



# PROCEEDINGS

OF

# THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

# LAWS AND REGULATIONS

From April 1908 to March 1909

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WITH INDEX.

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*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at Viceregal Lodge, Simla, on Monday, the 8th June, 1908.

PRESENT:

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Louis William Dane, K.C.I.E., C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Munshi Madho Lal.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

INDIAN SALT-DUTIES BILL.

The Hon'ble MR. BAKER moved for leave to introduce a Bill to make special provision for the payment of duty on salt in certain cases. He said :—  
“ My Lord, under an arrangement which is at present confined to the Madras and Bombay Presidencies, merchants who buy salt from Government sources are allowed credit for payment of the duty ; they deposit adequate security, and their accounts are cleared every six months, or at shorter intervals if so arranged. The system has worked well and smoothly ; it tends to cheapen salt to the consumer and to facilitate its distribution. The Bill now presented is intended to allow of the extension of the same system to other parts of India.”

The motion was put and agreed to.

2     **SALT-DUTIES; LOCAL AUTHORITIES, LOANS; EXPLOSIVE  
SUBSTANCES.**

[*Mr. Baker; Sir Harvey Adamson.*]

[8TH JUNE, 1908.]

The Hon'ble MR. BAKER introduced the Bill.

The Hon'ble MR. BAKER moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

**LOCAL AUTHORITIES' LOAN (AMENDMENT) BILL.**

The Hon'ble MR. BAKER moved for leave to introduce a Bill to amend the Local Authorities' Loan Act, 1904. He said:—"My Lord, that Act was passed to enable certain local authorities to borrow money by means of the issue of short-term bills. In practice it has been found that in some cases the documents on which the loans are sought to be raised are promissory notes in form, rather than bills in the ordinary banking and commercial sense. Doubts have been expressed whether the word 'bills' is strictly sufficient to include promissory notes; and though no practical difficulty has arisen, it seems expedient to amend the Act so as to place the matter beyond doubt."

The motion was put and agreed to.

The Hon'ble MR. BAKER introduced the Bill.

The Hon'ble MR. BAKER moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette.

The motion was put and agreed to.

**EXPLOSIVE SUBSTANCES BILL.**

The Hon'ble SIR HARVEY ADAMSON moved for leave to introduce a Bill further to amend the law relating to explosive substances. He said:—"My Lord, I do not think that I need explain to the Council at any length the reasons why the Government of India have thought it necessary to introduce a Bill to deal with explosive substances.

"The nature of the danger which we have to meet has been revealed in the recent attempts to derail by explosive bombs the train of the Lieutenant-Governor of Bengal, in the attempt on the life of the Maire of Chandernagore, in the terrible murders of two ladies at Muzaffarpur, in the discovery of a bomb factory

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[*Sir Harvey Adamson.*]

in Calcutta, in the subsequent attempt to destroy a tramway car, and in the deposit of a bomb of great power in the precincts of a church, and last but not least in the revelations as to the objects of certain newspapers whose aim is to incite to assassination.¶ The nature of the dangers which we have to meet is known to everybody in and out of this Council. The present Bill deals with the danger in respect of explosive substances. I propose subsequently to introduce a Bill dealing with dangerous newspapers.¶ We have to cope with an organised band consisting unhappily not of the men of the lower criminal classes, but educated men who are banded together against all the interests that keep society alive, men who like pirates are the enemies of the human race.¶ Knowing the danger before us—a danger which in India is new—we must meet it by new remedies, not in the spirit of panic, but in a cool and resolute spirit and with a determination to strangle those plans and put down the authors of them. The first line of defence we have against these dangers is to be found in the police, and I desire in the first place to pay my tribute to the splendid services which the police of Bengal have within the last few weeks rendered to the cause of society. The next line of defence which we have is to be found in the penalties of the law. First we have the Explosives Act of 1884. But that Act is not directed against persons possessing explosives with a criminal object. It is intended to defend life and property against the reckless or careless use of a dangerous commodity. The highest penalty in the Act is a fine of three thousand rupees. Next we have the Arms Act of 1878. The penalties in it are directed against the unlicensed manufacture or possession of arms, ammunition or military stores, and the maximum punishment is imprisonment for three years, except where the criminal act is done in such a manner as to indicate an intention that such act may not be known to a public servant, in which case the maximum punishment is imprisonment for seven years. These punishments are obviously insufficient for the making or possession of explosives with the intent to endanger life or to cause serious injury to property, even if the act itself could always be brought within the provisions of the Arms Act. Finally, we have the Indian Penal Code which provides only for the actual committing of hurt or mischief by an explosive substance, and in which the punishment has various ranges up to transportation for life, dependent on the extent of hurt or damage which it is intended to commit. Here again the remedy is inoperative, because no offence has been committed until an attempt has been made to commit hurt or mischief, and in that attempt some overt act has been done. It must therefore be perfectly obvious to any one that the existing law is not sufficient to meet the new emergency which has arisen, and I think it unnecessary to enlarge on

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this aspect of the case. The defects of the existing law it is the object of this Bill to amend, and I think I shall best do what is useful by simply going through the Bill. Where an explosion takes place which leads to the loss of life, that is not dealt with in the Bill. It is not necessary to do so because if a man produces an explosion by which life is lost he is guilty of murder, and would be dealt with for murder without the Bill. The third clause of the Bill deals with an explosion which has not caused loss of life, but with the case where an explosion has actually taken place. It is wide enough to include any serious explosion, because no explosion of a serious character could fail to be described as one likely to endanger life or to cause serious injury to property. It provides a penalty which may extend to transportation for life or to imprisonment for ten years, and I am sure that no one will think that this is a penalty which is too severe for the offence. The fourth clause of the Bill deals with the case where there has not been an explosion, but where there has been an intent and an attempt to cause an explosion. It also includes the making or possession of explosives with intent to endanger life or property. That is a degree lower because the explosion has not actually taken place. In either case the intent has to be proved, and when such an intent has been proved, no one will say that the maximum penalty, which is transportation for twenty years or imprisonment for seven years, is too high. The fifth clause relates to the making or possession of explosives under suspicious circumstances. I will read it—

‘ Any person who makes or knowingly has in his possession or under his control any explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punishable.’

“ In the first place, the prosecution must raise a reasonable suspicion as to the conduct of the man who makes an explosive or has it in his possession: and having raised that suspicion, then it is thrown on the prisoner to show that he made or had it in his possession for a lawful object. It is perfectly justifiable when reasonable suspicion has been shown to exist with reference to the conduct of people who cannot or else will not give any account of themselves, or why they are in possession of a commodity which even by mere carelessness may be destructive of thousands of lives and of an unlimited amount of property, that they should be called upon to show the reason why they are possessed of these things. This legislation is not of an unexampled character. It is part of the permanent law of this country. In the presidency-towns, if a man is found in the night armed with a dangerous and offensive weapon or having in his possession without lawful excuse—

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proof of which excuse lies upon him—any implement of house-breaking, then he shall be convicted. If a man may be called upon to show the reason why he has a picklock in his possession, I think he may be called upon to show also by what right he possesses a hundred weight of nitro-glycerine, and therefore I say this legislation is founded on exactly the same principle as that of our existing and permanent law, and no objection whatever can be taken to this clause on that ground. In consideration of the fact that the onus of proof is thrown on the accused we have followed the English law and put a lower penalty upon the offence in this clause, the maximum being transportation for 14 years or imprisonment for five years.

“The sixth clause is one which is perhaps partly covered by the permanent law of abetment. But it is desirable that public attention should be called to the fact that it is not only the man who makes an explosive or the man who places it where an explosion takes place, who is guilty of a crime, but that every man who supplies money or solicits money for the purpose or in any way procures, counsels, aids, abets or is accessory to the commission of an offence under this Act is liable to suffer exactly the same penalty as if he had been guilty as a principal.

“I now come to clause 7 where there is a protection against innocent people being vexed under this Bill, and that is, that no Court shall proceed to trial of any offender without the sanction of the Local Government, and therefore if through the police or otherwise an innocent man is arrested and gives an account of himself, the whole matter will if necessary go before the Local Government and the proceedings will come to an end.

“There remains the definition clause, which is a clause of great importance. The expression ‘explosive substance’ applies not merely to explosives themselves, but, what is absolutely essential, it applies to all their materials. If you do not do that, you do nothing. If you allow a man to have in one room sulphuric acid, in another room nitric acid, and in another room glycerine, and you are to await till he combines the three, he will defy your law. It is absolutely necessary that all the materials which may be used in the composition of explosives should be brought within the scope of the law. I am well aware that there are many materials of explosives, like saltpetre or sawdust, which may be perfectly innocent in themselves; but no man will be punished unless he has those materials in his possession in such a way as to raise a suspicion that they are intended to be used for an improper purpose. And it is necessary also not only to deal with the materials for making any explosive

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substance but also with the apparatus and machinery that are intended to set the explosive materials at work. The definition therefore makes mention of—

“ any apparatus, machine, implement or material used or intended to be used or adapted for causing or aiding in causing any explosion in or with any explosive substance, also any part of such apparatus, machine or implement.”

“ That will deal with detonators, with chlorate of potash, with sulphuric acid, and with all the means employed for exploding the commodity.

“ I think I have called attention to all the material parts of the Bill, and now for a word as to the haste with which we propose to pass it. It is not my business to increase excitement, it is rather to allay than to excite panic. But I cannot conceal from the Council my conviction that the danger is great and imminent, and that it ought to be dealt with at once and with a strong hand. A new crime has arisen in India, a crime of a terrible nature, and the existing law is absolutely insufficient to cope with it. I will not say more than that. But I may tell you what occurred in England when the same danger first showed its face. Early on the morning of the 5th April 1883 a man was arrested in a house in London and found to be in possession of a box which contained 1½ cwt. of nitro-glycerine. There was also discovered a manufactory on a large scale of explosive matter. This was communicated to the House of Commons on the same evening by Sir William Harcourt in answer to a question. He also said that he was not satisfied with the state of the law on the subject and that it required early amendment. On 6th April Sir William Harcourt gave notice that on Monday next, the 9th April, he would ask leave to introduce a Bill to amend the law with reference to the possession of explosives, and that in order to expedite the passing of the measure he would move that the orders of the day be postponed. On the 9th April the Explosive Substances Bill was introduced. The Bill was read a first and second time, considered in Committee and read a third time. It was sent to the House of Lords on the same day, where it was read a first, second and third time and passed by 11-30 P.M. There is the same necessity for haste here as there was in England. I may add that the present Bill is almost identical in terms with the English Explosive Substances Act, and that in explaining its provisions I have indented largely on Parliamentary reports.”

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill.



[8TH JUNE, 1908.] [Sir Harvey Adamson ; Nawab Saiyid Muhammad.]

The Hon'ble SIR HARVEY ADAMSON moved His Excellency the President to suspend the Rules of Business to admit of the Bill being taken into consideration.

His Excellency THE PRESIDENT declared the Rules suspended.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be taken into consideration.

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR said :—  
“ My Lord, I deeply regret the dire necessity which has induced the Government of India to convene this meeting of the Council. The terrible tragedy at Muzaffarpur has brought home a sense of shame and humiliation to every loyal and patriotic Indian. It is with a universal feeling of horror and indignation that the news of the barbarous outrage carrying off two innocent English ladies was received throughout India by men of all classes, creeds, and communities. To the bereaved husband and father, Mr. Kennedy, who has suffered simultaneously two of the greatest of domestic misfortunes, spontaneous sympathy and sorrow have gone forth from innumerable hearts in the country. The disclosures which have subsequently been made at Calcutta reveal the existence of a dangerous and widespread organisation for promoting anarchism whose ends are, as is well known, the destruction of all property, law and government. The birth of this monster in the present political and social conditions of the country has filled all thinking men with genuine alarm and anguish. I may be permitted to assure Your Excellency that popular forces and popular opinion will unreservedly co-operate with the Government in weeding out this noxious growth. It is an evil which is quite alien to the ancient civilisation of this land, which is in violent contrast with the religious beliefs and traditions of the various peoples inhabiting this country. It is the common interest of every intelligent citizen to see that the evil is not allowed to grow and that it is stamped out of the country before it develops into dangerous proportions. I have no doubt that the heart of the people is with the Government at the present trying time in their efforts to overcome the forces of anarchy and disorder. I have also every confidence that the Government in successfully stemming the elements of disorder and violence in the country will give no heed to the counsels of reaction, of panic and of ignorance of the actual conditions. The British Government has always been noted for its humanity and justice. Its moral purpose and power have always been higher than its material strength. At

[*Nawab Saiyid Muhammad; Tikka Sahib of Nabha; Sir Harvey Adamson.*] [8TH JUNE, 1908.]

the present juncture wise statesmanship requires that Your Excellency's Government should act with decision, justice and lenity, which will be in accordance with the best traditions of the British rule."

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH of Nabha said :—" My Lord, the events of the past few weeks—events which every sensible and right-thinking man will condemn—have naturally compelled the Government to take some sort of action. The recent bomb outrages are most deplorable, and I may remark that this sort of crime was unknown in this country till recently. It is every day happening in European countries, because, for good or evil, 'democracy' is in the air, and India could not have escaped the infection. Under rule 20 of the rules of the conduct of the business in this Council, Members are entitled to have a copy of a Bill which is to be taken into consideration, at least seven days beforehand, but I got my copy only last evening, so I have not had sufficient time to fully think over the matter. Things done in haste are not often well done; and in this connection I would beg to point out that the Bill which is now before the Council seems to be vaguely drafted. For instance, it does not mention two very important matters, *viz.*, the grade of Judicial officer who will have jurisdiction to try offences under this Act, and to whom an appeal will lie from his orders. I therefore beg to suggest to Your Excellency that these and other such defects should be remedied before the Bill is passed.

" It seems a pity that the Hon'ble the Maharaja of Darbhanga, who was reported in the papers a few days ago to have said, at a meeting recently held, that he as a Member of Your Excellency's Council would support any measure brought forward by the Government in this connection, is not here today among us to take part in these deliberations ! "

The Hon'ble MUNSHI MADHO LAL said :—" My Lord, I think no sensible loyal subject of Government will hesitate to support this important Bill. I do not think the objection raised by my Hon'ble friend the Tikka Sahib is applicable at the present time. The situation is very serious and much mischief may arise, and the sooner we deal with it the better. I do not think there is any necessity to declare in the Bill the grades of the officers who are to take action under the provisions of the Bill; it depends upon the Local Governments to take action if they think necessary. This small detail is of minor importance."

The Hon'ble SIR HARVEY ADAMSON said :—" I have only one word to say with reference to the statement made by the Hon'ble the Tikka Sahib of

*EXPLOSIVE SUBSTANCES; NEWSPAPERS (INCITEMENTS TO OFFENCES)* 9

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Nabha that the Bill does not provide for the grade of the Judicial officer, and for the tribunal of appeal. It was not necessary to insert any provisions of this kind in the Bill because they are already provided for by the Code of Criminal Procedure, the procedure of which applies not only to offences under the Indian Penal Code but also to offences under other laws."

His Excellency THE PRESIDENT said :—" I intend to reserve any remarks which I wish to make till after we have considered the Newspaper Bill. I will now put the motion to the Council."

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be passed.

The motion was put and agreed to.

**NEWSPAPERS (INCITEMENTS TO OFFENCES) BILL.**

The Hon'ble SIR HARVEY ADAMSON moved for leave to introduce a Bill for the prevention of incitements to murder and other offences in newspapers. He said :—" My Lord, the Bill which I ask for leave to introduce is a sequel to the Explosive Substances Bill and is intended to meet the same emergency. There are two factors in this emergency, neither of which it is possible to ignore if the evil is to be adequately dealt with. The first is the actual making and using of bombs, which has been met by the Bill which has just been passed into law. The second is the public incitement to murder and acts of violence carried on through the medium of an infamous section of the Press. These two factors are as inseparable as cause and effect. If you legislate for the effect without legislating for the cause, you do nothing. The present Bill is therefore as urgent as the one with which we have just been dealing. In the opinion of the Government of India it is absolutely necessary for the public safety that it should be passed into law with the utmost possible despatch. The circumstances which have led to this legislation are fresh in the minds of all of us.

"It is therefore not necessary for me to give a history of the events of the bomb outrages, and I am the more disinclined to do so because certain persons accused in connection with these transactions are still under trial. There is one point and only one in connection with the proceedings that I am compelled to mention in order to support and justify the legislation in which we are engaged. It is the close connection between the Manicktollah conspirators and a

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certain section of the Press. Barendra Kumar Ghose, who declares himself to be the leader of the conspirators, is the man who created the *Yugantar* newspaper. Many of those who are under arrest and have confessed to participation in the crimes have been connected with the *Yugantar*. Some have been connected with another newspaper which it is not necessary for me to name. Some have confessed that they drew their inspiration from newspaper writings. Among others the young man who threw the bomb at Muzaffarpur has admitted that he was incited by writings in the *Yugantar*. I will make no further comments on events which are now *subjudice*. What I have stated is taken from proceedings in Courts of Justice and is already public property.

“Now turning to the class of newspaper against which this Bill is directed, I find that the *Yugantar* has been on five occasions during the past year the subject of prosecution for the offence of seditious libel. On four occasions the printer and publisher has been convicted and one case is still pending. The authors of the offending articles have never come forth into the light. So far from being deterred by prosecution, a fresh printer and publisher has been registered on each occasion of conviction, and the tone of the newspaper has continued unimproved. In spite of five prosecutions the *Yugantar* still exists and is as violent as ever. The type of seditious libel has been incitement to subversion of British rule by deeds of violence. The policy of the newspaper has been to court prosecution in order to create pseudo-martyrs and thus to enlist sympathy on the side of anarchy, and it may be presumed that a further inducement was to increase the circulation of the newspaper by pandering to the tastes of the depraved. I quote the following extract from the official translation of an article in the *Yugantar* which appeared a few days after the attempt on an officer's life in Muzaffarpur resulted in the terrible death of two ladies :—

‘Hard-heartedness is necessary to trample the enemy under foot. An independent-spirited youth, arrested in connection with the Calcutta incident, is said to have said: “The work of the revolutionists, though progressing slowly, was very satisfactory; but two innocent women having met with violent death, all their attempts have been foiled by a curse of God.” If any youth aspiring to freedom has really said so, then he has not yet become fit to obtain freedom. Hard-heartedness is necessary to trample the enemy under foot. When during the *Treta Yuga* the *Rakshasas* were perpetrating frightful oppression in the Dandaka forest, Rama extirpated the whole race of the *Rakshasas*. Laksman Thakur cut off the nose and the ears of Surpanakha, the beautiful sister of Ravana, and then let her go. It is not necessary to give illustrations. If in the attempt to destroy the enemy a woman is accidentally killed, then God can have no cause of displeasure like the English. Many a female demon must be killed in the course of time, in order to extirpate the race of Asuras from the breast of the earth. There is no sin in this—no mercy, no affection.’

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"Two days ago I saw a telegram from Calcutta stating that the *Yugantar* which usually appears on Saturday had unexpectedly appeared on Friday, that thousands of copies had been struck, and that they were selling at a rupee a copy. The telegram gave some description of the contents, which in violence outvied any previous issue. I have not yet received the full translations.

"I have up to this point confined myself to the *Yugantar* because it has already obtained so great notoriety that nothing that I can say can make it more notorious. But writings of a similar type abound in other newspapers, not only in Calcutta but throughout India. I will not give any of these disreputable papers an advertisement by mentioning their names. I will content myself with stating the substance of articles which I have culled from them. One article referring to the partition of Bengal states that the ruthless knife of the butcher has severed in twain the throbbing body of the motherland, and makes frantic appeals to all sons of the soil to combine and avenge the atrocity. Another makes insidious attempts to propagate the cult of Ramdas who instigated Shivaji to revolt against Moslem rule. Another instigates Indians to sacrifice their lives and to teach the rulers a bitter lesson. Another urges the Bengalis and the Gurkhas to join hands and rebel against the oppression of the bureaucracy. Another advises the Bengalis to resort to red as the colour of revenge and to sing the hymn of retaliation: 'A hundred heads for one head to avenge the murder of the motherland.' Another states that a huge sacrificial fire should be lit up and fed not with ghee, but with blood. Another advocates that Indians should make use of blacksmith's tools, *lathies* and slings and stones to overmatch the enemies of their country. Another says that if by resorting to boycott we can gain our desires we can only be said to postpone for the present our resolve to shed blood. Another says that if we desire independence we should be ready to be massacred by our rulers so that their sword may become blunt. Another exhorts to die after killing, as therein the glory of dying will be enhanced. Another urges the sacrifice of life for liberty, for is it not a fact that Kali will not be propitiated without blood. Another advocates the methods of nihilists and the use of bombs. I might go on for hours in quoting such types as these. To an Englishman, who knows not India, they would appear to be little more than ridiculous bombast. But to impressionable and immature minds in the East they present an entirely different significance. We have already seen the terrible effect that they produce on the youthful student, and they must be judged by Eastern and not by Western standards. We have striking examples of how they have converted the timid Bengali into the fanatical

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*ghazi*, and they are not to be ignored. The difference between the East and the West in this respect is the difference between dropping a lighted match on a stone floor and dropping it in a powder magazine.

“ Now, my Lord, I have quoted some of the dangerous incitements that are published by unscrupulous newspapers. I have given facts showing the effects which such writings have produced on misguided young men, and I have shown that prosecution has been tried and tried again and has completely failed to put a stop to this incitement to outrage. Under these circumstances what is the duty of a responsible Government? Its bounden duty surely is not only to make adequate provisions to punish the perpetrators of outrages that actually occur, but also to close the fountain head, and to insure that colleges of anarchy, assassination, rebellion and violence are not openly maintained under the guise of newspapers circulated among the public.

“ I will now explain the legislation which we are undertaking for this purpose. The first and most important point that I desire to impress is that this Bill is not a general Press law directed against sedition as defined in section 124A of the Indian Penal Code. Sedition means an attempt to bring into hatred or contempt or to excite disaffection towards the Government established by law in India. I have no sympathy with sedition and do not in any way palliate that serious offence. But this Bill is not directed against sedition. In respect of sedition we leave the existing criminal law to take its course. The present Bill is confined entirely to the emergency which is now facing us. It is intended to provide a more effective way than prosecution for attempts through newspapers to incite to murder and acts of violence. It is not meant as a substitute for but as a supplement to prosecution. It is directed against newspapers which persistently defy the law, which court prosecution, which set up dummies for punishment while the real authors lie concealed, and which establish themselves as schools of anarchy and outrage with the object of debauching young and immature minds, and inciting men to murder, armed revolt, and secret and diabolical schemes of general assassination. The only way to deal with such newspapers is to put an end to their existence, and this we propose to do in the Bill by giving power to confiscate the printing press and to extinguish the newspaper. This is the object of the present Bill, and these two powers are all the powers that it contains. Next as regards the means for effecting these ends. There are two ways in which they can be effected, by executive action or by judicial action. The former would be more prompt, and there are many who have urged us to adopt it. The latter, however, is more in accordance with the principles of modern administration, and at the sacrifice, it may be, of some efficiency, we have chosen it. The Bill empowers

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the Magistrate on application made on behalf of the Local Government to take action in respect of the printing press concerned, when he is of opinion that a newspaper contains any incitement to murder or to an offence under the Explosive Substances Act or to an act of violence. The first step is a notice to all concerned affixed on the place where the printing press is. The next is the hearing of the case, which will be in the nature of a criminal miscellaneous proceeding. Evidence will be given on behalf of the Local Government, and evidence may be tendered by any one who opposes the action. The Magistrate will then record a finding, and if the finding is that the newspaper contained the incitement alleged, he will proceed to order forfeiture of the printing press. He will have the discretion of keeping the printing-press under attachment during the hearing of the case. Against an order of forfeiture an appeal will lie to the High Court, the period of limitation being fifteen days. A further power is given to the Local Government. When an order of forfeiture has been passed the Local Government may annul the declaration made by the printer and publisher under the Press and Registration of Books Act, the effect of which annulment is that the newspaper will cease to lawfully exist.

“There is one other point that I think I should explain. Action can be taken under this Bill only when a newspaper contains an incitement to murder or to any offence under the Explosives Substances Act, or to any act of violence. It may be thought that the last words ‘any act of violence’ are too wide and that they admit of action being taken on account of a trivial deviation towards censurable journalism. If these words were omitted, if no words of the kind were inserted, the Bill would in practice be inoperative, for it would be easy for any one to write round the clause, to evade its intention, and to publish the most dangerous incitements while keeping within the letter of the law. The position is familiar in criminal law. If you consider every possible particular in which almost any penal clause may be abused, you may throw it out altogether. Take for instance the Indian Penal Code. If you give your neighbour a tap on the shoulder, you may come within the terms of the offence of using criminal force. No Bill could ever be drawn which would prevent extreme cases from arising. It would be impossible to draw any Bill which would stop the offences that are aimed at, if it were insisted that under no conceivable circumstances it could be applied to others than those whose punishment it provides for. If you mean to have a Bill that will effect the purpose that you have in view you must admit these consequences and rely on the safeguards which will prevent injustice from being done. Now the safeguards under this Bill are far greater than those afforded under the ordinary penal

[*Sir Harvey Adamson ; the President ; Nawab Saiyid Muhammad.*] [8TH JUNE, 1908.]

law. A private person can take no action under it. The police can take no action under it. Not even the Magistrate can initiate action. The Bill cannot be applied to extreme cases because no action will be taken except on the initiative of a responsible Local Government. It is inconceivable that a Local Government should take action in an extreme case, or in any case that did not present a serious aspect. There is therefore no danger to be apprehended by the public from the wideness of the clause.

“ In conclusion, I say that this Bill is not directed against the liberty of the Press. If a repressive measure is a measure which curtails the legitimate liberties of the people, this Bill is in no sense a repressive measure. It curtails no liberty that is legitimate. It is strictly confined to incitements to murder, and acts of violence. No newspaper in the civilized world has liberty to make such incitements. It is impossible that the Bill can ever affect any newspaper that is properly and decently conducted. Even when it is applied in respect of a newspaper which has degenerated from liberty into lawless license, its application can only be by means of constitutional judicial methods in which the parties concerned will have the advantage of the complete judicial trial to which they would have been entitled if they had been prosecuted for committing an offence.”

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill.

The Hon'ble SIR HARVEY ADAMSON moved His Excellency the President to suspend the Rules of Business to admit of the Bill being taken into consideration.

His Excellency THE PRESIDENT declared the Rules suspended.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be taken into consideration.

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR said:—“ My Lord, though I agree with the principle, yet I regret I cannot support all the details of the Bill relating to the Press we have now before us. The object of the Bill is laudable, but whether the provisions of the Bill will attain that object is, I think, open to doubt. I would not plead for a moment that all our newspapers are perfect or near it, but, on the contrary, some of them are run on eccentric lines. The Bill has been hastily got up, and I regret to say we have



[8TH JUNE, 1908.]

[*Nawab Saiyid Muhammad.*]

been afforded no opportunity to consider the measure carefully and express any decided opinion. The Bill appears to me to be too wide in its scope in that it covers not only offences for incitement to murder or offences under the Explosives Act, but any act of violence; this, I am bound to say, is vague and indefinite. Coming to the details of the Bill, some of the sections are open to criticism. The conditional forfeiture provided in section 3, sub-section (1), arms the executive with extensive powers. My Lord, I yield to none in my respect for the executive officers of the service, but after all they are not infallible. I am strongly of opinion that the Magistrate under no circumstances should be allowed to attach a printing press by an *ex parte* order as provided for in section 3, sub-section (3), of the Bill, and I would respectfully ask the Hon'ble Member in charge to show a more judicial attitude in the matter. The right of appeal has been unduly curtailed and the time limit is too short.

“ My Lord, although I think that incitement of every kind should be dealt with severely, legislation of this kind, in my humble opinion, cannot help us in the long run. This is also the view taken by thoughtful men in England. Writing on ‘ The ethices of dynamite ’ in the *Contemporary Review* in 1894, the Hon'ble Auberon Herbert admirably summed up the situation in the following words :—

‘ If the only effect upon us of the presence of the dynamiter in our midst is to make us multiply punishments, invent restrictions, increase the number of our official spies, forbid public meetings, interfere with the Press, put up gratings—as in one country they propose to do—in our House of Commons, scrutinise visitors under official microscopes, request them, as at Vienna, and I think now at Paris also, to be good enough to leave their great-coats in the vestibules—if we are, in a word, to trust to machinery, to harden our hearts, and simply to meet force with force, always irritating, always clumsy, and in the end fruitless, then I venture to prophesy that there lies before us a bitter and an evil time. We may be quite sure that force-users will be force-begetters. The passions of men will rise higher and higher; and the authorised and unauthorised governments—the government of the majority and of written laws, the government of the minority and of dynamite—will enter upon their desperate struggle, of which no living man can read the end. In one way and only one way can the dynamiter be permanently disarmed—by abandoning in almost all directions our force-machinery, and accustoming the people to believe in the blessed weapons of reason, persuasion, and voluntary service.’

“ My Lord, these are words of wisdom which I respectfully submit for the consideration of Your Excellency's Government. As I believe that the Bill when passed into law will have a wholesome effect on those who write at random without themselves knowing what they write about, I support the motion before the Council.”

[*Tikka Sahib of Nabha.*]

[8TH JUNE, 1908.]

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH of Nabha said :—“ My Lord, it is rather hard on the Members of this Council to give their opinions off-hand on important subjects without having an opportunity of considering facts and examining references. If it was thought that the present situation demanded immediate action on the part of the Government, the proper thing to do would have been to issue an Ordinance under the exceptional powers given by the Indian Councils Act to meet such emergencies, and to reserve legislation for the next Calcutta session, because additional Members are generally not expected to attend the meetings of the Council at Simla, and many of them are not present here today. I remember that the Hon'ble Sir Harvey Adamson said in this Council last year that the objections to legislation at Simla are not so strong now when there is a railway, as they were many years ago when there were no such facilities of travel; but I apprehend that the Hon'ble Member overlooked another inconvenience when he spoke. If an Hon'ble Member intends to come either from Madras or Burma to Simla, to attend the meeting of the Council in the month of June or July, can the journey be described as a pleasant and 'short railway journey' ? It was perhaps for such reasons that Lord Salisbury, then Secretary of State, wrote to the Government of India many years ago that no important legislation should be undertaken in Simla. Let the Government suppress crime with a strong hand, but at the same time let not its action appear arbitrary or precipitate. If there is any real and general unrest in the country as is alleged, let us try to find out its causes and remove them. Let us also think and decide whether coercion or conciliation would be the better remedy. I have not had sufficient time to give full consideration to the Bill which is now before the Council, because I received a copy of it only last evening. I do not therefore find myself in a position to criticise the Bill in detail, yet I beg to offer a few observations on its provisions. Section 3, sub-section (3), appears to be unnecessary and might be omitted. Section 3, sub-section (5), does not specify the period after which the Magistrate is to make the conditional order absolute, or how long he has to wait for the appearance of the person or persons concerned. This should be made clear and not left to the discretion of the Magistrate. In section 5, which provides for an appeal, thirty days may be substituted for fifteen. Section 6 appears to be superfluous and might be left out. In section 7 the words 'or of any newspaper which is the same in substance as the said newspaper' are ambiguous, and should be either made clearer or struck out of the Bill. These are a few defects which have occurred to me in the hurried reading of the Bill, and there may be some other defects also. The present Bill does not

[8TH JUNE, 1908.] [*Tikka Sahib of Nabha; Munshi Madho Lal; Sir Harvey Adamson.*]

seem to be such an urgent one as that which has just been passed, and moreover it would affect a larger number of people; therefore ample opportunity should be given to discuss its provisions, and it should not be passed in such hot haste today. Apart from this I feel that non-official Members have a right to expect that they should be given sufficient time for consideration before tendering their opinions on such important subjects; therefore I pray Your Excellency to postpone the consideration of the Bill to some future date."

The Hon'ble MUNSHI MADHO LAL said:—"My Lord, the present situation is no doubt very serious. I do not, however, think that the necessity of passing this Bill is as urgent as that of the other Act which has just been passed. A month's consideration would have been sufficient, and I think that by the postponement of a month no harm would have been done. The Bill might have been introduced, a Select Committee appointed and the Bill passed into law in a month. The Bill ought to have gone to the Press and the public, and they might have been given an opportunity of expressing their opinion on its details. As far as I can see at present, the whole heart of the country is with the Government to put an end to such writing as may incite to murder and other crimes. I have no patience with writings of this sort, and with those men who employ our sacred literature for their purposes; but still with all that, if we had postponed this legislation for two weeks or a month, no great harm would have been done. It may however be that the Government is in possession of facts necessitating the passing of this Bill at such short notice under a sense of great and heavy responsibility. As regards the present legislation, I agree with the Government and believe that the heart of the people is on their side."

The Hon'ble SIR HARVEY ADAMSON said:—"I sympathize with Hon'ble Members in their complaints that they have had little time to consider the details of the Bill. Copies of the Bill with Statements of the Objects and Reasons for which it was framed were in the hands of Hon'ble Members more than sixteen hours before the Council met. The time is short, I admit, but it is longer than was given to members of the British Houses of Parliament when legislation for a similar crisis was undertaken. I am sorry that Hon'ble Members have been inconvenienced. I should have been glad to have avoided causing inconvenience to Hon'ble Members by passing the Bill through its various stages in the ordinary way; but I hope that Hon'ble Members will accept my statement that such a course was impossible. If ever there was reasonable ground for alarm, the events that are known to us surely furnish that

[Sir Harvey Adamson.]

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ground. We are brought face to face with a great and imminent public danger, and it was absolutely necessary to make such haste as the rules of our legislative business allow.

“As regards the suggestion that we should have proceeded first by way of Ordinance, and that, having thus provided for the immediate emergency, we should have proceeded to permanent legislation in a more deliberate way, I admit that the course suggested has some advantages. But it has this disadvantage, that it commits the Governor General to taking legislative action without the advice of his Legislative Council. It is further to be remembered that an Ordinance is an act of the Governor General in person and not of the Governor General in Council. On the whole, we considered that in a matter of such importance, and in a matter in which an entirely new line of legislation is being taken, it was well to call in the aid of the Legislative Council.

“With reference to the Hon’ble the Tikka Sahib’s remarks, I am afraid that it is impossible for me to consent to an adjournment. In fact, as events have shaped themselves, the present Bill is much more urgent than the Explosive Substances Bill. I have told Hon’ble Members how the *Yugantar* brought out secretly on Friday an issue reeking with incitements to murder, and how the issue sold for one rupee a copy. In the face of these tactics it would be criminal folly to delay the passing of this Bill by a single day. The evil that one issue of a paper of this kind may do is incalculable, and though I sympathize entirely with the Hon’ble Member in his plea that there has been but little time for him to consider the substance of the Bill, I feel that it would be impossible, with a due sense of responsibility for the safety of the public, to recommend to the Council the postponement of this legislation for a single day.

“With reference to the Hon’ble Nawab Saiyid Muhammad’s objection to the *ex parte* action of the Magistrate, it is in my view quite necessary to give to the Magistrate the power of making an order of attachment *ex parte*. The power is given in cases of emergency or in cases where the application might be defeated by delay. The tactics of the *Yugantar* have shown that it is necessary when once action has been taken to have power to stop further issues of the newspaper. If the Magistrate had not this power a newspaper like the *Yugantar* would employ the whole time between notice and hearing of the case in publishing fresh incitements to assassination, the harm resulting from which might be incalculable. There is nothing new or foreign to existing law in the provision. The Magistrate has a similar power in the procedure relating to prevention of nuisances which is contained in the Criminal Procedure Code.”

The motion was put and agreed to.

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[*Sir Harvey Adamson; the President.*]

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be passed. He said:—" My Lord, it is a source of much satisfaction to me, and I am sure that it will be the same to Your Excellency and to all the official Members of this Council, that we have received the support of the non-official Members of Council to the two Bills in which we have been engaged today. It is to be regretted that the urgency of our action has rendered it impossible for the other non-official Members of Council to be present. We know from the public utterances of the Hon'ble the Maharaja of Durbhanga that he would have supported us, and I am sanguine enough to believe that if there had been a full attendance of non-official Members we would have had an unanimous vote. I cannot doubt that every non-official Member would have supported the Government in measures directed against the common enemies of mankind, in measures which the Government of India believe to be absolutely necessary for the safety of the public. We have received telegrams and memorials from representative bodies of all races and all religions in India expressing abhorrence of the terrible outrages that have been committed, and offering their support to Government in the crisis. Therefore, I fear not that what we have done in this Council to-day will commend itself to every right-thinking man in India. It often happens in the wise dispensation of Providence that good comes out of evil. May I venture to hope that, united as the Government and the people of India are against a common enemy, these terrible incidents, which we all deplore, may have the effect of drawing together the Government and the people and bringing about a better understanding between Englishmen and Indians."

His Excellency THE PRESIDENT said:—" Before I put the motion I would venture to make a few remarks.

" My Hon'ble Colleague, Sir Harvey Adamson, has clearly and ably explained the nature of the measures we have before us today. He has recapitulated the powers we have hitherto possessed under the law, and has shown how utterly insufficient they have proved to enable us to deal with existing circumstances.

" The lamentable incidents at Muzaffarpur have sent a thrill of horror throughout India, and have too clearly warned us that we must be prepared to deal immediately with an iniquitous conspiracy and with murderous methods hitherto unknown to India.

" I know that my Hon'ble Colleagues will join with me in expressing the sincerest sympathy for Mr. Pringle Kennedy in his terrible bereavement. His attachment to India and his many years of good work have earned him the

[*The President.*]

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respect and affection of English and Indian society alike, in which his wife and daughter very fully shared. There have been other atrocious deeds besides that at Muzaffarpur—one cannot forget the sufferers from the explosion in Grey Street in Calcutta, or the deliberate attempts to assassinate Sir Andrew Fraser, the Maire of Chahdernagore and Mr. Kingsford. As to Mr. Kingsford, the public have been told in India and at home that the attempts on his life were due to the infliction by him of sentences of flogging for political offences—an unwarrantable accusation, which I am glad to have this opportunity of denying; against one who has fearlessly and straightforwardly done his duty. In not a single case has Mr. Kingsford awarded flogging as punishment for political offences.

“ My Hon'ble Collèague has dealt so fully with the details of the legislation we propose to pass today that I need only refer to the general position with which we are confronted. It is very necessary that no preconceived prejudice should blind our judgment. It was, I believe, the Duke of Wellington who said that he had spent the best part of his life in trying to know what was going on on the other side of the hill on his front—and for us the *pardah* of the East unfortunately hides much from view. It would be better for us and for the many races of this country if we knew how to lift it—at present we have failed to do so. We cannot but speculate as to much that it conceals; yet it is all-important that our guesswork should not be hasty or unjust.

“ All India has been shocked by a cruel crime. Expressions of abhorrence and condemnation have reached us from public meetings, associations, and Indian gentlemen throughout the country, and the great mass of the people have loyally shared with the British Raj in detestation of its contemptible brutality. What we, the Government of India, have had to consider is the nature of these crimes, the influences which originated them, and the best means for protecting the populations, with whose safety we are charged, against the perpetration of similar outrages.

“ We all know—at least every one who watches the daily story of Indian political life knows—that the lines of Indian thought are changing, and that embryo national aspirations are beginning to take shape, and it will be a bad day for the British Raj and a bad day for the people of this country if we ever allow the belief to spread that the doctrines of murderous anarchy are even indirectly associated with the growth of those ambitions which British education has done so much to encourage. Nothing to my mind has been more unfortunate and despicable than the readiness with which in certain quarters

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[*The President.*]

endeavours have been heedlessly made to further a belief that assassination is merely the effort of a down-trodden people struggling to free itself from a foreign oppressor. The conspiracy with which we have to deal represents nothing of the sort. To the best of my belief it has largely emanated from sources beyond the confines of India. Its anarchical aims and the outrageous doctrines it inculcates are entirely new to this country. But unfortunately the seeds of its wickedness have been sown amongst a strangely impressionable and imitative people—seeds that have been daily nurtured by a system of seditious writing and seditious speaking of unparalleled virulence vociferating to beguiled youth that outrage is the evidence of patriotism and its reward a martyr's crown.

“ I have no desire to minimise the dangers of the present time—they are evident enough. I know well the anxieties that the suspicions of subterranean plots must bring to all loyal men and women of whatever race or creed. No one can say how far the poison has spread. I only ask that the nature of it should not be misunderstood, that the canker we have discovered should be localised, and that we should not jump to the conclusion that it has spread beyond the control of legitimate remedies. What those remedies should be have been for some weeks under the careful consideration of the Government of India. The two Bills which we are about to pass are the results of our deliberations. My Colleagues will support me when I say that we have had no lack of advice. The public has been told that we are weak, that we have failed to maintain order, that the glory of England has departed, that strong measures have been neglected. I am no believer in compliance with hysterical demands in the hour of danger. I maintain that the strength of the British Raj has been built up upon the justice of its administration. Heaven knows it has been no weak rule, but it has been a just one—and it will continue to be so.

“ It has been with a heavy sense of responsibility that the Government of India has recognised that the law of the land has not been strong enough to enable us to cope with the present emergency. We have felt that we must have further powers. We have had two main points before us—How best to deal with bomb outrages and the conspiracies connected with them; and how to annihilate the evil influence which has done so much to inspire them. The machinery we have decided to adopt is before you in the two Bills which the Hon'ble Sir Harvey Adamson has introduced. In them we have, after careful consideration, empowered judicial rather than executive procedure. We have preferred to act by legislation. But another course was open to us—We

[*The President.*]

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might have proceeded by the issue of an Ordinance, we should have saved time by doing so, and the condition of affairs demanded prompt and decided action. And now, if we are asked why, when we decided to proceed by legislation, we did not let that legislation follow the normal course of publication, reference to Select Committee, report and final discussion, I unhesitatingly answer that the urgency of the case would not allow of it. As it is, we have incurred delay, but in doing so we have secured an opportunity of explaining our position, which we should have lost in procedure by Ordinance. It is my firm belief that the Government of India occupies an infinitely stronger position in legislating, as it has done today, in open court, than if it had attempted to act summarily during the first shock of the tragedy of Muzaffarpur.

“ There is one point which during our discussions in Executive Council I have impressed upon my Colleagues and which I will venture to repeat. Sir Harvey Adamson has already alluded to it. I look upon today's legislation as exceptional, as framed to meet dangerous emergencies, and as regards the Newspaper Bill, to give powers to deal with a particular class of criminal printed matter. (It is quite possible our Bills may not be strong enough, and in that case we shall not fail to amend them. But the Newspaper Bill in no way takes the place of a general Press Act, and it in no way ties our hands as to the future introduction of such an Act. In my opinion a further general control of the Press in India is imperatively necessary. I believe it would be welcomed by the best Indian newspapers.) *The Indian Nation* and *The Indian Mirror* have reviewed the present crisis in a tone which would do credit to the Press of any country. They have recognised the evil of unbridled journalistic freedom under Indian conditions—conditions entirely different from those existing at home, where public opinion based on the teachings of centuries of constitutional government would be ever ready to refuse or to ridicule such unwholesome vapourings as are daily furnished to the people of India. India is not ripe for complete freedom of the Press. It is unfair upon her people that, for daily information, such as it is, they should be dependent upon unscrupulous caterers of literary poison. We are called upon to regulate its sale. No exaggerated respect for principles of English freedom, totally unadapted to Indian surroundings, can justify us in allowing the poison to work its will.

“ By some irony of fate, the outrages for which that poison is already so largely answerable have been sprung upon us almost upon the eve of the introduction of constitutional changes. I am determined that no anarchical crimes



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[*The President.*]

will for an instant deter me from endeavouring to meet as best I can the political aspirations of honest reformers, and I ask the people of India and all who have the future welfare of this country at heart to unite in the support of law and order, and to join in one common effort to eradicate a cowardly conspiracy from our midst."

The motion was put and agreed to.

The Council adjourned to Friday, the 10th July, 1908.

SIMLA ;  
The 10th June, 1908. }

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at the Viceregal Lodge, Simla, on Friday, the 10th July 1908.

P R E S E N T :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Louis William Dane, K.C.I.E., C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Mr. J. S. Meston, C.S.I.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Munshi Madho Lal.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

LOCAL AUTHORITIES LOAN (AMENDMENT) BILL.

The Hon'ble MR. MESTON moved that the Bill to amend the Local Authorities Loan Act, 1904, be taken into consideration. He said:—"When he introduced this Bill at the last meeting of this Council, Sir Edward Baker explained fully the purposes of the measure. Since then the Bill has been duly published and no objections have been received. We did not indeed anticipate that any objection would be taken to it, inasmuch as the purpose of the Bill is to remove a small and purely technical defect in the existing law, and its character is wholly non-contentious."

The motion was put and agreed to.

The Hon'ble MR. MESTON moved that the Bill be passed.

The motion was put and agreed to.

[*Mr. Harvey.*]

[10TH JULY 1908.]

## ASSAM LABOUR AND EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill to amend the Assam Labour and Emigration Act, 1901. He said:—" In September 1905 the Chief Commissioner of Assam recommended that Act VI of 1901, the Assam Labour and Emigration Act, should be withdrawn from the districts of Cachar and Sylhet in the Surma Valley and from the districts of Kamrup and Goalpara in Lower Assam. He represented that in the two former districts the provisions of the Act had fallen into disuse in respect of the management of labour on the tea gardens, and that in Kamrup and Goalpara the extent of tea cultivation was inconsiderable, and there were hardly any labourers subject to the provisions of the Act. The majority of the employers of tea garden labour in these districts were in favour of the withdrawal of the Act, and in the circumstances the Chief Commissioner held that the maintenance of a special law for the control of labour was unjustifiable. The Government of India agreed with this view, but preferred to defer action till the receipt of the report of the Committee which they appointed in February 1905 to enquire into the supply of labour for the tea districts of Upper Assam.

" The evidence recorded by the Labour Enquiry Committee in the recruiting districts showed, however, that there was a widespread feeling against withdrawing the recruitment provisions of the Act which apply to these districts. It was feared that abuses would spring up, if all control over the engagement of labourers for the Surma Valley and the districts of Lower Assam were given up. The Committee recognized the danger, but a majority were prepared to give the system a trial by suspending the operation of the recruitment provisions of the Act in so far as the Surma Valley and the districts of Kamrup and Goalpara were concerned, whilst at the same time exempting these districts from the provisions of the Act relating to the labour districts. Most of the Local Governments, when consulted regarding the Committee's proposals, were strongly opposed to the suspension or withdrawal of the recruitment provisions of the Act. They considered that abuses would arise, and that the portion of the law regulating the engagement of the labourers should be retained.

" The Government of India accepted these conclusions, and decided that only the provisions relating to the labour districts should be dispensed with. This it is proposed to effect by the issue of a notification under section 221 of the Act declaring that, with certain exceptions of a minor nature, the provisions relating to the labour districts are withdrawn from the districts of the Surma Valley and from Kamrup and Goalpara.

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[*Mr. Harvey.*]

“It will then be necessary to legislate in order to enable the taking of contracts to be dispensed with in the case of emigrants proceeding to these four districts, and the present law, which in certain cases renders the execution of a contract in the district of recruitment compulsory, will have to be amended since the terms of the contract will no longer be enforceable. It is therefore proposed in the Bill before Your Excellency's Council to enable the Local Government by notification in the official Gazette to dispense with or relax any of the provisions of Chapters III and IV and section 90 of the Act relating to recruitment, on such conditions as may be prescribed in the notification.

“Clause 2 has been made general, so that the new procedure may be hereafter applied to any other labour district besides those referred to, should circumstances arise to render this advisable. The amendment of the law which is proposed will also enable a trial to be given to the recommendation of the majority of the Labour Enquiry Committee, by permitting the Local Government to dispense with all the provisions of the Act governing recruitment in the case of labourers proceeding to the four districts. The Lieutenant-Governor of the United Provinces has expressed his willingness to allow a trial to be given in the United Provinces to the form of recruitment which is conducted by garden sardars, that is to say, labourers who have been to the tea gardens and return to their country to enlist other labourers. It is considered desirable to give free recruitment under this system a trial, with a view to ascertaining how far we can safely advance towards the final abandonment of the special legislation which at present controls the movement of labour between two parts of India. It has all along been the desire of the Government of India that the present law should disappear, and in the orders which were issued with the Secretary of State's approval on the report of the Labour Enquiry Committee, it has been announced that the Government of India will further consider the question on the expiry of two years.

“In clause 3 of the Bill opportunity has been taken to give effect to the principle that, if the revenues of a fund have not been specially assigned to local management and the expenditure is under the orders of Government, it should cease to have a separate existence and its accounts should be absorbed in the Imperial or Provincial accounts, as the case may be. The Inland Labour Transport Fund which is constituted under section 218 of the Act is of the nature referred to. Clause 3 of the Bill is intended to permit the fees and fines realised under the Act to be included in the Provincial accounts. The amendment of section 218 which it enacts will admit of the deficits of one province

[Mr. Harvey.]

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being met from the surplus in another, a course which past experience has proved to be desirable. The expenditure of the receipts will be restricted to the purposes indicated in the Bill, and any surplus there may be will be applied towards reducing the annual or registration charges."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the Fort St. George Gazette, the Calcutta Gazette, the United Provinces Gazette, the Eastern Bengal and Assam Gazette and the Central Provinces Gazette in English, and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

### INDIAN EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Indian Emigration Act, 1883. He said:—"The Bill introduces two amendments in the Indian Emigration Act of 1883.

"The first of these is designed to exempt from the application of the Emigration Act Indian subjects of foreign European settlements. The wording of the Act, as it now stands, includes these latter, who are consequently subject to the restrictions imposed upon the departure from India of Indians under a contract to labour for hire. The case which has led to the change in the law which we propose to make arose as follows. In October 1906 the Protector of Emigrants, Bombay, declined to permit the embarkation of some Portuguese subjects, natives of Damaun, who desired to proceed to Lourenço Marques to work in the salt pans. These men were in possession of passports from the Portuguese authorities and were only passing through Bombay *en route* to their destination. The action of the Protector, which was legally correct, was made the subject of a diplomatic representation to His Majesty's Government, and at their instance we have considered the advisability of amending our Act to meet the class of cases under consideration. The Local Governments consulted are agreed that subject to certain regulations being imposed to prevent the evasion of the Act by persons who are not the subjects of foreign European settlements, exemption should be provided for in favour of Indian subjects of the Portuguese and

[10TH JULY 1908].

[*Mr. Harvey.*]

French settlements in India desiring to proceed under contract to countries outside India. For this purpose the expression 'Native of India' is being defined as bearing the meaning given to it in the General Clauses Act, and power is being taken to prescribe the procedure which should be followed by persons desirous of emigrating from British Indian ports who claim to be subjects of foreign European settlements in India.

"The second amendment is a slight one. Section 18 of the Act permits of the appointment by a Local Government of only one Medical Inspector at ports from which emigration is lawful. This has given rise to inconvenience when the Medical Inspector, as is sometimes the case, is a Civil Surgeon with other duties to perform. Power is now being taken in the amending Bill to provide for the appointment of one or more Medical Inspectors."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 7th August 1908.

J. M. MACPHERSON,  
*Secretary to the Government of India,*  
*Legislative Department.*

SIMLA ;  
*The 10th July 1908.* }

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at the Viceregal Lodge, Simla, on Friday, the 7th August 1908.

P R E S E N T :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Louis William Dane, K.C.I.E., C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. J. S. Meston, C.S.I.

The Hon'ble Munshi Madho Lal.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

INDIAN LIMITATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate and amend the law for the Limitation of Suits and for other purposes be taken into consideration. He said:—"I have, on former occasions, explained to this Council the object of this Bill and the changes proposed by the Select Committee. I cannot usefully add anything today."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that in clause 13 of the Bill, as amended by the Select Committee, after the words "British India" the following words shall be inserted, namely:—

"and from the territories beyond British India under the administration of the Government."

He said:—"Clause 13 of the Bill, as it stands, applies only to territories in British India. There are some territories administered by the Government of

[*Mr. Erle Richards; Dr. Rashbehary Ghose.*] [7TH AUGUST 1908.]

India which are not technically part of British India, but which are for all purposes of this Bill on the same footing as British India. The object of this amendment is to include them within this clause."

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that in clause 29 of the Bill, as amended by the Select Committee, for sub-clause, (2) the following sub-clause shall be substituted, namely :—

"(2) Nothing in this Act shall apply to suits under the Indian Divorce Act."

He said :—“There is an error in clause 29, sub-section (2). The Madras Regulation which is referred to there, is not now in force and the amendment which I move is intended to alter the clause accordingly.”

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, as now amended, be passed.

The Hon'ble Dr. RASHBEHARY GHOSE said :—“My Lord, it has been pointed out to us by a learned gentleman for whose opinion I have great respect that clause 3 of the Bill is not quite consistent with the provisions contained in Order VIII, rule 2, of the Code of Civil Procedure, 1908, under which a defendant ‘must raise by his pleading all matters which show the suit not to be maintainable, \* \* \* \* \* and all such grounds of defence, as, if not raised, would be likely to take the opposite party by surprise, or would raise issues of fact not arising out of the plaint, as, for instance, fraud, limitation, \* \* \* To my mind, however, there is no such inconsistency. For where the defence of limitation rests upon any disputed question of fact, if the defendant does not raise it in his pleading, the Court will not be bound to direct an issue; as pointed out by the Judicial Committee in *Venkata v. Rashyakartu*, 25 Mad. 367, in which their Lordships held, section 4 of the Limitation Act notwithstanding, that where no question of limitation necessarily arose on the pleadings it was not obligatory on the Judge to direct an issue on the point. Where, however, the facts are not in any way in controversy, the Court will be bound to dismiss the suit, if it is barred by the law of limitation, though the defendant may not have raised the defence in his pleading. And in this connection I may refer to Order VII, rule 11, of the new Code of Civil Procedure.”

The motion was put and agreed to.



[7TH AUGUST 1908.]      [Mr. Erle Richards.]

### INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS: " I move, my Lord, for leave to introduce a Bill to consolidate the law relating to Ports and Port-charges. This Bill is of the same character as two other Bills to which subsequent motions on the paper relate. They are, all three of them, Bills to consolidate the law. It will probably be convenient to the Council if I explain on this motion the reason why this consolidation is undertaken.

" It must be the aim, my Lord, of every Legislature to have the Statute law on each particular subject contained in one enactment and one enactment only. The law is then readily ascertainable both by executive and judicial officers who have to administer it, and by those of the public who have occasion to investigate it. But this is an ideal which it is not easy to maintain. An Act complete in itself may be enacted in the first instance, but as time goes on changes are required: amendments are made, one after the other; and, sooner or later, it is sure to happen that the law, instead of being contained in that one enactment, becomes scattered about in a series of Acts.

" Legislation in this Council is not attended with the same difficulties as in some other Legislatures, and for that reason we are constantly tempted to pass amending Acts. During the past four years we have passed some 57 Acts of general importance, and of these no less than 23 have been amending Acts. The result is that the Statute law on some subjects has become obscure and our principal Acts, or at least the earlier of them, have become encumbered with cross-references which are a source of confusion and of mistake. The changes introduced are often of themselves of minor importance; alterations of a few words, or of a clause or two; but still each one of them has to be examined to find out what the law is. Cromwell described the Statute-book of England in his day as a 'most ungodly jumble': I will not use that expression of our Indian Statute law; but I do urge on this Council that no opportunity should be neglected of simplifying our Statute-book. The Legislative Department from time to time publishes editions of our Acts with the amendments printed in them up to date, but these editions are of no authority: they cannot be cited in Courts of Law; and are not, I understand, in wide use. The only effective remedy is to consolidate, that is, to re-enact in a single measure the provisions relating to the same subject which have become scattered about in different Acts.

" Consolidation, my Lord, may take two forms: there may be consolidation with amendments of substance, or there may be consolidation pure and simple, that is, without any amendments of substance.

[*Mr. Erle Richards.*]

[7TH AUGUST 1908.]

“ The first form of consolidation has been adopted by this Council not infrequently. The Limitation Act, which we have passed this morning, is an instance of consolidation with some amendments to meet conflicts of judicial opinion. The Civil Procedure Code, passed this year, consolidates the law of civil procedure with some considerable changes; the Coinage Act and the Paper Currency Act, both passed in recent years, are measures which contain the whole Statute law on those subjects. But it is not always possible to undertake a Bill of this kind, nor can it be passed into law without considerable delay. Amendments of substance require, and must receive, the consideration of Local Governments and of other persons interested in the subjects with which they deal; and once any amendments of substance are introduced it is open to any one to bring forward other amendments. Moreover, it is often impolitic to put a law into the melting pot in this way. These objections can, to some extent, be met by varying the procedure; by passing an amending Bill in the first instance to be followed by a consolidation Bill re-enacting the law as it stands after the passing of the amending Act; or, again, in some cases an amending Act can be turned into a consolidation Act in Select Committee. For both these courses there are precedents in English practice. But still consolidation with amendments must always be a matter of some difficulty.

“ The present Bills, my Lord, are examples of the second method of consolidation, which is not open to the objections to which I have just referred, and I invite the attention of Council to the matter because they are the first Bills of the kind which have been introduced into the Legislative Council of India. They are intended to collect and re-enact the law without any changes of substance. There must in any re-enactment be some small alterations of wording; there are differences of style in the existing Acts, and those Acts often speak in different language, because a different General Clauses Act or different rules of construction were in force at the time they were passed. But these Bills are intended to reproduce the existing enactments with such alterations only as are required for uniformity of expression and adaptation of existing practice; they are not intended to embody any substantial amendments of law. It is a temptation to every one to suggest amendments when a Bill is before this Council, but that temptation is one which I hope, in the present instances, we shall sternly resist; once the door is opened to any one amendment of substance it will be impossible to decline to discuss other amendments of a like kind and the Bills will then cease to be mere consolidating measures.

[7TH AUGUST 1908.]

[*Mr. Erle Richards.*]

“ These three Bills, my Lord, collect and re-enact the law relating to the three subjects of Ports and Port-charges, Registration of Documents and Emigration of Natives of India. That law is now scattered about in no less than 21 enactments. If these Bills be passed the law on each of these subjects respectively will be contained in one Act—and one Act only—and we shall have reduced the number of Statutes on our Statute-book by 15. It is a modest improvement, my Lord, but still it is an improvement worth making.

“ In regard to the particular Bill which I move for leave to introduce, *vis.*, the Ports Bill, I have little further to say. It effects one small alteration in the law to which reference is made in the Statement of Objects and Reasons, but the matter is not one of substance and it is not necessary for me to call further attention to it.”

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India, the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette, and the Eastern Bengal and Assam Gazette.

The motion was put and agreed to.

#### INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved for leave to introduce a Bill to consolidate the law relating to the Registration of Documents. He said:—“ On this Bill there is one point of some little doubt. It arises on clause 50. It is explained in the Statement of Objects and Reasons and I will not refer to it further now. It is a point which will have to be settled in Select Committee.”

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

[*Mr. Erle Richards.*] [7TH AUGUST 1908.]

INDIAN EMIGRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved for leave to introduce a Bill to consolidate the law relating to the Emigration of Natives of India.

The motion was put and agreed to.

The Hon'ble MR. ERLE RICHARDS introduced the Bill.

The Hon'ble MR. ERLE RICHARDS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

The Council adjourned to Friday, the 11th September 1908.

SIMLA :  
*The 7th August 1908.* }

J. M. MACPHERSON,  
*Secretary to the Government of India,  
 Legislative Department.*

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at the Viceregal Lodge, Simla, on Friday, the 11th September 1908.

P R E S E N T :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
- His Honour Sir Louis W. Dane, K.C.I.E., C.S.I., Lieutenant-Governor of the Punjab.
- His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.
- The Hon'ble Mr. H. Erle Richards, K.C.
- The Hon'ble Major-General C. H. Scott, C.B., R.A.
- The Hon'ble Sir Harvey Adamson, Kt., C.S.I.
- The Hon'ble Mr. J. O. Miller, C.S.I.
- The Hon'ble Mr. W. L. Harvey, C.I.E.
- The Hon'ble Mr. J. S. Meston, C.S.I.
- The Hon'ble Munshi Madho Lal.
- The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

INDIAN SALT-DUTIES BILL.

The Hon'ble MR. MESTON moved that the Bill to make special provision for the payment of duty on salt in certain cases be taken into consideration. He said:—"My Lord, when the Bill was introduced it was explained that the intention of the measure is to permit of the issue of Government salt under a system of limited credit for the duty instead of upon payment in cash, which is the case in most provinces. The object is to provide cheap credit for the business of distributing salt and thereby to help in cheapening the cost of salt to the consumer. The Bill has been generally approved by the Local Governments

[11TH SEPTEMBER 1908.] [*Mr. Meston; Mr. Harvey.*]

and Administrations to whom it was referred for opinion. A few suggestions have been put forward regarding the details of the system, but all these can be dealt with when the time comes for framing the rules, and none of them affect the principle of the measure itself. The only criticism of major importance has been the expression of some anxiety that the credit system will drive the wholesale trader into the hands of the big capitalist and in this way tend to frustrate the object which we have in view. We all agree that this result is one to be deprecated, although it seems possible to avert it by fixing a moderate limit to the amount of credit which may be given under the rules. But the real answer to the objection is that the Bill is an entirely permissive one; there will be no compulsion whatever to apply it to any area where an existing system is working satisfactorily; and even if it is applied and found subsequently to be unsuited to local conditions it can always be withdrawn without further legislation. There seems therefore no necessity to alter the Bill as it stands or to ask that it be referred to a Select Committee."

The motion was put and agreed to.

The Hon'ble MR. MESTON moved that the Bill be passed.

The motion was put and agreed to.

#### ASSAM LABOUR AND EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved that the Bill to amend the Assam Labour and Emigration Act, 1901, be taken into consideration. He said:—"My Lord, the only criticisms we have received on the draft Bill have been in connection with the term 'labourer' as defined in section 2 (1)(l) of Act VI of 1901 and with the modifications to be introduced in contractors' recruitment under Chapter III.

"With regard to the former, it has been pointed out that, as it is intended to dispense with the taking of a labour-contract, persons recruited under the revised procedure of the Bill will not be labourers under the Act, and any provisions of Chapters III and IV relating to labourers which may be retained by the notification of the Local Government to govern their recruitment, will not apply to such persons. The Bill, however, enables the Local Government to prescribe any conditions it pleases when relaxing any of the requirements of these Chapters,

*ASSAM LABOUR AND EMIGRATION; CENTRAL PROVINCES 39  
FINANCIAL COMMISSIONER.*

[*Mr. Harvey; Mr. Miller.*] [11TH SEPTEMBER 1908.]

and in issuing the notification the Local Government may make it a condition that such provisions of the Chapters as it desires to retain shall apply to the persons recruited under the Bill as if they were labourers.

“ With regard to the second point there is no intention of in any way relaxing the procedure under which recruitment is carried on by contractors, further than to enable the actual placing of the emigrant under a contract to be foregone. The emigrant will have to be placed before a Registering Officer, who will satisfy himself that no coercion, undue influence or misrepresentation has been used. It is of importance that control should be kept over the operations of contractors, and the Bill will make no alteration in the existing procedure in this respect.”

The motion was put and agreed to.

The Hon'ble MR. HARVEY moved that the Bill be passed.

The motion was put and agreed to.

**CENTRAL PROVINCES FINANCIAL COMMISSIONER'S BILL.**

The Hon'ble MR. MILLER moved for leave to introduce a Bill to provide for the appointment of a Financial Commissioner for the Central Provinces and to amend the Central Provinces Land-revenue Act, 1881. He said :—  
“ My Lord, the necessity for the appointment of a Financial Commissioner in the Central Provinces to relieve the Chief Commissioner of much detailed work and of much work of a judicial character which now falls on him has long been recognised and the need for strengthening the administration in this way has become more urgent since the work of the province of Berar was added to that of the Central Provinces. The Secretary of State has now sanctioned the appointment of a Financial Commissioner and the Bill makes the necessary legal provision for the appointment and the regulation of the functions to be performed by the officer holding the post.

“ It was at first proposed to proceed by amending the Central Provinces Land-revenue Act, but it has been thought better to follow the precedent adopted in Burma when a similar measure was required in that Province, and to draft an independent Bill which makes the required provision for the delegation of

[11TH SEPTEMBER 1908.]      [*Mr. Miller.*]

the powers and functions necessary to enable the Financial Commissioner to deal with the duties to be assigned to him.”

The motion was put and agreed to.

The Hon'ble MR. MILLER introduced the Bill.

The Hon'ble MR. MILLER moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the Central Provinces Gazette.

The motion was put and agreed to.

The Council adjourned to Friday, the 30th October 1908.

SIMLA :  
The 11th September 1908. }

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*



*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1802 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at the Viceregal Lodge, Simla, on Friday, the 30th October 1908.

**P R E S E N T :**

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Mr. J. S. Meston, C.S.I.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Raja Muhammad Ali Muhammad Khan, Khan Bahadur, of Mahmudabad.

The Hon'ble Mr. N. C. Macleod.

**N E W M E M B E R S.**

The Hon'ble RAJA MUHAMMAD ALI and the Hon'ble Mr. MACLEOD took their seats as Additional Members of Council.

**I N D I A N E M I G R A T I O N ( A M E N D M E N T ) B I L L.**

The Hon'ble MR. HARVEY moved that the Bill further to amend the Indian Emigration Act, 1883, be taken into consideration. He said :—" My Lord, when I introduced the Bill at the meeting of this Council held on the 10th July last, I explained fully the purpose of the measure. Since then the Bill has been published, and no objections have been received. Its character is wholly non-contentious, and its purpose is to remove an anomaly and a technical defect in the existing law."

The motion was put and agreed to.

The Hon'ble Mr. HARVEY moved that the Bill be passed.

The motion was put and agreed to.

42      *PORTS; REGISTRATION; EMIGRATION; FINANCIAL  
COMMISSIONER (CENTRAL PROVINCES).*

[30TH OCTOBER, 1908.]      [*Mr. Erle Richards; Mr. Miller.*]

INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Law relating to Ports and Port-charges be referred to a Select Committee consisting of the Hon'ble Mr. Harvey, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Macleod and the mover.

The motion was put and agreed to.

INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Law relating to the Registration of Documents be referred to a Select Committee consisting of the Hon'ble Sir Harvey Adamson, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Macleod and the mover.

The motion was put and agreed to.

INDIAN EMIGRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Enactments relating to the Emigration of Natives of India be referred to a Select Committee consisting of the Hon'ble Mr. Harvey, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Macleod and the mover.

The motion was put and agreed to.

CENTRAL PROVINCES FINANCIAL COMMISSIONER'S BILL.

The Hon'ble MR. MILLER moved that the Bill to provide for the appointment of a Financial Commissioner for the Central Provinces and to amend the Central Provinces Land-revenue Act, 1881, be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. MILLER moved that in clause 3 of the Bill, between the words "assigned to" and "the Chief Commissioner" the words "the Local Government or to" be inserted. He said:—"I have a small amendment to propose with the object of removing any doubt as to the interpretation of clause 3 of the Bill. The powers which the Chief Commissioner now exercises, some of which he may require to delegate under this clause, are in many cases-

[*Mr. Miller; Mr. Harvey.*] [30TH OCTOBER, 1908.]

powers which are conferred by Statutes on 'the Local Government'. Under the General Clauses Act the words 'Local Government' include the Chief Commissioner, but the converse is not necessarily true and it might be questioned, especially having regard to the form in which the clause is drafted, whether the words 'Chief Commissioner' apply to cases in which mention has been made of the 'Local Government'. The amendment will make the intention quite clear."

The motion was put and agreed to.

The Hon'ble MR. MILLER also moved that the Bill as amended be passed. He said:—"I have nothing to add to what I said in asking for permission to introduce this Bill. As to the objects of the Bill, they are to allow the delegation of powers to the Financial Commissioner whose appointment to the Central Provinces has been sanctioned by the Secretary of State. Generally speaking, we have followed the precedent in the similar case of Burma."

The motion was put and agreed to.

#### INDIAN STEAMSHIPS LAW AMENDMENT BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884. He said:—"My Lord, the Inland Steam-vessels Act, 1884 (VI of 1884), and the Indian Steamships Act, 1884 (VII of 1884), at present do not apply to vessels propelled by electricity or other mechanical power. In this Bill power is being taken, by clauses 2 and 5, to apply the provisions of these Acts to motor-craft, the number of which is annually increasing.

"Clause 3 of the Bill is intended to remove the inequality which at present exists between British and foreign steamships, carrying more than 12 passengers between places in British India and places outside British India. Foreign ships have not hitherto been required to possess a certificate of survey under Act VII of 1884, while such a certificate is required in the case of British ships. The same procedure will now apply to both classes of vessels.

"Clause 4 of the Bill amends section 23 of Act VII of 1884. Under the law as it now stands, a foreign certificate of survey attested by a British Consular Officer at a foreign port may be accepted by the Local Government, which can then issue a certificate having the same effect as a certificate given after survey under the Indian Act. Inconvenience has been caused, particularly in the case

[30TH OCTOBER 1908.]

[*Mr. Harvey.*]

of Aden, by the power to issue such a certificate being confined to the Local Government. In sub-section (2) of section 23 as amended, provision is made for the delegation of this power by Local Governments, when they are satisfied that the survey at a particular foreign port sufficiently meets the requirements of the Indian Act. Sub-section (3) of the same section provides for the acceptance of certificates of partial survey and docking certificates granted by the Board of Trade or any British Colonial Government. Under the law at present, although such certificates can be accepted when granted at foreign ports, they cannot be accepted when granted at British or Colonial ports. The amendment now proposed removes an inequality to which objection has been taken in practice, and puts British and Colonial certificates of partial survey and docking certificates on the same footing as certificates granted at foreign ports."

