mr. Jamnadas M. Mehta**: Even four is desirable as I shall point out, although I know that if the Japanese come, there will be no Geological Survey, and if peace comes the world's materials will be divided equally between all races. Therefore, this question is somewhat academic for the future; but in the present, so long as nationalist sentiment remains I must support this amendment. The Utilisation Branch has stolen a march over this House in one very important respect which I must bring to its notice; there is an article called mica. This mica, according to the information I have got, is the most strategic and key material for the purposes of war. It is such an important thing that in the war effort, particularly in the electricity, aeroplane and wireless industries, mica is absolutely essential. Not only is it essential for those industries but in other respects, particularly in the high compression motors, spark plugs, and other industries there is no substitute for mica. It is this material of which India has 75 per cent. production: India is in the position of a monopolist country; other countries produce little—either the quality or the quantity of mica that India produces; and strange as it may seem, the Indian unskilled labour makes the quality superior—I do not know how it is, but that is the information I have got. Now, in regard to such an article of war and peace which is essential and for which there is no substitute, what is the Government doing about its production, distribution and sale? What is being done? I do not want to go into the history, but in Bihar and Madras where mica is mostly produced, since the War the Indian industrialist has not had an opportunity.

**The Honourable Sir Sultan Ahmed (Law Member):** It is not correct.

**Mr. Jamnadas M. Mehta:** I am speaking subject to correction. I have never seen a mica mine myself and I can only speak on the information which I have, but I can assure you that that information is most authoritative. You will find it very difficult to contradict it because another Member of the same Bench will contradict you.

**Sir Syed Raza Ali:** That is not generally done.

**Mr. Jamnadas M. Mehta:** He will have to. I am speaking from something which comes from those Benches. Therefore, let not my friend be in a hurry to contradict me. My information is based on papers which I can make some of the other Honourable Members of the Treasury Benches admit to be based on facts. Therefore, while I have the greatest respect for my Honourable friend, Sir Sultan Ahmed . . .

**The Honourable Sir Sultan Ahmed:** May I enquire whether the statement is that this industry is entirely in the hands of non-Indians?

**Mr. Jamnadas M. Mehta:** No. Largely, and even now in the later stages it is much worse, that is what I am going to show today from the information which I have got. What I want to say is that up to 1939 the sale of mica was according to ordinary channels of trade. But since 1940 mica is sold and exported mainly through the Supply Department which undertook to collect and submit to Washington, on behalf of the Ministry of Supply, offers of mica to form a Federal stock pile. Therefore, from that date the Indian mica trader has been virtually dispossessed from the industry. In 1941, at the request of the United States of America Government, the Supply Department negotiated contracts with the Metal Reserve Company of America for the procurement of 14,000,000 lbs of . . .

**Mr. President (The Honourable Sir Abdur Rahim):** I think the Honourable Member is going beyond the scope of this motion.

**Mr. Jamnadas M. Mehta:** I am telling the House that we have got to be very vigilant.

**Mr. President (The Honourable Sir Abdur Rahim):** If that sort of speech is to be allowed, then the whole question of industrial development of this country can be debated on this motion, and the Chair cannot allow that. This is not the occasion to go into such questions.

**Mr. Jamnadas M. Mehta:** I shall only sum up the points to which I want to invite Honourable Members' attention, because this Utilisation Branch is dealing with mica.

**Mr. President (The Honourable Sir Abdur Rahim):** That may be, but it does not mean that you can go into the history of the whole question of mica industry.

**Mr. Jamnadas M. Mehta:** I shall bring to the notice of the House some points so that the House may vote with full knowledge that four members are not too many. That is my submission, and since you are pleased to think that the history of the question is not relevant, I shall pass on to the main proposals which affect the question very vitally. What is the present position? The mission has been established. It will purchase all the mica, the price of which will be settled without any reservation as to what the Indian will get. The wages will be settled without any reference to the workers' needs. The stock of mica may be exhausted during the war. I want that this Utilisation Branch should pay attention to the following five points. These points are. One is that they should keep in mind the estimated reserves of mica in the mines against which production is being made and sent abroad so that these mica reserves may not be exhausted. Secondly, do the Government of India propose to take steps with a view to the conservation of these resources for future utilisation in India and for their orderly and profitable marketing? Thirdly, what is the Government's policy with regard to the sale price of mica; this Mission is a powerful body and we do not know whom it consists of. So far as I can see, there is no Indian. It is a joint product of America and the United Kingdom. I may be wrong, if so, please correct me, but I want to know who are those people who are going to buy out the whole of this stock of mica, such a vital element, from this country, at what price—I do not know how it is fixed. The man who works is an unskilled labourer, he may be exploited for the benefit. . .

