

Monday, 13th March, 1944

COUNCIL OF STATE DEBATES

(OFFICIAL REPORT)

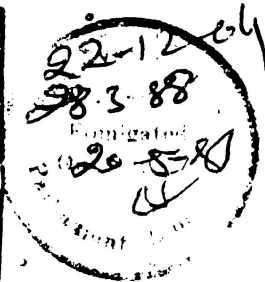
VOLUME I, 1944

(15th February to 6th April, 1944)

SIXTEENTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1944



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COUNCIL OF STATE

Monday, the 13th March, 1944

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

QUESTIONS AND ANSWERS

MILITARY MOTOR VEHICLES

128. THE HONOURABLE MR. G. S. MOTILAL: Are Government aware that a large number of military motor vehicles move empty? What is the reason for it? (See reply to question No. 129.)

MILITARY MOTOR VEHICLES.

129. THE HONOURABLE MR. G. S. MOTILAL: Will Government state whether they have examined the problem of utilising military motor vehicles, moving empty, for military or other transport purposes?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: With your permission, Sir, I will answer questions Nos. 128 and 129 together.

I am aware that military motor vehicles sometimes run empty. The reasons are mainly recruit training, convoy exercises and running tests after repairs and overhauls. During these runs, the direction seldom coincides with that of the flow of stores or personnel to be moved.

The possibility of using for military or other transport purposes vehicles which would otherwise move empty is constantly under consideration and instructions have been issued to ensure that such transport is so used whenever practicable.

RAILWAY TRAVEL BY DEFENCE SERVICE OFFICERS.

130. THE HONOURABLE MR. G. S. MOTILAL: (a) Will Government state the number of defence service officers who travel every month on duty and of those travelling on leave by trains in India?

(b) What are the leave rules? Are they allowed free travel when they are on leave? If so, how many miles' free travel is allowed? Or are they given any concession? If so, what concessions?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) The information required is not readily available and its collection would involve an amount of time and labour not justifiable in war-time.

(b) I lay a statement on the table.

ARMY

Leave—

- (i) Annual War Leave—28 days.
- (ii) Casual Leave—10 days at a time. (May be extended to 21 days in special circumstances).
- (iii) Sick Leave—According to circumstances.

Travelling Concessions—

- (i) All officers serving in the field service area receive free conveyance on War Leave twice a year, without limitation as to distance.
- (ii) Elsewhere in India, officers of and below the rank of Captain get free conveyance once a year to proceed on war leave. The distance is limited to 600 miles each way. Any excess mileage is paid for by the officers themselves.
- (iii) Officers of and below the rank of Lieutenant-Colonel are allowed to travel first class on payment of a second class fare when travelling on leave at their own expense.

ROYAL INDIAN NAVY

Leave—

- (i) Annual War Leave—Time and period as an individual's services can be spared.
- (ii) Casual Leave—10 days at a time. (May be extended to 21 days in special circumstances).
- (iii) Sick Leave—According to circumstances.
- (iv) Survivor's Leave (when individual's ship is sunk)—14 days.

Travelling Concessions—

- (i) All officers serving in operational zones receive free conveyance on War Leave twice a year, without limitation as to distance.

(ii) Commissioned officers of and below the rank of Lieutenant, Warrant Officers and Midshipmen serving ashore outside the operational zones, get free conveyance once a year to proceed on War Leave. The distance is limited to 600 miles. Any excess mileage is paid for by the officers themselves.

(iii) Officers of and below the rank of Commander are allowed to travel first class on payment of a second class fare when travelling on leave at their own expense.

(iv) Officers on 'Survivor's Leave' receive free conveyance to and from their homes.

AIR FORCE

Leave—

(i) *War Leave*—Two instalments per year of not more than 14 days each, except in the case of officers carrying out regular flying, who may, subject to operational requirements, be granted up to 28 days' unbroken period of leave once a year.

(ii) *Casual Leave*—10 days at a time.

(iii) *Sick Leave*—According to circumstances.

Travelling Concessions—

(i) All officers serving in the field service area receive free conveyance on War Leave twice a year, without limitation as to distance.

(ii) Elsewhere in India, officers of and below the rank of Flight-Lieutenant get free conveyance once a year to proceed on War Leave. The distance is limited to 600 miles each way. Any excess mileage is paid for by the officers themselves.

(iii) Officers of and below the rank of Wing-Commander are allowed to travel first class on payment of a second class fare when travelling on leave at their own expense.

NOTE.—War Leave and Casual Leave are subject to exigencies of service in all the three services.

RAILWAY TRAVEL BY DEFENCE SERVICE OFFICERS

131. THE HONOURABLE MR. G. S. MOTILAL: (a) Do Government propose curtailing railway travel by defence service officers? If so, to what extent they propose to curtail it and in what way?

(b) Are Government aware of over-crowding in trains due to travel by military officers?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Railway travel on duty is essential to the conduct of the war and cannot therefore be curtailed. It is not proposed to curtail travel on leave as this would automatically entail curtailment of leave, which is essential to the maintenance of morale and is, in any case, subject to the exigencies of service.