The motion was put and agreed to."

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette and the Eastern Bengal and Assam Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

### INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1880. He said:—"My Lord, when the Imperial Merchant Shipping Act of 1906 was passed, the Secretary of State for India asked the Government of India to consider the advisability of legislating so as to bring the provisions of the Indian Merchant Shipping Law into line with those of the new Imperial Statute. He particularly requested that legislation should be undertaken to amend the Indian Merchant Shipping Act (VII of 1880, as amended by Act XVII of 1891) by adapting it to the provisions of Part I of the Statute of 1906, dealing with the safety of vessels.

The amendment contemplated by clause 2 of the Bill is based on section 7 of the Imperial Act. Hitherto in India coasting steamers of less than 150

[*Mr. Harvey ; Tikka Sahib of Nabha.*]

[30TH OCTOBER, 1908.]

tons register have been exempt from the provisions of the Act relating to unseaworthy and unsafe ships. It is now proposed to withdraw this exemption, but power has been reserved to the Governor General in Council to extend to such vessels, if they do not carry cargo, exemption from the special provisions of the Act relating to deck and load lines.

“Difficulty has been experienced in the past from the want of specific provision in the Indian law to the effect that the submersion of a ship's deck should be deemed to render a ship ‘unsafe’ within the meaning of Act VII of 1889, and consequently liable to detention. This point has been provided for in unmistakable language in clause 3 of the draft Bill.

“Clause 4 of the Bill amplifies the scope of section 85 of Act VII of 1880 which at present applies to foreign ships the provisions of that Act in respect of overloading and improper loading only. The provisions relating to deck and load lines will now also extend to such ships when in British Indian ports and they will thus be subject to the same conditions as British ships. But foreign ships coming into port under stress of weather will be exempted from the operation of this clause. In consequence of the possible detention of foreign ships for non-compliance with the requirements of the law, provision has been made for enabling consular officers to safeguard the interests of vessels of their respective nationalities.”

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette and the Eastern Bengal and Assam Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

### ANAND MARRIAGE BILL.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH of NABHA moved for leave to introduce a Bill to give legal sanction to a marriage ceremony

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common among the Sikhs called Anand. He said :—“ My Lord, the Statement of Objects and Reasons fully explains the object and scope of the Bill, so I need not trouble Your Excellency and my Hon'ble Colleagues with any further remarks.”

The Hon'ble SIR HARVEY ADAMSON said :—“ My Lord, the attitude of Government towards this Bill is at present one of neutrality. We will vote for the motions that are being made to-day, that is to say, we give the Bill a first reading, but the question of our final support must depend on the opinions which after publication are elicited from the Sikh community, whose interests it affects. I may add that the Government of India are always ready to give sympathetic consideration to any measure which professes to aim at promoting the interests of the Sikhs, whose bravery has won the admiration of the world, and whose loyalty to the British Crown has ever been steadfast.”

The motion was put and agreed to.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA introduced the Bill.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned *sine die*.

SIMLA; }  
The 30th October, 1908. }

J. M. MACPHERSON,  
Secretary to the Government of India,  
Legislative Department.

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at Government House, Calcutta, on Friday, the 11th December 1908.

P R E S E N T :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Edward Norman Baker, K.C.S.I., Lieutenant-Governor of Bengal.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble W. L. Harvey, C.I.E.

The Hon'ble Sir G. D. F. Wilson, K.C.B., K.C.M.G.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Nawab Bahadur Khwaja Salimulla of Dacca, C.S.I.

The Hon'ble Maung-Bah-Too, K.S.M.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Raja Muhammad Ali Muhammad Khan, Khan Bahadur, of Mahmudabad.

The Hon'ble Mr. N. C. Macleod.

The Hon'ble Mr. J. Andrew.

The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.

The Hon'ble Mr. F. A. Slacke, C.S.I.

NEW MEMBERS.

The Hon'ble MAHARAJA BAHADUR OF DARBHANGA, the Hon'ble MR. ANDREW, the Hon'ble MR. DADABHOY, and the Hon'ble MR. SLACKE took their seats as Additional Members of Council.

### INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS presented the Report of the Select Committee on the Bill to consolidate the enactments relating to Ports and Port-charges.

### INDIAN EMIGRATION BILL.

The Hon'ble MR. ERLE RICHARDS presented the Report of the Select Committee on the Bill to consolidate the enactments relating to the Emigration of Natives of India.

### INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS presented the Report of the Select Committee on the Bill to consolidate the enactments relating to the Registration of Documents.

### INDIAN CRIMINAL LAW (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved for leave to introduce a Bill to provide for the more speedy trial of certain offences and for the prohibition of associations dangerous to the public peace. He said:—"My Lord, copies of the Bill which I am moving for leave to introduce have been circulated to Hon'ble Members together with a Statement of the Objects and Reasons which have led to its being prepared.

"For reasons which I will state presently it will be my duty to ask the Council, in the event of my present motion being adopted, to proceed at once to the consideration of the provisions of the Bill with the view to its being passed at this day's sitting, and I will therefore endeavour to explain, as fully and as clearly as I can, the considerations which have influenced the Government in bringing forward this measure.

"The following are some of the more prominent instances of anarchical crime which have occurred in Bengal and Eastern Bengal during the past year. On the 6th December 1907 an attempt was made to assassinate the Lieutenant-Governor of Bengal by means of a bomb exploded under his train near Midnapore. Two other abortive attempts of a similar nature on Sir Andrew Fraser's life had already been made on the railway line near Chandernagore. On 23rd December 1907 Mr. Allen, the District Magistrate of Dacca, was shot with a revolver at Goalundo. On 4th March 1908 Mr. Hickenbotham of the



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Church Missionary Society was shot near his house at Kushtia. On 11th April an attempt was made to assassinate the Mayor of Chandernagore by a bomb. On the 30th April a bomb intended for Mr. Kingsford who had been Presidency Magistrate at Calcutta was thrown into a carriage at Muzaffarpur and killed Mr. and Miss Kennedy. On 2nd May the Manicktolla bomb conspiracy was brought to light. On 2nd June a serious dacoity was committed near Nawabganj in Dacca District by a large band armed with guns and revolvers, in which two persons were killed. On 21st June a bomb was thrown into a railway carriage at Kankanara and injured an English gentleman, and there have been several similar attempts in the same neighbourhood. On the 31st August an approver in the Manicktolla case, which is under trial at Alipur, was murdered by a revolver. On 17th September a serious dacoity was committed at Serampore. On 20th and 30th October similar dacoities were committed in Malda and Faridpore districts. Only a few days ago followed a dacoity of the gravest nature in Raita. There is ample reason for believing that all of the dacoities which I have mentioned were committed by young men of the middle classes. On 23rd September a young man was convicted of sending a bomb by post to the Magistrate of Nadia. On the 7th November the fourth attempt was made to assassinate the Lieutenant-Governor of Bengal, on this occasion with a revolver. On 9th November the Native Sub-Inspector of Police, who had arrested one of the Muzaffarpur murderers, was shot dead in the streets of Calcutta. On 13th November the principal witness in a case against the head of an association called the Anusilan Samiti was murdered and decapitated near Dacca.

“ These are examples of the type of anarchical crime that has been prevalent.

“ The list is by no means exhaustive, but it is perhaps sufficient to exemplify the general methods of the wide-reaching conspiracy with which we have to deal. The object of the conspiracy, and there is no attempt to conceal it, is to subvert British rule and to render the administration of justice impossible. The methods are the assassination of officials, English and Indian, indiscriminately, the murder of hostile witnesses, the terrorizing of all who oppose the conspirators, and the organization of dacoity on a large scale for the purpose of defraying the cost of the operations. One of the most lamentable incidents is that young men are made use of to carry out the purposes of the conspirators, mere boys, with no other criminal taint, the sons of respectable parents, who do not belong to and have never associated with the ordinary criminal classes, but who by the incitements of seditious teaching have been imbued with a misguided fanaticism and have been led to the mistaken belief that in

committing crimes of this nature they are working for the good of their country. The Muzaffarpur murderers had hardly emerged from boyhood. The student who a few days ago attempted to assassinate Sir Andrew Fraser was a boy of eighteen.

“ I have sometimes heard the opinion expressed that murderous anarchists are few in number, that they are merely a handful of young men who have been driven to fanatical frenzy by the teachings of sedition. I should be sorry to believe that there are many young men who have lost their senses to the extent of being ready to commit murder. But be they few or many, there can be little doubt that so long as conditions favourable to the creation of anarchy among the young remain in existence, this form of madness will from time to time come into evidence. The confessions of the Muzaffarpur murderer and the statement of the young man who last month attempted to shoot Sir Andrew Fraser leave no doubt as to the influences which are driving the young to homicidal frenzy. Immature minds are perverted by the doctrine of hatred to a foreign Government that is insidiously instilled into them by a section of the community that has assumed the attitude of being irreconcilable. That is the root of the matter and the prime cause of anarchist outrage by the young. It is the bounden duty of a responsible Government to close every avenue that leads to this cause. On two occasions during the past year we have legislated to strike at the origin of the evil. First, we passed the Seditious Meetings Act. It was aimed at preventing seditious orators from stumping the country and inciting students and others to acts of disorder and violence by seditious orations. This Act was, unfortunately I think, surrounded by safeguards which rendered it somewhat difficult to be put in operation on sudden and isolated occasions, but its presence on the Statute-book has exercised a great preventive influence. Since it was passed we have heard little of the campaigns of inflammatory oratory which produced so much harm in the Panjab and elsewhere in 1907. The second was the Newspapers Incitement to Offences Act. It was directed against incitements to murder and violence in newspapers, and I may say that since it came into operation there has been an almost total cessation in newspapers of those incitements to assassination which before the existence of the Act were a matter of daily occurrence in a depraved section of the Press. The preventive effect of the Act has been most marked throughout India, and in the rare cases in which it has been found necessary to resort to its application its provisions have been found to be entirely adequate. For the evil which amounts to sedition but which falls short of incitement to murder or violence we have relied on a systematic use of the ordinary penal law, not with absolute success, for

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we cannot always get at the man who is really responsible, and also a newspaper writer can do much to incite to the subversion of order without rendering himself liable of prosecution for sedition, but with such a measure of success that it can at all events be safely said that the Indian Press is a cleaner Press today than it was a year ago.

" But of late another incentive to draw the youth of the country into the fold of anarchy has come largely to the front, perhaps a greater incentive than either seditious writing of inflammatory speaking, in the shape of disloyal associations. These associations, known as samitis, and consisting of what are called volunteers, were first formed in 1902, but they did not come much into evidence till 1906. They have developed with the most surprising rapidity. Almost all districts in Eastern Bengal have their volunteer organizations, many of which owe their origin to and are branches of samitis in Calcutta. In the rural parts of Bengal they are developed to a less formidable extent. Many of the members and in some cases even the patrons may be unaware of the objects of the organizers, but the information which we are constantly receiving from districts places it beyond doubt that the majority of these associations are maintained with the object of training youths in the use of arms and fitting them to take part in a general revolution that is hoped for. Outwardly professing to be devoted to such laudable objects as keeping order at meetings and helping pilgrims at festivals, they have been largely used for the forcible boycott of foreign goods and for terrorizing the community. The members often claimed to travel free, and they have not hesitated to assault officers of steamer and Railway Companies who have refused them accommodation. In many cases such officers either from sympathy or from fear have refrained from enforcing payment of fares. They practise drill, engage in sham fights and parades, and encourage a martial spirit with an ultimate object which there is little attempt to conceal. These Samitis have exercised a demoralizing effect on the youth of the Country, causing them to neglect education and to set at naught the authority of parents, until gradually the heads of the samitis have assumed complete control over the boys. An insulting demeanour towards Europeans is constantly paraded and is a cause of common complaint. In many cases the members have been guilty of serious assaults. There is every reason to believe that dacoities have been organised on a large scale by volunteers. These crimes have been accompanied by murder and arson. Every endeavour is made to suppress evidence regarding them and put obstacles in the way of police investigation. Only a few days ago the arrest of a captain of volunteers was

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followed by the murder of the principal person who was to bear witness against him. Some of those who composed the anarchist society discovered at Manicktolla garden were members of volunteer societies both in and outside Calcutta, and there can be little doubt that but for their arrest the pernicious knowledge which they obtained would have been eventually extended to the members of their own associations. In Sylhet three of the Manicktolla conspirators were arrested in their homes in possession of explosives, a fact which indicates that but for the discovery in Calcutta we might have had an equipped body of anarchists in the Eastern province. The total number of volunteers in the Eastern province is now estimated at from ten to fifteen thousand. At first the movement received some support from zamindars and native gentry. Parents did not discourage their sons from joining. But recent indications show that the community are beginning to realize the demoralizing effect that these associations have exercised on the rising generation. In Dacca in several cases parents have appealed to the authorities for help to rescue their sons who have been induced to join associations and have not been permitted to leave them. These and other facts, which for obvious reasons I should not disclose at present, show conclusively that many of the samiti or volunteer associations are in reality associations made for the commission of crime and for the furtherance of the anarchical movement, and that they constitute a dangerous and formidable system of intimidation and terrorism which operates so as to make it almost impossible to obtain evidence for the conviction of criminals. They are in fact nurseries for young anarchists.

“ In this connection I will read an extract from a note written by an elderly Indian gentleman whose home is in Eastern Bengal and who has had exceptional opportunities of judging of the conditions prevailing among the people in the mufassal as well as in the district towns. Speaking of these associations he says :

‘ They are in fact the terror of the country. They have taken to dacoities, thefts and robberies, they set fire to houses, they kidnap boys, they commit murders, and in fact there is nothing in the list of crimes they would be ashamed of, if thereby they could serve what they call their cause, that is, salvation of India and the destruction of the foreign Feringhee Government. They have their *akras* and public or private meeting places in every town, where they meet to learn playing with *lathis* or daggers. They have secret places where they practise shooting with pistols or revolvers, and they have *chelas* or disciples in almost every

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village in the interior of the country: These are the men who have now become the practical masters of the situation. Village men, rich or poor, submit to their dictum in ninety cases out of a hundred, simply from fear. Shopkeepers act up to their instructions because they know that disobedience will bring upon them disastrous consequences. Even the women of the village, cultured ladies and the illiterate maids and matrons, ask them what cloth to put on, when to fast, when to weep and what to do with their boys. The Government ought to be solemnly assured that the whole country would rejoice and feel a sense of relief if the aforesaid *akras* and *samitis* are shut up at once. . . . A large portion of the people who are now suspected as seditionists are so from fear. They fear the anarchists and their volunteers who are strong in the field. They fear to be attacked at night by dacoits and incendiaries, or to be done to death by the political assassin's dagger. If they find that the Government is strong enough to give them real protection, they will rejoice at heart, and with thanks to God and the Government of the country, cut off all connection with the agitators for good.'

"I now turn to another subject, the means provided by the Criminal Procedure Code for bringing anarchical crimes to trial. These crimes generally involve an element of conspiracy, and their prosecution is a matter of great complexity. The witnesses are numerous, each giving his quota of evidence on, it may be, only one link of the chain that connects the accused with the offence. I will assume that the police have discovered the existence of an anarchical conspiracy, and acting on a reasonable suspicion have arrested the accused. It takes a long time to unravel the web of a conspiracy. This is always a tedious task in India, where the public are disinclined to come forward and give assistance to those who are investigating the offence, and it is a still more tedious task when the offence has a political aspect and the tendencies to suppress evidence and terrorize the witnesses, to which I have already referred, come into play. There must be considerable delay in such cases before the offence is completely investigated and is ready for trial. Then come protracted proceedings in the Committing Magistrate's Court, and delays while applications are being made to the High Court on all sorts of interlocutory matters. Meanwhile the Press are not only reporting the proceedings, but in many cases, owing to the imperfections of the law of contempt, are commenting in leading articles on the features in a manner which

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cannot but interfere prejudicially with the serenity of a trial where political issues are at stake. Next come the proceedings in the Sessions Court in which all the evidence is heard over again. And finally comes the appeal to the High Court. The result is that cases of a complex nature which excite strong political feeling are pending before the various Courts and are held up to public notice for an utterly disproportionate time. The Manicktolla Bomb Factory was discovered on 2nd May. It is now the middle of December and the case is still dragging out its weary length in the Sessions Court. It is believed that the Sessions trial will not be completed for some months, and if it results in a conviction, the appeal to the High Court may occupy some months more. It is not anticipated that the trial will be finally concluded within a year from the date of arrest of the accused. Meanwhile the presence of a large number of persons under trial at Alipur in a case of a political nature has proved to be in itself a source of danger. For a whole year the proceedings are a daily subject of comment in the newspapers, some of which have habitually commented on them in a highly improper way. This one case alone has been sufficient to keep the whole country in a ferment and will continue to do so until it is finally brought to a conclusion. Similar remarks apply to the recent inquiry at Midnapore, and we may expect the same result to follow when other cases which are now in an advanced state of detection come before the Courts. The fact is that the ordinary Criminal Procedure of India is ill-suited to cases of this kind. The machinery is framed in the interests of a simple people liable to oppression in the name of the law. The object aimed at in every turn is the laudable one of protecting the innocent. But India has changed since the lines of the Criminal Procedure Code were first drawn, and the most notable change is the enormous increase of lawyers of the greatest ability and of infinite subtlety who are available for the defence of accused persons. The result is—and I do not blame the lawyers who are perfectly right in taking every lawful advantage in the interests of their clients—that the main difficulty now lies not in safeguarding the innocent but in securing the punishment of the guilty. It is in my opinion a question which is daily gathering importance in India, whether the elaborate precautions of our Criminal Procedure are not capable of considerable simplification. I am throwing this out only as a reflection of my own. The simplification of procedure that is aimed at in the present legislation is not intended to affect the criminal law generally, but merely to provide for the more speedy trial of such cases of complexity as may arise from anarchical conspiracies.

“ I have now explained the conditions which necessitate legislation and commented on the objects at which the Bill aims. These objects are twofold : (1) to obtain the prompt decision of criminal cases of a complex nature

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arising out of an anarchist conspiracy; (2) to obtain an effective way of dealing with criminal associations. How these objects are met I can perhaps best explain by going through the Bill.

“ The first part of the Bill contains the procedure for bringing cases of the kind to which I have referred before a Bench of the High Court for trial. The Bench will consist of three Judges. The trial will be without jury. It is perfectly obvious that in the conditions which exist while anarchy is in the air, and while public feeling is in a state of high tension, trial by jury of such cases is most unsuitable. Jury trial is still in its infancy in India, and it is only within the original jurisdictions of the High Courts that offences against the State are now triable by jury. Anarchical crimes, whatever section of the Penal Code they may fall under, are in substance offences against the State. I do not think that any argument is required to justify the substitution of three Judges of the High Court for a jury in such cases. In order to obviate the long committal, provision is made for a simpler method of bringing the case to trial. The first stage will be the arrest of an accused person and the bringing of him before a Magistrate. These steps will be taken under the ordinary law. At any time after the Magistrate has taken cognizance the Local Government, with the previous sanction of the Governor General in Council, is empowered to make an order applying this part of the Bill to the case. The next stage is an inquiry by the Magistrate in the absence of the accused in order to ascertain if the evidence is sufficient to put the accused upon his trial. If in his opinion the evidence is insufficient the accused will be discharged. If, on the other hand, the Magistrate finds that the case is established *prima facie*, he will frame charges and furnish the accused person with a copy of the charges and of the evidence against him, and direct that he shall be sent to the High Court for trial. The accused will then be permitted to furnish to the Clerk of the Crown a list of the persons whom he wishes to be summoned to give evidence in his defence. The procedure in fact may be described briefly as differing from the existing committal procedure only in being *ex parte*.

“ The Bill provides further that after the Local Government has directed that the provisions of the Bill shall apply to the case, bail may be refused if there is reasonable ground for further inquiry into the guilt of the prisoner. The question whether there is reasonable ground is one for the Magistrate to decide. The existing law is that a person accused of a non-bailable offence shall not be released on bail if there appear reasonable grounds for believing that he is guilty.

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We think that in cases of anarchical crime, where a system of terrorising has been established, it is necessary that during investigation and inquiry the accused should be detained in custody so long as a reasonable ground remains for further inquiry into his guilt.

“ A further provision of this part of the Bill refers to witnesses; cases have occurred in which the murder of witnesses has prevented their evidence previously recorded from being admissible in subsequent stages of the case. In an ordinary committal, if a witness were examined, and tendered for cross-examination, and then died, his evidence would be admissible at the Sessions trial even although he had not been cross-examined. In the procedure which I have described there can be no opportunity for cross-examination. The Bill provides that when a witness has been examined by the Magistrate, his evidence will be admissible before the High Court if the Judges composing the Bench have reason to believe that his death was caused in the interests of the defence. The object is to remove an incentive for murder. I do not think that this provision requires any special justification. Of course the weight of the evidence recorded without cross-examination is a matter entirely for the High Court to determine.

“ As regards the offences that may be referred for trial to the special tribunal a considerable discretion is left with the Government. One anarchical crime may be a simple case which can properly be tried by the ordinary Courts. Another may be a long and complicated case which there would be advantages in referring to this tribunal. We have included a wide category of offences. It is intended that the power of transfer shall be exercised only in cases which, from their complexity or for other special reasons, cannot conveniently be tried by the ordinary process.

“ For the procedure enacted in this part of the Bill I claim that while giving the accused a fair trial it will greatly shorten the proceedings in complex cases and will at the same time put a stop to the publicity and improper comments which have characterized the Alipur and Midnapur cases and kept the public mind in a condition of tension for so many months. The preliminary inquiry, held *ex parte* and deprived of the accompaniment of lawyers, whose name in these cases is legion, will be greatly curtailed. As the trial will be held before the highest tribunal in the land, the decision will be final. There will in fact be only one public trial instead of three. And last, but not least, the trial will take place in a Court which has the fullest power to deal with contempts, and which will not be compelled to tolerate improper comments on a pending case.



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"Part II of the Bill deals with associations. It defines an association in broad terms. It then defines an unlawful association as an association—

- (1) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or
- (2) which has been declared to be unlawful by the Governor General in Council.

"The next clause gives the Governor General in Council power to declare any association to be unlawful when he is satisfied that it interferes with the administration of law or the maintenance of law and order, or constitutes a danger to the public peace. Then follow the penal clauses, which are two, the first making it punishable up to a term of six months' imprisonment to take part in the meetings of an unlawful association or to contribute or receive or solicit contributions for it or in any other way assist its operations, and the second making it punishable up to a term of three years' imprisonment, to manage or assist in managing or promote the holding of meetings of unlawful associations.

"The effect of these provisions will, we hope, be in great measure preventive. We believe that many of these dangerous associations have a nucleus of organizers, an inner circle, who do the mischief. They entice the young to join them and gradually initiate them into disloyalty and vice. At the same time, by the system of terrorism which they establish, they induce many older persons, who have no real sympathy with their objects, to help them with subscriptions. We believe that the effect of declaring an association unlawful will be to separate from it many of the young and comparatively guiltless, and also to deter older persons from giving it henceforth the assistance, pecuniary and otherwise, which from inclination, thoughtlessness or fear, they have given it in the past. We hope to separate the waverers from the real criminals. Those who continue to be members, or to take part in the operations, or to assist in the management, or to subscribe to the funds after an association has publicly been declared to be unlawful, will know that they are breaking the law, and will only have themselves to thank for the consequences. In the debate on the Seditious Meetings Bill I explained why in India it is necessary to give arbitrary powers for the purpose of prevention. The reason is that the public are disinclined to support the authorities by furnishing the information which is required in order to put the ordinary law in motion. In England it has happened that bomb conspiracies have been brought to light through information

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*Mr. Dadabhoy.*]

given to the police by chemists from whom large purchases of acid have been ordered. When have we ever obtained information of this nature from chemists in Bengal? But while prevention is an important aspect, the Bill does more than merely provide for this purpose. We trust that its provisions are strong enough to bring to conviction and punishment the organizers and members of at least the most criminal of these associations without the *locus penitentiæ* which is provided by the Executive Government's intervention.

"I have now explained, I hope clearly, the necessity for legislation and the provisions of the Bill. I have only to add that it is to apply in the first instance to the two Bengal provinces, but that power is given to the Governor General in Council to extend it to other provinces.

"And now, my Lord, I will state the reason which has induced the Government to adopt the unusual course of introducing the Bill and recommending that it should be passed through all its stages at a single sitting of the Council. We consider that to have dealt with this question in the manner in which Bills are ordinarily dealt with, would have been inexpedient, because the public mind is in a condition of tension, and we think it most undesirable to take the risk of starting an agitation, during the period which would be occupied in passing the Bill, which might not improbably intensify the evils which the measure is intended to repress."

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON introduced the Bill.

The Hon'ble SIR HARVEY ADAMSON moved His Excellency the President to suspend the Rules of Business to admit of the Bill being taken into consideration.

The PRESIDENT declared the rules suspended.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be taken into consideration.

The Hon'ble MR. DADABHOY said:—"My Lord, I feel I cannot content myself by giving a silent vote on this important measure. The Bill, which it is now proposed to be passed into law, has been in fact anticipated by the general Public during the past few weeks, and I am sure I am not much wide of the mark when I state that it is in consonance with the common wishes of the representative and influential bodies in Calcutta and elsewhere that this measure

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has been undertaken. The general public have been greatly distressed by the seditious movements that have sprung into existence during the past 18 months, and more particularly during the past few months of the present year and have been deeply grieved and alarmed by the cowardly assassinations and attempts at assassination and of the possibility of a repetition of similar crimes in future, and it is therefore no wonder that the discriminating section of the public should loudly call for legislation of a special character which will promptly and vigorously suppress the prevalence of sedition, criminal violence and organised conspiracies in India, and particularly in Bengal.

“ It would be sheer imprudence and want of prescience to underestimate the great danger which is confronting us. We must all realise that the situation is getting more and more critical, and public safety and security are being jeopardised. But fortunately the ulcer of discord and disaffection is only on the surface, and it is a business of the greatest statesmanship to grapple with the situation with firmness and promptitude.

“ My Lord, I am myself most unwilling to see the introduction of any legislative measure that will take away from any person his right to be tried by the settled rules, organised laws and well established procedure of his country, yet notwithstanding that in some quarters serious objection may be taken to the introduction of this measure, I think the continuous disturbances of the public peace which have taken place during the last few months and which have unfortunately prevailed long enough and have kept the public in a state of consternation, is amply sufficient to prove the inefficiency of ordinary criminal procedure in times of stress and emergency, however well it may have suited normal conditions. The immediate suppression of organised crime is a matter of no small political and social importance, which in the opinion of all thoughtful men admits of no delay or vacillation. It is now perfectly evident that for the preservation of the public peace and safety and for the suppression of organised crime and the speedy punishment of its promoters and instigators, effective measures should be adopted as expeditiously as possible, and that object can only be attained by taking up legislation of the kind now before the Council so as to afford to the law-abiding and peaceable general public the protection which they are entitled to from the Government of the country.

“ Your Excellency only the other day, while addressing the Taluqdars of Oudh, very appropriately remarked that the British Raj is determined, as it has ever been, to safeguard the populations committed to its charge. It is determined to shut the door in the face of a ruinous

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anarchy, and, for the special difficulties with which it has to deal, it will not hesitate to forge special weapons.' These are words of true statesmanship, and I venture to assure Your Excellency that in carrying out that policy Your Excellency's Government will have the fullest and whole-hearted support of all right-thinking and law-abiding people who have at heart the true interests, welfare, and the prosperity of this country. The question before us is not whether the Government has established any necessity for any change in the procedure that is now followed in criminal trials, but whether the ordinary processes of law subsisting at present are sufficient for dealing expeditiously and with vigour with this new phase of crime which has made its appearance. Any variation in the prescribed methods of procedure will necessarily cause at first some degree of inconvenience and possibly dissatisfaction, but it cannot for a moment be questioned that the existing procedure is entirely powerless to stem the tide of political fanaticism that is a serious menace to the peace of the country. The Alipur trial is one of the many instances of the proof of the unsuitability and inefficiency of our present laws in cases of serious political offences, and it is therefore indispensable that the administration of the law should be so strengthened and fortified by the creation of special tribunals with plenary powers as to deal efficiently, expeditiously, and at the same time justly, with political crime in all its diversified aspects.

" The Bill is simple in its nature and will enable Government to deal effectually with all who are in any way concerned with disseminating the cult of sedition and treason. I believe that there could not be found in the length and breadth of the allied Provinces of Bengal any considerable number of persons who would take exception to the Act. In justice to the Bengali race, I would say that with their keen intelligence they will as a people see nothing in the Act of an arbitrary or objectionable character, and I believe that there is a very general desire among them that conspiracies and sedition should be suppressed even at the cost of some abridgement of the liberty of the people. But the measure in no sense interferes with the liberty of the people, it only aims at suppressing and eradicating the mischief attendant on protracted trials and dispenses with unnecessary publicity which in cases of political trials in this country is proved by experience to be undesirable. The dispensation of trial by jury before a Special Bench need not be regarded as in the nature of any serious hardship, considering that it is counterbalanced by such trials taking place before three Judges of experience and independence; nor does the provision about refusing bail, if here appear to be sufficient grounds for further enquiry seem to be illogical or particularly oppressive. The provision incorporated, in

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section 13 of the Bill is also fully justified by the unfortunate event which took place lately in the Alipur Jail. I allow that exception may be taken to some of the minor details of the Bill, but this is no occasion to cavil with details. We must approach the Bill in a broad-minded spirit of statesmanship.

“The Bill provides also for the suppression of unlawful associations, dangerous to the public peace, and also for the punishment of managers and promoters of such associations. These associations have added to the difficulty of the situation, they are nothing more than organised bodies for the encouragement and promotion of acts of violence and intimidation.

“I am of opinion that these associations or conclaves, where a carnival of sedition is systematically carried on, where revolutionary doctrines are daily preached, where violent and mischievous lies are daily disseminated, where youthful and susceptible minds are led astray and continuously infected with the venom of sedition, distrust and opposition to Government, where ignorant and malicious vilification of Government measures is indiscriminately indulged in, where funds are collected and often extorted under misrepresentations—these associations should no longer be permitted to exist, and the interests of society as well as of good government alike require their immediate and wholesale extinction.

“My Lord, I am not alarmist, but the circumstances now prevailing are of such importance and gravity as to warrant the passing of a law of this nature in the manner Government have adopted. At the present time Your Excellency in Council is doing your best to grapple with a situation of an exceptionally trying nature, and Your Excellency's Government stands in need not only of silent sympathy but of all the assistance that it can obtain. You have to deal, my Lord, not only with an unusual form of political crime, but simultaneously work out a programme of wise, timely and far-seeing reforms that will meet new aspirations and satisfy the new conditions that have of late arisen in this country.

“I am glad that this legislation is in the first instance only made applicable to the disturbed Provinces of Bengal. The other Presidencies are happily free from a state of chronic disturbance. I pray that Government may find no occasion to extend the Act to any other part of the country. But, my Lord, though I support this legislation, I must most distinctly state that I should not like to see it permanently placed on the Statute-book of our country; and I would urge that as soon as a normal state of things is restored in Bengal and Eastern Bengal,—and I trust that may be not far distant,—Your Excellency's

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Government will set itself to repeal this measure. I think it would be advisable and more popularly acceptable if the Hon'ble mover of the Bill could see his way to insert a provision limiting the operation of the Act for a stated period only.

"I shall conclude, my Lord, by stating that the value of any particular measure is not always correctly appraised when it is first introduced as when actually applied and put in operation. I have no doubt that time alone will show the wisdom and propriety of this measure and will establish the benevolent intentions of Government."

The Hon'ble RAJA ALI MUHAMMAD KHAN said :—"My Lord, the reasons which have led to the introduction of this Bill are as well known as they are deplorable. I can say only one word in its support, that it comes before us none too soon. There is a notion abroad that the existing law is sufficient to meet all kinds of cases and that harsh and summary measures are not in keeping with constitutional methods of Government. In every age and country political offences have been treated separately from ordinary offences and we can find a parallel for similar legislation in the various forms of enactment for high treason in the history of civilized England. And what are those misguided and irresponsible people guilty of, who from a mistaken sense of devotion to the cause of their country aim at getting a cheap notoriety by committing outrageous assaults on the representatives of Government? They are not only traitors to the Crown, but are the worst enemies of their own country. I believe sincerely that the measures proposed are not of a vindictive nature, and that Your Excellency will not lose sight of the greatest good of the greatest number on account of the evil deeds of a wicked few. While supporting the Bill strongly in substance, I would observe that in my humble opinion the remedy prescribed seems inadequate. However desirable it may be to secure the speedy punishment of offenders, it is not likely to strike at the root of the evil or to prevent further outbursts of anarchism. I would suggest the necessity of continued precautionary measures and of tracking that wild creature, called the anarchist, in his secret haunts. Once the policy of *laissez faire* on the part of Government is changed, the attitude of the people will change accordingly and the united efforts of both may go a great way to lessen, if not to remove, the danger."

The Hon'ble MAHARAJA OF DARBHANGA said :—"Your Excellency, the measure which has just been laid before the Council is one framed to meet excep-

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tional circumstances by exceptional methods. The Bill is to provide for the more speedy trial of certain offences and for the prohibition of associations dangerous to the public peace. The ordinary forms of criminal procedure in the case of persons accused of anarchy, sedition, incitements to murder, inflammatory speeches and writings against the Government, or any of the other offences scheduled in the Bill, having been tried and found wanting, I think your Government is right in asking for the power required to bring all such offenders to a speedy trial. I should have liked to have had more time to examine the clauses of the Bill in detail, but as this has not been found to be practicable, I must necessarily confine my observations to criticism of a more general nature. I give my hearty support to this measure, all the more because I am convinced that the crimes specified are confined within a very limited sphere, and are abhorred by an overwhelming majority of the inhabitants of the two Bengals who are loyal and law-abiding and upholders of all that makes for peace and social order. And here may I put in a word on behalf of a much maligned class, in connection with the recent events of an anarchical order. I mean the students of our colleges. Because a few misguided young men acting under bad advice have been guilty of grave offences against religion and law, it has been assumed in certain quarters that the students as a class are on the side of anarchy and sedition. There never was fouler calumny. There may be of course a few back sheep to be found in all classes. But we do not brand a whole class with the tar-brush because an exceptional few have disgraced themselves by their bad conduct. The students have undoubtedly experienced an awakening through the light of education and the infusion into their minds of Western knowledge, and it is natural that these young men should aspire to higher and more useful political life than has hitherto been their lot, but all their agitation towards that end should be of a healthy order, entirely in conformity with loyalty to the Government and to the peace of the community.

“ My Lord, I give my hearty assent to the measure now before the Council. The second part of the measure I acknowledge to be right, and the absolute power vested in the Governor General in Council to declare certain associations unlawful, and as such liable to the penalties provided under the Act, will I think prove to be the most powerful deterrent to the formation or to the continuance of such unlawful assemblies. I have every confidence in the wisdom of the Governor General in Council that the absolute power thus placed in his hands will be used with great discretion, although there is nothing said in the Bill of the procedure which will be taken in order to bring the existence of unlawful assemblies to the knowledge of the Governor General in Council to

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enable him to wield his power with judgment. I am confident that if Your Excellency or the Hon'ble Member in charge of the Bill would give us some sort of outline of the methods to be employed in finding out whether certain assemblies are lawful or unlawful, it would tend to allay a feeling sure to arise in the community, as to whether law-abiding households might be liable to receive domiciliary visits from the police, either with or without warrant, and at all hours of the day or night. I am sure it is the wish of the Government that no peaceable household should be disturbed, but we would like an indication of the methods to be adopted to find out the existence of unlawful assemblies, while at the same time safeguarding loyal people from police espionage.

“My Lord, the greatest social interest of India at the present day is internal peace and concord. While it is all very well to repress crime with a powerful hand, Your Excellency gladly acknowledges that along with this there must also be the accompanying policy of conciliation and the granting of those reforms which have been demanded by all the leaders of Indian thought who have the best interest of the country at heart. And I am persuaded that if the reforms to be announced next Monday are at all on the general scale—as I believe they will be—a new era will dawn on India of peace and progress and a political climate will be developed, in which loyalty and goodwill will grow from more to more, and in which anarchy and sedition with their kindred disorders will have no room to live. Towards the bringing in of this happier state of things, it is to be hoped that all the races in our land—European, Hindu and Muhammadan alike—will conspire together in promoting the best interests of India along those paths which will lead to her exaltation amongst the nations in all that constitutes the qualities of a great people.

“My Lord, with these few observations I heartily support the measure before the Council, and earnestly trust, that as a latent power in the hands of the Government, very knowledge of its existence will be such a terror to evil-doers, that its provisions will never require to be put into active operation.”

The Hon'ble MAUNG BAG TOO said—“My Lord, all that I have to say is that I think it my duty to support the Government of India in a measure which, after full consideration, they believe to be necessary in order to suppress anarchism. I will vote for the Bill.”

The Hon'ble NAWAB BAHADUR KHWAJA SALIMULLA OF DACCA said :—  
“With Your Excellency's permission I beg to say that it is a great pleasure to me to accord my warmest and most hearty support to the Bill



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introduced today by my friend and colleague Sir Harvey Adamson, to provide for the more speedy trial of certain offences and for the prohibition of associations dangerous to the public peace. Two years ago, in my budget speech, I had pleaded in strong terms, in Your Excellency's Council, for some such measures. I had deplored the fact of treason being openly preached in our towns and streets—the masses encouraged to kill, hurt, stone and assault Englishmen and loyally disposed Hindus and Muhammadans for no fault except their steadfast loyalty and unwillingness to countenance any movement against constituted authorities, and had also drawn attention to the fact of loaded pistols being found in the hands of children in the open streets of Calcutta. My Lord, it was for this reason I was anxious to put a question in the Council as to how far Government were cognizant of the miscreants who were doing the kind of mischief of setting class against class; but I was advised not to do so. My Lord, I may be permitted to quote the following from my speech, which runs thus:—'The loyally disposed Hindus and Muhammadans feel that Government must, with a strong hand, put down at once and *once for all* what is going on round about us before a serious conflagration takes place. My Lord, I know that I shall be taken as an alarmist, but, my Lord, "Tis the coming events that cast their shadows before," and I am prepared for all the contumely and odium that will be cast on me if I only succeed in inducing Government to pause in the course of putting unlimited confidence in the lip-loyal sayings and doings of these agitators, and allowing them a free hand so long as they keep outside of the pale of what is defined in the Penal Code as sedition and treason. For I feel with my people that the time has come when we can no longer remain quiet. I, however, openly declare that we do not want, as many Europeans are said to be doing, another mutiny, in order that the growing insolence of the *badmashes* and of these unscrupulous persons may receive their deserts. We only appeal to Government to put down with a firm hand every attempt made to sow the seeds of disaffection and to seduce the people from their faith and belief in Your Excellency's Government.' These remarks, unfortunately, have been almost prophetic in their fulfilment. Had my humble suggestions been accepted by the Government two years ago, the revolutionary tide of anarchism, lawlessness and hooliganism, which has engulfed many a hearth and home in gloom and brought desolation and woe to many innocent persons, would have been at once stemmed. The extraordinary measure of creating a special tribunal which recent events have called forth is, in my humble opinion, yet insufficient and inadequate at the present juncture to meet the extraordinary necessities of the case. In the interests of good government; in the interests of public peace, progress and prosperity; in the

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Interests of the youths of our country whose careers are blasted—enmeshed and entangled as they easily are in the snares of designing schemers and conspirators; in the interests of parents and guardians whose fondest hopes are shattered,—I venture to suggest that a stronger measure than that contemplated should be adopted to effectively eradicate this deep-rooted evil with its possible ramifications all over India. My Lord, public peace is disturbed. Dynamite, bombs, revolvers are in the air—the very weapons which, in all ages and in all countries, have been the handmaids, not of the restorers of their country's Liberty, but of the disturbers of their country's Tranquillity. The sympathy of our rulers and the good will of the British people, to which we all owe so much, are in danger of being estranged from us. Do they not pause to think that the very Burke and Mill, and a host of others, by whom they adjure and whose doctrines they have so ill-grasped, belong to the same nation who have opened our eyes and placed before us the dazzling vision of Western liberty and freedom? But 'Liberty', says Mrs. Besant, 'is too holy and divine a goddess to descend upon a country whose people lack in self-control, discipline, order and purity of heart. Responsibility, sense of public duty, study of history and ways of the Free People and the virtues of self-control and self-abnegation are essentially necessary in a people aspiring for freedom.' In short, they should remember the old adage that first of all deserve and then desire. Providence never withholds its blessings from those who are really worthy. England never burst through her bondage in a single day. She required years—nay, centuries—of patient preparation in moulding her national character, in uplifting her commoners, in regenerating her nobles, before she attained her goal and before she could occupy the position she is occupying to-day. *Festina lente* is as true when Æsop wrote his Fables as it is today. And—

'Heaven is not reached at a single bound  
But we build the ladder by which we rise,  
From the lowly earth to the vaulted skies,  
And we mount to a summit round by round.

Wings are for Angels but feet for men!  
We may borrow the wings to find the way;  
We may hope and resolve and aspire and pray,  
But our feet must rise or we fall again.'

"At the present moment, however, when the whole country is being convulsed by a handful of mischief-makers, what is our duty to our King, to our country and ourselves? Are we to sit still with folded hands and remain passive spectators of what is going on, or are we in duty bound to bestir ourselves, in order to discountenance sedition and to assist the Government

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in its efforts to advance the welfare of our people and maintain the supremacy of law? We all know that the British Raj is built on too solid a foundation to quake at the flash of the assassin's danger, or the fiery vociference of the demagogue, or the scurrilous writings of the seditious publicist. This movement, if any thing forebodes a Reign of the Terrorist, and as such it is high time that we should devise stronger and more effective means and methods to counteract this evil which is a menace to peace and the true liberty of our country.

“With these few words, my Lord, I support the Bill.”

The Hon'ble MR. APCAR said:—“My Lord, on behalf of the Bengal Chamber of Commerce I cordially support this Bill. On referring to the joint letter from the Chamber, the Trades Association and the European and Anglo-Indian Defence Association, there were three points mentioned in it which I am glad to see have been introduced into this Bill and I assure you will meet with the greatest appreciation. The Hon'ble Mover has so thoroughly explained the objects of the Bill and the reasons which have necessitated it that I feel it is not necessary for me to dilate further on them. I accept what he has stated as facts, and I am sure the Bill will meet with the cordial approval and support of the commercial community.”

The Hon'ble DR. RASHBEHARY GHOSE said:—“My Lord, when the Executive have deliberately come to the conclusion that they should be invested with new powers to maintain law and order, it is, generally speaking, the duty of every member to support the Government; specially at a time like this, when they have to face a great and serious, though not a widespread, evil. I am, therefore, glad to be able to say that I can honestly vote in favour of the Bill. But there is one clause in it, and only one, which I have not been able to bring myself to accept. I mean the clause which gives the Executive power to suppress associations which they may deem to be unlawful.

“In proposing to take this power today the Government, I venture to think, are following a not very logical process. In denying the necessity for urgency when the Bill which afterwards became the Irish Criminal Law and Procedure Act of 1882, was before the House of Commons; the present Secretary of State for India said—‘The Government are going to work in an inverted order—they are beginning with a policy which will aggravate the existing evil and will weaken and spoil the operation of whatever future remedies they may be able to propose.’

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“ My Lord, the long promised reforms are now in sight. We shall know them on Wednesday next, when I am confident they would be gladly welcomed by all His Majesty’s subjects in India. Coercive legislation, in my humble judgment, should, if necessary, have followed, not preceded, conciliation. The resources of coercion are, we have been told, inexhaustible. So too, I submit, is the store of healing methods, which are not unfrequently more potent than coercion and to which, except under the gravest necessity, the Liberal party in England have always trusted, even in a country in which conciliation does not always make much impression on the people. And this leads me to remark that the anxiety of the Government to pass this Bill in one sitting may not improbably create unnecessary alarm, not indeed in India but in England, where an ill-informed Press seems to be under the impression that something like a revolution is impending in this country, and that all law and order have ceased to exist.

“ My Lord, we have heard a good deal of the panacea of a firm and resolute Government. But though it has not been a very brilliant success in another country, if I could persuade myself that India or any part of it was in the condition of Ireland not very long ago, I would have assuredly given the Government my humble but steady and unflinching support and voted for the whole Bill with all my heart and soul. But I ask, is there any network of secret societies in this country? Any association like the Irish Land League? Anything like the Reign of Terror, which hung as a dark and ominous cloud over Ireland? I would also ask,—Has the ordinary law been found inadequate to deal with disorder? The Irish Prevention of Crimes Act of 1882 opened with the preamble—‘Whereas by reason of the action of secret societies and combination for illegal purposes in Ireland the operation of the ordinary law has become insufficient for the repression and prevention of crime.’ This is nothing but the bare truth, for we all know that at that time Ireland was in a state of revolution and society—it is no exaggeration to say—was on the very verge of dissolution. In this country, however, anarchism is only a passing distemper, and it has yet to be shown that the operation of the ordinary law is insufficient for its repression and prevention.

“ My Lord, no Irish Viceroy had to face greater difficulties than Lord Spencer, or was put to a severer trial; and yet he succeeded where Mr. Forster had failed, because he possessed an inexhaustible store of that ‘steady-eyed patience,’ which, we are told on very high authority, is essential in an Irish Viceroy. Your Lordship, if I may say so without impertinence, possesses in an equally large measure all those qualities which enabled Lord Spencer to restore law and order in Ireland without the help of stringent Coercion Act.

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We know also that Your Lordship is not an admirer of resolute Government, and the country cannot be too grateful to you for the nerve and firmness which you have exhibited throughout these anxious days. It is, therefore, peculiarly painful to me to have to oppose any part of this Bill. The responsibility too, which I have ventured to take upon myself, is very, very great. But I owe it to myself, I owe it to Your Lordship, to whom I am indebted for my seat in this Council, I owe it to the party to which I belong—the educated classes as they are generally called—to speak out my mind.

“The educated classes, my Lord, have been taught and taught by their rulers, to whom they owe a debt they can never hope to repay, to regard Government even by the best Executive in the world with distrust. Sir Henry Maine, who according to Lord Morley was too much of a bureaucrat alike by temperament and training, said many years ago: ‘The educated youth of India certainly affect a dislike of many things which they do not care about and pretend to many tastes which they do not really share; but the repugnance which they invariably profess for discretionary Government has always seemed to me genuinely hearty and sincere.’

“My Lord, the educated classes have been long accustomed to sneers and taunts, gibes and calumnies, but I should have thought that they would at least be spared the insinuation that they are disloyal. What! The educated classes disloyal? They must be so many lunatics if they are really disloyal. Are hundreds of thousands of men to be branded as disloyal, merely because a few misguided persons, mostly boys, have been betrayed into silly treasonable practices? We are not Pharisees. We do not, my Lord, wear our loyalty on our sleeves, because our loyalty is, and ought to be, above all suspicion; because to doubt it is to doubt our sanity. I repeat, our loyalty ought to be above all suspicion, for we know that the continuance of British rule is absolutely essential to our gradual growth as a nation. We cannot, therefore, too strongly condemn anarchism or anything wearing even the appearance of treason, because it would tend to alienate our rulers from us. We condemn anarchism because it would retard all progress, as it is a fatal delusion that concessions can be wrested from the people of England by violence. We condemn anarchism, because its spread would end in the dissolution of all that hold society together. And we condemn anarchism most, because it is opposed to the laws of God as well as of man. It is perhaps never safe in such cases to indulge in predictions, though I may say without boasting that some of my forecasts have proved only too true. But this I may assert without much rashness: that anarchism is bound to die

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out. It will not, I fear, be killed by Coercion Acts. But it will die, it is bound to die, because it is in opposition to the best traditions of our race—traditions which are much older than that gospel of love which was preached eighteen centuries ago—older even than the teaching of Goutama Buddha. Anarchism, I repeat, is bound to die, because it is in opposition to all those precepts of pity and of compassion for the meanest of sentient beings which are our great, our priceless heritage,—precepts which still guide and inspire the life of every true son of India and which will continue to guide and inspire it, till civilised man exchanges all the gentler, purer and higher qualities of humanity, for the tiger instincts of the savage.”

The Hon'ble MR. ERLE RICHARDS said :—“ I desire, my Lord, to make a few observations to this Council in supplement of the speech which my Hon'ble colleague addressed to us at an earlier stage of these proceedings. There are legal points arising on this Bill on which, as legal adviser of the Government, I think it proper to offer explanations, and behind them there is a point of general policy on which, as one who has had the honour of being a member of Your Lordship's Council during the past few years, I have to make some remarks.

“ And first as to the Bill itself. The main object of Part I is to set up a Special Tribunal in order to insure the more speedy trial of certain offences. It is essential in the interests of the public itself that offences against the State and crimes which from their nature cause widespread alarm among the public should be tried with promptitude. If the accused be guilty, punishment is robbed of its deterrent effect by delay; if he be innocent, the protraction of the trial is a great hardship on him. Moreover, the presence of prisoners under trial for offences of this kind is of itself a source of disquiet and unrest among the public, and should not be permitted to continue longer than is necessary. If proof were needed of the delays which are involved in the present system I would refer the Council to the case which is at this moment under trial in the Sessions Court at Alipore. In that case proceedings were initiated before the Magistrate on the 18th of May; the prisoners were committed for trial on the 16th of September; the trial is still proceeding before the Sessions Judge, and so far as can be judged from the public prints shows no signs of coming to an end; and after it is over there can be an appeal to the High Court, which of itself must involve a lengthy hearing. And the Alipore case does not stand alone. There are unfortunately other conspiracies in existence as my Hon'ble Colleague has told us equally widespread. It is most necessary that there should be some speedier means of disposing of cases of this character. Under the present procedure in such cases as that at Alipore, there are practically three trials:

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the first before the Magistrate, the second before the Sessions Judge, the third before the Court of Appeal. The Bill proposes that there shall be only one trial, that there shall be only such preliminary proceedings as are necessary to ensure that the charge is justified and that the Court which tries the case will have sufficient materials before it to enable it to appreciate the charge and the effect of the Bill is that there will be no appeal from the decision of that Court except such as may now exist on points of law. It follows from the fact that there is to be no appeal, that the Court must be constituted of Judges of the highest authority, and the proposal is that it should be formed of three Judges of the High Court appointed by the Chief Justice and sitting without a jury. The preliminary proceedings take the form of an enquiry by the Magistrate limited to ascertaining whether a *prima facie* case for the prosecution has been made out, a case sufficient to justify the putting of the accused on trial. The functions of the Magistrate will be analogous to that of the Grand Jury in England, which hears no witnesses for the defence, but confines its investigations to the question whether the evidence for the prosecution justifies a trial. The result of these provisions will be that there will be one trial, and one trial only instead of three as in effect there may now be, but that the one trial will be held before a Tribunal of unimpeachable authority and impartiality. It has not been found possible in the Bill to define with exactness the offences which will be referred to the Special Tribunal, but I think I may fairly anticipate that no case which can be promptly disposed of by ordinary process will be taken away from the usual Tribunals unless special reasons exist for doing so. A short time since a prisoner was put on trial charged with attempting to murder the late Lieutenant-Governor of this Province. The facts were not disputed and the whole proceedings were concluded within some two or three weeks. I do not suppose that cases of that kind would ever be referred to the Special Tribunal, but when once it is attempted to draw a line between the cases which are to be referred and the cases which are not to be referred, then difficulties begin. I believe it to be impossible to frame a general definition which would satisfactorily accomplish the purposes of this legislation; it is better, as it seems to us, to limit generally the classes of offences as is done in the Bill and in the Schedule, and to leave the responsibility with the Governor General in Council of putting the procedure in the Bill into operation. I am aware, my Lord, that the result of this procedure may be in some cases to withdraw the right which a prisoner may have under the existing law to a trial by jury. That would not be so in the Alipore case, but in other cases the Bill might have that result. But I would point out that in effect the Tribunal is a jury of three Judges, and I believe it to be a form of jury

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which any innocent man would prefer. The responsibility of taking the case away from a jury will rest with the Government, and it must be left to them to decide; they are amenable to public pressure, and if they use the power unjustly there will be opportunities of calling attention to it. My Hon'ble Colleague has explained the provisions as to the admission of evidence of witnesses who have been murdered, and I have little to add to what he has said. No doubt the admission of this evidence is an alteration of the law, but it is not without precedent in the legislation of the United Kingdom, and the experience of the last few months has shown us that some provision of this kind is necessary. It may be that if it were exercised to its fullest extent it would cause hardship in the case of innocent prisoners on their trial jointly with others, but the weight to be attached to the evidence is a matter for the Tribunal, and we may safely trust the judges to see that no hardship is caused in that way.

“The second part of the Bill gives greater powers in regard to unlawful associations, and that is a matter more for the Department over which my Hon'ble Colleague presides than for myself; but no one can have listened to the crushing indictment which he has presented here this morning without being convinced that these associations are a very serious disturbance to the public tranquillity even if they do not more directly organize crime. The powers taken by the Bill are aimed only at associations which constitute a danger to the public peace, and punishment under them can be inflicted only by the ordinary process of the Courts.

“I do not apprehend, my Lord, that the Bill will be successfully attacked, in the conditions of the present time, on the ground that it goes too far. There may be objection taken to particular provisions in it, but in regard to the objects of it, it will hardly be disputed that some legislation is called for. The necessity for some acceleration of the process of the law has been generally admitted: the necessity for putting a check on associations of the kind to which the Bill applies cannot be denied. I listened to the remarks of the Hon'ble Dr. Rashbehary Ghose in which he dealt with the necessity for this measure, and I could not help admiring, from a professional point of view, the skill with which he skated round the real point without ever brushing against it. The provision for special procedure he did not dissent from, and as to the associations he did not contest but they are a very real danger to the public peace. This is the real point and he did not tackle it; if they are dangerous then the necessity for legislation is established. So far from the Bill going too far, I should rather anticipate the objection that the proposals do not go far enough; and that it will be said in view of the facts which my Hon'ble Colleague and the



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Hon'ble the Nawab of Dacca have put before us this morning, that the time has come for more drastic remedies. It is on that point that I desire to make some observations.

“My Lord, the Government of India have not hesitated to take vigorous action on former occasions both by the exercise of the powers which are at their disposal under the existing law and by asking this Council for special powers to deal with special developements. The Punjab was quieted by action taken under existing powers: the disturbing utterances of extremist newspapers have been checked by prosecutions under the ordinary law. Seditious meetings, at one time a source of grave disturbance to the public peace, have been held but infrequently since this Council passed special legislation to deal with them; the Newspaper Act has given powers of confiscating printing presses, powers which have already been used with effect, the Explosive Substances Act was enacted within a few weeks of the first bomb outrages. The Government of India cannot therefore be accused of inaction; they have shown themselves prompt in every case to deal with evils as they arose. But the pervading note of Your Lordship's policy has hitherto been to refrain from anything like a general suspension of the ordinary law and to rely on the people of India to put an end to the bad feeling from which sedition springs by their own influence. We have removed malignant growths, as they have been discovered, by operations of surgery, but we have trusted the people of India to apply that medicinal treatment which can alone prevent the recurrence of those growths. It is said that the time has now come for abandoning that policy and for embarking on repressive legislation. Beyond doubt repression can be made effective, and beyond doubt it will be made effective if it is forced upon us. It would not be lightly undertaken since it cannot avoid the infliction of hardship on the innocent as well as on the guilty; it cannot but involve the disturbance of the whole community. But if other measures fail to maintain peace, then no alternative remains. The question before us is whether the situation to-day is such as to force upon us this change of policy.

“There is admittedly a new factor to be taken into account. It is the existence of a band of anarchists whose object is to render the enforcement of law impossible, whose methods are assassination and intimidation. A movement such as this, my Lord, is not a danger to the British Raj; that cannot be shaken by the murders of individuals, nor will any of those who have the honour of serving the King-Emperor be deflected a hair's breadth from the path of duty by fears or threats. But it is a danger, and a grave one, not to the British Raj but to the Indian community itself. Once let anarchy spread its evil roots over the

country and it becomes a growth which cannot easily be checked: and if that ever comes to pass, there will be no one of whatever class or creed in the community who will not be at the mercy of an assassin to satisfy a grudge or gratify an enmity. That, my Lord, is the real danger we have to fear, and it is a danger which must be put an end to at once and completely. That it can be ended is beyond doubt; that it will be ended is as certain as that day follows night. The resources of legislation are not exhausted by this Bill; the resources of force have not yet been brought into play. The question is one only of the means by which it may best be effected.

“ My Lord, if these conspirators represented the bulk of the Indian community of Bengal, if they in any way had behind them the public opinion of these Provinces, then indeed the case for strong repressive legislation would be unanswerable. But the Government of India do not believe that this is the present state of things. They believe that these crimes are as abhorrent to the better classes of the Indian community in these Provinces as they are to every other civilised human being. It is impossible for us to think that the Indian gentlemen of these Provinces, many of whom we are privileged to number among our personal friends, give countenance in any sort of way to these deeds of shame; and we believe that crimes of this kind are equally detestable to the Bengali race as a whole. But the evil has come about because the real opinion of the public has not been declared. An outside observer looking at the events of the past few years might well have inferred that there were no moderate, reasonable men in Bengal: that the nation looked for its guidance to platform agitators: that the politics of the country were dictated by College students. We all know that this inference would be altogether false. The real power lies with the men of position and substance, and with the men of the middle classes who form the backbone of every nation; there are the men who can guide public opinion if they will do so, and with them the present issue lies. The intentions of the vast majority are, as we believe, wholly loyal to the King-Emperor, and we have heard that affirmed in eloquent terms today by the Hon'ble Dr. Rashbehary Ghose. It is true that many of them desire some further measure of self-government: that is a reasonable desire and it is one with which all of us sympathise within certain limits. But they have no desire to render the British Raj impossible or to subvert the constitution of the country. And their interests must be wholly on the side of order. They must know that deeds of anarchy can only defer instead of quickening further grants of self-government; they must know that men who cannot control their own sons cannot justly claim to govern other people; they must know that the departure

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of the British Raj would inevitably be followed by civil war with all its attendant horrors, bloodshed and rapine. Therefore their interests must be as firmly on the side of loyalty as we believe their wills to be.

“It is because the Government are confident that this movement finds no support in the general public opinion of these Provinces that a more drastic Bill has not been introduced today. And it is for the same reason, if I read aright, that it has been determined that these outbreaks of lawlessness shall not interfere with those proposals for further self-government which your Excellency initiated some two years ago and which will be shortly made known to the public. If I may judge from the declared intentions of Your Lordship and from the public utterances of His Majesty’s Secretary of State, the concessions that are to be made will be of a liberal character; they will be a real step in advance towards the greater control by the Indians of the administration of this country.

“These, my Lord, are the reasons by which the policy of Your Lordship’s Government have been guided on the present occasion, but they are reasons based on anticipation, which the Government confidently entertain, that the present state of things will pass away. If there be no improvement, then those reasons will lose their force. We stand today at the parting of two ways. One road leads to greater self-government under the direction and guidance of the British Raj; it is the way of peace, of law and of order. The second road can only lead to repression and ultimately to the reign of force, it is a way on which the ordinary law is suspended. It is for the Indian community, and primarily for the Indian community of these two provinces of Bengal, to decide which road we shall travel. The Government of India, and those who know Indians as we do, believe, and confidently believe, that they will choose the first of these two roads and that events will justify the trust which your Lordship has placed in them and the policy which you have pursued. But it lies with them to choose. The time has come for the leaders of the Bengali nation, for the men of influence and of substance in the Indian community, to take the reins into their own hands and to guide the coach of State along the right road. Let them no longer shrink from the responsibility: it is their duty to their nation, to the world and to their King Emperor, to use their power and to use it promptly. My Lord, I invite this Council to vote in favour of the motion which is before it.”

His Honour THE LIEUTENANT-GOVERNOR said:—“My Lord, I understand that the measure which is now offered for consideration is the outcome of repre-

sentations which have been submitted by the Local Governments of the two Provinces to which it is to be applied in the first instance and of deliberations to which Sir Andrew Fraser was a party. In any event I am well aware that Sir Andrew Fraser was absolutely convinced of the necessity for strengthening the law on some such lines as these.

“I desire to say, in the most public manner, and in the most emphatic words at my disposal, that I am wholly in agreement with him. I have recently spent some three or four months on leave in England, and during that period I have had occasion to discuss the present situation in India with many persons, including not a few who have no direct or personal connection with this country. In all these conversations one feeling was uppermost and conspicuous; those with whom I spoke almost invariably expressed amazement at the inordinate delay which has hitherto occurred in the determination of State trials such as that now pending at Alipore; and they have dwelt on the paramount necessity of bringing them to a conclusion and punishing the guilty with the utmost possible promptitude. It was idle to reply that under the present law such delays are unavoidable, or to point out that the law, framed with reference to normal conditions, contemplates no less than four separate proceedings, *viz.*, (1) the police enquiry, (2) the enquiry before the committing Magistrate, (3) the trial at the sessions and (4) the eventual appeal to the High Court. People invariably rejoined that if the law involves such procrastination the law is inappropriate to present circumstances and should be altered.

“I entertain no doubt that an amendment of the law is urgently necessary. When proceedings in a State trial are inordinately protracted, as they must frequently be under the present procedure, the effect upon public feeling is deplorable; for the sense of shock and shame originally felt at the enormity of the crime fades away in weariness and disgust, long before slow-footed and uncertain punishment has overtaken the offender. The first part of the present Bill deals with this evil in a manner which fairly claims the adhesion and assent of all reasonable men. No stronger, swifter, or more impartial tribunal in all India can be found than a bench of three Judges of the High Court: that it is costly may be admitted, but I venture to think that its cost will be repaid many times over in the public confidence which will attach to its proceedings.

“The second part of the Bill contains the provisions by which it is sought to reach and extirpate those secret societies which are a significant feature of the revolutionary movement and which have done so much evil during the last three years. I will frankly admit that I do not feel the same confidence in regard to

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these new substantive provisions as I have expressed in regard to the special tribunal of the High Court. Dr. Ghose says that the picture drawn of those societies is over-charged. I regret that I hold a very different view. The evidence before me shows that in a number of districts these associations have done and are now doing an enormous amount of mischief. At their best they provide a ready organization for inoculating immature students with the poison of politics, for the dissemination of sedition, and for the terrorising, by methods to which the Hindu social system readily lends itself, of persons who hold unpopular views. At their worst they are active underground agencies for the perpetration of violence and outrage, of dacoity, and of murder. I regard these associations as among the most dangerous as well as the most elusive of the enemies with whom we have to deal. I am unable to feel any strong assurance that the powers with which we are now arming ourselves will suffice to extirpate them as swiftly and certainly as I should desire. I am however prepared to give them a fair trial in Bengal. I shall administer them as vigorously as I may; and if they should be found inadequate I shall not hesitate to apply to Your Excellency to be armed with sharper and less cumbrous weapons.

“It is a matter of much concern to me that my first public pronouncement since assuming charge of my present office, should be in relation to a measure of this character, which I can but admit reflects no credit on the good name of the province to which I belong and to which I am sincerely attached. And this must be my excuse if in this connection I say one word of hope—a hope which I venture to think that Your Excellency will share. It is our duty to stamp out sternly the sparks of incipient anarchy and disorder, and this we seek to do by the Bill which is now before us. But this measure does not represent the whole or even the major part of the policy of Your Excellency’s Government in dealing with the present situation. Our greater task is so to adjust the machinery of Government that our Indian fellow-subjects shall be allotted a part which a self-respecting people can fill. And when the constitutional reforms which have been under Your Excellency’s consideration are finally announced, as they shortly will be, I hope and believe that this task will be on the road to accomplishment.”

The Hon’ble SIR HARVEY ADAMSON said:—“I am sure that Your Excellency and my Hon’ble Colleagues will join with me in regarding it as a matter for much gratification that this Bill has received so strong a measure of support from the non-official members of the Legislative Council. Nothing could more strongly demonstrate that the sense of the country is with us, that the public mind has revolted against the attempts that have been so assiduously

[*Sir Harvey Adamson.*] [11TH DECEMBER 1908.]

made to plunge the country into disorder, and that all loyal men are convinced that it is the duty of Government to assume such powers as are necessary in order to stamp out anarchy.

“It has been suggested that the Bill would be more acceptable to the public if a provision were inserted limiting its operation to a stated period. We have considered this point and come to the conclusion that it is better to enact the Bill as a permanent measure. If, happily, conditions improve so as to make it apparent that its provisions are no longer wanted, it will be easy to repeal it. But the spirit of anarchy, when it once takes root in a country, is not easily or quickly eradicated, and I confess that I cannot with confidence look forward to a time, one or two years hence, when provisions of the nature of those contained in this Bill will have permanently become unnecessary. For these reasons we have thought it best to refrain from limiting the operation of the Bill to any stated period.

“The only provision to which my Hon'ble friend Dr. Rashbehary Ghose has taken exception is the clause which gives power to the Government to declare an association unlawful when it is satisfied that it interferes with the administration of law or the maintenance of order, or that it constitutes a danger to the public peace. Now this is in my opinion a very salutary provision, and I may add that it is a very merciful provision. Its object is preventive. It is intended to save from the penalties of prosecution a great number of the young and thoughtless who have been induced to join these associations, probably knowing little of their criminal objects. I have already referred to the success which has followed the legislative measures which we some time ago adopted. That success is due in much greater measure to prevention than to punishment. I have confidence that similar success will accompany this preventive measure, and surely, if what must be done can be done by prevention instead of by punishment, it is better to employ the less severe method.

“Objection has been taken to the hurried manner in which the Bill is being passed through the Legislative Council. I fully admit that Hon'ble Members have some reason to complain. The Bill has, however, been in the hands of Hon'ble Members for thirty-six hours. I wish that it could have been possible to give a longer time for their deliberations. But we reluctantly came to the conclusion that this is a matter in which the convenience of Hon'ble Members must be subordinated to expediency. In the present excited condition of public feeling, it is imperative that if a measure of this kind is to be enacted, it must be enacted quickly.

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" In conclusion I must say that my task in taking charge of this Bill is a painful one. I am sure that my Hon'ble Colleagues will share with me the intense reluctance I entertain to perform this duty. But I never was more clear in my life as to the necessity of what we are doing. Some persons may say that we have waited a long time before fulfilling this duty, but after all there does require to be shown the existence of an extreme evil, unmistakable as to its extent, before legislation of this nature can be initiated. I may be permitted to express the great consolation I have in knowing that during the past year we have also been engaged in a duty of a more congenial kind, and I hope that in the statement which Lord Morley will make in a day or two, it will be seen that if the Government of India have been strong in repressing crimes, they have also been generous in granting reforms."

The motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 17, sub-clause (1), of the Bill, after the word "Whoever" the word "knowingly" be inserted. He said :— "That clause now runs thus :—

'Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contributions for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.'

"It is one of the elementary principles of criminal law, it is also common-sense, that a guilty mind is an essential element in constituting a crime. This well known principle is recognised in section 9 of the Act of 1882 [Prevention of Crimes Act I(Ireland)], which says :—

'Every person who knowingly is a member of an unlawful association as defined by this Act, or takes part in the operations of an unlawful association as defined by this Act or of any meeting thereof, shall be guilty of an offence against this Act.'

"Similarly, the Criminal Law and Procedure (Ireland) Act of 1887, section 7, says—I am going to read only the relevant parts and not the whole of it :—

'Every person calling together a meeting of such association in the specified district, or of any members thereof as such members, or knowingly taking part in any such meeting or publishing with a view to promoting the objects of such association.'

"I do not think it is the intention of the Government to make this Act more stringent than the Irish Acts of 1882 and 1887. They were both very drastic measures and I was under the impression that it was impossible to improve upon them; but I see that the draftsman has been able to achieve that feat, because

[*Dr. Rashbehary Ghose; Sir Harvey Adamson.*] [11TH DECEMBER 1908.]

as the Bill now stands, a man, however innocent of any guilty knowledge or intention, may be sent to prison for six months under this law."

The Hon'ble SIR HARVEY ADAMSON said:—"I regret that I cannot accept this amendment. It would mean that it would be the duty of the prosecution to prove that the person who is accused of taking part in the operations or contributing to the funds of an unlawful association knows that the association is unlawful. Now this is a fact which in almost every case it would be impossible for the prosecution to prove. The clause would be ineffective if the burden of proof in this point did not rest with the accused. A person who takes part in the operations of, or contributes to, an unlawful association, in ignorance that it is unlawful, is protected by section 79 of the Indian Penal Code, which provides that nothing is an offence which is done by any person who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law in doing it. But in this as in the rest of the general exceptions under the Indian Penal Code the burden of proof rests on the accused, and to alter this provision in the manner proposed would be simply to render the penal clause quite inoperative. For these reasons I regret that I cannot accept the amendment."

The Hon'ble DR. RASHBEHARY GHOSE said:—"I would like to point out that although the word 'knowingly' occurs in both the Irish Acts, the Government did not find that the Acts were inoperative. Mr. Balfour certainly did not find it so in 1887."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 17, sub-clause (1), of the Bill, before the word "contributes" the word "knowingly" be added. He said: "It may be that a member of an unlawful association cannot take part in a meeting of such association without knowing the true character of the association. But can you say the same thing of a person who merely pays a subscription say to a cricket club the members of which may be secretly engaged in prompting crime? I submit this is a very modest amendment to which no reasonable exception can be taken."

