

17th February 1942

THE

LEGISLATIVE ASSEMBLY DEBATES

Official Report

Volume I, 1942

(11th February to 10th March, 1942)

FIFTEENTH SESSION

OF THE

FIFTH LEGISLATIVE ASSEMBLY,
1942



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CORRIGENDA

In the Legislative Assembly Debates, Budget Session, 1942,—

- (1) Volume I, No. 1, dated the 11th February, 1942, page 31, line 20, for "Muslims" read "Muslim";
- (2) Volume I, No. 15, dated the 5th March, 1942, page 708, line 20 from the bottom, for "Suppression" read "Supersession";
- (3) Volume II, No. 5, dated the 17th March, 1942,—
 - (i) page 1207, line 4, delete the full stop after the word "statement"; and
 - (ii) page 1265, lines 5 and 22, for "The Honourable Sir Homi Modi" read "The Honourable Sir Homi Mody";
- (4) Volume II, No. 7, dated the 19th March, 1942, page 1357, line 15 from the bottom, for "The Economist news" read "The Economist news-";
- (5) Volume II, No. 8, dated the 20th March, 1942, page 1422, line 13 from the bottom, delete the second "that" at the end of the line;

- (6) Volume II, No. 9, dated the 23rd March, 1942,—
 - (i) page 1429, line 1, insert the word "is" after the word "blood"; and
 - (ii) page 1457, line 8 from the bottom, read "are" for the word "they";
- (7) Volume II, No. 11, dated the 25th March, 1942, page 1539, line 18 from the bottom, for the word "who" read "why";
- (8) Volume II, No. 13, dated the 1st April, 1942, page 1651, line 21, for the word "attacks" read "attack";
- (9) Volume II, No. 14, dated the 2nd April, 1942,—
 - (i) page 1688, line 17, for "It is given to C class" read "I said that A and B class";
 - (ii) page 1693, line 22, for "Syed Murtuza Sahib Bahadur" read "Maulvi Syed Murtuza Sahib Bahadur"; and
 - (iii) page 1729, line 19 and page 1730, line 9 for "Diwan Bahadur Sir A. Ramaswami Mudaliar" read "The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar".

LEGISLATIVE ASSEMBLY.

President:

The Honourable Sir ABDUR RAHIM, K.C.S.I.

Deputy President:

Mr. AKHIL CHANDRA DATTA, M.L.A.

Panel of Chairmen:

SYED GHULAM BHIK NAIRANG, M.L.A.

Lieut.-Colonel Sir HENRY GIDNEY, M.L.A.

Sir HENRY RICHARDSON, M.L.A.

Sir COWASJI JEHangIR, Bart., K.C.I.E., O.B.E., M.L.A.

● *Secretary:*

Mian MUHAMMAD RAFI, Barrister-at-Law.

Assistants of the Secretary:

Mr. M. N. KAUL, Barrister-at-Law.

Khan Bahadur S. G. HASNAIN.

Marshal:

Captain Haji Sardar NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Petitions:

Mr. AKHIL CHANDRA DATTA, M.L.A., *Chairman.*

SYED GHULAM BHIK NAIRANG, M.L.A.

Mr. JAMNADAS M. MEHTA, M.L.A.

Sir ABDUL HALIM GHUREKAVI M.L.A.

Mr. N. M. JOSHI, M.L.A.

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LEGISLATIVE ASSEMBLY

Tuesday, 17th February, 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.

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS. ✕

REPORT OF THE FACT-FINDING COMMITTEE ON HANDLOOM INDUSTRY.

43. *Mr. Govind V. Deshmukh: Will the Honourable Member for Commerce please state:

- (a) if the fact-finding Committee appointed to inquire into the handloom weaving industry submitted its report; if so, what the action taken by the Government on it is; and
- (b) if no such report has been submitted, what steps Government propose to adopt to help the weavers pending the publication of the present report?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: (a) The Fact-finding Committee has not yet submitted its report.

(b) Government are examining in consultation with the Provincial Governments schemes to keep the handloom weaver in adequate employment.

SHORTAGE OF YARN FOR HANDLOOM INDUSTRY.

44. *Mr. Amarendra Nath Chattopadhyaya: (a) Will the Honourable the Commerce Member be pleased to state the total poundage of yarn of different counts imported into India in 1938-39 for the use of handlooms, Province by Province, and its value and also the total poundage of the yarn imported in 1939-40, 1940-41, i.e., during the war period, Province by Province, and its value?

(b) Will the Honourable Member be pleased to state:

- (i) the total number of handlooms, Province by Province, worked throughout the year;
- (ii) the total poundage of yarn used by these looms, year by year;
- (iii) the total number of persons employed on these looms, Province by Province and year by year; and
- (iv) the average income of the weavers per family engaged in weaving, Province by Province?

(c) Will the Honourable Member be pleased to state the shortage created by hindrance to and stoppage of imports of yarn?

(d) Will the Honourable Member be pleased to state the total poundage of yarn produced by the spinning mills in India, Province by Province, which are supplied to handloom weavers?

(e) Will the Honourable Member be pleased to state if in the present war crisis it is possible for Indian spinning and textile mills to supply the full quota of yarn required for the handloom weavers in India, Province by Province?

(f) If the answer to the aforesaid part be in the negative, will the Honourable Member be pleased to state what step Government propose to take to arrange for making up the shortage? If no such arrangement is possible, what steps do Government propose to take to give employment to the weavers who will be left unemployed?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: (a), (b) and (d). The information asked for cannot be supplied as no separate detailed statistics are available for handlooms.

(c) The average annual imports of cotton twist and yarn from China and Japan for the three years ending 1939-40 were:

China—7,241,284 Lbs.

Japan—20,992,194 Lbs. (approximately).

(e) and (f). Government are not yet in a position to make any definite statement as to the availability of adequate yarn for the handloom weavers. But they have under active consideration a scheme for regulating the supply of yarn which contemplates the institution of an all-India control in collaboration with the Provincial Governments and representatives of mills and yarn merchants.

SHORTAGE OF YARN FOR HANDLOOM INDUSTRY.

45. *Mr. Amarendra Nath Chattopadhyaya: (a) Will the Honourable the Commerce Member be pleased to state if Government are prepared to help without delay the textile mills, specially the spinning mills, with finance sufficient for starting spinning to increase the supply of yarn for handlooms? How many such mills are under construction, Province by Province?

(b) Will the Honourable Member be pleased to state if there is sufficient cotton available in India for spinning yarn and if the staple of cotton at present available in India is fit for being spun into yarn for weaving cloth?

(c) Will the Honourable Member be pleased to state if Government have in view the cultivation of long staple cotton in Bengal where previously long staple cotton used to be grown?

(d) Will the Honourable Member be pleased to state if Egyptian cotton may be imported even during the war period?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: (a) No proposal for financial help to increase the production of yarn has been received from any of the spinning mills. I have no reason to think that there is any holding up of increased production of yarn on financial grounds. I have no information regarding mills under construction in each province.

(b) There is not sufficient cotton available in India for the spinning of certain kinds of yarn required by some of the weavers. The staple lengths of cotton available in India are fit for spinning yarn and therefore for weaving cloth of certain types. It is not, however, possible to spin from such cotton yarn of above 40's count and, therefore, to weave finer cloth.

(c) A five year scheme for the introduction of long staple cotton in Bengal has been in operation from 1st April, 1938.

(d) Yes. Cotton of the quality produced in Egypt is required in India beyond the present capacity of the country's own cultivation of long staple cotton.

YARN SUB-COMMITTEE.

46. *Mr. Amarendra Nath Chattopadhyaya: (a) Will the Honourable the Commerce Member please state if it is a fact that there has been set up a yarn sub-committee and that a yarn Commissioner is going to be appointed at the centre?

(b) If so, who are the members of the yarn sub-committee and what are their qualifications?

(c) Who will be appointed the yarn Commissioner? What are his required qualifications?

(d) If there be spinning machines available in India at present, will the Honourable Member be pleased to state if these machines may be available for work and produce yarn?

(e) Is it not a fact that, by controlling supply, Government allow stockists to enhance prices of the commodities under control to an extraordinary amount and thereby create difficulties in supply? Do Government propose to control prices simultaneously with the control of supply?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: (a) The answer to both parts is in the affirmative. I presume the reference to the yarn sub-committee is to the Advisory Committee which will be associated with the proposed Central Yarn Commissioner. This Committee will be composed of the present members of the yarn sub-committee of the Advisory Panel of the Cotton Textiles Industry constituted by the Department of Supply.

(b) I place on the table a list of the members of the sub-Committee. The members represent the cotton textiles industry.

(c) The question is still under consideration and an announcement will be made when the selection has been made.

(d) Government are not aware of the existence of any yarn spinning machinery in India which is not already at work.

(e) Government will watch the working of the scheme for regulating the supply of yarn and will take such appropriate action as may be called for at any time.

List of the Members of the Sub-Committee of the Cotton Textiles Panel (yarn and sewing threads).

1. Sir Ness Wadia, K.B.E., C.I.E., c/o Messrs. Nowrosejee Wadia & Sons, Neville House, Ballard Estate, Bombay.
2. J. C. Lancashire, Esquire, c/o Messrs. Forbes, Forbes, Campbell & Co., Home Street, Fort, Bombay.

3. S. H. Batliwala, Esquire, c/o The Empress Mills, Nagpur.
4. J. Tinker, Esquire, c/o The Upper India Chamber of Commerce, Cawnpore.
5. J. M. Doak, Esquire, c/o The Madura Mills, Co., Ltd., Madura.
6. R. K. Kandaswamy Chettiar, Esquire, c/o The Southern India Millowners' Association, Coimbatore.
7. G. V. Doraiswamy Naidu, Esquire, c/o The Southern India Millowners' Association, Coimbatore.

Dr. Sir Ziauddin Ahmad: May I ask whether the Agricultural Department of the Government of Bengal or the Agricultural Department of the Government of India carried on any experiment whether long staple cotton can be grown in Bengal?

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar: The Indian Central Cotton Committee has carried on this experiment and has given advice to the Bengal Government and it is, as a result of that advice, that five years programme has been inaugurated by the Government of Bengal.

PROTECTION AND EVACUATION OF INDIANS IN THE FAR EASTERN WAR ZONE.

47. ***Mr. Lalchand Navalrai:** (a) Will the Honourable Member for Indians Overseas be pleased to lay on the table of the House a full statement showing the arrangements which have been made in all parts of the Far Eastern war zone for the protection and evacuation of Indians and how far the arrangements have been carried out?

(b) What is the condition of Sindhis, merchants and others, in the Far East since the beginning of the war? Are they free, or detained in concentration camps? If detained in detention camps, what has been, and can possibly be, done for them?

(c) Have Sindhis in Manila gone out of the war zone? If so, will he please state their whereabouts?

(d) Will the Honourable Member please state the names of those Sindhis who have died and who are surviving, particularly of K. K. Ramchandani, Pribhdas and Company, Hira Dhalamal and their families?

(e) What help do the British Government propose to give the Indians for their repatriation to India?

(f) Are the properties of Sindhis living in the Far Eastern war zone in the hands of the survivors, or have they been destroyed or confiscated by the enemy?