(b) Yes, Sir. Government are aware of over-crowding in trains, but military movement is a most important part of the conduct of a war and the resultant inconvenience to civilian passengers must be accepted as an unavoidable necessity.

RANK OF RIFLE COMPANY COMMANDERS IN ACTIVE BATTALIONS OF INDIAN INFANTRY.

132. THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: (a) Have Government decided that Company Commanders in active battalions should be given the rank of Major? If so, when was this decision announced?

(b) What was the number of Indian Captains who were commanding companies in active battalions before this decision was given effect to? How many of them have been continued as Company Commanders and promoted to the rank of Major?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (a) Yes, Sir. The grant of the acting rank of Major to Rifle Company Commanders in active battalions of Indian Infantry has been approved. This decision was announced on the 10th of November, 1943.

(b) I regret, Sir, that the information is not readily available; but I am having it collected for the India Command and will lay a statement on the table in due course.

IMPORT OF FOODGRAINS INTO CALCUTTA

133. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: Will Government state whether people can import foodgrains produced in their *khamar* lands outside Calcutta into Calcutta for purposes of their personal consumption? If so, what transport facilities are being given to them to do so?

THE HONOURABLE MR. B. R. SEN: (a) Yes, Sir.

(b) Persons to whom this concession is granted have to make their own arrangements for transport.

DAMAGE TO PADDY AT RAILWAY STATIONS

134. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Are Government aware that rice has been destroyed at many railway stations in Jessore District for want of transport facilities ? If so, where and in what quantity ?

THE HONOURABLE MR. B. R. SEN : From information supplied by the Bengal Government, it appears that about 3,700 tons of paddy mostly purchased at the end of November, was kept on railway platforms in Jessore district, for sometime, awaiting transport. About three-quarters of this stock was uncovered, but the damage done is reported to be negligible. The entire quantity has since been sold to the Calcutta rice mills.

LATHI CHARGE ON SECURITY PRISONERS IN BERHAMPUR JAIL

135. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether there had been a lathi charge on security prisoners in Berhampur Jail (Bengal) on the 26th January last ? If so, why ?

THE HONOURABLE MR. E. CONRAN-SMITH : I understand that the incident to which the Honourable Member refers took place in Berhampur in Orissa and not Bengal. The subject-matter of the question appears to be one concerning jail discipline which is a matter lying within the provincial field.

REPRESENTATION BY THE FEDERATION OF INDIAN CHAMBERS ON GRIEVANCES IN STEEL RE-ROLLING MILLS

136. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Whether any representations have been made by the Federation of Indian Chambers about the grievances of the steel re-rolling mills ? If so, what relief has been granted to them ?

THE HONOURABLE SIR FIROZ KHAN NOON (on behalf of Supply Department) : Yes. The matter is receiving the consideration of the Government of India.

AGENCY EMPLOYED BY GOVERNMENT FOR THE PURCHASE OF FOODGRAINS

137. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state :—

- (a) What agency is employed by them for the purchase of foodgrains ?
- (b) What supervision about the quality of articles purchased is exercised over them ?
- (c) What profit is given to the agents for such purchases ?
- (d) What profit, if any, is retained by the Government of India in supplying the articles to the Provincial Governments ?

THE HONOURABLE MR. B. R. SEN : (a), (b) & (c). The Government of India do not purchase foodgrains, except for the Defence Services in one province where an agent is employed on a commission basis. The quality of the foodgrains purchased by this agent is tested by the Military authorities concerned. As regards other purchase of foodgrains, arrangements for procurement and inspection, including the remuneration of purchasing agents, are the responsibility of the Provincial Governments.

(d) Does not arise.

INTRODUCTION OF RATIONING THROUGHOUT INDIA

138. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether they contemplate introducing rationing of foodgrains all over India, if so—

- (i) in respect of what articles ?
- (ii) through what agencies ?
- (iii) under whose responsibility, care and cost ?
- (iv) whether they would take the direct responsibility of feeding other industrial areas besides greater Calcutta, if not, why not ?

THE HONOURABLE MR. B. R. SEN : The Government of India intend that food rationing shall be progressively introduced as soon as possible in all urban areas.

(i), (ii) & (iii). Subject to the general supervision of the Government of India the responsibility for execution and financing of urban rationing schemes,

including discretion as to articles to be rationed and agencies to be employed, is that of Provincial Governments.

(iv) The rationing of Calcutta is the responsibility of the Provincial Government. It was in order to relieve pressure on the mofussil districts in the special circumstances of Bengal, and thereby restore public confidence and promote the success of the *aman* procurement operations that the Government of India undertook to supply to Bengal with a quantity of foodgrains equivalent to Calcutta's off-take from the Bengal market. The Government of India have assumed no special responsibility for the feeding of industrial areas.

THE HONOURABLE RAI BAHADUR SRI NARAIN MAHTHA: How many months' stock do Government consider necessary to store before introducing rationing in a particular area?

THE HONOURABLE MR. B. R. SEN: Ordinarily it is one month's reserve.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: With regard to (iv), to what extent has the assumption of responsibility by the Central Government relieved the pressure on other areas?