The Hon'ble SIR HARVEY ADAMSON said:—"My answer is the same in this as in the previous amendment that was proposed. If a person is accused of contributing to the funds of an unlawful association and has contributed in ignorance that the association was unlawful, he has only to prove that to the Court, and under the provisions of the Indian Penal Code, which I have just read, he will be exempt from punishment. The objection to the amendment now pro-



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posed is just as strong as the amendment last proposed. I regret therefore that I am unable to accept it."

The motion was put and negatived.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill be passed.

His Excellency THE PRESIDENT said:—"My Hon'ble Colleague, Sir Harvey Adamson, has described so fully the chain of incidents which have led up to the present position that there is no need for me to recapitulate them. We should, however, bear in mind the true interpretation of the story he has told us. We should remember that for years the vapourings of a seditious Press have been disseminating the seeds which are now bearing fruit, and that following in the wake of inflammatory newspaper articles we have had the speeches of revolutionary agitators, and the consequent deplorable misguidance of the youth of the country culminating in the commission of senseless outrages and brutal crimes.

"No one has hoped more sincerely than I have that the existing laws of the land might have proved sufficient to deal with the difficulties which have surrounded us; but it has not been so, and the exceptional legislation we have already passed, though productive of good results, was not framed to meet the danger which now confronts us. The Manicktolla Garden discoveries, followed by the attempt on the life of Sir Andrew Fraser, and the murder of the Police Inspector, have opened a new chapter in the history of sedition. They have taken us far beyond treasonable pamphlets and revolutionary speeches, they have shown us the results of those preachings and are laying bare before us the workings of a murderous conspiracy—a widespread conspiracy—recruited from the ranks of emotional young men saturated with grotesque ideas of political freedom. Horrible as it all is, I confess to some feeling of commiseration for these infatuated boys—for many of them are little more than that—blindly ruining their own future and the happiness of their home surroundings.

"But there it is. The Government of India have this conspiracy to deal with; We know its acknowledged aims, the systematic assassination of Government officials which is to discredit our administration; and expel the British *Raj* from India, and notwithstanding the wicked absurdity of such schemes, we cannot disregard the fact that personal and public security are dangerously threatened, and that we are imperatively called upon to protect the public safety, and to subdue the indications of an increasing lawlessness.

"My Hon'ble Colleague, Dr. Rashbehary Ghose, has taken exception to certain clauses in the Bill and to our procedure in attempting to pass it in a single sitting. I am always very ready to treat the opinion of my Hon'ble Colleague with respect; indeed I look to his sage advice and to his influence with his fellow-countrymen to assist us largely in the solution of the political problems

of the future. But when I am told that the position is not one of such emergency as to justify a departure from recognized routine in the introduction of new legislation, and that further opportunity should be given for constitutional discussion, and for the expressions of public opinion, I must refuse to agree. Public opinion, European and Indian, [has spoken out freely from every part of the country, and officially and privately declared to me that the existing insecurity can no longer be tolerated, and that the Government of India must be more efficiently armed. With that opinion I am in entire accord. This is not a time to ponder further over the details of legislative machinery. There is nothing to justify a demand for further deliberations as to the action which the Government of India is now called upon to take.

“There are other reasons, too, for which I have been anxious that the Bill which we are about to pass should immediately become law. We are on the eve of the announcement by the Secretary of State of reforms which have long been foreshadowed, and I should be sorry to see that announcement immediately followed by exceptional criminal legislation such as that with which we have to-day been dealing. I cannot agree with my Hon'ble Colleague, Dr. Ghose, that we should first promulgate our reforms, and then proceed to deal with anarchical crime. I should prefer to feel that the stern measures which the unfortunate necessities of the moment have forced upon us have been completed before any announcement of reforms is made, and that, having done our best for the maintenance of law and order, we can proceed with a free hand to discuss the development of the future. The success of that future must be based not only upon the united efforts and co-operation of British and Indian administrators, but on the good sense of Indian community. Upon its active assistance at the present moment much depends; and I would earnestly ask the members of every race, of every caste and of every creed to unite in one common effort to put an end to the dark plots and apprehensions of hidden danger which are crippling the daily life of the people. I would ask them to assist the Government of India in removing the causes which have so unfortunately necessitated to-day's legislation.”

The motion was put and agreed to.

The Council adjourned to Friday, the 18th December 1908.

J. M. MACPHERSON,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA;

*The 11th December 1908.* }

*Proceedings of the Council of the Governor-General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Act, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at Government House, Calcutta, on Friday, the 18th December 1908.

P R E S E N T.

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir Edward Norman Baker, K.C.S.I., Lieutenant-Governor of Bengal.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Sir G. D. F. Wilson, K.C.B., K.C.M.G.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Nawab Bahadur Khwaja Salimulla of Dacca, C.S.I.

The Hon'ble Maung Bah Too, K.S.M.

The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Raja Mahammad Ali Muhammad Khan, Khan Bahadur.

The Hon'ble Mr. N. C. Macleod.

The Hon'ble Mr. J. Andrew.

The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.

The Hon'ble Mr. F. A. Slacke, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble MR. DADABHOY asked:—

“ Will Government be pleased to state what progress has been made throughout the various seats of Governments and Administrations in the matter

[*Mr. Dadabhoy; Sir Harvey Adamson; Mr. Harvey; [18TH DECEMBER 1908.]*  
*Mr. Erle Richards.*]

of granting free primary education in India, an early consideration of which subject was promised by the Government of India in presenting the Financial Statement for 1907-08? ”

The Hon'ble SIR HARVEY ADAMSON replied :—

“ The reports of Local Governments have now been received and are under consideration.”

The Hon'ble MR. DADABHOY asked :—

“ (a) Will Government be pleased to state if it was consulted with reference to the decision of the Board of Education and the India Office approving the report of the Committee which recommended the breaking up of the Indian Museum at Kensington into three sections in connection with its removal? ”

“ (b) Has the attention of Government been drawn to this matter; if so, will the Government be pleased to state if any reference to it was made on this subject and if it acquiesced in the decision of the Board of Education and the India Office, and has Government any objection to place on the Council table all correspondence in reference thereto? ”

The Hon'ble MR. HARVEY replied :—

“ The Government of India have no information on the subject. ”

#### PRESIDENCY-TOWNS INSOLVENCY BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to amend the Law of Insolvency in the Presidency-towns and in the Towns of Rangoon be referred to a Select Committee consisting of the Hon'ble Mr. Apar, the Hon'ble Mr. Macleod, the Hon'ble Mr. Dadabhoy and the mover.

The motion was put and agreed to.

#### INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate the enactments relating to Ports and Port-charges be taken into consideration. He said :—“ I have explained on a former occasion that this Bill is a purely consolidating measure and I have nothing to add now.”

The motion was put and agreed to.

[18TH DECEMBER 1908.] [*Mr. Erle Richards; Mr. Harvey.*]

The Hon'ble Mr. ERLE RICHARDS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

#### INDIAN REGISTRATION BILL.

The Hon'ble Mr. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate the law relating to the Registration of Documents be taken into consideration. He said :—" This, my Lord, is also a consolidating Bill and I have no observations to make beyond saying that on one point to which attention was called in this Council on a former occasion, the Committee have inserted a small amendment to preserve the existing law as it now stands in all the Provinces."

The motion was put and agreed to.

The Hon'ble Mr. ERLE RICHARDS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

#### INDIAN EMIGRATION BILL.

The Hon'ble Mr. ERLE RICHARDS moved that the Report of the Select Committee on the Bill to consolidate the enactments relating to the Emigration of Natives of India be taken into consideration. He said :—" This is also a purely consolidating measure."

The motion was put and agreed to.

The Hon'ble Mr. ERLE RICHARDS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

#### INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved that the Bill further to amend the Indian Merchant Shipping Act, 1880, be taken into consideration. He said :—" Before I proceed to explain the two small amendments which stand in my name, I will deal briefly with the criticisms which have reached us in regard to the provisions of this Bill. The principle underlying the Bill has met with

general approval, and indeed a suggestion has been made by the Government of Bombay that its scope should be extended so as to provide for the detention of a foreign ship in cases where the condition of her hull, equipment or machinery is defective. While we agree that a provision to this effect would be desirable, we do not consider that it can be included in the present Bill, which deals solely with the marking of deck and load-lines and is intended to put foreign vessels on the same footing in this respect as British ships. Some misconception appears to have arisen in regard to the effect of clause 3, and it has been assumed that this clause will not permit of a vessel loading to the Indian summer draught, which is indicated by a line drawn above the centre of the disc. This assumption, of course, is not correct. The maximum load-line to which a ship is permitted to load varies according to the circumstances and the season of the intended voyage, and is determined by rules framed by Local Governments under section 40 of Act VII of 1880. These rules provide that the provisions of Chapter II of the Act are to have effect as if any line so determined were drawn through the centre of the disc, so that there will be nothing to prevent a ship from loading to the maximum load-line which is applicable to the voyage on which she is intended to proceed. It is not therefore necessary, as has been suggested, to amend this clause. The Bengal Chamber of Commerce have asked that provision may be made for the consumption of coal between the port of survey and the sea. At Calcutta it has been the practice, in determining the load-line, to make an allowance on this account in the case of vessels going down the Hughli, and it is not intended to interfere with this arrangement.

“The two amendments which I have to propose are formal and are only intended to bring the wording of clauses 2 and 3 into conformity with the language used in the existing provisions of the law. We propose to omit from sub-clause (2) of clause 2 of the Bill the word ‘solely’ after the word ‘employed’ and before the words ‘in plying coastwise’: this sub-clause will then correspond with clause (b) of section 3 of Act VII of 1880 as it will read when this Bill becomes law. The insertion of the word ‘perfectly’ before the words ‘smooth salt water’ in clause 3 of the Bill is necessary to bring this clause into conformity with section 34 of Act VII of 1880.”

The motion was put and agreed to.

The Hon'ble Mr. HARVEY moved that the word “solely” in sub-clause (2) of clause 2 of the Bill be omitted. He said :—“I have already explained the reasons for this amendment.”

The motion was put and agreed to.

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The Hon'ble MR. HARVEY moved that the word "perfectly" be inserted before the word "smooth" in clause 3 of the Bill.

The motion was put and agreed to.

The Hon'ble MR. HARVEY moved that the Bill, as now amended, be passed.

The motion was put and agreed to.

ADMINISTRATIVE REFORMS IN INDIA.

His Excellency THE PRESIDENT said:—"I would like to say a few words before we adjourn. Hon'ble Members are aware that the Secretary of State yesterday laid before Parliament the papers connected with administrative reforms in India. Amongst them are two very memorable documents—the Despatch from the Government of India to the Secretary of State of the 1st October last and the Secretary of State's reply of 27th November—which we have just received. The recommendations we submitted to him had for two years been before us, and I cannot sufficiently express to my colleagues my appreciation of the ability and constant thought they devoted to the great questions with which they had to deal. The Secretary of State has considered our suggestions with the generous statesmanship upon which we well knew we could rely, and it is gratifying to us to recognize that he is in almost entire accord with proposals emanating from India."

"There is no occasion to-day to enter upon any consideration of the details of the correspondence I have referred to—they will undoubtedly be amply discussed, not only officially, but by the public in India, and whatever verdict that public may pass upon them, I hope that we may assume that we are about to enter upon a new administrative era, based upon a recognition of the advance of political thought and the justness of many political ambitions. I hope that with the dawn of this new era, the recollection of the dark days through which we have been passing may disappear. The future is largely in the hands of the people of India and their leaders—it rests with the latter to assist us to dispel the results of anarchical political fanaticism, it rests with the people themselves to welcome an honest attempt to ameliorate the administration of their country. It is to the leaders of Indian political aims and to the people of India

[*The President.*] [18TH DECEMBER 1908.]

whose aspirations they direct that we must look for that support which can alone secure the success of the reforms we are about to inaugurate."

The Council adjourned to Friday, the 15th January 1909.

J. M. MACPHERSON,  
*Secretary to the Government of India,*  
*Legislative Department.*

CALCUTTA; }  
*The 18th December 1908.* }



*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at Government House, Calcutta, on Friday, the 15th January 1909.

P R E S E N T :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
- His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.
- The Hon'ble Sir Erle Richards, K.C.S.I., K.C.
- The Hon'ble Major-General C. H. Scott, C.B., R.A.
- The Hon'ble Sir Harvey Adamson, Kt., C.S.I.
- The Hon'ble Mr. J. O. Miller, C.S.I.
- The Hon'ble Mr. W. L. Harvey, C.I.E.
- The Hon'ble Sir G. F. Wilson, K.C.B., K.C.M.G.
- The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.
- The Hon'ble Mr. A. A. Apcar, C.S.I.
- The Hon'ble Maung Bah-Too, C.I.E., K.S.M.
- The Hon'ble Mr. W. W. Drew.
- The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.
- The Hon'ble Mr. W. R. H. Merk, C.S.I.
- The Hon'ble Raja Sir Muhammad Ali Muhammad Khan, K.C.I.E., Khan Bahadur, of Mahmudabad.
- The Hon'ble Mr. N. C. Macleod.
- The Hon'ble Mr. J. Andrew.
- The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.
- The Hon'ble Mr. F. A. Slacke, C.S.I.
- The Hon'ble Mr. J. M. Holms, C.S.I.

NEW MEMBER.

The Hon'ble Mr. Holms took his seat as an Additional Member of Council.

QUESTIONS AND ANSWERS.

The Hon'ble MR. DADABHOY asked :—

“In answer to a question put by Mr. G. M. Chitnavis in this Council on the 13th March last regarding an inquiry into the causes of the abnormal

[*Mr. Dadabhoy ; Sir Guy Fleetwood Wilson ; Sir Harvey Adamson.*] [15TH JANUARY 1909.]

and general rise in prices of food-grains during the past few years, Government was pleased to give an assurance that the subject was under consideration, and that, in case an inquiry was found necessary, it would gladly consider his suggestion.

Will Government be pleased now to state if it has come to any final decision, and, if so, does it propose to make a full investigation into this most important subject?"

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

"The Government fully recognise the high importance of the rise in prices, and it is engaging their most careful attention. It is, however, a question of much complexity, involving a number of other issues of much moment ; and the Government are not yet in a position to announce their final decision regarding the suggested enquiry. They trust that it will shortly be possible to give the Hon'ble Member further information on the subject."

The Hon'ble MR. DADABHOY asked :—

"In view of the doubts expressed in certain quarters about the introduction *en bloc* of the reforms sketched out in the Secretary of State's despatch to this Government of 27th November last, will Government be pleased to state approximately the time when they will be carried out, and, further, for the satisfaction of the people, to use all possible expedition in their introduction?"

The Hon'ble SIR HARVEY ADAMSON replied :—

"The Government of India understand that a Bill legalising the reforms in question will be introduced in the next Session of Parliament. There can be no enlargement of the Legislative Councils until the Bill has passed into law. There is obviously a considerable amount of work yet to be done before the reforms can take practical effect, but the Government of India are anxious to lose no time, and they have already taken action to secure all possible expedition in the matter."

The Hon'ble MR. DADABHOY asked :—

"Will Government be pleased to consider the desirability of appointing trained lawyers as Judicial Commissioners and Additional Judicial Commissioners wherever such offices exist or may be created in future?"

[15TH JANUARY 1909.] [*Sir Harvey Adamson; Mr. Dadabhoy; Sir Guy Fleetwood Wilson.*]

The Hon'ble SIR HARVEY ADAMSON replied :—

“ There is no obstacle to the appointment of trained lawyers as Judicial Commissioners and Additional Judicial Commissioners. Three such appointments have already been made, and the Governor General in Council will be prepared to make others as occasion may arise.”

The Hon'ble MR. DADABHOY asked :—

“ Is the Government aware that the imposition upon India of an additional burden of Rs. 45,00,000 in consequence of the decision of the Romer Committee, notwithstanding a vigorous protest from this Government, has caused widespread dissatisfaction in the country ? ”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“ The Government of India have observed the comments of the Indian Press on the subject.”

The Hon'ble MR. DADABHOY asked :—

“ Will Government be pleased to state the grounds upon which this burden has been imposed, and to lay upon the table all papers relating thereto ? ”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“ The capitation rate laid down by the Welby Commission was liable to revision at a subsequent date. The grounds upon which the extra charge was accepted by the Secretary of State were the increase since the calculation and introduction of the £7-10-0 capitation rate in :—first, the training period required ; secondly, the annual cost per man of recruits under training ; and thirdly, the percentage of annual drafts and reliefs to total establishment. As the Secretary of State has decided that it would not be in the public interest to present the papers to the House of Commons, they cannot be presented to this Council.”

The Hon'ble MR. DADABHOY asked :—

“ Has the Secretary of State for India finally sanctioned the additional expenditure in consultation with this Government ? ”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“ The Secretary of State has agreed to the extra charge being paid from the 1st May 1908. He is in possession of the views of the Government of India.”

[*Mr. Dadabhoy ; Sir Guy Fleetwood Wilson.*] [15TH JANUARY 1909.]

The Hon'ble MR. DADABHOY asked :—

“ Was the Report of the Romer Committee published either in India or in England before the sanction ? If not, why not ? Has it since been published ? ”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“ The report of the Romer Committee has not been published, the Secretary of State having decided that its publication would not be in the public interest. ”

The Hon'ble MR. DADABHOY asked :—

“ In sanctioning the extra contribution from India, were the recommendations of the Welby Commission taken into account and considered ? ”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“ The Welby Commission Report was before the Romer Committee. ”

The Hon'ble MR. DADABHOY asked :—

“ Has a similar contribution been exacted from any of the British Colonies ? If not, why this difference in treatment of different parts of the same Empire ? ”

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

“ The Crown Colonies of Mauritius, Ceylon, Singapore and Hong-Kong contribute fixed percentages of their revenues towards the cost of their garrisons. All the most important Colonies, except those in South Africa, provide their own defence forces. Since the passing of the Statute 21 George III, c. 65, in 1781, India has been required to meet all charges for raising, transporting and maintaining the European troops which she employs. ”

The Hon'ble MR. DADABHOY asked :—

“ Has the attention of Government been drawn to the remarks made by Mr. Saradacharan Mitra, late Judge of the Calcutta High Court, on the occasion of his retirement from the Bench, about the enormous growth of business of late years in the Calcutta High Court, the gross insufficiency in the number of Judges, and the consequent failure of justice ? ”

“ If so, does Government propose to increase the number of Judges, with due regard to the claims of both branches of the legal profession and the Indian Civil Service ? ”

“ Will Government be pleased to ascertain if similar unsatisfactory conditions prevail in any of the other High Courts ? ”

[15TH JANUARY 1909.] [Sir Harvey Adamson; Mr. Harvey.]

The Hon'ble SIR HARVEY ADAMSON replied :—

“The Government of India have seen in the newspapers a report of the reply made by the Hon'ble Mr. Justice Mitra to the farewell address presented to him by the Vakils of the Calcutta High Court on the occasion of his retirement from the Bench of that Court.

“The Government of India have at present under their consideration the question of the strength of the Calcutta High Court.

“The Government of India have also under consideration a proposal recently made by the Government of Madras for the temporary strengthening of the Bench of the Madras High Court, with particular reference to the reduction of arrears of work in that Court. They have no reason to believe that any further additions to the strength of the Bench in the Bombay and Allahabad High Courts are necessary at present. In the year 1907 an additional Judge was appointed temporarily to the former Court, to deal with the extra work involved by the institution of a number of cases under the Land Acquisition Act. Early in 1908 the fifth Puisne Judgeship in the Allahabad High Court, which had hitherto been sanctioned as a temporary arrangement, was made permanent: and a sixth Puisne Judge was also appointed to the Court, on the understanding that the appointment should be absorbed on the occurrence of the first vacancy in the Court at the end of eight years.”

#### INDIAN STEAMSHIPS LAW AMENDMENT BILL.

The Hon'ble MR. HARVEY moved that the Bill further to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884, be taken into consideration. He said :—“The provisions of this Bill have met with general approval and, as the Statement of Objects and Reasons fully explains the purpose which we had in view in framing the Bill, I need now only explain the two small amendments which I am proposing. The first amendment is intended to make it perfectly clear that clause 2 of the Bill will apply to motor-driven craft plying ordinarily on inland waters. Secondly, in the second sub-section of the new section 23 which, when clause 4 of the Bill becomes law, will be substituted for the existing section in the Indian Steamships Act, it is proposed to substitute the word ‘substantially’ for the word ‘sufficiently,’ this amendment being necessary to bring sub-section (2) of section 23 into line with sub-section (1) of the same section.”

The motion was put and agreed to.

[*Mr. Harvey; Sir Guy Fleetwood Wilson.*] [15TH JANUARY 1909.]

The Hon'ble MR. HARVEY moved that after the word "vessels" in the new section 68A of the Inland Steam-vessels Act, 1884, proposed to be inserted by clause 2 of the Bill, the words "which ordinarily ply on inland waters and are" be inserted.

The motion was put and agreed to.

The Hon'ble MR. HARVEY moved that for the word "sufficiently" in subsection (2) of the new section 23 of the Indian Steamships Act, 1884, proposed to be substituted by clause 4 of the Bill, the word "substantially" be substituted.

The motion was put and agreed to.

The Hon'ble MR. HARVEY moved that the Bill, as amended, be passed.

The motion was put and agreed to.

#### INDIAN PAPER CURRENCY (AMENDMENT) BILL.

The Hon'ble SIR GUY FLEETWOOD WILSON moved for leave to introduce a Bill to amend the Indian Paper Currency Act, 1905. He said:—  
 "Hon'ble Members are in possession of the Bill itself, which cannot be held to be of a controversial character. I may explain that in 1903, when the present five-rupee currency note was introduced, it was made legal tender throughout British India with the exception of Burma. The measure which I now submit to Your Excellency's Council is intended to remove that exception. The reason why the great province of Burma was left outside the scope of the so-called 'universal' note in 1903 was purely a question of ways and means. The experiment of universal notes was a novel one; and we anticipated that they would, in the beginning at any rate, be used to a considerable extent as a means of private remittance, thus throwing upon Government a large potential liability to encash them at the different offices of issue throughout India. It was feared that this liability would be particularly heavy in Burma, owing to the great volume of the seasonal movement of trade between that province and Bengal. It was determined therefore to defer the extension of the universal five-rupee note to Burma until experience had been gained of the working of the change in India.

"Five years have passed since then, and we now feel that Burma should no longer be left out of the scheme. We have more information than we had in 1903 regarding the use of the five-rupee note for remittance purposes; and we are

[15TH JANUARY 1909.] [Sir Guy Fleetwood Wilson.]

prepared, by certain financial dispositions with which I need not trouble the Council, to minimise whatever danger there is in that direction. We believe that the extension of the note to Burma will be welcomed by the business community of that province, and that it will tend to increase the popularity and usefulness of our note circulation.

“ If the measure which I now submit becomes law, a new pattern of universal five-rupee note will be issued, bearing its denomination on the face of it in Burmese as well as in the other leading vernaculars of India ; the issue of the present Burma note being discontinued.”

The motion was put and agreed to.

The Hon'ble SIR GUY FLEETWOOD WILSON introduced the Bill.

The Hon'ble SIR GUY FLEETWOOD WILSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 5th February 1909.

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA ;  
The 15th January 1909. }

*Proceedings of the Council of the Governor-General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at Government House, Calcutta, on Friday, the 5th February 1909.

P R E S E N T :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
- His Excellency General-Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.
- The Hon'ble Sir Erle Richards, K.C.S.I., K.C.
- The Hon'ble Major-General C. H. Scott, C.B., R.A.
- The Hon'ble Sir Harvey Adamson, Kt., C.S.I.
- The Hon'ble Mr. J. O. Miller, C.S.I.
- The Hon'ble Sir G. D. F. Wilson, K.C.B., K.C.M.G.
- The Hon'ble Mr. A. A. Apcar, C.S.I.
- The Hon'ble Maung Bah Too, C.I.E., K.S.M.
- The Hon'ble Mr. W. W. Drew.
- The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.
- The Hon'ble Mr. W. R. H. Merk, C.S.I.
- The Hon'ble Mr. N. C. Macleod,
- The Hon'ble Mr. J. Andrew.
- The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.
- The Hon'ble Mr. F. A. Slacke, C.S.I.
- The Hon'ble Mr. J. M. Holms, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble MR. DADABHOY asked:—

“ Is it a fact that the Irrigation Commission of 1901-03 recommended a total expenditure on construction of 44 crores of rupees in twenty years, beginning from April 1905? Will the Government be pleased to state the total amount of actual expenditure on construction of irrigation works, major and minor, since April 1905? Does it fall short of the expenditure recommended by the Commission? If so, will Government, in making allotments for the next year, be pleased to make up the shortage of past years, besides providing for the full average annual expenditure recommended? ”



[Mr. Miller ; Mr. Dadabhoy.] [5TH FEBRUARY 1909.]

The Hon'ble MR. MILLER replied:—

“The Irrigation Commission's forecast of expenditure on construction of major works was, as the Hon'ble Member states, 44 crores of rupees in twenty years. This estimate did not refer to works in Burma.

“The actual expenditure in construction corresponding to the forecast, that is, the expenditure on major works omitting Burma, has been:—

	Lakhs.
1905-1906 . . . . .	115
1906-1907 . . . . .	160
1907-1908 . . . . .	178
1908-1909 (revised estimate) . . . . .	199

“The average expenditure under the forecast would be 220 lakhs a year. The actual expenditure therefore falls short of the forecast, and it has always been foreseen that it necessarily would do in the early part of the twenty years' period. As a matter of fact, what has happened is that the scope for productive public works has been found to be much greater than the Commission expected, and the expenditure on such works has been in excess of the forecast, while the expenditure on protective works has been much less. It would take too long to explain in detail why this has been the case in reply to a question, but I hope to return to the subject in connection with the Budget. I may, however, say that it would be out of the question to make up for the shortage of past years in making allotments for next year; the money could not be spent. All we can hope for is that the progressive approach which has since 1905 been made towards the Commission's forecast will be maintained in the coming year.

“As regards minor works the Commission made no definite forecast and no comparison is therefore possible. The greater part of this expenditure is under the control of Local Governments, and the total amounts to from 130 to 140 lakhs a year, including maintenance as well as construction charges.”

The Hon'ble MR. DADABHOY asked:—

“In view of the remarks made by the Hon'ble Finance Member in the Financial Statement for 1906-07 about the Mahanadi Canal in the Raipur District, the admitted frequency of famines in the Central Provinces, and the utility of the project as a protective measure, will the Government, in making allotments for irrigation works for the year 1909-10, be pleased to consider the desirability of starting the work, and to make a substantial allotment for the purpose?”

[5TH FEBRUARY 1909.] [*Mr. Dadabhoj ; Mr. Miller.*]

“ Is a scheme now ready for execution ? If so, what time will be necessary for the completion of the work ? How is the total estimated cost of 95 lakhs of rupees to be distributed over the period ? ”

The Hon'ble MR. MILLER replied :—

“ The Government of India fully recognise the necessity for protective irrigation works in the part of the Central Provinces to which the Hon'ble Member refers, and a project for a canal to utilise the waters of the Mahanadi was drawn up some years ago. The Secretary of State, however, to whom it was referred, thought it desirable to have the data re-examined and further information collected before authorizing the expenditure of public funds on a work of this magnitude. In revising the project our Engineers have widened its scope, and have prepared a great scheme the total cost of which will be over two crores of rupees for utilizing the waters both of the Mahanadi and the Tendula rivers. The Government of India have been unable to accept the estimates of the Mahanadi part of this project as altogether satisfactory, but the other portion—the Tendula project—can be dealt with by itself. It appears to the advisers of the Government of India to be a promising scheme, and though not of equal protective value to the Mahanadi part of the project to offer many advantages in other respects.

“ This scheme, the estimated cost of which is 95·73 lakhs, is, as far as the engineering details go, ready for execution. It has, however, to be approved of and sanctioned by the Secretary of State. The time allowed for completion of the project in the estimates is six years. I am unable to say how the cost will actually be distributed, but the scheme contemplates the expenditure of—

12·11	lakhs	in the	first	year.
18·82	”	”	second	”
18·82	”	”	third	”
18·73	”	”	fourth	”
18·67	”	”	fifth	”
8·58	”	”	sixth	”

“ As the scheme has not yet been sanctioned, it is impossible to hold out any hope of a substantial allotment for it in the budget of 1909-10.”

The Hon'ble Mr. DADABHOY asked :—

“ Has the attention of Government been drawn to a Resolution of the Indian Industrial Conference held at Madras in December last, praying for the abolition of the countervailing duty upon cotton manufactured in India ?

[*Mr. Dadabhoj ; Mr. Miller ; Sir Harvey Adamson ;* [5TH FEBRUARY 1909.]  
*the Commander-in-Chief.*]

“Is the Government aware that there is at present a general depression in the Indian cotton industry ?”

“In view of these facts will Government be pleased to at least suspend the impost for a period, especially when it is not wanted for revenue purposes ?”

The Hon'ble MR. MILLER replied :—

“Government have received copies of the Resolutions passed at the last Indian Industrial Conference referred to by the Hon'ble Member. They are also aware that there is at present some depression in the Indian power-loom industry ; but they have no reason to believe that this depression is in any way due to the excise-duty of  $3\frac{1}{2}$  per cent. levied on cotton goods manufactured in Indian mills. Government cannot hold out any hope of action in the direction suggested by the Hon'ble Member.”

The Hon'ble MR. DADABHOY asked :—

“Has Government finally decided upon a scheme for the separation of judicial and executive functions in this country, on the lines laid down by the Hon'ble Home Member last March ?”

“When will the reform be tentatively introduced into the two Bengals ?”

The Hon'ble SIR HARVEY ADAMSON replied :—

“The reply to the first question is in the negative. The Government of India have referred to the Lieutenant-Governors of Bengal and Eastern Bengal and Assam and the High Court of Calcutta proposals for introducing into selected districts of Bengal and Eastern Bengal and Assam, by way of experiment, a scheme for the separation of judicial and executive duties. When all the replies have been received, the scheme will be further examined by the Government of India and a reference will be made to the Secretary of State. It is impossible to say at present when final orders on the proposal will be passed.”

The Hon'ble MR. DADABHOY, on behalf of the Hon'ble SIR KHWAJA SALIMULLA, asked :—

“Will Government be pleased to state whether Kashmiris are eligible for military service as soldiers ? If so, how many are on the active list as soldiers in the Indian Army ?”

His Excellency THE COMMANDER-IN-CHIEF replied :—

“There is nothing to debar the enlistment of Kashmiris in the Indian Army, but as the class composition of units does not specifically include them, none are enlisted.”

[5TH FEBRUARY 1909.] [*Mr. Dadabhoy; Mr. Miller; Sir Harvey Adamson.*]

The Hon'ble MR. DADABHOY, on behalf of the Hon'ble SIR KHWAJA SALIMULLA, asked :—

“ Will Government be pleased to state whether Kashmiris residing and living in Amritsar and the borders of Kashmir are included in the definition of ‘cultivators’ in the Punjab Alienation Bill? If not, will Government be pleased to state why not? ”

The Hon'ble MR. MILLER replied :—

“ The Hon'ble Member's question indicates some misapprehension as to the effect of the law relating to the alienation of land in the Punjab. The Punjab Land Alienation Act has never contained any definition of the term ‘cultivator’. Under section 4 of the Act as amended in 1907, the Local Government is empowered to determine by notification what bodies of persons in any district or group of districts are to be deemed to be agricultural tribes or groups of agricultural tribes for the purposes of the Act. It is presumed that the object of the Hon'ble Member's question is to ascertain whether Kashmiris residing and living in Amritsar and the borders of Kashmir have been notified as an agricultural tribe. The notifications issued by the Local Government under section 4 of the Act have been examined. They do not include any tribes or groups of tribes described in the manner specified in the question. Applications from persons desirous of being notified as an agricultural tribe for the purposes of the Act should be submitted to the Local Government, which is empowered by the law to decide such questions without reference to the Government of India and to which a copy of the question and of this reply will be forwarded.”

The Hon'ble MR. DADABHOY, on behalf of the Hon'ble SIR KHWAJA SALIMULLA, asked :—

“ Will Government be pleased to have prepared and placed on the Council Table, by as early a date as convenient, a statement showing the Commissions of enquiry instituted by Government, from that of the Police Commission up to that of the Decentralisation Commission, and the cost incurred in and on account of each such Commission? ”

The Hon'ble SIR HARVEY ADAMSON replied :—

“ A statement as desired by the Hon'ble Member is being prepared and will be placed on the table as soon as possible.”

[*Mr. Dadabhoy ; Sir Harvey Adamson ; Mr. Miller.*] [5TH FEBRUARY 1903.]

The Hon'ble MR. DADABHOY, on behalf of the Hon'ble SIR KHWAJA SALIMULLA, asked :—

“ Will Government be pleased to state at what stage the question is of the necessity of legislation in the matter of the Registration of Partnerships, advocated by the Bengal Chamber of Commerce some four years ago ? ”

The Hon'ble SIR HARVEY ADAMSON replied :—

“ The following papers, copies of which have been placed on the table, explain how matters stand :—

1. Letter to the Bengal and Bombay Chambers of Commerce, Nos. 886-7, dated the 6th July 1908.
2. Letter from the Bombay Chamber of Commerce, No. 1016, dated the 14th September 1908.
3. Letter from the Bengal Chamber of Commerce, No. 1727, dated the 6th November 1908.
4. Letter to the Bengal and Bombay Chambers of Commerce, Nos. 33-4, dated the 6th January 1909.”

The Hon'ble MR. DADABHOY, on behalf of the Hon'ble SIR KHWAJA SALIMULLA, asked :—

“ Will Government be pleased to state whether the attention of the Department of Commerce and Industry has been drawn to the comments in the issues of the *Truth* newspaper of the 21st October and 4th November last, regarding the Anglo-Indo-European Trading Society, Limited, whose aim and object have been declared by the Secretary to be of ‘ a patriotic and political move against Anglo-Indian despotism and oppression ’. If so, is the Company registered in India ? ”

The Hon'ble MR. MILLER replied :—

“ Government have seen the comments in the issues of the *Truth* newspaper of the 21st October and the 4th November last, regarding the Indo European Trading Society, Limited, to which the Hon'ble Member refers. It appears from those comments that the Society is registered in England under the Industrial and Provident Societies Act, 1893 (56 & 57 Vict., c. 39). So far as Government is aware, the Society has not been registered as a Company in India.”

[5TH FEBRUARY 1909.] [*Mr. Dadabhoj; Mr. Miller.*]

The Hon'ble MR. DADABHOY, on behalf of the Hon'ble SIR KHWAJA SALIMULLA, asked :—

“Has the notice of Government been drawn to the comments of the Press in India as to the necessity of legislation to check and control the formation of commercial and industrial undertakings with little or no capital, the chief aim and object of which really is the formation of bogus companies for the benefit and advantage of company promoters?”

The Hon'ble MR. MILLER replied :—

“Government have observed certain comments of the Press in India regarding the alleged formation of bogus companies for the benefit and advantage of company promoters.”

The Hon'ble MR. DADABHOY, on behalf of the Hon'ble SIR KHWAJA SALIMULLA, asked :—

“Will Government be pleased to take early steps for the consideration of such legislative measures as may help to the encouragement and formation of healthy and stable commercial and industrial undertakings in India?”

The Hon'ble MR. MILLER replied :—

“The consolidation of the various English Companies Acts is now engaging the attention of His Majesty's Government. When the result of their action is known the Government of India propose to consider what improvements are necessary in the Indian Companies Act.”

The Hon'ble MR. DADABHOY, on behalf of the Hon'ble SIR KHWAJA SALIMULLA, asked :—

“Will Government be pleased to state whether any of the Trade Associations or Chambers of Commerce of the country have memorialised against the introduction and establishment of the value payable parcel post with England, and, if so, which of them, and what action has been taken by Government on such memorial or memorials?”

The Hon'ble MR. MILLER replied :—

“All the Trades Associations and Chambers of Commerce were asked for their views on the scheme proposed by the British Post Office for the introduction of a ‘cash-on-delivery’ parcel service between India and the United Kingdom. The replies which have been received show that the Trades Associations are unanimously opposed to the scheme. The Bombay and Bengal National Chambers of Commerce have expressed opinions adverse to the

[*Mr. Miller ; Sir Erle Richards.*] [5TH FEBRUARY 1909.]

proposal, and it is understood that the Upper India Chamber of Commerce, whose reply has not been forwarded by the Government of the United Provinces, is also opposed to it.

“ After full consideration, the Government of India have informed the Secretary of State that they do not wish to participate in the scheme. ”

#### PRESIDENCY-TOWNS INSOLVENCY BILL.

The Hon'ble SIR ERLE RICHARDS : “ My Lord, in the Report of the Select Committee on the Presidency-towns Insolvency Bill, which I now have the honour to present, there will be found a detailed statement of the amendments which are recommended to this Council. But I think it will be convenient if I call attention on this occasion to the principal points which arise on the Report.

“ On the whole the Bill has been well received. The representatives of the commercial communities who are specially affected by it, or at least the greater part of them, are in favour of its being passed into law forthwith. The Bengal Chamber of Commerce and the Calcutta Trades Association, the Chambers of Commerce of Bombay and of Rangoon, all approve. The Madras Chamber of Commerce take objection to a point of jurisdiction which is, we think, sufficiently met by the amendments we propose. The National Chamber of Commerce of Bengal have expressed the opinion that the working of the Bill would be expensive and we have inserted provisions to meet this point also.

“ On the legal aspect of the Bill we have received valuable criticisms from the Courts who will have to administer it. The High Court of Madras and the Chief Court of Lower Burma are in favour of it. The High Court of Calcutta have made a number of suggestions which we have accepted almost in their entirety. The amendments proposed by the High Court of Bombay have also been generally adopted. The only objection taken to the Bill as a whole is one put forward by the latter High Court on the ground of the inability of the Indian Legislature to deal sufficiently with the matter of insolvency : a point to which I referred on a former occasion and on which I will say a word or two presently.

“ The general effect of the amendments we have introduced is to bring the Bill more into line with existing practice. For instance the Bill as introduced provided that adjudication should be made only after service of the petition on the debtor ; we recommend that the present practice should be preserved and that orders of adjudication should be made *ex parte* unless the Court otherwise

[5TH FEBRUARY 1909.]

[*Sir Erle Richards.*]

directs. Under the Bill an adjudication order operated of itself to release a debtor from jail; we recommend that the present practice should be preserved and that debtors should not be released on adjudication but should be required to apply to the Court, as now, for a protection order. In the Bill the first meeting of creditors was compulsory; this was a new provision and was in our opinion too great a departure from the existing procedure. We recommend that such meetings should be held only in those cases in which the Court, on the application of a creditor or of an official assignee, should so direct. Under the Bill it was contemplated that the Court should have the power to commit all offenders for trial before a Magistrate. We think it desirable that the present insolvency practice should be preserved, and that while the Court should itself try insolvents charged with offences under the Act, insolvents and other persons charged with offences under the Penal Code should be dealt with under the ordinary criminal procedure. We think that the procedure to be followed before the Court in trials for offences under the Act should be set out in the Bill.

“ The other amendments are set out in the Report and it is not necessary to call attention to them now. There remains the point to which reference has been made as to the power of this Council to legislate in such a way as to give sufficient powers to official assignees to collect the assets of debtors which are outside British India, and to give sufficient effect outside British India to discharges granted by the Courts here. This subject is fully discussed in a note by our Hon'ble Colleague Mr. Macleod, the official assignee of Bombay, which is appended to the Report. There can be no doubt that under an Imperial Act, such as the one now in force, greater powers can be given to an official assignee and greater effect can be given to a discharge than is possible under an Indian Act; for an Imperial Statute operates throughout the British dominions, while an Indian Act can only operate in British India. But if the effect of an adjudication order under the present Act is compared with the effect of an adjudication order under this Bill, if it becomes law, it will in my opinion be found that the advantages of an Imperial Statute are of small practical value. I will not weary this Council with a disquisition which must be somewhat technical, but I will content myself with pointing out that under section 118 of the English Statute of 1883, which in this respect has effect throughout the British Empire, every British Court acting in insolvency is bound to give effect to the orders of every other British Court in insolvency matters. It follows that vesting orders of Indian Courts made under an Indian Act would be given effect to by British Courts in all parts of the Empire even though they had not



[5TH FEBRUARY 1909.] [*Sir Erle Richards; Sir Guy Fleetwood Wilson.*]

force of themselves without the endorsement of those Courts. The section has been proved effective by experience in regard to colonial bankruptcies. No difficulty has arisen in those cases in collecting the assets of a bankrupt beyond the jurisdiction of the Court by which he is adjudicated, at least no complaint that I know of has been made on that ground, and I venture to think that the section will be found sufficient to enable an Indian official assignee to collect the assets of an Indian insolvent in the same way. The effect of it has, perhaps, been insufficiently considered in these discussions, and the Committee deem it advisable to call the attention of Courts to it by an express reference in the Bill. Clause 126, as amended by us, enacts that Indian Courts shall do what is necessary to give effect to section 118 of the English Act, and though, in strictness, such a provision may be superfluous, it will at least be a convenient reminder of the effect of the Imperial Act. I am not without hopes that a further consideration of this aspect of the question may lead those who have felt pressed by this objection to modify the views which they previously entertained. The Committee recommend that Parliament should be asked to pass a validating Act, that is to say, an Act to put vesting orders and discharges of the Indian Courts in the same position under the Bill, if it is passed into law, as under the existing Act. It is at least a fair proposal that the present position should be maintained in England. But they are unanimously of opinion that the Bill should be enacted, irrespective of that legislation, because they are convinced that the advantages to be gained under it will altogether outweigh any advantage which is to be obtained only by Imperial legislation, and, apart from that, no one can contemplate with equanimity the postponement of all reform in this branch of the law until such time as Parliament should choose to legislate for us.

“ I desire, my Lord, in conclusion, to express the thanks of the Committee to the Hon'ble Mr. Justice Fletcher of the High Court of Calcutta, who has been good enough to give us much valuable advice during our deliberations.”

#### INDIAN PAPER CURRENCY (AMENDMENT) BILL.

The Hon'ble SIR GUY FLEETWOOD WILSON moved that the Bill to amend the Indian Paper Currency Act, 1905, be taken into consideration. He said:—“ Hon'ble Members will recollect that this measure is intended to make our five-rupee currency note legal tender and encashable in Burma as well as in the rest of India. The Bill has been published, I may mention, in all the local Gazettes including Burma, and no criticisms or objections have been received. It is a measure about which there can, I think, be no controversy,

[5TH FEBRUARY 1909.] [*Sir Guy Fleetwood Wilson; Maung Bah Too; Sir Harvey Adamson.*]

and there seems therefore no necessity to ask the Council to refer it to a Select Committee."

The Hon'ble MAUNG BAH TOO said:—"My Lord, I have much pleasure in supporting the Hon'ble Sir Guy Fleetwood Wilson's Bill. The adoption of the said Bill would confer a great boon on the travelling public and others. Great difficulty is experienced in changing notes of one circle in another, and now since the issue of gold sovereigns has been curtailed the travelling public and others find that they have to carry rupees to avoid the above-mentioned difficulty. But this has always been found to be bulky and inconvenient. In conclusion, may I be allowed to add that Burma herself will feel highly gratified to find that she will in future be enjoying the same privileges in this matter of five-rupee notes as her sister Provinces in India."

The motion was put and agreed to.

The Hon'ble SIR GUY FLEETWOOD WILSON moved that the Bill be passed.

The motion was put and agreed to.

#### WHIPPING (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill further to amend the Whipping Act, 1864, and the Code of Criminal Procedure, 1898 be referred to a Select Committee consisting of the Hon'ble Sir Erle Richards, the Hon'ble Mr. Drew, the Hon'ble the Maharaja of Darbhanga, the Hon'ble Sir Muhammad Ali Khan of Mahmudabad, and the mover.

The motion was put and agreed to.

The Council adjourned to Friday, the 26th February 1909.

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA ;  
The 5th February 1909. }

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Act, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at Government House, Calcutta, on Friday, the 26th February 1909.

P R E S E N T :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
- His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.
- The Hon'ble Sir H. Erle Richards, K.C.S.I., K.C.
- The Hon'ble Major-General C. H. Scott, C.B., R.A.
- The Hon'ble Sir Harvey Adamson, Kt., C.S.I.
- The Hon'ble Mr. J. O. Miller, C.S.I.
- The Hon'ble Mr. W. L. Harvey, C.I.E.
- The Hon'ble Sir G. D. F. Wilson, K.C.B., K.C.M.G.
- The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.
- The Hon'ble Mr. A. A. Apcar, C.S.I.
- The Hon'ble Nawab Bahadur Sir Khwaja Salimulla of Dacca, K.C.S.I.
- The Hon'ble Maung Bah Too, C.I.E., K.S.M.
- The Hon'ble Mr. W. W. Drew.
- The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.
- The Hon'ble Raja Sir Mahammad Ali Muhammad Khan, K.C.I.E., Khan Bahadur, of Mahmudabad.
- The Hon'ble Mr. N. C. Macleod.
- The Hon'ble Mr. J. Andrew.
- The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.
- The Hon'ble Mr. F. A. Slacke, C.S.I.
- The Hon'ble Mr. J. M. Holms, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble MR. DADABHOY asked :—

“ IN view of the demand for a local Legislative Council by ‘ advanced public opinion in the Central Provinces’, the need felt by the Hon'ble the Chief Commissioner for the ‘ assistance and support of public expression of views on

[*Mr. Dadabhoy ; Sir Harvey Adamson ; Sir G. F. Wilson.*] [26TH FEBRUARY 1909.]

public affairs', as stated in paragraph 28 of his note on the Government of India's Reform Proposals, forwarded with his letter No. 1285-1-15-2 of 18th June 1908, and the final abandonment by the Secretary of State of the general proposal for the creation of Advisory Councils and the consequential non-adoption of the special scheme recommended for the Central Provinces by the Hon'ble the Chief Commissioner for securing such 'assistance and support', will the Government, in working out the details of the Reform Scheme, be pleased, in consultation with the Hon'ble the Chief Commissioner, to consider the desirability of creating for the Central Provinces and Berar or for the Central Provinces only a local Legislative Council, without raising the Administration into the status of a Lieutenant-Governorship, in exercise of the extensive powers conferred by section 46 of the Indian Councils Act of 1861?"

The Hon'ble SIR HARVEY ADAMSON replied:—

"In connection with the Reform Scheme now under consideration, the Government of India do not at present contemplate the establishment of a Legislative Council for either the Central Provinces and Berar or the Central Provinces alone."

The Hon'ble MR. DADABHOY asked:—

"Will Government be pleased to state the present amounts of the Gold Standard Reserve and the Paper Currency Reserve? Has either of these Reserves been depleted during the current financial year, and, if so, to what extent, and under what circumstances?"

The Hon'ble SIR G. F. WILSON replied:—

"The amount of the Gold Standard Reserve on the 15th instant was £18,417,833; of which £5,978,899 was held in gold or sterling securities in England, and the balance in rupees in India. Its composition has been altered by the substitution of rupees for gold to the extent of the sterling bills sold on London in 1908, but the Reserve has not been depleted during the current financial year, except to the extent of a temporary loan for general purposes, which it is intended to repay before the 31st of March.

"The amount of the Paper Currency Reserve on the 15th instant was Rs. 41,37,07,315; of which £2,865,970 was held in gold and sterling securities and the balance in rupees, silver bullion and rupee securities. This Reserve has not been depleted during the current financial year. It has been maintained, as required by law, at the equivalent of the amount of currency notes in circulation."

[26TH FEBRUARY 1909.] [*Mr. Dadabhoy; Mr. Harvey; Nawab Saiyad Muhammad; Sir Harvey Adamson; Sir Khwaja Salimulla.*]

The Hon'ble MR. DADABHOY asked :—

“ Is it true that imports of sugar from Austria-Hungary have more than doubled during the current year, as compared with the figures of the last year ? Is this abnormal increase due to any special advantage enjoyed by the manufacturers of that country ? ”

The Hon'ble MR. HARVEY replied :—

“ Imports of beet sugar into India from Austria-Hungary during the last five calendar years have been as follows :—

	Cwt.
1904 . . . . .	1,384,851
1905 . . . . .	1,122,342
1906 . . . . .	2,623,639
1907 . . . . .	1,001,075
1908 . . . . .	1,437,214

“ It appears from these figures that the recent increase in the imports of sugar from Austria-Hungary indicates not a departure from the normal, but a reversion towards it after a year of exceptionally small arrivals. There is no reason to believe that the increase referred to by the Hon'ble Member is due to any special advantages enjoyed by sugar manufacturers in Austria-Hungary.”

The Hon'ble NAWAB SAIYAD MUHAMMAD asked :—

“ Will the Government be pleased to lay on the table a list of Muhammadan religious and charitable endowments and trusts which are at present under the management of Government in different Provinces ? ”

The Hon'ble SIR HARVEY ADAMSON replied :—

“ The information asked for by the Hon'ble Member is not immediately available, but the Government of India will ask Local Governments and Administrations to supply it and a list will then be placed on the table.”

The Hon'ble SIR KHWAJA SALIMULLA asked :—

“ Has the attention of the Government of India been drawn to the reply sent by Nawab Syed Ameer Hosain Bahadur, C.I.E., to the Circular letter No. 2497-A of 7th July last of the Government of Bengal, on the scheme contemplated by the Government of India as laid down in paragraph 4 of its letter No. 611 of 27th March last, regarding the separation of the judicial and executive functions of district officers ? ”

[*Sir Khwaja Salimulla ; Sir Harvey Adamson.*] [26TH FEBRUARY 1909.]

“ Will Government be pleased to cause to be placed on the Council table copies of this reply for the information of the Members ?

“ Will Government be pleased to direct that copies of this reply be forwarded to the Government of Eastern Bengal and Assam, to the High Courts, and to such other bodies to whom this question is under reference as mentioned by the Hon'ble Sir Harvey Adamson in his reply to the Hon'ble Mr. Dadabhoy at the meeting of the Council held on the 5th instant ? ”

The Hon'ble SIR HARVEY ADAMSON replied :—

“ The Government of India have received from the Bengal Government a copy of the letter in question. As the matter to which the letter relates is still under discussion, it would be premature to publish the papers, and the Government see no reason for treating this letter exceptionally either by laying it on the table or by communicating it to the authorities mentioned by the Hon'ble Member.”

The Hon'ble SIR KHWAJA SALIMULLA asked :—

“ Is it a fact that the experiment of the separation of the two functions, commenced and brought into operation by the Government of Mysore since October 1907, has not given satisfaction and has not proved a success ?

“ That the Dewan has, in the Mysore Representative Assembly, declared that the Government was not prepared to further extend the experiment ?

“ That the Judges of the Chief Court of Mysore have declared that the experiment of the separation of the two functions has retarded the prompt disposal of Civil Court work ? ”

The Hon'ble SIR HARVEY ADAMSON replied :—

“ In 1907 the Amildars of Kolar, Hassan, Maddagiri, Hole-Narsipur and Sagar in the Mysore State were relieved of their magisterial functions and the Munsifs at those stations were invested with the powers of Magistrates of the second class. The Amildars of Bangalore and Mysore were also instructed not to exercise their magisterial powers, and their magisterial duties were assigned to the respective City Magistrates.

[26TH FEBRUARY 1909.] [ *Sir Harvey Adamson ; Sir Khwaja Salimulla.* ]

“ In October 1908 the Dewan of Mysore, in addressing the Mysore Representative Assembly, remarked :—‘ The experiment has worked well so far as it has gone, but any further extension of its scope appears likely to entail additional expenditure and has on that account to be deferred for the present.’ The Government of India have no further information regarding the working of the experiment and have no record of any pronouncement on the subject by the Chief Court of Mysore.”

The Hon'ble SIR KHWAJA SALIMULLA asked :—

“ Will Government be pleased to direct the Political Agents of Mysore, Baroda and such other Native States where the experiment has been brought into force, to report whether any appreciable benefit has arisen, or is likely to arise, to the masses from this separation.”

The Hon'ble SIR HARVEY ADAMSON replied :—

“ The Government will ask for reports upon the exact nature of the changes that have been made and upon their effect, including the points mentioned by the Hon'ble Member.”

### WHIPPING (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON presented the Report of the Select Committee on the Bill further to amend the Whipping Act, 1864, and the Code of Criminal Procedure, 1898. He said :—“ The principal alteration effected by the Select Committee is the consolidating of the laws relating to the punishment of whipping. There is nothing that I need add to the Report except a word of explanation regarding two amendments which have the effect of still further restricting the infliction of whipping on juveniles. These amendments have been inserted in fulfilment of a promise given by the Secretary of State in Parliament. The first excludes juveniles from whipping for certain specified offences against the State and of a seditious nature. It is, I may observe, much in accordance with existing practice, for, so far as I have been able to ascertain, no juvenile offender has ever in the past been whipped for a seditious offence. The second provides that for offences outside the Indian Penal Code punishable with imprisonment, whipping may be inflicted on juveniles only in respect of such offences as may be notified by the Governor General in Council in this behalf. As the law

[*Sir Harvey Adamson.*] [26TH FEBRUARY 1909.]

stands at present the Governor General in Council notifies the exclusions. Under the Bill as amended he will notify the inclusions."

The Council adjourned to Friday, the 12th March 1909.

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA; }  
*The 26th February 1909.* }



*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at Government House, Calcutta, on Friday, the 12th March 1909.

P R E S E N T :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
- His Honour Sir Edward Norman Baker, K.C.S.I., Lieutenant-Governor of Bengal.
- His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.
- The Hon'ble Sir. H. Erle Richards, K.C.S.I., K.C.
- The Hon'ble Sir Harvey Adamson, Kt., C.S.I.
- The Hon'ble Mr. J. O. Miller, C.S.I.
- The Hon'ble Mr. W. L. Harvey, C.I.E.
- The Hon'ble Sir G. D. F. Wilson, K.C.B., K.C.M.G.
- The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.
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- The Hon'ble Nawab Bahadur Sir Khwaja Salimulla of Dacca, K.C.S.I.
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- The Hon'ble Mr. N. C. Macleod.
- The Hon'ble Mr. J. Andrew.
- The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.
- The Hon'ble Mr. F. A. Slacke, C.S.I.
- The Hon'ble Mr. J. M. Holms, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble MR. DADABHOY asked:—

“ Has the Government received a memorial from the malguzars of the Central Provinces, praying for longer period settlements and more moderate

[*Mr. Dadabhoy ; Mr. Miller ; Sir G. F. Wilson.*] [12TH MARCH 1909.]

assessments? If so, has the matter been decided? In view of the generally impoverished condition of the malguzars and the successive famines, will the Government be pleased, in consultation with the Hon'ble the Chief Commissioner, to provide at the forthcoming renewal for thirty-year settlements, and to allow the malguzars a higher percentage of profits than in previous settlements?"

The Hon'ble MR. MILLER replied :—

"The memorial referred to by the Hon'ble Member has not yet reached the Government of India.

"The Government have no reason to believe that the malguzars generally are in an impoverished condition. The Central Provinces have suffered severely from famines, but the effect of these famines was carefully watched in the districts affected, and liberal measures of relief were adopted where necessary. In some districts a considerable abatement of the land-revenue demand accompanied by a reduction of rent was given, while in other districts the existing settlement term was prolonged and re-settlement operations postponed until the tracts had fully recovered from the effects of the famine. Any representations that may be submitted through the Chief Commissioner on the subjects mentioned in the last part of the question will be fully considered. The Government of India are not prepared without such consideration to give any such pledge as the Hon'ble Member asks for."

The Hon'ble MR. DADABHOY asked :—

"Is the Government aware that in the Central Provinces the Government Treasuries do not afford facilities for the exchange of the currency notes of different circles? In view of the steady commercial progress and the advancement of the people of the Central Provinces during the past few years, and particularly the great inconvenience experienced by the numerous Coal and Manganese Companies, Mills, Factories and Trading Associations, will the Government be pleased to establish either a Paper Currency Office or a Currency Exchange in Nagpur in order to afford greater facilities for commercial operations?"

The Hon'ble SIR G. F. WILSON replied :—

"Government have already under consideration measures to improve the system of its note circulation and hope that Nagpur in common with other internal centres of trade will benefit by the changes made."

[12TH MARCH 1909.] [Mr. Dadabhoj ; Mr. Harvey.]

The Hon'ble MR. DADABHOJ asked :—

“ Is it a fact that the gross receipts from Railway earnings have fallen off this year to the extent of nearly three crores of rupees, and the working expenses have increased by a crore-and-a-half? If so, will these facts be taken into consideration in making allotment for Capital Expenditure on Railways during 1909-1910?”

The Hon'ble MR. HARVEY replied :—

“ The gross receipts from Railway earnings have fallen off this year to the extent of about 109 lakhs below the actuals of the past year, and the working expenses have increased by 204 lakhs over the actuals of the past year.

“ The amount of Capital to be expended in any year on Railways is not fixed with immediate reference to the results of working of the previous year.”

The Hon'ble MR. DADABHOJ asked :—

“ Will Government be pleased to enlighten the public on the causes to which the fall in the one case and the rise in the other can respectively be ascribed?”

The Hon'ble MR. HARVEY replied :—

“ The causes of the falling off in receipts and the increase in expenses will as usual be fully explained in the Financial Statements and in the Memorandum by the Railway Board on Railway working for the year which will shortly be laid before Council and published in the Gazette of India. Briefly it may be said that the decrease in Revenue is due to general depression in trade and to local famine conditions. The increase in working expenses is due principally to larger renewals of Permanent Way and Rolling-stock, repairs of extraordinary flood damages, scarcity allowances to staff, abnormal empty running resulting from abnormal trade conditions, and increased cost of coal.”

The Hon'ble MR. DADABHOJ asked :—

“ Has the attention of Government been drawn to an article published in *Indian Engineering* of 2nd January last, condemning in strong terms the treatment of third class passengers on Indian railways, especially the following passages :—

‘ The whole treatment of third class passengers throughout the country is indefensible in any serious reckoning of railway responsibilities .....It is not so much in the station latrines and lavatories, but in the cars that humanity is sometimes outraged.

[*Mr. Dadabhoy; Mr. Harvey; Mr. Gokhale; Sir [12TH MARCH 1909.]  
Harvey Adamson.*]

'Notwithstanding the provisions of what is known as the "Sardines section" of the Railway Act, which distinctly prohibits huddling, not only are passengers permitted to stuff compartments beyond their assigned accommodation, but railway officials have often been known, and can always be seen, to thrust passengers into well-filled carriages to their own manifest suffering and that of others already penned in.'

"Do the evils pointed out in the article exist? If so, what action does Government propose to take for their prevention?"

The Hon'ble MR. HARVEY replied :—

"The article in *Indian Engineering* from which three extracts have been quoted on the question has been read.

"Crowding in trains does and must occasionally occur in this as in other countries, especially at times of festivals or other large public concentrations.

"Railway Administrations are fully aware of their responsibilities in this matter, and Government have no reason to doubt that every reasonable endeavour is made by them to deal efficiently with the passenger traffic offering at all times, and Government Inspectors have instructions to pay special attention to the conditions under which third class passengers are carried on the various railways.

"Moreover, the principal Railway Administrations have spent during the past few years, and are still spending, large sums of money in building third class carriages of an improved (bogie) type, which add considerably to the comfort of the Indian passenger. In the circumstances Government do not propose to take any further special action in the matter."

The Hon'ble MR. GOKHALE asked :—

"Have the Government of India received from the wife of Babu Ashwini Kumar Dutt of Barisal, one of the nine Bengalee gentlemen recently deported, a memorial drawing the attention of the Government to the report that her husband is seriously ill and praying for his restoration to home and liberty?"

"Is it a fact that Babu Ashwini Kumar Dutt is seriously ill?"

"Are the Government now in a position to state how long they propose to keep Ashwini Babu as also the other deportees under restraint?"

The Hon'ble SIR HARVEY ADAMSON replied :—

"The Government of India have received the memorial mentioned in the question. It is not a fact that Babu Ashwini Kumar Dutt is seriously ill. On the 4th March the Medical Officer in charge of the jail in which this State prisoner

[12TH MARCH 1909.] [*Sir Harvey Adamson; Sir Erle Richards; Mr. Dadabhoy.*]

is confined reported that his health has continued to be very good and that he has gone up in weight since he was received in the jail.

“The Government are unable to make any statement regarding the release of the State prisoners.”

### PRESIDENCY-TOWNS INSOLVENCY BILL.

The Hon'ble SIR ERLE RICHARDS moved that the Report of the Select Committee on the Bill to amend the Law of Insolvency in the Presidency-towns and in the Town of Rangoon be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR ERLE RICHARDS moved that the Bill, as amended, be passed.

The Hon'ble MR. DADABHOY said:—“My Lord, I desire to say a few words today as I had the privilege of serving on the Select Committee, and had the good fortune of being associated with the Hon'ble the Law Member in the preparation of this important measure, though I must confess I have played an insignificant part. The Committee had the expert advice and guidance of the Hon'ble Mr. Macleod, whose extensive knowledge of the practical working of the English Statute in an important commercial city like Bombay was of immense service to us; we had, besides, the inestimable advantage of the erudition and skill of the Hon'ble Law Member whose exactitude and precision in drafting are unrivalled, and but for whose masterly grasp of the varied and complicated details of the English Bankruptcy Act we should not have been in a position to present so complete and self-contained a Bill to this Council.

“This Bill is one of the most important measures of legislation undertaken by this Council for many a year, and I have no hesitation in congratulating the public, especially the commercial public, of this rising Empire with an expanding trade on their being given a suitable and workable Insolvency Act. The Bill is of a highly technical nature, and the most gratifying feature of it is that many difficulties have been overcome and complexities have been simplified, and the public will now have an Act in no way less complete and comprehensive than the English Bankruptcy Act. I have great pleasure in supporting the revised Bill which now embodies the numerous useful suggestions made

by the several High Courts and influential commercial bodies and organizations. The amended Bill ought to be received favourably by the public, as the provisions are suitable and framed in the light of the experience gained by the working of the old Act during a long series of years.

“ But, my Lord, though I support this Bill, I confess it is with some degree of reluctance that I have become party to the substitution of an Indian Act for an Imperial Statute. In my opinion, so far as the Presidency-towns are concerned, it is necessary and expedient that the Insolvency Law should be an Imperial Statute. It is very desirable that the law for the administration of property of insolvent debtors in Presidency-towns should be passed directly by the Imperial Parliament. But for the proverbial apathy and indifference of the House of Commons for any legislation affecting India, this Council should never have undertaken the preparation of this Bill. Indian interests and vital questions affecting the political and commercial affairs of this vast and growing Dependency, unfortunately, trouble very little English statesmen. This apathy is a regrettable feature of English Parliamentary life. The Indian law, as embodied in the Act of 1848, is on the same lines as the English Acts before 1869, which were superseded by the Bankruptcy Code of 1869, which in its turn was substituted by the more comprehensive and elastic Act of 1883. The present law is thus behind the times by half-a-century, and though admittedly ineffective and out-of-date it is surprising that the task of supplying a suitable law was not till very recently undertaken. Sir James Stephen's Bill of 1870 was withdrawn, because it was too ambitious in its scope, and was intended to apply to the whole of India. Sir Courtenay Ilbert's attempt in 1886 to give a comprehensive Act to India proved abortive, because the Select Committee to which it was referred was of opinion that it was too complicated to suit Indian conditions, but was neither willing to suggest modifications nor to undertake the preparation of a suitable Bill. It was then shelved till last March, and, my Lord, it is due to your incentive and the general animation pervading Your Excellency's administration that this difficult measure, which the Imperial Parliament has so long neglected, has again come up on the tapis, and has assumed a shape which ought to command general assent.

“ But, my Lord, as pointed out above, the proposed legislation might be open to objection from one point of view. An Indian Act is, after all, going to be substituted for an Imperial Statute. That is not merely a sentimental objection; it is one founded in reason. It is a matter of no small importance that a discharge granted by Courts in India should operate as a conclusive discharge in respect of all debts provable in the insolvency proceedings in this

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country ; for instance, a debt contracted in England should be fully covered by an order of discharge passed by an Indian High Court. Again the sea-borne trade of a city like Bombay is fast expanding, and Bombay traders enter into direct commercial relations not only with merchants doing business in England, but also in Mauritius, Africa, Penang, Shanghai, Hongkong and other distant ports, and the Bill now before this Council will not be as effective in its operation for the purpose of securing for the official assignee immovable and other valuable property of insolvents situated in other parts of the British possessions as the present Imperial Statute. A vesting order made under the Act of 1848 now in force immediately vests in the official assignee by direct operation the whole of the property and effects of the insolvent in whatever part of His Majesty's extensive dominions they may be situate or accrue ; and likewise a discharge made under that Act takes effect in every part of the British Empire. In the Statement of Objects and Reasons of the Bill it is remarked that the advantages conferred by the Act of 1848 are of *no real value*, since experience has shown that in practically every case in which there are assets in both countries concurrent proceedings are instituted in England and India. The Hon'ble Member in charge of the Bill, in presenting the Report of the Select Committee, also stated to this Council that on comparison of the effect of an adjudication order under the Act of 1848 with the effect of an adjudication order under the Bill the advantages of an Imperial Statute would appear to be of small practical value. I hope my Hon'ble friend will bear with me if I am not able to wholly reconcile myself to that view. The advantages of having an Imperial Act are obvious, and cannot be gainsaid ; and though it is true that in many cases concurrent proceedings are promptly instituted in England and in this country, I venture to assert that the official assignee in this country is in a distinctly more favourable and unassailable position by reason of his drawing his authority from an Imperial Statute than if he were merely deriving his power to act under a Statute of the local legislature, which is necessarily limited in its operation to British India only. The present Bill when passed into law will certainly bring about some inconvenient results in so far as the immovable property of insolvents situate outside the limits of British India is concerned. It will be difficult to get at the assets of foreign merchants trading in India and investing in real property outside British India ; likewise debts, securities and mortgages due to the insolvents outside British India will not be very easily approachable as under the present Act. An insolvent again, obtaining his discharge in any Presidency-town, will be liable to constant and vexatious persecutions outside British India. The valuable provision of the present Act whereby the vesting order

*ipso facto* operates as a statutory transfer of immoveable property within any part of the British Empire is lost in the Bill under discussion. Henceforward the official assignee will have to call in the aid of section 118 of the Bankruptcy Act for an order which would make the Indian vesting order effective as regards immoveable property lying outside the limits of British India, provided the vesting order purports to deal with such assets; but even in that case his title must date from the order made by the Bankruptcy Court and abundant opportunities will thus be afforded to a dishonest insolvent to dispose of his property in the interval. We must, however, accept this Bill as practical men, and make a virtue of necessity. We must be content to forego the advantages of the present Act in view of the somewhat extensive application of section 118 of the English Bankruptcy Act of 1883; and in order to gain the end more effectively, we have incorporated section 126 with the object of declaring all British Courts exercising Insolvency jurisdiction to be auxiliary to one another. Section 126 of the Bill is thus not a wholly inadequate set-off against the distinct and important advantages that we are going to lose by the repeal of the Act of 1848. My Lord, to be fair, I must state that it is not a case of absolute disadvantage or loss. The Bill under discussion has some distinct merits which the old antiquated Imperial Act does not possess. It is decidedly an improvement on that Act. It is modelled on the present English Law of Bankruptcy; it removes disabilities and defects; it provides a more effective and suitable machinery for compelling insolvent debtors to make a full disclosure of their assets and liabilities, and complete and drastic means for reaching and recovering property improperly concealed or disposed of by them. Creditors have been given not only a voice in the preliminary investigation, but have also been given extensive rights of putting debtors into Court before the assets have been made away with, and are, further, associated in the management and distribution of the assets. Moreover, means have been provided for the recovery without serious trouble of the insolvent debtor's property collusively and fraudulently held by third parties, and the official assignee has been invested with powers relating to the conduct of the insolvent and the administration of his property which must inure to the benefit of all parties. The official assignee will thus be every way in a more advantageous position under the present measure than under the Act of 1848, while any possible misuse of the larger powers and privileges by that official is effectively guarded against by the limitations requiring him to act in the light of day and in the presence of the general body of creditors. The provisions in the Bill about composition mark a distinct advance. Proposals for composition must be circulated among the creditors, and after they have been considered by the official assignee, it will



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not be open, as in the existing Act, to a small number of recusant creditors to disturb the arrangement, and to dictate their own terms. Under the Bill the voice of the majority will prevail. In short, the Bill offers ample protection to an honest insolvent who has come into trouble through the vicissitudes of fortune, at the same time that it places in the hands of the Court necessary means for the prompt and effective punishment of dishonest adventurers. The language is clear, and judges and lawyers will have less difficulty in interpreting and administering the law. The Bill is decidedly less cumbrous and verbose than the existing Act. The underlying principle is different. Unlike the Act of 1848, the Bill aims at the protection of the interests of creditors, whereas the principal function of that Act has been to relieve insolvent debtors and to leave honest creditors at their mercy.

“The Bill may therefore be safely passed into law, and left to work out its own destiny. Meanwhile, I shall, in common with the Hon’ble Law Member and many of my colleagues, cherish the hope that the Imperial Parliament will see its way in the near future to pass an enabling Act for the extension of the scope and operation of the Indian Act.”

The Hon’ble MR. MACLEOD said:—“My Lord, for nearly forty years the question of amending the law relating to Insolvency in India has been more or less under the consideration of Government. It has been generally admitted that the law required amendment, but the difficulties in the way have been of an extremely intricate and technical character. This subject must naturally be of the greatest importance to the commercial community, and it is due to my learned and Hon’ble friend the Law Member that all obstacles have been removed and that the persistent demand for reform has at last been satisfied.