The Honourable Mr. M. S. Aney: (a) to (f). Government have spared no effort in assisting Indians to evacuate from the war zones in the Far East. Before the outbreak of war with Japan, the S.S. "Anhui" made two special trips to Shanghai and Japan to evacuate such British subjects, including Indians, as wished to leave from Manchukuo, Northern China and Japan. All shipping accommodation which could be spared has been made available for the evacuation of Indians from Burma and Malaya. Government have no reason to believe that Indians in the Far East in areas not under enemy occupation are not being afforded all protection possible by the respective local Governments. The Swiss Government have undertaken the responsibilities of a protecting power to look after

the interests of British subjects in the foreign countries under Japanese occupation. The Argentine Government has undertaken similar responsibilities in Japan proper.

Government have no reliable information yet regarding the welfare of Indians in the enemy occupied areas, but they are endeavouring to obtain it through the protecting powers and the International Red Cross.

If the Honourable Member will kindly furnish particulars regarding the individuals in whom he is interested, together with their last known addresses, Government will make attempts to obtain such information as is possible regarding them.

Mr. Lalchand Navalrai: With reference to part (d), I have actually mentioned the names. I should like to know what has happened to them?

The Honourable Mr. M. S. Aney: Their last addresses also are required.

Mr. President (The Honourable Sir Abdur Rahim): The Honourable the Leader of the House is not expected to remember the names and give information at once.

Mr. Lalchand Navalrai: I have given the names of two people in Manila. If these two names have been sent to proper authorities, you would have got information. They are prominent men in Manila and I want to know whether the Honourable Member can give some information about them. If the Honourable Member gives as much information as he has about these two people, it would be some consolation to their families.

Mr. President (The Honourable Sir Abdur Rahim): If they are only two names, the Honourable Member can give information if he has got.

The Honourable Mr. M. S. Aney: No doubt the names are there, but I want their last addresses also so that we can address a communication to the proper authorities who can make enquiries about them. Without that last address, they cannot make any enquiry. That is the difficulty. Secondly, let me inform the Honourable Member in regard to those persons who are now in the territories occupied by the enemies, we have to communicate with the British Consular office who will in their turn communicate with the Swiss agency and through the Swiss agency, information is being gradually collected. It takes a good deal of time even by telegram and cable to get the necessary information. If the Honourable Member will give me their addresses, I shall try to include these names of persons among those about whom I am holding enquiry.

Mr. Lalchand Navalrai: I want information whether these two men are in Manila or outside.

The Honourable Mr. M. S. Aney: I cannot say anything definitely about any man at all.

Sir Muhammad Yamin Khan: May I ask, though it is not pertinent to the question before us, if the Honourable Member can throw some light

on this? What has happened to those Indians who are wounded and are convalescent in Singapore? The reports say that some of the wounded in Singapore have been evacuated. Have all the Indian wounded and convalescents been evacuated or only a fraction?

The Honourable Mr. M. S. Aney: I think that question should be properly addressed to the Defence Department, because information regarding wounded and casualties will be had by that Department. I shall communicate that question to the Defence Department and if I get any information I shall inform the Honourable Member by a private communication.

Sir Muhammad Yamin Khan: Thank you very much.

VISIT TO INDIA OF THEIR EXCELLENCIES GENERALISSIMO CHIANG KAI-SHEK AND MADAME CHIANG.

The Honourable Mr. M. S. Aney (Leader of the House): Sir, I move:

"That upon the occasion of the visit to India of Their Excellencies Generalissimo Chiang Kai-Shek and Madame Chiang, this Assembly do place upon record its high appreciation of the honour done thereby to India and its heartfelt admiration of the outstanding services rendered by the Generalissimo to China and the world in combating a power against whose aggression China and India are now happily allied."

Sir, this Resolution, in my opinion, really needs no speech to commend it for unanimous acceptance by this House.

It tries to embody in two short sentences the feelings of appreciation and admiration which the visit of Generalissimo Chiang Kai-Shek and Madame Chiang have evoked throughout the country. In this expression of appreciation the whole country has joined. The Indian National Congress, the Muslim League, the Hindu Mahasabha, the Liberal Federation, Indian States and numerous other public institutions and organizations have extended their hearty and warm welcome to the distinguished guests to this country. This Assembly which constitutionally represents the whole of British India and can, therefore, speak for them authoritatively will be doing a bare duty which it owes to the country it represents in adopting the Resolution moved by me.

What is the secret of this universal demonstration of the feelings of welcome and admiration for the Generalissimo and the Madame? Our guests represent China, a country and a culture which is no doubt as old as India and Indian culture, if not more. The visit no doubt recalls to our mind the old ties, spiritual, religious and cultural by which these two great nations have been bound nearly for more than two thousand years. India has the proud privilege of being the sacred land of the birth of Lord Goutam Buddha whose religion and preachings have been mainly followed in China, and as such a country to which pious pilgrims from China have been coming to visit the various places and shrines rendered sacred and sanctified by the activities of Shri Goutam Buddha and his great disciples in later years. Ancient India, which delighted more in rendering silent service to humanity than in recording and chronicling it in pompous language in books of history and chronicles, is now found more accurately and faithfully described in the writings of some of these great talented pilgrims than in the old literature of the Hindus themselves.

But let me assure the Members of this House that the revival of memories of the olden connection, however pleasing to certain minds that take a more absorbing interest in the past than in the present, is not enough to explain the unanimous tributes that are being paid to the Generalissimo and the Madame by all kinds of people of all castes, creeds and colours.

There is certainly something outstanding in our guests which appeals to all alike, warms up their enthusiasm and evoke their appreciation and admiration. Those who are familiar with modern history of China and the story of the establishment of the Chinese Republic by the late Sun-Yet-Sen and the vicissitudes through which it has gone and is still going are certainly aware of the part played by our distinguished guests in that struggle. They can easily see the principles which both of them typify in their lives and which they stand and struggle for.

The establishment of a Republic in China in place of the old Manchu regime is in itself an achievement of an epoch-making character. Our guests have not only made the greatest sacrifice in that noble effort which like a magic wand or *Kayakalpa* enable China to shake off her old age and act bravely and enthusiastically like a young nation, but the distinguished guests have taken on themselves the onerous duty of preserving this edifice of democracy intact against the aggressive designs of a powerful neighbour like Japan.

Japan was one of the first culprits during the last twelve years to invade the lands of an age-old peaceful neighbour to satisfy her ambition of building an Empire in the Far East. This act of unwarranted aggression which cost China the loss of Manchuria or Manchukuo, naturally and inevitably excited the sympathies of India and all other civilised nations that stand for democracy and the racial, territorial and cultural integrity of nations. The heroic struggle which the Chinese people have been carrying on almost unaided during the last five years against Japan in defence of her Republic and Democracy under the unique leadership of the Generalissimo will undoubtedly go down to posterity as one of the noblest and the most inspiring chapters of human race. Our guests, the Generalissimo and the Madame have been untiring in their efforts to fight with their powerful adversary. There in China, as in Russia, we see how a whole nation and not merely a mercenary army can fight in defence of its liberties, hearths and homes in spite of all odds and handicaps. The guests have placed before us and the whole world the example of what political leadership of a nation can really mean and achieve. They have during the last ten years turned supine China suffering from an over-dose of opium for more than ten centuries into a nation of soldiers which watches sleeplessly and vigilantly the movements of a dangerous enemy and fights with a determination and strength which have excited the admiration of the whole world and to a great extent frustrated his plans of Imperial conquests.

The German aggression in Europe and Japan's aggression on the lands in the Far East have served the allied powers to appreciate the significance of the Chinese struggle against Japan. It is really an act of great chivalry and magnanimity that China, under the leadership of our guests, has joined the Allies and pledged her word to fight the enemies to finish and conclude no separate peace.

[Mr. M. S. Aney.]

The war has taken no doubt a very serious and unfavourable turn in the Far East during the past month. The news of the fall of Singapore, received by us only two days before, is no doubt a news of the major defeat of the British arms. The loss of Singapore virtually rendered this country now exposed to enemy attacks from sea and land. At a time of a gloom and despondency like this when everything looks disappointing and disheartening, the example of the heroic struggle carried on by the Chinese people and their determination to stand shoulder to shoulder with India to fight Japan and the hand held out for assistance by America are the most important factors that send rays of hope to dispel darkness and to cheer us up and kindle in us the hope and keep up the flame burning. Roosevelt, Stalin and Chiang Kai-Shek are the three persons whose combination and co-operation with the United Kingdom and India will, I feel sure, save not only India and the British Commonwealth but the whole world from the great catastrophe to which it is being led and driven by the Axis Powers. Democracy and civilisation look up to the Generalissimo as one of their saviours and protagonists. And the confidence which the presence of our distinguished guests have inspired in the whole of India for the ultimate success of these great principles for which the Allies stand is the real secret of the universal tributes paid to them throughout the length and breadth of this country.

Before concluding, I would like to refer to one particular trait in the character of the Generalissimo. It is, to describe in his own words, his regard for his words and his burning desire to keep the nation above everything else. In the book which I have in my hand, which is written by Madame Chiang Kai-Shek, she has given extracts from admonitions which the Generalissimo had given to two of his generals just prior to his departure from Sian. He says to remember this thing:

"That if I have any selfish motives or do anything against the welfare of the country and the people, then anybody may consider me a traitor and may shoot me on that account.

If my words and deeds are in the least insincere and I neglect my principles and revolutionary ideals, my soldiers may treat me as their enemy and may also shoot me.

From my diary and the other documents you can see whether you can find one word which is to the detriment of the revolution. If you can find one such word here, I am still in Sian and you are at liberty to condemn and kill me. On my part I am glad that I have always done what I have taught other people to do, namely, to be sincere and disinterested, and I can say in all confidence that I have done nothing of which I need be ashamed."

This is the man whom we are honouring today. This is the man who has kept his diaries open and whose life is an open book for anybody to read. That is the secret of his greatness.

In conclusion I will quote a line from a great Sanskrit poet:

"Theerthee kurvanthi theerthani sadhavo dinavatsalah."

"Great men full of compassion for the downtrodden sanctify the shrines themselves and places of worship by their holy and august visits to such places."

India, therefore, rightly feels herself honoured by the presence of the Generalissimo and Madame Chiang who have pre-eminently dedicated their lives to the service of China and the cause of justice, righteousness and Democracy which is the common cause of the whole civilised world.

I have, therefore, no doubt that this House will carry the Resolution with unanimity and acclamation.

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

"That upon the occasion of the visit to India of Their Excellencies Generalissimo Chiang Kai-Shek and Madame Chiang, this Assembly do place upon record its high appreciation of the honour done thereby to India and its heartfelt admiration of the outstanding services rendered by the Generalissimo to China and the world in combating a power against whose aggression China and India are now happily allied."

Mr. Govind V. Deshmukh has given notice of an amendment: I do not know whether he wishes to move it.

Mr. Govind V. Deshmukh (Nagpur Division: Non-Muhammadan): No, Sir I do not wish to move it, but I should like to speak on the motion.

Mr. President (The Honourable Sir Abdur Rahim): That is another matter.