**Mr. President** (The Honourable Sir Abdur Rahim): All those broad questions do not arise on this motion.

**Mr. Jamnadas M. Mehta:** I do not want this Committee unless these points are settled. .

**Mr. President** (The Honourable Sir Abdur Rahim): Then the Honourable Member can oppose the Committee.

**Mr. Jamnadas M. Mehta:** Yes, and I shall give you the grounds.

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot discuss all that on a motion like this. My ruling is that the Honourable Member cannot.

**Mr. Jamnadas M. Mehta:** The only two points. . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot go into all that.

**Mr. Jamnadas M. Mehta:** Since I am not allowed to proceed further I am not even justified in supporting this motion because I am so thoroughly ignorant and in the dark about the prospects of my country in the matter of the mica industry, and so anxious that Indian labour may be exploited, I shall certainly support this amendment and afterwards oppose it if I am not allowed to make my submission.

**Dr. Sir Ziauddin Ahmad** (United Provinces Southern Divisions: Muhammadan Rural): There are two points in this, namely, the merits

of the proposition and the representation of the Legislature on this Committee. As regards the merits, before the war the whole world was one unit and every country developed its particular industry for which it was best fitted. The war has however shown that every country must be self-supporting and we must now try our level best to find what minerals India can produce. We discussed this question in very great detail only two days ago in the Standing Finance Committee and I was satisfied that this particular Department was absolutely necessary in the interests of India and that also a small Committee was necessary. I understood from the Honourable Member that it would be a small Committee of perhaps 8 to 10 experts only and I thought that the representation of one member from this House was enough, but from the speech he has delivered the Committee is not so small as I thought it was. For example, taking the case of the mining associations, there are three, and each one of them has a representative. Why should you not have one representative for all the mining associations put together? The Federation of Chambers has two. Why should it have two, why should it not be content with one? You have also four nominated members. If there is only one representative of the Assembly and if he happens to be absent on the day the Committee meets, the Assembly will go without any representative at all on the Committee.

**An Honourable Member:** Let the question be now put.

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

"That the question be now put."

The motion was adopted.

**The Honourable Dr. B. R. Ambedkar:** I am prepared to take two. (Interruption.) As I said in my speech, I said that there were four seats for nomination.

**Dr. P. N. Banerjee:** Elected Members will not accept any nomination.

**The Honourable Dr. B. R. Ambedkar:** The question is about the total representation that the House should have and not the channels through which the representation of the House should be provided. Therefore, my submission is that I am prepared to have two, and one will be nominated. There will altogether be three members.

**Mr. President** (The Honourable Sir Abdur Rahim): I take it that the suggestion of the Honourable Member is accepted.

**Several Honourable Members:** No, no.

**The Honourable Dr. B. R. Ambedkar:** Very well, I will agree to three.

**Mr. President** (The Honourable Sir Abdur Rahim): I will put the first amendment. The question is:

"That in the motion for the words 'one representative' the words 'four representatives' be substituted."

The motion was negatived.

**Mr. President** (The Honourable Sir Abdur Rahim): Now I will put the second amendment. The question is:

"That in the motion for the words 'one representative' the words 'three representatives' be substituted."

The motion was adopted.

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

"That the Assembly do proceed to elect, in such manner as the Honourable the President may direct, three representatives of the Assembly to serve on the Advisory Committee consisted by the Government of India to advise on problems connected with the work of the Utilization Branch of the Geological Survey of India."

The motion was adopted.

**Mr. President** (The Honourable Sir Abdur Rahim): I may inform Honourable Members that for the purpose of election of three members for the Advisory Committee for the Utilization Branch of the Geological Survey

of India the Notice office will be open to receive nominations up to 12 o'clock on Tuesday, the 22nd September, and that the election, if necessary, will take place on Thursday, the 24th September. The election which will be conducted in accordance with the principle of proportional representation by means of the single transferable vote will be held in the Assistant Secretary's Room between the hours of 10-30 A.M. and 1 P.M.