“The first step was to provide the Mufassal with a simplified form of Insolvency Law. That was effected by the passing of the Provincial Insolvency Act, 1907, and it then became imperative that the Insolvency Law in the Presidency-towns and Rangoon should be brought up to date. Accordingly, this Bill was introduced and has now reached its final stage before the Council. Shortly, it is based on the English Bankruptcy Acts of 1883 and 1890, adapted with the greatest possible consideration for the special conditions which exist in India. The administration of the English Bankruptcy Law has recently been subjected to an exhaustive enquiry before a Special Committee appointed by the Board of Trade, and the report of the Committee forms a striking testimony to the general efficiency of those Acts. The Committee reported that the evidence and documents placed before them did not disclose any dissatisfaction on the

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part of the commercial community with the main features of the existing law and procedure; the matters of complaint and suggestions for reform of the law with which they had to deal had principally related to special incidents of the law and branches of its administration.

"It cannot be said that any great changes in the existing law are recommended, but the Select Committee have carefully considered that report and have incorporated in the Bill such few of the suggestions for reform as appeared suitable to Indian conditions.

"Since that report was published, the Right Hon'ble President of the Board of Trade was waited on by a deputation representing the Association of Chambers of Commerce and the Association of Trades Protection Societies, which asked for the introduction of a Bill to amend the existing Bankruptcy Law. As far as I can gather from the newspaper report, the deputation had only four principal points to urge. Two are provided for by the Bill before this Council, the other two were comparatively unimportant and impracticable to adopt as regards India. At any rate this would go to prove that the commercial community in England can find but few suggestions to make for the improvement of the English Acts on which this Bill is based.

"In the note which I was allowed to annex to the report of the Select Committee I have dealt in detail with the advantages which will be secured by passing the Bill, but there are one or two points which I should like to emphasise more clearly. The present Act is entitled an Act for the Relief of Insolvent Debtors. Creditors receive very little consideration. Some people think they are not entitled to much. The Right Hon'ble President of the Board of Trade, when replying to the deputation I have just referred to, is reported to have said: 'The creditor in bankruptcy is not a public benefactor. The mere fact of his being a creditor shows that he has been guilty of misplaced confidence. He has made an error of judgment and is not so much entitled to State protection as some people claim. If he has lost by unsuccessful trading, he must reap the result of his own act.' If that view were correct no one would give credit for fear of making bad debts, then there would be no insolvency, neither would there be any trade.

"The real point is that when an order of adjudication is made against a debtor either on his own or on a creditor's petition, his creditors are deprived of the ordinary remedies which otherwise the law would have allowed them to pursue, and have to depend on the Insolvency Laws to protect their interests. Under such circumstances, it is the duty of Government not only in the

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interests of creditors but also of the whole community to provide the Courts and their officers with the necessary powers to exercise complete control over the conduct and affairs of insolvent debtors. In this respect the Act of 1848 is lamentably deficient.

“For while the provisions for the discovery of an insolvent's property are inadequate, the burden of proving misconduct and opposing an insolvent's application for discharge is thrown entirely on the creditors. The official assignee is merely a collector of assets, he has neither the right nor the means to intervene. I attach the very greatest importance to the reform it is proposed to effect by the Bill with regard to these two points.

“As to the first, it is proposed to give the Courts the widest possible powers to compel the discovery and production of an insolvent's property. This may not always prevent the successful concealment of property, but legislation can go no further.

“As to the second point, clause 79 provides that the duties of an official assignee shall have relation to the conduct of the insolvent as well as to the administration of his estate. It will be the duty of the official assignee to report to the Court on the conduct of every insolvent who applies for his discharge. The official assignee's report will be *prima facie* evidence of the statements contained therein and the onus will lie on the insolvent to rebut them. Even if an insolvent declines to apply for his discharge, the Court can direct the official assignee to report in any case in which he is of opinion that an offence under the Act has been committed.

“The result will be that offences under the Insolvency Law will no longer pass unnoticed. At the hearing of applications for discharge the time of the Court will be saved, and a serious burden on creditors will be removed.

“On the other hand, while the conduct of each insolvent will be officially scrutinized, the procedure whereby a man who has become insolvent through no fault of his own can get an absolute discharge has been very much simplified. Such an insolvent will be able to get protection for his after-acquired property as easily as he can now get protection for his person only. The present law regarding after-acquired property may in many cases work very harshly. Few insolvents go to the trouble and expense of a second hearing to get absolute protection for their property, and even then, if judgment has been already entered up, their property is never safe from execution. The Bill provides that judgment cannot be entered up against an insolvent unless one or more of certain facts have been

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proved against him. Another great improvement will be effected by enabling insolvency proceedings to be taken by or against a firm in the name of the firm. My Lord, however much care is exercised in framing a measure dealing with insolvency, it is inevitable that complaints will always be forthcoming from persons who suffer from the pecuniary misfortunes of those with whom they deal. Delays in realising insolvents' property must occur, opportunities for the successful concealment of assets will exist, and the administration of insolvent estates must be accompanied by a certain amount of formality and expense, but I am in hopes that this Bill will enable insolvency administration to be far more efficient than it can ever be under the present Act.

“ No doubt cases will occur in which a vesting order or an order of discharge will not have so far-reaching an effect as under the Act of 1848. This can be remedied by an Imperial Act, but I have endeavoured in the note referred to above to show that the advantages to debtors as well as creditors to be obtained under the Bill altogether outweigh any loss that may be entailed by the repeal of the present Act. The loss is problematical, the advantages are real. The Hon'ble Mr. Dadabhoj is afraid that the official assignee will not be in such an advantageous position as he is now when seeking to recover assets outside British India. I do not share his fears. I claim that all the points raised by the Hon'ble Member have been met by my note. My experience in the case of assets situate in Hong Kong or in any of the other British Colonies referred to by the Hon'ble Member is that almost invariably the domicile of the insolvent is Indian and the assets are moveable, so that the Indian vesting order will for all practical purposes operate in such cases as efficiently as hitherto.

“ The official assignee must always be at a disadvantage if he has to take proceedings which he cannot personally superintend in a Foreign Court. One must assume, however, that the general principles of private international law will be recognized by other British Courts and due effect given to section 118 of the English Bankruptcy Act of 1883. I do not anticipate therefore that the official assignee, if he has to seek the assistance of such Courts, will be in any worse position than he is now.

“ But I should also like to point out that it is just in those cases that we are brought in contact with Insolvency Law in other parts of the British Empire and that the disadvantages of the Indian Insolvency Law not being in line with that law are most apparent. Moreover, it is taking a very narrow view of the subject to rivet the attention to what may happen in a particular case. Rather

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we should consider whether the old or the new legislation is the most efficient and best answers the requirements of the community.

“ My Lord, I may claim to have had considerable experience in the actual working of the present Act, and during the last few months I have had ample opportunities of testing this question from every point of view. I am satisfied that in passing this Bill we shall be effecting a very necessary and long called for reform.”

The Hon'ble SIR ERLE RICHARDS said :—“ The Council have heard the speeches of my two Hon'ble Colleagues, and their opinions are, I submit, a sufficient warrant for this motion. The Hon'ble Mr. Macleod speaks with wide practical experience gained as Official Assignee of Bombay; he knows the defects of the existing law and is confident that this Bill will effect a valuable reform. My Hon'ble and learned friend Mr Dadabhoy, a lawyer of experience, joins in commending the Bill and points out that it has received the assent of the commercial communities of India.

“ The Hon'ble Mr. Dadabhoy devoted some portion of his speech to a point which has been discussed in this Council on more than one previous occasion, as to the disadvantages of giving up the Imperial Statute from which our present law of insolvency derives its authority. The Hon'ble and learned Member is enamoured of this Bill, but he cannot quite make up his mind to break with the past: he is on with the new love, but he is not completely off with the old. He is anxious that this Bill should step into the Statute-book, but he views with regret the departure of the present Act which it must displace. This question has been examined in detail in the Report of the Select Committee and in the papers appended to that Report. We may differ as to the exact degree of loss we must suffer from the fact that vesting orders and discharges under Indian insolvencies will no longer, if this Bill be passed into law, have the same effect of themselves outside British India; but we are all united, and as my Hon'ble and learned friend says, all practical men must be united in recognising that, whatever these disadvantages may amount to, the advantages to be gained by the substitution of the new law over the present out-of-date enactment, altogether outweigh them. Therefore I ask this Council to carry this motion unconditionally and to pass this Bill without reference to the possibility of obtaining an Imperial Act to supplement it. At the same time, my Lord, I desire to state on behalf of the Government of India that they have carefully considered the argument in favour of having an Imperial Statute and that they are prepared to request the Secretary of State to consider

the matter, and if he be so advised to ask the Imperial Parliament to pass a short Bill to give effect to Indian vesting orders and discharges in the British Empire outside India. That is the position under the present Act, and it is only fair, as it seems to us, that we should be put in the same position under this Bill. It may be said that an Act of this Council will have the same effect as the Bankruptcy Acts of other Colonial Legislatures, and that we cannot fairly claim to be in a better position than other parts of the British dominions. But our answer to that is that in India we are already in a more favourable position and that we are only asking Parliament to maintain the existing position. We do not ask them to enact a new Act for us, that would be unreasonable; but we do ask them to give the Act which we are about to pass the same effect as the present law has. We hope that we shall succeed in our request, but we hold that this Bill, even if it be not supplemented by Imperial legislation, will effect a marked improvement in the law, and we recommend you to enact it independently of that consideration.

“ During the past few days I have received petitions from various Associations representing vakils and pleaders asking that the Bill may be amended in order to give them a right of audience in insolvency matters, a right which they do not at present possess. Changes of this kind, my Lord, are not easy to make; they involve interference with vested interests, and at best they cannot be made at the eleventh hour; they require the fullest consideration. The Bill provides for the maintenance of the existing state of things, and I think the Council will be wise to adhere to that.

“ My Lord, I have little more to say. The lot of a Legal Member in this Council is a hard one; it is almost always his duty to speak on measures of a character so technical that it is impossible to invest them with any general interest. During the past few years we have passed Acts in this Council dealing with the subjects of Civil Procedure, Provincial Insolvency, the Limitation of Actions and the Registration of Documents. These are all matters of legal importance, but they are none of them subjects on which it is possible to arouse general enthusiasm. Today, the last occasion on which I shall have the honour of addressing this Council, my task is even worse, and I confess that it is beyond my powers to discuss the provisions of this Bill in such a way as to make it of interest to my Colleagues. I content myself with claiming for it that it will effect an important and much-needed alteration of the law. It is in the interests of the State that commercial transactions should be maintained at a high level of honesty, and that the law should give sufficient powers to prevent fraudulent trading. The Bill will do much

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to accomplish this object, and it is for that reason that I ask the Council to pass it into law."

The motion was put and agreed to.

### AMENDING (ARMY) BILL.

His Excellency THE COMMANDER-IN-CHIEF moved for leave to introduce a Bill to amend certain enactments relating to the Army. He said:—"The Amending (Army) Bill I have the honour to propose to introduce is of an entirely formal character rendered necessary by recent changes in the ranks and designations of Generals Commanding in India. Advantage has, however, been taken of the introduction of this Bill to remedy certain defects in our military laws:

- (1) regulating the admission of soldier lunatics to asylums;
- (2) giving power to the Commanding Officers of Volunteer Corps to remove the names of those members who have become non-effective from the roll of their corps; and
- (3) affording better control over the sale and supply of spirituous liquors or intoxicating drugs in cantonments.

"These three amendments to the law have been dealt with in the Statement of Objects and Reasons attached to the Bill."

The motion was put and agreed to.

His Excellency THE COMMANDER-IN-CHIEF introduced the Bill.

His Excellency THE COMMANDER-IN-CHIEF moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

The Council adjourned to Monday, the 22nd March 1909.

J. M. MACPHERSON,

*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA; }  
The 12th March 1909. }

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at Government House, Calcutta, on Monday, the 22nd March, 1909.

P R E S E N T :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
- His Honour Sir Edward Norman Baker, K.C.S.I., Lieutenant-Governor of Bengal.
- His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.
- The Hon'ble Sir H. Erle Richards, K.C.S.I., K.C.
- The Hon'ble Major-General C. H. Scott, C.B., R.A.
- The Hon'ble Sir Harvey Adamson, Kt., C.S.I.
- The Hon'ble Mr. J. O. Miller, C.S.I.
- The Hon'ble Mr. W. L. Harvey, C.I.E.
- The Hon'ble Sir G. D. F. Wilson, K.C.B., K.C.M.G.
- The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.
- The Hon'ble Mr. A. A. Apcar, C.S.I.
- The Hon'ble Nawab Bahadur Sir Khwaja Salimulla of Dacca, K.C.S.I.
- The Hon'ble Maung Bah Too, C.I.E., K.S.M.
- The Hon'ble Mr. W. W. Drew.
- The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.
- The Hon'ble Raja Sir Muhammad Ali Muhammad Khan, K.C.I.E., Khan Bahadur, of Mahmudabad.
- The Hon'ble Mr. N. C. Macleod.
- The Hon'ble Mr. J. Andrew.
- The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.
- The Hon'ble Mr. F. A. Slacke, C.S.I.
- The Hon'ble Mr. J. M. Holms, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble SIR KHWAJA SALIMULLA asked:—

“ Will the Government be pleased to have a statement prepared showing the number of permanent Muhammadan assistants (as distinct from copyists and



[*Sir Khwaja Salimulla; Sir Harvey Adamson; Sir Guy Fleetwood Wilson.*] [22ND MARCH 1909.]

typists) out of the total number of assistants in each of the Secretariat offices of the Government of India, with their pay and date of appointment, detailing separately those appointed after passing the competitive clerical examination and those appointed by pure nomination."

The Hon'ble SIR HARVEY ADAMSON replied :—

"The statement asked for by the Hon'ble Member is laid upon the Table\*."

The Hon'ble SIR KHWAJA SALIMULA asked :—

"Will Government also be pleased to say whether, under the rules framed in 1888 and modified from time to time for the recruitment of men for the Secretariat offices, some of the departments are entitled to recruit entirely by nomination and others are required to fill in one-half or two-thirds of the vacancies in that manner, and the remainder from among the passed candidates? If so, how many Muhammadans (as distinct from copyists and typists) have been appointed by pure nomination in comparison with the total number of appointments made in this manner during the same period?"

The Hon'ble SIR HARVEY ADAMSON replied :—

"Under the rules at present in force for the recruitment of clerks in the majority of the Government of India Secretariat offices two-thirds of the appointments in the lower division are filled by open competition and one-third by nomination. In the Army Department and Military Supply Department one-third are filled by open competition and two-thirds by nomination, and in the Foreign Department all vacancies are filled by nomination. Appointments in the upper division are filled by promotion of clerks from the lower division or by nomination. A statement† is laid upon the table showing the number of Muhammadans who have been appointed by pure nomination since 1888, as compared with the total number of appointments made in this way."

#### FINANCIAL STATEMENT FOR 1909-1910.

The Hon'ble SIR GUY FLEETWOOD WILSON introduced the Financial Statement for 1909-1910. He said :— "In accordance with the practice of recent years, I propose to lay on the table the Financial Statement for 1909-1910, and to explain in a few sentences its salient features.

"The year which is now coming to a close has been an unfortunate one. It began with famine in the United Provinces, and the adjoining areas of the

\* *Vide Appendix I.*  
† *Vide Appendix II.*

[22ND MARCH 1909.]      [Sir Guy Fleetwood Wilson.]

Punjab, Central India and the Central Provinces, as well as in scattered parts of Bombay, Bengal and Madras. Although the autumn rainfall was on the whole sufficient, distress lingered in places, and has recently become acute again in Behar. The harvests fell short of expectation, and the people in Northern India suffered severely during the latter half of 1908 from an exceptionally violent epidemic of malarial fever. Trade did as badly as agriculture. Exports fell off very seriously in sympathy with the shortage in the harvests. Prices remained high; and imports continued to pour into markets which were already glutted. The balance of trade set sharply against India, and exchange dropped to gold point, at which it was maintained only by Government selling sterling bills on London for five months continuously, and to the extent of £8 millions.

“ The combined effects of famine, high prices and bad trade affected our finances very adversely. Our net Railway revenue fell short of the Budget by 551 lakhs. Land Revenue brought in 40 lakhs less, and direct famine relief cost 20 lakhs more, than had been provided. Compensation to low-paid Government servants for the dearness of food cost us nearly 90 lakhs, and high prices also enhanced the expenditure for food and forage in the Military estimates.

“ Other unforeseen charges which had to be met were 19 lakhs for the Mohmand Expedition, 41 lakhs in extra payment to the War Office as the outcome of Lord Romer's Committee, and 11 lakhs for the improved scale of pay for the Indian Army which were introduced on the 1st January last. The whole of these additional Military burdens however were met by economies in the Military grants. We found unexpected assistance also in heavy receipts from Opium, which took the form chiefly of advance payments on the Malwa product in order to ensure priority of shipment against the restriction of exports which we are now enforcing.

“ The net result of the year's finance is a deficit of no less than £3,720,500. It is the first deficit which our Indian budgets have shown since 1897-1898. It has imposed a great strain upon our cash balances, and it has turned the scale against the more ambitious programme of capital expenditure which we had hoped to be able to undertake next year.

“ For the coming year, 1909-1910, the estimates have been framed with the closest regard to economy, and disclose a very small surplus of £230,900. This result has been reached without adding in any way to the taxation of the country.

“ It assumes a return, though probably a slow return, to moderate prosperity, both in agriculture and trade; and it has necessitated the rejection of all expen-

[*Sir Guy Fleetwood Wilson; Sir Harvey Adamson; Mr. Dadabhoy.*] [22ND MARCH 1909.]

diture which can reasonably be postponed or disallowed. I will not weary the Council with the detailed figures, which are given at length in the Statement.

“ We propose to finance a capital programme of 15 crores for Railways and  $1\frac{1}{2}$  crores for Productive Irrigation works. It is our intention, subject to the usual reservations, to borrow  $2\frac{1}{2}$  crores in India; and the £6 millions of India bills which mature during the year in England will be renewed. The Secretary of State's drawings are taken at £16,200,000; but additional bills will be sold, so far as may be, should trade require them.

“It is to me a matter of genuine personal regret that, after the long series of prosperity budgets which my predecessors have unfolded, it should fall to my lot to record a year of marked financial depression, and to prepare a budget which involves a sharp curtailment of expenditure. I can only express a hope that the characteristic vitality of the Indian revenues will again assert itself, and prove our estimate to err if anything on the side of caution.”

#### WHIPPING BILL.

The Hon'ble SIR HARVEY ADAMSON moved that the Report of the Select Committee on the Bill further to amend the Whipping Act, 1864, and the Code of Criminal Procedure, 1898, be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill to consolidate and amend the law relating to the punishment of whipping be passed.

The Hon'ble MR. DADABHOY said:—“ My Lord, my excuse in interposing in this debate is the extreme importance of the subject. I feel I am in a position to speak with some authority on account of my fairly long experience at the Bar. I have had opportunities of closely watching the working of the Whipping Act during a long series of years, and my observations are mostly grounded upon personal knowledge.

“ The Statement of Objects and Reasons does not enlighten this Council on the circumstances under which the amendment of the Whipping Act has been undertaken by Government. It only expresses the desire of Government to amend the law relating to whipping so as to restrict the group of offences for which that punishment might be inflicted and to limit the number of officials empowered to award it. The distinguished and respected Home Member in charge of the Bill, in asking leave to introduce it, only stated that in the progress

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of ideas the infliction of whipping as a form of judicial punishment had come to be regarded by the general public with ever-increasing disfavour, and that the object of the Bill was to mitigate the severity of flogging as a punishment and to bring the Whipping Act into line with the public opinion of the present day. It is not alleged that the Act as it stands is not humane or that there is anything specially revolting in the punishment of whipping.

“ My Lord, I am not enamoured of the Bill in its present form. If the only excuse for undertaking this legislation is that whipping is extremely degrading and not suited to civilized times, that it is revolting to personal feelings and is absolutely in disfavour with the general public, there ought to be a policy of greater resolution and firmness than the one which has now been adopted. If whipping as a form of punishment is in disfavour as revolting to humanity, why not altogether abolish it from the Statute-book of our country? If, on the other hand, the working of the Act for nearly half-a-century has proved its justification and the desirability of its application to the conditions of Indian life, why do away with that salutary form of punishment merely because it does not meet with the approval of a section of public opinion which is swayed too much by abstract considerations of humanity in disregard of administrative necessity?

“ As the Hon'ble Home Member has pointed out that whipping as a judicial punishment has come to be regarded with ever-increasing disfavour, and that is apparently the only justification for undertaking this legislation, I crave Your Excellency's indulgence to review briefly the history of whipping legislation in this country with the object of proving that that form of punishment has always been regarded with disfavour by the general public; what is more, it has not had on all occasions unqualified official support. The majority of those who had anything to do with the legislation of 1864 had not much to say in its favour, while that distinguished body, the Law Commissioners, expressed themselves strongly against the measure. I need not refer to the dictums from time to time pronounced by Indian Judges of the Calcutta High Court, that according to native Indian sentiment whipping is a worse form of degrading and hardening punishment than imprisonment, and that the sentence of whipping once it is passed is calculated to do irreparable mischief; once administered it cannot be undone; the conviction may be reversed, but the injury cannot be repaired.

“ It is well known that corporal punishment was one of the authorized modes of punishment in the Criminal Law of this country in the past. From its early

history this form of punishment was in vogue throughout the whole of India; the Bombay and Madras Presidencies had it even during the East India Company's time and almost till the end of 1861. Lord William Bentinck, that just and sympathetic Viceroy, took upon himself the noble task of abolishing that form of punishment in Bengal in the year 1834 by Regulation II of that year; and that memorable Regulation did away with corporal punishment and urged in its stead the introduction of a better and more effective system of prison discipline as a deterrent against crimes. The Committee of Prison Discipline that was appointed two years later to make a full and careful investigation into the matter, after over two years' labour, in finally submitting its report, suggested many essential reforms and improvements. Some of them were ultimately carried out, but the object contemplated by Lord William Bentinck was not achieved. This was clear from the preamble of Act III of 1844, which re-introduced corporal punishment in the Bengal Presidency, and subsequently extended it from time to time into all the dominions acquired by Government. This re-introduction of corporal punishment was justified, as appears from the preamble of that Act, because in the matter of prison discipline improvements had not been effected. It was deemed expedient to provide flogging for certain offences. This state of things continued till May 1861 when the Indian Penal Code came into operation. It is noteworthy that though corporal punishment was abolished in Bengal in 1834, the Penal Code which embodied so completely the Criminal Law of the country did not provide whipping as a form of punishment. The draft Code was laid before the Governor General in Council as far back as 1837, but was not passed into law until nearly 25 years later. The distinguished Law Commission which was entrusted with the task of preparing the Code expressed its opinion on the subject of flogging in the Chapter on punishments in the following terms:—'We have not thought it desirable to place flogging in the list of punishments. Being satisfied that the punishment of flogging can be proper only in a few cases, and not being satisfied that it is necessary in any, we are unwilling to advise the Government to retrace its steps and to re-establish throughout the British territories a practice which by a policy unquestionably humane and by no means proved to have been injudicious, has recently been abolished through a large part of those territories.' It was in this spirit and in language so emphatic that corporal punishment was entirely eliminated from the Indian Penal Code. For upwards of two decades the Code remained incomplete and unpassed. It was not until 1855 that it was referred to a Select Committee for a thorough overhaul and careful revision. The Select Committee, however, adopted a view contrary to the Law Commission and recommended, besides other modifications, that whipping should be included

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in the list of punishments authorized by the Code. Subsequently, when the Code came up for consideration before the Supreme Council, it was decided to invite the opinions of local officers and public bodies on the subject, particularly as the draft Code did not contain or include the punishment of flogging. It was deemed inexpedient to delay any further the passing of the Code, but simultaneously a Select Committee was appointed to fully consider the question, and to report on the desirability of providing flogging as a form of punishment in a separate Bill, supplementary to the Penal Code. As the result of their recommendation a Bill was drafted, introduced and discussed in Council, and passed on the 7th September 1861, but it failed to obtain the assent of Lord Canning, the Viceroy and Governor General of India. Lord Canning did not withhold his assent because he doubted the soundness, or disapproved, of the principle of flogging, but because the Act teemed with many and serious defects in important details. The Act was not only vague, but failed to furnish a guide to Courts of Law; particularly, as there was no guarantee for the exercise of safe and judicious medical supervision.

“ Lord Canning on the 5th February 1862 took the opportunity of giving his reasons for withholding his assent to the Bill of 1861. A new Bill was then introduced by Sir Cecil Beadon, the then Lieutenant-Governor of Bengal, on lines more acceptable to Lord Canning, on the 26th February 1862, but that Council suspended its sittings for legislative purposes sometime in April of that year, before the preliminary stages could be got through. In November of the same year, when the Council re-met, the Government of India thought it expedient to call for reports from Local Governments on the effect of the absence of corporal punishment from the Penal Code. I do not intend going into the details of the reports that were received from the various Local Governments. Suffice it to say, all Local Governments expressed a very strong opinion on the subject, and advised on grounds of necessity the retention of that form of punishment. It was pointed out that during the year 1862 nearly 20,000 persons had been committed to jail for various terms of imprisonment for offences for which they might have been flogged and discharged. The Select Committee in charge of the Bill of 1862, in view of the strong opinions expressed by the various Local Administrations about the necessity of the retention of whipping as a form of punishment, the attitude taken by Lord Canning, the then condition of the country, and the defective system of Jail administration, came to the conclusion that a Bill embodying suitable provisions was necessary, nay, indispensable. It accordingly prepared a Bill providing corporal punishment in a form which subsequently became the Act of 1864, the general whipping law of India.

“ My Lord, from what I have stated above it is perfectly clear that there has been neither uniformity nor consistency in the policy of this Government with reference to whipping legislation. At one period corporal punishment was condemned as ineffective for the prevention of crime, degrading to culprits, branding them as it did with marks of infamy and doing them irreparable injury on account of the permanent stain inseparably connected with that form of punishment, and as it had the tendency to prevent the return of the culprit to an honest course of life ; it was condemned as not being in consonance with the principles of enlightened legislation, incompatible with the rules of civilization, and shocking and brutalizing in scenic effect, as also for the firm and well-established opinion that, instead of reclaiming offenders, it not infrequently drowns them in the abyss of moral turpitude and degradation. I have shewn above that corporal punishment remained actually abolished from 1834 to 1837, and that the opinion of the Law Commissioners was given after a long experience of that form of punishment and nearly after four years’ experience of the effect of its abolition. It was partially re-introduced in the year 1844 ; subsequently, during the Mutiny, when prisons were broken open and destroyed, the limitations which had been placed on that form of punishment had to be temporarily suspended ; later on, it was incorporated in the draft of the Indian Penal Code only to be excised from it during consideration. Mr. Harrington’s Flogging Bill did not linger long but died a speedy death, and Sir Cecil Beadon’s Bill, which subsequently became the law of 1864, made a great change and incorporated corporal punishment permanently and finally in the Criminal Law of this country. It was very properly remarked by Sir Charles Trevelyan that ‘ there has been a see-saw legislation on the subject adapted to the circumstances of the times ’.

“ My Lord, I have not been able to gauge the reasons or to ascertain the policy that have led the Government to embark now upon this legislation in its present form. I have read the opinions expressed by several High Courts and District Officers, many of whom speak with their intimate acquaintance with the subject. Their observations, wherever founded on experience, are entitled to serious consideration. I find that the general body of official opinion is opposed to the amendments contemplated in the Bill. My Lord, though my personal feelings are against any system of corporal punishment, I must state that the present law has a deterrent effect on *old* and *habitual* offenders. I need not be reminded that a hardened criminal makes light of the prospect of flogging ; that is ordinarily the case to be sure. . . . But I have known of many cases where the criminals have begged for a commutation of sentence and for a further term

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of imprisonment in lieu of flogging. It is true that on the general question of penal whipping, there have been and there always will be divergent opinions there are two sides to the question, one the practical and the other sentimental. Some people frankly appreciate its deterrent effect, the good results it yields, the suitability of the punishment in certain cases in lieu of imprisonment, and the economy from a State point of view, and admit that slight physical pain is preferable to months and years of undesirable incarceration in jail and association with hardened criminals. There are others again who see nothing but the degradation pure and simple, the deterioration in the moral tone, the indelible infamy, the gross moral turpitude and the physical suffering. Unfortunately the right point of view is not always taken. We fail to consider the nature of the man, and what is best calculated to bring him round. On proof of guilt we ought to consider what will be best for him, what will prevent him from repeating the act and persisting in his former evil course, and what punishment will best serve to protect society from similar offences. I hope I shall be pardoned if I venture to say that the present solicitude of the Government of India for the criminal classes is entirely misplaced. It is giving way too much to sentimental objections, and rather unduly restricting the operation of the Whipping Act. It is true that in England at the present time the force of public opinion has practically abolished the punishment of whipping, but it would be hardly correct to compare England with India where there is not much of healthy public opinion and social refinement, both being confined to educated classes and the professions. Philanthropists, proceeding only upon *a priori* reasoning, in season and out of season, decry the degrading and demoralizing effect of whipping on society, especially on the criminals undergoing flogging. But experience shows it has a wholesome effect upon some criminals, and a decidedly deterrent effect upon juvenile offenders.

“ My Lord, I gravely doubt if whipping is altogether wrong on principle. In determining the question of the comparative effects of whipping and imprisonment the fact must not be lost sight of that the jail of the present day is not an inconvenient place to live in for a class of habitual offenders. These usually belong to the lowest classes. Jail life to them is comparatively more comfortable, the food provided is decidedly better than what they are accustomed to, the most scrupulous care is bestowed upon their health, and sanitary and labour regulations are based on an approved and enlightened principle. Much as I detest the system of flogging I am afraid further restrictions upon whipping will remove in certain cases almost the only form of punishment which is regarded with some degree of fear by habitual and professional convicts. I



would not be surprised if, as the result, crime against property would increase. I am not aware, neither has the Hon'ble Home Member informed us, if there has been any general abuse of the powers under the Whipping Act during the last few years. If my memory does not fail me, I believe the punishment of whipping is not even at present freely inflicted. I have also no hesitation in stating that as far as I am aware no recognized or well-informed public opinion is opposed to the infliction of such punishment on old and confirmed offenders. I have never heard it said that subordinate Magistrates as a class freely award this punishment; but rather it is the experience of many that they shrink slightly, if not too much, from resorting to this method of punishment. I have often heard Divisional and District Magistrates complain that the jails are crowded with undesirable people who could have been discharged with a few stripes. I think any one with any knowledge of our jail system is bound to admit that, except for the educated and the respected classes, prison life is not so trying or distasteful as it might on abstract considerations be supposed to be, and that to the average convict of the lower class imprisonment is not a punishment, but practically a small inconvenience; if life in jail does not offer him greater comforts and smaller hours of labour than life outside it, at any rate the jail affords him a shelter and saves him from starvation. Imprisonment alone does not sufficiently deter the criminal from committing serious offences against person and property, and I must confess I am not wholly in favour of the Bill as amended by the Select Committee. In my opinion the country has not yet attained to such a state of advancement and refinement as to entirely or in a great measure render unnecessary the retention of whipping as a judicial punishment. I cannot blink the fact that the Bill when it becomes law will remove in some cases a very effective deterrent, practically the only deterrent in the present low state of the depressed classes, both materially and morally. My Lord, I am fully prepared to admit that the amendments now embodied in the Bill are justifiable on grounds of humanity in so far as they narrow the groups of offences for which the punishment of whipping should be awarded and place the power of whipping in the hands of a more limited number of officials. Admitting as I do that, I cannot shake off the conviction that the proposed changes will materially weaken the arm of the law without appreciably ameliorating the system of punishments. It is an open secret that the present amendment is the outcome of representations by men, doubtless estimable and philanthropic, but a bit too much influenced in their opinions by general ethical principles, and apt to overlook the condition of the society to which criminals belong.

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“ My Lord, I beg I should not be misunderstood. I welcome just, reasonable and salutary restrictions on the Whipping Act; I am not averse to a reasonable and judicious curtailment of powers. In my observations about the desirability of whipping as a judicial punishment I have only the criminal classes in view. They do not apply to the case of the unhappy men who have perchance got into trouble in a Criminal Court. Their case is entirely different, deserving of the utmost care and consideration. All I deprecate is the abolition of the punishment for some of the heinous offences. It has not been shewn that the Whipping Act has been misused to any appreciable extent, and proper data have not been placed before this Council for a correct judgment as to the propriety of the deletion of some of the salutary provisions. I warmly appreciate the motives of Government in undertaking legislation on the subject, impelled as it obviously is by a just and humanitarian desire to mitigate the severity of the existing law by curtailing the scope of its operation and placing the administration of it in the hands of senior and capable officials who may be expected to be possessed of larger experience and greater knowledge of the condition of the people. I am not opposed to the Bill in so far as it tends to mitigate the severity of the existing Statute. I shall welcome the day when whipping is wholly abolished, not only in England, but also in this country. I am fully aware that if any branch of the Criminal Law deserves the best and serious consideration of Government, it is the Whipping Act, as the people here are by nature sensitive and sentimental, and by tradition and habit disposed to look upon with horror and abhorrence on this form of punishment. But I cannot help stating that the compromise which the revised Bill makes between the existing law of whipping and the total abolition of that form of punishment is not one which will commend itself to many in this country. The Bill utterly emasculates the Whipping Law so as to render it useless for deterrent purposes, so much so that it is a question whether it might not be simpler to abolish whipping altogether except for juveniles. It is open to the charge of incompleteness; it is also assailable on the ground of inconsistency. It can be urged with a great deal of force and reason that the policy of abolishing whipping for certain offences while retaining it for kindred offences is illogical and objectionable. It is true that in certain directions the Whipping Act stands in urgent need of liberal revision, but the Bill under review, though an improvement on the first, does not come up to general public expectation, at the same time that it proposes to abolish whipping in many cases where it has a very wholesome and deterrent effect. I fail to see why a starving man who steals a loaf from a baker's shop should get stripes, while a clerk who systematically defrauds his master and tampers with his

books should be exempted from that form of punishment, or why a stray pickpocket who denudes the passer-by of his gold chain should be more severely treated than the unscrupulous, but withal prosperous, goldsmith who receives it for a song and melts it down in the security and privacy of his family furnace, or why, again, a notorious city *budmash*, who battens on the inoffensive populace by acts of extortion, should be less severely dealt with than the perpetrator of a petty theft. On principle, my Lord, it is difficult to see any moral difference in the acts of a man who commits a petty theft and the receiver who has probably instigated him to commit the offence. I am unable to follow the reasoning that the thief who is a servant or a clerk should be, in the eye of the law, regarded differently to and more considerately than the thief who is not a clerk or a servant. I should have thought that the offence of the receiver and the servant was much more heinous and there was a greater degree of moral turpitude in it. An instigator of theft or dacoity trading in ill-gotten property and a trusted clerk or servant abusing the confidence placed in him and defrauding his master in that capacity is a far more despicable offender than the thief employed or an ordinary cheat. On principle the extortioner and the receiver of stolen property are worse pests to society than an ordinary thief; and it may be fairly said that the policy of abolishing the sentence of whipping for those offences is one of questionable expediency. But, curiously, and any one conversant with the administration of Criminal Law in this country will bear me out that whipping is very rarely awarded by Magistrates for the offences of extortion and receiving stolen property. The proposed amendment of the law thus follows the line adopted by the Magistracy generally in practice so far as these offences are concerned. In my professional experience, not unlike others, I have found that a large percentage of cases under section 411 of the Indian Penal Code are really acts of theft and burglary, and only started because it is often difficult to obtain conclusive evidence of theft even when property has been fully traced. I must also confess that it is very difficult to understand the principle on which dacoity may be punished with corporal punishment while robbery is exempted from the operation of the Act. It is true that robbery is, generally speaking, a less aggravated form of offence and less heinous than dacoity; but it is difficult to understand why five men who commit a dacoity should be whipped while four men who commit a robbery, perhaps with the same degree of intrepidity, organization, and preparation should escape that form of punishment. I am surprised to see whipping abolished for assaults and use of criminal force upon women with intent to outrage their modesty. That is a very necessary direction in which the punishment can be inflicted with wholesome

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effect, and clause 5 of section 4 of the Act of 1864 has the sanction and approval of the Indian public. The absence of that clause in the Bill can only be viewed with disappointment. I am glad to find that the Bill deals with acts of rape and dacoity which are in the nature of very serious offences. But, my Lord, it is only in a few of such cases that a sentence of less than five years' imprisonment is passed on conviction. If the sentence of imprisonment exceeds five years, under the provision of section 395 of the Code of Criminal Procedure, it is not permissible to pass any sentence of whipping. It is clear that despite the most anxious desire of Government to deal severely with offenders in cases of rape, in practice section 4 of the Bill will be rendered impotent, as its provision can scarcely be resorted to in view of section 393 of the Code of Criminal Procedure. My Lord, it would therefore be necessary, in order to give full effect to section 4 of the Bill, to repeal so much of clause (b) of section 393 of the Code of Criminal Procedure as prohibits the infliction of whipping in addition to a sentence of imprisonment for a term exceeding five years in cases of rape and dacoity. It may be argued that whipping in lieu of or in addition to any other punishment as provided by sections 3 and 4 of the Act of 1864 is ineffective as a deterrent. However much old and confirmed offenders may detest and dread the punishment of whipping, its salutary effect as a deterrent, when it is combined with a sentence of imprisonment, will wear off by the period the sentence runs out, and flogging in addition to imprisonment is scarcely useful and may safely be dispensed with. But whipping in addition to other punishments in case of habitual offenders will, ordinarily, prove a very valuable means of increasing the terror of the punishment. It is doubtful, however, if the system of concurrent punishments has any appreciable effect on the minds of incorrigible offenders. But be that as it may, I certainly approve of the retention of that form of punishment in cases of rape and unnatural offences. I would go further and advise the infliction of whipping, as pointed out above, for offences under section 354 of the Indian Penal Code. Women always require extra protection, and when the utter helplessness of Indian women is considered the need for extra severity becomes acuter. The repeal of section 3 of the existing Act appears to be a reform in the right direction; but the action is slightly inconsistent with the principle of section 4 of the Bill. Whipping will still remain an additional punishment for other offences under that section; and if it can be inflicted on accused under section 3 for certain offences in lieu of imprisonment, and in lieu of or in addition to any other punishment under section 4, it seems illogical, if not questionable, to exclude it from the punishments for the same offence committed again and again. But if we accept the principle that the

number of offences for which whipping can be awarded in lieu of or in addition to imprisonment must be reduced, I am decidedly of opinion that the curtailment of the power in case of second conviction will be neither injudicious nor unsafe. I welcome the exclusion of political offences from the purview of the Bill. I do think the educated but misguided people who alone are likely to commit such offences are not the right sort of persons to receive this punishment. The limitation of the number of stripes to fifteen in the case of juvenile offenders is wise and humane alike.

“ My Lord, I fail to realize what urgency there was to disqualify Second Class Magistrates for the exercise of the powers of whipping under the present law. It is only when specially empowered by the Local Government that a Magistrate of the Second Class can pass sentence of whipping. Has it come to pass that the Local Governments have failed to exercise sound discretion in vesting Second Class Magistrates with powers under the Act, or has any doubt been felt about the competency of that class of Magistrates as a body to exercise powers under the Act judiciously? It does not stand to reason that it would not be possible for Local Governments to empower carefully-selected Magistrates of the Second Class to pass sentence of whipping. If discretion is left to Local Governments to empower officers fit for the proper exercise of the special powers, it is more likely that a selection would be made on a basis of merit and qualification than in cases where powers are earned by Magistrates by superiority of class only, albeit many among them are wanting not only in tact and judicial ability but often in experience and knowledge of local conditions. I have heard it said that in the present condition of things it would be highly undesirable to curtail the powers of Magistrates. I attach no importance to such apprehensions, and I entertain no misgivings as to the capacity and the strength of the Government to cope with crime, appear as it might in ever so serious a form. I do not plead so much for the Magistrates concerned. I deplore this change in the interests of the victim himself, and I submit this amendment is wholly unnecessary and open to grave objection. I can speak with some degree of authority so far as the Province I have the honour to represent in this Council is concerned, and I unhesitatingly say that the power of delegation has been used with great success and discrimination in the past, and the Second Class Magistrates specially empowered generally use their powers with discretion. I can also state that they as a body seem rather to err on the side of leniency and are more reluctant to inflict whipping than to resort to it. There is no suggestion of an abuse of powers by Second Class Magistrates. Disqualification of the

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whole class will obviously be an unmerited slur upon them and a source of considerable trouble and harassment to the poor offender. It is therefore as much in the interests of the unfortunate victim of whipping as out of regard for the fair name of the Subordinate Service that I deplore the proposed modification of the law. In practice almost all cases in which whipping would be preferable to imprisonment in the first instance generally come up for trial before Second Class Magistrates, and imagine the inconvenience, the delay, and the dislocation of administrative work that will ensue upon references under section 349 of the Criminal Procedure Code to First Class Magistrates for sentence. In times of famine and periodical rioting, which are not infrequent in this country, whipping has been considered a most appropriate punishment for petty thefts and assaults, especially in the case of juvenile offenders; and it will certainly cause a great deal of inconvenience if that class of offenders have to be sent up for the sole purpose of receiving punishment in consequence of the limitation of the power to First Class Magistrates only. In effecting this alteration in the law the fact has been overlooked that most of the offences contemplated in section 3 of the Bill under review will be triable only by Second Class Magistrates. There will be considerable difficulty for officers, and the escort duties of the police will become far more onerous in view of the unavoidable increase in the number of references under section 349 of the Code of Criminal Procedure. The work will probably increase tenfold; it will divert the attention of First Class Magistrates from far weightier judicial and administrative work. These will be called upon to dispose of petty cases which should always be left to the Subordinate Magistracy. It will be so much waste of valuable time and money. And the effect of the change upon the accused will be that the chances of whipping will be enormously increased, and untold hardships, inconvenience, and undesirable incarceration will be entailed upon them. They will be practically in police custody for a week or ten days, and will have to submit to the attendant evil consequences. Local Governments will find it not only imperative to increase the strength of the police, but will require a much larger number of Magistrates with First Class powers. In the case of juvenile offenders the inconvenience and hardship and misery will be still greater and out of all proportion to the petty nature of the offences. Imagine the misery of a boy under 12 years taken by the police several days' journey away from his native village for no other purpose than to receive half-a-dozen stripes for stealing an anna worth of sweets or fruit in the local bazar. What a misery to his relations also. My Lord, I deprecate the change because the precious time of First Class Magistrates will be wasted in dealing with petty cases, because juvenile offenders will be put to inconceivable harassment and hardship and will not be set at liberty with the

least possible delay, because it will entail not only extra work on Magistrates of the First Class but expense and loss of energy on the State and inconvenience on the convict himself, further, because the amendment will have the effect of unnecessarily transferring to the Sub-Divisional Magistrate petty cases under the Forest and other special laws in which whipping would appear to be the most appropriate form of punishment, and, lastly, because it has the effect of condemning the whole body of the Subordinate Magistracy, many among whom I have found from my personal observation are men of sufficient learning and experience, and fit to be trusted with powers under the Act, and who may be depended upon to use them with circumspection and judicial discretion. The difficulties of the new arrangement appear to me so great, so varied, and so troublesome that Government will sooner or later have to choose between the alternatives of either altogether abolishing the punishment for petty offences or of reverting to the present system.

“ My Lord, the striking peculiarity of the present Bill is that, despite the desire of Government to mitigate the severity of the existing law, no provision is made for the revision by the Appellate Court of erroneous sentences of whipping. In almost all criminal cases, except in summary trials and in cases where the punishment of imprisonment awarded by First Class Magistrates is one month or the fine inflicted is Rs. 50, the accused is allowed the right of appeal ; but it seems to be an anomaly of the law that he is not permitted to appeal against a sentence of whipping. The sentence is carried out immediately on conviction. This is one of the main reasons why a sentence of whipping is so much in disfavour with the general public. I feel convinced that if the right of appeal be granted, this form of punishment would cease to be so odious and unpopular. It would at the same time save the Magistrate from adverse criticism, and give general satisfaction. The law, as it stands at present, is obviously incongruous. It is difficult to understand why section 391 of the Code of Criminal Procedure should provide for stay of execution for a fortnight or till the result of appeal in cases where the accused is sentenced to whipping in addition to imprisonment, and refuse a similar concession in cases where the sentence is one of whipping only. There is provision in the law, it is true, for revision by the High Court of all sentences, but the concession is unreal so far as whipping is concerned. The whipping, under section 390 of the Code of Criminal Procedure, is inflicted almost forthwith ; at any rate, long before the High Court can even be moved. And once the punishment is inflicted it is a matter of comparative indifference to the accused if the sentence is ultimately reversed by the High Court. It

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must be a matter of common knowledge that in not a few cases the sentence of whipping is eventually either wholly set aside or altered or modified, but the accused having already undergone the punishment, after the fortnight contemplated in section 391 of the Code of Criminal Procedure, the result is that many people, though found innocent by the Superior Court, suffer for the indiscretion of the Lower Courts. The setting aside of the order in many cases thus proves infructuous and illusory. The ultimate acquittal cannot help the poor victim; it cannot undo the wrong done to him; it cannot make any reparation for the suffering and the degradation undergone, for the stigma left permanently by that punishment. It also happens, not unoften, that people dissatisfied with and aggrieved by perverse convictions, who would otherwise have gone up to higher tribunals for redress, have perforce to submit to their hard lot. It seems to me to be a peculiarly unfortunate and inexplicable arrangement that while time is granted for payment of fines, there is unceremonious haste in executing a sentence of whipping. My Lord, I have heard it stated in connection with this that a demand for an appeal is based on a misconception of the object of a sentence of whipping only. Whipping is supposed much lighter than a short term of imprisonment, and since it is given to save the accused from harassment and degradation through association with hardened criminals in jails and since the risk of error of judgment is so small, it is only proper that finality should attach to the orders of the Magistracy on this head. It is therefore that under sections 413 and 414 of Act V of 1898 no appeal lies against a sentence of whipping only. I am afraid I cannot accept the proposition that the risk is very small where a First Class Magistrate inflicts a sentence of whipping. It would certainly increase the salutary effect of this form of corporal punishment, both as a wholesome deterrent and as the means of saving the accused from contamination in jail through association with criminals, if the accused realizes the justice of the sentence by an appeal to a Superior Court. It will not matter much if execution has to be suspended till the result of the appeal. If Courts are apt to err with regard to bigger offences and severer sentences, there is no reason to imagine they would not err in their decisions in cases of comparatively smaller offences. These decisions are of equal importance to the persons immediately concerned. I am therefore of opinion that the strong public feeling in favour of the stay of execution of a sentence of whipping only to allow time for the testing of the correctness of the decision is not without ample justification. Some sort of opportunity ought certainly to be given to the victim of establishing his innocence and averting, if possible, the physical suffering and the mental agony which that punishment necessarily inflicts.



“ My Lord, I approve of the decision arrived at by the Select Committee, in view of the extensive changes contemplated, to repeal wholly the Act of 1864, and to present a complete and consolidating Bill. Since 1864 at successive periods many important changes have been made in the Act, and it is expedient now to re-enact the law on the subject of whipping as a judicial punishment instead of further amending the old Act. It is certainly more advantageous to give the country a consolidated Whipping Act than to put Judges and Magistrates to the necessity of constantly looking into a Statute replete with amendments and excisions. I would also suggest in connection with the re-enactment of the law the expediency of carefully considering the rules regulating the mode of inflicting whipping which are now in force. My Lord, I had intended to move amendments on the lines suggested above, but desist, knowing as I do that the general feeling among the Hon'ble Members is opposed to them. I am reluctant to further take up the time of the Council by proposing amendments that are sure to fall through.

“ My Lord, before I close I must allude to one other point intimately connected with the present subject. I feel I should not be doing my duty if I failed to draw your attention to it. Whipping is also inflicted inside the jails under the Prisons Act. Certain acts of convicts are declared to be prison offences, and the law empowers the Superintendent to inflict, among other forms of punishment, whipping, provided the number of stripes do not exceed thirty. It is a well-known fact that this punishment is frequently awarded as a disciplinary measure for misbehaviour, disorderly conduct, neglect, disobedience, and dereliction of prison duties. In my humble opinion no amendment of the Whipping Act can be complete or can produce any appreciable good, or can attain the end which the Government has in view of conciliating public opinion, without a corresponding modification of the Prisons Act. Such a modification is urgent on grounds of uniformity and consistency in legislation as much as on those of humanity. Any abuse of the powers under the Whipping Law can be checked and corrected by a strong expression of public opinion, inasmuch as the sentences are executed and the flogging is administered in the broad light of the day ; but where this punishment is given by jail authorities inside the jail precincts the Jail Superintendent is the master of the situation and the sole judge of the propriety of the order ; his acts are not open to public observation and criticism. There is, therefore, a considerable risk of this power vested in him by the Prisons Act being exercised in an injudicious, improper, and indiscriminate manner. My Lord, it seems to me an anomalous departure in legislation to deprive of the power Second Class Magistrates of experience and judicial training, who can only act after recording

[22ND MARCH 1909.] [*Mr. Dadabhoy; Sir Khwaja Salimulla.*]

evidence and giving reasons for a conviction, and to leave the Jail Superintendent in possession of plenary powers to summarily pass orders of whipping on the testimony of his warders and ill-educated assistants. Though the amendment of the whipping legislation has been undertaken in deference to public opinion, and not so much for the intrinsic merits of the subject and from considerations of administrative necessity, it may well be expected that the work of humanity in which the Government is engaged will be done thoroughly and carried to its logical and legitimate end. It is true there has not been a loud demand for an amendment of the Prisons Act. From the necessities of the case there could not be. So few people know of all that passes inside the jail. But if the philanthropic work which the Government has taken in hand cannot be done satisfactorily without a corresponding amendment of the Prisons Act, that amendment becomes exigent, notwithstanding the comparative indifference of the public to this important matter. A considerate concession by Government will be appreciated by the people, will take away much of the odium of whipping, and will ensure popular co-operation in the administration of this somewhat unpopular law. I fail to see how Government could possibly avoid a considerable modification of the powers under the Prisons Act after it has once decided to recast the Whipping Act on more humane lines. I confidently trust that in the same spirit in which this legislation has been undertaken the Government of India will now move without delay for the mitigation of the severity of flogging under the Prisons Act, and thereby justify its traditional claim to justice, humanity, consistency, and benevolence and earn the gratitude of the nation."

The Hon'ble SIR KHWAJA SALIMULLA said:—"My Lord, I shall vote for the passing of this Bill, but I cannot allow it to be passed without recording my humble protest at the way this piece of legislation has been, virtually, forced upon the Government at the instance of irresponsible members of the Ultra Radical Party in the House of Commons, who hold the brief for, what I may term, the Home Rule Party in India; for we all know that when the Presidency Magistrate of Calcutta used his powers under the Whipping Act against certain youthful political offenders, agitation in this country was set on foot and a furore was created in the House of Commons, and in a moment of weakness the Secretary of State promised that this power would be removed.

"We find no valid or tangible reason has been advanced by my Hon'ble friend who has backed this Bill; we cannot, however, deny that consolidation of certain Acts such as the one before us, is desirable, but there are many other Acts of the legislature which need this process more than the various Acts this

[*Sir Khwaja Salimulla ; Sir Harvey Adamson.*] [22ND MARCH 1909.]

Bill, when passed, will consolidate. Not only do we find no reasons given, but we see from the papers before us that no one in India appears to have demanded the amendments now to be made, while some of the Governments have gone so far as to openly protest against the change. We find the principal amendment of the Bill to be strongly opposed by all the most competent Magistrates and authorities in the country, some of whom have boldly stated that the Act to be passed is the outcome of representation from England by people arguing on general principle and with no experience of the East; and I agree with the Magistrate of Jhansi that 'the proposal to abolish whipping in clauses 2 and 3 appears to be merely pandering to a spirit of mawkish sentimentality that has grown up in a certain class in England owing to their having lived so as to be absolutely unacquainted with the classes that commit the crimes, whipping for which it is proposed to abolish; a spirit which a certain more or less educated class in India has chosen to imitate.'

"That the Government of India, fully aware as they are of the great public inconvenience these modifications of the Whipping Act will entail, such for instance as the taking away of the authority of Government to confer the power of whipping on competent and able second class Magistrates, should nevertheless at the bidding of the Home authorities pass a piece of legislation quite unsuited to the present time, when the hands of the Magistracy ought rather to be strengthened than crippled, is a matter against which I desire to record my protest and to express my hope that the Government will not make it a precedent. I am respectfully of opinion that legislation in this country should take its initiative from the Government of India and not at the instance of the Home authorities. I had intended to criticize this Bill in detail, but my Hon'ble friend Mr. Dadabhoy has left nothing for me to add to the observations I have just made."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, I have listened with close attention to my Hon'ble friend Mr. Dadabhoy, but I confess that I do not quite understand his attitude towards the Bill, and I am not sure whether he thinks that the Bill goes too far or that it does not go far enough in relaxing the severity of whipping. He says that he is not opposed to the Bill in so far as it tends to mitigate the severity of the existing statute, but he then goes on to cite a number of offences for which he would prefer to retain the punishment of whipping. He says that the Bill is open to the charge of incompleteness and that it is assailable on the ground of inconsistency. In introducing the Bill I explained the general principles which guided the Government of India in determining whether the punishment of whipping should

[22ND MARCH 1909.] [Sir Harvey Adamson.]

be attached to an offence, and I may here briefly recapitulate them. They are—

- (1) that so long as the system of prison administration in India is one of association and not of segregation, it is necessary, for the protection of first offenders from contaminating influences, to retain whipping as a punishment for theft and kindred offences ;
- (2) that whipping is an unnecessary punishment for offences that are not of an active or daring character ;
- (3) that whipping should not be inflicted in cases where it is likely to outrage self-respect ;
- (4) that whipping is peculiarly suited to brutal, cruel and sordid offences involving personal violence ;
- (5) that where offences are not of this nature it is unnecessary to add whipping to imprisonment on a second conviction ;
- (6) that whipping is a suitable punishment for juvenile offenders when administered with moderation.

“ These principles are intelligible, and I venture to think that they commend themselves to public opinion. But when it comes to apportioning in accordance with abstract principles the offences under the Indian Penal Code, each of which contains many varying shades of moral obliquity, it is evident that mathematical precision is unattainable, and I daresay that whatever apportionment may be made there will be some colour for a charge of inconsistency. Applying these principles to the specific instances in which the Hon'ble Member twits us with inconsistency, I think it will be found that they considerably enlighten the situation. They explain for instance why the common thief should be whipped while the clerk is exempt, and why the active thief is distinguished from the passive receiver of stolen property. It is not, as the Hon'ble Member has put it, a question of the heinousness of the offence. I fully admit that the trusted clerk or servant who defrauds his master commits a more heinous offence than the common thief, and that the receiver often deserves severer punishment than the person whom he has instigated to steal. It is a question of the nature not of the severity of the punishment. The clerk and the receiver can still be punished with greater severity than the casual thief. But I submit that under the principles which I have stated, which are reasonable and proper principles, the nature of the punishments should differ.

[*Sir Harvey Adamson.*] [22ND MARCH 1909.]

“ The Hon’ble Member, and many others, have objected to the exclusion from whipping of offences under section 354 of the Indian Penal Code, which relates to assault or the use of criminal force to women. The reason for the exclusion is that the section comprises many offences of a very petty character. Touching a woman’s cheek or grasping her hand may be offences under this section, and I do not think that any one will urge that such trifling misdemeanours should be punished with whipping. Those who desire the inclusion of whipping have in their minds the more aggravated forms of assault, amounting to attempt to ravish a woman. I quite admit that an offence of this nature would be appropriately punished with whipping, but it is not properly an offence under this section. It is an attempt to commit rape which under clause 4 of the Bill is made punishable with whipping in lieu of or addition to other punishment.

“ In answer to the Hon’ble Sir Khwaja Salimulla, I may say that I have no faith in the argument that such mitigation of the severity of whipping as we have embodied in this Bill will weaken the hands of the authorities in the suppression of crime. This is the old stock argument that has been put forward on every occasion and in every country in which attempts have been made to relax the severity of punishment, and the history of crime has shown that it is quite fallacious.

“ The Hon’ble Mr. Dadabhoy urges that there should be provision for an appeal against sentences of whipping, where whipping is the sole punishment. An appeal of course already lies in all cases where whipping is combined with imprisonment. I may be permitted to rectify a slight ambiguity in the Hon’ble Member’s language with regard to these cases. When an appeal has been presented the sentence of whipping cannot in any case be carried out until it has been confirmed by the Appellate Court, and this is quite independent of the period of fifteen days mentioned in section 391 of the Criminal Procedure Code. But a sentence of whipping alone is on entirely different ground. When a person is sentenced to whipping he must obviously be kept in custody until the sentence has been inflicted. A provision for appeal would thus have the effect of adding imprisonment to the sentence of whipping. It would also defeat the object of whipping in such cases inasmuch as it would subject the prisoner to the contamination of jail life, the very thing which it is desired to avoid. The only condition under which a sole sentence of whipping can be justified is that it shall be inflicted summarily.

“ Two Hon’ble Members have taken strong exception to the provision of the Bill which excludes specially empowered Second Class Magistrates who now

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exercise powers of whipping from doing so in future. Local Governments also take exception to this provision, which I may say was initiated by the Secretary of State and not by the Government of India. The objections were fully represented to the Secretary of State, who after considering them adhered to his original view, and left no option to the Government of India in the matter. I cannot conceal my apprehension that the restriction will cause considerable inconvenience. It can be met to some extent by a freer resort to the power of releasing first offenders upon probation of good conduct under the provisions of section 562 of the Criminal Procedure Code, a power which might well be used more frequently than is done at present.

“The Hon’ble Mr. Dadabhoj has expressed the opinion that no amendment of the Whipping Act can conciliate public opinion without a corresponding modification of the Prisons Act. I venture to think that the Hon’ble Member cannot have the slightest conception of the vast strides in the path of humanity that have been taken during the past thirty years in the jails of India in respect of corporal punishment. The Prisons Act of 1894 provides that no punishment of whipping shall be awarded until the Superintendent has recorded the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons thereof. The Jail Manuals forbid recourse to whipping except for serious offences or continued recalcitrant behaviour. The exercise of his whipping powers by a Superintendent is most jealously watched by his departmental superiors. The whole tendency of the jail administration is to make as little use of this form of punishment as possible, and no part of a Superintendent’s work receives closer scrutiny at the hands of his Inspector General and the Local Government than the way in which he exercises this power. I will not content myself with general statements but will add statistics, and I think the figures which I am about to quote will be a complete surprise to the Hon’ble Member. In 1878 and 1879 the total numbers of whippings in Indian jails were 21,015 and 21,757 respectively. In 1905 and 1906 they were 799 and 668. It is, therefore, abundantly clear that no fresh legislation is required in order to secure moderation in the infliction of corporal punishment in jails. The remarkable mitigation of the severity of whipping in jails has, as I stated in introducing the Bill, been accompanied by an improvement of discipline. I hope that these facts and figures may tend to allay the fears of those who think that the moderate relaxations contained in this Bill will imperil the maintenance of peace and order.”

•The motion was put and agreed to.

## ARMY.

[*The Commander-in-Chief.*] [22ND MARCH 1909.]

## AMENDING (ARMY) BILL.

His Excellency THE COMMANDER-IN-CHIEF moved that the Bill to amend certain enactments relating to the army be taken into consideration.

The motion was put and agreed to.

His Excellency THE COMMANDER-IN-CHIEF moved that the Bill be passed.

The motion was put and agreed to.

The Council adjourned to Monday, the 29th March 1909.

J. M. MACPHERSON,  
*Secretary to the Government of India,  
Legislative Department.*

CALCUTTA ;  
*The 22nd March 1909.* }

**APPENDIX I.**

*Statement showing the number of permanent Muhammadan assistants (as distinct from copyists and typists) out of the total number of assistants in each of the Secretariat offices of the Government of India, with their pay and date of appointment.*

Name of Department.	Total number of assistants as distinct from copyists and typists.	Number of permanent Muhammadan assistants as distinct from copyists and typists.	Present pay.	Date of appointment in the Department.	Whether appointed by competitive clerical examination or by pure nomination.	REMARKS.
Home Department	55	1	Rs. 100	1st August 1903	Nomination.	
Foreign Department	75	1	100	14th December 1896	Do.	
		1	50	16th July 1906	Do.	
		— 2				
Army Department	55	1	50	6th May 1908	Do.	
Department of Military Supply.	33	1	100	18th June 1902	Appointed after passing clerical examination.	
		1	80	1st August 1902	Ditto.	
		— 2				
Public Works Department.	36	1	150	19th May 1877	These four men were appointed before the introduction of the clerkship examination rules in 1888.	
		1	80	1st January 1880		
		1	50	15th March 1883		
		1	80	3rd March 1885		
		1	70	1st June 1905	Nomination (after the clerkship rules were introduced).	
		1	40	1st October 1907		
		— 6				
Railway Department (Railway Board.)	73	1	120	2nd October 1899	Appointed after passing clerical examination.	All these men were originally in the Public Works Department Secretariat which included up to 1905 what is now called Railway Department (Railway Board), and they were transferred to the Railway Board on the formation of the Board from 1st April 1905.
		1	100	5th June 1903		
		1	70	28th December 1898	Nomination.	
		1	70	9th July 1904		
		— 4				



Statement showing the number of permanent Muhammadan assistants (as distinct from copyists and typists) out of the total number of assistants in each of the Secretariat offices of the Government of India, with their pay and date of appointment - contd.

Name of Department.	Total number of assistants as distinct from copyists and typists.	Number of permanent Muhammadan assistants as distinct from copyists and typists.	Present pay.	Date of appointment in the Department.	Whether appointed by competitive clerical examination or by pure nomination.	REMARKS.
Finance Department (Ordinary Branch).	57	1	Rs. 250	2nd June 1903	} Nomination.	
		1	100	19th June 1906		
		1	65	1st June 1906		
		—				
		3				
Finance Department (Military Finance Branch).	22	Nil	Nil	Nil	Nil	This Branch was formed in 1906.
Department of Commerce and Industry.	54	1	300	8th May 1906	} Nomination	This Department was formed in 1905.
		1	150	18th June 1906		
		—				
		2				
Department of Revenue and Agriculture.	42	1	100	1st April 1899	Do. Appointed after passing clerical examination.	
		1	50	27th January 1907		
		—				
		2				
Legislative Department.	23*	1	250—300	9th January 1903	} Nomination	*This figure includes the strength of the Translation Branch to which the clerkship examination rules do not apply.
		1	80	16th May 1896		
		1	75	1st April 1885		
		1	50	26th April 1878		
		1	40—60	5th October 1895		
		1	25	14th November 1900		
		6				
TOTAL	505	29	...	...	Nominated . . . 24 Passed candidates . . . 5 } 29	

## APPENDIX II.

*Statement showing the number of Muhammadan assistants (as distinct from copyists and typists) appointed by pure nomination, in comparison with the total number of appointments made in that manner during the period 1888—1909 in the several Departments of the Government of India.*

Name of Department.	Number of appointments made by pure nomination from 1888 to 1909.	Number of Muhammadans appointed by pure nomination from 1888 to 1909	REMARKS.
Home Department . . .	52	2	...
Foreign Department . . .	...	...	The information required by the Hon'ble Member is being collected by the Foreign Department
Army Department . . .	7 (since 1906)	1	This Department was formed only in 1906.
Department of Military Supply.	3 (since 1906)	Nil.	Ditto.
Public Works Department	36*	4*	* Up to 1905 the Public Works Department included what is now the Railway Department (Railway Board), and these figures include men appointed to the Public Works Department including the Railway Branch prior to 1905. It is not possible to show separately what men were appointed to the Public Works and what men to the Railway Branch, as all the men were borne on one list.
Railway Department (Railway Board)	8	Nil.	This Department was formed on the 1st April 1905.
Finance Department (Ordinary Branch)	34*	5	*Includes men transferred from the Accounts and other Departments.
Finance Department (Military Finance Branch).	5	Nil.	Since the formation of this Branch in 1906, five new appointments have been added to the office establishment, but there were no suitable Muhammadan candidates for the same.
Department of Commerce and Industry.	10	Nil.	This Department was formed in 1905.
Department of Revenue and Agriculture.	36*	3	.....
Legislative Department . . .	4	Nil.	.....
<b>TOTAL . . .</b>	<b>195</b>	<b>15</b>	.....

*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

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The Council met at Government House, Calcutta, on Monday, the 29th March 1909.

P R E S E N T :

- His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
- His Honour Sir Edward Norman Baker, K.C.S.I., Lieutenant-Governor of Bengal.
- His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.
- The Hon'ble Sir H. Erle Richards, K.C.S.I., K.C.
- The Hon'ble Major-General C. H. Scott, C.B., R.A.
- The Hon'ble Sir Harvey Adamson, Kt., C.S.I.
- The Hon'ble Mr. J. O. Miller, C.S.I.
- The Hon'ble Mr. W. L. Harvey, C.I.E.
- The Hon'ble Sir G. F. Wilson, K.C.B., K.C.M.G.
- The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.
- The Hon'ble Mr. A. A. Apcar, C.S.I.
- The Hon'ble Maung Bah Too, C.I.E., K.S.M.
- The Hon'ble Mr. W. W. Drew.
- The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.
- The Hon'ble Raja Sir Muhammad Ali Muhammad Khan, K.C.I.E., Khan Bahadur, of Mahmudabad.
- The Hon'ble Mr. N. C. Macleod.
- The Hon'ble Mr. J. Andrew.
- The Hon'ble Mr. Maneckjee Byramjee Dadabhoy.
- The Hon'ble Mr. F. A. Slacke, C.S.I.
- The Hon'ble Mr. J. M. Holms, C.S.I.

MISCELLANEOUS.

The Hon'ble SIR HARVEY ADAMSON laid on the table the list of Muhamadan religious and charitable endowments and trusts under Government management in the different provinces, as asked for by the Hon'ble Nawab Saiyid Muhammad at the meeting of the Legislative Council on 26th February 1909, and the statement † showing the cost of special Commissions of Enquiry as asked for by the Hon'ble Sir Khwaja Salimulla at the meeting of the Legislative Council on 5th February 1909.

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\* Appendix I.  
† Appendix II.

## DISCUSSION OF THE FINANCIAL STATEMENT FOR 1909-1910.

The Hon'ble MR. HOLMS said :—“ My Lord, the few remarks which I have to make concern the terms of the revised financial settlement with the United Provinces which have recently been announced.

“ My predecessors have not been backward in urging on the Government of India the claims of the United Provinces to the enjoyment of a larger share of the revenues raised therein, and the Council will, I think, admit that the result of the present revision is sufficient justification for their importunity. The last settlement was entered into in 1904, but it was soon found that the provision made for the needs of the Province was entirely inadequate. The Province had been starved in the past, and no allowance was made in the settlement for the large expansion of expenditure which was needed to satisfy its legitimate claims.

“ The settlement has now come under revision. In the revision it has been recognised that the principle of basing the settlement on recent actuals may fairly be departed from, when otherwise the result would be the perpetuation of an inadequate standard of expenditure. This principle is no doubt one of the main bulwarks of the keeper of the public purse, but like most principles it has its exceptions. Among the satisfactory features of the new settlement these may be noticed ; the larger share under certain heads of growing revenues now placed at the disposal of the Province, the smaller proportion which the non-elastic item of fixed assignment now bears to the whole income, and the guarantees given by the Government of India to ensure the stability of land-revenue and of irrigation receipts.

“ I am to express the gratitude of the Government of the United Provinces for the liberality and fairness with which the question has been treated by the Government of India and for the arrangements which they were willing to make. These arrangements, however, have been subjected to modification in certain respects. It is true that, since the settlement has been under discussion, the Imperial Government have found themselves in more disturbed financial waters, and no exception need be taken to the postponement of the allotments for certain reforms until these reforms are on the eve of being carried out.

“ The provision in the scale of expenditure of three lakhs for the upkeep of the new Medical College at Lucknow and the hospital to be attached thereto has been reduced to two lakhs for the hospital only. It was originally intended to provide the remaining lakh for the Medical College from Provincial funds, but the famine has entirely altered the financial position, and the full provision made might well have been allowed to stand.

[29TH MARCH 1909.]

[*Mr. Holms.*]

“But the most important matter to which I would refer is the question of an initial grant. Under the operation of the rules regarding the debit of famine charges the considerable balance of nearly 56 lakhs, which we had in hand two years ago, has been completely wiped out, and we are left at the beginning of the coming year with the ordinary minimum balance of 20 lakhs which has been restored, plus an amount which is earmarked for a particular purpose. It is true that this amount has been entered in the budget as a lump assignment in connection with the revision of the Provincial settlement, but this classification does not alter the fact that it is set apart for the building of the new hospital to be attached to the Medical College at Lucknow, and that it will not be available for the general needs of the administration. The grant of an initial assignment for general purposes is the ordinary accompaniment of a financial settlement, and is designed, I understand, to enable a province to meet the unavoidable demands on its resources not provided for in the settlement, until the Provincial items of income have had time to expand. The United Provinces, which have worked for several years on a settlement less favourable than that of most other provinces, and which have been crippled by a severe and widespread famine, appear to have special claims to liberality in this respect. Financial straits may not allow of such a grant at present, but when the sky clears it is hoped that the Imperial Government will see its way to allow to the Local Government the equivalent of what might have been given as a grant with which to start the new arrangements fairly on their way.