Syed Ghulam Bhik Nairang (East Punjab: Muhammadan): Sir, on behalf of my Party I rise to support whole-heartedly the Resolution which has been moved by the Honourable the Leader of the House. In supporting a Resolution of this kind I do not think it is necessary to make anything like a speech, especially when I find after listening to the speech of the Honourable the Leader of the House that he has put before us all the facts relating to the significance of the visit of the Generalissimo to India, as well as all that he has done not only for the cause of China, which was, of course, the primary object to which his activities were naturally directed, but really for the cause of justice and democracy and liberty and freedom throughout the world. When such a distinguished personality as Generalissimo Chiang Kai-Shek visits our country, knowing as we do his pre-eminent position in China and all that he has done in China and all that he stands for, it is natural that we should feel honoured by the visit of such a distinguished visitor, especially at a time when we know that the cause which he has at heart and the cause for which India stands happen to be identical, and he takes the trouble of coming over to India to cement the relations of friendship and co-operation which have now come to exist in a very definite form between China and India and the British Empire. It is impossible to imitate the eloquence and fervour of the speech made by the Honourable the Leader of the House on this subject, and I have, therefore, indicated at the very start that I am not going to make anything like a speech. I join whole-heartedly on behalf of my Party in extending a welcome to the Generalissimo and support word for word the motion which has been moved. I am more especially led to do this, knowing as I do that China is a country which like India represents not only one community or faith but a conglomeration of faiths and communities and I know that as many as about eight crores of my own Muslim brethren are there, whose fate hangs in the balance and depends on the success of the cause which the Generalissimo represents. I, therefore, whole-heartedly support the Resolution.

Mr. Akhil Chandra Datta (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, on behalf of the Party to which I have the honour to belong I associate myself most whole-heartedly with all the sentiments conveyed in the motion of the Honourable the Leader of the House. We associate ourselves with every sentiment and in fact with every word that he has said on this motion. I shall not mar the effect

[Mr. Akhil Chandra Datta.]

of that most admirable speech we have listened to from the Honourable the Leader of the House by any lengthy speech of my own. We are overwhelmed really by the feeling of honour done to India by the visit of the illustrious man, one of the greatest men of the present day, in the world. I, however, very much doubt if India today deserves this honour. There is an affinity of culture and civilisation between India and China. We all recognise it. But there is a wide gulf between the India of today and the China of today. China is free. India is enslaved. China is strong. India is weak, unarmed, disarmed. China is united, but here there has been going on a process of vivisection for about 150 years. In China just now, every man, every woman, every child is a soldier—the Honourable the Leader of the House has told us that the Chinese are a nation of soldiers. As compared to that, what is our position in India today? We want to fight shoulder to shoulder with the Chinese against aggression. We have the heart to do it, we are keen for doing it, but we have not the power to do it. Our hands and legs are tied. We are not in a position to support our Chinese brethren materially in their fight against aggression. India's economic potentialities are immense, but actually the economic power is almost nil.

Mr. President (The Honourable Sir Abdur Rahim): I would ask the Honourable Member to consider whether this is an appropriate motion on which to ventilate domestic grievances.

Mr. Akhil Chandra Datta: Sir, I want to tell the House how deeply we feel honoured by the visit of Their Excellencies, particularly in view of the wide difference that now exists between China and India, and I also want the august and distinguished visitor to know that in his fight for freedom for the whole world, he should carry India with him. That is the object with which I am mentioning all this. Sir, I yield to none in this House in my admiration for the great man to honour whom, to appreciate whose services this motion has been moved, and I, therefore, associate myself most gladly and whole-heartedly with this motion.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-Official): Mr. President, on behalf of my Party, I desire whole-heartedly to associate myself with the welcome motion that has been placed before the House by the Honourable the Leader of the House. Sir, I shall not attempt to dilute or attenuate my support by the indulgence of any political infusion. I shall confine myself strictly to the Resolution that is before us, and may I, in passing, congratulate the Honourable the Leader of the House on what I consider to be the unanimous opinion of India in its appreciation of welcome to this great Chinese Generalissimo. I believe, I stand unique in this House in that I was personally acquainted with Li Hung Chang and Dr. Sunyat Sen, two former Presidents of the great Chinese Republic. I was also in China during the Boxer Rebellion in 1900 and, I therefore, feel I am in an unique position to compare the China of 1900, as I saw it then, with the China of 1942 as we see it today. The great advancement made by this country is not comparable with its condition of 1900. At that time China was a country honey-combed with coteries of secret societies called Boxers, and there was no unity after the fall of the last Emperor. Today, except for the puppet Government set up by the Japanese, China is a powerful united country, and this is, in a large measure, due to the skilful leadership of the great Generalissimo

Chiang Kai-Shek who is with us today as a guest of India. And we in India welcome him as a great leader of a great nation which has developed under the Generalissimo's leadership.

Sir, I look upon His Excellency's visit as a symbol of a nation closely allied to India steeped in a tradition and a history which none will deny has been the mainspring or a nucleus of the great culture, knowledge and science from which it has spread to the rest of the world and to which the world owes a great debt. This is the nation from which the Generalissimo comes and has honoured India with a visit. Sir, none in this House will deny or doubt in any way the great and noble efforts of the Chinese people for the past five and a-half years against its aggressors, a highly militarised nation—Japan. This long resistance was for the greater part of this period performed by China standing alone, handicapped in arms and munitions and the necessities of modern warfare. And one is lost in admiration of the great resistance and bravery which this nation has displayed against a ruthless foe—Japan. Today with the aid of our Allies it has driven Japan out of most of its country. Indeed, one would not be wrong in saying that the tide is turning in favour of China. This great change has been due almost entirely to the genius and leadership of this great Generalissimo whom we are welcoming today. Sir, the enemy is at the very doors of India. Singapore, Malaya and a part of Burma are in its hands and our united forces are today stoutly resisting any further advance into Burma and are protecting the Eastern borders of India. But we are fortunate that we have today the great and valuable assistance of a large Chinese Force which is sharing the dangers of war with English, Australian and Indian troops, and together they are safeguarding our frontiers, and I do hope, in fact I feel sure, that the day is not far distant when the forces of China and Great Britain and its Allies will together recapture the territory that has fallen into the hands of Japan; that we will together capture Malaya and Singapore and other parts of the Far East. Sir, I look upon Their Excellencies' visit to India more or less as a fore-runner of a stable union between two great nations—China and India, who together have a population of 800 millions, one third of the population of the world. I go further, Sir, and hope that this visit will be the means of cementing a lasting co-operation and union between our two countries. I also hope that the broad outlook which the Generalissimo has displayed in the various contacts he has established with Indian leaders during his stay in India will lead to a better and closer understanding and co-operation between all parties in India so that unitedly we shall be able with the help of the Chinese forces to stop any further encroachment into India. That that time has come none will deny, and if His Excellency's visit will in any way expedite the unity which India today so urgently needs, our welcome is all the greater. India, along with China, stands as the symbol of democracy, and I only hope that it will not be long before unitedly these two nations with our Allies will secure victory over these gangster dictators—Hitler, Mussolini and the Japanese.

Sir, I feel my support to this motion would be incomplete if I did not refer to the great and wonderful part played by Her Excellency Madame Chiang Kai-Shek and I am sure I am voicing the opinion of India when I say, that by her great gifts, oratorical and otherwise, her charming personality and character, she has entered deeply into the hearts of the womanhood of India who look upon her as what a wife should be to a

[Lt. Col. Sir Henry Gidney.]

great leader like her husband the Generalissimo and to her we desire also to pay homage and a hearty welcome to our country, India. Sir, I support the motion.

Sir Henry Richardson (Nominated Non-Official): Sir, I feel that in supporting the motion made by my Honourable friend, Mr. Aney, this House does honour to itself as well as to Their Excellencies Generalissimo Chiang Kai-Shek and Madame Chiang, for it is surely an elemental virtue to recognise true greatness in men and women of another race. It is sometimes difficult to estimate the true quality of the leaders of countries other than our own, but in the present instance, I think all will agree no such difficulty exists, for those whom we now honour are outstanding in the world for their strength of purpose, their wide vision and the services they have rendered to the cause of civilization.

In honouring them, we pay tribute also to the gallant people of China who for nearly five years have waged, with unsurpassed heroism, a struggle against those who, in the East, bid fair to outdo their Nazi partners in ruthlessness and barbarism.

Five years ago, those of us who weighed up the chances of China and Japan in the great struggle which was then commencing were sick at heart, for we felt that the Japanese, by reason of their greater industrial development and their more highly equipped armies, would speedily triumph over the people of China. But in that dismal forecast, we overlooked the power of the human spirit. Never has that power been more strikingly displayed than in China, and it is,—thanks to that spirit,—that Japan has failed to conquer and that the tide of battle now appears to be turning in favour of China.

It is, therefore, a matter of great pride that at this crisis in human affairs, India and China should stand forth as allies against a nation which is animated by a spirit hateful to both countries. In this great struggle, the visit of the brave Marshal and his equally brave wife, to this country, has served to inspire us with fresh courage, and to make us resolve that however dark may be the days ahead, we will persevere whatever the cost until victory is accomplished.

(At this stage, Mr. Govind V. Deshmukh rose in his seat to speak.)

Mr. President (The Honourable Sir Abdur Rahim): I thought that Leaders of Parties had spoken on behalf of their Parties. The question is :

“That upon the occasion of the visit to India of Their Excellencies Generalissimo Chiang Kai-Shek and Madame Chiang, this Assembly do place upon record its high appreciation of the honour done thereby to India and its heartfelt admiration of the outstanding services rendered by the Generalissimo to China and the world in combating a power against whose aggression China and India are now happily allied.”

The motion was adopted.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

Mr. President (The Honourable Sir Abdur Rahim): Further consideration of the Bill further to amend the Indian Penal Code. Sardar Sant Singh will continue his speech.

Sardar Sant Singh (West Punjab: Sikh): Sir, I was speaking last evening on clause 2 of the Bill. At the time the House rose I was

submitting for the consideration of the House this point, namely, that one of the arguments advanced by the Honourable the Law Member for introducing this amendment in the Indian Penal Code was that the amendment aims at reconciling or determining the conflict of decision between the Allahabad High Court and the Lahore High Court. I submitted yesterday that the ruling given by the Lahore High Court is now 17 years old. During this period the Legislature did not consider it necessary that the two views should be reconciled. The difference in the views lies only on this point, whether the clause controls the words, "supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance" or of any other kind where it is *ejusdem generis* with it, or it includes other forms of assistance too. The Allahabad High Court held that the words meant means of the same kind as are mentioned above, while the Lahore High Court went further and enlarged its scope by saying any form of assistance would come under these words. This difference is now being done away with by adding the words "or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension." I submit that the argument that one of the objects of the Bill is to reconcile the two views is not a very important consideration in bringing forward this Bill.

Then, further on, another point which I want to bring to the notice of the Honourable the Law Member is this. By adopting this clause as it stands we are creating an anomaly in our Statute-book and that anomaly is this. Those who are governed by the Indian Army Act and those who will not be so governed will be placed on different footings before the law. Those who are governed by the Indian Army Act will not be committing any offence if they harbour a deserter, while an ordinary man, if he harbours a deserter, will be guilty under this interpretation of the law. I think I am making it clear. A soldier who is governed by the Indian Army Act, an officer who is governed by the Indian Army Act, if he harbours a deserter, would not be guilty unless the word "harbour" is taken to mean concealment or giving active assistance, but under the new definition of "harbour", if a layman, a non-army man entertains or offers a drink to a soldier deserter, then he will be guilty under the Indian Penal Code. That will be the anomaly.