#### THE INDIAN COMPANIES (SECOND AMENDMENT) BILL

**The Honourable Mr. N. R. Sarker** (Commerce Member): Sir, I beg to move:

"That the Bill further to amend the Indian Companies Act, 1913, be taken into consideration."

The object of the Bill has been fully stated in the Statement of Objects and Reasons appended to the Bill. There is at present no separate comprehensive legislation for the banking companies. Banking companies, like others, are governed by the Companies Act. When in 1936 the Companies Act was generally amended, opportunity was taken to incorporate certain special provisions for regulating banking also. In accordance with the definition laid down in this section, a banking company means a company which carries on as its 'principal' business the acceptance of deposit of money on current account or otherwise, subject to withdrawal by cheque, draft or order notwithstanding that it engages in addition in other forms of business which are specified in detail in those provisions of the Companies Act, and it was also settled that the banking companies have to comply with certain other requirements for the protection of the depositors, namely, that a banking company shall not employ managing agents, it must maintain certain cash reserve and submit certain returns, etc. These protective requirements are to be complied with only by such banking companies as fall within the scope of the definition laid down in section 277F, that is

companies whose principal business is the acceptance of deposit on current account are required to comply with the provisions of the section. But if such business of the company did not constitute its principal business, even though it may use as part of its name the word 'banking', 'banker' or 'bank', the company was not required to comply with the provisions laid down in the Act.

It was brought to the notice of the Central Government that a large number of smaller institutions styled themselves as banks and were carrying on banking business while successfully evading compliance with the provisions of the law regarding submission of returns to the Reserve Bank or maintaining statutory balances. While the depositors with such institutions are not protected by the existing provisions of the law, the activities of such institutions tend to undermine the strength of the banking structure as well as the banking development of the country. The result has been that out of a total of 1421 concerns which may be considered to be non-scheduled banks operating in India only about 672 are reported to be providing the returns or maintaining the cash balances required by the law. So, 749 of such companies claim for one reason or another that they do not fall within the definition of banking companies and this contention has in several cases been upheld by the courts. The Registrars of Joint Stock Companies have found it difficult to decide in practice whether a particular institution carried on banking as its principal business, or whether it fell within the scope of the definition of a banking company. Pending any comprehensive banking legislation, it has been thought necessary that companies using the word 'bank', 'banker' or 'banking' as a part of their name shall be made to comply with the provisions relating to banking companies irrespective of the consideration whether the acceptance of money on deposit on current account forms its principal business or not, and clause 2 of the Bill is intended to achieve this object. In order, however, to allow some time to such companies as may like to omit the word 'bank', 'banker' or 'banking' as a part of their name—to make it clear to depositors that they are not banking companies,—it is proposed that the new definition should not be brought into force without giving adequate time to such companies to decide their course of action.

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

"That the Bill further to amend the Indian Companies Act, 1913, be taken into consideration."

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): I have full sympathy with the objects of this Bill but there are two difficulties which confront my acceptance of this measure in the form in which it stands at the present moment. I find that it is suggested that a proviso be added to section 277F and the form in which the proviso is sought to be added contradicts the very wording of the section itself. Now, when a proviso is added to a section, it is generally the case that the proviso qualifies the Act and does not entirely conflict with it. How does the section run? Section 277F runs thus:

"A banking company means a company which carries on as its principal business the accepting of deposits of money on current account or otherwise."

The wording of this proviso is this:

"Provided that any Company which uses as part of the name under which it carries on business the word 'bank', 'banker' or 'banking' shall be deemed to be a banking company notwithstanding that the accepting of deposits of money on current account, etc., is not the principal business of the company."

[Dr. P. N. Banerjee.]

So, the proviso directly contradicts the main provision of the section. I think, therefore, that better phraseology should be adopted. Further, I am told that this matter was circulated to the Provincial Governments and to commercial bodies and that the Provincial Governments have accepted it and that an overwhelming majority of commercial bodies have supported these proposals.

Now, these papers have not been placed before us. If these papers had been placed before us, we would have been in a position to support this Bill fully. It is possible that these commercial bodies, which very often represent the larger concerns, may have no objection. The smaller concerns may feel aggrieved. Therefore, I want to see what the opinions of these commercial bodies actually are. In view of all these things, I would request the Honourable Member-in-charge to refer this matter to a Select Committee which may consider the wording of the Bill and which may also give us some time to consult the general public.