THE HONOURABLE MR. B. R. SEN: As I explained, the Government of India undertook to supply a quantity equivalent to the needs of Calcutta with a view to ensure success of the *aman* procurement operations.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU. The Honourable Member said that this step was taken by the Government of India in order to relieve the pressure on other areas in Bengal. May I know to what extent the pressure has been actually relieved?

THE HONOURABLE MR. B. R. SEN: To the extent that we have supplied foodgrains.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: What is the proof of it? Are foodgrains reaching deficit areas in adequate quantities or are the prices there normal? The Honourable Member should give some proof of his statement.

THE HONOURABLE MR. B. R. SEN: It must be quite obvious that to the extent that we have supplied foodgrains the Bengal Government has not had to make purchases for industrial areas. To that extent the Bengal market was relieved.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: We are speaking of areas other than Calcutta which has to be fed by the Government of India.

THE HONOURABLE MR. B. R. SEN: This is a much bigger question which the Honourable Member has raised and I shall deal with it in the course of my speech on the Food Debate

IMPORTS OF SALT FOR BENGAL

139. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: (a) What is the total quantity of salt imported from outside India to supply the needs of Bengal?

(b) Whether the said quantity could not be had in India?

THE HONOURABLE MR. B. R. SEN: If the Honourable Member will state the period for which he wants the figures, I shall be glad to make enquiries and supply the information.

ARRANGEMENTS MADE TO INCREASE THE PRODUCTION OF RAILWAY ENGINES AND WAGONS

140. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY: (a) What arrangements have been made in India to increase the production of railway engines and wagons and what is the scope of such output?

(b) How many engines and wagons are proposed to be imported from outside during the next succeeding years?

(c) What effect is it expected to have on their production in India?

THE HONOURABLE SIR SATYENDRA NATH ROY: (a) The present scope for the production of locomotives in India is limited to the capacity of the Ajmer Workshops of the B., B. & C. I. R. which is about 15 locomotives a year. Every endeavour has been made to maintain the output from these shops but serious difficulties have arisen in obtaining the requisite material, a proportion of which

must be imported and for this reason none has been turned out in the past year. Plans are being expedited for the manufacture of locomotives at the B. & A. Workshops at Kanchrapara. The fabrication of wagons is carried out by private firms. The orders for wagons placed with these firms absorb to the full the fabricating capacity that can be developed within the limitations imposed by the supply of component parts. The present output is about 200 wagons per month which is expected to rise to 700 per month from September, 1944.

(b) The demands placed by Railways for locomotives and wagons to be imported are:—

<i>Broad Gauge—</i>	
<i>Locomotives</i>	545
<i>Metre gauge—</i>	
<i>Locomotives.</i>	469
<i>Wagons</i>	12,000

(c) None.

THE HONOURABLE MR. P. N. SAPRU: The Ajmer Workshops manufacture only metre gauge locomotives? Is not that so?

THE HONOURABLE SIR SATYENDRA NATH ROY: That used to be so, but it is no longer so. I believe the Ajmer Workshops can now turn out broad gauge locomotives. At the present moment there are orders for broad gauge locomotives pending with the Ajmer Workshops.

THE HONOURABLE MR. P. N. SAPRU: What will be the turnout of broad gauge and what will be the turnout of metre gauge locomotives in Ajmer?

THE HONOURABLE SIR SATYENDRA NATH ROY: The figure that I gave of 15 a year is the total figure.

THE HONOURABLE MR. P. N. SAPRU: I should be glad to know how many will be broad gauge and how many metre gauge out of this 15?

THE HONOURABLE SIR SATYENDRA NATH ROY: It would depend to some extent upon the orders that are placed. What I have stated is that the capacity is 15 locomotives a year. Out of this number there will be a proportion of broad gauge locomotives. They may not be able to turn out 15 broad gauge locomotives. It is difficult to give an exact answer to that question.

OBJECT OF RULE 94A OF THE DEFENCE OF INDIA RULES.

141. THE HONOURABLE MR. KUMAR SANKAR RAY, CHAUDHURY: (a) What is the object of rule 94A of the Defence of India Rules re issue of capital by Joint Stock Companies?

(b) How many Joint Stock Companies have been started since the promulgation of the said rule?

(c) How many have been allowed to increase their Share Capital?

(d) How many have been refused permission to increase their share capital and why?

THE HONOURABLE MR. C. E. JONES: (a) One of the main objects of Rule 94A of the Defence of India Rules is to prevent the raising of capital by companies in order to finance enterprises which are of such a nature or are so organised that they cannot be undertaken or developed without detriment to the interests of the country as a whole or of investors or both in present conditions.

(b) Excluding companies which have been registered, but have not yet applied for and received consent to the issue of capital, the number is 596 up to 31st January, 1944.

(c) 922 up to the same date.

(d) 158 up to the same date. These applications, together with 178 applications for initial issues by new companies, were refused because the condition explained in my reply to part (a) was for one reason or another not satisfied. It may be safely assumed that but for the deterrent effect of the necessity for justifying applications for consent a much larger number of objectionable propositions would have been put before investors.

CONTROL OF CEMENT

142. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY :

(a) What control, if any, has been imposed over the supply of cement and with what object ?

(b) If so, how does cement go into the black market ?