The Honourable Mr. M. S. Aney (Leader of the House): Also under the Prohibition Act.

Sardar Sant Singh: Oh, yes. Under the Prohibition Act—we have not got a Prohibition Act in the Punjab and we are not familiar with it.

The Honourable Mr. M. S. Aney: It is very good. You are very fortunate!

Sardar Sant Singh: My submission is that a law should not be enacted which creates two systems of offences, one different from the other, on the same premises. The third point which I want to emphasise is, though I sympathise with the Honourable the Law Member that the situation in the country has created certain separate questions on account of the presence of prisoners of war in this country, there is no doubt about it that if those prisoners escape and are harboured in the country, some provision should be made for punishing those who practically go against the interests of the country by harbouring them. He has my full

[Sardar Sant Singh.]

sympathy for that, but my Honourable friend, Mr. Neogy, was perfectly right when he referred the Honourable the Law Member to the use of the Defence of India Act. The Defence of India Act is a temporary measure. It is a measure which will remain in force during the period of war and a year after, while this permanent amendment of the Indian Penal Code will be for all times till it is repealed by the Legislature later on. That is the difference. The Defence of India Act, as it stands today, has practically resulted in the repeal of the ordinary laws of the country. It is being used for purposes which are entirely outside the scope of the Defence of India Act. But this would not be a matter in which the Defence of India Act cannot legitimately be applied. The Defence of India Act is intended for the purpose of dealing with offences which affect war effort, and those prisoners who are in the country for the time being, if they escape and are harboured by the people of this country or people of any nationality here in India—it will be legitimate to expect that the Defence of India Act should apply. I am one of those who have been fighting for the proper use of the Defence of India Act in this House. While the legitimate use of that Act is not being made, it is being extended to purposes which are quite alien to that legislation.

I need not tell you that in one district in the Punjab even revenue is being collected under the Defence of India Act! 498 cases are being punished under the Defence of India Act. I protested against the illegitimate use of it. While a legitimate use of the Government of India Act is not being made, the Penal Code is being amended in such a way that it should have fallen legitimately within the scope of the Defence of India Act. (Interruption). They are being prosecuted under the Defence of India Act in the Sargodha District. What I am bringing to the notice of the Honourable Member is this. Where the Defence of India Act is a proper weapon to be used, this House will not object to the use of the Defence of India Act. If this amendment is intended for the purpose of protecting the war prisoners in this country who are not of course offenders in the real sense of the term as it is used in these sections of the Indian Penal Code, this House will welcome an amendment of the rules under the Defence of India Act. But this Bill gives too much power and makes an offence of what is otherwise a lawful act. Therefore, I submit that this matter requires to be considered. With your permission I would make a suggestion to the Honourable the Law Member. If he permits this Bill to go to a Select Committee, proper amendments can be made in the section which will make it quite acceptable to this House. In his last speech, he has practically accepted that the Bill will not apply to section 157 of the Indian Penal Code. There is a lacuna left according to him and that lacuna ought to be closed. In its present form, I am afraid I will have to oppose this clause as it stands.

The Honourable Sir Sultan Ahmed (Law Member): May I be allowed to say one or two words, which might be helpful for further discussion and may perhaps put an end to it. There was an amendment tabled by my Honourable friend, Mr. Lalchand Navalrai, which he wanted to move last evening. It was this:

“That in clause 2 of the Bill to the proposed section 52A the following exception be added:

Exception.—(1) This definition does not extend to the case in which the harbour is by the husband or wife of the person harboured.

(2) That this definition will not extend to section 157 of the Indian Penal Code.”

If it be of any help to the House at this stage, I am prepared to accept the principles underlying both these exceptions but I am afraid, as drafted, it is wholly unacceptable and if the House and you, Sir, will give me the permission to have this re-drafted and placed before the House tomorrow, I think the whole matter can be finished.

Mr. President (The Honourable Sir Abdur Rahim): Is that the desire of the House?

(Several Honourable Members: "Yes".)

Very well. The debate on this Bill will stand over till tomorrow as suggested by the Honourable the Law Member

THE INDIAN BOILERS (AMENDMENT) BILL.

Mr. H. C. Prior (Labour Secretary): Sir, I move:

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

I need not say much about this Bill. In 1929, this House approved of an amendment of the definition of 'boiler' and as a result of that amendment the words 'for use outside such vessel' were taken out of the definition. As an incidental result of that amendment, these sterilizers or disinfectors have been brought within the definition of 'boiler'. They are not capable of being examined in the manner laid down under the Boilers Rules and they would require an entirely different technique and if they were made subject to examination there would be likely to be considerable delay in hospitals. We have not found any necessity for having them examined and we now propose to rectify what we have found to be an unexpected mistake in bringing them under the definition of 'boiler' in 1929. Sir, I move.

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

"That the Bill further to amend the Indian Boilers Act, 1923, 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.

Mr. H. C. Prior: 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 MULTI-UNIT CO-OPERATIVE SOCIETIES BILL.

Mr. J. D. Tyson (Secretary, Department of Education, Health and Lands): Sir, I move:

"That the Bill to provide for the incorporation, regulation and winding up of co-operative societies with objects not confined to one province, be taken into consideration."

There are some 45 or 50 of these multi-unit societies in existence. They have mostly come into existence in connection with the activities of departments and services which go beyond the boundary of an individual province. Take, for example, the big railway systems of the country which pass through a number of provinces, or the Posts and Telegraphs services. It is, I think Honourable Members would agree, a good thing and an inevitable thing that in connection with services of that extent there should be facilities for the members of those services to enjoy the advantages of the co-operative movement, wherever their duties may take them. In the past no difficulty has arisen from the fact that the activities of these co-operative societies transcended the boundaries of particular provinces. The Central Legislature passed an Act in 1912 repealing a previous Act of 1904, and it dealt with co-operative societies for the whole of India; but the difficulty that has now arisen comes out of the Government of India Act of 1935.

Co-operative societies, as Honourable Members will be aware, figure in the Provincial Legislative List (List II, Item 33). After the commencement of this Act it was discovered that those societies which transcend provincial boundaries are corporations with objects not confined to one unit of the Federation. Therefore, although co-operative societies are a provincial subject, when a co-operative society has activities beyond its own province, it becomes a corporation with objects not confined to one unit of the Federation, and the Legislation—and what is perhaps an even more important point—executive jurisdiction in respect of such co-operative societies vests in the Central Government and not in the Provinces. It follows from that that any provisions of the Co-operative Societies Act of 1912, which is a Central legislation, or of the Provincial Co-operative Societies Acts which have been passed since 1919 and which purport to vest executive jurisdiction in respect of multi-unit societies in the provinces, must have no valid basis at all.

Now, Sir, the position thus disclosed was considered by the Conference of Registrars of Co-operative Societies in December, 1939. That Conference appointed a Sub-Committee consisting of the Honourable Mr. V. Ramadas Pantulu, President of the All-India Co-operative Institutes Association and, if I may say so, an authority on co-operation, Diwan Bahadur C. M. Gandhi, the President of the Bombay Co-operative Insurance Society, the Registrars of the Punjab, the United Provinces and Bengal and a representative of the Government of Bombay,—a very competent Sub-Committee—to examine the question and to make recommendations. The Sub-Committee unanimously recommended that legislation should be undertaken by the Central Government to validate the position of these societies already in existence and, as a corollary, to make some provision for any such societies as might in the natural way come into existence in the future. The legislation proposed by that Committee is the legislation which is now before the House. Honourable Members will see that the

Bill seeks to do two things,—to validate the position of the existing societies and to provide for the regulation and control of such societies as may be formed in the future. The desirability of Central legislation and the lines of such legislation have been accepted in all essentials by all the Provinces. I hope, therefore, that Honourable Members will accept the necessity of this measure and give it their approval. Sir, I move.

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

"That the Bill to provide for the incorporation, regulation and winding up of co-operative societies with objects not confined to one province, be taken into consideration."

There are two amendments to this motion. There is one in the name of Maulvi Muhammad Abdul Ghani. Does the Honourable Member wish to move it?

Maulvi Muhammad Abdul Ghani (Tirhut Division: Muhammadan):

Yes, Sir. I move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st August, 1942."

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

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st August, 1942."

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, I move:

"That the Bill be referred to a Select Committee consisting of Maulana Zafar Ali Khan, Mr. V. T. Dehejia, Sardar Sant Singh, Mr. H. G. Stokes, Shams-ul-Ulema Kamaluddin Ahmed, Khan Bahadur Sir Abdul Hamid, the Honourable Mr. N. R. Sarker and the Mover with instructions to report on or before the 31st July, 1942, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

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

"That the Bill be referred to a Select Committee consisting of Maulana Zafar Ali Khan, Mr. V. T. Dehejia, Sardar Sant Singh, Mr. H. G. Stokes, Shams-ul-Ulema Kamaluddin Ahmed, Khan Bahadur Sir Abdul Hamid, the Honourable Mr. N. R. Sarker and the Mover with instructions to report on or before the 31st July, 1942, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Now, there will be a debate, both on the motion and the amendments.

Maulvi Muhammad Abdul Ghani: Sir, I think there is no necessity for such a legislation at the present moment. It is quite premature as you will find from paragraph 2 of the Statement of Objects and Reasons that the number of multi-unit societies in existence at present is small. Further it says:

"It is proposed to entrust the functions of the Central Registrar to the Provincial Registrars until the growth in the numbers of multi-unit societies makes the appointment of a Central Registrar necessary."

That being the case, what is the hurry to pass this legislation? Let the number of such societies be created and then there will be necessity for such a piece of legislation. This legislation although it may be passed by this House, will not be in operation because all the functions either under this Act or under the previous Acts will be the same. The Registrars of the Co-operative Societies in the various provinces will continue to exercise the functions as before even under this Act. That being the position, I do not understand why there should be any necessity for such a piece of legislation at such a time as the present.

[Maulvi Muhammad Abdul Ghani.]

It is clearly pointed out in the clauses of the Bill that the Societies will continue to function under the various Registers of Co-operative Societies in the various provinces. Besides, it is pointed out that there are only 40 or 45 multi-unit co-operative societies. The Honourable Member is not definite even up till now what is the actual number of such multi-unit societies. With such a vague and indefinite information, I say it is regrettable that this piece of legislation should come from an enlightened Government Bench like the present one. The Government should know what is the actual number of such societies. The Honourable Member said that the Associations under railway systems come under it. Well, then I think the number of such Associations almost take up the whole number 40 or 45. The railways are working under an Act of the Government of India, the Indian Railways Act. I think there is hardly any necessity for an Act like the multi-unit Co-operative Societies Act but what was required was amendment of the Railways Act. One thing is very characteristic of the Bills of the official Benches. Whether it is lengthy, say whether it contains innumerable sections or only a few sections, whether there is immediate necessity or not, the motion for leave to introduce a Bill is made and then Bills are introduced. Just after two or five days or say within a week, the next motion comes that the Bill be considered and passed. Whenever anything like that comes from the non-official Benches even for a change of a word, although that change is to be accepted by the Government Benches, yet our misfortune is that that Bill is circulated for eliciting public opinion and then referred to the Select Committee. Without reference to the Select Committee, I have never seen any Bill sponsored by non-official Members has been enacted into law. I fail to understand this kind of logic. I hope my Honourable friend who is a reasonable person will agree with me that he will lose nothing if this Bill goes to circulation for eliciting public opinion. He will say, well, experts have been consulted. But the reasons which he just gave do not justify the necessity for passing this Act just now. In the meantime if the Bill is circulated, he will not lose anything, rather he will have some opinions which may help him to come to the right conclusion whether such a piece of legislation is needed at all. With these words, I commend my motion which I have already moved and I hope the House will support it.