“In the budget before the Council it has not been found possible to provide for any large grants to Provincial Governments in aid of administrative developments. But there are two matters of importance to the United Provinces which I desire to mention.

In view of the admitted backwardness of the Province in the matter of education, provision has been made in the settlement for an increase of six lakhs in the Provincial expenditure under this head. This amount is not earmarked for any particular reforms, but is to be used for the general improvement of education. It is urged that this addition is wholly insufficient to carry out the scheme which has been worked out for the furtherance of secondary education involving the provincialisation of high schools, in addition to other urgent reforms of pressing importance. The improvements which the Local Government desires to introduce in secondary education are estimated to cost over 10 lakhs a year net, and in addition at least one lakh a year is needed for female education. Defects both in respect of buildings and equipment and in the quality of the teaching in secondary schools are prominent in the United Pro-

[Mr. Holms ; Mr. Slacke.] [29TH MARCH 1909.]

vinces, where the scale of expenditure on education is below the standard of other Provinces. Even when the effects of the famine are over and the Provincial finances are restored to equilibrium, it is clear that whatever the additional expenditure may be, which the Province can afford to devote to education, it will be fully utilized in meeting the normal expansion of educational charges, and cannot be reckoned on to meet the cost of the larger schemes which have been worked out in the endeavour to bring the Province into line with the rest of India. It is to be regretted that the present financial position renders it unlikely that any further subvention from Imperial revenues will be made in the near future in aid of educational expenditure in the United Provinces.

“So in the important matter of technical education the Province is for the most part dependent on the Imperial Government for funds. A scheme to foster industrial development, mainly by providing facilities for technical education, has been matured and is before that Government. The scheme can be introduced on a capital expenditure of 15 lakhs and a recurring grant of  $4\frac{1}{2}$  lakhs a year. No provision for this has been made in the revised settlement, but an assurance has been given that the question of assistance from Imperial funds will be considered without awaiting the schemes in other provinces which may not yet be ripe for submission. It is hoped that, when the financial clouds clear away, the Government of India may be able to give a substantial subsidy towards the vigorous prosecution of the policy of industrial development, in which the public have displayed the keenest interest.

“In conclusion, I have to congratulate the Hon'ble the Finance Member on the decision to frame his budget for the ensuing year without resort to increased taxation.”

The Hon'ble MR. SLACKE said:—“My Lord, while respectfully conveying to Your Excellency the gratitude of the Province to which I belong for the timely assistance that Your Excellency has given to its finances, I venture to bring to the notice of Your Excellency that in the course of the present and the preceding two years the Government of Bengal has had from their own resources apart from any Imperial allotments to meet an expenditure of 48 lakhs of rupees on charges that were quite unforeseen, while in the current year the loss under Land Revenue, Excise and Stamps as compared with the estimates, a loss due to a bad season, exceeded 5 lakhs. In the case of the Police, additional accommodation and increases in subordinate and menial establishments, supplies and services and contingencies account for  $6\frac{1}{2}$  lakhs, grain compensation amounting to  $23\frac{3}{4}$  lakhs, famine relief  $9\frac{3}{4}$  lakhs, and the proceedings undertaken in connection with the outbreak of anarchism and sedition required 8 lakhs.

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“My reason for enumerating these facts is the hope that should the coming rains break favourably and be well distributed and should the political aspect improve, the Government of Bengal may be at liberty to approach Your Excellency's Government for further financial assistance, and that such application will be sympathetically received and generously treated.”

The Hon'ble MR. DADABHOY said:—“My Lord, an adversity Budget with a prospective deficit for capital requirements of £6,406,100 (not taking into account the heavy balance of the sterling loan of 7½ million pounds floated in January last), proposed to be made up by borrowings both here and in England to the extent of over six crores of rupees and the reduction of the cash balances by £2,339,400, naturally would disconcert a Finance Minister who has only recently come to office. It discloses an alarming state of agricultural and commercial depression with an element of uncertainty that might in the end upset the financial calculations for the coming year. Estimates are, as the Hon'ble Sir Guy Fleetwood Wilson pithily puts it, ‘largely a gamble in rain.’ It will be unwise therefore to count too much on the budgeted surplus; all we can hope for is that the forecast may prove true. But alongside of this darkness of the doleful account there is an agreeable feature; the Hon'ble Finance Minister is to be congratulated upon his wise policy of economy and retrenchment. The public will feel grateful to him for it. He can justly claim credit for ‘strict economy’ which ‘is the main feature of the Budget.’ He regretted in Council it had fallen to his lot in the first year of office to prepare a budget involving a sharp curtailment in expenditure. For the causes leading up to that result he has our genuine sympathy; in the policy itself there is ground more for felicitation than commiseration. My Lord, the people need a Finance Minister who so thoroughly realises the great need of Indian finance, ‘close economy.’ The avoidance of an increase in the burdens of the people—which was just an imminent possibility—is likewise a point in Sir Guy Fleetwood Wilson's favour. Far better we should progress slowly without additional taxation than that a heavy programme of work should be taken in hand at the sacrifice of the poor Indian taxpayer. The Hon'ble Member will have the satisfaction to know his policy is appreciated by the people, and he has the support of the Indian public in his financial scheme. If he is disposed to respond more fully to the wishes of the Indian community, more liberal and expansive grants for Sanitation, Irrigation, and Education—Primary and Secondary, Commercial, Technical, and Industrial—and a substantial reduction in the Railway and Military expenditure will become necessary.

“It was expected the subject of high prices would receive proper treatment at the hands of an economist of Sir Guy Fleetwood Wilson's experience

and reputation. My Lord, abnormal prices still rule in the market, causing acute distress to thousands of families. The position cannot surely be viewed with indifference by Government. A patriarchal Government especially has serious responsibilities in the matter. People have been taught to look up to it for almost every mundane advantage, and it will not do now to wait for the operation of economic laws for a restoration of the *status quo*. I believe, and I am supported by the opinions of a large number of people who ought to know, that the evil is, to a large extent at least, amenable to administrative treatment. But before the remedy can be applied the causes must be thoroughly sifted and that is just an inquiry which can with advantage be undertaken only by Government. My Lord, much time has already been lost, and further delay will not only leave the people helpless in the face of a growing evil of incalculable potentialities for mischief, but will most effectively cause widespread discontent and, consequentially, unrest. The complex nature of the subject apparently accounts for the indecision of Government, whereas in my humble opinion, it should have impelled it to energetic action. It is because the subject is complex that an inquiry by Government has become necessary. A simple fact does not require elaborate examination. The thing lies on the surface; the cause is obvious; the solution is plain; the way is clear. But not so in a matter dependent upon a complex variety of conditions, including international commercial operations. That must be the subject of Government inquiry, and the sooner it is undertaken the better for both Government and the people. An authoritative pronouncement on the causes and the solution of the difficulty will remove much of the popular misapprehensions, fix the limits of the responsibility of Government, and prepare the ground for the application of the proper remedy. It is therefore in the best interests as much of the Government as of the people that an inquiry by a Commission is demanded with such persistence. I fervently hope Government will now make up its mind and appoint, to ensure full and independent investigation and to secure popular confidence, a Joint Committee of Inquiry of officials and non-officials.

“ My Lord, the rise in prices which causes so much distress throughout India would not have been so disconcerting an element in national calculation were this, as it should have been before now, a great manufacturing country like England, Germany, or Austria. The quantum of prices has nothing intrinsically wrong about it, and, as must be obvious, the mischief arises only from the poverty of the people. The aim, therefore, of wise administration must be to increase by all legitimate means the financial ability of the citizen, not only by the removal of artificial and preventible causes of the appreciation in values, but by the induction of at least a proportionate increase in wages. My Lord, a good deal



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is heard in India about recurrent famines. It is an endless tale of woe and suffering. There is hardly a year in which some part or other of the vast Peninsula is not affected. I imagine an extensive area like that of our country can never be wholly free from drought and failure of crops. But recognising as I do this fact, I fail to see why the effects of a seasonal calamity should not be considerably minimised, if not completely prevented. My Lord, drought is not an essentially Indian evil, but famine has unfortunately come to be ; and yet it is a long step from drought to famine. The position thus offers a problem with which British statesmanship must seriously grapple and solve. But beyond the preparation of a creditable Famine Code that statesmanship has not been productive of much good so far. 'The energy of Government seems to have spent itself in the narrow channels of the details of Famine relief. Government has not gone to the root of the matter yet ; little has been done to increase either the staying power of the people or the food-supply of the country.' Millions of acres of land now lying waste can be converted into smiling fields by the inauguration of well-devised systems of drainage and irrigation. The larger the area under cultivation the lesser the risk of suffering from drought. The contingency is unlikely that there should be drought all over the continent at the same time. There are weird tracts, my Lord, with great potentialities of fertility, which can be turned into thriving villages of contented cultivators and industrious artisans under a judicious system of inland emigration. Parts of the country, again, which appear too inhospitable for the agriculturist ought to be, and can be made into, hives of small industries, ensuring plenty to the artisan and peace to the land. My Lord, I believe that the time has come when Government should encourage by every legitimate means in its power inland emigration and discourage exodus to distant and unsympathetic colonies, the more so since it feels itself powerless to protect Indian emigrants from maltreatment at the hands of selfish and exclusive colonists. Here within India there is ample room for all Indians. And not only that : the country requires the assistance of all her sons in the work of development.

" My Lord, Government must not be slow to take full advantage of the great industrial awakening of India. The inquiry is fruitless as to how the existing industrial prostration of a country once enjoying a world-wide reputation for the excellence of her manufactures came about. The fact is there somehow, and we must settle our programme of action in full recognition of it. Fortunately the darkness of the night is past, and the streaks of dawn illuminate the horizon. The people have awakened. A wholesome change has come over their ideas, thoughts and spirit. Government should foster this new spirit, and guide the industrial activity of the nation into profitable channels

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My Lord, it would be unkind to say Government does not recognise its responsibility in the matter. I am aware it has already given evidence of its deep concern for the industrial progress of India by the creation of a special department for the regulation of Commerce and Industry. That department has now been in existence for some years, but the results have not been quite commensurate with the high expectations of the public. Possibly the time is too brief; possibly the department has had its attention too much engrossed by large schemes to care much for small industries which must be introduced far and wide to effect a real improvement in the condition of the people. But the department is now in charge of an officer fitted alike by his experience, versatility and resourcefulness to give a healthy direction to its operations. It is needless to remind the Hon'ble Mr. Harvey that big concerns, owned and managed by Joint Stock Companies, with lakhs of rupees at their back mostly imported from foreign countries, the bulk of the profits which must go out of the country, will in the end only swell the ranks of operatives, aye prosperous, but operatives all the same. They will not improve the lot of the nation. Exploitation with foreign capital is, I know, an attractive idea, but, on analysis, will be found to be productive of only a modicum of good. For a real amelioration in the condition of Indians the industries must be in their hands, owned and worked by them. In any other contingency the national asset will be precious little. It may be argued it is open to Indians to come into the field and by their merit win the race. But that is hardly fair or practical. The competition is unequal and highly disadvantageous to Indians. For them industrial enterprise on European lines is a novel venture, the strangeness of which is calculated to repress enthusiasm and induce timidity. We lack expert knowledge, experience, guidance, facilities, and unlocked capital. Suitable markets for the sale of manufactures even are not known to us, and from the necessities of the position, we are hopelessly behind the European manufacturer in respect of facilities for international commercial operations. To cap all, the fiscal policy of this Government being dependent upon that of the United Kingdom, at times it entails hardships and disadvantages which, without helping much the English manufacturer, seriously handicaps the Indian manufacturer in his competition with manufacturers of other countries.

“ My Lord, with Government help much might be done to improve the present unsatisfactory condition. Some of the measures necessary for industrial progress must emanate from Government. The first step necessary is to ensure the dissemination of expert knowledge by the establishment at suitable centres of properly equipped Technological Colleges with branches in the interior. Institutes for the impartation of commercial education,

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are equally urgent. The cost, large though it may be, must be incurred in the interests of the nation, and the sooner it is done the better. No expenditure could be more reproductive in the long run than money spent on the industrial and commercial training of the people. The institutions lately started by Government must be admitted to be wholly insufficient for national training in either of those departments of knowledge. A comprehensive and thorough-going scheme is urgently required. The results of the small efforts hitherto made will provide data at once inadequate and unreliable for any future pronouncement about the utility or otherwise of an expansive system of special training. Industrial scholarships, tenable at large centres of industrial activity, will prove a valuable aid to industrial education. While I gratefully acknowledge the action taken by Government in this behalf, I cannot but regret that they are not more numerous and more comprehensive as regards subjects of study.

“ In the industrial development of the country Government help in other directions is not only desirable, but imperatively necessary. Facilities for the sale of indigenous manufactures should be provided, and they should be preferentially purchased by Government, if only to encourage production. Circulars, reports and resolutions have not been wanting giving evidence of the Government's desire to buy articles made in India, but it may be doubted if all that could be done in this respect has been done.

“ In the present infant stage of Indian manufactures a judicious protective tariff is the *sine qua non* of progress. They must be protected against unrestricted foreign competition by some sort of prohibitive tariff. My Lord, the use of the handicap is not unknown in races, and why should it be impossible in a race upon the result of which depends the economic fate of a whole nation? The West has not attained to its present industrial development without State help of this kind. Monopoly and protection played an important part in that progress. India is in a more helpless condition today than the West ever was, and the need here for protection in the initial stages is *à fortiori* all the greater. We must have *fair* competition first and *free* competition afterwards.

“ There are industries again which by reason of the exceptional difficulties and the uncertainties of profits at the inception may require a greater sponsorial attention, and should be supported with bounties. Here, as in the case of technical, industrial and commercial education, the cost, however large, will only be an investment, yielding an ample return in national prosperity and contentment and the eradication from the land of famine, sedition, and anarchy.

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“Reduction in railway freight, my Lord, is another prime necessity for healthy economic progress. The existing scales of freights are a fruitful source of annoyance and trouble. They hamper trade and place artificial difficulties in the way of inland traders in their competition with consignors from foreign countries whose merchandise is brought here over seas at a considerably lesser cost.

“Bulletins issued by the Department of Commerce and Industry, containing elaborate information about industries, machinery, and markets should be very helpful to progress. The disinclination of the Indian capitalist to invest in sound and profitable concerns is to a large extent due to want of precise and reliable information about their financial prospects, the amount of capital necessary, the machinery to be used, and the firms which supply it. This information the Department of Commerce and Industry ought to supply from time to time and circulate freely among the people.

“Government will also be pleased to note the educative influence of Exhibitions, and much can be done in that line by proper encouragement to organisers. The phenomenal success of the Exhibition recently held at Nagpur—principally due to the indefatigable energy and the whole-hearted support of the Hon'ble Mr. Craddock—should be a fillip to local leaders and heads of Provincial Governments.

“Every effort should further be made, every inducement offered, for the remunerative employment of Indian capital. I do not believe in ‘the hoarded wealth’ of India. That is a myth. But there is some capital in the hands of big men which might with profit be employed to support industrial concerns, and the objective of official action should be to set free this locked up capital. A hint from Government will go a great way to give a healthy direction to investment. I do not know what official encouragement will not do in India. The people are hardly responsive to any other stimulus.

“My Lord, notwithstanding its admitted utility, necessity, and commercial success, Irrigation, it pains me to point out, has not received up to now a liberal treatment at the hands of Government. Even the modest recommendations of the Irrigation Commission have not been worked up to; the annual allotments have fallen short of the average, with the net result of a total shortage of 228 lakhs of rupees on four years' working. And when Government is moved for an additional grant sufficient to cover the accumulated arrears, the prayer is refused on the score of impracticability. ‘The money could not be spent!’ That may be a satisfactory reason from the official

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point of view, but is singularly unconvincing in view of the extra lavish expenditure sanctioned for the Army and Public Works of at least doubtful utility and urgency. The issues are simple enough: Is the outlay recommended by the Irrigation Commission going to be undertaken, and if so, when is the shortage of past years going to be made up? The decision on the first issue is, happily, no longer a matter of conjecture or debate. The affirmative resolution of Government settles it once for all. The second issue only awaits decision. And in this connection it will be well to bear in mind that arrears are as troublesome an element in Government finance as in private finance, and have a tendency to elude settlement. It is always an unwise policy to allow them to creep into the accounts, and the danger is aggravated where, as in the case of this Government, expenses have a normal tendency to swallow up the income, be this ever so large. Government is almost always more or less troubled for ways and means; its financial difficulties are perennial; hundred things crop up to checkmate its operations. Is it prudent to allow arrears to accumulate in such circumstances? If Government experiences such difficulty in settling a small arrear of 228 lakhs of rupees, what ground for hope is there that it will be in a position to pay off the arrears once they grow and accumulate to larger proportions? The present carries the future in its womb; and if there are elements of prospective trouble in the former, how can they be eliminated from the latter? Even for the next year the allotment is less than the annual average, and that in spite of the enactment by Parliament of special legislation for a maximum loan of £20,000,000 for railway and irrigation purposes. Where is then the guarantee that the arrears will be reduced in the near future, and that the total amount of expenditure recommended by the Irrigation Commission will be incurred within the twenty-year limit?

“And yet, my Lord, there are few countries where irrigation is so very necessary, so pregnant with possibilities for the prosperity of the people as India. Millions upon millions of acres of arid soil, vast expanses of scrub and wilderness, miles of waste and jungle meet one's eyes on all sides, the bulk of which with judicious irrigation can be made to yield food for the millions of the country. The comparative neglect in this matter of irrigation has impressed even foreigners. The following passage from an article on Indian Irrigation by the American statesman, Mr. Bryan, headed 'Money for an Army, none for Irrigation', published in the *New York Sun* in 1907, contains a strong criticism of the Government policy:—

'There are now large tracts of useless land that might be brought under cultivation if the irrigation system were extended. Proof of this is to be found in the fact that the Government of India has already approved of extensions which, when made, will protect

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7,000,000 acres and irrigate 3,000,000 acres.....*Ten per cent. of the Army Expenditure* applied to irrigation would complete the system within five years, but instead of military expenses being reduced, the army appropriation was increased more than \$10,000,000 (Rs. 3,00,00,000) between 1904 and 1905.'

" My Lord, they are doing great things in the United States of America. Besides other projects, in the Western States alone works now in progress will cost 15 crores of rupees. Even in a country of infinitely lesser resources, Egypt, the Assouan Dam stands pre-eminently high among the great Irrigation Works of the world. But in India, with an annual revenue of over 100 crores of rupees, money cannot be found for working up to the modest limit of 220 lakhs of rupees a year, even though Irrigation works pay a handsome profit of over 8 per cent., because, forsooth, what with an ever-increasing Military Expenditure, the Home Charges, the ordinary needs of a complex system of administration, and the expenditure entailed by the adoption of a vigorous Railway programme, the financial capacity of the Government is woefully crippled !

" My Lord, I have heard it said that the Engineering Staff of the Government is inadequate for the execution of an elaborate scheme of irrigation. Supposing it is, the solution of the difficulty is simple. Large works can be done through contractors of established reputation for business capacity. The great Assouan Dam was constructed by a body of contractors, Messrs. Aird and Co. The suggested change in the system of work will afford appreciable relief to the Government, besides ensuring despatch. Is the hope extravagant, my Lord, that Government will yet see its way to carry through the Irrigation programme approved by the Irrigation Commission with energy and spirit ?

" My Lord, Government has no money for the vigorous prosecution of a proper irrigation policy, but is extraordinarily liberal in its outlay on Railways. In spite of universal protest from the people, in spite of the financial straits of Government, money on a lavish scale must be spent on railways ; credit premised, there could be no difficulty for funds. And hence it is that even in an adversity Budget the allotment for railway expenditure is kept up at the high figure of the current year. And the bulk of this amount is going to be raised by sterling loans under the new East India Loans Act, a contingency by itself of sufficiently grave import to Indian finance. In judging of these figures, it should be remembered that down to December last our total Railway Debt, according to the statement made by Mr. Buchanan in Parliament, stood at £176,600,000 out of a total of £246,000,000. But the figures need not appal any one. That is all, in the official language, *productive debt* ! Government makes profit out of the business ! That was the observation made by His Honour Sir Edward Baker in the course

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of the Budget Debate of 1907, on Mr. Chitnavis's sound suggestion for working the railways by private companies :—

' Our railways do not now impose any burden whatever on Indian revenues, but, on the contrary, afford considerable relief to the taxpayer. Why it should be suggested on financial grounds that we should hand them over to private enterprise I am unable to understand.'

" It would almost seem as if fifty years of Crown rule had failed to divest the Government of the commercial character impressed upon it by the East India Company. My Lord, there are many enterprises which are calculated to prove commercially successful. An extension of the principle underlying the present solicitude for railways would justify Government in undertaking some of these as likely to afford relief to the taxpayer. But would it be contended Government ought to? Besides, what is after all the net gain to Government? It is in prosperous years, as pointed out on that occasion by Mr. Chitnavis, about one per cent. upon the Capital charge! It was much more according to the Finance Minister. The contention was that the net surplus was 'the excess after deducting all charges for interest and annuities' and did not therefore provide a basis for calculation of profit. But in commercial calculations of net profit the interest charge upon capital has to be deducted, and more. The allowance for depreciation and renewal of block is pretty heavy; this is absent from the Government accounts. The net surplus can alone supply a correct basis of calculation of net profit. Applying this test, the railways must be taken to have worked during the year at a loss. Indeed, the Hon'ble Finance Minister admits that in the Budget. The receipts have fallen off by  $3\frac{1}{2}$  crores of rupees, while the working expenses have increased by two crores, *i.e.* a total loss of  $5\frac{1}{2}$  crores of rupees in one year, a sufficiently alarming aspect of Railway finance that might well call for a halt in further extension.

" But be the railways ever so successful from a commercial point of view, what is the urgent necessity, what the hurry for a vigorous railway programme? At the end of October last the total mileage of open railways was 30,384. Is that length really so very small for ordinary purposes? One would rather think it was enough. But 'financiers, traders, and Chambers of Commerce' are clamant and their voice prevails. There is the Report of the Railway Commission, recommending 'very strongly a much more energetic railway programme, the reorganisation of the Railway Department in India, and more liberal expenditure of capital on railways'; and, unlike the Report of the Irrigation Commission, it commands the ready assent of Government.

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Surely a vigorous railway programme is not wanted by the people. But supposing the need for expansion and better equipment of the Indian railways is urgent, it can be best met by private companies and syndicates rather than by Government. Government need not act the sponsor longer. If the railways are a financial success, there cannot be a dearth of capitalists to finance them. The time has admittedly come when the development of the system must be left to private companies. That is the view taken by Sir Henry Kimber, M.P., Chairman of the Board of Directors of the South Indian Railway, in his thoughtful article on 'The Future of Indian Railway Finance' in the *Financial Review of Reviews* of December last. The Mackay Committee, too, recommended the transference of some of the State railways to private companies on judicious terms. I fail to understand, my Lord, why Government, in spite of such weighty opinion, should cling to the old policy of godfathering railway enterprise in India, especially when it impedes development simultaneously with being a fruitful source of trouble to Indian finance. The suggested transference of execution and management will be decidedly conducive alike to economy and progress; the investment of capital will only be circumscribed by the limitations of the money market; and Government, as appellate authority, will have splendid opportunities of enforcing up-to-dateness and excellence in management.

"Two other points demand serious consideration: the better equipment of existing lines for which 'three-fourths or four-fifths' of the capital to be borrowed in England is required ought to be done out of the revenue; and if in the past provision had been made annually and a portion of the revenue had been set apart for this purpose, as is done by all respectable companies, instead of utilising the whole revenue to swell the profits, much of the present embarrassment of Government could have been avoided. I hope, my Lord, this point will receive proper consideration in future accounts. The larger employment of Indian labour on the railways cannot but have a wholesome influence on railway finance. Labour can hardly be said to be employed now with an eye to economy.

"My Lord, the complaint is not new that the Military Expenditure of this country is ruinous to a degree. With the advancement of years, settlement of frontier difficulties, the prostration of Russia after the Russo-Japanese War and the promotion of international alliances, one should have expected the expenditure to go down rather than increase, but the fact is otherwise. The expenditure in the current year is £20,754,400 against £15,029,800 spent in 1899-1900. The increase has been over 33 per cent. in ten years! This large



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increase has been justified on grounds of efficiency and economy. The outlay, in this theory, is a fee wisely paid for the insurance of the Empire against danger, and will be found really economical in the long run. My Lord, without seeking to subject to profane criticism a policy the details and the merits of which must be especially within the knowledge of the inner circle, several points may be laid before Government for earnest consideration. The insurance is clearly abnormally expensive, the fee paid being fully 28¼ per cent. of the annual revenue! Such a lavish expenditure is hardly consistent with sound finance. And yet the cost shewn in the annual Budget does not represent the whole expenditure incurred. Much of the transport work is done by the Imperial Service Troops. This cost as also the cost of the Military Police and the strategic railways are not shewn in the accounts.

“ My Lord, efficiency is a thing singularly incapable of definition. Military authorities are by no means agreed about the utility, and the urgency of the Army Reorganisation Scheme. It is difficult to prophesy what the future verdict will be. We have the high authority of Your Excellency for the conclusion that much of the expenditure of preceding periods was so much waste of money. Be that as it may, I have abundant faith in Lord Kitchener’s wisdom and far-sightedness. It would be sheer ingratitude to either deny or minimise the brilliant services he has rendered to the Empire. But the Indian Army is much too large compared with the armies of other countries. Is such a large army maintained anywhere else on a peace footing? Sir Charles Dilke, the reverse of an idealist, recently condemned the strength of the army with convincing force:—

‘ Why was the Indian Army kept up on an extravagant scale as compared with that which England could afford in this richer part of the world, and which was altogether out of proportion to that which she dared to ask the Crown Colonies to contribute? Why should there be a two to one different scale between Ceylon and India?’

“ If it be the case that the Indian Army is intended to serve the purposes of an Imperial Reserve, common fairness would demand the payment of a substantial Imperial contribution towards its upkeep. But far from affording relief to the Indian taxpayer, the Imperial Government has proceeded, in the vigorous words of Sir Charles Dilke,

‘ in the teeth of all the evidence that had previously been produced, against the protests of the Government of India, to increase a charge already indefensible, a charge which we dare not put upon any other portion of the Empire, and appeared to be the deliberate creation, behind the back of Parliament, and without the knowledge of the

people of India until it was done, of a new and fresh grievance which might easily have been avoided.'

" My Lord, the whole of this Romer Committee business is indefensible. It is true where the receipts and disbursements are calculated in crores of rupees the additional charge of 45 lakhs might not strike one as particularly ruinous; but the unfairness, the injustice, and the breach of compact involved are too great and too palpable to reconcile public feeling to it. The Welby Commission, after protracted inquiry, laid down once for all definite principles for the adjustment of accounts between the Imperial Government and this Government. Was it open to the Secretary of State, or for the matter of that the Cabinet, to undo the work of that Commission, to resile from the position assigned to the Imperial Government by it, and to create fresh financial obligations for this country? The report of that Commission may have been before the Committee for aught we know. The questions are, was it duly considered? If any of its decisions was modified, on what grounds, with what justification and under what authority was it done? If the matter is so plain, so reasonable, so just, why such reluctance to publish the papers? It will be difficult to resist the inference that the papers, if published, would unfold a tale of melancholy injustice. If anything is in the public interest, the publication of the report manifestly is, and the suggestion it would not be is clearly unsound. The worst feature of the business is that once the Welby Commission Report is disregarded, India is relegated to its former position of utter helplessness against the exactions of the Imperial Government, and one might shudder to think what might yet be in store for us.

" My Lord, the Hon'ble Sir Guy Fleetwood Wilson has explained the differentiation in the treatment of Crown Colonies. Without for the moment disputing the soundness of the position, it may be open to the people to urge that an arrangement which proves so eminently satisfactory to those Colonies from a financial point of view ought to be extended to India in supersession of the present arrangement which leaves her so hopelessly dependent upon the will and power of the Imperial Government.

" My Lord, all praise is due to Government for the generous Scheme of Reform, the *magnum opus* of British statesmanship. The Despatch of the Secretary of State of 27th November last was like a gospel of peace to disturbed India, and had at once the effect of soothing the public mind, of inspiring hope for the future, of restoring trust in British statesmanship, British justice, and British sympathy with popular aspirations, of removing discontent, and of rally-

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ing round Government the great Indian Constitutional Party, who have ever been its strongest supporters and powerful interpreters to the masses of its benevolent intentions. My Lord, much has been heard of late of this discontent ; it has been requisitioned in controversy in justification of their respective views by diametrically opposite schools of political thinkers, from the most uncompromising repressionist to the most liberal and sympathetic statesman. It would be affectation to deny there is, or to be more precise there was, discontent in the land. But discontent among Indians—the mildest, the simplest, the most loyal and law-abiding, the most easily satisfied people in the world—affords food for reflection to the far-sighted statesman. It proves the existence of legitimate grievances, at any rate of unsatisfied desires and aspirations. But British statesmanship has proved equal to the occasion. Government has now dealt a death-blow to anarchism, not by repression, but by liberal political concessions ; it must in course of time die of inanition. The publication of the Reform Scheme for the first time during the last three years gave incontrovertible proof of the continuance of that solicitude for the goodwill and the advancement of the people which has ever been associated with British rule in India. Naturally despair was dispelled, confidence was restored, the national heart leaped with joy at the sight of the glorious dawn of a new and brilliant future. Hence the unprecedented jubilation. The voice of discontent is stilled, rancour is drowned in joy. It would be a pity, my Lord, if anything supervenes to check this outburst of national joy. But nothing is better calculated to produce this unhappy result than the action since taken by British statesmen. The introduction of the principle of class representation on the basis of the fancied importance of Mahomedans has at once taken away the chief merit of the Scheme, and given umbrage to the great non-Moslem communities of India. My Lord, I am not a Hindu ; I am under no personal obligations to the Hindu ; I do not hold his brief ; I bear no animosity to the Mahomedan. My remarks are grounded only upon my conceptions of the political necessities of the situation. And I shall be wanting in duty if I do not say that I fail to see the justice and the wisdom of Lord Morley's concessions to Mahomedan demands. Religion is widely apart from politics, and once the religious element is eliminated from the discussion, I do not understand how Hindu interests are opposed to Mahomedan interests in politics. I shall be glad to know what these so-called Mahomedan interests are. I cannot conceive them. It is a mistake to suppose that the bulk of the Indian Mahomedans are separated from their Hindu congeners by any sharp cleavage of race and tradition. In their present backward state they cannot have better representatives than Hindus. Where there are deserving Mahomedans they have as good a chance

as Hindus. In Municipalities, Local Boards, District Boards and the Legislative Councils, Hindus and Mahomedans have so far worked hand in hand and shoulder to shoulder in cordial co-operation; there has never been any complaint on the score of ineffective representation, and never any demand for separate election. Even now Mahomedan opinion is by no means unanimous on the point. Why then should this wholly novel and invidious principle of election be introduced into the Reform Scheme, in supersession of a method which has so far produced excellent results, and in disregard of the fact that ample provision was made in the Scheme for the adequate representation of minorities? And what would be the result? Separate representation in all stages must be productive of considerable heart-burning among the different communities who constitute the Indian people, will interfere with administrative efficiency, and what is perhaps the greatest of evils, will accentuate and perpetuate racial differences and prevent for all time to come the formation of one united Indian Nation; in other words, will produce results the opposite of what has been the objective of British Indian statesmanship so long.

“ My Lord, the question of comparative importance raises important issues and can only be the source of perennial quarrel among the different communities of India. There are communities—the Sikhs, the Rajputs, the Mahrattas—who have each as great a record of past services and past greatness as any in India. The Parsis, about whom such flattering things were said in the House of Lords, and the progressive domiciled Anglo-Indian community are likewise important. Once this contentious and invidious method of representation is accepted, how are the conflicting claims of these various communities going to be settled? If Mahomedans are granted separate representation, with what justice, with what fairness, can the privilege be denied to the other great communities? And where is all this to end in a country like India peopled as it is by a congeries of innumerable sects and races? And is this method practicable? Really this is a step well calculated to damp the popular enthusiasm for the Reform Scheme. Add to this elimination of statutory provision for the creation of Provincial Executive Councils with the resultant prevention of the popularisation of Provincial Administration, and I should not be surprised if the popular feeling oscillated back to the point from which it turned to greet with such genuine enthusiasm the Reform Scheme. That would be a disaster. My Lord, the action of the House of Lords is viewed by the people with keen and bitter disappointment, and some of the reasons advanced by noble lords opposing the measure have caused them great distress. My Lord, the people have just cause to resent their wholesale condem-

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nation on the grounds of unfitness and incapability of impartial and dispassionate criticism in spite of their proved capacity and impartiality in difficult and delicate spheres of action. But they have one consolation: They feel they have in Your Excellency a champion of their cause, who will do all in his power to ensure them a bright future. I hope, too, the Provincial Governments will rise equal to the occasion, and by the weight of their favourable opinion facilitate the reinsertion of the deleted clause in the India Councils Bill. The people attach great importance to it, and nothing will satisfy them except its reinsertion. Mahomedan opinion coincides with Hindu opinion in the demand; the voice of the nation is unanimous. What is the danger, my Lord, in having a clause of that kind? It seeks only to vest a certain discretion in this Government which is absolutely necessary in view of the engrossing work of Parliament and its want of leisure to deal with Indian matters with that promptitude which their importance demands. Government may be trusted to use the discretion with care and proper consideration of local conditions and in consultation with the Local Government concerned. Why then the meaningless opposition to a wholesome provision? The Decentralisation Commission also recommends the reform.

“ My Lord, from the generous spirit in which the Reform Scheme has been conceived and the expression of official conviction that we ‘shall never again have the combination of a Viceroy and a Secretary of State who are more thoroughly in earnest in their desire to improve Indian Government, and do full justice to all bodies of the Indian population,’ one would expect that, with a view to ensure the pursuit in future of the same liberal policy, all the comprehensive reforms should be placed on a firm statutory basis. ‘The policy, my Lord, of leaving important details of administrative reform to be settled by regulations is of doubtful wisdom. Regulations, however high the source, have not the authority, the force, and the permanence of a Parliamentary enactment, and are liable to be rescinded at Executive will. So long as the happy combination continues there need be no fear; but when we have an unsympathetic Executive—by no means an unlikely contingency—the rights and the privileges secured by regulations may be considerably whittled down for no fault of the people.’ My Lord, not long ago even Her Gracious Majesty Queen Victoria’s Proclamation of 1858, stamped as it is with Royal imprimatur and invested with the authority of age, was sought to be explained away in this very Council. What is the guarantee then that mere regulations will command greater respect in future? It will be a wise policy to have all the important concessions so generously proposed to be granted to Indians by the Reform Scheme well and truly laid upon a solid bedrock of legal provision.

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“ My Lord, in any general scheme of reform provision ought to be made for, what is technically known as, the separation of Judicial and Executive Functions and the appointment of trained lawyers as District and Divisional Judges. My Lord, after the Hon'ble Sir Harvey Adamson's clear pronouncement on the subject in this Council on 27th March 1908, the public expectation ran high, and it looked as if Government had finally made up its mind to introduce the much-needed reform of the separation of the functions. The Hon'ble Member's reply to my question on 5th February last, however, has disappointed hopes. Will it not be wise to push this reform if only with a view to conciliate public opinion? May we hope to have the chance of associating this reform with Your Excellency's honoured name? The wisdom of the other reform will doubtless suggest itself to Your Excellency. It is every way desirable that the administration of justice in the interior should be in the hands and under the control of trained lawyers. The popularity of Government largely depends upon the administration of justice, and too much care cannot be taken to place it above suspicion and to secure for it popular confidence.

“ My Lord, the Government reply to my question about the creation of a Legislative Council for the Provinces I have the honour to represent in this Council is disappointing to a degree. The abandonment of the scheme of Advisory Councils leaves the only alternative of a local Legislative Council for the ‘ assistance and support of public expression of views on public affairs ’ which the Hon'ble the Chief Commissioner desires to have. The Hon'ble the Chief Commissioner, in his admirable Note on the Government of India's Reform Proposals, further admitted that a local Legislative Council was demanded by ‘ advanced public opinion.’ Why then should the proposal not find favour with Government? The measure cannot surely be productive of harm. Your Excellency will pardon the freedom of their representative if he takes the liberty to point out that the people of the Central Provinces and Berar have been left in the cold shade of neglect in the Reform Scheme. In the bountiful shower of gifts they only have been overlooked. Even the right of election enjoyed by the other Provinces has been denied to them. When all Indians elect their own representatives to the Legislative Councils they alone must remain satisfied with nomination. Surely the Central Provinces and Berar have sufficient enlightenment and public spirit to deserve this right? May not they then expect the concession? The bigger Municipalities and District Councils, at any rate, can be expected to soundly exercise the right.

“ My Lord, the first step in the Reform programme has already been taken by the appointment of an Indian to the Executive Council of the Government

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of India. We hail with pride and joy this announcement, and I take this opportunity of expressing the country's gratitude to Your Excellency on this appointment. I congratulate the Government of India on the excellence of its choice, and I also offer the nation's greetings to the recipient of the honour for the noble sacrifice he has made to serve his country.

"All told, my Lord, the year has been one of steady progress: Trouble and tribulation, anarchy and repression, punitive police and drastic legislation, secret plottings and deportations have darkened the sky; the ship has tossed and lurched in the storm; but the captain has been vigilant all through; the port is at last within sight. And when the history of the past three years comes to be written, Your Excellency will occupy the foremost place in it as a statesman who, with a heritage of trouble and difficulty that might well daunt lesser spirits, with vision unclouded by passion or prejudice, with rare courage, through good report and evil report, has worked unweariedly for the good of the millions placed in his charge, and by wise and timely concessions has consolidated the foundations of the Empire and fixed it firm on the affections of a grateful nation."

The Hon'ble Mr. ANDREW said:—"My Lord, while I regret the necessity which compels the Hon'ble the Finance Member to adopt a policy of retrenchment I must refer with gratification to the fact that the Government of India in fixing the Madras estimates for 1909-1910 have not made any material alterations in the Budget submitted. I learn with satisfaction that Madras will realize a surplus in this year of general financial depression, but I note with some concern the remark in the Financial Statement (paragraph 142) that the Provincial balance is considered ample. It is true, my Lord, that the current year is expected to close with a balance of 114 lakhs, and this is due in large measure to that tradition of economy and careful management which the Hon'ble the late Finance Member in the last Budget debate said had long characterized Madras administration, and which has led to caution in embarking on promising schemes, involving considerable initial and recurring expenditure until such arrangements could be made as would ensure in the long run the fullest regard to efficiency and economy. My Lord, though the balance is comparatively large, the Government of Madras foresee no lack of works and schemes of permanent utility upon which to expend it, not forgetting that in utilizing balances they have to be careful to select objects which will not entail recurring expenditure beyond their normal resources. The development of agricultural, industrial and technical education, and of reforms in the Forest and other departments will impose contingent charges for which it will be necessary to draw largely upon the balances. The high prices of food-grains have necessitated the

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grant of compensation to Government servants which in the current financial year will amount to about 12 lakhs under Provincial heads alone, and this drain upon the balances may have to be continued in the coming year longer than was anticipated.

“ My Lord, last year the Hon'ble the then Finance Member held out hopes of relief to the Bengal Government, on the return of favourable times, in respect of grain compensation, in consideration of the facts that no provision was made for it in the Provincial settlement and that it amounted to 9 lakhs, and I trust that the Hon'ble the present Member may see his way to holding out like hopes to Madras which also has, I think, claims in each of these respects.

“ I would urge, my Lord, that expenditure of this sort, in so far as it may be considered the result of famine, should be met out of the annual assignments made to Local Governments under the arrangements detailed in paragraphs 48 to 57 of the Financial Statement for 1907-1908.

“ May I express the earnest hope, my Lord, that early orders may be passed soon on the scheme for the revision and redistribution of District and Divisional charges, a reform which is urgently called for in the interest of efficient administration? The report of the Decentralisation Commission and the reform proposals now under discussion will shortly result in an enormous addition to the labours of district and other officers who were already in need of relief when Mr. Meyer formulated his proposals some years ago.

“ I should like to draw Your Lordship's attention to the unsatisfactory position in which District Boards in the Madras Presidency stand in regard to Railway enterprise. Up to the present over 150 miles of railway have been constructed by these Boards at a cost of over 70 lakhs; and the Railway Cess levied in ten districts under Madras Act VI of 1900 has accumulated to an amount sufficient to construct 60 or 70 miles, while the annual revenue arising from the incidence of the tax would suffice to raise in the open market a capital sufficient to construct about 200 miles of railway. Besides this, the Tanjore District Board—described by the late Viceroy as the pioneer of local railway enterprise in India—sets aside annually a large proportion of the net earnings of its railway for the purpose of further construction, and if this practice is pursued, as it doubtless will be, by other Boards when the lines projected by them are earning surplus profits, they will be in a position to raise further capital for other branch lines. The money thus accumulating cannot be diverted to other purposes, and District Boards are anxious to proceed with the work of railway construction but are discouraged



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by the decision of the Secretary of State that lines constructed from loans obtained by a Local Board from Government fall under the Imperial programme of railway construction.

“ My Lord, it is hopeless to expect any steady progress in lines of the class contemplated if Local Boards are subject to the restrictions imposed by the Secretary of State as they are by their nature of secondary importance from the Imperial point of view, though of the greatest importance locally. As an instance I may mention the Bezwada-Masulipatam line which was constructed by means of a loan from the Provincial Loan Account just before the Secretary of State's ruling was issued. This line, which was opened for traffic only a year ago, is already earning  $7\frac{1}{2}$  per cent. and is of the greatest benefit to the district, and brings in, I imagine, a considerable amount of traffic to the Madras and Southern Mahratta Railway, while the Provincial Loan Account is making 4 per cent on the loan. Had this line not been built before the Secretary of State's ruling was issued it would have had to be included in Imperial programme, and its construction would have been deferred in all probability for years to the loss of the district and probably also of the parent line. I would therefore urge, my Lord, that the Secretary of State be moved to modify his ruling in such a way as to permit some small definite loan, say up to 15 lakhs, being made annually from the Provincial Loan Account for the construction of railways by Local Boards without including them in the Imperial programme.

“ Another discouragement under which District Boards in Madras labour arises from the difficulty and delay they experience in obtaining satisfactory terms for the construction and working of the projected lines from the South Indian Railway Company. It may be that the interests of a Railway Company would in some instances be better served by postponing indefinitely the construction of a line—however desirable in itself—with a view to its eventually becoming an integral part of its own system, but such a line of action, however reasonable from the point of view of the Company, would not be justifiable in view of the encouragement given to District Boards to tax themselves in order to obtain facilities for railway construction. I would specially mention the case of the Tinnevely-Tiruchundur Railway, about which negotiations have been proceeding for over  $2\frac{1}{2}$  years, and I would press, my Lord, for early and satisfactory settlement of terms between District Boards and the Railway Company.”

The Hon'ble MR. MACLEOD said :—“ My Lord, while the greater part of the civilized world has been passing through a most serious depression in trade, it was hardly to be expected that in India the revised estimates for the current

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year should show anything but a deficit. This deficit has unfortunately been increased owing to the fact that the unfavourable conditions which existed in the previous year have had more far-reaching consequences than could have been foreseen when those estimates were framed. On the other hand, duty has been paid this year in Bombay on nearly 20,000 chests of opium in excess of the permissible export so that well over a year's revenue from this source has been received in advance. The Hon'ble Finance Member must therefore be congratulated on having the courage to base his estimates for the coming year on existing sources of revenue without increasing taxation.

“Further, the Financial Statement is calculated to inspire confidence. The Chambers of Commerce will note with satisfaction that Government are intent on building up our stock of gold. A few months ago when the balance of trade set against India and merchants were clamouring for gold it was said that if they had only known they could get what they wanted, they would not have needed to ask for it. It was the fear that they could not get it that dominated the situation. The conversion of the unfortunate 3 per cent. rupee loan must tend to strengthen the credit of Government and again the Chambers of Commerce are to be congratulated on Government having acceded to their request, while it cannot be said that the terms offered to the holders of this loan are unreasonable. The fact that the amount available for Railway development has had to be reduced by  $2\frac{1}{2}$  millions below the amount recommended by the Committee on Indian Railway Finance emphasises the necessity for enlisting private enterprise. I cannot quote a higher authority on this question than the Hon'ble Mr. Proctor, who recently in his address as retiring Chairman at the Annual Meeting of the Bombay Chamber of Commerce pointed out that Government must reap considerable benefit by encouraging local private enterprise; that it would enable feeder lines to be built long before they otherwise would be if they were to take their place in the Government programme; that the construction of these lines would bring more land into cultivation and that by attracting rupee capital Government would so far prevent an increase of the gold indebtedness and would afford the people of this country an opportunity of having a stake in its welfare and development. These arguments seem unanswerable. And while I am dealing with railways I should like to draw the attention of Government to the complaint of the Chairman of the Bombay Chamber of Commerce that they do not know to whom to go for expert information and advice, now that the post of Consulting Engineer to Government has been abolished and apparently the post of Secretary to Government in the Railway

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Branch as well. Bombay has frequently complained in the past that in spite of the whole-hearted support of the Local Government her claims to be heard on the question of railway development have not been given that consideration to which by reason of her position and trade she is entitled, and so it is to be hoped that the situation will be watched and that if the delay, inconvenience and constant misunderstandings now apprehended by the Chairman of the Chamber are actually caused by this change, a remedy will be found.

“It is satisfactory to note that it is possible to allot in the coming year the full moiety of the Famine Relief and Insurance Grant for expenditure on Protective Works, but the Financial Statement appears to be silent as to how the allotment will be distributed. There must no doubt be degrees of urgency, but the works which are destined to relieve certain districts in the Deccan plateau in which famine is almost chronic deserve very great consideration. I understand that a new system has been devised for these districts which, it is hoped, will induce a more constant demand for water for irrigation from the cultivators and thereby reduce the loss which usually results from protective works when the monsoon rains are plentiful. If this can be done, there is all the greater necessity for allotting sufficient funds for the completion of the Deccan schemes within a reasonable time. Lastly, those persons who have been recently exhibiting a somewhat pardonable curiosity as to the results of the labours of the Stores Committee appointed in 1906 will be gratified to find that directions have been received from the Secretary of State which should prove beneficial to local industries.”

The Hon'ble RAJA SIR ALI MUHAMMAD KHAN said :—“My Lord, the anxiety which prevailed as to the character of the budget before it was laid on the table has not been much relieved by its perusal. But I find that deficits are the order of the day all over the world. The revised estimates show a deficit of  $5\frac{1}{2}$  crores as against the surplus of 86 lakhs budgetted by the Hon'ble Sir Edward Baker. The causes which have contributed to the financial depression appear to be such as could not have been foreseen and over which Government had no control. I am however glad that the Hon'ble Member for Finance has been able to budget for a modest surplus of 35 lakhs next year and congratulate him on the courageous manner in which he has met the situation as well as on the wisdom of the course which he has followed in not resorting to increased taxation. The shadow of the famine has not disappeared from my province yet and it is always more or less associated with other forms of suffering. In August last we were visited by an epidemic of malarial fever unprecedented in its severity. The epidemic lasted till the end of December and claimed a far heavier toll of human life than

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any epidemic of plague in previous years, the total number of deaths amounting to over thirteen lakhs. Sir John Hewett, with his characteristic foresight and energy, caused an inquiry to be instituted into the causes of the outbreak; but no satisfactory results have been arrived at yet. So widespread was the epidemic, that agricultural operations came for the time being to a standstill, and when they were resumed the sowing of the spring crops was much delayed. The area sown was comparatively small and owing to the partial failure of the winter rains the outturn of the rabi cannot be estimated at more than 85 per cent. of the normal in the larger part of the provinces, while in the north of Oudh things are much worse. Conditions such as these cannot be deemed favourable to a decrease in the price of food-grains, and the extraordinary disturbance of economic conditions which we have witnessed of late is not likely to disappear at an early date. In reply to a question put by my Hon'ble Colleague Mr. Dadabhoy at the meeting of the 15th January last, with regard to the abnormal rise in prices, the Government were pleased to say that the subject was engaging their careful attention. I am afraid the Hon'ble Member for Finance is too sanguine when he anticipates an appreciable fall in prices as a consequence of 'a favourable agricultural position' as experience has belied such expectations in the past. The question is becoming one of extreme gravity for the middle classes, and though I recognise its complexity, I trust that this consideration alone will not deter the Government from instituting a thorough enquiry. I may mention that His Honour the Lieutenant-Governor of the United Provinces has announced his intention to summon a conference during the monsoon of this year to consider what action can be taken by the Government in connection with the rise in the price of milk and ghee. It is time that the question was made an Imperial one.

"My Lord, I have read with satisfaction paragraphs 43 and 44 of the Financial Statement which announce the decision to abolish the special grant to the army and to restrict the limits of military expenditure. But the present year appears to me to have been most unsuitable for the increase in the pay of the Indian Army. It is true that a slight reduction has been effected in the budgetted expenditure of the current year, but the figures for the next year show an increase of 23 lakhs. So far the expenditure has gone on increasing year after year, as a comparison of the figures which I give below will clearly show:—

	£
1899-1900	16,168,763
1900-1901	16,365,886
1901-1902	17,222,495

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	£
1902-1903 . . . . .	18,852,283
1903-1904 . . . . .	19,540,667
1904-1905 . . . . .	21,906,377
1905-1906 . . . . .	21,056,411
1906-1907 . . . . .	21,587,103
1907-1908 . . . . .	20,415,787
1908-1909 . . . . .	20,557,700
1909-1910 . . . . .	20,708,200

“ It has risen by 13 crores or 28 per cent. during the past 10 years. The need for a retrenchment in this direction has been urged in this Council before by much abler men than myself, but I may be excused for making a reference to a matter which is cognate to the question at issue. I mean the Ecclesiastical charges of the Army. They do not only show a considerable rise during the same period, namely, from 1899 to 1910, but I submit that they need not form a charge on public revenues at all. It seems to me to be opposed to the well-defined principles laid down by Government themselves that they should take no part in matters of religion, be it of the ruling class themselves. If they recognise the obligation to provide facilities of religious worship for the British soldier, the other classes of people represented in the Army have a right to make a similar demand. It is hardly justifiable that any portion of the revenues contributed by people of diverse creeds should be devoted to the spiritual well-being of the British soldier. I think his religious welfare can well be left to Missionary societies instead of being made an item of charge on the general revenues which are already heavily burdened with an excessive and ever-growing military expenditure.

“ But I am chiefly concerned with the effect which the present situation has on the finances of my province. They were reduced to a condition verging on bankruptcy, and if the Imperial Government had not come to the rescue of the Local Government by making a special assignment of 41 lakhs to restore the minimum closing balance, the latter would have closed the year with a deficit balance of 21 lakhs. My Lord, I am thankful for the assistance given to the Local Government by the grant of 4 lakhs for Police Reforms. It is also gratifying to learn that the new Provincial settlement has been concluded, but I would respectfully submit that it does not much improve the financial position of the Local Government. The province was parsimoniously treated in the past; the standard of expenditure kept in sight was low and its needs were not fully recognised. The result was that it remained comparatively backward in all respects and there is vast ground to make up in consequence of the policy pursued in the

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past. The grant of 10 lakhs which has been made to the province is earmarked for the new hospital to be attached to the medical college at Lucknow. There is no initial assignment to enable the Local Government to carry out the much-needed educational and medical reforms. It will be impossible for it to meet the many pressing needs unaided in order to bring up the province to the standard of other advanced provinces unless the Government of India extend their generosity in future as they did this year in order to relieve the stress caused by famine.

“ My Lord, it will not be going too far to say that of all the problems which affect the welfare of India, there is none of greater moment (next to its peace) than education, but there are no improvements which are so often relegated to an indefinite future as those connected with it. The Progress Report of Education in India, 1902-1907, which has just been issued is a record of substantial improvement if compared with the period which preceded the quinquennium. It shows a considerable increase in primary schools both in number and strength, but it is admitted that the increase is not proportionate to the demand. A similar tale is told by the report on Public Instruction in the United Provinces for the last year. It records an increase of 172 in the number of primary schools and of 41,847 in that of scholars. ‘ But speaking generally, ’ says the report, ‘ the supply of educational facilities has been unable to keep pace with the demand. ’ While acknowledging gratefully the efforts which have been made by Government in the expansion of primary education and in raising the level of education in general, I submit that they have proved inadequate. The absence of provision in the next year’s budget of the cost of free primary education is apparently to be accounted for by the present state of finances. In my opinion the importance of the task exceeds its magnitude and difficulty, and I earnestly hope that the realisation of the prospect which was held out in 1907 will no longer be delayed when easier financial conditions prevail. As regards secondary education in the United Provinces, it calls for urgent reforms which mean increased expenditure. The schools are generally badly equipped. The furniture, such as there is, is a disgrace to modern carpentry; the apparatus for teaching is insufficient and accommodation inadequate. There is everywhere a cry for new buildings and additional classes. The inefficiency of the teachers is in keeping with the low rate of pay offered to them. The resources of the district boards are severely taxed and yet they cannot find sufficient room for the scholars seeking admission to vernacular schools. The keen interest taken in all forms of education by Sir John Hewett has led to the introduction of certain improvements. Of these the conversion of the High Schools at the head-quarters of the districts into Government Model Schools is a necessity.

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which cannot be long postponed, but the proposal has not been given effect to for want of funds. My Lord, the resources of a provincial Government are limited and even under normal conditions it cannot cope with the demand which is being made upon it now for the spread of education. It will be a sad thing to crush the demand for English education which is growing everywhere through lack of encouragement. There is room for economy in other directions but to effect economy at the cost of education means a check in the moral and material growth of the country. My Lord, when the opportunity comes the grant of additional expenditure for carrying out the improvements in secondary education will be a great boon to the people of the United Provinces, and I strongly hope that their requirements will not be forgotten. I may add here that a great impetus has been given to industrial and technical education in my province by Sir John Hewett. The reluctance which characterised the educated middle classes formerly in availing themselves of the advantages of such education is fast disappearing and commerce and industry are taking a higher place in their estimation. I venture to hope that the proposals for the establishment of a technological institute in the United Provinces when sanctioned by the Secretary of State will receive the financial support of the Government of India. The problem which is staring the Government in the face is that of devising means for the provision of industrial and technical education in the country on a large scale. I sincerely trust that the situation will be faced in a liberal spirit as times permit.

“ My Lord, I may be allowed to say one word in regard to railway construction. I believe that Government is not unaware of the fact that a series of collisions occurred during the last year on different railway lines. The most appalling of these accidents took place at Dasna in Meerut District in the beginning of the hot weather. It resulted in an unusually heavy loss of life and property and was the subject of a protracted Government inquiry. The Railway Board came to the finding that it was an ‘act of God’. My Lord, if human foresight can avert such dangers without shifting its responsibility to higher powers, I think the fact should not be blinked. The chances of a collision are extremely minimised where there is a double line. In the interest of public safety I would urge the necessity for the doubling of the line on the Oudh and Rohilkhand Railway and would suggest that the work may be included in the programme for raising the standard of the existing railways.

“ My Lord, I now come to a subject on which a great deal has been said before and to which I can add nothing new, but my excuse for referring to it is the fact that it threatens to become a standing grievance. I mean the Asiatic difficulty in the Transvaal. Matters have not advanced much since the decision of the Transvaal Government was announced in the House of Commons by the

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Secretary of State for India on 31st January 1908, in regard to the registration of Indians. The position of the British-Indians in the Transvaal reminds one of the position of Jews in ancient Europe when every attempt was made to extirpate them from the face of that country. The problem with which the Indian Government is confronted is, not merely how to reconcile the claims of the Indians as citizens of the Empire to settle in a self-governing colony ; but in it is involved the larger and more important issue of the relations of the white to the coloured races in general. The treatment which the Indians are undergoing there is a reflection on the white race and is a source of great irritation to the people of this country. Their recent deportation from South Africa has afforded a fresh cause for excitement. In my humble judgment a thorough overhauling of the whole question of Indian migration into British Colonies is extremely desirable. I would respectfully suggest that as trustees of Indian interests, Your Lordship's Government will keep pressing on His Majesty's Government the necessity for the removal of those restrictions which are debasing to the Indians in the Transvaal and excite feelings of bitter resentment in this country.

"My Lord, speaking at this time last year the Hon'ble Sir Harvey Adamson announced the intention of the Government of India to give a trial to the separation of the judicial and executive functions in the two Bengals. The results of this experiment will be watched with close interest in other parts of the country. I can realise fully the financial difficulties which are in the way ; but I hope that the importance of the question will not be lost sight of as soon as the pressure has diminished.

"My Lord, I cannot conclude without a retrospect of the violent unrest which we have lately experienced. There were moments when we seemed to be standing on the brink of a disaster owing to the frequent display of brute force and to the 'arrows that flew in the dark,' probably the work of a misguided few. To uphold the authority of law, to soothe the public mind which was in a state of tension, and, at the same time, to formulate a scheme for constitutional reform, were the trying tasks which befell Your Lordship's Government. Never before has a Government placed under similar circumstances faced so difficult a situation with such a remarkable success. At the commencement of the present session, Your Lordship's Government was forced to resort to coercive legislation. When I supported the Summary Jurisdiction Bill I did not do so merely because it was a measure emanating from Government, but because I was convinced that it did not in any sense indicate a departure from the fixed policy of peace and progress which has characterised Your Lordship's Government. That repression was necessary at the time, later events have fully demonstrated; and that I was not wrong in judging the



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scope of Government action, is proved by the fact that the new law has not been applied wholesale. The close of the year saw the promulgation of the long-awaited reforms which were received with a feeling of intense relief and to quote the words of Lord Morley with 'various degrees of approval'. Harmony is often evolved out of chaos. So the reforms may be said to have brought peace and good will with them. As an Indian member of this Council, I desire to express my deep gratitude for the generous recognition of an extended right of representation and for Your Lordship's benevolent solicitude for the welfare of the country. Opinions may differ as to details; but no one can fail to appreciate the liberal spirit underlying the reform scheme and the new era of possibilities which it bids fair to provide. Destructive criticism in any quarter, at this stage of affairs, cannot but be productive of more harm than good. I hope at least that we have no 'Adullamites' at the present moment in this Council. My Lord, we are entering upon a new and important phase of administration. The best qualities of the head and heart will be called forth on the part of those who have to give practical effect to the proposed reforms as well as on their part who have to prove themselves worthy of higher responsibilities. If the efforts on both sides are sincere, they will be crowned with success. With regard to the deletion of clause 3 of the India Councils Bill by the House of Lords, Your Lordship's Government has justly recognised the necessity for creating Executive Councils in provinces where their existence may be justified by circumstances and the action of Your Lordship's Government in expressing its adherence to the provisions contained in the clause in question has given satisfaction. I take this opportunity of congratulating my countrymen on the appointment of the new Law Member and of thanking the Government for having made a concession to merit. The people of other provinces might well lay this example to heart and strive to come up to the level of educated Bengal. My Lord, I cannot here help asking myself whether political concessions will bridge over 'the tremendous chasm' that separates the rulers from the ruled? If I understand rightly, the superiority of the white to the coloured races consists in the moral uplifting of the latter by the former. It is a noble task, but it cannot be achieved through political machinery alone. It is a healthy sign of the age that the evils of aloofness between Europeans and Indians are being recognized on both sides. But the advances must be mutual. I would ask my countrymen to rise equal to the occasion and would appeal to the ruling class to meet us half-way. If the day ever comes, when racial prejudice has ceased to affect our mental vision; when colour is no longer recognized as the stamp of moral and social inferiority; when the Indian learns to realise that a bond stronger than that of territorial subjection exists between him and his rulers; when official restraint has given way to a free interchange of ideas; when want of confidence is displaced by a

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better understanding; when the call to duty meets with a true response on one side and real grievances evoke genuine sympathy on the other, it will be the Reform of Reforms."

The Hon'ble NAWAB SAIYID MUHAMMAD said:—"My Lord, the Hon'ble the Finance Member deserves our genuine sympathy in the very difficult task he has been called upon to undertake. He has had to frame what has been called an adversity budget—the first of its kind since 1897-1898. During the decade that has produced what is called prosperity budgets, one sees much unnecessary expenditure and in spite of solid achievement in remission of taxation—with which the name of the Hon'ble Sir Edward Baker will be honourably associated—the feeling has been encouraged to grow up that every budget is bound to bestow largesses, grants and so forth. That, my Lord, is in the highest degree demoralising. 'The ideal of State economy,' as Bastable in his famous work on 'Public Finance' says, 'is, on the contrary, to establish a balance between receipts and expenditure. A State that has very large surpluses is as ill-managed as one with large deficits. The practical rule is to aim at a slight excess of receipts over outlay in order to prevent the chance of a deficit. The position of the State as drawing its resources from the contributions of the several private economies under its charge is the reason for this course of conduct.' That leads me, my Lord, to quote the wise observation of Sir James Wilson that finance is not mere arithmetic, but a great policy. 'Without sound finance, no sound government is possible; without sound government, no sound finance is possible.'

"My Lord, as we are at the beginning of a great era which would undoubtedly tend to strengthen sound government in India let us earnestly trust that we are also going to have sound finance, and I am indeed glad to see indications of sound finance in the rigorous pronouncement of the Hon'ble the Finance Member in favour of retrenchment of expenditure. I sincerely hope this pronouncement is not wrung from the Hon'ble Member simply because he is confronted by a large deficit and that under different conditions he will not lapse into the habit of seeing in increased expenditure an incontrovertible proof of growing prosperity. Addressing this Hon'ble Council in March 1907, I ventured to state: 'The relief to the tax-payer can be but temporary unless the Government enters upon a bold policy of retrenchment. So that the reduction of revenue which we anticipate may be met without embarrassment.' . . . 'The claims of the services are insistent and oftentimes overpowering. But the new situation forced on the Government—I refer more especially to the possible extinction of our opium revenue—indicates the path along which progress must be made, so as

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to bring revenue into reasonable correspondence with expenditure. The curtailment of expenditure, especially on the services, is both a political and a financial necessity.' My Lord, this time there is no relief to the tax-payer rather the Hon'ble the Finance Member is disposed to take some credit for not asking for a rupee of extra taxation and for meeting his difficulties by retrenchments. If I may venture to say so, these retrenchments are but temporary expedients. To do the Hon'ble Member justice, in the concluding paragraph of his Budget Statement I find him saying that he can 'see no reason why, with a due regard for economy, favourable harvests and a period of peace, we should not look forward to a return of that prosperity which has characterised former years.' Let me lay stress for a moment, my Lord, on due regard for economy. That, at any rate, is not beyond the control of Government. As the Hon'ble the Finance Member tersely puts it, estimating in this country is largely a gamble in rain. All estimates have necessarily to be based upon a normal rainfall, but no two years have passed in succession in which the rainfall has been really normal. Even at the present moment there is distress in parts of the country and relief works have been opened. This is as regards estimating revenue. But estimating expenditure is largely a matter of prudence and foresight. 'Let us spend while we may, and let us retrench because we must,' does not seem to be the acme of financial wisdom. Assuming, however, that the monsoon will not fail in the forthcoming year and there will be a normal rainfall, that alone will not restore the equilibrium of Indian finance unless there is a general improvement in trade so that the railway receipts may not again fall short of the estimates. As regards the collections of arrears and suspensions of land-revenue, these again are dependent upon a seasonal and normal rainfall. On the whole the Hon'ble Member takes the right view of the situation when he says that it would be clearly imprudent to speculate on too rapid a recovery in revenue.

"My Lord, I venture to call attention to the enormous increase in administrative charges in recent years. Not all these increases can be justified. Mr. Parnell in his well-known work on 'Financial Reform' says: 'Each public department stands prepared to give the most confident reasons why it is absolutely necessary to keep up the scale of its expenditure to the exact point at which it now is.' Speaking on the Budget two years ago, the Hon'ble Sir Edward Baker—whom it gives me sincere pleasure to see as the Lieutenant-Governor of Bengal—said: 'I have now been connected with the Finance Department of the Government of India for five years continuously, and during the whole of that period I do not believe that a single day has passed on which I have not been called upon officially to assent to an increase of pay of some

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appointment or group of appointments, to the reorganisation of some department or to an augmentation of their numbers. All experience proves that wherever revision is needed, either of strength or emoluments, the Local Governments and the Heads of Departments are only too ready in bringing it forward. Nor are the members of the various services at all backward in urging their claims.' And His Honour concluded: 'I cannot in the least recognise the necessity for imparting an additional stimulus to this process. On the contrary, I believe that all that is necessary is continuously being done. In this view I welcome the remarks of the Hon'ble Saiyid Mahammad, though I am not very sanguine that the urgent needs of India will permit of any actual reduction.' I submit, my Lord, this subject deserves to be carefully inquired into, for we are on the eve of great changes, probably necessitating increased expenditure. It is a matter for the consideration of Your Excellency's Government whether it is not time that small departmental committees were appointed to go into the whole question. It is a pleasure to me, in this connection, to note that the Decentralisation Commission points out in paragraph 432 of their Report how the Secretariat establishments (both Imperial and Provincial) have grown in bulk unnecessarily. The Commission, while admitting that the increase in establishments represents increase of work which is inevitable in consequence of the material, intellectual and political advance of the country bringing up new questions or necessitating the reconsideration of old ones, emphasise the fact that there has been an unmistakeable tendency on the part of all Secretariats to interfere in unnecessary detail with the action of the authorities subordinate to them. In this direction and in many other which I need not dwell upon, considerable reduction of administrative charges can and ought to be made. The necessity for retrenchment is emphasised not only by the growing contraction of the revenue from opium and any mere temporary embarrassments of Government but by the fact repeatedly dwelt upon by the Decentralisation Commission that 'the growing material, intellectual and political advance of the country' has brought up new questions or necessitated the reconsideration of old ones. New developments in education have recently been suggested; in fact, we want a fresh stimulus imparted to every branch of educational work. Free primary education is in a state of suspension for want of funds. Local Governments who had shown commendable zeal in submitting proposals for the development of secondary and collegiate education have precipitately withdrawn their proposals, when they found what their educational reforms would cost. Throughout the country there has been a cry for industrial education and 'industrial surveys' have been officially undertaken and industrial conferences held for the consideration of questions bearing upon the industrial future of the land. It is evident that things cannot remain where they are,—all these surveys

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and conferences must yield some practical results. Funds are urgently wanted for these objects, and funds should be found for them, for the Government cannot afford to ignore the growing demands of the country in this respect.

“The Hon'ble the Finance Member has refrained from making any specific reference to the question of sanitation. The small grant made last year for this object has not been renewed this year, although there is an increase in the medical charges, to provide for 'a more active programme of sanitation'. There is perhaps no problem comprised in the vast range of problems connected with rural prosperity so important as the problem of improved sanitation. In paragraph 3 of the Financial Statement the Hon'ble the Finance Member refers to the recent deplorable outbreak of malaria in Northern India, 'which caused considerable mortality in some tracts and greatly debilitated the agricultural population, hampering the harvesting of the autumn and the sowing of the spring crops.' That is adequate testimony to the importance of the careful consideration of the subject. Hence, the supreme necessity, even from a purely financial point of view, of taking measures to organise sanitary works on a large scale. This problem of rural prosperity must be solved, and its solution depends almost entirely upon the Hon'ble the Finance Member's ability to provide funds.

“That leads me to consider the Hon'ble the Finance Member's budget proposals. In framing his budget the Hon'ble Member says:—'The result has been a sharp arrest of expenditure, both Imperial and Provincial, at no small discomfort to ourselves as well as to Local Governments, and in some cases at a temporary sacrifice of administrative efficiency.' The Hon'ble Member then says:—'But the only alternative was increased taxation, and this, in our opinion, would have been a greater evil.' After more than ten years of unbroken financial prosperity and large surpluses it would be scarcely wise to meet the first appearance of financial adversity by an enhancement of taxation. Recognising the discomfort both to the Supreme and the Local Governments, there can be no question that the wiser and more statesmanlike course has been adopted. But a condition of finance in which the only alternative courses open to a Finance Minister are either to effect a sharp arrest of expenditure, even at the sacrifice of administrative efficiency, or to resort to increased taxation, cannot be considered to be a healthy condition. What is true of Imperial is equally true of Provincial finance. Some of the Hon'ble the Finance Member's remarks upon the excess expenditure—the tendency to outrun their grants—on the part of Local Governments would seem to suggest that the control exercised by the Central over the Local Governments is not constant, or, at any rate, not

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effective enough, to secure the necessary condition of unity between local and general expenditure. The Decentralisation Commission rightly insist that in no case can the financial powers of the Provincial Governments be so developed as entirely to eliminate the control of the Government of India, since the latter must remain responsible for the general efficiency of Provincial administration and could not allow a province to become hopelessly crippled or involved.

“ Whether the small surplus which the Hon’ble Member has budgetted for will be realised or not is more than any one can say, but the position is undoubtedly grave. If there is no call for dark pessimism there is no occasion either for robust optimism. Knowing that the chief causes of fluctuations in revenue are beyond our control, the supreme need of persistent and general economy must be realised, and there will be good reason for congratulating the Hon’ble Member if the depressing experience of the year about to close is not repeated.

“ My Lord, I beg to express the earnest hope that Your Excellency’s Government will lose no time in investigating the whole subject of the high prices of food-stuffs prevailing. It was understood to be the object of Government to undertake the enquiry and to entrust it to officers of Government acting with outside experts. I do not know what the present intention of Government may be, but I trust an early opportunity will be taken to take the public into the confidence of Government. In view of the great suffering entailed upon certain classes of the population by the high prices ruling and their embarrassing effects upon both the Imperial and the Provincial budgets, it is desirable that an enquiry should be held. In this connection, my Lord, I observe that the Hon’ble the Finance Member anticipates a fall in prices. That anticipation seems to be scarcely justified. Indeed, so far as I am aware, the Provincial Governments do not seem to entertain any hope in that direction.