(c) Whether there is a general complaint that persons getting permits for cement are not supplied regularly with the quality granted to them ?

THE HONOURABLE SIR FIROZ KHAN NOON (on behalf of Supply Department): (a) All cement works and their agents are prohibited from disposing of cement except under the instructions of the Central Government. These instructions are that cement may be supplied only for military requirements or in accordance with authorisations issued by the Honorary Cement Adviser. The object of this control is to ensure supply of cement for essential Defence Service works and to effect the best distribution of the balance available for civil public.

(b) As requirements of consumers cannot be calculated with meticulous accuracy, a certain proportion of cement released by the control is saved and finds its way into the black market. Government is taking whatever action is possible to stop leakage.

(c) Government has received a few complaints of delay in the delivery of cement to permit holders. The delay is mostly due to the existing transport conditions.

TAXATION IN INDIAN STATES AND ITS EFFECT ON TRANSFER OF INDUSTRIES FROM BRITISH INDIA INTO INDIAN INDIA

143. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether the general rate of taxation prevailing in British India is higher than that prevailing in the Indian States ? If so, (a) what effect has it upon the transfer of industries from British India into Indian States and (b) how many industries have been so transferred ?

THE HONOURABLE MR. C. E. JONES: The Government have no detailed information regarding taxation generally in the Indian States or its effect on the transfer of industries from British India into Indian India. In those Indian States where an income-tax system is in operation the rates of income-tax are generally lower than those in force in British India. It is possible that this factor may have led to some transfer of industry to the States but exact information on the point is not available.

THE HONOURABLE MR. P. N. SAPRU: What is the position with regard to the excess profits tax ?

THE HONOURABLE MR. C. E. JONES: Certain States are levying excess profits tax and certain are not. An increasing number of States are doing so.

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: Have any efforts been made by the Government of India to bring the States imposing income-tax into line with the Central Government ?

THE HONOURABLE MR. C. E. JONES: Government continually have this matter under review and are in constant touch with the Political Department in the matter.

ISSUE OF COUPONS IN LIEU OF SMALL CHANGE

144. THE HONOURABLE HAJI SYED MUHAMMAD HUSAIN : (a) Are Government aware that certain firms, cinemas and other individuals have issued tickets in place of Government small coins in the form of I. O. U., in certain cities which have gained currency in local areas ?

(b) Will Government state whether they propose to take steps to stop such practice, if not, why not ?

THE HONOURABLE MR. C. E. JONES: (a) Government are aware that certain utility concerns and businesses have from time to time, when the small coin shortage was at its worst, adopted the device of issuing coupons in lieu of change. Acceptance of such coupons is voluntary and the coupons promise future service or value of an equivalent amount.

(b) So far wherever the small coin position has improved this practice has automatically disappeared. If, when the position is restored everywhere, the practice is found still to obtain, Government will take such steps as may be necessary to stop it.

NUMBER OF SUPERINTENDENTS IN THE OFFICE OF THE DIRECTOR GENERAL, POSTS AND TELEGRAPHS.

145. THE HONOURABLE MR. ABDOOL RAZAK HAJEE ABDOOL SUTTAR : (a) Will Government state the number of permanent and officiating Superintendents separately in the Office of the Director General, Posts and Telegraphs, showing their communities ?

(b) If there is no permanent Muslim Superintendent, will Government state the reasons therefor ?

(c) Is it a fact that in 1939-40 the late Chief Engineer, Posts and Telegraphs, having been authorised, interviewed certain Assistants with 15 years' service ? If so, how many such Assistants were interviewed and how many of them were Muslims ? If none, was no Muslim Assistant with 15 years' service available ? If any were available, what were the reasons for not interviewing them for selection ?

(d) Is it a fact that (i) out of the officials recommended by the Chief Engineer for selection as Superintendents, four of them had worked under him (ii) and one of the four officials was junior to two Muslim Assistants, one of whom is now a permanent Superintendent of Post Offices ?

THE HONOURABLE SIR MAHOMED USMAN: (a) There are, at present, in the Office of the Director General, Posts and Telegraphs, ten permanent Superintendents all of whom are Hindus, and twelve temporary and officiating Superintendents, of whom ten are Hindus, including one belonging to a Scheduled Caste and two are Muslims..

(b) Prior to 1939 promotion of Assistants to the grade of Superintendents in the Director General's Office was made on the basis of seniority subject to the rejection of the unfit. The fact that there were no senior Muslim Assistants then available for promotion accounts for the absence of members of that community among the permanent Superintendents.

(c) The answer to the first part of the question is in the affirmative. There is nothing clearly on record to show how many Assistants were interviewed or the community to which they belonged.

(d) Certain officials who had worked under the Chief Engineer were recommended by him together with others who had not worked under him. Recommendations for selection do not go by seniority.

PERFORMANCE OF YAGNA OR HAVAN IN DELHI.

146. THE HONOURABLE MR. G. S. MOTILAL: (a) Is it a fact that a *Yagna* or *Havan* was recently performed in Delhi ?

(b) Were any articles of food burnt on fire in it ? If so, what was the quantity of *ghee* and other articles so burnt ?