Mr. Muhammad Azhar Ali: My Honourable friend, Maulvi Muhammad Abdul Ghani, has stated before the House and so Mr. Tyson has done that the number of multi-unit societies ranges between 40 and 45 only and as there was mention of multi-unit co-operative societies in the Government of India Act, 1935, therefore, these societies have arisen. To my knowledge they have no special names given to them in the Provinces. It is said that these multi-unit co-operative societies have been created by the Government of India Act, 1935, but I say that they are absolutely foreign to the principles of co-operation enunciated and known so far in British India. There may be multi-unit societies in Great Britain, but they are not so generally known in British India. If the matter was put before some Committee of Registrars in 1930 and if they gave their assent to it, I submit that alone cannot be a reason for enacting this legislation so hurriedly in this House. When the multi-unit Bill is enacted into law, it will be working according to the principles of co-operation laid down in the Act of 1912. The registration,

the operation, the audit and inspection and everything will be done according to the Act of 1912, and also the Provincial Acts. So far as the principles of co-operation are known in India and to Indians, the principle is that co-operative societies should be confined to a compact area. Now to fling these societies long and wide and to get them formed from the Punjab to Assam and from Cape Comorin to Kashmir, I submit it is absolutely impracticable. There may be some societies of Indian telegraphists and some societies of railwaymen but so far as I know they are practically confined to one province. It was quite advisable for the Government of India to bring an Act for the working of these societies in a separate enactment, apart from the Act of 1912. But what I find here is that the registration will be carried out simultaneously in two Provinces. Regulations will have to be made either in one Province or they will be made in different Provinces. For the sake of a few societies which are said to be cropping up to order these days, it is no use complicating the whole position and machinery.

Sir, I find that multi-unit society is to a certain extent defined in the Statement of Objects and Reasons. The definition of multi-unit co-operative societies as given in the Statement of Objects and Reasons is this:

"Multi unit co-operative societies, that is to say, co-operative societies operating over more than one province are 'corporations' within the meaning of entry 33 in List I of the Seventh Schedule of the Government of India Act, 1935, and the legislative and executive jurisdiction in respect of their incorporation, regulation and winding up is exclusively Central."

Under these circumstances, I submit that the scope and working, will be so very complicated that it cannot be said to come under the Act of 1912. Sir, so far as I remember, the principles of co-operation which have been defined by the Maclagan Committee, which was considered to be an authority on Co-operation in India, never dealt with this question. Before I quote from this Report, I would say that there are three kinds of Co-operative Societies known in India, namely, (i) Primary Societies; (ii) Central Banks, and (iii) Provincial Banks.

Now, under what category are we going to put this multi-unit society. If it is called a Primary Society, then, I think, under the authority of this Maclagan Committee Report it cannot be working according to the principles of co-operation. Even if it is admitted that it is a Primary Society, how are we to ascertain the assets of the members of the society who will be far flung from each other; then how is the money to be realized from those people who borrow money under these Societies. Therefore, I say that it will be very difficult to enact and work in details these societies. As I said, in paragraph 25 of the Maclagan Committee Report, it is so stated:

"In considering such applications there are several points to which it is necessary that attention should be directed. The area of operations should for instance be clearly defined and should conform to the spirit underlying section 6(1) of the Act. By this we mean that the field of the society should be sufficiently restricted to allow members to be mutually acquainted and to be in a position to exercise an effective mutual control. It is a good general rule that there should be one society to one village and one village to one society."

This of course refers to village societies (Primary societies) but it also refers to other forms of credit societies as well and the general rule is "that the field of the society should be sufficiently restricted to allow members to be mutually acquainted". Now, Sir, I ask the House to think whether the members of one province of one railway and the

[Mr. Muhammad Azhar Ali.]

members of another province of the same railway will be acquainted with each other's assets and conditions. How can they take the liability of members who belong to other provinces? How can they ascertain what are the assets and liabilities of those members who belong to another province? It is all against the principles of co-operation so far as they are known in India. They may have been exotic, they may have been of foreign origin, but they are not known at least in British India. I have great respect and regard for Mr. Pantlu and those Registrars who are working in the provinces, but my submission is that these general principles, which are the basic principles of co-operation, are absolutely neglected in the formation of this Bill.

Sir, I have dealt with the first category. Now, if they are to be under the second category, namely, Central Banks, I will refer to para. 106 of the Maclagan Report. I will not read the whole paragraph dealing with the 'area suitable for a Central Bank', but I will confine myself to the relevant portion, which reads thus:

"Subject to the above considerations it is always well to adhere as far as possible to administrative divisions and to avoid the creation of banks intended permanently to deal with any area exceeding a district."

Again, my objection is that if you cannot confine it to a district, if you cannot confine it to a Division, are you going to extend it from province to province—from Bengal to Bombay and from Madras to Cape Comorin? This will be impracticable.

Then, Sir, we come to the third category of societies in India, namely, the Provincial Banks. Under paragraph 178 (page 101) of the same Report it is stated:

"The question of inter-provincial lending is one that will certainly acquire more importance as the movement develops, but such transactions are subject to difficulties similar to those which ordinarily prevent Joint Stock Banks from lending in areas where they have no branches, and a Provincial Bank may legitimately be reluctant to sanction them, unless the borrowing bank has been long enough in existence to prove its worthiness of credit and the lending bank has full opportunities of itself examining and verifying the financial position of the borrower."

Sir, after referring to these restrictions and these very cautious enunciations of the principles of co-operation, I refer to what my Honourable friend, Mr. Tyson, has said, *vis.*, "Well, there are Railways running from the Punjab to Bengal and from Bengal to the Punjab, and, therefore, it is feasible to form such societies", I would submit that no one who knows the working of Co-operative Banks, of Primary Societies, of Central Banks, of Provincial Banks, or other forms of Credit Societies, would never recommend the formation of such societies on the principles of co-operative banking. Sir, it is very easy to enact, but it is very difficult to successfully work them later on. I have myself an experience of these co-operative banks and though I am reluctant to say anything about myself, yet I am constrained to say on the floor of this House today. I was a Member of the Maclagan Committee on Co-operation which travelled all round India and Burma. Then, I was a member of Oakden Committee on Co-operation which was formed by the United Provinces Provincial Government to find out the condition of Co-operative Societies in the Province. Then, I had the opportunity and honour of working in an Indian State for four and a half years as Registrar of

Co-operative Societies, and I myself have been an organizer in my own province of primary societies and the Central Bank and also had a share in the formation of a Provincial Bank. Therefore, Sir, I speak with some confidence when I say that these forms of societies may be workable in the opinion of some people but the result of working of these societies will be that there will be liquidation after liquidation; there will be forced liquidation even in the Railways and in the Post Office Societies if formed so widely.

Of course you can realise money from the provident funds; you can realise money in many ways; you can approach individual members who are mutually liable and who form these societies; but I tell you it is very difficult to ascertain the assets of the members and their liabilities or the way in which these members are spending the money which they borrow from these co-operative societies. Therefore, it is not only one objection that I have against the working and enactment of this measure; but I submit that it will play such havoc that in a short time the railway officials and railway servants will have to be very sorry for having joined these societies; and I ask this that so far, throughout the length and breadth of India, whether there are any railway or post office co-operative societies to which Mr. Tyson has referred as multi-unit co-operative societies as he called them. Has he ever heard that in the provinces societies have been liquidated? Of course, members have been ruined and the societies have been liquidated. But in the case of such societies extending from one province to another, it will be absolutely impossible to work their joint liability; and how will the provincial banks find it easy to acquaint themselves with the working of these members and their assets and their qualifications? I know it very well that in these days when these Benches are vacant, you can pass any legislation you like; but it is also our duty to inform the government that such societies used to be called a double-edged sword. It will not only be of harm to the members of the societies but it may in the long run disorganise the whole movement, whether in railways or in post offices. When the societies go into liquidation, what happens? The collector of the district has to issue warrants and decrees against the individuals and their sureties and they have to pay for others from their pockets or go and borrow in the market from the *Mahajans* and pay each others dues. Do you want these Government servants to go and borrow money from the market outside? Still how can one finance them, because it will be very difficult to ascertain their assets and their liabilities even. Therefore, I submit that it will be a very dangerous form of working these multi-unit societies if they are allowed to be formed. With these remarks I move my amendment.

Mr. K. O. Neogy (Dacca Division: Non-Muhammadan Rural): Sir, in rising to speak on this amendment of my Honourable friend to my right, I propose to confine myself to the constitutional issue as I see it involved in the present proposal. It has been stated by the Honourable Member in charge that the occasion for this measure has arisen because of the difficulties created by the Government of India Act of 1935. He has told us that this measure is being promoted in the interests of about 45 to 50 societies which have been organised for the benefit of certain

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Government servants, of departments and services like the railways which operate over more than one province. Naturally, the Honourable Member is anxious to safeguard the interests of the departments and services with which Government are concerned. There is, however, a constitutional difficulty that lies in the way of Government in regard to this matter. Reference has been made to the items in the Federal and Provincial Lists in regard to the incorporation of companies and also co-operative societies. The House well understands the scheme of distribution of legislative powers on which these different lists of legislative subjects were based. The scheme is embodied in section 100 of the Government of India Act, which I do not propose to read out. It is well-known that the lists regarding the Federal as well as Provincial subjects are intended to be very rigid in their scope, so much so that if a legislation undertaken in the Federal field were found to trench upon the province of a subject mentioned in the provincial list, a suit would lie for the purpose of determining the constitutional authority of the Legislature that passed that measure. We must not forget, therefore, that we have to consider different water-tight legislative jurisdictions.

I shall now come to the items in the two lists that bear on this particular measure. Item 33 in the Federal List reads as follows:

"Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including corporations owned or controlled by a Federated State and carrying on business only within the that state or co-operative societies and of corporations whether trading or not with objects not confined to one unit."

Now, Sir, one finds that in the earlier clause of this particular item, co-operative societies are excluded specifically from the scope of legislation under this item of the Federal List. If we now turn to item 33 in the Provincial List, we find that this item deals with the incorporation, regulation and winding up of corporations other than corporations specified in List I—unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies. So far as co-operative societies are concerned, they stand as a class apart from all the other enumerated subjects in this list, and this is an item which is exclusively a provincial subject for legislation. I tried to trace the history of these two items as they are now found in the legislative lists appended to the Government of India Act. We find an illustrative list appended to the White Paper in the first instance; and this is what we find in item No. 25 of the list, the exclusively Federal List, as contemplated in the White Paper. It reads as follows:

"The incorporation and regulation of banking, insurance, trade, finance and other companies and corporations."