“ I crave Your Excellency’s permission to refer to a subject in which the Muhammadan community is much interested; I mean the management and administration of the Muhammadan charitable and religious endowments. We are grateful to the Government for managing these institutions which shows their great solicitude for the welfare of all sections of the Muhammadan population. Sometimes, and in some cases unfortunately, the management is not what it should be, and I would therefore respectfully suggest for Your Excellency’s consideration the necessity of asking Local Governments and Administrations for a report on the management of such trusts existing in various Provinces, and publishing it for general information. Such

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an enquiry will result in their better management and will also tend to satisfy the religious communities for whose benefit these institutions exist.

“ Before concluding, my Lord, I cannot refrain from expressing, on behalf of the Presidency which I have the honour to represent, our most grateful thanks to His Majesty’s Government and to Your Excellency for the great measures of reform so happily initiated. I would add the expression of our earnest hope that the scheme of reform announced by the Right Hon’ble the Secretary of State for India, with the warm-hearted support of Your Excellency’s Government, may be carried through. It is not too much to say, my Lord, that the whole country is looking forward with eagerness to both the Houses of Parliament acting in unison in supporting the Indian reforms.

“ My Lord, it will not be considered out of place if I venture respectfully to congratulate Your Lordship and His Majesty’s Secretary of State for India on the appointment of the Hon’ble Mr. S. P. Sinha to Your Excellency’s Executive Council for which the whole country is grateful. I feel in common with my countrymen that a great step forward has been taken and a momentous change effected which I hope will be followed by the happiest results.”

The Hon’ble MAUNG BAH TOO said :—“ My Lord, I am sorry that, owing to causes beyond his control, we are unable this year to congratulate the Hon’ble the Finance Member on the flourishing state of the Imperial finances. It may be hoped that brighter days are in store and that in future years he will present many prosperity Budgets.

“ I ask leave to take the opportunity, the only opportunity afforded in the year, of calling attention to the needs and financial situation of the Province which I have the honour to represent. Financially, Burma has fallen on evil times, and I regret that I must ascribe its misfortunes in great part to the terms of the *quasi*-permanent Settlement imposed on the Province in the year 1907. Both my predecessor and myself pleaded, and pleaded in vain, for more generous treatment. The Settlement—it cannot be called a Contract—was concluded on its present basis.

“ Now the theory of a Provincial Settlement, I understand, is that certain heads of revenue are shared between Imperial and Provincial, with the intention that expansion of revenue should provide for expansion of expenditure on the public needs. It is not expected that what are called the standard figures of expenditure should remain fixed and unalterable. It is recognized that if proper progress is to be made, with the growth of population and advance on modern lines, expenditure on vital objects such as, for instance, education, sanitation,

public works, medical aid, will necessarily increase. In Burma, it has, I think, been recognized that something more than this is required; that for many years the development of the Province has been impeded by want of funds for Provincial expenditure. Even from the most rigidly economic point of view, increased expenditure is required, for it would be productive. In the interests of Imperial, no less than of Provincial, Funds, improvement of communications and the provision of proper establishments would be more than justified. But how has the theory of Settlement resulted in practice in Burma? The standard figures of revenue have been over-estimated and there has been no increase but rather a decrease in receipts under the most important heads. As for expenditure, so far from expansion being possible, notwithstanding that the Provincial balance has been reduced almost to the vanishing point, it has been necessary to place the estimate for public works at more than twelve lakhs less than the standard figures and to effect ruthless curtailment in all departments. The provision for ordinary public works, which experienced officers consider should not be less than 100 lakhs a year, has fallen to 69 lakhs against a standard figure of 80 lakhs. In consequence, establishments have had to be reduced, to the great distress of many persons who will be unexpectedly thrown out of employment; even works in progress have been stopped and no new works can be undertaken; the province must still be a bye-word, as well to residents, official and non-official, as to visitors, in respect of its communications, sanitation, medical relief, education, contributions to local and municipal funds, all share in the common reduction and depression.

“My Lord, I hope I may be pardoned if I speak plainly but with due respect. I speak on behalf of all communities of my loyal Province, Europeans, Burmans, and the strangers within our gates, when I say that there is a strong and growing feeling that Burma does not receive a sufficient share of her revenues for expenditure on her needs. Cut off as we are by geographical position as well as by racial differences from the rest of the Empire, we feel that we are too often overlooked, that our needs are not recognized, that we do not receive that sympathetic care which is bestowed on other and more favoured provinces. It is my duty as a responsible member of this Council to say that this feeling is likely to spread through all classes of people in Burma who take an interest in public affairs.

“As regards the financial relations between the Imperial and Provincial Governments, it is, of course, not true, as many ill-informed people suppose, that Burma supports the Empire. Its actual annual contribution is less than that of any other Province except the Punjab, Eastern Bengal and Assam, and



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the Central Provinces. But it is true that its contribution to the Imperial Exchequer per head of population is greater than that of any other province except Bombay. It is estimated in the coming year to amount to the substantial sum of two millions and three-quarters sterling. Moreover, Burma is the only province, except again Bombay, of which in recent years the Provincial contribution has increased and is still increasing. According to the Budget figures the two Bengals and Assam are to contribute in 1908-1909  $2\frac{1}{2}$  crores less than in 1904-1905; Madras falls by over a crore; the United Provinces by a crore and a half; the Punjab by 25 lakhs; the Central Provinces by 65 lakhs. Bombay increases by 12 and Burma by 7 lakhs. Though Provincial expenditure in Burma has had to be reduced, the estimated contribution to Imperial in the year 1909-1910 is greater than the estimate for the current year.

“ These bare figures are sufficiently striking. But did time permit me to enlarge on the needs of the Province, to show that merely from the economic point of view expenditure on a liberal scale would be justified, the picture could be made still more convincing. I am aware that Imperial finances are not in a position to enable aid to be given to Burma in the coming years. But I earnestly ask that our plight and our needs may be remembered and that when prosperity is restored our settlement may be revised, I will not say on a liberal, but on a sound economic and business-like footing.”

The Hon'ble MR. APCAR said :—“ It is extremely unfortunate that financial conditions have been so unsatisfactory as to oblige the Secretary of State to reduce the expenditure on railways from  $18\frac{3}{4}$  crores to 15 crores.

“ The Finance Committee's report gave hope that a more liberal supply of money would be available for railway work in the future, and I most sincerely trust that this hope may still be realized in future years and that the adoption of a figure of 15 crores is merely temporary.

“ The very large reduction in railway earnings and the growth of working expenses, while producing for the last year disappointing results, seem to have been due to causes for which the Government cannot be held to blame.

“ Throughout the world railways have had a bad year, the depression of trade affecting every country and naturally producing less receipts. As to working expenses, from the point of view of trade, the increase is explained and not so serious as it looks.

“The commercial community for some years past have urged on the Government of India the necessity of bringing the railways of India more up to date and put them in a better position to deal satisfactorily with a steady growth of trade. To do this large expenditure was necessary in renewals and betterments, the cost of which fell to a considerable extent on Revenue. The improvement of the railway systems of India is a matter in which trade is vitally interested and it is satisfactory to know that this improvement has been maintained even in a bad year for receipts, as a more efficient means of transport will be available for commerce when the trade depression shows signs of improving.

“It is also satisfactory to note that no action has been taken to raise railway rates because the results of working would show disappointing results. India, unlike other countries, has hitherto had the great advantage of steady railway rates, and to know they will keep steady even when receipts are diminishing, is a great asset in assisting development as it gives a feeling of security in the cost of transport by rail—a most important item in commercial transactions. I think the Government would be unwise to place any check on the steady rate of improvement of its railways that has been in progress of late years, even in the face of a possible reduction in the surplus earned by railways in the past, as though it may temporarily cause reduced net receipts the result must be of benefit to the country in the improvement of its railway property and the expansion of its power to deal with transport.

“The year has been an important one in the history of methods under which the Government carries out its railway duties.

“The Railway Board has been entirely re-organized and placed in the position it should have occupied from the beginning, and I feel justified in saying that under its new constitution the Railway Board has begun to earn the confidence of the commercial community.

“In connection with railway matters I desire to express satisfaction that provision has at last been made for the commencement of work in connection with the bridging of the Ganges by State agency at Sára Ghat. The proposal was originally mooted as far back as 1890, and after so long delay I venture to express the hope that Government will now steadily press forward with the scheme. When the bridge is completed the most serious of the difficulties which have hitherto beset the Eastern Bengal State Railway in the working of traffic to and from areas north of the Ganges will be removed. There will also be a great saving in working expenses not merely in reduced handling

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charges but in freedom from claims. In the evidence given before the Ganges Bridge Committee the cost of working the Ferry at Sara was estimated at 8½ lakhs of rupees per annum. This estimate included Rs. 25,000 for loss or damage arising while goods were being dealt with at the Ferry. But besides ordinary claims there have been exceptional losses there, and in 1904 the burning of one flat necessitated the payment of no less than Rs. 89,000 in claims. I have entered into this aspect of the question in view of proposals which have been made that the management of the Eastern Bengal State Railway should be made over to the Bengal and North-Western Railway. Opinion in mercantile circles is strongly opposed to this proposal, partly because much advantage financially is expected from the savings which will be effected by the construction of the Bridge and the transshipment of all the traffic from wagon to wagon. It is felt that the effect of the great change on the net revenue of the railway should be ascertained and considered in connection with the terms of the working arrangement before any steps are taken to make over the line to Company management.

“Whatever the issue of such consideration may be it would be premature to say, for there is also a body of opinion, which shows signs of growing, in favour of the proposition that, so far as this particular railway is concerned, the State is more likely than any Company to give back in better service and reduced rates, at least a portion of any increase in the net profits on working. These profits are, for the reasons I have already given, expected to increase, and while under any contract a large proportion of the savings would come to the State whose proprietary interests are enormous, a company working mainly on behalf of its stockholders is bound to keep their interests ever in the foreground.

“There is a further point to which I desire to allude in connection with the Eastern Bengal State Railway. I refer to the frequent changes of its Managers. The question was referred to by the late Mr. Robertson in his ‘Report on the Administration and Working of Indian Railways’ where he pointed out that seven changes of Manager had taken place in five years. I would urge on Government the need for continuity of management and the advisability of making the remuneration of the Manager such that there need be no temptation to seek promotion elsewhere. A suggestion has also been made that a body of Railway Commissioners partly nominated by the Chamber of Commerce and other public bodies, on the model of the Port Trust, might be formed to advise or consult with the Railway Board regarding the requirements of the province and the means of providing for expected developments of traffic. This idea might be

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adopted experimentally in connection with the Eastern Bengal State Railway, and I commend it to the consideration of Government.

“The experiences through which we have recently passed have no doubt caused some modifications in the views held by the mercantile community as to the management of the Gold Standard Reserve on which is based the stability of our currency of monopoly rupees convertible only at the will of Government. It must be said that changes of policy with respect to this Reserve have given rise to misgivings in the minds of the commercial public and active but unavailing protests were made by Chambers of Commerce in 1906 against the decision to hold 4 millions sterling of this Reserve in *silver*. The fear that opportunism rather than sound economic principle dictated the policy of Government led the Bengal Chamber of Commerce in 1907 to recommend that the Indian Currency question should be once more thoroughly examined by a Commission of Experts. It was hoped that such a Commission would consider and advise especially as to the magnitude of the Gold Standard Reserve Fund and the manner of its investment. The limit of 10 millions mentioned by Lord Curzon in 1904 as giving ‘a permanent guarantee for stability of exchange’ has long since been exceeded, and in the light of recent experience one is rather inclined to agree with the opinion expressed by the Hon’ble Finance Minister in the Budget Debate of 28th March 1906 that ‘there can be no limit to the Gold Reserve Fund.’ ‘So long,’ he said, ‘as India has a Gold Standard combined with a Currency which consists mainly of rupees, I consider that we are bound to set apart the whole of the profits on additions to the coinage.’ After stating his reasons for this important expression of opinion he added—‘We must therefore resist all temptation to use these profits for ordinary current expenditure.’ Yet two years later it was decided that one-half of the profit on coinage should be diverted to meet the cost of railway construction. These changes in opinion and practice do not foster confidence, yet confidence in currency matters is of primary importance.

“The recommendation to appoint a Commission was made in September 1907. A few months later the combined influences of an adverse trade balance and the financial crisis in the United States gave unexpected but weighty support to this recommendation. When the Exchange value of the rupee fell in November 1907 to  $1-3\frac{11}{16}$  for telegraphic transfers on London equal to about  $1\frac{1}{2}$  per cent. below gold point, it could no longer be said that the question was one of academic interest only: the hard logic of facts had elevated the subject to the insistent region of things practical and urgent. Yet the policy of the Government during this time of crisis was notable only

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for inactivity. It was not till the end of March 1908, in spite of urgent representations from the Banks, that Government commenced to offer Sterling Bills on the Secretary of State in London in limited weekly offerings. In the period from 26th March to 13th August 1908, the total sales of such drafts aggregated over 8 millions sterling. Recent experience has, in my opinion, given added importance to the proposal that a further enquiry into the currency question in all its aspects should be held. I consider that a good case has been made out for such an enquiry, and that when it is held the public should be given an opportunity of expressing their views on the whole question.

“ The orders recently issued by the Secretary of State on the recommendations of the Committee appointed in 1906 to enquire into the procedure for the purchase of Government stores are welcomed by manufacturers in this country. The orders prescribe that ‘articles manufactured in India from imported materials shall in preference be purchased in India when the price is as low as that at which articles of similar quality can be obtained through the India Office.’ Two years ago I referred to the fact that two Engineering Firms had recently put down wagon constructing plant, and that as about 60 per cent. of the cost of wagons is expended in the purchase of materials in Europe and about 40 per cent. on labour and materials in India, it was expedient, in the interests of India, the purchaser, that a larger share of the orders should be placed in this country. I further stated that manufacturers in India do not ask for preferential treatment as to price, but that, being limited to one market, whilst European manufacturers have many outlets for their production, steady employment is essential to enable them to give a reasonable return on their Capital. During the past year these concerns were without orders for wagons for more than six months and had to close the works entirely during the greater part of that period. The more liberal treatment of local enterprise foreshadowed in the Government’s communiqué, to which I have alluded, will, I trust, improve matters, but, as has been said more than once, on these occasions the rolling stock requirements of the Railway Companies should be made known some time ahead and manufacturers in India invited to quote for as many wagons as their works are capable of turning out. There seems no reason why steady employment throughout the year should not be given to our local manufacturers, who, as I have said, ask for no preferential treatment in the matter of price.

“ I should be glad to see some legislation introduced dealing with the question of Life Assurance Companies. At the present moment any person can start a life Assurance Company and collect premia from ignorant persons.

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Life Assurance stands on quite a different plane from ordinary business transactions. It is a thing which the State should encourage by every means in their power, and which they should safeguard in the interests of those who insure, in every possible manner. In England Life Assurance Companies before commencing business have to deposit a large sum with the Government as a guarantee of their good faith ; they have also to furnish regular returns and the like. A similar procedure is much needed in this country, and in the Acts in the United Kingdom the Government will find all they want.

“Another year has passed and I would ask what progress has been made with the scheme for the improvement of Calcutta. I mention the subject because it is urgently needed.”

The Hon'ble Mr. GOKHALE said:—“My Lord, the Hon'ble Member is entitled to the fullest sympathy of this Council and of the country in the difficult task with which he finds himself confronted at the very commencement of his tenure of office as Finance Minister of India. After a succession of surpluses extending over ten consecutive years, we have come, suddenly and almost without warning, to a year of a heavy deficit, and this abrupt change is accompanied by an uncertainty about the future, which aggravates the anxieties of the situation. It is true the Hon'ble Member estimates, on the assumption of a normal season, a revenue for next year fully equal to its requirements and he even budgets for a small surplus. But reading between the lines of his statement, one cannot help feeling that he regards the prospect before him with considerable uneasiness. The Hon'ble Member bases his figures of revenue on a normal season, though such estimating is, in his opinion, 'largely a gamble in rain.' The grave depression in trade, which has so seriously reduced our railway receipts during the current year, and which, as the Hon'ble Member says, is not local or peculiar to India but is 'one of those great reactions which periodically affect the whole civilized world,' has not yet passed away, and yet the Hon'ble Member takes for railway earnings a figure £ 2½ millions above that of the current year, thus placing our railway activity during next year 'where it would have been in 1908-1909, if conditions had been normal, with a small extra margin for the increased mileage.' Finally the Hon'ble Member uses significant language when he says:—'I have no desire to minimise the difficulties, which it would be folly to ignore, attaching to Currency and Exchange, to the present position of the Gold Standard Reserve, and the weakness of our cash balances'. I doubt therefore if the Hon'ble Member himself feels much confidence in the estimates which he has laid before the Council, and I think that the position of equilibrium for which he has budgetted indicates more a suspension

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of judgment on his part than a reasonably confident anticipation of next year's revenue and expenditure.

"My Lord, a deficit of  $3\frac{1}{2}$  millions sterling or over  $5\frac{1}{2}$  crores of rupees is the heaviest deficit we have had in any year during the last fifty years. And only once during the period has it exceeded 3 millions. That was in the year 1897, when the country was devastated by one of the greatest famines of the last century and when in addition there were prolonged military operations on the North-West frontier,—the famine costing in direct relief  $3\frac{1}{2}$  millions, and the military operations  $2\frac{1}{2}$  millions, and the accounts showing a deficit of  $3\frac{1}{2}$  millions. It is however necessary to remember that the current year's deficit includes a sum of £725,300 under railway charges, which should not be charged against revenue at all, being the portion of the annuity payments devoted to redemption of capital. The exclusion of this sum reduces the deficit from  $3\frac{1}{2}$  millions to 3 millions. Even so, it is a heavy deficit, and in view of its serious nature I fear regret will be expressed in some quarters—I already notice a tendency in that direction—that the Government should have granted successive remissions of taxation since 1903. I think therefore that it will be useful to recall here the extent of these remissions and their true relation to the growth of our revenue in recent years. These remissions have been three reductions of the salt-duty, each by 8 annas a maund, reducing the duty altogether from Rs. 2-8 annas to Re. 1 a maund, the exemption from income-tax of incomes between Rs. 500 and Rs. 1,000 a year, the abolition of famine cesses in Northern India, and the abolition of certain local taxes on land in several Provinces. The total relief granted to the tax-payers by these various measures has been a little over four millions a year. Now to understand correctly the real bearing of these remissions on the general financial situation, it is necessary to glance briefly at the history of our finances since 1885. The first eleven years of this period were a time of extreme stress and anxiety for the Finance Minister, owing mainly to the fall in the exchange value of the rupee, which declined rapidly from over 19d. to about 13d., while at the same time military expenditure was rising and the opium revenue going down. The Government met the difficulties of the situation by heavy and continuous additions to the taxation of the country, adhering rigorously to the canon of finance that the year's expenditure should come out of the year's revenues. The lowest point touched by exchange was in 1894-95, when it stood at 13-1d. to the rupee. And yet by raising the level of taxation high enough, the Government were able to realise even in that year a surplus of 70 lakhs of rupees. From that point onwards, exchange again rose steadily owing to the currency legislation of 1893, till at last in 1899-1900 it established itself firmly

in the vicinity of 1s. 4d. And when, three years later, the first remission of taxation was granted, the position was this:—The rupee had risen from 13-1d. to 16d.; there had also been a considerable increase of revenue under most of the principal heads; but the level of taxation still stood where it had been pushed up when the rupee had fallen to 13-1d. Now a rise in exchange from 13-1d. to 16d. meant a saving of 3½ millions sterling in the cost of remittances to England necessary to meet the Home charges, taking these charges even at the lower figure of 1894-95. And this saving the Government were morally bound to return to the tax-payers, however they dealt with the general increase of revenue that had accrued. As the various remissions put together have amounted to about 4 millions a year, it is clear that the relief granted to the tax-payers during the last six years has not materially exceeded the saving effected in the cost of Home remittances by an artificial appreciation of the rupee. It may be noted that in spite of these remissions of 4 millions a year, the revenue to-day is higher than it was six years ago, the receipts under the principal heads for the current year being over 49 millions as against 45·6 millions for 1902-03, the year immediately preceding the first reduction of taxation.

“My Lord, the year about to close has been a famine year and it is instructive to compare it with the year of the last great famine—1900-01. That famine was admittedly one of the severest as it was the most extensive of any that have been known in India, and it cost over 4 millions in direct relief. This year's famine on the other hand was confined mainly to the United Provinces and the cost of relief has been only a million. The revenue under the principal heads for 1900-91 was 43·6 millions; that for the current year, in spite of the remissions of taxation granted in the interval, was over 49 millions. (The latter figure includes the revenue for Berar, which the former does not, but the former includes the proceeds of local rates, which are excluded from the latter.) In 1900-01, there was a saving in military charges owing to the absence of a portion of the troops in South Africa, against which may be set the windfall under opium during the current year. Under Railways there was a small net revenue of about ½ million in 1900-01 as against the loss in this year's Revised Estimates of a little under ½ million. The Government thus had in 1900-01 a smaller revenue and had to incur a much larger expenditure on famine relief than during the current year, and yet in the former year they were able to show a surplus of 1·7 millions whereas in the latter they have a deficit of 3 millions exclusive of the sum devoted to the redemption of railway capital. This shows the extent to which the ordinary expenditure of the country has grown during the last eight years. Of course a good part of this increased expenditure has been devoted to most



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worthy objects, such as extension of education, improvement of agriculture, police reform, grants to District Boards, grants for sanitation, and so forth. But there is also no doubt that a portion of the increase has been due to the fact that money was available and the need for economy was not obvious. The scales of pay, for instance, of the superior grades in most departments have been augmented during the last few years. And in this connection, I cannot help recalling the vigorous language used by His Honour Sir Edward Baker two years ago in speaking of the pressure constantly brought to bear on the Finance Department in the matter. 'I have now been', said His Honour, 'connected with the Finance Department of the Government of India for five years continuously, and during that period I do not believe that a single day has passed on which I have not been called upon officially to assent to an increase of pay of some appointment or group of appointments, to the reorganization of some Department or to an augmentation of their numbers. All experience proves that where revision is needed, either of strength or emoluments, the Local Governments and the Heads of Departments are only too ready in bringing it forward. Nor are the members of the various services at all backward in urging their own claims'. I am glad the Hon'ble Member proposes to enforce a policy of strict retrenchment in all directions. If he succeeds in doing so to any appreciable extent, the present deficit will have proved a blessing in disguise! One feature of the present financial situation, to which attention may be drawn, is the greater extent of the reliance which is now placed on net railway revenue to meet the ordinary recurring expenditure of the country. Our railways, after causing a net loss to the country year after year for half a century—amounting in all to more than fifty crores—began to show a small profit nine years ago. And during the last four years, this profit reached the high average of about three crores a year. Unfortunately they have failed us somewhat suddenly this year, and I fear it will be necessary to regard this source of revenue with a certain amount of distrust in the future.

"My Lord, the Hon'ble Member has adopted, if I may presume to say so, an entirely wise course in budgetting for a position of equilibrium for next year in spite of the heavy deficit of the current year. We all hope with him that the next season will be a normal one and that the depression in trade will soon pass away. We hope also that no new clouds will gather on the horizon. There is no doubt that in ordinary circumstances and in the absence of any special disturbing factors the financial position of the country is a strong one. And by this time next year, we shall be in a better position to judge whether the causes that have brought about the present disturbance are temporary or will continue longer in operation. I must, however, confess, my Lord, that the continued prevalence

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of high prices in all parts of the country appears to me to be an element of considerable anxiety in the present situation. Last year, in the course of the budget debate, I ventured to express my apprehensions on this subject, and further consideration has only strengthened those apprehensions. I think the quantitative theory of money holds good much more in the case of a backward country like India than in those of more advanced countries. Variations in the prices of individual commodities may be due to variations in the demand for them or in their supply. But a more or less general rise of prices can only point to a disturbance of the currency. Such rise need not be uniform in the case of all commodities, for in the view which I am stating, prices are a function of three variables—currency, demand and supply, and any general rise resulting from a disturbance of the currency may be modified in particular cases by one or both of the other two factors. The whole question requires a close and immediate investigation by a competent body of men, and I sincerely trust the Government have made up their mind to direct such an enquiry. The experience we have had this year of the Gold Standard Reserve must lead many of us to revise our ideas on that subject. The Government are being urged on all sides to build up a strong Reserve, but we seem to stand in this matter on the horns of a dilemma. If the mints continue idle as at present and no new rupees are coined, there will be no coinage profits and therefore no additions to the Gold Standard Reserve. On the other hand, if new rupees are coined, they will, I fear, tend to raise prices still higher in the country. And this will discourage exports and stimulate imports, and will exercise an adverse influence on our balance of trade. It has been urged in defence of the heavy coinage of rupees in recent years that they were issued solely to meet the demands of trade. The course adopted does not however seem to be justified by the results. It is important to remember that the Fowler Committee had expressed itself strongly and clearly against such new coinage until a sufficient quantity of gold was in circulation in the country. 'The Government,' they wrote, 'should continue to give rupees for gold; but fresh rupees should not be coined until the proportion of gold in the currency is found to exceed the requirements of the public.' It seems to me that the only way now out of our difficulties is to follow the example of France and the United States, and while admitting the rupee to unlimited tender, stop the coinage of new rupees and coin gold pieces instead. Of course I express this opinion with great diffidence, for there are serious considerations on the other side and the whole subject is enveloped in great obscurity. But I fear that the present half-way house will not do, and unless we place our currency on an automatic and self-adjusting basis, the clouds that are already over-head will thicken and not roll away.

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“ My Lord, I am sincerely pleased that as a result of this year’s deficit, the special military grant of two millions a year, which has been placed at the disposal of His Excellency the Commander-in-Chief for the last four years for his re-organization scheme, will be abolished from next year. The relief afforded by the abolition to the finances is no doubt more apparent than real, for already in its place there is a permanent increase of expenditure of  $1\frac{1}{2}$  millions a year—£655,100 as the permanent charge left behind by His Excellency’s completed special measures, and £813,300 for increased payments to the War Office and for increase of pay and allowances to Indian troops,—with an indefinite liability to find, as before 1904, whatever extra sums the military authorities may demand for ‘indispensable’ special measures. Still it is a matter for satisfaction that this fixed, heavy burden which we have borne for four years is for the present at any rate off our shoulders. It is somewhat disappointing that of the  $8\frac{1}{4}$  millions spent out of the special grant since 1904, only about  $3\frac{2}{3}$  millions have been expended on measures included in His Excellency’s original programme. It was expected that as a result of the completion of that programme there would ultimately be a saving in the military expenditure of the country. That expectation, I fear, will not now be realised, if only one-third of the scheme has so far been carried out. The increase, in the payment to the War Office, of £300,000 a year is regarded throughout the country as an unjust addition to our burdens and is deeply resented. It is understood that the Government of India protested strongly against this fresh imposition and the best thanks of the country are due to the Government for this. On the other hand the increase in the pay of Indian troops was quite necessary and has been received with sincere pleasure by all classes of the people.

“ I have several times expressed my views on Railway finance in this Council and I will therefore make only a passing reference to that subject today. The Government propose to spend £10 millions next year as Capital outlay on Railways. Notwithstanding what has happened this year, I trust our Railways have now established their character as a commercial success. That being so, as a mere matter of finance—apart from questions, such as the relative importance of Railways and Irrigation—there can be no objection to the Government spending whatever amount they think desirable on railway construction, provided they raise the whole of that amount strictly by borrowing. This year’s experience no doubt emphasises the need for caution even in railway construction out of borrowings, but I do not wish to dwell on that aspect of the question. The Government, however, have not in the past been satisfied with merely devoting loan-funds to the building of railways. They have in addition drawn on every other available resource for the purpose, and

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thus, during the last few years, surplus after surplus, arising out of current revenues, which might have been devoted with the utmost benefit to the people to meeting non-recurring expenditure in connection with primary education, technical education, sanitation, and such other needs of the country, has been swallowed up by this eternal, unending, insatiable railway construction! Year after year I have complained of this misapplication of our surpluses in this Council but without avail. Two years ago it did appear as though Sir Edward Baker might move a little from his position in the matter, but last year he decisively closed the discussion, so far as he was concerned, by declaring that 'the Hon'ble Member and the Government are irreconcilably divided and can only agree to differ.' My Lord, I mention these things in the hope that my contention might meet with a better reception at the hands of the new Finance Member. Our finance is the finance of a poor country, whose resources are small and whose needs in several directions are pressing and various. It is true that the application of a portion of our revenues to Railway construction leads to a corresponding reduction of our unproductive debt, but that should be no object with the Government, seeing what a mere trifle that debt is, being only about £37 millions sterling. The present year is a year of deficit, but the Hon'ble Member includes the small surplus for which he budgets for next year among the ways and means of meeting capital expenditure. This means that even if the expected surplus is not realised, the estimated amount will be devoted to railway construction out of cash balances. Again, as I have already pointed out, this year's deficit includes a sum of  $\frac{3}{4}$  million under Railway charges, which represents the portion of annuity payments devoted to the redemption of capital. Thus our surpluses, whenever they are realised, are to go to railway construction, and in addition to that, a sum of  $\frac{3}{4}$  million a year out of current revenues is to be devoted to the redemption of railway capital! My Lord, I protest respectfully but with all the emphasis at my command against this policy. It is, in the circumstances of India, unjust and unjustifiable, and even from the standpoint of sound financial administration, it is wholly unnecessary.

" My Lord, this is probably the last budget debate at which observations of a general character, unconnected with questions of finance, will be permitted, and I would like to say a few words on the situation in the country generally before bringing my remarks to a close. The acute anxieties of the last year are now happily over, and the situation has undergone during the last three months a change so striking and decisive that it is almost difficult to recall the crisis through which we have passed. When the Council closed its last Calcutta session twelve months ago, there was in the air a feeling of vague uneasiness as

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at some impending disaster. And the country was soon startled and shocked by the appearance of anarchists on the scene. It is true their numbers were utterly insignificant, but the danger was that for a time at any rate the more reckless and irresponsible spirits in the country would think more of the daring of these misguided young men than of the wicked and detestable character of their outrages. With such a danger confronting them, the Government could not afford to sit idle or lose time. But the drastic measures of repression which they found themselves driven to adopt, both to prevent the spread of general disorder and to strike at the root of political crime, deepened still further the gloom of the situation and added to the prevailing feeling of despair in the country. It was indeed a time of grave anxiety, for large numbers of young men were daily drifting away farther and farther from their allegiance to British rule and the whole conception of one's duty to the country was undergoing a rapid change in superficial minds. Happily at this critical juncture, the courage and statesmanship of Your Lordship's Government and of the Secretary of State came to our rescue and the announcement of a large and generous scheme of reforms in December last at once acted like a charm, and eased the tension of the situation. And today the position, in spite of its undoubted difficulties, is actually clearer and stronger than it has been for many years past. A new hope is gladdening the hearts of the people, and though certain causes of soreness exist, the minds of the educated classes are steadily reverting to their old faith in the higher purpose and character of British rule. The appreciation of the supreme importance of order for purposes of real progress is all the deeper and more distinct for having experienced the shock and horror of recent outrages. And on every side there are indications that a period of closer and more cordial relations between the authorities and the people is about to begin.

“ My Lord, I have said that certain causes of soreness still exist. Of these one of the most serious is the deportation of nine Bengali gentlemen under the Regulation of 1818 in December last. I have no wish to go on the present occasion into the general objections that may reasonably be urged against a resort to the extraordinary powers conferred by the Regulation. Those objections are well understood and there is no satisfactory answer to them. I feel bound, however, to say one thing. In the course of a recent debate in the House of Commons on the subject, the Under-Secretary of State for India stated that these nine men had been deported because it was believed that among them were ‘some leading instigators of crime.’ It is true that Mr. Buchanan did not say that every one of the nine gentlemen was a leading instigator of crime. But as none of them was expressly

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excluded from the description and as all nine have been deported, the suspicion of being an instigator of crime must attach to each one of them. Now two of these nine men I know very well personally—Babu Krishna Kumar Mitter and Babu Aswini Kumar Dutt. They are undoubtedly persons of the highest character and of deep piety, and it is incredible that either of them can have been even most remotely connected with crime. I recognize that in times of grave emergency, the Government have to decide quickly and act promptly, taking all risks—even the risk of being in the wrong. But it is now more than three months since the deportations took place. The situation throughout the country is rapidly improving. May we not hope that the Government will now reconsider this matter and take the earliest opportunity to restore these men to their homes? It will be an act of bare justice to the individuals and will give great satisfaction throughout the country.

“My Lord, certain provisions of the reform scheme have, as the Council knows, evoked keen and even excited controversy. Of these, the greatest opposition has been naturally encountered by the proposal to appoint an Indian member to your, Lordship's Executive Council. The question, however, is now laid at rest by the announcement made five days ago that His Majesty the King-Emperor has been pleased to approve the appointment of Mr. S. P. Sinha to succeed Sir Erle Richards as Law Member of the Council. My Lord, the day when this announcement was made will always be remembered as a red letter day in the history of British rule in India. A momentous step has been taken and a most signal vindication offered to the people of this country of the noble pledges contained in the late Queen's gracious Proclamation. I am confident that the Government will have no cause to regret what they have done. The trust and courage which they have displayed will be repaid a hundredfold in the new ties of attachment and gratitude which will bind the country to British rule, and the administration will be all the stronger for coming closer to the hearts of the people. The opposition to clause III of the new Reform Bill has come principally from certain retired administrators and civilians, whose connection with India terminated sometime ago and who have not been in touch with the rapid changes of thought and sentiment which have taken place in the country during the last three years. Now that the tension has relaxed, these gentlemen would evidently like to part with as little real power as possible, and they have not hesitated to get the clause rejected by the House of Lords in the face of the opinion of the Government of India and the Secretary of State. Their action has caused deep and widespread disappointment throughout the country, for there is no doubt that administration by a Council is a higher form of Government than a single man rule, and the proposed change is needed to meet

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satisfactorily the altered requirements of the situation. There is room yet for the hope that the clause will in the end be restored after all, and it will be worse than unfortunate if this hope is not realised, for that will mean that the proposed scheme of reform has been put back in a most important particular. The third question connected with the reforms, round which controversy has raged for some time, is that of Mahomedan representation. As this question is arousing a considerable amount of feeling in the country, I would like to state briefly my own view of the matter. That view is practically the same as that of the Government of India, and I have embodied it in the note which I had the honour to submit to the Secretary of State last September on the subject of constitutional reforms. I think the most reasonable plan is first to throw open a substantial minimum of seats to election on a territorial basis, in which all qualified to vote should take part without distinction of race or creed. And then supplementary elections should be held for minorities which numerically or otherwise are important enough to need special representation, and these should be confined to members of the minorities only. What minorities in the different Provinces should have special representation and how many seats should be assigned to each minority must depend upon the special circumstances of each Province. It will not do to be guided in the matter by a strict regard for numbers only; for it may be necessary at times to give special representation to a minority so small as not to be entitled even to a single member on a strict numerical basis. This was practically the plan advocated by the Government of India in their despatch as I understand it, and now that the idea of joint Electoral Colleges has been abandoned, I earnestly trust that it will be carried out. The great advantage of this plan is that it provides for composite action by all communities up to a certain point and then it prevents injustice, in practical operation, to minorities by giving them special supplementary electorates of their own. My Lord, it has been urged by some of my countrymen that any special separate treatment of minorities militates against the idea of the union of all communities in public matters. Such union is no doubt the goal towards which we have to strive, but it cannot be denied that it does not exist in the country today and it is no use proceeding as though it existed when in reality it does not. Not only this, but unless the feeling of soreness in the minds of minorities is removed by special separate supplementary treatment such as is proposed by the Government of India, the advance towards a real union will be retarded rather than promoted. One thing, however, must here be said. The idea of two water-tight compartments for Hindus and Mahomedans separately will not promote the best interests of the country, and moreover it is really not feasible. For there cannot be only two such compartments, unless all minorities other than Mahomedan

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are to be joined to the Hindus, in which case the division will practically be Mahomedans and non-Mahomedans.) Further, where only one member is to be returned by a whole province, as in the case of land-holders or the non-official members of some of the Provincial Councils, any division of those who are qualified to vote into two or more groups becomes impossible. The objection has been raised that under the plan of the Government of India, members of minorities will vote in general election as also in their own supplementary election. But the matter must be looked at in a large way and in a practical spirit. The aim is not to secure a scientific accuracy of method but to obtain substantially just and satisfactory results. Let it be remembered that a member more or less for either the Hindus or the Mahomedans does not really much matter. The existence of the Government is not to depend upon the votes of non-official members, neither are its members to be drawn from those who are in a majority in the Councils. Let it also be remembered that the most important part of the proposed reform of Legislative Councils is the power that will be conferred on members to raise discussions on administrative questions in the Council and for this purpose the exact proportion of members returned by any community is a matter of small importance. My Lord, I respectfully suggest that the Government should take an early opportunity to make a clear and firm declaration on this subject, calculated to allay apprehensions and give reasonable satisfaction to all parties. It is necessary that the new arrangements should be inaugurated with the utmost good-will from all sections of the people. I earnestly appeal to my countrymen—both Hindu and Mahomedan—to exercise special mutual forbearance at this juncture and meet each other half way. We owe this to ourselves and to our country's future; we owe it also to those who are granting us these important measures of reform.

“My Lord, in this connection may I offer a word of personal explanation on this occasion? I see from the papers that have arrived by the last English mail that the note on constitutional reforms which I submitted to the Secretary of State in September last and to which I have already referred here today has come in for a good deal of comment in England. Now what I want to say about that note is this. There was nothing surreptitious or private about it. It was submitted by me to the Secretary of State for India in my capacity as a representative of the Bombay Presidency Association, publicly deputed by that body to proceed to England and lay their views before the authorities there on the proposed reforms. The note was only a summary—with very slight modifications suggested by the discussions I had with a number of public men in England on the subject—of the views which the Association had already laid



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before the Government of India in an exhaustive memorial and before the Decentralisation Commission in another memorandum. On my return to India I noticed attempts made in certain quarters to rouse Mahomedan feeling against the reform scheme, as outlined in Lord Morley's despatch, by representing it as a result of Hindu intrigue in London. And after a time my name was openly mentioned in that connection. As the line I had taken on the Mahomedan question was practically the same as that of the Government of India, I thought—and several of my friends agreed with me in this view—that the best way to counteract this mischief, which threatened to grow quite serious, was to publish the views which I had laid before the Secretary of State. Before communicating the note to the Press, however, I sent a copy to Sir Herbert Risley, requesting him to include it, if possible, among any fresh papers on reforms that the Government might issue—a request that he at once and very courteously complied with. I took this course because it was thought necessary in the best interests of our public life that no room should be left for the allegations of intrigue against Mahomedans, which were being openly and unscrupulously made. There was no thought of suggesting that it was the note that had influenced the Secretary of State in his decision, and no such suggestion has ever been made by me by word or by whisper. As regards the attacks made on the Indian Councils Bill by the opponents of that measure on the score of its supposed connection with my note, they are of course the usual amenities of party warfare in England. All the same they are most unfair. Any one who reads the despatches carefully will see that nine-tenths of the scheme, even in its final form, is really the Government of India's. And even in the few points in which the Secretary of State has gone beyond the Government of India's proposals, he had strong support of an official character behind him—a support that was bound to be far more influential than a note containing merely the views of a public body in India. Thus we all know that in regard to the appointment of an Indian to the Viceroy's Executive Council, had it not been for Your Lordship's strong personal interest in the matter, that reform would never have come. As regards Provincial Executive Councils, it is really the Decentralisation Commission that has pushed the question to the front. And in the remaining matters, it is known that the Secretary of State has acted on the recommendations of Lord Macdonnell and his colleagues on the Special Committee. It is true that some of the reforms which Indian public men have from time to time been advocating have found a place in the scheme finally adopted by Government. But that only shows that our proposals were not so very unreasonable after all, and that when they came to be officially examined in a serious spirit they were found to be quite practicable. The fact is that the path of constitutional reform in India is really extremely

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narrow and those who want to advance along that path have no choice but to have in view more or less the same stages and almost the same steps. To safeguard the essential elements of British supremacy, to associate the people of the country more largely with the administration of their affairs, and to do this cautiously, impartially and at the same time in accordance with ideas and aspirations which Western education has fostered in the land—these factors of the problem do not leave a wide margin for differences of opinion except in regard to minor details. Of course those who do not want to advance do differ fundamentally from those who do ; also among those who want to advance there may be differences of opinion as to how many steps may be taken at a time. But there is not much room for any striking originality or novelty of solution in determining the path. Moreover, the interests involved are too large and too serious to permit of the authorities going in search of originality for mere originality's sake.

“ These controversies, small and great, will however soon come to an end, and before long they will probably pass out of men's minds. But the reforms that will be inaugurated will remain, and they will open a new and important chapter to the people of this country. As far as one may foresee, the chief characteristic of the next few years will be a greater consideration for public opinion on the part of the authorities, a larger realization of the difficulties of the administration on the part of the people, and a closer co-operation between the two sides in promoting the moral and material interests of the country. It is idle to expect that with the introduction of the reforms all existing misunderstandings between the Government and the people will vanish ; and it will be even more idle to imagine that, as time rolls on, no new occasions of friction will arise or no fresh misunderstandings crop up. But there is no doubt that when the proposed reforms are completed, the administrative arrangements of the country will have been brought into reasonable harmony with the present requirements of the people ; and as regards the future, we must be content to let it take care of itself. I think it is safe to say that when, in later times, the eyes of our countrymen turn back to these days, they will see two figures standing apart from the rest. One will be Your Excellency and the other Lord Morley. My Lord, I am at a disadvantage in speaking of Your Lordship in your presence ; but the occasion is exceptional and I trust the Council will forgive me for any apparent breach of propriety. The country owes a deep debt of gratitude to Your Lordship, both personally and as the head of the Government of India, for these reforms. You had not been many months in the land before you recognized frankly and publicly that new aspirations were stirring in the hearts of the people, that they were part

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of a larger movement common to the whole East, and that it was necessary to satisfy them to a reasonable extent by giving the people a larger share in the administration of affairs. And throughout your purpose in this matter has never wavered. Your Lordship started the first deliberations in your Council on the subject. The tentative proposals published in 1907, which had caused great dissatisfaction, were revised and recast under your own direction, and nine-tenths of the scheme in its final form is that of the Government of India. But this is not all. The throwing open of your Executive Council to Indians—which in some respects in the most notable part of the reforms—is principally Your Lordship's work. Serene, clear-sighted, supremely modest, Your Lordship has gone on with the work of reform with noble courage amidst extraordinary difficulties, and I am sure your greatest satisfaction will be that when you lay down the reins of office you will leave to your successor a task far less anxious than the one you inherited. My Lord, among the many great men who have held office as Governor General in this country, there are three names which the people cherish above all others—the names of Bentinck, Canning and Ripon. I venture to predict, both as a student of Indian history and as one who has taken some part, however humble, in the public life of the country for the last twenty years, that it is in the company of these Viceroys that Your Lordship's name will go down to posterity in India. Of Lord Morley I will say only this. It would have been a sad thing for humanity if his tenure of office as Secretary of State for India had produced nothing more than deportations and Press laws. One who has taught so highly and to whose name such great honour attaches even in distant lands cannot afford to be 'as other men are—a slave of routine and a victim of circumstance.' However, his great Liberalism has been amply and strikingly vindicated even in so difficult a position as that of the head of a vast bureaucracy, and the temporary misunderstandings of friends and the unworthy taunts of opponents will not have been borne in vain, when the full results of the present measures of reform show themselves in this country. That passage in his speech in the House of Lords, foreshadowing Mr. Sinha's appointment, with its phrase 'one of the King's equal subjects,' has touched a chord in Indian hearts which will keep vibrating for some time. It is a passage that will live in the history of this country—in any case it will remain engraved on the hearts of the people. My Lord, I sincerely believe that Your Lordship and Lord Morley have between you saved India from drifting towards what cannot be described by any other name than chaos. For however strong a Government may be, repression never can put down the aspirations of a people and never will.<sup>99</sup>

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The Hon'ble MR. HARVEY said:—" My Lord, the anticipations formed last year as to the probability of a decline in our sea-borne trade have unfortunately been only too completely realised. The causes which have operated to produce the depression in the world's markets, and the special circumstances which have aggravated it in this country, have been referred to in detail in my Hon'ble Colleague's Financial Statement, and it would be a waste of the time of this Council if I were again to enumerate them at length. I may, however, add with reference to one of our staple industries that, while locally manufactured cotton cloth is suffering from congestion of stocks in the same way as imported piece-goods, there has been some revival in the exports of yarn, and the results of the year have not been as unfavourable as general conditions might have led us to expect. Stocks in China are reported to have decreased materially and the prospects there have improved, but it is a matter of some regret that the exports of yarn to Europe, which began to develop recently, are shrinking in consequence chiefly of the want of conformity with European standards in point of reeling and count.

" The general outlook is on the whole encouraging and there are signs of a return to normal in the export trade. A larger area is returned as being under cultivation with oil-seeds and wheat, and substantial increases are expected in the outturns of rice and cotton. Freight rates are hardening in anticipation of an active wheat season in the western shipping ports, and if the expectation of improved prospects throughout the world is realised, the next few months ought to show indications of a movement of a more healthy kind than has been present since the latter half of 1907.

" I will now refer to certain legislative measures of interest to the commercial public which have been undertaken or will shortly be introduced. At a previous meeting during this session, I stated that it was our intention to postpone the revision of our Companies Act until the consolidation and amendment of the English Companies Act which was then pending in Parliament had been carried out, as it has been decided that our law should follow as closely as possible that of England. The Bill has since become law, and we shall take into early consideration a similar revision of our Act. The necessity for this has been the subject of much discussion during the past year in the Press, and the amendments will take some time to prepare. In the meanwhile, we are proceeding with two small amendments both of which are sufficiently urgent to justify immediate action. Under the law as it now stands, companies registered in India are not permitted to pay dividends out of capital during construction, though two special Acts have in the past been introduced

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to permit of railway and tramway companies doing so. Recently, however, representations have been made to us that the success of certain important industrial undertakings was likely to be handicapped by the absence of any provision in the law permitting them to pay interest out of capital during the necessarily long period which must elapse before they pass out of the constructive stage, and we have decided to assist them in obtaining this concession which, subject to certain conditions, is enjoyed by all industrial companies registered in England. The second amendment is one which has been pressed upon us by the Bombay and Madras Chambers of Commerce and will empower joint stock companies in certain circumstances to re-issue and keep alive debentures. We trust that the Bill which has been drafted to give effect to these proposals may be passed into law before long.

“Legislation has been initiated and carried through, during the current year, to provide for several points of importance in the Merchant Shipping Law. It was brought to our notice that section 4 of the Indian Steamships Act, 1884, conferred an advantage on foreign vessels (carrying more than 12 passengers) as compared with British vessels, in the matter of obtaining a certificate of survey. This section has now been amended so as to place British and foreign vessels on the same footing. Similarly by providing that certificates of partial survey, granted by the Board of Trade or by a British Colonial Government, which were not hitherto recognized, shall be accepted, we have removed another disability formerly imposed on British vessels. The Indian Merchant Shipping Act, 1880, which deals with the safety of shipping, has also been amended, and foreign ships in Indian ports will now be required to conform to the Indian deck and load-line regulations in the same manner as British vessels.

“One of the special matters to which a reference was made last year was the amendment of the law relating to patents. The Bill which was then promised has been drafted, and in September last it was distributed to Local Governments, patent agents and others with the view of eliciting opinions from the manufacturing public and others concerned in the protection of inventions and designs. In its main lines the draft Bill follows the provisions of the United Kingdom Patents and Designs Act of 1907, though it has not gone quite so far as that Act in the matter of compulsory working in the country, for which India as yet is not sufficiently advanced. We have not yet received replies to all our references but we hope that legislation may be possible next season.

“It will be within the recollection of Hon'ble Members that in December 1906 the Government of India appointed a Committee, presided over by Sir

Hamilton Freer-Smith, to inquire into the conditions of labour in textile factories in India. This Committee's inquiry was of a preliminary character only and a representative Commission was appointed in October 1907 to investigate the labour question in respect of all factories, and to consider the various suggestions and recommendations which the Committee had made. Their report was published in July 1908, and the opinions of Local Governments and public bodies were invited with reference to the suggestions contained in it. These opinions have now been considered; a Bill has been prepared to give effect to the decisions finally arrived at and is being submitted to the Secretary of State. I am not yet in a position to explain the provisions of the measure, but I hope that it will be possible to allow a considerable period for criticisms before legislation is undertaken.

“The Hon'ble Mr. Dadabhoj has referred at some length to the policy of the Government of India in industrial matters, and has proposed, without any serious examination of financial or other effects, the imposition of protective duties, the grant of bounties, and other economic devices, the merits or feasibility of which he does not, I am certain, expect me to discuss on the present occasion. Most of the other points which he puts forward were dealt with at some length by the Hon'ble Sir John Hewett in his speech in this Council three years ago. The attitude of the Government of India and the lines on which the Department of Commerce and Industry proposed to proceed were fully explained and these have not altered in the period that has elapsed since then. But in the meantime a considerable advance has been made. It is impossible and would in any case be most undesirable to attempt to centralise work of this kind in any Department of the Government of India. Local circumstances and local needs can only be properly gauged by Local Governments; the last condition we seek to impose is uniformity. The Local Governments whose attention was invited at an early stage of the existence of the Department to the necessity of fostering industrial enterprise have responded most cordially, and during the current year we have forwarded to the Secretary of State, with our hearty support, the comprehensive scheme of industrial and technical education framed by the Government of the United Provinces. In Bengal and Eastern Bengal and Assam surveys of the industries and resources of the Provinces have been completed, and a conference has just been held at Dacca. In Madras a conference was held last year and a new Department of Industries created; in the Central Provinces a survey has been carried out and in Bombay the hand loom industry has been selected for special enquiry, and His Excellency the Governor has taken active steps for the foundation

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of a Chair of Commerce at the University. In this way a great mass of material has been collected and made available to the public, and schemes are on foot for the provision of further facilities for technical and industrial education. I do not think it can fairly be said that Government has not done much, but there is a point at which Government assistance must stop and the enterprise of the people must take up its part. I should be sorry to think with the Hon'ble Member that Indians are wanting in the business qualities which are required for success. Surely his experience of their great commercial and industrial prosperity in Bombay and the Central Provinces should have saved him from such an error. But we are passing through a period of depression aggravated by unrest ; capital is shy, and enterprise, especially in the smaller centres, must be restricted until better times come. In the meantime Government will steadily pursue the policy to which I have referred. The Commercial Intelligence Department has been developed and is ready to supply much useful information of the character which is indicated as being required ; it will, as part of our policy in connection with the purchase of locally manufactured articles, collect and publish information regarding local sources of supply ; but it will not, as the Honourable Member seems to suggest it should, attempt to act the part of financial adviser to intending investors or advertiser of the wares of individual firms.

“ In 1907-1908 important reductions were made in postal rates, and the revenue must be given time to recover before we can make a further advance in this direction. It has however been found possible to make a small concession in respect of weight, which will assist the newspapers.

“ The Council will perhaps expect to hear something about the changes which have been introduced into our telegraph system. The various measures introduced have attracted much attention from the public, each in turn has been discussed and debated, and the Department has had to carry on its work under quite exceptional difficulties. I have every hope, however, that the process of reorganization will eventually produce the most beneficial results. No Department can hope to escape from periods of stress when it is called on to put its house in order, to modernize its machinery and to bring its methods up to date. If in the case of the Telegraph Department the convulsion has been unusually violent and prolonged, the reason must be found in the fact that the task of reform had been postponed long after the proper time for undertaking it had come.

“ The state of affairs which Government set itself to remedy may be summarized as follows. The methods of traffic management which were in force were

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antiquated and obsolete, and while they imposed an unfair strain on the staff, they were directly productive of delay in dealing with public telegrams. The staff itself was dissatisfied with its pay and prospects. At the same time the financial position of the Department was unsatisfactory. Government was involved in unnecessary and wasteful expenditure, while the rates for messages were such that a large part of the traffic was transmitted at a loss. The process of reform may, therefore, be said to have had three objects. In the first place the work of signal offices had to be so organized that a prompt and efficient service might be rendered to the public. In the second place it was necessary to ameliorate the conditions under which the staff worked, and to improve and simplify the scale of pay. In the third place the expenditure of the Department had to be narrowly scrutinized with a view to retrenchment, and the message tariff so fixed as to prevent or at least to minimize loss. All these three objects have been steadily kept in view. Economy and efficiency are inseparably connected, and with a discontented staff the attainment of either is impossible.

“ There is, I think, every reason to congratulate the Department on what has been accomplished in the direction of reform, and the public recognize and appreciate the improvement. Perfection is not attainable at once and the Department has still much to do, if the ground which has been gained is to be kept and the standard to be raised still higher. But at least a good beginning has been made, and the acceleration of all messages has been most striking. In March 1908 in the thirteen largest telegraph offices in India only 12·4 per cent. of the messages were despatched within ten minutes of receipt, while 54·8 per cent. were delayed for more than forty minutes. In January 1909, 55·6 per cent. of the messages in these offices were being despatched within ten minutes of receipt, and only 11·1 per cent. were delayed for more than forty minutes. The results obtained in certain smaller offices have been even better. We had some difficulties with the staff in the early part of the year, into the details of which I need not now enter. But I may say that we have introduced more suitable hours of work, and reduced Sunday and holiday duties as much as possible, and we have, at a cost of some Rs. 5½ lakhs per annum, redeemed our pledge to improve the pay and prospects of the men. They in their turn have co-operated loyally with their superior officers in the carrying out of reforms, and are entitled to a large share of the credit for the improvements which have been effected.

“ A recent change, which affects the staff very little, but the public a great deal, must be referred to briefly, I mean the substitution of two classes of messages for three and the revision of the rates. The triple classification was fast becoming obsolete and the time had come to get rid of one class. Every acceleration in the transmission of messages meant that the percentage of



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deferred telegrams to the total increased; and as the four-anna telegram was entirely unremunerative, the financial position was serious. The result was that Government were compelled to raise the minimum charge for telegrams of the lowest class. The change was made with reluctance, for in a country like India telegrams must be cheap if the people are to use them to any great extent; but when the alternative was to fix on the general tax-payer an increasingly heavy burden for the maintenance of telegraphs, there was no option left.

“In the strenuous work of the year Government and the Department have had the benefit of the advice of Mr. Newlands, and are much indebted to him for the able and practical way in which the various reforms have been devised and the untiring energy with which he has assisted in their introduction.

“In the matter of Railway administration some important alterations were made during the year. The status of the Chairman of the Railway Board was raised to that of President with the power to overrule his colleagues; the Board and the establishments working under them were removed from the control of the Department of Commerce and Industry and constituted a separate Department of Government with the title of the Railway Department. The new system was brought into force with effect from the 1st October 1908 and has worked in the most satisfactory way. The abolition of Consulting Engineers to which I referred last year has in the Board's opinion resulted in an improvement in the disposal of work without any sacrifice of efficiency, and the Governments of Bombay and Burma have found it possible to dispense with the assistance of the officers who were temporarily entertained for railway work in their Secretariats until experience of the new methods had been gained.

“The effects of the general trade depression have been reflected very plainly in the earnings of our railways. The figures relating to these have already been fully explained and I need not go over the same ground again, but I am glad to be able to say that there are already some signs of improvement, and with the prospect of a favourable wheat crop in Northern India and the amelioration of famine conditions generally, it is hoped that the gross receipts will to a large extent recover their position in the coming year. The Budget Estimate has accordingly been fixed at a normal figure.

“A noticeable feature of the present year is the absence of general complaints from merchants and traders regarding the shortage of wagons, of which so much has been heard during the past few years. This, of course, is partly due to the depression in trade; but the strenuous endeavours which all railways have been

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making to improve their existing stock, and to supplement it by large additions, as well as the additional facilities which have been provided to enable stock to be economically used, have no doubt placed railways in a much stronger position to meet the demands of trade for transportation, and it is hoped that when trade revives, the full effect of this will be made apparent. During the year 1908, 395 engines, 679 coaching vehicles and 9,987 wagons were actually added to the stock of railways, and 444 engines, 2,063 coaching vehicles and 10,962 wagons were under supply, while sanction has been accorded for a further addition of 59 engines, 139 coaching vehicles and 2,334 wagons. These are figures which should prove very re-assuring to those using railway transportation.

“The Hon’ble Mr. Dadabhoj’s criticisms on railway matters are of a somewhat intangible character, but I will offer a few remarks in reply to what appear to be the principal points. He remarks in the first instance that there is a universal protest from the people against the present scale of expenditure on railways. The Railway Board, however, report that this is very far from being the case and that the necessity for extension is being pressed on them by all classes of traders, and persons in various parts of India, and that their great difficulty lies in deciding which of the many schemes demanded should have precedence in the order of construction. Since 1902-1903 the net revenue on railways has been sufficient to meet all interest charges on capital raised and expended on railway construction, and to yield besides a handsome surplus to the country, and if in the last year we have had a set-back, we have every reason to believe that it is of a purely temporary character. It is true that our Budget for the coming year is necessarily cautious, and though provision for capital expenditure falls almost entirely outside it we have recognised the desirability of husbanding our ways and means by reducing our programme by Rs. 3½ crores : more than this it is unnecessary to retrench. The bulk of the available funds will be devoted to bringing existing lines up to the standard required by the development of traffic. Expenditure under this head consists mainly of the addition of new lines, the construction of yards and crossing stations, the purchase of new and more powerful rolling stock in addition to the existing supply and so forth, and schemes of this kind cannot, as the Hon’ble Member lightly suggests, be charged to Revenue, which already, as the current year’s working charges show, bears the cost of very heavy improvements in the existing facilities and its full share of any replacements. I do not propose to attempt to deal with the complex question of State and Company ownership, about which so much has been said and written, but I think it is a fair statement to make that if India had not provided funds either directly or by means of

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guarantees for the construction of railways the development of these facilities would have been very materially retarded. And without adopting the view that all railways should be nationalised, a policy for which there is much national as well as individual authority, I may say that few people would hold that Government lay themselves open to any reproach by providing communications and means of transport, when these would otherwise be unprovided. It is unquestionable that the policy of Government in this matter has been in every way greatly to the advantage of the country, and the industrial development, on the necessity for which the Hon'ble Member has laid such stress, will naturally require increased facilities for the exchange of commodities. I do not quite understand what the Hon'ble Member proposes to substitute for the present system. We are apparently to find some organisation that will buy us out and will provide funds for all future construction and working ; we are at the same time to reserve some sort of control as an appellate authority to enforce 'up-to-dateness' and 'excellence in management'. I am afraid that any ideas of this kind give little promise of practical fulfilment. An administration working with its own capital would naturally want to be free as far as may be of Government interference, and it may be taken as a truism that for all control, other than that relating to the public safety and convenience, we have to pay in one form or another. We do not claim that our present system is an ideal one, but it has fulfilled a very useful purpose. We hope to attract more outside capital by giving Companies a greater direct interest in the lines which they manage for us, by offering, if the Secretary of State approves, more remunerative terms for the construction of branch lines, and in other ways, and we look to these means for an increase and not a reduction in our present rate of progress.

"In the preceding remarks a number of general criticisms which have been made have been replied to, but there are one or two specific matters to which I may briefly refer. The Hon'ble Mr. Macleod has referred to the policy of Government with regard to the encouragement of private enterprise in the matter of railway construction, and I would invite his attention to the recommendations of Sir James Mackay's Committee. The Government of India are inclined to encourage the construction of Branch lines by separate agencies and to give more favourable terms than those at present prescribed by the rules, and they are making a recommendation to this effect to the Secretary of State. It must not, however, be forgotten that what is ordinarily known as 'private enterprise' here generally requires a subvention in one form or another, from the State. I am not aware that since the establishment of the Railway Board Bombay has been deprived of a hearing in Railway matters, and I am certain that the Board will always be ready to give such advice and information as may be available.

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“With reference to the Hon'ble Raja Sir Muhammad Ali's remarks regarding the accident at Dasna, I may say that he is mistaken as to the finding of the Board, and that we have no desire to shift the responsibility to higher powers. Most searching enquiries were held both departmentally and in the Courts, and it was clear that the human agency was at fault though it was impossible to establish the guilt of any one particular person. The working of the tablet system has been thoroughly enquired into and I am informed that safety and reliability have been secured.

“The curtailment of the programme will not interfere with the progress of work on the Lower Ganges Bridge at Sara, a project which after many vicissitudes has at last ceased to be the subject of continual controversy.

“A definite site below Sara has been selected; the alignment of the approaches is in course of being determined and proceedings for the acquisition of land will shortly be put in hand. As soon as the rains are over a commencement will be made with the extensive brick burning operations that will be necessary and arrangements will be undertaken for bringing the large quantities of material for the protection works to the site; the temporary lines and yards required for dealing with the material trains will be laid out and the erection of workshops and quarters will be proceeded with. Provision has also been made for the first requirements of rolling stock and plant which will be needed during construction. In the meantime the design for the bridge is being carefully considered.

“The site of the Sara Bridge having been settled, public attention in Calcutta has now been turned to the proposal of the Bengal and North-Western Railway to take over and work the Eastern Bengal State Railway. The relief from the necessity of providing funds annually for capital expenditure is the only attractive feature of the proposals, and we realise that there may be disadvantages which will more than counterbalance this. Reference has been made to the Local Governments and Chambers of Commerce who are interested in the matter, and their views will receive full consideration before the Government of India communicate their recommendations to the Secretary of State.

“I have, finally, a few remarks to make in amplification of the Press communiqué which was issued a few days ago announcing the decision of the Secretary of State in respect of the recommendations of the Stores Committee. It has been decided that their Report should not be published, but it may be of interest to mention a few of the principal conclusions which have emerged from the discussions that have taken place. It has been clearly brought out that partly owing

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to a defect in the form in which the rules were cast and partly owing to practical difficulties in applying the conditions laid down for deciding on the source of supply, officers of consuming Departments have not given, or have not in practice been able to give, full effect to the policy of Government regarding the encouragement of local manufactures. An examination of the indents of the chief consuming Departments for a year disclosed the fact that orders to the value of over £400,000 for articles, many of which could probably have been obtained of local manufacture, had been sent home and there is little doubt that the resources of Indian manufacturers were as a whole not being utilised to the full and that in the case of engineering trades in particular the larger firms at Calcutta and Bombay received more assistance from local bodies, railways other than those worked by the State, and general private enterprises than from Government. It has also been fairly established that on the whole Indian firms have been able to supply a sufficiently good article at a price which over a number of cases compared not unfavourably with home prices. Since the Committee's Report was submitted, we have been in correspondence with the Secretary of State, and it will be observed from the communiqué which we issued that a substantial modification of the present procedure has been agreed to. We have decided that it will be necessary, in order to ensure that full effect is given to these rules, to adopt some special measures to prevent indents being sent home for articles which can be obtained in India of local manufacture. We are now engaged in working out a scheme to provide for an inspection of such articles throughout India, and we have to settle in consultation with the Secretary of State the measures to be prescribed to enable departments to compare the home prices with those prevailing in India. We hope to be able to arrive at a decision in this matter in a short time, and to introduce the new rules, and we desire it to be understood that it is part of our settled policy to encourage the purchase of local manufactures, and that we shall expect our officers to give full effect to this policy as laid down in the comprehensive orders which will shortly issue."

The Hon'ble MR. MILLER said :—" We must all sympathise with our Hon'ble Colleague, the Finance Member, that the presentation of his first budget has followed a period of severe depression throughout the world generally, the effects of which have unfortunately been intensified in India by yet another season of serious drought.

" The Financial Statement gives a resumé of the main facts concerning the famine and scarcity, and I shall not take up the time of the Council by going into details. It is the less necessary to do so as a very complete and interesting account of the relief operations in the United Provinces, which were the most

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seriously affected, was issued some months ago, and attracted much attention in the Press. The public are, therefore, fully conversant with all the main facts of the famine campaign in those Provinces and I confine myself to a few general remarks.

“Towards the close of 1907 the situation appeared extremely gloomy. The rainfall returns were most unfavourable and indicated the possible addition of yet another great famine to those we have suffered from in the last twelve years. Over very large areas the monsoon rain was deficient and ill-distributed, and the position appeared to be in many places worse than in 1896-97. But distress did not develop nearly so rapidly as in that year, nor did it, except in the United Provinces, become so acute at any time. There cannot be any doubt, in my opinion, that the people were better off and better able to face a period of distress than in 1896-97, in spite of the fact that another great famine had occurred in the interval. The recovery from these successive calamities has fortunately been rapid; and that is one reason why the drought of 1907-08 was not so serious in its effects as some of its predecessors. But I doubt if the public have ever realised how serious it might have been, and to how great an extent it is owing to the admirable promptitude with which measures of relief were set on foot that the sufferings of the people were not much more severe. Suspensions or remissions of revenue were given at once, advances were made on an exceedingly liberal scale and all the preparations for relief were kept well in advance of actual necessities. The administration was in consequence never taken unprepared; it was ready for each new development. The result was that all acute distress was relieved; there were none of the usual grievous accompaniments of famine, and, what is perhaps more exceptional, there were few of the usual complaints against the administration. Of the intensity of the drought we are now having some disquieting indications in the withering of the trees over large areas in the Sub-Himalayan forests of Northern Oudh; but the sufferings which it threatened to cause were so effectually and sympathetically remedied by able and alert administration that the anxiety which the situation caused to the Government hardly communicated itself in the same degree to the public.

“The experience of the famine has shown that the conditions under which relief has to be given are changing. The readiness of labour to move in search of employment, the possibility of finding employment and the very great demand for labour have greatly altered the situation. To take an example near at hand: there was we know much distress in Orissa, due not entirely to drought. The able-bodied flocked to Calcutta, or went to Burma, but the care of those

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who were left devolved to a great extent on the State. The problem then was not so much to find labour as to provide for those who were incapable of it and the same problem, to a greater or less extent, affected other tracts; gratuitous relief had to be expanded, relief works were not necessary to quite the same extent as before. This feature of the situation was fully realised in the Central Provinces, where, next to the United Provinces, the distress was most general and acute; and where it was met, as far as possible, by an expansion of ordinary works—useful works that would have been executed at some time even had there been no famine—and where special famine works were resorted to only where it was impossible otherwise to make sure that relief would reach those who were unfit for ordinary labour. It is, as Hon'ble Members know, a very difficult and delicate matter to follow in famine administration the narrow path that separates profusion and waste on the one side from a niggardly administration of relief on the other. One course that may be followed is to put the Famine Code into force and to leave the responsibility to the automatic working of its provisions. In the Central Provinces, the Chief Commissioner took the responsibility on himself. Famine relief on a large scale can hardly be administered, however carefully, without some demoralisation of its recipients. The Chief Commissioner gave assistance liberally, but he resolved to give it as long as possible without resort to special famine procedure. He trusted in the first instance to the expansion of ordinary works managed upon ordinary methods, and his thorough knowledge of the country and the experience which he and his officers had gained in previous famines enabled him to do so with complete success. The report on the administration of relief in these provinces states that—

' Throughout the hot weather and rains the system worked without a hitch, and it may be claimed that it has thoroughly proved its suitability for adoption in a year when distress rather than acute famine was to be feared. Its success in preventing waste and demoralisation is incalculable.'

" These claims are, I think, fully justified by the result. The administration has been economical, the ordinary operations of trade and agriculture and industry have not been interfered with, and the people have been trained to rely on themselves as far as possible. The relief given was liberal and sufficient, but only a small proportion of it took the form of direct famine relief, and the greatest part was given in forms that could not affect the independence and self-respect of the agricultural and labouring classes. A similar system would be more difficult to follow in the case of widespread and very severe famine, but it was admirably suited for the condition of the province in which it was applied ;

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and as the country develops, I have no doubt that further scope will be found for action on somewhat similar lines.

“ A very gratifying feature of the recent operations is the extent to which private individuals have co-operated with the State, both in giving relief themselves and in assisting in its administration.

“ The shadow of distress still hangs over a large part of the country this year. The monsoon last year stopped prematurely, the cold weather rains were, except in a few places, light and scattered, or failed altogether; in parts of Behar there has been a complete failure of the crops and there we shall have famine relief operations on a fairly extensive scale, while some relief will also be required in the east of the United Provinces, and in portions of Eastern Bengal. In the South of India the outlook is very unsatisfactory in the State of Mysore, but the administration there is fully alive to the necessity of making all its preparations in good time. In Upper India the cultivated area was threatened with serious curtailment owing to the outbreak of a virulent form of malaria last autumn, but the accounts of the rabi crops there are becoming more sanguine, while in Burma there has been an excellent harvest. The outlook therefore, if not so bright as we should like, is by no means discouraging, and as we have found in the past so I have no doubt we shall find again that a single good season will lead to a rapid and complete recovery.