(c) Is it a fact that more *Yagnas* on a large scale are contemplated to be performed at Cawnpore, Karachi and other places in India ? If so what amount of *ghee* and other articles of food will be burnt on fire ?

(d) Do Government propose to take any action ? If so, what and when ?

THE HONOURABLE MR. B. R. SEN: (a) Yes, Sir.

(b) Yes. The following articles were burnt:—

	Maunds.
(1) Til	700
(2) Mustard	40
(3) Barley	10
(4) Rice	10
(5) Sugar	5
(6) <i>Ghee</i>	5
(7) Sandalwood and dried fruits	11

(c) The Government of India have no information.

(d) Does not arise.

INFORMATION RE QUESTIONS LAID ON THE TABLE

THE HONOURABLE MR. C. E. JONES (Finance Secretary): Sir, I lay on the table the information promised in reply to part (c) of question No. 99 asked by the Honourable Mr. G. S. Motilal on the 24th February, 1944.

Statement showing gross annual revenue received from import and export duties during the years 1934-35 to 1938-39 and the amounts collected at Karachi

Year	Revenue from import duties.		Revenue from export duties	
	Total	Amount collected at Karachi	Total	Amount collected at Karachi
	Rs.	Rs.	Rs.	Rs.
1934-35	38,04,27,257	5,35,67,921	4,29,96,173	2,79,887
1935-36	37,79,59,170	4,98,85,681	4,31,96,577	1,27,450
1936-37	35,20,43,910	4,52,48,263	4,87,35,681	1,33,363
1937-38	41,17,36,057	5,99,57,578	4,42,53,214	1,38,136
1938-39	38,79,79,617	5,50,76,218	4,09,21,163	1,93,828

STANDING COMMITTEE FOR THE LABOUR DEPARTMENT

THE HONOURABLE MR. H. C. PRIOR: Sir, I move:—

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

The Motion was adopted.

THE HONOURABLE THE PRESIDENT: With reference to the Motion which has just been adopted by the Council, I have to announce that nominations to the Committee will be received by the Secretary upto 11 A.M. on Thursday, the 16th March, 1944 and the date of election, if necessary, will be announced later.

STANDING COMMITTEE FOR THE CIVIL DEFENCE BRANCH OF THE DEFENCE DEPARTMENT

THE HONOURABLE THE PRESIDENT: With reference to the announcement made by me on the 7th March, 1944, regarding nominations to the Standing Committee to advise on subjects with which the Civil Defence Branch of the Defence Department, is concerned, I have to announce that the following Honourable Members have been nominated for election to that Committee:—

1. The Honourable Raja Charanjit Singh,
2. The Honourable Mr. Khurshid Ali Khan.
3. The Honourable Mr. Chidambaram Chettiyar.
4. The Honourable Raja Yuveraj Dutta Singh.

There are four candidates for three seats and an election will be necessary. The date of election will be announced later.

CANTONMENT (AMENDMENT) BILL

THE HONOURABLE SIR FIROZ KHAN NOON (Defence Member): Sir, I beg to move:—

"That the Bill further to amend the Cantonments Act, 1924, as passed by the Legislative Assembly, be taken into consideration:"

Sir, the amendments are few and quite formal, and we have already submitted a note on each amendment which I am sure all Honourable Members of the House have already read. The main objects of the Bill are, firstly, to settle the question of jurisdiction. There has been a certain conflict of jurisdiction between the new boards which have been created and certain local bodies. In the second place, we wish to make the law clear with regard to the pulling down of buildings which may be dangerous to the public. In the third place, we wish to enable Honorary Magistrates to seek election to the boards. I hope the House will accept the Bill as presented to them now.

*THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern: Non-Muhammadan): Sir, first of all, I should like to say that in considering this Bill we are handicapped by the fact that a copy of the original Act has not been supplied to us. The Bill is an amending Bill, and in order to find out whether the amendments are of an important nature or only of a minor nature. It is necessary for us to have the original Act before us.

*Not corrected by the Honourable Member.

THE HONOURABLE THE PRESIDENT: As far as I know, original Acts are never supplied to Honourable Members. Honourable Members can always refer to them in the Library or the Government of India Codes. So far as I know the practice of this House, for the last many years, original Acts have never been supplied to Honourable Members when amending them which are brought before the House.

THE HONOURABLE MR. P. N. SAPRU: I shall say one or two things about certain clauses. It appears that certain new cantonment boards have been created during the war. Now, I should like to know how the question of adjusting the extent to which local authorities shall exercise jurisdiction in the areas subject to control by the new boards has arisen. As the House knows, there is a certain amount of dissatisfaction with the working of cantonment boards. The people who are resident in the cantonment areas do not always feel quite happy with the manner in which the cantonment laws are worked. Therefore I should like to know how this question of jurisdiction has arisen? This is one question I should like to be enlightened upon.