Then coming to the Provincial List, item 23 deals with co-operative societies alone. It is an item that stands in solitary grandeur and not mixed up with other items as we find it subsequently to have been in the present Act. Then when this came up for consideration at the hands of the Joint Parliamentary Committee, they altered the wording of some of these entries in the two lists, and this is what I find in the lists appended to the Report of the Joint Parliamentary Committee bearing on these subjects. The first one, the Federal one, proposed item No. 21

of the Joint Parliamentary Committee's Report—'incorporation and regulation of corporations for purposes of subjects, corporations having objects not confined to one unit, banking, financial and trading corporations not being co-operative societies'. Then when we come to the Provincial List, we find that the item, proposed No. 84, is co-operative societies, without any qualification. Co-operative societies constitute an item of provincial legislation.

Now, in making their Report the Joint Parliamentary Committee stated, —and this will be found in para. 231 of their Report,—that "since the publication of the White Paper these lists had been subjected to careful scrutiny by the Government of India and Provincial Governments whose criticisms have in their turn been examined by the framers of the original Lists; and the results of this scrutiny and examination have been placed at our disposal. In the light of this further information, we are satisfied, (though the final form must be a matter for the draftsman) that the revised lists which we append to this chapter represent a workable and appropriate allocation of legislative powers". So that, for all practical purposes we might take it that the wording as adopted by the Joint Parliamentary Committee represents the considered judgment of that Committee, and all that was entrusted to the draftsman was merely to put the items in their proper legal form. Certainly the draftsman could not have arrogated to himself any greater authority.

Now, Sir, the Bill as it was drafted by the draftsman contains the present wording of item No. 33 as it now stands with the exception of the words 'relating to corporations owned or controlled by a Federated State and carrying on business entirely in that State', these words having been added by way of amendment when the Bill was under discussion in the House of Commons at the instance of the Attorney General in pursuance of certain suggestions received from the Indian States. Therefore, my contention is that in interpreting the present items in these two lists, we are to be guided by the language used by the Joint Parliamentary Committee, and although the manner in which this item has been worded is rather more cumbrous than the manner in which they were worded by the Joint Parliamentary Committee, there is no doubt in my mind whatsoever that co-operative societies were not intended to be included within the scope of federal legislation.

Now, Sir, may I read once again item No. 33 of the Federal Legislative List *minus* the wording relating to organizations in Indian States which had been subsequently introduced, and let us see how the whole thing reads: " 'Corporations', that is to say, the incorporation, regulation and winding up of trading corporations including banking, insurance and financial corporations, but not including co-operative societies and of corporations, whether trading or not, with objects not confined to one unit". I daresay my friend's argument will be that although corporations are excluded specifically from the earlier portion of this clause, the moment a co-operative society has objects not confined to one unit, it ceases to be a co-operative society and is to be governed by the general reference to corporations, whether trading or not, with objects not confined to one unit. Now, Sir, to my mind that would be an argument wholly untenable having regard to the fact that in the Provincial List there is no exception or limitation in regard to co-operative

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societies. If it was intended that a portion of item 33 of the Federal Legislative List might in certain instances include co-operative societies, although in the earlier part of that very item co-operative societies are excluded, then in order to limit the scope of the Provincial Legislative List dealing with co-operative societies, it should have been mentioned, as it has been mentioned in other items, that the jurisdiction of the Provincial Legislature over co-operative societies as given to the Provincial Legislatures under that item is subject to the jurisdiction which the Federal Legislature might exercise in regard to co-operative societies whose objects might not be confined to one unit.

Now, Sir, apart from this question which, I maintain, has to be considered very seriously by us before we agree to the measure now before us, I make a further submission. I would now assume that it is open to us in the exercise of jurisdiction conferred upon us under item 33 of the Federal Legislative List to legislate for multi-unit co-operative societies which are at present governed by provincial legislations. Now, is it the proper procedure for discharging our obligation in that matter? As must be the case of the Government, the moment co-operative societies extend their business beyond the borders of a province, they cease to be co-operative societies for the purpose of the provincial legislative list. In that case they have to be governed by a comprehensive legislation to be undertaken by us regulating corporations generally whose objects are not confined to one unit. Now, Sir, what are we doing, or what are we being asked to do in this particular Bill? We are asked actually to give our blessings to all the different pieces of provincial legislation that may be in existence at the present moment on the subject. We are virtually shirking our responsibility. We are asked to recognise and validate all the provincial legislations on the subject that may be in existence at the present moment. What we are actually being asked to do is not to pass a legislation as we are expected to do by virtue of item 33, again assuming that it has any application to this particular case. What we are actually being asked to do is to project the legislative authority of one province into another, under cover of a central legislative enactment. I daresay the Government have recognised the position in which they may land themselves, because if we stick to this procedure there may be as many laws in operation in one particular province as there may be provinces in the whole of India, and a poor Provincial Registrar would be expected to administer not merely the law of his own province, but the law of the different provinces in regard to all the multi-unit co-operative societies

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Is it a point of order you are raising?

Mr. K. C. Neogy: When I conclude I will say that this argument is addressed as much as to the Chair by way of point of order as to the Honourable Member in charge—I have not yet concluded.

As I said, there will be absolutely no uniformity in regard to legislation on this subject, and that will be a matter of serious consequence not only in regard to the practical day to day administration of the subject in the different provinces, but it may also prove a fruitful source of litigation. I daresay the Government are aware that due to rival

legislative jurisdictions in regard to incorporation of companies which the Dominion Legislature of Canada, and the Provincial Legislatures of Canada enjoy, there has been a number of cases in which disputes had been raised as regards the propriety of the exercise of jurisdiction and in which restrictions had been sought to be put by different Legislatures in the working of companies which might be incorporated under the Dominion enactments.

I mention the Canadian example only because I happen to be well acquainted with it through my limited studies. I do not know whether any such position has arisen in any other country as well. As my Honourable friend, Sir Cowasji Jehangir, has anticipated me, I make these submissions not merely in the hope that Government will consider their position more seriously and take advantage of my Honourable friend's motion that the Bill be circulated for the purpose of getting all the different opinions on this subject, but they are addressed as much to you, Sir, by way of a point of order.

Mr. President (The Honourable Sir Abdur Rahim): This question, whether the Chair will take cognisance of a question like this as a point of order, has been raised before. Although I have not yet given any considered ruling on the point, I have come to the conclusion after very careful consideration of the subject, that this really is not a matter which can be or should be dealt with by the Chair on a point of order. A point of order, generally speaking, relates to matters which concern the proper conduct of the proceedings of the House. The question whether the Assembly is competent to entertain a certain proposal for legislation is one of great importance, and, in my opinion, it is for the House to come to a conclusion on that point, as well as other points submitted to the House on the question whether the Bill should be passed or not. I think Honourable Members will fully realise that a question relating to the legislative competence of the Assembly, which may often involve much difficulty and complexity, should not be summarily settled by the Chair on a point of order. In fact, the Federal Court has been established for the very purpose of dealing with these questions and the Chair has really not the facilities or the time and the material on which to come to a satisfactory conclusion on a question of this character so as to be able to decide finally whether the Assembly should or should not consider the particular legislative proposal. I, therefore, hold that this is not a question which should be settled by a ruling of the Chair on a point of order, but I shall consider whether I ought not to give more detailed reasons for the conclusion I have arrived at.

Sir George Spence (Secretary, Legislative Department): I have been asked to say a few words with reference to the question of construction raised by my Honourable friend, Mr. Neogy. I regret that I was not present in the House throughout the whole of his remarks as I was called out for unavoidable reasons, but I was present when he dealt with the only point with which I am concerned. I submit with great respect to him, that his contention regarding Entry 33 in List I is unsustainable. The entry reads:

"Corporations, that is to say, the incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative societies."

[**Sir George Spence.**]

That "not including co-operative societies" takes co-operative societies out of trading corporations, and, therefore, a co-operative society, though it might otherwise have been held to be, and indeed, probably is, a trading corporation, is not within the first element in the entry.

Mr. K. O. Neogy: I have said that. I am sorry that my Honourable friend was not in the House then. I knew that this would be his contention.

Sir George Spence: I was in the House when the Honourable Member anticipated my argument. The entry continues: ". . . and of corporations, whether trading or not, with objects not confined to one unit . . .". Quite clearly, the previous words "but not including co-operative societies" which hang on to the words, "of trading corporations" cannot possibly carry on and take co-operative societies out of the concluding words in the entry. A further point which reinforces that view, if any reinforcement were necessary, is the treatment accorded to the closely analogous case of multi-unit universities. My Honourable friend, Mr. Neogy, I think, had not got before him a corrected copy of entry 33 in List I. When the Act first became law, no specific provision was made for multi-unit universities and it was then held—when I say held, I do not mean held judicially, but the opinion was formed by persons concerned to form an opinion,—that a multi-unit university must be related to entry 33 in List I as being a corporation with objects not confined to one unit. From the point of view of policy it was felt to be wrong that the regulation of a university should become a central matter merely because the university functioned in respect of more than one unit and therefore an amendment was made and the words "but not including universities" were added at the end of entry 33. That is to say, the end of entry 33 now reads, "and of corporations, whether trading or not, with objects not confined to one unit but not including universities". That, Sir, I think gives you a fairly good line for seeing that to take co-operative societies out of the scope of the concluding part, you would have to lump them there with universities and say there, "but not including co-operative societies or universities". That is the short point, and I do not think I have anything more to say.

Mr. K. O. Neogy: 'Co-operative societies' is not subject to any exception in the Provincial List. How is that?

Sir George Spence: Then you have got to fall back on what is known as the *non-obstante* provision in section 100 of the Act, under the operation of which an entry in the Central List prevails against an overlapping entry in the Provincial List.

The Honourable Mr. M. S. Aney (Leader of the House): What about the point of order?

Mr. President (The Honourable Sir Abdur Rahim): It is not a point of order. It is for the House to decide this question along with other questions which are before it. Does anybody else wish to speak?

The Honourable Mr. N. R. Sarker (Member for Education, Health and Lands): Sir, I have heard the speech of my two Honourable friends, Mr. Azhar Ali and Mr. Abdul Ghani, with great attention. Mr. Azhar Ali,

though he has given a motion for sending the Bill to a Select Committee. has not mentioned anything in the Bill which requires the attention of a Select Committee to give it proper shape. Both the speakers thought that the Bill was not necessary. In our opinion, Sir, the Bill is absolutely necessary. We have consulted the Provincial Governments. The question was put to a Conference of the Registrars of Co-operative Societies

and leading non-official co-operative leaders in the country and they are unanimously of the opinion that this validating Act should be passed. Otherwise, what will be the fate of the existing 50 or 60 societies which are working in happy ignorance under their doubtfully valid legal cover. As to my friend, Mr. Azhar Ali's contention, that the principle of co-operation will be affected if the people of Bombay and the people of Bengal become members of the same co-operative societies, in certain cases comradeship is the basis of co-operation and there are certain organisations, for instance, Railways, Postal and Telegraph offices, which are spread throughout the country and if a co-operative society is established among the employees belonging to the same profession or organisation, there is no harm done to the principle of co-operation and it is not going to be hit thereby. This is not for the benefit of a provincial society. Multi-unit societies are big organisations. There are insurance companies, there are banking organisations, there are cane growers' organisations and a lot of others. In Bombay alone there are 15 such organisations, in Madras 5, Punjab 5 and Orissa 6. If this Bill is not passed, they will have to close down with ultimate loss of the members of the societies. That is why Government felt the necessity of bringing in this legislation. We have consulted the Provincial Governments and all of them are in favour of this legislation.