**Mr. President** (The Honourable Sir Abdur Rahim): Is there any amendment to that effect?

**Dr. P. N. Banerjee**: There is no amendment, but if the Honourable Member and the Leaders of other Parties agree, the amendment can be put forward immediately. If there is any substance in what I have said, there will be no difficulty in this matter. I appeal to the Honourable the Law Member to support me whether I am right in my contention or not.

**The Honourable Sir Sultan Ahmed** (Law Member): Sir, as reference has been made to me, I must get up and examine the validity of the interpretation put by my Honourable friend so far as this proviso is concerned. As far as I can see, and the matter seems to be quite clear, the amendment does not seek to negative the main section 277F at all. It only adds a few things which would not come within the definition of a banking company within the meaning of section 277F except by the proviso which we have put in. There is no question of negating anything, but we have described other things which may be deemed to be banking companies within the meaning of section 277.

**Babu Baijnath Bajoria** (Marwari Association: Indian Commerce): Sir, while I support this motion moved by the Commerce Member, I feel that it is a half-hearted measure. We were promised a full Banking Act before and I also understand that some progress was made to introduce such legislation. But I do not know why we have not heard about that Banking Bill for some time. It is a matter of common knowledge that Sir Nripendra Sarkar, the previous Law Member, after he had finished with the Companies Bill and the Insurance Bill, had every intention of having a Banking Bill as well. The banking law at the present moment is in a very unsalutary condition. There are many evasions by the mushroom banks—I call the small banks by that name—which are banks only in name. They have got very little capital and it is these banks which defraud the unwary people. This amendment, I think, will go some way in checking that. Still, I do think it is high time that we should have a comprehensive banking legislation so that these mushroom banks may be weeded out. By 'mushroom banks' I do not mean that only big banks

should exist and the smaller banks should not. What I mean is that the smaller banks which exist at present must be on a sound financial footing. That is the main criterion. At the present moment, what we find in a big city like Calcutta is that there are numerous banks, almost in every street, which call themselves as banks. I think nobody in this House will support those banks which have not got financial stability behind them.

On this motion, I do not think it is necessary to speak at length on banking legislation generally, but I think that the Honourable the Commerce Member, who is a commercial man himself and who knows much about banking also, should undertake this legislation and bring it into shape at an early date. With these few words I support the motion.

**Mr. Muhammad Nauman** (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Sir, I have full sympathy with this measure and I appreciate the anxiety of the Government to rope in those people who are carrying on business under some garb and who try to avoid those legalities which the banks have to undergo under the scheduled scheme. I am fully convinced that this is not contrary to section 277F after the able elucidation by the Honourable the Law Member, but what I would like to know is whether this legislation also ropes in those firms and those financiers who may be doing some sort of banking by advancing money on the stocks in commercial towns like Calcutta or in the mofussil. As the Honourable Member-in-charge happens to know more of business than many other people can claim to, he is the best man to enlighten this House whether such people as hold stocks or advance money on the stocks as financiers will come under this category or not. I feel that probably they won't because the word 'bank' has a necessary compliment. If that is the idea, I have no objection and I am absolutely in full sympathy with the amendment that the Honourable Member has proposed to the Company Act of 1939.

**The Honourable Mr. N. R. Sarker**: Sir, I am sorry I have not been able to accept Dr. Banerjea's suggestion that the Bill may be referred to a Select Committee. He mentioned two points. Regarding the legal point, my Honourable friend, the Law Member, has already given a reply. I would bring to the notice of Dr. Banerjea that section 277-G involves exactly the same principle as I have enunciated in this Bill. So, it is not contradictory but it is restrictive. With regard to the opinion of the commercial community, he said that big organisations like the Federation of Indian Chambers of Commerce, and the Bengal Chamber of Commerce may not take the affairs of the small banks into consideration. But I would read to him the opinion of the organisation of the small banks in Calcutta whose President is Dr. N. Law, whom Dr. Banerjea knows so well. He says:

"My Committee are already aware of the fact that a large number of smaller institutions style themselves as banks and are carrying on banking business while successfully evading compliance with the provisions of the law regarding the submission of returns to Reserve Bank or maintaining the statutory cash balances. My Committee have therefore no hesitation in welcoming the Government proposal to amend section 277F of the Act by the insertion of the said explanation."