Sir, the second point is this. I find that clause 3 goes on to enact that it will be possible for the executive Government to delay the holding of elections. Now, Sir, we know that that is part of a big policy of Government. In many provinces, municipal and district board elections are overdue, and they have not been held so far. Our own House has run its normal course, and it continues to function with the goodwill of the Governor General. In a way, we are only nominated members of the Governor General. The Assembly is about ten years old, and it continues to go on. I suppose it is desirable that the cantonment boards, in which the electoral element is very weak, should also go on functioning for an indefinite period. The limit prescribed is no doubt one year; but then, after the year is over, there will be a further extension of one year, and so on. This is an interminable war. We do not know when the war will be over, and there will be no elections for the cantonment boards. I object to vesting this power of delaying elections in the cantonment areas in the Government.

Then, Sir, I regret that I am unable to support clause 4 of the Bill. The Statement of Objects and Reasons says that it has been held that Honorary Magistrates are persons in the civil service of the Crown in India. Now, we know what class of persons Government delights in having as Honorary Magistrates, and I am not sorry that the High Courts have held that Honorary Magistrates should be regarded more or less as officials. I personally prefer an honest official to an Honorary Magistrate who is in the leading strings of the officials and yet who is not to be counted as an official. I do not say that we have not got good Honorary Magistrates. Some of them are very decent people. But I know a great many of them are more executive-minded than the executive and can be made to do a dirty job —

THE HONOURABLE THE PRESIDENT: Please do not use the word "dirty".

THE HONOURABLE MR. P. N. SAPRU: With your permission, Sir, I shall substitute the word "unclean". There are Honorary Magistrates who can be made to do unclean jobs in an unclean manner, far better than honest civil servants or men drawn from the provincial services. I will tell you an experience which I had of these Honorary Magistrates some years ago. I was a student in those days. I am thinking of the year 1917 or 1918. I was a student of the M.A. class in those days, and I had been cycling without a lamp. I was caught cycling without a lamp, and was taken to a bench of Honorary Magistrates in Allahabad. The sergeant had been very honest about the whole thing. The Bench asked me if I was cycling without a lamp. I said, "Yes". "Did you have a lamp?" "I had no lamp at all," I replied. "Why did you not have a lamp?" I said I simply did not have it. "Do you plead guilty?" "Yes", I said. "You plead guilty. It is very painful for us, but we have got to give you a warning." Those people knew me, and they began to advise me. "You are a young man; why don't you buy a bicycle lamp?" Then, "As you have pleaded guilty,"—now, this is an important

sentence which has always stuck in my memory—"As you have pleaded guilty, we will let you off with a warning." That is the type of Honorary Magistrates we have. Taking a right view of the case I should have said—

THE HONOURABLE THE PRESIDENT: Don't you think that the Honorary Magistrate acted very nicely?

THE HONOURABLE MR. P. N. SAPRU: He may have acted very nicely to me but he did not discharge his duty.

THE HONOURABLE THE PRESIDENT: He gave you a warning only.

THE HONOURABLE MR. P. N. SAPRU: He may have acted very nicely but he should have discharged his duty. Then the *Peshkar*—the best part of the story now comes—said that somebody was very rude to the sergeant. The Honorary Magistrate said that if the sergeant goes on arresting respectable people, then he will be insulted. So, the poor sergeant got this compliment from the Honorary Magistrate for doing his job. He was told he had been dealt with properly by the person who had been arrested by his being rude to him.

THE HONOURABLE SARDAR BAHADUR SOBHA SINGH (Nominated Non-Official): Will the Honourable Member give us the story of the briefless barrister?

THE HONOURABLE MR. P. N. SAPRU: The briefless barrister is probably a more self-respecting person than many of these so-called Honorary Magistrates. They are afraid of the Collector, they are afraid of the Commissioner, they are afraid of influential citizens in the town, they are afraid of the Congress, they are afraid of the Hindu Mahasabha, they are afraid of the Muslim League. They want to please everybody, and therefore I should not like to treat them as non-officials.

THE HONOURABLE THE PRESIDENT: Despite their defects don't you think they are indispensable?

THE HONOURABLE MR. P. N. SAPRU: I started by saying that some of them are estimable persons and some of them do exceedingly good work. I do not blame these people so much as the appointing authority. The appointing authorities do not care to nominate the proper kind of person as Honorary Magistrates. In our Province an experiment was tried by the Congress Government which has been given up. I think it was a good experiment. There was to be a Selection Committee for the appointment of Honorary Magistrates which was to advise the District Magistrate. At the present moment the District Magistrate nominates the Honorary Magistrates. As these men are nominated by the District Magistrate, they are sub-servient to him. As they are subservient to the District Magistrate I think it is best that they should be classed as officials and regarded as officials. I do not agree that they should be classed as non-officials. I do not say that I will have this rule for Honorary Magistrates all the time. But, having regard to the conditions that prevail in this country now, I would disqualify Honorary Magistrates from seeking election to cantonment boards. Therefore, I am rather critical of this Bill and I cannot say that I approve most of its lines.