As to the point raised by my friend, Mr. K. C. Neogy, the Provincial Governments were consulted as to whether multi-unit co-operative societies should be placed in the provincial list by an amendment of the Government of India Act and whether we should approach the Secretary of State to amend the Act so that multi-unit co-operative societies can be placed in the provincial list and they were of opinion that it was not necessary and the Bill as drafted was sent to all the Provincial Governments and whatever criticism and points they made have all been considered and found workable and have been incorporated in the present Bill. The Bill before you has the approval of all Provincial Governments.

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 August, 1942."

The motion was negatived.

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

"That the Bill be referred to a Select Committee consisting of Maulana Zafar Ali Khan, Mr. V. T. Dehejia, Sardar Sant Singh, Mr. H. G. Stokes, Shamas-ul Ulema Kamaluddin Ahmad, Khan Bahadur Sir Abdul Hamid, the Honourable Mr. N. R. R. Sarker and the Mover with instructions to report on or before the 31st July, 1942, and the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was negatived.

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

"That the Bill to provide for the incorporation, regulation and winding up of co-operative societies with objects not confined to one province, be taken into consideration."

The motion was adopted.

Clauses 2 to 6 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. N. B. Sarker: Sir, I move:

"That the Bill be passed."

Mr. K. C. Neogy: I desire to say just a few words in reply to the points made by my Honourable friend, the Legislative Secretary, and the Honourable Member in charge, so far as they bear on my arguments. My Honourable friend, the Legislative Secretary, said that if we refer to section 100, we would find that the exercise of jurisdiction on the part of the Provincial Legislature in regard to the Provincial List is subject to an exercise of jurisdiction by the Federal Legislature in regard to subjects on Legislative List I. I take it that that is the substance of his argument. But, Sir, my Honourable friend would observe that the very wording of Item No. 83 of the Provincial Legislative List, "the incorporation, regulation and winding-up of trading corporations, other than corporations specified in List I", shows that the framers of the Law were perfectly aware of what they were doing, but then when they mention the co-operative societies at the end of that item they do not say anything to show that the exercise of jurisdiction in regard to this would be also subject to the exercise of jurisdiction by the Federal Legislature, under item 83. They have adopted a definite line in regard to the saving of jurisdiction as shown in the different items of the Provincial List itself. How is it then that in regard to co-operative societies we do not find any limiting expression of the same character as we find in the other items? Now, Sir, with regard to my Honourable friend, the Education Member's observation, that he has consulted all the Provincial Governments and that they are unanimously in support of this Bill and that there is, therefore, no point in sending the Bill out for circulation, I would say this. It is not merely for the Provincial Governments to approve of the constitutional aspects of a particular measure. Even ordinary people who might be affected by the working of a co-operative society which will be operating under this particular enactment, could sue the authorities of that society and raise the constitutional question and challenge the jurisdiction of this House. In many of the cases which had raised constitutional issues, we find that they had been brought at the instance of private parties and not at the instance of Government.

Now, Sir, my Honourable friend thought that in order to accommodate these multi-unit societies one must undertake an amendment of the Government of India Act itself because they cannot be accommodated, if it were to be held that they cannot be accommodated within the framework of this Act. May I draw his attention to the provisions of section 103, which to my mind provides an alternative procedure? It is not as if

the framers of this enactment were altogether blind to the possibilities of such objections being raised. This is what section 108 of the Government of India Act says :

"If it appears to the Legislatures of two or more Provinces to be desirable that any of the matters enumerated in the Provincial Legislative List should be regulated in those Provinces by Act of the Federal Legislature, and if resolutions to that effect are passed by all the Chambers of those Provincial Legislatures, it shall be lawful for the Federal legislature to pass an Act for regulating that matter accordingly, but any Act so passed may, as respects any Province to which it applies, be amended or repealed by an Act of the Legislature of that Province."

To my mind here was a perfectly legitimate procedure laid down in the Government of India Act itself, and my Honourable friend would see that it is not sufficient that merely Provincial Governments give their blessings to a measure like this. The Constitution Act makes it perfectly clear that this Legislature can exercise its legislative jurisdiction only if the Provincial Legislatures concerned, by passing resolutions, ask this Legislature to exercise jurisdiction in regard to a matter which is admittedly a provincial subject. That is all I have got to say, and I yet hope that it will be possible for the Government to examine this question before the matter goes up to the other House.

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

"That the Bill be passed."

The motion was adopted.

Mr. J. D. Tyson : On a point of personal explanation, Sir, I should like to say that I regret very much that I was not in my place when this motion was due to be taken up. I can assure Honourable Members that I intended no disrespect to the House. I was on my way to the House from another room and would have been in my seat in time but for the fact that the preceding legislation came to an end so unexpectedly and quickly.

THE COFFEE MARKET EXPANSION BILL.

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar (Commerce Member) : Mr. President, I move :

"That the Bill to continue the provision made under Ordinance No. XIII of 1940, for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means, be taken into consideration."

Sir, this legislation has a history behind it. In the year 1940, soon after the outbreak of the war, representations were made to the Government of India that the coffee market was about to collapse. We produce about 17 to 18 thousand tons of coffee in this country, of which we used to export about 8 to 9 thousand tons. Consequent on the collapse of France and the virtual impossibility of making any exports to the Continent of Europe, which was our main exporting market, the possibility of the coffee being surplus in production in this country and of, therefore, the prices tumbling down naturally caused a great deal of anxiety to the planting community, particularly in Southern India. They made representations that Government should come to their help not, indeed,

[Diwan Bahadur Sir A. Ramaswami Mudaliar.]

financially but by so assisting them through legislative and other measures that they can organise this industry themselves. A Conference was convened in September, 1940, in Madras where all the representatives of the planting industry were present, and certain proposals were evolved. The position of the Government was that if it found that the industry desired to organise itself and if there was a fair amount of unanimity amongst those who represented the industry of the arrangements that they may come to, Government would lend its good offices by such enacting legislative measures as may be necessary for giving effect to that agreement.

The main proposal that emerged from the discussions of that Conference was that coffee that could be consumed in the country should be released for internal consumption and that the rest of the coffee should be isolated and kept in a separate pool out of which such demands for export as may come may be fulfilled. If there was any sign that the internal consumption should go up or may go up, then the coffee may be released from the pool for internal consumption. As a matter of precaution against prices being forced up unnecessarily by any cornering of this coffee and isolating it into the export pool, Government made it a condition precedent that they must have the power to control the maximum prices at which coffee may be sold in the internal market

Mr. President (The Honourable Sir Abdur Rahim) : It is Quarter Past One now. The Honourable Member can resume his speech after Lunch.

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

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

The Honourable Diwan Bahadur Sir A. Ramaswami Mudaliar. Sir, before the House adjourned for Lunch, I was referring to the two main principles of this legislation, first that a certain amount of coffee, un-saleable internally, should be withdrawn so that the price of the remainder which will be sold in the country may be stabilised at a satisfactory level. That is the expedient which has been used in various countries with reference to raw commodities. The second and the consequential measure which Government think should be adopted *pari passu* with the withdrawal of the surplus quantity was that the price of the remainder in the internal market should be at a reasonable level. These are the two main proposals underlying this legislation. Various subsidiary proposals regarding the appointment of a Controller for coffee, management of the sales, the body through which it should be organized were recommended by the Conference to which I referred. Sir, it was not possible at that stage to bring in legislation in this House as there was not sufficient time for the purpose and an Ordinance was issued, as the crop was beginning to come in, in December, 1940, embodying these main principles. The Ordinance was valid till August, 1941, that is, for one crop year. Subsequently the industry gave the Government to understand that it would be necessary to prolong the period of the Ordinance a little

further and it was extended by a few months. In 1941, the second conference of the industry was held at which the whole position was reviewed in the light of the working of the Ordinance which had been passed in the previous year and certain further proposals were made by the industry. The acreage which would come under control was fixed at ten acres rather than 25 acres which was fixed on the last occasion and that has been accepted by the Government. Again, it was not possible to give effect to this legislation at the last Session and a second Ordinance was issued for the purpose. But I had given an undertaking to this House sometime last year in deference to the wishes of my Honourable friend, Dr. F. X. DeSouza, whom I miss on this occasion, that normal legislation would be brought up before this House. There is one point on which some of the planters were very keen that this should not be taken as a precedent by the Government to establish any control over the industry, that it should be looked upon purely as a war measure and that its effect should not outlast the necessities of the war period. With that proposition I was in entire accord. I had already made it clear to them that it was not Government's intention to establish control over this industry, but that it was the anxiety of the planters to get some governmental help to regulate their own product and to arrange the prices at which it should be sold that was responsible for governmental intervention and therefore, you will find that in this proposed Bill the period for the measure is fixed at one year after the termination of hostilities. We have no intention whatsoever to enter into this trade and to arrange this trade—a well regulated industry like this which is in charge of planters who can look after themselves and who are fairly well organised. The Government have no intention whatsoever to intervene and regulate the trade for them.

Sir, the second conference which was held in October, 1941, had the unique advantage of having the experience of the working of the Ordinance for a whole crop season and very little criticism was thrown out at that conference as regards the detailed provisions of this Act. It is under these circumstances that this Bill is put before the House virtually embodying the provisions of the Ordinance that has been recently passed. I must confess that I personally would like to have as clear a conscience in introducing every Bill as I have on this occasion. Every aspect of it has been carefully studied and thrashed out, every interest concerned has been consulted, the opinions of these interests have been taken before embodying this Bill; in fact these interests themselves had the advantage of the working of the measure for a whole year before they were asked to give their opinion on it. It is under these circumstances that I request Honourable Members of the House to accept this piece of legislation and I can only repeat that I may be in a position on all occasions to commend a Bill with as great confidence as I am in a position to do on this occasion to the acceptance of the House.

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

"That the Bill to continue the provision made under Ordinance No. XIII of 1940 for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means, be taken into consideration."

The motion was adopted.

Clauses 2 to 50 were added to the Bill.

[Mr. Deputy President.]

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

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

"That the Bill be passed."

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

"That the Bill be passed."

The motion was adopted

REPORT OF THE PUBLIC ACCOUNTS COMMITTEE.

Mr. Deputy President (Mr. Akhil Chandra Datta): The House will resume further consideration of the following motion moved by the Honourable Sir Jeremy Raisman on Wednesday, the 11th February, 1942, namely:

"That the report of the Public Accounts Committee on the accounts of 1939-40, be taken into consideration."