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

"That the Bill further to amend the Indian Companies Act, 1913, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. N. R. Sarker:** Sir, I move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

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

**The Honourable Sir Sultan Ahmed** (Law Member): Sir, I move:

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

Sir, the House will be pleased to observe from the Statement of Objects and Reasons that the Bill proposes the amendment of the Code of Civil Procedure so as to authorise civil courts to add the Government as a party in suits in which the constitutional issue may be involved. In a case which came up before the Federal Court, the Chief Justice doubted the position that the Provincial Governments might be made a party in such suits and he also observed that the matter "might well engage the attention of the Central Legislature", for if those doubts were justified, "private persons could by a private settlement of their dispute, or even by collusion, prevent a Provincial Government from obtaining a decision of the Federal Court on issues of the highest importance". When these observations were made, the ever vigilant Dr. Banerjee, our Honourable colleague in this House, at once brought the matter in the form of a Bill in this House last November and the Bill that he introduced meant to provide for two matters, firstly, for empowering the Federal Court to delegate to the Registrar or any other Officer of the Court quasi-judicial and non-judicial duties and the other amendment related to the Order of the Civil Procedure Code as was suggested by the Chief Justice of the Federal Court. On an examination of these two amendments, we were satisfied that there was a necessity for both these amendments. But we suggested at the time that there must be two separate Bills for the purpose of these two provisions because they did not seem to be holding together properly. This suggestion was accepted by my Honourable friend, Dr. Banerjee, and he proceeded with the first part in his Bill which was passed into an Act by this Assembly. At that time, I gave an undertaking that I will bring forward before this House another Bill with respect to the second part of that Bill and that is the reason why it has been brought forward now. The necessity for such an amendment was pointed out by the Chief Justice of the Federal Court and it is obvious that in matters which involve constitutional issues, it is absolutely necessary, if the Court thought it proper, to make the Province a party. I, therefore, move the consideration of this Bill.

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

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

**Dr. P. N. Banerjee** (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I thank the Honourable the Law Member for the observations which he has made with regard to myself. I am glad that he has taken the earliest opportunity to place this measure before the House. As a matter of fact this Bill has been appropriated by the Government, and it has not only been appropriated, but it has considerably been improved in form and, for that also, I thank the Honourable the Law Member. His attitude, in this connection, is one which I cannot too strongly commend to this House. I hope the example set by him will be emulated by his colleagues. If the Government are prepared to accept what we give them, we, on our part, will always be prepared to accept what they wish to give us.

As for the merits of the Bill, the Honourable the Law Member pointed out that this is an important measure. It seeks to prevent private parties by collusion from bringing before the Federal Court matters of the highest importance. To that extent, it is a very important measure and I hope it will receive the full assent of this Assembly.

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

"That the Bill further to amend the Code of Civil Procedure, 1908, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir Sultān Ahmed**: Sir, I move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

## THE CODE OF CIVIL PROCEDURE (SECOND AMENDMENT) BILL.

**The Honourable Sir Sultān Ahmed** (Law Member): Sir, I move:

"That the Bill further to amend the Code of Civil Procedure, 1908, (*Second Amendment*) be taken into consideration."

Sir, the proposed amendment of the Act is to provide for the recovery of court fees in pauper suits as arrears of land revenue where the suit abates by reason of the death of the sole plaintiff or one of several co-plaintiffs. The House will be pleased to observe that the Statement of Objects and Reasons clearly gives the position as to why these amendments have been put forward. There is a clear lacuna that where the suit abates by reason of the death of the sole plaintiff or one of several co-plaintiffs there is no provision to recover court fees as you find under the provision

[Sir Sultan Ahmed.]

of Rule 11. That is the reason why we felt that it was essential to bring the matter in the form of a Bill before the House.

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

"That the Bill further to amend the Code of Civil Procedure, 1908, (*Second Amendment*), be taken into consideration."

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): Sir, in supporting this Bill, I find some difficulty. No doubt the object of the Bill is to recover court fees in a case where a suit abates by the death of the plaintiff or one of several co-plaintiffs. I quite understand the anxiety of the Government to recover court fees in that case, but then it should be considered that while the Madras High Court says that there is no provision of this nature and that provision should be enacted, it has not considered the point that I am going to place before the House. I do admit that Rule 11 of Order XXXIII does not provide for the recovery of court fees in the case where the suit abates on account of the death of the sole plaintiff because it says:

"Where the plaintiff fails in the suit or is dispaupered or where the suit is withdrawn or dismissed."