THE HONOURABLE SIR FIROZ KHAN NOON (Defence Member): Sir, the Honourable Member has raised only two points. First of all, with regard to the permission to Honorary Magistrates to become members of cantonment boards, my only answer to that objection is that at the moment, in accordance with the law prevailing in this country, Honorary Magistrates can become members of all Legislatures including the Provincial and the Central, and can also become members of municipalities and district boards and I do not see why they should be forbidden from becoming members of cantonment boards. So far as the servility of the Honorary Magistrate is concerned, I am afraid that servility is part of human nature and may be found in persons other than Honorary Magistrates. I will not go into details. That servility can be found amongst members of Government as well as amongst followers of certain political parties. There is so much servility going on everywhere in the world that I am afraid one cannot expect to eradicate it from any country unless you bring up a generation of young men, educated and honourable, who can stand on their

own legs and then this charge will not be levelled against them. I can assure the House that the Honorary Magistrates who will become members of these cantonment boards will be as good members of the society as you find anywhere else. An additional reason is that in these small places, ordinarily it is very difficult to find suitable men to become members of these local bodies, and an Honorary Magistrate, who is appointed by the local officials, will be usually a leader, a prominent man. It will be wrong to deprive the community of the services of these men merely because they happen to be Honorary Magistrates holding office from the present Government, even though certain members will feel that if the Honorary Magistrates were appointed by another political party, they will overnight become the best men on God's earth. Therefore I suggest that this objection does not hold good.

The other objection is with regard to prolonging the elections. The Honourable Member is aware that under the existing law, even the elected members of this Honourable House are continuing their work for the duration of the war. If the speaker himself, who has made the speech, feels that cantonment boards ought not to be allowed to continue, the first thing he ought to do is to bring a Resolution in this House saying, "I am no longer a representative of the people because I have been here for so many years and new elections must be held to the Council of State".

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU (United Provinces Northern: Non-Muhammadan): We have asked that the Legislature should be re-elected. We have made it clear that in our opinion fresh elections should be held.

THE HONOURABLE SIR FIROZ KHAN NOON: I agree that when the whole law of the country is changed with regard to elections you should enforce the same law in regard to cantonment boards also, but so long as the present law exists—

THE HONOURABLE PANDIT HIRDAY NATH KUNZRU: There is no question of the law now existing. Without its being amended fresh elections can be held. The Honourable Member should know it.

THE HONOURABLE SIR FIROZ KHAN NOON: The Honourable Member need not get excited. I am saying a very harmless thing. What I am saying is that the general law prevailing today is that you can extend the life of legislatures, municipalities and district boards because we are fighting a war and we do not wish to divert the attention of the public and Government servants, who are very badly needed for war work, from their war work to these elections. If that is the argument and it is considered sound with regard to the other elections, I feel that it ought to be sound also with regard to cantonment elections. Therefore, I feel that this principle that I am introducing into these elections for the cantonment boards is not anything strange. This is commensurate with the rest of the law of the land and when that law is changed, this will also be changed.

THE HONOURABLE MR. SUSIL KUMAR ROY CHOWDHURY (West Bengal: Non-Muhammadan): Are not elections being held in the Dominions?

THE HONOURABLE SIR FIROZ KHAN NOON: I am only referring to this country of India, my own land where this law obtains. I am not referring to the Dominions. I am only referring to what is prevalent in India. When elections are not being held elsewhere, cantonment boards ought to be brought into line with the rest of them.

THE HONOURABLE SIR GOPALASWAMI AYYANGAR (Madras: Non-Muhammadan): May I put a question, Sir? I think the Honourable Member said that Honorary Magistrates were eligible for election to other local authorities in the country. I have just discovered section 49 of the Madras District Municipalities Act. Sub-section 2(d) of this section says:—

"A person shall be disqualified for election as a Councillor if such person is at the date of nomination or election an officer or servant holding office under this Act or an Honorary Magistrate for the municipal town".

THE HONOURABLE SIR FIROZE KHAN NOON: My remark on that point was based on my personal knowledge of what exists in the Punjab but I had not in my mind the exact details of every little law in every province. Perhaps Madras may be a little different to the Punjab. In the Punjab every Honorary Magistrate is eligible for election to the Provincial Legislature as well as to the local bodies.

THE HONOURABLE THE PRESIDENT: The provisions of the Municipal Act differ in every province.

THE HONOURABLE SIR GOPALASWAMI AYYANGAR: The principle of the disqualification is that an Honorary Magistrate might be called upon to decide cases under the Municipal Act in which the Municipal Council has to appear as a party in the case.

THE HONOURABLE THE PRESIDENT: Motion moved:

"That the Bill further to amend the Cantonments Act, 1924, as passed by the Legislative Assembly, be taken into consideration."

Question put and Motion adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

Clauses 5, 6, 7 and 8 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE SIR FIROZ KHAN NOON: Sir, I beg to move:—

"That the Bill, as passed by the Legislative Assembly, be passed."

***THE HONOURABLE MR. P. N. SAPRU:** Sir, I would like the Honourable Sir Firoz Khan Noon to explain what the result is. The Note on Clause 4 refers to a recent election dispute. What is that dispute and what is the judgment in that case? Upon what principle or basis does that judgment proceed? Is the principle laid down in that election dispute the same to which attention was drawn by Sir Gopalaswami Ayyangar? The point that the Honourable Sir Ayyangar made was that Honorary Magistrates are regarded as persons in the Civil Service of the Crown in India for purposes of election to municipal bodies because they are Magistrates who may have to deal with municipal cases also and it would be inconsistent with their position as Municipal Commissioners to deal with municipal cases which may come before them. I should like to know, Sir, the precise legal grounds upon which the election dispute was decided? The Honourable Sir Firoz Khan Noon in a very clever way insinuated that we were all subject to some kind of pressure or other. He knows the pressure he is subject to better than I, because we may have the party machine to which we may be subject —

THE HONOURABLE THE PRESIDENT: He used the word "influence" not the word "pressure".