The Honourable Sir Jeremy Raisman (Finance Member): Sir, year after year, the fitting of this item of business into the agenda of the Assembly seems to present more and more difficulty, and the reason is that even at any time the interest of the House in the accounts of the year before last is not extremely lively and at a time like the present, it is natural that it should not excite a great deal of attention.

Dr. P. N. Banerjee (Calcutta Suburbs: Non-Muhammadan Urban): Flogging a dead horse!

The Honourable Sir Jeremy Raisman: Yes, as my Honourable friend says, it is flogging a dead horse. I hope I may infer from that that nothing very scandalous or seriously disturbing has come to the notice of Honourable Members who have read through the Accounts and the Report.

Dr. Sir Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): Except that the horse is dead.

The Honourable Sir Jeremy Raisman: Those Honourable Members who have spoken have touched on a number of points, many of them points of detail, which I doubt whether I should take the House through again.

One question of general interest that was touched on by more than one speaker is the old question about the treatment of the loss on strategic railways. Well, Sir, this argument comes to us from a period which I thought was dead. It comes to us from a time when the defence estimates were so closely scrutinized that every rupee that could possibly be scraped off was attacked. It was in accordance with that general outlook that every item that could possibly be charged on the defence budget was sought to be charged in order that the total amount of the defence estimates should be exhibited as excessive. Well, Sir, unfortunately, for us, we live in very different times and some very unpleasant chickens have

come home to roost. I cannot see what advantage will be gained by adding on to the defence estimates the amount of the loss on strategic railways. It is realized by everybody that these railways have to be maintained in the larger interests of the country, and we are, at the present moment, engaged in so many other forms of expenditure on defence, which are not charged to the defence estimates, that the whole point has become academic. However, the Committee did discuss the matter and I think they made a suitable observation. I think they decided to let it stand over until after the war, when other questions of considerably greater importance, which I have no doubt will also engage our attention, will be taken up.

My Honourable friend, Sir Ziauddin Ahmad, appeared to think that the Public Accounts Committee had not paid sufficient attention to the expenditure on the Supply Department. I should point out that during the year under consideration, namely, the year 1939-40, the Supply Department had only just come into existence. It was the successor of certain arrangements which had been built up in the period before the war and there was not a great deal for the Committee to deal with. But they did go into certain very important questions about the method of placing supply contracts and in this they were greatly assisted by a memorandum by the Auditor General, and also they took some account of discussions which had been taking place in England on similar questions. There is, I believe, an appendix to the Report (page 97) describing the methods of purchase and financial control in war-time and the Military Accounts Committee went into this question with some care, and the observations which they made are borne out by our subsequent experience. I am only concerned to say that Sir Ziauddin Ahmad was not correct in thinking that this matter, which has assumed such great importance since the accounts of the year in question, escaped the notice of the Public Accounts Committee.

Dr. Sir Ziauddin Ahmad: May I know which page you are referring to?

The Honourable Sir Jeremy Raisman: There is a memorandum on page 97 of Volume I of the Report, and again on page 101 there is a note by the Auditor General on the subject of the war-time purchase of stores.

Sir Ziauddin Ahmad also touched upon the question of abandoned lines. I think he was slightly confused. The part of the Report that raised this question in his mind dealt with abandoned revenue, not with abandoned lines. And there is some difference. Many of the abandoned lines result not in an abandonment of the revenue, but the opposite. However, the answer to his question as to how the loss of capital is treated, is that the loss of capital on the abandonment of railway lines is charged to railway revenue as working expenses to the extent to which it is not covered by the accumulation in the depreciation fund plus the recoveries on account of dismantled materials. I must say, however, that the point which he raised was not strictly relevant to the Report.

Two Honourable Members mentioned the question of saloons for my colleagues. . . .

Mr. Lalchand Navalrai (Sind. Non-Muhammadan Rural): And also for you, if you have any.

The Honourable Sir Jeremy Raisman: I may take this opportunity of informing the House that in spite of the expansion of the Viceroy's Executive Council no new saloons are being built. In spite of the addition of five new Members we are contenting ourselves with converting two existing tourist cars for the use of the Council. That is a very different matter. There has not been any extravagant expenditure in regard to the building of saloons; and I may say that my Honourable Colleague, the Railway Member, has only just asked us what I am sure we shall all be ready to do, to refrain from using saloons wherever possible; so as to assist in dealing with traffic congestion at this time.

Sir Ziauddin Ahmad waxed somewhat indignant over the case of a Government servant who, having received overpayments in good faith, was only asked to refund the money which he had overdrawn in the previous twelve months. Well, mistakes occur. The financial rules of government in regard to pay and allowances are so elaborate that, short of a committee of Accountants General, no government servant can ever be absolutely certain that he is drawing what he is entitled to and no more. Cases, I may say, of underdrawal are quite common, as well as cases of overdrawal. It has often occurred in absolutely good faith. If there is any question about the *bona fides* of any overdrawal, then I need hardly say that the question that would arise would not merely be one of refunding the amount drawn but of disciplinary action also. We are dealing with cases where genuine honest mistakes are made both by the man himself and by all the accounts officers who deal with the question of his pay and allowances. Now, this may be discovered sometime afterwards. Do I understand Sir Ziauddin Ahmad to say that if through a faulty interpretation of a rule an officer, say for ten years, drew Rs. 20 a month more than he was entitled to, he should then be required to refund the whole amount? I may say that in the contrary event, if we find that for ten years he has drawn Rs. 20 less than he was entitled to, we do not pay him the whole amount. There is a time limit—some limitation to that form of adjustment.

Dr. Sir Ziauddin Ahmad: May I say as a matter of personal explanation that I had nothing to say on this point, but I asked what the Public Accounts Committee meant? Did they mean that if a mistake was left undiscovered for one year and is a *bona fide* mistake, then it is not refundable? That is what I wanted to know.

The Honourable Sir Jeremy Raisman: I am not quite sure what the actual language was. In para. 85—it says:

"The point was raised why the entire sum which had been overpaid to the officer was not recovered from him, in instalments if necessary; but it was explained that the usual practice was that overpayments, if they were received by the government servant concerned in good faith, were not recovered for more than the period of one year from the date the irregularity was discovered as recovery for a longer period was considered inequitable."

Then the Committee in this case went on further to criticise the amount of the allowances to which this officer was entitled, which was a separate question from the question of overdrawal of the amounts to

which he was entitled. If Sir Ziauddin Ahmad was not questioning the view that the recovery for an unduly long period was inequitable then I will not pursue the point; but I do want to make it clear that we do not make retrospective adjustments without limit, whether in the case of overdrawal or underdrawal, and it may interest members to know that I myself once, for a considerable time—although I have always had some connection with the Finance Department—drew less than the substantive pay to which I was entitled and that I did not come to discover until some years later that I had been in effect “done down” by the government, by which time it was useless to put in my claim.

Sir Ziauddin Ahmad made certain remarks on the sale of scrap iron, and I am afraid that here also he rather overflowed the strict limits of relevancy to the case in question. He rather mixed up the case with which the report deals with another which occurred on the North Western Railway in 1936, and that was not a case of removal of material without payment. That was a case in which there were certain allegations that contracts entered into for the sale of scrap on the North Western Railway were to the detriment of the railway. We appointed a committee of inquiry to look into that matter under the chairmanship of Mr. Mudie, now Chief Secretary in the United Provinces, and we issued a press communiqué on the 21st May, 1937, containing a summary of the case and stating that after the most careful consideration of the Committee's report, the Government of India “desired to record the conclusion that they are fully satisfied that none of the allegations or insinuations made in connection with the disposal of scrap has the slightest foundation in fact”. So that, I trust that we shall not hear further allusions to that particular matter. But the case actually dealt with in the report related. I think, to precautions to ensure that when materials are auctioned, they are not removed before payment has been made; and this matter the committee had been following up and they found that on the East Indian and the Eastern Bengal Railways until recently the procedure had not been entirely in accordance with what had been recommended; but it was reported to the Committee last August that the East Indian Railway had already revised their contracts so as to secure payment for the auctioned materials before removal and that the Eastern Bengal Railway were following suit.

There was a curious case which was mentioned by Mr. Abul Ghani regarding the loss on supply of timber to the Defence Department by the Eastern Bengal Railway. I may say that the Railway Board have already brought this case to the notice of the railways and have ordered that it should be impressed on all responsible officers that the plea of urgency or secrecy should not be considered an excuse for neglecting elementary financial precautions, such as taking receipts for transfer of money or stores. The case was one in which the officers concerned acted in good faith in the interests of expeditious action, and between the two departments a rather cunning contractor, I think, managed to get away with something.

I do not know if there are any other detailed points on which I need detain the House. I will not discuss with my friend, Dr. Sir Ziauddin Ahmad, the question of taking to revenue the whole of the profits from the circulation of small coin. He, I think, charges me with an excess of virtue in this matter, but I cannot help feeling that my successor some day will be grateful for this small mercy. The

[Sir Jeremy Raisman.]

taking to revenue of profits of this kind may be very pleasant assistance at certain times. It is usually in times of difficulty and recession and shrinkage of revenue that the opposite process occurs, and then there is a debit which comes home to roost. In the matter of silver rupees, we have always followed, or certainly in recent years we have followed the correct practice, but in the matter of small coin we were pocketting from year to year the whole of the profits, whatever they might be, regardless of the fact that a day may come when there will be a return of small coin from circulation, and that a somewhat, as I say, inconvenient debit might have to be accepted against the revenue. Well, it was because I had a tender conscience, and because I had tried to put myself in the place of my successor who would find that extremely inconvenient thing happening—and I imagined the language which I would use if I found myself inheriting such a legacy,—I decided that in spite of the intensity of my present difficulties I must begin to put things on a proper footing.

Dr. Sir Ziauddin Ahmad: May I ask one question, Sir? Suppose a branch line was constructed in the year 1935 at a cost of four crores of rupees, and in the year 1942-43 you decide to abandon that line altogether. Then may I know if these four crores will be recovered from the revenue of 1942-43?

The Honourable Sir Jeremy Raisman: You first apply the amount which is accumulated in the depreciation fund against that asset, then you sell whatever materials you can sell from the line, and the resulting loss after you have taken credit for both those items is debited against the revenue of the year in which you abandon a line.

Dr. Sir Ziauddin Ahmad: Is it a correct policy to charge to revenue the whole of this amount after whatever you could get by the sale of the materials?

The Honourable Sir Jeremy Raisman: If you don't do that, your capital will get more and more full of water. If you are going to allow that, if you are not going to credit it to capital and debit it to revenue, then you may find yourself ultimately with a capital of 2,000 crores and lines worth about five hundred.

Dr. Sir Ziauddin Ahmad: This may have been correct, had you not depreciation reserve fund, which is the proper head to debit.

Mr. Jamnadas M. Mehta (Bombay Central Division: Non-Muhammadan Rural): After you have paid out of the depreciation fund do you reduce the capital?

The Honourable Sir Jeremy Raisman: The object of charging it to revenue is to credit it to capital.

Mr. Jamnadas M. Mehta: Then it becomes less.

The Honourable Sir Jeremy Raisman: Yes, it becomes less.

The Assembly then adjourned till Eleven of the Clock on Wednesday the 18th February, 1942.