Now, therefore, in the absence of that, this Rule 11-A is sought to be enacted. But my difficulty is this. The recovery of the fees is when the plaintiff has been held to be pauper and the suit has gone on and if he succeeds in the suit, then he has to pay the court fee. And the second time when he is to pay his court fee is when his suit fails.

Now, Sir, I submit that if a similar provision is made that in case of abatement of the suit by the plaintiff's death the court fee will be recovered from the estate of the deceased plaintiff, there will arise many cases where the plaintiff who has died and whose suit has abated has still time to make an appeal, because in these cases of paupers, if a decision has been made with regard to court fees against him, he has got a right to appeal in that case. Now, he has no chance of appealing at all; he died before any appeal was made. In that case it will not be right, it will not be reasonable to recover court fees from him.

It seems to me that in such cases no provision has formerly been made and I do not think the Madras High Court has considered this point. I will put it like this. It may be said that there is no appeal for the pauper with regard to court fees. Now, I submit that formerly that was the law, namely, that there was no appeal, but subsequently the rule for appeal has been made, and, therefore, if the suit has abated by death then I submit that no court fees should be levied in that case. If any authority is needed for the purpose of supporting my submission with regard to appeal, I refer you, Sir, to page 1051 of the Civil Procedure Code, by Mulla, wherein it is laid down that:

"Questions arising between the Government and any party to the suit under the rule would be questions relating to the execution, discharge and satisfaction of a decree within the meaning of section 47,"—

and it is provided by rule 18:

"that they should be deemed to be questions arising between the parties to the suit within the meaning of section 47."

It follows that an order deciding any question is valid as a decree under the Civil Procedure Code, 1882. It was held by the High Courts of Bombay and Madras that the Government not being a party to the suit such questions could not be said to be questions arising between parties to the suit within the meaning of section 47 and that the orders determining such questions were not appealable as decrees. On the other hand the High Court of Allahabad held that such orders were appealable. Rule 13, which is new, sets the conflict at rest, by providing that the Government is a party to the suit and the Government shall be deemed to be a party to the suit for that purpose.

Now, we find rule 13 clearly saying:

"All matters arising between the Provincial Government and any party to the suit under rule 10, rule 11 or rule 12 shall be deemed to be questions arising between the parties to the suit within the meaning of section 47."

I submit, therefore, that when the suit abates on account of the plaintiff's death or the death of the co-plaintiff and he has had no opportunity to appeal no court fee should be levied. Therefore, it cannot be said that in all cases of abatement the court fee will be recovered. Under the circumstances I think that this Bill should not be given any support by this House.

**Mr. Muhammad Azhar Ali** (Lucknow and Fyzabad Divisions: Muhammadan Rural) Sir, to me this enactment seems to be a very harsh one for the object in view. This Bill, if passed, would mean that if the suit abates by reason of the death of the plaintiff, the Court shall order that the amount of court fees which would have been paid by the plaintiff, if he had not been permitted to sue as a pauper, shall be recoverable from his heirs; that is, his sons are to be held liable to pay for the faults of his father. Sir, the intention of the provision in the Civil Procedure Code in regard to a suit by a pauper is not like that. Under the Civil Procedure Code a man is first of all judged by the court as pauper, that is, a person who is not capable of paying the court fee which would be adjudged when the suit finishes. Here the provision says that it will be realized as 'arrear of land revenue', which assumes that he has some property for paying land revenue. If he has not, then it means that his children should be taxed for the faults of his father and for the fault of the Court who held him as a pauper. Sir, I submit that it is a very stringent and hard rule which this House is being asked to back. Sir, it is a well known fact how the land revenue is realized from people. They are treated very severely and very harshly by the Tehsildars and by the Magistrates who are in charge of execution of these decrees. Sir, to treat the son or the heir of a pauper who had no voice in the declaration of the court like that, would be very harsh and unjustifiable. I, therefore, oppose this Bill.

**The Honourable Sir Sultan Ahmed:** Sir, the objection raised by my friend, Mr. Azhar Ali, shows that he has not done us the courtesy of having read the proposal at all. He says that it would be very hard to proceed against the heir of the deceased pauper and it would be awful if he is sent to prison and what not. As a matter of fact the amendment does not seek to do anything of the kind. (Interruption).

**Mr. Muhammad Azhar Ali:** You have said "by reason of death".

**The Honourable Sir Sultan Ahmed:** What the amendment says is this:

"Where the suit abates by reason of the death of the plaintiff or of any person added as a co-plaintiff the Court shall order that the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper shall be recoverable by the Provincial Government from the estate of the deceased plaintiff."