THE HONOURABLE MR. P. N. SAPRU: In the case of Government members there are so many influences operating in their mind. All those influences do not always operate in the minds of poor non-officials. We have at all events a fairly wide electorate to fall back upon. We are in touch with our countrymen. People who occupy Government Benches take their orders from a Government which owes its allegiance to a foreign power. They take their instructions not from the electorate of this country but from the people of Britain. There is a difference and I need not dilate on that too much. But the correct principle was pointed out by Sir Gopalaswami Ayyangar. I should like to know what exactly is the judgment in that recent election case. The case should have been specified. We should have been told what the decision was, so that we might have been able to read for ourselves that case and to satisfy ourselves that the reasoning was correct. That has not been done. I certainly think that the manner in which reference is made to a case as a recent case is not the right manner. The name of the case is not mentioned, the particulars of the case are not given and the Court which decided that case is not mentioned.

*Not corrected by the Honourable Member.

The manner in which the ground has been prepared for our reversing the decision is not the right manner. Whether the other Honourable Members like this Bill or not, so far as I am concerned, my mind is made up. I will say "No" to this Bill so long as this clause stands.

THE HONOURABLE SIR FIROZ KHAN NOON: Sir, I am rather surprised at the last remark of the Honourable Member who says that he has made up his mind and—

THE HONOURABLE MR. P. N. SAPRU: Because you have not given me material.

THE HONOURABLE SIR FIROZ KHAN NOON: You have asked me and I was going to tell you. If you make your mind a closed book, I cannot convince you.

THE HONOURABLE MR. P. N. SAPRU: This is the Third Reading and I should have been allowed to read for myself the judgment before I came here.

THE HONOURABLE THE PRESIDENT: You ought to have asked this question at the Second Reading.

THE HONOURABLE SIR FIROZ KHAN NOON: If the Honourable Member had mentioned the matter when he made his speech on the Second Reading, I would have given all the facts. As a matter of fact I have a certain feeling that the Honourable Member wanted an opportunity to speak in order to be able to express his views regarding servility. If he wanted to do that, he was quite welcome. As regards the actual merits, I do not think it ought to worry him one way or the other, for the simple reason that if I told him that Mr. A was elected and ousted from his election and also the name of the case and the place, it would make no difference to him. He is a lawyer and he knows that we are dealing not with personalities but with principles and therefore I had mentioned the principle to him. But since he has asked—

THE HONOURABLE MR. P. N. SAPRU: Sir, on a point of personal explanation —

THE HONOURABLE SIR FIROZ KHAN NOON: I have not given way to the Honourable Member. In order to please him and win his good-will when his mind is open to receiving my part of the case, I should like to mention quite frankly that I will take him into confidence and give him the secret which he thinks it is our duty to tell him. It is this. In 1942 an Honorary Magistrate named Khan Sahib M. H. Moledina was elected a member of the Cantonment Board, Poona. His election was challenged in the Court of the Second Extra Joint Sub-Judge, Poona, by Mrs. Shashiprabha Agarwal, on the ground that the Khan Sahib being an Honorary Magistrate is a member in the Civil Service of the Crown and as such his election is invalid. The Court accepted the contention of the plaintiff Mrs. Agarwal and declared the election of the Khan Sahib invalid under section 28(1) of the Cantonment Act. The Cantonment Board, Poona, has proposed to file an appeal against the judgment. The Legislative Department has advised that whatever may be the upshot of the appeal Government ought to decide the question of policy as to whether an Honorary Magistrate should or should not be eligible for election to the cantonment board and having reached this decision to promote an amendment one way or the other. That was really the object in view and I hope that satisfies my Honourable friend.

THE HONOURABLE MR. P. N. SAPRU: What I wanted to say was this, that the Honourable Sir Firoz Khan Noon referred to the fact that the principle had been stated here. You know, Sir,—you have had a wide experience of the law Courts—that no Court permits you only to read the headlines.

THE HONOURABLE THE PRESIDENT: He has given all the details.

THE HONOURABLE MR. P. N. SAPRU: Now he has given us the details but from the details that he has given us it appears that the matter is still *sub judice*, that is it is still before a superior Court. It is only a judgment of a Magistrate and it cannot have the force of a judicial authority.

THE HONOURABLE THE PRESIDENT: That is not personal explanation.

THE HONOURABLE MR. P. N. SAPRU: No! However, I do not raise any objection.

THE HONOURABLE THE PRESIDENT: Motion moved:—

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

Question put and Motion adopted.

THE HONOURABLE THE PRESIDENT (to the Honourable Sir Jogendra Singh): You do not propose to move your Bill today?

THE HONOURABLE SIR JOGENDRA SINGH (Education, Health and Lands Member): No, Sir.

The Council then adjourned till Eleven of the Clock on Wednesday, the 15th March, 1944.