“ One branch of the operations of the Agricultural Department has attracted unusual interest and attention during the past year. I mean the growth of the Co-operative Bank movement, and the question of agricultural credit generally. It may be found advisable, and, what is more doubtful, it may be found practicable to deal with this great question on both co-operative and non-co-operative lines, but at present I confine my remarks entirely to the former. When power was taken to start Co-operative Banks only a few years ago, the Government refused to commit itself to any sanguine expectation of early success, and as it at the same time declined to give any liberal pecuniary assistance, its motives were misinterpreted, and it was, and still though less frequently is, accused of merely playing with the subject, when nothing seemed easier to its critics than by some financial arrangement to provide the ryot with a cheap flow of the capital he stands so much in need of. State charity is always popular; it is not always as experience has shown of permanent benefit. The ryot unquestionably, like all producers in all countries, requires capital, and it is the case that he cannot obtain it at present except at very high rates. He is weak through ignorance and isolation, he cannot meet his



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creditor on equal terms. What the Government did was to set itself to remove these disabilities. It attempted to adapt to Indian conditions a system which would substitute some knowledge of business for ignorance and some scheme of organization for isolation. It desired to replace the weakness of the individual by the strength of a body of co-operators. It declined to bolster up the movement by lavish grants of Government assistance; it offered assistance, indeed, but on strictly limited principles. It ought not to be necessary to say that it was not from any niggardly feeling that Government refused to finance the Societies. During the last year, Government has advanced over two crores of rupees to the cultivators in the United Provinces alone for agricultural purposes and it would, with equal readiness, have found funds for the banks if it had thought that such a course would be for their ultimate benefit. But it was aware that State assistance has in other countries as well as in at least one previous attempt in India itself proved fatal to the movement. Co-operation is a plant which can thrive only on the soil of self-reliance, and for this reason the Government has made the Societies rely mainly on their own efforts. If they could not establish themselves and make co-operation a living force, they had to go to the wall. In one other respect, too, the Government has refused to give exceptional assistance to the Societies. Considerable pressure has been brought to bear to allow them to recover their dues through Government agency. No one doubts that if Government made itself responsible for recovery the scope of the Societies could at once be greatly enlarged, and capital could be attracted at much more favourable rates than is possible now. It seems unreasonable to many that this small assistance has been withheld, but it has been, and I think rightly, withheld up to the present. Government assistance must necessarily lead to closer Government supervision, possibly even to actual Government management, which would completely alter the character of the movement, and would at once eliminate many of the qualities we wish to encourage. There may be circumstances in which an experimental departure from these strict principles would be desirable; one need not be too pedantic, but up to the present, we have refused to admit the principle of Government recovery, and the opinion of those who have studied the subject under Indian conditions appears to me to be strengthening in favour of the policy we have adopted.

“The Societies as a whole therefore, and leaving out special cases where some departure from the ordinary procedure was held to be justified for experimental or other reasons, have received little financial assistance from Government; the Government share has mainly been the advice and guidance and audit of the Registrars who have all entered on their work with great

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enthusiasm, and whose confidence in the ultimate results seems to be fully justified by the remarkable progress that has been made.

“The number of Societies has increased in the past year from 843 to 1,201, the number of members from 91,000 to 149,000, the deposits by members from  $5\frac{3}{4}$  lakhs to 9 lakhs, and the total capital from  $23\frac{3}{4}$  lakhs to 44 lakhs. These are very significant figures, but to my mind even more important than figures is the interest which the movement has aroused outside of official circles. It is being recognised as a real development, worthy of the attention of all who have the interest of India at heart; and the banking and commercial world have paid it the compliment of serious consideration. The constant discussions of the subject in the Press; the interest excited by the Simla and Bombay Conferences; and the very clear and thoughtful examination of its economic and moral aspects by Professor Lees Smith are all indications, more important than statistics can give, of the degree of success attained up to the present.

“All this discussion has been most valuable; it has educated public opinion and has helped to secure a much more correct and thoughtful appreciation of the problems we have to deal with, which will, I hope, serve to safeguard the movement against attempts to press it too fast on doubtful lines. It is securing us help from non-official agency, which is warmly recognised in many of the reports, and it will be of great use in assisting in the further evolution of the system. At the present time when the resuscitation of village institutions is much before the public, I should like to quote the following remarks by one of the Registrars:—

‘A village bank at once takes its place among the institutions of the village and arouses universal interest. It draws the best people of the village together, and creates a real sense of proprietorship. It causes the man of bad character to reform and the rent-defaulter to meet his engagements in order that he may have the privilege of belonging to the Society.’

“The Council may have seen a recent letter from the well-known authority Mr. Wolff—in which he says that—

‘Nowhere has co-operative banking struck root so quickly or made such progress in its earliest stages as in India.’

“This is particularly gratifying in view of our abstention from giving the Banks assistance on lines that might have led to a much more rapid initial development, but that we did not think were sound. The Societies are now

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increasing beyond the powers of the Registrars to supervise and their further development is now a matter requiring much care and consideration. All indications point to the next step as being the grouping together of the village institutions; the co-operation of the individual Societies, so as to give them a status that will allow of their coming into touch with the other banking institutions of the country. Already some progress in this direction has been made, and with a fair degree of success.

“ The introduction of co-operation into this one branch of rural life seems further likely to encourage its adoption for other purposes, and the need of co-operation in a society of small agriculturists has been shown by the experience of many other countries. That is a subject which I do not propose to follow up on this occasion, but apart from many instances on a small scale that have come to my notice of the tendency I should like to mention the co-operative scheme for cultivation in the Sunderbans recently set on foot by Sir Daniel Hamilton, whose interest in the advancement of the agricultural classes is well-known to this Council.

“ I promised some time ago, in reply to a question, to explain more fully why expenditure on Irrigation had fallen short of the average expenditure recommended by the Irrigation Commission in its 20 years Programme—a programme that was accepted, though only as a general guide, by the Government of India and the Secretary of State.

“ The programme contemplated an expenditure of 44 crores in 20 years, or 220 lakhs a year. Of the 44 crores, 15 crores were for Productive Works and 29 for Protective. It has always been the practice to finance Productive Works from loans or from surpluses, and the Commission recommended that the same procedure should be applied to all works on the ground of the great advantage of carrying such works through without the dispiriting and expensive necessity of curtailing and expanding the annual programme according to the financial vicissitudes of the day. The Government of India and the Secretary of State were, however, unable to accept this recommendation, and though the Commission gave strong arguments in favour of it, the decision was perhaps inevitable at a time when we were only beginning to embark on a programme which would, as far as direct expenditure and receipts were concerned, throw a permanent burden on the finances. It was arranged therefore that while a crore and a half should, if necessary, be provided annually for Productive Works, the expenditure on Protective Works should be charged against Famine Insurance, and should not exceed half of the amount allowed for that purpose, namely, 75 lakhs a

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year, this amount being subject to reduction if in any year there was actual expenditure on famine.

“As compared with the programme the arrangements made provided for the expenditure of double the amount contemplated for Productive Works, and of a little over half the amount required for the Protective programme. Moreover while the supply of funds for Productive Works was assured, the financing of Protective Works was left theoretically in a somewhat precarious position, as we might in any year, owing to the conditions made, find ourselves without funds to carry them on, but in practice the Government has been able to be more liberal, and a grant approaching 75 lakhs has always been made when required. The total provision which Government was prepared to make, and up to which the Irrigation Department might work, namely,  $1\frac{1}{2}$  crores for Productive Works and three-fourths of a crore for Protective, was a little in excess of the 220 lakhs a year contemplated by the Commission; though it was distributed in a different way; and the figures include provision for Burma which was outside the scope of the Commission's enquiries.

“There are a number of minor reasons for this difference, and one reason of importance. Productive Works we have long been accustomed to, and plans and estimates for very large works of this kind were ready or in an advanced stage of preparation. Protective Works, on the other hand, were exceptional; they did exist, but they were rather in the nature of experiments; and there was no system regulating their construction. Surveys had still to be made; the Commission could do little more than call attention to the most promising Works; their conclusions had to be verified, and patient investigations to be set on foot to decide whether on further examination their suggestions should be adopted, and a sufficiently strong case made out to justify the expenditure of public funds on works that were not directly remunerative. It was quite clear from the outset that it would be several years before the expenditure on Protective Works would exceed the provision of 75 lakhs.

“At the same time it had become evident that the scope for Productive Works, or works which it was hoped would be Productive, would be far greater than the Commission contemplated. This was chiefly owing to developments in the north-west of India,—in the Punjab, including the Frontier Province, and above all in Sind. For the Punjab the Commission estimated an annual expenditure of  $10\frac{1}{2}$  crores, or  $7\frac{1}{2}$  crores if we omit 3 crores for the project of irrigating the Sind Sagar Doab from the Indus—a project which does not at present seem likely to be undertaken at an early date. But the Works already under execution in the Punjab are estimated to cost  $9\frac{1}{2}$  crores, and over 4 crores more are likely to be required for other works that will probably be given precedence

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over the Sind Sagar project. Thus we may forecast an expenditure of 14 crores as compared with the  $7\frac{1}{2}$  of the Commission, or 17 crores compared with their  $10\frac{1}{2}$ .

“ For Sind the Commission suggested a small provision of a crore. But there is now under investigation a great scheme for giving that Province a system of perennial irrigation from the Indus to take the place of the Inundation Canals now in use. The utilizing of the Punjab rivers for irrigation on an extended scale will affect the working of the Inundation Canals lower down, and the substitution of a perennial system will avoid this and other drawbacks, and, it is expected, will form a great Productive Work. The Sind schemes have not yet been completed, but their ultimate cost may prove to be as much as 13 crores of rupees. In Madras also it is probable that there will be some addition to the productive programme.

“ As regards Protective Works, I have no doubt that their scope will also greatly increase; there are signs of that development already. The Irrigation Commission only dealt with works that they thought might, if the results of investigations were satisfactory, be undertaken within 20 years. As far as these specified works go it seems improbable that we shall work up to the programme, chiefly owing to doubts about the comprehensive projects in Madras for which the programme provided 12 crores of rupees—the Tungabhadra and Kistna schemes. I cannot say what may be the ultimate fate of these projects, on the investigation of which much money has been spent, but it appears improbable that both will be carried out. On the other hand, in the Deccan, in the United Provinces, and in the Central Provinces, if the experimental works already undertaken prove as successful as we hope, the ultimate expenditure will probably be much greater than the Commission contemplated.

“ Up to the present the expenditure on irrigation works has not reached the average amount contemplated by the Commission and for which the Government arranged conditionally to provide. In the present year we expect for the first time that it will reach the full amount of a crore and a half allowed for Productive Works, and I have no doubt that if we should require more for such works, the Finance Member will not, when the present position improves, be hard-hearted. It is not owing to any reluctance on the part of the Financial authorities that we have hitherto fallen short of the amount contemplated. The construction of irrigation works is not to be undertaken lightheartedly, and even when construction begins it is not possible to push on at more than a certain limited pace. Large works have a tendency to absorb the whole available labour supply; and

the expense in canals is chiefly in the payment of labour on the spot. The Hon'ble Mr. Dadabhoy blames the Government for not immediately spending 200 lakhs on Irrigation to make up the deficiency that there has been in our expenditure in the past as compared with the forecast made by the Commission. The Hon'ble Member apparently thinks that Government has merely to say to its engineers: 'Here are so many lakhs, go and spend them.' There are as yet no large Irrigation works—no great canals—in the Province which the Hon'ble Member represents so energetically and in many respects so ably in this Council, and I am doubtful whether any explanation of the impossibility both on engineering and financial grounds of adopting such a proposal as he makes would be such as he could fully appreciate. I will merely ask him to consider the following figures which show in the most convincing manner that money cannot be spent without limit on irrigation, and that the short expenditure on irrigation up to the present is due not to the refusal of the Government to provide funds but to inability to spend even such moderate funds as were provided.

"In 1902-03 we budgetted for an expenditure of 114 lakhs. The actual expenditure was only 99 lakhs.

"In the following years the corresponding figures were:—

Years.	Provided lakhs.	Spent lakhs.
1903-04	125	98
1904-05	160	86
1905-06	182	128
1906-07	191	173
1907-08	195	189
1908-09	212	212 (Probable expenditure).

"It will be seen that our actuals and estimates are coming into much closer agreement, and that the actual expenditure has more than doubled in this short period. Even so however the pace does not satisfy those whose opinions are voiced by my Hon'ble friend. For my own part I think that their view is entirely unreasonable, and that if we plunged into schemes on the principles they advocate we should very quickly be pulled up not only by the Finance Member and the Secretary of State but by public opinion. It is possible that there may be a large increase in our productive expenditure, if we have works in hand in Sind and the Punjab proceeding simultaneously. But it will be temporary, and I do not think that too rapid an increase is desirable, if the works are all in the north-west of India. The large schemes on which we have embarked in recent years alter the whole face of the country; their effect is little appreciated except by those who are in actual contact with the facts. They bring under cultivation lands that formerly were desert; they provide outlets for the population of congested

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tracts ; and raise the poorer tenants or even the labourers to the position of well-to-do farmers. They absorb a great part of the population that would otherwise have cultivated the lands of others, or have been employed in service of some kind. They affect the climate ; they may render unprofitable the industries by which the rural population have hitherto been supported, such as camel-breeding. Such changes alter the economic aspects of the country ; they limit the supply and therefore enhance the wages of labour, and if at the same time, as has happened in the Punjab, the population is attacked by epidemics the supply of labour may even be unequal to undertaking the agricultural operations required to take advantage of the large areas reclaimed from the desert. It is not desirable that such great changes should proceed too quickly ; the country should work up to them gradually. A time comes when it is better to consolidate and improve than to aim at a still more rapid growth of the area commanded by canals.

“ As regards Protective Works, however, the time has come when the rate of expenditure must probably be increased. I have explained that a provision of 75 lakhs a year was arranged for, subject to certain conditions. It has now been decided, with the consent of the Secretary of State, to raise the amount to 100 lakhs, but the former restrictions still apply, and for the coming year we cannot provide the full amount. The money has to be found from revenue, and the provision may be reduced in any year in which there is famine expenditure. It is impossible therefore to say definitely what amount will be available in any year, but the total provision allowed will, as far as can be foreseen, be ample for some time, if the future financial situation should permit of its allotment in full. It will allow of the more rapid progress which Bombay is anxious to secure ; it will provide for the large project of irrigation from the Tendula in the Central Provinces, if that should be sanctioned ; and it will probably permit of our embarking on more comprehensive projects in the United Provinces than were contemplated by the Irrigation Commission. With reference to the Hon'ble Mr. Macleod's remarks I may say that the allotment for protective works in Bombay is nearly 24 lakhs, a larger allotment than has been made to any other province.

“ The total irrigation from State works during the year 1907-1908 has been:—

	Acres.
From Productive Works . . . . .	14,458,015
From Protective Works . . . . .	353,462
From Minor Works . . . . .	6,153,054
TOTAL .	<u>20,964,531</u>

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“That it is difficult to bring home to the mind the real significance of these figures is abundantly evident from the terms which the Hon'ble Mr. Dadabhoy has thought it necessary to use in depreciation of the work done by the State to develop irrigation in India. My Lord, I am glad that these remarks have been made openly in Council, because they give the opportunity of replying to ill-informed criticism that is by no means infrequent. My only regret is that it is my friend Mr. Dadabhoy who has identified himself with these objections, because there is only one explanation of the tone of the remarks made to-day, and that is ignorance of the facts. If the Hon'ble Member had confined himself to his own Province he would have been on surer ground; when he ranges over the whole field of policy in India he displays some want of acquaintance with the real position. If he would only go and see for himself; if he would spend a week on one of the great canal systems in this country, and then if he chooses, compare what has been done in Egypt and America, we should not have to listen to the remarks we have heard today. He thinks to support his case by quoting from a great American orator, who made, if I recollect aright, a hurried rush across this country—a politician whose flow of eloquence has not secured him over-much credit in his own country. If the Hon'ble Member wants an American opinion, why does he not go for it to an American engineer? He would then very quickly learn that his own country, of whose efforts he talks so slightly, has led and still leads the world in the matter of State irrigation, and that the recognised pre-eminence of India in this respect might well be the subject of some patriotic pride. What share Indian officers have had in the development of irrigation in Egypt is well known, but it is not so well known to what an extent other countries turn to India for advice and assistance. One of our officers went to Australia to assist that country; several have been required in South Africa; one is, or was, engaged in Spain; the Americans have unofficially utilised the advice of another; the Turkish Government has now engaged a famous Indo-Egyptian Engineer to advise it about Mesopotamia; an American Engineer is even now studying our system with a view to irrigation developments in the Philippines; we have had enquiries or enquirers from Brazil, from Mexico, from Russia, and from Japan. Is it because irrigation has been shamefully neglected in India that all these other countries are so anxious to get the benefit of our experience? The Hon'ble Member makes some comparisons with America and Egypt. Let us take Egypt, the country which, next to India, knows most of Canal Irrigation. Such irrigation is extending to Upper Egypt and has a great future before it, but up to the present it is chiefly Lower Egypt that has benefited.



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The whole cultivated area of Lower Egypt is some  $3\frac{1}{2}$  million acres, so that even if we suppose every acre of this to be canal irrigated the total is only one-sixth of the area which has in a single year received irrigation from sources provided by the State in this country. We have far greater scope here, and we have taken advantage of it to such an extent that comparison between Egypt and India as a whole can serve no useful purpose. Notwithstanding its magnificent developments under the guidance of Indian engineers, Egypt, to use a colloquial expression, is not in it. To those who judge by comparisons, I would suggest a method that is more likely to give results unfavourable to India. Let them compare what Egypt has done from the Nile with what India has done and is doing from a single one of her many great rivers—say from the Chenab. On such a comparison the Indian figures will, no doubt, come out second best; but I am quite willing to accept this result in the full conviction that the Hon'ble Member and those who think with him will rise from the investigation with a much more correct appreciation of the great work done by the long line of engineers who have succeeded Cautley and Cotton, and whose names are perhaps better known in other countries than in this. It is more out of regard for their achievements than merely to defend the policy of the Government that I have dealt with this subject at some length. The statements made as to India's falling behind in Irrigation are entirely inaccurate, and I can attribute them only to that frame of mind which judges of the importance of any subject by the number of paragraphs about it in the newspapers. The Indian Irrigation Engineer has not mastered the art of self-advertisement; it almost seems as if he had learnt, from the great rivers which he controls, the lesson of self-effacement. The stranger may admire some splendid aqueduct taking a canal over a river, or the crest and buttresses of some immense weir or barrage. Only the engineer knows that the work which is seen is a mere fraction of that which had to be done in conditions of constant anxiety and suspense. All the most difficult and all the most massive work is buried for ever below the water and the sand. The engineer seems to feel the effect of this example; he buries the interesting part of his work—the part that might appeal to the public—under the masses of statistics and technical detail of his reports, and passes on from the tracts rendered fertile by his operations, looking not for fame or gratitude but for fresh deserts still to be conquered. The truth is that India is far ahead of any other country, and that the rate of progress was never so rapid as it is today. The allegations to the contrary are as a rule passed over by the engineer in silence; but when they are countenanced by a Member of Your Excellency's Council they must cause astonishment, and if unchallenged

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by the Government they would give undeserved pain to a body of men who have achieved far more for the development of the irrigation resources of the country than has ever been attempted in any other part of the world."

The Hon'ble SIR HARVEY ADAMSON said :—" The sum allotted for Education in the Budget is 257 lakhs. The amounts expended in the last three years were 201, 222 and 252 lakhs, respectively. The increase provided for 1909-10 is small, just five lakhs, but it is satisfactory that in a time of financial stress it has been found possible to give even a small increase. There is no subject in which there is more room for a liberal expenditure. Much attention has been devoted during the past year to maturing schemes of improvement, and Local Governments have them ready in hand for introduction when funds can be found. These schemes relate to Primary, Secondary, University, and Technical Education, and it is unfortunate that their progress is barred for the present by lack of money.

"Effect is gradually being given to the settled policy in respect of University Education. In 1904 an Imperial grant of five lakhs of rupees per annum for five years was given in aid of University Education. The period has now expired, but provision has been made in the Budget for continuing the grant for the coming year.

"The work of inspection of colleges has been pursued with great energy. Owing to the devotion of the Vice-Chancellor, Dr. Mukerjee, and his colleagues on the Syndicate and Senate, the Calcutta University has been able to complete the work, and has obtained the orders of the Government of India in respect of the degree of affiliation to be enjoyed by almost every college within its jurisdiction. The effect of these labours was lucidly explained a few days ago by the Vice-Chancellor in his convocation speech. In the proceedings for the revision of affiliation two objects have been kept steadily in view. The first is to maintain a governing body capable of exercising a real financial and educational control for the benefit of the institution. The second is to prevent the dissipation of energy which resulted from the old system of sending up candidates on any and every subject, and to concentrate effort on those subjects only for which adequate instruction is provided. It is gratifying to find that the decisions of the University have as a rule been readily and loyally received by the institutions that are affected by them.

"The Calcutta University has also caused the schools which are recognized for the purpose of the matriculation examination to be inspected. These inspec-

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tions have, I regret to say, disclosed somewhat unsatisfactory results. A large percentage of the schools have been found to be very inefficient. The University has very rightly dealt tenderly with them. In only a small number has recognition been withdrawn, and these have been mostly bad schools in the neighbourhood of good schools. In other cases time has been given varying from six to twelve months to comply with the requirements of the University. There never has been a desire to close a college or school which fulfilled a useful object. The aim has been to assist those in charge and to raise the institutions to a higher level.

“In respect of both colleges and schools there is a wide field for private munificence, and I hope that the earnest appeal which Dr. Mukerjee in his convocation speech made to his countrymen will meet with a liberal response.

“There is a reasonable prospect that the arduous labours of Dr. Mukerjee and his colleagues, for which they deserve public gratitude, will be crowned with conspicuous success.

“In carrying out the scheme of reforms which was the result of the recommendations of the Police Commission, the actual amount of the subventions which have been given to Local Governments, including the sum given in the Budget for 1909-10, is 141.42 lakhs. Something over one-third of this sum has been devoted to improving the pay of constables and head constables and to increasing their numbers so as to enable them to have a reasonable amount of time off duty and to get a reasonable amount of leave. The next largest item—nearly one-third of the whole—is on account of the increase of the pay of Sub-Inspectors, and the addition to their numbers which was required in furtherance of the policy that so far as possible the investigation of offences should be conducted by officers of not lower rank than Sub-Inspectors. This accounts for roughly two-thirds of the whole, and of the remaining third a large item is on account of Inspectors, while a considerable sum has been allotted for the new rank of Deputy Superintendent. The pay of Superintendents and Assistant Superintendents has also been increased and the prospects of the service are now sufficient to attract an excellent stamp of recruit.

“It must be remembered however that the reforms cannot be expected to produce their full effect at once. It takes time for police officers to be trained and to gain the necessary experience; but considerable improvement has already been made, and if the right class will come forward for the rank of Sub-Inspectors we may expect a marked change for the better. The success of the police however depends even more on the assistance given by the people themselves

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than on the detective abilities of the police officer. The iniquities of the police are a favourite theme; it would be profitable sometimes to dwell on the difficulties they have to encounter owing to the absence of that civic spirit which in other countries induces the people to co-operate with the police in bringing offenders to justice. The murder of Inspector Nanda Lal Bannerjee in the streets of Calcutta was witnessed by many people, yet when the police arrived on the spot a few minutes later, the street was deserted, every door was shut, and no one would admit that he had any knowledge of the occurrence. Compare with this the assistance which the London Police received from the people in the pursuit of the perpetrators of the recent Tottenham outrage. This is the spirit of co-operation that we should like to see in India and that newspapers and influential men should advocate. After all the police officer comes from the same class as the members of the learned professions and the public services, and his desire must be to work honestly and bring the guilty to justice. If the people will trust him and co-operate with him, volunteering information when they have it, and not shielding the offender, the antagonism between the police and the people must disappear.

“ With reference to the Hon’ble Mr. Apar’s inquiry about the scheme for the improvement of Calcutta, I explained last year the difficulties of carrying out an immense project of this kind with celerity. A draft Bill for giving effect to the scheme as approved by the Secretary of State has been received from the Bengal Government. As indicating the complexity of the subject I may mention that the Bill contains 191 clauses. It is under examination at present and must be submitted to the Secretary of State for approval before it can be introduced in the Bengal Council.

“ The Hon’ble Mr. Andrew asks that early orders may be passed on the scheme for the revision and redistribution of District and Divisional charges in the Madras Presidency. The scheme involved the consideration of complicated questions in respect of the strengthening and regrading of the district executive and judicial staff, the reorganization of office establishments, and the revision of the subordinate civil service, questions which necessitated considerable discussion. I am glad to announce that the Governments of India and Madras have now reached a complete accord, and that the proposals will be submitted immediately to the Secretary of State.

“ With reference to the Hon’ble Mr. Gokhale’s remarks about certain persons who are now under deportation, the Hon’ble Member must be well aware that the Government have far better means of judging of the necessity of the step

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which they took than the Hon'ble Member, who bases his conclusions simply on personal acquaintance of these persons and on that knowledge assumes that the Government acted in error. I am very far from admitting that the Government acted on unreliable information or that there was any error at all in their action.

"I will now advert to a subject on which there has been of late a considerable amount of controversy. The Hon'ble Mr. Dadabhoy says that the introduction of the principle of class representation on the basis of the fancied importance of Mahomedans has taken away the chief merit of the Reform scheme and given umbrage to the great non-Moslem communities of India. Now let us look at the facts and see exactly what has been proposed. Excluding special Mahomedan representation the electorates which have been proposed for the Provincial Councils are the Universities, the corporations of the Presidency-towns, District Boards, Municipalities, Landholders, Chambers of Commerce, Indian Commerce, Mill-owners and Trades' Associations, and the planting community. The electorates proposed for the Imperial Council are the non-official members of Provincial Councils, Landholders, Chambers of Commerce, and Indian Commerce. In addition provision is made for representing small minorities occasionally by nomination. In the electorates which I have enumerated there is no class or religious representation. All classes and creeds vote together on an equal footing. But if we rest here injustice will be done. There are two classes in India which stand out in great prominence over all others, the Hindu majority and the large and important Mahomedan minority. Say what you please as to the desirability of bringing the great Hindu community and the great Mahomedan community into closer union, existing facts must be faced, and it is undoubtedly the case that at present Hindus and Mahomedans differ not only in religion but in almost everything else, to such an extent that it would be nearer the truth to say that they are in political antagonism than to say that they are in political harmony. The general electorates are open to Hindu and Mahomedan alike, but what will happen if we leave it at this, without making any special provision for securing an adequate representation for the Mahomedan minority? The result will be, as the past history of elections for District Boards and Municipalities has clearly shown, that the Mahomedan vote will be swamped by the Hindu vote, and that Mahomedans will not obtain a representation proportionate to their numbers and political importance. It is therefore necessary, as conditions stand at present, to provide some means by which Mahomedans may obtain such number of additional seats as will bring their representation into due proportion. There are two ways of securing this

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end—either by nominating Mahomedans to seats over and above those which they obtain in the general election, or by allowing the Mahomedan community itself to elect members for these seats. One way or the other must be adopted in order to meet existing conditions. (The time may yet arrive when the Mahomedan community will have become sufficiently organized to secure for themselves a due proportion of representation at the general elections. But that time has not yet come. If it ever does come it will then be both unnecessary and unjust to give them further facilities for representation. Meanwhile we propose to frame the regulations so as to meet the existing condition, which is that Mahomedans cannot obtain due representation unless they are given something over and above what they may secure at the general election, and if this condition changes then it will be a simple matter to revise the regulations so as to meet the change.) So far as I am aware no exception has ever been taken to the principle that nomination may be added to election so as to secure representation for minorities. Nay more, it has been universally admitted that in the case of Mahomedans nomination may properly be applied to save them from being disproportionately outnumbered in the Councils. The reservation of extra seats for Mahomedans is exactly the same principle, and whether these seats are filled by nomination from outside or by election from within is a matter which, it seems to me, can be of no concern to any but the Mahomedans themselves. It is gratifying to find that the action of the Government of India in this matter has been supported by so shrewd a politician as the Hon'ble Mr. Gokhale. There is a sentence in his able speech which puts the whole principle in a nutshell, and which will bear repetition—'The great advantage of the plan,' he says, 'is that it provides for composite action by all communities up to a certain point, and then it prevents injustice in practical operation to minorities by giving them special supplementary electorates of their own.' That is exactly the principle on which we have dealt with the great Mahomedan minority, and if we have not, as he suggests, extended it to other minorities, the reason is that simplicity in operation is desirable, and that there is no other minority at the present time that is so large and important as to call for similar treatment.

"As regards the elimination by the House of Lords of the provision for the creation of Provincial Executive Councils, I may say that for my part I should like to see it replaced, on the ground that the increasing burden of personal responsibility thrown on some of our Lieutenant-Governors is becoming heavier than can be borne. The quickening of the political spirit in India during the past four years has largely increased the personal volume of work of heads of

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provinces, and the work will be still further vastly increased when the reforms come into operation. Therefore I think that the present opportunity of Parliamentary legislation should be taken to assume the power of creating Executive Councils for provinces, a power which should not be exercised for all provinces straight away, but should be in reserve to be applied in the case of any particular province only when the necessity has been clearly demonstrated. But the creation of Provincial Executive Councils has in some quarters been advocated from another point of view, *viz.*, that it will always provide a place for an Indian in the government of a province. I confess that I have little sympathy with this view, not from a desire to exclude Indians, but because I think that when it is a question of appointment to a Council the member should be selected on the same ground as my friend the Hon'ble Mr. Sinha was selected for the Imperial Council, namely, that he is eminently qualified to hold the portfolio which is vacant. The appointment of any person, be he English or Indian, who has not a matured experience of administrative work, to the charge of any of the large executive departments of a province, cannot, in my view, be contemplated without dismay."

His Excellency THE COMMANDER-IN-CHIEF said:—"My Lord, as this is the last time that I shall have the opportunity of addressing the Legislative Council during a Budget debate, I think it is desirable to deal with Army administration at somewhat greater length than I have hitherto done on similar occasions.

"My colleagues will doubtless expect me to give some account of my stewardship during the six and a half years that I have had the honour to command the Army in India, and, as far as the time at my disposal will allow, some account of the results achieved—particularly the financial results. But, my Lord, although this is a sufficient cause, it is not my sole excuse. The present budget is, in several respects, exceptional, marking something of an epoch in Military finance. In the first place, it is the only military budget framed since I have been in India under circumstances of general financial stringency. In previous years the revenues of this country have been in such a prosperous condition that it was wise to place, out of our abundance, a certain amount to reserve by improving our military security. But, just as strongly as I hold that to have been a wise policy, so I consider that, under the present straitened circumstances, military expenditure should be kept as low as possible whilst duly providing for the maintenance of the present state of efficiency in the army. Then, again, as the Hon'ble Finance Member has already stated, the period of fixed grants for special military expenditure has now terminated, and we have reverted to the earlier system under which

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military expenditure was annually regulated. Lastly, this budget debate has a special importance of its own; for it is the first time that a Member of Your Excellency's Government has addressed this Council, charged, under Your Excellency's orders, with undivided responsibility for both the efficiency and the economical administration of the Army in India. On these grounds I ask Your Excellency to forgive me if I occupy a somewhat larger share than usual of the time available for the discussion of the budget.

"As Your Excellency is aware, and I am sure that my Hon'ble colleagues will believe, my sole aim, throughout my tenure of appointment as Commander-in-Chief, has been to place the administration of the army in India on a sound business footing. A modern army is not, as is sometimes erroneously supposed, a costly toy maintained for purposes of ceremonial and display, nor, on the other hand, is it an instrument of aggression to be used for national or individual aggrandisement. It is simply an insurance against national disaster; and the expenditure incurred on it is strictly comparable with private expenditure on similar precautionary measures.

"The first business condition necessary to justify our military expenditure is that the army maintained should be in a thoroughly efficient state, and, therefore, able, at all times of need, to carry out whatever may be expected from its numerical strength. Expenditure of money on an inefficient army can no more be defended than the payment of premia to an insolvent company. It is indeed less defensible; for the mere existence of such an army may lull a government and a nation into a false sense of security, which may vitally affect their policy and thus bring about the very disaster that it was intended to avert. But the application of business methods to army administration means more than this. It means that we must never for one moment lose sight of the fact that the efficiency of an army maintained as the ultimate guarantee of public security must be purchased at the lowest possible price. Therefore, every existing source of army expenditure has to be periodically scrutinised, and be shewn to contribute towards that security, or be discontinued; and the cost, as well as the utility, of every proposal for new expenditure must be most carefully considered before it is accepted.

"I have tried to administer the great responsibilities entrusted to me in accordance with these principles.

"The Hon'ble Finance Member has summarised briefly some of the more important measures of recent years; but Your Excellency will perhaps permit me to go somewhat more into detail.



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“ On my arrival in India in 1902, it naturally was incumbent on me to make a detailed study of the military problems of this country ; of the grave responsibilities, both internal and external, which its army has to meet ; and of the capacity of that army to fulfil its allotted task. In the course of my examination, I formed the opinion that the army itself, its officers and men, consisted, in the main, of splendid material, but that the best and most economical value was not being obtained from this material—partly because its location, organisation, and training were antiquated, and partly because money was being spent on numerous objects, which, whilst possibly desirable at one time, were not necessary any longer. As the result of my studies, I felt that the first essential step was to improve the organisation, training, and distribution of the army, and to provide for its thorough equipment for war ; and I therefore put forward proposals to that end. These were approved in principle, and considerable progress has been made in carrying them into effect. We could now mobilise and place in the field an army consisting of 9 Infantry Divisions and 8 Cavalry Brigades. It is true that this could not yet be done for the whole force with the ease and absence of friction which, in an army run on business lines, should mark the transition from peace to war conditions ; for we should still have to resort, to a certain extent in the later divisions, to improvised arrangements. But it is certain that the mobilisation could be carried out effectively and with a degree of rapidity previously unattainable, and that, in addition, we should leave in India a sufficient force, suitably organised and staffed, to maintain public security in every part of the country.

“ One of the great difficulties a Commander in the field has to face is caused by variations in the fighting value or strength of the units under his command. Moreover, nothing renders an army so disunited and depressed as a recognised and well-founded consciousness of inferiority amongst a certain number of its units. Uniformity, therefore, so far as it can be obtained, is of great importance ; and, in order to insure it, our regiments and battalions have been re-numbered as units of one army, thus obliterating the last traces of old Presidential distinctions, while their peace establishments, which had previously varied considerably, have been adjusted to uniform strengths and standards based on the requirements of the field army. With the same object, an original test of training was introduced, under which every battalion in India was examined and marked for proficiency in every branch of military training by a board of qualified inspecting officers, specially selected for the purpose. I do not think that the value of this test was fully realised. The result showed, however, that the standard of training in our best regiments was excellent ; but it also brought to light, and enabled us to rectify, many weak points—among others the desirability of raising the fighting

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value of certain units by the substitution, partially or wholly, of superior fighting races ; and, as cases in point, I may mention the raising of the number of Gurkha Battalions from 16 to 20 and the formation of the 106th Hazara Pioneers. I hope that similar tests may be applied from time to time ; for they give us a means of satisfying ourselves that a standard of uniform fighting value and proficiency is maintained in the army, though, of course, that standard may be, and is, surpassed in the best units.

“In order to obtain an efficient, well-trained and well-disciplined army, it is necessary to organise and train our troops as nearly as practicable in the same formations as will be employed during war, and under the same commanders and with the same staffs. The advantage of this has been shewn in the rapid operations that were conducted last year on the Peshawar border, and will be still more apparent in the case of larger operations or a serious war. It is with this object that the Divisional system has been introduced into India. Divisional and Brigade Commanders are now trained in peace to assume the heavy responsibilities that will fall on them in war. This Divisional system naturally replaced the previous “Commands”, as well as the “Districts” subordinate to them, and has entailed an increase to the Army in India of 9 Brigadier Generals and 44 Staff Officers. In order to organise the units in these Divisions, so that they might be efficiently administered and trained, it was found necessary to redistribute a certain number of them, as has been done so that each Divisional General can mobilise and train a complete Division from his command without drawing upon others.

“Intimately connected with the training of the troops, is the question of the staff and of their higher professional knowledge ; for we all know how the bravest troops can only fight at a disadvantage if they are inefficiently led, or the plans are faulty, or the orders given are obscure or defective. We have, therefore, created the Indian Staff College at Quetta, working in close touch with the similar institution at Camberley, from which we are annually turning out a body of highly-trained officers, who will be of the greatest value to us, both for training our troops in time of peace and in the field during war, and who will exercise a beneficial effect in establishing a more uniform standard in the higher branches of professional training and thought in the army. Moreover, by an improved distribution of staff duties, we have also been trying gradually to secure greater co-ordination and better staff work throughout the service.

“Whilst thus endeavouring to make the best of our existing material and to increase the fighting power of our available forces, we have recognised that the complete re-armament of the Artillery with quick-firing guns was essential ; and

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this, in turn, owing to the more rapid rate of fire that is maintained in modern war, involved more ammunition, more wagons, more horses, and larger establishments. Then again, for similar reasons, we have been obliged to re-arm the whole of our troops with the new rifle. I am glad to say that both these expensive changes have now been practically completed. In doing so, we have borne in mind the importance of rendering India self-supporting as regards the manufacture and repair of all such war material. We are now able to manufacture in India, besides the new quick-firing guns and the latest rifle, all the shells, fuses, etc., as well as small arms ammunition, on a scale sufficient to meet the probable requirements of the army in the field.

“ But every army, however well-equipped, and highly organised and trained, must have an adequate supply and transport service. The Supply and Transport Corps, which was formerly divorced from the general administration of the army, has now been brought into its organisation, so as to fulfil the requirements of divisions and brigades, both in peace and war, in an economical and efficient manner. The responsibility of the Divisional and Brigade Commanders for the effective supervision of supply and transport expenditure in their commands has been enforced, while a better system of grading officers has popularised the service and facilitated the selection of suitable candidates. We have, at the same time, increased, to a considerable extent, our carrying power and capacity for expansion. The decentralisation to Divisional Commanders has been attended with satisfactory results, and has led to closer control of expenditure in respect of the economical employment of transport in peace, food and forage supply, and farm and dairy administration.

“ Two years ago I referred to the necessity that would have to be faced sooner or later of bettering the conditions of service of the native ranks of the Indian army, and also of doing something to improve the position of the British Officer, especially in the junior ranks. As my Colleagues are aware, we had, from time to time, been considering how we could best do this within the means at our disposal. As a first step we doubled the kit money of the native troops, so that each man could have a free kit instead of having to pay a large part of the cost himself; we granted free passages to an increased number of men proceeding to their homes on leave; we gave a boot allowance to all unmounted combatants, and free fodder to the Native Cavalry on the march; we improved the pension rules, and also introduced scales of invalid pensions, as well as a revised scale of travelling allowances for all officers which prevents their being subjected to pecuniary loss when transferred or ordered on out-station duties. These measures tended to ameliorate the conditions of service

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of our Indian soldiers; and this year, as we know, His Majesty the King-Emperor has approved a substantial increase of pay and free firewood to all native ranks. The pay of the junior officers has also been materially improved.

“ This account is only a brief outline of some of the more important measures that have engaged our attention during the last 6½ years; and I need not now delay the Council by referring to the other improvements that have been made, such as the augmentation of our reserves, etc.

“ When, in 1904, the schemes for the redistribution and reorganisation of the army were brought forward and approved, it was decided to finance them by a fixed, special, annual grant. The aggregate of this fixed grant, up to the end of this financial year, when it ceases, amounts to a sum of £9,971,700; and, of this, we have, as the Hon’ble Finance Member has told you, spent £8,216,000.

“ The expenditure of this special fixed grant may be divided under three heads :—

“ *First.*—All ‘ special expenditure,’ both initial and recurring, unconnected with the redistribution and reorganisation schemes.

“ In this connection I may explain that, since 1904-05, all military expenditure, additional to the items specifically excluded above and petty items, has been classed as “ special expenditure.” Buildings do not last for ever, and must periodically be renewed. Arms, ammunition, machinery, medical equipment and instruments—and many other and, as a rule, expensive articles—are gradually superseded by the march of time and the progress of science and invention, and sooner or later have to be replaced. Coast defences, once ample, become useless; and it becomes necessary to remodel and re-arm them. The ships of the Royal Indian Marine—the service of which is charged, in India, to the Military estimates—have to be replaced by new ones. And it is to unavoidable charges of this nature that we apply the term “ special expenditure.”

“ *Secondly.*—The initial cost of the reorganisation and redistribution schemes.

“ *Thirdly.*—The recurring expenditure resulting from those schemes. It is perhaps regrettable that this last item was provided for in the special grant and not charged annually to ordinary budget expenditure. For, within the special grant account, it formed a sort of supplementary military budget, and this recurring expenditure has thus, hitherto, been divorced from the economies that have been effected in other directions, confusing, to some extent, the results obtained—at any rate, to the uninitiated.

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“Under the first head of expenditure, *viz.*, “special” we have spent £4,527,600 on the following main items:—

	£
Re-arming the Artillery . . . . .	1,750,000
Coast defences . . . . .	432,000
Royal Indian Marine, including the R.I.M.S. <i>Northbrook</i> . . . . .	295,000
Buildings and lines . . . . .	600,000
Staff College, Quetta . . . . .	57,000
Electrical installations in barracks . . . . .	44,000
Dairy and grass farms . . . . .	80,000
Remount depôts and horse-breeding operations . . . . .	55,000
Buildings and ranges for Volunteers . . . . .	20,000
Ordnance machinery and stores . . . . .	200,000
Medical stores . . . . .	45,000

“Recurring expenditure and various minor items account for the balance.

“The expenditure under the second head, *viz.*, “redistribution and reorganisation,” may be divided into two categories:—

1. Purchase of land and the building operations entailed by the redistribution scheme; and
2. Providing for the necessary preparation for war under the reorganisation scheme.

“The first of these categories has cost us £958,400, of which £153,600 was spent in providing barracks at Quetta for one British and two Indian battalions, and £132,000 in constructing the Nowshera Cavalry Cantonment. These are the only two places beyond the Indus where additional accommodation has been provided.

“Two years ago in this Council I explained that my policy of redistribution did not contemplate the massing of large numbers of troops on the North-West Frontier, and that I was entirely opposed to any such policy. Notwithstanding that declaration, I see that recently a distinguished General Officer, formerly Military Member of the Viceroy’s Council, has stated, in a letter to the papers, that he knows far better than I do what my policy meant, and that the massing of troops on the frontier was the real intention of my redistribution scheme. I can only say that, if such was the case, I have signally failed in carrying it into effect; for I have only allotted £285,600 for accommodation on the frontier out of the total of £958,400 spent on additional buildings.

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“On the second of these categories, *vis.*, ‘preparing the army for war’, the sum spent has been £1,959,000, and the main items of this expenditure have been:—

	£
Ammunition columns and other units added to the army . . . . .	117,100
Increase of the reserve of artillery ammunition . . . . .	327,100
Increase of the reserve of small arm ammunition . . . . .	478,300
Increase of the reserve of machine guns and rifles . . . . .	197,800
Increase of horses, mules and transport . . . . .	399,100
Increase of field and general hospitals and medical equipment . . . . .	89,400
Increase of veterinary field hospitals and equipment . . . . .	18,300
Increase of mobilisation equipment, including small arms ammunition columns . . . . .	305,500
Addition of 350 officers to the Indian Army . . . . .	8,200
Minor items . . . . .	23,200

making the total under this head, for both redistribution and reorganisation schemes combined, £2,917,400.

“The third head is the recurring charge caused by the redistribution and reorganisation schemes; and the cumulative expenditure of this amounts, naturally, to the balance which brings up the total expenditure to the figures stated by the Hon’ble Finance Member as being the cost of these schemes, *vis.*, £3,688,400. These annual recurring charges have been caused by the changes in, and additions to, the Army that have been made during the past five years. Their aggregate amount during this period has been £771,000, and the annual charge we have, by these measures, placed on the army estimates amounts to £271,400. The annual economies foreshadowed in my speech in this Council two years ago, and now realised, amount to £320,000 and may be placed against this charge. I may mention that there are other economies that will fall in, in the near future. These charges and economies are now for the first time brought together in the regular budget for the ensuing financial year, which would have been a far more unsatisfactory production had we not had these economies to help us.

“The Hon’ble Finance Member has shewn that, in the five years ending with 1903-04, sums aggregating £5,951,000 were allotted for special military expenditure; and that, excluding cumulative recurring expenditure as was the practice previous to 1904-05, the sums actually expended in the five years ending 1908-09, aggregate £6,999,000, or an increase of £1,048,000. But, from a glance at the accounts, it will be seen that a quite new and very large special charge under one head has had to be met, *vis.*, ‘the re-armament of the Artillery.’

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This alone represents no less than £1,750,000; and, if it had not been necessary to make this change in order to keep our armament up to date, our total special expenditure would have been over £700,000 less than the amounts allotted for the previous five years.

“ I pass now to the military budget estimate for the coming year, in the preparation of which we have had to provide for a large increase of expenditure in three directions as compared with the budget of last year. The first of these is the additional payment to the War Office in respect of the cost of providing recruits and reliefs for the portion of the British Army serving in India. The second is the increase of pay and free firewood granted to the Native Army on the 1st January this year. The third is the increase in the cost of food and forage due to the present high prices. For these items taken together we have had to provide an additional sum of £818,300.

“ With such a burden to carry, and having regard to the present tightness in the resources of the country, the pruning knife has had to be used with some vigour. Our building programme has had to be curtailed, and the numbers of the workmen in our ordnance factories reduced. Moreover, several undoubtedly useful projects for the improvement of the Army have had to be postponed for the present—to be taken up again, I hope, at a more financially propitious moment.

“ We have, in the budget for 1909-10, made adequate provision for the usual services necessary to maintain the Army at its present established strength, and have been able to provide funds to proceed with certain measures, such as:—

1. Completion of our additional Royal Horse and Field Artillery ammunition columns.
2. Developing the local manufacture of quick-firing guns and ammunition.
3. Increase of the Indian Army reserve.
4. The carrying on to completion the building works now in progress.
5. Special defences, and items of minor importance, as well as providing funds to enable us to proceed with a tentative scheme to create a Cavalry School for India.

“ If I may detain the Council for a short time longer, I should like to compare the military estimates now under discussion with those of the budget prepared before my arrival in this country, *i.e.*, the budget for the year 1902-03. The net expenditure in the military estimates for that year amounted to

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£18,094,000, on which the estimates for 1909-10 show an apparent increase of £1,559,000. This figure must be corrected in the first instance by deducting £313,000 on account of the net cost of certain services (the chief of which is the Hyderabad Contingent) which have been transferred from the civil to the military estimates. On the other hand, if we deduct the expenditure classed as special in the two years (£1,128,300 in 1902-03, and £474,900 in 1909-10), and the special provision of £93,000 made in the 1902-03 estimates for the Delhi Durbar and Coronation ceremonies, the increase to be accounted for is raised to £1,992,400. This increase is to some extent discounted by the fact that our ordinary budget now provides, under the ordnance grant, for the local manufacture of a large amount of war material, which in 1902-03 had to be purchased from home, and the cost of which was treated as special expenditure. Apart, however, from this difference of classification, I think I can show that practically the whole of the increase in expenditure has been forced upon us by causes beyond our control, such as the increased cost of obtaining recruits and reliefs from home for the British Army out here, and the general rise in prices in India. The budget estimates for 1909-10, as compared with those for 1902-03, provide for new or increased charges under the following heads:—£450,000 for the service or proficiency pay of British soldiers; £300,000 on account of the increased payment to the War Office for British recruits and reliefs; £67,000 for the additional cost of trooping arrangements to and from England and the colonies; £131,000 on account of the automatic increase of pensionary and other non-effective charges; and £650,000 for the extra cost of food and forage due to the rise in prices. These charges, which are practically uncontrollable, aggregate £1,598,000, and leave a balance of only £394,400 to be accounted for. This balance is more than covered by the various increases of pay and allowances which it has been found necessary to grant to the officers and men of the Army in India at a total cost of £586,700. The necessity for these increases has been admitted on all sides, and I submit that they may be fairly classed as unavoidable. If these items are deducted, we get a balance of £192,300 in favour of the estimates for the ensuing year.

“But the Army establishments in 1902-03 are not identical with those of the reorganised army of the present day for which we are providing in this budget. The 1902-03 establishment of officers, non-commissioned officers and men of British troops amounted to 74,113. We now have 75,270, or an increase of 1,157, almost entirely due to the requirements of the re-armed artillery. In the Native Army, in 1902-03 we maintained 150,586 officers, non-commissioned officers and men, against the present total of 162,093, or an increase of 11,507.



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Of these, 7,654 represent the Hyderabad Contingent, for which credit has already been taken in the financial comparison. The further increase is due to the readjustment of establishments, minor increases in the Army, and 350 officers added to the Indian army. Of mobile guns, in 1902-03 we had 460, and we now have 480, or an addition of 20, representing 2 new mountain batteries and 2 heavy batteries. Maxim guns have been increased from 287 to 422; and the horses maintained from a total of 34,975 in 1902-03, to 44,447 at present, giving an increase of 9,472. Of these, however, 2,312 came with the Hyderabad Contingent and have been taken credit for. The remaining increase is due to the extra horses required by the artillery and ammunition columns; to an increase to the reserve of 500 horses; and to an increase in the establishment of horses in British cavalry regiments. In 1902-03 we had 25,191 mules, whilst we now keep 34,179, or an increase of 8,988. Of these, 7,200 have gone to increase the carrying power of our transport; and the remainder to provide for the two new mountain batteries, for supplying Pioneer battalions with equipment mules, and for the increase of Maxim guns. In staff officers the number in 1902-03 was 901 and is now 965. I have already mentioned the increase of 53 of these, and the balance is composed of additional Supply and Transport officers.

“The annual cost of maintaining these additions to the Army is evidently more than the increased sum provided in the 1909-10 budget. Therefore while you are paying your soldiers, both British and Native, individually considerably higher than in 1902-1903, the cost of their service in the Army is less.

“The question naturally arises how has this been accomplished? I think that an answer may be found in the relation that now exists between the military and financial authorities in India.

“Formerly they had very little in common. The military authorities had but slight interest in economy, while the financial authorities concerned themselves as little with considerations of military efficiency. That two great departments of the same Government should thus regard each other as adversaries, rather than as allies working together to obtain results satisfactory to both, was clearly opposed to all business principles. It is not a matter of surprise that the Finance Department failed to secure possible economies, or that the military authorities were hampered in their struggles for efficiency. Two main factors have brought about an alteration—and I hope a permanent alteration—in this respect. On the one hand, the fixing, for a term of years, of an annual maximum beyond which

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special military expenditure could not be incurred, has taught the soldiers that economical administration is a military as well as a financial interest, and has accustomed them to scrutinise every demand for money with the utmost care before it is put forward, lest, by supporting measures which are merely desirable, they should jeopardise those which are essential. On the other hand, the creation of a special branch of the Finance Department, to deal with military expenditure, in close connection with the Army Department, has, I think, given the financial authorities an insight—perhaps I may say a sympathetic insight—into the real requirements of the Army, which was formerly lacking.

“ Your Excellency has placed some of the ablest officers of the Finance Department in charge of the Military Finance Branch. My thanks are due to those officers for the ready and valuable assistance they have afforded, not only to myself, but also to the Heads of Divisions at Army Head-Quarters, by pointing out, at an early stage, the true financial results to be expected from particular proposals, and thus enabling such proposals to be examined with fuller knowledge, and to be dropped or persevered in, in the light of that knowledge. In this connection, I should like to draw attention to an alteration in the form of the India Army Budget Estimates, now made for the first time, and which is the outward and visible sign of an underlying principle to which I attach great importance. I am convinced that real economy in Military expenditure must be the work of the officers of the Army themselves. They, and they alone, are in a position to recognise unhesitatingly the sources of waste, the expenditure which is not necessary to maintain efficiency, and that which, though consecrated by long usage, can be terminated advantageously. But the enforcement of true economy is at best a thankless and disagreeable task. No man undertakes it willingly unless he knows that his efforts will be recognised and acknowledged. Given responsibility, and the knowledge that praise or blame await on the manner in which that responsibility is upheld, I have no doubt whatever that the officers of the Army will prove themselves capable of sound and economical administration. This year, therefore, the India Army Estimates have been compiled on a Divisional basis, shewing clearly all sums, for the administration of which each General Officer Commanding a Division or Independent Brigade is responsible. At the same time a decentralisation of the Military Accounts Department has been carried out,\* by means of which each Divisional General has been provided with a Financial Adviser. The scrutiny and the comparison of results will now be easy; the responsibility will be clearly defined; and I hope for the best results from this seemingly simple reform.

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“In concluding these remarks, which are the last that I shall have the honour to address to this Council, I hope that I may be allowed to say a word about the system of army administration.

“A glance at the history of the army in India shows that though, in the long run, good results have been attained in the past, they were only obtained by following very devious roads and therefore took much time to accomplish, while the methods employed were far from economical and the policy was lacking in continuity. The system of dual advice to the Viceroy on all army matters by two separate members of His Excellency's Council was the main cause of this. The personality of these two high officials had, no doubt, a marked effect on army policy. At times the Commander-in-Chief was the most trusted adviser of the Viceroy, while, at others, it was the Military Member of Council that was listened to. No Viceroy, however, would be likely always to take the advice of one member and discard that of the other. At times the advice of the less influential member would naturally be accepted; and thus a breach in continuity would probably be established, leading to unexpected deviations and developments. Then again, the member whose advice had been rejected had always to put into execution his share of the accepted policy, of which, of course he disapproved. I am sure that this was, as a rule, loyally carried out, as far as possible; but I ask, can any independent high official give effect to another's policy of which he disapproves, without introducing any of his personal convictions into it? I trow not.

“India is the only country under the British Crown which maintains a large army and can carry out a continuous policy for its improvement. My advice to the Government of India is not to lose the system which you now possess, or change it back to the dual control which has been abandoned and abolished. Continuity of policy in army affairs is essential, in order to attain economical efficiency. If you duplicate your advisers, you will reel through the mazes of military technicalities, leaning first on the shoulder of one and then on that of the other, and continuity will, and must be, lost.

“We have strengthened very considerably the staff which surrounds and supports the combined Army Member and Commander-in-Chief; and you need have no fear that they and he will not lead you by straighter and cheaper paths to the possession of an efficient, up-to-date army, than was previously possible. Their responsibility is now complete and personal, and cannot be avoided or passed on, by specious arguments, to other shoulders.

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“ Many other reasons against the dual system exist. I will not now labour the subject, or detain you further. But, for the welfare of the army in India, which I have commanded with so deep an interest and whose future success I have so keenly at heart, I cannot help impressing upon you, as strongly as I can, my conviction that it is only by continuity in military policy that the army can be maintained always able and ready to fulfil its grave responsibilities.”

His Honour THE LIEUTENANT-GOVERNOR said:—“ My Lord, I hope that Sir Guy Wilson will allow me, as a late Finance Minister, to tender him my congratulations on the courage and skill with which he has dealt with a difficult situation. The large deficit in the current year is due partly to the famine in Northern India, and partly to the large grants which have been assigned to various Local Governments, including 30 lakhs to the fortunate United Provinces over and above the whole of their famine expenditure. But, as the Finance Minister points out, it is principally due to the signal failure of the Railways to earn the net returns which were anticipated.

“ In so far as that failure is due to a shrinkage of gross earnings, it is likely to be of merely temporary duration, and need cause little apprehension.

“ But, so far as I can understand, the great slump in net earnings is due not nearly so much to a reduction in gross traffic receipts, as to an enormous increase in what are called working expenses. The loss under the first head is stated by the Railway Board to be £876,000, whereas the increase of working expenses is shown in the account to be £1,410,000.

“ That however is not nearly all. If the gross traffic receipts have fallen off by nearly £900,000, the cost of moving the reduced traffic should, naturally, have fallen off by, let us say, £400,000. It follows that the excess which has to be explained is considerably more than a million and three-quarters. I am constrained to say that the explanation presented in the Memorandum of the Railway Board seems singularly inadequate. Something is doubtless due to the cost of coal, though we are not told what it amounts to. Grain compensation is said to amount to 23½ lakhs, or £157,000, *i.e.*, less than 1/10th of the total excess. Floods on the North Western Railway are called in to account for some unspecified part of the remainder; but I seem to remember hearing of similar floods for several years before on that line. A great deal is attributed to repairs and renewals, and we are told that commitments had been entered into which could not be stopped. I will not stop to consider the question whether any Railway Administration is at liberty to enter into commitments of this kind which cannot be modified or contracted

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if the ensuing year is one of deficit. But I do affirm without hesitation that any Administration which contemplates doing so is bound by all the canons of finance and common sense to provide for the corresponding expenditure in its estimates. And in the present instance we have to face the plain fact that the working expenses, in spite of a heavy reduction in the traffic carried, have exceeded the estimate by not much less than a million and a half.

“ My Hon'ble friend, in balancing his budget for the ensuing year, has taken credit for an increase of net Railway receipts of  $2\frac{1}{2}$  millions sterling. So far as gross earnings go, his estimate may very fairly be justified. But I will venture to offer a word of warning in regard to the net receipts. Recent experience indicates how mournfully these estimates are liable to be falsified; and unless Railway Administrations can be made to understand that in matters of expenditure they must work within their Budget allotments, like all other great spending departments, and that no excess can be permitted except for the purpose of carrying an unexpected volume of additional traffic, I fear that great trouble lies ahead.

“ In making these remarks, I need scarcely say that I have no desire whatsoever to embarrass the Finance Minister. On the contrary, my sole object is, so far as lies in my power, to strengthen his hands in dealing with a danger which had already risen above the horizon in my own time, and which has since become threatening and acute.

“ Mr. Gokhale has returned to the charge once more on the subject of our surpluses; he maintains that these should be expended on such matters as primary education, sanitation and the like, and he complains that we were not justified in expending them on railway construction.

“ I do not know that it is worth while to discuss this at any length, for the Hon'ble Member and the Government of India must agree to differ. But perhaps I may say that in my judgment, in the interest of economy, no better application could be made of any surplus funds than the reduction of debt. If more money is required for expenditure on education or sanitation, let it be provided in the budget. But after that has been done, then, when a surplus does occur, let it be applied in India, as I believe it is applied in most other civilized countries, to reducing the public indebtedness.

“ There are only two other points in the Financial Statement and the speeches of the Hon'ble Members to which I desire to allude.

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“ The Hon'ble Mr. Apcar has made some observations on the subject of exchange, and has criticized the action of Government in respect of the measures taken to support it.

“ As regards the future, or even the present, I do not feel called upon to say anything, for it is only the Finance Minister of the day who can state the views and intentions of this Government with authority.

“ But Mr. Apcar has made a statement regarding the past, in which he has unwittingly committed an inaccuracy, and has done less than justice to the Government of which I was then a member. He has told us that when exchange fell in November 1907 to  $1s. 3\frac{1}{16}d.$  the question became one of practical urgency. ‘ Yet the policy of Government during this time of crisis was notable only for inactivity. It was not till the end of March 1908, in spite of urgent representations from the Banks, that Government commenced to offer sterling bills on the Secretary of State in London.’

“ The suggestion thus made is quite incorrect. If the Hon'ble Member had referred to paragraphs 95 to 98 of last year's Financial Statement, he would have found a complete account of the measures taken in the winter of 1907-08 to maintain exchange, and also of their effect. These measures were, firstly, the stoppage of the sale of bills by the Secretary of State; and, secondly, the release by the Secretary of State of his currency gold in London. This currency gold is our first line of defence, and it was clearly right to use it before falling back on the Gold Standard Reserve. The first million of currency gold was released on the 25th November 1907, and further sums of one million and half a million were released on the 6th and 18th December respectively. It was also arranged with the Banks that if exchange should fall below gold export point, Telegraphic Transfers on London should be sold in India at a fixed rate. The effect of these measures was immediate. By the 30th November exchange had recovered and stood above gold export point: and it remained at that level till the end of March 1908. The reason, the obvious and sufficient reason, why bills on London were not offered for sale till the 26th March was that till that date exchange had not fallen below export point. There was no need to sell them, and no possibility of doing so.

“ I trust that my Hon'ble friend the Finance Minister will not consider that I have encroached unduly on his province by offering this explanation.

“ The only other matter on which I desire to trouble the Finance Minister is the urgent necessity for undertaking a revision of the present Provincial Settlement of Bengal, and for concluding a new one on terms more commensurate

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with the size, population and importance of the Province, and with its present necessities.

“ At the present time we are paying over 9 lakhs a year on account of grain compensation, and during the four years ending with 1909-10 we shall have spent over 33 lakhs on this item, for which the present settlement makes no provision whatever. Similarly, we have to provide over 9 lakhs in the ensuing year for famine relief, over and above the Imperial portion of the charge ; during the same period of four years we shall have spent some 19 lakhs on this item ; and for this also the Settlement makes no provision whatever. We are also spending a very large sum—I cannot give the exact figure—under the heads of Police, Law Charges and Jails, in connection with the special measures for the maintenance of order and the repression and punishment of anarchical crime. It would be criminal folly to relax any of these precautions at present, and the money must be found for them at any cost. During the four years beginning with 1906-07 and including the ensuing year, we shall have spent on these three groups of charges more than 69 lakhs of rupees ; and our cash balance, which on the 1st April 1906 stood at 61 lakhs, has now been reduced to zero ; it would indeed have been a *minus* quantity had not the Government of India come to our aid and wiped out the deficit.

“ I am well aware that every Province is expected to make some provision for unforeseen charges from the normal growth of its revenues ; but it is manifest that no Province can hope to do so on such a scale as this, without crippling its internal administration. That is what has happened in Bengal. Our public works grant has been cut down to 45 lakhs, the bare standard fixed four years ago, with absolutely no allowance for natural and legitimate expansion. As a consequence, while we have provided 17 lakhs for completing or continuing certain works which are actually under construction, we have been unable to undertake a single new work of any description, though the demands upon us are of the most imperative character. The Ranchi College, which has been sanctioned by the Government of India and the Secretary of State, is indefinitely postponed because we have no money, and are unable to fulfil the conditions on which the Maharaja of Burdwan made a generous contribution of a lakh of rupees towards it last year. Land has been acquired for an extension of the Presidency College—a most urgently necessary measure—but it has to lie vacant because not a single rupee can be found for erecting the buildings. The University Regulations involve largely increased expenditure on our colleges, if

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they are to escape disaffiliation; we are endeavouring to compel the private colleges to comply with the new requirements, and yet we are unable to make the requisite provision even in our Government institutions. Well devised schemes for the improvement of secondary and technical education, of which Bengal stands in need at least as much as any other part of India, are indefinitely postponed for want of funds. An acute epidemic of small-pox is raging in Calcutta; the small-pox hospital at Sealdah is a disgrace to the city and a danger to the population: yet I am quite unable to provide funds for a new one. Most of the Bengal jails are unsuited to the class of prisoners with whom we have now to deal; but there is no possibility of remodelling them. I will not weary the Council with further details; but wherever I go on tour I am forced at every turn to refuse the most reasonable requests for local expenditure; and even to reject generous offers of private contributions, because I am unable to meet the Government share of the outlay. The position is becoming impossible. It cannot fail to produce a general feeling of apathy and discontent which must greatly increase the difficulty of our task in dealing with the political situation. In the course of the year, if there should be signs of an improvement in the financial situation, I shall submit proposals for a revision of the Provincial settlement on juster and more liberal lines; and I earnestly hope that they will receive the sympathetic consideration of Your Excellency's Government and of the Hon'ble Finance Minister; and that Bengal may be allowed the first call upon whatever funds may be available in the Imperial exchequer."

The Hon'ble SIR GUY FLEETWOOD WILSON said:—"Before dealing with the points which have been so ably dwelt upon by the Hon'ble Members who have spoken, I would ask to be allowed to make a passing allusion to the lamented death of one who filled with conspicuous ability the post which I have the honour at present to hold. I allude to Sir Edward Law. It may be said that the predominant feature of his character was his almost passionate love for India and his desire to promote the welfare of her teeming population. I feel sure that I am voicing the feelings of all those present, as well as of all others who were brought in contact with him, when I give expression to the sympathy we feel for Lady Law in her sad bereavement. I would ask you, my Lord, to allow me to make one other allusion of a personal character. I would ask to be allowed to bear testimony to the great value of the work done by one who for a period of several months so successfully discharged the duties of Finance Member of Council. Mr. Meston's work has been typical of that marked ability and that superb loyalty which are the proud charac-



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teristics of that service which may claim to be the finest in the world—the Civil Service of India. Personally I owe him a deep debt of gratitude.

“ I will now deal with the speeches delivered by Hon'ble Members in so far as they concern my Department.

“ No one can possibly take exception to the tone of the debate.

“ The criticisms on the Budget have been expressed with force and lucidity, but they have been marked as well by a courtesy and consideration for which I would ask Hon'ble Members to accept my respectful thanks. I am also deeply grateful for the sympathy and support which have been so generously accorded me in the difficult and unpopular task of curtailing expenditure. Dealing first with the Army, I do not think after the full and remarkably clear statement of His Excellency the Commander-in-Chief that it is necessary for me to allude to more than two points.

“ In the first place I can and do give the assurance that neither efficiency nor reserves have been made to suffer in effecting economy. Having spent in the last few years over 2 millions in increasing our war reserves under the re-organisation scheme, we are able to reduce the expenditure without depleting the reserves and army efficiency is being fully maintained at its present high standard.

“ The second point to which I wish to allude is the increase of £300,000 in the Indian military contribution.

“ No useful purpose would, I think, be served by going now into the details of this question. The statements which have been made in the House of Commons, and which have no doubt been brought to the cognizance of Hon'ble Members, show that in the opinion of the War Department at home India does not even now pay its full share. I do not think that we need discuss that point at the present moment. What we have to deal with is an accomplished fact. The question whether or no India pays too much, enough, or too little, was referred to an exceptionally strong Committee, presided over by one of England's ablest judges, and included two representatives from India of the highest standing. The subject had to be approached from an actuarial and very technical standpoint which it would have been extremely difficult to place clearly before the public and which, even if that had been possible, the public would have found it difficult to appreciate.

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“ The outcome of the negotiations resulted in an agreement between the two Secretaries of State, under the conditions indicated by Mr. Buchanan quite recently in the House of Commons.

“ I am well aware that the Government of India had entered a protest against any increase of charge being thrown on India; but when it is remembered that the two representatives from India were Sir John Edge and Sir Beauchamp Duff, it must be conceded, I think, that the Indian case was presented with consummate ability. It must further be borne in mind that the decision arrived at was agreed to by a Secretary of State who, as is generally recognised, has always given evidence of his great sympathy with India, and who has never hesitated to keep well in the forefront the interests of the Indian people. I think the only course open to us now is to accept the decision arrived at as a final one.

“ The next subject I will allude to is Railways.

“ On the broad lines of our policy of railway development, we have heard a good deal of interesting criticism, much of which is mutually destructive, inasmuch as it represents two diametrically opposite schools of opinion. Fortunately it does not fall to my lot to answer our critics, as my Hon'ble Colleague, Mr. Harvey, has dealt with them. There is one minor point however on which I may be allowed to supplement the remarks which fell from him. I have seen questions in the Press regarding the exact significance of my statement last week that the railways were worked at a net loss during the year now closing. An answer to these questions will be found in the figured tables attached to the Financial Statement. But I have been asked more particularly whether it is a fact that we have debited against the current earnings of the old guaranteed railways the annuity payments which represent instalments of the cost of purchasing those lines. My answer to this is that we do charge the annuity payments in the manner indicated, and that we do so deliberately. I readily recognize that it is unsound finance to build or to buy railways out of revenue, more especially when they are remunerative property. But in respect of these particular lines, there is much to be said for the course pursued. It was decided to purchase these lines by means of terminable annuities instead of by cash payments, for the good reason that, under the terms of the contracts, that method was the more profitable to Indian revenues. There is in practice very little to distinguish a terminable annuity from a sinking fund; and the purchase having been effected in this particular way, we necessarily debit the annual charges to revenue. A sinking fund chargeable against capital is a contradiction in terms which would be hardly defensible.

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“The Hon<sup>ble</sup> Mr. Apcar has expressed regret that the necessities of the year have compelled the capital expenditure on State Railways to be fixed at 15 crores, instead of 18 $\frac{3}{4}$  crores. I believe—as Mr. Apcar hopes—that the postponement of the higher scale of expenditure is only temporary, and that the Secretary of State will sanction an 18 $\frac{3}{4}$  crore programme as soon as the financial position permits. The provision of funds for the programme is a matter which is very largely in his hands, our capital resources in India being extremely limited. Mr. Apcar has deprecated with much earnestness the employment of any part of the profits on coinage for railway purposes. It should be remembered, if that source of revenue is withdrawn, how comparatively little remains at our command in India. Let us consider what we have available. A revenue surplus, which in lean years may be attainable with difficulty, and only as the result of pinching the general administration. A part of the Famine Insurance grant, which in times of scarcity automatically fails us. The net incomings of our Post Office Savings Banks and a few miscellaneous funds, from which the return, though fairly sure, is not substantial. And finally, our annual rupee loan which exhausts the local market, we are told, when we try to put it higher than from 2 to 3 crores. From this enumeration of our Indian resources, it is obvious how largely we are dependent on loans in England for the development of our railways. And considering the recent state of the market in England for Indian investments, I confess to a feeling of surprise, not that the railway programme had to be curtailed, but that we have been able to pitch it at so high a figure as 15 crores.

“I come now to Provincial Finance,

“We have heard a good deal today about the growing needs of Provincial Governments, and about the defects of certain of the provincial settlements. I have neither written nor said anything which can be taken as indicative of want of sympathy with Local Governments in the many pressing claims upon them and in the many admirable schemes which they would undertake if their finances permitted. My sympathy with them is genuine, all the more so that the Government of India are experiencing to the full the same inconveniences and the same disappointments. But we must all unite in the painful process of cutting our coat according to our cloth; and we must trust that better times will come for Provincial as well as Imperial revenues. The Government of India have not been sparing of their aid to Local Governments in the past, and in the present circumstances we count on their co-operation in the economies which have become imperative.