If there is no estate, it will not be proceeded against. I do not know why my learned friend came to this conclusion that his son and heir will be proceeded against and sent to jail and so on. If there is no estate left by the deceased, the question is at an end. . .

**Mr. Muhammad Azhar Ali:** If the estate is not there, then the word 'land revenue' is in conflict.

**The Honourable Sir Sultan Ahmed:** That is the procedure—how to how it should be realised from the estate; if there is no estate, there is no personal liability.

**Mr. Lalchand Navalrai:** May I draw the Honourable Member's attention to rule 14—in the end the Honourable Member will see the words "recover the amount of court-fees specified therein from the person or property liable for the payment as if it were an arrear of land revenue". How can that be?

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member has made one speech already.

**The Honourable Sir Sultan Ahmed:** I respectfully submit that my Honourable friend, Mr. Azhar Ali, has misread the section wholly. Now, as regards the objection taken by my friend, Mr. Lalchand Navalrai, the position is perfectly clear from the section itself. If you will kindly read rules 10 and 11, you will find that the costs are payable by the pauper where he succeeds, just as he would have to pay if he had not been permitted to sue as a pauper. The next is rule 11—the procedure where the pauper fails. Where the plaintiff fails in the suit or is dispaupered or where the suit is withdrawn or dismissed because of certain causes or because the plaintiff does not appear when the suit is called on for hearing, the court shall order the plaintiff or any person added as a co-plaintiff to the suit, to pay the court fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper. If he dies and if the right to sue survives—that is essential of course—then there is no reason why he should not prosecute the suit; or if there is an appeal where an appeal is provided for, he can come in on the record and then proceed. . .

**Mr. Lalchand Navalrai:** But if he has no heirs?

**The Honourable Sir Sultan Ahmed:** Then the question does not arise. Why are you anxious about somebody who does not exist in this world? There must be a person holding the property; there must be some representative; if there is none, the question does not arise, the estate will be escheated. I have not been able to understand the objection. If the right to sue survives to any one, then in that case he can proceed with the suit or he can file an appeal. The moment he does that he is liable just as his predecessor has been; but if he does not choose to do that in spite of

the opportunities that the law gives him, then the estate which may be in his hands coming from his predecessor is liable, just in the same way as the predecessor himself would have been liable if the suit laid failed or been withdrawn.

**Mr. Lalchand Navalrai:** The Honourable Member has not answered my question; that is, that in case where there is a descendant and heir. . .

**Mr. President** (The Honourable Sir Abdur Rahim): The Honourable Member cannot go on making fresh speeches.

The question is:

"That the Bill further to amend the Code of Civil Procedure, 1908 (*Second Amendment*) be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Sir Sultan Ahmed:** Sir, I move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

#### THE REPEALING AND AMENDING BILL.

**The Honourable Sir Sultan Ahmed** (Law Member): Sir, I move:

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

This is a very harmless Bill and it does not do anything substantive; it only removes from the Statute-book certain Acts or portions of Acts which have become absolutely inoperative and are not in force, and to correct small errors here and there. I see an amendment has been tabled in the name of Maulvi Muhammad Abdul Ghani—I am afraid it is perhaps due to some misconception of the position. There is absolutely no attempt here to make any change in any substantive law at all and I do not know whether he is going to move the amendment or not. Sir, I move.

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

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

**Maulvi Muhammad Abdul Ghani** (Tirhut Division: Muhammadan): Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon . . ."

**Mr. President** (The Honourable Sir Abdur Rahim): I cannot follow the Honourable Member. Will he speak up?

**Maulvi Muhammad Abdul Ghani:** I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of January, 1943."

[**Maulvi Muhammad Abdul Ghani.**]

The long list of Acts to be repealed contains something like a hundred Acts and we have had very little opportunity to see these Acts. Besides, the Statement of Objects and Reasons says that the Bill is intended to remove from the Statute-book certain Acts or portions of Acts which have either ceased to have effect or ceased to be in force. Sir, I am a layman. I think if the words in the Statement of Objects and Reasons mean that there will not be printed separately the various Acts passed as they have already been incorporated into the original Acts and they will continue to give effect or to be in force, then it is all right but the wording of the Statement does not in my opinion carry such sense. The Statement further says that the Bill intends to correct small errors detected in the Acts. This does not mean that there are any new additions. If you refer to the list of enactments going to be repealed, you find that, for instance, in item 2 on page 8 of the Bill, in the Insurance Act, 1938, the word 'inspection' is going to be substituted by the word 'investigation'. I do not think that the word 'inspection' carries the same legal sense as the word 'investigation'. Secondly, in sub-section (3) of section 82, for the words, brackets and figure.

**The Honourable Sir Sultan Ahmed:** Please speak up. We cannot hear at all.

**Maulvi Muhammad Abdul Ghani:** In the Insurance Act, 1938, the second part—in sub-section (3) of section 82, for the words, brackets and figure "sub-section (1) of this sub-section" the words, brackets and figure "sub-section (1) of this section" shall be substituted. That is a new addition and change of substance. Again, in the Calcutta Port Act, 1890, you have, in section 5, for clauses (v) and (vii) the following clauses shall be substituted, respectively, namely:

"(v) The General Manager, Bengal and Assam Railway, *ex-officio*";

"The Principal Officer, Mercantile Marine". . . .

**Mr. President** (The Honourable Sir Abdur Rahim): What is the good of reading all this? I do not know what the Honourable Member's argument is.

**Maulvi Muhammad Abdul Ghani:** I do not quite follow you, Sir. It struck me that these are all new additions and not merely correcting errors, and that they should have been done by separate amending Bills. 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 of January, 1943."

**Mr. Lalchand Navalrai** (Sind: Non-Muhammadan Rural): I will draw the attention of the House to the fact that there are no explanatory notes showing fully why these Acts are being taken out of the Statute-book. In all Bills clauses are given and explanations are made why they have been put down. But here I find that there are so many Acts which are going to be repealed, some portions are to be amended, and some deleted from the Statute-book. Still I find not explanation has been given to us, and not

sufficient materials placed before us. If certain Acts are obsolete and they are removed, one can understand, but that is not so here. In the First Schedule it is said:

"The enactments, or portions of enactments, which are dealt with in the First Schedule are either 'spent' or are of a purely amending nature and by virtue of section 6A of the General Clauses Act, 1897, can now be removed from the Statute-book."

So far as it says that they are of an amending nature, it should have been explained why they are going to be removed completely. The second schedule is actually supplying certain supplementary amendments and certain words are going to be changed. At any rate the House should have sufficient materials before them to judge for themselves if these amendments that are going to be made are merely verbal amendments. What I submit is that these notes should have been copious and should give us an idea with regard to each Act why that Act should be removed and so on. To say merely that 48 Acts are going to be removed from the Statute-book is not enough. If they have all become obsolete and so are going to be removed, that is another matter, but that is not the case here. On the last occasion also when a Bill like this was presented to this House, the same comment, the same remarks were made in the House in order to show that the notes should be more copious so that we might have an idea. To have a number of Acts removed in this one Bill is objectionable.

**The Honourable Sir Sultan Ahmed:** So far as Mr. Abdul Ghani's objections are concerned, I had the greatest difficulty in hearing him clearly, except in regard to one thing when he referred to page 8 with reference to the Insurance Act. He pointed out that a substantive change had been made because of the change of the word 'inspection' in sub-section (4) of section 83 into 'investigation'. The reason why this was done was that word was not used there and the marginal note merely conforms to it. I have not followed the other points made by my Honourable friend. As regards Mr. Lalchand Navalrai's objection, I do not think there is any validity in that at all. As regards the First Schedule, clause 2 of the Bill says.

"The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof."

The short title of the Act, and what has been repealed are mentioned everywhere and that is the usual thing that is done in such repealing and amending enactments. There is absolutely nowhere in this Bill any idea of making any substantive change in any Act at all. It is only to correct errors or to remove from the Statute-book certain Acts or portions of Acts which have ceased to have effect or which are not in force. I submit that the Bill as it stands is quite good and is not open to any objection at all.

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of January, 1943."

The motion was negatived.

**Maulvi Muhammad Abdul Ghani:** I am not moving any of my other amendments.

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

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

The motion was adopted.

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

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

**The Honourable Mr. M. S. Aney**: What happens to the Schedules?

**Mr. President** (The Honourable Sir Abdur Rahim): They are covered by clauses 2 and 3 of the Bill.

**The Honourable Sir Sultan Ahmed**: Sir, I move:

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Tuesday, the 22nd September, 1942.