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“ As regards the provincial settlements, I speak with entire impartiality, inasmuch as the whole of the existing settlements (with the exception of certain details relating to the United Provinces) were arranged before I took office. I have, however, had an opportunity of studying the system of settlements. They were designed to allot to each Local Government a substantial share of its growing revenues, to dispense with the necessity of periodical doles and earmarked grants from Imperial resources, and to place the province in the position of being able to adjust the growth of its administrative needs to the growth of its income in practical permanency. I believe I am not wrong in saying that my predecessor Sir Edward Baker regarded the settlements as liberal ones ; and I hold entirely to the same view. They have started badly in certain provinces, partly owing to the recent famine, partly owing to the burden of high prices, partly owing to the special difficulties of administration in the last year or two, and partly owing also, as in Burma, to a temporary set-back in the revenues. There is no reason to doubt that these causes will disappear in time ; and there is every reason to expect that the Local Governments will tide over their period of trouble without risking the permanency of their settlements, which seems to me one of the strongest factors in their financial independence. I fully recognize that the Local Government must advance with the times ; and there are many incessant demands upon them, such as the improvement of secondary education and the development of technological education, with which the Government of India are in complete sympathy. It would be entirely wrong, in my position, to hold out any definite promises ; but, should we return to the happy era of large surpluses, I have little doubt that the Government of India will be ready to share their good fortune with those provinces which genuinely require assistance in the carrying out of such projects.

“ Turning now to the particular provincial settlements upon which Hon'ble Members have spoken today, I need only deal lightly with that of Madras. The last revision of the settlement with that province was entirely of the nature of an adjustment, intended to give Madras the same shares of the principal heads of revenue as the other provinces and to replace fixed and inelastic assets, by growing resources. In spite of his criticism upon sundry details in the figures, I am sure that my 'Hon'ble friend Mr. Andrew recognises how liberal the settlement was, and the fairest proof of its success lies in the fact that the province has greatly to its credit now built up a balance well in excess of a crore of rupees,

“ The grievances of Burma have been voiced with much moderation and fairness by the Hon'ble Maung Bah Too. I have studied the records of the

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last Burma Settlement with considerable care; and I can assure my Hon'ble friend that he is entirely mistaken in his fear that the distance of his province from the head-quarters of the Government of India has prejudiced its case. I think that, on the contrary, there was particular anxiety to ensure that the province should not suffer *in absentia*, and that special efforts were made to provide it with adequate resources. It must be confessed however that, since the settlement was made, there has been some arrest in the progress of the provincial resources. The Forest-revenue in particular, which is one of Burma's greatest assets, has not answered expectations. From all that I can gather, this set-back is temporary; and I trust that Burma will be patient until either its revenue recovers or there is clear evidence that we permanently over-estimated its resources. In the meantime, a careful scrutiny of the Burma estimates suggests that there have been a certain number of items of expenditure which it was not unreasonable to ask the province to postpone or abandon pending the results of a few years' test of the operation of its settlement.

"Next, I come to the United Provinces, which are put in a somewhat invidious position by the very high figures of the grants which the Local Government has received at a time when retrenchment was being stringently enforced elsewhere. I wish to make it perfectly clear to the Council that this is not the result of any differential treatment to the United Provinces, but of the severe trial out of which they are now emerging. Famine fell upon them in 1907, when the province was working under a settlement which was admittedly inadequate. It swept away the whole accumulated balances of the Local Government, the cost of direct relief alone being over 30 lakhs; and we had to give special help to the Local Government to enable it to open the current year and its new settlement with the prescribed balance. In 1908-1909, famine and its concomitants again paralyzed the provincial finance, which had to find  $62\frac{1}{2}$  lakhs for direct relief expenditure and  $10\frac{1}{2}$  lakhs for irrecoverable loans, to say nothing of heavy indirect losses due to the same cause.

"The two specific items of loss that I have mentioned represent very closely the sum (72.92 lakhs to be exact) which we have given the Local Government in order to place it in the position we intended it to occupy at the outset of its new settlement. The additional 10 lakhs was a special initial grant with which the Secretary of State has allowed the new settlement to be inaugurated.

"I regret that the two Hon'ble Members who represent the province regard the grant as inadequate; I can only assure them that we were neither able, nor would we have been allowed, to give more.

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“There remains Bengal. With regard to it, I trust I am not unjust in the suspicion that it had begun not only to live up to its means, but in some measure to discount the future, before the special troubles befell it which are now straining its resources. The existing settlement was made only three years ago; it was considered an adequate and even liberal provision for the province; it had been preceded two years before by a special grant of 50 lakhs, and when the settlement began, there was a total credit balance of nearly 63 lakhs. A few months ago, when our Hon'ble Colleague, the present Lieutenant-Governor, took over charge of the province, the balances had disappeared and there was every prospect of a very heavy deficit. Under Sir Edward Baker's orders, no time was lost in curtailing expenditure; but it was too late to avoid a considerable overdraft upon Imperial funds. (I neglect the 50 lakhs in the Provincial balances which is earmarked for the Calcutta Improvement Scheme.) We have decided to write off that overdraft and to give the province such a measure of help as will enable it to close next year with a *nil* balance. It was quite impossible, in the face of our own difficulties, to do more. But we recognize the gravity of the task which confronts Sir Edward Baker, and if our own position improves, the Government of India will give their most careful consideration to the weighty plea which the Lieutenant-Governor has put forward today on behalf of the great province which is entrusted to his care.

“Before leaving this subject, I would add a word of explanation regarding the grants for University Education to which the Hon'ble Sir Harvey Adamson has alluded. The grants will not be found in provincial budgets because I had not received the Secretary of State's sanction to them in time to do more than show them as a lump provision in the India Estimates. The actual distribution will be as follows:—

	R
Central Provinces . . . . .	10,000
Eastern Bengal and Assam . . . . .	20,000
Bengal . . . . .	1,60,000
Punjab . . . . .	60,000
Bombay . . . . .	65,000
	3,15,000

Madras and the United Provinces have received their grants through their provincial settlements. The subsidies are for one year only, and the necessity for further Imperial assistance will have to be reconsidered before next year.

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"It is to me a matter of very genuine regret not to be able to give a sympathetic reply to the eloquent appeal which has been made in more than one quarter in regard to dear food compensation.

"In regard to this I may say that for some years past the difficulty which the Finance Member has had to face has been the equitable allotment of surplus funds. This is not my good fortune. This year we are only just able to escape fresh taxation and there are no surplus funds to allot.

"Next I will deal with the miscellaneous criticisms which have fallen from Hon'ble Members today. Among them the question of sanitation has received some attention. There seems little doubt that, under the stress of their general financial difficulties, most of the Local Governments have been obliged to defer schemes for sanitary improvement which might otherwise have made progress. But the Nawab Saiyid Muhammad is mistaken in thinking that we have withdrawn the grant of 30 lakhs which was given last year for sanitary purposes with special relation to plague preventive measures. That grant, as Sir Edward Baker explained in paragraph 65 of last year's Financial Statement, was an annual one, and it has been again allotted to the different provinces in their budgets for the coming year.

"Next; I would allude to a suggestion by the Hon'ble Mr. Andrew that District Boards in Madras may be allowed to borrow within limits from Provincial funds for the construction of local lines, without those lines being thereby brought on to the Railway programme. The Government of India have watched with much interest the energy and enterprise with which the Madras Boards have set to open up their districts by feeder railways, and it is a sincere gratification to hear of their success. But I am afraid that the privilege which my Hon'ble friend asks for is impracticable. The Railway programme is more than a mere forecast of railway projects. It is also an estimate of the whole of our resources available for railway construction. Those resources are necessarily diminished by any loans which are made from our general cash balances to District Boards; and the result of excluding lines which the Boards build from public funds would simply be a *pro tanto* reduction of our programme. In other words, the feeder lines in Madras districts would be given a prior claim on our general resources to the lines of more Imperial interest. I am afraid we could not contemplate this result with equanimity, however desirable these local works may be in themselves. If the Boards wish to keep their lines outside the programme they must finance them either by guarantees or from their own savings or by loans in the open market.

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“The question has been raised of the valuation of the securities held in the Currency reserve, and exception has been taken to their being valued at 12 crores, when we all know that there has been a considerable fall in values since they were purchased. I take it that Hon'ble Members are aware that the investments of the Currency reserve are shown not at their face value, but at the price which we paid for them. This is the procedure which the legislature has directed, and our published accounts are therefore in strict conformity with the requirements of the law.

“I should not adopt the expedient however of sheltering myself behind a technical defence of the provisions in the Act if there were any substantial or permanent deterioration in the value of our Currency investments. In such a case I fully recognize that something equivalent to a depreciation account would be not unreasonable. But the facts are as follows:—

“The total valuation of the securities is 11.17 crores as against the 12 crores which we paid for them. The deficiency is not serious and a slight revival in gilt-edged securities would wipe it out. I do not think therefore that there would be advantage in attempting periodical adjustments, so as to keep the value of the actual paper up to its original cost price. So long as the fiduciary element in our circulation is kept within moderate bounds, we need not be anxious about minor fluctuations in the value of the securities held against it.

“The two subjects in regard to which I now invite your attention are both subjects of first importance.

“They are currency and the prevailing high prices. I will take them in the order named.

“Our currency policy in general and the position of our Gold Standard Reserve in particular have figured most prominently in today's debate. It is right and fitting that the subject should have the prominence it has received, for there is no other factor in our Indian finances which is so intimately associated with the commercial interests of the country, and through those interests with the well-being of the great mass of the people. Holding these views I am glad to find that I am not called upon to defend our currency policy against any attacks upon its main features. Upon those, so far as I can judge from the speeches we have heard today, the Council is in virtual agreement. We may differ regarding the location of our gold or the pace at which it should accumulate; but we are all agreed that a strong holding of gold is essential



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to our salvation. We may have divergent views about the most effective manner of supporting exchange; but we are at one regarding the importance of active intervention when it falls below specie point. We may not agree as to the effect of our coinage on prices; but it is hardly suggested that we should re-open the Mints and allow the rupee to find its own level.

“Such being the position as regards the cardinal points of our policy, I cannot see that any good purpose would be served by holding a formal enquiry into currency matters generally. The need for such an enquiry has been eloquently urged by the Hon’ble Mr. Apcar; and I am aware that suggestions for a new Currency Commission have been received from several Chambers of Commerce. We have had a good many Commissions lately, and I am disposed to think that India in that respect deserves a rest. Commissions are always expensive, not always conclusive, and are usually somewhat unsettling bodies, and the one thing that our currency policy requires is that it should be allowed to settle down into regular habits. Nor can I admit that our currency policy, as based on the broad principles enunciated by Lord Herschell’s Committee, has departed so materially from those principles as to demand a fresh special investigation. Currency is a living organism and must adapt itself to changing circumstances. The changes in our policy have been adaptations rather than variations. Fault has been found for example with Government for building up a silver reserve in India. That measure was justified by my predecessor on a previous occasion, and calls for no further defence from me; but the same complaint has been repeated today. I am afraid that the public memory in regard to public finance is sometimes short; and in face of the scarcity of gold which is the prominent feature of our position today, some of us are apt to forget that the time has been, and may come again, when the scarcity of rupees constitutes an imminent danger. The comparatively small silver reserve of 4 millions was not attempted until we had accumulated  $12\frac{1}{2}$  millions of gold, and it was a pressing necessity at the time. In regard to the other diversion from our original policy for which we are frequently taken to task, namely, the appropriation of a part of our coinage profits for railway capital purposes, I do not think I can do more than refer our critics to the views of that strong Committee of financial and commercial experts upon whose advice this particular step was taken by the Secretary of State. I doubt whether another Currency Commission would disperse our silver reserve, or add to the data upon which Sir James Mackay’s Committee based their recommendations.

“I readily admit however that the events of 1907 and 1908 have thrown a vivid search-light upon our currency policy, and it is incumbent on us to see

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that the results are not lost sight of. In passing, I should like to acknowledge the ability, the courtesy and the clearness with which those results were summarised by the Hon'ble Mr. Proctor in his speech at the annual meeting on the Bombay Chamber of Commerce on the 3rd of this month.

“Turning from principle to practice, I find very little to add to what the Council already know regarding our action during the recent period of low exchange. There were two stages in that period, one prior to, and the other subsequent to, March 1908. The action taken by Government during the earlier stage has been vindicated by my predecessor, Sir Edward Baker, in his last Financial Statement and again in his remarks today. The later stage has been one of steady perseverance on the lines already laid down. We have parted with our gold freely, both in England and in India; we have kept exchange successfully up to specie point; and we close the year with £9½ millions in gold and gold securities (£1½ millions in the Currency Reserve, and £8 millions in the Gold Standard Reserve). We are thus far from being defenceless in a further campaign against exchange, should another year of adverse trade again force it upon us, a contingency which at present I hope we need not dread. Nor is the result one of which we need be ashamed, seeing that the Gold Standard Reserve is not yet eight years old, and that this is the first occasion on which it has been put to the test. For the future I can only reiterate what I have said in the Financial Statement, that it is our clear duty to develop and strengthen our gold resources by every means in our power.

“My Lord, I turn now to an economic feature of recent years, which yields to no other in importance, and which has found its fitting place in several of the speeches today: I allude to the rise in prices. I approach the subject with great reserve, both on account of its complexity and because it is at present under discussion between the Government of India and the Secretary of State.

“But it would be a poor compliment to the sincerity and skill with which the subject has been handled by previous speakers if I were to keep silence regarding it. I can however but touch the fringe of the subject and I must make it apparent at the outset that I put forward no remedy for high prices, and that I approach it purely from the point of view of trying to make clear some of our ideas on the subject. Nor can I make any announcement yet regarding an enquiry into prices, for the manner and agency of the enquiry are still under the Secretary of State's consideration.

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“The first aspect of the case to which I would invite attention is the vast extent to which the rise in prices concerns Government. Some of our critics write and speak as if Government were responsible for the phenomenon. Others, without going so far, appear to believe that Government are languid and uninterested spectators of the rise in prices. Nothing could be further from the truth. The high prices affect all Local Governments and the Imperial Government gravely and directly. In the increased charges for food and forage in the Army, in the heavy payments by all the Civil Departments as compensation for the dearness of food-grains, in the high dietary charges of jails, and in many other ways, the high prices fall very heavily on Government. They also react upon Government sharply and constantly, through the unceasing pressure on the part of Government employés of nearly all grades for better pay in consequence of the increased cost of living. It is impossible for Government to shut its ears to the demand of its servants; and I hope the Council will pardon me if I digress for a moment to explain some of the liabilities entailed on Government, as a large employer of labour, by the recent upward movement in prices.

“The main provision for meeting the distress caused among our subordinates by the exceptional rise in prices consists of course in the authority given to Local Governments to grant compensation for dearness of food-grains. This grant was till lately available only for men drawing Rs. 16 or under; we have now made it available for men drawing Rs. 30 or under, and during 1908-1909 the sum paid to civil employés on this account amounted to no less than £597,000. We have, however, at the same time freely recognised that in addition to these exceptional measures, it is necessary to take steps to recast the scales of pay of the lower paid officials in many of our services. The work can only be done gradually: each case has to be considered on its merits, and any attempt to raise the scale of pay universally would not only be disastrous financially, but would react on the labour market and prejudice private employers of labour. Much, however, has been done in the past years by Provincial Governments, while the cost of the projects for the improvement of the pay of purely subordinate officials which have come before the Imperial Government in the last two years and have been sanctioned by them amounted in 1907 to 60 lakhs per annum and in 1908 to 53 lakhs per annum. In addition to this, we have obtained the sanction of the Secretary of State to institute a General Provident Fund, open to all Government servants. Every one must have met with distressing cases in which Government servants die before they are able to make suitable provision for their families. The new Fund will do much to meet such

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cases. Subscription will for the future be obligatory on all Europeans and Eurasians drawing over Rs. 100 per mensem and optional for all natives of India on any rate of pay. We have introduced this distinction because we recognise that Indian employes frequently have advantageous means of employing their savings in the improvement or acquisition of private estates; and because we were unwilling to take any step which would compel them to curtail expenditure such as that on the provision of dowries, or marriage and other ceremonies, which religion or custom renders obligatory in their case. Compound interest will be allowed at 4 per cent. and the sum which accumulates to the credit of the subscriber will be his absolute property, and will be handed over to him unconditionally on his retirement or in the case of his death to his heirs.

“ I hope I have shown Hon'ble Members that high prices are not viewed with indifference by Government, but that, on the contrary, they are a source of grave anxiety to us, if it were only for their effect on our salary charges. There is another and more subtle danger inherent in high prices, to which Government are exposed in common with the whole community. The cheapness of India's produce and of her labour has been the main reason why she meets her obligations with ease. If prices should rise to a level which interferes seriously with the demand for her products in foreign markets, our export trade would decline and our capacity to pay our debts be diminished. There was at one time some fear that this danger would influence the wheat exports of the season which is now approaching; the market fortunately is strong, and I understand that prices are now adjusting themselves to the position.

“ A section of Indian publicists associate high prices with the refusal of Government to discourage the export of food-grains by a heavy export-duty. This view has been recently expressed by our Hon'ble Colleague, the Maharaja of Darbhanga, and it is obviously entitled to the most respectful consideration. There is, on the other hand, a very strong body of informed opinion that the view is based on economic fallacy. I do not propose, however, to discuss it on grounds of economic theory: I wish only to place before the Council a few plain facts which I have drawn from our published statistics for the years 1904—1907. These were three years of very active export and of normally good harvests; and they may be taken as giving tangible evidence of the extent to which the food supply of the country is depleted by export. During those three years the export of food-grains totalled  $11\frac{1}{2}$  million tons. The production of food-grains in British India and the Native States is not ascertainable with anything like the same certainty; but a careful estimate suggests that it was not less than 200 million tons; for rice and wheat alone the outturn was about

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115 million tons. If any reliance is to be placed on these figures, then the export during the busy triennium which we are considering did not exceed 6 per cent. of the supply. Within the same triennium, however, the price of rice and wheat in India rose by 25 per cent. and most of the other food-grains showed a similar movement. Can it be seriously argued that an export trade which diminishes the food-supply of the country by only 6 per cent. is directly responsible for such a remarkable change in values?

“ We do not deny the importance of the movement in prices, the many hardships which it entails, and the dangers which attend it. We are prepared to ascertain the facts with the utmost care and to give our best consideration to any suggestions which are based on knowledge and on accurate data. But we cannot accept in silence the criticisms which lay high prices at the door of Government, or which pretend that Government could alter the position by a stroke of the pen. There are deeper causes than Governmental action at work. India by its adoption of a gold standard has been switched on to the currency gauge of the rest of the world: and is undoubtedly bearing its share in the price fluctuations to which the rest of the world has been subject. Indeed a careful study of the gold prices in Europe during recent years and of the general prices of commodities in India reveals a close parallelism. This country is undergoing great economic changes, and the change in money values is one of them. Whether the change will ultimately result for the good of India, it is difficult to say. We all hope so, and Government will gladly take any part that it prudently can take in forwarding that end.

“ There remains but one other subject on which I wish to touch.

“ One of the most interesting of the recent developments in our currency system, and one on which I do not think that public opinion has ever been divided, is the universalisation of our 5-rupee currency note. In paragraph 70 of the Financial Statement, I mentioned that further proposals in the same direction were engaging our attention. I am now in a position to outline those proposals. It must of course be fully understood that they are still merely proposals. Before they can be carried into practice, legislation will be necessary, and before legislation is passed it will be incumbent on us to take counsel, fully and formally, with the commercial and other interests affected.

“ There is abundant evidence of a general desire that the privileges of the universal 5-rupee note, *i.e.*, legal tender throughout India and free encashment at any currency office, should be extended to the 10-rupee note. We are in full sympathy with that desire. The 5-rupee note has been an unquestioned

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success; and the more easily convertible we make our currency notes, the more chance have we of increasing their popularity and extending their use as a genuine medium of circulation. We propose therefore to meet the wishes of the representative public bodies who have pressed us to institute an universal 10-rupee note. But I propose to go further than this, and to make all our currency notes universal up to and including the 50-rupee note. This very large expansion of the area of the universal note will manifestly impose heavy responsibilities upon us in the way of ensuring convertibility; and we propose accordingly to abolish the sub-circle arrangements and the special concession by which foreign notes are received in payment of Government dues and at railways and post offices. These are minor privileges which, though always inconvenient to Government, may have been defensible under a rigid system of watertight-compartment currency circles; but they are not required under the more liberal scheme which we now contemplate. To make sure however that the withdrawal of these concessions shall cause no genuine inconvenience to inland trade, I am prepared to lower our rates for treasury and currency transfers as soon as the new arrangements are introduced.

“ Important and far-reaching though these proposals are, I should not have been averse to the still bolder step of making our ₹100 note universal. We should then have been able to divide our paper currency into two distinct categories — notes of ₹100 and under, which would be legal tender in the whole of India, and notes of higher denominations which would be current only within their own circles; the former to feed the true circulation, and the latter to be used mainly as stores of value. The project was a tempting one: but it was considered more prudent to stop for the present at the ₹50 note. We have, however, the Secretary of State’s permission to announce that, if the universal ₹10 and ₹50 notes prove a success, and do not cast an unduly heavy burden on us in the movement of specie, the further development to which I have alluded will be undertaken and a universal ₹100 note inaugurated.

“ It has devolved on me to present my first budget under conditions which will probably be entirely changed before the next budget discussion takes place.

“ The reforms which have been decided upon, and which will presumably become operative before this time next year will unquestionably vastly increase the labour and the difficulties of the Finance Member.

“ I do not fear the change.

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“Undoubtedly it will lead to increased and more searching criticism, but I believe that the criticism will be the outcome not of an intention to embarrass a public servant who is honestly trying to do his duty, but rather of a desire to help him to effect improvement.

“I shall welcome criticism because I believe my critics will be actuated by the same impulse, the same desire, which will influence me—a common desire to improve the work of those who govern and the condition of those who have to bear taxation.”

His Excellency THE PRESIDENT said:—“My Hon'ble Colleague, Sir G. Fleetwood Wilson, has assumed charge of his high office at a period of grave anxiety in the history of Indian finance, at a moment requiring the most careful consideration of existing economic conditions together with an unexaggerated forecast of the probabilities and possibilities affecting the future revenues of India. I venture to congratulate him on the clearness with which he has explained the position which confronts us. Till some two years ago a continued prosperity and ever-increasing surpluses may perhaps have rendered us pardonably forgetful of the insecurity of our sources of revenue till the rude awakening of 1907 brought us face to face with those climatic conditions, which from time immemorial have so often been the cause of cruel want and suffering. There was a failure of the monsoon—a failure conveying perhaps little meaning to the well-fed Western world, but full of sad forebodings to the teeming population of the plains of India.

“We closed the financial year 1907-1908 with but a small margin to our credit; and notwithstanding the fairly favourable monsoon of 1908, we were called upon to meet serious demands on behalf of famine relief, whilst later in the year malarial fever accompanied by a heavy mortality went far to incapacitate the populations of Northern India for the agricultural work upon which their every-day welfare depends.

“In addition to these troubles my Hon'ble Colleague has told us, how a great depression in trade has weighed not only upon India but upon the world in general, our railways consequently suffering from an immense diminution in those imports and exports from the distribution of which they to a great extent derive their revenues. It is very disappointing to be told that, for the first time since 1898-99, our railway system has been worked at a loss to the State, still more so to admit the necessity for a reduction of  $2\frac{1}{2}$  millions of expenditure on our railway programme, upon which we believe the development

and consequent prosperity and happiness of the people of this country so largely depend. Yet recognising the policy which has hitherto directed the administration of our Indian railways, I cannot think that even the increased development we aspire to would have justified a railway expenditure undoubtedly entailing increased taxation as its immediate consequence. We have had to decide between a choice of evils, and my Hon'ble Colleague has to the best of my belief advised us to follow the safest course. Moreover, we must remember that, though famine, sickness, depression in trade, and loss of railway revenue are the most evident evils with which we have been called to deal, a number of other causes to which my Hon'ble Colleague has alluded have combined to diminish the receipts upon which at the commencement of the last financial year it appeared that we could reasonably rely; that the country is generally poorer not only in respect to revenue, but as to individual wealth, than it was at the time of our big surpluses; and that it has become all the more incumbent upon us to avoid increasing present unavoidable burdens even for the sake of the attractive promises of future development.

“ We are called upon to face the financial position as it stands today.

“ My Hon'ble Colleague has carefully analysed it for us. He tells us, naturally enough, that with a deficit of over £3½ millions we must not be optimistic, but that, with conditions which it is not unreasonable to anticipate, there is no sufficient cause for pessimism. We must earnestly hope that those conditions will be fulfilled. The most rigid economy is necessarily demanded, not only from the Government of India, but from Local Governments, who have readily and loyally appreciated our difficulties, and I confess that the sacrifices necessarily entailed upon them are exceptionally hard—implying, as they must, the discontinuance or postponement of many useful public works, when possibly the stress of approaching poverty may not have been at first so evident to them as to the Government of India.

“ We must hope for better times, and the Hon'ble Mr. Miller has told us that, though the agricultural outlook is not as bright as it might be, it is not discouraging, and that with a single good season we may look forward to a rapid return to prosperity. Certainly we have experienced many misfortunes, but amongst them we have at any rate one consolation—the plague has been much less severe than in past years. We are, however, in no way relaxing our efforts to cope with it—strenuous efforts to combat it in accordance with the best teachings of science are still maintained; and though these efforts may not



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entirely account for the decrease in mortality, it seems probable that they have largely contributed to it. But though there has been a diminution in plague the serious outbreak of malaria, to which I have already alluded, was the cause of much misery in the Punjab, in the United Provinces, and in the city of Bombay, in coping with which, as well as with plague, our Medical officers have been indefatigable in their labours. Much has been done, too, by scientific research, and we may congratulate ourselves in possessing in the Indian Medical Service officers who, in scientific investigation, competence, and enthusiasm, have few equals in any country in the world.

“His Excellency the Commander-in-Chief has given us an account of his stewardship for the  $6\frac{1}{2}$  years during which he has held his high command. I am sure I am only voicing the opinions of my Colleagues in telling him that we have listened to the story of his military administration, not only with deep interest, but with a sincere appreciation of his work and its results. It is no disparagement to his many brilliant predecessors to say that he has evolved from the factors of a somewhat scattered mass of splendid fighting material an Army complete in its component parts. The crippling centralization, which must in bygone days have well nigh broken the hearts of over-worked officers, he has dispersed amongst his Divisional Commanders; in fact, the key to his organisation has been the perfection of a system in which the responsibility for the efficiency of each division in all its branches should rest with the General Officer Commanding it—a responsibility which that officer must again himself demand from the Brigadiers and Regimental Commanders under him.

“It has been Lord Kitchener's object so to distribute these divisions throughout India, as to facilitate either their mobilisation for a great campaign, or their capacity to furnish at short notice flying columns for some frontier expedition, or to meet sudden demands for internal defence. Notwithstanding much ignorant criticism both as to the intentions of this redistribution, and the manner in which it has been carried out, the objects in view have been ably fulfilled. At the same time a very great deal has been done to bring military equipment, in the broadest sense of the word, up to date, to better the pay and allowances of the native ranks of the Indian Army, and to improve the position of its British officers.

“But in addition to the creation and distribution of military machinery, which the Commander-in-Chief has explained to us, there is the greater question of the future policy which is to direct the high administration

of the Army. With the abolition of the Supply Department so well presided over by General Scott, whose personal services this Council will much regret to lose, the last traces of dual military control and dual advice to the Viceroy will disappear, and Lord Kitchener will be the first Commander-in-Chief to unite entirely in himself the command of the Army and the administration of the Army Department. I have no intention of going over the weary arguments for or against a system which has now become obsolete, but it may not be out of place for me to say a few words on the one really vital question affecting a prolonged dispute. Will the new system of Army administration ensure for the Government of India the necessary constitutional control over the Commander-in-Chief? I unhesitatingly assert, after an experience of some years of the results of the transfer to the Commander-in-Chief of the powers and much of the work of the Military Member, that the change of system whilst giving him wider administrative authority has materially detracted from his independence of action. I can understand the apprehensions of my predecessors as to their want of control over him, for though the proposals of a Commander-in-Chief may often have been checked by the interference of the Military Member, the former was in many matters free to act on his own initiative, there was no direct channel of communication whatever between him and the Viceroy, there was no Secretary to Government answerable to the Viceroy for a clear explanation of the Commander-in-Chief's views. The post of Secretary to the Army Department will now always be held by a distinguished General Officer, on the same footing as a Secretary to Government in every other Department—fully entitled to differ with the head of his Department, and with free access to the Viceroy.

“ Again as to military finance,—for the careful supervision of which we have to thank Lord Kitchener,—a full acquaintance with any extravagant expenditure proposed by a Commander-in-Chief is much more directly and promptly available to the Viceroy and the Government of India than in the days of the Military Member, for the Secretary to the Military branch of the Finance Department is Joint-Secretary to the Finance Department itself, with the same access to the Viceroy and the same powers as any other Secretary to Government. I believe therefore that the higher administration of the Army has now been placed on a constitutionally safe and thoroughly sound footing, and that the Government of India will do wisely in following Lord Kitchener's advice to safeguard the continuity of that military policy which he has done so much to inaugurate.

“ But all of us assembled here today must, I am sure, feel that great as has been the change in the conduct of military affairs, it is small in comparison

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with the amelioration of long established systems of administration, the possibility and advisability of which have for the last few years called for the most careful consideration of the Government of India.

“ This is the last Budget Debate, the last meeting of the Imperial Legislative Council, which will take place in this hall in accordance with the procedure which has been in existence since the Councils Act of 1892 came into force. At the close of the Budget Debate of last year I expressed a hope that, when this Council next assembled, measures would have been adopted by His Majesty's Government which would go ‘ far to meet the aspirations of those who have the welfare of the Indian people at heart.’ Those measures have been fully discussed by the public in India and in England and are now passing through the last stages of Parliamentary criticism—the fulfilment of my hopes for their success must depend largely on the spirit in which they are finally received by the people of India and upon the honest endeavours of Indian political leaders to further the objects for which they have been framed. But we cannot conceal from ourselves that the origin of those measures, and the conditions which they were intended to meet, have, to a great extent, been lost sight of, or misrepresented. Attractive side-issues have arisen and have eclipsed the main objects the first framers of the reform scheme had in view, and the fact that they were the first framers of that scheme, has either been buried in oblivion, or their action has been attributed to ignoble concession, to unlawful agitation, or to unjustifiable nervousness.

“ A true conception of what has been the attitude of the Government of India throughout the history of these reforms is of such immense public importance in respect to the qualifications of that Government to administer the affairs of India that I will venture to quote to my Colleagues the words I made use of in replying to the Hon'ble Mr. Gokhale in the spring of 1907. I said— :

‘ I recognise with him that politically India is in a transition state ; that new and just aspirations are springing up amongst its people, which the ruling power must be prepared not only to meet but to assist. A change is rapidly passing over the land, and we cannot afford to dally. And to my mind nothing would be more unfortunate for India than that the Government of India should fail to recognise the signs of the times. I have deemed it all important that the initiation of possible reforms should emanate from us. I have felt that nothing would be more mischievous to British administration in India in the future than a belief that its Government had acted on no conviction of their own, but simply in submission to agitation in this country and in accordance with instructions conveyed to them from home. If there has been misconception as to this, I hope I may

be allowed this opportunity of correcting it. The story, as far as I can tell it at present, is simply this—that last autumn I appointed a Committee of my Council to consider the possibility of a development of administrative machinery in accordance with the new conditions we were called upon to face. That Committee's report was considered by my Council, and a Despatch expressing the views of my Colleagues and myself has been forwarded to the Secretary of State. What I would impress upon you is that this move in advance has emanated entirely from the Government of India.'

“That is what I said two years ago, and I repeat it again today all the more strongly. The material from which the Bill now before Parliament has been manufactured, was supplied from the Secretariats of Simla, and emanated entirely from the bureaucracy of the Government of India. The deliberations and correspondence of which the Bill now before Parliament is the result commenced over 2½ years ago. It was in August 1906 that I drew the attention of my Council in a confidential Minute to the change which was so rapidly affecting the political atmosphere of India, bringing with it questions which we could not afford to ignore, and which we must attempt to answer, pointing out that it was 'all-important that the initiative should emanate from us, that the Government of India should not be put in the position of appearing to have its hands forced by agitation in this country or by pressure from home, that we should be the first to recognize surrounding conditions and to place before His Majesty's Government the opinions which personal experience and a close touch with the every-day life of India entitle us to hold.' I consequently appointed the Arundel Committee. That Minute was the first seed of our reforms, sown more than a year before the first anarchist outrage had sent a thrill of shocked surprise throughout India by the attempt to wreck Sir Andrew Fraser's train in December 1907. The policy of the Government of India in respect to reforms has emanated from a mature consideration of political and social conditions, whilst the administrative changes they have advocated, far from being concessions wrung from them, have been over and over again endangered by the commission of outrages which could not but encourage doubts as to the opportuneness of the introduction of political changes, but which I have steadfastly refused to allow to injure the political welfare of the loyal masses of India. As to the reforms themselves, putting aside points which have from time to time formed part of our proposals but have been in no way vital to them, the original plan of our scheme was the enlargement of the Imperial and Legislative Councils on a basis of wider representation of the most stable elements constituting the populations of India—and in a popular sense, I mean in respect to the effect such enlargement of representation will have on the people of this country; that is

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still the most important point in the changes about to be introduced. I have no intention of embarking this afternoon upon any expression of opinion as to the intricate machinery the creation of such representation may require, but I have listened with pleasure to the broad-minded remarks with which my Hon'ble Colleague Mr. Gokhale approached the peculiar necessities of representation in this country. My Hon'ble Colleague also alluded to the opposition clause III of the Reforms Bill has met with at home. I need only say that the Government of India fully recognise the effect the enlarged Councils must have in the future position of Lieutenant-Governors and the transaction of the increasingly heavy duties that will be imposed upon them, and are in full accord with the Secretary of State as to the necessity of the powers the clause confers.

“ My Hon'ble Colleagues will, I know, join with me in the regret with which I realize that the term of office of the Hon'ble Sir Erle Richards is about to come to a close. He has filled that office with marked distinction, and we shall miss the able assistance and advice upon which we have so long relied.

“ His Majesty the King on the recommendation of the Secretary of State has selected the Hon'ble Mr. Sinha to succeed Sir Erle Richards. I extend to him a hearty welcome, in which his many friends will share, on his appointment to my Executive Council, to a post for which his great attainments, his professional ability, and the high public esteem in which he is held have pre-eminently qualified him.

“ The Hon'ble the Nawab\* has reminded me of the deputation which addressed me on the 24th of last December. I shall always look upon that occasion as one of the most memorable of my career in India. The moment was one of great anxiety when it had for long been impossible to say what the immediate future might bring forth, and when the reassuring words I listened to were exceptionally full of meaning—all the more so because they were spoken, as the Hon'ble Nawab has told us, with a thorough honesty of purpose by men who, though they might differ from each other on many points, were prepared on behalf of their countrymen to recognize not only the promises of a new political future, but the responsibilities which it must entail.

“ It is upon the recognition of those responsibilities by the leaders of Indian thought, it is upon the political tolerance, which it rests with them to encourage

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\* See Appendix III.

*FINANCIAL STATEMENT.*[*The President.*]

[29TH MARCH 1909.]

amidst a diversity of interests and beliefs, that the happiness of the future of India so largely depends."

The Council adjourned *sine die*.

J. M. MACPHERSON,  
*Secretary to the Government of India,*  
*Legislative Department.*

CALCUTTA;  
*The 29th March 1909.*

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## APPENDIX I.\*

*List of Muhammadan religious and charitable endowments and trusts under Government management in the different provinces.*

[Asked for by the Hon'ble NAWAB SAIYAD MUHAMMAD at the meeting of the Legislative Council on the 26th February 1909.]

Provinces.	Name of endowment or trust.
MADRAS . . . . .	<ol style="list-style-type: none"> <li>1. The Moideen Sahib Memorial Endowment.</li> <li>2. The Muhammadan Scholarship Trust, Rajahmundry College.</li> <li>3. The Wenlock Scholarship Trust.</li> <li>4. The Muhammadan Scholarship Trust, North Arcot.</li> <li>5. The Muhammadan Orphan School Trust, North Arcot.</li> <li>6. The Haji Quasim Prize Trust in the Government College, Mangalore.</li> </ol>
BOMBAY . . . . .	<ol style="list-style-type: none"> <li>1. Sind Madressah-tul-Islam, Karachi—               <ol style="list-style-type: none"> <li>(a) Endowment Fund.</li> <li>(b) Talpur Endowment Fund.</li> <li>(c) Sir Evan James Memorial Fund.</li> <li>(d) Miscellaneous Prize Fund.</li> <li>(e) Ghulam Husain Chagla Prize Fund.</li> <li>(f) Amir Sir Ali Murad Scholarship Fund.</li> </ol> </li> <li>2. The Juma Masjid of Ahmedabad.</li> <li>3. The Kazi Shahbudin Endowment, Ahmedabad.</li> <li>4. The Muhammadan Bursary Fund, Ahmedabad.</li> <li>5. The Okaf Estate of Pir Hajarat Ganjbox Saheb the Sarkhaj Raza, Ahmedabad.</li> <li>6. The Shah Alam Estate of Syed Imam Hyderbaz valad Musamia of Ahmedabad.</li> </ol>
BENGAL	The Mohsin Endowment.
UNITED PROVINCES	<ol style="list-style-type: none"> <li>1. Raja Tasadduk Rasul Khan's Prize Endowment Trust, Agra.</li> <li>2. The Jahangirabad Jubilee Scholarship Trust, Bara Banki.</li> <li>3. The Friends of Saiyid Ahmad Scholarship Endowment Trust, Benares.</li> <li>4. The Nasr-ullah Khan Prize Endowment Trust, Lucknow.</li> <li>5. The King's Hospital Fund, Lucknow.</li> <li>6. The King's Poor House Trust Fund, Lucknow.</li> <li>7. The New Charity Fund, Lucknow.</li> <li>8. Nawab Ali Asghar Khan's Endowment, Allahabad.</li> </ol>

*List of Muhammadan religious and charitable endowments and trusts under Government management in the different provinces—contd.*

Provinces.	Name of endowment or trust.
UNITED PROVINCES— <i>contd.</i>	9. Bahu Begam's Stipend Fund, Fyzabad. 10. Bahu Begam's Moti-Mahal and Deorhi Zafaruddaula Fund. 11. Bahu Begam's Garden Fund. 12. The High School Endowment, Bijnor. 13. The Muir Central College Scholarships and Prizes Funds, Allahabad (two funds). 14. The School Fund, Etawah. 15. Ali Bakhsh Khan's Endowment, Gorakhpur.
THE PUNJAB	1. The Tomb of the Ex-Nawab of Bahawalpur Trust. 2. The Maintenance Fund of the widow of Mian Muhammad Sultan of Lahore. 3. The Mian Muhammad Sultan Memorial Fund, Lahore. 4. The Itmad-ud-dowla Fund, Delhi.
BURMA	<i>Nil.</i>
EASTERN BENGAL AND ASSAM	1. The Syedani Tahirunessa Bibi Chaudhurani Female Hospital at Bogra, and the Bogra Public Library. 2. The Nawab Ashanullah Ripon Scholarship Fund. 3. The Saiyad Abdus Sobhan Scholarship. 4. The Maulvi Abaidullah Fund. 5. The Nawab Ashanullah's Trust. 6. The Pana Mia Endowment.
THE CENTRAL PROVINCES	<i>Nil.</i>
COORG	<i>Nil.</i>
THE NORTH-WEST FRONTIER PROVINCE.	<i>Nil.</i>



## APPENDIX II.\*

*Statement showing the Cost of Special Commissions of Enquiry.*

[Asked for by the Hon'ble Nawab Bahadur Sir Khwaja Salimulla at the meeting of the Legislative Council on the 5th February 1909.]

	1902-03.	1903-04	1904-05.	1905-06.	1906-07.	1907-08.	1908-09 up to November 1908.	TOTAL.
	₹	₹	₹	₹	₹	₹	₹	₹
Assam Labour Committee .	...	...	...	...	65,095	44	...	65,139
Stores Committee . . . .	...	...	...	13,550	...	...	...	13,550
Simla Allowance Com- mittee.	...	...	...	6,112	...	...	...	6,112
Chiefs College Conference.	...	...	296	1,307	...	...	...	1,603
Presidency House accom- modation Committee.	...	3,147	2,742	...	...	...	...	5,889
Police Commission . . .	1,58,477	1,08,126	3,246	...	...	...	...	2,69,849
Railway Commission . . .	...	655	340	44	...	...	...	1,039
European Hill Schools Committee.	...	4,106	6,531	333	...	...	...	10,970
Salt Committee . . . . .	...	58,072	6,790	...	...	...	...	64,862
Statistical Committee . . .	...	...	6,720	...	10,846	...	...	17,566
Survey Committee . . . . .	...	...	60,784	14,245	88	...	...	75,117
House Rent Committee . . .	...	...	35	40,836	...	...	...	40,871
Excise Committee . . . . .	...	...	...	...	1,12,756	1,919	...	1,14,675
Calcutta University Regu- lations Committee.	...	...	...	1,32,048	23,256	412	...	1,55,716
Telegraph Committee . . . .	...	...	...	...	1,16,648	26,660	...	1,43,308
Press Committee . . . . .	...	1,000	...	...	...	...	...	1,000
Factory Labour Com- mittee.	...	...	...	...	10,633	1,24,971	80,384	2,15,988
Indian Universities Com- mission.	76,717	...	...	...	...	...	...	76,717
Malkowal Disaster Com- mission.	7,848	2,834	...	...	...	...	...	10,682
Industrial Education Com- mittee.	4,865	40	...	...	...	...	...	4,905
Famine Commission . . . .	78	...	...	...	...	...	...	78
Furniture Committee . . . .	3,962	...	...	...	...	...	...	3,962
Civil Procedure Code Com- mittee.	...	...	...	...	...	52,550	...	52,550
Railway Police Committee	...	...	...	...	30,822	33,763	...	64,585
Committee on Decentrali- zation.	...	...	...	...	...	44,415	6	44,421
Royal Commission on Decentralization.	...	...	...	...	...	1,10,056	93,892	2,03,948
Luff Point Commission . . .	...	4,306	...	...	...	...	...	4,306
Ganges Bsdge Committee for 1907.	...	...	...	...	14,568	...	...	14,568
Ganges Bridge Committee for 1908.	...	...	...	...	...	16,795	..	16,795
<b>TOTAL</b>	<b>2,51,947</b>	<b>1,82,286</b>	<b>87,484</b>	<b>2,08,475</b>	<b>3,84,712</b>	<b>4,11,585</b>	<b>1,74,282</b>	<b>17,00,771</b>

## APPENDIX III.\*

*Speech of the Hon'ble Nawab Bahadur SIR KHWAJA SALIMULLA of Dacca which in his unavoidable absence was read by the Secretary under the orders of the President.*

" My Lord, it is indeed a matter of regret that after a long succession of prosperity budgets, it should have fallen in the first year of his office to the lot of my Hon'ble friend Sir Fleetwood Wilson to face a deficit budget; but the admirable manner in which he has been able to get Your Excellency's Government to meet its difficulties, and from what we know of the resources and the capability of the country, we may, I think, safely agree with my Hon'ble friend, that in this deficit 'there is no evidence of any adequate cause for pessimism, and I can see no reason why, with a due regard for economy, favourable harvests, and a period of peace, we should not look forward to a return of that prosperity which has characterised former years.' And I feel sure with an expert financier at the helm, who within the short period of five months has been able to so completely master the intricacies and mysteries of Indian finance, we may safely confide in him to restore our financial equilibrium at no distant date. We have to thank Your Lordship that instead of resorting to fresh taxation, in order to meet the growing needs of the country, Your Excellency has adopted the more statesmanlike policy of retrenchment, refraining from launching into new experiments in the administration of the country, and in the raising of loans to meet the capital expenditure of the year. I am one of those who belong to that school—I believe somewhat discredited now-a-days—who approve of making posterity share in the expenditure of which it will derive the most benefit. We are indeed much obliged to our Finance Minister for the interesting statement he has given of the national debt of 16 of the chief countries in the world; if anything was wanting to show how light is the national debt of this country, here we find India occupies something like the eighth place amongst the great countries and states in the world, in the matter of our public debt, but which is the lowest of all the 16 countries in the matter of its debt as per head of the population, *viz.*, £1-1-3 per head, and is only three times the amount of our annual revenue. And therefore the raising of loans to meet our capital expenditure is a satisfactory expediency, and in the light of these remarks if my honourable friend could see his way—by increasing the amount of the loan he is going to raise,—to meet the requirements of the Railway Board it would be money well laid out.

" Turning to the salient features of the budget, my Lord, when I ventured to record my humble protest last week, at this Government being forced to carry out the orders of the Secretary of State, even when 'the men on the spot

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\* *Vide* p. 281.

are very doubtful of the expediency of the orders in question, I confess I had in my mind's eye the fearful increase in the Military expenditure foisted on this country by the Romer Committee, and in which I believe Your Excellency's Government was not consulted, but for the payment of which my Hon'ble friend the Finance Minister at Your Excellency's bidding has fully provided for.

“ My Lord, I must thank you sincerely that in the midst of this financial depression and retrenchment, Your Excellency's Government is manfully keeping to its policy of making the hard lot of the subordinate service as little irksome as possible to these the most deserved class of public servants, and that the increase of £55,600 shown as increase under the head of ‘ Salaries and expenses of Civil Department ’ will go mainly to the amelioration of their hard lot.

“ My Lord, in the midst of these monetary depressions and gloom there are however one or two matters over which I beg to offer Your Excellency my sincere and heartfelt congratulations, not the least amongst these I hold is the return to moderation and sobriety in the political activities of the agitators. We have all looked on with the greatest satisfaction at the tone of their utterances at the Madras Congress and elsewhere, and I for one have no hesitation in holding that had these, the representatives as they call themselves of the educated Indians, said and done half as much as they are saying and doing now some two years ago, Your Excellency's Government would have had no need of putting the repressive acts of the last six months on the Statute-book, or that rapine, murder and disorder would have taken so strong a hold of the country as we have witnessed. I feign would hope that the good example set by the Hon'ble Mr. Gokhale will be zealously taken up and adopted by those of his party who are still holding back, and that the distant rumbling of thunder we are just beginning again to hear at Faridpur and at the recent Town Hall meeting may, by his sound advice and personal influence with his friends, pass away without breaking the calm that now appears to prevail.

“ My Lord, another cause of congratulation and great rejoicing are the reform proposals of Lord Morley, now before the Parliament, as the Indian Councils Bill—and most of us have much to say on this magnificent piece of statesmanship, due to the perseverance, patience and singleness of purpose of, I believe, Your Excellency's Government alone. My only regret is that the rules of this Council could not permit Your Excellency giving us a special whole day to discuss this question in Council, and as all of us will be saying our say on this subject, I will try to be as brief as possible and confine myself in the remarks I am going to make to the broad features of the policy of the reform instituted by Your Excellency's Government. When the long—and anxiously—looked forward

to papers on this reform were simultaneously made public, both here and in England on the 18th December last, there was an universal echo throughout the country of thankfulness and gratitude to the Secretary of State and to Your Lordship,—we see in them a grand idea justifying the claim made by Sir Fitzjames Stephens some 50 years ago that ‘the Government of India is a Government of great ideas;’ and when we, the natural and the self-elected representatives of the various peoples and nations of India—Muhammadans, Hindus, Parsees, Jews, Europeans, etc., etc., approached in deputation Your Excellency, to express our heartfelt and sincere thanks to Your Excellency and to the Secretary of State, it was attempted in certain quarters to show these rejoicings were not spontaneous, but made to order; but I for one am prepared to deny this calumny. For, though there are certain portions of the scheme which do not entirely fit in with what some of us want, yet I was wholly in agreement with what Your Excellency declared in Council that ‘we may assume that we are about to enter on a new administrative era, based upon a recognition of the advance of political thought and the justness of many political ambitions,’ and it would have savoured of rank ingratitude had we not all joined to, in Your Lordship’s happy words, ‘welcome this honest attempt to ameliorate the administration of the country’; and I feel certain everyone who attended that deputation did so with the same sole object, *viz.*, to welcome with gratefulness the ‘honest attempt made to recognise the advance of political thought and justness of political ambition’. But when I have said this much, Your Lordship, I trust, will give me and others the credit of honesty of purpose where we differ from each other, as well as in certain details in the working out of this magnificent scheme.

“In the same way, when I cordially joined my Moslem brethren in the representation of the All-India Moslem League made by my friend, Mr. Syed Ali Imam, as Chairman of the League at its sessions at Amritsar, it was not that I individually had not some tinge of regret at the total removal of what I and many others think was the greatest feature of Your Excellency’s original scheme outlined in the Home Department letter to the Local Governments under No. 2310—17, dated 24th August 1907, and this regret I take this opportunity, with Your Excellency’s permission, to place on record.

“My Lord, in my speech at the Budget meeting of two years ago I said ‘my own idea is, that instead of the microscopic minority of English-speaking natives alone being invested with increased power of guiding and advising Government, if the Princes, Chiefs and the landed gentry were taken into consultation by Government and given greater facilities of being heard and consulted, there would be greater chance of Government arriving at a policy of administration which would be more conducive to the peace and prosperity of the country.’

In this speech I spoke at some length on the undesirability of placing increased administrative and political powers in the hands of the professional or so-called educated classes. But the virulent opposition which the 'Council of notabilities' encountered itself showed that the boot had been put on the right foot, and that it had hit the mark it was intended for, and the lawyers and the vakils who govern and rule our native Press shouted down the very idea which was fatal to their interests, and which Your Lordship has correctly summarised in your now ever memorable despatch No. 21 of 1st October 1908, as 'on the other hand the leaders of the professional class regard the Advisory Councils as superfluous and illusory; they protest against class electorates for the Legislative Councils, and they demand the formation of territorial constituencies on a scale which would render their own influence predominant.' And it is indeed with very, very great regret I see the Secretary of State has, unfortunately, eliminated from the scheme even the Advisory Council of Notabilities to the Government of India. The grounds on which this has been done are, I am forced to say, most flimsy; anyhow it is impossible for me to believe that the combined wisdom of Your Excellency's and the Secretary of State's Councils could not have designed and constructed a scheme which would have minimised, if not altogether have removed, the difficulties noticed in paragraph 4 of Your Excellency's despatch No. 21, and in paragraphs 3 and 4 of the Secretary of State's No. 193. It seems to me this is only another instance of 'how not to do a thing we do not wish to do,' and that the interests of the territorial magnates and those of the masses have been sacrificed at the altar of concessions to the lawyers and pleaders. For, my Lord, however much we landholders and zamindars wish not to in any way wreck and destroy this magnificent scheme of reform, I fear the rock on which it will be shattered will be this very elimination of the Council of notabilities, and I still hope that in good time this Advisory Council will form a permanent part of the administration of the country. For until a higher tone of education—instilling a moral character of duty and appreciation of right and wrong—is imbued into the scions of our aristocracy, you will not find there will be many of my class to contest against the pleaders, lawyers and the professional classes, who will naturally monopolise the enlarged Legislative Council of the country, and till that much wished for time arrives, when the young men of my class will hold it a sacred trust, and not think it derogatory to their dignity and position, to enter the arena of a political election, till then I respectfully submit, my Lord, the Advisory Council Your Lordship suggested in the original scheme is the only body which could be of any real and genuine use to Government; as we, the natural representatives of the people, are the only intermediaries between the officials and the masses; their interests and ours are one; their joys and sorrows are ours and ours theirs; we have a common bond

of union, having grown up on the same land from generation to generation; there is almost a feudal attachment between us, which as yet Western innovations have not invaded or broken down; and this position, I unhesitatingly say, cannot be attained, my Lord, in the life-time of this Council and of many a successor of the enlarged ones, by the pleaders, lawyers and mukhtears; the interests of the professional class have nothing in common with those of the masses. The people never co-mingle or go to them, for aught else than litigation, and it is thus that the Advisory Councils would have served to be a link between the Government and the masses, and which under the circumstances the enlarged Councils can hardly be. My Lord, from the recent debate in the House of Lords I see that Lord Lansdowne is in favour of these Advisory Councils.

“ As regards the representation of my friend Mr. Ali Imam on behalf of the All-India Moslem League, what has been urged therein has my fullest support; but I need not enlarge on it here inasmuch as Lord Morley has acceded to our main request, both from his seat in the House of Lords and in his reply to the deputation that waited on him under the auspices of my venerable friend Mr. Syed Ameer Ali, and for the expression of his opinion on both these occasions we Muhammadans are most sincerely grateful to His Lordship. My Lord, it indeed wanted a firmness of purpose to have withstood the bitter and violent character of opposition the representation to Your Lordship of Mr. Ali Imam, has met with in this country. But this very violence has made Lord Morley see the necessity of granting us our boon and admitting the validity of the considerations on which he has promised the increased and special electorates for our representation. I need only mention one of these considerations, *viz.*, that it was felt that unless the scheme was substantially modified, it would work most injuriously to the Muhammadans by subjecting their interests to the goodwill of another community; and without the modification asked for, their representation on the enlarged Council would be nominal and worthless. We Musalmans have sought our shares in the political privileges about to be conceded by these reform proposals, such as would, to use the language of Your Excellency, be commensurate with our number, and with our political and historical importance, and the weight of these and the other considerations advanced in Mr. Ali Imam's representation to Your Excellency, and those advanced by the deputation that waited upon Lord Morley, has not in the least been lessened or reduced by what has been urged at the Town Hall meeting of Wednesday last, while in support of our just claim to special representation I beg to cite the weighty words of Lord Reay perhaps the most able and single-minded of our latter day Governors. His Lordship in the recent debate in the House of Lords, I see, said: ‘ He was glad the Secretary of State had yielded to the claims of the Mahomedans for separate representation. It was of the utmost importance that the Mahomedan com-

munity should be represented by those in whom they have confidence ; and any one who have followed their great world movement—and it must be remembered, they numbered 245 millions—were aware of their determination to defend with intensity their own faith.'

" The virulence of the Native Press appears to me to have been directed more against our claim to historical and political importance, the Aga Khan and Mr. Ali Imam personally and the Moslem League in particular, than to the merit of our representation ;' as regards our claim to historical and political importance Your Lordship has graciously admitted the same when receiving our deputation at Simla. As regards the League and my friends, they need no advocate to defend them, as their work is before an intelligent, discerning and impartial public and they are prepared to be judged by it.

" My Lord, there is one other matter in connection with these reform proposals that I desire, with Your Lordship's permission, to bring to Your Lordship's notice ; my Lord, there was, if anything, but one jarring note in the interesting debate in the House of Lords on the India Councils Bill, and that note has raised wide and various expectations in the minds of the people of this country ; my Lord, Lord Macdonald went out of his way to declare 'the partition of Bengal to be the greatest blunder since the days of Clive.' I have always felt that this chance expression of His Lordship was never intended to be taken seriously ; but, my Lord, it was just the opportunity to rouse the fading and dying energies of those who have unreasonably cried themselves hoarse and have set themselves to see the partition reversed or modified, and they have again commenced beating the big drum (as it is evident from their recent proceedings at Faridpur and at the Town Hall) to see if they can secure the reversal of the settled fact, on a promise and assurance of their unanimous support to the reform proposals of Your Lordship, and I suppose on the principle that, if they could make as many impossible demands as a condition precedent, for their support and co-operation, they may get Your Lordship and the Secretary of State to make at least some one of the concessions they are asking for as the price for their acquiescence to the reform scheme. But, my Lord, though I think neither of Your Lordships are men capable to withdraw from your pledged word solemnly given to a great, historical, and political nation, yet I must publicly raise my humble voice as a warning that if the least of these concessions be granted to them, it will in no way satisfy them ; for seeing how concession after concession can be got out of the Secretary of State and Your Excellency, they will, like Oliver Twist, be asking for more, or rather I would say like the Irish Home Rulers they would take what they can get hold of, as an earnest for more to be got. On the other hand, I assure this Council that should any one of the conditions pre-

cedent—which are being openly asserted in the Bengali Press—to their accepting these reforms, namely, the reversal of the Partition, the release of the deportees and political prisoners who Government has strong reasons to believe are mainly responsible for the unrest in the country, the separation of the judicial and executive functions of the district officers—be just now conceded or given to them, it will be a political blunder, the consequence of which will be disastrous to the country; for Your Lordship will then be giving not peace but a sword to those who have stood by Government through all these troublous times, and who share the burden of the defending of the country to a far larger extent than any other nation or race in India. To Lord Macdonald and to the fanatics (I use Babu Mitter's own words in retort) of the Town Hall meeting I would only ask to read the annual administration reports of the various departments of the public service of the new Province and say whether the progress to be found therein by leaps and bounds within the short period of five years in the political and material advancement of this long forgotten and neglected part of the country—in the matter of education, sanitation, and protection of life and property which we see around us—can be said to be due to a blunder?

“And here I desire to take the opportunity of thanking Your Excellency for, and of congratulating my friend the Hon'ble Mr. Sinha on, his appointment of an Ordinary Member of Your Excellency's Executive Council. Under the circumstances of its being in the nature of an experiment, a heavy responsibility rests on my Hon'ble friend, for all will depend upon the way he discharges the onerous duties of his high office that the future advancement of Indians in the higher offices in the public service will rest, and from what I know of him I feel sure he will be equal to the occasion.

“My Lord, with Your Lordship's permission I will conclude these observations of mine by briefly alluding to the questions Your Lordship has from time to time permitted me to ask in this Council during the sessions. My Lord, I have to tender my grateful thanks to His Excellency the Commander-in-Chief and to the Hon'ble Mr. Miller for their replies to my questions, whether Kashmeerees are debarred from enlisting in the Indian Army, and those residing in or without the borders of Amritsar are included in the definition of cultivator in the Punjab Land Alienation Act. The grievances of these Kashmeerees were brought to my notice by the people during my recent visit to Amritsar, where I went to preside at the All India Moslem Educational Conference, and is an apt illustration of what I have urged today in support of the Advisory Councils, that the lawyers and pleaders who predominate and govern the political associations and the vernacular Press of the country are never in touch with the needs and wants of the people, and in fact the masses never look on them as their friends; for, my



Lord, in the northern parts of India I found they had quite as many political associations as we have in these parts, but no one ever thought of removing these grievances of the ryots, which was apparently to be done for the mere asking; I have received countless letters from the Punjab, thanking me for the information my Hon'ble Colleagues have been pleased to convey on behalf of Your Excellency's Government. These replies have given great satisfaction and will lead to a speedy relief of these grievances of the people of those parts, which now turn out to be an imaginary grievance.

"My Lord, the answer to my questions regarding the Registration of Partnership has disclosed a more curious state of affairs; the Council was supplied with copies of the letter from the Government to the Bombay and Calcutta Chambers of Commerce, the replies of those two bodies and the final reply of Government being 33—4, dated 6th January 1909. To sum up briefly the interesting correspondence:—the subject of the Registration of Partnerships is admitted to be a public necessity, it has been under consideration at various times during the last 40 years, but hitherto it has not been found possible to devise a measure suited to the peculiar condition of business in India. 'The Calcutta Chamber of Commerce, tired out by waiting, got their legal advisers to draft a Bill which is sent to Government and which is sent by them for the opinion of the various Chambers of Commerce and is approved *in toto* by the Chambers of Commerce of Madras and Karachi, and subject to one single exception in each case was also accepted by the Upper India and Rangoon Chambers of Commerce.' The Bombay Chamber of Commerce took a strong objection to it, and a mighty Government knuckles down to a single commercial body against the almost unanimous approval of all the other commercial bodies in India. Government sent back the draft Bill to the Bengal Chamber of Commerce for reconsideration and concludes their letter to the Chamber, paragraph 8, as follows:—'In conclusion I am to say that the Government of India fully recognise that there has been a general and continued demand for legislation on this subject and are quite prepared to consider proposals for legislation. They believe, however, that it will be readily admitted that they cannot move in the matter until the several Chambers of Commerce in India are in close agreement as to their precise requirements or until it can be conclusively shown that the difficulties with which the matter is beset can be satisfactorily overcome.' And it is inconceivable that though legislation on the subject has been called for and urged by the public in no uncertain tone, yet it was allowed to be hung up because of the opposition of a single Chamber, while the replies to the Government letter by the Chambers of Bombay and Calcutta are indeed curious reading; the Secretary of the Bombay Chamber writes: 'My Committee are, however, of opinion that there is a general and continued demand for legislation

on this subject, that Government itself should proceed in the matter. They contend that if Government submitted a draft Bill, embodying the most practical suggestions of the Bombay, Bengal, and other Chambers, it is very possible that these various bodies would agree to a compromise and support Government in passing the desired Act, and my Committee therefore see no advantage in further deferring the consideration of the proposed special legislation of this Act.' While the Secretary of the Calcutta Chamber is still more solicitous. He writes: 'As regards the difference between the Chambers, the Committee do not consider that these are of such consequence as to be a bar to legislation. They notice that the Bombay Chamber has suggested that the matter should not be further delayed, but that the Government should draft and publish for criticism a Bill embodying the most practical proposals which have been put forward; the Committee earnestly trust that Government will now proceed with the preparation of the required Bill and not allow the fact that difference exists, as indeed as they must in such matters, to be a reason for delaying legislation for which it is believed there is a very real and continuous demand.' The reply of the Government of India to these two communications is still more curious, that Government regret that they are unable to modify the decision which was communicated to the Chambers in paragraph 8 of the Home Department letter, *viz.*, 'That they cannot move in the matter until the several Chambers of Commerce in India are agreed as to the form which the proposed legislation should take, or until it can be shown clearly that the difficulties with which the question is beset can be overcome.' What are we to say to this? With the two well-equipped Departments of Law and Commerce and Industry, the Government to cry *non possumus* is, to say the least of it, curious reading. May I beg Your Excellency to see personally to this matter, which from the public comments in the papers arising out of my question appears to call for speedy action and no more delay.

" My Lord, the answer to my three questions in the matter of the formation of the Indo-European Trading Society, Limited (referred to in the *Truth*), whether the attention of Government has been drawn to the comments of the Press in India to the necessity of legislation to check and control the formation of commercial and industrial undertakings, the chief aim of which really is the formation of bogus companies for the benefit and advantage of Company promoters, and whether early steps can be taken for the consideration of such legislative measures as may help to the encouragement and formation of healthy and stable commercial and industrial undertakings in India, are also curious reading. All the answers are in the affirmative. The Government of India are aware of the facts I have brought to their notice, but there is not a word to say whether the Indo-European Company hails from the India House, Highgate, or

why we should wait until an innocent and illiterate people is overwhelmed by another 'South Sea Bubble' or a Back Bay speculation, or why we cannot take the initiative or move independently of the process of legislation on this subject in England. In connection with this subject I beg to draw Your Excellency's attention to the judgment of Mr. Stuart, C.S., Sessions Judge, Meerut, published in the *Statesman* of the 26th. My Lord, I fail to see the object and necessity of the department of Commerce and Industry and of the Department of the Law Member if all they have to do is to wait and take a leaf out of the Statute Book of the English Parliament and we pass it off as our own.

"My Lord, another question of mine to which I desire to specially refer before I conclude is that regarding the separation of the judicial and executive functions of district officers. I am sorry that I was unable to attend last year's budget meeting of this Council, in which Your Lordship and particularly my Hon'ble friend Sir Harvey Adamson mentioned the intention of Government to try the experiment of separation. To this subject I had, however, at some length drawn Your Lordship's attention and that of the Council in my speech at the Budget meeting of two years ago. To what I then said it does not appear any reference was made in the debate wherein Your Excellency's Government came to the determination to give the separation a trial. But from the printed record of our proceedings of last year's meeting, I find that the subsequent Government circular letter to the various Provincial Governments and High Courts (calling for their views and through them of those of the Political Associations and public bodies and men under them) is mostly a reprint of what my Hon'ble friend Sir Harvey Adamson stated in this Council, and I intended not to broach this subject until it was ripe for adjudication by Your Excellency's Government. But the reply of the Hon'ble Member of the Home Department to the question put by my Hon'ble friend Mr. Dadabhoj, whether Government has finally decided upon the scheme of the separation on the lines laid down by the Hon'ble Home Member last year, that Your Excellency's Government 'has not yet decided and that it has referred to the Governments of Bengal and Eastern Bengal and Assam and the Calcutta High Court proposals for the introduction into selected districts of the two provinces, and when all the replies are received, the scheme will be further examined by the Government of India and a reference will then be made to the Secretary of State. It is therefore impossible to say when the final orders on the proposal will be passed,' made me think that I ought to put the question I did, whether the reply of my friend Nawab Syed Ameer Hosain, C.I.E., to the Government of Bengal, calling for his opinion had been seen by the Government of India, and if so could a copy be sent to those official bodies to whom the Government proposals have been submitted and a copy of the Nawab's letter be placed on the Council

Table. I further availed of this opportunity to draw the attention of Your Excellency's Government to the fact that the experiment of the separation by the Government of Mysore, where it has been in operation for the last two years, has not proved a success, and that the Dewan of Mysore in the Mysore Representative Assembly refused to further extend the experiment. My object of putting that question in that form was that my friend Syed Ameer Hosain, who has taken considerable trouble to show as it were the whole history of this question, and had quoted views of every Lieutenant-Governor of Bengal and of the various Viceroys who had previously dealt with the question, ranging from 1837 to that of Lord Curzon, and of the High Court Judges, and has explained the now famous letter of the 12 distinguished retired officers who had been got to subscribe their signatures to the memorial to the Secretary of State and with which memorial my Hon'ble friend had been somewhat impressed and as I thought that the reply of my friend Syed Ameer Hosain was so clear an exposition of the views of those against the separation, that it was desirable that the Government of Eastern Bengal and Assam and the present day High Court Judges of Calcutta as well as the members of our Council should have a copy of this letter before them, and finding from the Madras papers that the scheme of the separation of the two services in the Mysore State has not proved a success, and the Dewan has refused to extend the experiment ; I venture to draw the attention of Your Excellency's Government to the fact in order that it may induce Your Lordship to accede to my request made in my speech of two years ago, to stay your hands from the demolition of a system which in the backward state of the masses has been their chief stronghold and protection. The reply to my question is not satisfactory to me, for Your Lordship has refused to submit what I may call the judgment of the referees of our side of the case. While Your Excellency appears to have been satisfied as to the successful working of the system in Mysore by the fact that the Dewan in the Representative Assembly has remarked: 'The experiment has worked well, so far as it has gone, but any further extension of its scope appears likely to entail additional expenditure and has on that account to be deferred for the present.' But the *Hindu* of Madras of the 20th January last makes the following comments and which speak for themselves:—'However, the experiment of separating the two functions has commenced even before October 1907, since then it has been tried in the districts mentioned above (the same as those referred to by the Hon'ble Member in his reply). In his address to the Representative Assembly of 1908 the Dewan referred to the progress in the working of the new arrangement and added (the very words given by my Hon'ble friend that it is on account of the additional expenditure that a further extension was postponed).' The *Hindu* then goes on: 'What

the additional expenditure that the proposal might involve he did not choose to tell the assembly. In fact no detailed scheme would appear to have been worked out, there was nothing to show that the administration was really in earnest about the carrying out of the scheme, or that the question of ways and means was fully in the way of its doing so. In the very speech in which the Dewan proposed to defer the further question on the ground of additional expenditure, he was congratulating the whole of Mysore on the wonderful surplus of the State finances in the preceding three years. In the three years therefore we have been able to save nearly 48 lakhs; with the anticipated saving of 12 lakhs 47 thousand of rupees in the current year's estimate, the total balance to the credit of the Government will be one crore and four lakhs. How hollow does the plea of want of funds sound by the side of this boasted surplus, not of one year, but of three years in the past, and an additional one in prospect. The truth of the matter seems to be that the Government do not much care for the Reform.' The paper also states that the Judges of Chief Court of Mysore have declared in their administration report that 'The experiment has retarded the prompt disposal of Civil Court work and the order of the Mysore Government on the Chief Court report is that it will wait further experiment of the working of the system before deciding on any extension or change.' This state of affairs surely does not show that the experiment has been postponed for want of funds, but for giving it a further trial. However, I am thankful to Your Excellency for calling for reports from the Political Agents of those States where the experiment is being tried, and that with our heavy deficit, the huge expenditure it will involve if the experiment be put into force in British India, I am happy in the thought that the poor illiterate ryot will still be protected in the matter of his life and person, by his friend the district officer, whom he has always trusted, for some years to come.

"My Lord, I had intended to refer to the China and Straits Opium Commission Reports and to the opium question in general, the quinquennial report of the Director General of Education, and particularly to Mahomedan Education, and to the Decentralisation Commission report, but I have, I fear, already trespassed too long on Your Excellency's time. I however cannot conclude without begging Your Excellency to permit me to bid farewell to three of our Colleagues. The Hon'ble Sir Erle Richards and the Hon'ble Major General Scott will be leaving us in a couple of days, and this is the last occasion on which we shall see His Excellency the Commander-in-Chief at this Council Board in Calcutta. It has been a source of sincerest gratification and pleasure to me to have associated myself with three such brilliant gentlemen of distinction and ability, and I heartily wish them long life, health and prosperity wherever they may be."

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ASSEMBLED FOR THE PURPOSE OF MAKING

## LAWS AND REGULATIONS.

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